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### Legislation

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

## I

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

## REGULATIONS

## COUNCIL REGULATION (EC) No 1340/2008

of 8 December 2008

**on trade in certain steel products between the European Community and the Republic of Kazakhstan**

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty establishing the European Community, and in particular Article 133 thereof,

Having regard to the proposal from the Commission,

Whereas:

- (1) Article 17(1) of the Partnership and Cooperation Agreement between the European Communities and their Member States, and the Republic of Kazakhstan <sup>(1)</sup> provides that trade in certain steel products are to be subject to a specific agreement on quantitative arrangements.
- (2) The Bilateral Agreement between the European Community and the Government of the Republic of Kazakhstan on trade in certain steel products <sup>(2)</sup> concluded on 19 July 2005 expired on 31 December 2006. Since 2007 and 2008 autonomous measures established by Council Regulation (EC) No 1870/2006 <sup>(3)</sup> and Council Regulation (EC) No 1531/2007 <sup>(4)</sup> respectively have governed the trade in certain steel products between the European Community and Kazakhstan.
- (3) Pending the signature and entry into force of a new agreement or Kazakhstan's accession to the World Trade Organisation (WTO), quantitative limits starting in 2009 should be established.
- (4) Given that the conditions that led to the fixing of the quantitative limits for 2007 and 2008 remain largely in place, it is appropriate to set the quantitative limits for 2009 at the same level as that of 2007 and 2008.
- (5) It is necessary to provide the means to administer this regime within the Community in such a way as to facilitate the implementation of the new Agreement by envisaging as much as possible similar provisions.
- (6) It is necessary to ensure that the origin of the products in question is checked and appropriate methods of administrative cooperation are set up to this end.
- (7) Products placed in a free zone or imported under the arrangements governing customs warehouses, temporary importation or inward processing (suspension system) should not be counted against the limits established for the products in question.
- (8) The effective application of this Regulation calls for the introduction of a requirement for a Community import licence for the entry into free circulation in the Community of the products in question.
- (9) In order to ensure that these quantitative limits are not exceeded, it is necessary to establish a management procedure whereby the competent authorities of the Member States do not issue import licences before obtaining confirmation from the Commission that appropriate amounts remain available within the quantitative limit in question.

HAS ADOPTED THIS REGULATION:

*Article 1*

1. This Regulation shall apply to imports into the Community of steel products listed in Annex I originating in the Republic of Kazakhstan.

<sup>(1)</sup> OJ L 196, 28.7.1999, p. 3.

<sup>(2)</sup> OJ L 232, 8.9.2005, p. 64.

<sup>(3)</sup> OJ L 360, 19.12.2006, p. 1.

<sup>(4)</sup> OJ L 337, 21.12.2007, p. 2.

2. The steel products shall be classified in product groups as set out in Annex I.

3. The classification of products listed in Annex I shall be based on the Combined Nomenclature (CN) established by Council Regulation (EEC) No 2658/87 <sup>(1)</sup>.

4. The origin of the products referred to in paragraph 1 shall be determined in accordance with the rules in force in the Community.

#### Article 2

1. The importation into the Community of the steel products listed in Annex I originating in the Republic of Kazakhstan shall be subject to the quantitative limits laid down in Annex V. The release for free circulation in the Community of the products set out in Annex I originating in the Republic of Kazakhstan shall be subject to the presentation of a certificate of origin, set out in Annex II, and of an import licence issued by the Member States' authorities in accordance with Article 4.

2. In order to ensure that quantities for which import licences are issued do not exceed at any moment the total quantitative limits for each product group, the competent authorities listed in Annex IV shall issue import licences only upon confirmation by the Commission that there are still quantities available within the quantitative limits for the relevant product group of steel products in respect of the supplier country, for which an importer or importers have submitted applications to the said authorities.

3. The authorised imports shall be counted against the relevant quantitative limit set out in Annex V. Shipment of products shall be considered as having taken place on the date on which they were loaded onto the exporting means of transport.

#### Article 3

1. The quantitative limits referred to in Annex V shall not apply to products placed in a free zone or free warehouse or imported under the arrangements governing customs warehouses, temporary importation or inward processing (suspension system).

2. Where the products referred to in paragraph 1 are subsequently released for free circulation, either in the unaltered state or after working or processing, Article 2(2) shall apply and the products so released shall be counted against the relevant quantitative limit set out in Annex V.

#### Article 4

1. For the purpose of applying Article 2(2), before issuing import licences, the competent authorities listed in Annex IV shall notify the Commission of the amounts of the requests for

import licences, supported by original export licences, which they have received. By return, the Commission shall notify whether the requested amount(s) of quantities are available for importation in the chronological order in which the notifications of the Member States are received (first-come, first-served basis).

2. The requests included in the notifications to the Commission shall be valid if they establish clearly in each case the exporting country, the product code concerned, the amounts to be imported, the number of the export licence, the quota year and the Member State in which the products are intended to be put into free circulation.

3. As far as possible, the Commission shall confirm to the authorities the full amount indicated in the requests notified for each group of products.

4. The competent authorities shall notify the Commission immediately after being informed of any quantity that is not used during the duration of validity of the import licence. Such unused quantities shall automatically be transferred into the remaining quantities of the total Community quantitative limit for each product group.

5. The notifications referred to in paragraphs 1 to 4 shall be communicated electronically within the integrated network set up for this purpose, unless for imperative technical reasons it is necessary to use other means of communication temporarily.

6. The import licences or equivalent documents shall be issued in accordance with Articles 12 to 16.

7. The competent authorities of the Member States shall notify the Commission of any cancellation of import licences or equivalent documents already issued in cases where the corresponding export licences have been withdrawn or cancelled by the competent authorities of the Republic of Kazakhstan. However, if the Commission or the competent authorities of a Member State have been informed by the competent authorities of the Republic of Kazakhstan of the withdrawal or cancellation of an export licence after the related products have been imported into the Community, the quantities in question shall be set off against the relevant quantitative limit set out in Annex V.

#### Article 5

1. Where the Commission has indications that products listed in Annex I originating in the Republic of Kazakhstan have been transhipped, re-routed or otherwise imported into the Community through circumvention of the quantitative limits referred to in Article 2 and that there is a need for the necessary adjustments to be made, it shall request that consultations be opened so that agreement may be reached on the necessary adjustment of the corresponding quantitative limits to be made.

<sup>(1)</sup> OJ L 256, 7.9.1987, p. 1.

2. Pending the outcome of the consultations referred to in paragraph 1, the Commission may ask the Republic of Kazakhstan to take the necessary precautionary steps to ensure that adjustments to the quantitative limits agreed following such consultations may be carried out.

3. Should the Community and the Republic of Kazakhstan fail to arrive at a satisfactory solution and should the Commission note that there is clear evidence of circumvention, the Commission shall deduct from the quantitative limits an equivalent volume of products originating in the Republic of Kazakhstan.

#### Article 6

1. An export licence, to be issued by the competent authorities of the Republic of Kazakhstan, shall be required in respect of any consignment of steel products subject to the quantitative limits laid down in Annex V up to the level of the said limits.

2. The original of the export licence shall be presented by the importer for the purposes of the issue of the import licence referred to in Article 12.

#### Article 7

1. The export licence for quantitative limits shall conform to the specimen set out in Annex II and shall certify, *inter alia*, that the quantity of goods in question has been set off against the quantitative limit established for the product group concerned.

2. Each export licence shall cover only one of the product groups listed in Annex I.

#### Article 8

Exports shall be set off against the relevant quantitative limits set out in Annex V and shipped within the meaning of Article 2(3).

#### Article 9

1. The export licence referred to in Article 6 may include additional copies duly indicated as such. The export licence and the copies thereof as well as the certificate of origin and the copies thereof shall be drawn up in English.

2. If the documents referred to in paragraph 1 are completed by hand, entries must be in ink and in block letters.

3. The export licences or equivalent documents shall measure 210 × 297 mm. The paper shall be white writing paper, sized,

not containing mechanical pulp and weighing not less than 25 g/m<sup>2</sup>. Each part shall have a printed guilloche pattern background making any falsification by mechanical or chemical means apparent to the eye.

4. Only the original shall be accepted by the competent authorities in the Community as being valid for import purposes in accordance with the provisions of this Regulation.

5. Each export licence or equivalent document shall bear a standardised serial number, whether or not printed, by which it can be identified.

6. The serial number shall be composed of the following elements:

— two letters identifying the exporting country as follows:

KZ = Republic of Kazakhstan,

— two letters identifying the Member State of intended destination as follows:

BE = Belgium

BG = Bulgaria

CZ = Czech Republic

DK = Denmark

DE = Germany

EE = Estonia

IE = Ireland

GR = Greece

ES = Spain

FR = France

IT = Italy

CY = Cyprus

LV = Latvia

LT = Lithuania

LU = Luxembourg

HU = Hungary

MT = Malta

NL = Netherlands

AT = Austria

PL = Poland

PT = Portugal

RO = Romania

SI = Slovenia

SK = Slovakia

FI = Finland

SE = Sweden

GB = United Kingdom,

— a one-digit number identifying the quota year corresponding to the last figure in the year in question, e.g. '9' for 2009,

— a two-digit number identifying the issuing office in the exporting country,

— a five-digit number running consecutively from 00 001 to 99 999 allocated to the specific Member State of destination.

#### Article 10

The export licence may be issued after the shipment of the products to which it relates. In such cases it shall bear the endorsement 'issued retrospectively'.

#### Article 11

In the event of the theft, loss or destruction of an export licence, the exporter may apply to the competent authority which issued the document for a duplicate to be made out on the basis of the export documents in his possession.

The duplicate licence issued in this way shall bear the endorsement 'duplicate'. It shall bear the date of the original licence.

#### Article 12

1. To the extent that the Commission pursuant to Article 4 has confirmed that the amount requested is available within the quantitative limit in question, the competent authorities of the Member States shall issue an import licence within a maximum of five working days of the presentation by the importer of the original of the corresponding export licence. This presentation must be effected not later than 31 March of the year following that in which the goods covered by the licence have been shipped. Import licences shall be issued by the competent authorities of any Member State irrespective of the Member State indicated on the export licence, to the extent that the Commission, pursuant to Article 4, has confirmed that the amount requested is available within the quantitative limit in question.

2. The import licences shall be valid for four months from the date of their issue. Upon duly motivated request by an importer, the competent authorities of a Member State may extend the duration of validity for a further period not exceeding four months.

3. Import licences shall be drawn up in the form set out in Annex III and shall be valid throughout the customs territory of the Community.

4. The declaration or request made by the importer in order to obtain the import licence shall contain:

- (a) the full name and address of the exporter;
- (b) the full name and address of the importer;
- (c) the exact description of the goods and the TARIC code(s);
- (d) the country of origin of the goods;
- (e) the country of consignment;
- (f) the appropriate product group and the quantity for the products in question;
- (g) the net weight by TARIC heading;
- (h) the c.i.f. value of the products at Community frontier by TARIC heading;
- (i) whether the products concerned are seconds or of substandard quality;
- (j) where appropriate, dates of payment and delivery and a copy of the bill of lading and of the purchase contract;
- (k) date and number of the export licence;
- (l) any internal code used for administrative purposes;
- (m) date and signature of importer.

5. Importers shall not be obliged to import the total quantity covered by an import licence in a single consignment.



*Article 13*

The validity of import licences issued by the authorities of the Member States shall be subject to the validity of export licences and the quantities indicated in the export licences issued by the competent authorities of the Republic of Kazakhstan on the basis of which the import licences have been issued.

*Article 14*

Import licences or equivalent documents shall be issued by the competent authorities of the Member States in conformity with Article 2(2) and without discrimination to any importer in the Community wherever the place of his establishment may be in the Community, without prejudice to compliance with other conditions required under the current rules.

*Article 15*

1. If the Commission finds that the total quantities covered by export licences issued by the Republic of Kazakhstan for a particular product group exceed the quantitative limit established for that product group, the competent licence authorities in the Member States shall be informed immediately in order to suspend the further issue of import licences. In this event, consultations shall be initiated forthwith by the Commission.

2. The competent authorities of a Member State shall refuse to issue import licences for products originating in the Republic of Kazakhstan which are not covered by export licences issued in accordance with Articles 6 to 11.

*Article 16*

1. The forms to be used by the competent authorities of the Member States for issuing the import licences referred to in Article 12 shall conform to the specimen of the import licence set out in Annex III.

2. Import licence forms and extracts thereof shall be drawn up in duplicate, one copy, marked 'Holder's copy' and bearing the number 1 to be issued to the applicant, and the other, marked 'Copy for the issuing authority' and bearing the number 2, to be kept by the authority issuing the licence. For administrative purposes the competent authorities may add additional copies to form 2.

3. Forms shall be printed on white paper free of mechanical pulp, dressed for writing and weighing between 55 and 65 g/m<sup>2</sup>. Their size shall be 210 × 297 mm; the type space between the lines shall be 4,24 mm (one sixth of an inch); the layout of the forms shall be followed precisely. Both sides of copy No 1, which is the licence itself, shall in addition have a red printed guilloche pattern background so as to reveal any falsification by mechanical or chemical means.

4. Member States shall be responsible for having the forms printed. The forms may also be printed by printers appointed by the Member State in which they are established. In the latter case, reference to the appointment by the Member State must appear on each form. Each form shall bear an identification of the printer's name and address or a mark enabling the printer to be identified.

5. At the time of their issue the import licences or extracts shall be given an issue number determined by the competent authorities of the Member State. The import licence number shall be notified to the Commission electronically within the integrated network set up under Article 4.

6. Licences and extracts shall be completed in the official language, or one of the official languages, of the Member State of issue.

7. In box 10 the competent authorities shall indicate the appropriate steel product group.

8. The marks of the issuing agencies and debiting authorities shall be applied by means of a stamp. However, an embossing press combined with letters or figures obtained by means of perforation, or printing on the licence may be substituted for the issuing authority's stamp. The issuing authorities shall use any tamper-proof method to record the quantity allocated in such a way as to make it impossible to insert figures or references.

9. The reverse of copy No 1 and copy No 2 shall bear a box in which quantities may be entered, either by the customs authorities when import formalities are completed, or by the competent administrative authorities when an extract is issued. If the space set aside for debits on a licence or extract thereof is insufficient, the competent authorities may attach one or more extension pages bearing boxes matching those on the reverse of copy No 1 and copy No 2 of the licence or extract. The debiting authorities shall place their stamp in such a way that one half is on the licence or extract thereof and the other half is on the extension page. If there is more than one extension page, a further stamp shall be placed in like manner across each page and the preceding page.

10. Import licences and extracts issued, and entries and endorsements made, by the authorities of one Member State shall have the same legal effect in each of the other Member States as documents issued, and entries and endorsements made, by the authorities of such Member States.

11. The competent authorities of the Member States concerned may, where indispensable, require the contents of licences or extracts to be translated into the official language or one of the official languages of that Member State.

*Article 17*

This Regulation shall enter into force on the day of its publication in the *Official Journal of the European Union*. It shall apply from 1 January 2009. In the event that Kazakhstan accedes to the WTO, this Regulation shall expire as of the date of accession <sup>(1)</sup>.

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

Done at Brussels, 8 December 2008.

*For the Council*  
*The President*  
B. KOUCHNER

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<sup>(1)</sup> The date of expiry will be published by the European Commission in the *Official Journal of the European Union*.



## ANNEX I

## SA FLAT-ROLLED PRODUCTS

SA1. Coils	SA2. Heavy plate	SA3. Other flat-rolled products		
7208 10 00 00	7208 40 00 10	7208 40 00 90	7210 49 00 10	7212 50 40 11
7208 25 00 00	7208 51 20 00	7208 53 90 00	7210 50 00 10	7212 50 61 11
7208 26 00 00	7208 51 91 00	7208 54 00 00	7210 61 00 10	7212 50 69 11
7208 27 00 00	7208 51 98 00	7208 90 80 10	7210 69 00 10	7212 50 90 13
7208 36 00 00	7208 52 91 00		7210 70 10 10	7212 60 00 11
7208 37 00 10	7208 52 10 00	7209 15 00 00	7210 70 80 10	7212 60 00 91
7208 37 00 90	7208 52 99 00		7210 90 30 10	7219 21 10 00
7208 38 00 10	7208 53 10 00	7209 16 10 00	7210 90 40 10	7219 21 90 00
7208 38 00 90	7211 13 00 00		7210 90 80 91	7219 22 10 00
7208 39 00 10		7209 16 90 00	7211 14 00 90	7219 22 90 00
7208 39 00 90		7209 17 10 00	7211 19 00 90	7219 23 00 00
7211 14 00 10		7209 17 90 00	7211 23 20 10	7219 23 00 00
7211 19 00 10		7209 18 10 00	7211 23 30 10	7219 24 00 00
7219 11 00 00		7209 18 91 00	7211 23 30 91	7219 31 00 00
7219 12 10 00		7209 18 99 00	7211 23 80 10	7219 32 10 00
7219 12 90 00		7209 25 00 00	7211 23 80 91	7219 32 90 00
7219 13 10 00		7209 26 10 00	7211 29 00 10	7219 33 10 00
7219 13 90 00		7209 26 90 00	7211 90 80 10	7219 33 90 00
7219 14 10 00		7209 27 10 00	7212 10 10 00	7219 34 10 00
7219 14 90 00		7209 27 90 00	7212 10 90 11	7219 34 90 00
7225 30 10 00		7209 28 10 00	7212 20 00 11	7219 35 10 00
7225 30 30 10		7209 28 90 00	7212 30 00 11	7219 35 90 00
7225 30 90 00		7209 90 80 10	7212 40 20 10	7225 40 12 90
7225 40 15 10		7210 11 00 10	7212 40 20 91	7225 40 90 00
7225 50 20 10			7212 40 80 11	
		7210 12 20 10		
		7210 12 80 10		
		7210 20 00 10		
		7210 30 00 10		
		7210 41 00 10		

## ANNEX II

## EXPORT LICENCE

1. Exporter (name, full address, country)	<b>ORIGINAL</b>		2. <b>No</b>
	3. Year		4. Product group
5. Consignee (name, full address, country)	<b>EXPORT LICENCE</b>		
	6. Country of origin		7. Country of destination
8. Place and date of shipment — means of transport	9. Supplementary details		
10. Description of goods — manufacturer	11. TARIC code	12. Quantity <sup>(1)</sup>	13. Fob value <sup>(2)</sup>
<p>14. CERTIFICATION BY THE COMPETENT AUTHORITY</p> <p>I, the undersigned, certify that the goods described above have been charged against the quantitative limit established for the year shown in box No 3 in respect of the Product group shown in box No 4 by the provisions regulating trade in certain steel products with the European Community.</p>			
15. Competent authority (name, full address, country)	<p>At ..... on .....</p> <p style="text-align: center;">(Signature) (Stamp)</p>		

<sup>(1)</sup> Show net weight (kg) and also quantity in the unit prescribed where other than net weight.  
<sup>(2)</sup> In the currency of the sale contract.

## EXPORT LICENCE

1. Exporter (name, full address, country)	<b>COPY</b>		2. <b>No</b>	
	3. Year		4. Product group	
5. Consignee (name, full address, country)	<b>EXPORT LICENCE</b>			
	6. Country of origin		7. Country of destination	
8. Place and date of shipment — means of transport	9. Supplementary details			
10. Description of goods — manufacturer	11. TARIC code	12. Quantity <sup>(1)</sup>	13. Fob value <sup>(2)</sup>	
<b>14. CERTIFICATION BY THE COMPETENT AUTHORITY</b> I, the undersigned, certify that the goods described above have been charged against the quantitative limit established for the year shown in box No 3 in respect of the Product group shown in box No 4 by the provisions regulating trade in certain steel products with the European Community.				
15. Competent authority (name, full address, country)	At ..... on .....			
	(Signature)		(Stamp)	

<sup>(1)</sup> Show net weight (kg) and also quantity in the unit prescribed where other than net weight.  
<sup>(2)</sup> In the currency of the sale contract.

## CERTIFICATE OF ORIGIN

1. Exporter (name, full address, country)	<b>ORIGINAL</b>		2. No	
	3. Year		4. Product group	
5. Consignee (name, full address, country)	<b>CERTIFICATE OF ORIGIN</b> (for certain steel products)			
	6. Country of origin		7. Country of destination	
8. Place and date of shipment — means of transport	9. Supplementary details			
10. Description of goods — manufacturer	11. CN code	12. Quantity <sup>(1)</sup>	13. Fob value <sup>(2)</sup>	
14. CERTIFICATION BY THE COMPETENT AUTHORITY I, the undersigned, certify that the goods described above originated in the country shown in box No 6, in accordance with the provisions in force in the European Community.				
15. Competent authority (name, full address, country)	At ..... on .....  <div style="display: flex; justify-content: space-around;"> <span>(Signature)</span> <span>(Stamp)</span> </div>			

<sup>(1)</sup> Show net weight (kg) and also quantity in the unit prescribed where other than net weight.  
<sup>(2)</sup> In the currency of the sale contract.

## CERTIFICATE OF ORIGIN

1. Exporter (name, full address, country)	<b>COPY</b>		2. No	
	3. Year		4. Product group	
5. Consignee (name, full address, country)	<b>CERTIFICATE OF ORIGIN</b> (for certain steel products)			
	6. Country of origin		7. Country of destination	
8. Place and date of shipment — means of transport	9. Supplementary details			
10. Description of goods — manufacturer	11. CN code	12. Quantity <sup>(1)</sup>	13. Fob value <sup>(2)</sup>	
14. CERTIFICATION BY THE COMPETENT AUTHORITY I, the undersigned, certify that the goods described above originated in the country shown in box No 6, in accordance with the provisions in force in the European Community.				
15. Competent authority (name, full address, country)	At ..... on .....			
	(Signature)		(Stamp)	

<sup>(1)</sup> Show net weight (kg) and also quantity in the unit prescribed where other than net weight.  
<sup>(2)</sup> In the currency of the sale contract.

## ANNEX III

## EUROPEAN COMMUNITY IMPORT LICENCE

<b>Holder's copy</b>	<b>1</b>	1. Consignee (name, full address, country, VAT number)	2. Issue number
			3. Year
			4. Authority responsible for issue (name, address and telephone number)
	5. Declarant/representative as applicable (name and full address)	6. Country of origin (and geonomenclature code)	
		7. Country of consignment (and geonomenclature code)	
		8. Last day of validity	
<b>1</b>			
9. Description of goods		10. TARIC code	
		11. Quantity expressed in quota unit	
		12. Security/guarantee (as applicable)	
13. Further particulars			
14. Competent authority's endorsement			
<p>Date: .....</p> <p style="text-align: center;">(Signature) <span style="float: right;">(Stamp)</span></p>			



## 15. ATTRIBUTIONS

Indicate the quantity available in part 1 of column 17 and the quantity attributed in part 2 thereof

16. Net quantity (net mass or other unit of measure stating the unit)		19. Customs document (form and number) or extract number and date of attribution	20. Name, Member State, stamp and signature of the attributing authority
17. In figures	18. In words for the quantity attributed		
1.			
2.			
1.			
2.			
1.			
2.			
1.			
2.			
1.			
2.			
1.			
2.			
1.			
2.			
1.			
2.			

Extension pages to be attached hereto.

## EUROPEAN COMMUNITY IMPORT LICENCE

<b>Copy for the issuing authority</b>	<b>2</b>	1. Consignee (name, full address, country, VAT number)		2. Issue number	
				3. Year	
				4. Authority responsible for issue (name, address and telephone number)	
		5. Declarant/representative as applicable (name and full address)		6. Country of origin (and geonomenclature code)	
				7. Country of consignment (and geonomenclature code)	
				8. Last day of validity	
<b>2</b>	9. Description of goods				10. TARIC code
					11. Quantity expressed in quota unit
					12. Security/guarantee (as applicable)
13. Further particulars					
14. Competent authority's endorsement					
<p>Date: .....</p> <p style="text-align: center;">(Signature) (Stamp)</p>					

## 15. ATTRIBUTIONS

Indicate the quantity available in part 1 of column 17 and the quantity attributed in part 2 thereof

16. Net quantity (net mass or other unit of measure stating the unit)		19. Customs document (form and number) or extract number and date of attribution	20. Name, Member State, stamp and signature of the attributing authority
17. In figures	18. In words for the quantity attributed		
1.			
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2.			

Extension pages to be attached hereto.

## ANNEX IV

СПИСЪК НА КОМПЕТЕНТНИТЕ НАЦИОНАЛНИ ОРГАНИ

LISTA DE LAS AUTORIDADES NACIONALES COMPETENTES

SEZNAM PŘÍSLUŠNÝCH VNITROSTÁTNÍCH ORGÁNŮ

LISTE OVER KOMPETENTE NATIONALE MYNDIGHEDER

LISTE DER ZUSTÄNDIGEN BEHÖRDEN DER MITGLIEDSTAATEN

PĀDEVATE RIIKLIKE ASUTUSTE NIMEKIRI

ΔΙΕΥΘΥΝΣΕΙΣ ΤΩΝ ΑΡΧΩΝ ΕΚΔΟΣΗΣ ΑΔΕΙΩΝ ΤΩΝ ΚΡΑΤΩΝ ΜΕΛΩΝ

LIST OF THE COMPETENT NATIONAL AUTHORITIES

LISTE DES AUTORITÉS NATIONALES COMPÉTENTES

ELENCO DELLE COMPETENTI AUTORITÀ NAZIONALI

VALSTU KOMPETENTO IESTĀŽU SARAKSTS

ATSAKINGŲ NACIONALINIŲ INSTITUCIJŲ SĄRAŠAS

AZ ILLETÉKES NEMZETI HATÓSÁGOK LISTÁJA

LISTA TAL-AWTORITAJIET NAZZJONALI KOMPETENTI

LIJST VAN BEVOEGDE NATIONALE INSTANTIES

WYKAZ WŁAŚCIWYCH ORGANÓW KRAJOWYCH

LISTA DAS AUTORIDADES NACIONAIS COMPETENTES

LISTA AUTORITĂȚILOR NAȚIONALE COMPETENTE

ZOZNAM PŘÍSLUŠNÝCH ŠTÁTNYCH ORGÁNOV

SEZNAM PRISTOJNIH NACIONALNIH ORGANOV

LUETTELO TOIMIVALTAISISTA KANSALLISISTA VIRANOMAISISTA

FÖRTECKNING ÖVER BEHÖRIGA NATIONELLA MYNDIGHETER

## BELGIQUE/BELGIË

Service public fédéral de l'économie, des PME,  
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Service des licences  
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Federale Overheidsdienst Economie, KMO,  
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Billingham  
UK-TS23 2NF  
Fax (44-1642) 36 42 69

## ANNEX V

## QUANTITATIVE LIMITS

Products	Tonnes per year
<b>SA. Flat products</b>	
SA1. Coils	87 125
SA2. Heavy plate	0
SA3. Other flat products	117 875



**COUNCIL REGULATION (EC) No 1341/2008****of 18 December 2008****amending Regulation (EC) No 1083/2006 laying down general provisions on the European Regional Development Fund, the European Social Fund and the Cohesion Fund, in respect of certain revenue-generating projects**

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty establishing the European Community, and in particular the third subparagraph of Article 161 thereof,

Having regard to the proposal from the Commission,

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

Having regard to the opinion of the European Economic and Social Committee <sup>(2)</sup>,

After consulting the Committee of the Regions,

Whereas:

- (1) The regulatory framework for the 2007-2013 programming period was prepared and negotiated with the aims of consolidating the simplification of programming and management of the Funds, the effectiveness of assistance provided by them and subsidiarity in their implementation.
- (2) A more precise and more stringent approach based on the calculation of maximum eligible expenditure has been put in place for the processing of revenue-generating projects covered by Article 55 of Regulation (EC) No 1083/2006 <sup>(3)</sup>.
- (3) A number of difficulties have been highlighted in connection with the application of the provisions of Article 55, including a disproportionate administrative burden, especially for operations co-financed by the European Social Fund and small operations financed by the European Regional Development Fund (ERDF) or Cohesion Fund.

(4) These difficulties may have adverse consequences in terms of operation management, especially for projects in areas of Community priority such as the environment, social inclusion, research, innovation or energy, and in terms of the administrative burden. Article 55 should therefore be simplified.

(5) This simplification should apply to all projects receiving assistance from the Structural Funds or Cohesion Fund during the 2007-2013 programming period. Retroactive application is therefore necessary.

(6) Regulation (EC) No 1083/2006 should therefore be amended accordingly,

HAS ADOPTED THIS REGULATION:

*Article 1*

Article 55(5) of Regulation (EC) No 1083/2006 shall be replaced by the following:

‘5. Paragraphs 1 to 4 of this Article shall apply only to operations which are co-financed by the ERDF or Cohesion Fund and the total cost of which exceeds EUR 1 000 000.’

*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 from 1 August 2006 to all operations receiving assistance from the Structural Funds or Cohesion Fund during the 2007-2013 programming period.

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

Done at Brussels, 18 December 2008.

*For the Council*

*The President*

M. BARNIER

<sup>(1)</sup> Assent of 16 December 2008 (not yet published in the Official Journal).

<sup>(2)</sup> Opinion of 27 October 2008 (not yet published in the Official Journal).

<sup>(3)</sup> OJ L 210, 31.7.2006, p. 25.

**COUNCIL REGULATION (EC) No 1342/2008****of 18 December 2008****establishing a long-term plan for cod stocks and the fisheries exploiting those stocks and repealing  
Regulation (EC) No 423/2004**

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty establishing the European Community, and in particular Article 37 thereof,

Having regard to the proposal from the Commission,

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

Whereas:

- (1) Council Regulation (EC) No 423/2004 of 26 February 2004 on establishing measures for the recovery of cod stocks <sup>(2)</sup> intends to ensure the safe recovery of the cod stocks in the Kattegat, the North Sea including the Skagerrak and the eastern Channel, to the west of Scotland and the Irish Sea, to the precautionary stock sizes advised by scientists within a time-frame of five to ten years.
- (2) Recent scientific advice from the International Council for the Exploration of the Sea (ICES) has indicated that the reductions in cod catches arising from the collective effect of total allowable catches (TACs), technical measures and complementary effort management measures, including monitoring and control to prevent the catching and landing of cod caught by illegal, unreported and unregulated fishing, have been far from sufficient to reduce fishing mortalities to levels required to allow the cod stocks to rebuild and none of the four cod stocks covered by Regulation (EC) No 423/2004 show clear signs of recovery, although the stocks in the North Sea are showing some signs of improvement.
- (3) It appears necessary to reinforce the regime and to introduce a long-term plan in order to achieve sustainable exploitation of cod stocks on the basis of maximum sustainable yield.
- (4) According to recent scientific submissions, in particular on long-term trends of marine ecosystems, desirable long-term levels of biomass cannot be determined with accuracy. As a consequence, the objective of the long-term plan should be changed from a biomass-based target to a fishing mortality-based target, which should also be applied to permitted levels of fishing effort.
- (5) The North Sea cod stock is shared with Norway and is jointly managed. The measures provided for in this Regulation should take due account of consultations with Norway pursuant to the Agreement on fisheries between the European Economic Community and the Kingdom of Norway <sup>(3)</sup>.
- (6) In the event that the Scientific, Technical and Economic Committee for Fisheries (STECF) is not able to advise on a TAC due to lack of sufficiently accurate and representative information, provisions should be established to ensure that a TAC can be set in a consistent manner even under poor data conditions.
- (7) In order to ensure the attainment of fishing mortality targets, and to contribute to minimising discards, fishing opportunities in terms of fishing effort need also to be fixed at levels which are consistent with the multiannual strategy. Such fishing opportunities should, as far as possible, be defined by types of fishing gear on the basis of current fishing practices. It is appropriate to provide for a periodical review of the effectiveness of the management system and to ensure, in particular, that when cod stocks reach levels that allow for exploitation rendering maximum sustainable yield, the system of regulating fishing effort is reviewed.
- (8) New mechanisms should be introduced to encourage fishermen to engage in cod-avoidance programmes. Any such cod-avoidance or discard reduction programmes are more likely to succeed if they are developed in cooperation with the fishing industry. Accordingly, such programmes developed with Member States should be considered an effective means of promoting sustainability and their development should be encouraged. Moreover, Member States should exercise their power to allocate access to fishing for cod stocks so as to encourage their fishermen to fish in ways that result in more selective fishing and are less harmful to the environment.
- (9) The establishment and allocation of catch limits, the fixing of the minimum and precautionary levels of stocks and of the level of fishing mortality rates, as well as the maximum allowable fishing effort for each effort group by Member State and the exclusion of certain groups of vessels from the effort regime laid down in this Regulation are measures of prime importance in the common fisheries policy (CFP). It is appropriate that the Council should reserve for itself the right to exercise implementing powers directly in relation to these specific matters.

<sup>(1)</sup> Opinion of 21 October 2008 (not yet published in the Official Journal).

<sup>(2)</sup> OJ L 70, 9.3.2004, p. 8.

<sup>(3)</sup> OJ L 226, 29.8.1980, p. 48.

- (10) The measures necessary for the implementation of certain provisions of this Regulation, in particular, those related to the adaptations of fishing effort limits within the maximum allowable fishing effort established by the Council should be adopted in accordance with Council Decision 1999/468/EC of 28 June 1999 on laying down the procedures for the exercise of implementing powers conferred on the Commission <sup>(1)</sup>.
- (11) Control measures in addition to those laid down in Council Regulation (EEC) No 2847/93 of 12 October 1993 establishing a control system applicable to the common fisheries policy <sup>(2)</sup> should be introduced to ensure compliance with the measures laid down in this Regulation.
- (12) Rules should be established to qualify the long-term plan introduced by this Regulation taking into account the situation of the relevant stocks as a recovery plan within the meaning of Article 5 of Council Regulation (EC) No 2371/2002 of 20 December 2002 on the conservation and sustainable exploitation of fisheries resources under the common fisheries policy <sup>(3)</sup>, and for the purposes of Article 21(a)(i) of Council Regulation (EC) No 1198/2006 of 27 July 2006 on the European Fisheries Fund <sup>(4)</sup> or, in the alternative, as a management plan within the meaning of Article 6 of Regulation (EC) No 2371/2002, and for the purposes of Article 1(a)(iv) of Regulation (EC) No 1198/2006.
- (13) Regulation (EC) No 423/2004 should be repealed and replaced by this Regulation,

HAS ADOPTED THIS REGULATION:

#### CHAPTER I

### SUBJECT MATTER AND DEFINITIONS

#### Article 1

##### Subject matter

This Regulation establishes a plan for four cod stocks corresponding to the following geographical areas:

- (a) the Kattegat;
- (b) the North Sea, the Skagerrak and the eastern Channel;
- (c) the west of Scotland;
- (d) the Irish Sea.

<sup>(1)</sup> OJ L 184, 17.7.1999, p. 23.

<sup>(2)</sup> OJ L 261, 20.10.1993, p. 1.

<sup>(3)</sup> OJ L 358, 31.12.2002, p. 59.

<sup>(4)</sup> OJ L 223, 15.8.2006, p. 1.

#### Article 2

##### Definitions

For the purposes of this Regulation, in addition to the definitions laid down in Article 3 of Regulation (EC) No 2371/2002, the following definitions shall apply:

- (a) 'effort group' means a management unit of a Member State for which a maximum allowable fishing effort is set. It is defined by a gear grouping and an area as set out in Annex I;
- (b) 'aggregated effort group' means the combination of all Member States' effort groups having the same gear grouping and area;
- (c) 'catch per unit effort' means the quantity of cod caught and expressed in live weight by one unit of fishing effort expressed in kW-days during one year;
- (d) 'appropriate age groups' means ages 3, 4 and 5 for cod in the Kattegat; ages 2, 3 and 4 for cod in the Irish Sea, in the North Sea, Skagerrak and the eastern Channel; ages 2, 3, 4 and 5 for cod in the west of Scotland; or other age groups as advised as appropriate by STECF.

#### Article 3

##### Geographical definitions

For the purposes of this Regulation, the following geographical definitions of geographical areas shall apply:

- (a) 'Kattegat' means that part of Division IIIa, as delineated by ICES, that is bounded on the north by a line drawn from the Skagen lighthouse to the Tistlarna lighthouse and from this point to the nearest point on the Swedish coast and on the south by a line drawn from Hasenore to Gribens Spids, from Korshage to Spodsbjerg and from Gilbjerg Hoved to Kullen;
- (b) 'North Sea' means ICES Subarea IV and that part of ICES Division IIIa not covered by the Skagerrak and Kattegat and that part of ICES Division IIa which lies within waters under the sovereignty or jurisdiction of Member States;
- (c) 'Skagerrak' means that part of ICES Division IIIa bounded on the west by a line drawn from the Hanstholm lighthouse to the Lindesnes lighthouse and on the south by a line drawn from the Skagen lighthouse to the Tistlarna lighthouse and from that point to the nearest point on the Swedish coast;

(d) 'eastern Channel' means ICES Division VIIId;

(e) 'Irish Sea' means ICES Division VIIa;

(f) 'west of Scotland' means ICES Division VIa and that part of ICES Division Vb which lies within waters under the sovereignty or jurisdiction of Member States.

#### Article 4

##### Calculation of fishing effort

For the purposes of this Regulation, the fishing effort deployed by a group of vessels shall be calculated as the sum of the products of capacity-values in kW for each vessel and the number of days each vessel has been present within an area set out in Annex I. A day present within an area shall be any continuous period of 24 hours (or part thereof) during which a vessel is present within the area and absent from port.

#### Article 5

##### Objective of the plan

1. The plan referred to in Article 1 shall ensure the sustainable exploitation of the cod stocks on the basis of maximum sustainable yield.

2. The objective set out in paragraph 1 shall be attained while maintaining the following fishing mortality on cod on appropriate age groups:

Stock	Fishing mortality
Cod in the Kattegat	0,4
Cod to the west of Scotland	0,4
Cod in the Irish Sea	0,4

3. For the cod stock in the North Sea, the Skagerrak and the eastern Channel, the objective set out in paragraph 1 shall be attained while maintaining the fishing mortality on cod on appropriate age groups referred to in Article 8.

#### CHAPTER II

##### TOTAL ALLOWABLE CATCHES

#### Article 6

##### Minimum and precautionary levels

The minimum spawning biomass level and the precautionary spawning biomass level for each of the cod stocks shall be as follows:

Stock	Minimum spawning biomass Levels in tonnes	Precautionary spawning biomass Levels in tonnes
Cod in the Kattegat	6 400	10 500
Cod in the North Sea, Skagerrak and eastern Channel	70 000	150 000
Cod to the west of Scotland	14 000	22 000
Cod in the Irish Sea	6 000	10 000

#### Article 7

##### Procedure for setting TACs for cod stocks in the Kattegat the west of Scotland and the Irish Sea

1. Each year, the Council shall decide on the TAC for the following year for each of the cod stocks in the Kattegat, the west of Scotland and the Irish Sea. The TAC shall be calculated by deducting the following quantities from the total removals of cod that are forecast by STECF as corresponding to the fishing mortality rates referred to in paragraphs 2 and 3:

- (a) a quantity of fish equivalent to the expected discards of cod from the stock concerned;
- (b) as appropriate a quantity corresponding to other sources of cod mortality caused by fishing to be fixed on the basis of a proposal from the Commission.

2. The TAC shall, based on the advice of STECF, satisfy all of the following conditions:

- (a) if the size of the stock on 1 January of the year of application of the TAC is predicted by STECF to be below the minimum spawning biomass level established in Article 6, the fishing mortality rate shall be reduced by 25 % in the year of application of the TAC as compared with the fishing mortality rate in the previous year;
- (b) if the size of the stock on 1 January of the year of application of the TAC is predicted by STECF to be below the precautionary spawning biomass level set out in Article 6 and above or equal to the minimum spawning biomass level established in Article 6, the fishing mortality rate shall be reduced by 15 % in the year of application of the TAC as compared with the fishing mortality rate in the previous year; and
- (c) if the size of the stock on 1 January of the year of application of the TAC is predicted by STECF to be above or equal to the precautionary spawning biomass level set out in Article 6, the fishing mortality rate shall be reduced by 10 % in the year of application of the TAC as compared with the fishing mortality rate in the previous year.

3. If the application of paragraph 2(b) and (c) would, based on the advice of STECF, result in a fishing mortality rate lower than the fishing mortality rate specified in Article 5(2), the Council shall set the TAC at a level resulting in a fishing mortality rate as specified in that Article.

4. When giving its advice in accordance with paragraphs 2 and 3, STECF shall assume that in the year prior to the year of application of the TAC the stock is fished with an adjustment in fishing mortality equal to the reduction in maximum allowable fishing effort that applies in that year.

5. Notwithstanding paragraph 2(a), (b) and (c) and paragraph 3, the Council shall not set the TAC at a level that is more than 20 % below or above the TAC established in the previous year.

#### Article 8

##### **Procedure for setting TACs for the cod stock in the North Sea, the Skagerrak and the eastern Channel**

1. Each year, the Council shall decide on the TACs for the cod stock in the North Sea, the Skagerrak and the eastern Channel. The TACs shall be calculated by applying the reduction rules set out in Article 7 paragraph 1(a) and (b).

2. The TACs shall initially be calculated in accordance with paragraphs 3 and 5. From the year where the TACs resulting from the application of paragraphs 3 and 5 would be lower than the TACs resulting from the application of paragraphs 4 and 5, the TACs shall be calculated according to the paragraphs 4 and 5.

3. Initially, the TACs shall not exceed a level corresponding to a fishing mortality which is a fraction of the estimate of fishing mortality on appropriate age groups in 2008 as follows: 75 % for the TACs in 2009, 65 % for the TACs in 2010, and applying successive decrements of 10 % for the following years.

4. Subsequently, if the size of the stock on 1 January of the year prior to the year of application of the TACs is:

- (a) above the precautionary spawning biomass level, the TACs shall correspond to a fishing mortality rate of 0,4 on appropriate age groups;
- (b) between the minimum spawning biomass level and the precautionary spawning biomass level, the TACs shall not exceed a level corresponding to a fishing mortality rate on appropriate age groups equal to the following formula:

$$0,4 - (0,2 * (\text{Precautionary spawning biomass level} - \text{spawning biomass}) / (\text{Precautionary spawning biomass level} - \text{minimum spawning biomass level}))$$

(c) at or below the limit spawning biomass level, the TACs shall not exceed a level corresponding to a fishing mortality rate of 0,2 on appropriate age groups.

5. Notwithstanding paragraphs 3 and 4, the Council shall not set the TACs for 2010 and subsequent years at a level that is more than 20 % below or above the TACs established in the previous year.

6. Where the cod stock referred to in paragraph 1 has been exploited at a fishing mortality rate close to 0,4 during three successive years, the Commission shall evaluate the application of this Article and, where appropriate, propose relevant measures to amend it in order to ensure exploitation at maximum sustainable yield.

#### Article 9

##### **Procedure for setting TACs in poor data conditions**

Where, due to lack of sufficiently accurate and representative information, STECF is not able to give advice allowing the Council to set the TACs in accordance with Articles 7 or 8, the Council shall decide as follows:

- (a) where STECF advises that the catches of cod should be reduced to the lowest possible level, the TACs shall be set according to a 25 % reduction compared to the TAC in the previous year;
- (b) in all other cases the TACs shall be set according to a 15 % reduction compared to the TAC in the previous year, unless STECF advises that this is not appropriate.

#### Article 10

##### **Adaptation of measures**

1. When the target fishing mortality rate in Article 5(2) has been reached or in the event that STECF advises that this target, or the minimum and precautionary spawning biomass levels in Article 6 or the levels of fishing mortality rates given in Article 7(2) are no longer appropriate in order to maintain a low risk of stock depletion and a maximum sustainable yield, the Council shall decide on new values for these levels.

2. In the event that STECF advises that any of the cod stocks is failing to recover properly, the Council shall take a decision which:

- (a) sets the TAC for the relevant stock at a level lower than that provided for in Articles 7, 8 and 9;



- (b) sets the maximum allowable fishing effort at a level lower than that provided for in Article 12;
- (c) establishes associated conditions as appropriate.

### CHAPTER III

### FISHING EFFORT LIMITATION

#### Article 11

#### Fishing effort regime

1. The TACs set out in Articles 7, 8 and 9 shall be complemented by a fishing effort regime whereby fishing opportunities in terms of fishing effort are allocated to Member States on an annual basis.
2. The Council may, acting on a Commission proposal and on the basis of the information provided by Member States and the advice of STECF referred to in paragraph 3, exclude certain groups of vessels from the application of the effort regime provided that:
  - (a) appropriate data on cod catches and discards are available to allow STECF to assess the percentage of cod catches made by each group of vessels concerned;
  - (b) the percentage of cod catches as assessed by STECF does not exceed 1,5 % of the total catches for each group of vessels concerned; and
  - (c) the inclusion of these groups of vessels in the effort regime would constitute an administrative burden disproportionate to their overall impact on cod stocks.

If STECF is not in position to assess that these conditions remain fulfilled, the Council shall include each group of vessels concerned in the effort regime.

3. Member States shall provide annually appropriate information to the Commission and STECF to establish that the above conditions are and remain fulfilled in accordance with detailed rules to be adopted by the Commission.

#### Article 12

#### Fishing effort allocations

1. Each year, the Council shall decide on the maximum allowable fishing effort for each effort group by Member State.
2. The maximum allowable fishing effort shall be calculated by means of a baseline established as follows:
  - (a) for the first year of application of this Regulation the baseline shall be established for each effort group as the

average effort in kW-days spent during the years 2004-2006 or 2005-2007, according to the preference of the Member State concerned, based on the advice of STECF;

- (b) for the subsequent years of application of this Regulation the baseline shall be equal to the maximum allowable fishing effort of the previous year.

3. The effort groups for which an annual adjustment in the maximum allowable fishing effort shall be applied shall be decided on the following basis:

- (a) the catches of cod taken by vessels in each of the effort groups shall be evaluated on the basis of data submitted by Member States in accordance with Articles 18, 19 and 20 of Council Regulation (EC) No 199/2008 of 25 February 2008 concerning the establishment of a Community framework for the collection, management and use of data in the fisheries sector and support for scientific advice regarding the common fisheries policy <sup>(1)</sup>;
- (b) a list shall be compiled for each of the areas defined in Annex I to this Regulation of the aggregated effort groups and their corresponding cod catches, including discards. This list shall be arranged in ascending order of cod catch in each effort group;
- (c) the cumulative catches of cod in the lists established according to point (b) shall be calculated in following way. For each aggregated effort group, the sum shall be calculated of the cod catch by that effort group and the cod catches made by all aggregated effort groups in the preceding entries in the list;
- (d) the cumulative catches calculated according to point (c) shall be calculated as a percentage of the total cod catch by all aggregated effort groups in the same area.

4. For aggregated effort groups where the percentage cumulative catch calculated according to paragraph 3(b) is equal to or exceeds 20 %, annual adjustments shall apply to the effort groups concerned. The maximum allowable fishing effort of the groups concerned shall be calculated as follows:

- (a) where Articles 7 or 8 applies, by applying to the baseline the same percentage adjustment as that set out in those Articles for fishing mortality;
- (b) where Article 9 applies, by applying to the baseline the same percentage adjustment in fishing effort as the reduction of the TAC.

5. For effort groups other than those referred to in paragraph 4, the maximum allowable fishing effort shall be maintained at the level of the baseline.

<sup>(1)</sup> OJ L 60, 5.2.2008, p. 1.



*Article 13***Allocation of additional fishing effort for highly selective gear and cod-avoiding fishing trips**

1. Member States may increase the maximum allowable fishing effort for effort groups for which the effort has been adjusted in accordance with Article 12(4) and subject to the conditions set out in paragraphs 2 to 7.

2. The maximum allowable fishing effort may be increased within effort groups in which the fishing activity of one or more vessels:

- (a) is carried out having on board only one regulated gear the technical attributes of which result, according to a scientific study evaluated by STECF, in catching less than 1 % cod (highly selective gear);
- (b) results in a catch composition of less than 5 % cod per fishing trip (cod-avoiding fishing trips);
- (c) is conducted in accordance with a cod avoidance or discard reduction plan which reduces fishing mortality for cod among participating vessels by at least as much as the effort adjustment referred to in Article 12(4); or
- (d) is carried out in the west of Scotland area to the west of a line drawn by sequentially joining with rhumb lines the positions laid down in Annex IV measured according to the WGS84 coordinate system, provided that the participating vessels are equipped with satellite-based vessel monitoring systems (VMS).

3. Vessels referred to in paragraph 2 shall be subject to increased frequency of monitoring, concerning in particular:

- (a) the exclusive use of the highly selective gear during the fishing trips concerned in accordance with paragraph 2(a);
- (b) the amount of discards in compliance with paragraph 2(b);
- (c) the reduction in fishing mortality in accordance with paragraph 2(c);
- (d) the amount of catches and discards occurring to the west of the line specified in paragraph 2(d);

and subject to arrangements for the regular provision of data to the Member State concerning the respect of the special conditions laid down in those points.

4. The increase of fishing effort under this Article shall be calculated for each of the vessels in the effort groups concerned that operate under special conditions referred to in paragraph 2, points (a), (b), (c) and (d), and shall be no more than the amount needed to compensate the effort adjustment referred to in Article 12(4) for the gears involved in those actions.

5. Any increases of the fishing effort allocation carried out by the Member States shall be notified to the Commission, by April 30 of the year during which the compensation for the effort adjustment shall take place. The notification shall include details of the vessels operating under the special conditions referred to in points (a), (b), (c) and (d) of paragraph 2, the fishing effort per effort group that the Member State expects to be carried out by those vessels during that year, and the conditions under which the effort of the vessels is being monitored, including control arrangements.

6. Member States shall report to the Commission by 1 March each year at the latest about the amounts of effort used within the actions during the previous year.

7. The Commission shall request STECF to compare annually the reduction in cod mortality which would result from the application of point (c) of paragraph 2 with the reduction it would have expected to occur as a result of the effort adjustment referred to in Article 12(4). In light of this advice the Commission may propose adjustments in effort that may be applied for the relevant gear grouping the following year.

*Article 14***Member States' obligations**

1. For the vessels flying its flag, each Member State shall decide on a method for allocating the maximum allowable fishing effort to individual vessels or a group of vessels, in the light of a number of criteria, including, for example:

- (a) promotion of good fishing practices, including data collection enhancement, discard reduction and minimisation of the impact on juvenile fish;
- (b) participation in cooperative programmes to avoid unnecessary by-catches of cod;
- (c) low impact on the environment, including fuel consumption and greenhouse gas emissions;
- (d) proportionality with respect to allocation of fishing opportunities in terms of fish quota.

2. For each of the areas set out in Annex I to this Regulation, each Member State shall issue special fishing permits in accordance with Council Regulation (EC) No 1627/94 of 27 June 1994 laying down general provisions concerning special fishing permits<sup>(1)</sup> for vessels flying its flag which engage in fishing activities in that area and using a gear belonging to one of the gear groupings set out in Annex I to this Regulation.

3. For each of the areas set out in Annex I, the total capacity expressed in kW of the vessels having special fishing permits issued in accordance with paragraph 2 shall not be greater than the maximum capacity of the vessels that have been active in 2006 or 2007 using a regulated gear and fishing in the geographical area concerned.

4. Each Member State shall establish and maintain a list of vessels holding the special permit referred to in paragraph 2 and make it available on its official website to the Commission and other Member States.

#### Article 15

##### Regulation of fishing effort

Member States shall monitor the capacity and activity of their fleet by effort groups and shall take appropriate action if the maximum allowable fishing effort established in accordance with Article 12 is about to be reached, in order to ensure that the effort will not exceed the set limits.

#### Article 16

##### Exchange of maximum allowable fishing effort between Member States and reconstitution of effort

1. The maximum allowable fishing effort established in accordance with Article 11 may be adapted by the Member States concerned in view of:

- (a) the exchange of quotas carried out pursuant to Article 20(5) of Regulation (EC) No 2371/2002; and
- (b) reallocations and/or deductions made pursuant to Article 23(4) of Regulation (EC) No 2371/2002 and Articles 21(4), 23(1) and 32(2) of Regulation (EEC) No 2847/93.

2. The maximum allowable fishing effort established in accordance with Article 12 may be adapted by a Member State which discontinues the exchange of quotas in any of the areas mentioned in Article 3, to the extent that this Member State used to execute these exchanges during the reference period for establishing the baselines as specified in Article 12(2), and needs to exert additional effort in any of the effort groups concerned in order to use the quota

recovered. This reconstitution of effort shall be accompanied by a reduction in total allowable fishing effort by the Member State that has returned the quota to the quota recovering Member State, reflecting the extent to which its effort groups have less quota available for fishing, unless the Member State returning the quota did not use the corresponding effort for establishing the abovementioned baselines.

3. Notwithstanding Article 17(2), in 2009, Member States may modify their effort allocations by transferring fishing effort and capacity between the geographical areas referred to in Article 3, provided that this transfer involves fishing activities referred to in Article 13(2)(a) and (b). Such transfers shall be notified to the Commission. The maximum allowable fishing effort referred to in Article 12(2)(a) shall be modified accordingly.

#### Article 17

##### Exchange of maximum allowable fishing effort across effort groups

1. A Member State may amend its effort allocations by transferring fishing capacity across effort groups, under the conditions set out in paragraphs 2 to 5.

2. The transfer shall be allowed between gear groupings but not between geographical areas, provided that the Member State concerned provides the Commission with information on the catch per unit effort (cpue) of its donor and receiving gear group, averaged over the last three years.

3. Where the cpue of the donor gear group is higher than the cpue of the receiving gear group, the transfer shall in general be made on a 1 kW-day to 1 kW-day basis.

4. Where the cpue of the donor gear group is lower than the cpue of the receiving gear group, the Member State shall apply a correction factor to the amount of effort in the receiving gear group so that the latter's higher cpue is compensated for.

5. The Commission shall request STECF to develop standard correction factors that might be used to facilitate the transfer of effort across gear groups with different cpue.

#### CHAPTER IV

##### MONITORING, INSPECTION AND SURVEILLANCE

#### Article 18

##### Relationship with Regulation (EEC) No 2847/93

The control measures provided for in this Chapter shall apply in addition to those prescribed in Regulation (EEC) No 2847/93.

<sup>(1)</sup> OJ L 171, 6.7.1994, p. 7.

*Article 19***Logbook checks**

1. For vessels fitted with a VMS, Member States shall verify that the information received at the fisheries monitoring centres corresponds to activities recorded in the logbook by using VMS data. Such cross-checks shall be recorded in computer-readable form for a period of three years.
2. Each Member State shall maintain and make available on its official website the contact details for the submission of logbooks and landing declarations.

*Article 20***Weighing of cod first landed**

1. The master of a fishing vessel shall ensure that any quantity of cod exceeding 300 kg caught in the areas set out in Article 3 and landed in a Community port shall be weighed on board or in the port of landing before sale or before being transported elsewhere. The scales used for the weighing shall be approved by the competent national authorities. The figure resulting from the weighing shall be used for the declaration referred to in Article 8 of Regulation (EEC) No 2847/93.
2. By way of derogation from paragraph 1, Member States may permit the weighing of cod to take place at a fish auction on the territory of the Member State provided that the landing has been subject to a physical inspection and that the fish has been sealed before transport directly to the fish auction and remains sealed until the weighing takes place. The transport document shall indicate the details of the inspection carried out at landing.

*Article 21***Inspection benchmarks**

Each Member State with vessels concerned by this Regulation shall set specific inspection benchmarks. Such benchmarks shall be revised periodically after an analysis has been made of the results achieved. Inspection benchmarks shall evolve progressively until the target benchmarks defined in Annex II are reached.

*Article 22***Prohibition on transshipping**

The transshipment of cod at sea is prohibited in the geographical areas set out in Article 3.

*Article 23***National control action programmes**

1. Member States with vessels concerned by this Regulation shall define a national control action programme in accordance with Annex III.

2. Before 31 January each year, Member States with vessels concerned by this Regulation shall make available to the Commission and other Member States concerned by this Regulation on its official website their national control action programmes together with an implementation schedule.

3. The Commission shall convene at least once a year a meeting of the Committee for Fisheries and Aquaculture to evaluate compliance with and the results of the national control action programmes for cod stocks concerned by this Regulation.

*Article 24***Prior notification**

1. The master of a Community fishing vessel, or his/her representative, prior to any entry into port or any landing location of a Member State carrying more than one tonne of cod on board shall inform the competent authorities of that Member State, at least four hours in advance of such entry, of:

- (a) the name of the port or landing location;
- (b) the estimated time of arrival at that port or landing location;
- (c) the quantities in kg live weight of all species of which more than 50 kg is retained on board.

2. The competent authorities of a Member State in which a landing of more than one tonne of cod is to be made may require that the discharge of catch retained on board shall not commence until authorised by those authorities.

3. The master of a Community fishing vessel, or his/her representative, wishing to tranship or discharge at sea any quantity retained on board or to land in a port or landing location of a third country shall inform the competent authorities of the flag Member State, at least 24 hours prior to transshipping or discharging at sea or to landing in a third country, of the information referred to in paragraph 1.

*Article 25***Designated ports**

1. Where more than two tonnes of cod are to be landed in the Community from a Community fishing vessel, the master of the vessel shall ensure that such landings are made only at designated ports.
2. Each Member State shall designate ports into which any landing of cod in excess of two tonnes shall take place.

3. Each Member State shall make available on their public website the list of designated ports and associated inspection and surveillance procedures for those ports, including the terms and conditions for recording and reporting the quantities of cod within each landing.

The Commission shall transmit this information to all Member States.

#### Article 26

### Margin of tolerance in the estimation of quantities reported in the logbook

By way of derogation from Article 5(2) of Commission Regulation (EEC) No 2807/83 of 22 September 1983 laying down detailed rules for recording information on Member States catches of fish <sup>(1)</sup>, the permitted margin of tolerance, in the estimation of quantities of cod, in kg retained on board, shall be 8 % of the logbook figure.

#### Article 27

### Separate stowage of cod

It shall be prohibited to retain on board a Community fishing vessel, in any container, any quantity of cod mixed with any other species of marine organisms. Containers with cod shall be stowed in the hold in such a way that they are kept separate from other containers.

#### Article 28

### Transport of cod

1. The competent authorities of a Member State may require that any quantity of cod caught in any of the geographical areas defined in Article 3 and first landed in that Member State is weighed in the presence of controllers before being transported elsewhere from the port of first landing. For cod first landed in a port designated pursuant to Article 24, representative samples, amounting to at least 20 % of the landings in number shall be weighed in the presence of controllers authorised by the Member States before they are offered for first sale and sold. To this end, the Member States shall submit to the Commission, within one month of the date of entry into force of this Regulation, details of the sampling regime to be employed.

2. By way of derogation from the conditions laid down in Article 13 of Regulation (EEC) No 2847/93, all quantities of cod greater than 50 kg which are transported to a place other than that of first landing or import shall be accompanied by a copy of one of the declarations provided for in Article 8(1) of that Regulation pertaining to the quantities of cod transported. The exemption provided for in Article 13(4)(b) of that Regulation shall not apply.

#### Article 29

### Specific monitoring programmes

By way of derogation from Article 34c(1) of Regulation (EEC) No 2847/93, the specific monitoring programmes for the cod

stocks concerned may last more than two years from their date of entry into force.

## CHAPTER V

### DECISION-MAKING AND FINAL PROVISIONS

#### Article 30

### Decision-making procedure

Where this Regulation provides for decisions to be taken by the Council, the Council shall act by qualified majority on the basis of a proposal from the Commission.

#### Article 31

### Amendments to Annex I

Based on the advice of STECF, the Commission may amend the Annex I to this Regulation in accordance with the procedure laid down in Article 30(2) of Regulation (EC) No 2371/2002 and on the basis of the following principles:

- (a) effort groups shall be laid down as homogeneously as possible with respect to the biological stocks captured, the sizes of fish captured either as target or as by-catch and the effects on the environment of the fishing activities associated to the effort groups;
- (b) the number and size of effort groups shall be cost-efficient in terms of management burden relative to conservation needs.

#### Article 32

### Detailed rules

Detailed rules for the application of Articles 11(3), 14, 16 and 17 of this Regulation may be adopted in accordance with the procedure referred to in Article 30(2) of Regulation (EC) No 2371/2002.

#### Article 33

### Assistance under the European Fisheries Fund

1. For each of the four cod stocks referred to in Article 1, for those years in which the stock is situated below the relevant precautionary spawning biomass level set out in Article 6, the long-term plan shall be deemed to be a recovery plan within the meaning of Article 5 of Regulation (EC) No 2371/2002, and for the purposes of Article 21(a)(i) of Regulation (EC) No 1198/2006.

2. For each of the four cod stocks referred to in Article 1, for those years other than those referred to in paragraph 1, the long-term plan shall be deemed to be a management plan within the meaning of Article 6 of Regulation (EC) No 2371/2002, and for the purposes of Article 21(a)(iv) of Regulation (EC) No 1198/2006.

<sup>(1)</sup> OJ L 276, 10.10.1983, p. 1.

*Article 34***Review**

The Commission shall, on the basis of advice from STECF and after consultation of the relevant Regional Advisory Council, evaluate the impact of the management measures on the cod stocks concerned and the fisheries on those stocks, at the latest in the third year of application of this Regulation and then each third successive year of application of this Regulation and, where appropriate, propose relevant measures to amend it.

*Article 35***Repeal**

Regulation (EC) No 423/2004 is hereby repealed.

*Article 36***Entry into force**

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

It shall apply from 1 January 2009.

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

Done at Brussels, 18 December 2008.

*For the Council*

*The President*

M. BARNIER

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## ANNEX I

Effort groups are defined by one of the gear groupings set out in point 1 and one of the geographical areas set out in point 2.

## 1. Gear groupings

(a) Bottom trawls and seines (OTB, OTT, PTB, SDN, SSC, SPR) of mesh:

TR1 equal to or larger than 100 mm,

TR2 equal to or larger than 70 mm and less than 100 mm,

TR3 equal to or larger than 16 mm and less than 32 mm;

(b) Beam trawls (TBB) of mesh:

BT1 equal to or larger than 120 mm

BT2 equal to or larger than 80 mm and less than 120 mm;

(c) Gill nets, entangling nets (GN);

(d) Trammel nets (GT);

(e) Longlines (LL).

## 2. Groupings of geographical areas:

For the purposes of this Annex, the following geographical groupings shall apply:

(a) Kattegat;

(b) (i) Skagerrak;

(ii) that part of ICES zone IIIa not covered by the Skagerrak and the Kattegat;

ICES zone IV and EC waters of ICES zone IIa;

(iii) ICES zone VIId;

(c) ICES zone VIIa;

(d) ICES zone VIa.

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## ANNEX II

**SPECIFIC INSPECTION BENCHMARKS**

## Objective

1. Each Member State shall set specific inspection benchmarks in accordance with this Annex.

## Strategy

2. Inspection and surveillance of fishing activities shall concentrate on vessels likely to catch cod. Random inspections of transport and marketing of cod shall be used as a complementary cross-checking mechanism to test the effectiveness of inspection and surveillance.

## Priorities

3. Different gear types shall be subject to different levels of prioritisation, depending on the extent to which the fleets are affected by fishing opportunity limits. For that reason, each Member State shall set specific priorities.

## Target benchmarks

4. Not later than one month from the date of entry into force of this Regulation, Member States shall implement their inspection schedules taking account of the targets set out below.

Member States shall specify and describe which sampling strategy will be applied.

The Commission can have access on request to the sampling plan used by the Member State.

## (a) Level of inspection in ports

As a general rule, the accuracy to be achieved should be at least equivalent to what would be obtained by a simple random sampling method, where inspections shall cover 20 % in number of all cod landings in a Member State.

## (b) Level of inspection of marketing

Inspection of 5 % of the quantities of cod offered for sale at auction.

## (c) Level of inspection at sea

Flexible benchmark: to be set after a detailed analysis of the fishing activity in each area. Benchmarks at sea shall refer to the number of patrol days at sea in the cod management areas, possibly with a separate benchmark for days patrolling specific areas.

## (d) Level of aerial surveillance

Flexible benchmark: to be set after a detailed analysis of the fishing activity conducted in each area and taking the available resources at the Member State's disposal into consideration.

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## ANNEX III

**CONTENTS OF NATIONAL CONTROL ACTION PROGRAMMES**

National control action programmes shall aim, *inter alia*, to specify the following:

1. Means of control

Human resources

- (a) The numbers of shore-based and seagoing inspectors and the periods and zones where they are to be deployed.

Technical resources

- (b) The numbers of patrol vessels and aircraft and the periods and zones where these are to be deployed.

Financial resources

- (c) The budgetary allocation for deployment of human resources, patrol vessels and aircraft.

2. Electronic recording and reporting of information relating to fishing activities

Description of the systems implemented to ensure compliance with Articles 19, 23, 24 and 25.

3. Designation of ports

Where relevant, a list of ports designated for cod landings in accordance with Article 25.

4. Notification prior to landing

Description of the systems implemented to ensure compliance with Article 24.

5. Landings control

Description of any facilities and or systems implemented to ensure compliance with the provisions in Articles 19, 20, 21 and 28.

6. Inspection procedures

The national control action programmes shall specify the procedures that will be followed:

- (a) when conducting inspections at sea and on land;
- (b) for communicating with the competent authorities designated by other Member States as responsible for the national control action programme for cod;
- (c) for joint surveillance and exchange of inspectors, including specification of powers and authority of inspectors operating in other Member States' waters.
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## ANNEX IV

Line referred to in Article 13 paragraph 2(d)

The line referred to in Article 13 paragraph 2(d) is defined by sequentially joining with rhumb lines the following positions according to the WGS84 coordinate system:

54 °30'N, 10 °35'W

55 °20'N, 9 °50'W

55 °30'N, 9 °20'W

56 °40'N, 8 °55'W

57 °0'N, 9 °0'W

57 °20'N, 9 °20'W

57 °50'N, 9 °20'W

58 °10'N, 9 °0'W

58 °40'N, 7 °40'W

59 °0'N, 7 °30'W

59 °20'N, 6 °30'W

59 °40'N, 6 °5'W

59 °40'N, 5 °30'W

60 °0'N, 4 °50'W

60 °15'N, 4 °0'W.

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**COMMISSION REGULATION (EC) No 1343/2008****of 23 December 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 Council Regulation (EC) No 1234/2007 of 22 October 2007 establishing a common organisation of agricultural markets and on specific provisions for certain agricultural products (Single CMO Regulation) <sup>(1)</sup>,

Having regard to Commission Regulation (EC) No 1580/2007 of 21 December 2007 laying down implementing rules for Council Regulations (EC) No 2200/96, (EC) No 2201/96 and (EC) No 1182/2007 in the fruit and vegetable sector <sup>(2)</sup>, and in particular Article 138(1) thereof,

Whereas:

Regulation (EC) No 1580/2007 lays down, pursuant to the outcome of the Uruguay Round multilateral trade negotiations, the criteria whereby the Commission fixes the standard values for imports from third countries, in respect of the products and periods stipulated in Annex XV, Part A thereto,

HAS ADOPTED THIS REGULATION:

*Article 1*

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

*Article 2*

This Regulation shall enter into force on 24 December 2008.

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

Done at Brussels, 23 December 2008.

*For the Commission*

Jean-Luc DEMARTY

*Director-General for Agriculture and  
Rural Development*

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

<sup>(2)</sup> OJ L 350, 31.12.2007, p. 1.

## ANNEX

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

(EUR/100 kg)

CN code	Third country code <sup>(1)</sup>	Standard import value
0702 00 00	CR	110,3
	MA	71,6
	TR	99,2
	ZZ	93,7
0707 00 05	JO	167,2
	MA	69,8
	TR	134,4
	ZZ	123,8
0709 90 70	MA	140,8
	TR	110,0
	ZZ	125,4
0805 10 20	AR	13,6
	BR	44,6
	EG	51,8
	MA	70,1
	TR	83,0
	UY	30,6
	ZA	57,3
	ZW	31,4
	ZZ	47,8
0805 20 10	MA	74,9
	TR	64,0
	ZZ	69,5
0805 20 30, 0805 20 50, 0805 20 70, 0805 20 90	CN	50,3
	IL	66,4
	MA	78,8
	TR	63,9
	ZZ	64,9
0805 50 10	MA	64,0
	TR	52,1
	ZZ	58,1
0808 10 80	CA	79,3
	CN	75,1
	MK	37,6
	US	93,0
	ZA	118,0
	ZZ	80,6
0808 20 50	CN	73,2
	TR	35,0
	US	121,1
	ZZ	76,4

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

**COMMISSION REGULATION (EC) No 1344/2008****of 23 December 2008****publishing, for 2009, the agricultural product nomenclature for export refunds introduced by  
Regulation (EEC) No 3846/87**

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

on export arrangements for agricultural products, should  
be published,

Having regard to the Treaty establishing the European  
Community,

HAS ADOPTED THIS REGULATION:

Having regard to Council Regulation (EC) No 1234/2007 of  
22 October 2007 establishing a common organisation of agri-  
cultural markets and on specific provisions for certain agri-  
cultural products (Single CMO Regulation) <sup>(1)</sup>,

*Article 1*

Regulation (EEC) No 3846/87 is amended as follows:

Having regard to Commission Regulation (EEC) No 3846/87 of  
17 December 1987 establishing an agricultural product nomen-  
clature for export refunds <sup>(2)</sup>, and in particular the fourth  
paragraph of Article 3 thereof,

1. Annex I is replaced by the text in Annex I to this Regulation.

2. Annex II is replaced by the text in Annex II to this Regu-  
lation.

Whereas:

*Article 2*

The full version of the refund nomenclature valid at  
1 January 2009, as it ensues from the regulatory provisions

This Regulation shall enter into force on 1 January 2009.

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

Done at Brussels, 23 December 2008.

*For the Commission*

Mariann FISCHER BOEL

*Member of the Commission*

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

<sup>(2)</sup> OJ L 366, 24.12.1987, p. 1.

## ANNEX I

## ‘ANNEX I

## AGRICULTURAL PRODUCT NOMENCLATURE FOR EXPORT REFUNDS

## 1. Cereals and wheat or rye flour, groats or meal

CN code	Description of goods	Product code
1001	Wheat and meslin:	
1001 10 00	– Durum wheat:	
	– – Seed	1001 10 00 9200
	– – Other	1001 10 00 9400
ex 1001 90	– Other:	
	– – Other spelt, common wheat and meslin:	
1001 90 91	– – – Common wheat and meslin seed	1001 90 91 9000
1001 90 99	– – – Other	1001 90 99 9000
1002 00 00	Rye	1002 00 00 9000
1003 00	Barley:	
1003 00 10	– seed	1003 00 10 9000
1003 00 90	– Other	1003 00 90 9000
1004 00 00	Oats:	
	– Seed	1004 00 00 9200
	– Other	1004 00 00 9400
1005	Maize (corn):	
ex 1005 10	– Seed:	
1005 10 90	– – Other	1005 10 90 9000
1005 90 00	– Other	1005 90 00 9000
1007 00	Grain sorghum:	
1007 00 90	– Other	1007 00 90 9000
ex 1008	Buckwheat, millet and canary seed; other cereals:	
1008 20 00	– Millet	1008 20 00 9000
1101 00	Wheat or meslin flour:	
	– Wheat flour:	
1101 00 11	Of durum wheat	1101 00 11 9000
1101 00 15	– – Of common wheat and spelt:	
	– – – Of an ash content of 0 to 600 mg/100 g	1101 00 15 9100
	– – – Of an ash content of 601 to 900 mg/100 g	1101 00 15 9130
	– – – Of an ash content of 901 to 1 100 mg/100 g	1101 00 15 9150
	– – – Of an ash content of 1 101 to 1 650 mg/100 g	1101 00 15 9170
	– – – Of an ash content of 1 651 to 1 900 mg/100 g	1101 00 15 9180
	– – – Of an ash content of more than 1 900 mg/100 g	1101 00 15 9190
1101 00 90	– Meslin flour	1101 00 90 9000

CN code	Description of goods	Product code
ex 1102	Cereal flours other than of wheat or meslin:	
1102 10 00	– Rye flour:	
	-- Of an ash content of 0 to 1 400 mg/100 g	1102 10 00 9500
	-- Of an ash content of more than 1 400 to 2 000 mg/100 g	1102 10 00 9700
	-- Of an ash content of more than 2 000 mg/100 g	1102 10 00 9900
ex 1103	Cereal groats, meal and pellets:	
	– Groats and meal:	
1103 11	-- Of wheat:	
1103 11 10	--- Durum wheat:	
	---- Of an ash content of 0 to 1 300 mg/100 g:	
	----- Meal of which less than 10 %, by weight, is capable of passing through a sieve of 0,160 mm mesh	1103 11 10 9200
	----- Other	1103 11 10 9400
	---- Of an ash content of more than 1 300 mg/100 g	1103 11 10 9900
1103 11 90	--- Common wheat and spelt:	
	---- Of an ash content of 0 to 600 mg/100 g	1103 11 90 9200
	---- Of an ash content of exceeding 600 mg/100 g	1103 11 90 9800



## 2. Rice and broken rice

CN code	Description of goods	Product code
1006	Rice:	
1006 20	– Husked (brown) rice:	
	– – Parboiled:	
1006 20 11	– – – Round grain	1006 20 11 9000
1006 20 13	– – – Medium grain	1006 20 13 9000
	– – – Long grain:	
1006 20 15	– – – – Of a length/width ratio greater than 2 but less than 3	1006 20 15 9000
1006 20 17	– – – – Of a length/width ratio equal to or greater than 3	1006 20 17 9000
	– – Other:	
1006 20 92	– – – Round grain	1006 20 92 9000
1006 20 94	– – – Medium grain	1006 20 94 9000
	– – – Long grain:	
1006 20 96	– – – – Of a length/width ratio greater than 2 but less than 3	1006 20 96 9000
1006 20 98	– – – – Of a length/width ratio equal to or greater than 3	1006 20 98 9000
1006 30	– Semi-milled or wholly milled rice, whether or not polished or glazed:	
	– – Semi-milled rice:	
	– – – Parboiled:	
1006 30 21	– – – – Round grain	1006 30 21 9000
1006 30 23	– – – – Medium grain	1006 30 23 9000
	– – – – Long grain:	
1006 30 25	– – – – – Of a length/width ratio greater than 2 but less than 3	1006 30 25 9000
1006 30 27	– – – – – Of a length/width ratio equal to or greater than 3	1006 30 27 9000
	– – Other:	
1006 30 42	– – – – Round grain	1006 30 42 9000
1006 30 44	– – – – Medium grain	1006 30 44 9000
	– – – – Long grain:	
1006 30 46	– – – – – Of a length/width ratio greater than 2 but less than 3	1006 30 46 9000
1006 30 48	– – – – – Of a length/width ratio equal to or greater than 3	1006 30 48 9000
	– – Wholly milled rice:	
	– – – Parboiled:	
1006 30 61	– – – – Round grain:	
	– – – – – In immediate packings of 5 kg net or less	1006 30 61 9100
	– – – – – Other	1006 30 61 9900
1006 30 63	– – – – Medium grain:	
	– – – – – In immediate packings of 5 kg net or less	1006 30 63 9100
	– – – – – Other	1006 30 63 9900
	– – – – Long grain:	

CN code	Description of goods	Product code
1006 30 65	----- Of a length/width ratio greater than 2 but less than 3: ----- In immediate packings of 5 kg net or less ----- Other	1006 30 65 9100 1006 30 65 9900
1006 30 67	----- Of a length/width ratio equal to or greater than 3: ----- In immediate packings of 5 kg net or less ----- Other --- Other:	1006 30 67 9100 1006 30 67 9900
1006 30 92	----- Round grain: ----- In immediate packings of 5 kg net or less ----- Other	1006 30 92 9100 1006 30 92 9900
1006 30 94	----- Medium grain: ----- In immediate packings of 5 kg net or less ----- Other ----- Long grain:	1006 30 94 9100 1006 30 94 9900
1006 30 96	----- Of a length/width ratio greater than 2 but less than 3: ----- In immediate packings of 5 kg net or less ----- Other	1006 30 96 9100 1006 30 96 9900
1006 30 98	----- Of a length/width ratio equal to or greater than 3: ----- In immediate packings of 5 kg net or less ----- Other	1006 30 98 9100 1006 30 98 9900
1006 40 00	- Broken rice	1006 40 00 9000

## 3. Products processed from cereals

CN code	Description of goods	Product code
ex 1102	Cereal flours other than of wheat or meslin:	
ex 1102 20	– Maize (corn) flour:	
ex 1102 20 10	-- Of a fat content not exceeding 1,5 % by weight:	
	--- Of a fat content not exceeding 1,3 % by weight and of a crude fibre content, referred to dry matter, not exceeding 0,8 % by weight <sup>(2)</sup>	1102 20 10 9200
	--- Of a fat content exceeding 1,3 % but not exceeding 1,5 % by weight and of a crude fibre content, referred to dry matter, not exceeding 1 % by weight <sup>(2)</sup>	1102 20 10 9400
ex 1102 20 90	-- Other:	
	--- Of a fat content exceeding 1,5 % but not exceeding 1,7 % by weight and of a crude fibre content, referred to dry matter, not exceeding 1 % by weight <sup>(2)</sup>	1102 20 90 9200
ex 1102 90	– Other:	
1102 90 10	-- Barley flour:	
	--- Of an ash content, referred to dry matter, not exceeding 0,9 % by weight and of a crude fibre content, referred to dry matter, not exceeding 0,9 % by weight	1102 90 10 9100
	--- Other	1102 90 10 9900
ex 1102 90 30	-- Oat flour:	
	--- Of an ash content, referred to dry matter, not exceeding 2,3 % by weight, of a crude fibre content, referred to dry matter, not exceeding 1,8 % by weight, of a moisture content not exceeding 11 % and of which the peroxidase is virtually inactivated	1102 90 30 9100
ex 1103	Cereal groats, meal and pellets:	
	– Groats and meal:	
ex 1103 13	-- Of maize (corn):	
ex 1103 13 10	--- Of a fat content not exceeding 1,5 % by weight:	
	---- Of a fat content, not exceeding 0,9 % by weight and a crude fibre content, referred to dry matter, not exceeding 0,6 % by weight of which a percentage not exceeding 30 % passes through a sieve with an aperture of 315 micrometres and of which a percentage not exceeding 5 % passes through a sieve with an aperture of 150 micrometres <sup>(3)</sup>	1103 13 10 9100
	---- Of a fat content, exceeding 0,9 % by weight but not exceeding 1,3 % by weight and a crude fibre content, referred to dry matter, not exceeding 0,8 % by weight of which a percentage not exceeding 30 % passes through a sieve with an aperture of 315 micrometres and of which a percentage not exceeding 5 % passes through a sieve with an aperture of 150 micrometres <sup>(3)</sup>	1103 13 10 9300
	---- Of a fat content, exceeding 1,3 % by weight but not exceeding 1,5 % by weight and of a crude fibre content, referred to dry matter, not exceeding 1,0 % by weight of which a percentage not exceeding 30 % passes through a sieve with an aperture of 315 micrometres and of which a percentage not exceeding 5 % passes through a sieve with an aperture of 150 micrometres <sup>(3)</sup>	1103 13 10 9500
ex 1103 13 90	--- Other:	
	---- Of a fat content, exceeding 1,5 % by weight but not exceeding 1,7 % by weight and of a crude fibre content, referred to dry matter, not exceeding 1 % by weight of which a percentage not exceeding 30 % passes through a sieve with an aperture of 315 micrometres and of which a percentage not exceeding 5 % passes through a sieve with an aperture of 150 micrometres <sup>(3)</sup>	1103 13 90 9100
ex 1103 19	-- Of other cereals:	
1103 19 10	--- Of rye	1103 19 10 9000

CN code	Description of goods	Product code
ex 1103 19 30	--- Of barley: ----- Of an ash content, referred to dry matter, not exceeding 1 % by weight and of a crude fibre content, referred to dry matter, not exceeding 0,9 % by weight	1103 19 30 9100
ex 1103 19 40	--- Of oats: ----- Of an ash content, referred to dry matter, not exceeding 2,3 % by weight, of a tegument content not exceeding 0,1 % of a moisture content not exceeding 11 % and of which the peroxidase is virtually inactivated	1103 19 40 9100
ex 1103 20	- Pellets:	
1103 20 20	-- Of barley	1103 20 20 9000
1103 20 60	-- Of wheat	1103 20 60 9000
ex 1104	Cereal grains otherwise worked (for example, hulled, rolled, flaked, pearled, sliced or kibbled), except rice of heading No 1006; germ of cereals, whole, rolled, flaked or ground: - Rolled or flaked grains:	
ex 1104 12	-- Of oats:	
ex 1104 12 90	--- Flaked: ----- Of an ash content, referred to dry matter, not exceeding 2,3 % by weight, of a tegument content not exceeding 0,1 % of a moisture content not exceeding 12 % and of which the peroxidase is virtually inactivated ----- Of an ash content, referred to dry matter, not exceeding 2,3 % by weight, of a tegument content exceeding 0,1 %, but not exceeding 1,5 % of a moisture content not exceeding 12 % and of which the peroxidase is virtually inactivated	1104 12 90 9100 1104 12 90 9300
ex 1104 19	-- Of other cereals:	
1104 19 10	--- Of wheat	1104 19 10 9000
ex 1104 19 50	--- Of maize: ----- Flaked: ----- Of a fat content, referred to dry matter, not exceeding 0,9 % by weight and of a crude fibre content, referred to dry matter, not exceeding 0,7 % by weight <sup>(3)</sup> ----- Of a fat content, referred to dry matter, exceeding 0,9 % but not exceeding 1,3 % by weight and of a crude fibre content, referred to dry matter, not exceeding 0,8 % by weight <sup>(3)</sup>	1104 19 50 9110 1104 19 50 9130
	--- Of barley:	
ex 1104 19 69	----- Flaked: ----- Of an ash content, referred to dry matter, not exceeding 1 % by weight and of a crude fibre content, referred to dry matter, not exceeding 0,9 % by weight - Other worked grains (for example, hulled, pearled, sliced or kibbled):	1104 19 69 9100
ex 1104 22	-- Of oats:	
ex 1104 22 20	--- Hulled (shelled or husked): ----- Of an ash content, referred to dry matter, not exceeding 2,3 % by weight, of tegument content not exceeding 0,5 %, of a moisture content not exceeding 11 % and of which the peroxidase is virtually inactivated corresponding to the definition given in the Annex to Regulation (EEC) No 821/68 <sup>(1)</sup>	1104 22 20 9100
ex 1104 22 30	--- Hulled and sliced or kibbled (Grütze or grutten): ----- Of an ash content, referred to dry matter, not exceeding 2,3 % by weight, of a tegument content not exceeding 0,1 %, of a moisture content not exceeding 11 % and of which the peroxidase is virtually inactivated corresponding to the definition given in the Annex to Regulation (EEC) No 821/68 <sup>(1)</sup>	1104 22 30 9100

CN code	Description of goods	Product code
ex 1104 23	-- Of maize (corn):	
ex 1104 23 10	---- Hulled (shelled or husked), whether or not sliced or kibbled:	
	----- Of a fat content, referred to dry matter, not exceeding 0,9 % by weight and of a crude fibre content, referred to dry matter, not exceeding 0,6 % by weight (Grütze or grutten) corresponding to the definition given in the Annex to Regulation (EEC) No 821/68 <sup>(1)</sup> <sup>(3)</sup>	1104 23 10 9100
	----- Of a fat content, referred to dry matter, exceeding 0,9 % but not exceeding 1,3 % by weight and of a crude fibre content, referred to dry matter, not exceeding 0,8 % by weight (Grütze or grutten) corresponding to the definition given in the Annex to Regulation (EEC) No 821/68 <sup>(1)</sup> <sup>(3)</sup>	1104 23 10 9300
1104 29	-- Of other cereals:	
	--- Of barley:	
ex 1104 29 01	---- Hulled (shelled or husked):	
	----- Of an ash content, referred to dry matter, not exceeding 1 % by weight and of a crude fibre content, referred to dry matter, not exceeding 0,9 % by weight corresponding to the definition given in the Annex to Regulation (EEC) No 821/68 <sup>(1)</sup>	1104 29 01 9100
ex 1104 29 03	---- Hulled and sliced or kibbled (Grütze or grutten):	
	----- Of an ash content, referred to dry matter, not exceeding 1 % by weight and of a crude fibre content, referred to dry matter, not exceeding 0,9 % by weight corresponding to the definition given in the Annex to Regulation (EEC) No 821/68 <sup>(1)</sup>	1104 29 03 9100
ex 1104 29 05	---- Pearled:	
	----- Of an ash content, referred to dry matter, not exceeding 1 % by weight (without talc):	
	----- First category corresponding to the definition given in the Annex to Regulation (EEC) No 821/68 <sup>(1)</sup>	1104 29 05 9100
	----- Of an ash content, referred to dry matter, not exceeding 1 % by weight (without talc):	
	----- Second category corresponding to the definition given in the Annex to Regulation (EEC) No 821/68 <sup>(1)</sup>	1104 29 05 9300
	--- Other:	
	---- Hulled (shelled or husked), whether or not sliced or kibbled:	
ex 1104 29 11	----- Of wheat, not sliced or kibbled corresponding to the definition given in the Annex to Regulation (EEC) No 821/68 <sup>(1)</sup>	1104 29 11 9000
	---- Not otherwise worked than kibbled:	
1104 29 51	----- Of wheat	1104 29 51 9000
1104 29 55	----- Of rye	1104 29 55 9000
1104 30	- Germ of cereals, whole, rolled, flaked or ground:	
1104 30 10	-- Of wheat	1104 30 10 9000
1104 30 90	-- Of other cereals	1104 30 90 9000
1107	Malt, whether or not roasted:	
1107 10	- Not roasted:	
	-- Of wheat:	
1107 10 11	--- In the form of flour	1107 10 11 9000
1107 10 19	--- Other	1107 10 19 9000
	-- Other:	

CN code	Description of goods	Product code
1107 10 91	--- In the form of flour	1107 10 91 9000
1107 10 99	--- Other	1107 10 99 9000
1107 20 00	- Roasted	1107 20 00 9000
ex 1108	Starches; inulin:	
	- Starches <sup>(4)</sup> :	
ex 1108 11 00	-- Wheat starch:	
	--- Of a dry matter content of not less than 87 % and a purity in the dry matter of not less than 97 %	1108 11 00 9200
	--- Of a dry matter content of not less than 84 % but less than 87 % and a purity in the dry matter of not less than 97 % <sup>(5)</sup>	1108 11 00 9300
ex 1108 12 00	-- Maize (corn) starch:	
	--- Of a dry matter content of not less than 87 % and a purity in the dry matter of not less than 97 %	1108 12 00 9200
	--- Of a dry matter content of not less than 84 % but less than 87 % and a purity in the dry matter of not less than 97 % <sup>(5)</sup>	1108 12 00 9300
ex 1108 13 00	-- Potato starch:	
	--- Of a dry matter content of not less than 80 % and a purity in the dry matter of not less than 97 %	1108 13 00 9200
	--- Of a dry matter content of not less than 77 % but less than 80 % and a purity in the dry matter of not less than 97 % <sup>(5)</sup>	1108 13 00 9300
ex 1108 19	-- Other starches:	
ex 1108 19 10	--- Rice starch:	
	---- Of a dry matter content of not less than 87 % and a purity in the dry matter of not less than 97 %	1108 19 10 9200
	---- Of a dry matter content of not less than 84 % but less than 87 % and a purity in the dry matter of not less than 97 % <sup>(5)</sup>	1108 19 10 9300
ex 1109 00 00	Wheat gluten, whether or not dried:	
	- Dried wheat gluten, of a protein content, referred to dry matter, of 82 % or more by weight (N × 6,25)	1109 00 00 9100
ex 1702	Other sugars, including chemically pure lactose, maltose, glucose and fructose, in solid form; sugar syrups not containing added flavouring or colouring matter; artificial honey, whether or not mixed with natural honey; caramel:	
ex 1702 30	- Glucose and glucose syrup, not containing fructose or containing in the dry state less than 20 % by weight of fructose:	
	-- Other:	
1702 30 50	--- In the form of white crystalline powder, whether or not agglomerated	1702 30 50 9000
1702 30 90	--- Other <sup>(6)</sup>	1702 30 90 9000
ex 1702 40	- Glucose and glucose syrup, containing in the dry state at least 20 % but less than 50 % by weight of fructose, excluding invert sugar:	
1702 40 90	-- Other <sup>(6)</sup>	1702 40 90 9000

CN code	Description of goods	Product code
ex 1702 90	– Other, including invert sugar and other sugar and sugar syrup blends containing in the dry state 50 % by weight of fructose:	
1702 90 50	-- Maltodextrine and maltodextrine syrup:	
	--- Maltodextrine, in the form of a white solid, whether or not agglomerated	1702 90 50 9100
	--- Other <sup>(6)</sup>	1702 90 50 9900
	-- Caramel	
	--- Other:	
1702 90 75	---- In the form of powder, whether or not agglomerated	1702 90 75 9000
1702 90 79	---- Other	1702 90 79 9000
2106	Food preparations not elsewhere specified or included:	
ex 2106 90	– Other:	
	-- Flavoured or coloured sugar syrups:	
	--- Other:	
2106 90 55	---- Glucose syrup and maltodextrine syrup <sup>(6)</sup>	2106 90 55 9000

<sup>(1)</sup> OJ L 149, 29.6.1968, p. 46.

<sup>(2)</sup> The analytical method to be used for the determination of the fatty matter content is that printed in Annex I (method A) to Commission Directive 84/4/EEC (OJ L 15, 18.1.1984, p. 28).

<sup>(3)</sup> The procedure to be followed for the determination of the fatty matter content is as follows:

- the sample has to be crushed so that 90 % or more can pass through a sieve with an aperture of 500 micrometres and 100 % can pass through a sieve with an aperture of 1 000 micrometres,
- the analytical method to be used afterwards is that which is printed in Annex I (method A) to Directive 84/4/EEC.

<sup>(4)</sup> The dry matter content of starch is determined by the method laid down in Annex IV to Commission Regulation (EC) No 687/2008 (OJ L 192, 19.7.2008, p. 20). The purity of starch is determined using the Ewers modified polarimetric method, as published in Annex I to the third Commission Directive 72/199/EEC (OJ L 123, 29.5.1972, p. 6).

<sup>(5)</sup> The export refund payable for starch shall be adjusted by using the following formula:

1. Potato starch:  $((\text{actual \% dry matter})/80) \times \text{export refund}$ .
2. All other types of starch:  $((\text{actual \% dry matter})/87) \times \text{export refund}$ .

When completing customs formalities, the applicant shall state on the declaration provided for this purpose the dry matter content of the product.

<sup>(6)</sup> The export refund is payable for products having a dry matter content of at least 78 %. The export refund provided for products having a dry matter content of less than 78 % shall be adjusted by using the following formula:  $((\text{actual dry matter content})/78) \times \text{export refund}$ .

The dry matter content is determined by method 2 laid down in Annex II to Commission Directive 79/796/EEC (OJ L 239, 22.9.1979, p. 24), or by any other suitable analysis method offering at least the same guarantees.

## 4. Cereal-based compound feedingstuffs

CN code	Description of goods	Product code
2309	Preparations of a kind used in animal feeding <sup>(1)</sup> :	
ex 2309 10	- Dog or cat food, put up for retail sale:	
	-- Containing starch, glucose, glucose syrup, maltodextrine or maltodextrine syrup falling within subheadings 1702 30 50, 1702 30 90, 1702 40 90, 1702 90 50 and 2106 90 55 or milk products:	
	--- Containing starch, glucose, syrup, maltodextrine or maltodextrine syrup:	
	---- Containing no starch, or containing 10 % or less by weight of starch <sup>(2)</sup> <sup>(3)</sup> :	
2309 10 11	----- Containing no milk products or containing less than 10 % by weight of such products	2309 10 11 9000
2309 10 13	----- Containing not less than 10 % but less than 50 % by weight of milk products	2309 10 13 9000
	---- Containing more than 10 % but not more than 30 % by weight of starch <sup>(2)</sup> :	
2309 10 31	----- Containing no milk products or containing less than 10 % by weight of such products	2309 10 31 9000
2309 10 33	----- Containing not less than 10 % but less than 50 % by weight of milk products	2309 10 33 9000
	---- Containing more than 30 % by weight of starch <sup>(2)</sup> :	
2309 10 51	----- Containing no milk products or containing less than 10 % by weight of such products	2309 10 51 9000
2309 10 53	----- Containing not less than 10 % but less than 50 % by weight of milk products	2309 10 53 9000
ex 2309 90	- Other:	
	-- Other, including premixes:	
	--- Containing starch, glucose, glucose syrup, maltodextrine or maltodextrine syrup falling within subheadings 1702 30 50, 1702 30 90, 1702 40 90, 1702 90 50 and 2106 90 55 or milk products:	
	---- Containing starch, glucose, glucose syrup, maltodextrine or maltodextrine syrup:	
	----- Containing no starch or containing 10 % or less by weight of starch <sup>(2)</sup> <sup>(3)</sup> :	
2309 90 31	----- Containing no milk products or containing less than 10 % by weight of such products	2309 90 31 9000
2309 90 33	----- Containing not less than 10 % but less than 50 % by weight of milk products	2309 90 33 9000
	----- Containing more than 10 % but not more than 30 % by weight of starch <sup>(2)</sup> :	
2309 90 41	----- Containing no milk products or containing less than 10 % by weight of such products	2309 90 41 9000
2309 90 43	----- Containing not less than 10 % but less than 50 % by weight of milk products	2309 90 43 9000
	----- Containing more than 30 % by weight of starch <sup>(2)</sup> :	
2309 90 51	----- Containing no milk products or containing less than 10 % by weight of such products	2309 90 51 9000
2309 90 53	----- Containing not less than 10 % but less than 50 % by weight of milk products	2309 90 53 9000

<sup>(1)</sup> Covered by Commission Regulation (EC) No 1517/95 (OJ L 147, 30.6.1995, p. 51).

<sup>(2)</sup> For the purposes of the refund only the starch coming from cereal products is taken into account. Cereal products means the products falling within subheadings 0709 90 60 and 0712 90 19, Chapter 10, and heading Nos 1101, 1102, 1103 and 1104 (unprocessed and not reconstituted) excluding subheading 1104 30 and the cereals content of the products falling within subheadings 1904 10 10 and 1904 10 90 of the Combined Nomenclature. The cereals content in products under subheadings 1904 10 10 and 1904 10 90 of the Combined Nomenclature is considered to be equal to the weight of this final product. No refund is paid for cereals where the origin of the starch cannot be clearly established by analysis.

<sup>(3)</sup> A refund will only be paid for products containing 5 % or more by weight of starch.



## 5. Beef and veal

CN code	Description of goods	Product code
ex 0102	Live bovine animals:	
ex 0102 10	– Pure-bred breeding animals:	
ex 0102 10 10	-- Heifers (female bovines that have never calved):	
	--- With a live weight equal to or greater than 250 kg:	
	---- Up to the age of 30 months	0102 10 10 9140
	---- Other	0102 10 10 9150
ex 0102 10 30	-- Cows:	
	--- With a live weight equal to or greater than 250 kg:	
	---- Up to the age of 30 months	0102 10 30 9140
	---- Other	0102 10 30 9150
ex 0102 10 90	-- Other:	
	--- With a live weight equal to or greater than 300 kg	0102 10 90 9120
ex 0102 90	– Other:	
	-- Domestic species:	
	--- Of a weight exceeding 160 kg but not exceeding 300 kg:	
ex 0102 90 41	---- For slaughter:	
	----- Of a weight exceeding 220 kg	0102 90 41 9100
	--- Of a weight exceeding 300 kg	
	---- Heifers (female bovines that have never calved):	
0102 90 51	----- For slaughter	0102 90 51 9000
0102 90 59	----- Other	0102 90 59 9000
	---- Cows:	
0102 90 61	----- For slaughter	0102 90 61 9000
0102 90 69	----- Other	0102 90 69 9000
	---- Other:	
0102 90 71	----- For slaughter	0102 90 71 9000
0102 90 79	----- Other	0102 90 79 9000
0201	Meat of bovine animals, fresh and chilled:	
0201 10 00	– Carcasses and half-carcasses:	
	-- The front part of a carcasce or of a half-carcasse comprising all the bones and the scrag, neck and shoulder but with more than 10 ribs:	
	--- From male adult bovine animals <sup>(1)</sup>	0201 10 00 9110
	--- Other	0201 10 00 9120
	-- Other:	
	--- From male adult bovine animals <sup>(1)</sup>	0201 10 00 9130
	--- Other	0201 10 00 9140

CN code	Description of goods	Product code
0201 20	– Other cuts with bone in:	
0201 20 20	-- “Compensated” quarters:	
	--- From male adult bovine animals <sup>(1)</sup>	0201 20 20 9110
	--- Other	0201 20 20 9120
0201 20 30	-- Unseparated or separated forequarters:	
	--- From male adult bovine animals <sup>(1)</sup>	0201 20 30 9110
	--- Other	0201 20 30 9120
0201 20 50	-- Unseparated or separated hindquarters:	
	--- With a maximum of eight ribs or eight pairs of ribs:	
	---- From male adult bovine animals <sup>(1)</sup>	0201 20 50 9110
	---- Other	0201 20 50 9120
	--- With more than eight ribs or eight pairs of ribs:	
	---- From male adult bovine animals <sup>(1)</sup>	0201 20 50 9130
	---- Other	0201 20 50 9140
ex 0201 20 90	-- Other:	
	--- The weight of bone not exceeding one third of the weight of the cut	0201 20 90 9700
0201 30 00	– Boneless:	
	-- Boneless cuts exported to the United States of America under the conditions laid down in Commission Regulation (EC) No 1643/2006 <sup>(3)</sup> or to Canada under the conditions laid down in Regulation (EC) No 1041/2008 <sup>(4)</sup>	0201 30 00 9050
	-- Boneless cuts, including minced meat, with an average lean bovine meat content (excluding fat) of 78 % or more <sup>(6)</sup>	0201 30 00 9060
	-- Other, each piece individually wrapped with an average lean bovine meat content (excluding fat) of 55 % or more <sup>(6)</sup> :	
	--- from the hindquarters of adult male bovine animals with a maximum of eight ribs or eight pairs of ribs, straight cut or “Pistola” cut <sup>(2)</sup>	0201 30 00 9100
	--- from unseparated or separated forequarters of adult male bovine animals, straight cut or “Pistola” cut <sup>(2)</sup>	0201 30 00 9120
	-- Other	0201 30 00 9140
ex 0202	Meat of bovine animals, frozen:	
0202 10 00	– Carcasses and half-carcasses:	
	-- The front part of a carcasse or of a half-carcasse comprising all the bones and the scrag, neck and shoulder but with more than 10 ribs	0202 10 00 9100
	-- Other	0202 10 00 9900
ex 0202 20	– Other cuts, with bone in:	
0202 20 10	-- “Compensated” quarters	0202 20 10 9000
0202 20 30	-- Unseparated or separated forequarters	0202 20 30 9000

CN code	Description of goods	Product code
0202 20 50	-- Unseparated or separated hindquarters:	
	--- With a maximum of eight ribs or eight pairs of ribs	0202 20 50 9100
	--- With more than eight ribs or eight pairs of ribs	0202 20 50 9900
ex 0202 20 90	-- Other:	
	--- The weight of bone not exceeding one third of the weight of the cut	0202 20 90 9100
0202 30	- Boneless:	
0202 30 90	-- Other:	
	--- Boneless cuts exported to the United States of America under the conditions laid down in Regulation (EC) No 1643/2006 <sup>(3)</sup> or to Canada under the conditions laid down in Regulation (EC) No 1041/2008 <sup>(4)</sup>	0202 30 90 9100
	--- Other, including minced meat, with an average lean bovine meat content (excluding fat) of 78 % or more <sup>(6)</sup>	0202 30 90 9200
	--- Other	0202 30 90 9900
0206	Edible offal of bovine animals, swine, sheep, goats, horses, asses, mules or hinnies, fresh, chilled or frozen:	
0206 10	- Of bovine animals, fresh and chilled:	
	-- Other:	
0206 10 95	--- Thick skirt and thin skirt	0206 10 95 9000
	- Of bovine animals, frozen:	
0206 29	-- Other:	
	--- Other:	
0206 29 91	---- Thick skirt and thin skirt	0206 29 91 9000
ex 0210	Meat and edible meat offal, salted, in brine, dried or smoked; edible flours and meals of meat or meat offal:	
ex 0210 20	- Meat of bovine animals:	
ex 0210 20 90	-- Boneless:	
	--- Salted and dried	0210 20 90 9100
ex 1602	Other prepared or preserved meat, meat offal or blood:	
ex 1602 50	- Of bovine animals:	
	-- Other:	
ex 1602 50 31	--- Corned beef, in airtight containers; not containing meat other than that of the bovine species:	
	---- With a collagen/protein ratio of no more than 0,35 <sup>(7)</sup> and containing by weight the following percentages of bovine meats (excluding offal and fat):	
	----- 90 % or more:	
	----- Products complying with the conditions laid down in Regulation (EC) No 1731/2006 <sup>(5)</sup>	1602 50 31 9125
	----- 80 % or more, but less than 90 %:	
	----- Products complying with the conditions laid down in Regulation (EC) No 1731/2006 <sup>(5)</sup>	1602 50 31 9325

CN code	Description of goods	Product code
ex 1602 50 95	<p>--- Other, in airtight containers:</p> <p>---- Not containing meat other than that of animals of the bovine species:</p> <p>----- With a collagen/protein ratio of no more than 0,35 <sup>(7)</sup> and containing by weight the following percentages of bovine meats (excluding offal and fat):</p> <p>----- 90 % or more:</p> <p>----- Products complying with the conditions laid down in Regulation (EC) No 1731/2006 <sup>(5)</sup></p> <p>----- 80 % or more, but less than 90 %:</p> <p>----- Products complying with the conditions laid down in Regulation (EC) No 1731/2006 <sup>(5)</sup></p>	<p>1602 50 95 9125</p> <p>1602 50 95 9325</p>

<sup>(1)</sup> Entry within this subheading is subject to the submission of the certificate appearing in the Annex to Commission Regulation (EC) No 433/2007 (OJ L 104, 21.4.2007, p. 3).

<sup>(2)</sup> The granting of the refund is subject to compliance with the conditions laid down in Commission Regulation (EC) No 1359/2007 (OJ L 304, 22.11.2007, p. 21).

<sup>(3)</sup> OJ L 308, 8.11.2006, p. 7.

<sup>(4)</sup> OJ L 281, 24.10.2008, p. 3.

<sup>(5)</sup> OJ L 325, 24.11.2006, p. 12.

<sup>(6)</sup> The lean bovine meat content excluding fat is determined in accordance with the procedure described in the Annex to Commission Regulation (EEC) No 2429/86 (OJ L 210, 1.8.1986, p. 39). The term "average content" refers to the sample quantity as defined in Article 2(1) of Regulation (EC) No 765/2002 (OJ L 117, 4.5.2002, p. 6). The sample is to be taken from that part of the consignment presenting the highest risk.

<sup>(7)</sup> Determination of collagen content:

The collagen content shall be taken to mean the hydroxyproline content multiplied by the factor 8. The hydroxyproline content must be determined according to ISO method 3496-1978.

## 6. Pigmeat

CN code	Description of goods	Product code
ex 0103	Live swine:	
	– Other:	
ex 0103 91	-- Weighing less than 50 kg:	
0103 91 10	--- Domestic species	0103 91 10 9000
ex 0103 92	-- Weighing 50 kg or more:	
	--- Domestic species:	
0103 92 19	---- Other	0103 92 19 9000
ex 0203	Meat of swine, fresh, chilled or frozen:	
	– Fresh or chilled:	
ex 0203 11	-- Carcasses and half-carcasses:	
0203 11 10	--- Of domestic swine <sup>(12)</sup>	0203 11 10 9000
ex 0203 12	-- Hams, shoulders and cuts thereof, with bone in:	
	--- Of domestic swine:	
ex 0203 12 11	---- Hams and cuts thereof:	
	----- With a total bone and cartilage content of less than 25 % by weight	0203 12 11 9100
ex 0203 12 19	---- Shoulders and cuts thereof <sup>(13)</sup> :	
	----- With a total bone and cartilage content of less than 25 % by weight	0203 12 19 9100
ex 0203 19	-- Other:	
	--- Of domestic swine:	
ex 0203 19 11	---- Fore-ends and cuts thereof <sup>(14)</sup> :	
	----- With a total bone and cartilage content of less than 25 % by weight	0203 19 11 9100
ex 0203 19 13	---- Loins and cuts thereof, with bone in:	
	----- With a total bone and cartilage content of less than 25 % by weight	0203 19 13 9100
ex 0203 19 15	---- Bellies (streaky) and cuts thereof:	
	----- With a total bone and cartilage content of less than 15 % by weight	0203 19 15 9100
	---- Other:	
ex 0203 19 55	----- Boneless:	
	----- Hams, fore-ends, shoulders or loins, and cuts thereof <sup>(1)</sup> <sup>(11)</sup> <sup>(13)</sup> <sup>(14)</sup> <sup>(15)</sup>	0203 19 55 9110
	----- Bellies, and cuts thereof, with a total cartilage content of less than 15 % by weight <sup>(1)</sup> <sup>(11)</sup>	0203 19 55 9310
	– Frozen:	
ex 0203 21	-- Carcasses and half-carcasses	
0203 21 10	--- Of domestic swine <sup>(12)</sup>	0203 21 10 9000
ex 0203 22	-- Hams, shoulders and cuts thereof, with bone in:	
	--- Of domestic swine:	

CN code	Description of goods	Product code
ex 0203 22 11	---- Hams and cuts thereof: ----- With a total bone and cartilage content of less than 25 % by weight	0203 22 11 9100
ex 0203 22 19	---- Shoulders and cuts thereof <sup>(13)</sup> : ----- With a total bone and cartilage content of less than 25 % by weight	0203 22 19 9100
ex 0203 29	-- Other: --- Of domestic swine:	
ex 0203 29 11	---- Fore-ends and cuts thereof <sup>(14)</sup> : ----- With a total bone and cartilage content of less than 25 % by weight	0203 29 11 9100
ex 0203 29 13	---- Loins and cuts thereof, with bone in: ----- With a total bone and cartilage content of less than 25 % by weight	0203 29 13 9100
ex 0203 29 15	---- Bellies (streaky) and cuts thereof: ----- With a total bone and cartilage content of less than 15 % by weight ----- Other:	0203 29 15 9100
ex 0203 29 55	----- Boneless: ----- Hams, fore-ends, shoulders and cuts thereof <sup>(1)</sup> <sup>(13)</sup> <sup>(14)</sup> <sup>(15)</sup> <sup>(16)</sup>	0203 29 55 9110
ex 0210	Meat and edible meat offal, salted, in brine, dried or smoked; edible flours and meals of meat or meat offal: – Meat of swine:	
ex 0210 11	-- Hams, shoulders and cuts thereof, with bone in: --- Of domestic swine: ---- Salted or in brine:	
ex 0210 11 11	----- Hams and cuts thereof: ----- With a total bone and cartilage content of less than 25 % by weight ---- Dried or smoked	0210 11 11 9100
ex 0210 11 31	----- Hams and cuts thereof: ----- “Prosciutto di Parma”, “Prosciutto di San Daniele” <sup>(2)</sup> : ----- With a total bone and cartilage content of less than 25 % by weight ----- Other: ----- With a total bone and cartilage content of less than 25 % by weight	0210 11 31 9110 0210 11 31 9910
ex 0210 12	-- Bellies (streaky) and cuts thereof: --- Of domestic swine:	
ex 0210 12 11	---- Salted or in brine: ----- With a total bone and cartilage content of less than 15 % by weight	0210 12 11 9100
ex 0210 12 19	---- Dried or smoked: ----- With a total bone and cartilage content of less than 15 % by weight	0210 12 19 9100

CN code	Description of goods	Product code
ex 0210 19	-- Other:	
	--- Of domestic swine:	
	---- Salted or in brine:	
ex 0210 19 40	----- Loins and cuts thereof:	
	----- With a total bone and cartilage content of less than 25 % by weight	0210 19 40 9100
ex 0210 19 50	----- Other:	
	----- Boneless:	
	----- JHams, fore-ends, shoulders or loins, and cuts thereof <sup>(1)</sup>	0210 19 50 9100
	----- Bellies and cuts thereof, derinded <sup>(1)</sup> :	
	----- With a total cartilage content of less than 15 % by weight	0210 19 50 9310
	---- Dried or smoked:	
	---- Other:	
ex 0210 19 81	----- Boneless:	
	----- "Prosciutto di Parma", "Prosciutto di San Daniele" and cuts thereof <sup>(2)</sup>	0210 19 81 9100
	----- Hams, fore-ends, shoulders or loins, and cuts thereof <sup>(1)</sup>	0210 19 81 9300
ex 1601 00	Sausages and similar products, of meat, meat offal or blood; food preparations based on these products:	
	- Other <sup>(8)</sup> :	
1601 00 91	-- Sausages, dry or for spreading, uncooked <sup>(4)</sup> <sup>(6)</sup> :	
	--- Not containing the meat or offal of poultry	1601 00 91 9120
	--- Other	1601 00 91 9190
1601 00 99	-- Other <sup>(3)</sup> <sup>(6)</sup> :	
	--- Not containing the meat or offal of poultry	1601 00 99 9110
	--- Other	1601 00 99 9190
ex 1602	Other prepared or preserved meat, meat offal or blood:	
	- Of swine:	
ex 1602 41	-- Hams and cuts thereof:	
ex 1602 41 10	--- Of domestic swine <sup>(7)</sup> :	
	---- Cooked, containing by weight 80 % or more of meat and fat <sup>(8)</sup> <sup>(9)</sup> :	
	----- In immediate packings with a net weight of 1 kg or more <sup>(17)</sup>	1602 41 10 9110
	----- In immediate packings with a net weight of less than 1 kg	1602 41 10 9130
ex 1602 42	-- Shoulders and cuts thereof:	
ex 1602 42 10	--- Of domestic swine <sup>(7)</sup> :	
	---- Cooked, containing by weight 80 % or more of meat and fat <sup>(8)</sup> <sup>(9)</sup> :	
	----- In immediate packings with a net weight of 1 kg or more <sup>(18)</sup>	1602 42 10 9110
	----- In immediate packings with a net weight of less than 1 kg	1602 42 10 9130

CN code	Description of goods	Product code
ex 1602 49	-- Other, including mixtures: --- Of domestic swine: ---- Containing by weight 80 % or more of meat or meat offal, of any kind, including fats of any kind or origin:	
ex 1602 49 19	----- Other <sup>(7)</sup> <sup>(10)</sup> : ----- Cooked, containing by weight 80 % or more of meat and fat <sup>(8)</sup> <sup>(9)</sup> : ----- Not containing the meat or offal of poultry: ----- Containing a product composed of clearly recognisable pieces of muscular meat which, due to their size are not identifiable as having been obtained from hams, shoulders, loins or collars, together with small particles of visible fat and small quantities of jelly deposits	1602 49 19 9130

<sup>(1)</sup> The products and cuts thereof may be classified in this subheading only if the size and the characteristics of the coherent muscle tissue enable them to be identified as coming from the primary cuts mentioned. The expression "cuts thereof" applies to products with a net unit weight of at least 100 grams or to products cut into uniform slices which can be clearly identified as coming from the primary cut mentioned and which are packed together with a net overall weight of at least 100 grams.

<sup>(2)</sup> Only those products for which the name is certified by the competent authorities of the producing Member State can benefit from this refund.

<sup>(3)</sup> The refund on sausages presented in containers with a preservative liquid is granted on net weight after deduction of weight of this liquid.

<sup>(4)</sup> The weight of a coating of paraffin corresponding to normal use in the trade is considered as part of the net weight of the sausage.

<sup>(5)</sup> Deleted by Commission Regulation (EC) No 2333/97 (OJ L 323, 26.11.1997, p. 25).

<sup>(6)</sup> If composite food preparations (including prepared dishes) containing sausages, are classified within heading No 1601 because of their composition, the refund is granted only on the net weight of the sausages, the meat and the offal, including fats of any kind or origin, which make part of those preparations.

<sup>(7)</sup> The refund on products containing bones is granted on the net weight of the product after deduction of the weight of the bones.

<sup>(8)</sup> Grant of the refund is subject to compliance with the conditions laid down in Commission Regulation (EC) No 903/2008 (OJ L 249, 18.9.2008, p. 3). At the time of the conclusion of customs export formalities the exporter shall declare in writing that the products in question fulfil those conditions.

<sup>(9)</sup> The meat and fat content is to be determined in accordance with the analysis procedure in the Annex to Commission Regulation (EC) No 2004/2002 (OJ L 308, 9.11.2002, p. 22).

<sup>(10)</sup> The content of meat or meat offal, of any kind, including fats of any kind or origin, is to be determined in accordance with the analysis procedure in the Annex to Commission Regulation (EEC) No 226/89 (OJ L 29, 31.1.1989, p. 11).

<sup>(11)</sup> Freezing of the products pursuant to the first paragraph of Article 7(3) of Regulation (EC) No 800/1999 is not permitted.

<sup>(12)</sup> Carcasses or half-carcasses may be presented with or without the chaps.

<sup>(13)</sup> Shoulders may be presented with or without the chaps.

<sup>(14)</sup> Fore-ends may be presented with or without the chaps.

<sup>(15)</sup> Jowls, chaps or chaps and jowls together, presented alone, do not benefit from this refund.

<sup>(16)</sup> Boneless, neck-ends, presented alone, do not benefit from this refund.

<sup>(17)</sup> In the case that the classification of the goods as hams or cuts of hams of heading 1602 41 10 9110 is not justified on the basis of the provisions of additional note 2 of Chapter 16 of the CN, the refund for product code 1602 42 10 9110 or, as the case may be, 1602 49 19 9130 may be granted, without prejudice to the application of Article 51 of Commission Regulation (EC) No 800/1999 (OJ L 102, 17.4.1999, p. 11).

<sup>(18)</sup> In the case that the classification of the goods as shoulders or cuts of shoulders of heading 1602 42 10 9110 is not justified on the basis of the provisions of additional note 2 of chapter 16 of the CN, the refund for product code 1602 49 19 9130 may be granted, without prejudice to the application of Article 51 of Regulation (EC) No 800/1999.



## 7. Poultrymeat

CN code	Description of goods	Product code
ex 0105	Live poultry, that is to say, fowls of the species <i>Gallus domesticus</i> , ducks, geese, turkeys and guinea fowls:	
	– Weighing not more than 185 g:	
0105 11	-- Fowls of the species <i>Gallus domesticus</i> :	
	--- PGrandparent and parent female chicks	
0105 11 11	---- Laying stocks	0105 11 11 9000
0105 11 19	---- Other	0105 11 19 9000
	--- Other:	
0105 11 91	---- Laying stocks	0105 11 91 9000
0105 11 99	---- Other	0105 11 99 9000
0105 12 00	-- Turkeys	0105 12 00 9000
ex 0105 19	-- Other:	
0105 19 20	--- Geese	0105 19 20 9000
ex 0207	Meat and edible offal, of the poultry heading 0105, fresh, chilled or frozen	
	– Of fowls of the species <i>Gallus domesticus</i> :	
ex 0207 12	-- Not cut in pieces, frozen:	
ex 0207 12 10	--- Plucked and drawn, without heads and feet but with necks, hearts, livers and gizzards, known as “70 % chickens”	
	---- With completely ossified sternum tips, femurs and tibias	
	---- Other	0207 12 10 9900
ex 0207 12 90	--- Plucked and drawn, without heads and feet and without necks, hearts, livers and gizzards, known as “65 % chickens” or otherwise presented:	
	---- “65 % chickens”:	
	----- With completely ossified sternum tips, femurs and tibias	
	----- Other	0207 12 90 9190
	---- Fowls of the species <i>Gallus domesticus</i> , plucked and drawn, without heads and feet but with necks, hearts, livers and gizzards in irregular composition:	
	----- Fowls of the species <i>Gallus domesticus</i> , with completely ossified sternum tips, femurs and tibias	
	----- Other	0207 12 90 9990
ex 0207 14	-- Cuts and offal, frozen:	
	--- Cuts:	
	---- With bone in:	
ex 0207 14 20	----- Halves or quarters:	
	----- Of fowls of species <i>Gallus domesticus</i> with completely ossified sternum tips, femurs and tibias	
	----- Other	0207 14 20 9900
ex 0207 14 60	----- Legs and cuts thereof:	
	----- Of fowls of the species <i>Gallus domesticus</i> with completely ossified sternum tips, femurs and tibias	
	----- Other	0207 14 60 9900

CN code	Description of goods	Product code
ex 0207 14 70	<p>----- Other:</p> <p>----- Halves or quarters without rumps:</p> <p>----- Of fowls of the species <i>Gallus domesticus</i> with completely ossified sternum tips, femurs and tibias</p> <p>----- Other</p> <p>----- Cuts consisting of a whole leg or part of a leg and part of the back where the weight of the back does not exceed 25 % of the total weight:</p> <p>----- Of fowls of the species <i>Gallus domesticus</i> with completely ossified femurs</p> <p>----- Other</p> <p>– Of turkeys:</p>	<p>0207 14 70 9190</p> <p>0207 14 70 9290</p>
0207 25	-- Not cut in pieces, frozen:	
0207 25 10	--- Plucked and drawn, without heads and feet but with necks, hearts, livers and gizzards, known as “80 % turkeys”	0207 25 10 9000
0207 25 90	--- Plucked and drawn, without heads and feet and without necks, hearts, livers and gizzards, known as “73 % turkeys”, or otherwise presented	0207 25 90 9000
ex 0207 27	<p>-- Cuts and offal, frozen:</p> <p>--- Cuts:</p>	
ex 0207 27 10	<p>---- Boneless:</p> <p>----- Homogenised meat, including mechanically recovered meat</p> <p>----- Other:</p> <p>----- Other than rumps</p> <p>---- With bone in:</p> <p>----- Legs and cuts thereof:</p>	<p>0207 27 10 9990</p>
0207 27 60	----- Drumsticks and cuts thereof	0207 27 60 9000
0207 27 70	----- Other	0207 27 70 9000

## 8. Eggs

CN code	Description of goods	Product code
ex 0407 00	Birds' eggs, in shell, fresh, preserved or cooked:	
	– Of poultry:	
	-- For hatching <sup>(1)</sup> :	
0407 00 11	--- Of turkeys or geese	0407 00 11 9000
0407 00 19	--- Other	0407 00 19 9000
0407 00 30	-- Other	0407 00 30 9000
0408	Birds' eggs, not in shell, and egg yolks, fresh, dried, cooked by steaming or by boiling water, moulded, frozen or otherwise preserved, whether or not containing added sugar or other sweetening matter:	
	– Egg yolks:	
ex 0408 11	-- Dried:	
ex 0408 11 80	--- Other:	
	---- Suitable for human consumption	0408 11 80 9100
ex 0408 19	-- Other:	
	--- Other:	
ex 0408 19 81	---- Liquid:	
	----- Suitable for human consumption	0408 19 81 9100
ex 0408 19 89	---- Other, including frozen:	
	----- Suitable for human consumption	0408 19 89 9100
	– Other:	
ex 0408 91	-- Dried:	
ex 0408 91 80	--- Other:	
	---- Suitable for human consumption	0408 91 80 9100
ex 0408 99	-- Other:	
ex 0408 99 80	--- Other:	
	---- Suitable for human consumption	0408 99 80 9100

<sup>(1)</sup> Applies only to poultry eggs which fulfil the conditions stipulated by the competent authorities of the European Communities and on which are stamped the identifying number of the producer establishment and/or other particulars as provided for in Article 3(5) of Commission Regulation (EC) No 617/2008 (OJ L 168, 28.6.2008, p. 5).

## 9. Milk and milk products

CN code	Description of goods	Product code
0401	Milk and cream, not concentrated nor containing added sugar or other sweetening matter <sup>(15)</sup> :	
0401 10	– Of a fat content, by weight not exceeding 1 %:	
0401 10 10	-- In immediate packings of a net content not exceeding 2 litres	0401 10 10 9000
0401 10 90	-- Other	0401 10 90 9000
0401 20	– Of a fat content, by weight, exceeding 1 % but not exceeding 6 %:	
	-- Not exceeding 3 %:	
0401 20 11	--- In immediate packings of a net content not exceeding 2 litres:	
	---- Of a fat content, by weight, not exceeding 1,5 %:	0401 20 11 9100
	---- Of a fat content, by weight, exceeding 1,5 %	0401 20 11 9500
0401 20 19	--- Other:	
	---- Of a fat content, by weight, not exceeding 1,5 %	0401 20 19 9100
	---- Of a fat content, by weight, exceeding 1,5 %	0401 20 19 9500
	-- Exceeding 3 %:	
0401 20 91	--- In immediate packings of a net content not exceeding 2 litres	0401 20 91 9000
0401 20 99	--- Other	0401 20 99 9000
0401 30	– Of a fat content, by weight, exceeding 6 %:	
	-- Not exceeding 21 %:	
0401 30 11	--- In immediate packings of a net content not exceeding 2 litres:	
	---- Of a fat content, by weight:	
	----- Exceeding 10 % but not exceeding 17 %	0401 30 11 9400
	----- Exceeding 17 %	0401 30 11 9700
0401 30 19	--- Other:	
	---- Of a fat content, by weight, exceeding 17 %	0401 30 19 9700
	-- Exceeding 21 % but not exceeding 45 %	
0401 30 31	--- In immediate packings of a net content not exceeding 2 litres:	
	---- Of a fat content, by weight:	
	----- Not exceeding 35 %	0401 30 31 9100
	----- Exceeding 35 % but not exceeding 39 %	0401 30 31 9400
	----- Exceeding 39 %	0401 30 31 9700
0401 30 39	--- Other:	
	---- Of a fat content, by weight:	
	----- Not exceeding 35 %	0401 30 39 9100
	----- Exceeding 35 % but not exceeding 39 %	0401 30 39 9400
	----- Exceeding 39 %	0401 30 39 9700
	-- Exceeding 45 %	

CN code	Description of goods	Product code
0401 30 91	--- In immediate packings of a net content not exceeding 2 litres: ---- Of a fat content, by weight: ----- Not exceeding 68 % ----- Exceeding 68 %	0401 30 91 9100 0401 30 91 9500
0401 30 99	--- Other: ---- Of a fat content, by weight: ----- Not exceeding 68 % ----- Exceeding 68 %	0401 30 99 9100 0401 30 99 9500
0402	Milk and cream, concentrated or containing added sugar or other sweetening matter <sup>(8)</sup> :	
ex 0402 10	- In powder, granules or other solid forms, of a fat content, by weight, not exceeding 1,5 % <sup>(11)</sup> : -- Not containing added sugar or other sweetening matter <sup>(13)</sup> :	
0402 10 11	--- In immediate packings of a net content not exceeding 2,5 kg	0402 10 11 9000
0402 10 19	--- Other -- Other <sup>(14)</sup> :	0402 10 19 9000
0402 10 91	--- In immediate packings of a net content not exceeding 2,5 kg	0402 10 91 9000
0402 10 99	--- Other - In powder, granules or other solid forms, of a fat content, by weight, exceeding 1,5 % <sup>(11)</sup> :	0402 10 99 9000
ex 0402 21	-- Not containing added sugar or other sweetening matter <sup>(13)</sup> : --- Of a fat content, by weight, not exceeding 27 %:	
0402 21 11	----- In immediate packings of a net content not exceeding 2,5 kg: ----- Of a fat content, by weight: ----- Not exceeding 11 % ----- Exceeding 11 % but not exceeding 17 % ----- Exceeding 17 % but not exceeding 25 % ----- Exceeding 25 % ----- Other:	0402 21 11 9200 0402 21 11 9300 0402 21 11 9500 0402 21 11 9900
0402 21 17	----- Of a fat content, by weight, not exceeding 11 %	0402 21 17 9000
0402 21 19	----- Of a fat content, by weight, exceeding 11 % but not exceeding 27 %: ----- Not exceeding 17 % ----- Exceeding 17 % but not exceeding 25 % ----- Exceeding 25 % --- Of a fat content, by weight, exceeding 27 %:	0402 21 19 9300 0402 21 19 9500 0402 21 19 9900

CN code	Description of goods	Product code
0402 21 91	<p>---- In immediate packings of a net content not exceeding 2,5 kg:</p> <p>----- Of a fat content, by weight:</p> <p>----- Not exceeding 28 %</p> <p>----- Exceeding 28 % but not exceeding 29 %</p> <p>----- Exceeding 29 % but not exceeding 45 %</p> <p>----- Exceeding 45 %</p>	<p>0402 21 91 9100</p> <p>0402 21 91 9200</p> <p>0402 21 91 9350</p> <p>0402 21 91 9500</p>
0402 21 99	<p>---- Other:</p> <p>----- Of a fat content, by weight:</p> <p>----- Not exceeding 28 %</p> <p>----- Exceeding 28 % but not exceeding 29 %</p> <p>----- Exceeding 29 % but not exceeding 41 %</p> <p>----- Exceeding 41 % but not exceeding 45 %</p> <p>----- Exceeding 45 % but not exceeding 59 %</p> <p>----- Exceeding 59 % but not exceeding 69 %</p> <p>----- Exceeding 69 % but not exceeding 79 %</p> <p>----- Exceeding 79 %</p>	<p>0402 21 99 9100</p> <p>0402 21 99 9200</p> <p>0402 21 99 9300</p> <p>0402 21 99 9400</p> <p>0402 21 99 9500</p> <p>0402 21 99 9600</p> <p>0402 21 99 9700</p> <p>0402 21 99 9900</p>
ex 0402 29	<p>-- Other <sup>(14)</sup>:</p> <p>--- Of a fat content, by weight, not exceeding 27 %:</p> <p>---- Other:</p>	
0402 29 15	<p>----- In immediate packings of a net content not exceeding 2,5 kg:</p> <p>----- Of a fat content, by weight:</p> <p>----- Not exceeding 11 %</p> <p>----- Exceeding 11 % but not exceeding 17 %</p> <p>----- Exceeding 17 % but not exceeding 25 %</p> <p>----- Exceeding 25 %</p>	<p>0402 29 15 9200</p> <p>0402 29 15 9300</p> <p>0402 29 15 9500</p> <p>0402 29 15 9900</p>
0402 29 19	<p>----- Other:</p> <p>----- Of a fat content, by weight:</p> <p>----- Exceeding 11 % but not exceeding 17 %</p> <p>----- Exceeding 17 % but not exceeding 25 %</p> <p>----- Exceeding 25 %</p> <p>--- Of a fat content, by weight, exceeding 27 %:</p>	<p>0402 29 19 9300</p> <p>0402 29 19 9500</p> <p>0402 29 19 9900</p>
0402 29 91	---- In immediate packings of a net content not exceeding 2,5 kg	0402 29 91 9000
0402 29 99	<p>---- Other:</p> <p>----- Of a fat content, by weight:</p> <p>----- Not exceeding 41 %</p> <p>----- Exceeding 41 %</p> <p>- Other:</p>	<p>0402 29 99 9100</p> <p>0402 29 99 9500</p>

CN code	Description of goods	Product code
0402 91	-- Not containing added sugar or other sweetening matter <sup>(13)</sup> :	
0402 91 10	--- Of a fat content, by weight, not exceeding 8 %:	
	---- Of a non-fat lactic dry matter content of 15 % or more and of a fat content, by weight exceeding 7,4 %	0402 91 10 9370
0402 91 30	--- Of a fat content, by weight exceeding 8 % but not exceeding 10 %:	
	---- Of a non-fat lactic dry matter content of 15 % or more	0402 91 30 9300
	--- Of a fat content, by weight exceeding 45 %:	
0402 91 99	---- Other	0402 91 99 9000
0402 99	-- Other <sup>(14)</sup> :	
0402 99 10	--- Of a fat content, by weight, not exceeding 9,5 %:	
	---- Of a sucrose content of 40 % or more by weight, of a non-fat lactic dry matter content of 15 % or more and of a fat content, by weight, exceeding 6,9 %	0402 99 10 9350
	--- Of a fat content, by weight exceeding 9,5 % but not exceeding 45 %	
0402 99 31	---- In immediate packings not exceeding 2,5 kg:	
	----- Of a fat content, by weight, not exceeding 21 %:	
	----- Of a sucrose content of 40 % or more by weight and of a non-fat lactic dry matter content, by weight, of 15 % or more	0402 99 31 9150
	----- Of a fat content, by weight, exceeding 21 % but not exceeding 39 %	0402 99 31 9300
	----- Of a fat content, by weight, exceeding 39 %	0402 99 31 9500
0402 99 39	---- Other:	
	----- Of a fat content, by weight, not exceeding 21 %, of a sucrose content of 40 % or more by weight and of a non-fat lactic dry matter content, by weight, of 15 % or more	0402 99 39 9150
ex 0403	Buttermilk, curdled milk and cream, yoghurt, kephir and other fermented or acidified milk and cream, whether or not concentrated or containing added sugar or other sweetening matter or flavoured or containing added fruits, nuts or cocoa:	
ex 0403 90	- Other:	
	-- Not flavoured nor containing added fruit, nuts or cocoa:	
	--- In powder, granules or other solid forms <sup>(8)</sup> <sup>(12)</sup> :	
	---- Not containing added sugar or other sweetening matter, with a fat content by weight <sup>(1)</sup> :	
0403 90 11	----- Not exceeding 1,5 %	0403 90 11 9000
0403 90 13	----- Exceeding 1,5 % but not exceeding 27 %:	
	----- Not exceeding 11 %	0403 90 13 9200
	----- Exceeding 11 % but not exceeding 17 %	0403 90 13 9300
	----- Exceeding 17 % but not exceeding 25 %	0403 90 13 9500
	----- Exceeding 25 %	0403 90 13 9900
0403 90 19	----- Exceeding 27 %	0403 90 19 9000
	---- Other, of a fat content, by weight <sup>(4)</sup> :	

CN code	Description of goods	Product code
0403 90 33	----- Exceeding 1,5 % but not exceeding 27 %:	
	----- Exceeding 11 % but not exceeding 25 %	0403 90 33 9400
	----- Exceeding 25 %	0403 90 33 9900
	--- Other:	
	---- Not containing added sugar or other sweetening matter, with a fat content by weight <sup>(1)</sup> :	
0403 90 51	----- Not exceeding 3 %:	
	----- Not exceeding 1,5 %	0403 90 51 9100
0403 90 59	----- Exceeding 6 %:	
	----- Exceeding 17 % but not exceeding 21 %	0403 90 59 9170
	----- Exceeding 21 % but not exceeding 35 %	0403 90 59 9310
	----- Exceeding 35 % but not exceeding 39 %	0403 90 59 9340
	----- Exceeding 39 % but not exceeding 45 %	0403 90 59 9370
	----- Exceeding 45 %	0403 90 59 9510
ex 0404	Whey, whether or not concentrated or containing added sugar or other sweetening matter; products consisting of natural milk constituents, whether or not containing added sugar or other sweetening matter, not elsewhere specified or included:	
0404 90	- Other:	
	-- Not containing added sugar or other sweetening matter, of a fat content by weight <sup>(1)</sup> :	
ex 0404 90 21	--- Not exceeding:	
	---- In powder or granules, with a water content not exceeding 5 % and a milk protein content in milk solids-non-fat:	
	----- Of 29 % or more but less than 34 %	0404 90 21 9120
	----- Of 34 % or more	0404 90 21 9160
0404 90 23	--- Exceeding 1,5 % but not exceeding 27 % <sup>(8)</sup> :	
	---- In powder or granules:	
	----- Of a fat content, by weight:	
	----- Not exceeding 11 %	0404 90 23 9120
	----- Exceeding 11 % but not exceeding 17 %	0404 90 23 9130
	----- Exceeding 17 % but not exceeding 25 %	0404 90 23 9140
	----- Exceeding 25 %	0404 90 23 9150
ex 0404 90 29	--- Exceeding 27 % <sup>(8)</sup> :	
	---- In powder or granules, of a fat content by weight:	
	----- Not exceeding 28 %	0404 90 29 9110
	----- Exceeding 28 % but not exceeding 29 %	0404 90 29 9115
	----- Exceeding 29 % but not exceeding 45 %	0404 90 29 9125
	----- Exceeding 45 %	0404 90 29 9140
	-- Other, of a fat content by weight <sup>(4)</sup> <sup>(8)</sup> :	



CN code	Description of goods	Product code
0404 90 81	--- Not exceeding 1,5 %:	
	---- In powder or granules	0404 90 81 9100
ex 0404 90 83	--- Exceeding 1,5 % but not exceeding 27 %:	
	---- In powder or granules:	
	----- Of a fat content, by weight:	
	----- Not exceeding 11 %	0404 90 83 9110
	----- Exceeding 11 % but not exceeding 17 %	0404 90 83 9130
	----- Exceeding 17 % but not exceeding 25 %	0404 90 83 9150
	----- Exceeding 25 %	0404 90 83 9170
	---- Other than powder or granules:	
	----- Of a sucrose content of 40 % or more by weight, of a non-fat lactic dry matter content of not less than 15 % by weight and a fat content by weight exceeding 6,9 %	0404 90 83 9936
ex 0405	Butter and other fats and oils derived from milk, dairy spreads:	
0405 10	- Butter:	
	-- Of a fat content, by weight, not exceeding 85 %:	
	--- Natural butter:	
0405 10 11	---- In immediate packings of a net content not exceeding 1 kg:	
	----- Of a fat content, by weight:	
	----- Of 80 % or more but less than 82 %	0405 10 11 9500
	----- Of 82 % or more	0405 10 11 9700
0405 10 19	---- Other:	
	----- Of a fat content by weight:	
	----- Of 80 % or more but less than 82 %	0405 10 19 9500
	----- Of 82 % or more	0405 10 19 9700
0405 10 30	--- Recombined butter:	
	---- In immediate packings of a net content not exceeding 1 kg:	
	----- Of a fat content by weight:	
	----- Of 80 % or more but less than 82 %	0405 10 30 9100
	----- Of 82 % or more	0405 10 30 9300
	---- Other:	
	----- Of a fat content by weight:	
	----- Of 82 % or more	0405 10 30 9700

CN code	Description of goods			Product code
0405 10 50	--- Whey butter:  ---- In immediate packings of a net content not exceeding 1 kg::  ----- Of a fat content by weight:  ----- Of 82 % or more  ---- Other:  ----- Of a fat content by weight:  ----- Of 80 % or more but less than 82 %  ----- Of 82 % or more			0405 10 50 9300  

CN code	Description of goods	Additional requirements for using the product code		Product code
		Maximum water content in product weight (%)	Minimum fat content in the dry matter (%)	
	----- Of 19 % or more but less than 39 %	57	19	0406 10 20 9630
	----- Other, of a water content calculated by weight of the non-fatty matter:			
	----- Exceeding 47 % but not exceeding 52 %	40	39	0406 10 20 9640
	----- Exceeding 52 % but not exceeding 62 %	50	39	0406 10 20 9650
	----- Exceeding 62 %			0406 10 20 9660
	---- Of a water content calculated by weight of the non-fatty matter exceeding 72 %:			
	----- Cream cheese of a water content calculated by weight of the non-fatty matter exceeding 77 % but not exceeding 83 % and of a fat content, by weight, in the dry matter:			
	----- Of 60 % or more but less than 69 %	60	60	0406 10 20 9830
	----- Of 69 % or more	59	69	0406 10 20 9850
	----- Other			0406 10 20 9870
	----- Other			0406 10 20 9900
ex 0406 20	- Grated or powdered cheese, of all kinds:			
ex 0406 20 90	-- Other:			
	--- Cheeses produced from whey			0406 20 90 9100
	--- Other:			
	---- Of a fat content, by weight, exceeding 20 % of a lactose content by weight less than 5 % and of a dry matter content, by weight:			
	----- Of 60 % or more but less than 80 %	40	34	0406 20 90 9913
	----- Of 80 % or more but less than 85 %	20	30	0406 20 90 9915
	----- Of 85 % or more but less than 95 %	15	30	0406 20 90 9917
	----- Of 95 % or more	5	30	0406 20 90 9919
	----- Other			0406 20 90 9990
ex 0406 30	- Processed cheese, not grated or powdered:			
	-- Other:			
	--- Of a fat content, by weight, not exceeding 36 % and of a fat content, by weight, in the dry matter:			
ex 0406 30 31	---- Not exceeding 48 %:			
	----- Of a dry matter content, by weight:			
	----- Of 40 % or more but less than 43 %, and of a fat content, by weight, in the dry matter:			
	----- Of less than 20 %	60		0406 30 31 9710
	----- Of 20 % or more	60	20	0406 30 31 9730

CN code	Description of goods	Additional requirements for using the product code		Product code
		Maximum water content in product weight (%)	Minimum fat content in the dry matter (%)	
	----- Of 43 % or more and with a fat content, by weight, in the dry matter:			
	----- Of less than 20 %	57		0406 30 31 9910
	----- Of 20 % or more but less than 40 %	57	20	0406 30 31 9930
	----- Of 40 % or more	57	40	0406 30 31 9950
ex 0406 30 39	---- Exceeding 48 %:			
	----- Of a dry matter content, by weight:			
	----- Of 40 % or more but less than 43 %	60	48	0406 30 39 9500
	----- Of 43 % or more but less than 46 %	57	48	0406 30 39 9700
	----- Of 46 % or more and with a fat content, by weight, in the dry matter:			
	----- Of less than 55 %	54	48	0406 30 39 9930
	----- Of 55 % or more	54	55	0406 30 39 9950
ex 0406 30 90	--- Of a fat content exceeding 36 %	54	79	0406 30 90 9000
ex 0406 40	- Blue-veined cheese and other cheese containing veins produced by <i>Penicillium roqueforti</i> :			
ex 0406 40 50	-- Gorgonzola	53	48	0406 40 50 9000
ex 0406 40 90	-- Other	50	40	0406 40 90 9000
ex 0406 90	- Other cheese:			
	-- Other:			
ex 0406 90 13	--- Emmentaler	40	45	0406 90 13 9000
ex 0406 90 15	--- Gruyère, Sbrinz:			
	---- Gruyère	38	45	0406 90 15 9100
ex 0406 90 17	--- Bergkäse, Appenzel:			
	---- Bergkäse	38	45	0406 90 17 9100
ex 0406 90 21	--- Cheddar	39	48	0406 90 21 9900
ex 0406 90 23	--- Edam	47	40	0406 90 23 9900
ex 0406 90 25	--- Tilsit	47	45	0406 90 25 9900
ex 0406 90 27	--- Butterkäse	52	45	0406 90 27 9900
ex 0406 90 32	--- Feta <sup>(3)</sup> :			
	---- manufactured exclusively from sheep's milk or from sheep's and goat's milk:			
	----- Of a water content calculated by weight of the non-fatty matter not exceeding 72 %	56	43	0406 90 32 9119
ex 0406 90 35	--- Kefalotyri:			
	---- manufactured exclusively from sheep's and/or goats's milk	38	40	0406 90 35 9190
	---- Other	38	40	0406 90 35 9990

CN code	Description of goods	Additional requirements for using the product code		Product code
		Maximum water content in product weight (%)	Minimum fat content in the dry matter (%)	
ex 0406 90 37	--- Finlandia --- Other: ---- Other: ----- Of a fat content, by weight, not exceeding 40 % and a water content calculated by weight of the non-fatty matter: ----- not exceeding 47 %:	40	45	0406 90 37 9000
ex 0406 90 61	----- Grana Padano, Parmigiano Reggiano	35	32	0406 90 61 9000
ex 0406 90 63	----- Fiore Sardo, Pecorino: ----- manufactured exclusively from sheep's milk	35	36	0406 90 63 9100
	----- Other	35	36	0406 90 63 9900
ex 0406 90 69	----- Other: ----- Cheeses produced from whey			0406 90 69 9100
	----- Other	38	30	0406 90 69 9910
	----- Exceeding 47 % but not exceeding 72 %:			
ex 0406 90 73	----- Provolone	45	44	0406 90 73 9900
ex 0406 90 75	----- Asiago, Caciocavallo, Montasio, Ragusano	45	39	0406 90 75 9900
ex 0406 90 76	----- Danbo, Fontal, Fontina, Fynbo, Havarti, Maribo, Samsø: ----- Of a fat content, by weight, in the dry matter of 45 % or more but less than 55 %:			
	----- Of a dry matter content, by weight, of 50 % or more but less than 56 %	50	45	0406 90 76 9300
	----- Of a dry matter content, by weight, of 56 % or more	44	45	0406 90 76 9400
	----- Of a fat content, by weight, in the dry matter of 55 % or more	46	55	0406 90 76 9500
ex 0406 90 78	----- Gouda: ----- Of a fat content, by weight, in the dry matter of less than 48 %	50	20	0406 90 78 9100
	----- Of a fat content, by weight, in the dry matter of 48 % or more but less than 55 %	45	48	0406 90 78 9300
	----- Other:	45	55	0406 90 78 9500
ex 0406 90 79	----- Esrom, Italico, Kernhem, Saint Nectaire, Saint Paulin, Taleggio	56	40	0406 90 79 9900
ex 0406 90 81	----- Cantal, Cheshire, Wensleydale, Lancashire, Double Gloucester, Blarney, Colby, Monterey	44	45	0406 90 81 9900
ex 0406 90 85	----- Kefalograviera, Kasseri: ----- Of a water content, by weight, not exceeding 40 %	40	39	0406 90 85 9930
	----- Of a water content, by weight, exceeding 40 % but not exceeding 45 %	45	39	0406 90 85 9970

CN code	Description of goods	Additional requirements for using the product code		Product code
		Maximum water content in product weight (%)	Minimum fat content in the dry matter (%)	
ex 0406 90 86	----- Other			0406 90 85 9999
	----- Other cheeses of a water content calculated by weight of the non-fatty matter:			
	----- Exceeding 47 % but not exceeding 52 %:			
	----- cheeses produced from whey			0406 90 86 9100
	----- Other, of a fat content, by weight, in the dry matter:			
	----- Of less than 5 %	52		0406 90 86 9200
	----- Of 5 % or more but less than 19 %	51	5	0406 90 86 9300
	----- Of 19 % or more but less than 39 %	47	19	0406 90 86 9400
	----- Of 39 % or more	40	39	0406 90 86 9900
	----- Exceeding 52 % but not exceeding 62 %:			
ex 0406 90 87	----- Cheese produced from whey, except for Manouri			0406 90 87 9100
	----- Other, of a fat content, by weight, in the dry matter:			
	----- Of less than 5 %	60		0406 90 87 9200
	----- Of 5 % or more but less than 19 %	55	5	0406 90 87 9300
	----- Of 19 % or more but less than 40 %	53	19	0406 90 87 9400
	----- Of 40 % or more:			
	----- Idiazabal, Manchego and Roncal, manufactured exclusively from sheep's milk	45	45	0406 90 87 9951
	----- Maasdam	45	45	0406 90 87 9971
	----- Manouri	43	53	0406 90 87 9972
	----- Hushallsost	46	45	0406 90 87 9973
ex 0406 90 88	----- Murukoloinen	41	50	0406 90 87 9974
	----- Gräddost	39	60	0406 90 87 9975
	----- Other	47	40	0406 90 87 9979
	----- Exceeding 62 % but not exceeding 72 %:			
	----- cheeses produced from whey			0406 90 88 9100
	----- Other:			
	----- Of a fat content, by weight, in the dry matter:			
	----- Of 10 % or more but less than 19 %	60	10	0406 90 88 9300
	----- Of 40 % or more:			
	----- Akawi	55	40	0406 90 88 9500

- (<sup>1</sup>) Where the product falling within this subheading contains added whey and/or products derived from whey and/or lactose and/or casein and/or caseinates and/or permeate and/or products covered by CN code 3504, the added whey and/or products derived from whey and/or lactose and/or casein and/or caseinates and/or permeate and/or products covered by CN code 3504 must not be taken into account in the calculation of the refund.
- The products referred to may contain small quantities of added non-lactic matter required for their manufacture or preservation. Where these additives do not exceed 0,5 % by weight of the whole product, they are to be taken into account for the purposes of calculating the refund. However, where these additives exceed in total 0,5 % by weight of the whole product, they are not to be taken into account for the purposes of calculating the refund.
- If the product falling within this subheading consists of permeate, no export refund is payable.
- When completing customs formalities, the applicant must state on the declaration provided for that purpose whether the product consists of permeate or whether or not non-lactic matter and/or whey and/or products derived from whey and/or lactose and/or casein and/or caseinates and/or permeate and/or products covered by CN code 3504 have been added and, where this is the case:
- the maximum content by weight of non-lactic matter and/or whey and/or products derived from whey and/or lactose and/or casein and/or caseinates and/or permeate and/or products covered by CN code 3504 added per 100 kilograms of finished product, and in particular,
  - the lactose content of the added whey.
- (<sup>2</sup>) Deleted by Commission Regulation (EC) No 2287/2000 (OJ L 260, 14.10.2000, p. 22).
- (<sup>3</sup>) Where the product contains casein and/or caseinates added before or at the time of processing, no refund is payable. When completing customs formalities, the applicant must state on the declaration provided for that purpose whether or not casein and/or caseinates have been added.
- (<sup>4</sup>) The refund per 100 kilograms of product falling within this subheading is equal to the sum of the following components:
- (a) the amount per 100 kilogram shown, multiplied by the percentage of the lactic matter contained in 100 kilograms of product. The products referred to may contain small quantities of added non-lactic matter required for their manufacture or preservation. Where these additives do not exceed 0,5 % by weight of the whole product, they are to be taken into account for the purposes of calculating the refund. However, where these additives exceed in total 0,5 % by weight of the whole product, they are not to be taken into account for the purposes of calculating the refund.
- Where whey and/or products derived from whey and/or lactose and/or casein and/or caseinates and/or permeate and/or products covered by CN code 3504 have been added to the product, the amount per kilogram shown is to be multiplied by the weight of the lactic matter other than whey and/or products derived from whey and/or lactose and/or casein and/or caseinates and/or permeate and/or products covered by CN code 3504 added per 100 kilograms of product;
- (b) a component calculated in accordance with Article 16(3) of Commission Regulation (EC) No 1282/2006 (OJ L 234, 29.8.2006, p. 4).
- When completing customs formalities, the applicant must state on the declaration provided for that purpose whether the product consists of permeate or whether or not non-lactic matter and/or whey and/or products derived from whey and/or lactose and/or casein and/or caseinates and/or permeate and/or products covered by CN code 3504 have been added and, where this is the case:
- the maximum content by weight of sucrose and/or other non-lactic matter and/or whey and/or products derived from whey and/or lactose and/or casein and/or caseinates and/or permeate and/or products covered by CN code 3504 added per 100 kilograms of finished product,
  - and in particular,
  - the lactose content of the added whey.
- If the lactic matter in the product consists of permeate, no export refund is payable.
- (<sup>5</sup>) Deleted by Commission Regulation (EC) No 707/98 (OJ L 98, 31.3.1998, p. 11).
- (<sup>6</sup>) Deleted by Commission Regulation (EC) No 823/96 (OJ L 111, 4.5.1996, p. 9).
- (<sup>7</sup>) (a) In the case of cheeses presented in immediate packing which also contain preserving liquid, in particular brine, the refund is granted on the net weight, less the weight of the liquid.
- (b) The film of plastic, the paraffin, the ash and the wax used as a packing are not considered as a part of the net weight of the product for the purpose of the refund.
  - (c) Where the cheese is presented in a film of plastic, and where the net weight declared includes the weight of the film in plastic, the refund amount shall be reduced by 0,5%.
- When completing customs formalities, the applicant shall state that the cheese is packed in a film of plastic and whether the declared net weight includes the weight of the film in plastic.
- (d) Where the cheese is presented in paraffin or ash, and where the net weight declared includes the weight of the paraffin or the ash, the refund amount shall be reduced by 2%.
- When completing customs formalities, the applicant shall state that the cheese is packed in paraffin or in ash, and whether the declared net weight includes the weight of the ash or the paraffin.
- (e) Where the cheese is presented in wax, when completing customs formalities, the applicant must state on the declaration the net weight of the cheese not incorporating the weight of the wax.
- (<sup>8</sup>) Where, for products falling within this code, the milk-protein content (nitrogen content  $\times 6,38$ ) in non-fat milk solids is less than 34 %, no refund is payable. Where, for powdered products falling within this code, the water content in product weight is more than 5 %, no refund is payable.
- When completing the customs formalities, the interested party must indicate on the relevant declaration the minimum milk-protein content in non-fat milk solids and, for powdered products, the maximum water content.
- (<sup>9</sup>) Deleted by Commission Regulation (EC) No 2287/2000 (OJ L 260, 14.10.2000, p. 22).
- (<sup>10</sup>) (a) Where the product contains non-lactic ingredients, other than spices or herbs, such as in particular ham, nuts, shrimps, salmon, olives, raisins, the refund amount shall be reduced by 10%.
- When completing customs formalities, the applicant shall state on the declaration provided for that purpose that there is addition of such non-lactic ingredients.
- (b) Where the product contains herbs or spices, such as in particular mustard, basil, garlic, oregano, the refund amount shall be reduced by 1%.
- When completing customs formalities, the applicant shall state on the declaration provided for that purpose that there is addition of herbs or spices.

- (c) Where the product contains casein and/or caseinates and/or whey and/or products derived from whey and/or lactose and/or permeate and/or products covered by CN code 3504, the added casein and/or caseinates and/or whey and/or products derived from whey (excluding whey butter covered by CN code 0405 10 50) and/or lactose and/or permeate and/or products covered by CN code 3504 will not be taken into account for the purpose of calculating the refund. When completing customs formalities, the applicant shall state on the declaration provided for that purpose whether or not casein and/or caseinates and/or whey and/or products derived from whey and/or lactose and/or permeate and/or products covered by CN code 3504 have been added and, where this is the case, the maximum content by weight of casein and/or caseinates and/or whey and/or products derived from whey (specifying where applicable the whey butter content) and/or lactose and/or permeate and/or products covered by CN code 3504 added per 100 kilograms of finished product.
- (d) The products referred to may contain quantities of added non-lactic matter required for their manufacture or preservation, such as salt, rennet or mould.
- <sup>(11)</sup> The refund on frozen condensed milk is the same as that on products falling within headings 0402 91 and 0402 99.
- <sup>(12)</sup> The refunds on frozen products covered by CN codes 0403 90 11 to 0403 90 39 are the same as those on products covered by CN codes 0403 90 51 to 0403 90 69 respectively.
- <sup>(13)</sup> The products referred to may contain small quantities of added non-lactic matter required for their manufacture or preservation. Where these additives do not exceed 0,5 % by weight of the whole product, they are to be taken into account for the purposes of calculating the refund. However, where these additives exceed in total 0,5 % by weight of the whole product, they are not to be taken into account for the purposes of calculating the refund. When completing customs formalities, the applicant must state on the declaration provided for that purpose whether or not non-lactic matter has been added and, where this is the case, the maximum content by weight of the non-lactic matter added per 100 kilograms of finished product.
- <sup>(14)</sup> The refund per 100 kilograms of product covered by this subheading is equal to the sum of the following components:
- (a) the amount per 100 kilogram shown, multiplied by the percentage of the lactic matter contained in 100 kilograms of product. The products referred to may contain small quantities of added non-lactic matter required for their manufacture or preservation. Where these additives do not exceed 0,5 % by weight of the whole product, they are to be taken into account for the purposes of calculating the refund. However, where these additives exceed in total 0,5 % by weight of the whole product, they are not to be taken into account for the purposes of calculating the refund;
- (b) a component calculated in accordance with Article 16(3) of Commission Regulation (EC) No 1282/2006 (OJ L 234, 29.8.2006, p. 4). When completing customs formalities, the applicant must state on the declaration provided for that purpose the maximum content by weight of sucrose and whether or not non-lactic matter has been added and, where this is the case, the maximum content by weight of non-lactic matter added per 100 kilograms of finished product.
- <sup>(15)</sup> The products referred to may contain small amounts of additives required for their manufacture or preservation. Where these additives do not exceed 0,5 % by weight of the whole product, they are to be taken into account for the purposes of calculating the refund. However, where these additives exceed in total 0,5 % by weight of the whole product, they are not to be taken into account for the purposes of calculating the refund. When completing customs formalities, the applicant must state on the declaration provided for that purpose whether or not products have been added and, where this is the case, the maximum additive content.



## 10. White and raw sugar without further processing

CN code	Description of goods	Product code
ex 1701	Cane or beet sugar and chemically pure sucrose, in solid form:	
	– Raw sugar not containing added flavouring or colouring matter:	
ex 1701 11	-- Cane sugar:	
ex 1701 11 90	--- Other:	
	---- Candy sugar	1701 11 90 9100
	---- Other raw sugar:	
	----- In immediate packings not exceeding 5 kg net of product	1701 11 90 9910
ex 1701 12	-- Beet sugar:	
ex 1701 12 90	--- Other:	
	---- Candy sugar	1701 12 90 9100
	---- Other raw sugar	
	----- In immediate packings not exceeding 5 kg net of product	1701 12 90 9910
	– Other:	
1701 91 00	-- Containing added flavouring or colouring matter	1701 91 00 9000
ex 1701 99	-- Other:	
1701 99 10	--- White sugar:	
	---- Candy sugar	1701 99 10 9100
	---- Other:	
	----- Of a total quantity not exceeding 10 tonnes	1701 99 10 9910
	----- Other	1701 99 10 9950
ex 1701 99 90	--- Other:	
	---- Containing added substances other than flavouring or colouring matter	1701 99 90 9100

## 11. Syrups and other sugar products

CN code	Description of goods	Product code
ex 1702	Other sugars, including chemically pure lactose, maltose, glucose and fructose, in solid form; sugar syrups not containing added flavouring or colouring matter; artificial honey, whether or not mixed with natural honey; caramel:	
ex 1702 40	- Glucose and glucose syrup, containing in the dry state at least 20 % but less than 50 % by weight of fructose, excluding invert sugar:	
ex 1702 40 10	-- Isoglucose:	
	--- Containing in the dry state 41 % or more by weight of fructose	1702 40 10 9100
1702 60	- Other fructose and fructose syrup, containing in the dry state more than 50 % by weight of fructose, excluding invert sugar:	
1702 60 10	-- Isoglucose	1702 60 10 9000
1702 60 95	-- Other	1702 60 95 9000
ex 1702 90	- Other, including invert sugar and other sugar and sugar syrup blends containing in the dry state 50 % by weight of fructose:	
1702 90 30	-- Isoglucose	1702 90 30 9000
	-- Caramel:	
1702 90 71	--- Containing 50 % or more by weight of sucrose in the dry matter	1702 90 71 9000
ex 1702 90 95	-- Other:	
	--- Artificial honey, whether or not mixed with natural honey	1702 90 95 9100
	--- Other excluding sorbose	1702 90 95 9900
2106	Food preparations not elsewhere specified or included:	
ex 2106 90	- Other:	
	-- Flavoured or coloured sugar syrups:	
2106 90 30	--- Isoglucose syrups	2106 90 30 9000
	--- Other:	
2106 90 59	---- Other	2106 90 59 9000'

## ANNEX II

## ‘ANNEX II

**DESTINATION CODES FOR EXPORT REFUNDS**

- A00 All destinations (third countries, other territories, victualling and destinations treated as exports from the Community).
- A01 Other destinations.
- A02 All destinations except for the United States of America.
- A03 All destinations except for Switzerland.
- A04 All third countries.
- A05 Other third countries.
- A10 **EFTA countries (European Free Trade Association)**
- Iceland, Norway, Liechtenstein, Switzerland.
- A11 **ACP States (African, Caribbean and Pacific States party to the Lomé Convention)**
- Angola, Antigua and Barbuda, Bahamas, Barbados, Belize, Benin, Botswana, Burkina Faso, Burundi, Cameroon, Cape Verde, Central African Republic, Comoros (except for Mayotte), Congo, Democratic Republic of the Congo, Côte d'Ivoire, Djibouti, Dominica, Ethiopia, Fiji Islands, Gabon, Gambia, Ghana, Grenada, Guinea, Guinea-Bissau, Equatorial Guinea, Guyana, Haiti, Jamaica, Kenya, Kiribati, Lesotho, Liberia, Madagascar, Malawi, Mali, Mauritius, Mauritania, Mozambique, Namibia, Niger, Nigeria, Uganda, Papua New Guinea, Dominican Republic, Rwanda, Saint Kitts and Nevis, Saint Vincent and the Grenadines, Saint Lucia, Solomon Islands, Samoa, São Tomé and Príncipe, Senegal, Seychelles, Sierra Leone, Somalia, Sudan, Suriname, Swaziland, Tanzania, Chad, Togo, Tonga, Trinidad and Tobago, Tuvalu, Vanuatu, Zambia, Zimbabwe.
- A12 **Countries or territories of the Mediterranean Basin**
- Ceuta and Melilla, Gibraltar, Turkey, Albania, Croatia, Bosnia and Herzegovina, Serbia, as well as Kosovo under UNSC Resolution 1244/99, Montenegro, Former Yugoslav Republic of Macedonia, Morocco, Algeria, Tunisia, Libya, Egypt, Lebanon, Syria, Israel, West Bank and Gaza Strip, Jordan.
- A13 **OPEC States (Organisation of Petroleum Exporting Countries)**
- Algeria, Libya, Nigeria, Gabon, Venezuela, Iraq, Iran, Saudi Arabia, Kuwait, Qatar, United Arab Emirates, Indonesia.
- A14 **ASEAN countries (Association of South-East Asian Nations)**
- Myanmar, Thailand, Laos, Vietnam, Indonesia, Malaysia, Brunei, Singapore, Philippines.
- A15 **Countries of Latin America**
- Mexico, Guatemala, Honduras, El Salvador, Nicaragua, Costa Rica, Haiti, Dominican Republic, Colombia, Venezuela, Ecuador, Peru, Brazil, Chile, Bolivia, Paraguay, Uruguay, Argentina.
- A16 **SAARC countries (South Asian Association for Regional Cooperation)**
- Pakistan, India, Bangladesh, Maldives, Sri Lanka, Nepal, Bhutan.
- A17 **Countries of the EEA (European Economic Area) other than the European Union**
- Iceland, Norway, Liechtenstein.

**A18 CEEC countries or territories (Central and eastern European Countries or territories)**

Albania, Croatia, Bosnia and Herzegovina, Serbia, as well as Kosovo under UNSC Resolution 1244/99, Montenegro, Former Yugoslav Republic of Macedonia.

**A19 NAFTA countries (North American Free Trade Agreement)**

United States of America, Canada, Mexico.

**A20 Mercosur countries (Southern Cone Common Market)**

Brazil, Paraguay, Uruguay, Argentina.

**A21 Newly industrialised countries of Asia**

Singapore, South Korea, Taiwan, Hong Kong.

**A22 Dynamic Asian economies**

Thailand, Malaysia, Singapore, South Korea, Taiwan, Hong Kong.

**A23 APEC countries (Asia-Pacific economic cooperation)**

United States of America, Canada, Mexico, Chile, Thailand, Indonesia, Malaysia, Brunei, Singapore, Philippines, China, South Korea, Japan, Taiwan, Hong Kong, Australia, Papua New Guinea, New Zealand.

**A24 Commonwealth of Independent States**

Ukraine, Belarus, Moldova, Russia, Georgia, Armenia, Azerbaijan, Kazakhstan, Turkmenistan, Uzbekistan, Tajikistan, Kyrgyzstan.

**A25 Non-EU OECD countries (Organisation for Economic Cooperation and Development)**

Iceland, Norway, Switzerland, Turkey, United States of America, Canada, Mexico, South Korea, Japan, Australia, Australian Pacific Territories, New Zealand, New Zealand Pacific Territories.

**A26 European countries or territories outside the European Union**

Iceland, Norway, Liechtenstein, Switzerland, Faeroe Islands, Andorra, Gibraltar, Vatican City, Turkey, Albania, Ukraine, Belarus, Moldova, Russia, Croatia, Bosnia and Herzegovina, Serbia, as well as Kosovo under UNSC Resolution 1244/99, Montenegro, Former Yugoslav Republic of Macedonia.

**A27 Africa (A28) (A29)**

Countries or territories of North Africa, other countries of Africa.

**A28 Countries or territories of North Africa**

Ceuta and Melilla, Morocco, Algeria, Tunisia, Libya, Egypt.

**A29 Other countries of Africa**

Sudan, Mauritania, Mali, Burkina Faso, Niger, Chad, Cape Verde, Senegal, Gambia, Guinea-Bissau, Guinea, Sierra Leone, Liberia, Côte d'Ivoire, Ghana, Togo, Benin, Nigeria, Cameroon, Central African Republic, Equatorial Guinea, São Tomé and Príncipe, Gabon, Congo, Democratic Republic of the Congo, Rwanda, Burundi, Saint Helena and Dependencies, Angola, Ethiopia, Eritrea, Djibouti, Somalia, Kenya, Uganda, Tanzania, Seychelles and Dependencies, British Indian Ocean Territory, Mozambique, Madagascar, Mauritius, Comoros, Mayotte, Zambia, Zimbabwe, Malawi, South Africa, Namibia, Botswana, Swaziland, Lesotho.

**A30 America (A31) (A32) (A33)**

North America, Central America and the Antilles, South America.

**A31 North America**

United States of America, Canada, Greenland, Saint Pierre and Miquelon.

**A32 Central America and the Antilles**

Mexico, Bermuda, Guatemala, Belize, Honduras, El Salvador, Nicaragua, Costa Rica, Panama, Anguilla, Cuba, Saint Kitts and Nevis, Haiti, the Bahamas, Turks and Caicos Islands, Dominican Republic, US Virgin Islands, Antigua and Barbuda, Dominica, Cayman Islands, Jamaica, Saint Lucia, Saint Vincent, British Virgin Islands, Barbados, Montserrat, Trinidad and Tobago, Grenada, Aruba, Netherlands Antilles.

**A33 South America**

Colombia, Venezuela, Guyana, Suriname, Ecuador, Peru, Brazil, Chile, Bolivia, Paraguay, Uruguay, Argentina, Falkland Islands.

**A34 Asia (A35) (A36)**

Near and Middle East, other countries of Asia.

**A35 Near and Middle East**

Georgia, Armenia, Azerbaijan, Lebanon, Syria, Iraq, Iran, Israel, West Bank and Gaza Strip, Jordan, Saudi Arabia, Kuwait, Bahrain, Qatar, United Arab Emirates, Oman, Yemen.

**A36 Other countries of Asia**

Kazakhstan, Turkmenistan, Uzbekistan, Tajikistan, Kyrgyzstan, Afghanistan, Pakistan, India, Bangladesh, Maldives, Sri Lanka, Nepal, Bhutan, Myanmar, Thailand, Laos, Vietnam, Cambodia, Indonesia, Malaysia, Brunei, Singapore, Philippines, Mongolia, China, North Korea, South Korea, Japan, Taiwan, Hong Kong, Macau.

**A37 Oceania and the polar regions (A38) (A39)**

Australia and New Zealand, other countries of Oceania and the polar regions.

**A38 Australia and New Zealand**

Australia, Australian Pacific Territories, New Zealand, New Zealand Pacific Territories.

**A39 Other countries of Oceania and the polar regions**

Papua New Guinea, Nauru, Solomon Islands, Tuvalu, New Caledonia and Dependencies, American Pacific Territories, Wallis and Futuna, Kiribati, Pitcairn, Fiji, Vanuatu, Tonga, Samoa, Northern Marianas, French Polynesia, Federated States of Micronesia (Yap, Kosrae, Chuuk, Pohnpei), Marshall Islands, Palau, Polar Regions.

**A40 Overseas countries or territories (OCTs)**

French Polynesia, New Caledonia and Dependencies, Wallis and Futuna, French Southern and Antarctic Lands, Saint Pierre and Miquelon, Mayotte, Netherlands Antilles, Aruba, Greenland, Anguilla, Cayman Islands, Falkland Islands, South Sandwich Islands and Dependencies, Turks and Caicos Islands, British Virgin Islands, Montserrat, Pitcairn, Saint Helena and Dependencies, British Antarctic Territories, British Indian Ocean Territory.

**A96 Communes of Livigno and Campione d'Italia, Heligoland.****A97 Victualling and destinations treated as exports from the Community**

Destinations referred to in Articles 36, 44 and 45 of Regulation (EC) No 800/1999 (OJ L 102, 17.4.1999, p. 11).'

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## COMMISSION REGULATION (EC) No 1345/2008

of 23 December 2008

## amending Council Regulation (EEC) No 2136/89 laying down common marketing standards for preserved sardines and trade descriptions for preserved sardines and sardine-type products

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Council Regulation (EC) No 104/2000 of 17 December 1999 on the common organisation of the markets in fishery and aquaculture products <sup>(1)</sup>, and in particular Article 2(3) thereof,

Whereas:

(1) Regulation (EC) No 104/2000 provides for the possibility of adopting common marketing standards for fishery products in the Community, particularly in order to facilitate commerce based on fair competition. These standards may, in particular, cover labelling.

(2) Council Regulation (EEC) No 2136/89 <sup>(2)</sup> lays down common marketing standards for preserved sardines and trade descriptions for preserved sardines and sardine-type products in the Community.

(3) The widening variety of supply of preserved products marketed and presented in the same way as preserved sardines in the Community makes it necessary to provide consumers with sufficient information on the identity and the main characteristics of the product. It is therefore necessary to amend the current rules on trade descriptions for preserved products marketed and presented in the same way as preserved sardines in the Community.

(4) The Codex Alimentarius standard Codex STAN94 as revised in 2007 as well as the particular conditions prevailing on the Community market should be taken into account for that purpose.

(5) In the interest of market transparency, fair competition and variety of choice, it is necessary to add the species *Strangomera bentincki* to the authorised species for the preparation of preserved sardine-type products.

(6) In order to improve the identification of each sardine-type product, the scientific name of the species and the geographic area where the species was caught should be used as qualifier terms.

(7) The requirements laid down in this Regulation should be applied without prejudice to Directive 2000/13/EC of the European Parliament and of the Council of 20 March 2000 on the approximation of the laws of the Member States relating to the labelling, presentation and advertising of foodstuffs <sup>(3)</sup>.

(8) Regulation (EEC) No 2136/89 should therefore be amended accordingly.

(9) In order to enable operators to adapt to the new requirements, a transitional period should be provided for as regards placing on the market of products complying with the current version of Regulation (EEC) No 2136/89.

(10) The Management Committee for Fishery Products has not delivered an opinion within the time limit laid down by its Chairman,

HAS ADOPTED THIS REGULATION:

## Article 1

Regulation (EEC) No 2136/89 is amended as follows:

1. In Article 1a(2), the following point is added:

‘(k) *Strangomera bentincki*’.

2. Article 7a is replaced by the following:

## ‘Article 7a

1. Without prejudice to Directive 2000/13/EC, preserved sardine-type products may be marketed in the Community under a trade description consisting of the word “sardines” joined together with the scientific name of the species and the geographic area where the species was caught.

<sup>(1)</sup> OJ L 17, 21.1.2000, p. 22.

<sup>(2)</sup> OJ L 212, 22.7.1989, p. 79.

<sup>(3)</sup> OJ L 109, 6.5.2000, p. 29.

2. Wherever the trade description provided for in paragraph 1 is marked on the container of a preserved sardine-type product, it shall be displayed in a clear and distinct manner.

3. The scientific name shall include in all cases the generic and the specific Latin names.

4. The geographic area shall be indicated by one of the names listed in the first column of the Annex, taking into account the corresponding area identification provided for in the second column of the Annex.

5. Only one species shall be marketed under a single trade description.'

#### *Article 2*

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

However, products which complied with Regulation (EEC) No 2136/89 before its amendment by this Regulation may be placed on the market until 1 November 2010.

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

Done at Brussels, 23 December 2008.

*For the Commission*

Joe BORG

*Member of the Commission*

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## ANNEX

**Names and identifications of geographic areas**

Name of the geographic area as referred to in Article 7a(1)	Identification of the area <sup>(1)</sup>
North-West Atlantic	FAO area 21
North-East Atlantic <sup>(2)</sup>	FAO area 27
Baltic Sea	FAO area 27.III d
Central-Western Atlantic	FAO area 31
Central-Eastern Atlantic	FAO area 34
South-West Atlantic	FAO area 41
South-East Atlantic	FAO area 47
Mediterranean Sea	FAO areas 37.1, 37.2 and 37.3
Black Sea	FAO area 37,4
Indian Ocean	FAO areas 51 and 57
Pacific Ocean	FAO areas 61, 67, 71, 77, 81, 87
Antarctic	FAO areas 48, 58 and 88
Arctic Sea	FAO area 18

<sup>(1)</sup> FAO yearbook. Fishery statistics. Catches. Vol. 86/1. 2000.<sup>(2)</sup> Excluding the Baltic Sea.



## COMMISSION REGULATION (EC) No 1346/2008

of 23 December 2008

**amending Regulation (EC) No 950/2006 laying down detailed rules of application for the 2006/2007, 2007/2008 and 2008/2009 marketing years for the import and refining of sugar products under certain tariff quotas and preferential agreements**

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Council Regulation (EC) No 1234/2007 of 22 October 2007 establishing a common organisation of agricultural markets and on specific provisions for certain agricultural products (Single CMO Regulation) <sup>(1)</sup>, and in particular Article 148(1) in conjunction with Article 4 thereof,

Whereas:

(1) In accordance with the Agreement in the form of an Exchange of Letters between the European Community and the Republic of Cuba pursuant to Article XXIV:6 and Article XXVIII of the General Agreement on Tariffs and Trade (GATT) 1994 relating to the modification of concessions in the schedules of the Republic of Bulgaria and Romania in the course of their accession to the European Union <sup>(2)</sup>, approved by Council Decision 2008/870/EC <sup>(3)</sup>, the Community has undertaken to add, for the marketing year 2008/2009, a country allocation for Cuba of 20 000 tonnes of raw cane sugar for refining at a rate of duty of EUR 98 per tonne.

(2) That quota should be opened and administered in accordance with Commission Regulation (EC) No 950/2006 <sup>(4)</sup> as 'CXL Concessions sugar'.

(3) In order to avoid speculation of import licences for country allocated import quotas, provisions should be made to restrict the application for import licences to those operators who can present an export licence issued by a competent authority of the exporting country.

(4) Regulation (EC) No 950/2006 should therefore be amended accordingly.

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

HAS ADOPTED THIS REGULATION:

## Article 1

Regulation (EC) No 950/2006 is amended as follows:

1. In Article 24, paragraphs 1 and 2 are replaced by the following:

'1. For the 2008/2009 marketing year, tariff quotas for a total of 126 925 tonnes of raw cane sugar for refining, falling within CN code 1701 11 10, shall be opened as CXL concessions sugar at a duty of EUR 98 per tonne.

2. The quantities referred to in paragraph 1 shall be allocated by country of origin as follows:

— Cuba	78 969 tonnes,
— Brazil	34 054 tonnes,
— Australia	9 925 tonnes,
— other third countries	3 977 tonnes.'

2. In Article 25, the following paragraph is added:

'Import licence applications relating to Cuba, Brazil and Australia shall be accompanied by the original of the export licence issued by the competent authorities of the exporting country in accordance with the model in Annex II for a quantity equal to that in the licence application.'

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

<sup>(2)</sup> OJ L 308, 19.11.2008, p. 29.

<sup>(3)</sup> OJ L 308, 19.11.2008, p. 27.

<sup>(4)</sup> OJ L 178, 1.7.2006, p. 1.

*Article 2*

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

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

Done at Brussels, 23 December 2008.

*For the Commission*  
Mariann FISCHER BOEL  
*Member of the Commission*

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**COMMISSION REGULATION (EC) No 1347/2008****of 23 December 2008****fixing the import duties in the cereals sector applicable from 1 January 2009**

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Council Regulation (EC) No 1234/2007 of 22 October 2007 establishing a common organisation of agricultural markets and on specific provisions for certain agricultural products (Single CMO Regulation) <sup>(1)</sup>,

Having regard to Commission Regulation (EC) No 1249/96 of 28 June 1996 laying down detailed rules for the application of Council Regulation (EEC) No 1766/92 in respect of import duties in the cereals sector <sup>(2)</sup>, and in particular Article 2(1) thereof,

Whereas:

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

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

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

- (4) Import duties should be fixed for the period from 1 January 2009 and should apply until new import duties are fixed and enter into force,

HAS ADOPTED THIS REGULATION:

*Article 1*

From 1 January 2009, the import duties in the cereals sector referred to in Article 136(1) of Regulation (EC) No 1234/2007 shall be those fixed in Annex I to this Regulation on the basis of the information contained in Annex II.

*Article 2*

This Regulation shall enter into force on 1 January 2009.

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

Done at Brussels, 23 December 2008.

*For the Commission*

Jean-Luc DEMARTY

*Director-General for Agriculture and  
Rural Development*

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

<sup>(2)</sup> OJ L 161, 29.6.1996, p. 125.

## ANNEX I

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

CN code	Description	Import duties <sup>(1)</sup> (EUR/t)
1001 10 00	Durum wheat, high quality	0,00
	medium quality	0,00
	low quality	0,00
1001 90 91	Common wheat seed	0,00
ex 1001 90 99	High quality common wheat, other than for sowing	0,00
1002 00 00	Rye	55,22
1005 10 90	Maize seed other than hybrid	29,22
1005 90 00	Maize, other than seed <sup>(2)</sup>	29,22
1007 00 90	Grain sorghum other than hybrids for sowing	55,22

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

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

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

## ANNEX II

## Factors for calculating the duties laid down in Annex I

15.12.2008-22.12.2008

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

(EUR/t)

	Common wheat <sup>(1)</sup>	Maize	Durum wheat, high quality	Durum wheat, medium quality <sup>(2)</sup>	Durum wheat, low quality <sup>(3)</sup>	Barley
Exchange	Minneapolis	Chicago	—	—	—	—
Quotation	176,48	108,62	—	—	—	—
Fob price USA	—	—	217,05	207,05	187,05	96,33
Gulf of Mexico premium	—	12,22	—	—	—	—
Great Lakes premium	28,08	—	—	—	—	—

<sup>(1)</sup> Premium of 14 EUR/t incorporated (Article 4(3) of Regulation (EC) No 1249/96).<sup>(2)</sup> Discount of 10 EUR/t (Article 4(3) of Regulation (EC) No 1249/96).<sup>(3)</sup> Discount of 30 EUR/t (Article 4(3) of Regulation (EC) No 1249/96).

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

Freight costs: Gulf of Mexico–Rotterdam: 9,11 EUR/t

Freight costs: Great Lakes–Rotterdam: 7,62 EUR/t

## DIRECTIVES

## DIRECTIVE 2008/105/EC OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL

of 16 December 2008

**on environmental quality standards in the field of water policy, amending and subsequently repealing Council Directives 82/176/EEC, 83/513/EEC, 84/156/EEC, 84/491/EEC, 86/280/EEC and amending Directive 2000/60/EC of the European Parliament and of the Council**

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 <sup>(1)</sup>,

After consulting the Committee of the Regions,

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

Whereas:

- (1) Chemical pollution of surface water presents a threat to the aquatic environment with effects such as acute and chronic toxicity to aquatic organisms, accumulation in the ecosystem and losses of habitats and biodiversity, as well as a threat to human health. As a matter of priority, causes of pollution should be identified and emissions should be dealt with at source, in the most economically and environmentally effective manner.
- (2) As set out in second sentence of Article 174(2) of the Treaty, Community policy on the environment is to be based on the precautionary principle and on the principles that preventive action should be taken, that environmental damage should, as a priority, be rectified at source and that the polluter should pay.
- (3) Pursuant to Article 174(3) of the Treaty, in preparing its policy on the environment, the Community is to take

account of the available scientific and technical data, environmental conditions in the various regions of the Community, the economic and social development of the Community as a whole and the balanced development of its regions as well as the potential benefits and costs of action or lack of action.

- (4) Decision No 1600/2002/EC of the European Parliament and of the Council of 22 July 2002 laying down the Sixth Community Environment Action Programme <sup>(3)</sup> states that environment and health and quality of life are among the key environmental priorities of that Programme, highlighting in particular the need to establish more specific legislation in the field of water policy.
- (5) Directive 2000/60/EC of the European Parliament and of the Council of 23 October 2000 establishing a framework for Community action in the field of water policy <sup>(4)</sup> lays down a strategy against pollution of water and requires further specific measures for pollution control and environmental quality standards (EQS). This Directive lays down EQS in accordance with the provisions and objectives of Directive 2000/60/EC.
- (6) In accordance with Article 4 of Directive 2000/60/EC, and in particular paragraph 1(a), Member States should implement the necessary measures in accordance with Article 16(1) and (8) of that Directive, with the aim of progressively reducing pollution from priority substances and ceasing or phasing out emissions, discharges and losses of priority hazardous substances.
- (7) Numerous Community acts have been adopted since the year 2000 which constitute emission control measures in accordance with Article 16 of Directive 2000/60/EC for individual priority substances. Moreover, many environmental protection measures fall under the scope of other existing Community legislation. Therefore priority should be given to implementing and revising existing instruments rather than establishing new controls.

<sup>(1)</sup> OJ C 97, 28.4.2007, p. 3.

<sup>(2)</sup> Opinion of the European Parliament of 22 May 2007 (OJ C 102 E, 24.4.2008, p. 90), Council Common Position of 20 December 2007 (OJ C 71 E, 18.3.2008, p. 1) and Position of the European Parliament of 17 June 2008 (not yet published in the Official Journal). Council Decision of 20 October 2008.

<sup>(3)</sup> OJ L 242, 10.9.2002, p. 1.

<sup>(4)</sup> OJ L 327, 22.12.2000, p. 1.

- (8) As regards emission controls of priority substances from point and diffuse sources, as referred to in Article 16 of Directive 2000/60/EC, it seems more cost-effective and proportionate for Member States to include, where necessary, in addition to the implementation of other existing Community legislation, appropriate control measures, pursuant to Article 10 of Directive 2000/60/EC, in the programme of measures to be developed for each river basin district in accordance with Article 11 of that Directive.
- (9) Member States should improve the knowledge and data available on sources of priority substances and ways in which pollution occurs in order to identify targeted and effective control options. Member States should, *inter alia*, monitor sediment and biota, as appropriate, at an adequate frequency to provide sufficient data for a reliable long-term trend analysis of those priority substances that tend to accumulate in sediment and/or biota. The results of the monitoring, including monitoring of sediment and biota, should, as far as required by Article 3 of Decision No 2455/2001/EC of the European Parliament and of the Council of 20 November 2001 establishing the list of priority substances in the field of water policy<sup>(1)</sup>, be made available in order to inform future Commission proposals under Article 16(4) and (8) of Directive 2000/60/EC.
- (10) Decision No 2455/2001/EC sets out the first list of 33 substances or groups of substances that have been prioritised for action at Community level. Among those priority substances, certain substances have been identified as priority hazardous substances for which Member States should implement necessary measures with the aim of ceasing or phasing out emissions, discharges and losses. For substances occurring naturally or through natural processes, the cessation or phasing-out of emissions, discharges and losses from all potential sources is impossible. Some substances have been under review and should be classified. The Commission should continue to review the list of priority substances, prioritising substances for action on the basis of agreed criteria that demonstrate the risk to, or via, the aquatic environment, in accordance with the timetable provided for in Article 16 of Directive 2000/60/EC, and bring forward proposals as appropriate.
- (11) In the interests of the Community and for a more effective regulation of surface water protection, it is appropriate to set up EQS for pollutants classified as priority substances at Community level and to leave it to Member States to lay down, where necessary, rules for remaining pollutants at national level, subject to the application of relevant Community rules. None the less, eight pollutants which fall under the scope of Council Directive 86/280/EEC of 12 June 1986 on limit values and quality objectives for discharges of certain dangerous substances included in List I of the Annex to Directive 76/464/EEC<sup>(2)</sup>, and which form part of the group of substances for which Member States should implement measures with the aim of achieving good chemical status by 2015, subject to Articles 2 and 4 of Directive 2000/60/EC, were not included in the list of priority substances. However, the common standards established for those pollutants proved to be useful and it is therefore appropriate to maintain their regulation at Community level.
- (12) Consequently, the provisions concerning current environmental quality objectives laid down in Council Directive 82/176/EEC of 22 March 1982 on limit values and quality objectives for mercury discharges by the chlor-alkali electrolysis industry<sup>(3)</sup>, Council Directive 83/513/EEC of 26 September 1983 on limit values and quality objectives for cadmium discharges<sup>(4)</sup>, Council Directive 84/156/EEC of 8 March 1984 on limit values and quality objectives for mercury discharges by sectors other than the chlor-alkali electrolysis industry<sup>(5)</sup>, Council Directive 84/491/EEC of 9 October 1984 on limit values and quality objectives for discharges of hexachlorocyclohexane<sup>(6)</sup> and Directive 86/280/EEC will become superfluous and should be deleted.
- (13) The aquatic environment can be affected by chemical pollution both in the short- and long- term, and therefore both acute and chronic effects data should be used as the basis for establishing the EQS. In order to ensure that the aquatic environment and human health are adequately protected, EQS expressed as an annual average value should be established at a level providing protection against long-term exposure, and maximum allowable concentrations should be established to protect against short-term exposure.
- (14) In accordance with the rules set out in section 1.3.4 of Annex V to Directive 2000/60/EC, when monitoring compliance with the EQS, including those expressed as maximum allowable concentrations, Member States may introduce statistical methods, such as a percentile calculation, to deal with outliers, that is extreme deviations from the mean, and false readings in order to ensure an acceptable level of confidence and precision. To ensure the comparability of monitoring between Member States, it is appropriate to provide for the establishment of detailed rules for such statistical methods through a committee procedure.

<sup>(2)</sup> OJ L 181, 4.7.1986, p. 16.

<sup>(3)</sup> OJ L 81, 27.3.1982, p. 29.

<sup>(4)</sup> OJ L 291, 24.10.1983, p. 1.

<sup>(5)</sup> OJ L 74, 17.3.1984, p. 49.

<sup>(6)</sup> OJ L 274, 17.10.1984, p. 11.

<sup>(1)</sup> OJ L 331, 15.12.2001, p. 1.



- (15) For the majority of substances the establishment of EQS values at Community level should, at this stage, be limited to surface water only. However, as regards hexachlorobenzene, hexachlorobutadiene and mercury, it is not possible to ensure protection against indirect effects and secondary poisoning at Community level by EQS for surface water alone. It is therefore appropriate to establish EQS for biota at Community level for those three substances. In order to allow Member States flexibility depending on their monitoring strategy, Member States should be able either to monitor and apply those EQS for biota, or to establish stricter EQS for surface water providing the same level of protection.
- (16) Furthermore, Member States should be able to establish EQS for sediment and/or biota at national level and apply those EQS instead of the EQS for water set out in this Directive. Such EQS should be established through a transparent procedure involving notifications to the Commission and other Member States so as to ensure a level of protection equivalent to the EQS for water set up at Community level. The Commission should summarise these notifications in its reports on the implementation of Directive 2000/60/EC. Moreover, sediment and biota remain important matrices for the monitoring of certain substances with significant accumulation potential. In order to assess long-term impacts of anthropogenic activity and trends, Member States should take measures, subject to Article 4 of Directive 2000/60/EC, with the aim of ensuring that existing levels of contamination in biota and sediments will not significantly increase.
- (17) In accordance with Article 13 of, and Annex VII(A)(5) to, Directive 2000/60/EC, any exemptions to the application of the EQS for priority substances applied to water bodies in accordance with Article 4(4), (5) and (6) of that Directive, taking into account Article 4(8) and (9) thereof, should be reported in the river basin management plans. Provided that the requirements of Article 4 of Directive 2000/60/EC including conditions for exemptions are met, activities, including dredging and shipping, leading to discharges, emissions and losses of priority substances can take place.
- (18) Member States have to comply with Council Directive 98/83/EC of 3 November 1998 on the quality of water intended for human consumption<sup>(1)</sup> and manage the surface water bodies used for abstraction of drinking water in accordance with Article 7 of Directive 2000/60/EC. This Directive should therefore be implemented without prejudice to those requirements which may require more stringent standards.
- (19) In the vicinity of discharges from point sources, concentrations of pollutants are usually higher than the ambient concentrations in water. Therefore, Member States should be able to make use of mixing zones, so long as they do not affect the compliance of the rest of the body of surface water with the relevant EQS. The extent of mixing zones should be restricted to the proximity of the point of discharge and should be proportionate. In accordance with Article 3(4) of Directive 2000/60/EC, Member States should ensure, as appropriate, that the requirements for the achievement of the environmental objectives set out in Article 4 of that Directive are coordinated for the whole of the river basin district, including the designation of mixing zones in transboundary water bodies.
- (20) It is necessary to check compliance with the objectives for cessation or phase-out, and reduction, as specified in Article 4(1)(a) of Directive 2000/60/EC, and to make the assessment of compliance with these obligations transparent, in particular as regards the consideration of significant emissions, discharges and losses as a result of human activities. Further, a timetable for cessation or phase-out, and reduction, can only be related to an inventory. It should also be possible to assess the application of Article 4(4) to (7) of Directive 2000/60/EC. An appropriate tool is likewise needed for the quantification of losses of substances occurring naturally, or resulting from natural processes, in which case complete cessation or phase-out from all potential sources is impossible. In order to meet those needs, each Member State should establish an inventory of emissions, discharges and losses for each river basin district or part of a river basin district in its territory.
- (21) In order to avoid duplication of work by establishing those inventories and to ensure the coherence of those inventories with other existing tools in the area of surface water protection, Member States should use information collected under Directive 2000/60/EC and under Regulation (EC) No 166/2006 of the European Parliament and Council of 18 January 2006 concerning the establishment of a European Pollutant Release and Transfer Register<sup>(2)</sup>.
- (22) In order to ensure consistent protection of surface water, Member States sharing bodies of surface water should coordinate their monitoring activities and, as appropriate, the compilation of inventories.

<sup>(1)</sup> OJ L 330, 5.12.1998, p. 32.

<sup>(2)</sup> OJ L 33, 4.2.2006, p. 1.



- (23) In order better to reflect their needs, Member States should be able to choose an appropriate one-year reference period for measuring the basic entries of the inventory. However, account should be taken of the fact that the losses from the application of pesticides may vary considerably from one year to another because of different application rates, for instance as a result of different climatic conditions. Therefore, Member States should be able to opt for a three-year reference period for certain substances covered by Council Directive 91/414/EEC of 15 July 1991 concerning the placing of plant protection products on the market <sup>(1)</sup>.
- (24) In order to optimise the use of the inventory, it is appropriate to fix a deadline for the Commission to verify that emissions, discharges and losses are making progress towards compliance with the objectives set out in Article 4(1)(a) of Directive 2000/60/EC, subject to Article 4(4) and (5) of that Directive.
- (25) Technical guidelines should be developed to contribute to the harmonisation of methodologies used by Member States to establish the inventories of emissions, discharges and losses, including losses from pollution accumulated in sediments.
- (26) Several Member States are affected by pollution the source of which lies outside their national jurisdiction. It is therefore appropriate to make clear that a Member State would not be in breach of its obligations under this Directive as a result of the exceeding of an EQS due to such transboundary pollution, provided that certain conditions were met and that it had taken advantage, as appropriate, of the relevant provisions of Directive 2000/60/EC.
- (27) On the basis of reports from Member States, in accordance with Article 15 of Directive 2000/60/EC, the Commission should review the need to amend existing acts and the need for additional specific Community-wide measures, such as emission controls, and, if appropriate, make relevant proposals. The Commission should report the conclusions of this review to the European Parliament and to the Council in the context of the report under Article 18(1) of Directive 2000/60/EC. In making any proposals for emission control measures, having regard to Article 10 of Directive 2000/60/EC, the Commission should take into account existing emission control requirements, such as those under Directive 2008/1/EC of the European Parliament and of the Council of 15 January 2008 concerning integrated pollution prevention and control <sup>(2)</sup>, and the latest developments on pollution abatement technology.
- (28) The criteria for identifying substances that are persistent, bioaccumulative and toxic, as well as substances of other equivalent concern, notably very persistent and very bioaccumulative, as referred to in Directive 2000/60/EC, are established in the Technical Guidance Document for Risk Assessment in support of Commission Directive 93/67/EEC of 20 July 1993 laying down the principles for assessment of risks to man and the environment of substances notified in accordance with Council Directive 67/548/EEC <sup>(3)</sup>, Directive 98/8/EC of the European Parliament and of the Council of 16 February 1998 concerning the placing of biocidal products on the market <sup>(4)</sup> and Regulation (EC) No 1907/2006 of the European Parliament and of the Council of 18 December 2006 concerning the Registration, Evaluation, Authorisation and Restriction of Chemicals (REACH) and establishing a European Chemicals Agency <sup>(5)</sup>. In order to ensure consistency of Community legislation, only those criteria should be applied to the substances under review according to Decision No 2455/2001/EC, and Annex X to Directive 2000/60/EC should be replaced accordingly.
- (29) The obligations laid down in the Directives listed in Annex IX to Directive 2000/60/EC are already incorporated in Directive 2008/1/EC and in Directive 2000/60/EC and, at least, the same level of protection is guaranteed if the EQS are maintained or reviewed. In order to ensure a consistent approach to chemical pollution of surface waters and to simplify and clarify the existing Community legislation in that area, it is appropriate to repeal, pursuant to Directive 2000/60/EC, with effect from 22 December 2012, Directives 82/176/EEC, 83/513/EEC, 84/156/EEC, 84/491/EEC and 86/280/EEC.
- (30) The recommendations referred to in Directive 2000/60/EC, in particular those of the Scientific Committee on Toxicity, Ecotoxicity and the Environment, have been considered.
- (31) In accordance with paragraph 34 of the Interinstitutional Agreement on better law-making <sup>(6)</sup>, Member States are encouraged to draw up, for themselves and in the interests of the Community, their own tables illustrating, as far as possible, the correlation between this Directive and the transposition measures, and to make them public.

<sup>(1)</sup> OJ L 230, 19.8.1991, p. 1.

<sup>(2)</sup> OJ L 24, 29.1.2008, p. 8.

<sup>(3)</sup> OJ L 227, 8.9.1993, p. 9.

<sup>(4)</sup> OJ L 123, 24.4.1998, p. 1.

<sup>(5)</sup> OJ L 396, 30.12.2006, p. 1; corrected by OJ L 136, 29.5.2007, p. 3.

<sup>(6)</sup> OJ C 321, 31.12.2003, p. 1.

- (32) Since the objective of this Directive, namely that of achieving of good surface water chemical status by laying down EQS for priority substances and certain other pollutants, cannot be sufficiently achieved by the Member States and can therefore, by reason of maintaining the same level of protection of surface water throughout the Community, be better achieved at Community level, the Community may adopt measures, in accordance with the principle of subsidiarity as set out in Article 5 of the Treaty. In accordance with the principle of proportionality, as set out in that Article, this Directive does not go beyond what is necessary in order to achieve that objective.
- (33) The measures necessary for the implementation of this Directive should 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 <sup>(1)</sup>.
- (34) In particular, the Commission should be empowered to amend point 3 of part B of Annex I to this Directive. Since that measure is of general scope and is designed to amend non-essential elements of this Directive, or to supplement it by the addition of new non-essential elements, it must be adopted in accordance with the regulatory procedure with scrutiny provided for in Article 5a of Decision 1999/468/EC,

HAVE ADOPTED THIS DIRECTIVE:

#### Article 1

##### Subject matter

This Directive lays down environmental quality standards (EQS) for priority substances and certain other pollutants as provided for in Article 16 of Directive 2000/60/EC, with the aim of achieving good surface water chemical status and in accordance with the provisions and objectives of Article 4 of that Directive.

#### Article 2

##### Definitions

For the purposes of this Directive, the definitions laid down in Article 2 of Directive 2000/60/EC shall apply.

#### Article 3

##### Environmental quality standards

1. In accordance with Article 1 of this Directive and Article 4 of Directive 2000/60/EC, Member States shall apply

the EQS laid down in Part A of Annex I to this Directive for bodies of surface water.

Member States shall apply the EQS for bodies of surface water in accordance with the requirements laid down in Part B of Annex I.

2. Member States may opt to apply EQS for sediment and/or biota instead of those laid down in Part A of Annex I in certain categories of surface water. Member States that apply this option shall:

- (a) apply, for mercury and its compounds, an EQS of 20 µg/kg, and/or for hexachlorobenzene, an EQS of 10 µg/kg, and/or for hexachlorobutadiene, an EQS of 55 µg/kg, these EQS being for prey tissue (wet weight), choosing the most appropriate indicator from among fish, molluscs, crustaceans and other biota;
- (b) establish and apply EQS other than those mentioned in point (a) for sediment and/or biota for specified substances. These EQS shall offer at least the same level of protection as the EQS for water set out in Part A of Annex I;
- (c) determine, for the substances mentioned in points (a) and (b), the frequency of monitoring in biota and/or sediment. However, monitoring shall take place at least once every year, unless technical knowledge and expert judgment justify another interval; and
- (d) notify the Commission and other Member States, through the Committee referred to in Article 21 of Directive 2000/60/EC, of the substances for which EQS have been established in accordance with point (b), the reasons and basis for using this approach, the alternative EQS established, including the data and the methodology by which alternative EQS were derived, the categories of surface water to which they would apply, and the frequency of monitoring planned, together with the justification for that frequency.

The Commission shall include a summary of notifications pursuant to point (d) above and to note 9 to Part A of Annex I in the reports published in accordance with Article 18 of Directive 2000/60/EC.

<sup>(1)</sup> OJ L 184, 17.7.1999, p. 23.

3. Member States shall arrange for the long-term trend analysis of concentrations of those priority substances listed in Part A of Annex I that tend to accumulate in sediment and/or biota, giving particular consideration to substances numbers 2, 5, 6, 7, 12, 15, 16, 17, 18, 20, 21, 26, 28 and 30, on the basis of monitoring of water status carried out in accordance with Article 8 of Directive 2000/60/EC. They shall take measures aimed at ensuring, subject to Article 4 of Directive 2000/60/EC, that such concentrations do not significantly increase in sediment and/or relevant biota.

Member States shall determine the frequency of monitoring in sediment and/or biota so as to provide sufficient data for a reliable long-term trend analysis. As a guideline, monitoring should take place every three years, unless technical knowledge and expert judgment justify another interval.

4. The Commission shall examine technical and scientific progress, including the conclusion of risk assessments as referred to in Article 16(2)(a) and (b) of Directive 2000/60/EC and information from the registration of substances made publicly available according to Article 119 of Regulation (EC) No 1907/2006, and, if necessary, propose that the EQS laid down in Part A of Annex I to this Directive be revised in accordance with the procedure laid down in Article 251 of the Treaty in line with the timetable provided for in Article 16(4) of Directive 2000/60/EC.

5. Point 3 of Part B of Annex I to this Directive may be amended in accordance with the regulatory procedure with scrutiny referred to in Article 9(3) of this Directive.

#### Article 4

##### Mixing zones

1. Member States may designate mixing zones adjacent to points of discharge. Concentrations of one or more substances listed in Part A of Annex I may exceed the relevant EQS within such mixing zones if they do not affect the compliance of the rest of the body of surface water with those standards.

2. Member States that designate mixing zones shall include in river basin management plans produced in accordance with Article 13 of Directive 2000/60/EC a description of:

- (a) the approaches and methodologies applied to define such zones; and
- (b) measures taken with a view to reducing the extent of the mixing zones in the future, such as those pursuant to Article 11(3)(k) of Directive 2000/60/EC or by reviewing

permits referred to in Directive 2008/1/EC or prior regulations referred to in Article 11(3)(g) of Directive 2000/60/EC.

3. Member States that designate mixing zones shall ensure that the extent of any such zone is:

(a) restricted to the proximity of the point of discharge;

(b) proportionate, having regard to the concentrations of pollutants at the point of discharge and to the conditions on emissions of pollutants contained in the prior regulations, such as authorisations and/or permits, referred to in Article 11(3)(g) of Directive 2000/60/EC and any other relevant Community law, in accordance with the application of best available techniques and Article 10 of Directive 2000/60/EC, in particular after those prior regulations are reviewed.

4. Technical guidelines for the identification of mixing zones shall be adopted in accordance with the regulatory procedure referred to in Article 9(2) of this Directive.

#### Article 5

##### Inventory of emissions, discharges and losses

1. On the basis of the information collected in accordance with Articles 5 and 8 of Directive 2000/60/EC, under Regulation (EC) No 166/2006 and other available data, Member States shall establish an inventory, including maps, if available, of emissions, discharges and losses of all priority substances and pollutants listed in Part A of Annex I to this Directive for each river basin district or part of a river basin district lying within their territory including their concentrations in sediment and biota, as appropriate.

2. The reference period for the estimation of pollutant values to be entered in the inventories referred to in paragraph 1 shall be one year between 2008 and 2010.

However, for priority substances or pollutants covered by Directive 91/414/EEC, the entries may be calculated as the average of the years 2008, 2009 and 2010.

3. Member States shall communicate the inventories established pursuant to paragraph 1 of this Article, including the respective reference periods, to the Commission in accordance with the reporting requirements under Article 15(1) of Directive 2000/60/EC.

4. Member States shall update their inventories as part of the reviews of the analyses specified in Article 5(2) of Directive 2000/60/EC.

The reference period for the establishment of values in the updated inventories shall be the year before that analysis is to be completed. For priority substances or pollutants covered by Directive 91/414/EEC, the entries may be calculated as the average of the three years before the completion of that analysis.

Member States shall publish the updated inventories in their updated river basin management plans as laid down in Article 13(7) of Directive 2000/60/EC.

5. The Commission shall, by 2018, verify that emissions, discharges and losses as reflected in the inventory are making progress towards compliance with the reduction or cessation objectives laid down in Article 4(1)(a)(iv) of Directive 2000/60/EC, subject to Article 4(4) and (5) of that Directive.

6. Technical guidelines for the establishment of inventories shall be adopted in accordance with the regulatory procedure referred to in Article 9(2) of this Directive.

#### Article 6

##### Transboundary pollution

1. A Member State shall not be in breach of its obligations under this Directive as a result of the exceedance of an EQS if it can demonstrate that:

- (a) the exceedance was due to a source of pollution outside its national jurisdiction;
- (b) it was unable as a result of such transboundary pollution to take effective measures to comply with the relevant EQS; and
- (c) it had applied the coordination mechanisms set out in Article 3 of Directive 2000/60/EC and, as appropriate, taken advantage of the provisions of Article 4(4), (5) and (6) of that Directive for those water bodies affected by transboundary pollution.

2. Member States shall use the mechanism laid down in Article 12 of Directive 2000/60/EC to provide the Commission with necessary information in the circumstances set out in paragraph 1 of this Article and with a summary of the measures taken in relation to transboundary pollution in the

relevant river basin management plan in accordance with the reporting requirements under Article 15(1) of Directive 2000/60/EC.

#### Article 7

##### Reporting and review

1. On the basis of reports from Member States, including reports in accordance with Article 12 of Directive 2000/60/EC and in particular those on transboundary pollution, the Commission shall review the need to amend existing acts and the need for additional specific Community-wide measures, such as emission controls.

2. The Commission shall report to the European Parliament and to the Council in the context of the report prepared in accordance with Article 18(1) of Directive 2000/60/EC, on:

- (a) the conclusions of the review referred to in paragraph 1 of this Article;
- (b) measures taken to reduce the extent of mixing zones designated in accordance with Article 4(1) of this Directive;
- (c) the outcome of the verification referred to in Article 5(5) of this Directive;
- (d) the situation regarding pollution originating outside the territory of the Community.

The Commission shall, if appropriate, accompany the report with relevant proposals.

#### Article 8

##### Review of Annex X to Directive 2000/60/EC

Within the framework of the review of Annex X to Directive 2000/60/EC, as provided for in Article 16(4) of that Directive, the Commission shall consider *inter alia* the substances set out in Annex III to this Directive for possible identification as priority substances or priority hazardous substances. The Commission shall report the outcome of its review to the European Parliament and to the Council by 13 January 2011. It shall accompany the report, if appropriate, with relevant proposals, in particular proposals to identify new priority substances or priority hazardous substances or to identify certain priority substances as priority hazardous substances and to set corresponding EQS for surface water, sediment or biota, as appropriate.

*Article 9***Committee procedure**

1. The Commission shall be assisted by the Committee referred to in Article 21(1) of Directive 2000/60/EC.

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 10***Amendment of Directive 2000/60/EC**

Annex X to Directive 2000/60/EC shall be replaced by the text set out in Annex II to this Directive.

*Article 11***Amendment of Directives 82/176/EEC, 83/513/EEC, 84/156/EEC, 84/491/EEC and 86/280/EEC**

1. Annex II to Directives 82/176/EEC, 83/513/EEC, 84/156/EEC and 84/491/EEC respectively shall be deleted.

2. Headings B in Sections I to XI of Annex II to Directive 86/280/EEC shall be deleted.

*Article 12***Repeal of Directives 82/176/EEC, 83/513/EEC, 84/156/EEC, 84/491/EEC and 86/280/EEC**

1. Directives 82/176/EEC, 83/513/EEC, 84/156/EEC, 84/491/EEC and 86/280/EEC shall be repealed with effect from 22 December 2012.

2. Before 22 December 2012, Member States may carry out monitoring and reporting in accordance with Articles 5, 8 and 15 of Directive 2000/60/EC instead of carrying them out in accordance with the Directives referred to in paragraph 1 of this Article.

*Article 13***Transposition**

1. Member States shall bring into force the laws, regulations and administrative provisions necessary to comply with this Directive by 13 July 2010.

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

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

*Article 14***Entry into force**

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

*Article 15***Addressees**

This Directive is addressed to the Member States.

Done at Strasbourg, 16 December 2008.

*For the European Parliament*

*The President*

H.-G. PÖTTERING

*For the Council*

*The President*

B. LE MAIRE



## ANNEX I

## ENVIRONMENTAL QUALITY STANDARDS FOR PRIORITY SUBSTANCES AND CERTAIN OTHER POLLUTANTS

## PART A: ENVIRONMENTAL QUALITY STANDARDS (EQS)

AA: annual average;

MAC: maximum allowable concentration.

Unit: [µg/l]

(1)	(2)	(3)	(4)	(5)	(6)	(7)
No	Name of substance	CAS number <sup>(1)</sup>	AA-EQS <sup>(2)</sup> Inland surface waters <sup>(3)</sup>	AA-EQS <sup>(2)</sup> Other surface waters	MAC-EQS <sup>(4)</sup> Inland surface waters <sup>(3)</sup>	MAC-EQS <sup>(4)</sup> Other surface waters
(1)	Alachlor	15972-60-8	0,3	0,3	0,7	0,7
(2)	Anthracene	120-12-7	0,1	0,1	0,4	0,4
(3)	Atrazine	1912-24-9	0,6	0,6	2,0	2,0
(4)	Benzene	71-43-2	10	8	50	50
(5)	Brominated diphenylether <sup>(5)</sup>	32534-81-9	0,0005	0,0002	not applicable	not applicable
(6)	Cadmium and its compounds (depending on water hardness classes) <sup>(6)</sup>	7440-43-9	≤ 0,08 (Class 1) 0,08 (Class 2) 0,09 (Class 3) 0,15 (Class 4) 0,25 (Class 5)	0,2	≤ 0,45 (Class 1) 0,45 (Class 2) 0,6 (Class 3) 0,9 (Class 4) 1,5 (Class 5)	≤ 0,45 (Class 1) 0,45 (Class 2) 0,6 (Class 3) 0,9 (Class 4) 1,5 (Class 5)
(6a)	Carbon-tetrachloride <sup>(7)</sup>	56-23-5	12	12	not applicable	not applicable
(7)	C10-13 Chloroalkanes	85535-84-8	0,4	0,4	1,4	1,4
(8)	Chlorfenvinphos	470-90-6	0,1	0,1	0,3	0,3
(9)	Chlorpyrifos (Chlorpyrifos-ethyl)	2921-88-2	0,03	0,03	0,1	0,1
(9a)	Cyclodiene pesticides: Aldrin <sup>(7)</sup> Dieldrin <sup>(7)</sup> Endrin <sup>(7)</sup> Isodrin <sup>(7)</sup>	309-00-2 60-57-1 72-20-8 465-73-6	Σ = 0,01	Σ = 0,005	not applicable	not applicable
(9b)	DDT total <sup>(7)</sup> <sup>(8)</sup>	not applicable	0,025	0,025	not applicable	not applicable
	para-para-DDT <sup>(7)</sup>	50-29-3	0,01	0,01	not applicable	not applicable
(10)	1,2-Dichloroethane	107-06-2	10	10	not applicable	not applicable
(11)	Dichloromethane	75-09-2	20	20	not applicable	not applicable
(12)	Di(2-ethylhexyl)-phthalate (DEHP)	117-81-7	1,3	1,3	not applicable	not applicable
(13)	Diuron	330-54-1	0,2	0,2	1,8	1,8
(14)	Endosulfan	115-29-7	0,005	0,0005	0,01	0,004
(15)	Fluoranthene	206-44-0	0,1	0,1	1	1
(16)	Hexachloro-benzene	118-74-1	0,01 <sup>(9)</sup>	0,01 <sup>(9)</sup>	0,05	0,05
(17)	Hexachloro-butadiene	87-68-3	0,1 <sup>(9)</sup>	0,1 <sup>(9)</sup>	0,6	0,6
(18)	Hexachloro-cyclohexane	608-73-1	0,02	0,002	0,04	0,02

(1)	(2)	(3)	(4)	(5)	(6)	(7)
No	Name of substance	CAS number <sup>(1)</sup>	AA-EQS <sup>(2)</sup> Inland surface waters <sup>(3)</sup>	AA-EQS <sup>(2)</sup> Other surface waters	MAC-EQS <sup>(4)</sup> Inland surface waters <sup>(3)</sup>	MAC-EQS <sup>(4)</sup> Other surface waters
(19)	Isoproturon	34123-59-6	0,3	0,3	1,0	1,0
(20)	Lead and its compounds	7439-92-1	7,2	7,2	not applicable	not applicable
(21)	Mercury and its compounds	7439-97-6	0,05 <sup>(9)</sup>	0,05 <sup>(9)</sup>	0,07	0,07
(22)	Naphthalene	91-20-3	2,4	1,2	not applicable	not applicable
(23)	Nickel and its compounds	7440-02-0	20	20	not applicable	not applicable
(24)	Nonylphenol (4-Nonylphenol)	104-40-5	0,3	0,3	2,0	2,0
(25)	Octylphenol ((4-(1,1',3,3'-tetramethylbutyl)-phenol))	140-66-9	0,1	0,01	not applicable	not applicable
(26)	Pentachloro-benzene	608-93-5	0,007	0,0007	not applicable	not applicable
(27)	Pentachloro-phenol	87-86-5	0,4	0,4	1	1
(28)	Polycyclic aromatic hydrocarbons (PAH) <sup>(10)</sup>	not applicable	not applicable	not applicable	not applicable	not applicable
	Benzo(a)pyrene	50-32-8	0,05	0,05	0,1	0,1
	Benzo(b)fluor-anthene	205-99-2	$\Sigma = 0,03$	$\Sigma = 0,03$	not applicable	not applicable
	Benzo(k)fluor-anthene	207-08-9				
	Benzo(g,h,i)-perylene	191-24-2	$\Sigma = 0,002$	$\Sigma = 0,002$	not applicable	not applicable
	Indeno(1,2,3-cd)-pyrene	193-39-5				
(29)	Simazine	122-34-9	1	1	4	4
(29a)	Tetrachloro-ethylene <sup>(7)</sup>	127-18-4	10	10	not applicable	not applicable
(29b)	Trichloro-ethylene <sup>(7)</sup>	79-01-6	10	10	not applicable	not applicable
(30)	Tributyltin compounds (Tributhyltin-cation)	36643-28-4	0,0002	0,0002	0,0015	0,0015
(31)	Trichloro-benzenes	12002-48-1	0,4	0,4	not applicable	not applicable
(32)	Trichloro-methane	67-66-3	2,5	2,5	not applicable	not applicable
(33)	Trifluralin	1582-09-8	0,03	0,03	not applicable	not applicable

<sup>(1)</sup> CAS: Chemical Abstracts Service.

<sup>(2)</sup> This parameter is the EQS expressed as an annual average value (AA-EQS). Unless otherwise specified, it applies to the total concentration of all isomers.

<sup>(3)</sup> Inland surface waters encompass rivers and lakes and related artificial or heavily modified water bodies.

<sup>(4)</sup> This parameter is the EQS expressed as a maximum allowable concentration (MAC-EQS). Where the MAC-EQS are marked as 'not applicable', the AA-EQS values are considered protective against short-term pollution peaks in continuous discharges since they are significantly lower than the values derived on the basis of acute toxicity.

<sup>(5)</sup> For the group of priority substances covered by brominated diphenylethers (No 5) listed in Decision No 2455/2001/EC, an EQS is established only for congener numbers 28, 47, 99, 100, 153 and 154.

<sup>(6)</sup> For cadmium and its compounds (No 6) the EQS values vary depending on the hardness of the water as specified in five class categories (Class 1: < 40 mg CaCO<sub>3</sub>/l, Class 2: 40 to < 50 mg CaCO<sub>3</sub>/l, Class 3: 50 to < 100 mg CaCO<sub>3</sub>/l, Class 4: 100 to < 200 mg CaCO<sub>3</sub>/l and Class 5: ≥ 200 mg CaCO<sub>3</sub>/l).

<sup>(7)</sup> This substance is not a priority substance but one of the other pollutants for which the EQS are identical to those laid down in the legislation that applied prior to 13 January 2009.

<sup>(8)</sup> DDT total comprises the sum of the isomers 1,1,1-trichloro-2,2 bis (p-chlorophenyl) ethane (CAS number 50-29-3; EU number 200-024-3); 1,1,1-trichloro-2 (o-chlorophenyl)-2-(p-chlorophenyl) ethane (CAS number 789-02-6; EU number 212-332-5); 1,1-dichloro-2,2 bis (p-chlorophenyl) ethylene (CAS number 72-55-9; EU number 200-784-6); and 1,1-dichloro-2,2 bis (p-chlorophenyl) ethane (CAS number 72-54-8; EU number 200-783-0).

<sup>(9)</sup> If Member States do not apply EQS for biota they shall introduce stricter EQS for water in order to achieve the same level of protection as the EQS for biota set out in Article 3(2) of this Directive. They shall notify the Commission and other Member States, through the Committee referred to in Article 21 of Directive 2000/60/EC, of the reasons and basis for using this approach, the alternative EQS for water established, including the data and the methodology by which the alternative EQS were derived, and the categories of surface water to which they would apply.

<sup>(10)</sup> For the group of priority substances of polycyclic aromatic hydrocarbons (PAH) (No 28), each individual EQS is applicable, i.e. the EQS for Benzo(a)pyrene, the EQS for the sum of Benzo(b)fluoranthene and Benzo(k)fluoranthene and the EQS for the sum of Benzo(g,h,i)perylene and Indeno(1,2,3-cd)pyrene must be met.

## PART B: APPLICATION OF THE EQS SET OUT IN PART A

1. Columns 4 and 5 of the table: For any given surface water body, applying the AA-EQS means that, for each representative monitoring point within the water body, the arithmetic mean of the concentrations measured at different times during the year does not exceed the standard.

The calculation of the arithmetic mean, the analytical method used and, where there is no appropriate analytical method meeting the minimum performance criteria, the method of applying an EQS must be in accordance with implementing acts adopting technical specifications for chemical monitoring and quality of analytical results, in accordance with Directive 2000/60/EC.

2. Columns 6 and 7 of the table: For any given surface water body, applying the MAC-EQS means that the measured concentration at any representative monitoring point within the water body does not exceed the standard.

However, in accordance with section 1.3.4 of Annex V to Directive 2000/60/EC, Member States may introduce statistical methods, such as a percentile calculation, to ensure an acceptable level of confidence and precision for determining compliance with the MAC-EQS. If they do so, such statistical methods shall comply with detailed rules laid down in accordance with the regulatory procedure referred to in Article 9(2) of this Directive.

3. With the exception of cadmium, lead, mercury and nickel (hereinafter 'metals') the EQS set up in this Annex are expressed as total concentrations in the whole water sample. In the case of metals the EQS refers to the dissolved concentration, i.e. the dissolved phase of a water sample obtained by filtration through a 0,45 µm filter or any equivalent pre-treatment.

Member States may, when assessing the monitoring results against the EQS, take into account:

- (a) natural background concentrations for metals and their compounds, if they prevent compliance with the EQS value; and
  - (b) hardness, pH or other water quality parameters that affect the bioavailability of metals.
-



## ANNEX II

Annex X to Directive 2000/60/EC is replaced by the following:

## 'ANNEX X

## LIST OF PRIORITY SUBSTANCES IN THE FIELD OF WATER POLICY

Number	CAS number <sup>(1)</sup>	EU number <sup>(2)</sup>	Name of priority substance <sup>(3)</sup>	Identified as priority hazardous substance
(1)	15972-60-8	240-110-8	Alachlor	
(2)	120-12-7	204-371-1	Anthracene	X
(3)	1912-24-9	217-617-8	Atrazine	
(4)	71-43-2	200-753-7	Benzene	
(5)	not applicable	not applicable	Brominated diphenylether <sup>(4)</sup>	X <sup>(5)</sup>
	32534-81-9	not applicable	Pentabromodiphenylether (congener numbers 28, 47, 99, 100, 153 and 154)	
(6)	7440-43-9	231-152-8	Cadmium and its compounds	X
(7)	85535-84-8	287-476-5	Chloroalkanes, C <sub>10-13</sub> <sup>(4)</sup>	X
(8)	470-90-6	207-432-0	Chlorfenvinphos	
(9)	2921-88-2	220-864-4	Chlorpyrifos (Chlorpyrifos-ethyl)	
(10)	107-06-2	203-458-1	1,2-dichloroethane	
(11)	75-09-2	200-838-9	Dichloromethane	
(12)	117-81-7	204-211-0	Di(2-ethylhexyl)phthalate (DEHP)	
(13)	330-54-1	206-354-4	Diuron	
(14)	115-29-7	204-079-4	Endosulfan	X
(15)	206-44-0	205-912-4	Fluoranthene <sup>(6)</sup>	
(16)	118-74-1	204-273-9	Hexachlorobenzene	X
(17)	87-68-3	201-765-5	Hexachlorobutadiene	X
(18)	608-73-1	210-158-9	Hexachlorocyclohexane	X
(19)	34123-59-6	251-835-4	Isoproturon	
(20)	7439-92-1	231-100-4	Lead and its compounds	
(21)	7439-97-6	231-106-7	Mercury and its compounds	X
(22)	91-20-3	202-049-5	Naphthalene	
(23)	7440-02-0	231-111-14	Nickel and its compounds	
(24)	25154-52-3	246-672-0	Nonylphenol	X
	104-40-5	203-199-4	(4-nonylphenol)	X
(25)	1806-26-4	217-302-5	Octylphenol	
	140-66-9	not applicable	(4-(1,1',3,3'-tetramethylbutyl)-phenol)	
(26)	608-93-5	210-172-5	Pentachlorobenzene	X
(27)	87-86-5	231-152-8	Pentachlorophenol	

Number	CAS number <sup>(1)</sup>	EU number <sup>(2)</sup>	Name of priority substance <sup>(3)</sup>	Identified as priority hazardous substance
(28)	not applicable	not applicable	Polyaromatic hydrocarbons	X
	50-32-8	200-028-5	(Benzo(a)pyrene)	X
	205-99-2	205-911-9	(Benzo(b)fluoranthene)	X
	191-24-2	205-883-8	(Benzo(g,h,i)perylene)	X
	207-08-9	205-916-6	(Benzo(k)fluoranthene)	X
	193-39-5	205-893-2	(Indeno(1,2,3-cd)pyrene)	X
(29)	122-34-9	204-535-2	Simazine	
(30)	not applicable	not applicable	Tributyltin compounds	X
	36643-28-4	not applicable	(Tributyltin-cation)	X
(31)	12002-48-1	234-413-4	Trichlorobenzenes	
(32)	67-66-3	200-663-8	Trichloromethane (chloroform)	
(33)	1582-09-8	216-428-8	Trifluralin	

<sup>(1)</sup> CAS: Chemical Abstracts Service.

<sup>(2)</sup> EU number: European Inventory of Existing Commercial Substances (Einecs) or European List of Notified Chemical Substances (Elincs).

<sup>(3)</sup> Where groups of substances have been selected, typical individual representatives are listed as indicative parameters (in brackets and without number). For these groups of substances, the indicative parameter must be defined through the analytical method.

<sup>(4)</sup> These groups of substances normally include a considerable number of individual compounds. At present, appropriate indicative parameters cannot be given.

<sup>(5)</sup> Only Pentabromobiphenylether (CAS-number 32534-81-9).

<sup>(6)</sup> Fluoranthene is on the list as an indicator of other, more dangerous polyaromatic hydrocarbons.'

## ANNEX III

**SUBSTANCES SUBJECT TO REVIEW FOR POSSIBLE IDENTIFICATION AS PRIORITY SUBSTANCES OR PRIORITY HAZARDOUS SUBSTANCES**

CAS number	EU number	Name of substance
1066-51-9	—	AMPA
25057-89-0	246-585-8	Bentazon
80-05-7		Bisphenol-A
115-32-2	204-082-0	Dicofol
60-00-4	200-449-4	EDTA
57-12-5		Free cyanide
1071-83-6	213-997-4	Glyphosate
7085-19-0	230-386-8	Mecoprop (MCPP)
81-15-2	201-329-4	Musk xylene
1763-23-1		Perfluorooctane sulphonic acid (PFOS)
124495-18-7	—	Quinoxifen (5,7-dichloro-4-(p-fluorophenoxy)quinoline) Dioxins PCB

**DIRECTIVE 2008/115/EC OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL****of 16 December 2008****on common standards and procedures in Member States for returning illegally staying third-country nationals**

THE EUROPEAN PARLIAMENT AND THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty establishing the European Community, and in particular Article 63(3)(b) thereof,

Having regard to the proposal from the Commission,

Acting in accordance with the procedure laid down in Article 251 of the Treaty <sup>(1)</sup>,

Whereas:

- (1) The Tampere European Council of 15 and 16 October 1999 established a coherent approach in the field of immigration and asylum, dealing together with the creation of a common asylum system, a legal immigration policy and the fight against illegal immigration.
- (2) The Brussels European Council of 4 and 5 November 2004 called for the establishment of an effective removal and repatriation policy, based on common standards, for persons to be returned in a humane manner and with full respect for their fundamental rights and dignity.
- (3) On 4 May 2005 the Committee of Ministers of the Council of Europe adopted 'Twenty guidelines on forced return'.
- (4) Clear, transparent and fair rules need to be fixed to provide for an effective return policy as a necessary element of a well managed migration policy.
- (5) This Directive should establish a horizontal set of rules, applicable to all third-country nationals who do not or who no longer fulfil the conditions for entry, stay or residence in a Member State.
- (6) Member States should ensure that the ending of illegal stay of third-country nationals is carried out through a fair and transparent procedure. According to general principles of EU law, decisions taken under this Directive should be adopted on a case-by-case basis and based on objective criteria, implying that consider-

ation should go beyond the mere fact of an illegal stay. When using standard forms for decisions related to return, namely return decisions and, if issued, entry-ban decisions and decisions on removal, Member States should respect that principle and fully comply with all applicable provisions of this Directive.

- (7) The need for Community and bilateral readmission agreements with third countries to facilitate the return process is underlined. International cooperation with countries of origin at all stages of the return process is a prerequisite to achieving sustainable return.
- (8) It is recognised that it is legitimate for Member States to return illegally staying third-country nationals, provided that fair and efficient asylum systems are in place which fully respect the principle of non-refoulement.
- (9) In accordance with Council Directive 2005/85/EC of 1 December 2005 on minimum standards on procedures in Member States for granting and withdrawing refugee status <sup>(2)</sup>, a third-country national who has applied for asylum in a Member State should not be regarded as staying illegally on the territory of that Member State until a negative decision on the application, or a decision ending his or her right of stay as asylum seeker has entered into force.
- (10) Where there are no reasons to believe that this would undermine the purpose of a return procedure, voluntary return should be preferred over forced return and a period for voluntary departure should be granted. An extension of the period for voluntary departure should be provided for when considered necessary because of the specific circumstances of an individual case. In order to promote voluntary return, Member States should provide for enhanced return assistance and counselling and make best use of the relevant funding possibilities offered under the European Return Fund.
- (11) A common minimum set of legal safeguards on decisions related to return should be established to guarantee effective protection of the interests of the individuals concerned. The necessary legal aid should be made available to those who lack sufficient resources. Member States should provide in their national legislation for which cases legal aid is to be considered necessary.

<sup>(1)</sup> Opinion of the European Parliament of 18 June 2008 (not yet published in the Official Journal) and Council Decision of 9 December 2008.

<sup>(2)</sup> OJ L 326, 13.12.2005, p. 13.

- (12) The situation of third-country nationals who are staying illegally but who cannot yet be removed should be addressed. Their basic conditions of subsistence should be defined according to national legislation. In order to be able to demonstrate their specific situation in the event of administrative controls or checks, such persons should be provided with written confirmation of their situation. Member States should enjoy wide discretion concerning the form and format of the written confirmation and should also be able to include it in decisions related to return adopted under this Directive.
- (13) The use of coercive measures should be expressly subject to the principles of proportionality and effectiveness with regard to the means used and objectives pursued. Minimum safeguards for the conduct of forced return should be established, taking into account Council Decision 2004/573/EC of 29 April 2004 on the organisation of joint flights for removals from the territory of two or more Member States, of third-country nationals who are subjects of individual removal orders<sup>(1)</sup>. Member States should be able to rely on various possibilities to monitor forced return.
- (14) The effects of national return measures should be given a European dimension by establishing an entry ban prohibiting entry into and stay on the territory of all the Member States. The length of the entry ban should be determined with due regard to all relevant circumstances of an individual case and should not normally exceed five years. In this context, particular account should be taken of the fact that the third-country national concerned has already been the subject of more than one return decision or removal order or has entered the territory of a Member State during an entry ban.
- (15) It should be for the Member States to decide whether or not the review of decisions related to return implies the power for the reviewing authority or body to substitute its own decision related to the return for the earlier decision.
- (16) The use of detention for the purpose of removal should be limited and subject to the principle of proportionality with regard to the means used and objectives pursued. Detention is justified only to prepare the return or carry out the removal process and if the application of less coercive measures would not be sufficient.
- (17) Third-country nationals in detention should be treated in a humane and dignified manner with respect for their fundamental rights and in compliance with international and national law. Without prejudice to the initial apprehension by law-enforcement authorities, regulated by national legislation, detention should, as a rule, take place in specialised detention facilities.
- (18) Member States should have rapid access to information on entry bans issued by other Member States. This information sharing should take place in accordance with Regulation (EC) No 1987/2006 of the European Parliament and of the Council of 20 December 2006 on the establishment, operation and use of the second generation Schengen Information System (SIS II)<sup>(2)</sup>.
- (19) Cooperation between the institutions involved at all levels in the return process and the exchange and promotion of best practices should accompany the implementation of this Directive and provide European added value.
- (20) Since the objective of this Directive, namely to establish common rules concerning return, removal, use of coercive measures, detention and entry bans, cannot be sufficiently achieved by the Member States and can therefore, by reason of its scale and effects, be better achieved at Community level, the Community may adopt measures, in accordance with the principle of subsidiarity as set out in Article 5 of the Treaty. In accordance with the principle of proportionality, as set out in that Article, this Directive does not go beyond what is necessary to achieve that objective.
- (21) Member States should implement this Directive without discrimination on the basis of sex, race, colour, ethnic or social origin, genetic features, language, religion or belief, political or any other opinions, membership of a national minority, property, birth, disability, age or sexual orientation.
- (22) In line with the 1989 United Nations Convention on the Rights of the Child, the 'best interests of the child' should be a primary consideration of Member States when implementing this Directive. In line with the European Convention for the Protection of Human Rights and Fundamental Freedoms, respect for family life should be a primary consideration of Member States when implementing this Directive.
- (23) Application of this Directive is without prejudice to the obligations resulting from the Geneva Convention relating to the Status of Refugees of 28 July 1951, as amended by the New York Protocol of 31 January 1967.
- (24) This Directive respects the fundamental rights and observes the principles recognised in particular by the Charter of Fundamental Rights of the European Union.

<sup>(1)</sup> OJ L 261, 6.8.2004, p. 28.

<sup>(2)</sup> OJ L 381, 28.12.2006, p. 4.

- (25) In accordance with Articles 1 and 2 of the Protocol on the position of Denmark annexed to the Treaty on European Union and the Treaty establishing the European Community, Denmark is not taking part in the adoption of this Directive and is not bound by it or subject to its application. Given that this Directive builds — to the extent that it applies to third-country nationals who do not fulfil or who no longer fulfil the conditions of entry in accordance with the Schengen Borders Code <sup>(1)</sup> — upon the Schengen acquis under the provisions of Title IV of Part Three of the Treaty establishing the European Community, Denmark shall, in accordance with Article 5 of the said Protocol, decide, within a period of six months after the adoption of this Directive, whether it will implement it in its national law.
- (26) To the extent that it applies to third-country nationals who do not fulfil or who no longer fulfil the conditions of entry in accordance with the Schengen Borders Code, this Directive constitutes a development of provisions of the Schengen acquis in which the United Kingdom does not take part, in accordance with Council Decision 2000/365/EC of 29 May 2000 concerning the request of the United Kingdom of Great Britain and Northern Ireland to take part in some of the provisions of the Schengen acquis <sup>(2)</sup>; moreover, in accordance with Articles 1 and 2 of the Protocol on the position of the United Kingdom and Ireland annexed to the Treaty on European Union and to the Treaty establishing the European Community, and without prejudice to Article 4 of the said Protocol, the United Kingdom is not taking part in the adoption of this Directive and is therefore not bound by it in its entirety or subject to its application.
- (27) To the extent that it applies to third-country nationals who do not fulfil or who no longer fulfil the conditions of entry in accordance with the Schengen Borders Code, this Directive constitutes a development of provisions of the Schengen acquis in which Ireland does not take part, in accordance with Council Decision 2002/192/EC of 28 February 2002 concerning Ireland's request to take part in some of the provisions of the Schengen acquis <sup>(3)</sup>; moreover, in accordance with Articles 1 and 2 of the Protocol on the position of the United Kingdom and Ireland annexed to the Treaty on European Union and to the Treaty establishing the European Community, and without prejudice to Article 4 of the said Protocol, Ireland is not taking part in the adoption of this Directive and is therefore not bound by it in its entirety or subject to its application.
- (28) As regards Iceland and Norway, this Directive constitutes — to the extent that it applies to third-country nationals who do not fulfil or who no longer fulfil the conditions of entry in accordance with the Schengen Borders Code — a development of provisions of the Schengen acquis within the meaning of the Agreement concluded by the Council of the European Union and the Republic of Iceland and the Kingdom of Norway concerning the association of those two States with the implementation, application and development of the Schengen acquis, which fall within the area referred to in Article 1, point C, of Council Decision 1999/437/EC <sup>(4)</sup> on certain arrangements for the application of that Agreement.
- (29) As regards Switzerland, this Directive constitutes — to the extent that it applies to third-country nationals who do not fulfil or who no longer fulfil the conditions of entry in accordance with the Schengen Borders Code — a development of provisions of the Schengen acquis within the meaning of the Agreement between the European Union, the European Community and the Swiss Confederation on the Swiss Confederation's association with the implementation, application and development of the Schengen acquis, which fall within the area referred to in Article 1, point C, of Decision 1999/437/EC read in conjunction with Article 3 of Council Decision 2008/146/EC <sup>(5)</sup> on the conclusion, on behalf of the European Community, of that Agreement.
- (30) As regards Liechtenstein, this Directive constitutes — to the extent that it applies to third-country nationals who do not fulfil or who no longer fulfil the conditions of entry in accordance with the Schengen Borders Code — a development of provisions of the Schengen acquis within the meaning of the Protocol between the European Union, the European Community, the Swiss Confederation and the Principality of Liechtenstein on the accession of the Principality of Liechtenstein to the Agreement between the European Union, the European Community and the Swiss Confederation on the Swiss Confederation's association with the implementation, application and development of the Schengen acquis, which fall within the area referred to in Article 1, point C, of Decision 1999/437/EC read in conjunction with Article 3 of Council Decision 2008/261/EC <sup>(6)</sup> on the signature, on behalf of the European Community, and on the provisional application of, certain provisions of that Protocol,

HAVE ADOPTED THIS DIRECTIVE:

#### CHAPTER I

#### GENERAL PROVISIONS

##### Article 1

##### Subject matter

This Directive sets out common standards and procedures to be applied in Member States for returning illegally staying third-country nationals, in accordance with fundamental rights as general principles of Community law as well as international law, including refugee protection and human rights obligations.

<sup>(1)</sup> Regulation (EC) No 562/2006 of the European Parliament and of the Council of 15 March 2006 establishing a Community Code on the rules governing the movement of persons across borders (Schengen Borders Code) (OJ L 105, 13.4.2006, p. 1).

<sup>(2)</sup> OJ L 131, 1.6.2000, p. 43.

<sup>(3)</sup> OJ L 64, 7.3.2002, p. 20.

<sup>(4)</sup> OJ L 176, 10.7.1999, p. 31.

<sup>(5)</sup> OJ L 53, 27.2.2008, p. 1.

<sup>(6)</sup> OJ L 83, 26.3.2008, p. 3.



## Article 2

### Scope

1. This Directive applies to third-country nationals staying illegally on the territory of a Member State.

2. Member States may decide not to apply this Directive to third-country nationals who:

(a) are subject to a refusal of entry in accordance with Article 13 of the Schengen Borders Code, or who are apprehended or intercepted by the competent authorities in connection with the irregular crossing by land, sea or air of the external border of a Member State and who have not subsequently obtained an authorisation or a right to stay in that Member State;

(b) are subject to return as a criminal law sanction or as a consequence of a criminal law sanction, according to national law, or who are the subject of extradition procedures.

3. This Directive shall not apply to persons enjoying the Community right of free movement as defined in Article 2(5) of the Schengen Borders Code.

## Article 3

### Definitions

For the purpose of this Directive the following definitions shall apply:

1. 'third-country national' means any person who is not a citizen of the Union within the meaning of Article 17(1) of the Treaty and who is not a person enjoying the Community right of free movement, as defined in Article 2(5) of the Schengen Borders Code;

2. 'illegal stay' means the presence on the territory of a Member State, of a third-country national who does not fulfil, or no longer fulfils the conditions of entry as set out in Article 5 of the Schengen Borders Code or other conditions for entry, stay or residence in that Member State;

3. 'return' means the process of a third-country national going back — whether in voluntary compliance with an obligation to return, or enforced — to:

— his or her country of origin, or

— a country of transit in accordance with Community or bilateral readmission agreements or other arrangements, or

— another third country, to which the third-country national concerned voluntarily decides to return and in which he or she will be accepted;

4. 'return decision' means an administrative or judicial decision or act, stating or declaring the stay of a third-country national to be illegal and imposing or stating an obligation to return;

5. 'removal' means the enforcement of the obligation to return, namely the physical transportation out of the Member State;

6. 'entry ban' means an administrative or judicial decision or act prohibiting entry into and stay on the territory of the Member States for a specified period, accompanying a return decision;

7. 'risk of absconding' means the existence of reasons in an individual case which are based on objective criteria defined by law to believe that a third-country national who is the subject of return procedures may abscond;

8. 'voluntary departure' means compliance with the obligation to return within the time-limit fixed for that purpose in the return decision;

9. 'vulnerable persons' means minors, unaccompanied minors, disabled people, elderly people, pregnant women, single parents with minor children and persons who have been subjected to torture, rape or other serious forms of psychological, physical or sexual violence.

## Article 4

### More favourable provisions

1. This Directive shall be without prejudice to more favourable provisions of:

(a) bilateral or multilateral agreements between the Community or the Community and its Member States and one or more third countries;

(b) bilateral or multilateral agreements between one or more Member States and one or more third countries.

2. This Directive shall be without prejudice to any provision which may be more favourable for the third-country national, laid down in the Community acquis relating to immigration and asylum.

3. This Directive shall be without prejudice to the right of the Member States to adopt or maintain provisions that are more favourable to persons to whom it applies provided that such provisions are compatible with this Directive.

4. With regard to third-country nationals excluded from the scope of this Directive in accordance with Article 2(2)(a), Member States shall:

(a) ensure that their treatment and level of protection are no less favourable than as set out in Article 8(4) and (5) (limitations on use of coercive measures), Article 9(2)(a) (postponement of removal), Article 14(1) (b) and (d) (emergency health care and taking into account needs of vulnerable persons), and Articles 16 and 17 (detention conditions) and

(b) respect the principle of non-refoulement.

#### Article 5

#### **Non-refoulement, best interests of the child, family life and state of health**

When implementing this Directive, Member States shall take due account of:

(a) the best interests of the child;

(b) family life;

(c) the state of health of the third-country national concerned,

and respect the principle of non-refoulement.

#### CHAPTER II

#### **TERMINATION OF ILLEGAL STAY**

#### Article 6

#### **Return decision**

1. Member States shall issue a return decision to any third-country national staying illegally on their territory, without prejudice to the exceptions referred to in paragraphs 2 to 5.

2. Third-country nationals staying illegally on the territory of a Member State and holding a valid residence permit or other authorisation offering a right to stay issued by another Member State shall be required to go to the territory of that other Member State immediately. In the event of non-compliance by the third-country national concerned with this requirement, or where the third-country national's immediate departure is required for reasons of public policy or national security, paragraph 1 shall apply.

3. Member States may refrain from issuing a return decision to a third-country national staying illegally on their territory if the third-country national concerned is taken back by another Member State under bilateral agreements or arrangements existing on the date of entry into force of this Directive. In

such a case the Member State which has taken back the third-country national concerned shall apply paragraph 1.

4. Member States may at any moment decide to grant an autonomous residence permit or other authorisation offering a right to stay for compassionate, humanitarian or other reasons to a third-country national staying illegally on their territory. In that event no return decision shall be issued. Where a return decision has already been issued, it shall be withdrawn or suspended for the duration of validity of the residence permit or other authorisation offering a right to stay.

5. If a third-country national staying illegally on the territory of a Member State is the subject of a pending procedure for renewing his or her residence permit or other authorisation offering a right to stay, that Member State shall consider refraining from issuing a return decision, until the pending procedure is finished, without prejudice to paragraph 6.

6. This Directive shall not prevent Member States from adopting a decision on the ending of a legal stay together with a return decision and/or a decision on a removal and/or entry ban in a single administrative or judicial decision or act as provided for in their national legislation, without prejudice to the procedural safeguards available under Chapter III and under other relevant provisions of Community and national law.

#### Article 7

#### **Voluntary departure**

1. A return decision shall provide for an appropriate period for voluntary departure of between seven and thirty days, without prejudice to the exceptions referred to in paragraphs 2 and 4. Member States may provide in their national legislation that such a period shall be granted only following an application by the third-country national concerned. In such a case, Member States shall inform the third-country nationals concerned of the possibility of submitting such an application.

The time period provided for in the first subparagraph shall not exclude the possibility for the third-country nationals concerned to leave earlier.

2. Member States shall, where necessary, extend the period for voluntary departure by an appropriate period, taking into account the specific circumstances of the individual case, such as the length of stay, the existence of children attending school and the existence of other family and social links.

3. Certain obligations aimed at avoiding the risk of absconding, such as regular reporting to the authorities, deposit of an adequate financial guarantee, submission of documents or the obligation to stay at a certain place may be imposed for the duration of the period for voluntary departure.



4. If there is a risk of absconding, or if an application for a legal stay has been dismissed as manifestly unfounded or fraudulent, or if the person concerned poses a risk to public policy, public security or national security, Member States may refrain from granting a period for voluntary departure, or may grant a period shorter than seven days.

#### *Article 8*

##### **Removal**

1. Member States shall take all necessary measures to enforce the return decision if no period for voluntary departure has been granted in accordance with Article 7(4) or if the obligation to return has not been complied with within the period for voluntary departure granted in accordance with Article 7.

2. If a Member State has granted a period for voluntary departure in accordance with Article 7, the return decision may be enforced only after the period has expired, unless a risk as referred to in Article 7(4) arises during that period.

3. Member States may adopt a separate administrative or judicial decision or act ordering the removal.

4. Where Member States use — as a last resort — coercive measures to carry out the removal of a third-country national who resists removal, such measures shall be proportionate and shall not exceed reasonable force. They shall be implemented as provided for in national legislation in accordance with fundamental rights and with due respect for the dignity and physical integrity of the third-country national concerned.

5. In carrying out removals by air, Member States shall take into account the Common Guidelines on security provisions for joint removals by air annexed to Decision 2004/573/EC.

6. Member States shall provide for an effective forced-return monitoring system.

#### *Article 9*

##### **Postponement of removal**

1. Member States shall postpone removal:

- (a) when it would violate the principle of non-refoulement, or
- (b) for as long as a suspensory effect is granted in accordance with Article 13(2).

2. Member States may postpone removal for an appropriate period taking into account the specific circumstances of the

individual case. Member States shall in particular take into account:

- (a) the third-country national's physical state or mental capacity;
- (b) technical reasons, such as lack of transport capacity, or failure of the removal due to lack of identification.

3. If a removal is postponed as provided for in paragraphs 1 and 2, the obligations set out in Article 7(3) may be imposed on the third-country national concerned.

#### *Article 10*

##### **Return and removal of unaccompanied minors**

1. Before deciding to issue a return decision in respect of an unaccompanied minor, assistance by appropriate bodies other than the authorities enforcing return shall be granted with due consideration being given to the best interests of the child.

2. Before removing an unaccompanied minor from the territory of a Member State, the authorities of that Member State shall be satisfied that he or she will be returned to a member of his or her family, a nominated guardian or adequate reception facilities in the State of return.

#### *Article 11*

##### **Entry ban**

1. Return decisions shall be accompanied by an entry ban:

- (a) if no period for voluntary departure has been granted, or
- (b) if the obligation to return has not been complied with.

In other cases return decisions may be accompanied by an entry ban.

2. The length of the entry ban shall be determined with due regard to all relevant circumstances of the individual case and shall not in principle exceed five years. It may however exceed five years if the third-country national represents a serious threat to public policy, public security or national security.

3. Member States shall consider withdrawing or suspending an entry ban where a third-country national who is the subject of an entry ban issued in accordance with paragraph 1, second subparagraph, can demonstrate that he or she has left the territory of a Member State in full compliance with a return decision.

Victims of trafficking in human beings who have been granted a residence permit pursuant to Council Directive 2004/81/EC of 29 April 2004 on the residence permit issued to third-country nationals who are victims of trafficking in human beings or who have been the subject of an action to facilitate illegal immigration, who cooperate with the competent authorities <sup>(1)</sup> shall not be subject of an entry ban without prejudice to paragraph 1, first subparagraph, point (b), and provided that the third-country national concerned does not represent a threat to public policy, public security or national security.

Member States may refrain from issuing, withdraw or suspend an entry ban in individual cases for humanitarian reasons.

Member States may withdraw or suspend an entry ban in individual cases or certain categories of cases for other reasons.

4. Where a Member State is considering issuing a residence permit or other authorisation offering a right to stay to a third-country national who is the subject of an entry ban issued by another Member State, it shall first consult the Member State having issued the entry ban and shall take account of its interests in accordance with Article 25 of the Convention implementing the Schengen Agreement <sup>(2)</sup>.

5. Paragraphs 1 to 4 shall apply without prejudice to the right to international protection, as defined in Article 2(a) of Council Directive 2004/83/EC of 29 April 2004 on minimum standards for the qualification and status of third country nationals or stateless persons as refugees or as persons who otherwise need international protection and the content of the protection granted <sup>(3)</sup>, in the Member States.

### CHAPTER III

#### PROCEDURAL SAFEGUARDS

##### Article 12

###### Form

1. Return decisions and, if issued, entry-ban decisions and decisions on removal shall be issued in writing and give reasons in fact and in law as well as information about available legal remedies.

The information on reasons in fact may be limited where national law allows for the right to information to be restricted, in particular in order to safeguard national security, defence, public security and for the prevention, investigation, detection and prosecution of criminal offences.

2. Member States shall provide, upon request, a written or oral translation of the main elements of decisions related to return, as referred to in paragraph 1, including information on the available legal remedies in a language the third-country

national understands or may reasonably be presumed to understand.

3. Member States may decide not to apply paragraph 2 to third country nationals who have illegally entered the territory of a Member State and who have not subsequently obtained an authorisation or a right to stay in that Member State.

In such cases decisions related to return, as referred to in paragraph 1, shall be given by means of a standard form as set out under national legislation.

Member States shall make available generalised information sheets explaining the main elements of the standard form in at least five of those languages which are most frequently used or understood by illegal migrants entering the Member State concerned.

##### Article 13

###### Remedies

1. The third-country national concerned shall be afforded an effective remedy to appeal against or seek review of decisions related to return, as referred to in Article 12(1), before a competent judicial or administrative authority or a competent body composed of members who are impartial and who enjoy safeguards of independence.

2. The authority or body mentioned in paragraph 1 shall have the power to review decisions related to return, as referred to in Article 12(1), including the possibility of temporarily suspending their enforcement, unless a temporary suspension is already applicable under national legislation.

3. The third-country national concerned shall have the possibility to obtain legal advice, representation and, where necessary, linguistic assistance.

4. Member States shall ensure that the necessary legal assistance and/or representation is granted on request free of charge in accordance with relevant national legislation or rules regarding legal aid, and may provide that such free legal assistance and/or representation is subject to conditions as set out in Article 15(3) to (6) of Directive 2005/85/EC.

##### Article 14

###### Safeguards pending return

1. Member States shall, with the exception of the situation covered in Articles 16 and 17, ensure that the following principles are taken into account as far as possible in relation to third-country nationals during the period for voluntary departure granted in accordance with Article 7 and during periods for which removal has been postponed in accordance with Article 9:

<sup>(1)</sup> OJ L 261, 6.8.2004, p. 19.

<sup>(2)</sup> OJ L 239, 22.9.2000, p. 19.

<sup>(3)</sup> OJ L 304, 30.9.2004, p. 12.

- (a) family unity with family members present in their territory is maintained;
- (b) emergency health care and essential treatment of illness are provided;
- (c) minors are granted access to the basic education system subject to the length of their stay;
- (d) special needs of vulnerable persons are taken into account.

2. Member States shall provide the persons referred to in paragraph 1 with a written confirmation in accordance with national legislation that the period for voluntary departure has been extended in accordance with Article 7(2) or that the return decision will temporarily not be enforced.

#### CHAPTER IV

#### DETENTION FOR THE PURPOSE OF REMOVAL

##### Article 15

##### Detention

1. Unless other sufficient but less coercive measures can be applied effectively in a specific case, Member States may only keep in detention a third-country national who is the subject of return procedures in order to prepare the return and/or carry out the removal process, in particular when:

- (a) there is a risk of absconding or
- (b) the third-country national concerned avoids or hampers the preparation of return or the removal process.

Any detention shall be for as short a period as possible and only maintained as long as removal arrangements are in progress and executed with due diligence.

2. Detention shall be ordered by administrative or judicial authorities.

Detention shall be ordered in writing with reasons being given in fact and in law.

When detention has been ordered by administrative authorities, Member States shall:

- (a) either provide for a speedy judicial review of the lawfulness of detention to be decided on as speedily as possible from the beginning of detention;
- (b) or grant the third-country national concerned the right to take proceedings by means of which the lawfulness of detention shall be subject to a speedy judicial review to be decided on as speedily as possible after the launch of

the relevant proceedings. In such a case Member States shall immediately inform the third-country national concerned about the possibility of taking such proceedings.

The third-country national concerned shall be released immediately if the detention is not lawful.

3. In every case, detention shall be reviewed at reasonable intervals of time either on application by the third-country national concerned or ex officio. In the case of prolonged detention periods, reviews shall be subject to the supervision of a judicial authority.

4. When it appears that a reasonable prospect of removal no longer exists for legal or other considerations or the conditions laid down in paragraph 1 no longer exist, detention ceases to be justified and the person concerned shall be released immediately.

5. Detention shall be maintained for as long a period as the conditions laid down in paragraph 1 are fulfilled and it is necessary to ensure successful removal. Each Member State shall set a limited period of detention, which may not exceed six months.

6. Member States may not extend the period referred to in paragraph 5 except for a limited period not exceeding a further twelve months in accordance with national law in cases where regardless of all their reasonable efforts the removal operation is likely to last longer owing to:

- (a) a lack of cooperation by the third-country national concerned, or
- (b) delays in obtaining the necessary documentation from third countries.

##### Article 16

##### Conditions of detention

1. Detention shall take place as a rule in specialised detention facilities. Where a Member State cannot provide accommodation in a specialised detention facility and is obliged to resort to prison accommodation, the third-country nationals in detention shall be kept separated from ordinary prisoners.

2. Third-country nationals in detention shall be allowed — on request — to establish in due time contact with legal representatives, family members and competent consular authorities.

3. Particular attention shall be paid to the situation of vulnerable persons. Emergency health care and essential treatment of illness shall be provided.

4. Relevant and competent national, international and non-governmental organisations and bodies shall have the possibility to visit detention facilities, as referred to in paragraph 1, to the extent that they are being used for detaining third-country nationals in accordance with this Chapter. Such visits may be subject to authorisation.

5. Third-country nationals kept in detention shall be systematically provided with information which explains the rules applied in the facility and sets out their rights and obligations. Such information shall include information on their entitlement under national law to contact the organisations and bodies referred to in paragraph 4.

#### *Article 17*

##### **Detention of minors and families**

1. Unaccompanied minors and families with minors shall only be detained as a measure of last resort and for the shortest appropriate period of time.

2. Families detained pending removal shall be provided with separate accommodation guaranteeing adequate privacy.

3. Minors in detention shall have the possibility to engage in leisure activities, including play and recreational activities appropriate to their age, and shall have, depending on the length of their stay, access to education.

4. Unaccompanied minors shall as far as possible be provided with accommodation in institutions provided with personnel and facilities which take into account the needs of persons of their age.

5. The best interests of the child shall be a primary consideration in the context of the detention of minors pending removal.

#### *Article 18*

##### **Emergency situations**

1. In situations where an exceptionally large number of third-country nationals to be returned places an unforeseen heavy burden on the capacity of the detention facilities of a Member State or on its administrative or judicial staff, such a Member State may, as long as the exceptional situation persists, decide to allow for periods for judicial review longer than those provided for under the third subparagraph of Article 15(2) and to take urgent measures in respect of the conditions of detention derogating from those set out in Articles 16(1) and 17(2).

2. When resorting to such exceptional measures, the Member State concerned shall inform the Commission. It shall also inform the Commission as soon as the reasons for applying these exceptional measures have ceased to exist.

3. Nothing in this Article shall be interpreted as allowing Member States to derogate from their general obligation to take all appropriate measures, whether general or particular, to ensure fulfilment of their obligations under this Directive.

#### **CHAPTER V**

##### **FINAL PROVISIONS**

#### *Article 19*

##### **Reporting**

The Commission shall report every three years to the European Parliament and the Council on the application of this Directive in the Member States and, if appropriate, propose amendments.

The Commission shall report for the first time by 24 December 2013 and focus on that occasion in particular on the application of Article 11, Article 13(4) and Article 15 in Member States. In relation to Article 13(4) the Commission shall assess in particular the additional financial and administrative impact in Member States.

#### *Article 20*

##### **Transposition**

1. Member States shall bring into force the laws, regulations and administrative provisions necessary to comply with this Directive by 24 December 2010. In relation to Article 13(4), Member States shall bring into force the laws, regulations and administrative provisions necessary to comply with this Directive by 24 December 2011. They shall forthwith communicate to the Commission the text of those measures.

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

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

#### *Article 21*

##### **Relationship with the Schengen Convention**

This Directive replaces the provisions of Articles 23 and 24 of the Convention implementing the Schengen Agreement.

#### *Article 22*

##### **Entry into force**

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

*Article 23***Addressees**

This Directive is addressed to the Member States in accordance with the Treaty establishing the European Community.

Done at Strasbourg, 16 December 2008.

*For the European Parliament*

*The President*

H.-G. PÖTTERING

*For the Council*

*The President*

B. LE MAIRE

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## DECISIONS ADOPTED JOINTLY BY THE EUROPEAN PARLIAMENT AND THE COUNCIL

## DECISION No 1348/2008/EC OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL

of 16 December 2008

**amending Council Directive 76/769/EEC as regards restrictions on the marketing and use of 2-(2-methoxyethoxy)ethanol, 2-(2-butoxyethoxy)ethanol, methylenediphenyl diisocyanate, cyclohexane and ammonium nitrate**

(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 95 thereof,

Having regard to the proposal from the Commission,

Having regard to the opinion of the European Economic and Social Committee <sup>(1)</sup>,

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

Whereas:

(1) The risks posed to human health by 2-(2-methoxyethoxy)ethanol (DEGME), 2-(2-butoxyethoxy)ethanol (DEGBE), methylenediphenyl diisocyanate (MDI) and cyclohexane have been assessed in accordance with Council Regulation (EEC) No 793/93 of 23 March 1993 on the evaluation and control of the risks of existing substances <sup>(3)</sup>. The risk assessment for all these chemical substances identified the need to limit the risks posed to human health. Those conclusions were confirmed by the Scientific Committee on Toxicity, Ecotoxicity and the Environment.

(2) Commission Recommendations 1999/721/EC of 12 October 1999 on the results of the risk evaluation and on the risk reduction strategies for the substances: 2-(2-butoxyethoxy)ethanol; 2-(2-methoxyethoxy)ethanol;

Alkanes, C10-13, chloro; Benzene, C10-13-alkyl derivs. <sup>(4)</sup> and 2008/98/EC of 6 December 2007 on risk reduction measures for the substances: Piperazine; Cyclohexane; Methylenediphenyl diisocyanate; But-2-yne-1,4-diol; Methyloxirane; Aniline; 2-Ethylhexylacrylate; 1,4-Dichlorobenzene; 3,5-dinitro-2,6-dimethyl-4-tert-butylacetophenone; Di-(2-ethylhexyl)phthalate; Phenol; 5-tert-butyl-2,4,6-trinitro-m-xylene <sup>(5)</sup>, adopted within the framework of Regulation (EEC) No 793/93, proposed a strategy for limiting the risks for DEGME, DEGBE, MDI and cyclohexane respectively, recommending that restriction measures under Council Directive 76/769/EEC of 27 July 1976 on the approximation of the laws, regulations and administrative provisions of the Member States relating to restrictions on the marketing and use of certain dangerous substances and preparations <sup>(6)</sup> must be applied for preparations containing these substances placed on the market for supply to the general public.

(3) In order to protect consumers, it therefore appears necessary to restrict the placing on the market and the use of preparations containing DEGME, DEGBE, MDI or cyclohexane for specific applications.

(4) DEGME is very rarely used as a constituent of consumer paints, paint strippers, cleaning agents, self-shining emulsions and floor sealants. The aforementioned risk assessment has shown that there is a risk to the health of consumers through dermal exposure to paints and paint-strippers containing DEGME. DEGME used as a constituent of paints and paint strippers should therefore not be placed on the market for supply to the general public. Even though the use of DEGME as a constituent of cleaning agents, self-shining emulsions and floor sealants has not been assessed, it may pose a similar risk and therefore DEGME used as a constituent of those preparations should also not be placed on the market for supply to the general public. A limit value of 0,1 % by mass of DEGME in those preparations should be adopted for market surveillance purposes.

<sup>(1)</sup> OJ C 204, 9.8.2008, p. 13.

<sup>(2)</sup> Opinion of the European Parliament of 9 July 2008 (not yet published in the Official Journal) and Decision of the Council of 18 November 2008.

<sup>(3)</sup> OJ L 84, 5.4.1993, p. 1.

<sup>(4)</sup> OJ L 292, 13.11.1999, p. 42.

<sup>(5)</sup> OJ L 33, 7.2.2008, p. 8.

<sup>(6)</sup> OJ L 262, 27.9.1976, p. 201.



- (5) DEGBE is used as a constituent of paints and cleaners. The aforementioned risk assessment for DEGBE has shown that there is a risk to the health of consumers through inhalation exposure during spray painting application. A derived safe concentration limit of 3 % for DEGBE in spray paints should be introduced to prevent the risk of inhalation exposure for consumers. Even though the use of DEGBE as a constituent of spray cleaners in aerosol dispensers has not been assessed, it may pose a similar risk and therefore DEGBE used as a constituent of those cleaners should also not be placed on the market for supply to the general public in concentrations equal to or greater than 3 % by mass. Aerosol dispensers should comply with the requirements of Council Directive 75/324/EEC of 20 May 1975 on the approximation of the laws of the Member States relating to aerosol dispensers <sup>(1)</sup>.
- (6) For paints other than spray paints, a warning against using such paints in spraying equipment should be required where those paints contain DEGBE in a concentration which is equal to or greater than 3 % by mass.
- (7) In order to ensure an appropriate phase-out of spray paints and spray cleaners in aerosol dispensers not meeting the concentration limits for DEGBE, different dates should be fixed for the applicability of the restriction in respect of the first placing on the market and the final sale for DEGBE in spray paints and spray cleaners in aerosol dispensers.
- (8) The risk assessment for MDI has shown that there is a need to limit the risks during consumer applications of preparations containing MDI due to concerns relating to inhalation and dermal exposure. To prevent and limit these risks, the placing on the market for supply to the general public of preparations containing MDI should be permitted only under certain conditions such as the mandatory supply of appropriate protective gloves and of additional instructions with the packaging. These gloves should comply with the requirements of Council Directive 89/686/EEC of 21 December 1989 on the approximation of the laws of the Member States relating to personal protective equipment <sup>(2)</sup>. As the provision of the protective equipment and the printing of relevant instructions will require specific efforts by producers, a longer period of transition should be provided.
- (9) The risk assessment for cyclohexane focused on the exposure of consumers during the use of preparations containing cyclohexane for carpet laying and concluded that restriction measures were necessary to limit the risk for consumers during such applications. Neoprene-based contact adhesives containing cyclohexane should therefore only be placed on the market for supply to the general public with a reduced package size. Harmonised instructions provided with the product should warn consumers against use under conditions of poor ventilation or for carpet laying.
- (10) Ammonium nitrate, which is widely used throughout the Community as a fertiliser, can act as an oxidising agent. In particular, it has the ability to explode when mixed with certain other substances. Ammonium nitrate fertilisers should therefore meet certain requirements when placed on the market to ensure that they are safe against accidental detonation.
- (11) Regulation (EC) No 2003/2003 of the European Parliament and of the Council of 13 October 2003 relating to fertilisers <sup>(3)</sup> provides for harmonised requirements, including safety requirements, for ammonium nitrate fertilisers. Fertilisers complying with those requirements may be labelled 'EC fertiliser' and may circulate freely within the internal market.
- (12) For fertilisers intended for sale only within a single Member State, manufacturers may choose to conform only to requirements existing at national level. Therefore those fertilisers may not comply with the safety requirements set at Community level. To ensure a uniform level of safety within the Community, all ammonium nitrate fertilisers should therefore conform to the same safety requirements.
- (13) Annex III to Regulation (EC) No 2003/2003 specifies a test of resistance to detonation for ammonium nitrate fertilisers containing more than 28 % by mass of nitrogen in relation to ammonium nitrate. It also specifies a number of physical characteristics and limits on the chemical impurity content for such fertilisers in order to minimise the risk of detonation. Ammonium nitrate fertilisers that comply with those requirements, or that contain less than 28 % by mass of nitrogen, are accepted by all Member States as being safe for use in agriculture.
- (14) All ammonium nitrate fertilisers placed on the market within the Community should therefore conform to the safety requirements set out in Regulation (EC) No 2003/2003.

<sup>(1)</sup> OJ L 147, 9.6.1975, p. 40.

<sup>(2)</sup> OJ L 399, 30.12.1989, p. 18.

<sup>(3)</sup> OJ L 304, 21.11.2003, p. 1.

- (15) Ammonium nitrate fertilisers have been misused for the illicit manufacture of explosives. Fertiliser types that can be used for this purpose have a nitrogen content as low as 16 %. Access to fertiliser types and types of preparations that contain more than 16 % by mass of nitrogen in relation to ammonium nitrate should therefore be limited to farmers and professional users. For this purpose, the concepts of 'farmer' and 'agricultural activity' need to be defined so that farming and other similar professional activities such as the maintenance of parks, gardens or sport pitches can still benefit from the use of fertilisers with a higher content of nitrogen. Member States may, however, for socio-economic reasons, apply a limit of up to 20 % by mass of nitrogen in relation to ammonium nitrate for their territories.
- (16) The provisions of this Decision are adopted with a view to being incorporated into Annex XVII to Regulation (EC) No 1907/2006 of the European Parliament and of the Council of 18 December 2006 concerning the Registration, Evaluation, Authorisation and Restriction of Chemicals (REACH) and establishing a European Chemicals Agency, amending Directive 1999/45/EC and repealing Council Regulation (EEC) No 793/93 and Commission Regulation (EC) No 1488/94 as well as Council Directive 76/769/EEC and Commission Directives 91/155/EEC, 93/67/EEC, 93/105/EC and 2000/21/EC <sup>(1)</sup> as set out in Article 137(3) of that Regulation.
- (17) Directive 76/769/EEC should be amended accordingly.
- (18) This Decision is without prejudice to the Community legislation laying down minimum requirements for the protection of workers, such as Council Directive 89/391/EEC of 12 June 1989 on the introduction of measures to encourage improvements in the safety and

health of workers at work <sup>(2)</sup> and individual Directives based thereon, in particular Directive 2004/37/EC of the European Parliament and of the Council of 29 April 2004 on the protection of workers from the risks related to exposure to carcinogens or mutagens at work (sixth individual Directive within the meaning of Article 16(1) of Council Directive 89/391/EEC) (codified version) <sup>(3)</sup> and Council Directive 98/24/EC of 7 April 1998 on the protection of the health and safety of workers from the risks related to chemical agents at work (fourteenth individual Directive within the meaning of Article 16(1) of Directive 89/391/EEC) <sup>(4)</sup>,

HAVE ADOPTED THIS DECISION:

*Article 1*

Annex I to Directive 76/769/EEC is hereby amended in accordance with the Annex to this Decision.

*Article 2*

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

*Article 3*

This Decision is addressed to the Member States.

Done at Strasbourg, 16 December 2008.

*For the European Parliament*

*The President*

H.-G. PÖTTERING

*For the Council*

*The President*

B. LE MAIRE

<sup>(1)</sup> OJ L 396, 30.12.2006, p. 1. Corrected by OJ L 136, 29.5.2007, p. 3.

<sup>(2)</sup> OJ L 183, 29.6.1989, p. 1.

<sup>(3)</sup> OJ L 158, 30.4.2004, p. 50. Corrected by OJ L 229, 29.6.2004, p. 23.

<sup>(4)</sup> OJ L 131, 5.5.1998, p. 11.



## ANNEX

In Annex I to Directive 76/769/EEC, the following points are added:

<p>53. 2-(2-methoxyethoxy) ethanol (DEGME) CAS No: 111-77-3 Einecs No: 203-906-6</p>	<p>Shall not be placed on the market after 27 June 2010, for supply to the general public, as a constituent of paints, paint strippers, cleaning agents, self-shining emulsions or floor sealants in concentrations equal to or greater than 0,1 % by mass.</p>
<p>54. 2-(2-butoxyethoxy) ethanol (DEGBE) CAS No: 112-34-5 Einecs No: 203-961-6</p>	<p>(1) Shall not be placed on the market for the first time after 27 June 2010, for supply to the general public, as a constituent of spray paints or spray cleaners in aerosol dispensers in concentrations equal to or greater than 3 % by mass.</p> <p>(2) Spray paints and spray cleaners in aerosol dispensers containing DEGBE and not conforming to paragraph 1 shall not be placed on the market for supply to the general public after 27 December 2010.</p> <p>(3) Without prejudice to other Community legislation concerning the classification, packaging and labelling of dangerous substances and preparations, paints, other than spray paints, containing DEGBE in concentrations equal to or greater than 3 % by mass that are placed on the market for supply to the general public shall be visibly, legibly and indelibly marked by 27 December 2010 as follows:</p> <p>“Do not use in paint spraying equipment”.</p>
<p>55. Methylenediphenyl diisocyanate (MDI) CAS No: 26447-40-5 Einecs No: 247-714-0</p>	<p>(1) Shall not be placed on the market after 27 December 2010, as a constituent of preparations in concentrations equal to or greater than 0,1 % by mass for supply to the general public, unless the packaging:</p> <p>(a) contains protective gloves which comply with the requirements of Council Directive 89/686/EEC of 21 December 1989 on the approximation of the laws of the Member States relating to personal protective equipment (*).</p> <p>(b) is marked visibly, legibly and indelibly as follows, and without prejudice to other Community legislation concerning the classification, packaging and labelling of dangerous substances and preparations:</p> <p>— Persons already sensitised to diisocyanates may develop allergic reactions when using this product.</p> <p>— Persons suffering from asthma, eczema or skin problems should avoid contact, including dermal contact, with this product.</p> <p>— This product should not be used under conditions of poor ventilation unless a protective mask with an appropriate gas filter (i.e. type A1 according to standard EN 14387) is used.”</p> <p>(2) By way of derogation, paragraph 1(a) shall not apply to hot melt adhesives.</p>
<p>56. Cyclohexane CAS No: 110-82-7 Einecs No: 203-806-2</p>	<p>(1) Shall not be placed on the market for the first time after 27 June 2010, for supply to the general public, as a constituent of neoprene-based contact adhesives in concentrations equal to or greater than 0,1 % by mass in package sizes greater than 350 g.</p> <p>(2) Neoprene-based contact adhesives containing cyclohexane and not conforming to paragraph 1 shall not be placed on the market for supply to the general public after 27 December 2010.</p> <p>(3) Without prejudice to other Community legislation concerning the classification, packaging and labelling of dangerous substances and preparations, neoprene-based contact adhesives containing cyclohexane in concentrations equal to or greater than 0,1 % by mass that are placed on the market for supply to the general public after 27 December 2010 shall be visibly, legibly and indelibly marked as follows:</p> <p>— This product is not to be used under conditions of poor ventilation.</p> <p>— This product is not to be used for carpet laying.”</p>

57. Ammonium nitrate (AN)  
CAS No 6484-52-2  
Einecs No 229-347-8

- (1) Shall not be placed on the market for the first time after 27 June 2010 as a substance, or in preparations that contain more than 28 % by mass of nitrogen in relation to ammonium nitrate, for use as a solid fertiliser, straight or compound, unless the fertiliser complies with the technical provisions for ammonium nitrate fertilisers of high nitrogen content set out in Annex III to Regulation (EC) No 2003/2003 of the European Parliament and of the Council of 13 October 2003 relating to fertilisers (\*\*).
- (2) Shall not be placed on the market after 27 June 2010 as a substance, or in preparations that contain 16 % or more by mass of nitrogen in relation to ammonium nitrate except for supply to:
  - (a) downstream users and distributors, including natural or legal persons licensed or authorised in accordance with Council Directive 93/15/EEC of 5 April 1993 on the harmonisation of the provisions relating to the placing on the market and supervision of explosives for civil use (\*\*\*);
  - (b) farmers for use in agricultural activities, either full time or part time and not necessarily related to the size of the land area.  
For the purposes of this subparagraph:
    - (i) "farmer" shall mean a natural or legal person, or a group of natural or legal persons, whatever legal status is granted to the group and its members by national law, whose holding is situated within Community territory, as referred to in Article 299 of the Treaty, and who exercises an agricultural activity,
    - (ii) "agricultural activity" shall mean the production, rearing or growing of agricultural products including harvesting, milking, breeding animals and keeping animals for farming purposes, or maintaining the land in good agricultural and environmental condition as established under Article 5 of Council Regulation (EC) No 1782/2003 of 29 September 2003 establishing common rules for direct support schemes under the common agricultural policy and establishing certain support schemes for farmers (\*\*\*\*);
  - (c) natural or legal persons engaged in professional activities such as horticulture, plant growing in greenhouses, maintenance of parks, gardens or sport pitches, forestry or other similar activities.
- (3) However, for the restrictions in paragraph 2, Member States may until 1 July 2014, for socioeconomic reasons, apply a limit of up to 20 % by mass of nitrogen in relation to ammonium nitrate for substances and preparations placed on the market within their territories. They shall inform the Commission and other Member States thereof.

(\*) OJ L 399, 30.12.1989, p. 18.

(\*\*) OJ L 304, 21.11.2003, p. 1.

(\*\*\*) OJ L 121, 15.5.1993, p. 20.

(\*\*\*\*) OJ L 270, 21.10.2003, p. 1.'

**DECISION No 1349/2008/EC OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL**  
**of 16 December 2008**  
**amending Decision No 1719/2006/EC establishing the 'Youth in Action' programme for the period**  
**2007 to 2013**  
**(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 149(4) thereof,

Having regard to the proposal from the Commission,

Having regard to the opinion of the European Economic and Social Committee <sup>(1)</sup>,

After consulting the Committee of the Regions,

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

Whereas:

(1) Decision No 1719/2006/EC of the European Parliament and of the Council of 15 November 2006 <sup>(3)</sup> established the 'Youth in Action' programme for the period 2007 to 2013.

(2) Article 10(2) of Decision No 1719/2006/EC stipulates that measures necessary for the implementation of the programme other than those listed in paragraph 1 are to be adopted in accordance with the procedure referred to in Article 9(3) of that Decision, namely in accordance with the advisory procedure established by Council Decision 1999/468/EC of 28 June 1999 laying down the procedures for the exercise of implementing powers conferred on the Commission <sup>(4)</sup>.

(3) This wording of Decision No 1719/2006/EC results in particular in grant award decisions other than those referred to in Article 10(1) of that Decision being subject to the advisory procedure and to the European Parliament's right of scrutiny.

(4) Yet these selection decisions mainly concern small grants and do not involve any politically sensitive decision making.

(5) These procedural requirements add two to three months to the process of awarding grants to applicants. They cause many delays for recipients, place a disproportionate burden on the programme's administration and provide no added value given the nature of the grants awarded.

(6) In order to allow selection decisions to be implemented more quickly and efficiently, it is necessary to replace the advisory procedure with an obligation on the Commission to inform the European Parliament and the Member States without delay about any measures taken for the implementation of Decision No 1719/2006/EC without the assistance of a committee,

HAVE DECIDED AS FOLLOWS:

*Article 1*

Decision No 1719/2006/EC is amended as follows:

1. Article 9(3) shall be deleted.

2. Article 10(2) shall be replaced by the following:

'2. The Commission shall inform the Committee referred to in Article 9 and the European Parliament of all other selection decisions it has taken for the implementation of this Decision within two working days of the adoption of the decisions in question. This information shall include descriptions and an analysis of the applications received, a description of the assessment and selection procedure, and lists of both the projects proposed for funding and those rejected.'

*Article 2*

The Commission shall report to the European Parliament and the Council on the impact of this Decision by 25 June 2010.

<sup>(1)</sup> OJ C 224, 30.8.2008, p. 113.

<sup>(2)</sup> Opinion of the European Parliament of 2 September 2008 (not yet published in the Official Journal) and Council Decision of 20 November 2008.

<sup>(3)</sup> OJ L 327, 24.11.2006, p. 30.

<sup>(4)</sup> OJ L 184, 17.7.1999, p. 23.

*Article 3*

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

Done at Strasbourg, 16 December 2008.

*For the European Parliament*

*The President*

H.-G. PÖTTERING

*For the Council*

*The President*

B. LE MAIRE

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**DECISION No 1350/2008/EC OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL**  
**of 16 December 2008**  
**concerning the European Year of Creativity and Innovation (2009)**  
**(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 Articles 149 and 150 thereof,

Having regard to the proposal from the Commission,

Having regard to the opinion of the European Economic and Social Committee <sup>(1)</sup>,

Having regard to the opinion of the Committee of the Regions <sup>(2)</sup>,

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

Whereas:

- (1) Europe needs to strengthen its capacity for creativity and innovation for social and economic reasons in order to respond effectively to the development of the knowledge society: innovative capacity is closely linked with creativity as a personal attribute, and to be harnessed to full advantage it needs to be widely disseminated throughout the population. This requires an approach based on lifelong learning.
- (2) Education and training systems should cater sufficiently and at all appropriate levels for the development of key competences to support creativity and innovation, with a view to finding innovative and original solutions in personal, occupational and social life.
- (3) The Lisbon European Council of 23 and 24 March 2000 concluded that 'a European framework should define the new basic skills to be provided through lifelong learning' as a key measure in Europe's response to 'globalisation and the shift to knowledge-based economies', and emphasised that 'people are Europe's main asset'.

(4) The Commission Communication of 21 November 2001 entitled 'Making a European Area of Lifelong Learning a Reality' and the subsequent Council Resolution of 27 June 2002 on lifelong learning <sup>(4)</sup> identified the provision of 'the new basic skills' as a priority and stressed that 'lifelong learning must cover learning from pre-school age to that of post-retirement'.

(5) Recommendation 2006/962/EC of the European Parliament and of the Council of 18 December 2006 on key competences for lifelong learning <sup>(5)</sup> identified various key competences, in particular, 'mathematical competence and basic competences in science and technology', 'learning to learn', 'digital competence', a 'sense of initiative and entrepreneurship', 'cultural awareness and expression' and 'social and civic competences'.

(6) The Brussels European Council of 8 and 9 March 2007 noted that education and training are prerequisites for a well-functioning knowledge triangle (education-research-innovation) and play a key role in boosting growth and jobs. It called for particular attention to be given to stimulating the potential of small and medium-sized enterprises, including those in the cultural and creative sectors, in view of their role as drivers of growth, job creation and innovation.

(7) Declaring a European Year of Creativity and Innovation is an effective way of helping to meet the challenges facing Europe by raising public awareness, disseminating information about good practices and promoting research and policy debate. By creating an environment for simultaneously promoting these objectives at European, national, regional and local levels, it can achieve greater synergy and critical mass than disparate efforts at different levels.

(8) As the promotion of creativity and of a capacity for innovation through lifelong learning falls within the objectives of existing Community programmes, such a Year can be implemented by using those programmes within the existing margins which they provide for setting funding priorities on an annual or multi-annual basis; programmes and policies in other fields, such as culture, communication, enterprise, cohesion, rural development, research and the information society, also contribute to promoting creativity and a capacity for innovation and may support the initiative within their respective legal frameworks.

<sup>(1)</sup> Opinion of 9 July 2008 (not yet published in the Official Journal).

<sup>(2)</sup> OJ C 257, 9.10.2008, p. 46.

<sup>(3)</sup> Opinion of the European Parliament of 23 September 2008 (not yet published in the Official Journal) and Council Decision of 20 November 2008.

<sup>(4)</sup> OJ C 163, 9.7.2002, p. 1.

<sup>(5)</sup> OJ L 394, 30.12.2006, p. 10.

- (9) Since the objective of this Decision, namely to support the efforts of the Member States to promote creativity, through lifelong learning, as a driver for innovation and as a key factor for the development of personal, occupational, entrepreneurial and social competences and the well-being of all individuals in society, cannot be sufficiently achieved by the Member States and can therefore be better achieved at Community level, the Community may adopt measures, in accordance with the principle of subsidiarity, as set out in Article 5 of the Treaty. In accordance with the principle of proportionality, as set out in that Article, this Decision does not go beyond what is necessary in order to achieve that objective,

HAVE ADOPTED THIS DECISION:

#### *Article 1*

##### **Subject**

The year 2009 shall be designated as the 'European Year of Creativity and Innovation' (hereinafter referred to as 'the Year').

#### *Article 2*

##### **Objectives**

1. The overall objective of the Year shall be to support the efforts of the Member States to promote creativity, through lifelong learning, as a driver for innovation and as a key factor for the development of personal, occupational, entrepreneurial and social competences and the well-being of all individuals in society.

2. The specific objectives of the Year shall be to highlight, inter alia, the following factors which can contribute to promoting creativity and a capacity for innovation:

- (a) providing an environment which is favourable to innovation and adaptability in a rapidly changing world; all forms of innovation, including social and entrepreneurial innovation, shall be taken into account;
- (b) highlighting openness to cultural diversity as a means of fostering intercultural communication and promoting closer links between the arts, as well as with schools and universities;
- (c) stimulating aesthetic sensitivity, emotional development, creative thinking and intuition in all children from the earliest stages of development, including pre-school care;
- (d) raising awareness of the importance of creativity, innovation and entrepreneurship for personal development, as well as for economic growth and employment, and fostering entre-

preneurial mindsets, particularly among young people, through cooperation with the business world;

- (e) promoting education in basic as well as advanced mathematical, scientific and technological skills conducive to technological innovation;
- (f) fostering openness to change, creativity and problem-solving as competences conducive to innovation which are transferable to a variety of occupational and social contexts;
- (g) broadening access to a variety of creative forms of self-expression both throughout formal education and by means of non-formal and informal youth activities;
- (h) raising awareness among people, whether inside or outside the labour market, that creativity, knowledge and flexibility are important in a time of rapid technological changes and global integration for a prosperous and fulfilling life, as well as equipping people to improve their career opportunities in all areas where creativity and a capacity for innovation play an important role;
- (i) promoting design as a creative activity which significantly contributes to innovation, as well as innovation management and design management skills, including basic notions of protection of intellectual property;
- (j) developing creativity and innovative capacity in private and public organisations through training, and encouraging them to make better use of the creative capacities of both employees and clients.

#### *Article 3*

##### **Content of measures**

The measures to be taken to achieve the objectives set out in Article 2 shall include the following activities at European, national, regional or local level linked to the objectives of the Year:

- (a) conferences, events and initiatives to promote debate and raise awareness of the importance of creativity and a capacity for innovation;
- (b) information and promotion campaigns to disseminate key messages;
- (c) identification of examples of good practice and dissemination of information about promoting creativity and a capacity for innovation;
- (d) surveys and studies on a Community or national scale.

In addition to activities co-financed by the Community in accordance with Article 6, the Commission or the Member States may identify other activities as contributing to the objectives of the Year and permit the use of the name of the Year in promoting those activities insofar as they contribute to the achievement of the objectives set out in Article 2.

*Article 4*

**Coordination at national level**

Each Member State shall appoint a national coordinator responsible for organising its participation in the Year. The coordinator shall ensure the coordination at national level of activities relating to the Year.

*Article 5*

**Coordination at European level**

The Commission shall convene meetings of the national coordinators in order to coordinate at European level the implementation of the Year and to exchange information regarding its implementation at national level.

*Article 6*

**Funding**

Co-financing at European level of activities within the framework of the Year shall be in accordance with the priorities

and rules applying, on an annual or multi-annual basis, to existing programmes, particularly in the field of education and training. Where appropriate, programmes and policies in other fields, such as culture, communication, enterprise, cohesion, rural development, research and the information society, may support the Year.

*Article 7*

**Entry into force**

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

*Article 8*

**Addressees**

This Decision is addressed to the Member States.

Done at Strasbourg, 16 December 2008.

*For the European Parliament*

*The President*

H.-G. PÖTTERING

*For the Council*

*The President*

B. LE MAIRE



**DECISION No 1351/2008/EC OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL**  
**of 16 December 2008**  
**establishing a multiannual Community programme on protecting children using the Internet and**  
**other communication technologies**

(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 153 thereof,

Having regard to the proposal from the Commission,

Having regard to the opinion of the European Economic and Social Committee <sup>(1)</sup>,

After consulting the Committee of the Regions,

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

Whereas:

- (1) The use of the Internet and other communication technologies such as mobile phones continues to grow considerably in the European Union and offers all citizens great opportunities for, inter alia, participation, interactivity and creativity. However, risks to children and abuse of these technologies continue to exist and, as a result of changing technologies and societal behaviours, new risks and abuses continue to emerge. Measures should be adopted at EU level in order to protect the physical, mental and moral integrity of children, which might be impaired by their accessing inappropriate content. Moreover, in order to encourage citizens to exploit the opportunities and enjoy the positive benefits offered by the Internet and other communication technologies, measures promoting their safer use are also needed.

- (2) The Commission Communication 'i2010 — A European Information Society for growth and employment' (COM(2005)0229), developing the Lisbon strategy, seeks to ensure coherence across the Commission's information society and media policies in order to reinforce the significant contribution of information and communication technologies to the performance of the economies of Member States. One of its objectives is the creation of a Single European Information Space offering affordable and secure high bandwidth communications, rich and diverse content, and digital services.

- (3) The Community legislative framework addressing the challenges of digital content in the Information Society includes provisions on the protection of minors <sup>(3)</sup>, the protection of privacy <sup>(4)</sup> and the liability of intermediary service providers <sup>(5)</sup>. Council Framework Decision 2004/68/JHA of 22 December 2003 on combating the sexual exploitation of children and child pornography <sup>(6)</sup> sets out minimum requirements for Member States in the definition of offences and appropriate penalties. Recommendation 2006/952/EC of the European Parliament and of the Council of 20 December 2006 on the protection of minors and human dignity and on the right of reply in relation to the competitiveness of the European audiovisual and on-line information services industry <sup>(7)</sup> builds on Council Recommendation 98/560/EC of 24 September 1998 on the development of the competitiveness of the European audiovisual and information services industry by promoting national frameworks aimed at achieving a comparable and effective level of protection of minors and human dignity <sup>(8)</sup>, by setting out guidelines for the development of national self-regulation, and extending its scope to include media literacy, cooperation and the sharing of experience and best practices between regulatory, self-regulatory, and co-regulatory bodies and measures to combat discrimination in all media.

<sup>(3)</sup> Directive 2007/65/EC of the European Parliament and of the Council of 11 December 2007 amending Council Directive 89/552/EEC on the coordination of certain provisions laid down by law, regulation or administrative action in Member States concerning the pursuit of television broadcasting activities (OJ L 332, 18.12.2007, p. 27).

<sup>(4)</sup> Directive 2002/58/EC of the European Parliament and of the Council of 12 July 2002 concerning the processing of personal data and the protection of privacy in the electronic communications sector (Directive on privacy and electronic communications) (OJ L 201, 31.7.2002, p. 37).

<sup>(5)</sup> Directive 2000/31/EC of the European Parliament and of the Council of 8 June 2000 on certain legal aspects of information society services, in particular electronic commerce, in the Internal Market (Directive on electronic commerce) (OJ L 178, 17.7.2000, p. 1).

<sup>(6)</sup> OJ L 13, 20.1.2004, p. 44.

<sup>(7)</sup> OJ L 378, 27.12.2006, p. 72.

<sup>(8)</sup> OJ L 270, 7.10.1998, p. 48.

<sup>(1)</sup> OJ C 224, 30.8.2008, p. 61.

<sup>(2)</sup> Opinion of the European Parliament of 22 October 2008 (not yet published in the Official Journal) and Council Decision of 9 December 2008.



- (4) There will be a continued need for action in the areas of content potentially harmful to children, particularly pornographic material, and of illegal content, particularly child abuse material. Likewise, action continues to be necessary to prevent children becoming victims of harmful and illegal conduct leading to physical and psychological harm, and being enticed to imitate such conduct causing harm to themselves and others. Particular efforts should be made to explore solutions to prevent an adult from making proposals, through information and communication technologies, to meet a child with the intention of committing sexual abuse or other sexual offences. At the same time, special attention should be given to the peer support system.
- (5) Action should also be aimed at preventing children from being victimised by threats, harassment and humiliation via the Internet and/or interactive digital technologies, including mobile phones.
- (6) Decision No 276/1999/EC of the European Parliament and of the Council of 25 January 1999 adopting a Multi-annual Community Action Plan on promoting safer use of the Internet and new online technologies by combating illegal and harmful content primarily in the area of the protection of children and minors<sup>(1)</sup> (the Safer Internet Action Plan 1998-2004) and Decision No 854/2005/EC of the European Parliament and of the Council of 11 May 2005 establishing a multiannual Community Programme on promoting safer use of the Internet and new online technologies<sup>(2)</sup> (the Safer Internet plus programme 2005-2008) have provided Community financing which, as demonstrated by the programme evaluations submitted to the European Parliament, the Council and the Committee of the Regions (COM(2001)0690, COM(2003)0653 and COM(2006)0663), has successfully encouraged a variety of initiatives and has provided 'European added value'.
- (7) In addition to the findings of the evaluations of the predecessor programmes, a series of Eurobarometer surveys and a public consultation have clearly identified the need to maintain the activities on reporting illegal content and on awareness-raising in the Member States.
- (8) The programme established by this Decision should, *inter alia*, be aimed at creating educational packages for parents, carers, teachers and educators.
- (9) Evolving technologies, changes in the way the Internet and other communication technologies are used by adults and children, and shifts in societal behaviours are leading to new risks for children. The knowledge base that can be used for designing efficient actions needs to be strengthened in order to better understand these changes. Several measures and actions should be combined in a multi-faceted and complementary way; this should include, for example, taking measures to promote a safe and responsible use of the Internet, further developing supporting technologies, promoting best practices for codes of conduct embodying generally agreed standards of behaviour and cooperating with industry on the agreed objectives of those codes.
- (10) The programme should further support measures to encourage positive content for children.
- (11) The changing media landscape, resulting from new technologies and media innovation, makes it necessary to teach children, as well as parents, carers, teachers and educators, to use on-line information services safely and effectively.
- (12) Efforts should be made to protect children through the development of, for example, effective age verification systems and voluntary certification labels.
- (13) International cooperation is essential given the global nature of the problem. Illegal content may be produced in one country, hosted in a second, but accessed and downloaded worldwide. International cooperation, which has been stimulated through the Community networking structures, should be reinforced in order to better protect children against cross-border risks involving third countries. An exchange of best practices between European organisations and those in other parts of the world could be mutually advantageous.
- (14) All the Member States have ratified the 20 November 1989 UN Convention on the Rights of the Child, pursuant to which signatory States are required to adopt any national, bilateral and multilateral measure needed to prevent any form of child exploitation, and to adopt any legislative, administrative and other measure necessary for the purpose of upholding the rights recognised under that Convention, where appropriate by means of international cooperation.
- (15) The measures that the Commission is empowered to adopt under the implementing powers conferred on it by this Decision are essentially management measures relating to the implementation of a programme with substantial budgetary implications within the meaning of Article 2(a) of Council Decision 1999/468/EC of 28 June 1999 laying down the procedures for the exercise of implementing powers conferred on the Commission<sup>(3)</sup>. Such measures should therefore be adopted in accordance with the management procedure provided for in Article 4 of that Decision.

<sup>(1)</sup> OJ L 33, 6.2.1999, p. 1.

<sup>(2)</sup> OJ L 149, 11.6.2005, p. 1.

<sup>(3)</sup> OJ L 184, 17.7.1999, p. 23.

(16) The Commission should ensure complementarity and synergy with related Community initiatives and programmes.

(17) This Decision lays down a financial envelope for the implementation of the Programme constituting the prime reference for the budgetary authority during the annual budgetary procedure, within the meaning of point 37 of the Interinstitutional Agreement of 17 May 2006 between the European Parliament, the Council and the Commission on budgetary discipline and sound financial management <sup>(1)</sup>.

(18) Since the objectives of this Decision cannot be sufficiently achieved by the Member States given the transnational character of the issues at stake and can therefore, by reason of the European scope and effects of the actions, be better achieved at Community level, the Community may adopt measures, in accordance with the principle of subsidiarity as set out in Article 5 of the Treaty. In accordance with the principle of proportionality, as set out in that Article, this Decision does not go beyond what is necessary in order to achieve those objectives.

(19) This Decision respects the fundamental rights and observes the principles reflected in the Charter of Fundamental Rights of the European Union, in particular Article 3(1) and Articles 7, 8 and 24 thereof,

HAVE DECIDED AS FOLLOWS:

#### *Article 1*

##### **Objective of the programme**

1. This Decision establishes a Community programme to promote safer use of the Internet and other communication technologies, particularly for children, and to fight against illegal content and harmful conduct online.

The programme shall be known as the 'Safer Internet' programme ('the Programme').

2. The following action lines shall be addressed:

- (a) ensuring public awareness;
- (b) fighting against illegal content and harmful conduct online;
- (c) promoting a safer online environment;
- (d) establishing a knowledge base.

<sup>(1)</sup> OJ C 139, 14.6.2006, p. 1.

The activities to be carried out under these action lines are set out in Annex I.

The Programme shall be implemented in accordance with Annex III.

3. For the purpose of this Decision 'children' means persons under 18 years of age, unless the relevant national law confers on them, under certain conditions, full legal capacity under that age.

#### *Article 2*

##### **Participation**

1. Participation in the Programme shall be open to legal entities established in:

- (a) the Member States;
- (b) European Free Trade Association (EFTA) countries which are members of the European Economic Area (EEA), in accordance with the conditions laid down in the EEA Agreement;
- (c) accession countries and candidate countries benefiting from a pre-accession strategy, in accordance with the general principles and general terms and conditions for the participation of those countries in Community programmes established in the respective Framework Agreements and Association Council Decisions;
- (d) countries of the Western Balkans and the European neighbourhood, in accordance with the provisions to be determined with those countries following the establishment of Framework Agreements concerning their participation in Community programmes;
- (e) a third country being a party to an international agreement with the Community, under the terms or on the basis of which it makes a financial contribution to the Programme.

2. The Programme shall also be open to international organisations and legal entities established in third countries other than those mentioned in points (b) to (e) of paragraph 1 under the conditions set out in Annex III.

#### *Article 3*

##### **Competences of the Commission**

1. The Commission shall be responsible for the implementation of the Programme.

2. The Commission shall prepare annual work programmes on the basis of this Decision.

3. In implementing the Programme, the Commission shall, in close cooperation with the Member States, ensure general consistency and complementarity with other relevant Community policies, programmes and actions.

4. The Commission shall act in accordance with the procedure referred to in Article 4(2) for the purposes of:

(a) adopting and modifying the annual work programmes, including determining the priority areas for international cooperation;

(b) assessing the projects proposed following calls for proposals for Community funding where the estimated Community contribution is equal to, or more than, EUR 500 000;

(c) implementing measures for evaluating the Programme.

5. The Commission shall inform the committee referred to in Article 4 of progress in the implementation of the Programme. In particular, the Commission shall inform that committee immediately about all selection decisions taken on matters falling outside of the scope of paragraph 4 of this Article.

#### Article 4

##### Committee

1. The Commission shall be assisted by a committee.

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.

#### Article 5

##### Monitoring and evaluation

1. In order to ensure that Community aid is used efficiently, the Commission shall ensure that actions under this Decision are subject to prior appraisal, follow-up and subsequent evaluation.

2. The Commission shall monitor the implementation of projects under the Programme.

3. The Commission shall evaluate the manner in which the projects have been carried out and their impact in order to assess whether the original objectives have been achieved.

4. The Commission shall, by 24 June 2011, report to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions, on the implementation of the action lines referred to in Article 1(2).

5. The Commission shall submit a final evaluation report at the end of the Programme.

#### Article 6

##### Financial provisions

1. The Programme shall cover a period of five years from 1 January 2009.

2. The financial envelope for the implementation of the Programme for the period from 1 January 2009 to 31 December 2013 shall be EUR 55 000 000.

3. The annual appropriations for the period from 2009 to 2013 shall be authorised by the budgetary authority within the limits of the financial framework.

4. An indicative breakdown of expenditure is set out in Annex II.

#### Article 7

##### Entry into force

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

Done at Strasbourg, 16 December 2008.

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

For the Council  
The President  
B. LE MAIRE

## ANNEX I

## ACTIONS

**Introduction**

The objective of the Programme is to promote safer use of the Internet and other communication technologies ('online technologies'), to educate users, particularly children, parents, carers, teachers and educators in this regard and to fight against illegal content and harmful conduct online.

To achieve this objective, the Programme will focus on practical help for the end-user, particularly children, parents, carers, teachers and educators, by encouraging multi-stakeholder partnerships.

The Programme has the overall aim to promote safer use of online technologies, especially by children, promote the development of a safe online environment, reduce the amount of illegal content disseminated online, tackle potentially harmful conduct online (including the psychological manipulation of children with a view to sexual abuse and 'grooming', which is the process by which an adult befriends a child with the intention of committing sexual abuse, electronic harassment and electronic files showing physical and/or psychological aggression) and ensure public awareness of online risks and precautions, as well as to develop pedagogical tools on the basis of sound practices.

In order to ensure a coherent approach to risks, where content and services may be accessed and used both online and offline, such as in the case of video games, the Programme may address both types of access and use.

The Programme will be implemented through four general action lines:

*(1) Ensuring public awareness*

The activities will aim to increase public awareness, in particular among children, parents, carers, teachers and educators, about opportunities and risks related to the use of online technologies, and means of staying safe online. They will also address the opportunities and risks of services using new distribution platforms, such as audiovisual services using mobile phone networks. Where appropriate, information packs will be made available in multilingual versions. The main planned actions are:

1. Raising public awareness and disseminating information on safer use of online technologies.

Activities will promote public awareness in a coordinated way across the European Union, by conveying a positive message about the opportunities for a wider and more intensive use of information and communication technology, while providing adequate information about risks and ways to deal with them. Actions will be encouraged so as to enable children to make responsible use of on-line technologies, in particular through media literacy or media education programmes. Activities will encourage cost-effective means of distributing awareness information to a large number of users, for instance, through cooperation with mass media, through the online distribution of user-generated content and through the educational system. Methods of distribution and presentation of messages will be adapted to the various target groups (different age groups of children and their parents, carers, teachers and educators).

2. Providing contact points where parents and children can receive answers to questions about how to stay safe online, including advice on how to deal with both grooming and cyber-bullying.

Activities will be aimed at empowering users to make informed and responsible choices by providing them with advice on relevant information and precautions to be taken to remain safe online.

3. Encouraging the enhancement of efficient and cost-effective awareness-raising methods and tools.

Actions will be aimed at improving relevant awareness-raising methods and tools so that they are more efficient and cost-effective over the long-term.

4. Ensuring the exchange of best practices and cross-border cooperation at EU level.

Actions will be taken to ensure effective EU cross-border cooperation and effective exchange of best practices, tools, methods, experience and information.

5. Ensuring exchange of best practices and cooperation at international level.

Actions will aim to promote cooperation and exchange of best practices, tools, methods, experience and information at international level in order to encourage common approaches and methods of work and improve and enhance the effectiveness, cost-efficiency and the range of global initiatives.

(2) *Fighting against illegal content and harmful conduct online*

The activities will aim to reduce the amount of illegal content circulated online and deal adequately with harmful conduct online, with particular focus on online distribution of child sexual abuse material, grooming and cyber-bullying. The main planned actions are:

1. Providing the public with, and promoting the existence of, contact points and hotlines for reporting online illegal content and harmful conduct.

Activities will ensure that these contact points are effective and visible to the public, that they liaise closely with other actors at national level (in particular with police units specialised in cyber crime), and that they cooperate at EU level to deal with cross-border issues and to exchange best practices. These contact points will also provide the public with the necessary information on how to report illegal content and assess the content of on-line information services which could harm the physical, mental or moral integrity of children.

2. Tackling harmful conduct online, in particular grooming and cyber-bullying. Activities will aim to tackle online grooming and cyber-bullying.

Actions will deal with technical, psychological and sociological issues relating to these issues and will promote cooperation and coordination between stakeholders.

3. Stimulating the application of technical solutions for dealing adequately with illegal content and harmful conduct online and informing end-users as to how this technology might be applied.

Activities will encourage the design, development or adaptation and/or promotion of effective technological tools to deal adequately with illegal content and to fight against harmful conduct online, in particular those tools made available free of charge for easy general use by stakeholders, and will also encourage the promotion by service operators of safe, responsible use of connections in order to protect children against illegal and harmful activities. Stakeholders will be informed of the availability of this technology and its proper use. Consideration could be given, *inter alia*, to the following measures:

(a) adopting a quality label for service providers, so that users can easily check whether or not a given provider subscribes to a code of conduct;

(b) the use by end-users of filters which would prevent information which could harm children's physical, mental or moral integrity from passing through online technologies;

(c) supporting and promoting measures to encourage positive content for children;

(d) aiming to explore the effectiveness of tools developed in cooperation with the Internet industry that enable law enforcement agencies to track down online criminals.

4. Promoting cooperation and exchange of information, experience and best practices between stakeholders at national and EU level.

Activities will aim to improve coordination between, and encourage the participation and engagement of, stakeholders involved in countering the distribution of illegal content and harmful conduct online. In particular, activities will encourage the international sharing of expertise and pooling of ideas between governments, law enforcement agencies, hotlines, banking/financial/credit card institutions, child abuse counselling centres, child welfare organisations and the Internet industry.

5. Enhancing cooperation, exchange of information and experience in fighting online illegal content and harmful conduct at international level.

Activities will aim to improve cooperation with third countries, harmonise approaches in dealing with illegal content and harmful conduct online at international level and encourage the development of coordinating links between the Member States' databases relating to child abuse, and also common approaches and methods of work. In particular, activities will be aimed at establishing close cooperation between national authorities, police and contact points. Actions will be taken to build a common EU database collecting information on child abuse and to ensure its connection with Europol.

6. Engaging domain name registries where they are not yet engaged and strengthening existing cooperation.

Taking account of national legislation, activities will aim to complement the existing actions by improving cooperation with domain name registries in Member States, and encouraging positive relationships with registries outside the EU to enable earlier detection of potentially illegal content and minimise the longevity of websites known to offer child sexual abuse content.

(3) *Promoting a safer online environment*

The activities will aim to bring together stakeholders so as to promote a safer online environment and protect children from harmful content. The main planned actions are:

1. Enhancing cooperation, exchange of information, experience and best practices between stakeholders.

Activities will aim to improve cooperation, harmonise approaches in creating a safer online environment for children and enable the exchange of best practices and working methods. Actions will aim to provide stakeholders with an open platform to discuss issues linked to promoting a safer online environment and ways of protecting children from potentially harmful content across different platforms.

2. Encouraging stakeholders to develop and implement adequate systems of self- and co-regulation. Actions will encourage the creation and implementation of self- and co-regulatory initiatives and encourage stakeholders to take account of child safety when developing new technologies and services.
3. Encouraging and assisting providers to develop labelling.

Actions will aim at encouraging and assisting Internet service providers to develop, as a tool of self regulation, 'child safe' labelling for web pages. These actions may include, *inter alia*, exploring the possibility of setting up a system of common descriptive symbols or warning messages indicating the age category and/or those aspects of the content which have led to a certain age recommendation, which would help users to be more aware of potentially harmful online content.

4. Stimulating the involvement of children in creating a safer online environment.

Actions will aim to involve children, ensuring equal participation of girls and boys, with the aim of better understanding their views and experiences concerning the use of online technologies and, with the support of specialists, of promoting a safer online environment for children. This involvement shall be regularly exercised within the framework of activities such as the European Forum on the Rights of the Child, the Safer Internet Forum and others.

5. Increasing information about adequate tools for dealing with harmful content online.

Activities will aim to increase information, particularly for parents, carers, teachers and educators, about the performance and effectiveness of tools, such as filtering systems, for dealing with potentially harmful content online and to equip all users regularly with simple educational information, instruments and applications adequately supporting them in dealing with harmful content across different platforms.

6. Ensuring compatibility between the approach taken in the European Union and internationally.

Activities will promote cooperation and exchange of information, experience and best practices between stakeholders at EU level and internationally.



(4) *Establishing a knowledge base*

The activities will aim to establish a knowledge base for dealing adequately with existing and emerging uses of the online environment and relevant risks and consequences, with a view to designing adequate actions aimed at ensuring online safety for all users. The contents of this knowledge base will be shared with stakeholders and disseminated across Member States. The main planned actions are:

1. Encouraging a coordinated approach to investigations in relevant fields.

Actions will aim to bring together scientists and experts engaged in the field of child safety online at EU level, stimulate international cooperation and coordination, and establish updated overviews of existing and emerging research.

2. Providing updated information on children's use of online technologies.

Actions will be taken to generate updated information concerning children's use of online technologies and the way they and their parents, carers, teachers and educators deal with both opportunities and risks. The actions will comprise quantitative and qualitative aspects. Actions will also aim to increase the knowledge of children's own strategies for dealing with risks in the online environment, and assess their effectiveness.

3. Analysing statistics and trends from different Member States.

Actions will be taken to analyse statistics and trends from different Member States with the aim of allowing law enforcement agencies and relevant authorities from Member States to reduce the duplication of existing efforts and maximise the use of current and future resources.

4. Promoting investigation of the online victimisation of children.

Actions, incorporating a gender-sensitive approach, will aim to investigate technical, psychological and sociological issues related to the victimisation of children in the online environment, including cyber-bullying, grooming, issues relating to online child sexual abuse material and emerging forms of conduct that put children at risk of harm.

5. Promoting investigation of efficient ways to improve the safe use of online technologies.

Actions may include investigations and trials of awareness-raising methods and tools, successful co- and self-regulatory schemes, the effectiveness of different technical and non-technical solutions, as well as other relevant issues.

6. Increasing knowledge of the effects of the use of current and emerging technologies on children.

Actions, incorporating a gender-sensitive approach, will aim to better understand the psychological, behavioural and sociological effects of online technologies on children, ranging from the effect of exposure to harmful content and conduct, to grooming and cyber-bullying across different platforms, from computers and mobile phones to game consoles and other emerging technologies.

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*ANNEX II***INDICATIVE BREAKDOWN OF EXPENDITURE**

(1) Ensuring public awareness	48 %
(2) Fighting against illegal content and harmful conduct online	34 %
(3) Promoting a safer online environment	10 %
(4) Establishing a knowledge base	8 %

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## ANNEX III

**METHODS OF PROGRAMME IMPLEMENTATION**

- (1) The Commission will implement the Programme in accordance with the technical content specified in Annex I.
  - (2) The Programme will be implemented through actions comprising:
    - A. *Shared-cost actions*
      1. Pilot projects and best practice actions; ad hoc projects in areas relevant to the Programme, including projects demonstrating best practice or involving innovative uses of existing technology.
      2. Networks and national actions bringing together a variety of stakeholders to ensure action throughout Europe and to facilitate coordination activities and transfer of knowledge.
      3. Europe-wide investigation carried out on a comparable basis on the use of online technologies, the resulting risks for children, and the effects of harmful practices on children, and behavioural and psychological aspects with emphasis on child sexual abuse related to the use of online technologies, investigation on upcoming risk situations due to transforming behaviours or technological developments, etc.
      4. Technology deployment projects.
    - B. *Accompanying measures*

Accompanying measures will contribute to the implementation of the Programme or the preparation of future activities.

      1. Benchmarking and opinion surveys to produce reliable data on safer use of online technologies for all Member States collected through comparable methodologies.
      2. Technical assessment of technologies such as filtering which are designed to promote safer use of the Internet and new online technologies.
      3. Studies in support of the Programme and its actions.
      4. Exchange of information through conferences, seminars, workshops or other meetings and the management of clustered activities.
      5. Dissemination, information and communication activities.
  - (3) In pursuance of Article 2(2), international organisations and legal entities established in third countries may take part in shared-cost actions, with or without Community funding, under the following conditions:
    - (a) the action must fall under a priority for international cooperation as defined in the annual work programmes. These priorities may be defined by thematic area of activity, by geographic criteria or both;
    - (b) the annual work programmes may define further criteria and conditions which must be satisfied by international organisations and legal entities established in third countries in order to receive Community funding.
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**DECISION No 1352/2008/EC OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL**  
**of 16 December 2008**  
**amending Decision No 1855/2006/EC establishing the Culture Programme (2007 to 2013)**  
**(Text with EEA relevance)**

THE EUROPEAN PARLIAMENT AND THE COUNCIL OF THE EUROPEAN UNION,

advisory procedure and to the European Parliament's right of scrutiny.

Having regard to the Treaty establishing the European Community, and in particular Article 151(5), first indent, thereof,

- (4) Yet these selection decisions mainly concern projects of limited duration whose life cycle is incompatible with lengthy decision-making procedures and do not involve politically sensitive decision making.

Having regard to the proposal from the Commission,

- (5) These procedural requirements add two to three months to the process of awarding grants to applicants. They cause many delays for recipients, place a disproportionate burden on the programme's administration and provide no added value given the nature of the grants awarded.

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

Having regard to the opinion of the Committee of the Regions,

- (6) In order to allow selection decisions to be implemented more quickly and efficiently, it is necessary to replace the advisory procedure with an obligation on the Commission to inform the European Parliament and the Member States without delay about any measures taken for the implementation of Decision No 1855/2006/EC without the assistance of a committee,

Acting in accordance with the procedure laid down in Article 251 of the Treaty <sup>(1)</sup>,

Whereas:

HAVE DECIDED AS FOLLOWS:

- (1) Decision No 1855/2006/EC of the European Parliament and of the Council of 12 December 2006 <sup>(2)</sup> established the Culture programme for the period 2007 to 2013.

*Article 1*

Decision No 1855/2006/EC is amended as follows:

- (2) Article 8(3) of Decision No 1855/2006/EC stipulates that measures necessary for the implementation of the programme other than those listed in paragraph 2 are to be adopted in accordance with the procedure referred to in Article 9(3) of that Decision, namely in accordance with the advisory procedure established by Council Decision 1999/468/EC of 28 June 1999 laying down the procedures for the exercise of implementing powers conferred on the Commission <sup>(3)</sup>.
- (3) This wording of Decision No 1855/2006/EC results in particular in selection decisions other than those referred to in Article 8(2) of that Decision being subject to the

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

'3. The Commission shall inform the Committee referred to in Article 9 and the European Parliament of all other selection decisions it has taken for the implementation of this Decision within two working days of the adoption of the decisions in question. This information shall include descriptions and an analysis of the applications received, a description of the assessment and selection procedure, and lists of both the projects proposed for funding and those rejected;'

2. Article 9(3) shall be deleted.

<sup>(1)</sup> Opinion of the European Parliament of 2 September 2008 (not yet published in the Official Journal) and Council Decision of 20 November 2008.

<sup>(2)</sup> OJ L 372, 27.12.2006, p. 1.

<sup>(3)</sup> OJ L 184, 17.7.1999, p. 23.

*Article 2*

The Commission shall report to the European Parliament and the Council on the impact of this Decision by 25 June 2010.

*Article 3*

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

Done at Strasbourg, 16 December 2008.

*For the European Parliament*

*The President*

H.-G. PÖTTERING

*For the Council*

*The President*

B. LE MAIRE

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## III

*(Acts adopted under the EU Treaty)*

## ACTS ADOPTED UNDER TITLE VI OF THE EU TREATY

## COUNCIL DECISION 2008/976/JHA

of 16 December 2008

## on the European Judicial Network

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty on European Union, and in particular Articles 31 and 34(2)(c) thereof,

Having regard to the initiative of the Kingdom of Belgium, the Czech Republic, the Republic of Estonia, the Kingdom of Spain, the French Republic, the Italian Republic, the Grand Duchy of Luxembourg, the Kingdom of the Netherlands, the Republic of Austria, the Republic of Poland, the Portuguese Republic, the Republic of Slovenia, the Slovak Republic and the Kingdom of Sweden,

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

Whereas:

(1) By Joint Action 98/428/JHA <sup>(2)</sup>, the Council set up the European Judicial Network which has demonstrated its usefulness in the facilitation of judicial cooperation in criminal matters.

(2) In accordance with Article 6 of the Convention on Mutual Assistance in Criminal Matters between the Member States of the European Union <sup>(3)</sup>, mutual legal assistance takes place through direct contacts between competent judicial authorities. This decentralisation of mutual legal assistance is now widely implemented.

(3) The principle of mutual recognition of judicial decisions in criminal matters is being implemented gradually. It not only confirms the principle of direct contacts between competent judicial authorities, it also accelerates the procedures and makes them entirely judicial.

(4) The impact of these changes on judicial cooperation was further increased by the enlargement of the European Union in 2004 and 2007. Because of this evolution, the European Judicial Network is even more necessary than at the time of its creation and should therefore be strengthened.

(5) By Decision 2002/187/JHA <sup>(4)</sup>, the Council set up Eurojust to improve coordination and cooperation between competent authorities of the Member States. Decision 2002/187/JHA provides that Eurojust is to maintain privileged relations with the European Judicial Network based on consultation and complementarity.

(6) Five years of coexistence of Eurojust and the European Judicial Network have demonstrated both the need to maintain the two structures and the need to clarify their relationship.

(7) Nothing in this Decision should be construed to affect the independence that contact points may have under national law.

(8) It is necessary to strengthen judicial cooperation between the Member States and to allow contact points of the European Judicial Network and Eurojust for this purpose to communicate, whenever needed, directly and more efficiently through a secure telecommunications connection.

(9) Joint Action 98/428/JHA should therefore be repealed and replaced by this Decision,

<sup>(1)</sup> Opinion delivered on 2 September 2008 (not yet published in the Official Journal).

<sup>(2)</sup> OJ L 191, 7.7.1998, p. 4.

<sup>(3)</sup> OJ C 197, 12.7.2000, p. 3.

<sup>(4)</sup> OJ L 63, 6.3.2002, p. 1.

HAS DECIDED AS FOLLOWS:

#### *Article 1*

##### **Creation**

The network of judicial contact points set up between the Member States under Joint Action 98/428/JHA, hereinafter referred to as the 'European Judicial Network', shall continue to operate in accordance with the provisions of this Decision.

#### *Article 2*

##### **Composition**

1. The European Judicial Network shall be made up, taking into account the constitutional rules, legal traditions and internal structure of each Member State, of the central authorities responsible for international judicial cooperation and the judicial or other competent authorities with specific responsibilities within the context of international cooperation.

2. One or more contact points of each Member State shall be established in accordance with its internal rules and internal division of responsibilities, care being taken to ensure effective coverage of the whole of its territory.

3. Each Member State shall appoint, among the contact points, a national correspondent for the European Judicial Network.

4. Each Member State shall appoint a tool correspondent for the European Judicial Network.

5. Each Member State shall ensure that its contact points have functions in relation to judicial cooperation in criminal matters and adequate knowledge of a language of the European Union other than its own national language, bearing in mind the need to be able to communicate with the contact points in the other Member States.

6. Where the liaison magistrates referred to in Council Joint Action 96/277/JHA of 22 April 1996 concerning a framework for the exchange of liaison magistrates to improve judicial cooperation between the Member States of the European Union <sup>(1)</sup> have been appointed in a Member State and have duties analogous to those assigned by Article 4 of this Decision to the contact points, they shall be linked to the European Judicial Network and to the secure telecommunications connection pursuant to Article 9 of this Decision by the Member State appointing the liaison magistrate in each case, in accordance with the procedures to be laid down by that Member State.

7. The Commission shall designate a contact point for those areas falling within its sphere of competence.

8. The European Judicial Network shall have a Secretariat which shall be responsible for the administration of the Network.

#### *Article 3*

##### **Manner of operation of the Network**

The European Judicial Network shall operate in particular in the following three ways:

- (a) it shall facilitate the establishment of appropriate contacts between the contact points in the various Member States in order to carry out the functions laid down in Article 4;
- (b) it shall organise periodic meetings of the Member States representatives in accordance with the procedures laid down in Articles 5 and 6;
- (c) it shall constantly provide a certain amount of up-to-date background information, in particular by means of an appropriate telecommunications network, under the procedures laid down in Articles 7, 8 and 9.

#### *Article 4*

##### **Functions of contact points**

1. The contact points shall be active intermediaries with the task of facilitating judicial cooperation between Member States, particularly in actions to combat forms of serious crime. They shall be available to enable local judicial authorities and other competent authorities in their own Member State, contact points in the other Member States and local judicial and other competent authorities in the other Member States to establish the most appropriate direct contacts.

They may if necessary travel to meet other Member States contact points, on the basis of an agreement between the administrations concerned.

2. The contact points shall provide the local judicial authorities in their own Member State, the contact points in the other Member States and the local judicial authorities in the other Member States with the legal and practical information necessary to enable them to prepare an effective request for judicial cooperation or to improve judicial cooperation in general.

3. At their respective level the contact points shall be involved in and promote the organisation of training sessions on judicial cooperation for the benefit of the competent authorities of their Member State, where appropriate in cooperation with the European Judicial Training Network.

<sup>(1)</sup> OJ L 105, 27.4.1996, p. 1.

4. The national correspondent, in addition to his tasks as a contact point referred to in paragraphs 1 to 3, shall in particular:

- (a) be responsible, in his Member State, for issues related to the internal functioning of the Network, including the coordination of requests for information and replies issued by the competent national authorities;
- (b) be the main person responsible for the contacts with the Secretariat of the European Judicial Network including the participation in the meetings referred to in Article 6;
- (c) where requested, give an opinion concerning the appointment of new contact points.

5. The European Judicial Network tool correspondent, who may also be a contact point referred to in paragraphs 1 to 4, shall ensure that the information related to his Member State and referred to in Article 7 is provided and updated in accordance with Article 8.

#### Article 5

##### **Purposes and venues of the plenary meetings of contact points**

1. The purposes of the plenary meetings of the European Judicial Network, to which at least three contact points per Member State shall be invited, shall be as follows:

- (a) to allow the contact points to get to know each other and exchange experience, particularly concerning the operation of the Network;
- (b) to provide a forum for discussion of practical and legal problems encountered by the Member States in the context of judicial cooperation, in particular with regard to the implementation of measures adopted by the European Union.

2. The relevant experience acquired within the European Judicial Network shall be passed on to the Council and the Commission to serve as a basis for discussion of possible legislative changes and practical improvements in the area of international judicial cooperation.

3. Meetings referred to in paragraph 1 shall be organised regularly and at least three times a year. Once a year, the meeting may be held on the premises of the Council in Brussels or on the premises of Eurojust in The Hague. Two contact points per Member States shall be invited to meetings organised on the premises of the Council and at Eurojust.

Other meetings may be held in the Member States, to enable the contact points of all the Member States to meet authorities of the host Member State other than its contact points and visit specific bodies in that Member State with responsibilities in the context of international judicial cooperation or of combating certain forms of serious crime. The contact points participate in these meetings at their own expense.

#### Article 6

##### **Meetings of the correspondents**

1. The European Judicial Network national correspondents shall meet on an *ad hoc* basis, at least once a year and as its members deem appropriate, at the invitation of the national correspondent of the Member State which holds the Presidency of the Council, which shall also take account of the Member States wishes for the correspondents to meet. During these meetings, administrative matters related to the Network shall in particular be discussed.

2. The European Judicial Network tool correspondents shall meet on an *ad hoc* basis, at least once a year and as its members deem appropriate, at the invitation of the tool correspondent of the Member State which holds the Presidency of the Council. The meetings shall deal with the issues referred to in Article 4(5).

#### Article 7

##### **Content of the information disseminated within the European Judicial Network**

The Secretariat of the European Judicial Network shall make the following information available to contact points and competent judicial authorities:

- (a) full details of the contact points in each Member State with, where necessary, an explanation of their responsibilities at national level;
- (b) an information technology tool allowing the requesting or issuing authority of a Member State to identify the competent authority in another Member State to receive and execute its request for, and decisions on, judicial co-operation, including regarding instruments giving effect to the principle of mutual recognition;
- (c) concise legal and practical information concerning the judicial and procedural systems in the Member States;
- (d) the texts of the relevant legal instruments and, for conventions currently in force, the texts of declarations and reservations.



*Article 8***Updating of information**

1. The information distributed within the European Judicial Network shall be constantly updated.
2. It shall be each Member State's individual responsibility to check the accuracy of the data contained in the system and to inform the Secretariat of the European Judicial Network as soon as data on one of the four points referred to in Article 7 need to be amended.

*Article 9***Telecommunication tools**

1. The Secretariat of the European Judicial Network shall ensure that the information provided under Article 7 is made available on a website which is constantly updated.
2. The secure telecommunications connection shall be set up for the operational work of the contact points of the European Judicial Network. The setting up of the secure telecommunications connection shall be at the charge of the general budget of the European Union.

The setting up of the secure telecommunications connection shall make possible the flow of data and of requests for judicial cooperation between Member States.

3. The secure telecommunications connection referred to in paragraph 2 may also be used for their operational work by the national correspondents for Eurojust, national correspondents for Eurojust for terrorist matters, the national members of Eurojust and liaison magistrates appointed by Eurojust. It may be linked to the Case Management System of Eurojust referred to in Article 16 of Decision 2002/187/JHA.

4. Nothing in this Article shall be construed to affect direct contacts between competent judicial authorities as provided for in instruments on judicial cooperation, such as Article 6 of the Convention on Mutual Assistance in Criminal Matters between the Member States of the European Union.

*Article 10***Relationship between the European Judicial Network and Eurojust**

The European Judicial Network and Eurojust shall maintain privileged relations with each other, based on consultation and complementarity, especially between the contact points of a Member State, the Eurojust national member of the same Member State and the national correspondents for the European Judicial Network and Eurojust. In order to ensure efficient cooperation, the following measures shall be taken:

- (a) the European Judicial Network shall make available to Eurojust the centralised information indicated in Article 7

and the secure telecommunications connection set up under Article 9;

- (b) the contact points of the European Judicial Network shall, on a case-by-case basis, inform their own national member of all cases which they deem Eurojust to be in a better position to deal with;
- (c) the national members of Eurojust may attend meetings of the European Judicial Network at the invitation of the latter.

*Article 11***Budget**

In order for the European Judicial Network to be able to carry out its tasks, the budget of Eurojust shall contain a part related to the activities of the Secretariat of the European Judicial Network.

*Article 12***Territorial application**

The United Kingdom shall notify in writing the President of the Council when it wishes to apply this Decision to the Channel Islands and the Isle of Man. A decision on that request shall be taken by the Council.

*Article 13***Assessment of the operation of the European Judicial Network**

1. Every second year from 24 December 2008, the European Judicial Network shall report to the European Parliament, the Council and the Commission on its activities and management.
2. The European Judicial Network may, in the report referred to in paragraph 1, also indicate any criminal policy problems within the European Union highlighted as a result of the European Judicial Network's activities and it may also make proposals for the improvement of judicial cooperation in criminal matters.
3. The European Judicial Network may also submit any report or any other information on its operation which may be requested by the Council.

4. The Council shall, every four years from 24 December 2008, carry out an assessment of the operation of the European Judicial Network on the basis of a report drawn up by the Commission in cooperation with the European Judicial Network.

*Article 14***Repeal of Joint Action 98/428/JHA**

Joint Action 98/428/JHA is hereby repealed.

*Article 15***Taking of effect**

This Decision shall take effect on the day of its publication in the *Official Journal of the European Union*.

Done at Brussels, 16 December 2008.

*For the Council*

*The President*

R. BACHELOT-NARQUIN

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#### **NOTE TO THE READER**

The institutions have decided no longer to quote in their texts the last amendment to cited acts.

Unless otherwise indicated, references to acts in the texts published here are to the version of those acts currently in force.