

Official Journal

of the European Union

L 81

English edition

Legislation

Volume 51

20 March 2008

Contents

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

REGULATIONS

★ Council Regulation (EC) No 261/2008 of 17 March 2008 imposing a definitive anti-dumping duty on imports of certain compressors originating in the People's Republic of China	1
Commission Regulation (EC) No 262/2008 of 19 March 2008 establishing the standard import values for determining the entry price of certain fruit and vegetables	21
Commission Regulation (EC) No 263/2008 of 19 March 2008 granting no export refund for butter in the framework of the standing invitation to tender provided for in Regulation (EC) No 581/2004 ...	23
Commission Regulation (EC) No 264/2008 of 19 March 2008 fixing the export refunds on poultrymeat	24
Commission Regulation (EC) No 265/2008 of 19 March 2008 fixing the export refunds on eggs	26
Commission Regulation (EC) No 266/2008 of 19 March 2008 fixing the rates of the refunds applicable to eggs and egg yolks exported in the form of goods not covered by Annex I to the Treaty	28
Commission Regulation (EC) No 267/2008 of 19 March 2008 fixing representative prices in the poultrymeat and egg sectors and for egg albumin, and amending Regulation (EC) No 1484/95	30
Commission Regulation (EC) No 268/2008 of 19 March 2008 fixing the rates of the refunds applicable to certain milk products exported in the form of goods not covered by Annex I to the Treaty	32

Price: EUR 18

(Continued overleaf)

EN

Acts whose titles are printed in light type are those relating to day-to-day management of agricultural matters, and are generally valid for a limited period.

The titles of all other acts are printed in bold type and preceded by an asterisk.

★ Commission Regulation (EC) No 269/2008 of 19 March 2008 prohibiting fishing for blue ling in ICES zones VI and VII (Community waters and waters not under the sovereignty or jurisdiction of third countries) by vessels flying the flag of Spain	35
Commission Regulation (EC) No 270/2008 of 19 March 2008 on the issuing of export licences for wine-sector products	37

DIRECTIVES

★ Directive 2008/24/EC of the European Parliament and of the Council of 11 March 2008 amending Directive 2006/48/EC relating to the taking up and pursuit of the business of credit institutions, as regards the implementing powers conferred on the Commission ⁽¹⁾	38
★ Directive 2008/25/EC of the European Parliament and of the Council of 11 March 2008 amending Directive 2002/87/EC on the supplementary supervision of credit institutions, insurance undertakings and investment firms in a financial conglomerate, as regards the implementing powers conferred on the Commission	40
★ Directive 2008/26/EC of the European Parliament and of the Council of 11 March 2008 amending Directive 2003/6/EC on insider dealing and market manipulation (market abuse), as regards the implementing powers conferred on the Commission	42
★ Directive 2008/27/EC of the European Parliament and of the Council of 11 March 2008 amending Directive 2001/18/EC on the deliberate release into the environment of genetically modified organisms, as regards the implementing powers conferred on the Commission	45
★ Directive 2008/28/EC of the European Parliament and of the Council of 11 March 2008 amending Directive 2005/32/EC establishing a framework for the setting of ecodesign requirements for energy-using products, as well as Council Directive 92/42/EEC and Directives 96/57/EC and 2000/55/EC, as regards the implementing powers conferred on the Commission	48
★ Directive 2008/29/EC of the European Parliament and of the Council of 11 March 2008 amending Directive 2001/83/EC on the Community code relating to medicinal products for human use, as regards the implementing powers conferred on the Commission	51
★ Directive 2008/30/EC of the European Parliament and of the Council of 11 March 2008 amending Directive 2006/43/EC on statutory audits of annual accounts and consolidated accounts, as regards the implementing powers conferred on the Commission ⁽¹⁾	53
★ Directive 2008/31/EC of the European Parliament and of the Council of 11 March 2008 amending Directive 98/8/EC concerning the placing of biocidal products on the market, as regards the implementing powers conferred on the Commission	57
★ Directive 2008/32/EC of the European Parliament and of the Council of 11 March 2008 amending Directive 2000/60/EC establishing a framework for Community action in the field of water policy, as regards the implementing powers conferred on the Commission	60
★ Directive 2008/33/EC of the European Parliament and of the Council of 11 March 2008 amending Directive 2000/53/EC on end-of-life vehicles, as regards the implementing powers conferred on the Commission	62



⁽¹⁾ Text with EEA relevance

★ Directive 2008/34/EC of the European Parliament and of the Council of 11 March 2008 amending Directive 2002/96/EC on waste electrical and electronic equipment (WEEE), as regards the implementing powers conferred on the Commission	65
★ Directive 2008/35/EC of the European Parliament and of the Council of 11 March 2008 amending Directive 2002/95/EC on the restriction of the use of certain hazardous substances in electrical and electronic equipment as regards the implementing powers conferred on the Commission	67
★ Directive 2008/36/EC of the European Parliament and of the Council of 11 March 2008 amending Council Directive 92/49/EEC on the coordination of laws, regulations and administrative provisions relating to direct insurance other than life assurance, as regards the implementing powers conferred on the Commission	69
★ Directive 2008/37/EC of the European Parliament and of the Council of 11 March 2008 amending Directive 2005/68/EC on reinsurance, as regards the implementing powers conferred on the Commission ⁽¹⁾	71

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

DECISIONS

Commission

2008/260/EC:

★ Commission Decision of 18 March 2008 granting certain parties an exemption from the extension to certain bicycle parts of the anti-dumping duty on bicycles originating in the People's Republic of China imposed by Council Regulation (EEC) No 2474/93, last maintained and amended by Regulation (EC) No 1095/2005, and lifting the suspension of the payment of the anti-dumping duty extended to certain bicycle parts originating in the People's Republic of China granted to certain parties pursuant to Commission Regulation (EC) No 88/97 (notified under document number C(2008) 1044).....	73
---	----

IV Other acts

EUROPEAN ECONOMIC AREA

EFTA Surveillance Authority

★ EFTA Surveillance Authority Decision No 388/06/COL of 13 December 2006 amending for the sixty first time the Procedural and Substantive Rules in the Field of State Aid	81
---	----



⁽¹⁾ Text with EEA relevance

I

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

REGULATIONS

COUNCIL REGULATION (EC) No 261/2008

of 17 March 2008

imposing a definitive anti-dumping duty on imports of certain compressors originating in the People's Republic of China

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty establishing the European Community,

Having regard to Council Regulation (EC) No 384/96 of 22 December 1995 on protection against dumped imports from countries not members of the European Community⁽¹⁾ (the basic Regulation), and in particular Article 9 thereof,

Having regard to the proposal submitted by the Commission, after consulting the Advisory Committee,

Whereas:

A. PROCEDURE

1. Initiation

- (1) On 20 November 2006, the Commission received a complaint concerning imports of certain compressors originating in the People's Republic of China (PRC) lodged pursuant to Article 5 of the basic Regulation by Federazione ANIMA/COMPO (the complainant) on behalf of producers representing a major proportion, in this case more than 50 %, of the total Community production of certain compressors.
- (2) The complaint contained evidence of dumping and of material injury which was considered sufficient to justify the opening of a proceeding.
- (3) On 21 December 2006, the proceeding was initiated by the publication of a notice of initiation in the *Official Journal of the European Union*⁽²⁾.

2. Provisional measures

- (4) Given the need to further examine certain aspects of the investigation, it was decided to continue the investigation without the imposition of provisional measures.

3. Parties concerned by the proceeding

- (5) The Commission officially advised the exporting producers in the PRC, importers, traders, users and associations known to be concerned, the representatives of the PRC, the complainant Community producers and other Community producers known to be concerned of the initiation of the proceeding. Interested parties were given the opportunity to make their views known in writing and to request a hearing within the time limit set in the notice of initiation. All interested parties who so requested and showed that there were particular reasons why they should be heard were granted a hearing.
- (6) In order to allow exporting producers to submit a claim for market economy treatment (MET) or individual treatment (IT), if they so wished, the Commission sent claim forms to the Chinese exporting producers known to be concerned and to the representatives of the PRC. Fourteen exporting producers, including groups of related companies, requested MET pursuant to Article 2(7) of the basic Regulation, or IT should the investigation establish that they do not meet the conditions for MET. One exporting producer requested only IT.
- (7) In view of the apparent high number of exporting producers in the PRC, importers and producers in the Community, in the notice of initiation, the Commission indicated that sampling might be applied for the determination of dumping and injury, in accordance with Article 17 of the basic Regulation.

⁽¹⁾ OJ L 56, 6.3.1996, p. 1. Regulation as last amended by Regulation (EC) No 2117/2005 (OJ L 340, 23.12.2005, p. 17).

⁽²⁾ OJ C 314, 21.12.2006, p. 2.

- (8) In order to enable the Commission to decide whether sampling would be necessary and, if so, to select a sample, all exporting producers in the PRC, Community importers and Community producers were asked to make themselves known to the Commission and to provide, as specified in the notice of initiation, basic information on their activities related to the product concerned during the investigation period (1 October 2005 to 30 September 2006).
- (9) As far as the exporting producers are concerned, in accordance with Article 17 of the basic Regulation, a sample was selected based on the largest representative volume of exports of certain compressors in the Community, which could reasonably be investigated within the time available. On the basis of the information received from the exporting producers, the Commission selected the six companies, or groups of related companies (the sampled companies) having the largest volume of exports to the Community. In terms of export volume the six sampled companies represented 93 % of the total exports of certain compressors from the PRC to the Community during the investigation period. In accordance with Article 17(2) of the basic Regulation, the parties concerned were consulted and raised no objection.
- (10) With regard to the Community producers, given that only three groups of companies cooperated in the investigation, it was decided that sampling was not necessary.
- (11) With regard to importers, given that only one importer cooperated in the investigation, it was decided that sampling was not necessary.
- (12) Questionnaires were sent to all companies selected for sampling and to all other parties known to be concerned. Full replies were received from six exporting producers in the PRC, three producers in the Community and one importer. One producer in the Community replied only to the sampling questionnaire. No questionnaire replies were received from other interested parties.
- (13) The Commission sought and verified all the information deemed necessary for a determination of dumping, resulting injury and Community interest and carried out verifications at the premises of the following companies:
- (a) *Producers in the Community*
- ABAC Aria Compressa SpA of the ABAC Group, Torino Italy,
 - FIAC SpA of the FIAC Group, Bologna, Italy,
 - FINI SpA, Zola Predosa (BO), Italy,
- (b) *Exporting producers in the PRC*
- Nu Air (Shanghai) Compressor and Tools Co. Ltd of the ABAC Group, Shanghai (Nu Air),
 - Zhejiang Xinlei Mechanical & Electrical Co. Ltd, Wenling (Xinlei),
 - Hongyou/Taizhou Group: 1. Zhejiang Hongyou Air Compressor Manufacturing Co. Ltd, Wenling (Hongyou); 2. Taizhou Hutou Air Compressors Manufacturing Co. Ltd, Wenling (Taizhou),
 - Wealth Group: 1. Shanghai Wealth Machinery & Appliance Co. Ltd, Shanghai (Shanghai Wealth); 2. Wealth (Nantong) Machinery Co., Ltd, Nantong (Wealth Nantong),
 - Zhejiang Anlu Cleaning Machinery Co., Ltd, Taizhou (Anlu),
 - FIAC Air Compressors (Jiangmen) Co. Ltd of the FIAC Group Jiangmen (FIAC),
- (c) *Related companies in the PRC*
- Wealth Shanghai Import-Export Co. Ltd, Shanghai (Wealth Import Export),
 - FIAC Air Compressors (Hong Kong) Ltd of the FIAC Group (FIAC Hong Kong),
- (d) *Unrelated importer in the Community*
- Hans Einhell AG, Landau, Germany.
- (14) In view of the need to establish a normal value for exporting producers to which MET might not be granted, a verification to establish normal value on the basis of data from an analogue country, Brazil in this case, took place at the premises of the following companies:
- (e) *Producers in Brazil*
- FIAC Compressores de ar do Brasil Ltda of the FIAC Group, Araquara,
 - Schulz S/A, Joinville, Santa Catarina, Brasil.
4. **Investigation period**
- (15) The investigation of dumping and injury covered the period from 1 October 2005 to 30 September 2006 (investigation period or IP). The examination of the trends relevant for the assessment of injury covered the period from 1 January 2003 to the end of the investigation period (period considered).

B. PRODUCT CONCERNED AND LIKE PRODUCT

1. Product concerned

- (16) The product concerned is reciprocating compressors, giving a flow not exceeding 2 cubic metres (m³) per minute, originating in the PRC (compressors or the product concerned), normally declared within CN codes ex 8414 40 10, ex 8414 80 22, ex 8414 80 28 and ex 8414 80 51.

- (17) A compressor is typically made up of a pump, driven by an electric motor either directly or through a belt mechanism. In most cases the pressurised air is pumped into a tank and exits through a pressure regulator and a rubber hose. Compressors, in particular the larger ones, can have wheels to make them mobile. They can be sold alone or with accessories for spraying, cleaning, or inflating tyres and other objects.

- (18) The notice of initiation of this proceeding also referred to reciprocating compressor pumps. The investigation showed that the reciprocating compressor pumps are one (but not the only) of the essential components of the compressors under investigation (they account for — depending on the model — between 25 % and 35 % of the total cost of the final product) and that they can also be sold separately as well as assembled on other compressors not falling within the scope of this investigation. The investigation also showed that they do not have the same technical and physical characteristics of the complete compressors and are not used for the same purposes. The complete compressor also contains other key components (e.g. the tank, the motor). Channels of distribution and customer perception of a pump on one hand and a complete compressor on the other hand also differ. Therefore, it is concluded that in this case reciprocating compressor pumps should not be considered as the product concerned.

- (19) The product concerned is used for driving air-powered tools or for spraying, cleaning, or inflating tyres and other objects. The investigation has shown that, despite differences in shapes, materials and production process, the different types of the product concerned all share the same basic physical and technical characteristics and are basically used for the same purposes. They are therefore considered to constitute a single product for the purpose of this proceeding.

2. Like product

- (20) The investigation showed that the basic physical and technical characteristics of the compressors produced

and sold by the Community industry in the Community, compressors produced and sold on the domestic market in the PRC and on the domestic market in Brazil, which served as an analogue country, and compressors produced in the PRC and sold to the Community have essentially the same basic physical and technical characteristics and the same basic use.

- (21) All these compressors are therefore considered to be alike within the meaning of Article 1(4) of the basic Regulation.

C. DUMPING

1. General

- (22) Fourteen companies or groups of companies made themselves known representing 100 % of total exports of the product concerned to the EC. The level of cooperation was therefore high. Thirteen companies or groups of companies requested MET while one company requested only IT. As mentioned at recital 9, six companies were selected in the sample on the basis of their export volume.

2. Market Economy Treatment (MET)

- (23) Pursuant to Article 2(7)(b) of the basic Regulation, in anti-dumping investigations concerning imports originating in the PRC, normal value shall be determined in accordance with points 1 to 6 of the said Article for those producers which were found to meet the criteria laid down in Article 2(7)(c) of the basic Regulation.

- (24) Briefly, and for ease of reference only, the MET criteria are set out in summarised form below:

1. business decisions and costs are made in response to market signals and without significant State interference; costs of major inputs substantially reflect market values;
2. firms have one clear set of basic accounting records which are independently audited in line with international accounting standards and are applied for all purposes;
3. there are no significant distortions carried over from the former non-market economy system;
4. bankruptcy and property laws guarantee legal certainty and stability;
5. exchange rate conversions are carried out at market rates.

- (25) Five companies or groups of companies of Chinese exporting producers included in the sample initially requested MET pursuant to Article 2(7)(b) of the basic Regulation and replied to the MET claim form for exporting producers within the given deadlines. All of these groups included both producers of the product concerned and companies related to the producers and involved in the sales of the product concerned. Indeed, it is the Commissions consistent practice to examine whether a group of related companies as a whole fulfils the conditions for MET. The following groups had requested MET:
- Nu Air,
 - Xinlei,
 - Hongyou/Taizhou,
 - Shanghai Wealth/Wealth Nantong,
 - FIAC.
- (26) For the abovementioned cooperating exporting producers included in the sample, the Commission sought all information deemed necessary and verified the information submitted in the MET claim at the premises of the companies in question as deemed necessary.
- (27) The investigation showed that MET could not be granted to three of the abovementioned five Chinese exporting producers that had requested MET as none of these companies or groups of companies met criterion 2 as summarised in recital 24. In addition, one of the groups of companies did not fulfil criterion 3 either.
- (28) Two companies or groups of companies (FIAC and Nu Air) fulfilled all the criteria as summarised in recital 24 and could be granted MET.
- (29) One company (Taizhou) part of the group of companies (Hongyou/Taizhou) and one company (Wealth Shanghai/Nantong Wealth) could not demonstrate that they fulfilled criterion 2 as summarised in recital 24 since they were not found to have accounting practices and accounting standards that were in line with international accounting standards. The group of companies (Hongyou/Taizhou) and the company (Wealth Shanghai/Nantong Wealth) could therefore not be granted MET.
- (30) One company (Xinlei) could not demonstrate that it fulfilled criterion 2 as summarised in recital 24 since its accounting practices and accounting standards were not in line with international accounting standards. Moreover, the company could not fully demonstrate payment for its land use rights. It did therefore not meet criterion 3 as summarised in recital 24 either. Accordingly, it could not therefore be granted MET.
- (31) One unrelated importer objected to the granting of MET to Nu Air, on the basis of some alleged inconsistencies in the audited accounts for 2004 and 2005. Nu Air, however, could show that there were no inconsistencies and clarify the points raised by that importer. Accordingly, this objection was dismissed.
- (32) The same importer objected to the granting of MET to FIAC, in view of the fact that the company had negotiated in 2002 a preliminary agreement with the regional authorities, which would have given them the use of a plot of land without charge for a maximum of three years, pending the lands expropriation formalities. However, the agreement expired without FIAC ever making any use of it or acquiring a title for this land. On the other hand, FIAC was able to demonstrate that it always paid rental for the premises used in its activities. This argument was therefore dismissed.
- (33) One company (Hongyou) of the group of companies (Hongyou/Taizhou) objected that it should not be refused MET due to issues arising in another company (namely, Taizhou). However, on the basis of the Commission Regulation (EEC) No 2454/93 of 2 July 1993 laying down provisions for the implementation of Council Regulation (EEC) No 2913/92 establishing the Community Customs code⁽¹⁾, Hongyou and Taizhou are to be considered as related parties. Therefore, as Taizhou could not be granted MET, Hongyou could not be granted MET neither.
- (34) On the basis of the above, three of the five Chinese sampled companies or groups of companies that had requested MET could not show that they fulfil all the criteria set out in Article 2(7)(c) of the basic Regulation.
- (35) It was therefore considered that MET should be granted to two companies (FIAC and Nu Air) and rejected for the remaining three companies/groups of companies. The Advisory Committee was consulted and did not object to the conclusions of the Commissions services.

3. Individual treatment (IT)

- (36) Pursuant to Article 2(7)(a) of the basic Regulation, a country wide duty, if any, is established for countries falling under that Article, except in those cases where companies are able to demonstrate that they meet all criteria set out in Article 9(5) of the basic Regulation.

⁽¹⁾ OJ L 253, 11.10.1993, p. 1. Regulation as last amended by Regulation (EC) No 214/2007 (OJ L 62, 1.3.2007, p. 6).

- (37) All exporting producers who requested MET also claimed IT in the event that they would not be granted MET. One company (Anlu) had only requested IT.
- (38) Of the four sampled companies or groups of companies that could either not be granted MET (Xinlei, Honyou-Taizhou, Wealth Shanghai/Nantong Wealth) or had not requested MET (Anlu), three companies or groups (Xinlei, Anlu and Wealth Shanghai/Nantong Wealth) fulfilled all the criteria set out in Article 9(5) and could be granted IT.
- (39) It was found that Taizhou failed to demonstrate that it cumulatively met all the requirements for IT as set forth in Article 9(5) of the basic Regulation. Namely, the severe problems with the accounting system of the company made it impossible to verify whether the criterion stipulated in Article 9(5)(b) of the basic Regulation that export prices and quantities, and conditions and terms of sale are freely determined, was fulfilled.
- (40) The IT claim of Taizhou was thus rejected.

4. Normal Value

4.1. *Companies or groups of companies which could be granted MET*

- (41) As far as the determination of normal value is concerned, the Commission first established, in accordance with Article 2(2) of the basic Regulation, for those exporting producers in the sample that could be granted MET whether their domestic sales of the product concerned to independent customers were representative, i.e. whether the total volume of such sales represented at least 5 % of their total export sales volume of the product concerned to the Community. Since the two companies or groups of companies had almost non-existent sales on the domestic market, it was considered that the product was not sold in representative quantities so as to provide an appropriate basis for the establishment of the normal value.
- (42) Since domestic sales could not be used in order to establish normal value, another method had to be applied. In this regard, the Commission used a constructed normal value, in accordance with Article 2(3) of the basic Regulation. Normal value was constructed on the basis of the companies or groups of companies manufacturing costs of the product concerned. When constructing normal value pursuant to Article 2(3) of the basic Regulation, a reasonable amount for selling, general and administrative (SG&A) expenses and profit is added to the manufacturing costs. The SG&A expenses and profit could not be established on the basis of the chapeau of Article 2(6) of the basic Regulation since none of the companies or groups of companies had representative domestic sales. They

could not be established on the basis of Article 2(6)(a) because there was no other company to which MET could be granted. Moreover, SG&A expenses and profits could not be established on the basis of Article 2(6)(b) as none of the companies or groups of companies had representative sales, in the ordinary course of trade, of the same general category of products. SG&A expenses and profits were therefore determined in accordance with Article 2(6)(c) (any other reasonable method) on the basis of the SG&A expenses and profits incurred by the cooperating producer in the analogue country. Publicly available information showed that this profit margin did not exceed the profit made by other known producers of the same general category of products (i.e. electrical machinery) in the PRC during the IP.

4.2. *Companies or groups of companies which could not be granted MET*

- (43) According to Article 2(7)(a) of the basic Regulation, normal value for the exporting producers not granted MET has to be established on the basis of the prices or constructed value in an analogue country.
- (44) In the notice of initiation, the Commission indicated that it envisaged using Brazil as an appropriate analogue country for the purpose of establishing normal value for the PRC. Interested parties were invited to comment on this. No interested parties objected to this proposal.
- (45) There are four known producers in Brazil, making about 220 000 compressors per year, and imports are about 30 000 units. The Commission sought cooperation from all known producers in Brazil.
- (46) Two Brazilian producers cooperated in the investigation. One of them is related to a Community producer, the FIAC Group. The investigation showed that this producer had generally high prices, mainly due the fact that he produced a small volume of sophisticated compressors for medical purposes which were not directly comparable to the product concerned. Due to the very different characteristics of the product and the market, it would be difficult to establish the necessary adjustments in order to use this data as normal value for the Chinese-produced compressors. The second cooperating Brazilian producer was found to produce some compressor models comparable to the ones exported to the Community by the Chinese exporting producers. Therefore, the prices in the Brazilian market of the comparable models of this Brazilian producer sold in the ordinary course of trade were used as a basis for establishing normal value for the exporting producers not granted MET.

5. Export price

- (47) The exporting producers made export sales to the Community either directly to independent customers or through related or unrelated trading companies located inside and outside the Community.

5.1. Companies or groups of companies which could be granted either MET or IT

- (48) Where export sales to the Community were made either directly to independent customers in the Community or through unrelated trading companies, export prices were established on the basis of the prices actually paid or payable for the product concerned in accordance with Article 2(8) of the basic Regulation.

- (49) Where export sales to the Community were made through related trading companies located in the Community, export prices were established on the basis of the first resale prices of these related traders to independent customers in the Community, pursuant to Article 2(9) of the basic Regulation. For the sales channelled through related companies outside the Community, the export price was established on the basis of the first resale prices to independent customers in the Community.

5.2. Companies or groups of companies which could not be granted MET/IT

- (50) For the two sampled Chinese exporting companies that were granted neither MET nor IT (Taizhou/Honyou Group), the data on their export sales could not be used to establish individual dumping margins for the reasons explained above in recital 29. Therefore, a dumping margin was calculated as set out in recital 55.

6. Comparison

- (51) The normal value and export prices were compared on an ex-works basis and at the same level of trade. For the purpose of ensuring a fair comparison between the normal value and export prices, due allowance in the form of adjustments was made for differences affecting prices and price comparability in accordance with Article 2(10) of the basic Regulation.
- (52) On this basis, for those Chinese exporting producers that could be granted MET/IT, allowances for differences in level of trade, transport and insurance costs, handling, loading and ancillary costs, packing costs, credit costs and after sales costs (warranty/guarantee) were made where applicable and justified. For the other companies, an average adjustment based on the adjustments mentioned before was made.
- (53) For the sales channelled through related traders based outside the Community, an adjustment was applied in

accordance with Article 2(10)(i) of the basic Regulation, where these companies have been shown to perform functions similar to that of an agent working on a commission basis. This adjustment was based on the SG&A of the trading companies plus a profit data obtained an unrelated trader in the Community.

7. Dumping margins

- (54) The dumping margins, expressed as a percentage of the cif import price at the Community border, duty unpaid, are the following:

Zhejiang Xinlei Mechanical & Electrical Co., Ltd, Wenling	77,6 %
Zhejiang Hongyou Air Compressor Manufacturing Co., Ltd, Wenling and Taizhou Hutou Air Compressors Manufacturing Co. Ltd, Wenling	76,6 %
Shanghai Wealth Machinery & Appliance Co., Ltd, Shanghai and Wealth (Nantong) Machinery Co., Ltd, Nantong	73,2 %
Zhejiang Anlu Cleaning Machinery Co., Ltd, Taizhou	67,4 %
Nu Air (Shanghai) Compressor and Tools Co., Ltd, Shanghai	13,7 %
FIAC Air Compressors (Jiangmen) Co., Ltd, Jiangmen	10,6 %
Cooperating companies not included in the sample (listed in Annex)	51,6 %
All other companies	77,6 %

- (55) For the two sampled companies which were granted neither MET nor IT, the dumping margin was calculated as a weighted average of the margins established for the three companies or groups of companies granted IT but not MET.
- (56) For the cooperating companies not included in the sample, the dumping margin was calculated as a weighted average of the margins established for all the companies in the sample.
- (57) Given the high level of cooperation (100 %), referred to at recital 22, a country-wide average dumping margin was set at the highest level applicable to any of the sampled companies.

D. INJURY

1. Community production

(58) In the light of the definition of Community industry as set out in Article 4(1) of the basic Regulation, the output of the following Community manufacturers was considered for inclusion in the definition of the Community production at the initiation of the investigation:

— four complainant Community manufacturers: CHINOOK SpA, FERRUA SYSTEM BLOCK Srl, FIAC SpA and FINI SpA,

— one other producer in the Community who fully cooperated in the investigation and who supported the proceeding: ABAC Aria Compressa SpA of the ABAC Group. It is noted that the ABAC Group sold this company to another company in 2007,

— six other Community producers listed in the complaint. Those companies received a sampling questionnaire, but only one of them expressed the wish to further cooperate with the proceeding within the time limits indicated in the notice of initiation. However, this producer stopped co-operating shortly thereafter and did not provide a full questionnaire reply,

— 20 other manufacturers listed in the complaint, which assemble the like product using parts produced by the abovementioned Community producers and/or imported from third countries. There is also a very limited production of the like product coming from manufacturers in the industrial-use compressors sector. Questionnaires were sent to all of them but none replied to the questionnaire.

(59) Two of the complaining producers ceased cooperating shortly after the initiation of the proceeding and did not reply to the sampling questionnaire.

Exclusion of a Community manufacturer from the definition of the Community production for reasons of significant imports within the period considered

(60) The investigation has shown that all three cooperating (groups of) companies, in addition to their own Community manufacturing, had also imported increasing amounts of the product concerned for resale on the Community market. As shown by the investigation, all cooperators decided to delocalise part of their production, at least for the part that was mostly exposed to the increasing dumped imports from the PRC. The imports by the cooperating (groups of) companies were predominantly from their respective related sister companies or subsidiaries established in the PRC.

(61) It was thus examined whether, despite those import volumes, the centre of interest of those companies was within the Community.

(62) As far as the volume of imports by the cooperating manufacturers in the Community is concerned, it was established that two of these (groups of) companies (company A and B) imported increasing but relatively low quantities of the product concerned (throughout the period considered the volumes of resale of the product concerned originating in the PRC remained inferior to the respective net sales of own production of these companies). Moreover, those companies kept their headquarters and R & D activities in the Community. It is therefore concluded that the centre of interest for companies A and B is still in the Community and that despite their imports from the PRC they should be considered as part of the Community production.

(63) With regard to the other cooperating group of companies (company C), it was established that in the period considered not only there was a considerable increase in the proportion of the imported product sold on the Community market, but that, starting from 2005, this proportion exceeded the volumes of the like product manufactured and sold within the Community. During the investigation period the volumes of resale of the product concerned originating in the PRC constituted the vast majority of the total sales of company C on the Community market.

(64) It was considered whether, despite the significant import volumes, the imported volumes could be considered to complement the product range or to be of a temporary nature. It appeared, however, that the imports of company C cannot be considered to complement the product range, but are based on a strategic decision to outsource the production of the product concerned to the PRC in a move to lower the cost of production and to be in a position to compete with the other Chinese imports. It was established that during the investigation period many models produced in the PRC were also produced in Italy by another company of the same group. Therefore, the compressors produced in the PRC were in direct competition with compressors produced by the same group in Italy. In view of the above and considering the significance of resale of imported products in the total sales of company C, it could thus not be concluded that company C's centre of interest for the manufacturing of the product concerned is still within the Community. It appeared likely that company C would continue or even increase imports of the like product from the country concerned for the resale on the Community market, which would mean that company C should be considered as an importer rather than a Community producer.

(65) Therefore, it is concluded that company C should not be included in the definition of Community production.

(66) To conclude, the Community production of certain compressors within the meaning of Article 4(1) of the basic Regulation has been defined as all the production by all the companies referred to in recital 58, minus the production of the company C. In the absence of co-operation of a number of producers and assemblers in the Community, the output was estimated on the basis of information gathered during the investigation and data submitted in the complaint.

2. Community industry

(67) The proceeding was initiated as a result of a complaint lodged by the Italian federation ANIMA representing four companies manufacturing compressors and one producer supporting the complaint (as detailed in the recital 58). Despite the abovementioned lack of cooperation from two complaining companies and the exclusion of one Community manufacturer from the definition of the Community production, the two remaining Community producers that properly cooperated with the investigation were found to account for a major proportion of the total Community production, in this case around 50 %. These two cooperating producers are therefore deemed to constitute Community industry within the meaning of Articles 4(1) and 5(4) of the basic Regulation.

(68) The remaining producers listed in the complaint and detailed in recital 58, minus the company excluded from the definition of the Community production, will be hereinafter referred to as 'the other Community producers'. None of these other Community producers opposed the complaint.

3. Community consumption

(69) Community consumption was established on the basis of the sales volumes of company Cs and the Community industry's own production destined for the Community market, the import volumes data on the Community market obtained from Eurostat and, concerning the sales of the other Community producers from information available in the complaint.

(70) Throughout the period considered, the Community market for the product concerned and the like product has declined by 6 % reaching in the IP around 3 066 000 pieces. More specifically, the Community consumption decreased in 2004 by 7 % before increasing slightly by 1 percentage point in 2005 and it stabilised at this level in the IP. The drop in the Community consumption can be attributed to the shrinking sales of the producers in the Community and to reduced imports from other third countries (mainly US and Japan).

	2003	2004	2005	IP
EU Consumption (pieces)	3 270 283	3 053 846	3 075 358	3 065 898
Index	100	93	94	94

4. Imports from the country concerned

(a) Volume

(71) The volume of imports of the product concerned into the Community rose massively between 2003 and the IP. They rose during the period considered by 182 % and reached over 1 600 000 pieces. In detail, imports from the country concerned increased by 66 % between 2003 and 2004, by a further 110 percentage points in 2005, and by six percentage points in the IP.

(b) Market share

(72) The market share held by exporters in the country concerned increased by more than 35 percentage points throughout the period considered and reached 53 % in the IP. The Chinese exporters increased their market share between 2003 and 2004 by 13 percentage points and by another 20 percentage points in 2005. In the IP, the market share of the exporters from the country concerned increased slightly by another percentage point.

	2003	2004	2005	IP
Volume of imports from the PRC (pieces)	574 795	953 001	1 586 614	1 622 702
Index	100	166	276	282
Market share of imports from the PRC	17,6 %	31,2 %	51,6 %	52,9 %

(c) *Prices*(i) *Price evolution*

- (73) Prices of the imports of the product concerned in the table below are based on the data submitted by cooperating exporters and verified during the investigation. During the period considered, there was an overall increase of the average price of imports of the product concerned originating in the PRC that rose by 6 % between 2003 and the IP. The increasing price trend is possibly a reflection of the change in the product mix, as Chinese manufacturers gradually start the production and export of more advanced and more expensive compressors.

	2003	2004	2005	IP
Price of imports from the PRC (EUR/piece)	35,15	34,61	35,70	37,27
Index	100	98	102	106

(ii) *Price undercutting*

- (74) A comparison for comparable models of the product concerned was made between the sampled exporting producers' and the Community industry's average selling prices in the Community. To this end, Community industry's ex-works prices to unrelated customers, net of all rebates and taxes have been compared with the cif Community frontier prices of exporting producers of the PRC, duly adjusted for unloading and customs clearance costs. Given that Community industry normally sells its Community production directly to retailers, whereas the Chinese goods are sold to retailers via related or unrelated importers and/or traders, an adjustment to the import price was made where appropriate to ensure that the comparison is made at the same level of trade. The comparison showed that during the IP the product concerned sold in the Community undercut the Community industry's prices by between 22 % and 43 %, depending on the exporter concerned.

5. Situation of the Community industry

- (75) Pursuant to Article 3(5) of the basic Regulation, the Commission examined all relevant economic factors and indices having a bearing on the state of the Community industry.
- (76) Given that the Community industry comprises only two producers, data relating to the Community industry is presented in an indexed format and/or in ranges in order to preserve confidentiality, pursuant to Article 19 of the basic Regulation. It is recalled that the data presented below only refers to the like product produced in the Community by the Community industry, thereby excluding stand-alone pumps and compressors manufactured by the related companies of the Community industry in the PRC and subsequently resold in the Community.

(a) *Production*

- (77) The Community industry's production decreased significantly between 2003 and the IP. Specifically, it declined by 16 % in 2004, by a further 23 percentage points in 2005 and another 7 percentage points in the IP. In the IP the Community industry's production volume ranged between 300 000 pieces and 400 000 pieces.

	2003	2004	2005	IP
Production (pieces)	Cannot be disclosed			
Index	100	84	61	54

(b) *Capacity and capacity utilisation rates*

- (78) The production capacity increased slightly by 3 % between 2003 and 2004, increased further by 9 percentage point in 2005 and stabilised on that level during the IP. The increase in the production capacity in 2005 is attributable to the investment made by one Community producer into an additional production line for compressors serving a higher segment of the market. During the IP, the Community industry's production capacity ranged between 600 000 pieces and 800 000 pieces.
- (79) The capacity utilisation rate of the Community industry constantly fell during the period considered and in the IP it was less than half of its level in 2003. This reflects a fall in the production levels. During the IP the Community industry's capacity utilisation ranged between 40 % and 50 %.

	2003	2004	2005	IP
Production capacity (pieces)	Cannot be disclosed			
Index	100	103	112	112
Capacity utilisation	Cannot be disclosed			
Index	100	81	54	48

(c) *Stocks*

- (80) The level of closing stocks increased in 2004 by 37 %, by a further 45 percentage points in 2005, before decreasing by 138 percentage points in the IP. During the IP the Community industry's stocks ranged between 10 000 and 20 000 pieces. Considering that the production of the like product in the Community is predominantly done on order, the level of inventories is not considered to be a useful injury indicator for this product.

	2003	2004	2005	IP
Closing stocks (pieces)	Cannot be disclosed			
Index	100	137	182	44

(d) *Sales volume*

- (81) The sales by the Community industry of its own production on the Community market steadily decreased throughout the period considered. Specifically, it fell by 19 % in 2004, by a further 24 percentage points in 2005 and by another nine percentage points in the IP. During the IP the sales volume of the Community industry ranged between 200 000 pieces and 300 000 pieces.

	2003	2004	2005	IP
EC sales volume (pieces)	Cannot be disclosed			
Index	100	81	57	48

(e) *Market share*

- (82) The market share of the Community industry constantly declined throughout the period considered. In detail, the index reflecting the evolution of the Community industry's market share fell by 13 % in 2004, by 27 percentage points in 2005 and by a further nine percentage points in the IP. During the IP the market share of the Community industry ranged between 5 % and 10 %.

	2003	2004	2005	IP
Market share of the Community industry	Cannot be disclosed			
Index	100	87	60	51

(f) *Growth*

- (83) Between 2003 and the IP, when the Community consumption decreased by 6 %, the volume of sales of the Community industry on the Community market decreased much more by a massive 52 %. During the period considered the Community industry's market share almost halved, while dumped imports gained more than 35 percentage points of market share, reaching 53 %. It is thus concluded that there was no growth from which the Community industry could have benefited.

(g) *Employment*

- (84) The employment level of the Community industry showed a steady decline throughout the period considered. It decreased by 10 % in 2004, by further 16 percentage points in 2005, and by another five percentage points in the IP. During the IP, the Community industry's employment devoted to the production and sales of the like product ranged between 150 and 200 persons.

	2003	2004	2005	IP
Employment	Cannot be disclosed			
Index	100	90	74	69

(h) *Productivity*

- (85) The productivity of the Community industry's workforce, measured as output (pieces) per person employed per year, declined in 2004 by 7 %, by a further 10 percentage points in 2005, and by another five percentage points in the IP. During the IP, the productivity of the Community industry ranged between 1 500 and 2 000 pieces per employee. The steady decrease in the productivity is a reflection of the declining production that was falling throughout the period considered on a somewhat quicker pace than the corresponding employment.

	2003	2004	2005	IP
Productivity (pieces per employee)	Cannot be disclosed			
Index	100	93	83	78

(i) *Labour costs*

- (86) The average labour cost per employee increased by 8 % between 2003 and 2004 and stabilised on that level in 2005 before slightly decreasing the IP by one percentage point. The 2004 increase was due in particular to a wage rise negotiated by one of the Community industry producers following a dispute with its trade unions. In addition, this negotiated increase in wages was preceded by a strike in 2003 and the resulting unpaid hours relatively lowered the annual labour cost in comparison to the following years.

	2003	2004	2005	IP
Annual labour cost per employee (EUR)	Cannot be disclosed			
Index	100	108	108	107

(j) *Factors affecting Community prices*

- (87) The unit prices of the Community industry's sales of own production to unrelated customers increased by 20 % between 2003 and the IP. Specifically, the average sales price increased by 9 % in 2004, by a further 13 percentage points in 2005, before slightly dropping by two percentage points in the IP. During the IP, the average unit price ranged between EUR 100 and EUR 150.

	2003	2004	2005	IP
Unit price EC market (EUR)	Cannot be disclosed			
Index	100	109	122	120

(88) The increase in the average unit price is a reflection of the Community industry's gradual partial shift of the production towards upper segment of the market, i.e. higher quality, better performance, bigger capacity and consequently more costly and expensive models of the like product.

(89) Given the volume and the level of price undercutting, these imports were certainly a factor affecting prices.

(k) *Profitability and return on investments*

(90) During the period considered the profitability of the Community industry's own production sales in the Community, expressed as a percentage of net sales, remained negative but improved throughout the period considered. The negative profitability improved in 2004 and further in 2005 when the level of losses was relatively the lowest and only slightly deteriorated in the IP. During the IP, the profitability of the Community industry ranged between – 3 % and – 10 %.

	2003	2004	2005	IP
Profitability of EC sales (% of net sales)	Cannot be disclosed			
Index	– 100	– 93	– 28	– 32
ROI (profit in % of net book value of assets)	Cannot be disclosed			
Index	– 100	– 85	– 19	– 20

(91) The return on investment (ROI), expressed as the profit in percent of the net book value of investments, followed the above profitability trend. It also remained negative during the period considered. It improved in 2004 and further in 2005, before slightly deteriorating in the IP. In the IP, the ROI ranged between – 30 % and – 15 %.

(l) *Cash flow*

(92) The net cash flow for operating activities remained also negative through the period considered, but clearly improved and was only slightly negative in the IP, ranging between EUR – 100 000 and EUR 0.

	2003	2004	2005	IP
Cash flow (EUR)	Cannot be disclosed			
Index	– 100	– 67	– 9	– 1

(m) *Investment and ability to raise capital*

(93) The Community industry's annual investment in the production of the like product increased in 2004 by 72 % and by a further 75 percentage points in 2005, before slightly declining by seven percentage points in the IP. The net investment during the IP was, however, relatively low and ranged between EUR 1 300 000 and EUR 2 300 000. The increase can be attributed to an investment made by one of the Community producers for leasing a new building with a view to centralise and modernise the production process as well as some investment by the Community industry intended for maintenance and renewal of existing equipment but also in new equipment and modules in an attempt to improve competitiveness of their product vis-à-vis the dumped imports from China.

	2003	2004	2005	IP
Net investments (EUR)	Cannot be disclosed			
Index	100	172	247	240

- (94) No evidence was provided to the Commission in respect of a reduced or increased ability to raise capital over the period considered.

(n) *Magnitude of dumping margin*

- (95) Given the volume, the market share and the prices of the imports from the country concerned, the impact on the Community industry of the magnitude of the actual margins of dumping cannot be considered to be negligible.

(o) *Recovery from past dumping*

- (96) In the absence of any information on the existence of dumping prior to the situation assessed in the present proceeding, this factor is considered irrelevant.

6. Conclusion on injury

- (97) Between 2003 and the IP, the volume of the dumped imports of the product concerned originating in the PRC increased massively, by 182 % and their share of the Community market grew by over 35 percentage points. The average prices of the dumped imports were considerably lower than those of the Community industry during the period considered. Moreover, during the IP, the prices of imports from the PRC significantly undercut those of the Community industry. On a weighted average basis, price undercutting was in the IP, between 22 % and 43 %.
- (98) Some indicators experienced a positive development between 2003 and the IP. Average unit sales price increased by 20 %, the production capacity indicator rose by 12 % and there was an increase in the investment by 140 %. However, it has been shown in recitals 78, 88 and 93 that particular reasons explain these developments. In addition, as indicated above in recital 90, the profitability throughout the period considered showed signs of recovery as losses declined significantly between 2003 and the IP. However, it is to be remembered that the profitability remained negative and the level of losses in the IP cannot be considered negligible.
- (99) A significant deterioration in the situation of the Community industry has been found over the period considered. Most of the injury indicators developed negatively between 2003 and the IP: production volume declined by 46 %, capacity utilisation more than halved, Community industry's sales declined by 52 % and the corresponding market share almost halved, employment decreased by 31 %, and productivity fell by 22 %.

- (100) In the light of the foregoing, it is concluded that the Community industry has suffered material injury within the meaning of Article 3(5) of the basic Regulation.

E. CAUSATION

1. Introduction

- (101) In accordance with Article 3(6) and (7) of the basic Regulation, the Commission examined whether dumped imports have caused injury to the Community industry to a degree that enables it to be classified as material. Known factors other than the dumped imports, which could at the same time be injuring the Community industry, were also examined to ensure that possible injury caused by these other factors was not attributed to the dumped imports.

2. Effects of the dumped imports

- (102) The significant increase in the volume of the dumped imports by 182 % between 2003 and the IP, and of its corresponding share of the Community market, i.e. by 35 percentage points, as well as the undercutting found (between 22 % and 43 % during the IP) generally coincided with the deterioration of the economic situation of the Community industry, as explained in recital 99. In addition, dumped prices were, on average, considerably below those of the Community industry throughout the period considered. It is considered that these dumped imports exerted a downward pressure on the prices, preventing the Community industry from increasing its sales prices to a level that would have been necessary to realise a profit and that the dumped imports had a significant negative impact on the situation of the Community industry. Moreover, it appears that the Community industry lost a significant part of its market share to those increased volume of dumped imports. The decreased sales volumes lead to a relative increase of the fixed costs of the CI which had a negative impact on the financial situation as well. Therefore, there is a clear causal link between imports from the PRC and the material injury suffered by the Community industry.

3. Effects of other factors

Export performance of the Community industry

- (103) As can be seen from the table below, during the period considered there was a decrease by 33 % of the volume of export sales, which however was not as profound as the decrease of the EC sales, described in recital 81. During the IP the export sales ranged between 100 000 pieces and 150 000 pieces. The average unit price of export sales remained stable between 2003 and the IP and ranged between EUR 100 and EUR 150.

	2003	2004	2005	IP
Export sales (pieces)	Cannot be disclosed			
Index	100	89	74	77
Export unit price (EUR)	Cannot be disclosed			
Index	100	100	102	100

- (104) Given the price stability on the export markets and the relatively smaller drop in the export volumes, it is considered that even if export activity might have contributed to the injury suffered by the Community industry, but did not do so to such an extent as to break the causal link.

Rise in the costs of production

- (105) One interested party claimed that the rise in the costs of production of the Community industry could not have been caused only by the rise in the price of the raw materials (notably metal parts), but also by other causes thereby pointing to self-inflicted injury. It is noted that that party was not specific about the causes which would point to self-inflicted injury.
- (106) The investigation showed that the unit costs of production of the Community industry have increased by around 8 % between 2003 and the IP. The increase could be partly attributed to the apparent rise in the price of raw materials. The investigation showed that some part of the cost increase is due to the deteriorated cost structure and in particular the unit fixed costs, that rose as a result of significant reduction in the number of units produced. Still, the bulk of the increase is to be attributed to the noticeable rise in the price of components used for the production of models in the upper segment of the market.
- (107) However, the rise in the average unit cost of production has been more than compensated by the increase of the average unit selling price (see recital 87) that resulted in improvement of (although still negative) profitability, as described in recital 90. It therefore considered that the rise in the cost of production did not contribute to the injury suffered by Community producers.

Imports from other countries

- (108) Based on Eurostat data, the volume of imports into the Community of the like product originating from the rest of the world (i.e. excluding the PRC) declined by 33 % in 2004, by a further seven percentage points in 2005, before recovering slightly by nine percentage points in the IP. Overall, the drop between 2003 and the IP amounts to 31 %. The corresponding market share held by imports from the rest of the world declined from 35 % in 2003 to 26 % in the IP.
- (109) No detailed information was available concerning the price of imports from the rest of the world. Given that Eurostat data does not take account of the product mix, this data could not be used for any reasonable comparison with the Community industry's prices. The investigation did not give any indication that the prices of imports from the rest of the world would undercut the Community prices.
- (110) Given the declining volume and market share and given the lack of any evidence to the contrary, it is concluded that imports from the rest of the world did not cause material injury, if at all, to the Community industry.

	2003	2004	2005	IP
Imports from the rest of the world (pieces)	1 164 228	780 921	699 129	807 893
Index	100	67	60	69
Market share of imports from the rest of the world	35,6 %	25,6 %	22,7 %	26,4 %

Competition from other producers in the Community

- (111) As indicated under recital 65, one producer in the Community was excluded from the definition of the Community production. In addition, a number of producers and assemblers did not cooperate in this proceeding (see recital 58). Based on information obtained in the course of the investigation from cooperating producers and the complaint, it is estimated that sales volumes of these other producers in the Community for the EC market was around 1 000 000 pieces in the year 2003 and declined significantly throughout the period considered, reaching about 400 000 pieces in the IP. Similarly, the corresponding market share declined throughout the period considered from 31 % in 2003 to 13 % in the IP. These producers therefore did not gain any sales volume and market share at the expense of the Community industry. To the contrary, similarly to the Community industry, they lost a big portion of their sales and market share to the dumped imports from China.
- (112) Given the above, and given the absence of information to the contrary, it is concluded that other producers in the Community have not contributed to the injury suffered by the Community industry.

	2003	2004	2005	IP
EC sales of other producers in the Community (estimation in pieces)	1 039 780	919 375	510 659	399 891
Index	100	88	49	38
Market share of other producers in the Community	31,4 %	29,7 %	16,4 %	12,9 %

Decline of consumption on the Community market

- (113) As seen under recital 70, consumption declined by about 200 000 pieces or 6 % throughout the period considered. However, it is to be noted that during the same period, the decline in the Community industry's sales on the Community market was much more profound both in absolute (sales dropped by between 250 000 and 300 000 pieces) and relative terms (sales dropped massively by 52 %). At the same time, while the Community industry lost almost half of its market share (see recital 82), the market share of the Chinese compressors increased by 35 percentage points (see recital 71). It is thus concluded that the decline of consumption did not cause the injury suffered by the Community industry.

4. Conclusion on causation

- (114) The coincidence in time between, on the one hand, the massive increase in dumped imports from the PRC, the corresponding increase in market shares and the undercutting found and, on the other hand, the deterioration in the situation of the Community industry, leads to the conclusion that the dumped imports caused the material injury suffered by the Community industry within the meaning of Article 3(6) of the basic Regulation.
- (115) The investigation showed that the export performance of the Community industry might have contributed to a limited degree to the injury suffered, but not to an extent that would break the causal link. Other known factors were analysed but were found not to have contributed to the injury suffered. The rise in the unit cost of the production of the Community industry was found to be more than offset by the simultaneous increase in the selling price, and it was consequently considered that it could not have contributed to the injury suffered. As concerns imports from other third countries, given their declining volumes and market share and in view of the lack of possibility for a proper price comparison with the Community prices, it was concluded that these imports did not cause the injury. Concerning competition from the other producers in the Community, given their declining sales volumes and lost market share to the dumped imports, it was established that their activity did not contribute to the injury suffered. Regarding the decline in consumption, given that it was smaller than the decrease in sales in the Community of the Community producers and that it coincided with the significant increase of the dumped imports from China, it was concluded that it, as such, did not cause the injury.
- (116) Based on the above analysis, which has properly distinguished and separated the effects of all known factors having an effect on the situation of the Community industry from the injurious effect of the dumped imports, it is concluded that the imports from the PRC have caused material injury to the Community industry within the meaning of Article 3(6) of the basic Regulation.

F. COMMUNITY INTEREST

(117) The Council and Commission examined whether compelling reasons existed which would lead to the conclusion that it is not in the Community interest to adopt measures in this particular case. For this purpose, and pursuant to Article 21(1) of the basic Regulation, the Council and Commission considered the likely impact of measures for all parties concerned. The Commission services originally sent a final disclosure in the sense of Article 20(4), first sentence, of the basic Regulation, in which the orientation was not to impose measures. Pursuant to that disclosure, certain operators, in particular two cooperating producers in the Community, put forward certain arguments which have led to a re-examination of the issue. The most important of these arguments will be discussed below.

1. Interest of cooperating producers in the Community

(118) Without prejudice to the definition of Community industry (see recital 67), it is important to bear in mind that, as mentioned in recital 60, all cooperating groups of companies in the Community set up production facilities in the PRC and imported increasing amounts of the product concerned for resale on the Community market. As mentioned in recital 58, one group of companies sold its Community-based production facility to another company in 2007, i.e. after the IP. Considering that it is a post-IP development and that throughout the period considered this group was manufacturing the like product in the Community, its interests are discussed under this heading and the group is referred to as a producer in the Community.

(119) The investigation showed that should measures not be imposed, the Community industry would possibly continue to suffer injury. Indeed, there would likely be a further deterioration of the situation of the Community industry and a further decline of their market share.

(120) On the other hand, if measures were to be imposed, this could allow for an increase in prices and/or sales volumes (and market share) which would in turn provide the Community industry with the possibility to improve its financial and economic situation.

(121) As far as the possible development of the market share of the Community industry is concerned, should measures be imposed, it is to be noted that all cooperating producers claimed during the proceeding that this would result in reversing the current process of delocalisation and in moving (at least some part of) the production back to the Community.

(122) In this regard, the analysis of the detailed data submitted by two cooperating producers in the Community and their related subsidiaries in the PRC clearly showed that in the particular economic situation prevailing in the PRC over the last few years, there were important cost differences in favour of producing the product concerned destined for the Community market in the PRC rather than in the Community. These differences and the dumping practiced by the Chinese exporters in the Community market might have led all cooperating producers in the Community to delocalise (part of) their production in the first place.

(123) It was therefore examined whether the imposition of anti-dumping duties, which in the case of the exporters related to the producers mentioned in recital 122 are relatively low, would, regarding at least two of the cooperating producers, change the main economic parameters that have led to the process of delocalisation. It was established that the full cost of compressors sold in the Community and produced in the PRC (including, *inter alia*, manufacturing costs, selling, general and administrative expenses, ocean freight, conventional duty and a possible anti-dumping duty) would be in the same order of magnitude, although slightly lower, as the full cost of producing and selling alike compressors in the Community.

(124) Moreover, these two companies reiterated their position that should measures reduce the level of price undercutting suffered from the Chinese dumped products, they would be in a position to increase and/or restart their production in the Community using the existing idle capacities.

(125) Therefore, it cannot be excluded, as claimed by two of the cooperating producers in their submissions following the disclosure, that those producers could use their substantial spare capacities in Europe. This appears to be possible in view of the fact that the proposed measures would come close to levelling the cost of goods, delivered onto the Community market, produced in the PRC and in the Community. Consequently, it can not be excluded that those producers will increase their production in the Community as a consequence of the imposition of measures. Finally, it can not be excluded that, if duties on exports from their related producers in the PRC would reduce the difference in the cost of the goods delivered to the Community market, produced in the PRC and in the Community, those producers would prefer not to concentrate all production outside of the Community, in order to specialise production of certain models in certain locations, or to diversify risk.

(126) As far as a third cooperating producer is concerned, its related company in the PRC was not included in the sample for calculating dumping margins and would therefore, in case of imposing measures, fall, in principle, under the average duty of 51,6 % applicable to cooperating, non-sampled companies. Given that it was not included in the sample, the Commission does not possess verified information regarding the production costs of that Chinese company. Therefore, it cannot be excluded that in that case the full cost of compressors sold in the Community and produced in the PRC (including, *inter alia*, manufacturing costs, selling, general and administrative expenses, ocean freight, conventional duty and possible anti-dumping duty) would exceed the full cost of producing and selling alike compressors in the Community.

(127) Following disclosure, the Italian association of compressor manufacturers that lodged the complaint (ANIMA) stressed the need for the anti-dumping measures in order to allow the producers to continue manufacturing in the Community and their economic survival. They made it clear that even if the related Chinese suppliers of some European producers would be subject to relatively high anti-dumping duties, they would still be in favour of imposing measures.

(128) An evaluation of the potential benefit of the Community industry in case measures were imposed was carried out. It has been noted that not imposing measures might lead to a further deterioration of the situation of the Community industry and further decline of their market share. This would probably lead to the loss of a number of jobs as well as of the investment that had been made to build production capacity in the Community. These elements also, although difficult to quantify, need to be taken into account in the overall assessment of the Community interest. On the other hand, should anti-dumping duties be imposed, it cannot be excluded that an increase in the production in the Community may occur, possibly involving a relocation of some portion of the production back to the Community. This could lead to an increase of employment and may have an additional impact on the upstream industry, supplying semi-finished products to the Community producers of compressors.

2. Interest of other Community producers

(129) These producers did not cooperate in the investigation. Their market share is similar to the one held by the Community industry. In view of the lack of cooperation and the fact that most of these producers did not take any clear position on this proceeding, there are no indications of what would be the interest of these producers. Following disclosure one non-cooperating producer and two complaining producers that did not cooperate further in this proceeding (see recital 59) as well as the Italian association of compressor manufacturers (ANIMA) came forward to repeat the arguments mentioned in recital 127. They clearly stated that they are in favour of imposing measures.

3. Interest of (unrelated) importers, consumers and other economic operators in the Community

(130) During the IP, the only cooperating unrelated importer imported around 20 % of the Community's total import volume of the product concerned originating in the PRC. In the absence of alternative cooperation and given the above percentage, this importer is deemed representative of the situation of unrelated importers. This cooperating party indicated that it is against the imposition of anti-dumping measures on imports of this particular product from the PRC. During the IP, the activity of resale of the product concerned accounted for between 2 % and 8 % of this importers total company turnover. In terms of workforce, between 30 and 70 persons are directly involved in the purchasing, trading and resale of the product concerned.

(131) Cooperation was also sought from consumer associations as well as all known retailers, distributors, traders and/or other economic operators involved in the distribution chain in the Community. However, no cooperation was obtained. Given that only one unrelated importer cooperated in this proceeding and given the lack of participation of any other economic operators in the Community or consumer associations, it was considered appropriate to analyse a global, overall potential impact of possible measures on all these parties. Overall, it was concluded that the situation of consumers and economic operators involved in the distribution chain in the Community could be negatively affected by the possible measures.

4. Conclusion on Community interest

(132) For the reasons expressed in recitals 125 and 126, in this specific case, it can not be excluded that the cooperating producers in the Community might take the opportunity to benefit from the measures by recovering some of the production lost due to the injurious dumping by utilising the existing idle capacities.

(133) It is recognised that, imposition of measures may have a negative effect on consumers and all economic operators in the distribution chain in the Community. However, it is also clear that if production in the Community is increased (and, therefore, probably, the number of people employed in this production in the Community is increased) the measures would create certain benefits for the Community.

(134) Article 21 of the basic Regulation refers to the need to give special consideration to the need to remedy the trade distorting effects of injurious dumping and to restore effective competition, although this particular provision has to be seen in the overall framework of the Community interest test as laid down in the aforementioned Article. Thus, the effects of imposing measures or not imposing measures on all parties concerned have to be examined.

(135) In conclusion, in view of the high dumping and injury margins, it is considered that, in this particular case, on the basis of the information submitted there is not enough evidence to conclude that the possible imposition of measures would be clearly disproportionate and against the Community interest.

(136) Should, however, in spite of the imposition of duties, the situation prevailing prior to the imposition of measures (in particular the 53 % market share of imports from the PRC and the relatively small market share of cooperating producers in the Community) remain unchanged, the cost of the possible duty to be borne by consumers and economic operators in the Community (including importers, traders and retailers) might be considered, in the long run, to be greater than the benefit for the Community industry. Therefore, the measures will be imposed for two years, and certain reporting requests will be made to, in particular, Community producers.

G. DEFINITIVE MEASURES

Estimated injury elimination level

(137) The level of any anti-dumping measures should be sufficient to eliminate the injury to the Community industry caused by the dumped imports, without exceeding the dumping margins found. When calculating the amount of duty necessary to remove the effects of the injurious dumping, it was considered that any measures should allow the Community industry to obtain a profit before tax that could be reasonably achieved under normal conditions of competition, i.e. in the absence of dumped imports. Given that the Community industry was not profitable with regard to the like product throughout the entire period under consideration, it was considered that a profit margin of 5 % achieved by this industry on other products of the same category they produced and sold during the IP, is an appropriate level that the Community industry could be expected to obtain also with regard to the like product in the absence of injurious dumping.

(138) The necessary price increase was then determined on the basis of a comparison, per product type, of the weighted average import price, as established for the price under-cutting calculations, with the non-injurious price of the like product sold by the Community industry on the Community market. The non-injurious price has been obtained by adjusting the sales price of the Community industry in order to reflect the abovementioned profit margin. Any difference resulting from this comparison was then expressed as a percentage of the total cif import value.

(139) The abovementioned price comparison showed that the calculated injury margins are between 61,3 % and 160,8 % and in case of all companies are higher than the respective dumping margins. In the light of the foregoing and pursuant to Article 9(4) of the basic Regulation, it is considered that a definitive anti-dumping duty should be imposed in respect of imports of certain

compressors originating in the PRC at the level of the dumping margins.

Definitive measures

(140) Consequently, the anti-dumping duties should be as follows:

Zhejiang Xinlei Mechanical & Electrical Co., Ltd, Wenling	77,6 %
Zhejiang Hongyou Air Compressor Manufacturing Co., Ltd, Wenling and Taizhou Hutou Air Compressors Manufacturing Co., Ltd, Wenling	76,6 %
Shanghai Wealth Machinery & Appliance Co., Ltd, Shanghai and Wealth (Nantong) Machinery Co., Ltd, Nantong	73,2 %
Zhejiang Anlu Cleaning Machinery Co., Ltd, Taizhou	67,4 %
Nu Air (Shanghai) Compressor and Tools Co., Ltd, Shanghai	13,7 %
FIAC Air Compressors (Jiangmen) Co., Ltd, Jiangmen	10,6 %
Cooperating companies not included in the sample (listed in Annex)	51,6 %
All other companies	77,6 %

(141) The individual anti-dumping duty rates specified in this Regulation were established on the basis of the findings of the present investigation. Therefore, they reflect the situation found during that investigation with respect to these companies. These duty rates (as opposed to the countrywide duty applicable to 'all other companies') are thus exclusively applicable to imports of products originating in the PRC and produced by these companies and thus by the specific legal entities mentioned. Imported products produced by any other company not specifically mentioned in the operative part of this Regulation with its name and address, including entities related to this specifically mentioned, cannot benefit from this rate and shall be subject to the countrywide duty.

(142) Any claim requesting the application of an individual company anti-dumping duty rate (e.g. following a change in the name of the entity or following the setting up of new production or sales entities) should be addressed to the Commission forthwith with all relevant information, in particular any modification in the company's activities linked to production, domestic and export sales associated with, for example, that name change or that change in the production and sales entities. If appropriate, the Regulation will accordingly be amended by updating the list of companies benefiting from individual duties.

(143) Measures are imposed to allow the producers in the Community to recover from the injurious effect of dumping. To the extent that there would be any initial imbalance between the potential benefit for producers in the Community and the cost for consumers and other economic operators in the Community, this imbalance could be offset by an increase and/or restart of the production in the Community. However, as already indicated above, given the magnitude of the burden of the possible duties and considering that the envisaged scenario of increased production in the Community might also not materialise, it is considered prudent, in such exceptional circumstances, to limit the duration of measures to a period of two years only.

(144) This period should be enough for the producers in the Community to increase and/or restart their production in Europe, while at the same time not significantly endanger the situation of consumers and other economic operators in the Community. It is considered that the period of two years will be the most appropriate to analyse whether the imposition of measures had indeed the effect of increasing European production and thereby balancing the negative effects on importers and consumers.

Implementation

(145) It is also considered appropriate to closely monitor the situation on the Community market, following the imposition of measures, in view of possibly reviewing the measures expeditiously should it appear that the duties are not reaching their intended effect, i.e. allowing for ensuring the viability of existing producers in the short term and the improvement of their economic and financial situation in the medium term.

(146) To this effect, the producers in the Community will be invited by the Commission to report to it periodically on the evolution of a number of key economic and financial indicators. Also importers and other operators involved may be so invited, or provide such information of their own initiative. On the basis of these data the Commission will make a periodic assessment of the situation of imports and Community production, so as to be in a position to act swiftly should this be necessary.

(147) All parties were informed of the essential facts and considerations on the basis of which it was intended to recommend the imposition of definitive anti-dumping duties. They were also granted a period within which they could make representations subsequent to this disclosure. The comments submitted by the parties were duly considered, and, where appropriate, the findings have been modified accordingly. All parties were given detailed responses to the comments they have submitted.

(148) In order to ensure equal treatment between any new exporters and the cooperating companies not included in the sample, mentioned in the Annex to this Regulation, provision should be made for the weighted average duty imposed on the latter companies to be applied to any new exporters which would otherwise be entitled to a review pursuant to Article 11(4) of the basic Regulation,

HAS ADOPTED THIS REGULATION:

Article 1

1. A definitive anti-dumping duty is hereby imposed on imports of reciprocating compressors (excluding reciprocating compressor pumps), giving a flow not exceeding 2 cubic metres (m³) per minute, falling within CN codes ex 8414 40 10, ex 8414 80 22, ex 8414 80 28 and ex 8414 80 51, (TARIC codes 8414 40 10 10, 8414 80 22 19, 8414 80 22 99, 8414 80 28 11, 8414 80 28 91, 8414 80 51 19 and 8414 80 51 99) and originating in the People's Republic of China.

2. The rate of anti-dumping duty applicable to the net, free-at-Community-frontier price, before duty, of the products described in paragraph 1 and produced by the companies below shall be as follows:

Company	Duty	TARIC additional codes
Zhejiang Xinlei Mechanical & Electrical Co., Ltd, Wenling	77,6 %	A860
Zhejiang Hongyou Air Compressor Manufacturing Co., Ltd, Wenling and Taizhou Hutou Air Compressors Manufacturing Co., Ltd, Wenling	76,6 %	A861
Shanghai Wealth Machinery & Appliance Co., Ltd, Shanghai and Wealth (Nantong) Machinery Co., Ltd, Nantong	73,2 %	A862
Zhejiang Anlu Cleaning Machinery Co., Ltd, Taizhou	67,4 %	A863
Nu Air (Shanghai) Compressor and Tools Co., Ltd, Shanghai	13,7 %	A864
FIAC Air Compressors (Jiangmen) Co., Ltd, Jiangmen	10,6 %	A865
Cooperating companies not included in the sample (listed in Annex)	51,6 %	A866
All other companies	77,6 %	A999

3. Unless otherwise specified, the provisions in force concerning customs duties shall apply.

4. Where any new exporting producer in the People's Republic of China provides sufficient evidence to the Commission that:

- it did not export to the Community the product described in paragraph 1 in the period between 1 October 2005 and 30 September 2006 (investigation period),
- it is not related to any exporter or producer in the People's Republic of China which is subject to the anti-dumping measures imposed by this Regulation,
- it has actually exported to the Community the product concerned after the investigation period on which the measures are based, or it has entered into an irrevocable contractual obligation to export a significant quantity to the Community,

- it operates under market economy conditions, as defined in Article 2(7)(c) of the basic Regulation, or alternatively that it fulfils the requirements to have an individual duty in accordance with Article 9(5) of that Regulation,

the Council, acting by simple majority on a proposal submitted by the Commission after consulting the Advisory Committee, may amend paragraph 2 by adding the new exporting producer to the cooperating companies not included in the sample and thus subject to the weighted average duty of 51,6 %.

Article 2

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

It shall apply until 21 March 2010.

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

Done at Brussels, 17 March 2008.

For the Council
The President
I. JARC

ANNEX

CHINESE COOPERATING EXPORTING PRODUCERS NOT SAMPLED

TARIC Additional code A866

Fini (Taishan) Air Compressor Manufacturing Co., Ltd.	Taishan
Lacme Dafeng Machinery Co., Ltd.	Dafeng
Qingdao D&D Electro Mechanical Technologies Co., Ltd. and Qingdao D&D International Co., Ltd.	Qingdao
Shanghai Liba Machine Co., Ltd.	Shanghai
Taizhou Sanhe Machinery Co., Ltd.	Wenling
Taizhou Dazhong Air Compressors Co., Ltd.	Wenling
Taizhou Shimge Machinery & Electronic Co., Ltd.	Wenling
Quanzhou Yida Machine Equipment Co., Ltd.	Quanzhou

COMMISSION REGULATION (EC) No 262/2008**of 19 March 2008****establishing the standard import values for determining the entry price of certain fruit and vegetables**

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Commission Regulation (EC) No 1580/2007 of 21 December 2007 laying down implementing rules of Council Regulations (EC) No 2200/96, (EC) No 2201/96 and (EC) No 1182/2007 in the fruit and vegetable sector ⁽¹⁾, and in particular Article 138(1) thereof,

Whereas:

- (1) Regulation (EC) No 1580/2007 lays down, pursuant to the outcome of the Uruguay Round multilateral trade negotiations, the criteria whereby the Commission fixes

the standard values for imports from third countries, in respect of the products and periods stipulated in the Annex thereto.

- (2) In compliance with the above criteria, the standard import values must be fixed at the levels set out in the Annex to this Regulation,

HAS ADOPTED THIS REGULATION:

Article 1

The standard import values referred to in Article 138 of Regulation (EC) No 1580/2007 shall be fixed as indicated in the Annex hereto.

Article 2

This Regulation shall enter into force on 20 March 2008.

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

Done at Brussels, 19 March 2008.

For the Commission

Jean-Luc DEMARTY

*Director-General for Agriculture and
Rural Development*

⁽¹⁾ OJ L 350, 31.12.2007, p. 1.

ANNEX

to Commission Regulation of 19 March 2008 establishing the standard import values for determining the entry price of certain fruit and vegetables

(EUR/100 kg)		
CN code	Third country code ⁽¹⁾	Standard import value
0702 00 00	JO	62,5
	MA	57,1
	TN	134,4
	TR	96,5
	ZZ	87,6
0707 00 05	JO	202,1
	MA	90,4
	TR	156,2
	ZZ	149,6
0709 90 70	MA	74,1
	TR	127,0
	ZZ	100,6
0709 90 80	EG	242,2
	ZZ	242,2
0805 10 20	EG	46,0
	IL	55,1
	MA	53,7
	TN	56,7
	TR	46,1
	ZA	43,3
	ZZ	50,2
0805 50 10	IL	106,6
	SY	109,7
	TR	131,9
	ZA	147,5
	ZZ	123,9
0808 10 80	AR	98,4
	BR	86,4
	CA	98,7
	CL	103,2
	CN	83,2
	MK	44,4
	US	97,3
	UY	87,6
	ZA	69,5
	ZZ	85,4
0808 20 50	AR	76,0
	CL	72,8
	CN	88,9
	ZA	104,8
	ZZ	85,6

⁽¹⁾ Country nomenclature as fixed by Commission Regulation (EC) No 1833/2006 (OJ L 354, 14.12.2006, p. 19). Code 'ZZ' stands for 'of other origin'.

COMMISSION REGULATION (EC) No 263/2008**of 19 March 2008****granting no export refund for butter in the framework of the standing invitation to tender provided for in Regulation (EC) No 581/2004**

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Council Regulation (EC) No 1255/1999 of 17 May 1999 on the common organisation of the market in milk and milk products ⁽¹⁾, and in particular the third subparagraph of Article 31(3) thereof,

Whereas:

(1) Commission Regulation (EC) No 581/2004 of 26 March 2004 opening a standing invitation to tender for export refunds concerning certain types of butter ⁽²⁾ provides for a permanent tender.

(2) Pursuant to Article 5 of Commission Regulation (EC) No 580/2004 of 26 March 2004 establishing a tender

procedure concerning export refunds for certain milk products ⁽³⁾ and following an examination of the tenders submitted in response to the invitation to tender, it is appropriate not to grant any refund for the tendering period ending on 18 March 2008.

(3) The measures provided for in this Regulation are in accordance with the opinion of the Management Committee for Milk and Milk Products,

HAS ADOPTED THIS REGULATION:

Article 1

For the permanent tender opened by Regulation (EC) No 581/2004, for the tendering period ending on 18 March 2008 no export refund shall be granted for the products and destinations referred to in Article 1(1) of that Regulation.

Article 2

This Regulation shall enter into force on 20 March 2008.

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

Done at Brussels, 19 March 2008.

For the Commission

Jean-Luc DEMARTY

*Director-General for Agriculture and
Rural Development*

⁽¹⁾ OJ L 160, 26.6.1999, p. 48. Regulation as last amended by the Council (EC) No 1152/2007 (OJ L 258, 4.10.2007, p. 3). Regulation (EEC) No 1255/1999 will be replaced by Regulation (EC) No 1234/2007 (OJ L 299, 16.11.2007, p. 1) as from 1 July 2008.

⁽²⁾ OJ L 90, 27.3.2004, p. 64. Regulation as last amended by Regulation (EC) No 1543/2007 (OJ L 337, 21.12.2007, p. 62).

⁽³⁾ OJ L 90, 27.3.2004, p. 58. Regulation as last amended by Regulation (EC) No 128/2007 (OJ L 41, 13.2.2007, p. 6).

COMMISSION REGULATION (EC) No 264/2008
of 19 March 2008
fixing the export refunds on poultrymeat

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Council Regulation (EEC) No 2777/75 of 29 October 1975 on the common organisation of the market in poultrymeat ⁽¹⁾, and in particular the third subparagraph of Article 8(3) thereof,

Whereas:

- (1) Article 8(1) of Regulation (EEC) No 2777/75 provides that the difference between prices on the world market for the products listed in Article 1(1) of that Regulation and prices for those products on the Community market may be covered by an export refund.
- (2) Given the present situation on the market in poultrymeat, export refunds should therefore be fixed in accordance with the rules and criteria provided for in Article 8 of Regulation (EEC) No 2777/75.
- (3) Article 8(3), second subparagraph of Regulation (EEC) No 2777/75 provides that the world market situation or the specific requirements of certain markets may make it necessary to vary the refund according to destination.
- (4) Refunds should be granted only on products that are allowed to move freely in the Community and that bear the identification mark as provided for in Article 5(1)(b) of Regulation (EC) No 853/2004 of the European Parliament and of the Council of 29 April

2004 laying down specific hygiene rules for food of animal origin ⁽²⁾. Those products should also comply with the requirements of Regulation (EC) No 852/2004 of the European Parliament and of the Council of 29 April 2004 on the hygiene of foodstuffs ⁽³⁾.

- (5) The measures provided for in this Regulation are in accordance with the opinion of the Management Committee for Poultrymeat and Eggs,

HAS ADOPTED THIS REGULATION:

Article 1

1. Export refunds as provided for in Article 8 of Regulation (EEC) No 2777/75 shall be granted on the products and for the amounts set out in the Annex to this Regulation subject to the condition provided for in paragraph 2 of this Article.

2. The products eligible for a refund under paragraph 1 must meet the relevant requirements of Regulations (EC) No 852/2004 and (EC) No 853/2004, notably preparation in an approved establishment and compliance with the identification marking requirements laid down in Annex II, Section I to Regulation (EC) No 853/2004.

Article 2

This Regulation shall enter into force on 20 March 2008.

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

Done at Brussels, 19 March 2008.

For the Commission

Jean-Luc DEMARTY

*Director-General for Agriculture and
Rural Development*

⁽¹⁾ OJ L 282, 1.11.1975, p. 77. Regulation as last amended by Regulation (EC) No 679/2006 (OJ L 119, 4.5.2006, p. 1). Regulation (EEC) No 2777/75 will be replaced by Regulation (EC) No 1234/2007 (OJ L 299, 16.11.2007, p. 1) as from 1 July 2008.

⁽²⁾ OJ L 139, 30.4.2004, p. 55. Regulation as last amended by Regulation (EC) No 1243/2007 (OJ L 281, 25.10.2007, p. 8).

⁽³⁾ OJ L 139, 30.4.2004, p. 1, as corrected by OJ L 226, 25.6.2004, p. 3.

ANNEX

Export refunds on poultrymeat applicable from 20 March 2008

Product code	Destination	Unit of measurement	Amount of refund
0105 11 11 9000	A02	EUR/100 pcs	1,4
0105 11 19 9000	A02	EUR/100 pcs	1,4
0105 11 91 9000	A02	EUR/100 pcs	1,4
0105 11 99 9000	A02	EUR/100 pcs	1,4
0105 12 00 9000	A02	EUR/100 pcs	2,8
0105 19 20 9000	A02	EUR/100 pcs	2,8
0207 12 10 9900	V03	EUR/100 kg	55,0
0207 12 90 9190	V03	EUR/100 kg	55,0
0207 12 90 9990	V03	EUR/100 kg	55,0

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

The other destinations are defined as follows:

V03 A24, Angola, Saudi Arabia, Kuwait, Bahrain, Qatar, Oman, United Arab Emirates, Jordan, Yemen, Lebanon, Iraq and Iran.

COMMISSION REGULATION (EC) No 265/2008
of 19 March 2008
fixing the export refunds on eggs

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Council Regulation (EEC) No 2771/75 of 29 October 1975 on the common organisation of the market in eggs ⁽¹⁾, and in particular the third subparagraph of Article 8(3) thereof,

Whereas:

- (1) Article 8 of Regulation (EEC) No 2771/75 provides that the difference between prices on the world market for the products listed in Article 1(1) of that regulation and prices for those products on the Community market may be covered by an export refund.
- (2) Given the present situation on the market in eggs, export refunds should therefore be fixed in accordance with the rules and certain criteria provided for in Article 8 of Regulation (EEC) No 2771/75.
- (3) Article 8(3), second subparagraph of Regulation (EEC) No 2771/75 provides that the world market situation or the specific requirements of certain markets may make it necessary to vary the refund according to destination.
- (4) Refunds should be granted only on products that are allowed to move freely in the Community and that comply with the requirements of Regulation (EC) No 852/2004 of the European Parliament and of the Council of 29 April 2004 on the hygiene of foodstuffs ⁽²⁾ and of Regulation (EC) No 853/2004 of the European

Parliament and of the Council of 29 April 2004 laying down specific hygiene rules for food of animal origin ⁽³⁾ as well as marking requirements of Council Regulation (EC) No 1028/2006 of 19 June 2006 on certain marketing standards for eggs ⁽⁴⁾.

- (5) The measures provided for in this Regulation are in accordance with the opinion of the Management Committee for Poultrymeat and Eggs,

HAS ADOPTED THIS REGULATION:

Article 1

1. Export refunds as provided for in Article 8 of Regulation (EEC) No 2771/75 shall be granted on the products and for the amounts set out in the Annex to this Regulation subject to the conditions provided for in paragraph 2 of this Article.

2. The products eligible for a refund under paragraph 1 must meet the relevant requirements of Regulations (EC) No 852/2004 and (EC) No 853/2004, notably preparation in an approved establishment and compliance with the marking requirements laid down in Annex II, Section I to Regulation (EC) No 853/2004 and those laid down in Regulation (EC) No 1028/2006.

Article 2

This Regulation shall enter into force on 20 March 2008.

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

Done at Brussels, 19 March 2008.

For the Commission

Jean-Luc DEMARTY

*Director-General for Agriculture and
Rural Development*

⁽¹⁾ OJ L 282, 1.11.1975, p. 49. Regulation as last amended by Regulation (EC) No 679/2006 (OJ L 119, 4.5.2006, p. 1). Regulation (EEC) No 2771/75 will be replaced by Regulation (EC) No 1234/2007 (OJ L 299, 16.11.2007, p. 1) as from 1 July 2008.

⁽²⁾ OJ L 139, 30.4.2004, p. 1. Corrected version in OJ L 226, 25.6.2004, p. 3.

⁽³⁾ OJ L 139, 30.4.2004, p. 55. Corrected version in OJ L 226, 25.6.2004, p. 22. Regulation as last amended by Regulation (EC) No 1243/2007 (OJ L 281, 25.10.2007, p. 8).

⁽⁴⁾ OJ L 186, 7.7.2006, p. 1.

ANNEX

Export refunds on eggs applicable from 20 March 2008

Product code	Destination	Unit of measurement	Amount of refund
0407 00 11 9000	A02	EUR/100 pcs	2,32
0407 00 19 9000	A02	EUR/100 pcs	1,16
0407 00 30 9000	E09	EUR/100 kg	0,00
	E10	EUR/100 kg	20,00
	E19	EUR/100 kg	0,00
0408 11 80 9100	A03	EUR/100 kg	50,00
0408 19 81 9100	A03	EUR/100 kg	25,00
0408 19 89 9100	A03	EUR/100 kg	25,00
0408 91 80 9100	A03	EUR/100 kg	31,50
0408 99 80 9100	A03	EUR/100 kg	8,00

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

The other destinations are defined as follows:

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

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

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

COMMISSION REGULATION (EC) No 266/2008**of 19 March 2008****fixing the rates of the refunds applicable to eggs and egg yolks exported in the form of goods not covered by Annex I to the Treaty**

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Council Regulation (EEC) No 2771/75 of 29 October 1975 on the common organisation of the market in eggs ⁽¹⁾, and in particular Article 8(3) thereof,

Whereas:

(1) Article 8(1) of Regulation (EEC) No 2771/75 provides that the difference between prices in international trade for the products listed in Article 1(1) of that Regulation and prices within the Community may be covered by an export refund where these goods are exported in the form of goods listed in the Annex to that Regulation.

(2) Commission Regulation (EC) No 1043/2005 of 30 June 2005 implementing Council Regulation (EC) No 3448/93 as regards the system of granting export refunds on certain agricultural products exported in the form of goods not covered by Annex I to the Treaty, and the criteria for fixing the amount of such refunds ⁽²⁾, specifies the products for which a rate of refund is to be fixed, to be applied where these products are exported in the form of goods listed in Annex I to Regulation (EEC) No 2771/75.

(3) In accordance with the second paragraph of Article 14 of Regulation (EC) No 1043/2005, the rate of the refund per 100 kilograms for each of the basic products in question is to be fixed for a period of the same duration as that for which refunds are fixed for the same products exported unprocessed.

(4) Article 11 of the Agreement on Agriculture concluded under the Uruguay Round lays down that the export refund for a product contained in a good may not exceed the refund applicable to that product when exported without further processing.

(5) The measures provided for in this Regulation are in accordance with the opinion of the Management Committee for Poultrymeat and Eggs,

HAS ADOPTED THIS REGULATION:

Article 1

The rates of the refunds applicable to the basic products listed in Annex I to Regulation (EC) No 1043/2005 and in Article 1(1) of Regulation (EEC) No 2771/75, and exported in the form of goods listed in Annex I to Regulation (EEC) No 2771/75, shall be fixed as set out in the Annex to this Regulation.

Article 2

This Regulation shall enter into force on 20 March 2008.

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

Done at Brussels, 19 March 2008.

For the Commission

Heinz ZOUREK

Director-General Enterprise and Industry

⁽¹⁾ OJ L 282, 1.11.1975, p. 49. Regulation as last amended by Regulation (EC) No 679/2006 (OJ L 119, 4.5.2006, p. 1).

⁽²⁾ OJ L 172, 5.7.2005, p. 24. Regulation as last amended by Regulation (EC) No 1496/2007 (OJ L 333, 19.12.2007, p. 3).

ANNEX

Rates of the refunds applicable from 20 March 2008 to eggs and egg yolks exported in the form of goods not covered by Annex I to the Treaty

(EUR/100 kg)			
CN code	Description	Destination ⁽¹⁾	Rate of refund
0407 00	Birds' eggs, in shell, fresh, preserved or cooked:		
	– Of poultry:		
0407 00 30	– – Other:		
	(a) On exportation of ovalbumin of CN codes 3502 11 90 and 3502 19 90	02	0,00
		03	20,00
		04	0,00
	(b) On exportation of other goods	01	0,00
0408	Birds' eggs, not in shell and egg yolks, fresh, dried, cooked by steaming or by boiling in water, moulded, frozen or otherwise preserved, whether or not containing added sugar or other sweetening matter:		
	– Egg yolks:		
0408 11	– – Dried:		
ex 0408 11 80	– – – Suitable for human consumption:		
	not sweetened	01	50,00
0408 19	– – Other:		
	– – – Suitable for human consumption:		
ex 0408 19 81	– – – – Liquid:		
	not sweetened	01	25,00
ex 0408 19 89	– – – – Frozen:		
	not sweetened	01	25,00
	– Other:		
0408 91	– – Dried:		
ex 0408 91 80	– – – Suitable for human consumption:		
	not sweetened	01	31,50
0408 99	– – Other:		
ex 0408 99 80	– – – Suitable for human consumption:		
	not sweetened	01	8,00

⁽¹⁾ The destinations are as follows:

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

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

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

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

COMMISSION REGULATION (EC) No 267/2008**of 19 March 2008****fixing representative prices in the poultrymeat and egg sectors and for egg albumin, and amending Regulation (EC) No 1484/95**

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Council Regulation (EEC) No 2771/75 of 29 October 1975 on the common organisation of the market in eggs ⁽¹⁾, and in particular Article 5(4) thereof,

Having regard to Council Regulation (EEC) No 2777/75 of 29 October 1975 on the common organisation of the market in poultrymeat ⁽²⁾, and in particular Article 5(4) thereof,

Having regard to Council Regulation (EEC) No 2783/75 of 29 October 1975 on the common system of trade for ovalbumin and lactalbumin ⁽³⁾, and in particular Article 3(4) thereof,

Whereas:

- (1) Commission Regulation (EC) No 1484/95 ⁽⁴⁾, fixes detailed rules for implementing the system of additional import duties and fixes representative prices in the poultrymeat and egg sectors and for egg albumin.

- (2) It results from regular monitoring of the information providing the basis for the verification of the import prices in the poultrymeat and egg sectors and for egg albumin that the representative prices for imports of certain products should be amended taking into account variations of prices according to origin. Therefore, representative prices should be published.

- (3) It is necessary to apply this amendment as soon as possible, given the situation on the market.

- (4) The measures provided for in this Regulation are in accordance with the opinion of the Management Committee for Poultrymeat and Eggs,

HAS ADOPTED THIS REGULATION:

Article 1

Annex I to Regulation (EC) No 1484/95 is hereby replaced by the Annex hereto.

Article 2

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

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

Done at Brussels, 19 March 2008.

For the Commission

Jean-Luc DEMARTY

*Director-General for Agriculture and
Rural Development*

⁽¹⁾ OJ L 282, 1.11.1975, p. 49. Regulation as last amended by Regulation (EC) No 679/2006 (OJ L 119, 4.5.2006, p. 1). Regulation (EEC) No 2771/75 will be replaced by Regulation (EC) No 1234/2007 (OJ L 299, 16.11.2007, p. 1) as from 1 July 2008.

⁽²⁾ OJ L 282, 1.11.1975, p. 77. Regulation as last amended by Regulation (EC) No 679/2006 (OJ L 119, 4.5.2006, p. 1).

⁽³⁾ OJ L 282, 1.11.1975, p. 104. Regulation as last amended by Commission Regulation (EC) No 2916/95 (OJ L 305, 19.12.1995, p. 49).

⁽⁴⁾ OJ L 145, 29.6.1995, p. 47. Regulation as last amended by Regulation (EC) No 161/2008 (OJ L 48, 22.2.2008, p. 29).

ANNEX

to the Commission Regulation of 19 March 2008 fixing representative prices in the poultrymeat and egg sectors and for egg albumin, and amending Regulation (EC) No 1484/95

‘ANNEX I

CN code	Description	Representative price (EUR/100 kg)	Security referred to in Article 3(3) (EUR/100 kg)	Origin ⁽¹⁾
0207 12 10	Chicken carcasses 70 % presented, frozen	108,3	0	02
0207 12 90	Chickens, plucked and drawn, without heads and feet and without necks, hearts, livers and gizzards, known as “65 % chickens”, or otherwise presented, frozen	120,1	0	01
		111,1	2	02
0207 14 10	Boneless cuts of fowl of the species Gallus domesticus, frozen	230,1	21	01
		261,8	12	02
		297,4	1	03
0207 14 50	Breasts of chicken, frozen	322,0	0	01
		283,9	0	02
0207 14 60	Legs and cuts of chicken, frozen	116,1	8	01
0207 25 10	Turkey carcasses, known as 80 % turkeys, frozen	181,1	0	01
0207 27 10	Boneless cuts of turkey, frozen	370,2	0	01
		400,6	0	03
0408 11 80	Dried egg yolks	457,1	0	02
0408 91 80	Dried eggs, not in shell	439,1	0	02
1602 32 11	Preparations of uncooked fowl of the species Gallus domesticus	223,8	19	01
3502 11 90	Dried eggs, albumin	560,1	0	02

⁽¹⁾ Origin of imports:

01 Brazil

02 Argentina

03 Chile.’

COMMISSION REGULATION (EC) No 268/2008**of 19 March 2008****fixing the rates of the refunds applicable to certain milk products exported in the form of goods not covered by Annex I to the Treaty**

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Council Regulation (EC) No 1255/1999 of 17 May 1999 on the common organisation of the market in milk and milk products⁽¹⁾, and in particular Article 31(3) thereof,

Whereas:

(1) Article 31(1) of Regulation (EC) No 1255/1999 provides that the difference between prices in international trade for the products listed in Article 1(a), (b), (c), (d), (e), and (g) of that Regulation and prices within the Community may be covered by an export refund.

(2) Commission Regulation (EC) No 1043/2005 of 30 June 2005 implementing Council Regulation (EC) No 3448/93 as regards the system of granting export refunds on certain agricultural products exported in the form of goods not covered by Annex I to the Treaty, and the criteria for fixing the amount of such refunds⁽²⁾, specifies the products for which a rate of refund is to be fixed, to be applied where these products are exported in the form of goods listed in Annex II to Regulation (EC) No 1255/1999.

(3) In accordance with the first paragraph of Article 14 of Regulation (EC) No 1043/2005, the rate of the refund per 100 kilograms for each of the basic products in question is to be fixed each month.

(4) However, in the case of certain milk products exported in the form of goods not covered by Annex I to the Treaty, there is a danger that, if high refund rates are fixed in advance, the commitments entered into in relation to

those refunds may be jeopardised. In order to avert that danger, it is therefore necessary to take appropriate precautionary measures, but without precluding the conclusion of long-term contracts. The fixing of specific refund rates for the advance fixing of refunds in respect of those products should enable those two objectives to be met.

(5) Article 15(2) of Regulation (EC) No 1043/2005 provides that, when the rate of the refund is being fixed, account is to be taken, where appropriate, of production refunds, aids or other measures having equivalent effect applicable in all Member States in accordance with the Regulation on the common organisation of the market in the product in question to the basic products listed in Annex I to Regulation (EC) No 1043/2005 or to assimilated products.

(6) Article 12(1) of Regulation (EC) No 1255/1999 provides for the payment of aid for Community-produced skimmed milk processed into casein if such milk and the casein manufactured from it fulfil certain conditions.

(7) Commission Regulation (EC) No 1898/2005 of 9 November 2005 laying down detailed rules for implementing Council Regulation (EC) No 1255/1999 as regards measures for the disposal of cream, butter and concentrated butter⁽³⁾, lays down that butter and cream at reduced prices should be made available to industries which manufacture certain goods.

(8) The measures provided for in this Regulation are in accordance with the opinion of the Management Committee for Milk and Milk Products,

HAS ADOPTED THIS REGULATION:

Article 1

The rates of the refunds applicable to the basic products listed in Annex I to Regulation (EC) No 1043/2005 and in Article 1 of Regulation (EC) No 1255/1999, and exported in the form of goods listed in Annex II to Regulation (EC) No 1255/1999, shall be fixed as set out in the Annex to this Regulation.

⁽¹⁾ OJ L 160, 26.6.1999, p. 48. Regulation as last amended by Council Regulation (EC) No 1152/2007 (OJ L 258, 4.10.2007, p. 3).

⁽²⁾ OJ L 172, 5.7.2005, p. 24. Regulation as last amended by Regulation (EC) No 1496/2007 (OJ L 333, 19.12.2007, p. 3).

⁽³⁾ OJ L 308, 25.11.2005, p. 1. Regulation as last amended by Regulation (EC) No 1546/2007 (OJ L 337, 21.12.2007, p. 68).

Article 2

This Regulation shall enter into force on 20 March 2008.

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

Done at Brussels, 19 March 2008.

For the Commission

Heinz ZOUREK

Director-General Enterprise and Industry

ANNEX

Rates of the refunds applicable from 20 March 2008 to certain milk products exported in the form of goods not covered by Annex I to the Treaty ⁽¹⁾

(EUR/100 kg)

CN code	Description	Rate of refund	
		In case of advance fixing of refunds	Other
ex 0402 10 19	Powdered milk, in granules or other solid forms, not containing added sugar or other sweetening matter, with a fat content not exceeding 1,5 % by weight (PG 2):		
	(a) on exportation of goods of CN code 3501	—	—
	(b) on exportation of other goods	0,00	0,00
ex 0402 21 19	Powdered milk, in granules or other solid forms, not containing added sugar or other sweetening matter, with a fat content of 26 % by weight (PG 3):		
	(a) where goods incorporating, in the form of products assimilated to PG 3, reduced-price butter or cream obtained pursuant to Regulation (EC) No 1898/2005 are exported	0,00	0,00
	(b) on exportation of other goods	0,00	0,00
ex 0405 10	Butter, with a fat content by weight of 82 % (PG 6):		
	(a) where goods containing reduced-price butter or cream which have been manufactured in accordance with the conditions provided for in Regulation (EC) No 1898/2005 are exported	0,00	0,00
	(b) on exportation of goods of CN code 2106 90 98 containing 40 % or more by weight of milk fat	0,00	0,00
	(c) on exportation of other goods	0,00	0,00

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

- (a) third countries: Andorra, the Holy See (Vatican City State), Liechtenstein, the United States of America and the goods listed in Tables I and II of Protocol 2 to the Agreement between the European Community and the Swiss Confederation of 22 July 1972 exported to the Swiss Confederation.
- (b) territories of EU Member States not forming part of the customs territory of the Community: Ceuta, Melilla, the Communes of Livigno and Campione d'Italia, Heligoland, Greenland, the Faeroe Islands and the areas of the Republic of Cyprus in which the Government of the Republic of Cyprus does not exercise effective control.
- (c) European territories for whose external relations a Member State is responsible and not forming part of the customs territory of the Community: Gibraltar.

COMMISSION REGULATION (EC) No 269/2008**of 19 March 2008****prohibiting fishing for blue ling in ICES zones VI and VII (Community waters and waters not under the sovereignty or jurisdiction of third countries) by vessels flying the flag of Spain**

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Council Regulation (EC) No 2371/2002 of 20 December 2002 on the conservation and sustainable exploitation of fisheries resources under the common fisheries policy ⁽¹⁾, and in particular Article 26(4) thereof,

Having regard to Council Regulation (EEC) No 2847/93 of 12 October 1993 establishing a control system applicable to the common fisheries policy ⁽²⁾, and in particular Article 21(3) thereof,

Whereas:

- (1) Council Regulation (EC) No 2015/2006 of 19 December 2006 fixing for 2007 and 2008 the fishing opportunities for Community fishing vessels for certain deep-sea fish stocks ⁽³⁾ lays down quotas for 2007 and 2008.
- (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 2008.

- (3) It is therefore necessary to prohibit fishing for that stock and its retention on board, transhipment and landing,

HAS ADOPTED THIS REGULATION:

*Article 1***Quota exhaustion**

The fishing quota allocated for 2008 to the Member State referred to in the Annex to this Regulation for the stock referred to therein shall be deemed to be exhausted from the date stated in that Annex.

*Article 2***Prohibitions**

Fishing for the stock referred to in the Annex to this Regulation by vessels flying the flag of, or registered in, the Member State referred to therein shall be prohibited from the date stated in that Annex. After that date it shall also be prohibited to retain on board, tranship or land such stock caught by those vessels.

*Article 3***Entry into force**

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

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

Done at Brussels, 19 March 2008.

For the Commission

Fokion FOTIADIS

Director-General for Fisheries and Maritime Affairs

⁽¹⁾ OJ L 358, 31.12.2002, p. 59. Regulation as last amended by Regulation (EC) No 865/2007 (OJ L 192, 24.7.2007, p. 1).

⁽²⁾ OJ L 261, 20.10.1993, p. 1. Regulation as last amended by Regulation (EC) No 1967/2006 (OJ L 409, 30.12.2006, p. 9), as corrected by (OJ L 36, 8.2.2007, p. 6).

⁽³⁾ OJ L 384, 29.12.2006, p. 28. Regulation as last amended by Regulation (EC) No 1533/2007 (OJ L 337, 21.12.2007, p. 21).

ANNEX

No	01/DSS
Member State	ESP
Stock	BLI/67-
Species	Blue ling (<i>Molva dypterygia</i>)
Zone	Community waters and waters not under the sovereignty or jurisdiction of third countries of VI and VII
Date	4.2.2008

COMMISSION REGULATION (EC) No 270/2008
of 19 March 2008
on the issuing of export licences for wine-sector products

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Commission Regulation (EC) No 883/2001 of 24 April 2001, laying down detailed rules for implementing Council Regulation (EC) No 1493/1999 as regards trade with third countries in products in the wine sector⁽¹⁾, and in particular Article 7 and Article 9(3) thereof,

Whereas:

- (1) Article 63(7) of Council Regulation (EC) No 1493/1999 of 17 May 1999 on the common organisation of the market in wine⁽²⁾, limits the grant of export refunds for wine-sector products to the volumes and expenditure contained in the Agreement on Agriculture concluded during the Uruguay Round multilateral trade negotiations.
- (2) Article 9 of Regulation (EC) No 883/2001 lays down the conditions under which the Commission may take specific measures to prevent an overrun of the quantity laid down or the budget available under the said Agreement.
- (3) On the basis of information on export licence applications available to the Commission on 19 March

2008, the quantity still available for the period until 30 April 2008, for destination zones (1) Africa, referred to in Article 9(5) of Regulation (EC) No 883/2001, could be exceeded unless the issue of export licences with advance fixing of the refund is restricted. Therefore, a single percentage for the acceptance of applications submitted from 16 to 18 March 2008 should be applied and the submission of applications and the issue of licences suspended for this zone until 1 May 2008,

HAS ADOPTED THIS REGULATION:

Article 1

1. Export licences with advance fixing of the refund for wine-sector products for which applications are submitted from 16 to 18 March 2008 under Regulation (EC) No 883/2001 shall be issued in concurrence with 64,57 % of the quantities requested for zone (1) Africa.

2. The issue of export licences for wine-sector products referred to in paragraph 1 for which applications are submitted from 19 March 2008 and the submission of export licence applications from 20 March 2008 for destination zone (1) Africa shall be suspended until 1 May 2008.

Article 2

This Regulation shall enter into force on 20 March 2008.

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

Done at Brussels, 19 March 2008.

For the Commission

Jean-Luc DEMARTY

*Director-General for Agriculture and
Rural Development*

⁽¹⁾ OJ L 128, 10.5.2001, p. 1. Regulation as last amended by Regulation (EC) No 1211/2007 (OJ L 274, 18.10.2007, p. 5).

⁽²⁾ OJ L 179, 14.7.1999, p. 1. Regulation as last amended by Regulation (EC) No 1234/2007 (OJ L 299, 16.11.2007, p. 1).

DIRECTIVES

DIRECTIVE 2008/24/EC OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL

of 11 March 2008

amending Directive 2006/48/EC relating to the taking up and pursuit of the business of credit institutions, as regards the implementing powers conferred on the Commission

(Text with EEA relevance)

THE EUROPEAN PARLIAMENT AND THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty establishing the European Community, and in particular the first and third sentences of Article 47(2) thereof,

Having regard to the proposal of the Commission,

Having regard to the opinion of the European Economic and Social Committee ⁽¹⁾,

Having regard to the opinion of the European Central Bank ⁽²⁾,

Acting in accordance with the procedure laid down in Article 251 of the Treaty ⁽³⁾,

Whereas:

(1) Directive 2006/48/EC of the European Parliament and of the Council ⁽⁴⁾ provides that certain measures are to be adopted in accordance with Council Decision 1999/468/EC of 28 June 1999 laying down the procedures for the exercise of implementing powers conferred on the Commission ⁽⁵⁾.

(2) Decision 1999/468/EC has been amended by Decision 2006/512/EC, which introduced the regulatory procedure with scrutiny for the adoption of measures of general scope and designed to amend non-essential elements of a basic instrument adopted in accordance with the procedure referred to in Article 251 of the Treaty, *inter alia*, by deleting some of those elements or by supplementing the instrument with new non-essential elements.

(3) In accordance with the statement by the European Parliament, the Council and the Commission ⁽⁶⁾ concerning Decision 2006/512/EC, for the regulatory procedure with scrutiny to be applicable to instruments adopted in accordance with the procedure referred to in Article 251 of the Treaty which are already in force, those instruments must be adjusted in accordance with the applicable procedures.

(4) The Commission should be empowered to adopt technical adjustments and implementing measures to take account, *inter alia*, of technical developments in financial markets and to ensure the uniform application of Directive 2006/48/EC. Those measures are designed to specify definitions, modify the scope of exemptions and elaborate or supplement the provisions of that Directive through technical adaptations related to the determination of own funds and the organisation, calculation and evaluation of risks and exposures. Since those measures are of general scope and are designed to amend non-essential elements of Directive 2006/48/EC, *inter alia*, by supplementing it with new non-essential elements, they must be adopted in accordance with the regulatory procedure with scrutiny provided for in Article 5a of Decision 1999/468/EC.

(5) Directive 2006/48/EC provides for a time restriction concerning the implementing powers conferred on the Commission. In their statement concerning Decision 2006/512/EC, the European Parliament, the Council and the Commission stated that Decision 2006/512/EC provides a horizontal and satisfactory solution to the European Parliament's wish to scrutinise the implementation of instruments adopted under the co-decision procedure and that, accordingly, implementing powers should be conferred on the Commission without time limit. The European Parliament and the Council also declared that they would ensure that the proposals aimed at repealing the provisions in the instruments that provide for a time limit on the delegation of implementing powers to the Commission are adopted as rapidly as possible. Following the introduction of the regulatory procedure with scrutiny, the provision establishing that time restriction in Directive 2006/48/EC should be deleted.

⁽¹⁾ OJ C 161, 13.7.2007, p. 45.

⁽²⁾ OJ C 39, 23.2.2007, p. 1.

⁽³⁾ Opinion of the European Parliament of 14 November 2007 (not yet published in the Official Journal) and Council Decision of 3 March 2008.

⁽⁴⁾ OJ L 177, 30.6.2006, p. 1. Directive as last amended by Directive 2007/64/EC (OJ L 319, 5.12.2007, p. 1).

⁽⁵⁾ OJ L 184, 17.7.1999, p. 23. Decision as amended by Decision 2006/512/EC (OJ L 200, 22.7.2006, p. 11).

⁽⁶⁾ OJ C 255, 21.10.2006, p. 1.

- (6) The Commission should, at regular intervals, evaluate the functioning of the provisions concerning the implementing powers conferred on it in order to allow the European Parliament and the Council to determine whether the extent of those powers and the procedural requirements imposed on the Commission are appropriate and ensure both efficiency and democratic accountability.
- (7) Directive 2006/48/EC should therefore be amended accordingly.
- (8) Since the amendments made to Directive 2006/48/EC by this Directive are technical in nature and concern committee procedure only, they do not need to be transposed by the Member States. It is therefore not necessary to lay down provisions to that effect,

HAVE ADOPTED THIS DIRECTIVE:

Article 1

Amendments

Directive 2006/48/EC is hereby amended as follows:

1. Article 150 shall be amended as follows:

- (a) in paragraph 1, the introductory wording shall be replaced by the following:

‘1. Without prejudice, as regards own funds, to the proposal that the Commission is to submit pursuant to Article 62, the technical adjustments designed to amend non-essential elements of this Directive in the following areas shall be adopted in accordance with the regulatory procedure with scrutiny referred to in Article 151(2);’

- (b) paragraph 2 shall be amended as follows:

- (i) in the introductory wording, the words ‘in accordance with the procedure referred to in Article 151(2)’ shall be deleted;

- (ii) the following subparagraph shall be added:

‘The measures referred to in points (a), (b), (c) and (f), designed to amend non-essential elements of this Directive by supplementing it, shall be adopted in accordance with the regulatory procedure with scrutiny referred to in Article 151(2). The measures referred to in points (d) and (e) shall be adopted in accordance with the regulatory procedure referred to in Article 151(2a);’

- (c) paragraphs 3 and 4 shall be deleted;

2. Article 151 shall be amended as follows:

- (a) paragraph 2 shall be replaced by the following:

‘2. Where reference is made to this paragraph, Article 5a(1) to (4) and Article 7 of Decision 1999/468/EC shall apply, having regard to the provisions of Article 8 thereof;’

- (b) the following paragraph shall be inserted:

‘2a. Where reference is made to this paragraph, Articles 5 and 7 of Decision 1999/468/EC shall apply, having regard to the provisions of Article 8 thereof.’

The period laid down in Article 5(6) of Decision 1999/468/EC shall be set at three months;’

- (c) paragraph 3 shall be replaced by the following:

‘3. By 31 December 2010, and, thereafter, at least every three years, the Commission shall review the provisions concerning its implementing powers and present a report to the European Parliament and to the Council on the functioning of those powers. This report shall examine, in particular, the need for the Commission to propose amendments to this Directive in order to ensure the appropriate scope of the implementing powers conferred on the Commission. The conclusion as to whether or not amendment is necessary shall be accompanied by a detailed statement of reasons. If necessary, the report shall be accompanied by a legislative proposal to amend the provisions conferring implementing powers on the Commission.’

Article 2

Entry into force

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

Article 3

Addressees

This Directive is addressed to the Member States.

Done at Strasbourg, 11 March 2008.

For the European Parliament
The President
H.-G. PÖTTERING

For the Council
The President
J. LENARČIČ

DIRECTIVE 2008/25/EC OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL**of 11 March 2008****amending Directive 2002/87/EC on the supplementary supervision of credit institutions, insurance undertakings and investment firms in a financial conglomerate, as regards the implementing powers conferred on the Commission**

THE EUROPEAN PARLIAMENT AND THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty establishing the European Community, and in particular Article 47(2) thereof,

Having regard to the proposal from the Commission,

Having regard to the opinion of the European Economic and Social Committee ⁽¹⁾,

Having regard to the opinion of the European Central Bank ⁽²⁾,

Acting in accordance with the procedure laid down in Article 251 of the Treaty ⁽³⁾,

Whereas:

- (1) Directive 2002/87/EC of the European Parliament and of the Council ⁽⁴⁾ provides that certain measures are to be adopted in accordance with Council Decision 1999/468/EC of 28 June 1999 laying down the procedures for the exercise of implementing powers conferred on the Commission ⁽⁵⁾.
- (2) Decision 1999/468/EC has been amended by Decision 2006/512/EC, which introduced the regulatory procedure with scrutiny for the adoption of measures of general scope and designed to amend non-essential elements of a basic instrument adopted in accordance with the procedure referred to in Article 251 of the Treaty, *inter alia*, by deleting some of those elements or by supplementing the instrument with new non-essential elements.

⁽¹⁾ OJ C 161, 13.7.2007, p. 45.

⁽²⁾ OJ C 39, 23.2.2007, p. 1.

⁽³⁾ Opinion of the European Parliament of 14 November 2007 (not yet published in the Official Journal) and Council Decision of 3 March 2008.

⁽⁴⁾ OJ L 35, 11.2.2003, p. 1. Directive as amended by Directive 2005/1/EC (OJ L 79, 24.3.2005, p. 9).

⁽⁵⁾ OJ L 184, 17.7.1999, p. 23. Decision as amended by Decision 2006/512/EC (OJ L 200, 22.7.2006, p. 11).

- (3) In accordance with the statement by the European Parliament, the Council and the Commission ⁽⁶⁾ concerning Decision 2006/512/EC, for the regulatory procedure with scrutiny to be applicable to instruments adopted in accordance with the procedure referred to in Article 251 of the Treaty which are already in force, those instruments must be adjusted in accordance with the applicable procedures.

- (4) The Commission should be empowered to adopt the measures necessary for the implementation of Directive 2002/87/EC in order to clarify the technical aspects of some of the definitions provided for in that Directive, notably to take into account developments in financial markets and prudential techniques and to ensure the uniform application of that Directive within the Community. Since those measures are of general scope and are designed to amend non-essential elements of Directive 2002/87/EC, *inter alia*, by supplementing it with new non-essential elements, they must be adopted in accordance with the regulatory procedure with scrutiny provided for in Article 5a of Decision 1999/468/EC.

- (5) Directive 2002/87/EC provides for a time restriction concerning the implementing powers conferred on the Commission. In their statement concerning Decision 2006/512/EC, the European Parliament, the Council and the Commission stated that Decision 2006/512/EC provides a horizontal and satisfactory solution to the European Parliament's wish to scrutinise the implementation of instruments adopted under the co-decision procedure and that, accordingly, implementing powers should be conferred on the Commission without time limit. The European Parliament and the Council also declared that they would make sure that the proposals aimed at repealing the provisions in the instruments that provide for a time limit on the delegation of implementing powers to the Commission are adopted as rapidly as possible. Following the introduction of the regulatory procedure with scrutiny, the provision establishing that time restriction in Directive 2002/87/EC should be deleted.

- (6) The Commission should, at regular intervals, evaluate the functioning of the provisions concerning the implementing powers conferred on it in order to allow the European Parliament and the Council to determine whether the extent of those powers and the procedural requirements imposed on the Commission are appropriate and ensure both efficiency and democratic accountability.

⁽⁶⁾ OJ C 255, 21.10.2006, p. 1.

- (7) Directive 2002/87/EC should therefore be amended accordingly.
- (8) Since the amendments made to Directive 2002/87/EC by this Directive are technical in nature and concern committee procedure only, they do not need to be transposed by the Member States. It is therefore not necessary to lay down provisions to that effect,

HAVE ADOPTED THIS DIRECTIVE:

Article 1

Amendments

Directive 2002/87/EC is hereby amended as follows:

1. Article 20(1) shall be amended as follows:

- (a) the words ‘, in accordance with the procedure referred to in Article 21(2),’ shall be deleted;

- (b) the following subparagraph shall be added:

‘Those measures, designed to amend non-essential elements of this Directive, *inter alia*, by supplementing it, shall be adopted in accordance with the regulatory procedure with scrutiny referred to in Article 21(2).’;

2. Article 21 shall be amended as follows:

- (a) paragraph 2 shall be replaced by the following:

‘2. Where reference is made to this paragraph, Article 5a(1) to (4) and Article 7 of Decision 1999/468/EC shall apply, having regard to the provisions of Article 8 thereof.’;

- (b) paragraphs 3 and 4 shall be replaced by the following:

‘3. By 31 December 2010, and, thereafter, at least every three years, the Commission shall review the provisions concerning its implementing powers and present a report to the European Parliament and to the Council on the functioning of those powers. The report shall examine, in particular, the need for the Commission to propose amendments to this Directive in order to ensure the appropriate scope of the implementing powers conferred on the Commission. The conclusion as to whether or not amendment is necessary shall be accompanied by a detailed statement of reasons. If necessary, the report shall be accompanied by a legislative proposal to amend the provisions conferring implementing powers on the Commission.’

Article 2

Entry into force

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

Article 3

Addressees

This Directive is addressed to the Member States.

Done at Strasbourg, 11 March 2008.

For the European Parliament
The President
H.-G. PÖTTERING

For the Council
The President
J. LENARČIČ

DIRECTIVE 2008/26/EC OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL**of 11 March 2008****amending Directive 2003/6/EC on insider dealing and market manipulation (market abuse), as regards the implementing powers conferred on the Commission**

THE EUROPEAN PARLIAMENT AND THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty establishing the European Community, and in particular Article 95 thereof,

Having regard to the proposal of the Commission,

Having regard to the opinion of the European Economic and Social Committee ⁽¹⁾,

Having regard to the opinion of the European Central Bank ⁽²⁾,

Acting in accordance with the procedure laid down in Article 251 of the Treaty ⁽³⁾,

Whereas:

- (1) Directive 2003/6/EC of the European Parliament and of the Council ⁽⁴⁾ provides that certain measures are to be adopted in accordance with Council Decision 1999/468/EC of 28 June 1999 laying down the procedures for the exercise of implementing powers conferred on the Commission ⁽⁵⁾.
- (2) Decision 1999/468/EC has been amended by Decision 2006/512/EC which introduced the regulatory procedure with scrutiny for the adoption of measures of general scope and designed to amend non-essential elements of a basic instrument adopted in accordance with the procedure referred to in Article 251 of the Treaty, *inter alia*, by deleting some of those elements or by supplementing the instrument with new non-essential elements.
- (3) In accordance with the statement by the European Parliament, the Council and the Commission ⁽⁶⁾ concerning Decision 2006/512/EC, for the regulatory procedure with scrutiny to be applicable to instruments

adopted in accordance with the procedure referred to in Article 251 of the Treaty which are already in force, those instruments must be adjusted in accordance with the applicable procedures.

- (4) The Commission should be empowered to adopt the measures necessary for the implementation of Directive 2003/6/EC in order to take account of technical developments in financial markets and ensure the uniform application of that Directive. Those measures are designed to adapt definitions; elaborate upon or supplement the provisions of that Directive by technical modalities for disclosure of inside information, insider lists, reporting of managerial and suspicious transactions to competent authorities; and present the research in a fair manner. Since those measures are of general scope and are designed to amend non-essential elements of Directive 2003/6/EC by supplementing it with new non-essential elements, they must be adopted in accordance with the regulatory procedure with scrutiny provided for in Article 5a of Decision 1999/468/EC.
- (5) Directive 2003/6/EC provides for a time restriction concerning the implementing powers conferred on the Commission. In their statement concerning Decision 2006/512/EC, the European Parliament, the Council and the Commission stated that Decision 2006/512/EC provides a horizontal and satisfactory solution to the European Parliament's wish to scrutinise the implementation of instruments adopted under the co-decision procedure and that, accordingly, implementing powers should be conferred on the Commission without time limit. The European Parliament and the Council also declared that they would make sure that the proposals aimed at repealing the provisions in the instruments that provide for a time limit on the delegation of implementing powers to the Commission are adopted as rapidly as possible. Following the introduction of the regulatory procedure with scrutiny, the provision establishing that time restriction in Directive 2003/6/EC should be deleted.
- (6) The Commission should, at regular intervals, evaluate the functioning of the provisions concerning the implementing powers conferred on it in order to allow the European Parliament and the Council to determine whether the extent of those powers and the procedural requirements imposed on the Commission are appropriate and ensure both efficiency and democratic accountability.
- (7) Directive 2003/6/EC should therefore be amended accordingly.

⁽¹⁾ OJ C 161, 13.7.2007, p. 45.

⁽²⁾ OJ C 39, 23.2.2007, p. 1.

⁽³⁾ Opinion of the European Parliament of 14 November 2007 (not yet published in the Official Journal) and Council Decision of 3 March 2008.

⁽⁴⁾ OJ L 96, 12.4.2003, p. 16.

⁽⁵⁾ OJ L 184, 17.7.1999, p. 23. Decision as amended by Decision 2006/512/EC (OJ L 200, 22.7.2006, p. 11).

⁽⁶⁾ OJ C 255, 21.10.2006, p. 1.

- (8) Since the amendments made to Directive 2003/6/EC by this Directive are technical in nature and concern committee procedure only, they do not need to be transposed by the Member States. It is therefore not necessary to lay down provisions to that effect,

HAVE ADOPTED THIS DIRECTIVE:

Article 1

Amendments

Directive 2003/6/EC is hereby amended as follows:

1. Article 1 shall be amended as follows:

- (a) in the first paragraph, point 5 shall be replaced by the following:

‘5. “Accepted market practices” shall mean practices that are reasonably expected in one or more financial markets and are accepted by the competent authority in accordance with guidelines adopted by the Commission in accordance with the regulatory procedure with scrutiny laid down in Article 17(2a).’;

- (b) the second paragraph shall be amended as follows:

- (i) the words ‘acting in accordance with the procedure laid down in Article 17(2),’ shall be deleted;

- (ii) the following sentence shall be added:

‘Those measures, designed to amend non-essential elements of this Directive by supplementing it, shall be adopted in accordance with the regulatory procedure with scrutiny referred to in Article 17(2a).’;

2. Article 6(10) shall be amended as follows:

- (a) the words ‘in accordance with the procedure referred to in Article 17(2),’ shall be deleted;

- (b) the following subparagraph shall be added:

‘Those measures, designed to amend non-essential elements of this Directive by supplementing it, shall be adopted in accordance with the regulatory procedure with scrutiny referred to in Article 17(2a).’;

3. Article 8 shall be amended as follows:

- (a) the words ‘adopted in accordance with the procedure laid down in Article 17(2)’ shall be deleted;

- (b) the following sentence shall be added:

‘Those measures, designed to amend non-essential elements of this Directive by supplementing it, shall be adopted in accordance with the regulatory procedure with scrutiny referred to in Article 17(2a).’;

4. Article 16(5) shall be replaced by the following:

‘5. In accordance with the regulatory procedure laid down in Article 17(2), the Commission shall adopt implementing measures on the working procedures for exchange of information and cross-border inspections as referred to in this Article.’;

5. Article 17 shall be amended as follows:

- (a) the following paragraph shall be inserted:

‘2a. Where reference is made to this paragraph, Article 5a(1) to (4) and Article 7 of Decision 1999/468/EC shall apply, having regard to the provisions of Article 8 thereof.’;

- (b) paragraphs 3 and 4 shall be replaced by the following:

‘3. By 31 December 2010, and, thereafter, at least every three years, the Commission shall review the provisions concerning its implementing powers and present a report to the European Parliament and to the Council on the functioning of those powers. The report shall examine, in particular, the need for the Commission to propose amendments to this Directive in order to ensure the appropriate scope of the implementing powers conferred on the Commission. The conclusion as to whether or not amendment is necessary shall be accompanied by a detailed statement of reasons. If necessary, the report shall be accompanied by a legislative proposal to amend the provisions conferring implementing powers on the Commission’.

Article 2

Entry into force

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

*Article 3***Addressees**

This Directive is addressed to the Member States.

Done at Strasbourg, 11 March 2008.

For the European Parliament
The President
H.-G. PÖTTERING

For the Council
The President
J. LENARČIČ

DIRECTIVE 2008/27/EC OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL

of 11 March 2008

amending Directive 2001/18/EC on the deliberate release into the environment of genetically modified organisms, as regards the implementing powers conferred on the Commission

THE EUROPEAN PARLIAMENT AND THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty establishing the European Community, and in particular Article 95 thereof,

Having regard to the proposal from the Commission,

Having regard to the opinion of the European Economic and Social Committee ⁽¹⁾,

After consulting the Committee of the Regions,

Acting in accordance with the procedure laid down in Article 251 of the Treaty ⁽²⁾,

Whereas:

(1) Directive 2001/18/EC of the European Parliament and of the Council ⁽³⁾ provides that certain measures are to be adopted in accordance with Council Decision 1999/468/EC of 28 June 1999 laying down the procedures for the exercise of implementing powers conferred on the Commission ⁽⁴⁾.

(2) Decision 1999/468/EC has been amended by Decision 2006/512/EC, which introduced the regulatory procedure with scrutiny for the adoption of measures of general scope and designed to amend non-essential elements of a basic instrument adopted in accordance with the procedure referred to in Article 251 of the Treaty, *inter alia*, by deleting some of those elements or by supplementing the instrument with new non-essential elements.

(3) In accordance with the statement by the European Parliament, the Council and the Commission ⁽⁵⁾ concerning Decision 2006/512/EC, for the regulatory procedure with scrutiny to be applicable to instruments adopted in accordance with the procedure referred to in Article 251 of the Treaty which are already in force, those instruments must be adjusted in accordance with the applicable procedures.

(4) The Commission should be empowered to adopt the measures necessary for the implementation of Directive 2001/18/EC. Those measures are designed to adapt certain annexes, establish criteria for the notification and fix minimum thresholds. Since those measures are of general scope and are designed to amend non-essential elements of Directive 2001/18/EC, *inter alia*, by supplementing it with new non-essential elements, they must be adopted in accordance with the regulatory procedure with scrutiny provided for in Article 5a of Decision 1999/468/EC.

(5) Directive 2001/18/EC should therefore be amended accordingly.

(6) Since the amendments made to Directive 2001/18/EC by this Directive are technical in nature and concern committee procedure only, they do not need to be transposed by the Member States. It is therefore not necessary to lay down provisions to that effect,

HAVE ADOPTED THIS DIRECTIVE:

Article 1

Amendments

Directive 2001/18/EC is hereby amended as follows:

1. Article 16(2) and (3) shall be replaced by the following:

‘2. The criteria and information requirements referred to in paragraph 1, as well as any appropriate requirements for a summary of the dossier, shall be established. Those measures, designed to amend non-essential elements of this Directive by supplementing it, shall be adopted, after consultation of the relevant Scientific Committee, in accordance with the regulatory procedure with scrutiny referred to in Article 30(3). The criteria and information requirements shall be such as to ensure a high level of safety of human health and the environment and shall be based on the available scientific evidence concerning such safety and on experience gained from the release of comparable GMOs.

The requirements set out in Article 13(2) shall be replaced by those adopted in accordance with the first subparagraph, and the procedure set out in Article 13(3), (4), (5) and (6) and Articles 14 and 15 shall apply.

⁽¹⁾ OJ C 161, 13.7.2007, p. 45.

⁽²⁾ Opinion of the European Parliament of 14 November 2007 (not yet published in the Official Journal) and Council Decision of 3 March 2008.

⁽³⁾ OJ L 106, 17.4.2001, p. 1. Directive as last amended by Regulation (EC) No 1830/2003 (OJ L 268, 18.10.2003, p. 24).

⁽⁴⁾ OJ L 184, 17.7.1999, p. 23. Decision as amended by Decision 2006/512/EC (OJ L 200, 22.7.2006, p. 11).

⁽⁵⁾ OJ C 255, 21.10.2006, p. 1.

3. Before the regulatory procedure with scrutiny referred to in Article 30(3) is initiated with a view to a decision on criteria and information requirements referred to in paragraph 1, the Commission shall make the proposal available to the public. The public may make comments to the Commission within 60 days. The Commission shall forward any such comments, together with an analysis, to the Committee established pursuant to Article 30.;

2. Article 21(2) shall be replaced by the following:

‘2. For products where adventitious or technically unavoidable traces of authorised GMOs cannot be excluded, a minimum threshold may be established below which these products shall not have to be labelled in accordance with paragraph 1.

Threshold levels shall be established according to the product concerned. Those measures, designed to amend non-essential elements of this Directive by supplementing it, shall be adopted in accordance with the regulatory procedure with scrutiny referred to in Article 30(3).;

3. Article 21(3) shall be replaced by the following:

‘3. For products intended for direct processing, paragraph 1 shall not apply to traces of authorised GMOs in proportions no higher than 0,9 % or lower thresholds, provided that these traces are adventitious or technically unavoidable.

The threshold levels referred to in the first subparagraph may be established. Those measures, designed to amend non-essential elements of this Directive by supplementing it, shall be adopted in accordance with the regulatory procedure with scrutiny referred to in Article 30(3).;

4. Article 23(2) shall be replaced by the following:

‘2. Within 60 days of the date of receipt of the information transmitted by the Member State, a decision shall be taken on the measure taken by that Member State in accordance with the regulatory procedure referred to in Article 30(2). For the purpose of calculating the 60-day period, any period of time during which the Commission is awaiting further information which it may have requested from the notifier or is seeking the opinion of the Scientific Committee or Committees which has or have been consulted shall not be taken into account. The period of time during which the Commission is awaiting the opinion of the Scientific Committee or Committees consulted shall not exceed 60 days.

Likewise, the period of time the Council takes to act in accordance with the regulatory procedure referred to in Article 30(2) shall not be taken into account.;

5. Article 26(2) shall be replaced by the following:

‘2. Conditions for the implementation of paragraph 1 shall be established, without duplicating or creating inconsistencies with labelling provisions laid down in existing Community legislation. Those measures, designed to amend non-essential elements of this Directive by supplementing it, shall be adopted in accordance with the regulatory procedure with scrutiny referred to in Article 30(3). In so doing, account should be taken, as appropriate, of labelling provisions established by Member States in accordance with Community legislation.;

6. Article 27 shall be replaced by the following:

‘Article 27

Adaptation of annexes to technical progress

The adaptation to technical progress of Sections C and D of Annex II, Annexes III to VI, and Section C of Annex VII, designed to amend non-essential elements of this Directive, shall be adopted in accordance with the regulatory procedure with scrutiny referred to in Article 30(3).;

7. Article 30(3) shall be replaced by the following:

‘3. Where reference is made to this paragraph, Article 5a(1) to (4) and Article 7 of Decision 1999/468/EC shall apply, having regard to the provisions of Article 8 thereof.;

8. the first paragraph of Annex II shall be replaced by the following:

‘This Annex describes in general terms the objective to be achieved, the elements to be considered and the general principles and methodology to be followed to perform the environmental risk assessment (e.r.a.) referred to in Articles 4 and 13. Technical guidance notes may be developed in accordance with the regulatory procedure referred to in Article 30(2) in order to facilitate the implementation and explanation of this Annex.;

9. the introductory wording to Annex IV shall be replaced by the following:

‘This Annex describes in general terms the additional information to be provided in the case of notification for placing on the market and the information for labelling requirements regarding GMOs as or in products to be placed on the market and GMOs exempted under the second subparagraph of Article 2(4). Technical guidance notes, as regards, *inter alia*, the description of how the product is intended to be used, may be developed in accordance with the regulatory procedure referred to in Article 30(2) in order to facilitate the implementation and explanation of this Annex. The labelling requirements for exempted organisms set out in Article 26 shall be met by providing appropriate recommendations for, and restrictions on, use.;

10. the first and second paragraphs of Annex VII shall be replaced by the following:

‘This Annex describes in general terms the objective to be achieved and the general principles to be followed in the design of the monitoring plan referred to in Article 13(2), Article 19(3) and Article 20. Technical guidance notes may be developed in accordance with the regulatory procedure referred to in Article 30(2) in order to facilitate the implementation and explanation of this Annex.’

Article 2

Entry into force

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

Article 3

Addressees

This Directive is addressed to the Member States.

Done at Strasbourg, 11 March 2008.

For the European Parliament

The President

H.-G. PÖTTERING

For the Council

The President

J. LENARČIČ

DIRECTIVE 2008/28/EC OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL**of 11 March 2008****amending Directive 2005/32/EC establishing a framework for the setting of ecodesign requirements for energy-using products, as well as Council Directive 92/42/EEC and Directives 96/57/EC and 2000/55/EC, as regards the implementing powers conferred on the Commission**

THE EUROPEAN PARLIAMENT AND THE COUNCIL OF THE EUROPEAN UNION,

down the procedures for the exercise of implementing powers conferred on the Commission ⁽⁷⁾.

Having regard to the Treaty establishing the European Community, and in particular Article 95 thereof,

- (2) Decision 1999/468/EC has been amended by Decision 2006/512/EC, which introduced the regulatory procedure with scrutiny for the adoption of measures of general scope and designed to amend non-essential elements of a basic instrument adopted in accordance with the procedure referred to in Article 251 of the Treaty, *inter alia*, by deleting some of those elements or by supplementing the instrument with new non-essential elements.

Having regard to the proposal from the Commission,

Having regard to the opinion of the European Economic and Social Committee ⁽¹⁾,

- (3) In accordance with the statement by the European Parliament, the Council and the Commission ⁽⁸⁾ concerning Decision 2006/512/EC, for the regulatory procedure with scrutiny to be applicable to instruments adopted in accordance with the procedure referred to in Article 251 of the Treaty which are already in force, those instruments must be adjusted in accordance with the applicable procedures.

After consulting the Committee of the Regions,

Acting in accordance with the procedure laid down in Article 251 of the Treaty ⁽²⁾,

- (4) The statement comprises a list of instruments to be adjusted as a matter of urgency, including Directive 2005/32/EC. Adjusting that Directive necessitates adjusting Directives 92/42/EEC, 96/57/EC and 2000/55/EC.

Whereas:

- (1) Directive 2005/32/EC of the European Parliament and of the Council ⁽³⁾ and three directives which constitute implementing measures thereto within the meaning of Article 15 thereof, namely Council Directive 92/42/EEC of 21 May 1992 on efficiency requirements for new hot-water boilers fired with liquid or gaseous fuels ⁽⁴⁾, Directive 96/57/EC of the European Parliament and of the Council of 3 September 1996 on energy efficiency requirements for household electric refrigerators, freezers and combinations thereof ⁽⁵⁾ and Directive 2000/55/EC of the European Parliament and of the Council of 18 September 2000 on energy efficiency requirements for ballasts for fluorescent lighting ⁽⁶⁾, stipulate that certain measures should be adopted in accordance with Council Decision 1999/468/EC of 28 June 1999 laying

- (5) The Commission should be empowered to amend or repeal Directives 92/42/EEC, 96/57/EC and 2000/55/EC. Such amendment or repeal must be adopted in accordance with the regulatory procedure with scrutiny provided for in Article 5a of Decision 1999/468/EC.

- (6) In addition, the Commission should be empowered to adopt implementing measures laying down ecodesign requirements for defined energy-using products, including the introduction of implementing measures during the transitional period, and including where appropriate provisions on the balancing of the various environmental aspects. Since those measures are of general scope and are designed to amend non-essential elements of Directive 2005/32/EC by supplementing it with new non-essential elements, they must be adopted in accordance with the regulatory procedure with scrutiny.

⁽¹⁾ OJ C 161, 13.7.2007, p. 45.

⁽²⁾ Opinion of the European Parliament of 11 July 2007 (not yet published in the Official Journal) and Council Decision of 3 March 2008.

⁽³⁾ OJ L 191, 22.7.2005, p. 29.

⁽⁴⁾ OJ L 167, 22.6.1992, p. 17. Directive as last amended by Directive 2005/32/EC.

⁽⁵⁾ OJ L 236, 18.9.1996, p. 36. Directive as amended by Directive 2005/32/EC.

⁽⁶⁾ OJ L 279, 1.11.2000, p. 33. Directive as amended by Directive 2005/32/EC.

⁽⁷⁾ OJ L 184, 17.7.1999, p. 23. Decision as amended by Decision 2006/512/EC (OJ L 200, 22.7.2006, p. 11).

⁽⁸⁾ OJ C 255, 21.10.2006, p. 1.

(7) Directive 2005/32/EC and Directives 92/42/EEC, 96/57/EC and 2000/55/EC should therefore be amended accordingly.

(8) Since the amendments made to Directive 2005/32/EC, as well as to Directives 92/42/EEC, 96/57/EC and 2000/55/EC, by this Directive are technical in nature and concern committee procedure only, they do not need to be transposed by the Member States. It is therefore not necessary to lay down provisions to that effect,

HAVE ADOPTED THIS DIRECTIVE:

Article 1

Amendments to Directive 2005/32/EC

Directive 2005/32/EC is hereby amended as follows:

1. in Article 13, the following paragraph shall be inserted:

‘1a. Guidelines covering specificities of SMEs active in the product sector affected may accompany an implementing measure. If necessary, and in accordance with paragraph 1, further specialised material may be produced by the Commission for facilitating implementation of this Directive by SMEs.’;

2. Article 15 shall be amended as follows:

(a) paragraph 1 shall be replaced by the following:

‘1. When an EuP meets the criteria listed under paragraph 2, it shall be covered by an implementing measure or by a self-regulation measure in accordance with paragraph 3(b). Such implementing measures, designed to amend non-essential elements of this Directive by supplementing it, shall be adopted in accordance with the regulatory procedure with scrutiny referred to in Article 19(3).’;

(b) paragraph 10 shall be replaced by the following:

‘10. Where appropriate, an implementing measure laying down ecodesign requirements shall include provisions on the balancing of the various environmental aspects. Those measures, designed to amend non-essential elements of this Directive by supplementing it, shall be adopted in accordance with the regulatory procedure with scrutiny referred to in Article 19(3).’;

3. Article 16(2) shall be amended as follows:

(a) in the introductory wording, the words ‘the procedure laid down in Article 19(2) and’ shall be deleted;

(b) the following subparagraph shall be added:

‘Those measures, designed to amend non-essential elements of this Directive by supplementing it, shall be adopted in accordance with the regulatory procedure with scrutiny referred to in Article 19(3).’;

4. Article 19(3) shall be replaced by the following:

‘3. Where reference is made to this paragraph, Article 5a(1) to (4) and Article 7 of Decision 1999/468/EC shall apply, having regard to the provisions of Article 8 thereof.’

Article 2

Amendment to Directive 92/42/EEC

In Article 10a of Directive 92/42/EEC, the words ‘in accordance with Article 19(2) of Directive 2005/32/EC’ shall be replaced by the words ‘in accordance with Article 19(3) of Directive 2005/32/EC’.

Article 3

Amendment to Directive 96/57/EC

In Article 9a of Directive 96/57/EC, the words ‘in accordance with Article 19(2) of Directive 2005/32/EC’ shall be replaced by the words ‘in accordance with Article 19(3) of Directive 2005/32/EC’.

Article 4

Amendment to Directive 2000/55/EC

In Article 9a of Directive 2000/55/EC, the words ‘in accordance with Article 19(2) of Directive 2005/32/EC’ shall be replaced by the words ‘in accordance with Article 19(3) of Directive 2005/32/EC’.

Article 5

Entry into force

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

*Article 6***Addressees**

This Directive is addressed to the Member States.

Done at Strasbourg, 11 March 2008.

For the European Parliament
The President
H.-G. PÖTTERING

For the Council
The President
J. LENARČIČ

DIRECTIVE 2008/29/EC OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL

of 11 March 2008

amending Directive 2001/83/EC on the Community code relating to medicinal products for human use, as regards the implementing powers conferred on the Commission

THE EUROPEAN PARLIAMENT AND THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty establishing the European Community, and in particular Article 95 thereof,

Having regard to the proposal from the Commission,

Having regard to the opinion of the European Economic and Social Committee ⁽¹⁾,

Acting in accordance with the procedure laid down in Article 251 of the Treaty ⁽²⁾,

Whereas:

(1) Directive 2001/83/EC ⁽³⁾ of the European Parliament and of the Council provides that certain measures are to be adopted in accordance with Council Decision 1999/468/EC of 28 June 1999 laying down the procedures for the exercise of implementing powers conferred on the Commission ⁽⁴⁾.

(2) Decision 1999/468/EC has been amended by Decision 2006/512/EC, which introduced the regulatory procedure with scrutiny for the adoption of measures of general scope and designed to amend non-essential elements of a basic instrument adopted in accordance with the procedure referred to in Article 251 of the Treaty, *inter alia*, by deleting some of those elements or by supplementing the instrument with new non-essential elements.

(3) In accordance with the statement by the European Parliament, the Council and the Commission ⁽⁵⁾ concerning Decision 2006/512/EC, for the regulatory procedure with scrutiny to be applicable to instruments adopted in accordance with the procedure referred to in Article 251 of the Treaty which are already in force, those instruments must be adjusted in accordance with the applicable procedures.

(4) The Commission should be empowered to adapt certain provisions and annexes, to adopt arrangements, principles and guidelines, and to lay down specific conditions of application. Since those measures are of general scope and are designed to amend non-essential elements of Directive 2001/83/EC, *inter alia*, by supplementing it with new non-essential elements, they must be adopted in accordance with the regulatory procedure with scrutiny provided for in Article 5a of Decision 1999/468/EC.

(5) Directive 2001/83/EC should therefore be amended accordingly.

(6) Since the amendments made to Directive 2001/83/EC by this Directive are technical in nature and concern committee procedure only, they do not need to be transposed by the Member States. It is therefore not necessary to lay down provisions to that effect,

HAVE ADOPTED THIS DIRECTIVE:

Article 1

Amendments

Directive 2001/83/EC is hereby amended as follows:

1. in Article 14(1), the second subparagraph shall be replaced by the following:

'If new scientific evidence so warrants, the Commission may amend the third indent of the first subparagraph. That measure, designed to amend non-essential elements of this Directive, shall be adopted in accordance with the regulatory procedure with scrutiny referred to in Article 121(2a).';

2. in Article 35(1), the third subparagraph shall be replaced by the following:

'These arrangements shall be adopted by the Commission in the form of an implementing regulation. That measure, designed to amend non-essential elements of this Directive by supplementing it, shall be adopted in accordance with the regulatory procedure with scrutiny referred to in Article 121(2a).';

⁽¹⁾ OJ C 161, 13.7.2007, p. 45.

⁽²⁾ Opinion of the European Parliament of 29 November 2007 (not yet published in the Official Journal) and Council Decision of 3 March 2008.

⁽³⁾ OJ L 311, 28.11.2001, p. 67. Directive as last amended by Regulation (EC) No 1394/2007 (OJ L 324, 10.12.2007, p. 121).

⁽⁴⁾ OJ L 184, 17.7.1999, p. 23. Decision as amended by Decision 2006/512/EC (OJ L 200, 22.7.2006, p. 11).

⁽⁵⁾ OJ C 255, 21.10.2006, p. 1.

3. in Article 46(f), the second paragraph shall be replaced by the following:

‘This point shall also be applicable to certain excipients, the list of which as well as the specific conditions of application of which shall be established by a Directive adopted by the Commission. That measure, designed to amend non-essential elements of this Directive by supplementing it, shall be adopted in accordance with the regulatory procedure with scrutiny referred to in Article 121(2a).’;

4. Article 46a(2) shall be replaced by the following:

‘2. The Commission shall be empowered to adapt paragraph 1 to take account of scientific and technical progress. That measure, designed to amend non-essential elements of this Directive, shall be adopted in accordance with the regulatory procedure with scrutiny referred to in Article 121(2a).’;

5. in Article 47, the first paragraph shall be replaced by the following:

‘The principles and guidelines of good manufacturing practices for medicinal products referred to in Article 46(f) shall be adopted in the form of a directive. That measure, designed to amend non-essential elements of this Directive by supplementing it, shall be adopted in accordance with the regulatory procedure with scrutiny referred to in Article 121(2a).’;

6. Article 104(7) shall be replaced by the following:

‘7. The Commission may amend paragraph 6 in view of experience gained through its operation. That measure, designed to amend non-essential elements of this Directive, shall be adopted in accordance with the regulatory procedure with scrutiny referred to in Article 121(2a).’;

7. in Article 107(2), the fourth subparagraph shall be replaced by the following:

‘The decision on the final measures concerning the product shall be adopted in accordance with the management procedure referred to in Article 121(3).’;

8. Article 108 shall be replaced by the following:

‘Article 108

The Commission shall adopt any amendments which may be necessary to update provisions of Articles 101 to 107 to

take account of scientific and technical progress. Those measures, designed to amend non-essential elements of this Directive, shall be adopted in accordance with the regulatory procedure with scrutiny referred to in Article 121(2a).’;

9. Article 120 shall be replaced by the following:

‘Article 120

The Commission shall adopt any changes which are necessary in order to adapt Annex I to take account of scientific and technical progress. Those measures, designed to amend non-essential elements of this Directive, shall be adopted in accordance with the regulatory procedure with scrutiny referred to in Article 121(2a).’;

10. Article 121 shall be amended as follows:

- (a) the following paragraph shall be inserted:

‘2a. Where reference is made to this paragraph, Article 5a(1) to (4) and Article 7 of Decision 1999/468/EC shall apply, having regard to the provisions of Article 8 thereof.’;

- (b) paragraph 4 shall be replaced by the following:

‘4. The rules of procedure of the Standing Committee shall be made public.’

Article 2

Entry into force

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

Article 3

Addressees

This Directive is addressed to the Member States.

Done at Strasbourg, 11 March 2008.

For the European Parliament

The President

H.-G. PÖTTERING

For the Council

The President

J. LENARČIČ

DIRECTIVE 2008/30/EC OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL**of 11 March 2008****amending Directive 2006/43/EC on statutory audits of annual accounts and consolidated accounts,
as regards the implementing powers conferred on the Commission****(Text with EEA relevance)**

THE EUROPEAN PARLIAMENT AND THE COUNCIL OF THE
EUROPEAN UNION,

Having regard to the Treaty establishing the European
Community, and in particular Article 44(2)(g) thereof,

Having regard to the proposal from the Commission,

Having regard to the opinion of the European Economic and
Social Committee ⁽¹⁾,

Acting in accordance with the procedure laid down in
Article 251 of the Treaty ⁽²⁾,

Whereas:

(1) Directive 2006/43/EC of the European Parliament and of
the Council ⁽³⁾ provides that certain measures are to be
adopted in accordance with Council Decision
1999/468/EC of 28 June 1999 laying down the
procedures for the exercise of implementing powers
conferred on the Commission ⁽⁴⁾.

(2) Decision 1999/468/EC has been amended by Decision
2006/512/EC, which introduced the regulatory
procedure with scrutiny for the adoption of measures
of general scope and designed to amend non-essential
elements of a basic instrument adopted in accordance
with the procedure referred to in Article 251 of the
Treaty, *inter alia* by deleting some of those elements or
by supplementing the instrument with new non-essential
elements.

(3) In accordance with the statement by the European
Parliament, the Council and the Commission ⁽⁵⁾
concerning Decision 2006/512/EC, for the regulatory
procedure with scrutiny to be applicable to instruments
adopted in accordance with the procedure referred to in
Article 251 of the Treaty which are already in force,
those instruments must be adjusted in accordance with
the applicable procedures.

(4) The Commission should be empowered to adopt
measures necessary for the implementation of Directive
2006/43/EC, in particular to ensure confidence in the
audit function and the uniform application of
requirements regarding professional ethics, quality-
assurance systems, independence and objectivity, to
adapt the list of subjects to be included in the test of
theoretical knowledge for auditors, to adopt international
auditing standards and common standards for audit
reports for annual or consolidated accounts, and to
define exceptional cases of direct transfer of documents
to third countries. Since those measures are of general
scope and are designed to amend non-essential elements
of Directive 2006/43/EC, *inter alia* by supplementing it
with new non-essential elements, they must be adopted
in accordance with the regulatory procedure with
scrutiny provided for in Article 5a of Decision
1999/468/EC.

(5) Directive 2006/43/EC provides for a time restriction
concerning the implementing powers conferred on the
Commission. In their statement concerning Decision
2006/512/EC, the European Parliament, the Council
and the Commission stated that Decision 2006/512/EC
provides a horizontal and satisfactory solution to the
European Parliament's wish to scrutinise the implemen-
tation of instruments adopted under the codecision
procedure and that, accordingly, implementing powers
should be conferred on the Commission without time
limit. The European Parliament and the Council also
declared that they would ensure that the proposals
aimed at repealing the provisions in the instruments
that prescribe a time limit for the delegation of imple-
menting powers to the Commission are adopted as
rapidly as possible. Following the introduction of the
regulatory procedure with scrutiny, the provision estab-
lishing that time restriction in Directive 2006/43/EC
should be deleted.

⁽¹⁾ OJ C 161, 13.7.2007, p. 45.

⁽²⁾ Opinion of the European Parliament of 14 November 2007 (not yet
published in the Official Journal) and Council Decision of 3 March
2008.

⁽³⁾ OJ L 157, 9.6.2006, p. 87.

⁽⁴⁾ OJ L 184, 17.7.1999, p. 23. Decision as amended by Decision
2006/512/EC (OJ L 200, 22.7.2006, p. 11).

⁽⁵⁾ OJ C 255, 21.10.2006, p. 1.

- (6) The Commission should, at regular intervals, evaluate the functioning of the provisions concerning the implementing powers conferred on it in order to allow the European Parliament and the Council to determine whether the extent of those powers and the procedural requirements imposed on the Commission are appropriate and ensure both efficiency and democratic accountability.
- (7) Directive 2006/43/EC should therefore be amended accordingly.
- (8) Since the amendments made to Directive 2006/43/EC by this Directive are technical in nature and concern committee procedure only, they do not need to be transposed by the Member States. It is therefore not necessary to lay down provisions to that effect,

HAVE ADOPTED THIS DIRECTIVE:

Article 1

Amendments

Directive 2006/43/EC is hereby amended as follows:

1. Article 8(3) shall be amended as follows:

- (a) the words ‘, in accordance with the procedure referred to in Article 48(2),’ shall be deleted;
- (b) the following sentence shall be added:

‘Those measures, designed to amend non-essential elements of this Directive, shall be adopted in accordance with the regulatory procedure with scrutiny referred to in Article 48(2a).’;

2. Article 21(2) shall be amended as follows:

- (a) the words ‘, in accordance with the procedure referred to in Article 48(2),’ shall be deleted;
- (b) the following sentence shall be added:

‘Those measures, designed to amend non-essential elements of this Directive by supplementing it, shall be adopted in accordance with the regulatory procedure with scrutiny referred to in Article 48(2a).’;

3. Article 22(4) shall be amended as follows:

- (a) the words ‘, in accordance with the procedure referred to in Article 48(2),’ shall be deleted;

(b) the following subparagraph shall be added:

‘The measures referred to in the first subparagraph, designed to amend non essential elements of this Directive by supplementing it, shall be adopted in accordance with the regulatory procedure with scrutiny referred to in Article 48(2a).’;

4. Article 26 shall be amended as follows:

- (a) in paragraph 1 the words ‘in accordance with the procedure referred to in Article 48(2)’ shall be replaced by the words ‘in accordance with the regulatory procedure with scrutiny referred to in Article 48(2a).’;

(b) paragraph 2 shall be amended as follows:

- (i) the words ‘, in accordance with the procedure referred to in Article 48(2),’ shall be deleted;

(ii) the following subparagraph shall be added:

‘The measures referred to in the first subparagraph, designed to amend non essential elements of this Directive by supplementing it, shall be adopted in accordance with the regulatory procedure with scrutiny referred to in Article 48(2a).’;

5. Article 28(2) shall be amended as follows:

- (a) the words ‘, in accordance with the procedure referred to in Article 48(2) of this Directive,’ shall be deleted;
- (b) the following sentence shall be added:

‘Those measures, designed to amend non-essential elements of this Directive by supplementing it, shall be adopted in accordance with the regulatory procedure with scrutiny referred to in Article 48(2a).’;

6. Article 29(2) shall be amended as follows:

- (a) the words ‘, in accordance with the procedure referred to in Article 48(2),’ shall be deleted;
- (b) the following sentence shall be added:

‘Those measures, designed to amend non-essential elements of this Directive by supplementing it, shall be adopted in accordance with the regulatory procedure with scrutiny referred to in Article 48(2a).’;

7. Article 36(7) shall be amended as follows:

(a) the words 'In accordance with the procedure referred to in Article 48(2)' shall be deleted;

(b) the following sentence shall be added:

'Those measures, designed to amend non-essential elements of this Directive by supplementing it, shall be adopted in accordance with the regulatory procedure with scrutiny referred to in Article 48(2a).';

8. Article 45(6) shall be replaced by the following:

'6. In order to ensure uniform application of paragraph 5(d), the equivalence referred to therein shall be assessed by the Commission in cooperation with Member States and shall be decided upon by the Commission in accordance with the regulatory procedure referred to in Article 48(2). Member States may assess the equivalence referred to in paragraph 5(d) of this Article as long as the Commission has not taken such a decision.

In this context, the Commission may adopt measures aimed at establishing general equivalence criteria in accordance with the requirements laid down in Articles 22, 24, 25 and 26 which are applicable to all third countries and which shall be used by Member States when assessing equivalence at national level. The criteria may not exceed the requirements laid down in Articles 22, 24, 25 and 26. Those measures, designed to amend non-essential elements of this Directive by supplementing it, shall be adopted in accordance with the regulatory procedure with scrutiny referred to in Article 48(2a).';

9. Article 46(2) shall be replaced by the following:

'2. In order to ensure uniform application of paragraph 1, the equivalence referred to therein shall be assessed by the Commission in cooperation with Member States and shall be decided upon by the Commission in accordance with the regulatory procedure referred to in Article 48(2). Member States may assess the equivalence referred to in paragraph 1 of this Article or rely on the assessments carried out by other Member States as long as the Commission has not taken such a decision. If the Commission decides that the requirement of equivalence referred to in paragraph 1 of this Article is not complied with, it may allow the auditors and audit entities concerned to continue their audit activities in accordance with the requirements of the relevant Member State during an appropriate transitional period.

In this context, the Commission may adopt measures aimed at establishing general equivalence criteria in accordance with the requirements laid down in Articles 29, 30 and 32 which are applicable to all third countries and which shall be used by Member States when assessing equivalence at national level. The criteria may not exceed the requirements laid down in Articles 29, 30 and 32. Those measures, designed to amend non essential elements of this Directive by supplementing it, shall be adopted in accordance with the regulatory procedure with scrutiny referred to in Article 48(2a).';

10. Article 47 shall be amended as follows:

(a) paragraph 3 shall be replaced by the following:

'3. In order to ensure uniform application of paragraph 1(c), the adequacy referred to therein shall be assessed by the Commission in cooperation with Member States and shall be decided upon by the Commission in accordance with the regulatory procedure referred to in Article 48(2). Member States shall take the measures necessary to comply with the Commission's Decision.

Such assessment of adequacy shall be based on the requirements of Article 36 or essentially equivalent functional results. Any measures taken in this context, designed to amend non essential elements of this Directive by supplementing it and aiming at facilitating cooperation between competent authorities, shall be adopted in accordance with the regulatory procedure with scrutiny referred to in Article 48(2a).';

(b) paragraph 5 shall be amended as follows:

(i) the words ' ; in accordance with the procedure referred to in Article 48(2),' shall be deleted;

(ii) the following sentence shall be added:

'That measure, designed to amend non-essential elements of this Directive by supplementing it, shall be adopted in accordance with the regulatory procedure with scrutiny referred to in Article 48(2a).';

11. Article 48 shall be amended as follows:

(a) the following paragraph shall be inserted:

'2a. Where reference is made to this paragraph, Article 5a(1) to (4) and Article 7 of Decision 1999/468/EC shall apply, having regard to the provisions of Article 8 thereof.';

(b) paragraphs 3 and 4 shall be replaced by the following:

‘3. By 31 December 2010 and, thereafter, at least every three years, the Commission shall review the provisions concerning its implementing powers and present a report to the European Parliament and to the Council on the functioning of those powers. The report shall examine, in particular, the need for the Commission to propose amendments to this Directive in order to ensure the appropriate scope of the implementing powers conferred on the Commission. The conclusion as to whether or not an amendment is necessary shall be accompanied by a detailed statement of reasons. If necessary, the report shall be accompanied by a legislative proposal to amend the provisions conferring implementing powers on the Commission.’

Article 2

Entry into force

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

Article 3

Addressees

This Directive is addressed to the Member States.

Done at Strasbourg, 11 March 2008.

For the European Parliament

The President

H.-G. PÖTTERING

For the Council

The President

J. LENARČIČ

DIRECTIVE 2008/31/EC OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL

of 11 March 2008

amending Directive 98/8/EC concerning the placing of biocidal products on the market, as regards the implementing powers conferred on the Commission

THE EUROPEAN PARLIAMENT AND THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty establishing the European Community, and in particular Article 95 thereof,

Having regard to the proposal from the Commission,

Having regard to the opinion of the European Economic and Social Committee ⁽¹⁾,

Acting in accordance with the procedure laid down in Article 251 of the Treaty ⁽²⁾,

Whereas:

(1) Directive 98/8/EC of the European Parliament and of the Council ⁽³⁾ provides that certain measures are to be adopted in accordance with Council Decision 1999/468/EC of 28 June 1999 laying down the procedures for the exercise of implementing powers conferred on the Commission ⁽⁴⁾.

(2) Decision 1999/468/EC has been amended by Decision 2006/512/EC, which introduced the regulatory procedure with scrutiny for the adoption of measures of general scope and designed to amend non-essential elements of a basic instrument adopted in accordance with the procedure referred to in Article 251 of the Treaty, *inter alia*, by deleting some of those elements or by supplementing the instrument with new non-essential elements.

(3) In accordance with the statement by the European Parliament, the Council and the Commission ⁽⁵⁾ concerning Decision 2006/512/EC, for the regulatory procedure with scrutiny to be applicable to instruments adopted in accordance with the procedure referred to in Article 251 of the Treaty which are already in force, those instruments must be adjusted in accordance with the applicable procedures.

(4) The Commission should be empowered to adopt common conditions on research and development, to adapt the annexes and to adopt the review programme. Since those measures are of general scope and are designed to amend non-essential elements of Directive 98/8/EC, *inter alia*, by supplementing it with new non-essential elements, they must be adopted in accordance with the regulatory procedure with scrutiny provided for in Article 5a of Decision 1999/468/EC.

(5) Directive 98/8/EC should therefore be amended accordingly.

(6) Since the amendments made to Directive 98/8/EC by this Directive are technical in nature and concern committee procedure only, they do not need to be transposed by the Member States. It is therefore not necessary to lay down provisions to that effect,

HAVE ADOPTED THIS DIRECTIVE:

Article 1

Amendments

Directive 98/8/EC is hereby amended as follows:

1. Article 10(5) shall be amended as follows:

(a) the third subparagraph of point (i) shall be replaced by the following:

'The assessment shall be circulated in accordance with Article 11(2) for a decision to be adopted by the Commission in accordance with the procedure laid down in Article 27. That decision, designed to amend non-essential elements of this Directive, shall be adopted in accordance with the regulatory procedure with scrutiny referred to in Article 28(4).';

(b) point 5 of point (ii) shall be replaced by the following:

'5. the complete data dossiers of the evaluation serving or having served for entry in Annexes I, IA or IB shall be put at the disposal of the committee referred to in Article 28(1).';

⁽¹⁾ OJ C 161, 13.7.2007, p. 45.

⁽²⁾ Opinion of the European Parliament of 14 November 2007 (not yet published in the Official Journal) and Council Decision of 3 March 2008.

⁽³⁾ OJ L 123, 24.4.1998, p. 1. Directive as last amended by Commission Directive 2008/16/EC (OJ L 42, 16.2.2008, p. 48).

⁽⁴⁾ OJ L 184, 17.7.1999, p. 23. Decision as amended by Decision 2006/512/EC (OJ L 200, 22.7.2006, p. 11).

⁽⁵⁾ OJ C 255, 21.10.2006, p. 1.

2. Article 11(4) shall be replaced by the following:

‘4. On receipt of the evaluation, the Commission shall, in accordance with Article 27, prepare a proposal without undue delay for a decision to be taken at the latest 12 months after the receipt of the evaluation referred to in paragraph 2. That decision, designed to amend non-essential elements of this Directive, shall be adopted in accordance with the regulatory procedure with scrutiny referred to in Article 28(4).’;

3. Article 16(2) shall be replaced by the following:

‘2. Following the adoption of this Directive, the Commission shall commence a 10-year work programme for the systematic examination of all active substances already on the market on the date referred to in Article 34(1) as active substances of a biocidal product for purposes other than those defined in Article 2(2)(c) and (d). Regulations shall provide for the establishment and implementation of the programme, including the setting of priorities for the evaluation of the different active substances and a timetable. Those regulations, designed to amend non-essential elements of this Directive by supplementing it, shall be adopted in accordance with the regulatory procedure with scrutiny referred to in Article 28(4). No later than two years before completion of the work programme, the Commission shall forward to the European Parliament and the Council a report on progress achieved with the programme.

During that 10-year period and from the date referred to in Article 34(1), it may be decided that an active substance will be included in Annexes I, IA or IB and under which conditions, or, in cases where the requirements of Article 10 are not satisfied or the requisite information and data have not been submitted within the prescribed period, that such active substance will not be included in Annexes I, IA or IB. Such measures, designed to amend non-essential elements of this Directive by supplementing it, shall be adopted in accordance with the regulatory procedure with scrutiny referred to in Article 28(4).’;

4. Article 17(5) shall be replaced by the following:

‘5. Common conditions for the application of this Article, in particular the maximum quantities of active substances or biocidal products that may be released during experiments and the minimum data to be submitted in order to permit an assessment in accordance with paragraph 2, shall be adopted. Those measures, designed to amend non-essential elements of this Directive by supplementing it, shall be

adopted in accordance with the regulatory procedure with scrutiny referred to in Article 28(4).’;

5. Article 27(2) shall be replaced by the following:

‘2. At the end of the period for comment, the Commission shall prepare a draft for a decision in accordance with the relevant procedure referred to in Article 28(2) or (4) on the basis of all the following elements:

- (a) the documents received from the Member State evaluating the dossiers;
- (b) any advice obtained from advisory scientific committees;
- (c) comments received from other Member States and the applicants; and
- (d) any other relevant information.’;

6. Article 28 shall be amended as follows:

(a) paragraph 1 shall be replaced by the following:

‘1. The Commission shall be assisted by a Standing Committee on Biocidal Products.’;

(b) paragraph 2 shall be replaced by the following:

‘2. Where reference is made to this paragraph, Articles 4 and 7 of Decision 1999/468/EC shall apply, having regard to the provisions of Article 8 thereof.

The period laid down in Article 4(3) of Decision 1999/468/EC shall be set at three months.’;

(c) paragraph 3 shall be replaced by the following:

‘3. Where reference is made to this paragraph, Articles 5 and 7 of Decision 1999/468/EC shall apply, having regard to the provisions of Article 8 thereof.

The period laid down in Article 5(6) of Decision 1999/468/EC shall be set at three months.’;

(d) the following paragraph shall be added:

‘4. Where reference is made to this paragraph, Article 5a(1) to (4) and Article 7 of Decision 1999/468/EC shall apply, having regard to the provisions of Article 8 thereof.’;

7. Article 29 shall be replaced by the following:

‘Article 29

Adaptation to technical progress

Measures necessary to adapt Annexes IIA, IIB, IIIA, IIIB, IVA or IVB or the descriptions of product types in Annex V to technical progress or to specify data requirements for each of these product types shall be adopted. Those measures, designed to amend non-essential elements of this Directive, *inter alia*, by supplementing it, shall be adopted in accordance with the regulatory procedure with scrutiny referred to in Article 28(4).’

Article 2

Entry into force

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

Article 3

Addressees

This Directive is addressed to the Member States.

Done at Strasbourg, 11 March 2008.

For the European Parliament

The President

H.-G. PÖTTERING

For the Council

The President

J. LENARČIČ

DIRECTIVE 2008/32/EC OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL**of 11 March 2008****amending Directive 2000/60/EC establishing a framework for Community action in the field of water policy, as regards the implementing powers conferred on the Commission**

THE EUROPEAN PARLIAMENT AND THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty establishing the European Community, and in particular Article 175(1) thereof,

Having regard to the proposal from the Commission,

Having regard to the opinion of the European Economic and Social Committee ⁽¹⁾,

After consulting the Committee of the Regions,

Acting in accordance with the procedure laid down in Article 251 of the Treaty ⁽²⁾,

Whereas:

(1) Directive 2000/60/EC of the European Parliament and of the Council ⁽³⁾ provides that certain measures are to be adopted in accordance with Council Decision 1999/468/EC of 28 June 1999 laying down the procedures for the exercise of implementing powers conferred on the Commission ⁽⁴⁾.

(2) Decision 1999/468/EC has been amended by Decision 2006/512/EC, which introduced the regulatory procedure with scrutiny for the adoption of measures of general scope and designed to amend non-essential elements of a basic instrument adopted in accordance with the procedure referred to in Article 251 of the Treaty, *inter alia*, by deleting some of those elements or by supplementing the instrument with new non-essential elements.

(3) In accordance with the statement by the European Parliament, the Council and the Commission ⁽⁵⁾ concerning Decision 2006/512/EC, for the regulatory procedure with scrutiny to be applicable to instruments adopted in accordance with the procedure referred to in

Article 251 of the Treaty which are already in force, those instruments must be adjusted in accordance with the applicable procedures.

(4) The Commission should be empowered to establish technical specifications and standardised methods and to adapt certain annexes. Since those measures are of general scope and are designed to amend non-essential elements of Directive 2000/60/EC, *inter alia*, by supplementing it with new non-essential elements, they must be adopted in accordance with the regulatory procedure with scrutiny provided for in Article 5a of Decision 1999/468/EC.

(5) Since the Commission has established a register of sites to form the intercalibration network referred to in section 1.4.1 of Annex V to Directive 2000/60/EC by means of Decision 2005/646/EC ⁽⁶⁾, it is appropriate to delete the references to expired deadlines.

(6) Directive 2000/60/EC should therefore be amended accordingly.

(7) Since the amendments made to Directive 2000/60/EC by this Directive are technical in nature and concern committee procedure only, they do not need to be transposed by the Member States. It is therefore not necessary to lay down provisions to that effect,

HAVE ADOPTED THIS DIRECTIVE:

Article 1**Amendments**

Directive 2000/60/EC is hereby amended as follows:

1. Article 8(3) shall be replaced by the following:

‘3. Technical specifications and standardised methods for analysis and monitoring of water status shall be laid down. Those measures, designed to amend non-essential elements of this Directive by supplementing it, shall be adopted in accordance with the regulatory procedure with scrutiny referred to in Article 21(3).’;

⁽⁶⁾ Commission Decision 2005/646/EC of 17 August 2005 on the establishment of a register of sites to form the intercalibration network in accordance with Directive 2000/60/EC (OJ L 243, 19.9.2005, p. 1).

⁽¹⁾ OJ C 161, 13.7.2007, p. 45.

⁽²⁾ Opinion of the European Parliament of 11 July 2007 (not yet published in the Official Journal) and Council Decision of 3 March 2008.

⁽³⁾ OJ L 327, 22.12.2000, p. 1. Directive as amended by Decision No 2455/2001/EC of the European Parliament and of the Council (OJ L 331, 15.12.2001, p. 1).

⁽⁴⁾ OJ L 184, 17.7.1999, p. 23. Decision as amended by Decision 2006/512/EC (OJ L 200, 22.7.2006, p. 11).

⁽⁵⁾ OJ C 255, 21.10.2006, p. 1.

2. Article 20 shall be replaced by the following:

‘Article 20

Technical adaptations to the Directive

1. Annexes I, III and section 1.3.6 of Annex V may be adapted to scientific and technical progress taking account of the periods for review and updating of the river basin management plans as referred to in Article 13. Those measures, designed to amend non-essential elements of this Directive, shall be adopted in accordance with the regulatory procedure with scrutiny referred to in Article 21(3).

Where necessary, the Commission may adopt guidelines on the implementation of Annexes II and V in accordance with the regulatory procedure referred to in Article 21(2).

2. For the purpose of transmission and processing of data, including statistical and cartographic data, technical formats for the purpose of paragraph 1 may be adopted in accordance with the regulatory procedure referred to in Article 21(2).’

3. Article 21 shall be replaced by the following:

‘Article 21

Committee procedure

1. The Commission shall be assisted by a committee.

2. Where reference is made to this paragraph, Articles 5 and 7 of Decision 1999/468/EC shall apply, having regard to the provisions of Article 8 thereof.

The period laid down in Article 5(6) of Decision 1999/468/EC shall be set at three months.

3. Where reference is made to this paragraph, Article 5a(1) to (4) and Article 7 of Decision 1999/468/EC shall apply, having regard to the provisions of Article 8 thereof.’

4. Section 1.4.1 of Annex V shall be amended as follows:

(a) point (vii) shall be replaced by the following:

‘(vii) The Commission shall prepare a draft register of sites to form the intercalibration network. The final register of sites shall be established in accordance with the regulatory procedure referred to in Article 21(2).’

(b) point (ix) shall be replaced by the following:

‘(ix) The results of the intercalibration exercise and the values established for the Member State monitoring system classifications in accordance with points (i) to (viii) and designed to amend non-essential elements of this Directive by supplementing it, shall be adopted in accordance with the regulatory procedure with scrutiny referred to in Article 21(3) and published within six months of the completion of the intercalibration exercise.’

Article 2

Entry into force

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

Article 3

Addressees

This Directive is addressed to the Member States.

Done at Strasbourg, 11 March 2008.

For the European Parliament

The President

H.-G. PÖTTERING

For the Council

The President

J. LENARČIČ

DIRECTIVE 2008/33/EC OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL
of 11 March 2008
amending Directive 2000/53/EC on end-of-life vehicles, as regards the implementing powers
conferred on the Commission

THE EUROPEAN PARLIAMENT AND THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty establishing the European Community, and in particular Article 175(1) thereof,

Having regard to the proposal from the Commission,

Having regard to the opinion of the European Economic and Social Committee ⁽¹⁾,

After consulting the Committee of the Regions,

Acting in accordance with the procedure laid down in Article 251 of the Treaty ⁽²⁾,

Whereas:

(1) Directive 2000/53/EC of the European Parliament and of the Council ⁽³⁾ provides that certain measures are to be adopted in accordance with Council Decision 1999/468/EC of 28 June 1999 laying down the procedures for the exercise of implementing powers conferred on the Commission ⁽⁴⁾.

(2) Decision 1999/468/EC has been amended by Decision 2006/512/EC, which introduced the regulatory procedure with scrutiny for the adoption of measures of general scope and designed to amend non-essential elements of a basic instrument adopted in accordance with the procedure referred to in Article 251 of the Treaty, *inter alia*, by deleting some of those elements or by supplementing the instrument with new non-essential elements.

⁽¹⁾ OJ C 161, 13.7.2007, p. 45.

⁽²⁾ Opinion of the European Parliament of 11 July 2007 (not yet published in the Official Journal) and Council Decision of 3 March 2008.

⁽³⁾ OJ L 269, 21.10.2000, p. 34. Directive as last amended by Council Decision 2005/673/EC (OJ L 254, 30.9.2005, p. 69).

⁽⁴⁾ OJ L 184, 17.7.1999, p. 23. Decision as amended by Decision 2006/512/EC (OJ L 200, 22.7.2006, p. 11).

(3) In accordance with the statement by the European Parliament, the Council and the Commission ⁽⁵⁾ concerning Decision 2006/512/EC, for the regulatory procedure with scrutiny to be applicable to instruments adopted in accordance with the procedure referred to in Article 251 of the Treaty which are already in force, those instruments must be adjusted in accordance with the applicable procedures.

(4) The Commission should be empowered to amend the annexes and to establish certain technical requirements and control rules. Since those measures are of general scope and are designed to amend non-essential elements of Directive 2000/53/EC, *inter alia*, by supplementing it with new non-essential elements, they must be adopted in accordance with the regulatory procedure with scrutiny provided for in Article 5a of Decision 1999/468/EC.

(5) Since the Commission has laid down the implementing rules referred to in Article 5(5), Article 7(2) and Article 8(2) of Directive 2000/53/EC by means of Decisions 2002/151/EC ⁽⁶⁾, 2005/293/EC ⁽⁷⁾ and 2003/138/EC ⁽⁸⁾, it is appropriate to delete the references to the deadlines of 21 October 2001, 21 October 2002 and 21 October 2001 respectively.

(6) Directive 2000/53/EC should therefore be amended accordingly.

(7) Since the amendments made to Directive 2000/53/EC by this Directive are technical in nature and concern committee procedure only, they do not need to be transposed by the Member States. It is therefore not necessary to lay down provisions to that effect,

⁽⁵⁾ OJ C 255, 21.10.2006, p. 1.

⁽⁶⁾ Commission Decision 2002/151/EC of 19 February 2002 on minimum requirements for the certificate of destruction issued in accordance with Article 5(3) of Directive 2000/53/EC (OJ L 50, 21.2.2002, p. 94).

⁽⁷⁾ Commission Decision 2005/293/EC of 1 April 2005 laying down detailed rules on the monitoring of the reuse/recovery and reuse/recycling targets set out in Directive 2000/53/EC (OJ L 94, 13.4.2005, p. 30).

⁽⁸⁾ Commission Decision 2003/138/EC of 27 February 2003 establishing component and material coding standards for vehicles pursuant to Directive 2000/53/EC (OJ L 53, 28.2.2003, p. 58).

HAVE ADOPTED THIS DIRECTIVE:

Article 1

Amendments

Directive 2000/53/EC is hereby amended as follows:

1. Article 4(2)(b) shall be amended as follows:

(a) the introductory wording shall be replaced by the following:

‘Annex II shall be amended on a regular basis, according to technical and scientific progress, in order to;’

(b) the following subparagraph shall be added:

‘The measures referred to in points (i) to (iv), designed to amend non-essential elements of this Directive, shall be adopted in accordance with the regulatory procedure with scrutiny referred to in Article 11(3).’;

2. Article 5(5) shall be replaced by the following:

‘5. Member States shall take the necessary measures to ensure that their competent authorities mutually recognise and accept the certificates of destruction issued in other Member States in accordance with paragraph 3.

To this end, minimum requirements for the certificate of destruction shall be established. That measure, designed to amend non-essential elements of this Directive by supplementing it, shall be adopted in accordance with the regulatory procedure with scrutiny referred to in Article 11(3).’;

3. the following paragraph shall be added to Article 6:

‘6. Annex I shall be amended according to technical and scientific progress. That measure, designed to amend non-essential elements of this Directive, shall be adopted in accordance with the regulatory procedure with scrutiny referred to in Article 11(3).’;

4. the third subparagraph of Article 7(2) shall be replaced by the following:

‘Detailed rules necessary to control compliance of Member States with the targets set out in the first subparagraph shall be established. When proposing such rules, the Commission shall take into account all relevant factors, *inter alia*, the availability of data and the issue of exports and imports of end-of-life vehicles. Those detailed rules, designed to amend non-essential elements of this Directive by supplementing it, shall be adopted in accordance with the regulatory procedure with scrutiny referred to in Article 11(3).’;

5. Article 8(2) shall be replaced by the following:

‘2. The standards referred to in paragraph 1 shall be established. When proposing such standards, the Commission shall take account of the work going on in this area in the relevant international forums and contribute to this work as appropriate. That measure, designed to amend non-essential elements of this Directive by supplementing it, shall be adopted in accordance with the regulatory procedure with scrutiny referred to in Article 11(3).’;

6. the following subparagraph shall be added to Article 9(1):

‘The formats relating to the database system shall be adopted in accordance with the regulatory procedure referred to in Article 11(2).’;

7. Article 11 shall be replaced by the following:

‘Article 11

Committee procedure

1. The Commission shall be assisted by the committee established by Article 18 of Directive 75/442/EEC.

2. Where reference is made to this paragraph, Articles 5 and 7 of Decision 1999/468/EC shall apply, having regard to the provisions of Article 8 thereof.

The period laid down in Article 5(6) of Decision 1999/468/EC shall be set at three months.

3. Where reference is made to this paragraph, Article 5a(1) to (4) and Article 7 of Decision 1999/468/EC shall apply, having regard to the provisions of Article 8 thereof.'

Article 2

Entry into force

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

Article 3

Addressees

This Directive is addressed to the Member States.

Done at Strasbourg, 11 March 2008.

For the European Parliament

The President

H.-G. PÖTTERING

For the Council

The President

J. LENARČIČ

DIRECTIVE 2008/34/EC OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL

of 11 March 2008

amending Directive 2002/96/EC on waste electrical and electronic equipment (WEEE), as regards the implementing powers conferred on the Commission

THE EUROPEAN PARLIAMENT AND THE COUNCIL OF THE EUROPEAN UNION,

elements of a basic instrument adopted in accordance with the procedure referred to in Article 251 of the Treaty, *inter alia*, by deleting some of those elements or by supplementing the instrument with new non-essential elements.

Having regard to the Treaty establishing the European Community, and in particular Article 175(1) thereof,

Having regard to the proposal from the Commission,

- (3) In accordance with the statement by the European Parliament, the Council and the Commission ⁽⁵⁾ concerning Decision 2006/512/EC, for the regulatory procedure with scrutiny to be applicable to instruments adopted in accordance with the procedure referred to in Article 251 of the Treaty which are already in force, those instruments must be adjusted in accordance with the applicable procedures.

Having regard to the opinion of the European Economic and Social Committee ⁽¹⁾,

After consulting the Committee of the Regions,

- (4) The Commission should be empowered to adapt the annexes and to adopt rules for monitoring compliance. Since those measures are of general scope and are designed to amend non-essential elements of Directive 2002/96/EC, *inter alia*, by supplementing it with new non-essential elements, they must be adopted in accordance with the regulatory procedure with scrutiny provided for in Article 5a of Decision 1999/468/EC.

Acting in accordance with the procedure laid down in Article 251 of the Treaty ⁽²⁾,

Whereas:

- (1) Directive 2002/96/EC of the European Parliament and of the Council ⁽³⁾ provides that certain measures are to be adopted in accordance with Council Decision 1999/468/EC of 28 June 1999 laying down the procedures for the exercise of implementing powers conferred on the Commission ⁽⁴⁾.

- (5) Since the Commission has laid down the detailed rules referred to in Article 7(3) of Directive 2002/96/EC by means of Decision 2005/369/EC ⁽⁶⁾, it is appropriate to delete the reference to the deadline of 13 August 2004.

- (6) Directive 2002/96/EC should therefore be amended accordingly.

- (2) Decision 1999/468/EC has been amended by Decision 2006/512/EC, which introduced the regulatory procedure with scrutiny for the adoption of measures of general scope and designed to amend non-essential

- (7) Since the amendments made to Directive 2002/96/EC by this Directive are technical in nature and concern committee procedure only, they do not need to be transposed by the Member States. It is therefore not necessary to lay down provisions to that effect,

⁽¹⁾ OJ C 161, 13.7.2007, p. 45.

⁽²⁾ Opinion of the European Parliament of 11 July 2007 (not yet published in the Official Journal) and Council Decision of 3 March 2008.

⁽³⁾ OJ L 37, 13.2.2003, p. 24. Directive as amended by Directive 2003/108/EC (OJ L 345, 31.12.2003, p. 106).

⁽⁴⁾ OJ L 184, 17.7.1999, p. 23. Decision as amended by Decision 2006/512/EC (OJ L 200, 22.7.2006, p. 11).

⁽⁵⁾ OJ C 255, 21.10.2006, p. 1.

⁽⁶⁾ Commission Decision 2005/369/EC of 3 May 2005 laying down rules for monitoring compliance of Member States and establishing data formats for the purposes of Directive 2002/96/EC (OJ L 119, 11.5.2005, p. 13).

HAVE ADOPTED THIS DIRECTIVE:

Article 1

Amendments

Directive 2002/96/EC is hereby amended as follows:

1. the second subparagraph of Article 6(1) shall be replaced by the following:

‘Annex II may be amended in order to introduce other treatment technologies ensuring at least the same level of protection for human health and the environment. Those measures, designed to amend non-essential elements of this Directive, shall be adopted in accordance with the regulatory procedure with scrutiny referred to in Article 14(3).’;

2. the second subparagraph of Article 7(3) shall be replaced by the following:

‘Detailed rules for monitoring the compliance of Member States with the targets set out in paragraph 2, including specifications for materials, shall be established. Those measures, designed to amend non-essential elements of this Directive by supplementing it, shall be adopted in accordance with the regulatory procedure with scrutiny referred to in Article 14(3).’;

3. Article 13 shall be replaced by the following:

‘Article 13

Adaptation to scientific and technical progress

Any amendments which are necessary in order to adapt Article 7(3), Annex IB (in particular with a view to possibly adding luminaires in households, filament bulbs and photovoltaic products, i.e. solar panels), Annex II (in particular taking into account new technical developments for the treatment of WEEE), and Annexes III and IV to scientific and technical progress shall be adopted. Those measures, designed to amend non-essential elements of this

Directive, shall be adopted in accordance with the regulatory procedure with scrutiny referred to in Article 14(3).

Before the annexes are amended the Commission shall, *inter alia*, consult producers of electrical and electronic equipment, recyclers, treatment operators and environmental organisations and employees’ and consumer associations.’;

4. Article 14(3) shall be replaced by the following:

‘3. Where reference is made to this paragraph, Article 5a(1) to (4) and Article 7 of Decision 1999/468/EC shall apply, having regard to the provisions of Article 8 thereof.’;

5. point 4 of Annex II shall be replaced by the following:

‘4. Acting in accordance with the regulatory procedure with scrutiny referred to in Article 14(3), the Commission shall evaluate as a matter of priority whether the entries regarding printed circuit boards for mobile phones and liquid crystal displays are to be amended.’.

Article 2

Entry into force

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

Article 3

Addressees

This Directive is addressed to the Member States.

Done at Strasbourg, 11 March 2008.

For the European Parliament

The President

H.-G. PÖTTERING

For the Council

The President

J. LENARČIČ

DIRECTIVE 2008/35/EC OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL**of 11 March 2008****amending Directive 2002/95/EC on the restriction of the use of certain hazardous substances in electrical and electronic equipment as regards the implementing powers conferred on the Commission**

THE EUROPEAN PARLIAMENT AND THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty establishing the European Community, and in particular Article 95 thereof,

Having regard to the proposal from the Commission,

Having regard to the opinion of the European Economic and Social Committee ⁽¹⁾,

After consulting the Committee of the Regions,

Acting in accordance with the procedure laid down in Article 251 of the Treaty ⁽²⁾,

Whereas:

(1) Directive 2002/95/EC of the European Parliament and of the Council ⁽³⁾ provides that certain measures are to be adopted in accordance with Council Decision 1999/468/EC of 28 June 1999 laying down the procedures for the exercise of implementing powers conferred on the Commission ⁽⁴⁾.

(2) Decision 1999/468/EC has been amended by Decision 2006/512/EC, which introduced the regulatory procedure with scrutiny for the adoption of measures of general scope and designed to amend non-essential elements of a basic instrument adopted in accordance with the procedure referred to in Article 251 of the Treaty, *inter alia*, by deleting some of those elements or by supplementing the instrument with new non-essential elements.

(3) In accordance with the statement by the European Parliament, the Council and the Commission ⁽⁵⁾ concerning Decision 2006/512/EC, for the regulatory procedure with scrutiny to be applicable to instruments adopted in accordance with the procedure referred to in Article 251 of the Treaty which are already in force, those instruments must be adjusted in accordance with the applicable procedures.

(4) The Commission should be empowered to adapt the annexes. Since those measures are of general scope and are designed to amend non-essential elements of Directive 2002/95/EC, they must be adopted in accordance with the regulatory procedure with scrutiny provided for in Article 5a of Decision 1999/468/EC.

(5) Directive 2002/95/EC should therefore be amended accordingly.

(6) Since the amendments made to Directive 2002/95/EC by this Directive are technical in nature and concern committee procedure only, they do not need to be transposed by the Member States. It is therefore not necessary to lay down provisions to that effect,

HAVE ADOPTED THIS DIRECTIVE:

Article 1**Amendments**

Directive 2002/95/EC is hereby amended as follows:

1. Article 5(1) shall be amended as follows:

(a) the introductory wording shall be replaced by the following:

‘1. Any amendments which are necessary in order to adapt the Annex to scientific and technical progress for the following purposes shall be adopted:’;

(b) the following subparagraph shall be added:

‘The measures referred to in points (a), (b) and (c) of the first subparagraph, designed to amend non-essential elements of this Directive, shall be adopted in accordance with the regulatory procedure with scrutiny referred to in Article 7(2).’;

⁽¹⁾ OJ C 161, 13.7.2007, p. 45.

⁽²⁾ Opinion of the European Parliament of 11 July 2007 (not yet published in the Official Journal) and Council Decision of 3 March 2008.

⁽³⁾ OJ L 37, 13.2.2003, p. 19. Directive as last amended by Commission Decision 2006/692/EC (OJ L 283, 14.10.2006, p. 50).

⁽⁴⁾ OJ L 184, 17.7.1999, p. 23. Decision as amended by Decision 2006/512/EC (OJ L 200, 22.7.2006, p. 11).

⁽⁵⁾ OJ C 255, 21.10.2006, p. 1.

2. Article 7 shall be replaced by the following:

‘Article 7

Committee

1. The Commission shall be assisted by the Committee set up by Article 18 of Council Directive 75/442/EEC of 15 July 1975 on waste (*).

2. Where reference is made to this paragraph, Article 5a(1) to (4) and Article 7 of Decision 1999/468/EC shall apply, having regard to the provisions of Article 8 thereof.

(*) OJ L 194, 25.7.1975, p. 39. Directive as last amended by Regulation (EC) No 1882/2003 of the European Parliament and of the Council (OJ L 284, 31.10.2003, p. 1).’.

Article 2

Entry into force

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

Article 3

Addressees

This Directive is addressed to the Member States.

Done at Strasbourg, 11 March 2008.

For the European Parliament

The President

H.-G. PÖTTERING

For the Council

The President

J. LENARČIČ

DIRECTIVE 2008/36/EC OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL

of 11 March 2008

amending Council Directive 92/49/EEC on the coordination of laws, regulations and administrative provisions relating to direct insurance other than life assurance, as regards the implementing powers conferred on the Commission

THE EUROPEAN PARLIAMENT AND THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty establishing the European Community, and in particular Article 47(2) and Article 55 thereof,

Having regard to the proposal from the Commission,

Having regard to the opinion of the European Economic and Social Committee ⁽¹⁾,

Acting in accordance with the procedure laid down in Article 251 of the Treaty ⁽²⁾,

Whereas:

- (1) Directive 92/49/EEC ⁽³⁾ provides that certain measures are to be adopted in accordance with Council Decision 1999/468/EC of 28 June 1999 laying down the procedures for the exercise of implementing powers conferred on the Commission ⁽⁴⁾.
- (2) Decision 1999/468/EC has been amended by Decision 2006/512/EC, which introduced the regulatory procedure with scrutiny for the adoption of measures of general scope and designed to amend non-essential elements of a basic instrument adopted in accordance with the procedure referred to in Article 251 of the Treaty, *inter alia*, by deleting some of those elements or by supplementing the instrument with new non-essential elements.
- (3) In accordance with the statement by the European Parliament, the Council and the Commission ⁽⁵⁾

concerning Decision 2006/512/EC, for the regulatory procedure with scrutiny to be applicable to instruments adopted in accordance with the procedure referred to in Article 251 of the Treaty which are already in force, those instruments must be adjusted in accordance with the applicable procedures.

- (4) The Commission should be empowered to adopt the measures necessary for the implementation of Directives 73/239/EEC ⁽⁶⁾, 88/357/EEC ⁽⁷⁾ and 92/49/EEC in order to take account of technical developments in the insurance sector or on financial markets and to ensure uniform application of those Directives. More particularly, those measures are designed to extend the list of legal forms, amend the list of classes of insurance or adapt the terminology used in that list, clarify the items constituting the solvency margin, alter the minimum guarantee fund, amend the list of assets acceptable as cover for technical provisions and the rules on the spreading of investments, change the relaxations in the matching rules and clarify definitions. Since those measures are of general scope and are designed to amend non-essential elements of Directives 73/239/EEC, 88/357/EEC and 92/49/EEC, *inter alia*, by supplementing them with new non-essential elements, they must be adopted in accordance with the regulatory procedure with scrutiny provided for in Article 5a of Decision 1999/468/EC.
- (5) Directive 92/49/EEC should therefore be amended accordingly.
- (6) Since the amendments made to Directive 92/49/EEC by this Directive are technical in nature and concern committee procedure only, they do not need to be transposed by the Member States. It is therefore not necessary to lay down provisions to that effect,

⁽¹⁾ OJ C 161, 13.7.2007, p. 45.

⁽²⁾ Opinion of the European Parliament of 10 July 2007 (not yet published in the Official Journal) and Council Decision of 3 March 2008.

⁽³⁾ OJ L 228, 11.8.1992, p. 1. Directive as last amended by Directive 2007/44/EC of the European Parliament and of the Council (OJ L 247, 21.9.2007, p. 1).

⁽⁴⁾ OJ L 184, 17.7.1999, p. 23. Decision as amended by Decision 2006/512/EC (OJ L 200, 22.7.2006, p. 11).

⁽⁵⁾ OJ C 255, 21.10.2006, p. 1.

⁽⁶⁾ First Council Directive 73/239/EEC of 24 July 1973 on the coordination of laws, regulations and administrative provisions relating to the taking-up and pursuit of the business of direct insurance other than life assurance (OJ L 228, 16.8.1973, p. 3). Directive as last amended by Directive 2006/101/EC (OJ L 363, 20.12.2006, p. 238).

⁽⁷⁾ Second Council Directive 88/357/EEC of 22 June 1988 on the coordination of laws, regulations and administrative provisions relating to direct insurance other than life insurance and laying down provisions to facilitate the effective exercise of freedom to provide services (OJ L 172, 4.7.1988, p. 1). Directive as last amended by Directive 2005/14/EC of the European Parliament and of the Council (OJ L 149, 11.6.2005, p. 14).

HAVE ADOPTED THIS DIRECTIVE:

Article 1

Amendments

In Article 51 of Directive 92/49/EEC, the introductory wording shall be replaced by the following:

‘The following technical adjustments designed to amend non-essential elements of Directives 73/239/EEC and 88/357/EEC and of this Directive, *inter alia*, by supplementing them, shall be adopted in accordance with the regulatory procedure with scrutiny referred to in Article 2 of Directive 91/675/EEC.’.

Article 2

Entry into force

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

Article 3

Addressees

This Directive is addressed to the Member States.

Done at Strasbourg, 11 March 2008.

For the European Parliament

The President

H.-G. PÖTTERING

For the Council

The President

J. LENARČIČ

DIRECTIVE 2008/37/EC OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL
of 11 March 2008
amending Directive 2005/68/EC on reinsurance, as regards the implementing powers conferred on
the Commission

(Text with EEA relevance)

THE EUROPEAN PARLIAMENT AND THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty establishing the European Community, and in particular Article 47(2) and 55 thereof,

Having regard to the proposal from the Commission,

Having regard to the opinion of the European Economic and Social Committee ⁽¹⁾,

Acting in accordance with the procedure laid down in Article 251 of the Treaty ⁽²⁾,

Whereas:

- (1) Directive 2005/68/EC of the European Parliament and of the Council ⁽³⁾ provides that certain measures are to be adopted in accordance with Council Decision 1999/468/EC of 28 June 1999 laying down the procedures for the exercise of implementing powers conferred on the Commission ⁽⁴⁾.
- (2) Decision 1999/468/EC has been amended by Decision 2006/512/EC, which introduced the regulatory procedure with scrutiny for the adoption of measures of general scope and designed to amend non-essential elements of a basic instrument adopted in accordance with the procedure referred to in Article 251 of the Treaty, *inter alia*, by deleting some of those elements or by supplementing the instrument with new non-essential elements.
- (3) In accordance with the statement by the European Parliament, the Council and the Commission ⁽⁵⁾ concerning Decision 2006/512/EC, for the regulatory procedure with scrutiny to be applicable to instruments adopted in accordance with the procedure referred to in Article 251 of the Treaty which are already in force, those instruments must be adjusted in accordance with the applicable procedures.

- (4) The Commission should be empowered to adopt the measures necessary for the implementation of Directive 2005/68/EC in order to take account of technical developments in the insurance sector or financial markets and to ensure the uniform application of that Directive. More particularly, those measures are designed to extend the list of legal forms, clarify or adjust the items constituting the solvency margin, increase the premiums or claims amounts used for the calculation of the solvency margin for certain reinsurance activities or contract types, alter the minimum guarantee fund, and clarify definitions. Since those measures are of general scope and are designed to amend non-essential elements of Directive 2005/68/EC, *inter alia*, by supplementing it with new non-essential elements, they must be adopted in accordance with the regulatory procedure with scrutiny provided for in Article 5a of Decision 1999/468/EC.

- (5) Directive 2005/68/EC should therefore be amended accordingly.

- (6) Since the amendments made to Directive 2005/68/EC by this Directive are technical in nature and concern committee procedure only, they do not need to be transposed by the Member States. It is therefore not necessary to lay down provisions to that effect,

HAVE ADOPTED THIS DIRECTIVE:

Article 1

Amendments

Directive 2005/68/EC is hereby amended as follows:

1. Article 55 shall be amended as follows:

- (a) paragraph 2 shall be replaced by the following:

'2. Where reference is made to this paragraph, Article 5a(1) to (4) and Article 7 of Decision 1999/468/EC shall apply, having regard to the provisions of Article 8 thereof;'

- (b) paragraph 3 shall be deleted;

⁽¹⁾ OJ C 161, 13.7.2007, p. 45.

⁽²⁾ Opinion of the European Parliament of 10 July 2007 (not yet published in the Official Journal) and Council Decision of 3 March 2008.

⁽³⁾ OJ L 323, 9.12.2005, p. 1. Directive as amended by Directive 2007/44/EC (OJ L 247, 21.9.2007, p. 1).

⁽⁴⁾ OJ L 184, 17.7.1999, p. 23. Decision as amended by Decision 2006/512/EC (OJ L 200, 22.7.2006, p. 11).

⁽⁵⁾ OJ C 255, 21.10.2006, p. 1.

2. in Article 56, the introductory phrase shall be replaced by the following:

‘The following implementing measures designed to amend non-essential elements of this Directive, *inter alia*, by supplementing it, shall be adopted in accordance with the regulatory procedure with scrutiny referred to in Article 55(2):’.

Article 2

Entry into force

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

Article 3

Addressees

This Directive is addressed to the Member States.

Done at Strasbourg, 11 March 2008.

For the European Parliament

The President

H.-G. PÖTTERING

For the Council

The President

J. LENARČIČ

II

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

DECISIONS

COMMISSION

COMMISSION DECISION

of 18 March 2008

granting certain parties an exemption from the extension to certain bicycle parts of the anti-dumping duty on bicycles originating in the People's Republic of China imposed by Council Regulation (EEC) No 2474/93, last maintained and amended by Regulation (EC) No 1095/2005, and lifting the suspension of the payment of the anti-dumping duty extended to certain bicycle parts originating in the People's Republic of China granted to certain parties pursuant to Commission Regulation (EC) No 88/97

(notified under document number C(2008) 1044)

(2008/260/EC)

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Council Regulation (EC) No 384/96 of 22 December 1995 on protection against dumped imports from countries not members of the European Community ⁽¹⁾ (the 'basic Regulation'),

Having regard to Council Regulation (EC) No 71/97 ⁽²⁾ (the 'extending Regulation'), extending the definitive anti-dumping duty imposed by Regulation (EEC) No 2474/93 ⁽³⁾ on bicycles originating in the People's Republic of China to imports of certain bicycle parts from the People's Republic of China, and levying the extended duty on such imports registered under Regulation (EC) No 703/96,

Having regard to Commission Regulation (EC) No 88/97 ⁽⁴⁾ (the 'exemption Regulation') on the authorisation of the exemption of imports of certain bicycle parts originating in the People's Republic of China from the extension by Council Regulation (EC) No 71/97 of the anti-dumping duty imposed by Council Regulation (EEC) No 2474/93, and in particular Article 7 thereof,

After consulting the Advisory Committee,

⁽¹⁾ OJ L 56, 6.3.1996, p. 1. Regulation as last amended by Regulation (EC) No 2117/2005 (OJ L 340, 23.12.2005, p. 17).

⁽²⁾ OJ L 16, 18.1.1997, p. 55.

⁽³⁾ OJ L 228, 9.9.1993, p. 1. Regulation as maintained by Regulation (EC) No 1524/2000 (OJ L 175, 14.7.2000, p. 39) and amended by Regulation (EC) No 1095/2005 (OJ L 183, 14.7.2005, p. 1).

⁽⁴⁾ OJ L 17, 21.1.1997, p. 17.

Whereas:

- (1) After the entry into force of the exemption Regulation, a number of bicycle assemblers submitted requests pursuant to Article 3 of that Regulation for exemption from the anti-dumping duty as extended to imports of certain bicycle parts from the People's Republic of China by Regulation (EC) No 71/97 (the 'extended anti-dumping duty'). The Commission has published in the Official Journal successive lists of bicycle assemblers ⁽¹⁾ for which the payment of the extended anti-dumping duty in respect of their imports of essential bicycle parts declared for free circulation was suspended pursuant to Article 5(1) of the exemption Regulation.
- (2) Following the last publication of the list of parties under examination ⁽²⁾, a period of examination has been selected. Due to the accession of Bulgaria and Romania it was decided to determine an examination period from 1 January 2006 until 30 June 2007 so that in the same procedure also requests for exemptions submitted by Bulgarian and Romanian bicycle assemblers could be analysed. A questionnaire was sent to all parties under examination, requesting information on the assembly operations conducted during the relevant period of examination.

A. REQUESTS FOR EXEMPTION FOR WHICH SUSPENSION WAS PREVIOUSLY GRANTED

A.1. Acceptable requests for exemption

- (3) The Commission received from the parties listed in table 1 below all the information required for the determination of the admissibility of their requests. These parties received their suspension after this date. The information provided was examined and verified, where necessary, at the premises of the parties concerned. Based on this information, the Commission found that the requests submitted by the parties listed in table 1 below are admissible pursuant to Article 4(1) of the exemption Regulation.

Table 1

Name	Address	Country	TARIC additional code
Alubike — Bicicletas S.A.	Zona Industrial de Oia, Lote C-10, 3770-059 Oliveira do Bairro	Portugal	A730
Balkanvelo AD	1 Mizia Blvd., 5500 Lovech	Bulgaria	A811
Bonaventure BVBA	Stoomtuigstraat 16, 8830 Hooglede	Belgium	A732
CROSS Ltd.	1 Hadji Dimitar Street, 3400 Montana	Bulgaria	A810
SC Eurosport DHS SA	Santuhalm Street 35A, Deva, dept. Hunedoara	Romania	A817
F.lli Schiano S.R.L.	Via Carmelo Pezzullo 20, 80027 Frattamaggiore (NA)	Italy	A824
Goldbike — Industria de Bicicletas Lda	R. Flores, 3780 594 Poutena-Vilarinho do Bairro	Portugal	A777
Helkama Velox Oy	Santalantie 22, 10960 Hanko Pohjoinen	Finland	A825
Ing. Jaromír Březina	Foglarova 2896/11, 787 01 Šumperk	Czech Republic	A776
KHE Fahrradhandels GmbH	Gablönzer Strasse 10, 76185 Karlsruhe	Germany	A794
Koga BV.	Tinweg 9, 8445 PD Heerenveen	The Netherlands	A773
Rijwielen en Bromfietsenfabriek L'Avenir NV	Posthoornstraat 1, 2500 Lier	Belgium	A826
Leader — 96 Ltd.	19 Sedianka Str., 4003 Plovdiv	Bulgaria	A813

⁽¹⁾ OJ C 45, 13.2.1997, p. 3, OJ C 112, 10.4.1997, p. 9, OJ C 220, 19.7.1997, p. 6, OJ C 378, 13.12.1997, p. 2, OJ C 217, 11.7.1998, p. 9, OJ C 37, 11.2.1999, p. 3, OJ C 186, 2.7.1999, p. 6, OJ C 216, 28.7.2000, p. 8, OJ C 170, 14.6.2001, p. 5, OJ C 103, 30.4.2002, p. 2, OJ C 35, 14.2.2003, p. 3, OJ C 43, 22.2.2003, p. 5, OJ C 54, 2.3.2004, p. 2, OJ C 299, 4.12.2004, p. 4, OJ L 17, 21.1.2006, p. 16 and OJ L 313, 14.11.2006, p. 5.

⁽²⁾ OJ L 313, 14.11.2006, p. 5.

Name	Address	Country	TARIC additional code
Look Cycle International S.A.	27, rue du Dr. Léveillé, 58000 Nevers	France	A781
Maxcom Ltd.	13 Peshtersko shousse Str., 4000 Plovdiv	Bulgaria	A812
Prestige Rijwielen NV	Zuiderdijk 25, 9230 Wetteren	Belgium	A737
Puky GmbH & Co. KG	Fortunastrasse 11, 42489 Wülfrath	Germany	A778
Robifir Bike Ltd.	3A Kosta Bosilkov Street, 2700 Blagoevgrad	Bulgaria	A815
Skeppshultcykeln AB	Storgatan 78, 333 03 Skeppshult	Sweden	A745
Stevens Vertriebs GmbH	Asbrookdamm 35, 22115 Hamburg	Germany	A774
Trenga DE Vertriebs GmbH	Grossmoordamm 63—67, 21079 Hamburg	Germany	A746
Velomania Ltd.	Dimitar Nestorov Street bl. 120, 1612 Sofia	Bulgaria	A814

- (4) The facts as finally ascertained by the Commission show that for 22 of these applicants' bicycle assembly operations, the value of the parts originating in the People's Republic of China which were used in their assembly operations was lower than 60 % of the total value of the parts used in these assembly operations, and they, therefore, fall outside the scope of Article 13(2) of the basic Regulation.
- (5) For this reason, and in accordance with Article 7(1) of the exemption Regulation, the parties listed in the above table should be exempted from the extended anti-dumping duty.
- (6) In accordance with Article 7(2) of the exemption Regulation, the exemption of the parties listed in table 1 from the extended anti-dumping duty should take effect as from the date of receipt of their requests. In addition, their customs debt in respect of the extended anti-dumping duty is to be considered void as from the date of receipt of their requests for exemption.
- (7) It is to be noted that the following party listed in table 1 informed the Commission services of a change in its registered seat during the examination period:
- Leader-96 Ltd. transferred its registered office from 3 Mostova Str., 4002 Plovdiv, Bulgaria to 19 Sedianka Str., 4003 Plovdiv, Bulgaria.
- (8) It has been established that this change in the address of the registered office did not affect the assembly operation with regard to the stipulations of the exemption Regulation and therefore the Commission does not consider that this change should affect the exemption from the extended anti-dumping duty.

A.2. Unacceptable requests for exemption and withdrawals

- (9) The parties listed in table 2 below also submitted requests for exemption from the extended anti-dumping duty.

Table 2

Name	Address	Country	TARIC additional code
Isaac International Ltd.	4 Axis Park, P014 1FD Fareham Hants, Hampshire	United Kingdom	A816
Loris Cycles di Perinel Lori	Via delle Industrie 8, 30022 Ceggia (VE)	Italy	A731
ROG Kolesa d.d. (formerly ELAN Bikes d.d)	Letališka 29, 1000 Ljubljana	Slovenia	A538

- (10) Two parties withdrew their request for exemption and informed the Commission accordingly.
- (11) Another party went bankrupt and consequently ceased the assembly activities.
- (12) Since the parties listed in table 2 failed to meet the criteria for exemption set by Article 6(2) of the exemption Regulation, the Commission has to reject their requests for exemptions, in accordance with Article 7(3) of the Regulation. In the light of this, the suspension of the payment of the extended anti-dumping duty referred to in Article 5 of the exemption Regulation must be lifted and the extended anti-dumping duty must be collected as from the date of receipt of the requests submitted by these parties.

B. REQUESTS FOR EXEMPTION FOR WHICH SUSPENSION WAS NOT PREVIOUSLY GRANTED

B.1. Inadmissible requests for exemption

- (13) The parties listed in table 3 also submitted requests for exemption from the payment of the extended anti-dumping duty:

Table 3

Name	Address	Country
BBC International Biria Bike Company International GmbH	Mannheimer Strasse 80, 68535 Edingen-Neckarhausen	Germany
Ets. TH Brasseur SA	Rue des Steppes 13, 4000 Liège	Belgium
Individual Bike s.r.o.	Kmochova 2430, 431 11 Chomutov	Czech Republic
Shrapnell NV	Groendreef 7, 9500 Geraardsbergen	Belgium

- (14) With regard to these parties, it should be noted that their requests did not meet the admissibility criteria set out in Article 4(1) of the exemption Regulation as all these applicants use essential bicycle parts for the production or assembly of bicycles in quantities below 300 units per type on a monthly basis.
- (15) These parties were informed accordingly and were given an opportunity to comment. For two parties no comments were received, the remaining two parties withdrew their request. As a consequence, no suspension was granted to these parties.

B.2. Admissible requests for exemption for which suspension should be granted

- (16) Interested parties are hereby informed of the receipt of further requests for exemption, pursuant to Article 3 of the exemption Regulation, from parties listed in table 4. The suspension from the extended duty, following these requests, should take effect as shown in the column headed 'Date of effect':

Table 4

Name	Address	Country	Suspension pursuant to Regulation (EC) No 88/97	Date of effect	TARIC additional code
Blue Ocean Hungary Ltd.	Sukorói u. 8, 8097 Nadap	Hungary	Article 5	30.1.2008	A858
Canyon Bicycles GmbH	Koblenzer Strasse 236, 56073 Koblenz	Germany	Article 5	4.12.2007	A856
Euro-Bike-Products	Ul. Starołęcka 18, 61-361 Poznań	Poland	Article 5	6.8.2007	A849

Name	Address	Country	Suspension pursuant to Regulation (EC) No 88/97	Date of effect	TARIC additional code
EUSA Mart European Sales & Marketing GmbH & Co. KG	An der Welle 4, 60322 Frankfurt am Main	Germany	Article 5	7.1.2008	A857
KOVL spol. S.r.o.	Choceradská 3042/20, 141 00 Praha 4	Czech Republic	Article 5	29.3.2007	A838
MICPOL	Ul. Mysłiborska 93A m. 62, 03-185 Warszawa	Poland	Article 5	17.4.2007	A839
N&W Cycle GmbH	Mühlenhof 5, 51598 Friesenhagen	Germany	Article 5	11.10.2007	A852
Radsportvertrieb Dietmar Bayer GmbH	Zum Acker 1, 56244 Freirachdorf	Germany	Article 5	25.6.2007	A850
Special Bike — Societa Cooperativa	Via Nizza 20, 71042 Cerignola (FG)	Italy	Article 5	22.1.2008	A533

HAS ADOPTED THIS DECISION:

Article 1

The parties listed below in table 1 are hereby exempted from the extension to imports of certain bicycle parts from the People's Republic of China by Council Regulation (EC) No 71/97 of the definitive anti-dumping duty on bicycles originating in the People's Republic of China imposed by Council Regulation (EEC) No 2474/93, as maintained by Regulation (EC) No 1524/2000 and amended by Regulation (EC) No 1095/2005.

The exemption shall take effect in relation to each party as from the relevant date shown in the column headed 'Date of effect'.

Table 1

List of parties to be exempted

Name	Address	Country	Exemption pursuant to Regulation (EC) No 88/97	Date of effect	TARIC additional code
Alubike — Bicicletas S.A.	Zona Industrial de Oia, Lote C-10, 3770-059 Oliveira do Bairro	Portugal	Article 7	12.12.2005	A730
Balkanvelo AD	1 Mizia Blvd., 5500 Lovech	Bulgaria	Article 7	1.1.2007	A811
Bonaventure BVBA	Stoomtuigstraat 16, 8830 Hooglede	Belgium	Article 7	19.1.2006	A732
CROSS Ltd.	1 Hadji Dimitar Street, 3400 Montana	Bulgaria	Article 7	1.1.2007	A810
SC Eurosport DHS SA	Santuhalm Street 35A, Deva, dept. Hunedoara	Romania	Article 7	1.1.2007	A817
F.lli Schiano S.R.L.	Via Carmelo Pezzullo 20, 80027 Frattamaggiore (NA)	Italy	Article 7	31.1.2007	A824
Goldbike — Industria de Bicicletas Lda	R. Flores, 3780 594 Poutena-Vilarinho do Bairro	Portugal	Article 7	9.8.2006	A777
Helkama Velox Oy	Santalantie 22, 10960 Hanko Pohjoinen	Finland	Article 7	29.1.2007	A825

Name	Address	Country	Exemption pursuant to Regulation (EC) No 88/97	Date of effect	TARIC additional code
Ing. Jaromír Březina	Foglarova 2896/11, 787 01 Šumperk	Czech Republic	Article 7	20.7.2006	A776
KHE Fahrradhandels GmbH	Gablonzer Strasse 10, 76185 Karlsruhe	Germany	Article 7	6.11.2006	A794
Koga BV.	Tinweg 9, 8445 PD Heerenveen	The Netherlands	Article 7	19.6.2006	A773
Rijwielen en Bromfietsenfabriek L'Avenir NV	Posthoornstraat 1, 2500 Lier	Belgium	Article 7	21.3.2007	A826
Leader — 96 Ltd.	19 Sedianka Str., 4003 Plovdiv	Bulgaria	Article 7	1.1.2007	A813
Look Cycle International S.A.	27, rue du Dr. Léveillé, 58000 Nevers	France	Article 7	14.9.2006	A781
Maxcom Ltd.	13 Peshtersko shousse Str., 4000 Plovdiv	Bulgaria	Article 7	1.1.2007	A812
Prestige Rijwielen NV	Zuiderdijk 25, 9230 Wetteren	Belgium	Article 7	16.2.2006	A737
Puky GmbH & Co. KG	Fortunastrasse 11, 42489 Wülfrath	Germany	Article 7	21.8.2006	A778
Robifir Bike Ltd.	3A Kosta Bosilkov Street, 2700 Blagoevgrad	Bulgaria	Article 7	1.1.2007	A815
Skeppshultcykeln AB	Storgatan 78, 333 03 Skeppshult	Sweden	Article 7	29.3.2006	A745
Stevens Vertriebs GmbH	Asbrookdamm 35, 22115 Hamburg	Germany	Article 7	3.7.2006	A774
Trenga DE Vertriebs GmbH	Grossmoordamm 63—67, 21079 Hamburg	Germany	Article 7	10.5.2006	A746
Velomania Ltd.	Dimitar Nestorov Street bl. 120, 1612 Sofia	Bulgaria	Article 7	1.1.2007	A814

Article 2

The requests for exemption from the extended anti-dumping duty submitted pursuant to Article 3 of Commission Regulation (EC) No 88/97 by the parties listed below in table 2 are hereby rejected.

The suspension of payment of the extended anti-dumping duty pursuant to Article 5 of Regulation (EC) No 88/97 is hereby lifted for the parties concerned as from the relevant date shown in the column headed 'Date of effect'.

Table 2

List of parties for which the suspension is to be lifted

Name	Address	Country	Suspension pursuant to Regulation (EC) No 88/97	Date of effect	TARIC additional code
Isaac International Ltd.	4 Axis Park, P014 1FD Fareham Hants, Hampshire	United Kingdom	Article 5	13.12.2006	A816
Loris Cycles di Perinel Lori	Via delle Industrie 8, 30022 Ceggia (VE)	Italy	Article 5	13.12.2005	A731
ROG Kolesa d.d. (former ELAN Bikes, d.d.)	Letališka 29, 1000 Ljubljana	Slovenia	Article 5	1.5.2004	A538

Article 3

The parties listed in table 3 below constitute the updated list of parties under examination pursuant to Article 3 of Regulation (EC) No 88/97. The suspension from the extended duty, following these requests, took effect from the relevant date in the column headed 'Date of effect' in Table 3.

Table 3

List of parties under examination

Name	Address	Country	Suspension pursuant to Regulation (EC) No 88/97	Date of effect	TARIC additional code
Blue Ocean Hungary Ltd.	Sukorói u. 8, 8097 Nadap	Hungary	Article 5	30.1.2008	A858
Canyon Bicycles GmbH	Koblenzer Strasse 236, 56073 Koblenz	Germany	Article 5	4.12.2007	A856
Euro-Bike-Products	Ul. Starołęcka 18, 61-361 Poznań	Poland	Article 5	6.8.2007	A849
EUSA Mart European Sales & Marketing GmbH & Co. KG	An der Welle 4, 60322 Frankfurt am Main	Germany	Article 5	7.1.2008	A857
KOVL spol. S.r.o.	Choceradská 3042/20, 141 00 Praha 4	Czech Republic	Article 5	29.3.2007	A838
MICPOL	Ul. Myśliborska 93A m. 62, 03-185 Warszawa	Poland	Article 5	17.4.2007	A839
N&W Cycle GmbH	Mühlenhof 5, 51598 Friesenhagen	Germany	Article 5	11.10.2007	A852
Radsportvertrieb Dietmar Bayer GmbH	Zum Acker 1, 56244 Freirachdorf	Germany	Article 5	25.6.2007	A850
Special Bike — Societa Cooperativa	Via Nizza 20, 71042 Cerignola (FG)	Italy	Article 5	22.1.2008	A533

Article 4

The requests for exemption from the extended anti-dumping duty made by the parties listed below in table 4 are hereby rejected.

Table 4

List of parties for which the request for exemption is rejected

Name	Address	Country
BBC International Biria Bike Company International GmbH	Mannheimer Strasse 80, 68535 Edingen-Neckarhausen	Germany
Ets. TH Brasseur SA	Rue des Steppes 13, 4000 Liège	Belgium
Individual Bike s.r.o.	Kmochova 2430, 431 11 Chomutov	Czech Republic
Shrapnell NV	Groendreef 7, 9500 Geraardsbergen	Belgium

Article 5

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

Done at Brussels, 18 March 2008.

For the Commission
Peter MANDELSON
Member of the Commission

IV

(Other acts)

EUROPEAN ECONOMIC AREA

EFTA SURVEILLANCE AUTHORITY

EFTA SURVEILLANCE AUTHORITY DECISION

No 388/06/COL

of 13 December 2006

amending for the sixty first time the Procedural and Substantive Rules in the Field of State Aid

THE EFTA SURVEILLANCE AUTHORITY,

HAVING REGARD TO the Agreement on the European Economic Area ⁽¹⁾, in particular to Articles 61 to 63 and Protocol 26 thereof,

HAVING REGARD TO the Agreement between the EFTA States on the Establishment of a Surveillance Authority and a Court of Justice ⁽²⁾, in particular to Article 24 and Article 5(2)(b) thereof and Article 1 in Part I of Protocol 3 thereof,

WHEREAS under Article 24 of the Surveillance and Court Agreement, the EFTA Surveillance Authority shall give effect to the provisions of the EEA Agreement concerning State aid,

WHEREAS under Article 5(2)(b) of the Surveillance and Court Agreement, the EFTA Surveillance Authority shall issue notices or guidelines on matters dealt with in the EEA Agreement, if that Agreement or the Surveillance and Court Agreement expressly so provides or if the EFTA Surveillance Authority considers it necessary,

RECALLING the Procedural and Substantive Rules in the Field of State Aid ⁽³⁾ adopted on 19 January 1994 by the EFTA Surveillance Authority ⁽⁴⁾,

WHEREAS the European Commission has adopted on 22 November 2006 a new Community Framework for State Aid for Research & Development & Innovation which is due to be published in its official version in the *Official Journal of the European Union* at the end of December 2006,

WHEREAS this new Framework is also of relevance for the European Economic Area,

WHEREAS a uniform application of the EEA State aid rules is to be ensured throughout the European Economic Area,

⁽¹⁾ Hereinafter referred to as 'the EEA Agreement'.

⁽²⁾ Hereinafter referred to as 'the Surveillance and Court Agreement'.

⁽³⁾ Hereinafter referred to as the 'State Aid Guidelines'.

⁽⁴⁾ Initially published in OJ L 231, 3.9.1994, and in the EEA Supplement thereto No 32 on the same date, last amendment adopted by Decision of 29 November 2006.

WHEREAS, according to point II under the heading 'GENERAL', at the end of Annex XV to the EEA Agreement, the EFTA Surveillance Authority is to adopt, after consultation with the Commission, acts corresponding to those adopted by the European Commission,

WHEREAS once the final official version of the new Community Framework for State Aid for Research & Development & Innovation is available, the EFTA Surveillance Authority will be in the position to adopt corresponding guidelines,

WHEREAS the current Chapter 14 will expire on 31 December 2006,

WHEREAS there is, therefore, a need to prolong the existing Chapter 14 until the EFTA Surveillance Authority adopts corresponding guidelines to the new Community Framework for State Aid for Research & Development & Innovation,

HAVING consulted the European Commission,

RECALLING that the EFTA Surveillance Authority has consulted the EFTA States in a letter on the subject dated 13 November 2006,

HAS ADOPTED THIS DECISION:

1. The validity of Chapter 14 of the State Aid Guidelines, Aid for research and development is prolonged until the EFTA Surveillance Authority has adopted new guidelines corresponding to the new Community Framework for State Aid for Research & Development & Innovation. The former paragraph 2 of Section 14.9 of Chapter 14 of the State Aid Guidelines is replaced by a new paragraph 2 which shall read as follows:

'These guidelines will apply until new guidelines are adopted by the EFTA Surveillance Authority corresponding to the new Community Framework for State Aid for Research & Development & Innovation adopted by the European Commission on 22 November 2006.'

2. The EFTA States shall be informed by means of a letter, including a copy of this Decision.
3. The European Commission shall be informed by means of a letter, including a copy of this Decision.
4. The Decision shall be published in the EEA Section of and in the EEA Supplement to the *Official Journal of the European Union*.

Done at Brussels, 13 December 2006.

For the EFTA Surveillance Authority

Björn T. GRYDELAND
President

Kristján A. STEFÁNSSON
College Member
