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Price: EUR 22

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

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EN

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

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

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Note to the reader (see page 3 of the cover)



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

## I

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

## REGULATIONS

## COMMISSION REGULATION (EC) No 67/2009

of 23 January 2009

**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 January 2009.

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

Done at Brussels, 23 January 2009.

*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 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	IL	138,6
	JO	78,3
	MA	47,6
	TN	139,0
	TR	95,7
	ZZ	99,8
0707 00 05	JO	155,5
	MA	106,1
	TR	158,1
	ZZ	139,9
0709 90 70	MA	172,9
	TR	154,7
	ZZ	163,8
0709 90 80	EG	88,5
	ZZ	88,5
0805 10 20	EG	47,3
	IL	56,2
	MA	63,9
	TN	61,5
	TR	68,6
	ZZ	59,5
0805 20 10	MA	90,3
	TR	54,0
	ZZ	72,2
0805 20 30, 0805 20 50, 0805 20 70, 0805 20 90	CN	62,7
	EG	88,5
	IL	78,9
	JM	52,8
	PK	44,1
	TR	76,8
	ZZ	67,3
0805 50 10	EG	52,5
	MA	67,1
	TR	63,6
	ZZ	61,1
0808 10 80	CN	81,4
	MK	32,6
	US	106,2
	ZZ	73,4
0808 20 50	CN	52,5
	TR	99,0
	US	104,9
	ZZ	85,5

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

## COMMISSION REGULATION (EC) No 68/2009

of 23 January 2009

## adapting for the ninth time to technical progress Council Regulation (EEC) No 3821/85 on recording equipment in road transport

(Text with EEA relevance)

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Council Regulation (EEC) No 3821/85 of 20 December 1985 on recording equipment in road transport <sup>(1)</sup>, and in particular Article 17(1) thereof,

Whereas:

(1) Annex 1 B to Regulation (EEC) No 3821/85 sets out the technical specifications for the construction, testing, installation and inspection of recording equipment in road transport.

(2) Paying particular attention to the overall security of the system and its application to vehicles in scope of Regulation (EEC) No 3821/85, certain technical specifications should be added to its Annex 1 B in order to make it possible to install recording equipment, which is in conformity with that Annex, in M1 and N1 type vehicles.

(3) The measures provided for in this Regulation are in accordance with the opinion of the Committee established under Article 18 of Regulation (EEC) No 3821/85,

HAS ADOPTED THIS REGULATION:

## Article 1

Annex 1 B to Regulation (EEC) No 3821/85 is amended as follows:

1. In chapter I, the following definition is inserted:

‘(rr) “adaptor” means: a part of the recording equipment, providing a signal permanently representative of vehicle speed and/or distance travelled, and which is:

- installed and used only in M1 and N1 type vehicles (as defined in Annex II to Council Directive 70/156/EEC) put into service for the first time between 1 May 2006 and 31 December 2013,

- installed where it is not mechanically possible to install any other type of existing motion sensor which is otherwise compliant with the provisions of this Annex and its Appendixes 1 to 11,

- installed between the vehicle unit and where the speed/distance impulses are generated by integrated sensors or alternative interfaces.

*Seen from a vehicle unit, the adaptor behaviour is the same as if a motion sensor, compliant the provisions of this Annex and its Appendixes 1 to 11, was connected to the vehicle unit.*

*Use of such an adaptor in those vehicles described above shall allow for the installation and correct use of a vehicle unit compliant with all the requirements of this Annex.*

*For those vehicles, the recording equipment includes cables, an adaptor, and a vehicle unit.’*

2. In chapter V, section 2, requirement 250 shall be replaced by the following:

‘250. The plaque shall bear at least the following details:

- name, address or trade name of the approved fitter or workshop,

- characteristic coefficient of the vehicle, in the form “w = ... imp/km”,

- constant of the recording equipment, in the form “k = ... imp/km”,

- effective circumference of the wheel tyres in the form “l = ... mm”,

- tyre size,

- the date on which the characteristic coefficient of the vehicle was determined and the effective circumference of the wheel tyres measured,

<sup>(1)</sup> OJ L 370, 31.12.1985, p. 8.

- the vehicle identification number, ‘— 250a.
- the part of the vehicle where the adaptor, if any, is installed, — Installation plaques for vehicles equipped with adaptors, or for vehicles where the motion sensor is not connected to the gear-box shall be fitted at the time of installation. For all other vehicles, installation plaques bearing the new information shall be fitted at the time of inspection following the installation.’
- the part of the vehicle where the motion sensor is installed, if not connected to the gear-box or an adaptor is not being used,
- a description of the colour of the cable between the adaptor and that part of the vehicle providing its incoming impulses, 4. After Appendix 11, an Appendix 12 as set out in the Annex to this Regulation is added.
- the serial number of the embedded motion sensor of the adaptor.’

3. In chapter V, section 2, the following requirement shall be added:

*Article 2*

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

It shall apply 6 months after the date of publication.

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

Done at Brussels, 23 January 2009.

*For the Commission*  
Antonio TAJANI  
*Vice-President*

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## ANNEX

## Appendix 12

## ADAPTOR FOR M 1 AND N1 CATEGORY VEHICLES

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## 1. ABBREVIATIONS AND REFERENCE DOCUMENTS

## 1.1. Abbreviations

TBD To Be Defined

VU Vehicle Unit

## 1.2. Reference standards

ISO 16844-3 Road vehicles – Tachograph systems – Part 3: Motion sensor interface

## 2. GENERAL CHARACTERISTICS AND FUNCTIONS OF THE ADAPTOR

## 2.1. Adaptor general description

ADA\_001 The adaptor shall provide a connected VU with secured motion data permanently representative of vehicle speed and distance travelled.

The adaptor is only intended for those vehicles that are required to be equipped with recording equipment in compliance with this Regulation.

It shall be installed and used only in those types of vehicle defined under (rr), where it is not mechanically possible to install any other type of existing motion sensor which is otherwise compliant with the provisions of this Annex and its Appendixes 1 to 11.

The adaptor shall not be mechanically interfaced to a moving part of the vehicle, as required by Appendix 10 of this Annex (section 3.1), but connected to the speed/distance impulses which are generated by integrated sensors or alternative interfaces.

ADA\_002 A type approved motion sensor (according to the provisions of this Annex, section VIII - Type approval of recording equipment and tachograph cards) shall be fitted into the adaptor housing, which shall also include a pulse converter device inducing the incoming pulses to the embedded motion sensor. The embedded motion sensor itself shall be connected to the VU, so that the interface between the VU and the adaptor shall be compliant with the requirements set out in ISO 16844-3.

## 2.2. Functions

ADA\_003 The adaptor shall include the following functions:

- interfacing and adapting the incoming speed pulses,
- inducing the incoming pulses to the embedded motion sensor,
- all functions of the embedded motion sensor, providing secured motion data to the VU.

## 2.3. Security

ADA\_004 The adaptor shall not be security certified according to the motion sensor generic security target defined in Appendix 10 of this Annex. Security related requirements specified in section 4.4 of this Appendix shall apply instead.

## 3. REQUIREMENTS FOR THE RECORDING EQUIPMENT WHEN AN ADAPTOR IS INSTALLED

The requirements in this and the following Chapters indicate how the requirements of this Annex shall be understood when an adaptor is used. The related requirement numbers are provided between brackets.

ADA\_005 The recording equipment of any vehicle fitted with an adaptor must comply with all the provisions of this Annex, except otherwise specified in this Appendix.

ADA\_006 When an adaptor is installed, the recording equipment includes cables, the adaptor (instead of a motion sensor), and a VU (001).

ADA\_007 The detection of events and/or faults function of the recording equipment is modified as follows:

- the 'power supply interruption' event shall be triggered by the VU, while not in calibration mode, in case of any interruption exceeding 200 milliseconds of the power supply of the embedded motion sensor (066),
- any power supply interruption of more than 200 ms (milliseconds) of the adaptor shall generate a power supply interruption of the embedded motion sensor of equivalent length. The adaptor interrupter threshold shall be defined by the adaptor manufacturer,
- the 'motion data error' event shall be triggered by the VU in case of interruption of the normal data flow between the embedded motion sensor and the VU and/or in case of data integrity or data authentication error during data exchange between the embedded motion sensor and the VU (067),
- the 'security breach attempt' event shall be triggered by the VU for any other event affecting the security of the embedded motion sensor, while not in calibration mode (068),
- the 'recording equipment' fault shall be triggered by the VU, while not in calibration mode, for any fault of the embedded motion sensor (070).

ADA\_008 The adaptor faults detectable by the recording equipment shall be those related with the embedded motion sensor (071).

ADA\_009 The VU calibration function shall allow to automatically pair the embedded motion sensor with the VU (154, 155).

ADA\_010 The terms 'motion sensor' or 'sensor' in the VU Security Target in Appendix 10 of this Annex refer to the embedded motion sensor.

#### 4. CONSTRUCTION AND FUNCTIONAL REQUIREMENTS FOR THE ADAPTOR

##### 4.1. Interfacing and adapting incoming speed pulses

ADA\_011 The adaptor input interface shall accept frequency pulses representative of the vehicle speed and distance travelled. Electrical characteristics of the incoming pulses are: *TBD by the manufacturer*. Adjustments accessible to only the adaptor manufacturer and to the approved workshop performing the adaptor installation shall allow the correct interfacing of the adaptor input to the vehicle, if applicable.

ADA\_012 The adaptor input interface shall be able, if applicable, to multiply or divide the frequency pulses of the incoming speed pulses by a fixed factor, to adapt the signal to a value in the k factor range defined by this Annex (4 000 to 25 000 pulses/km). This fixed factor may only be programmed by the adaptor manufacturer, and the approved workshop performing the adaptor installation.

##### 4.2. Inducing the incoming pulses to the embedded motion sensor

ADA\_013 The incoming pulses, possibly adapted as specified above, shall be induced to the embedded motion sensor, so that each incoming pulse shall be detected by the motion sensor.

##### 4.3. Embedded motion sensor

ADA\_014 The embedded motion sensor shall be stimulated by the induced pulses, thus allowing it to generate motion data accurately representing the vehicle movement, as if it was mechanically interfaced to a moving part of the vehicle.

ADA\_015 The identification data of the embedded motion sensor shall be used by the VU to identify the adaptor (077).

ADA\_016 The installation data stored in the embedded motion sensor shall be considered to represent the adaptor installation data (099).

##### 4.4. Security requirements

ADA\_017 The adaptor housing shall be designed so that it cannot be opened. It shall be sealed, so that physical tampering attempts can be easily detected (e.g. through visual inspection, see ADA\_035).

ADA\_018 It shall not be possible to remove the embedded motion sensor from the adaptor without breaking the seal(s) of the adaptor housing, or breaking the seal between the sensor and the adaptor housing (see ADA\_035).

ADA\_019 The adaptor shall ensure that motion data may only be processed and derived from the adaptor input.

##### 4.5. Performance characteristics

ADA\_020 The adaptor shall be fully operational in the temperature range (*TBD by the manufacturer, depending on the installation position*) (159).

ADA\_021 The adaptor shall be fully operational in the humidity range 10 % to 90 % (160).

ADA\_022 The adaptor shall be protected against over-voltage, inversion of its power supply polarity, and short circuits (161).

ADA\_023 The adaptor shall conform to Commission Directive 2006/28/EC (\*) adapting to technical progress Council Directive 72/245/EEC, related to electromagnetic compatibility, and shall be protected against electrostatic discharges and transients (162).

##### 4.6. Materials

ADA\_024 The adaptor shall meet the protection grade (*TBD by the manufacturers, depending upon the installation position*) (164, 165).

ADA\_025 The colour of the adaptor housing shall be yellow.

(\*) OJ L 65, 7.3.2006, p. 27.

#### 4.7. Markings

- ADA\_026 A descriptive plaque shall be affixed to the adaptor and shall show the following details (169):
- name and address of the manufacturer of the adaptor,
  - manufacturer's part number and year of manufacture of the adaptor,
  - approval mark of the adaptor type or of the recording equipment type including the adaptor,
  - the date on which the adaptor has been installed,
  - the vehicle identification number of the vehicle on which it has been installed.
- ADA\_027 The descriptive plaque shall also show the following details (if not directly readable from the outside on the embedded motion sensor):
- name of the manufacturer of the embedded motion sensor,
  - manufacturer's part number and year of manufacture of the embedded motion sensor,
  - approval mark for the embedded motion sensor.

### 5. INSTALLATION OF THE RECORDING EQUIPMENT WHEN AN ADAPTOR IS USED

#### 5.1. Installation

- ADA\_028 Adaptors to be installed in vehicles shall be delivered only to vehicle manufacturers, or to workshops approved by the competent authorities of the Member States and authorised to install, activate and calibrate digital tachographs.
- ADA\_029 Such approved workshop installing the adaptor shall adjust the input interface and select the division ratio of the input signal (if applicable).
- ADA\_030 Such approved workshop installing the adaptor shall seal the adaptor housing.
- ADA\_031 The adaptor shall be fitted as close as possible to that part of the vehicle which provides its incoming pulses.
- ADA\_032 The cables for providing the adaptor power supply shall be red (positive supply) and black (ground).

#### 5.2. Sealing

- ADA\_033 The following sealing requirements shall apply:
- the adaptor housing shall be sealed (see ADA\_017),
  - the housing of the embedded sensor shall be sealed to the adaptor housing, unless it is not possible to remove the embedded sensor without breaking the seal(s) of the adaptor housing (see ADA\_018),
  - the adaptor housing shall be sealed to the vehicle,
  - the connection between the adaptor and the equipment which provides its incoming pulses shall be sealed on both ends (to the extent of what is reasonably possible).

### 6. CHECKS, INSPECTIONS AND REPAIRS

#### 6.1. Periodic inspections

- ADA\_034 When an adaptor is used, each periodic inspection (periodic inspection means in compliance with Requirement 256 through to Requirement 258 of Chapter VI of Annex 1B) of the recording equipment shall include the following checks (257):
- that the adaptor carries the appropriate type approval markings,
  - that the seals on the adaptor and its connections are intact,

- that the adaptor is installed as indicated on the installation plaque,
- that the adaptor is installed as specified by the adapter and/or vehicle manufacturer,
- that mounting an adaptor is authorised for the inspected vehicle.

## 7. TYPE APPROVAL OF RECORDING EQUIPMENT WHEN AN ADAPTOR IS USED

### 7.1. General points

- ADA\_035 Recording equipment shall be submitted for type approval complete, with the adaptor (269).
- ADA\_036 Any adaptor may be submitted for its own type approval, or for type approval as a component of a recording equipment.
- ADA\_037 Such type approval shall include functional tests involving the adaptor. Positive results to each of these tests are stated by an appropriate certificate (270).

### 7.2. Functional certificate

- ADA\_038 A functional certificate of an adaptor or of recording equipment including an adaptor shall be delivered to the adaptor manufacturer only after all the following minimum functional tests have been successfully passed.

No	Test	Description	Related requirements
1.	<b>Administrative examination</b>		
1.1.	Documentation	Correctness of documentation of the adaptor	
2.	<b>Visual inspection</b>		
2.1.	Compliance of the adaptor with documentation		
2.2.	Identification/markings of the adaptor		ADA_026, ADA_027
2.3.	Materials of the adaptor		163 to 167 ADA_025
2.4.	Sealing		ADA_017, ADA_018, ADA_035
3.	<b>Functional tests</b>		
3.1.	Inducing the speed pulses to the embedded motion sensor		ADA_013
3.2.	Interfacing and adapting incoming speed pulses		ADA_011, ADA_012
3.3.	Motion measurement accuracy		022 to 026
4.	<b>Environmental tests</b>		
4.1.	Manufacturer test results	Results of manufacturer environment tests	ADA_020, ADA_021, ADA_022, ADA_023, ADA_024
5.	<b>EMC</b>		
5.1.	Radiated emissions and susceptibility	Verify compliance with Directive 2006/28/EC	ADA_023
5.2.	Manufacturer test results	Results of manufacturer environment tests	ADA_023

## COMMISSION REGULATION (EC) No 69/2009

of 23 January 2009

amending Regulation (EC) No 1126/2008 adopting certain international accounting standards in accordance with Regulation (EC) No 1606/2002 of the European Parliament and of the Council as regards amendments to International Financial Reporting Standard (IFRS) 1 and International Accounting Standard (IAS) 27

(Text with EEA relevance)

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

obtains control of the original parent by issuing equity instruments in exchange for existing equity instruments of the original parent.

Having regard to the Treaty establishing the European Community,

Having regard to Regulation (EC) No 1606/2002 of the European Parliament and of the Council of 19 July 2002 on the application of international accounting standards <sup>(1)</sup>, and in particular Article 3(1) thereof,

Whereas:

(1) By Commission Regulation (EC) No 1126/2008 <sup>(2)</sup> certain international standards and interpretations that were extant at 15 October 2008 were adopted.

(2) In May 2008, the International Accounting Standards Board (IASB) published the amendments to IFRS 1 First-time Adoption of International Financial Reporting Standards and IAS 27 Consolidated and Separate Financial Statements 'Cost of an Investment in a Subsidiary, Jointly Controlled Entity or Associate', hereinafter 'amendments to IFRS 1 and IAS 27'. The amendments are the following: allow a first-time adopter in its separate financial statements to use as the deemed cost of an investment in a subsidiary, jointly controlled entity or associate either the fair value at the entity's date of transition to IFRSs or the previous GAAP carrying amount of the investment at that date; delete from IAS 27 the definition of the 'cost method', with the result that an investor is required to recognise as income in its separate financial statements all dividends received from a subsidiary, jointly controlled entity or associate, even if the dividend is paid out of pre-acquisition reserves; clarify how to determine the cost of an investment under IAS 27 when a parent company reorganises the operating structure of its group by establishing a new entity as its parent and this new parent

(3) The consultation with the Technical Expert Group (TEG) of the European Financial Reporting Advisory Group (EFRAG) confirms that the amendments to IFRS 1 and IAS 27 meet the technical criteria for adoption set out in Article 3(2) of Regulation (EC) No 1606/2002. In accordance with Commission Decision 2006/505/EC of 14 July 2006 setting up a Standards Advice Review Group to advise the Commission on the objectivity and neutrality of the European Financial Reporting Advisory Group's (EFRAG's) opinions <sup>(3)</sup>, the Standards Advice Review Group considered EFRAG's opinion on endorsement and advised the Commission that it is well-balanced and objective.

(4) Regulation (EC) No 1126/2008 should therefore be amended accordingly.

(5) The measures provided for in this Regulation are in accordance with the opinion of the Accounting Regulatory Committee,

HAS ADOPTED THIS REGULATION:

*Article 1*

The Annex to Regulation (EC) No 1126/2008 is amended as follows:

1. International Reporting Financial Standard (IFRS) 1 *First-time Adoption of International Financial Reporting Standards* is amended as set out in the Annex to this Regulation;
2. International Accounting Standard (IAS 27) *Consolidated and Separate Financial Statements* is amended as set out in the Annex to this Regulation;

<sup>(1)</sup> OJ L 243, 11.9.2002, p. 1.

<sup>(2)</sup> OJ L 320, 29.11.2008, p. 1.

<sup>(3)</sup> OJ L 199, 21.7.2006, p. 33.

3. IAS 18, IAS 21 and IAS 36 are amended in accordance with the amendments to IAS 27 as set out in the Annex to this Regulation.

*Article 2*

Each company shall apply the amendments to IFRS 1 and IAS 27, as set out in the Annex to this Regulation, at the latest, as

from the commencement date of its first financial year starting after 31 December 2008.

*Article 3*

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

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

Done at Brussels, 23 January 2009.

*For the Commission*  
Charlie McCREEVY  
*Member of the Commission*

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## ANNEX

## INTERNATIONAL ACCOUNTING STANDARDS

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IFRS 1 and IAS 27	Amendments to IFRS 1 <i>First-time Adoption of International Financial Reporting Standards</i> and IAS 27 <i>Consolidated and Separate Financial Statements</i> — Cost of an Investment in a Subsidiary, Jointly Controlled Entity or Associate
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## AMENDMENTS TO IFRS 1 FIRST-TIME ADOPTION OF INTERNATIONAL FINANCIAL REPORTING STANDARDS AND IAS 27 CONSOLIDATED AND SEPARATE FINANCIAL STATEMENTS

**COST OF AN INVESTMENT IN A SUBSIDIARY, JOINTLY CONTROLLED ENTITY OR ASSOCIATE****Amendments to IFRS 1*****First-time Adoption of International Financial Reporting Standards***

*After paragraph 13(e), paragraph 13(ea) is added. After paragraph 23, a heading and paragraphs 23A and 23B are added. Paragraphs 25A and 34C are amended. After paragraph 44, a heading and paragraph 44A are added. After paragraph 47), paragraph 47K is added.*

## RECOGNITION AND MEASUREMENT

**Exemptions from other IFRSs**

13 An entity may elect to use one or more of the following exemptions:

(a) ...

(ea) investments in subsidiaries, jointly controlled entities and associates (paragraphs 23A and 23B);

(f) ...

*Investments in subsidiaries, jointly controlled entities and associates*

23A When an entity prepares separate financial statements, IAS 27 *Consolidated and Separate Financial Statements* requires it to account for its investments in subsidiaries, jointly controlled entities and associates either:

(a) at cost or

(b) in accordance with IAS 39 *Financial Instruments: Recognition and Measurement*.

23B If a first-time adopter measures such an investment at cost in accordance with paragraph 23A(a), it shall measure that investment at one of the following amounts in its separate opening IFRS statement of financial position:

(a) cost determined in accordance with IAS 27 or

(b) deemed cost. The deemed cost of such an investment shall be its:

(i) fair value (determined in accordance with IAS 39) at the entity's date of transition to IFRSs in its separate financial statements or

(ii) previous GAAP carrying amount at that date.

A first-time adopter may choose either (i) or (ii) above to measure its investment in each subsidiary, jointly controlled entity or associate that it elects to measure using a deemed cost.

*Designation of previously recognised financial instruments*

25A IAS 39 permits...

**Exceptions to retrospective application of other IFRSs**

*Non-controlling interests*

34C A first-time adopter shall apply the following requirements of IAS 27 (as amended in 2008) ...

## PRESENTATION AND DISCLOSURE

**Use of deemed cost for investments in subsidiaries, jointly controlled entities and associates**

44A Similarly, if an entity uses a deemed cost in its opening IFRS statement of financial position for an investment in a subsidiary, jointly controlled entity or associate in its separate financial statements (see paragraph 23B), the entity's first IFRS separate financial statements shall disclose:

(a) the aggregate deemed cost of those investments for which deemed cost is their previous GAAP carrying amount;

- (b) the aggregate deemed cost of those investments for which deemed cost is fair value; and
- (c) the aggregate adjustment to the carrying amounts reported under previous GAAP.

**EFFECTIVE DATE**

47K *Cost of an Investment in a Subsidiary, Jointly Controlled Entity or Associate* (Amendments to IFRS 1 and IAS 27), issued in May 2008, added paragraphs 13(ea), 23A, 23B and 44A. An entity shall apply those paragraphs for annual periods beginning on or after 1 January 2009. Earlier application is permitted. If an entity applies the paragraphs for an earlier period, it shall disclose that fact.

**Amendments to IAS 27*****Consolidated and Separate Financial Statements (as amended by Improvements to IFRSs in May 2008)***

*In paragraph 4, the reference to the 'cost method' is deleted. After paragraph 38, paragraphs 38A-38C are added. After paragraph 45A, paragraphs 45B and 45C are added.*

**DEFINITIONS**

[The reference to the 'cost method' is deleted.]

**ACCOUNTING FOR INVESTMENTS IN SUBSIDIARIES, JOINTLY CONTROLLED ENTITIES AND ASSOCIATES IN SEPARATE FINANCIAL STATEMENTS**

- 38A An entity shall recognise a dividend from a subsidiary, jointly controlled entity or associate in profit or loss in its separate financial statements when its right to receive the dividend is established.
- 38B When a parent reorganises the structure of its group by establishing a new entity as its parent in a manner that satisfies the following criteria:
- (a) the new parent obtains control of the original parent by issuing equity instruments in exchange for existing equity instruments of the original parent;
  - (b) the assets and liabilities of the new group and the original group are the same immediately before and after the reorganisation; and
  - (c) the owners of the original parent before the reorganisation have the same absolute and relative interests in the net assets of the original group and the new group immediately before and after the reorganisation

and the new parent accounts for its investment in the original parent in accordance with paragraph 38(a) in its separate financial statements, the new parent shall measure cost at the carrying amount of its share of the equity items shown in the separate financial statements of the original parent at the date of the reorganisation.

38C Similarly, an entity that is not a parent might establish a new entity as its parent in a manner that satisfies the criteria in paragraph 38B. The requirements in paragraph 38B apply equally to such reorganisations. In such cases, references to 'original parent' and 'original group' are to the 'original entity'.

**EFFECTIVE DATE AND TRANSITION**

45B *Cost of an Investment in a Subsidiary, Jointly Controlled Entity or Associate* (Amendments to IFRS 1 and IAS 27), issued in May 2008, deleted the definition of the cost method from paragraph 4 and added paragraph 38A. An entity shall apply those amendments prospectively for annual periods beginning on or after 1 January 2009. Earlier application is permitted. If an entity applies the changes for an earlier period, it shall disclose that fact and apply the related amendments to IAS 18, IAS 21 and IAS 36 at the same time.

45C *Cost of an Investment in a Subsidiary, Jointly Controlled Entity or Associate* (Amendments to IFRS 1 and IAS 27), issued in May 2008, added paragraphs 38B and 38C. An entity shall apply those paragraphs prospectively to reorganisations occurring in annual periods beginning on or after 1 January 2009. Earlier application is permitted. In addition, an entity may elect to apply paragraphs 38B and 38C retrospectively to past reorganisations within the scope of those paragraphs. However, if an entity restates any reorganisation to comply with paragraph 38B or 38C, it shall restate all later reorganisations within the scope of those paragraphs. If an entity applies paragraph 38B or 38C for an earlier period, it shall disclose that fact.

## Appendix

**Amendments to other IFRSs**

Entities shall apply the following amendments to IAS 18, IAS 21 and IAS 36 when they apply the related amendments to paragraphs 4 and 38A of IAS 27.

**IAS 18 Revenue**

A1 IAS 18 is amended as described below.

Paragraph 32 is amended and paragraph 38 is added as follows.

32 When unpaid interest has accrued before the acquisition of an interest-bearing investment, the subsequent receipt of interest is allocated between pre-acquisition and post-acquisition periods; only the post-acquisition portion is recognised as revenue.

38 *Cost of an Investment in a Subsidiary, Jointly Controlled Entity or Associate* (Amendments to IFRS 1 *First-time Adoption of International Financial Reporting Standards* and IAS 27 *Consolidated and Separate Financial Statements*), issued in May 2008, amended paragraph 32. An entity shall apply that amendment prospectively for annual periods beginning on or after 1 January 2009. Earlier application is permitted. If an entity applies the related amendments in paragraphs 4 and 38A of IAS 27 for an earlier period, it shall apply the amendment in paragraph 32 at the same time.

**IAS 21 The Effects of Changes in Foreign Exchange Rates**

A2 In IAS 21, paragraph 49 is amended as follows:

49 An entity may dispose or partially dispose of its interest in a foreign operation through sale, liquidation, repayment of share capital or abandonment of all, or part of, that entity. A write-down of the carrying amount of a foreign operation, either because of its own losses or because of an impairment recognised by the investor, does not constitute a partial disposal. Accordingly, no part of the foreign exchange gain or loss recognised in other comprehensive income is reclassified to profit or loss at the time of a write-down.

**IAS 36 Impairment of Assets**

A3 In IAS 36, after paragraph 12(g), a heading and subparagraph (h) are added. After paragraph 140C, paragraph 140D is added.

12 In assessing whether there is any indication that an asset may be impaired, an entity shall consider, as a minimum, the following indications:

...

Dividend from a subsidiary, jointly controlled entity or associate

(h) for an investment in a subsidiary, jointly controlled entity or associate, the investor recognises a dividend from the investment and evidence is available that:

(i) the carrying amount of the investment in the separate financial statements exceeds the carrying amounts in the consolidated financial statements of the investee's net assets, including associated goodwill; or

(ii) the dividend exceeds the total comprehensive income of the subsidiary, jointly controlled entity or associate in the period the dividend is declared.

140D *Cost of an Investment in a Subsidiary, Jointly Controlled Entity or Associate* (Amendments to IFRS 1 *First-time Adoption of International Financial Reporting Standards* and IAS 27), issued in May 2008, added paragraph 12(h). An entity shall apply that amendment prospectively for annual periods beginning on or after 1 January 2009. Earlier application is permitted. If an entity applies the related amendments in paragraphs 4 and 38A of IAS 27 for an earlier period, it shall apply the amendment in paragraph 12(h) at the same time.

## COMMISSION REGULATION (EC) No 70/2009

of 23 January 2009

**amending Regulation (EC) No 1126/2008 adopting certain international accounting standards in accordance with Regulation (EC) No 1606/2002 of the European Parliament and of the Council as regards Improvements to International Financial Reporting Standards (IFRSs)**

(Text with EEA relevance)

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Regulation (EC) No 1606/2002 of the European Parliament and of the Council of 19 July 2002 on the application of international accounting standards <sup>(1)</sup>, and in particular Article 3(1) thereof,

Whereas:

- (1) By Commission Regulation (EC) No 1126/2008 <sup>(2)</sup> certain international standards and interpretations that were extant at 15 October 2008 were adopted.
- (2) In May 2008, the International Accounting Standards Board (IASB) published Improvements to International Financial Reporting Standards, hereinafter 'the Improvements', in the framework of its annual improvement process which aims at streamlining and clarifying the international accounting standards. The Improvements include 35 amendments to the existing international accounting standards divided into two parts, Part I contains amendments that result in accounting changes for presentation, recognition or measurement purposes, Part II relates to changes in terminology or to amendments of editorial nature.
- (3) The consultation with the Technical Expert Group (TEG) of the European Financial Reporting Advisory Group (EFRAG) confirms that the Improvements meet the technical criteria for adoption set out in Article 3(2) of Regulation (EC) No 1606/2002. In accordance with Commission Decision 2006/505/EC of 14 July 2006 setting up a Standards Advice Review Group to advise the Commission on the objectivity and neutrality of the European Financial Reporting Advisory Group's (EFRAG's) opinions <sup>(3)</sup>, the Standards Advice Review Group considered EFRAG's opinion on endorsement and advised the Commission that it is well-balanced and objective.
- (4) Regulation (EC) No 1126/2008 should therefore be amended accordingly.

- (5) The measures provided for in this Regulation are in accordance with the opinion of the Accounting Regulatory Committee,

HAS ADOPTED THIS REGULATION:

*Article 1*

The Annex to Regulation (EC) No 1126/2008 is amended as follows:

1. International Financial Reporting Standard (IFRS) 5 is amended as set out in the Annex to this Regulation;
2. International Accounting Standard (IAS) 1, IAS 8, IAS 10, IAS 16, IAS 19, IAS 20, IAS 23, IAS 27, IAS 28, IAS 29, IAS 31, IAS 34, IAS 36, IAS 38, IAS 39, IAS 40; IAS 41 are amended as set out in the Annex to this Regulation;
3. IFRS 1 is amended in accordance with the amendments to IFRS 5 as set out in the Annex to this Regulation;
4. IAS 7 is amended in accordance with the amendments to IAS 16 as set out in the Annex to this Regulation;
5. IFRS 7 and IAS 32 are amended in accordance with the amendments to IAS 28 and IAS 31 as set out in the Annex to this Regulation;
6. IAS 16 is amended in accordance with the amendments to IAS 40 as set out in the Annex to this Regulation;
7. IAS 41 is amended in accordance with the amendments to IAS 20 as set out in the Annex to this Regulation;
8. IFRS 5, IAS 2 and IAS 36 are amended in accordance with the amendments to IAS 41 as set out in the Annex to this Regulation.

<sup>(1)</sup> OJ L 243, 11.9.2002, p. 1.

<sup>(2)</sup> OJ L 320, 29.11.2008, p. 1.

<sup>(3)</sup> OJ L 199, 21.7.2006, p. 33.

*Article 2*

Each company shall apply the amendments to the standards referred to in points (2) and (4) to (8) of Article 1, at the latest, as from the commencement date of its first financial year starting after 31 December 2008.

Each company shall apply the amendments to the standards referred to in points (1) and (3) of Article 1, at the latest, as from the commencement date of its first financial year starting after 30 June 2009.

*Article 3*

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

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

Done at Brussels, 23 January 2009.

*For the Commission*  
Charlie McCREEVY  
*Member of the Commission*

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## ANNEX

## INTERNATIONAL ACCOUNTING STANDARDS

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	Improvements to International Financial Reporting Standards
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**IMPROVEMENTS TO IFRSs**

## PART I

**Amendments to International Financial Reporting Standard 5*****Non-current Assets Held for Sale and Discontinued Operations***

Paragraphs 8A, 36A and 44C are added.

## CLASSIFICATION OF NON-CURRENT ASSETS (OR DISPOSAL GROUPS) AS HELD FOR SALE

- 8A An entity that is committed to a sale plan involving loss of control of a subsidiary shall classify all the assets and liabilities of that subsidiary as held for sale when the criteria set out in paragraphs 6-8 are met, regardless of whether the entity will retain a non-controlling interest in its former subsidiary after the sale.

**Presenting discontinued operations**

- 36A An entity that is committed to a sale plan involving loss of control of a subsidiary shall disclose the information required in paragraphs 33-36 when the subsidiary is a disposal group that meets the definition of a discontinued operation in accordance with paragraph 32.

## EFFECTIVE DATE

- 44C Paragraphs 8A and 36A were added by *Improvements to IFRSs* issued in May 2008. An entity shall apply those amendments for annual periods beginning on or after 1 July 2009. Earlier application is permitted. However, an entity shall not apply the amendments for annual periods beginning before 1 July 2009 unless it also applies IAS 27 (as amended in May 2008). If an entity applies the amendments before 1 July 2009 it shall disclose that fact. An entity shall apply the amendments prospectively from the date at which it first applied IFRS 5, subject to the transitional provisions in paragraph 45 of IAS 27 (amended May 2008).

**Appendix to Amendments to IFRS 5****Amendments to IFRS 1**

Entities shall apply these amendments to IFRS 1 when they apply the related amendments to IFRS 5.

**IFRS 1 *First-time Adoption of International Financial Reporting Standards***

Paragraph 34C(c) is amended and paragraph 47L is added.

## RECOGNITION AND MEASUREMENT

**Exceptions to retrospective application of other IFRSs***Non-controlling interests*

- 34C A first-time adopter shall apply the following requirements of IAS 27 *Consolidated and Separate Financial Statements* (as amended in 2008) prospectively from the date of transition to IFRSs:

(a) ...

(c) the requirements in paragraphs 34-37 for accounting for a loss of control over a subsidiary, and the related requirements of paragraph 8A of IFRS 5.

...

## EFFECTIVE DATE

- 47L Paragraph 34C was amended by *Improvements to IFRSs* issued in May 2008. An entity shall apply those amendments for annual periods beginning on or after 1 July 2009. If an entity applies IAS 27 (amended 2008) for an earlier period, the amendments shall be applied for that earlier period.

**Amendments to International Accounting Standard 1****Presentation of Financial Statements (as revised in 2007)**

Paragraphs 68 and 71 are amended. Paragraph 139C is added.

**Statement of financial position***Current assets*

- 68 The operating cycle of an entity is the time between the acquisition of assets for processing and their realisation in cash or cash equivalents. When the entity's normal operating cycle is not clearly identifiable, it is assumed to be 12 months. Current assets include assets (such as inventories and trade receivables) that are sold, consumed or realised as part of the normal operating cycle even when they are not expected to be realised within 12 months after the reporting period. Current assets also include assets held primarily for the purpose of trading (examples include some financial assets classified as held for trading in accordance with IAS 39) and the current portion of non-current financial assets.

*Current liabilities*

- 71 Other current liabilities are not settled as part of the normal operating cycle, but are due for settlement within 12 months after the reporting period or held primarily for the purpose of trading. Examples are some financial liabilities classified as held for trading in accordance with IAS 39, bank overdrafts, and the current portion of non-current financial liabilities, dividends payable, income taxes and other non-trade payables. Financial liabilities that provide financing on a long-term basis (ie are not part of the working capital used in the entity's normal operating cycle) and are not due for settlement within 12 months after the reporting period are non-current liabilities, subject to paragraphs 74 and 75.

**TRANSITION AND EFFECTIVE DATE**

- 139C Paragraphs 68 and 71 were amended by *Improvements to IFRSs* issued in May 2008. An entity shall apply those amendments for annual periods beginning on or after 1 January 2009. Earlier application is permitted. If an entity applies the amendments for an earlier period it shall disclose that fact.

**Amendments to International Accounting Standard 16****Property, Plant and Equipment**

Paragraphs 6 and 69 are amended. Paragraphs 68A and 81D are added.

**DEFINITIONS**

- 6 The following terms are used in this Standard with the meanings specified:

...

*Recoverable amount* is the higher of an asset's fair value less costs to sell and its value in use.

...

**DERECOGNITION**

- 68A However, an entity that, in the course of its ordinary activities, routinely sells items of property, plant and equipment that it has held for rental to others shall transfer such assets to inventories at their carrying amount when they cease to be rented and become held for sale. The proceeds from the sale of such assets shall be recognised as revenue in accordance with IAS 18 *Revenue*. IFRS 5 does not apply when assets that are held for sale in the ordinary course of business are transferred to inventories.
- 69 The disposal of an item of property, plant and equipment may occur in a variety of ways (eg by sale, by entering into a finance lease or by donation). In determining the date of disposal of an item, an entity applies the criteria in IAS 18 for recognising revenue from the sale of goods. IAS 17 applies to disposal by a sale and leaseback.

**EFFECTIVE DATE**

- 81D Paragraphs 6 and 69 were amended and paragraph 68A was added by *Improvements to IFRSs* issued in May 2008. An entity shall apply those amendments for annual periods beginning on or after 1 January 2009. Earlier application is permitted. If an entity applies the amendments for an earlier period it shall disclose that fact and at the same time apply the related amendments to IAS 7 *Statement of Cash Flows*.

## Appendix to Amendments to IAS 16

### Amendments to IAS 7

Entities shall apply these amendments to IAS 7 when they apply the related amendments to IAS 16.

#### IAS 7 *Statement of Cash Flows*

Paragraph 14 is amended. Paragraph 55 is added.

14 Cash flows ...

...

Some transactions, such as the sale of an item of plant, may give rise to a gain or loss that is included in recognised profit or loss. The cash flows relating to such transactions are cash flows from investing activities. However, cash payments to manufacture or acquire assets held for rental to others and subsequently held for sale as described in paragraph 68A of IAS 16 *Property, Plant and Equipment* are cash flows from operating activities. The cash receipts from rents and subsequent sales of such assets are also cash flows from operating activities.

#### EFFECTIVE DATE

55 Paragraph 14 was amended by *Improvements to IFRSs* issued in May 2008. An entity shall apply that amendment for annual periods beginning on or after 1 January 2009. Earlier application is permitted. If an entity applies the amendment for an earlier period it shall disclose that fact and apply paragraph 68A of IAS 16.

## Amendments to International Accounting Standard 19

### Employee Benefits

Paragraphs 7, 8(b), 32B, 97, 98, 111 and 160 are amended. Paragraphs 111A and 159D are added.

#### DEFINITIONS

7 ...

*Short-term employee benefits* are employee benefits (other than termination benefits) that are due to be settled within 12 months after the end of the period in which the employees render the related service.

...

*Other long-term employee benefits* are employee benefits (other than post-employment benefits and termination benefits) that are not due to be settled within 12 months after the end of the period in which the employees render the related service.

...

The *return on plan assets* is interest, dividends and other revenue derived from the plan assets, together with realised and unrealised gains or losses on the plan assets, less any costs of administering the plan (other than those included in the actuarial assumptions used to measure the defined benefit obligation) and less any tax payable by the plan itself.

...

*Past service cost* is the change in the present value of the defined benefit obligation for employee service in prior periods, resulting in the current period from the introduction of, or changes to, post-employment benefits or other long-term employee benefits. Past service cost may be either positive (when benefits are introduced or changed so that the present value of the defined benefit obligation increases) or negative (when existing benefits are changed so that the present value of the defined benefit obligation decreases).

#### SHORT-TERM EMPLOYEE BENEFITS

8 Short-term employee benefits include items such as:

(b) short-term compensated absences (such as paid annual leave and paid sick leave) where the compensation for the absences is due to be settled within 12 months after the end of the period in which the employees render the related employee service;

## POST-EMPLOYMENT BENEFITS: DISTINCTION BETWEEN DEFINED CONTRIBUTION PLANS AND DEFINED BENEFIT PLANS

**Multi-employer plans**

32B IAS 37 *Provisions, Contingent Liabilities and Contingent Assets* requires an entity to disclose information about some contingent liabilities. In the context of a multi-employer plan, a contingent liability may arise from, for example:

(a) ...

## POST-EMPLOYMENT BENEFITS: DEFINED BENEFIT PLANS

*Past service cost*

97 Past service cost arises when an entity introduces a defined benefit plan that attributes benefits to past service or changes the benefits payable for past service under an existing defined benefit plan. Such changes are in return for employee service over the period until the benefits concerned are vested. Therefore, the entity recognises past service cost over that period, regardless of the fact that the cost refers to employee service in previous periods. The entity measures past service cost as the change in the liability resulting from the amendment (see paragraph 64). Negative past service cost arises when an entity changes the benefits attributable to past service so that the present value of the defined benefit obligation decreases.

98 Past service cost excludes:

(a) the effect of differences between actual and previously assumed salary increases on the obligation to pay benefits for service in prior years (there is no past service cost because actuarial assumptions allow for projected salaries);

(b) underestimates and overestimates of discretionary pension increases when an entity has a constructive obligation to grant such increases (there is no past service cost because actuarial assumptions allow for such increases);

(c) estimates of benefit improvements that result from actuarial gains that have been recognised in the financial statements if the entity is obliged, by either the formal terms of a plan (or a constructive obligation that goes beyond those terms) or legislation, to use any surplus in the plan for the benefit of plan participants, even if the benefit increase has not yet been formally awarded (the resulting increase in the obligation is an actuarial loss and not past service cost, see paragraph 85(b));

(d) the increase in vested benefits when, in the absence of new or improved benefits, employees complete vesting requirements (there is no past service cost because the entity recognised the estimated cost of benefits as current service cost as the service was rendered); and

(e) the effect of plan amendments that reduce benefits for future service (a curtailment).

**Curtailment and settlements**

111 A curtailment occurs when an entity either:

(a) is demonstrably committed to make a significant reduction in the number of employees covered by a plan; or

(b) amends the terms of a defined benefit plan so that a significant element of future service by current employees will no longer qualify for benefits, or will qualify only for reduced benefits.

A curtailment may arise from an isolated event, such as the closing of a plant, discontinuance of an operation or termination or suspension of a plan, or a reduction in the extent to which future salary increases are linked to the benefits payable for past service. Curtailments are often linked with a restructuring. When this is the case, an entity accounts for a curtailment at the same time as for a related restructuring.

111A When a plan amendment reduces benefits, only the effect of the reduction for future service is a curtailment. The effect of any reduction for past service is a negative past service cost.

## EFFECTIVE DATE

- 159D Paragraphs 7, 8(b), 32B, 97, 98 and 111 were amended and paragraph 111A was added by *Improvements to IFRSs* issued in May 2008. An entity shall apply the amendments in paragraphs 7, 8(b) and 32B for annual periods beginning on or after 1 January 2009. Earlier application is permitted. If an entity applies the amendments for an earlier period it shall disclose that fact. An entity shall apply the amendments in paragraphs 97, 98, 111 and 111A to changes in benefits that occur on or after 1 January 2009.
- 160 IAS 8 applies when an entity changes its accounting policies to reflect the changes specified in paragraphs 159–159D. In applying those changes retrospectively, as required by IAS 8, the entity treats those changes as if they had been applied at the same time as the rest of this Standard. The exception is that an entity may disclose the amounts required by paragraph 120A(p) as the amounts are determined for each annual period prospectively from the first annual period presented in the financial statements in which the entity first applies the amendments in paragraph 120A.

**Amendments to International Accounting Standard 20*****Accounting for Government Grants and Disclosure of Government Assistance***

*Paragraph 37 is deleted. Paragraphs 10A and 43 are added.*

## GOVERNMENT GRANTS

- 10A The benefit of a government loan at a below-market rate of interest is treated as a government grant. The loan shall be recognised and measured in accordance with IAS 39 *Financial Instruments: Recognition and Measurement*. The benefit of the below-market rate of interest shall be measured as the difference between the initial carrying value of the loan determined in accordance with IAS 39 and the proceeds received. The benefit is accounted for in accordance with this Standard. The entity shall consider the conditions and obligations that have been, or must be, met when identifying the costs for which the benefit of the loan is intended to compensate.

## GOVERNMENT ASSISTANCE

- 37 [Deleted]

## EFFECTIVE DATE

- 43 Paragraph 37 was deleted and paragraph 10A added by *Improvements to IFRSs* issued in May 2008. An entity shall apply those amendments prospectively to government loans received in periods beginning on or after 1 January 2009. Earlier application is permitted. If an entity applies the amendments for an earlier period it shall disclose that fact.

**Amendment to International Accounting Standard 23*****Borrowing Costs (as revised in 2007)***

*Paragraph 6 is amended. Paragraph 29A is added.*

## DEFINITIONS

- 6 Borrowing costs may include:
- (a) interest expense calculated using the effective interest method as described in IAS 39 *Financial Instruments: Recognition and Measurement*;
  - (b) [deleted]
  - (c) [deleted]
  - (d) finance charges in respect of finance leases recognised in accordance with IAS 17 *Leases*; and
  - (e) exchange differences arising from foreign currency borrowings to the extent that they are regarded as an adjustment to interest costs.

## EFFECTIVE DATE

- 29A Paragraph 6 was amended by *Improvements to IFRSs* issued in May 2008. An entity shall apply that amendment for annual periods beginning on or after 1 January 2009. Earlier application is permitted. If an entity applies the amendment for an earlier period it shall disclose that fact.

**Amendment to International Accounting Standard 27*****Consolidated and Separate Financial Statements***

*Paragraph 37 is amended. Paragraph 43A is added.*

**ACCOUNTING FOR INVESTMENTS IN SUBSIDIARIES, JOINTLY CONTROLLED ENTITIES AND ASSOCIATES IN SEPARATE FINANCIAL STATEMENTS**

37 When an entity prepares separate financial statements, it shall account for investments in subsidiaries, jointly controlled entities and associates:

- (a) at cost, or
- (b) in accordance with IAS 39.

The entity shall apply the same accounting for each category of investments. Investments accounted for at cost shall be accounted for in accordance with IFRS 5 *Non-current Assets Held for Sale and Discontinued Operations* when they are classified as held for sale (or included in a disposal group that is classified as held for sale) in accordance with IFRS 5. The measurement of investments accounted for in accordance with IAS 39 is not changed in such circumstances.

**EFFECTIVE DATE AND TRANSITION**

43A Paragraph 37 was amended by *Improvements to IFRSs* issued in May 2008. An entity shall apply that amendment for annual periods beginning on or after 1 January 2009, prospectively from the date at which it first applied IFRS 5. Earlier application is permitted. If an entity applies the amendment for an earlier period it shall disclose that fact.

**Amendments to International Accounting Standard 28*****Investments in Associates***

*Paragraphs 1 and 33 and the heading above paragraph 41 are amended. Paragraph 41C is added.*

**SCOPE**

1 This Standard shall be applied in accounting for investments in associates. However, it does not apply to investments in associates held by:

- (a) venture capital organisations, or
- (b) mutual funds, unit trusts and similar entities including investment-linked insurance funds

that upon initial recognition are designated as at fair value through profit or loss or are classified as held for trading and accounted for in accordance with IAS 39 *Financial Instruments: Recognition and Measurement*. Such investments shall be measured at fair value in accordance with IAS 39, with changes in fair value recognised in profit or loss in the period of the change. An entity holding such an investment shall make the disclosures required by paragraph 37(f).

**APPLICATION OF THE EQUITY METHOD****Impairment losses**

33 Because goodwill that forms part of the carrying amount of an investment in an associate is not separately recognised, it is not tested for impairment separately by applying the requirements for impairment testing goodwill in IAS 36 *Impairment of Assets*. Instead, the entire carrying amount of the investment is tested for impairment in accordance with IAS 36 as a single asset, by comparing its recoverable amount (higher of value in use and fair value less costs to sell) with its carrying amount, whenever application of the requirements in IAS 39 indicates that the investment may be impaired. An impairment loss recognised in those circumstances is not allocated to any asset, including goodwill, that forms part of the carrying amount of the investment in the associate. Accordingly, any reversal of that impairment loss is recognised in accordance with IAS 36 to the extent that the recoverable amount of the investment subsequently increases. In determining the value in use of the investment, an entity estimates:

- (a) ...

## EFFECTIVE DATE AND TRANSITION

- 41C Paragraphs 1 and 33 were amended by *Improvements to IFRSs* issued in May 2008. An entity shall apply those amendments for annual periods beginning on or after 1 January 2009. Earlier application is permitted. If an entity applies the amendments for an earlier period it shall disclose that fact and apply for that earlier period the amendments to paragraph 3 of IFRS 7 *Financial Instruments: Disclosures*, paragraph 1 of IAS 31 and paragraph 4 of IAS 32 *Financial Instruments: Presentation* issued in May 2008. An entity is permitted to apply the amendments prospectively.

**Amendment to International Accounting Standard 31****Interests in Joint Ventures**

Paragraph 1 and the heading above paragraph 58 are amended. Paragraph 58B is added.

## SCOPE

- 1 This Standard shall be applied in accounting for interests in joint ventures and the reporting of joint venture assets, liabilities, income and expenses in the financial statements of venturers and investors, regardless of the structures or forms under which the joint venture activities take place. However, it does not apply to venturers' interests in jointly controlled entities held by:

- (a) venture capital organisations, or
- (b) mutual funds, unit trusts and similar entities including investment-linked insurance funds

that upon initial recognition are designated as at fair value through profit or loss or are classified as held for trading and accounted for in accordance with IAS 39 *Financial Instruments: Recognition and Measurement*. Such investments shall be measured at fair value in accordance with IAS 39, with changes in fair value recognised in profit or loss in the period of the change. A venturer holding such an interest shall make the disclosures required by paragraphs 55 and 56.

## EFFECTIVE DATE AND TRANSITION

- 58B Paragraph 1 was amended by *Improvements to IFRSs* issued in May 2008. An entity shall apply that amendment for annual periods beginning on or after 1 January 2009. Earlier application is permitted. If an entity applies the amendment for an earlier period it shall disclose that fact and apply for that earlier period the amendments to paragraph 3 of IFRS 7 *Financial Instruments: Disclosures*, paragraph 1 of IAS 28 and paragraph 4 of IAS 32 *Financial Instruments: Presentation* issued in May 2008. An entity is permitted to apply the amendment prospectively.

**Appendix to Amendments to IAS 28 and IAS 31****Amendments to other IFRSs**

Entities shall apply the amendments to IFRS 7 and IAS 32 in this appendix when they apply the related amendments to IAS 28 and IAS 31.

**IFRS 7 *Financial Instruments: Disclosures***

Paragraph 3(a) is amended. Paragraph 44D is added.

## SCOPE

- 3 This IFRS shall be applied by all entities to all types of financial instruments, except:
- (a) those interests in subsidiaries, associates or joint ventures that are accounted for in accordance with IAS 27 *Consolidated and Separate Financial Statements*, IAS 28 *Investments in Associates* or IAS 31 *Interests in Joint Ventures*. However, in some cases, IAS 27, IAS 28 or IAS 31 permits an entity to account for an interest in a subsidiary, associate or joint venture using IAS 39; in those cases, entities shall apply the requirements of this IFRS. Entities shall also apply this IFRS to all derivatives linked to interests in subsidiaries, associates or joint ventures unless the derivative meets the definition of an equity instrument in IAS 32.

## EFFECTIVE DATE AND TRANSITION

- 44D Paragraph 3(a) was amended by *Improvements to IFRSs* issued in May 2008. An entity shall apply that amendment for annual periods beginning on or after 1 January 2009. Earlier application is permitted. If an entity applies the amendment for an earlier period it shall disclose that fact and apply for that earlier period the amendments to paragraph 1 of IAS 28, paragraph 1 of IAS 31 and paragraph 4 of IAS 32 issued in May 2008. An entity is permitted to apply the amendment prospectively.

**IAS 32 Financial Instruments: Presentation**

Paragraph 4(a) and the heading above paragraph 96 are amended. Paragraph 97D is added.

## SCOPE

- 4 This Standard shall be applied by all entities to all types of financial instruments except:
- (a) those interests in subsidiaries, associates or joint ventures that are accounted for in accordance with IAS 27 *Consolidated and Separate Financial Statements*, IAS 28 *Investments in Associates* or IAS 31 *Interests in Joint Ventures*. However, in some cases, IAS 27, IAS 28 or IAS 31 permits an entity to account for an interest in a subsidiary, associate or joint venture using IAS 39; in those cases, entities shall apply the requirements of this Standard. Entities shall also apply this Standard to all derivatives linked to interests in subsidiaries, associates or joint ventures.

## EFFECTIVE DATE AND TRANSITION

- 97D Paragraph 4 was amended by *Improvements to IFRSs* issued in May 2008. An entity shall apply that amendment for annual periods beginning on or after 1 January 2009. Earlier application is permitted. If an entity applies the amendment for an earlier period it shall disclose that fact and apply for that earlier period the amendments to paragraph 3 of IFRS 7, paragraph 1 of IAS 28 and paragraph 1 of IAS 31 issued in May 2008. An entity is permitted to apply the amendment prospectively.

**Amendments to International Accounting Standard 29*****Financial Reporting in Hyperinflationary Economies***

Paragraphs 6, 15 and 19 are amended. These amendments shall be applied for annual periods beginning on or after 1 January 2009. Earlier application is permitted.

## THE RESTATEMENT OF FINANCIAL STATEMENTS

- 6 Entities that prepare financial statements on the historical cost basis of accounting do so without regard either to changes in the general level of prices or to increases in specific prices of recognised assets or liabilities. The exceptions to this are those assets and liabilities that the entity is required, or chooses, to measure at fair value. For example, property, plant and equipment may be revalued to fair value and biological assets are generally required to be measured at fair value. Some entities, however, present financial statements that are based on a current cost approach that reflects the effects of changes in the specific prices of assets held.
- 15 Most non-monetary items are carried at cost or cost less depreciation; hence they are expressed at amounts current at their date of acquisition. The restated cost, or cost less depreciation, of each item is determined by applying to its historical cost and accumulated depreciation the change in a general price index from the date of acquisition to the end of the reporting period. For example, property, plant and equipment, inventories of raw materials and merchandise, goodwill, patents, trademarks and similar assets are restated from the dates of their purchase. Inventories of partly-finished and finished goods are restated from the dates on which the costs of purchase and of conversion were incurred.
- 19 The restated amount of a non-monetary item is reduced, in accordance with appropriate IFRSs, when it exceeds its recoverable amount. For example, restated amounts of property, plant and equipment, goodwill, patents and trademarks are reduced to recoverable amount and restated amounts of inventories are reduced to net realisable value.

**Amendment to International Accounting Standard 36*****Impairment of Assets***

Paragraph 134(e) is amended. Paragraph 140C is added.

## DISCLOSURE

**Estimates used to measure recoverable amounts of cash-generating units containing goodwill or intangible assets with indefinite useful lives**

- 134 An entity shall disclose the information required by (a)-(f) for each cash-generating unit (group of units) for which the carrying amount of goodwill or intangible assets with indefinite useful lives allocated to that unit (group of units) is significant in comparison with the entity's total carrying amount of goodwill or intangible assets with indefinite useful lives:

(e) if the unit's (group of units') recoverable amount is based on fair value less costs to sell, the methodology used to determine fair value less costs to sell. If fair value less costs to sell is not determined using an observable market price for the unit (group of units), the following information shall also be disclosed:

- (i) a description of each key assumption on which management has based its determination of fair value less costs to sell. Key assumptions are those to which the unit's (group of units') recoverable amount is most sensitive;
- (ii) a description of management's approach to determining the value (or values) assigned to each key assumption, whether those values reflect past experience or, if appropriate, are consistent with external sources of information, and, if not, how and why they differ from past experience or external sources of information.

If fair value less costs to sell is determined using discounted cash flow projections, the following information shall also be disclosed:

- (iii) the period over which management has projected cash flows;
- (iv) the growth rate used to extrapolate cash flow projections;
- (v) the discount rate(s) applied to the cash flow projections.

#### TRANSITIONAL PROVISIONS AND EFFECTIVE DATE

140C Paragraph 134(e) was amended by *Improvements to IFRSs* issued in May 2008. An entity shall apply that amendment for annual periods beginning on or after 1 January 2009. Earlier application is permitted. If an entity applies the amendment for an earlier period it shall disclose that fact.

### **Amendments to International Accounting Standard 38**

#### ***Intangible Assets***

*Paragraphs 69, 70 and 98 are amended. Paragraphs 69A and 130D are added.*

#### RECOGNITION OF AN EXPENSE

69 In some cases, expenditure is incurred to provide future economic benefits to an entity, but no intangible asset or other asset is acquired or created that can be recognised. In the case of the supply of goods, the entity recognises such expenditure as an expense when it has a right to access those goods. In the case of the supply of services, the entity recognises the expenditure as an expense when it receives the services. For example, expenditure on research is recognised as an expense when it is incurred (see paragraph 54), except when it is acquired as part of a business combination. Other examples of expenditure that is recognised as an expense when it is incurred include:

- (a) ...
- (c) expenditure on advertising and promotional activities (including mail order catalogues);
- (d) ...

69A An entity has a right to access goods when it owns them. Similarly, it has a right to access goods when they have been constructed by a supplier in accordance with the terms of a supply contract and the entity could demand delivery of them in return for payment. Services are received when they are performed by a supplier in accordance with a contract to deliver them to the entity and not when the entity uses them to deliver another service, for example, to deliver an advertisement to customers.

70 Paragraph 68 does not preclude an entity from recognising a prepayment as an asset when payment for goods has been made in advance of the entity obtaining a right to access those goods. Similarly, paragraph 68 does not preclude an entity from recognising a prepayment as an asset when payment for services has been made in advance of the entity receiving those services.

## INTANGIBLE ASSETS WITH FINITE USEFUL LIVES

**Amortisation period and amortisation method**

- 98 A variety of amortisation methods can be used to allocate the depreciable amount of an asset on a systematic basis over its useful life. These methods include the straight-line method, the diminishing balance method and the unit of production method. The method used is selected on the basis of the expected pattern of consumption of the expected future economic benefits embodied in the asset and is applied consistently from period to period, unless there is a change in the expected pattern of consumption of those future economic benefits.

## TRANSITIONAL PROVISIONS AND EFFECTIVE DATE

- 130D Paragraphs 69, 70 and 98 were amended and paragraph 69A was added by *Improvements to IFRSs* issued in May 2008. An entity shall apply those amendments for annual periods beginning on or after 1 January 2009. Earlier application is permitted. If an entity applies the amendments for an earlier period it shall disclose that fact.

**Amendments to International Accounting Standard 39*****Financial Instruments: Recognition and Measurement***

*Paragraphs 9, 73 and AG8 are amended. Paragraphs 50A and 108C are added.*

## DEFINITIONS

- 9 The following terms are used in this Standard with the meanings specified:

...

*Definitions of four categories of financial instruments*

*A financial asset or financial liability at fair value through profit or loss is a financial asset or financial liability that meets either of the following conditions.*

- (a) It is classified as held for trading. A financial asset or financial liability is classified as held for trading if:
- (i) it is acquired or incurred principally for the purpose of selling or repurchasing it in the near term;
  - (ii) on initial recognition it is part of a portfolio of identified financial instruments that are managed together and for which there is evidence of a recent actual pattern of short-term profit-taking; or
  - (iii) it is a derivative (except for a derivative that is a financial guarantee contract or a designated and effective hedging instrument).
- (b) ...

## MEASUREMENT

**Reclassifications**

- 50A The following changes in circumstances are not reclassifications for the purposes of paragraph 50:
- (a) a derivative that was previously a designated and effective hedging instrument in a cash flow hedge or net investment hedge no longer qualifies as such;
  - (b) a derivative becomes a designated and effective hedging instrument in a cash flow hedge or net investment hedge;
  - (c) financial assets are reclassified when an insurance company changes its accounting policies in accordance with paragraph 45 of IFRS 4.

## HEDGING

**Hedging instruments***Qualifying instruments*

- 73 For hedge accounting purposes, only instruments that involve a party external to the reporting entity (ie external to the group or individual entity that is being reported on) can be designated as hedging instruments. Although individual entities within a consolidated group or divisions within an entity may enter into hedging transactions with other entities within the group or divisions within the entity, any such intragroup transactions are eliminated on consolidation. Therefore, such hedging transactions do not qualify for hedge accounting in the consolidated financial statements of the group. However, they may qualify for hedge accounting in the individual or separate financial statements of individual entities within the group provided that they are external to the individual entity that is being reported on.

## EFFECTIVE DATE AND TRANSITION

- 108C Paragraphs 9, 73 and AG8 were amended and paragraph 50A added by *Improvements to IFRSs* issued in May 2008. An entity shall apply those amendments for annual periods beginning on or after 1 January 2009. An entity shall apply the amendments in paragraphs 9 and 50A as of the date and in the manner it applied the 2005 amendments described in paragraph 105A. Earlier application of all the amendments is permitted. If an entity applies the amendments for an earlier period it shall disclose that fact.

**Amendment to application guidance on IAS 39*****Financial Instruments: Recognition and Measurement***

## DEFINITIONS (PARAGRAPHS 8 AND 9)

**Effective interest rate**

- AG8 If an entity revises its estimates of payments or receipts, the entity shall adjust the carrying amount of the financial asset or financial liability (or group of financial instruments) to reflect actual and revised estimated cash flows. The entity recalculates the carrying amount by computing the present value of estimated future cash flows at the financial instrument's original effective interest rate or, when applicable, the revised effective interest rate calculated in accordance with paragraph 92. The adjustment is recognised in profit or loss as income or expense. If a financial asset is reclassified in accordance with paragraph 50B, 50D or 50E, and the entity subsequently increases its estimates of future cash receipts as a result of increased recoverability of those cash receipts, the effect of that increase shall be recognised as an adjustment to the effective interest rate from the date of the change in estimate rather than as an adjustment to the carrying amount of the asset at the date of the change in estimate.

**Amendments to International Accounting Standard 40*****Investment Property***

*Paragraphs 8, 9, 48, 53, 54 and 57 are amended. Paragraph 22 is deleted and paragraphs 53A, 53B and 85B are added.*

## DEFINITIONS

- 8 The following are examples of investment property:
- (a) ...
  - (e) property that is being constructed or developed for future use as investment property.
- 9 The following are examples of items that are not investment property and are therefore outside the scope of this Standard:
- (a) ...
  - (d) [deleted]
  - (e) ...

## MEASUREMENT AT RECOGNITION

- 22 [Deleted]

**Fair value model**

- 48 In exceptional cases, there is clear evidence when an entity first acquires an investment property (or when an existing property first becomes investment property after a change in use) that the variability in the range of reasonable fair value estimates will be so great, and the probabilities of the various outcomes so difficult to assess, that the usefulness of a single estimate of fair value is negated. This may indicate that the fair value of the property will not be reliably determinable on a continuing basis (see paragraph 53).

*Inability to determine fair value reliably*

- 53 There is a rebuttable presumption that an entity can reliably determine the fair value of an investment property on a continuing basis. However, in exceptional cases, there is clear evidence when an entity first acquires an investment property (or when an existing property first becomes investment property after a change in use) that the fair value of the investment property is not reliably determinable on a continuing basis. This arises when, and only when, comparable market transactions are infrequent and alternative reliable estimates of fair value (for example, based on discounted cash flow projections) are not available. If an entity determines that the fair value of an investment property under construction is not reliably determinable but expects the fair value of the property to be reliably determinable when construction is complete, it shall measure that investment property under construction at cost until either its fair value becomes reliably determinable or construction is completed (whichever is earlier). If an entity determines that the fair value of an investment property (other than an investment property under construction) is not reliably determinable on a continuing basis, the entity shall measure that investment property using the cost model in IAS 16. The residual value of the investment property shall be assumed to be zero. The entity shall apply IAS 16 until disposal of the investment property.
- 53A Once an entity becomes able to measure reliably the fair value of an investment property under construction that has previously been measured at cost, it shall measure that property at its fair value. Once construction of that property is complete, it is presumed that fair value can be measured reliably. If this is not the case, in accordance with paragraph 53, the property shall be accounted for using the cost model in accordance with IAS 16.
- 53B The presumption that the fair value of investment property under construction can be measured reliably can be rebutted only on initial recognition. An entity that has measured an item of investment property under construction at fair value may not conclude that the fair value of the completed investment property cannot be determined reliably.
- 54 In the exceptional cases when an entity is compelled, for the reason given in paragraph 53, to measure an investment property using the cost model in accordance with IAS 16, it measures at fair value all its other investment property, including investment property under construction. In these cases, although an entity may use the cost model for one investment property, the entity shall continue to account for each of the remaining properties using the fair value model.

## TRANSFERS

- 57 Transfers to, or from, investment property shall be made when, and only when, there is a change in use, evidenced by:
- (a) ...
  - (c) end of owner-occupation, for a transfer from owner-occupied property to investment property; or
  - (d) commencement of an operating lease to another party, for a transfer from inventories to investment property.
  - (e) [deleted]

## EFFECTIVE DATE

- 85B Paragraphs 8, 9, 48, 53, 54 and 57 were amended, paragraph 22 was deleted and paragraphs 53A and 53B were added by *Improvements to IFRSs* issued in May 2008. An entity shall apply those amendments prospectively for annual periods beginning on or after 1 January 2009. An entity is permitted to apply the amendments to investment property under construction from any date before 1 January 2009 provided that the fair values of investment properties under construction were determined at those dates. Earlier application is permitted. If an entity applies the amendments for an earlier period it shall disclose that fact and at the same time apply the amendments to paragraphs 5 and 81E of IAS 16 *Property, Plant and Equipment*.

**Appendix to Amendments to IAS 40****Amendment to IAS 16**

*Entities shall apply the amendment to IAS 16 in this appendix when they apply the related amendments to IAS 40.*

**IAS 16 Property, Plant and Equipment**

*Paragraph 5 is amended. Paragraph 81E is added.*

- 5 An entity using the cost model for investment property in accordance with IAS 40 *Investment Property* shall use the cost model in this Standard.

## EFFECTIVE DATE

- 81E Paragraph 5 was amended by *Improvements to IFRSs* issued in May 2008. An entity shall apply that amendment prospectively for annual periods beginning on or after 1 January 2009. Earlier application is permitted if an entity also applies the amendments to paragraphs 8, 9, 22, 48, 53, 53A, 53B, 54, 57 and 85B of IAS 40 at the same time. If an entity applies the amendment for an earlier period it shall disclose that fact.

**Amendments to International Accounting Standard 41****Agriculture**

Paragraphs 5, 6, 17, 20 and 21 are amended. Paragraph 60 is added.

## DEFINITIONS

**Agriculture-related definitions**

- 5 The following terms are used in this Standard with the meanings specified:

*Agricultural activity* is the management by an entity of the biological transformation and harvest of biological assets for sale or for conversion into agricultural produce or into additional biological assets.

...

- 6 Agricultural activity covers a diverse range of activities; for example, raising livestock, forestry, annual or perennial cropping, cultivating orchards and plantations, floriculture and aquaculture (including fish farming). Certain common features exist within this diversity:

(a) ...

(c) *Measurement of change*. The change in quality (for example, genetic merit, density, ripeness, fat cover, protein content, and fibre strength) or quantity (for example, progeny, weight, cubic metres, fibre length or diameter, and number of buds) brought about by biological transformation or harvest is measured and monitored as a routine management function.

## RECOGNITION AND MEASUREMENT

- 17 If an active market exists for a biological asset or agricultural produce in its present location and condition, the quoted price in that market is the appropriate basis for determining the fair value of that asset. If an entity has access to different active markets, the entity uses the most relevant one. For example, if an entity has access to two active markets, it would use the price existing in the market expected to be used.
- 20 In some circumstances, market-determined prices or values may not be available for a biological asset in its present condition. In these circumstances, an entity uses the present value of expected net cash flows from the asset discounted at a current market-determined rate in determining fair value.
- 21 The objective of a calculation of the present value of expected net cash flows is to determine the fair value of a biological asset in its present location and condition. An entity considers this in determining an appropriate discount rate to be used and in estimating expected net cash flows. In determining the present value of expected net cash flows, an entity includes the net cash flows that market participants would expect the asset to generate in its most relevant market.

## EFFECTIVE DATE AND TRANSITION

- 60 Paragraphs 5, 6, 17, 20 and 21 were amended and paragraph 14 deleted by *Improvements to IFRSs* issued in May 2008. An entity shall apply those amendments prospectively for annual periods beginning on or after 1 January 2009. Earlier application is permitted. If an entity applies the amendments for an earlier period it shall disclose that fact.

## PART II

The amendments in Part II shall be applied for annual periods beginning on or after 1 January 2009. Earlier application is permitted.

**Amendments to International Accounting Standard 8*****Accounting Policies, Changes in Accounting Estimates and Errors***

Paragraphs 7, 9 and 11 are amended.

## ACCOUNTING POLICIES

**Selection and application of accounting policies**

- 7 When an IFRS specifically applies to a transaction, other event or condition, the accounting policy or policies applied to that item shall be determined by applying the IFRS.
- 9 IFRSs are accompanied by guidance to assist entities in applying their requirements. All such guidance states whether it is an integral part of IFRSs. Guidance that is an integral part of IFRSs is mandatory. Guidance that is not an integral part of IFRSs does not contain requirements for financial statements.
- 11 In making the judgement described in paragraph 10, management shall refer to, and consider the applicability of, the following sources in descending order:
- (a) the requirements in IFRSs dealing with similar and related issues; and
  - (b) the definitions, recognition criteria and measurement concepts for assets, liabilities, income and expenses in the *Framework*.

**Amendment to International Accounting Standard 10*****Events after the Reporting Period***

Paragraph 13 is amended.

- 13 If dividends are declared (ie the dividends are appropriately authorised and no longer at the discretion of the entity) after the reporting period but before the financial statements are authorised for issue, the dividends are not recognised as a liability at the end of the reporting period because no obligation exists at that time. Such dividends are disclosed in the notes in accordance with IAS 1 *Presentation of Financial Statements*.

**Amendments to International Accounting Standard 20*****Accounting for Government Grants and Disclosure of Government Assistance***

A footnote is added to the title of the Standard above paragraph 1, and paragraphs 2(b), 12–18, 20–22, 26, 27 and 32 are amended.

## Footnote to title

- \* As part of *Improvements to IFRSs* issued in May 2008 the Board amended terminology used in this Standard to be consistent with other IFRSs as follows:
- (a) 'taxable income' was amended to 'taxable profit or tax loss';
  - (b) 'recognised as income/expense' was amended to 'recognised in profit or loss';
  - (c) 'credited directly to shareholders' interests/equity' was amended to 'recognised outside profit or loss'; and
  - (d) 'revision to an accounting estimate' was amended to 'change in accounting estimate'.

## SCOPE

- 2 This Standard does not deal with:
- (a) the special problems ... similar nature;
  - (b) government assistance that is provided for an entity in the form of benefits that are available in determining taxable profit or tax loss, or are determined or limited on the basis of income tax liability. Examples of such benefits are income tax holidays, investment tax credits, accelerated depreciation allowances and reduced income tax rates;

(c) government ... the entity;

(d) ...

#### GOVERNMENT GRANTS

- 12 Government grants shall be recognised in profit or loss on a systematic basis over the periods in which the entity recognises as expenses the related costs for which the grants are intended to compensate.
- 13 There are two broad approaches to the accounting for government grants: the capital approach, under which a grant is recognised outside profit or loss, and the income approach, under which a grant is recognised in profit or loss over one or more periods.
- 14 Those in support of the capital approach argue as follows:
- (a) government grants are a financing device and should be dealt with as such in the statement of financial position rather than be recognised in profit or loss to offset the items of expense that they finance. Because no repayment is expected, such grants should be recognised outside profit or loss;
  - (b) it is inappropriate to recognise government grants in profit or loss, because they are not earned but represent an incentive provided by government without related costs.
- 15 Arguments in support of the income approach are as follows:
- (a) because government grants are receipts from a source other than shareholders, they should not be recognised directly in equity but should be recognised in profit or loss in appropriate periods;
  - (b) government grants are rarely gratuitous. The entity earns them through compliance with their conditions and meeting the envisaged obligations. They should therefore be recognised in profit or loss over the periods in which the entity recognises as expenses the related costs for which the grant is intended to compensate;
  - (c) because income and other taxes are expenses, it is logical to deal also with government grants, which are an extension of fiscal policies, in profit or loss.
- 16 It is fundamental to the income approach that government grants should be recognised in profit or loss on a systematic basis over the periods in which the entity recognises as expenses the related costs for which the grant is intended to compensate. Recognition of government grants in profit or loss on a receipts basis is not in accordance with the accrual accounting assumption (see IAS 1 *Presentation of Financial Statements*) and would be acceptable only if no basis existed for allocating a grant to periods other than the one in which it was received.
- 17 In most cases the periods over which an entity recognises the costs or expenses related to a government grant are readily ascertainable. Thus grants in recognition of specific expenses are recognised in profit or loss in the same period as the relevant expenses. Similarly, grants related to depreciable assets are usually recognised in profit or loss over the periods and in the proportions in which depreciation expense on those assets is recognised.
- 18 Grants related to non-depreciable assets may also require the fulfilment of certain obligations and would then be recognised in profit or loss over the periods that bear the cost of meeting the obligations. As an example, a grant of land may be conditional upon the erection of a building on the site and it may be appropriate to recognise the grant in profit or loss over the life of the building.
- 20 A government grant that becomes receivable as compensation for expenses or losses already incurred or for the purpose of giving immediate financial support to the entity with no future related costs shall be recognised in profit or loss of the period in which it becomes receivable.

- 21 In some circumstances, a government grant may be awarded for the purpose of giving immediate financial support to an entity rather than as an incentive to undertake specific expenditures. Such grants may be confined to a particular entity and may not be available to a whole class of beneficiaries. These circumstances may warrant recognising a grant in profit or loss of the period in which the entity qualifies to receive it, with disclosure to ensure that its effect is clearly understood.
- 22 A government grant may become receivable by an entity as compensation for expenses or losses incurred in a previous period. Such a grant is recognised in profit or loss of the period in which it becomes receivable, with disclosure to ensure that its effect is clearly understood.

#### **Presentation of grants related to assets**

- 26 One method recognises the grant as deferred income that is recognised in profit or loss on a systematic basis over the useful life of the asset.
- 27 The other method deducts the grant in calculating the carrying amount of the asset. The grant is recognised in profit or loss over the life of a depreciable asset as a reduced depreciation expense.

#### **Repayment of government grants**

- 32 A government grant that becomes repayable shall be accounted for as a change in accounting estimate (see IAS 8 *Accounting Policies, Changes in Accounting Estimates and Errors*). Repayment of a grant related to income shall be applied first against any unamortised deferred credit recognised in respect of the grant. To the extent that the repayment exceeds any such deferred credit, or when no deferred credit exists, the repayment shall be recognised immediately in profit or loss. Repayment of a grant related to an asset shall be recognised by increasing the carrying amount of the asset or reducing the deferred income balance by the amount repayable. The cumulative additional depreciation that would have been recognised in profit or loss to date in the absence of the grant shall be recognised immediately in profit or loss.

### **Appendix to Amendments to IAS 20**

#### **Amendments to IAS 41**

*Entities shall apply the amendments to IAS 41 in this appendix when they apply the related amendments to terminology used in IAS 20.*

#### **IAS 41 Agriculture**

*Paragraphs 34-36 are amended.*

#### **GOVERNMENT GRANTS**

- 34 An unconditional government grant related to a biological asset measured at its fair value less costs to sell shall be recognised in profit or loss when, and only when, the government grant becomes receivable.
- 35 If a government grant related to a biological asset measured at its fair value less costs to sell is conditional, including when a government grant requires an entity not to engage in specified agricultural activity, an entity shall recognise the government grant in profit or loss when, and only when, the conditions attaching to the government grant are met.
- 36 Terms and conditions of government grants vary. For example, a grant may require an entity to farm in a particular location for five years and require the entity to return all of the grant if it farms for a period shorter than five years. In this case, the grant is not recognised in profit or loss until the five years have passed. However, if the terms of the grant allow part of it to be retained according to the time that has elapsed, the entity recognises that part in profit or loss as time passes.

**Amendments to International Accounting Standard 29****Financial Reporting in Hyperinflationary Economies**

A footnote is added to the title of the Standard above paragraph 1, and paragraphs 8, 14, 20, 28 and 34 are amended.

Footnote to title

- \* As part of *Improvements to IFRSs* issued in May 2008, the Board changed terms used in IAS 29 to be consistent with other IFRSs as follows: (a) 'market value' was amended to 'fair value', and (b) 'results of operations' and 'net income' were amended to 'profit or loss'.

**THE RESTATEMENT OF FINANCIAL STATEMENTS**

- 8 The financial statements of an entity whose functional currency is the currency of a hyperinflationary economy, whether they are based on a historical cost approach or a current cost approach, shall be stated in terms of the measuring unit current at the end of the reporting period. The corresponding figures for the previous period required by IAS 1 *Presentation of Financial Statements* (as revised in 2007) and any information in respect of earlier periods shall also be stated in terms of the measuring unit current at the end of the reporting period. For the purpose of presenting comparative amounts in a different presentation currency, paragraphs 42(b) and 43 of IAS 21 *The Effects of Changes in Foreign Exchange Rates* apply.

**Historical cost financial statements***Statement of financial position*

- 14 All other assets and liabilities are non-monetary. Some non-monetary items are carried at amounts current at the end of the reporting period, such as net realisable value and fair value, so they are not restated. All other non-monetary assets and liabilities are restated.
- 20 An investee that is accounted for under the equity method may report in the currency of a hyperinflationary economy. The statement of financial position and statement of comprehensive income of such an investee are restated in accordance with this Standard in order to calculate the investor's share of its net assets and profit or loss. When the restated financial statements of the investee are expressed in a foreign currency they are translated at closing rates.

*Gain or loss on net monetary position*

- 28 The gain or loss on the net monetary position is included in profit or loss. The adjustment to those assets and liabilities linked by agreement to changes in prices made in accordance with paragraph 13 is offset against the gain or loss on net monetary position. Other income and expense items, such as interest income and expense, and foreign exchange differences related to invested or borrowed funds, are also associated with the net monetary position. Although such items are separately disclosed, it may be helpful if they are presented together with the gain or loss on net monetary position in the statement of comprehensive income.

**Corresponding figures**

- 34 Corresponding figures for the previous reporting period, whether they were based on a historical cost approach or a current cost approach, are restated by applying a general price index so that the comparative financial statements are presented in terms of the measuring unit current at the end of the reporting period. Information that is disclosed in respect of earlier periods is also expressed in terms of the measuring unit current at the end of the reporting period. For the purpose of presenting comparative amounts in a different presentation currency, paragraphs 42(b) and 43 of IAS 21 apply.

**Amendment to International Accounting Standard 34****Interim Financial Reporting**

Paragraph 11 is amended and a footnote is added.

**FORM AND CONTENT OF INTERIM FINANCIAL STATEMENTS**

- 11 In the statement that presents the components of profit or loss for an interim period, an entity shall present basic and diluted earnings per share for that period when the entity is within the scope of IAS 33 *Earnings per Share* (\*).

(\*) This paragraph was amended by *Improvements to IFRSs* issued in May 2008 to clarify the scope of IAS 34.

## Amendments to International Accounting Standard 40

### *Investment Property*

*Paragraphs 31 and 50 are amended.*

#### MEASUREMENT AFTER RECOGNITION

##### **Accounting policy**

- 31 IAS 8 *Accounting Policies, Changes in Accounting Estimates and Errors* states that a voluntary change in accounting policy shall be made only if the change results in the financial statements providing reliable and more relevant information about the effects of transactions, other events or conditions on the entity's financial position, financial performance or cash flows. It is highly unlikely that a change from the fair value model to the cost model will result in a more relevant presentation.

##### **Fair value model**

- 50 In determining the carrying amount of investment property under the fair value model, an entity does not double-count assets or liabilities that are recognised as separate assets or liabilities. For example:
- (a) ...
- (d) the fair value of investment property held under a lease reflects expected cash flows (including contingent rent that is expected to become payable). Accordingly, if a valuation obtained for a property is net of all payments expected to be made, it will be necessary to add back any recognised lease liability, to arrive at the carrying amount of the investment property using the fair value model.

## Amendments to International Accounting Standard 41

### *Agriculture*

*Paragraphs 4 and 5 are amended and paragraph 14 is deleted. The terms 'estimated point-of-sale costs' and 'point-of-sale costs' are replaced by 'costs to sell' where they appear as follows:*

— *Standard (paragraphs 12, 13, 26-28, 30-32, 34, 35, 38, 40, 48, 50 and 51)*

#### SCOPE

- 4 The table below provides examples of biological assets, agricultural produce, and products that are the result of processing after harvest:

Biological assets	Agricultural produce	Products that are the result of processing after harvest
...		
Trees in a plantation forest	Felled trees	Logs, lumber
...		

#### DEFINITIONS

##### **Agriculture-related definitions**

- 5 The following terms are used in this Standard with the meanings specified:

...

*Costs to sell* are the incremental costs directly attributable to the disposal of an asset, excluding finance costs and income taxes.

#### RECOGNITION AND MEASUREMENT

- 14 [Deleted]

**Appendix to Amendments to IAS 41****Amendments to other IFRSs**

Entities shall apply these amendments to IFRS 5 *Non-current Assets Held for Sale and Discontinued Operations*, IAS 2 *Inventories*, and IAS 36 *Impairment of Assets* when they apply the related amendments to IAS 41.

**IFRS 5 *Non-current Assets Held for Sale and Discontinued Operations***

Paragraph 5 is amended.

## SCOPE

- 5 The measurement provisions of this IFRS (\*) do not apply to the following assets, which are covered by the IFRSs listed, either as individual assets or as part of a disposal group:
- (a) ...
  - (e) non-current assets that are measured at fair value less costs to sell in accordance with IAS 41 *Agriculture*;
  - (f) ...

**IAS 2 *Inventories***

Paragraph 20 is amended.

- 20 In accordance with IAS 41 *Agriculture* inventories comprising agricultural produce that an entity has harvested from its biological assets are measured on initial recognition at their fair value less costs to sell at the point of harvest. This is the cost of the inventories at that date for application of this Standard.

**IAS 36 *Impairment of Assets***

Paragraphs 2 and 5 are amended.

## SCOPE

- 2 This Standard shall be applied in accounting for the impairment of all assets, other than:
- (a) ...
  - (g) biological assets related to agricultural activity that are measured at fair value less costs to sell (see IAS 41 *Agriculture*);
  - (h) ...
- 5 This Standard does not apply to financial assets within the scope of IAS 39, investment property measured at fair value in accordance with IAS 40, or biological assets related to agricultural activity measured at fair value less costs to sell in accordance with IAS 41. However, this Standard applies to assets that are carried at revalued amount (ie fair value) in accordance with other IFRSs, such as the revaluation model in IAS 16 *Property, Plant and Equipment*. Identifying whether a revalued asset may be impaired depends on the basis used to determine fair value:
- (a) ...

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(\*) Other than paragraphs 18 and 19 which require the assets in question to be measured in accordance with other applicable IFRSs.

**COMMISSION REGULATION (EC) No 71/2009****of 23 January 2009****setting the quantity of maize available for intervention for period 2 of the 2008/09 marketing year**

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 687/2008 of 18 July 2008 establishing procedures for the taking-over of cereals by intervention agencies or paying agencies and laying down methods of analysis for determining the quality of cereals <sup>(2)</sup>, and in particular the second subparagraph of Article 3(2) thereof,

Whereas:

- (1) Article 3 of Regulation (EC) No 687/2008 lays down rules for awarding the quantities of maize eligible for intervention for the 2008/09 marketing year. Quantities are awarded in two stages, referred to as 'period 1' and 'period 2'.
- (2) The total quantity of maize offered for intervention in period 1, which ran from 1 August to 31 December 2008, did not exceed the limit laid down in point (a) of the second subparagraph of Article 11(1) of Regu-

lation (EC) No 1234/2007. The quantity of maize that may be offered for intervention in period 2 of the 2008/09 marketing year should therefore be published.

- (3) In accordance with the third subparagraph of Article 3(1) of Regulation (EC) No 687/2008, period 2 starts on the day following publication by the Commission in the *Official Journal of the European Union* of the quantity which remains available for intervention in that period. That day is the first day for the submission of offers in all Member States, and the period in question ends no later than 30 April in Greece, Spain, Italy and Portugal, 30 June in Sweden and 31 May in the other Member States. This Regulation should therefore enter into force on the day of its publication in the *Official Journal of the European Union*,

HAS ADOPTED THIS REGULATION:

*Article 1*

The quantity of maize that may be offered for intervention in period 2 of the 2008/09 marketing year in accordance with Article 3 of Regulation (EC) No 687/2008 shall be 172 377 tonnes.

*Article 2*

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

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

Done at Brussels, 23 January 2009.

*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 192, 19.7.2008, p. 20.

## DIRECTIVES

## COMMISSION DIRECTIVE 2009/4/EC

of 23 January 2009

**counter measures to prevent and detect manipulation of records of tachographs, amending Directive 2006/22/EC of the European Parliament and of the Council on minimum conditions for the implementation of Council Regulations (EEC) Nos 3820/85 and 3821/85 concerning social legislation relating to road transport activities and repealing Council Directive 88/599/EEC**

(Text with EEA relevance)

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Directive 2006/22/EC of the European Parliament and of the Council of 15 March 2006 on minimum conditions for the implementation of Council Regulations (EEC) Nos 3820/85 and 3821/85 concerning social legislation relating to road transport activities and repealing Council Directive 88/599/EEC <sup>(1)</sup>, and in particular Article 15 thereof,

Whereas:

- (1) In accordance with Article 15 of Directive 2006/22/EC, amendments to the Annexes to that Directive which are necessary to adapt them to developing best practice in the field of enforcement and checks of driving times and rest periods are to be adopted in accordance with the procedure set out in Article 12(2) thereof.
- (2) Following the introduction of the digital tachograph, the Commission has been made aware of a new threat posed by the installation of devices intended to defraud the system and thereby undermine the effectiveness of the implementation of the social legislation relating to road transport.
- (3) It is accordingly appropriate to ensure that Member States include dedicated checks of that equipment in roadside checks, and in checks at the undertaking.
- (4) In order to ensure the effectiveness of such checks, it is also necessary to further define the standard equipment to be made available to enforcement officers.

(5) Annexes I and II of Directive 2006/22/EC should be adapted accordingly.

(6) The measures provided for by this Directive are in accordance with the opinion of the Committee set up by Article 18(1) of Council Regulation (EEC) No 3821/85 <sup>(2)</sup>,

HAS ADOPTED THIS DIRECTIVE:

*Article 1*

Directive 2006/22/EC is amended as follows:

1. In Part A of Annex I, the following point 5 is added:

‘5. Where appropriate, and with due regard to safety considerations, a verification of the recording equipment installed in vehicles in order to detect the installation and/or the use of any device, or devices, intended to destroy, suppress, manipulate or alter any data, or which is intended to interfere with any part of the electronic data exchange between the component parts of recording equipment, or which inhibits or alters the data in such ways prior to encryption.’

2. In Annex II, the following point 3 is added:

‘3. Specific analysis equipment, with appropriate software, to verify and confirm the digital signature attached to data, as well as specific analysis software to provide a detailed speed profile of vehicles prior to the inspection of their recording equipment.’

<sup>(1)</sup> OJ L 102, 11.4.2006, p. 35.

<sup>(2)</sup> OJ L 370, 31.12.1985, p. 8.

*Article 2*

1. The Member States shall bring into force the laws, regulations and administrative provisions necessary to comply with this Directive by 31 December 2009 at the latest. They shall forthwith communicate to the Commission the text of those provisions and a correlation table between those provisions and this Directive.

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

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

*Article 3*

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

*Article 4*

This Directive is addressed to the Member States.

Done at Brussels, 23 January 2009.

*For the Commission*  
Antonio TAJANI  
*Vice-President*

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## II

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

## DECISIONS

## COUNCIL AND COMMISSION

## COUNCIL AND COMMISSION DECISION

of 18 December 2008

**on the conclusion of the Protocol to the Partnership and Cooperation Agreement between the European Communities and their Member States, of the one part, and the Republic of Uzbekistan, of the other part, to take account of the Accession of the Republic of Bulgaria and Romania to the European Union**

(2009/50/EC, Euratom)

THE COUNCIL OF THE EUROPEAN UNION,

Whereas:

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community, and in particular Article 44(2), the last sentence of Article 47(2), and Articles 55, 57(2), 71, 80(2), 93, 94, 133 and 181a, in conjunction with the second sentence of Article 300(2) and the first subparagraph of Article 300(3), thereof,

Having regard to the Treaty establishing the European Atomic Energy Community, and in particular the second paragraph of Article 101 thereof,

Having regard to the Act of Accession of Bulgaria and Romania, and in particular Article 6(2) thereof,

Having regard to the proposal from the Commission,

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

Having regard to the Council's approval pursuant to Article 101 of the Treaty establishing the European Atomic Energy Community,

- (1) The Protocol to the Partnership and Cooperation Agreement between the European Communities and their Member States, of the one part, and the Republic of Uzbekistan, of the other part, to take account of the accession of the Republic of Bulgaria and Romania to the European Union, was signed on behalf of the Community and the Member States on 20 May 2008 in accordance with Council Decision 2008/792/EC <sup>(2)</sup>.
- (2) Pending its entry into force, the Protocol has been applied on a provisional basis as from 1 January 2007.
- (3) The Protocol should be concluded,

HAVE DECIDED AS FOLLOWS:

*Article 1*

The Protocol to the Partnership and Cooperation Agreement between the European Communities and their Member States, of the one part, and the Republic of Uzbekistan, of the other part, to take account of the accession of the Republic of Bulgaria and Romania to the European Union is hereby approved on behalf of the Community, the European Atomic Energy Community and the Member States.

<sup>(1)</sup> Opinion delivered on 2 September 2008 (not yet published in the Official Journal).

<sup>(2)</sup> OJ L 272, 14.10.2008, p. 5.

*Article 2*

The President of the Council shall, on behalf of the Community and its Member States, give the notification provided for in Article 3 of the Protocol. The President of the Commission shall simultaneously give such notification on behalf of the European Atomic Energy Community.

Done at Brussels, 18 December 2008.

*For the Council*

*The President*

M. BARNIER

*For the Commission*

*The President*

José Manuel BARROSO

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# COMMISSION

## COMMISSION DECISION

of 15 December 2008

**on the allocation of import quotas for controlled substances for the period 1 January to 31 December 2009 under Regulation (EC) No 2037/2000 of the European Parliament and of the Council**

*(notified under document number C(2008) 8100)*

**(Only the Dutch, English, French, German, Greek, Hungarian, Italian, Latvian, Lithuanian, Maltese, Polish, Portuguese, Slovenian and Spanish texts are authentic)**

(2009/51/EC)

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Regulation (EC) No 2037/2000 of the European Parliament and of the Council <sup>(3)</sup>.

Having regard to the Treaty establishing the European Community,

Having regard to Regulation (EC) No 2037/2000 of the European Parliament and of the Council of 29 June 2000 on substances that deplete the ozone layer <sup>(1)</sup>, and in particular to Article 7 thereof,

Whereas:

- (1) The quantitative limits for the placing on the market in the Community of controlled substances are set out in Article 4 of Regulation (EC) No 2037/2000 and Annex III thereto.
- (2) Article 4(3)(i)(f) of Regulation (EC) No 2037/2000 sets out the total calculated level of hydrochlorofluorocarbons which producers and importers may place on the market or use for their own account in the period 1 January to 31 December 2009.
- (3) The Commission has published a notice to importers in the Community of controlled substances that deplete the ozone layer <sup>(2)</sup> and has thereby received declarations on intended imports in 2009.
- (4) For hydrochlorofluorocarbons the allocation of quotas to producers and importers is in accordance with the provisions of Commission Decision 2007/195/EC of 27 March 2007 determining a mechanism for the allocation of quotas to producers and importers for hydrochlorofluorocarbons for the years 2003 to 2009 under

- (5) For the purpose of ensuring that operators and companies benefit from allocated import quotas in due time and thereby ensure the necessary continuity of their operations, it is appropriate that this Decision should apply as of 1 January 2009.

- (6) The measures provided for in this Decision are in accordance with the opinion of the Committee established by Article 18(1) of Regulation (EC) No 2037/2000,

HAS ADOPTED THIS DECISION:

### Article 1

1. The quantity of controlled substances of group I (chlorofluorocarbons 11, 12, 113, 114 and 115) and group II (other fully halogenated chlorofluorocarbons) subject to Regulation (EC) No 2037/2000 which may be released for free circulation in the Community in 2009 from sources outside the Community shall be 11 227 000,00 ozone depleting potential (ODP) kilograms.
2. The quantity of controlled substances of group III (halons) subject to Regulation (EC) No 2037/2000 that may be released for free circulation in the Community in 2009 from sources outside the Community shall be 11 231 300,00 ODP kilograms.

<sup>(1)</sup> OJ L 244, 29.9.2000, p. 1.

<sup>(2)</sup> OJ C 114, 9.5.2008, p. 15.

<sup>(3)</sup> OJ L 88, 29.3.2007, p. 51.

3. The quantity of controlled substances of group IV (carbon tetrachloride) subject to Regulation (EC) No 2037/2000 that may be released for free circulation in the Community in 2009 from sources outside the Community shall be 16 500 330,00 ODP kilograms.

4. The quantity of controlled substances of group V (1,1,1-trichloroethane) subject to Regulation (EC) No 2037/2000 that may be released for free circulation in the Community in 2009 from sources outside the Community shall be 400 060,00 ODP kilograms.

5. The quantity of controlled substances of group VI (methyl bromide) subject to Regulation (EC) No 2037/2000 which may be released for free circulation in the Community in 2009 from sources outside the Community shall be 1 441 891,20 ODP kilograms.

6. The quantity of controlled substances of group VII (hydrobromofluorocarbons) subject to Regulation (EC) No 2037/2000 which may be released for free circulation in the Community in 2009 from sources outside the Community shall be 120 292,00 ODP kilograms.

7. The quantity of controlled substances of group VIII (hydrochlorofluorocarbons) subject to Regulation (EC) No 2037/2000 that may be released for free circulation in the Community in 2009 from sources outside the Community shall be 10 115 600,440 ODP kilograms.

8. The quantity of controlled substances of group IX (bromochloromethane) subject to Regulation (EC) No 2037/2000 that may be released for free circulation in the Community in 2009 from sources outside the Community shall be 176 252,00 ODP kilograms.

#### Article 2

1. The allocation of import quotas for chlorofluorocarbons 11, 12, 113, 114 and 115 and other fully halogenated chlorofluorocarbons during the period 1 January to 31 December 2009 shall be for the purposes indicated and to the companies indicated in Annex I.

2. The allocation of import quotas for halons during the period 1 January to 31 December 2009 shall be for the purposes indicated and to the companies indicated in Annex II.

3. The allocation of import quotas for carbon tetrachloride during the period 1 January to 31 December 2009 shall be for the purposes indicated and to the companies indicated in Annex III.

4. The allocation of import quotas for 1,1,1-trichloroethane during the period 1 January to 31 December 2009 shall be for the purposes indicated and to the companies indicated in Annex IV.

5. The allocation of import quotas for methyl bromide during the period 1 January to 31 December 2009 shall be for the purposes indicated and to the companies indicated in Annex V.

6. The allocation of import quotas for hydrobromofluorocarbons during the period 1 January to 31 December 2009 shall be for the purposes indicated and to the companies indicated in Annex VI.

7. The allocation of import quotas for hydrochlorofluorocarbons during the period 1 January to 31 December 2009 shall be for the purposes indicated and to the companies indicated in Annex VII.

8. The allocation of import quotas for bromochloromethane during the period 1 January to 31 December 2009 shall be for the purposes indicated and to the companies indicated in Annex VIII.

9. The import quotas for chlorofluorocarbons 11, 12, 113, 114 and 115, other fully halogenated chlorofluorocarbons, halons, carbon tetrachloride, 1,1,1-trichloroethane, methyl bromide, hydrobromofluorocarbons, hydrochlorofluorocarbons and bromochloromethane during the period 1 January to 31 December 2009 shall be as set out in Annex IX.

#### Article 3

This Decision shall apply from 1 January 2009 and shall expire on 31 December 2009.

## Article 4

This Decision is addressed to the following undertakings:

Albemarle Europe SPRL Parc Scientifique Einstein Rue du Bosquet 9 B-1348 Louvain-la-Neuve	Albemarle Chemicals SAS 28, Étang de la Gafette F-13521 Port-de-Bouc
Alcobre SA Luis I, nave 6-B Polígono Industrial Vallecas E-28031 Madrid	ΑΛΦΑ Γεωργικά Εφόδια ΑΕΒΕ Εθνικής Αντιστάσεως 73 GR-152 31 Χαλάνδρι, Αθήνα  ALFA Agricultural Supplies SA 73, Ethnikis Antistaseos str. GR-152 31 Halandri, Athens
Arkema SA 420, rue d'Estienne-d'Orves F-92705 Colombes Cedex	Arkema Química SA Avenida de Burgos, 12 E-28036 Madrid
Avantec SA 26, avenue du Petit Parc F-94683 Vincennes Cedex	Bang & Bonsomer Baltā iela 3/9 LV-1055 Rīga LATVIA
BASF Agri Production SAS 32, rue de Verdun F-76410 Saint-Aubin-lès-Elbeuf	BaySystems Ibérica SL Crta. Vilaseca – La Pineda s/n E-43006 Tarragona
Blye Engineering Co Ltd Naxxar Road San Gwann SGN 07 MALTA	Bromotirrena Srl Via Torino, 4 I-04022 Fondi (LT)
Calorie Fluor SAS 503, rue Hélène-Boucher BP 33 F-78534 Buc Cedex	Chemosyntha NV Gentstraat 58 B-8760 Meulebeke
Dow Deutschland Anlagegesellschaft mbH Buetzflether Sand D-21683 Stade	DuPont de Nemours (Nederland) BV Baanhoekweg 22 3313 LA Dordrecht Nederland
Dyneon GmbH & Co KG Werk Gendorf D-84504 Burgkirchen	Empor d.o.o. Leskoškova 9a SI-1000 Ljubljana
ERAS Labo 222, RN 90 F-38330 Saint-Nazaire-les-Eymes	Etis d.o.o. Tržaška 333 SI-1000 Ljubljana

<p>Fenner Dunlop Oliemolenstraat 2 9203 ZN Drachten Nederland</p>	<p>Freolitus Centrinė Str. 1D Ramučiai, Kauno raj. LT-54464 LITHUANIA</p>
<p>Fujifilm Electronic Materials (Europe) NV Keetberglaan 1A Havennr 1061 B-2070 Zwijndrecht</p>	<p>G.A.L. Cycle-Air Ltd Σινώπης 3 Στρόβολος CY-28385 Λευκωσία  G.A.L. Cycle-Air Ltd 3, Sinopis Str., Strovolos CY-28385 Nicosia</p>
<p>Galco SA Avenue Carton de Wiart 79 B-1090 Bruxelles</p>	<p>Harp International Ltd Gellihirion Industrial Estate Rhondda Cynon Taff Pontypridd CF37 5SX United Kingdom</p>
<p>Honeywell Fluorine Products Europe BV Laarderhoogtweg 18, 1101 EA Amsterdam Nederland</p>	<p>Hovione Farmaciencia SA Sete Casas P-2674-506 Loures</p>
<p>ICL-IP Europe BV (ex-Eurobrom) Fosfaatweg 48 1013 BM Amsterdam Nederland</p>	<p>Ineos Fluor Ltd PO Box 13, The Heath Runcorn Cheshire WA7 4QX United Kingdom</p>
<p>Kay y Sol Iberia SA P.I. Can Roca c/Carrerade s/n E-08107 Martorelles (Barcelona)</p>	<p>Laboratorios Miret SA (LAMIRSA) Géminis, 4 E-08228 Terrassa (Barcelona)</p>
<p>Linde Gaz Polska Sp. z o.o. al. Jana Pawła II 41a PL-31-864 Kraków</p>	<p>Matero Ltd Ταχ. θύρ. 51744 CY-3508 Λεμεσός  Matero Ltd P.O. Box 51744 CY-3508 Limassol</p>
<p>Mebrom NV Assenedestraat 4 B-9940 Rieme Ertvelde</p>	<p>Meridian Technical Services Ltd PO Box 16919 London SE3 9WE United Kingdom</p>
<p>Poż-Pliszka Sp. z o.o. ul. Szczecińska 45 PL-80-392 Gdańsk</p>	<p>PUPH Solfum Sp. z o.o. ul. Ziemiańska 21 PL-95-070 Rąbień AB</p>

Refrigerant Products Ltd Banyard Road Portbury West Bristol BS20 7XH United Kingdom	Savi Technologie Sp. z o.o. ul. Wolności 20, Psary PL-51-180 Wrocław
Sigma Aldrich Company Ltd The Old Brickyard, New Road Gillingham SP8 4XT United Kingdom	Sigma Aldrich Logistik GmbH Riedstraße 2 D-89555 Steinheim
SJB Energy Trading BV Slagveld 15 3230 AG Brielle Nederland	Solquimia Iberia SL México, 3 E-50196 La Muela (Zaragoza)
Solvay Fluor GmbH Hans-Böckler-Allee 20 D-30173 Hannover	Solvay Organics GmbH Hans-Böckler-Allee 20 D-30173 Hannover
Solvay Solexis SpA Viale Lombardia 20 I-20021 Bollate (MI)	Syngenta Crop Protection Surrey Research Park 30 Priestly Road Guildford Surrey GU2 7YH United Kingdom
Tazzetti Fluids Srl Corso Europa n. 600/a I-10070 Volpiano (TO)	Total Feuerschutz GmbH Industriestraße 13 D-68526 Ladenburg
Trédi Séché global solutions Parc industriel de la Plaine de l'Ain BP 55 Saint-Vulbas F-01152 Lagnieu Cedex	Unitor Servicios Navales SA Puerto de Barcelona (P.T.P Delta 1) Puerto de Miami 4 (MIM5) E-08039 Barcelona
Unitor Trading France SAS 1, avenue Jean-Moulin F-13110 Port-de-Bouc	Veolia Environmental Services Bridges Road Ellesmere Port South Wirrel Cheshire CH65 4EQ United Kingdom
Vrec-Co Import-Export Kft. 6763 Szatymaz Kossuth u. 12. MAGYARORSZÁG	Wigmors ul. Irysowa 5 PL-51-117 Wrocław

Wilhelmsen Ships Services AS Willem Barentszstraat 50, 3165 AB Rotterdam/Albrandswaard Nederland	Zakłady Azotowe w Tarnowie-Mościcach al. Kwiatkowskiego 8 PL-33-101 Tarnów
Zephyr Kereskedelmi és Szolgáltató Kft. 6000 Kecskemét Tatár sor 18. MAGYARORSZÁG	

Done at Brussels, 15 December 2008.

*For the Commission*  
Stavros DIMAS  
*Member of the Commission*

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## ANNEX I

**GROUPS I AND II**

Import quotas for chlorofluorocarbons 11, 12, 113, 114 and 115 and other fully halogenated chlorofluorocarbons allocated to importers in accordance with Regulation (EC) No 2037/2000 for feedstock uses, process agent uses and for destruction during the period 1 January to 31 December 2009.

<b>Company</b>
Avantec SA (FR)
Ineos Fluor Ltd (UK)
Honeywell Fluorine Products Europe (NL)
Meridian Technical Services (UK)
Solvay Fluor (DE)
Solvay Solexis SpA (IT)
Syngenta Crop Protection (UK)
Tazzetti Fluids Srl (IT)
Trédi Séché global solutions (FR)
Unitor Servicios Navales (ES)
Unitor Trading France (FR)
Veolia Environmental Services (UK)
Wilhelmsen Ships Services (NL)

## ANNEX II

**GROUP III**

Import quotas for halons allocated to importers in accordance with Regulation (EC) No 2037/2000 for feedstock uses, destruction and for critical uses during the period 1 January to 31 December 2009.

<b>Company</b>
Avantec SA (FR)
BASF Agri Production (FR)
ERAS Labo (FR)
Meridian Technical Services (UK)
Trédi Séché global solutions (FR)
Unitor Servicios Navales (ES)
Unitor Trading France (FR)
Pož-Pliszka (PL)
Savi Technologie (PL)
Total Feuerschutz (DE)
Veolia Environmental Services (UK)
Wilhelmsen Ships Services (NL)

## ANNEX III

**GROUP IV**

Import quotas for carbon tetrachloride allocated to importers in accordance with Regulation (EC) No 2037/2000 for feedstock uses for the period 1 January to 31 December 2009.

**Company**

Dow Deutschland (DE)

Fenner Dunlop (NL)

## ANNEX IV

**GROUP V**

Import quotas for 1,1,1-trichloroethane allocated to importers in accordance with Regulation (EC) No 2037/2000 for feedstock uses for the period 1 January to 31 December 2009.

**Company**

Arkema SA (FR)

Fujifilm Electronic Materials Europe (BE)

## ANNEX V

**GROUP VI**

Import quotas for methyl bromide allocated to importers in accordance with Regulation (EC) No 2037/2000 for feedstock uses, for quarantine and pre-shipment applications and for destruction for the period 1 January to 31 December 2009.

**Company**

Albemarle Chemicals (FR)

Albemarle Europe (BE)

ALFA Agricultural Supplies (ΑΛΦΑ Γεωργικά  
Εφοδία ΑΕΒΕ) (EL)

Bang &amp; Bonsomer (LV)

Bromotirrena Srl (IT)

ICL-IP Europe (ex-Eurobrom) (NL)

Mebrom NV (BE)

PUPH Solfum (PL)

Sigma Aldrich Logistik (DE)

Veolia Environmental Services (UK)

Zephyr Kereskedelmi és Szolgáltató Kft. (HU)

## ANNEX VI

**GROUP VII**

Import quotas for hydrobromofluorocarbons allocated to importers in accordance with Regulation (EC) No 2037/2000 for feedstock uses and destruction for the period 1 January to 31 December 2009.

<b>Company</b>
Chemosyntha NV (BE)
Hovione Farmaciencia (PT)
Veolia Environmental Services (UK)

## ANNEX VII

**GROUP VIII**

Import quotas for hydrochlorofluorocarbons allocated to producers and importers in accordance with Regulation (EC) No 2037/2000 and Decision 2007/195/EC for the period 1 January to 31 December 2009 for feedstock uses, for destruction, for laboratory use and for other applications allowed under Article 5 of Regulation (EC) No 2037/2000 and import quotas allocated to producers for non-virgin hydrochlorofluorocarbons for reclamation or for uses allowed under Article 5 of Regulation (EC) No 2037/2000.

<b>Producer</b>
Arkema SA (FR)
Arkema Quimica (SA)
DuPont de Nemours (Nederland) BV (NL)
Honeywell Fluorine Products Europe BV (NL)
Ineos Fluor Ltd (UK)
Solvay Fluor GmbH (DE)
Solvay Organics GmbH (DE)
Solvay Solexis SpA (IT)

<b>Importer</b>	
Alcobre SA (ES)	Matero Ltd (CY)
Avantec SA (FR)	Mebrom NV (BE)
Bay Systems Iberia (ES)	Refrigerant Products Ltd (UK)
Blye Engineering Co Ltd (MT)	SJB Energy Trading BV (NL)
Calorie Fluor SAS (FR)	Sigma Aldrich Company (UK)
Dyneon (DE)	Solquimia Iberia, SL (ES)
Empor d.o.o. (SI)	Tazzetti Fluids Srl (IT)
Etis d.o.o. (SI)	Unitor Servicios Navales (ES)
Freolitus (LT)	Unitor Trading France (FR)
Galco SA (BE)	Veolia Environmental Services (UK)
G.AL. Cycle Air Ltd (CY)	Vrec-Co Export-Import Kft. (HU)
Harp International Ltd (UK)	Wigmors (PL)
Linde Gaz Polska Sp. z o.o. (PL)	Wilhelmsen Ships Services (NL)
Kay y Sol (ES)	Zakłady Azotowe (PL)

## ANNEX VIII

**GROUP IX**

Import quotas for bromochloromethane allocated to importers in accordance with Regulation (EC) No 2037/2000 for feedstock uses and destruction during the period 1 January to 31 December 2009.

<b>Company</b>
Albemarle Europe (BE)
Chemosyntha NV (BE)
ICL-IP Europe (ex-Eurobrom) (NL)
Laboratorios Miret SA (LAMIRSA) (ES)
Sigma Aldrich Logistik GmbH (DE)
Trédi Séché global solutions (FR)
Veolia Environmental Services (UK)

## ANNEX IX

(This Annex is not published because it contains confidential commercial information).

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## COMMISSION DECISION

of 18 December 2008

**on the allocation of quantities of controlled substances allowed for essential uses in the Community in 2009 under Regulation (EC) No 2037/2000 of the European Parliament and of the Council on substances that deplete the ozone layer***(notified under document number C(2008) 8398)***(Only the Dutch, English, French, German, Italian, Slovenian and Spanish texts are authentic)**

(2009/52/EC)

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Regulation (EC) No 2037/2000 of the European Parliament and of the Council of 29 June 2000 on substances that deplete the ozone layer <sup>(1)</sup>, and in particular Article 3(1) thereof,

Whereas:

- (1) The Community has already phased out the production and consumption of chlorofluorocarbons, other fully halogenated chlorofluorocarbons, halons, carbon tetrachloride, 1,1,1-trichloroethane, hydrobromofluorocarbon and bromochloromethane.
- (2) Each year the Commission is required to determine essential uses for these controlled substances, the quantities that may be used and the companies that may use them.
- (3) Decision IV/25 of the Parties to the Montreal Protocol on substances that deplete the ozone layer, hereinafter 'the Montreal Protocol', sets out the criteria used by the Commission for determining any essential uses and authorises the production and consumption necessary to satisfy essential uses of controlled substances in each Party.
- (4) The Parties to the Montreal Protocol authorised the production in the European Community of 22 tonnes of chlorofluorocarbons (CFCs) in 2009 for the manufacturing and use of metered-dose inhalers (MDIs) qualifying for essential uses of CFCs as defined in Decision IV/25.
- (5) Decision XIX/18 of the Parties to the Montreal Protocol authorises the production and consumption necessary to satisfy essential uses of controlled substances listed in Annexes A, B and C (Group II and III substances) of the Montreal Protocol for laboratory and analytical uses as listed in Annex IV to the report of the Seventh Meeting of the Parties, subject to the conditions set out in Annex II to the report of the Sixth Meeting of the Parties, as well as Decisions VII/11, XI/15 and XV/5 of the Parties to the Montreal Protocol. Decision XVII/10 of the Parties to the Montreal Protocol authorises the production and consumption of the controlled substance listed in Annex E of the Montreal Protocol necessary to satisfy laboratory and analytical critical uses of methyl bromide.
- (6) Pursuant to paragraph 3 of Decision XII/2 of the Parties to the Montreal Protocol on measures to facilitate the transition to chlorofluorocarbon-free MDIs, all Member States have notified the United Nations Environment Programme the active ingredients for which chlorofluorocarbons (CFCs) are no longer essential for the manufacture of MDIs for placing on the market of the European Community.
- (7) Article 4(4)(i)(b) of Regulation (EC) No 2037/2000 prevents CFCs from being used and placed on the market unless they are considered essential under the conditions described in Article 3(1) of that Regulation. These non-essentiality determinations have therefore reduced the demand for CFCs used in MDIs that are placed on the market of the European Community. In addition, Article 4(6) of Regulation (EC) No 2037/2000 prevents CFC-MDI products being imported and placed on the market unless the CFCs in these products are considered essential under the conditions described in Article 3(1).
- (8) The Commission has published a notice <sup>(2)</sup> to those companies in the Member States that request consideration by the Commission for the use of controlled substances for essential uses in the Community in 2009 and has received declarations on intended essential uses of controlled substances for 2009.

<sup>(1)</sup> OJ L 244, 29.9.2000, p. 1.

<sup>(2)</sup> OJ C 114, 9.5.2008, p. 27.

(9) The measures provided for in this Decision are in accordance with the opinion of the Management Committee established by Article 18(1) of Regulation (EC) No 2037/2000,

HAS ADOPTED THIS DECISION:

#### Article 1

1. The quantity of controlled substances of Group I (chlorofluorocarbons 11, 12, 113, 114 and 115) subject to Regulation (EC) No 2037/2000 which may be used for essential medical uses in the Community in 2009 shall be 21 360,00 ozone depleting potential (ODP) kilograms.

2. The quantity of controlled substances of Group I (chlorofluorocarbons 11, 12, 113, 114 and 115) and Group II (other fully halogenated chlorofluorocarbons) subject to Regulation (EC) No 2037/2000 which may be used for essential laboratory and analytical uses in the Community in 2009 shall be 60 280,8 ODP kilograms.

3. The quantity of controlled substances of Group III (halons) subject to Regulation (EC) No 2037/2000 that may be used for essential laboratory and analytical use in the Community in 2009 shall be 115,7 ODP kilograms.

4. The quantity of controlled substances of Group IV (carbon tetrachloride) subject to Regulation (EC) No 2037/2000 that may be used for essential laboratory and analytical uses in the Community in 2009 shall be 129 390,8 ODP kilograms.

5. The quantity of controlled substances of Group V (1,1,1-trichloroethane) subject to Regulation (EC) No 2037/2000 that may be used for essential laboratory and analytical uses in the Community in 2009 shall be 355,65 ODP kilograms.

6. The quantity of controlled substances of Group VI (methyl bromide) subject to Regulation (EC) No 2037/2000 that may be used for laboratory and analytical critical uses in the Community in 2009 shall be 36,3 ODP kilograms.

7. The quantity of controlled substances of Group VII (hydrobromofluorocarbons) subject to Regulation (EC) No 2037/2000 that may be used for essential laboratory and analytical uses in the Community in 2009 shall be 57,96 ODP kilograms.

8. The quantity of controlled substances of group IX (bromochloromethane) subject to Regulation (EC) No 2037/2000 that may be used for essential laboratory and analytical uses in the Community in 2009 shall be 11,088 ODP kilograms.

#### Article 2

The chlorofluorocarbon metered-dose inhalers listed in Annex I shall not be placed on markets where the competent authority has determined chlorofluorocarbons for metered-dose inhalers on those markets to be non-essential.

#### Article 3

During the period 1 January to 31 December 2009 the following rules shall apply:

1. The allocation of essential medical use quotas for chlorofluorocarbons 11, 12, 113, 114 and 115 shall be to the companies indicated in Annex II.

2. The allocation of essential laboratory and analytical use quotas for chlorofluorocarbons 11, 12, 113, 114 and 115 and other fully halogenated chlorofluorocarbons shall be to the companies indicated in Annex III.

3. The allocation of essential laboratory and analytical use quotas for halons shall be to the companies indicated in Annex IV.

4. The allocation of essential laboratory and analytical use quotas for carbon tetrachloride shall be to the companies indicated in Annex V.

5. The allocation of essential laboratory and analytical use quotas for 1,1,1-trichloroethane shall be to the companies indicated in Annex VI.

6. The allocation of laboratory and analytical critical use quotas for methyl bromide shall be to the companies indicated in Annex VII.

7. The allocation of essential laboratory and analytical use quotas for hydrobromofluorocarbons shall be to the companies indicated in Annex VIII.

8. The allocation of essential laboratory and analytical use quotas for bromochloromethane shall be to the companies indicated in Annex IX.

9. The essential use quotas for chlorofluorocarbons 11, 12, 113, 114 and 115, other fully halogenated chlorofluorocarbons, carbon tetrachloride, 1,1,1-trichloroethane, hydrobromofluorocarbons and bromochloromethane and the laboratory and analytical critical use quotas for methyl bromide shall be as set out in Annex X.

*Article 4*

This Decision shall apply from 1 January 2009 and shall expire on 31 December 2009.

*Article 5*

This Decision is addressed to the following undertakings:

Acros Organics bvba Janssen Pharmaceuticaaan 3a B-2440 Geel	Airbus France 316, route de Bayonne F-31300 Toulouse
Carlo Erba Réactifs-SDS Z.I. de Valdonne, BP 4 F-13124 Peypin	Chiesi Farmaceutici SpA Via Palermo 26/A I-43100 Parma
CNRS — Groupe de physique des solides Université Paris 7 Denis Diderot et Paris 6 Pierre et Marie Curie F-75251 Paris Cedex 5	Harp International Gellihirion Industrial Estate Rhondda, Cynon Taff Pontypridd CF37 5SX UNITED KINGDOM
Honeywell Specialty Chemicals Wunstorfer Straße 40 Postfach 10 02 62 D-30918 Seelze	Ineos Fluor Ltd PO Box 13, The Heath Runcorn Cheshire WA7 4QF UNITED KINGDOM
Institut scientifique de service public Rue du Chéra 200 B-4000 Liège	LGC Standards GmbH Mercatorstraße 51 D-46485 Wesel
Mallinckrodt Baker BV Teugseweg 20 7418 AM Deventer Nederland	Merck KGaA Frankfurter Straße 250 D-64271 Darmstadt
Mikro + Polo d.o.o. Zagrebška cesta 22 SI-2000 Maribor	Ministry of Defense Defence Fuel Lubricants and Chemicals PO Box 10 000 1780 CA Den Helder Nederland
Panreac Química SA Pol. Ind. Pla de la Bruguera, C/Garrafa, 2 E-08211 Castellar del Vallès Barcelona	Sigma Aldrich Chimie SARL 80, rue de Luzais L'Isle d'Abeau Chesnes F-38297 Saint-Quentin-Fallavier
Sigma Aldrich Company The Old Brickyard, New Road Gillingham SP8 4XT UNITED KINGDOM	Sigma Aldrich Laborchemikalien Wunstorfer Straße 40 Postfach 10 02 62 D-30918 Seelze
Sigma Aldrich Logistik GmbH Riedstraße 2 D-89555 Steinheim	Solvay Organics GmbH Hans-Böckler-Allee 20 D-30173 Hannover

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Tazzetti Fluids SRL Corso Europa 600/a I-10088 Volpiano (TO)	Valeas SpA Pharmaceuticals Via Vallisneri 10 I-20133 Milano
Valvole Aerosol Research Italiana (VARI) SpA — LINDAL Group Italia Via del Pino 10 I-23854 Olginate (LC)	VWR ISAS 201, rue Carnot F-94126 Fontenay-sous-Bois

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Done at Brussels, 18 December 2008.

*For the Commission*  
Stavros DIMAS  
*Member of the Commission*

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Table 2  
Inhaled steroids

Country	Beclomethasone	Dexamethasone	Flunisolide	Fluticasone	Budesonide	Triamcinolone
Austria	X	X	X	X	X	X
Belgium	X	X	X	X	X	X
Bulgaria	X	X	X	X	X	X
Cyprus	X	X	X	X	X	X
Czech Republic	X	X	X	X	X	X
Denmark	X	X	X	X	X	X
Estonia	X	X	X	X	X	X
Finland	X	X	X	X	X	X
France	X	X	X	X	X	X
Germany	X	X	X	X	X	X
Greece	X	X	X	X	X	X
Hungary	X	X	X	X	X	X
Ireland	X			X		
Italy	X	X	X	X	X	X
Latvia	X	X	X	X	X	X
Lithuania	X	X	X	X	X	X
Luxembourg	X	X	X	X	X	X
Malta				X	X	
Netherlands	X	X	X	X	X	X
Poland	X	X	X	X	X	X
Portugal	X	X	X	X	X	X
Romania	X	X	X	X	X	X
Slovakia	X	X	X	X	X	X
Slovenia	X	X	X	X	X	X
Spain	X	X	X	X	X	X
Sweden	X	X	X	X	X	X
United Kingdom				X		

Table 3

**Non-steroidal anti-inflammatories**

Country	Cromoglicic acid	Nedrocromil
Austria	X	X
Belgium	X	X
Bulgaria	X	X
Cyprus	X	X
Czech Republic	X	X
Denmark	X	X
Estonia	X	X
Finland	X	X
France	X	X
Germany	X	X
Greece	X	X
Hungary	X	
Ireland		
Italy	X	X
Latvia	X	X
Lithuania	X	X
Luxembourg	X	
Malta		X
Netherlands	X	X
Poland	X	X
Portugal	X	
Romania	X	X
Slovakia	X	X
Slovenia	X	X
Spain	X	X
Sweden	X	X
United Kingdom	X	X

Table 4  
Anticholinergic bronchodilators

Country	Ipratropium bromide	Oxitropium bromide
Austria	X	X
Belgium	X	X
Bulgaria	X	X
Cyprus	X	X
Czech Republic	X	X
Denmark	X	X
Estonia	X	X
Finland	X	X
France	X	X
Germany	X	X
Greece	X	X
Hungary	X	X
Ireland	X	X
Italy		X
Latvia	X	X
Lithuania	X	X
Luxembourg	X	X
Malta	X	X
Netherlands	X	X
Poland	X	X
Portugal	X	
Romania	X	X
Slovakia	X	X
Slovenia	X	X
Spain	X	X
Sweden	X	X
United Kingdom	X	X

Table 5

**Long-acting beta agonist bronchodilators**

Country	Formoterol	Salmeterol
Austria	X	X
Belgium	X	X
Bulgaria	X	X
Cyprus	X	X
Czech Republic	X	X
Denmark	X	X
Estonia	X	X
Finland	X	X
France	X	X
Germany	X	X
Greece	X	X
Hungary	X	X
Ireland	X	X
Italy	X	X
Latvia	X	X
Lithuania	X	X
Luxembourg	X	X
Malta	X	X
Netherlands	X	X
Poland	X	X
Portugal	X	X
Romania	X	X
Slovakia	X	X
Slovenia	X	X
Spain	X	X
Sweden	X	X
United Kingdom	X	X

Table 6  
Combinations of active ingredients in a single MDI

Country		
Austria	X All products	
Belgium	X All products	
Bulgaria	X All products	
Cyprus		
Czech Republic	X All products	
Denmark	X All products	
Estonia		
Finland	X All products	
France	X All products	
Germany	X All products	
Greece		
Hungary	X All products	
Ireland		
Italy	Budesonide + Fenoterol	Fluticasone + Salmeterol
Latvia	X All products	
Lithuania	X All products	
Luxembourg	X All products	
Malta	X All products	
Netherlands	X All products	
Poland	X All products	
Portugal	X All products	
Romania	X All products	
Slovakia	X All products	
Slovenia	X All products	
Spain		
Sweden	X All products	
United Kingdom		

Source: [www.unep.org/ozone/Information\\_for\\_the\\_Parties/3Bi\\_dec12-2-3.asp](http://www.unep.org/ozone/Information_for_the_Parties/3Bi_dec12-2-3.asp)

## ANNEX II

**ESSENTIAL MEDICAL USES**

Quota of controlled substances of Group I that may be used in the production of metered dose inhalers (MDIs) for the treatment of asthma and other chronic obstructive pulmonary diseases (COPDs) are allocated to:

Chiesi Farmaceutici SpA (IT)  
Valeas SpA Pharmaceuticals (IT)  
(VARI) SpA — LINDAL Group Italia (IT)

## ANNEX III

**ESSENTIAL LABORATORY AND ANALYTICAL USES**

Quota of controlled substances of Group I and II that may be used for essential laboratory and analytical uses, are allocated to:

Carlo Erba Réactifs-SDS (FR)  
CNRS — Groupe de physique des solides (FR)  
Harp International (UK)  
Honeywell Specialty Chemicals (DE)  
Ineos Fluor (UK)  
LGC Standards (DE)  
Mallinckrodt Baker (NL)  
Merck KGaA (DE)  
Mikro + Polo (SI)  
Panreac Química (ES)  
Sigma Aldrich Chimie (FR)  
Sigma Aldrich Company (UK)  
Sigma Aldrich Logistik (DE)  
Tazzetti Fluids (IT)

## ANNEX IV

**ESSENTIAL LABORATORY AND ANALYTICAL USES**

Quota of controlled substances of Group III that may be used for essential laboratory and analytical uses are allocated to:

Airbus France (FR)  
Ineos Fluor (UK)  
Ministry of Defence (NL)

## ANNEX V

**ESSENTIAL LABORATORY AND ANALYTICAL USES**

Quota of controlled substances of Group IV that may be used for essential laboratory and analytical uses, are allocated to:

Acros Organics (BE)  
Carlo Erba Réactifs-SDS (FR)  
Honeywell Specialty Chemicals (DE)  
Institut Scientifique du Service Publique (BE)  
Mallinckrodt Baker (NL)  
Merck KGaA (DE)  
Mikro + Polo (SI)  
Panreac Quimica (ES)  
Sigma Aldrich Chimie (FR)  
Sigma Aldrich Company (UK)  
Sigma Aldrich Laborchemikalien (DE)  
Sigma Aldrich Logistik (DE)  
VWR ISAS (FR)

## ANNEX VI

**ESSENTIAL LABORATORY AND ANALYTICAL USES**

Quota of controlled substances of Group V that may be used for essential laboratory and analytical uses are allocated to:

Acros Organics (BE)  
Merck KGaA (DE)  
Mikro + Polo (SI)  
Panreac Química (ES)  
Sigma Aldrich Chimie (FR)  
Sigma Aldrich Company (UK)  
Sigma Aldrich Logistik (DE)

## ANNEX VII

**LABORATORY AND ANALYTICAL CRITICAL USES**

Quota of controlled substances of Group VI that may be used for laboratory and analytical critical uses are allocated to:

Sigma Aldrich Chimie (FR) Sigma Aldrich Company (UK) Sigma Aldrich Logistik (DE)
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## ANNEX VIII

**ESSENTIAL LABORATORY AND ANALYTICAL USES**

Quota of controlled substances of Group VII that may be used for essential laboratory and analytical uses are allocated to:

Ineos Fluor (UK) Sigma Aldrich Logistik (DE) Solvay Organics (DE)
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## ANNEX IX

**ESSENTIAL LABORATORY AND ANALYTICAL USES**

Quota of controlled substances of Group IX that may be used for essential laboratory and analytical uses are allocated to:

Ineos Fluor (UK) Sigma Aldrich Chimie (FR) Sigma Aldrich Company (UK) Sigma Aldrich Logistik (DE)
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## ANNEX X

This Annex is not published because it contains confidential commercial information.

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# EUROPEAN CENTRAL BANK

## DECISION OF THE EUROPEAN CENTRAL BANK

of 12 December 2008

### on the national central banks' percentage shares in the key for subscription to the European Central Bank's capital

(ECB/2008/23)

(2009/53/EC)

THE GOVERNING COUNCIL OF THE EUROPEAN CENTRAL BANK,

Having regard to the Statute of the European System of Central Banks and of the European Central Bank (hereinafter the ESCB Statute), and in particular Articles 29.3 and 29.4 thereof,

Having regard to the contribution of the General Council of the European Central Bank (ECB) in accordance with the fourth indent of Article 47.2 of the ESCB Statute,

Whereas:

(3) The last adjustment of the capital key weightings in accordance with Article 29.3 of the ESCB Statute was made in 2003 with effect from 1 January 2004 <sup>(2)</sup>. The subsequent expansions of the ECB's capital key were made in accordance with Article 49.3 of the ESCB Statute in view of the accession of new Member States to the European Union <sup>(3)</sup>.

(4) In accordance with Council Decision 2003/517/EC of 15 July 2003 on the statistical data to be used for the adjustment of the key for subscription to the capital of the European Central Bank <sup>(4)</sup>, the European Commission provided the ECB with the statistical data to be used in determining the adjusted capital key,

HAS DECIDED AS FOLLOWS:

(1) Decision ECB/2006/21 of 15 December 2006 on the national central banks' percentage shares in the key for subscription to the European Central Bank's capital <sup>(1)</sup> laid down with effect from 1 January 2007 the weightings assigned to those national central banks (NCBs) that were members of the European System of Central Banks (ESCB) on 1 January 2007 in the key for subscription to the ECB's capital (hereinafter the capital key weightings and the capital key respectively).

(2) Article 29.3 of the ESCB Statute requires the capital key weightings to be adjusted every five years after the establishment of the ESCB by analogy with the provisions laid down in Article 29.1 of the Statute. The adjusted capital key applies with effect from the first day of the year following the year in which the adjustment occurs.

#### Article 1

#### Rounding

Where the European Commission provides revised statistical data to be used in adjusting the capital key and the figures do not total 100 %, the difference shall be compensated for: (i) if the total is below 100 %, by adding 0,0001 of a percentage point to the smallest share(s) in ascending order until exactly 100 % is reached, or (ii) if the total is above 100 %, by subtracting 0,0001 of a percentage point in descending order from the largest share(s) until exactly 100 % is reached.

<sup>(2)</sup> Decision ECB/2003/17 of 18 December 2003 on the national central banks' percentage shares in the key for subscription to the European Central Bank's capital (OJ L 9, 15.1.2004, p. 27).

<sup>(3)</sup> Decision ECB/2004/5 of 22 April 2004 on the national central banks' percentage shares in the key for subscription to the European Central Bank's capital (OJ L 205, 9.6.2004, p. 5) and Decision ECB/2006/21.

<sup>(4)</sup> OJ L 181, 19.7.2003, p. 43.

<sup>(1)</sup> OJ L 24, 31.1.2007, p. 1.

## Article 2

**Capital key weightings**

The weighting assigned to each NCB in the capital key described in Article 29 of the ESCB Statute shall be as follows with effect from 1 January 2009:

— Nationale Bank van België/Banque Nationale de Belgique	2,4256 %
— Българска народна банка (Bulgarian National Bank)	0,8686 %
— Česká národní banka	1,4472 %
— Danmarks Nationalbank	1,4835 %
— Deutsche Bundesbank	18,9373 %
— Eesti Pank	0,1790 %
— Central Bank and Financial Services Authority of Ireland	1,1107 %
— Bank of Greece	1,9649 %
— Banco de España	8,3040 %
— Banque de France	14,2212 %
— Banca d'Italia	12,4966 %
— Central Bank of Cyprus	0,1369 %
— Latvijas Banka	0,2837 %
— Lietuvos bankas	0,4256 %
— Banque centrale du Luxembourg	0,1747 %
— Magyar Nemzeti Bank	1,3856 %
— Central Bank of Malta	0,0632 %
— De Nederlandsche Bank	3,9882 %
— Oesterreichische Nationalbank	1,9417 %
— Narodowy Bank Polski	4,8954 %
— Banco de Portugal	1,7504 %
— Banca Națională a României	2,4645 %
— Banka Slovenije	0,3288 %
— Národná banka Slovenska	0,6934 %
— Suomen Pankki	1,2539 %
— Sveriges Riksbank	2,2582 %
— Bank of England	14,5172 %

*Article 3***Final and transitional provisions**

1. This Decision shall enter into force on 1 January 2009.
2. Decision ECB/2006/21 is hereby repealed with effect from 1 January 2009.
3. References to the Decision ECB/2006/21 shall be construed as being made to this Decision.

Done at Frankfurt am Main, 12 December 2008.

*The President of the ECB*  
Jean-Claude TRICHET

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**DECISION OF THE EUROPEAN CENTRAL BANK**

**of 12 December 2008**

**laying down the measures necessary for the paying-up of the European Central Bank's capital by the participating national central banks**

**(ECB/2008/24)**

(2009/54/EC)

THE GOVERNING COUNCIL OF THE EUROPEAN CENTRAL BANK,

Having regard to the Statute of the European System of Central Banks and of the European Central Bank (hereinafter the ESCB Statute), and in particular Article 28.3 thereof,

Whereas:

(1) Decision ECB/2006/22 of 15 December 2006 laying down the measures necessary for the paying-up of the European Central Bank's capital by the participating national central banks<sup>(1)</sup> determined how and to what extent the national central banks (NCBs) of the Member States that have adopted the euro (hereinafter the participating NCBs) were under an obligation to pay up the European Central Bank's (ECB's) capital on 1 January 2007.

(2) Decision ECB/2008/23 of 12 December 2008 on the national central banks' percentage shares in the key for subscription to the European Central Bank's capital<sup>(2)</sup> provides for the adjustment of the key for subscription to the ECB's capital (hereinafter the capital key) in accordance with Article 29.3 of the ESCB Statute and establishes with effect from 1 January 2009 the new weightings assigned to each NCB in the adjusted capital key (hereinafter the capital key weightings).

(3) The ECB's subscribed capital is EUR 5 760 652 402,58.

(4) The adjustment of the ECB's capital key requires the adoption of a new ECB decision repealing Decision ECB/2006/22 with effect from 1 January 2009 and determining how and to what extent the participating NCBs are under an obligation to pay up the ECB's capital with effect from 1 January 2009.

(5) Pursuant to Article 1 of Council Decision 2008/608/EC of 8 July 2008 in accordance with Article 122(2) of the Treaty on the adoption by Slovakia of the single currency

on 1 January 2009<sup>(3)</sup> Slovakia fulfils the necessary conditions for adoption of the euro and the derogations granted to it under Article 4 of the 2003 Act of Accession<sup>(4)</sup> will be abrogated with effect from 1 January 2009.

(6) In accordance with Decision ECB/2008/33 of 31 December 2008 on the paying-up of capital, transfer of foreign reserve assets and contributions by Národná banka Slovenska to the European Central Bank's reserves and provisions<sup>(5)</sup> Národná banka Slovenska is under an obligation to pay up the remaining share of its subscription to the ECB's capital with effect from 1 January 2009, taking into account the adjusted capital key,

HAS DECIDED AS FOLLOWS:

*Article 1*

**Extent and form of paid-up capital**

Each participating NCB shall pay up its subscription to the ECB's capital in full with effect from 1 January 2009. Taking into account the capital key weightings set out in Article 2 of Decision ECB/2008/23, each participating NCB shall pay up with effect from 1 January 2009 the amount shown next to its name in the following table:

Participating NCB	(EUR)
Nationale Bank van België/Banque Nationale de Belgique	139 730 384,68
Deutsche Bundesbank	1 090 912 027,43
Central Bank and Financial Services Authority of Ireland	63 983 566,24
Bank of Greece	113 191 059,06
Banco de España	478 364 575,51

<sup>(3)</sup> OJ L 195, 24.7.2008, p. 24.

<sup>(4)</sup> Act concerning the conditions of accession of the Czech Republic, the Republic of Estonia, the Republic of Cyprus, the Republic of Latvia, the Republic of Lithuania, the Republic of Hungary, the Republic of Malta, the Republic of Poland, the Republic of Slovenia and the Slovak Republic and the adjustments to the Treaties on which the European Union is founded (OJ L 236, 23.9.2003, p. 33).

<sup>(5)</sup> See page 83 of this Official Journal.

<sup>(1)</sup> OJ L 24, 31.1.2007, p. 3.

<sup>(2)</sup> See page 66 of this Official Journal.

Participating NCB	(EUR)
Banque de France	819 233 899,48
Banca d'Italia	719 885 688,14
Central Bank of Cyprus	7 886 333,14
Banque centrale du Luxembourg	10 063 859,75
Central Bank of Malta	3 640 732,32
De Nederlandsche Bank	229 746 339,12
Oesterreichische Nationalbank	111 854 587,70
Banco de Portugal	100 834 459,65
Banka Slovenije	18 941 025,10
Národná banka Slovenska	39 944 363,76
Suomen Pankki	72 232 820,48

#### Article 2

##### Adjustment of paid-up capital

1. Given that each participating NCB, with the exception of Národná banka Slovenska, has already paid up its full share in the ECB's subscribed capital as applicable until 31 December 2008 under Decision ECB/2006/22, each of them, with the exception of Národná banka Slovenska, shall either transfer an additional amount to the ECB, or receive an amount back from

the ECB, as appropriate, in order to arrive at the amounts shown in the table in Article 1. The paying-up of capital by Národná banka Slovenska is regulated by Decision ECB/2008/33.

2. All transfers pursuant to this Article shall be made in accordance with Decision ECB/2008/25 of 12 December 2008 laying down the terms and conditions for transfers of the European Central Bank's capital shares between the national central banks and for the adjustment of the paid-up capital <sup>(1)</sup>.

#### Article 3

##### Final provisions

1. This Decision shall enter into force on 1 January 2009.
2. Decision ECB/2006/22 is hereby repealed with effect from 1 January 2009.
3. References to Decision ECB/2006/22 shall be construed as being made to this Decision.

Done at Frankfurt am Main, 12 December 2008.

*The President of the ECB*  
Jean-Claude TRICHET

<sup>(1)</sup> See page 71 of this Official Journal.

## DECISION OF THE EUROPEAN CENTRAL BANK

of 12 December 2008

## laying down the terms and conditions for transfers of the European Central Bank's capital shares between the national central banks and for the adjustment of the paid-up capital

(ECB/2008/25)

(2009/55/EC)

THE GOVERNING COUNCIL OF THE EUROPEAN CENTRAL BANK,

Having regard to the Statute of the European System of Central Banks and of the European Central Bank, and in particular Article 28.5 thereof,

Whereas:

(1) Decision ECB/2008/23 of 12 December 2008 on the national central banks' percentage shares in the key for subscription to the European Central Bank's capital<sup>(1)</sup> provides for the adjustment of the weightings assigned to the national central banks (NCBs) in the key for subscription to the European Central Bank's (ECB's) capital (hereinafter the capital key weightings and the capital key respectively). This adjustment requires the Governing Council to determine the terms and conditions for transfers of capital shares between the NCBs that are members of the European System of Central Banks (ESCB) on 31 December 2008 in order to ensure that the distribution of these shares corresponds to the adjustments made. Accordingly, the adoption of a new ECB decision is required that repeals Decision ECB/2006/23 of 15 December 2006 laying down the terms and conditions for transfers of the European Central Bank's capital shares between the national central banks and for the adjustment of the paid-up capital<sup>(2)</sup> with effect from 1 January 2009.

(2) Decision ECB/2008/24 of 12 December 2008 laying down the measures necessary for the paying-up of the European Central Bank's capital by the participating national central banks<sup>(3)</sup> determines how and to what extent the NCBs of the Member States that have adopted the euro (hereinafter the 'participating NCBs') are under an obligation to pay up the ECB's capital in view of the adjusted capital key. Decision ECB/2008/28 of 15 December 2008 laying down the measures necessary for the paying-up of the European Central

Bank's capital by the non-participating national central banks<sup>(4)</sup> determines the percentage that the NCBs of the Member States that will not have adopted the euro on 1 January 2009 (hereinafter the non-participating NCBs) are under an obligation to pay up with effect from 1 January 2009 in view of the adjusted capital key.

(3) The participating NCBs, with the exception of Národná banka Slovenska, have already paid up their shares in the ECB's subscribed capital as required under Decision ECB/2006/22 of 15 December 2006 laying down the measures necessary for the paying-up of the European Central Bank's capital by the participating national central banks<sup>(5)</sup>. In view of this, Article 2(1) of Decision ECB/2008/24 states that either a participating NCB should transfer an additional amount to the ECB, or receive an amount back from the ECB, as appropriate, in order to arrive at the amounts shown in the table in Article 1 of Decision ECB/2008/24.

(4) Furthermore, Articles 2(1) and 2(2) of Decision ECB/2008/33 of 31 December 2008 on the paying-up of capital, transfer of foreign reserve assets and contributions by Národná banka Slovenska to the European Central Bank's reserves and provisions<sup>(6)</sup> lay down that Národná banka Slovenska, which will be a participating NCB from 1 January 2009, is under an obligation to pay up the remaining share of its subscription to the ECB's capital in order to arrive at the amount shown next to its name in the table in Article 1 of Decision ECB/2008/24, taking into account the adjusted capital key.

(5) Likewise, the non-participating NCBs have already paid up their shares in the ECB's subscribed capital as required under Decision ECB/2006/26 of 18 December 2006 laying down the measures necessary for the paying-up of the European Central Bank's capital by the non-participating national central banks<sup>(7)</sup>. In view of this, Article 2(1) of Decision ECB/2008/28 states that each of them should either transfer an additional amount to the ECB, or receive an amount back from the ECB, as appropriate, in order to arrive at the amounts shown in the table in Article 1 of Decision ECB/2008/28.

<sup>(1)</sup> See page 66 of this Official Journal.

<sup>(2)</sup> OJ L 24, 31.1.2007, p. 5.

<sup>(3)</sup> See page 69 of this Official Journal.

<sup>(4)</sup> See page 81 of this Official Journal.

<sup>(5)</sup> OJ L 24, 31.1.2007, p. 3.

<sup>(6)</sup> See page 75 of this Official Journal.

<sup>(7)</sup> OJ L 24, 31.1.2007, p. 15.

- (6) Decision ECB/2003/20 of 18 December 2003 laying down the terms and conditions for transfers of the European Central Bank's capital shares between the national central banks and for the adjustment of the paid-up capital<sup>(1)</sup> was tacitly repealed by Decision ECB/2004/7 of 22 April 2004 laying down the terms and conditions for transfers of the European Central Bank's capital shares between the national central banks and for the adjustment of the paid-up capital<sup>(2)</sup>. For the sake of clarity, Decision ECB/2003/20 should be explicitly repealed with retroactive effect,

HAS DECIDED AS FOLLOWS:

#### *Article 1*

##### **Transfer of capital shares**

Given the share in the ECB's capital that each NCB will have subscribed on 31 December 2008 and the share in the ECB's capital that each NCB will subscribe with effect from 1 January 2009 as a consequence of the adjustment of the capital key weightings laid down in Article 2 of Decision ECB/2008/23, the NCBs shall transfer capital shares among themselves via transfers to and from the ECB to ensure that the distribution of capital shares with effect from 1 January 2009 corresponds to the adjusted weightings. To this effect, each NCB shall, by virtue of this Article and without any further formality or act being required, either transfer or receive with effect from 1 January 2009 the share in the ECB's subscribed capital shown next to its name in the fourth column of the table in Annex I to this Decision, whereby '+' shall refer to a capital share that the ECB shall transfer to the NCB and '-' to a capital share that the NCB shall transfer to the ECB.

#### *Article 2*

##### **Adjustment of the paid-up capital**

1. Given the amount of the ECB's capital that each NCB has paid up and the amount of the ECB's capital that each NCB shall pay up with effect from 1 January 2009 pursuant to Article 1 of Decision ECB/2008/24 for the participating NCBs and Article 1 of Decision ECB/2008/28 for the non-participating NCBs respectively, on the first operating day of the Trans-European Automated Real-time Gross settlement Express Transfer system (TARGET2) following 1 January 2009 each NCB shall either transfer or receive the net amount shown next to its name in the fourth column of the table in Annex II to this Decision, whereby '+' shall refer to an amount that the NCB shall transfer to the ECB and '-' to an amount that the ECB shall transfer to that NCB.

2. On the first TARGET2 operating day following 1 January 2009, the ECB and the NCBs that are under an obligation to transfer an amount under paragraph 1 shall each separately transfer any interest on the respective amounts due accruing over the period from 1 January 2009 until the date of the transfer. The transferors and recipients of this interest shall be the same as the transferors and recipients of the amounts on which the interest accrues.

#### *Article 3*

##### **General provisions**

1. The transfers described in Article 2 shall take place through TARGET2.
2. Where an NCB does not have access to TARGET2, the amounts described in Article 2 shall be transferred by crediting an account that the ECB or NCB shall nominate in due time.
3. Any interest accruing under Article 2(2) shall be calculated on a daily basis, using the actual over-360-day method of calculation, at a rate equal to the marginal interest rate used by the Eurosystem in its most recent main refinancing operation.
4. The ECB and the NCBs that are under an obligation to make a transfer under Article 2 shall, in due course, give the necessary instructions for duly executing such transfer on time.

#### *Article 4*

##### **Final provision**

1. This Decision shall enter into force on 1 January 2009.
2. Decision ECB/2006/23 is hereby repealed with effect from 1 January 2009.
3. References to Decision ECB/2006/23 shall be construed as being made to this Decision.
4. Decision ECB/2003/20 is hereby repealed with effect from 23 April 2004.

Done at Frankfurt am Main, 12 December 2008.

*The President of the ECB*  
Jean-Claude TRICHET

<sup>(1)</sup> OJ L 9, 15.1.2004, p. 32.

<sup>(2)</sup> OJ L 205, 9.6.2004, p. 9.

## ANNEX I

## NCBS' SUBSCRIBED CAPITAL

	Share subscribed on 31 December 2008 (EUR)	Share subscribed with effect from 1 January 2009 (EUR)	Share to be transferred (EUR)
<i>Participating NCB</i>			
Nationale Bank van België/Banque Nationale de Belgique	142 334 199,56	139 730 384,68	- 2 603 814,88
Deutsche Bundesbank	1 182 149 240,19	1 090 912 027,43	- 91 237 212,76
Central Bank and Financial Services Authority of Ireland	51 183 396,60	63 983 566,24	+ 12 800 169,64
Bank of Greece	104 659 532,85	113 191 059,06	+ 8 531 526,21
Banco de España	434 917 735,09	478 364 575,51	+ 43 446 840,42
Banque de France	828 813 864,42	819 233 899,48	- 9 579 964,94
Banca d'Italia	721 792 464,09	719 885 688,14	- 1 906 775,95
Central Bank of Cyprus	7 195 054,85	7 886 333,14	+ 691 278,29
Banque centrale du Luxembourg	9 073 027,53	10 063 859,75	+ 990 832,22
Central Bank of Malta	3 583 125,79	3 640 732,32	+ 57 606,53
De Nederlandsche Bank	224 302 522,60	229 746 339,12	+ 5 443 816,52
Oesterreichische Nationalbank	116 128 991,78	111 854 587,70	- 4 274 404,08
Banco de Portugal	98 720 300,22	100 834 459,65	+ 2 114 159,43
Banka Slovenije	18 399 523,77	18 941 025,10	+ 541 501,33
Národná banka Slovenska	38 970 813,50	39 944 363,76	+ 973 550,26
Suomen Pankki	71 708 601,11	72 232 820,48	+ 524 219,37
<i>Non-participating NCB</i>			
Българска народна банка (Bulgarian National Bank)	50 883 842,67	50 037 026,77	- 846 815,90
Česká národní banka	79 957 855,35	83 368 161,57	+ 3 410 306,22
Danmarks Nationalbank	87 204 756,07	85 459 278,39	- 1 745 477,68
Eesti Pank	9 810 391,04	10 311 567,80	+ 501 176,76
Latvijas Banka	16 204 715,21	16 342 970,87	+ 138 255,66
Lietuvos bankas	24 068 005,74	24 517 336,63	+ 449 330,89
Magyar Nemzeti Bank	75 700 733,22	79 819 599,69	+ 4 118 866,47
Narodowy Bank Polski	280 820 283,32	282 006 977,72	+ 1 186 694,40
Banca Națională a României	145 099 312,72	141 971 278,46	- 3 128 034,26
Sveriges Riksbank	134 298 089,46	130 087 052,56	- 4 211 036,90
Bank of England	802 672 023,82	836 285 430,59	+ 33 613 406,77
Total <sup>(1)</sup>	5 760 652 402,58	5 760 652 402,58	0

(1) Due to rounding, totals may not correspond to the sum of all figures shown.

## ANNEX II

## NCBS' PAID-UP CAPITAL

	Share paid up on 31 December 2008 (EUR)	Share paid up with effect from 1 January 2009 (EUR)	Amount of transfer payment (EUR)
<i>Participating NCB</i>			
Nationale Bank van België/Banque Nationale de Belgique	142 334 199,56	139 730 384,68	- 2 603 814,88
Deutsche Bundesbank	1 182 149 240,19	1 090 912 027,43	- 91 237 212,76
Central Bank and Financial Services Authority of Ireland	51 183 396,60	63 983 566,24	+ 12 800 169,64
Bank of Greece	104 659 532,85	113 191 059,06	+ 8 531 526,21
Banco de España	434 917 735,09	478 364 575,51	+ 43 446 840,42
Banque de France	828 813 864,42	819 233 899,48	- 9 579 964,94
Banca d'Italia	721 792 464,09	719 885 688,14	- 1 906 775,95
Central Bank of Cyprus	7 195 054,85	7 886 333,14	+ 691 278,29
Banque centrale du Luxembourg	9 073 027,53	10 063 859,75	+ 990 832,22
Central Bank of Malta	3 583 125,79	3 640 732,32	+ 57 606,53
De Nederlandsche Bank	224 302 522,60	229 746 339,12	+ 5 443 816,52
Oesterreichische Nationalbank	116 128 991,78	111 854 587,70	- 4 274 404,08
Banco de Portugal	98 720 300,22	100 834 459,65	+ 2 114 159,43
Banka Slovenije	18 399 523,77	18 941 025,10	+ 541 501,33
Národná banka Slovenska	2 727 956,95	39 944 363,76	+ 37 216 406,81
Suomen Pankki	71 708 601,11	72 232 820,48	+ 524 219,37
<i>Non-participating NCB</i>			
Българска народна банка (Bulgarian National Bank)	3 561 868,99	3 502 591,87	- 59 277,12
Česká národní banka	5 597 049,87	5 835 771,31	+ 238 721,44
Danmarks Nationalbank	6 104 332,92	5 982 149,49	- 122 183,43
Eesti Pank	686 727,37	721 809,75	+ 35 082,38
Latvijas Banka	1 134 330,06	1 144 007,96	+ 9 677,90
Lietuvos bankas	1 684 760,40	1 716 213,56	+ 31 453,16
Magyar Nemzeti Bank	5 299 051,33	5 587 371,98	+ 288 320,65
Narodowy Bank Polski	19 657 419,83	19 740 488,44	+ 83 068,61
Banca Națională a României	10 156 951,89	9 937 989,49	- 218 962,40
Sveriges Riksbank	9 400 866,26	9 106 093,68	- 294 772,58
Bank of England	56 187 041,67	58 539 980,14	+ 2 352 938,47
Total <sup>(1)</sup>	4 137 159 937,99	4 142 260 189,23	+ 5 100 251,24

<sup>(1)</sup> Due to rounding, totals may not correspond to the sum of all figures shown.

**DECISION OF THE EUROPEAN CENTRAL BANK**  
**of 12 December 2008**  
**amending Decision ECB/2001/15 on the issue of euro banknotes**  
**(ECB/2008/26)**  
**(2009/56/EC)**

THE GOVERNING COUNCIL OF THE EUROPEAN CENTRAL BANK,

Having regard to the Treaty establishing the European Community, and in particular Article 106(1) thereof,

Having regard to the Statute of the European System of Central Banks and of the European Central Bank (hereinafter the 'ESCB Statute'), and in particular Article 16 thereof,

Whereas:

- (1) Decision ECB/2008/23 of 12 December 2008 on the national central banks' percentage shares in the key for subscription to the European Central Bank's capital<sup>(1)</sup> provides for the adjustment of the key for subscription to the European Central Bank's (ECB's) capital (hereinafter the 'capital key') in accordance with Article 29.3 of the ESCB Statute and establishes with effect from 1 January 2009 the new weightings assigned to each national central bank (NCB) in the adjusted capital key (hereinafter the 'capital key weightings').
- (2) Pursuant to Article 1 of Council Decision 2008/608/EC of 8 July 2008 in accordance with Article 122(2) of the Treaty on the adoption by Slovakia of the single currency on 1 January 2009<sup>(2)</sup> Slovakia fulfils the necessary conditions for adoption of the euro and the derogations granted to it under Article 4 of the 2003 Act of Accession<sup>(3)</sup> will be abrogated with effect from 1 January 2009.
- (3) Article 1(d) of Decision ECB/2001/15 of 6 December 2001 on the issue of euro banknotes<sup>(4)</sup> defines the 'banknote allocation key' and refers to the Annex to that Decision, which specifies the banknote allocation

key applying since 1 January 2008. Given that new capital key weightings will apply from 1 January 2009 and that Slovakia will adopt the euro on 1 January 2009, Decision ECB/2001/15 needs to be amended in order to determine the banknote allocation key applying from 1 January 2009,

HAS DECIDED AS FOLLOWS:

*Article 1*

**Amendment to Decision ECB/2001/15**

Decision ECB/2001/15 is amended as follows:

1. The final sentence of Article 1(d) is replaced by the following:

'The Annex to this Decision specifies the banknote allocation key applying from 1 January 2009.'

2. The Annex to Decision ECB/2001/15 is replaced by the text set out in the Annex to this Decision.

*Article 2*

**Final provision**

This Decision shall enter into force on 1 January 2009.

Done at Frankfurt am Main, 12 December 2008.

*The President of the ECB*  
Jean-Claude TRICHET

<sup>(1)</sup> See page 66 of this Official Journal.

<sup>(2)</sup> OJ L 195, 24.7.2008, p. 24.

<sup>(3)</sup> Act concerning the conditions of accession of the Czech Republic, the Republic of Estonia, the Republic of Cyprus, the Republic of Latvia, the Republic of Lithuania, the Republic of Hungary, the Republic of Malta, the Republic of Poland, the Republic of Slovenia and the Slovak Republic and the adjustments to the Treaties on which the European Union is founded (OJ L 236, 23.9.2003, p. 33).

<sup>(4)</sup> OJ L 337, 20.12.2001, p. 52.

## ANNEX

**BANKNOTE ALLOCATION KEY FROM 1 JANUARY 2009**

European Central Bank	8,0000 %
Nationale Bank van België/Banque Nationale de Belgique	3,1975 %
Deutsche Bundesbank	24,9630 %
Central Bank and Financial Services Authority of Ireland	1,4640 %
Bank of Greece	2,5900 %
Banco de España	10,9465 %
Banque de France	18,7465 %
Banca d'Italia	16,4730 %
Central Bank of Cyprus	0,1805 %
Banque centrale du Luxembourg	0,2305 %
Central Bank of Malta	0,0835 %
De Nederlandsche Bank	5,2575 %
Oesterreichische Nationalbank	2,5595 %
Banco de Portugal	2,3075 %
Banka Slovenije	0,4335 %
Národná banka Slovenska	0,9140 %
Suomen Pankki	1,6530 %
Total	100,0000 %

## DECISION OF THE EUROPEAN CENTRAL BANK

of 12 December 2008

laying down the measures necessary for the contribution to the European Central Bank's accumulated equity value and for adjusting the national central banks' claims equivalent to the transferred foreign reserve assets

(ECB/2008/27)

(2009/57/EC)

THE GOVERNING COUNCIL OF THE EUROPEAN CENTRAL BANK,

Having regard to the Statute of the European System of Central Banks and of the European Central Bank (hereinafter the ESCB Statute) and in particular Article 30 thereof,

Whereas:

(1) Decision ECB/2008/23 of 12 December 2008 on the national central banks' percentage shares in the key for subscription to the European Central Bank's capital<sup>(1)</sup> provides for the adjustment of the key for subscription to the capital of the European Central Bank (ECB) (hereinafter capital key) in accordance with Article 29.3 of the ESCB Statute and establishes, with effect from 1 January 2009, the new weightings assigned to each national central bank (NCB) in the adjusted capital key (hereinafter the capital key weightings).

(2) The adjustments to the capital key weightings and the resulting changes in the NCBs' shares in the ECB's subscribed capital make it necessary to adjust the claims which the ECB has credited under Article 30.3 of the ESCB Statute to the NCBs of the Member States that have adopted the euro (hereinafter the participating NCBs) and which are equivalent to the participating NCBs' contributions of foreign reserve assets to the ECB (hereinafter the claims).

(3) Those participating NCBs whose percentage shares in the adjusted capital key increase due to the adjustment should therefore effect a compensatory transfer to the ECB, while the ECB should effect a compensatory transfer to those participating NCBs whose percentage shares in the adjusted capital key decrease.

(4) In accordance with the general principles of fairness, equal treatment and the protection of legitimate expectations underlying the ESCB Statute, those participating NCBs whose relative share in the ECB's accumulated equity value increases due to the abovementioned adjustments should also effect a compensatory transfer to those participating NCBs whose relative shares decrease.

(5) The respective capital key weightings of each participating NCB until 31 December 2008 and with effect from 1 January 2009 should be expressed as a percentage of the ECB's total capital as subscribed to by all participating NCBs for the purpose of calculating the adjustment of the value of each participating NCB's share in the ECB's accumulated equity value.

(6) Accordingly, the adoption of a new ECB decision is required that repeals Decision ECB/2006/24 of 15 December 2006 laying down the measures necessary for the contribution to the European Central Bank's accumulated equity value and for adjusting the national central banks' claims equivalent to the transferred foreign reserve assets<sup>(2)</sup>.

(7) Pursuant to Article 1 of Council Decision 2008/608/EC of 8 July 2008 in accordance with Article 122(2) of the Treaty on the adoption by Slovakia of the single currency on 1 January 2009<sup>(3)</sup>, the derogation in favour of Slovakia referred to in Article 4 of the 2003 Act of Accession<sup>(4)</sup> is abrogated with effect from 1 January 2009,

HAS DECIDED AS FOLLOWS:

*Article 1***Definitions**

For the purposes of this Decision:

(a) 'accumulated equity value' means the total of the ECB's reserves, revaluation accounts and provisions equivalent to reserves as calculated by the ECB as at 31 December 2008. The ECB's reserves and those provisions equivalent to reserves shall include, without limitation to the generality of the 'accumulated equity value', the general reserve fund and the provision equivalent to reserves for foreign exchange rate, interest rate and gold price risks;

(b) 'transfer date' means the second business day following the Governing Council's approval of the ECB's financial accounts for the financial year 2008.

<sup>(2)</sup> OJ L 24, 31.1.2007, p. 9.

<sup>(3)</sup> OJ L 195, 24.7.2008, p. 24.

<sup>(4)</sup> Act concerning the conditions of accession of the Czech Republic, the Republic of Estonia, the Republic of Cyprus, the Republic of Latvia, the Republic of Lithuania, the Republic of Hungary, the Republic of Malta, the Republic of Poland, the Republic of Slovenia and the Slovak Republic and the adjustments to the Treaties on which the European Union is founded (OJ L 236, 23.9.2003, p. 33).

<sup>(1)</sup> See page 66 of this Official Journal.

## Article 2

### Contribution to the ECB's reserves and provisions

1. If a participating NCB's share in the accumulated equity value increases due to the increase in its capital key weighting with effect from 1 January 2009, that participating NCB shall transfer the amount determined pursuant to paragraph 3 to the ECB on the transfer date.

2. If a participating NCB's share in the accumulated equity value decreases due to the decrease in its capital key weighting with effect from 1 January 2009, that participating NCB shall receive the amount determined pursuant to paragraph 3 from the ECB on the transfer date.

3. The ECB shall, on or before the day the Governing Council approves the ECB's financial accounts for the financial year 2008, calculate and confirm to each participating NCB either the amount to be transferred by that participating NCB to the ECB where paragraph 1 applies, or the amount which that participating NCB shall receive from the ECB where paragraph 2 applies. Subject to rounding, each amount to be transferred or received shall be calculated by multiplying the accumulated equity value by the absolute difference between each participating NCB's capital key weighting on 31 December 2008 and its capital key weighting with effect from 1 January 2009 and dividing the result by 100.

4. Each amount described in paragraph 3 shall be due in euro on 1 January 2009 but shall be effectively transferred on the transfer date.

5. On the transfer date, a participating NCB or the ECB having to transfer an amount under paragraph 1 or paragraph 2 shall also separately transfer any interest accruing over the period from 1 January 2009 until the transfer date on each of the respective amounts due from such participating NCB and the ECB. The transferors and recipients of this interest shall be the same as the transferors and recipients of the amounts on which the interest accrues.

6. If the accumulated equity value is less than zero, the amounts that have to be transferred or received under paragraph 3 and paragraph 5 shall be settled in the opposite directions to those specified in paragraph 3 and paragraph 5.

## Article 3

### Adjustment of the claims equivalent to the transferred foreign reserve assets

1. Given that the adjustment of the claims equivalent to the transferred foreign reserve assets for Národná banka Slovenska will be regulated by Decision ECB/2008/33 of 31 December 2008 on the paying-up of capital, transfer of foreign reserve assets and contributions by Národná banka Slovenska to the European Central Bank's reserves and provisions<sup>(1)</sup>, this

Article shall regulate the adjustment of the claims equivalent to the foreign reserve assets transferred by the other participating NCBs.

2. The participating NCBs' claims shall be adjusted with effect from 1 January 2009 in accordance with their adjusted capital key weightings. The value of the participating NCBs' claims with effect from 1 January 2009 is shown in the third column of the table in the Annex to this Decision.

3. Each participating NCB shall, by virtue of this provision and without any further formality or act being required, be considered to have either transferred or received on 1 January 2009 the absolute value of the claim (in euro) shown next to its name in the fourth column of the table in the Annex to this Decision, whereby '-' shall refer to a claim that the participating NCB shall transfer to the ECB and '+' to a claim that the ECB shall transfer to the participating NCB.

4. On the first operating day of the Trans-European Automated Real-time Gross settlement Express Transfer system (TARGET2) following 1 January 2009, each participating NCB shall either transfer or receive the absolute value of the amount (in euro) shown next to its name in the fourth column of the table in the Annex to this Decision, whereby '+' shall refer to an amount that the participating NCB shall transfer to the ECB and '-' to an amount that the ECB shall transfer to the participating NCB.

5. On the first TARGET2 operating day following 1 January 2009, the ECB and the participating NCBs that are under an obligation to transfer amounts under paragraph 4 shall also separately transfer any interest accruing over the period from 1 January 2009 until the date of this transfer on the respective amounts due from the ECB and such participating NCBs. The transferors and recipients of this interest shall be the same as the transferors and recipients of the amounts on which the interest accrues.

## Article 4

### General provisions

1. The interest accruing under Article 2(5) and Article 3(5) shall be calculated on a daily basis, using the actual over-360-day method of calculation, at a rate equal to the marginal interest rate used by the Eurosystem in its most recent main refinancing operation.

2. Each transfer pursuant to Article 2(1), (2) and (5) and Article 3(4) and (5) shall take place separately through TARGET2.

3. The ECB and the participating NCBs that are under an obligation to effect any of the transfers referred to in paragraph 2 shall, in due course, give the necessary instructions for duly executing such transfers on time.

<sup>(1)</sup> See page 83 of this Official Journal.

*Article 5***Final provisions**

1. This Decision shall enter into force on 1 January 2009.
2. Decision ECB/2006/24 is hereby repealed with effect from 1 January 2009.
3. References to Decision ECB/2006/24 shall be construed as references to this Decision.

Done at Frankfurt am Main, 12 December 2008.

*The President of the ECB*  
Jean-Claude TRICHET

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## ANNEX

## CLAIMS EQUIVALENT TO THE FOREIGN RESERVE ASSETS TRANSFERRED TO THE ECB

Participating NCB	Claim equivalent to the foreign reserve assets transferred to the ECB, on 31 December 2008 (EUR)	Claim equivalent to the foreign reserve assets transferred to the ECB, with effect from 1 January 2009 (EUR)	Amount of transfer (EUR)
Nationale Bank van België/ Banque Nationale de Belgique	1 423 341 995,63	1 397 303 846,77	- 26 038 148,86
Deutsche Bundesbank	11 821 492 401,85	10 909 120 274,33	- 912 372 127,52
Central Bank and Financial Services Authority of Ireland	511 833 965,97	639 835 662,35	+ 128 001 696,38
Bank of Greece	1 046 595 328,50	1 131 910 590,58	+ 85 315 262,08
Banco de España	4 349 177 350,90	4 783 645 755,10	+ 434 468 404,20
Banque de France	8 288 138 644,21	8 192 338 994,75	- 95 799 649,46
Banca d'Italia	7 217 924 640,86	7 198 856 881,40	- 19 067 759,46
Central Bank of Cyprus	71 950 548,51	78 863 331,39	+ 6 912 782,88
Banque centrale du Luxembourg	90 730 275,34	100 638 597,47	+ 9 908 322,13
Central Bank of Malta	35 831 257,94	36 407 323,18	+ 576 065,24
De Nederlandsche Bank	2 243 025 225,99	2 297 463 391,20	+ 54 438 165,21
Oesterreichische Nationalbank	1 161 289 917,84	1 118 545 877,01	- 42 744 040,83
Banco de Portugal	987 203 002,23	1 008 344 596,55	+ 21 141 594,32
Banka Slovenije	183 995 237,74	189 410 251,00	+ 5 415 013,26
Národná banka Slovenska	0	399 443 637,59 <sup>(1)</sup>	+ 399 443 637,59
Suomen Pankki	717 086 011,07	722 328 204,76	+ 5 242 193,69
Total <sup>(2)</sup>	40 149 615 804,58	40 204 457 215,43	54 841 410,85

<sup>(1)</sup> To be transferred with effect from the dates laid down in Decision ECB/2008/33.

<sup>(2)</sup> Due to rounding, totals may not correspond to the sum of all figures shown.

**DECISION OF THE EUROPEAN CENTRAL BANK**

**of 15 December 2008**

**laying down the measures necessary for the paying-up of the European Central Bank's capital by the non-participating national central banks**

**(ECB/2008/28)**

(2009/58/EC)

THE GENERAL COUNCIL OF THE EUROPEAN CENTRAL BANK,

Having regard to the Statute of the European System of Central Banks and of the European Central Bank (hereinafter the 'ESCB Statute'), and in particular Article 48 thereof,

Whereas:

- (1) Decision ECB/2006/26 of 18 December 2006 laying down the measures necessary for the paying-up of the European Central Bank's capital by the non-participating national central banks<sup>(1)</sup>, determined the percentage of the subscription to the European Central Bank's (ECB's) capital which the national central banks (NCBs) of the Member States that would not have adopted the euro on 1 January 2007 were under an obligation to pay up on 1 January 2007 as a contribution to the ECB's operational costs.
- (2) Decision ECB/2008/23 of 12 December 2008 on the national central banks' percentage shares in the key for subscription to the European Central Bank's capital<sup>(2)</sup> provides for the adjustment of the key for subscription to the ECB's capital (hereinafter the 'capital key') in accordance with Article 29.3 of the ESCB Statute and establishes with effect from 1 January 2009 the new weightings assigned to each NCB in the adjusted capital key (hereinafter the 'capital key weightings').
- (3) The ECB's subscribed capital is EUR 5 760 652 402,58.
- (4) The adjusted capital key requires the adoption of a new ECB decision repealing Decision ECB/2006/26 with effect from 1 January 2009 and determining the percentage of the ECB's subscribed capital which the NCBs of the Member States that will not have adopted the euro by 1 January 2009 (hereinafter the 'non-participating NCBs') are under an obligation to pay up with effect from 1 January 2009,

HAS DECIDED AS FOLLOWS:

*Article 1*

**Extent and form of paid-up capital**

Each non-participating NCB shall pay up 7 % of its subscription to the ECB's capital with effect from 1 January 2009. Taking

<sup>(1)</sup> OJ L 24, 31.1.2007, p. 15.

<sup>(2)</sup> See page 66 of this Official Journal.

into account the capital key weightings described in Article 2 of Decision ECB/2008/23, each non-participating NCB shall pay up with effect from 1 January 2009 the amount shown next to its name in the following table:

Non-participating NCB	EUR
Българска народна банка (Bulgarian National Bank)	3 502 591,87
Česká národní banka	5 835 771,31
Danmarks Nationalbank	5 982 149,49
Eesti Pank	721 809,75
Latvijas Banka	1 144 007,96
Lietuvos bankas	1 716 213,56
Magyar Nemzeti Bank	5 587 371,98
Narodowy Bank Polski	19 740 488,44
Banca Națională a României	9 937 989,49
Sveriges Riksbank	9 106 093,68
Bank of England	58 539 980,14

*Article 2*

**Adjustment of the paid-up capital**

1. Given that each non-participating NCB has already paid up 7 % of its share in the ECB's subscribed capital as applicable until 31 December 2008 under Decision ECB/2006/26, each of them shall either transfer an additional amount to the ECB, or receive an amount back from the ECB, as appropriate, in order to arrive at the amounts shown in the table in Article 1.

2. All transfers pursuant to this Article shall be made in accordance with Decision ECB/2008/25 of 12 December 2008 laying down the terms and conditions for transfers of the European Central Bank's capital shares between the national central banks and for the adjustment of the paid-up capital<sup>(3)</sup>.

<sup>(3)</sup> See page 71 of this Official Journal.

*Article 3***Final provisions**

1. This Decision shall enter into force on 1 January 2009.
2. Decision ECB/2006/26 is hereby repealed with effect from 1 January 2009.
3. References to Decision ECB/2006/26 shall be construed as references to this Decision.

Done at Frankfurt am Main, 15 December 2008.

*The President of the ECB*  
Jean-Claude TRICHET

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## DECISION OF THE EUROPEAN CENTRAL BANK

of 31 December 2008

**on the paying-up of capital, transfer of foreign reserve assets and contributions by Národná banka Slovenska to the European Central Bank's reserves and provisions**

(ECB/2008/33)

(2009/59/EC)

THE GOVERNING COUNCIL OF THE EUROPEAN CENTRAL BANK,

Having regard to the Statute of the European System of Central Banks and of the European Central Bank (hereinafter the ESCB Statute), and in particular Articles 30.1, 30.3, 49.1 and 49.2 thereof,

Whereas:

- (1) Pursuant to Article 1 of Council Decision 2008/608/EC of 8 July 2008 in accordance with Article 122(2) of the Treaty on the adoption by Slovakia of the single currency on 1 January 2009<sup>(1)</sup>, Slovakia fulfils the necessary conditions for adoption of the euro and the derogations granted to it under Article 4 of the 2003 Act of Accession<sup>(2)</sup> will be abrogated with effect from 1 January 2009.
- (2) Article 49.1 of the ESCB Statute provides that the national central bank (NCB) of a Member State whose derogation has been abrogated must pay up its subscribed share of the capital of the European Central Bank (ECB) to the same extent as the NCBs of the other participating Member States. The NCBs of the existing participating Member States have paid up their shares in the ECB's subscribed capital in full<sup>(3)</sup>. The weighting of Národná banka Slovenska in the ECB's capital key is 0,6934 %, pursuant to Article 2 of Decision ECB/2008/23 of 12 December 2008 on the national central banks' percentage shares in the key for subscription to the European Central Bank's capital<sup>(4)</sup>. Národná banka Slovenska has already paid up part of its share in the ECB's subscribed capital, pursuant to Article 1 of Decision ECB/2006/26 of 18 December 2006 laying down the measures necessary for the

paying-up of the European Central Bank's capital by the non-participating national central banks<sup>(5)</sup>. The outstanding amount is therefore EUR 37 216 406,81, which results from multiplying the ECB's subscribed capital (EUR 5 760 652 402,58) by the capital key weighting of Národná banka Slovenska (0,6934 %), minus the part of its share in the ECB's subscribed capital that has already been paid up.

- (3) Article 49.1, in conjunction with Article 30.1, of the ESCB Statute provides that the NCB of a Member State whose derogation has been abrogated must also transfer foreign reserve assets to the ECB. Pursuant to Article 49.1 of the ESCB Statute, the sum to be transferred is determined by multiplying the euro value at current exchange rates of the foreign reserve assets which have already been transferred to the ECB in accordance with Article 30.1 of the ESCB Statute, by the ratio between the number of shares subscribed by the NCB concerned and the number of shares already paid up by the NCBs of the other participating Member States. When determining the 'foreign reserve assets which have already been transferred to the ECB in accordance with Article 30.1', due account should be taken of previous capital key adjustments<sup>(6)</sup> pursuant to Article 29.3 of the ESCB Statute and the ECB capital key expansions pursuant to Article 49.3 of the ESCB Statute<sup>(7)</sup>. As a result, pursuant to Decision ECB/2008/27 of 12 December 2008 laying down the measures necessary for the contribution to the European Central Bank's accumulated equity value and for adjusting the national central banks' claims equivalent to the transferred foreign reserve assets<sup>(8)</sup>, the euro equivalent of the foreign reserve assets which have already been transferred to the ECB under Article 30.1 of the ESCB Statute is EUR 44 154 040 257,26.
- (4) The foreign reserve assets to be transferred by Národná banka Slovenska should be in or be denominated in US dollars and gold.

<sup>(1)</sup> OJ L 195, 24.7.2008, p. 24.

<sup>(2)</sup> Act concerning the conditions of accession of the Czech Republic, the Republic of Estonia, the Republic of Cyprus, the Republic of Latvia, the Republic of Lithuania, the Republic of Hungary, the Republic of Malta, the Republic of Poland, the Republic of Slovenia and the Slovak Republic and the adjustments to the Treaties on which the European Union is founded (OJ L 236, 23.9.2003, p. 33).

<sup>(3)</sup> Decision ECB/2006/22 of 15 December 2006 laying down the measures necessary for the paying-up of the European Central Bank's capital by the participating national central banks (OJ L 24, 31.1.2007, p. 3).

<sup>(4)</sup> See page 66 of this Official Journal.

<sup>(5)</sup> OJ L 24, 31.1.2007, p. 15.

<sup>(6)</sup> Decision ECB/2003/17 of 18 December 2003 on the national central banks' percentage shares in the key for subscription to the European Central Bank's capital (OJ L 9, 15.1.2004, p. 27), and Decision ECB/2008/23.

<sup>(7)</sup> Decision ECB/2004/5 of 22 April 2004 on the national central banks' percentage shares in the key for subscription to the European Central Bank's capital (OJ L 205, 9.6.2004, p. 5) and Decision ECB/2006/21 of 15 December 2006 on the national central banks' percentage shares in the key for subscription to the European Central Bank's capital (OJ L 24, 31.1.2007, p. 1).

<sup>(8)</sup> See page 77 of this Official Journal.

- (5) Article 30.3 of the ESCB Statute provides that the ECB must credit each NCB of a participating Member State with a claim equivalent to the foreign reserve assets that it has transferred to the ECB. The provisions regarding the denomination and remuneration of the claims that have already been credited to the NCBs of the existing participating Member States <sup>(1)</sup> should also apply to the denomination and remuneration of the claims of Národná banka Slovenska.
- (6) Article 49.2 of the ESCB Statute provides that the NCB of a Member State whose derogation has been abrogated must contribute to the ECB's reserves, to those provisions equivalent to reserves, and to the amount still to be appropriated to the reserves and provisions corresponding to the balance of the profit and loss account as at 31 December of the year prior to abrogation of the derogation. The amount of this contribution is determined in accordance with Article 49.2 of the ESCB Statute.
- (7) By analogy with Article 3.5 of the Rules of Procedure of the European Central Bank <sup>(2)</sup>, the Governor of Národná banka Slovenska has had the opportunity to make observations on this Decision before its adoption,

HAS DECIDED AS FOLLOWS:

#### Article 1

##### Definitions

For the purposes of this Decision:

- 'participating Member State' means a Member State that has adopted the euro,
- 'foreign reserve assets' means securities, gold or cash,
- 'gold' means fine troy ounces of gold in the form of London Good Delivery bars, as specified by the London Bullion Market Association,
- 'Eurosysteem' means the ECB and NCBs of participating Member States,
- 'securities' means any security or financial instrument as specified by the ECB,

<sup>(1)</sup> Pursuant to Guideline ECB/2000/15 of 3 November 1998 as amended by the Guideline of 16 November 2000 on the composition, valuation and modalities for the initial transfer of foreign-reserve assets, and the denomination and remuneration of equivalent claims (OJ L 336, 30.12.2000, p. 114).

<sup>(2)</sup> Adopted by Decision ECB/2004/2 of 19 February 2004 adopting the Rules of Procedure of the European Central Bank (OJ L 80, 18.3.2004, p. 33).

- 'cash' means the lawful currency of the United States (US dollar).

#### Article 2

##### Payment of capital

1. With effect from 1 January 2009, Národná banka Slovenska shall pay up the remaining parts of its share in the ECB's subscribed capital, which correspond to EUR 37 216 406,81.
2. Národná banka Slovenska shall pay the amount specified in paragraph 1 to the ECB on 2 January 2009, by means of a separate transfer via the Trans-European Automated Real-time Gross settlement Express Transfer system (TARGET2).
3. Národná banka Slovenska shall, by a separate TARGET2 transfer, pay to the ECB on 2 January 2009 the interest accrued on 1 January 2009 on the amount due to the ECB under paragraph 2.
4. Any interest accruing under paragraph 3 shall be calculated on a daily basis, using the actual over-360-day method of calculation, at a rate equal to the marginal interest rate used by the Eurosystem in its most recent main refinancing operation.

#### Article 3

##### Transfer of foreign reserve assets

1. Národná banka Slovenska shall transfer to the ECB, with effect from 1 January 2009 and in accordance with this Article and the arrangements taken pursuant to it, an amount of foreign reserve assets denominated in US dollars and gold that is equivalent to EUR 443 086 155,98, as follows:

Euro-equivalent amount of US dollar securities and cash	Euro-equivalent amount of gold	Aggregate euro-equivalent amount
376 623 232,58	66 462 923,40	443 086 155,98

2. The euro-equivalent amount of foreign reserve assets to be transferred by Národná banka Slovenska under paragraph 1 shall be calculated on the basis of the exchange rates between the euro and the US dollar established as a result of the 24-hour written consultation procedure on 31 December 2008 between the Eurosystem and Národná banka Slovenska and, in the case of gold, on the basis of the US dollar price of gold per fine troy ounce established in the London gold fixing at 10.30 a.m., London time, on 31 December 2008.

3. The ECB shall confirm to Národná banka Slovenska as soon as possible the amount calculated in accordance with paragraph 2.

4. Národná banka Slovenska shall transfer to the ECB a portfolio of securities denominated in US dollars and cash whose relative Value at Risk (VaR) vis-à-vis the ECB tactical benchmark at the time of the transfer does not exceed the limit applying to the trading portfolios vis-à-vis the tactical benchmark as set by the ECB. The portfolio of securities denominated in US dollars and cash should also be in conformity with the credit limits specified by the ECB.

5. The transfer of cash shall take place to such accounts as are specified by the ECB. The settlement date for the cash to be transferred to the ECB shall be 2 January 2009. Národná banka Slovenska shall give instructions to effect such transfer to the ECB.

6. The value of the gold which Národná banka Slovenska transfers to the ECB in accordance with paragraph 1 shall be as close as possible to, but no more than EUR 66 462 923,40.

7. Národná banka Slovenska shall transfer the gold referred to in paragraph 1 in uninvested form to such accounts and at such locations as are specified by the ECB. The settlement date for the gold to be transferred to the ECB shall be 5 January 2009. Národná banka Slovenska shall give instructions to effect such transfer to the ECB.

8. If Národná banka Slovenska transfers gold to the ECB with a value of less than the amount specified in paragraph 1, then on 5 January 2009 it shall transfer an amount of US dollar cash equivalent to the shortfall to an account of the ECB as specified by the ECB. Any such US dollar cash shall not form part of the foreign reserve assets denominated in US dollars which Národná banka Slovenska transfers to the ECB in accordance with paragraph 1.

9. Národná banka Slovenska shall transfer securities to the ECB to such accounts as are specified by the ECB. The settlement date for securities to be transferred to the ECB shall be 2 January 2009. Národná banka Slovenska shall give instructions for the transfer of the ownership of securities to the ECB on the settlement date. The value of all such securities shall be calculated on the basis of prices designated by the ECB.

10. The euro equivalent of the sum of the value of all securities transferred to the ECB and the cash shall be equal to the amount indicated in paragraph 1.

11. The difference, if any, between the aggregate euro-equivalent amounts mentioned in paragraph 1 and the amount mentioned in Article 4(1) shall be settled in accordance with the Agreement of 31 December 2008 between the European Central Bank and Národná banka Slovenska regarding the claim credited to Národná banka Slovenska by

the European Central Bank under Article 30.3 of the Statute of the European System of Central Banks and of the European Central Bank <sup>(1)</sup>.

#### Article 4

#### **Denomination, remuneration and maturity of the claims equivalent to the contributions**

1. With effect from 1 January 2009, and subject to the specifications in Article 3 regarding the settlement dates of the transfers of foreign reserve assets, the ECB shall credit Národná banka Slovenska with a claim denominated in euro, equivalent to the aggregate euro amount of its contribution of foreign reserve assets. This claim corresponds to EUR 399 443 637,59.

2. The claim credited by the ECB to Národná banka Slovenska shall be remunerated from the settlement date. The interest accruing shall be calculated on a daily basis, using the actual over-360-day method of calculation, at a rate equivalent to 85 % of the marginal interest rate used by the Eurosystem in its most recent main refinancing operation.

3. The claim shall be remunerated at the end of each financial year. Each quarter the ECB shall inform Národná banka Slovenska of the cumulative amount.

4. The claim shall not be redeemable.

#### Article 5

#### **Contributions to the ECB's reserves and provisions**

1. With effect from 1 January 2009 and in accordance with Article 3(5) and (6), Národná banka Slovenska shall contribute to the ECB's reserves, to those provisions equivalent to reserves, and to the amount still to be appropriated to the reserves and provisions corresponding to the balance of the profit and loss account at 31 December 2008.

2. The amounts to be contributed by Národná banka Slovenska shall be determined in accordance with Article 49.2 of the ESCB Statute. The references in Article 49.2 to 'the number of shares subscribed by the central bank concerned' and 'the number of shares already paid up by the other central banks' shall refer to the weighting of Národná banka Slovenska, and the NCBs of the existing participating Member States in the ECB's capital key, pursuant to Decision ECB/2008/23.

3. For the purposes of paragraph 1, 'the ECB's reserves' and 'provisions equivalent to reserves' shall include the ECB's general reserve fund, balances on revaluation accounts and provisions for foreign exchange rate, interest rate, market price and gold price risks.

<sup>(1)</sup> OJ C 18, 24.1.2009, p. 3.

4. At the latest on the first working day following the Governing Council's approval of the ECB's annual accounts for the year 2008, the ECB shall calculate and confirm to Národná banka Slovenska the amount to be contributed by Národná banka Slovenska under paragraph 1.

5. On the second working day following the Governing Council's approval of the ECB's annual accounts for the year 2008, Národná banka Slovenska shall, via TARGET2, pay to the ECB:

(a) the amount due to the ECB under paragraph 4; and

(b) the interest accrued from 1 January 2009 until the payment date on the amount due to the ECB under paragraph 4.

6. Any interest accruing under paragraph 5(b) shall be calculated on a daily basis, using the actual over-360-day method of calculation, at a rate equal to the marginal interest rate used by the Eurosystem in its most recent main refinancing operation.

#### *Article 6*

##### **Competencies**

1. To the extent necessary, the Executive Board of the ECB shall issue instructions to Národná banka Slovenska to further specify and give effect to any provision of this Decision and to provide for appropriate remedies to address any problems that may arise.

2. Any instruction issued by the Executive Board under paragraph 1 shall be promptly notified to the Governing Council, and the Executive Board shall comply with any decision of the Governing Council thereon.

#### *Article 7*

##### **Final provision**

This Decision shall enter into force on 1 January 2009.

Done at Frankfurt am Main, 31 December 2008.

*The President of the ECB*

Jean-Claude TRICHET

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## RECOMMENDATIONS

## COMMISSION

## COMMISSION RECOMMENDATION

of 23 January 2009

**on guidelines for best enforcement practice concerning checks of recording equipment to be carried out at roadside checks and by authorised workshops***(notified under document number C(2009) 108)***(Text with EEA relevance)**

(2009/60/EC)

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to Directive 2006/22/EC of the European Parliament and of the Council of 15 March 2006 on minimum conditions for the implementation of Council Regulation (EEC) No 3820/85 and (EEC) No 3821/85 concerning social legislation relating to road transport activities and repealing Council Directive 88/599/EEC <sup>(1)</sup>, and in particular Article 11(1) thereof,

Whereas:

- (1) Pursuant to Article 11(1) of Directive 2006/22/EC, the Commission is to establish guidelines on best enforcement practice concerning the checks of vehicles to be carried out by control officers either at the roadside, or at the premises of undertakings, or by authorised workshops and fitters.
- (2) Recording equipment in road transport is necessary to indicate the periods of time that drivers spend driving and resting, and also to ensure that effective checks of social legislation in road transport can be carried out by the competent national control bodies.
- (3) To ensure that such recording equipment functions correctly and reliably, and that the recording and storing of data can be guaranteed, periodic checks and inspections are necessary after the recording equipment has been installed.
- (4) However, periodic checks and inspections do not appear to occur with a frequency likely to effectively deter those drivers and operators who seek to abuse the system by using manipulation devices or other similar means.
- (5) Research and information from experts have established that attempts to defraud the tachograph system have been widespread in vehicles equipped with analogue tachographs; similar attacks and threats are now being made to the digital tachograph system.
- (6) The same research has shown that a number of manipulations are possible and known to exist in the road transport sector to attempt to defraud the tachograph, in particular the digital tachograph system.
- (7) Such attempts and threats pose a serious risk to road safety and also have unacceptable negative impacts on fair competition and on the social conditions of drivers in road transport.
- (8) As a result of the improved security of the digital tachograph as opposed to the analogue tachograph, threats and attempted attacks to the system can be more easily detected, so that the risk of unscrupulous drivers and operators being caught with such devices is accordingly increased and should act as a significant deterrent.

<sup>(1)</sup> OJ L 102, 11.4.2006, p. 35.

- (9) This Recommendation accordingly aims to encourage and support Member States in adopting procedures and methods that, based on research and technical expertise from the industry, will considerably improve the possibilities of preventing and detecting such attempted fraud.
- (10) In particular, this Recommendation sets out best enforcement practice, as identified in research carried out by the Joint Research Centre.
- (11) This Recommendation forms, together with a proposed Directive on additional checks to be carried out at the roadside, a package of enforcement measures that aim to considerably improve the detection and prevention of devices used to defraud the digital tachograph system.
- (12) The measures provided for in this Recommendation are in accordance with the opinion of the Committee set up by Article 18(1) of Council Regulation (EEC) No 3821/85 <sup>(1)</sup>,

HEREBY RECOMMENDS:

1. Adopt and apply the best practice guidelines set out in the Annex to this Recommendation concerning the checks on vehicles to be carried out by control officers at the roadside or at the premises of undertakings, or by fitters and technicians at workshops approved by the competent authority of the Member State, in order to detect and prevent the use of manipulation devices in recording equipment used in road transport.
2. Apply these guidelines, where appropriate, in the context of the national enforcement strategies referred to in Article 2 of Directive 2006/22/EC.

Done at Brussels, 23 January 2009.

*For the Commission*  
Antonio TAJANI  
*Vice-President*

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<sup>(1)</sup> OJ L 370, 31.12.1985, p. 8.

## ANNEX

**RECOMMENDATIONS ON COUNTERMEASURES TO BE ADOPTED BY MEMBER STATES TO DETECT AND PREVENT THE USE OF MANIPULATION DEVICES**

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**Chapter 1: Introduction**

- 1.1. This Commission Recommendation describes what Member States could be encouraged to do in order to meet the threats posed by the use of manipulation devices in tachographs and at the same time to promote and support preventative countermeasures amongst Member States to deal with those threats.
  
- 1.2. The presence of manipulation devices in vehicles intended to interfere with the correct operation and functions of the digital tachograph system represents one of the most serious threats to the security of the system. The use, or intention to use, such devices will distort fair competition, by giving unscrupulous operators and drivers an unfair commercial advantage; and create unacceptable negative social impacts for drivers by allowing, or forcing, them to drive for much longer periods than is legally permissible. The potential consequence of these factors is to undermine road safety, for all road users, and which the Commission is committed to improving over the coming years.
  
- 1.3. Furthermore, law-abiding operators and drivers must be able to trust the digital tachograph, and national control bodies throughout the Community must be able to rely on the authenticity and integrity of the data recorded and stored by the equipment, regardless of whether it is downloaded and analysed from the vehicle unit or the driver card. In order to guarantee the reliability of the data, regular checks and inspections of the equipment must be carried out to ensure its correct functioning and operation.

- 1.4. In the long-term, the total security of the system and its components is essential if the integrity and authenticity of the data recorded is to be assured. To bring to an end the most common abuses and attempts to defraud the system, the Commission will as appropriate examine the possibility of introducing further more detailed legislative measures in the review of Regulation (EEC) 3821/85 and its Annexes.
- 1.5. Nevertheless, in the short-term, appropriate and effective measures could be developed by the competent authorities of Member States in order to make the detection of manipulation devices much more likely, thereby reducing the risks that such equipment will be used by operators and drivers.
- 1.6. Whilst Member States have a legal responsibility to require that checks and inspections are performed in such a way as to ensure the effective implementation of the Community social legislation in road transport, such periodic checks cannot guarantee that devices will not be installed and used later, after checks have been completed. Experience has shown that such devices are far more likely to be found during roadside checks when the vehicle can be inspected more closely. The frequency and nature of these checks by Member States ought to be encouraged so as to significantly increase the deterrent factor by increasing the risk of detection of such devices.
- 1.7. Appendix 10 (Generic Security Targets) of Annex 1B of Regulation (EEC) 3821/85 sets out the scope of security enforcing functions needed to ensure the integrity of the digital tachograph system. The security objectives of, and the threats to, the whole system have to be addressed by a combination of technical solutions, through ITSEC approval, as well as through physical, personnel and procedural means, which are the responsibility of Member States and tachograph manufacturers to implement. It is the intention then, of this Commission Recommendation, to suggest to Member States the most effective procedures, based on both research and known best practice, to support those procedural and personal means.
- 1.8. However, this Commission Recommendation should not be regarded as replacing those technical solutions provided for by ITSEC <sup>(1)</sup>, and in fact, ideally, could easily be used in conjunction with, and support of, them.
- 1.9. The report provided by the Joint Research Centre <sup>(2)</sup> has set out the kinds of known and potential attacks to the security of the digital tachograph. Therefore, this report could be used by Member States as the basis of putting in place the necessary steps and actions to ensure that adequate information and guidance can be provided to the national control officers so that when they undertake checks and inspections of vehicles at the roadside, they can do so. Furthermore, similar information and guidance could be provided to fitters and workshops that carry out statutory installations, inspections, checks and repairs of recording equipment in road transport. The guidance could be of a sufficient scope to ensure that such persons can fully and competently carry out the checks described in this annex and that Member States are able to act in prosecuting those identified as abusing, or attempting to abuse, the system.
- 1.10. The following guidelines and recommendations are not exhaustive and there may be circumstances where the application of such recommendations cannot achieve the desired result (for example, in cases where the reference cable cannot be connected to the motion sensor). In such circumstances, Member States could be encouraged to develop alternative methods that can be verified as being as effective. Such alternative measures could be more widely shared amongst the enforcement community.
- 1.11. Furthermore, although this Commission Recommendation is intended to address both types of tachograph as defined by Regulation (EEC) 3821/85 and its Annexes, Member States may have methods, procedures and guidelines already established concerning checks of Analogue tachographs and the detection of manipulation devices. Therefore, this Commission Recommendation should not be seen to replace or detract from those measures already established, but to further support them, in particular with reference to the digital tachograph, where the methodology may differ, but the objective remains the same. It is recommended that where measures are already in place for checking analogue tachographs, they could, where appropriate, be extended to include digital ones also (for example, situations concerning the payment to workshops for carrying out specific tasks designated to them by control officers having directed a vehicle to an authorised workshop, as described in Section F).
- 1.12. Member States should be confident and supported in setting out in their national enforcement strategies their methods and processes in addressing the developing threats to the tachograph system. Such best practice could be shared with other Member States.

<sup>(1)</sup> ITSEC – Information Technology Security Evaluation Criteria, 1991 Version 1.2.

<sup>(2)</sup> JRC Technical Notes. 'Report on the attacks to security of the digital tachograph and on the risk associated with the introduction of adaptors to be fitted into light vehicles'. Limited circulation to national risk managers (29 November 2007).

## Chapter 2: Effective roadside checks

### A. Organisation and equipment

- 2.1. In order to carry out full and effective checks, control officers should be fully equipped and properly trained. They should at least be in possession of control cards and have the relevant tools to download data files of the vehicle unit and the driver card and to be able to analyse such data files and print-outs from Annex IB type recording equipment in combination with sheets or charts from Annex 1 types. Control officers should also be equipped with software which has the capacity to analyse such data speedily and with the least inconvenience, since it is recognized that, for the purpose of detecting manipulation devices, print-outs cannot easily be analyzed at the roadside given the length and content of some of the files to be printed.
- 2.2. As far as possible, when control officers carry out checks, whether at the roadside or at the premises of undertaking, and whether dedicated to checking drivers hours' compliance, or roadworthiness tests or other kinds of checks, they could also take the opportunity that the time presents to test the correct functioning and use of the tachograph, and be able to detect the use of manipulation devices from such checks.
- 2.3. To this end, it is recommended that Member States attempt to organise checks of vehicles for manipulation devices, in conjunction with other checks (such as roadworthiness tests, conformity of Drivers' Hours Rules, etc) and that, indicatively, at least 10 % of the total number of vehicles checked are checked for the presence of manipulation devices. It remains for Member States to determine the appropriate methodology and circumstances for performing such additional checks, but the content could be reflected in their overall national enforcement strategy.
- 2.4. Effective checking could be undertaken using, for example, the following methods:
  - double check points with analysis of speed or distance (see B);
  - single check point with detailed analysis of data (see C);
  - single check point based on technical control (see D).
- 2.5. If a control officer believes that he has collected enough evidence, he could direct the vehicle to a workshop to perform further tests (see E).
- 2.6. Of course, additional, or alternative, methods of checking vehicles can always be deployed by Member States.

### B. Double check points methods with analysis of real speed and distance of vehicles

- 2.7. Speed control at a specific time: to apply this method, control officers, using fixed or mobile cameras, or speed-guns, could measure real speed of the vehicle before stopping it at the roadside check at a specific time. They could then download from the Vehicle Unit (VU) the *24-Hour Detailed Speed File* and compare the speed recorded at this specific time with the one measured few kilometers before. At the checkpoint, this method only requires to compare two figures after having downloaded the *24-Hour Detailed Speed File*;
- 2.8. Fixed distance control at a specific time: to apply this method, the checkpoint could be chosen at a known distance from a specific location where control officers have facilities or means to note the time when an identified vehicle has stopped or crossed this specific point (toll tickets, camera records, reports of border controls, etc). At the checkpoint, the enforcers could then download from the vehicle unit the *24-Hour detailed Speed File* and compare quickly the average speed recorded between the checkpoint and the specific location with the one calculated from the known distance out of the time needed to reach the checkpoint.
- 2.9. With both methods, enforcers at the checkpoint need only to compare two figures after having downloaded the *24-Hour Detailed Speed File* and measured or calculated the real average speed. Any significant difference could give rise to a control officer having a suspicion that a device was used. The control officer could then direct the driver and vehicle to a workshop without necessarily having to perform further checks on the spot.
- 2.10. Concerning data from Annex IB type tachographs, all files that are downloaded from or through the recording equipment have to be accompanied by the appropriate digital signature that was originally generated by the vehicle unit or the driver card in order to verify the authenticity and integrity of the data and control officers could also check that this information is also downloaded.

C. *Single check point methods based on detailed analysis of downloaded data*

- 2.11. If a manipulation device is in use when a roadside check is carried out, or was in use until shortly before the check, indications of manipulation could be found through a number of simple procedures.
- 2.12. In order to establish the suspicion of the presence of a manipulation device, that would justify control officers taking whatever action they deem necessary to detect it, control officers could:
- Compare the driver's activities downloaded from the card and the vehicle unit with any other paperwork in the vehicle and driver's statements. Inconsistency between these data could constitute the beginning of a suspicion. In that case, the enforcer could investigate further.
  - Examine the *Events & Faults File* stored on the vehicle unit, and especially for the last 10 days:
    - Security breach attempt;
    - Power supply interruption (the longest event);
    - And Motion data error (the longest event);
    - Sensor fault.
- If the driver is not able to explain and justify the rational of each events or faults, the enforcer could investigate further.
- Examine *Technical Data Files* stored on the vehicle unit, and especially:
    - Time adjustment data.
    - Calibration data (five most recent calibrations, name of workshop and their card number).
  - The later data are useful to detect too many calibration actions that may imply that they have been performed with a stolen workshop card (or of a workshops card reported as lost). It is recommended that control officers check with their Card Issuing Authority <sup>(1)</sup> the status of such workshop cards that have been identified, and whether they were valid at the time they were used to calibrate the vehicle unit.
- 2.13. If, after examining all the data mentioned in 2.14- 2.19, the control officer still considers that something is wrong, he could download the *24-Hour Detailed Speed File* and check, still with the help of his software, if there are unrealistic increases or decreases in acceleration of the vehicle and, where appropriate, if the profile of the journey is consistent with other paperwork in the vehicle and driver's statements (number of stops, speed in mountain or urban region ...). This evidence cumulated with the former ones could justify grounds to suspect that a manipulation device is present.
- 2.14. At the checkpoint, this method requires appropriate software, able to generate a readable display of the time profile of the speed in order to pin-point unusual variations in acceleration or decelerations of speed to highlight, and more generally to automatically signal:
- the unrealistic increases or decreases in acceleration of the vehicle;
  - any suspicious calibrations of the vehicle unit;
  - power supply interruption.

D. *Single check point methods based on technical control of seals*

- 2.15. Where possible, and when it is safe to do so, the control officer could check the seals. If the seals are absent, broken or damaged, the driver should be asked to justify the situation.

<sup>(1)</sup> TACHONET should be used to send request to other card issuing authorities.

- 2.16. If the driver is able to provide the written statement giving the reason for such action as foreseen in Chapter V section 4 of Annex 1, or requirement 253 of Annex IB to Regulation (EEC) 3821/85, then the control officer could require the driver to go to a workshop to reseal the system and recalibrate the equipment.
- 2.17. If not, this could constitute an infringement and it is recommended that the driver, with his vehicle, be directed immediately to an authorised workshop accompanied by the control officer for a check of the equipment as foreseen in the following chapter 3.

*E. Directing the vehicle to a workshop*

- 2.18. If after a roadside check using the previous methods, a reasonable suspicion still exists that a manipulation device is fitted, the control officer could direct the vehicle to an authorised workshop. Control officers, or the appropriate national authority, could be empowered to instruct authorised workshops to perform specific tests designed to test for the presence of manipulation devices.
- 2.19. These specific tests would allow, in most cases, the detection of the wrong pairing between the motion sensor and the vehicle unit, and which may indicate the presence of a manipulation device. Such tests could include (see description in Chapter 3):
- an inspection of the seals and the installation plaques;
  - a reference cable test;
  - an analysis of the downloaded data files.
- 2.20. If manipulation devices are detected, whether or not they have been used by the driver, the equipment (and this may including the device itself, the vehicle unit or its components, and the driver card) could be removed from the vehicle and be used as evidence.
- 2.21. Furthermore, authorized workshops could also be required additionally to check that the recording equipment: (a) works properly; (b) records and stores data correctly and; (c) that the calibration parameters are correct.
- 2.22. It is recommended that, for vehicles equipped with Annex IB type recording equipment, and only after downloading all data files and analyzing them (with their digital signatures in tact), and after checking that there is no manipulation device, that the recording equipment is fully re-calibrated and a new installation plaque affixed. Furthermore, it is recommended that only under the direction of the control body should the authorized workshop reseal the system.
- 2.23. Concerning recording equipment conforming to Annex 1, the equipment could, after the removal of any manipulation device, be checked for its proper functioning and correct operation, and be fully re-calibrated and a new installation plaque affixed. It is recommended that only under the direction of the control body should the authorized workshop then reseal the system.

*F. Checking vehicles or data at company premises*

- 2.24. It is recommended that Member State Competent Authorities take advantage of the possibility to check vehicles (and vehicle units) and drivers (and driver cards) which may be on site during a check of the premises of the undertaking.
- 2.25. Data managed by the undertaking is required to be kept for at least one year and made available for inspection whenever a control officer requests it. Therefore, as part of their standard checking procedure, control officers could check any vehicle that they find at the premises of undertaking, and to carry out whatever tests or activities they deem appropriate, whilst, at the same time, keeping delays to drivers and vehicles to a minimum.
- 2.26. Such checks at company premises could also take into account the possibility that there may be a mix of vehicles and records relating to either Annex I or Annex 1B type recording equipment, and it would be appropriate that control officers be prepared and properly equipped for this eventuality.

**SUMMARY BOX****PREVENTING ATTACKS AGAINST DIGITAL TACHOGRAPH CHECKS AT THE ROADSIDE OR AT THE PREMISES OF UNDERTAKING**

National enforcement strategies could be developed to promote effective enforcement checks and inspections of vehicles that maybe fitted with manipulation devices, either at the roadside or during checks of premises of undertakings.

Properly trained and equipped control officers would be able to rapidly access, download and analyse data from vehicle units and to carry out checks promptly, and to be able to carry out similar analysis of data electronically stored, or in combination with sheets, charts and print-outs.

Member States could develop strategies to ensure that, when vehicles are checked for the presence of manipulation devices, such vehicles could be checked with one of the following methods by 2010:

- double check points with analysis of real speed and distance;
- single check point with detailed analysis of data downloaded;
- single check point based on technical control of seals.

Indicatively, it could be that 10 % of vehicles controlled (whether through roadworthiness tests, Drivers' Hours compliance or other checks) could also be checked for the presence of manipulation devices, although it remains for Member States to develop the most effective means, to be defined in their strategies.

If enough evidence leading to reasonable suspicion has been found, control officers could direct the vehicle to an authorised workshop to perform further tests.

If manipulation devices are detected, whether or not they have been used by the driver, it is recommended that the equipment be removed from the vehicle and used as evidence, in compliance with national rules of procedure relating to the handling of such evidence. Control officers could apply the appropriate processes and penalties associated whenever the use of such equipment is established, since it constitutes a most serious infringement.

**Chapter 3: Training, equipment and best practice**

- 3.1. Whilst Member States should ensure that control officers are properly trained for the execution of their tasks, adequate training could also be undertaken for all other relevant parties; it would be advantageous and highly desirable if joint visits and co-ordination for control officers between Member States were organized to harmonize best practices and diffuse lessons learnt from experience amongst practitioners.
- 3.2. Control officers should be adequately equipped in order to carry out the range of checks related to the digital tachograph. This means that they should have that the appropriate tools available to them to read, print and download data from such recording equipment. Member States could make efforts to ensure that a sufficient number of their control officers are thus equipped.
- 3.3. Best practice for detection and prevention, both during roadside checks and at the premises of undertaking (such as the use of the reference cable, the fixed-distance technique, detection of abnormal speed traces or distance profiles, breaks in power-supply, broken seals) could be shared and promoted within the enforcement community.

**Chapter 4: Workshop inspections**

Workshops and fitters provide a crucial link in the security of the tachograph system, irrespective of whether the equipment is an analogue or digital tachograph. Their approval and authorisation must be based on a clear set of national criteria which establishes their reliability and trustworthiness. To this end it is recommended that Member State ensure that workshops authorised to install, activate, calibrate, inspect and repair recording equipment are approved, regularly controlled, certified and provided with timely, relevant updates and information. It is also recommended that Competent Authorities provide fitters and workshops with clear instructions and guidance about their duties and responsibilities, in particular their understanding of their role within the context of the overall security of the system. It is also recommended that those authorities who approve workshops and fitters provide, through the Commission, to all other Member States, accurate and regularly updated information concerning the markings of seals and details and status of each workshop on their territory.

*A. Legal basis*

- 4.1. Vehicles will normally be required to go to a workshop for inspection whenever:
  - (a) the tachograph requires its inspection in compliance with the Annexes of Regulation (EEC) 3821/85;
  - (b) the vehicle undergoes its annual roadworthiness inspection under the provisions of Annex II of Directive 96/96/EC;
  - (c) control officers direct the vehicle to a workshop in order to carry out a more detailed inspection of the recording equipment;
  - (d) the recording equipment needs to be repaired or replaced.
- 4.2. On all these occasions, workshops or fitters could be instructed to visually and physically check that the recording equipment is sealed and that the recording equipment has both its manufacturer's descriptive plaque and the installation plaque.
- 4.3. Workshops could be regularly reminded by their Member State Competent Authority that whenever they inspect and reseal the tachograph system, and affix an installation plaque, then the workshop is, effectively, confirming that the system is secure, that it functions correctly, records properly and that there are no manipulation devices attached to the equipment.
- 4.4. Workshops could be reminded that they may be committing a serious infringement if they knowingly reseal the tachograph system without first removing any manipulation device that they themselves find, or requesting that the manipulation device is removed prior to resealing. If it is later established that a manipulation device is present, irrespective of whether it has been used or not, and that the workshop did reseal the system, and affix an installation plaque, then the workshop and individual fitters could be held liable of a serious infringement.
- 4.5. It is recommended that, given the important role that workshops and fitters have with regards to the security of the system, that Member State Competent Authorities consider appropriate sanctions which may even lead to the loss of approval or the authority to carry out work on tachographs, if workshops cannot be any longer relied upon.
- 4.6. Conversely, Member States could remind workshops that they have the right to refuse to carry out any further inspections or calibrations on any vehicle if they suspect, or know, that a manipulation device is present on that vehicle. Workshops could be supported by the Competent Authority if the workshop insists that, before continuing with an inspection, the manipulation device is first removed. The workshop can always refuse to either reseal the interface connections, or affix any installation plaque until the device is removed.
- 4.7. Those Member States which consider it appropriate could request that authorised workshops report such facts as described in 4.4 – 4.6.
- 4.8. Alternatively, Member States who do not consider such action by the workshop as appropriate could instead instruct workshops that such reports be kept for a specific period of time and made available to the Competent Authority when requested. This period of time could be a minimum of 24 months which would be in line with the minimum period between inspections of the equipment.
- 4.9. Workshops could also be reminded that simply removing a manipulation device from a vehicle does not necessarily exonerate the operator or driver from any infringements, since it is very likely that data previously recorded and stored on the vehicle unit and individual driver cards may have already been manipulated. By not reporting the matter, workshops could themselves be contributing to any offences committed by those operators or drivers and could expect to face the same punishments if caught.
- 4.10. Nevertheless, workshops and fitters could report the use or presence of manipulation devices to their Competent Authority who, in turn, could, for example, consider reward or incentive schemes to encourage workshops to provide information contributing to the detection and prevention of manipulation devices or any other types of attacks to the system.
- 4.11. The following guidelines and recommendations are not exhaustive and there could be circumstances where the application of such recommendations cannot achieve the desired result (for example, in cases where the reference cable (section 1.23) cannot be connected to the motion sensor). In such circumstances, Member States could develop alternative methods that are as effective. Such alternative measures could be shared amongst the wider enforcement community.

4.12. Furthermore, since these guidelines cover both types of tachograph as defined by Regulation (EEC) 3821/85 and its Annexes, Member States may have methods, procedures and guidelines already established concerning checks of analogue tachographs and the detection of manipulation devices. The guidelines in this Commission Recommendation should not, therefore, be seen to replace or detract from those measures already established, but to further support them, in particular with reference to the digital tachograph, where the methodology may differ, but the objective remains the same. It is recommended that where measures are already in place for checking analogue tachographs, they could, where appropriate, be extended to include digital ones also. For example, situations concerning the payment to workshops for carrying out specific tasks designated to them by control officers having directed a vehicle to an authorised workshop.

*B. Broken or absence of seals*

- 4.13. Workshops can always check if the seals are absent, broken or damaged.
- 4.14. Under no circumstances should the vehicle be resealed or issued with an installation plaque until the system has been restored to meet the requirements of the Regulation.
- 4.15. Workshops could record the fact that seals are missing on the inspection report or register and perform further checks (such as the reference cable check) and inspections to ensure that no manipulation device is present on the vehicle.
- 4.16. If, as foreseen in Chapter V(4) of Annex I, and Requirement 252 of Annex IB to Regulation (EEC) 3821/85, the seals have been removed in case of emergency or to install or repair a speed limitation device, then on each occasion seals being broken, a written statement giving the reason for such action has to be prepared and made available to the competent authority.
- 4.17. If not, the workshop could perform a complete check, with the following recommended methods and report to its Competent Authority precisely what has been done and detected.

*C. Analysis of data records*

- 4.18. Specifically to the digital tachograph, the data that could be downloaded, with its digital signature whenever possible, at the workshop and incorporated into the audit report should match the requirements contained in section 4.4 (Motion Sensor Security Targets) and section 4.4 (Vehicle Unit Security Targets) of Appendix 10 of Annex IB of Regulation (EEC) 3821/85. Appendix 1 provides the full list of the information in the audit report.
- 4.19. The workshop could also download and analyze the *Events & Faults Data File*, contained on the vehicle unit. These events and faults include for example (see also the full list in Appendix 2):
- security breach attempt;
  - motion sensor authentication failure;
  - unauthorized change of motion sensor;
  - unauthorized case opening;
  - power supply interruption event;
  - or sensor fault.
- 4.20. Detecting the use of a manipulation device after it has been uninstalled is also difficult to establish. However, a check of the *Events & Faults Data File* could show occasions when there have been power supply interruptions, which cannot be explained. Additionally, a study of the detailed speed trace could indicate abnormalities of the speed signal. Unrealistic decelerations or accelerations could be symptomatic of switching on or off a manipulation device.
- 4.21. In all circumstances workshops could print and attach the print-out to the inspection report or register (see Chapter 4) and, where appropriate, refer to any data downloaded using the workshop card.

- 4.22. If data from the vehicle unit cannot be downloaded using the workshop card, the vehicle unit may be considered as malfunctioning or broken. In such cases workshops could attempt to repair the equipment. If such attempts at repair still do not make it possible to download data, an undownloadability certificate should be issued, and a copy retained with the inspection report.
- 4.23. It is also recommended that drivers keep with them any undownloadability certificate issued to them by a workshop, in the event that they are later controlled when using a vehicle with a malfunctioning digital tachograph. It is furthermore recommended that, if the driver changes vehicles, then such certificates remain with the vehicle until such time as the transport undertaking can take receipt of the certificate as part of his overall record-keeping obligations and can have the equipment repaired.

*D. Control of the pairing between the motion sensor and the vehicle unit*

- 4.24. If any of the data described in the previous section is found to have occurred since the last inspection, the workshop could make a comparison between the motion sensor identification data of the motion sensor plugged into the gearbox with that of the paired motion sensor registered in the vehicle unit.
- 4.25. The use of a reference cable is an effective means of testing whether certain types of manipulation device have been installed into the vehicle. The reference cable is plugged into the back of the vehicle unit, and the other end connected to the motion sensor. If the motion sensor in the gear-box has not been paired with the vehicle unit, a 'motion data error event' or sensor fault will be triggered. This message will indicate the presence of a manipulation device. Should this event appear, the vehicle could be checked for hidden devices.
- 4.26. Alternatively, in the course of a check, the motion sensor could be unplugged and removed. If the digital tachograph system has not been tampered with, an error message will appear (no motion sensor). If, however, there is not such an error message, this will indicate the presence of another, concealed motion sensor or some other electronic manipulation device.
- 4.27. It should be noted that prior to using the reference cable technique, workshop technicians (or control officers) must insert their workshop card (or control card) in order to provide an explanation as to why the 'power supply interruption event' has been triggered and recorded on the *Events & Faults file* of the vehicle unit. Not to do so may give a wrong indication in the course of a later inspection that either the driver or operator may have attempted an attack on the security of the motion sensor.
- 4.28. Alternatively, although not always possible, the markings on the motion sensor on the gearbox could be compared with the motion sensor identification data of the paired motion sensor registered in the vehicle unit. Workshops could therefore carry out the following actions:

- A comparison of the information recorded on the installation plaque with the information contained within the vehicle unit record. Where it is found that information does not match, the Member State Enforcement Authorities could be informed and the incident recorded on the inspection report and the inspection register.
- A comparison of the motion sensor identification number printed on the body of the motion sensor with the information contained within the vehicle unit record. If needs be an electronic test tool could be used to check the electronic identification of the motion sensor. Where there is any mismatch of the identification numbers it can be assumed that a manipulation device is fitted. The Member State Enforcement Authorities could be informed and the incident recorded on the inspection report and the inspection register.

*E. Special procedures as a result of a roadside check*

- 4.29. Control Officers could have directed a suspicious vehicle to a workshop. In such circumstances, the control officers could firstly instruct workshops and fitters to download all data files from the vehicle unit. These files include the *Overview File*, the *Detailed Speed File*, the *Technical File* and the *Events & Faults File*. The appropriate digital signature must accompany such files.
- 4.30. A full check could be performed on the recorded data as well as with technical means (reference cable, check of the seals ...).
- 4.31. If serious inconsistencies are found but without the detection of a manipulation device, it could be concluded that a manipulation device has been used and removed. In such a case, the control officer ought to inform the body for the coordination of enforcement actions, according to Article 2 of Directive 2006/22/EC and/or the body for intra-community liaison, according to Art 7 of the same Directive, if the vehicle is registered in another Member State. This could lead to further investigation as far as the vehicle of the undertaking are concerned.

### Chapter 5: Report and audit of workshops

- 5.1. Workshops could draw up an inspection report for each inspection of one vehicle where recording equipment is required to be inspected, whether the inspection is part of a periodic inspection, or at the specific request of the national competent authority. They could also record in a register the list of all the inspection reports.
- 5.2. The inspection report could be kept by the workshop for a minimum period of two years from the time the report was made and, whenever requested to do so by the national competent authority, make available all records of inspections and calibrations for that period.
- 5.3. Such findings made by authorised workshops, (records of broken, damaged or missing seals; missing plaques; incomplete or mismatched information between what was recorded on the vehicle unit and what was contained on the motion-sensor and; any detection of manipulation devices; copies of print-outs relating to the *Events & Faults File* and any other relevant print-outs), could, for example, form part of the regular reporting format and Member State Competent Authorities are encouraged to ensure that this is in fact the case.
- 5.4. Member States could consider that failure by workshops to provide duly completed inspection reports as a breach of the rules which may lead to the withdrawal of the workshop authorization.
- 5.5. Member States could perform audits of workshop inspection reports and registers at least once every two years. Such audits could include a random check of inspection reports related to the inspection and calibration of digital tachographs. Workshop cards could also be checked, and regularly downloaded to avoid data being lost or overwritten.

#### SUMMARY BOX

##### PREVENTING ATTACKS AGAINST DIGITAL TACHOGRAPH DURING WORKSHOP INSPECTION

When approving and regularly controlling workshops, Member States should ensure that their staff is properly trained and that they have access to all the necessary equipment to download data and carry out certain specific tests.

Workshops could be instructed by their Competent Authority not reseal a digital tachograph where a manipulation device has been detected until the device has been removed, and the tachograph fully recalibrated so that it records correctly. Furthermore, workshops could also be instructed by their Competent Authority to remove the installation plaque.

The inspections by workshops could include:

- physical checks of the seals, installation and manufacturer's plaques
- an analysis of downloaded data files, especially the *Events & Faults File*
- where appropriate a test with a reference cable technique

The workshops could record in an inspection report missing or damaged seals and attach to the report print-out of the downloaded files. The inspection reports could be made accessible to national authorities for two years.

The regular controls of workshops by Member States could include an audit of the inspection procedures, including a random check of inspection reports.

Member States could make sure that workshops inform the competent authority whenever they detect manipulation devices or find serious inconsistencies suggesting that a manipulation device have been used before to be uninstalled.

In such a case and when the vehicle is registered in another Member State, Member States could inform the body for intra-community liaison, in order to proceed with further investigation as far as the vehicle of the undertaking are concerned.

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**Chapter 6: Final provisions**

- 6.1. Detecting and preventing the use of devices to defraud the tachograph system is an ongoing process and one that requires constant vigilance in addressing. As technology advances, so then do the methods and threats created to defeat the system. To this end all those involved in the security of the tachograph system, whether they are control officers, approved workshops and fitters, or legitimate and law-abiding operators and drivers, have a part to play.
  - 6.2. At national level Member States should be encouraged to obtain as much information as they can, to develop their own strategies in dealing with such threats, and strongly supported in the sharing of such information. New, or different threats, or attempts to defraud the system should be brought to the Commission's attention.
  - 6.3. At Community level, the Commission will continue to review the situation, and the application of the rules, and seek the support and co-operation of all Member States and industry stakeholders.
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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.