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## I

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

## REGULATIONS

## COUNCIL REGULATION (EC) No 246/2009

of 26 February 2009

**on the application of Article 81(3) of the Treaty to certain categories of agreements, decisions and concerted practices between liner shipping companies (consortia)**

(Codified version)

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty establishing the European Community, and in particular Article 83 thereof,

Having regard to the proposal from the Commission,

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

Whereas:

(1) Council Regulation (EEC) No 479/92 of 25 February 1992 on the application of Article 85(3) of the Treaty to certain categories of agreements, decisions and concerted practices between liner shipping companies (consortia) <sup>(2)</sup> has been substantially amended several times <sup>(3)</sup>. In the interests of clarity and rationality the said Regulation should be codified.

(2) Article 81(1) of the Treaty may in accordance with Article 81(3) thereof be declared inapplicable to categories of agreements, decisions and concerted practices which fulfil the conditions contained in Article 81(3).

(3) Pursuant to Article 83 of the Treaty, the provisions for the application of Article 81(3) of the Treaty should be adopted by way of Regulation or Directive. According to Article 83(2)(b), these provisions must lay down detailed rules for the application of Article 81(3), taking into account the need to ensure effective supervision, on the one hand, and to simplify administration to the greatest possible extent on the other. According to Article 83(2)(d), these provisions are required to define the respective functions of the Commission and of the Court of Justice.

(4) Liner shipping is a capital intensive industry. Containerisation has increased pressures for cooperation and rationalisation. The Community shipping industry should attain the necessary economies of scale in order to compete successfully on the world liner shipping market.

(5) Joint-service agreements between liner shipping companies with the aim of rationalising their operations by means of technical, operational and/or commercial arrangements (described in shipping circles as consortia) can help to provide the necessary means for improving the productivity of liner shipping services and promoting technical and economic progress.

(6) Maritime transport is important for the development of the Community's trade and the consortia agreements may play a role in this respect, taking account of the special features of international liner shipping. The legalisation of these agreements is a measure which can make a positive contribution to improving the competitiveness of shipping in the Community;

<sup>(1)</sup> Opinion of the European Parliament of 23 April 2008 (not yet published in the Official Journal).

<sup>(2)</sup> OJ L 55, 29.2.1992, p. 3.

<sup>(3)</sup> See Annex I.

- (7) Users of the shipping services offered by consortia can obtain a share of the benefits resulting from the improvements in productivity and service, by means of, inter alia, regularity, cost reductions derived from higher levels of capacity utilisation, and better service quality stemming from improved vessels and equipment.
- (8) The Commission should be enabled to declare by way of Regulation that the provisions of Article 81(1) of the Treaty do not apply to certain categories of consortia agreements, decisions and concerted practices, in order to make it easier for undertakings to cooperate in ways which are economically desirable and without adverse effect from the point of view of competition policy. The Commission, in close and constant liaison with the competent authorities of the Member States, should be able to define precisely the scope of these exemptions and the conditions attached to them.
- (9) Consortia in liner shipping are a specialised and complex type of joint venture. There is a great variety of different consortia agreements operating in different circumstances. The scope, parties, activities or terms of consortia are frequently altered. The Commission should therefore be given the responsibility of defining from time to time the consortia to which a group exemption should apply.
- (10) In order to ensure that all the conditions of Article 81(3) of the Treaty are met, conditions should be attached to group exemptions to ensure in particular that a fair share of the benefits will be passed on to shippers and that competition is not eliminated,

HAS ADOPTED THIS REGULATION:

#### Article 1

1. The Commission may by Regulation and in accordance with Article 81(3) of the Treaty, declare that Article 81(1) of the Treaty shall not apply to certain categories of agreements between undertakings, decisions of associations of undertakings and concerted practices that have as an object to promote or establish cooperation in the joint operation of maritime transport services between liner shipping companies, for the purpose of rationalising their operations by means of technical, operational or commercial arrangements with the exception of price fixing (consortia).

2. Such Regulation adopted pursuant to paragraph 1 of this article shall define the categories of agreements, decisions and concerted practices to which it applies and shall specify

the conditions and obligations under which, pursuant to Article 81(3) of the Treaty, they shall be considered exempted from the application of Article 81(1) of the Treaty.

#### Article 2

1. The Regulation adopted pursuant to Article 1 shall apply for a period of five years, calculated as from the date of its entry into force.

2. The Regulation adopted pursuant to Article 1 may be repealed or amended where circumstances have changed with respect to any of the facts which were basic to its adoption.

#### Article 3

The Regulation adopted pursuant to Article 1 may include a provision stating that it applies with retroactive effect to agreements, decisions and concerted practices which were in existence at the date of entry into force of such Regulation, provided they comply with the conditions established in that Regulation.

#### Article 4

The Regulation adopted pursuant to Article 1 may stipulate that the prohibition contained in Article 81(1) of the Treaty shall not apply, for such a period as fixed by that Regulation, to agreements, decisions and concerted practices already in existence at 1 January 1995, to which Article 81(1) applies by virtue of the accession of Austria, Finland and Sweden and which do not satisfy the conditions of Article 81(3). However, this Article shall not apply to agreements, decisions and concerted practices which, as at 1 January 1995, already fell under Article 53(1) of the EEA Agreement.

#### Article 5

Before adopting the Regulation referred to in Article 1, the Commission shall publish a draft thereof to enable all the persons and organisations concerned to submit their comments within such reasonable time limit as the Commission shall fix, but in no case less than one month.

#### Article 6

Before publishing the draft Regulation and before adopting the Regulation pursuant to Article 1, the Commission shall consult the Advisory Committee on Restrictive Practices and Dominant Positions referred to in Article 14 of Council Regulation (EC) No 1/2003 of 16 December 2002 on the implementation of the rules on competition laid down in Articles 81 and 82 of the Treaty <sup>(1)</sup>.

<sup>(1)</sup> OJ L 1, 4.1.2003, p. 1.

*Article 7*

Regulation (EEC) No 479/92, as amended by the acts listed in Annex I, is repealed.

References to the repealed Regulation shall be construed as references to this Regulation and shall be read in accordance with the correlation table in Annex II.

*Article 8*

This Regulation shall enter into force on the 20th 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, 26 February 2009.

*For the Council*

*The President*

I. LANGER

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## ANNEX I

**Repealed Regulation with list of its successive amendments**

(referred to in Article 7)

Council Regulation (EEC) No 479/92  
(OJ L 55, 29.2.1992, p. 3)

Council Regulation (EC) No 1/2003  
(OJ L 1, 4.1.2003, p. 1)

Article 42 only

1994 Act of Accession, Article 29 and Annex I, point IIIA.4  
(OJ C 241, 29.8.1994, p. 56)

## ANNEX II

**CORRELATION TABLE**

Regulation (EEC) No 479/92	This Regulation
Articles 1, 2 and 3	Articles 1, 2 and 3
Article 3a	Article 4
Article 4	Article 5
Article 5	Article 6
—	Article 7
Article 7	Article 8
—	Annex I
—	Annex II

**COMMISSION REGULATION (EC) No 247/2009**  
**of 24 March 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 25 March 2009.

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

Done at Brussels, 24 March 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	82,5
	JO	64,0
	MA	61,5
	TN	134,4
	TR	101,8
	ZZ	88,8
0707 00 05	JO	167,2
	MA	69,5
	TR	146,8
	ZZ	127,8
0709 90 70	MA	52,9
	TR	139,7
	ZZ	96,3
0709 90 80	EG	60,4
	ZZ	60,4
0805 10 20	EG	44,2
	IL	60,0
	MA	44,2
	TN	49,5
	TR	70,6
	ZZ	53,7
0805 50 10	TR	53,5
	ZZ	53,5
0808 10 80	AR	91,7
	BR	75,3
	CA	110,4
	CL	84,2
	CN	68,6
	MK	21,2
	US	115,4
	UY	67,9
	ZA	82,7
	ZZ	79,7
0808 20 50	AR	81,3
	CL	96,6
	CN	66,7
	ZA	91,6
	ZZ	84,1

<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 248/2009****of 19 March 2009****laying down detailed rules for the application of Council Regulation (EC) No 104/2000 as regards notifications concerning recognition of producer organisations, the fixing of prices and intervention within the scope of the common organisation of the market in fishery and aquaculture products (recast)**

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Council Regulation (EC) No 104/2000 of 17 December 1999 on the common organisation of the markets in fishery and aquaculture products <sup>(1)</sup>, and in particular Article 34(2) thereof,

Whereas:

- (1) Commission Regulation (EC) No 80/2001 of 16 January 2001 laying down detailed rules for the application of Council Regulation (EC) No 104/2000 as regards notifications concerning recognition of producer organisations, the fixing of prices and intervention within the scope of the common organisation of the market in fishery and aquaculture products <sup>(2)</sup> has been substantially amended several times <sup>(3)</sup>. Since further amendments are to be made as regards adjustments to the list of Member States' regions and to the currency codes used for the purposes of this Regulation, it should be recast in the interests of clarity.
- (2) In accordance with Article 13(6) of Regulation (EC) No 104/2000, the Commission publishes annually a list of recognised producer organisations and associations thereof. Member States must therefore provide it with adequate information.
- (3) The Commission has to be able to monitor the price stabilisation activities of the producer organisations and the way in which they apply the systems of financial compensation and carry-over premiums.
- (4) The Community intervention arrangements pursuant to Articles 21 to 26 of Regulation (EC) No 104/2000 require information to be available on the prices recorded in clearly defined regions at regular intervals.
- (5) A system of electronic transmission of data between the Member States and the Commission has been introduced within the framework of management of the common fisheries policy (FIDES II system). It should be used for the purposes of collecting the information referred to in this Regulation.

- (6) The measures provided for in this Regulation are in accordance with the opinion of the Management Committee for Fishery Products,

HAS ADOPTED THIS REGULATION:

## CHAPTER I

**Notifications regarding recognition of producer organisations and associations thereof***Article 1*

Member States shall notify the Commission of the information referred to in Articles 6(1)(c) and 13(3)(d) of Regulation (EC) No 104/2000 within two months of the date of the adopted decision at the latest.

This information and the format in which it is to be sent shall be as set out in Annex I to this Regulation.

## CHAPTER II

**Prices and intervention***Article 2*

Member States shall notify to the Commission, no later than two months after the beginning of each fishing year, the information referred to in Article 17(4) of Regulation (EC) No 104/2000.

Member States shall notify the Commission immediately of any change in the details referred to in the first paragraph.

This information and the format in which it is to be sent shall be as set out in Annex II to this Regulation.

*Article 3*

For the species listed in Annexes I and IV to Regulation (EC) No 104/2000, Member States shall notify the Commission of the quantities landed, sold, withdrawn and carried over throughout their territory, together with the value of the quantities sold, in each quarter in the various regions defined in Table 1 of Annex VIII to this Regulation, no later than seven weeks after the quarter in question.

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

<sup>(2)</sup> OJ L 13, 17.1.2001, p. 3.

<sup>(3)</sup> See Annex IX.

Where there is a crisis for one or more species listed in Annex I to Regulation (EC) No 104/2000, Member States shall notify the Commission of the quantities landed, sold, withdrawn and carried over throughout their territory, together with the value of the quantities sold, in each fortnight in the various regions defined in Table 1 of Annex VIII to this Regulation, no later than two weeks after the fortnight in question.

This information and the format in which it is to be sent shall be as set out in Annex III to this Regulation.

#### *Article 4*

Member States shall notify the Commission every quarter, for each product listed in Annex I to Regulation (EC) No 104/2000 that has been withdrawn, of the value and the quantities disposed of, broken down by the disposal options laid down in Article 1 of Commission Regulation (EC) No 2493/2001 <sup>(1)</sup>, no later than eight weeks after the quarter in question.

This information and the format in which it is to be sent shall be as set out in Annex IV to this Regulation.

#### *Article 5*

Member States shall notify the Commission, for each product listed in Annex II to Regulation (EC) No 104/2000, of the quantities landed, sold, and stored, together with the value of the quantities sold, in each quarter in the various regions defined in Table 1 of Annex VIII to this Regulation, no later than six weeks after the quarter in question.

This information and the format in which it is to be sent shall be as set out in Annex V to this Regulation.

#### *Article 6*

Member States shall notify the Commission, for each product listed in Annex III to Regulation (EC) No 104/2000, of the quantities landed, sold, and delivered to industry by producer organisations, together with the value of the quantities delivered

to industry, in each month in the various regions defined in Table 1 of Annex VIII to this Regulation, no later than six weeks after the month in question.

This information and the format in which it is to be sent shall be as set out in Annex VI to this Regulation.

#### *Article 7*

Member States shall provide the Commission each year, within three months of the end of the year in question, with information to enable the technical costs relating to the operations required for stabilisation and storage provided for in Articles 23 and 25 of Regulation (EC) No 104/2000 to be determined.

This information and the format in which it is to be sent shall be as set out in Annex VII to this Regulation.

### CHAPTER III

#### **General and final provisions**

#### *Article 8*

Member States shall send the information to the Commission by electronic means, using the transmission systems currently used for data exchange within the framework of management of the common fisheries policy (FIDES II system).

#### *Article 9*

Regulation (EC) No 80/2001 is repealed.

References to the repealed Regulation shall be construed as references to this Regulation and shall be read in accordance with the correlation table in Annex X.

#### *Article 10*

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

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

Done at Brussels, 19 March 2009.

*For the Commission*

Joe BORG

*Member of the Commission*

<sup>(1)</sup> OJ L 337, 20.12.2001, p. 20.

## ANNEX I

## Information on producer organisations and associations thereof

Registration No	Field name	Type	Format	Size	Code
1	Message identification	<REQUEST.NAME>	Text		MK-PO
2	Member State	<REQUEST.COUNTRY.ISO_A3>	Text	3	Tab. 1
3	Date sent	<DSE>	YYYYMMDD	8	
4	Type of message	<TYP>	Text	3	INS = new MOD = amendment DEL = recognition withdrawn
5	No of PO or PO association	<NOP>	Text	7	Only for message type 'MOD' or 'DEL'
6	Name	<NOM>	Text		
7	Official abbreviation	<ABB>			where available
8	National No	<NID>			where available
9	Area of competence	<ARE>	Text		
10	Activity	<ACT>	Text	6	Tab. 10
11	Date set up	<DCE>	YYYYMMDD		
12	Date constitution drawn up	<DST>	YYYYMMDD		
13	Date recognition granted	<DRE>	YYYYMMDD		
14	Date recognition withdrawn	<DRA>	YYYYMMDD		Only for message type 'DEL'
15	Address 1	<ADR1>	Text		
16	Address 2	<ADR2>	Text		
17	Address 3	<ADR3>			
18	Postcode	<CPO>	Text		
19	Place	<LOC>	Text		
20	Telephone No 1	<TEL1>	Text		+ nn(nn)nnn.nnn.nnn
21	Telephone No 2	<TEL2>	Text		+ nn(nn)nnn.nnn.nnn

Registration No	Field name	Type	Format	Size	Code
22	Fax No	<FAX>	Text		+ nn(nn)nnn.nnn.nnn
23	E-mail	<MEL>	Text		
24	Address of website	<WEB>	Text		
25 et seq.	No of member PO	<ADH>	Text		For PO associations, list of member POs

## ANNEX II

**Withdrawal prices applied by producer organisations**

Send two months after the beginning of the fishing year

Registration No	Data concerned	Identification of type of data	Format	Size	Code
1	Message identification	<REQUEST.NAME>	Text		MK-PO-WP
2	Member State	<REQUEST.COUNTRY.ISO_A3>	Text	3	Tab. 1
3	Serial No	<LOT>	Numeric	4	Serial No allocated by the Member State
4	Type of message	<MTYP>		19	INS NOTIFICATION SUP NOTIFICATION REP NOTIFICATION INS IN NOTIFICATION MOD IN NOTIFICATION SUP IN NOTIFICATION
5	Date sent	<DSE>	YYYYMMDD	8	
6	Type of period	<PTYP>	Y	1	Y = annual
7	Identification of period	<IDP>	PPP/YYYY	8	PPP = sequence YYYY = year
8	Currency used	<MON>	Text	3	Tab. 6
9 et seq.	PO identification code	<DAT>	Text	7	CCC-999
	Species code		Text	3	Tab. 7
	Preservation code		Text	3	Tab. 4
	Presentation code		Text	2	Tab. 3
	Freshness code		Text	2	Tab. 5
	Size code		Text	3	Tab. 2
	Withdrawal price		Whole number		In accordance with currency indicated in registration No 8, per 1 000 kg
	Region where withdrawal price adjusted by a regional coefficient		Text		Tab. 8

## ANNEX III

## Products in Annexes I and IV to Regulation (EC) No 104/2000

## Quarterly notification

Registration No	Data concerned	Identification of type of data	Format	Size	Code
1	Message identification	<REQUEST.NAME>	Text		MK-FRESH
2	Member State	<REQUEST.COUNTRY.ISO_A3>	Text	3	Tab. 1
3	Serial No	<LOT>	Numeric	4	Serial No allocated by the Member State
4	Type of message	<MTYP>		19	INS NOTIFICATION SUP NOTIFICATION REP NOTIFICATION INS IN NOTIFICATION MOD IN NOTIFICATION SUP IN NOTIFICATION
5	Date sent	<DSE>	YYYYMMDD	8	
6	Type of period	<PTYP>	Q or C	1	Q = quarter C = crisis
7	Identification of period	<IDP>	PPP/YYYY	8	PPP = sequence 1-4 for quarter 1-24 for fortnight YYYY = year
8	Currency used	<MON>	Text	3	Tab. 6
9 <i>et seq.</i>	Region of landing (NUTS code)	<DAT>	Text	7	Tab. 1
	Species code		Text	3	Tab. 7
	Preservation code		Text	3	Tab. 4
	Presentation code		Text	2	Tab. 3
	Freshness code		Text	2	Tab. 5
	Size code		Text	3	Tab. 2
	Value of quantities sold		Whole number		In accordance with currency indicated in registration No 8
	Quantities sold		Whole number		kg
	Quantities withdrawn at Community price		Whole number		kg

Registration No	Data concerned	Identification of type of data	Format	Size	Code
	Quantities withdrawn at autonomous price		Whole number		kg
	Quantities carried over		Whole number		kg

## ANNEX IV

**Products in Annex I to Regulation (EC) No 104/2000***Use of products withdrawn from the market*

## Quarterly notification

Registration No	Data concerned	Identification of type of data	Format	Size	Code
1	Message identification	<REQUEST.NAME>	Text		MK-STD-VAL
2	Member State	<REQUEST.COUNTRY.ISO_A3>	Text	3	Tab. 1
3	Serial No	<LOT>	Numeric	4	Serial No allocated by the Member State
4	Type of message	<MTYP>		19	INS NOTIFICATION SUP NOTIFICATION REP NOTIFICATION INS IN NOTIFICATION MOD IN NOTIFICATION SUP IN NOTIFICATION
5	Date sent	<DSE>	YYYYMMDD	8	
6	Type of period	<PTYP>	Q	1	Q = quarter
7	Identification of period	<IDP>	PPP/YYYY	8	PPP = sequence 1-4 YYYY = year
8	Currency used	<MON>	Text	3	Tab. 6
9 et seq.	Species code	<DAT>	Text	3	Tab. 7
	Destination code		Text	6	Tab. 9
	Value of quantities sold or transferred		Whole number		In accordance with currency indicated in registration No 8 '0' permitted for quantities transferred
	Quantities sold or transferred		Whole number		kg

## ANNEX V

## Products in Annex II to Regulation (EC) No 104/2000 (Quarterly notification)

Registration No	Data concerned	Identification of type of data	Format	Size	Code
1	Message identification	<REQUEST.NAME>	Text		MK-FROZEN
2	Member State	<REQUEST.COUNTRY.ISO_A3>	Text	3	Tab. 1
3	Serial No	<LOT>	Numeric	4	Serial No allocated by the Member State
4	Type of message	<MTYP>		19	INS NOTIFICATION SUP NOTIFICATION REP NOTIFICATION INS IN NOTIFICATION MOD IN NOTIFICATION SUP IN NOTIFICATION
5	Date sent	<DSE>	YYYYMMDD	8	
6	Type of period	<PTYP>	Q	1	Q = quarter
7	Identification of period	<IDP>	PPP/YYYY	8	PPP = sequence 1 – 4 YYYY = year
8	Currency used	<MON>	Text	3	Tab. 6
9 et seq.	Region of landing (NUTS code)	<DAT>	Text	7	Tab. 1
	Species code	<DAT>	Text	3	Tab. 7
	Preservation code		Text	3	Tab. 4
	Presentation code		Text	2	Tab. 3
	Freshness code		Text	2	Tab. 5
	Size code		Text	3	Tab. 2
	Value of quantities sold		Whole number		In accordance with currency indicated in registration No 8
	Quantities sold before storage		Whole number		kg
	Quantities placed in storage		Whole number		kg
	Quantities removed from storage		Whole number		kg

## ANNEX VI

## Products in Annex III to Regulation (EC) No 104/2000

Frequency: monthly

Registration No	Data concerned	Identification of type of data	Format	Size	Code
1	Message identification	<REQUEST.NAME>	Text		MK-TUNA
2	Member State	<REQUEST.COUNTRY.ISO_A3>	Text	3	Tab. 1
3	Serial No	<LOT>	Numeric	4	Serial No allocated by the Member State
4	Type of message	<MTYP>		19	INS NOTIFICATION SUP NOTIFICATION REP NOTIFICATION INS IN NOTIFICATION MOD IN NOTIFICATION SUP IN NOTIFICATION
5	Date sent	<DSE>	YYYYMMDD	8	
6	Type of period	<PTYP>	M	1	M = monthly
7	Identification of period	<IDP>	PPP/YYYY	7	PPP = sequence 1-12 YYYY = year
8	Currency used	<MON>	Text	3	Tab. 6
9 <i>et seq.</i>	Producer organisation	<DAT>	Text	7	CCC-999
	Species code		Text	3	Tab. 7
	Preservation code		Text	3	Tab. 4
	Presentation code		Text	2	Tab. 3
	Size code		Text	3	Tab. 2
	Value of quantities sold and delivered to industry		Whole number		In accordance with currency indicated in registration No 8
	Quantities sold and delivered to industry		Whole number		kg

## ANNEX VII

## Products in Annexes I and II to Regulation (EC) No 104/2000

Frequency: annual

Registration No	Data concerned	Identification of type of data	Format	Size	Code
1	Message identification	<REQUEST.NAME>	Text		MK-TECH
2	Member State	<REQUEST.COUNTRY.ISO_A3>	Text	3	Tab. 1
3	Serial No	<LOT>	Numeric	4	Serial No allocated by the Member State
4	Type of message	<MTYP>		19	INS NOTIFICATION SUP NOTIFICATION REP NOTIFICATION INS IN NOTIFICATION MOD IN NOTIFICATION SUP IN NOTIFICATION
5	Date sent	<DSE>	YYYYMMDD	8	
6	Type of period	<PTYP>	Y	1	Y = annual
7	Identification of period	<IDP>	PPP/YYYY	7	PPP = 1 YYYY = year
8	Currency used	<MON>	Text	3	Tab. 6
9 et seq.	Product code	<DAT>	Text	3	1AB = Annex I product, AB 1C = Annex I product, C 2 = Annex II product
	Technical costs code		Text	2	Tab. 11
	Labour costs		Whole number		In accordance with currency indicated in registration No 8
	Energy costs		Whole number		In accordance with currency indicated in registration No 8
	Transport costs		Whole number		In accordance with currency indicated in registration No 8
	Other costs (packaging, marinade, direct wrapping, etc.)		Whole number		In accordance with currency indicated in registration No 8

## ANNEX VIII

Table 1

NUTS codes 'ISO-A3'	COUNTRY	NUTS name
BE	BELGIQUE-BELGIE	
BE10		REG.BRUXELLES-CAP./BRUSSELS HFDST.GEW.
BE21		PROV. ANTWERPEN
BE22		PROV. LIMBURG (B)
BE23		PROV. OOST-VLAANDEREN
BE24		PROV. VLAAMS BRABANT
BE25		PROV. WEST-VLAANDEREN
BE31		PROV. BRABANT WALLON
BE32		PROV. HAINAUT
BE33		PROV. LIEGE
BE34		PROV. LUXEMBOURG (B)
BE35		PROV. NAMUR
BG	България	
BG01		SEVEROZAPADEN
BG02		SEVEREN TSENTRALEN
BG03		SEVEROIZTOCHEN
BG04		YUGOZAPADEN
BG05		YUZHEN TSENTRALEN
BG06		YUGOIZTOCHEN
CZ	ČESKÁ REPUBLIKA	
CZ01		PRAHA
DK	DANMARK	
DK011		BYEN KØBENHAVN
DK012		KØBENHAVNS OMEGN
DK013		NORDSJÆLLAND
DK014		BORNHOLM
DK021		ØSTSJÆLLAND
DK022		VEST – OG SYDSJÆLLAND
DK031		FYN
DK032		SYDJYLLAND
DK041		VESTJYLLAND
DK042		ØSTJYLLAND
DK050		NORDJYLLAND
DE	DEUTSCHLAND	
DE11		STUTTGART
DE12		KARLSRUHE
DE13		FREIBURG

NUTS codes 'ISO-A3'	COUNTRY	NUTS name
DE14		TÜBINGEN
DE21		OBERBAYERN
DE22		NIEDERBAYERN
DE23		OBERPFALZ
DE24		OBERFRANKEN
DE25		MITTELFRAKEN
DE26		UNTERFRANKEN
DE27		SCHWABEN
DE30		BERLIN
DE41		BRANDENBURG - NORDOST
DE42		BRANDENBURG - SÜDWEST
DE50		BREMEN
DE60		HAMBURG
DE71		DARMSTADT
DE72		GIEßEN
DE73		KASSEL
DE80		MECKLENBURG-VORPOMMERN
DE91		BRAUNSCHWEIG
DE92		HANNOVER
DE93		LÜNEBURG
DE94		WESER-EMS
DEA1		DÜSSELDORF
DEA2		KÖLN
DEA3		MÜNSTER
DEA4		DETMOLD
DEA5		ARNSBERG
DEB1		KOBLENZ
DEB2		TRIER
DEB3		RHEINHESSEN-PFALZ
DECO		SAARLAND
DED1		CHEMNITZ
DED2		DRESDEN
DED3		LEIPZIG
DEE0		SACHSEN-ANHALT
DEF0		SCHLESWIG-HOLSTEIN
DEG0		THÜRINGEN
EE	EESTI	
EE001		PÕHJA-EESTI
EE004		LÄÄNE-EESTI
EE006		KESK-EESTI
EE007		KIRDE-EESTI
EE008		LÕUNA-EESTI

NUTS codes 'ISO-A3'	COUNTRY	NUTS name
GR	ΕΛΛΑΔΑ	
GR11		Ανατολική Μακεδονία, Θράκη
GR12		Κεντρική Μακεδονία
GR13		Δυτική Μακεδονία
GR14		Θεσσαλία
GR21		Ήπειρος
GR22		Ιόνια Νησιά
GR23		Δυτική Ελλάδα
GR24		Στερεά Ελλάδα
GR25		Πελοπόννησος
GR30		Αττική
GR41		Βόρειο Αιγαίο
GR42		Νότιο Αιγαίο
GR43		Κρήτη
ES	ESPAÑA	
ES11		GALICIA
ES12		PRINCIPADO DE ASTURIAS
ES13		CANTABRIA
ES21		PAÍS VASCO
ES22		COMUNIDAD FORAL DE NAVARRA
ES23		LA RIOJA
ES24		ARAGÓN
ES30		COMUNIDAD DE MADRID
ES41		CASTILLA Y LEÓN
ES42		CASTILLA-LA MANCHA
ES43		EXTREMADURA
ES51		CATALUÑA
ES52		COMUNIDAD VALENCIANA
ES53		ILLES BALEARS
ES61		ANDALUCÍA
ES62		REGIÓN DE MURCIA
ES63		CIUDAD AUTÓNOMA DE CEUTA
ES64		CIUDAD AUTÓNOMA DE MELILLA
ES70		CANARIAS
FR	FRANCE	
FR1		ÎLE DE FRANCE
FR21		CHAMPAGNE-ARDENNE
FR22		PICARDIE
FR23		HAUTE-NORMANDIE
FR24		CENTRE
FR25		BASSE-NORMANDIE
FR26		BOURGOGNE

NUTS codes 'ISO-A3'	COUNTRY	NUTS name
FR30		NORD-PAS-DE-CALAIS
FR41		LORRAINE
FR42		ALSACE
FR43		FRANCHE-COMTÉ
FR51		PAYS DE LA LOIRE
FR521		CÔTES-D'ARMOR
FR522		FINISTÈRE
FR523		ILLE-ET-VILAINE
FR524		MORBIHAN
FR53		POITOU-CHARENTES
FR61		AQUITAINE
FR62		MIDI-PYRÉNÉES
FR63		LIMOUSIN
FR71		RHÔNE-ALPES
FR72		AUVERGNE
FR81		LANGUEDOC-ROUSSILLON
FR82		PROVENCE-ALPES-CÔTE D'AZUR
FR83		CORSE
FR91		GUADELOUPE
FR92		MARTINIQUE
FR93		GUYANE
FR94		RÉUNION
IE	IRELAND	
IE011		BORDER
IE012		MIDLAND
IE013		WEST
IE021		DUBLIN
IE022		MID-EAST
IE023		MID-WEST
IE024		SOUTH-EAST (IRL)
IE025		SOUTH-WEST (IRL)
IT	ITALIA	
ITC1		PIEMONTE
ITC2		VALLE D'AOSTA/VALLEE D'AOSTE
ITC3		LIGURIA
ITC4		LOMBARDIA
ITD1		PROVINCIA AUTONOMA BOLZANO/BOZEN
ITD2		PROVINCIA AUTONOMA TRENTO
ITD3		VENETO
ITD4		FRIULI-VENEZIA GIULIA

NUTS codes 'ISO-A3'	COUNTRY	NUTS name
ITD5		EMILIA-ROMAGNA
ITE1		TOSCANA
ITE2		UMBRIA
ITE3		MARCHE
ITE4		LAZIO
ITF1		ABRUZZO
ITF2		MOLISE
ITF3		CAMPANIA
ITF4		PUGLIA
ITF5		BASILICATA
ITF6		CALABRIA
ITG1		SICILIA
ITG2		SARDEGNA
CY	KYΠΡΟΣ/KIBRIS	
LV	LATVIJA	
LV003		KURZEME
LV005		LATGALE
LV006		RĪGA
LV007		PIERĪGA
LV008		VIDZEME
LV009		ZEMGALE
LT	LIETUVA	
LT001		ALYTAUS APSKRITIS
LT002		KAUNO APSKRITIS
LT003		KLAIPĖDOS APSKRITIS
LT004		MARIJAMPOLĖS APSKRITIS
LT005		PANEVĖŽIO APSKRITIS
LT006		ŠIAULIŲ APSKRITIS
LT007		TAURAGĖS APSKRITIS
LT008		TELŠIŲ APSKRITIS
LT009		UTENOS APSKRITIS
LT00A		VILNIAUS APSKRITIS
LU	LUXEMBOURG (GRAND-DUCHÉ)	
HU	MAGYARORSZÁG	
HU10		KÖZÉP-MAGYARORSZÁG
HU21		KÖZÉP-DUNÁNTÚL
HU22		NYUGAT-DUNÁNTÚL
HU23		DÉL-DUNÁNTÚL
HU31		ÉSZAK-MAGYARORSZÁG
HU32		ÉSZAK-ALFÖLD
HU33		DÉL-ALFÖLD

NUTS codes 'ISO-A3'	COUNTRY	NUTS name
MT	MALTA	
NL	NEDERLAND	
NL11		GRONINGEN
NL12		FRIESLAND (NL)
NL13		DRENTHE
NL21		OVERIJSEL
NL22		GELDERLAND
NL23		FLEVOLAND
NL31		UTRECHT
NL32		NOORD-HOLLAND
NL33		ZUID-HOLLAND
NL34		ZEELAND
NL41		NOORD-BRABANT
NL42		LIMBURG (NL)
AT	ÖSTERREICH	
AT11		BURGENLAND (A)
AT12		NIEDERÖSTERREICH
AT13		WIEN
AT21		KÄRNTEN
AT22		STEIERMARK
AT31		OBERÖSTERREICH
AT32		SALZBURG
AT33		TIROL
AT34		VORARLBERG
PL	POLSKA	
PL11		ŁÓDZKIE
PL12		MAZOWIECKIE
PL21		MAŁOPOLSKIE
PL22		ŚLĄSKIE
PL31		LUBELSKIE
PL32		PODKARPACKIE
PL33		ŚWIĘTOKRZYSKIE
PL34		PODLASKIE
PL41		WIELKOPOLSKIE
PL42		ZACHODNIOPOMORSKIE
PL43		LUBUSKIE
PL51		DOLNOŚLĄSKIE
PL52		OPOLSKIE
PL61		KUJAWSKO-POMORSKIE
PL62		WARMIŃSKO-MAZURSKIE
PL63		POMORSKIE

NUTS codes 'ISO-A3'	COUNTRY	NUTS name
PT	PORTUGAL	
PT11		NORTE
PT15		ALGARVE
PT16		CENTRO (P)
PT17		LISBOA
PT18		ALENTEJO
PT20		REGIÃO AUTÓNOMA DOS AÇORES
PT30		REGIÃO AUTÓNOMA DA MADEIRA
RO	ROMÂNIA	
RO01		NORD-EST
RO02		SUD-EST
RO03		SUD
RO04		SUD-VEST
RO05		VEST
RO06		NORD-VEST
RO07		CENTRU
RO08		BUCUREȘTI
SI	SLOVENIJA	
SK	SLOVENSKÁ REPUBLIKA	
FI	SUOMI/FINLAND	
FI13		ITÄ-SUOMI
FI18		ETELÄ-SUOMI
FI19		LÄNSI-SUOMI
FI1A		POHJOIS-SUOMI
FI20		ÅLAND
SE	SVERIGE	
SE11		STOCKHOLM
SE12		ÖSTRA MELLANSVERIGE
SE21		SMÅLAND MED ÖARNA
SE22		SYDSVERIGE
SE23		VÄSTSVERIGE
SE31		NORRA MELLANSVERIGE
SE32		MELLERSTA NORRLAND
SE33		ÖVRE NORRLAND
UK	UNITED KINGDOM	
UKC1		TEES VALLEY AND DURHAM
UKC2		NORTHUMBERLAND AND TYNE AND WEAR
UKD1		CUMBRIA
UKD2		CHESHIRE
UKD3		GREATER MANCHESTER

NUTS codes 'ISO-A3'	COUNTRY	NUTS name
UKD4		LANCASHIRE
UKD5		MERSEYSIDE
UKE1		EAST YORKSHIRE AND NORTHERN LINCOLNSHIRE
UKE2		NORTH YORKSHIRE
UKE3		SOUTH YORKSHIRE
UKE4		WEST YORKSHIRE
UKF1		DERBYSHIRE AND NOTTINGHAMSHIRE
UKF2		LEICESTERSHIRE, RUTLAND AND NORTHAMPTONSHIRE
UKF3		LINCOLNSHIRE
UKG1		HEREFORDSHIRE, WORCESTERSHIRE AND WARWICKSHIRE
UKG2		SHROPSHIRE AND STAFFORDSHIRE
UKG3		WEST MIDLANDS
UKH1		EAST ANGLIA
UKH2		BEDFORDSHIRE AND HERTFORDSHIRE
UKH3		ESSEX
UKI1		INNER LONDON
UKI2		OUTER LONDON
UKJ1		BERKSHIRE, BUCKINGHAMSHIRE AND OXFORDSHIRE
UKJ2		SURREY, EAST AND WEST SUSSEX
UKJ3		HAMPSHIRE AND ISLE OF WIGHT
UKJ4		KENT
UKK1		GLOUCESTERSHIRE, WILTSHIRE AND BRISTOL/BATH AREA
UKK2		DORSET AND SOMERSET
UKK3		CORNWALL AND ISLES OF SCILLY
UKK4		DEVON
UKL1		WEST WALES AND THE VALLEYS
UKL2		EAST WALES
UKM2		EASTERN SCOTLAND
UKM3		SOUTH WESTERN SCOTLAND
UKM50		ABERDEEN CITY AND ABERDEENSHIRE
UKM61		CAITHNESS & SUTHERLAND AND ROSS & CROMARTY
UKM62		INVERNESS & NAIRN AND MORAY, BADENOCH & STRATHSPEY
UKM63		LOCHABER, SKYE & LOCHALSH, ARRAN & CUMBRAE AND ARGYLL & BUTE
UKM64		EILAN SIAR (WESTERN ISLES)
UKM65		ORKNEY ISLANDS
UKM66		SHETLAND ISLANDS
UKN		NORTHERN IRELAND

Table 2

**Size codes**

Code	Name
1	Size 1
2	Size 2
3	Size 3
4	Size 4
5	Size 5
6	Size 6
M10	≤ 10 kg
P10	> 10 kg
M4	≤ 4 kg
M1	≤ 1,1 kg
50	> 1,8 kg
51	≤ 1,8 kg
SO	Not applicable
M11	< 1,1 kg
M13	< 1,33 kg
B21	≥ 1,1 kg < 2,1 kg
B27	≥ 1,33 kg < 2,7 kg
P21	≥ 2,1 kg
P27	≥ 2,7 kg

Table 3

**Presentation codes**

Code	Presentation
1	Whole
12	Head off
3	Gutted with head
31	Gutted and gilled
32	Gutted and headed
61	Cleaned
25	Side
2	Fillet
62	Cylinder
63	Tubes
21	Standard fillet, with bones
22	Boneless fillets
23	Fillets, with skin
24	Fillets, without skin
51	Minced blocks

Code	Presentation
5	Pieces and other flesh
11	With or without head
9	Acceptable presentations other than whole or gutted with gills
26	Fillets in minced blocks < 4 kg
70	Cleaned, with head OR whole
71	All acceptable presentations for this species
72	All acceptable presentations other than fillets, pieces and other flesh
6	Cleaned, cylinders, tubes
7	Other presentations
SO	Not applicable

Table 4

**Preservation codes**

Code	Preservation
SO	Not applicable
V	Live
C	Frozen
CU	Cooked in water
S	Salted
FC	Fresh or frozen
FR	Fresh or chilled
PRE	Preparation
CSR	Canned fish
F	Fresh
R	Chilled

Table 5

**Freshness codes**

Code	Freshness
E	Extra
A	A
B	B
V	Live
SO	Not applicable

Table 6  
Currency codes

Code	Currency
EUR	Euro
BGN	Bulgarian lev
CZK	Czech koruna
DKK	Danish krone
EEK	Estonian kroon
GBP	Pound sterling
HUF	Hungarian forint
LTL	Lithuanian litas
LVL	Latvian lats
PLN	Polish złoty
RON	Romanian new leu
SEK	Swedish krona

Table 7

Code	Species
ALB	<i>Thunnus alalunga</i>
ALK	<i>Theragra chalcogramma</i>
BFT	<i>Thunnus thynnus</i>
BIB	<i>Trisopterus luscus</i>
BOG	Boops boops
BRA	<i>Brama</i> spp.
BRB	<i>Spondyliosoma cantharus</i>
BSF	<i>Aphanopus carbo</i>
CDZ	<i>Gadus</i> spp.
COD	<i>Gadus morhua</i>
COE	Conger conger
CRE	<i>Cancer pagurus</i>
CSH	Crangon crangon
CTC	<i>Sepia officinalis</i>
CTR	<i>Sepiola rondeleti</i>
DAB	<i>Limanda limanda</i>
DEC	<i>Dentex dentex</i>
DGS	<i>Squalus acanthias</i>
DOL	<i>Coryphaena hippurus</i>
DPS	<i>Parapenaeus longirostris</i>
ENR	<i>Engraulis</i> spp.
FLE	<i>Platichthys flesus</i>
GHL	<i>Rheinhardtius hippoglossoides</i>
GRC	<i>Gadus ogac</i>

Code	Species
GUY	<i>Triga</i> spp.
HAD	<i>Melanogrammus aeglefinus</i>
HER	<i>Clupea harengus</i>
HKE	<i>Merluccius merluccius</i>
HKP	<i>Merluccius hubbsi</i>
HKX	<i>Merluccius</i> spp.
ILL	<i>Illex</i> spp.
JAX	<i>Trachurus</i> spp.
LEM	<i>Mircostomus kitt</i>
LEZ	<i>Lepidorhombus</i> spp.
LNZ	<i>Molva</i> spp.
MAC	<i>Scomber scombrus</i>
MAS	<i>Scomber japonicus</i>
MAZ	<i>Scomber scombrus, japonicus, Orcynopsis unicolor</i>
MGS	<i>Mugil</i> spp.
MNZ	<i>Lophius</i> spp.
MUR	<i>Mullus surmuletus</i>
MUT	<i>Mullus barbatus</i>
NEP	<i>Nephrops norvegicus</i>
OCZ	<i>Octopus</i> spp.
PAX	<i>Pagellus</i> spp.
PCO	<i>Gadus macrocephalus</i>
PEN	<i>Penaeus</i> spp.
PIL	<i>Sardina pilchardus</i>
PLE	<i>Pleuronectes platessa</i>
POC	<i>Boreogadus saida</i>
POK	<i>Pollachius virens</i>
POL	<i>Pollachius pollachius</i>
PRA	<i>Pandalus borealis</i>
RED	<i>Sebastes</i> spp.
ROA	<i>Rossia macrosoma</i>
SCE	<i>Pecten maximus</i>
SCL	<i>Scyliorhinus</i> spp.
SFS	<i>Lepidopus caudatus</i>
SKA	<i>Raja</i> spp.
SKJ	<i>Katsuwonus pelamis</i>
SOO	<i>Solea</i> spp.
SPC	<i>Spicara smaris</i>
SPR	<i>Sprattus sprattus</i>
SQA	<i>Illex argentinus</i>
SQC	<i>Loligo</i> spp.
SQE	<i>Ommastrephes sagittatus</i>

Code	Species
SQE	<i>Todarodes sagittatus sagittatus</i>
SQI	<i>Illex illecebrosus</i>
SQL	<i>Loligo pealei</i>
SQN	<i>Loligo patagonica</i>
SQO	<i>Loligo opalescens</i>
SQR	<i>Loligo vulgaris</i>
SWO	<i>Xiphias gladius</i>
TUS	<i>Thunnus</i> spp. and <i>Euthynnus</i> spp. excluding <i>Thunnus thunnus</i> and <i>T. obesus</i>
WHB	<i>Micromesistius poutassou</i>
WHE	<i>Buccinum undatum</i>
WHG	<i>Merlangius merlangus</i>
YFT	<i>Thunnus albacares</i>

Table 8

## Regions where the withdrawal price is adjusted by a regional coefficient

Code	Region	Description of region
MADER	Azores and Madeira	Islands of Azores and Madeira
BALNOR	North Baltic	Baltic Sea north of 59° 30'
CANA	Canaries	Canary Islands
CORN	Cornwall	Coastal regions and islands of the countries of Cornwall and Devon in the United Kingdom
ECOS	Scotland	Coastal regions of north-east Scotland from Wick to Aberdeen
ECOIRL	Scotland and Northern Ireland	Coastal regions from Portpatrick in south-west Scotland to Wick in north-east Scotland, and the islands to the west and north of these regions. Coastal regions and islands of Northern Ireland
ESTECO	Scotland (east)	Coastal regions of Scotland from Portpatrick to Eyemouth, and the islands to the west and north of these regions
ESPATL	Spain (Atlantic)	Atlantic coastal regions of Spain (except the Canary Islands)
ESTANG	Eastern England	Eastern coastal regions of England, from Berwick to Dover. Coastal regions of Scotland from Portpatrick to Eyemouth, and the island to the west and north of these regions. County Down coastal regions
FRAATL	France (Atlantic, Channel, North)	French coastal regions on the Atlantic, English Channel and North Sea
IRL	Ireland	Irish coastal regions and islands
NIRL	Northern Ireland	County Down coastal regions (Northern Ireland)
PRT	Portugal	Portuguese Atlantic coastal regions
UER	Rest of the European Union	European Union with the exception of regions to which a regional coefficient applies

Code	Region	Description of region
EU	European Union	European Union as a whole
WECO	Scotland (west)	Coastal regions from Troon (south-west Scotland) to Wick (north-east Scotland) and the islands to the west and north of these regions
BALSUD	Baltic	Baltic Sea south of 59° 30'

Table 9

**Use of withdrawals**

Code	Use of withdrawals
FMEAL	Use following processing into meal (animal feed)
OTHER	Use fresh or preserved (animal feed)
NOALIM	Use for purposes other than feed
DIST	Free distribution
BAIT	Bait

Table 10

**Type of fishing**

Code	Type of fishing
D	Deep-sea fishing
H	High-sea fishing
C	Coastal fishing
L	Local small-scale fishing
O	Other types of fishing
A	Aquaculture

Table 11

**Type of technical cost**

Code	Type of technical cost
CO	Freezing
ST	Storage
FL	Filleting
SL	Salting — drying
MA	Marinades
CU	Cooking — pasteurisation
VV	Storage in fixed tanks

## ANNEX IX

**Repealed Regulation with the list of its successive amendments**

Commission Regulation (EC) No 80/2001 (OJ L 13, 17.1.2001, p. 3)

Commission Regulation (EC) No 2494/2001 (OJ L 337,  
20.12.2001, p. 22)  
2003 Act of Accession (Point 7.4 of Annex II, p. 445)

Commission Regulation (EC) No 1792/2006 (OJ L 362,  
20.12.2006, p. 1) Only as regards the reference in Article 1(1),  
fourth indent, to Commission Regulation (EC)  
No 80/2001, and as regards point 5(1) of  
Annex

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## ANNEX X

## Correlation Table

Regulation (EC) No 80/2001	This Regulation
Article 1	Article 1
Article 2	Article 2
Article 3	Article 3
Article 4	Article 4
Article 5	Article 5
Article 6	Article 6
Article 7	Article 7
Article 8	Article 8
Article 9	—
—	Article 9
Article 10	Article 10
Annex I	Annex I
Annex II	Annex II
Annex III	Annex III
Annex IV	Annex IV
Annex V	Annex V
Annex VI	Annex VI
Annex VII	Annex VII
Annex VIII	Annex VIII
—	Annex IX
—	Annex X

**COMMISSION REGULATION (EC) No 249/2009****of 23 March 2009****amending Council Regulation (EC) No 297/95 as regards the adjustment of the fees of the European Medicines Agency to the inflation rate**

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

is therefore appropriate that this Regulation enters into force as a matter of urgency and applies from that date,

Having regard to the Treaty establishing the European Community,

HAS ADOPTED THIS REGULATION:

Having regard to Council Regulation (EC) No 297/95 of 10 February 1995 on fees payable to the European Agency for the Evaluation of Medicinal Products <sup>(1)</sup>, and in particular Article 12 thereof,

*Article 1*

Regulation (EC) No 297/95 is amended as follows:

Whereas:

1. Article 3 is amended as follows:

(1) Article 67(3) of Regulation (EC) No 726/2004 of the European Parliament and of the Council of 31 March 2004 laying down Community procedures for the authorisation and supervision of medicinal products for human and veterinary use and establishing a European Medicines Agency <sup>(2)</sup>, stipulates that the revenue of the European Medicines Agency (hereinafter the Agency) shall consist of a contribution from the Community and fees paid by undertakings to the Agency. Regulation (EC) No 297/95 lays down the categories and levels of such fees.

(a) paragraph 1 is amended as follows:

(i) point (a) is amended as follows:

— in the first subparagraph, 'EUR 242 600' is replaced by 'EUR 251 600',

— in the second subparagraph, 'EUR 24 300' is replaced by 'EUR 25 200',

— in the third subparagraph, 'EUR 6 100' is replaced by 'EUR 6 300';

(2) Article 12 of Regulation (EC) No 297/95 lays down that the Commission shall review the fees of the Agency by reference to the inflation rate and update them, with effect from 1 April of each year.

(ii) point (b) is amended as follows:

— in the first subparagraph, 'EUR 94 100' is replaced by 'EUR 97 600',

— in the second subparagraph, 'EUR 156 800' is replaced by 'EUR 162 600',

— in the third subparagraph, 'EUR 9 400' is replaced by 'EUR 9 700',

(3) Those fees should therefore be updated by reference to the inflation rate of 2008. The inflation rate in the Community, as published by the Statistical Office of the European Communities (Eurostat), was 3,7 % in 2008.

— in the fourth subparagraph, 'EUR 6 100' is replaced by 'EUR 6 300';

(4) For the sake of simplicity, the adjusted levels of the fees should be rounded to the nearest EUR 100.

(5) Regulation (EC) No 297/95 should therefore be amended accordingly.

(iii) point (c) is amended as follows:

— in the first subparagraph, 'EUR 72 800' is replaced by 'EUR 75 500',

— in the second subparagraph, 'EUR 18 200 to EUR 54 600' is replaced by 'EUR 18 900 to EUR 56 600',

(6) For reasons for legal certainty this Regulation should not apply to valid applications which are pending on 1 April 2009.

(7) Pursuant to Article 12 of Regulation (EC) No 297/95 the update has to be made with effect from 1 April 2009. It

— in the third subparagraph, 'EUR 6 100' is replaced by 'EUR 6 300';

<sup>(1)</sup> OJ L 35, 15.2.1995, p. 1.

<sup>(2)</sup> OJ L 136, 30.4.2004, p. 1.

(b) paragraph 2 is amended as follows:

(i) the first subparagraph of point (a) is amended as follows:

— 'EUR 2 600' is replaced by 'EUR 2 700';

— 'EUR 6 100' is replaced by 'EUR 6 300';

(ii) point (b) is amended as follows:

— in the first subparagraph, 'EUR 72 800' is replaced by 'EUR 75 500';

— in the second subparagraph, 'EUR 18 200 to EUR 54 600' is replaced by 'EUR 18 900 to EUR 56 600';

(c) in paragraph 3, 'EUR 12 100' is replaced by 'EUR 12 500';

(d) in paragraph 4, 'EUR 18 200' is replaced by 'EUR 18 900';

(e) in paragraph 5, 'EUR 6 100' is replaced by 'EUR 6 300';

(f) paragraph 6 is amended as follows:

(i) in the first subparagraph, 'EUR 87 000' is replaced by 'EUR 90 200';

(ii) in the second subparagraph, 'EUR 21 700 to EUR 65 200' is replaced by 'EUR 22 500 to EUR 67 600'.

2. in Article 4, 'EUR 60 600' is replaced by 'EUR 62 800'.

3. Article 5 is amended as follows:

(a) paragraph 1 is amended as follows:

(i) point (a) is amended as follows:

— in the first subparagraph, 'EUR 121 300' is replaced by 'EUR 125 800';

— in the second subparagraph, 'EUR 12 100' is replaced by 'EUR 12 500';

— in the third subparagraph, 'EUR 6 100' is replaced by 'EUR 6 300';

— the fourth subparagraph is amended as follows:

— 'EUR 60 600' is replaced by 'EUR 62 800'

— 'EUR 6 100' is replaced by 'EUR 6 300';

(ii) point (b) is amended as follows:

— in the first subparagraph, 'EUR 60 600' is replaced by 'EUR 62 800';

— in the second subparagraph, 'EUR 102 500' is replaced by 'EUR 106 300';

— in the third subparagraph, 'EUR 12 100' is replaced by 'EUR 12 500';

— in the fourth subparagraph, 'EUR 6 100' is replaced by 'EUR 6 300';

— the fifth subparagraph is amended as follows:

— 'EUR 30 300' is replaced by 'EUR 31 400'

— 'EUR 6 100' is replaced by 'EUR 6 300';

(iii) point (c) is amended as follows:

— in the first subparagraph, 'EUR 30 300' is replaced by 'EUR 31 400';

— in the second subparagraph 'EUR 7 500 to EUR 22 700' is replaced by 'EUR 7 800 to EUR 23 500';

— in the third subparagraph, 'EUR 6 100' is replaced by 'EUR 6 300';

(b) Paragraph 2 is amended as follows:

(i) in point (a) 'EUR 2 600' is replaced by 'EUR 2 700' and 'EUR 6 100' is replaced by 'EUR 6 300';

(ii) point (b) is amended as follows:

— in the first subparagraph, 'EUR 36 400' is replaced by 'EUR 37 700';

— in the second subparagraph, 'EUR 9 100 to EUR 27 300' is replaced by 'EUR 9 400 to EUR 28 300';

— in the third subparagraph, 'EUR 6 100' is replaced by 'EUR 6 300';

- (c) in paragraph 3, 'EUR 6 100' is replaced by 'EUR 6 300';
- (d) in paragraph 4, 'EUR 18 200' is replaced by 'EUR 18 900';
- (e) in paragraph 5, 'EUR 6 100' is replaced by 'EUR 6 300';
- (f) paragraph 6 is amended as follows:
- (i) in the first subparagraph, 'EUR 29 000' is replaced by 'EUR 30 100';
  - (ii) in the second subparagraph 'EUR 7 200 to EUR 21 700' is replaced by 'EUR 7 500 to EUR 22 500';
4. in Article 6, 'EUR 36 400' is replaced by 'EUR 37 700';
5. Article 7 is amended as follows:
- (a) in the first paragraph, 'EUR 60 600' is replaced by 'EUR 62 800';
  - (b) in the second paragraph, 'EUR 18 200' is replaced by 'EUR 18 900';
6. Article 8 is amended as follows:
- (a) paragraph 1 is amended as follows:
    - (i) in the second subparagraph, 'EUR 72 800' is replaced by 'EUR 75 500';
    - (ii) in the third subparagraph, 'EUR 36 400' is replaced by 'EUR 37 700';
  - (b) paragraph 2 is amended as follows:
    - (i) in the second subparagraph, 'EUR 242 600' is replaced by 'EUR 251 600';
    - (ii) in the third subparagraph, 'EUR 121 300' is replaced by 'EUR 125 800';
    - (iii) in the fifth subparagraph, 'EUR 2 600 to EUR 209 100' is replaced by 'EUR 2 700 to EUR 216 800';
    - (iv) in the sixth subparagraph, 'EUR 104 600' is replaced by 'EUR 108 500';
  - (c) in paragraph 3, 'EUR 6 100' is replaced by 'EUR 6 300'.

*Article 2*

This Regulation shall not apply to valid applications pending on 1 April 2009.

*Article 3*

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

It shall apply from 1 April 2009.

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

Done at Brussels, 23 March 2009.

*For the Commission*  
Günter VERHEUGEN  
*Vice-President*

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## II

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

## DECISIONS

## COUNCIL

## COUNCIL DECISION

of 20 January 2009

granting mutual assistance for Latvia

(2009/289/EC)

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty establishing the European Community, and in particular Article 119,

Having regard to the recommendation from the Commission made after consulting the Economic and Financial Committee (EFC),

Whereas:

(1) Against a background of very high external financing needs, Latvian capital and financial markets have recently come under pressure, reflecting a general deterioration in market sentiment, and increasing concerns about the health of the Latvian economy given its large imbalances in terms of wide external deficit and very large external debt, weakening public finances and high rates of cost and price inflation. The Latvian banking sector has experienced serious liquidity and confidence problems. The level of foreign currency reserves has decreased as the central bank intervened to preserve the currency peg.

(2) The Council regularly reviews the economic policies implemented by Latvia, in particular in the contexts of Latvia's convergence programme and National Reform Programme, as well as in the context of Convergence Reports.

(3) Latvia's total external financing needs up to the first quarter of 2011 are estimated at EUR 7,5 billion.

(4) The Latvian authorities have requested substantial financial assistance from the EU and other international financial institutions and countries to support balance of payments sustainability.

(5) There is a serious threat to the Latvian balance of payments which justifies the urgent granting of mutual assistance by the Community in conjunction with the IMF and other contributors. In addition, in view of the urgency of the matter, it is imperative to grant an exception to the six-week period referred to in paragraph I(3) of the Protocol on the role of national Parliaments in the European Union, annexed to the Treaty on European Union and to the Treaties establishing the European Communities.

(6) The financial assistance package would be provided subject to a strong commitment from the Latvian authorities to implement an ambitious fiscal, financial system and structural reform programme to facilitate the necessary external and internal adjustments, to stabilise the economy and to restore economic policy credibility. The Commission will review regularly and closely, in collaboration with the EFC, that the economic policy conditions attached to the assistance are fully implemented,

HAS ADOPTED THIS DECISION:

*Article 1*

The Community shall grant mutual assistance to Latvia.

*Article 2*

This Decision is addressed to the Member States.

Done at Brussels, 20 January 2009.

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

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**COUNCIL DECISION**  
**of 20 January 2009**  
**providing Community medium-term financial assistance for Latvia**  
(2009/290/EC)

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty establishing the European Community,

Having regard to Council Regulation (EC) No 332/2002 of 18 February 2002 establishing a facility providing medium-term financial assistance for Member States' balance of payments <sup>(1)</sup> and in particular Article 3(2) thereof,

Having regard to the proposal from the Commission made after consulting the Economic and Financial Committee (EFC),

Whereas:

- (1) By Decision 2009/289/EC <sup>(2)</sup>, the Council decided to grant mutual assistance for Latvia.
- (2) Against a background of very high external financing needs, Latvian capital and financial markets have recently come under pressure, reflecting a general deterioration in market sentiment, and increasing concerns about the health of the Latvian economy given its large imbalances in terms of wide external deficit, weakening public finances and high rates of cost and price inflation. The Latvian banking sector has experienced serious liquidity and confidence problems. The level of foreign currency reserves has decreased as the central bank intervened to preserve the currency peg.
- (3) Latvia's total external financing needs up to the first quarter of 2011 are estimated at EUR 7,5 billion.
- (4) It is appropriate to provide Community support to Latvia of up to EUR 3,1 billion under the Facility providing medium-term financial assistance for Member States' balance of payments established by Regulation (EC) No 332/2002. That assistance should be provided in conjunction with a loan from the International Monetary Fund (IMF) of SDR 1,5 billion (1 200 % of

Latvia's IMF quota, around EUR 1,7 billion) under an IMF Stand-by arrangement approved on 23 December 2008. The Nordic countries (Sweden, Denmark, Finland, Estonia and Norway) are to contribute EUR 1,9 billion together, the World Bank — EUR 0,4 billion, the European Bank of Reconstruction and Development, the Czech Republic and Poland — a total of EUR 0,4 billion, bringing the total to EUR 7,5 billion over the period up to the first quarter of 2011.

- (5) The Community assistance should be managed by the Commission. The specific economic policy conditions agreed with the authorities of Latvia after consultation of the EFC should be laid down in a Memorandum of Understanding. They should include, inter alia, measures intended to stem immediate liquidity pressures, to restore long-term stability by strengthening the banking sector, to correct fiscal imbalances and to adopt domestic policies that will improve competitiveness. The measures should include an immediate and sustained fiscal consolidation, a comprehensive bank resolution strategy, a strengthened crisis management capacity of regulatory authorities, comprehensive structural reforms, as well as other important measures. The detailed financial terms should be laid down by the Commission in the Loan Agreement.
- (6) The assistance should be provided with a view to stemming immediate liquidity pressures and conditional on policies to restore long-term stability by strengthening the banking sector, correcting fiscal imbalances and adopting domestic policies that will improve competitiveness, while maintaining the narrow-band exchange rate at its existing central rate,

HAS ADOPTED THIS DECISION:

*Article 1*

1. The Community shall make available to Latvia a medium-term loan amounting to a maximum of EUR 3,1 billion, with a maximum average maturity of seven years.
2. The Community financial assistance shall be made available during a period of three years starting from the first day after the entry into force of this Decision.

<sup>(1)</sup> OJ L 53, 23.2.2002, p. 1.

<sup>(2)</sup> See page 37 of this Official Journal.

*Article 2*

1. The assistance shall be managed by the Commission in a manner consistent with Latvia's undertakings and recommendations by the Council. Those conditions shall be laid down in a Memorandum of Understanding. The detailed financial terms shall be laid down by the Commission in the Loan Agreement.

2. The Commission shall, in collaboration with the EFC, verify at regular intervals that the economic policy conditions attached to the assistance are fulfilled. The Commission shall keep the EFC informed of possible refinancing of the borrowings or restructuring of the financial conditions.

3. Latvia shall be ready to adopt and implement additional consolidation measures to stabilise the economy, in case such measures will be necessary during the assistance programme. The Latvian authorities shall consult the Commission in advance of the adoption of any such additional measures.

*Article 3*

1. The Community financial assistance shall be made available by the Commission to Latvia in a maximum of six instalments, the size of which will be laid down in the Memorandum of Understanding.

2. The first instalment shall be released subject to the entry into force of the Loan Agreement and Memorandum of Understanding.

3. If required in order to finance the loan, the prudent use of interest rate swaps with counterparties of highest credit quality shall be permitted.

4. The Commission shall decide on the release of further instalments after having obtained the opinion of the EFC.

5. The disbursement of each further instalment shall be made on the basis of a satisfactory implementation of the new economic programme (Economic Stabilisation and Growth Revival Programme) of the Latvian Government, included in the convergence programme, and, more particularly, of the specific economic policy conditions laid down in the Memorandum of Understanding. These shall include, inter alia:

- (a) adoption of a clearly-set medium-term fiscal programme designed to lower by 2011 the general government deficit to not more than the Treaty reference level of 3 % of GDP;
- (b) execution of the budget for 2009 as amended by the supplementary budget adopted 12 December 2008 (and to be submitted in detail by the end of March 2009), targeting a general government cash flow deficit of no higher than 5 % of GDP or 5,3 % in ESA 95 terms;
- (c) reduction of average public sector remuneration in nominal terms in 2009 by at least 15 % relative to the original 14 November 2008 budget and a further 2 % in 2010-11;
- (d) continuing measures started in 2008 to reduce employment in central government ensuring at least a 5 % reduction by the end of 2008 and total reduction of 10 % by 30 June 2009;
- (e) strengthening the design and implementation of budgetary procedures by the adoption of a fiscal framework and budgetary reform through an amendment to the current Budget and Financial Management law;
- (f) introduction of a clear and transparent wage payment system for direct public administration employees and establishment of a single human resource planning and management system for public administration institutions;
- (g) mechanisms to ensure wider banking sector stability in the medium to longer term, including a wide range of supervisory, prudential and monetary policy measures. These should limit credit growth to sustainable levels and avoid heavy reliance on unsecured foreign funding. Targeted examinations shall be conducted in the banking system to ensure that all banks are solvent and sufficiently capitalised;
- (h) appropriate measures regarding private sector debt restructuring. The appropriate legal basis for maturity and currency restructuring of existing debt shall be strengthened. Facilitating insolvency procedures and quick implementation of rehabilitation plans shall also be made a priority;
- (i) ensuring that the remaining minority shareholders of Parex Bank do not benefit from the resolution of the bank and measures to enhance financial stability, by means of fully nationalising Parex Bank;

- (j) structural reform measures supported in the context of the Lisbon strategy and implemented in Latvia's National Reform Programme, including active labour market and lifelong learning policies, greater involvement of private sector actors in R & D and innovation activities, export promotion measures and removal of administrative burdens for businesses;
- (k) implementation of EU-funded projects at the planned level to help improve the contribution of the tradeable sector to economic growth;
- (l) measures to improve access to financing for companies and entrepreneurs, whose applications for Structural Funds have been approved, or who may be planning to apply for Structural Funds.

*Article 4*

This Decision is addressed to the Republic of Latvia.

*Article 5*

This Decision shall be published in the *Official Journal of the European Union*.

Done at Brussels, 20 January 2009.

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

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# COMMISSION

## COMMISSION DECISION

of 20 March 2009

**concerning the draft Regulations from Ireland on the labelling of country of origin of poultrymeat, pigmeat and sheepmeat**

(notified under document number C(2009) 1931)

(Only the English text is authentic)

(Text with EEA relevance)

(2009/291/EC)

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Directive 2000/13/EC of the European Parliament and of the Council of 20 March 2000 on the approximation of the laws of the Member States relating to the labelling, presentation and advertising of foodstuffs <sup>(1)</sup>, last amended by Directive 2003/89/EC <sup>(2)</sup>, and in particular Articles 19 and 20 thereof,

Whereas:

(1) In accordance with the procedure provided for in the second paragraph of Article 19, Directive 2000/13/EC, the Irish authorities notified the Commission on 25 June 2008 of a draft Health Regulations concerning the mandatory labelling of the country of origin of poultrymeat, pigmeat and sheepmeat.

(2) The draft Regulations require all poultrymeat, pigmeat and sheepmeat, and foods containing at least 70 % by weight of these meats to be labelled to indicate their country of origin in clear legible type in Irish and/or English language. 'Origin' is defined as the country in which the animal was reared for most of its life and, if different, the country where it was slaughtered.

(3) Directive 2000/13/EC harmonises the rules governing the labelling of foodstuffs by making provision for, on the one hand, harmonisation of certain national provisions and, secondly, arrangements for non-harmonised national provisions. The scope of harmonisation is defined in Article 3(1), which lists all the particulars that are compulsory on the labelling of foodstuffs 'in accordance with Articles 4 to 17 and subject to the exceptions contained therein'. Furthermore, Article 4(2) provides that other particulars in addition to those listed in Article 3(1) may be required, in the case of specified foodstuffs, by Community provisions or, in their absence, by national provisions.

(4) Article 18(2) of Directive 2000/13/EC allows the adoption of non-harmonised national provisions if they are justified on one of the grounds listed therein, including, *inter alia*, the prevention of fraud and the protection of public health, and provided they are not of such a nature as to impede application of the definitions and rules laid down by Directive 2000/13/EC; therefore where draft national labelling provisions have been proposed in a Member State, it is necessary to examine their compatibility with the above-mentioned requirements and the provisions of the Treaty establishing the European Community.

(5) In accordance with Article 3(1) point 8 of Directive 2000/13/EC the indication of the place of origin or provenance is mandatory 'where failure to give such particulars might mislead the consumer to a material degree as to the true origin or provenance of the foodstuff'. This provision, by providing an obligation to indicate the origin or the provenance of a food where other indications on the label of a given product could imply that such product comes from a different origin, provides an appropriate mechanism to counter the risk of consumers being misled.

<sup>(1)</sup> OJ L 109, 6.5.2000, p. 29.

<sup>(2)</sup> OJ L 308, 25.11.2003, p. 15.

- (6) In the case of poultrymeat, pigmeat and sheepmeat, the grounds presented by the Irish authorities do not allow for the conclusion that Irish consumers might, as a general rule, erroneously think that the products concerned come from a certain place.
- (7) Ireland has not provided any evidence that the draft Regulations are necessary to attain one of the objectives of the above-mentioned Article 18 or that the obstacle thus created is proportionate. It mentions only the aim of informing consumers on the origin of the products concerned. This ground alone is not sufficient to justify the draft Regulations.
- (8) In light of these observations, the Commission has delivered a negative opinion pursuant to Article 19, third paragraph of Directive 2000/13/EC.
- (9) The Irish authorities should accordingly be requested not to adopt the draft Regulations in question.

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

HAS ADOPTED THIS DECISION:

*Sole Article*

Ireland shall not adopt the draft Health (Country of Origin of Poultrymeat, Pigmeat and Sheepmeat) Regulations.

This Decision is addressed to Ireland.

Done at Brussels, 20 March 2009.

*For the Commission*  
Androulla VASSILIOU  
*Member of the Commission*

## COMMISSION DECISION

of 24 March 2009

**establishing the conditions for a derogation for plastic crates and plastic pallets in relation to the heavy metal concentration levels established in Directive 94/62/EC of the European Parliament and of the Council on packaging and packaging waste**

(notified under document number C(2009) 1959)

(Text with EEA relevance)

(2009/292/EC)

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

The scientific reports submitted to the Commission recommend that such derogation should be granted.

Having regard to the Treaty establishing the European Community,

Having regard to Directive 94/62/EC of the European Parliament and of the Council of 20 December 1994 on packaging and packaging waste <sup>(1)</sup>, and in particular Article 11(3) thereof,

Whereas:

(1) Commission Decision 1999/177/EC of 8 February 1999 establishing the conditions for a derogation for plastic crates and plastic pallets in relation to the heavy metal concentration levels established in Directive 94/62/EC on packaging and packaging waste <sup>(2)</sup> expired on 9 February 2009.

(2) At the expiry of Decision 1999/177/EC, a considerable amount of plastic crates and plastic pallets containing heavy metals whose concentration level exceeds that provided for by Directive 94/62/EC were still on the market. Given the lack of capacity of the industry to replace all such crates and pallets, there is a high risk that those crates and pallets will be disposed of through land filling or incineration. Both solutions would have harmful impacts on health and the environment.

(3) Directive 94/62/EC aims at limiting the presence of heavy metals in packaging as well as at providing a high level of environmental protection, including reuse and recycling.

(4) In order to give time to the industry to replace those plastic crates and plastic pallets using the best available techniques, it is appropriate to adopt conditions for a derogation relating to those crates and pallets which are in product loops in a closed and controlled chain.

(5) Since the Commission intends to review the functioning of the system provided for in this Decision and the progress made in phasing out plastic crates and plastic pallets containing heavy metals after five years, it is necessary that Member States submit the relevant information. In order not to increase the existing administrative burden by imposing a specific reporting obligation on the Member States, it is sufficient that such information is included in the reports to be submitted to the Commission under Article 17 of Directive 94/62/EC.

(6) For reasons of legal certainty, this Decision should apply with effect from the date following that of the expiry of Decision 1999/177/EC in order to avoid any possible negative effects resulting from that expiry.

(7) The measures provided for in this Decision are in accordance with the opinion of the Committee established pursuant to Article 21 of Directive 94/62/EC,

HAS ADOPTED THIS DECISION:

*Article 1*

For the purposes of this Decision, the following definitions shall apply:

1. 'heavy metals' means lead, cadmium, mercury and hexavalent chromium;

2. 'intentional introduction of heavy metals' means the act of deliberately utilising a substance containing heavy metals in the formulation of a packaging or a packaging component where its continued presence is desired in the final packaging or packaging component to provide a specific characteristic, appearance or quality;

<sup>(1)</sup> OJ L 365, 31.12.1994, p. 10.

<sup>(2)</sup> OJ L 56, 4.3.1999, p. 47.

3. 'incidental presence of heavy metals' means the presence of heavy metals as an unintended ingredient of a packaging or packaging component.

#### Article 2

The sum of concentration levels of heavy metals in plastic crates and plastic pallets may exceed the applicable limit laid down in Article 11(1) of Directive 94/62/EC provided that those crates and pallets are introduced and kept in product loops which are in a closed and controlled chain under the conditions set out in Articles 3, 4 and 5.

#### Article 3

1. Plastic crates and plastic pallets containing an excessive amount of heavy metals, as referred to in Article 2, shall be manufactured or repaired in a controlled recycling process in accordance with paragraphs 2, 3 and 4 of this Article.

2. The material used for recycling shall originate only from other plastic crates or plastic pallets.

The introduction of other material shall be limited to the minimum technically necessary and, in any case, shall not exceed 20 % by weight.

3. The intentional introduction of heavy metals as an element during the recycling, as opposed to the incidental presence of heavy metals, shall not be allowed.

The use of recycled materials as feedstock for the repair of packaging materials, where some portion of the recycled materials can contain heavy metals, shall not be considered to be intentional introduction of heavy metals.

4. The sum of concentration levels of heavy metals in plastic crates and plastic pallets may exceed the applicable limit laid down in Article 11(1) of Directive 94/62/EC only as a result of the use of materials containing heavy metals in the recycling process.

#### Article 4

1. Plastic crates and plastic pallets containing an excessive amount of heavy metals, as referred to in Article 2, shall be identified in a permanent and visible way.

2. Member States shall ensure that within the life cycle of the plastic crates and plastic pallets concerned, at least 90 % of the dispatched plastic crates and plastic pallets containing an

excessive amount of heavy metals, as referred to in Article 2, are returned to the manufacturer, the packer or the filler or to an authorised representative.

3. Without prejudice to the measures taken pursuant to Article 6, all plastic crates and plastic pallets returned pursuant to this Article that are no longer suitable or intended for reuse shall either be disposed of in accordance with a procedure specifically authorised by the competent authorities of the Member State concerned or be recycled in a controlled recycling process in accordance with paragraphs 2, 3 and 4 of Article 3.

#### Article 5

1. Member States shall provide for a system of inventory and record keeping and a method of regulatory and financial accountability that enable compliance with the conditions laid down in this Decision to be documented.

The system shall account for all plastic crates and plastic pallets containing an excessive amount of heavy metals, as referred to in Article 2, which are put into, and removed from, service.

2. Unless otherwise specified in a voluntary agreement, Member States shall ensure that the manufacturer or his authorised representative draws up on an annual basis a written declaration of conformity and an annual report demonstrating how the conditions laid down in this Decision have been complied with. The report shall contain possible changes to the system and authorised representatives.

3. Member States shall ensure that the manufacturer or his authorised representative keeps the relevant technical documentation at the disposal of the competent authorities for inspection purposes for at least four years.

Where neither the manufacturer nor his authorised representative is established within the Community, the obligation to keep the relevant technical documentation available shall lie with the person who places the product on the Community market.

#### Article 6

Member States shall take measures to encourage manufacturers to investigate methods to progressively achieve the applicable limit of heavy metals contained in plastic crates and plastic pallets laid down in Article 11(1) of Directive 94/62/EC, including the best available techniques on the extraction of heavy metals.

*Article 7*

Member States shall include in the reports to be submitted to the Commission under Article 17 of Directive 94/62/EC a detailed report on the functioning of the system provided for in this Decision and on the progress made in phasing out plastic crates and plastic pallets which are not in conformity with Article 11(1) of Directive 94/62/EC.

*Article 8*

This Decision shall apply from 10 February 2009.

*Article 9*

This Decision is addressed to the Member States.

Done at Brussels, 24 March 2009.

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

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## III

*(Acts adopted under the EU Treaty)*

## ACTS ADOPTED UNDER TITLE V OF THE EU TREATY

## COUNCIL DECISION 2009/293/CFSP

of 26 February 2009

**concerning the Exchange of Letters between the European Union and the Government of Kenya on the conditions and modalities for the transfer of persons suspected of having committed acts of piracy and detained by the European Union-led naval force (EUNAVFOR), and seized property in the possession of EUNAVFOR, from EUNAVFOR to Kenya and for their treatment after such transfer**

THE COUNCIL OF THE EUROPEAN UNION,

the death penalty, to torture or to any cruel, inhuman or degrading treatment.

Having regard to the Treaty on European Union, and in particular Article 24 thereof,

Having regard to the recommendation from the Presidency,

Whereas:

(1) On 2 June 2008, the United Nations Security Council (UNSC) adopted Resolution 1816 (2008) calling upon all States to cooperate in determining jurisdiction, and in the investigation and prosecution of persons responsible for acts of piracy and armed robbery off the coast of Somalia. Those provisions were reaffirmed by UNSC Resolution 1846 (2008), adopted on 2 December 2008.

(2) On 10 November 2008, the Council adopted Joint Action 2008/851/CFSP on a European Union military operation to contribute to the deterrence, prevention and repression of acts of piracy and armed robbery off the Somali coast <sup>(1)</sup> (operation 'Atalanta').

(3) Joint Action 2008/851/CFSP provides that persons having committed, or suspected of having committed acts of piracy or armed robbery in Somali territorial waters, who are arrested and detained, with a view to their prosecution, and property used to carry out such acts, may be transferred to a third State which wishes to exercise its jurisdiction over the aforementioned persons and property, provided that the conditions for the transfer have been agreed with that third State in a manner consistent with relevant international law, notably international law on human rights, in order to guarantee in particular that no one shall be subjected to

(4) In accordance with Article 24 of the Treaty, the Presidency, assisted by the Secretary-General/High Representative (SG/HR), negotiated an Exchange of Letters between the European Union and the Government of Kenya on the conditions and modalities for the transfer of persons suspected of having committed acts of piracy and detained by the European Union-led naval force (EUNAVFOR), and seized property in the possession of EUNAVFOR, from EUNAVFOR to Kenya and for their treatment after such transfer.

(5) The Exchange of Letters should be approved,

HAS DECIDED AS FOLLOWS:

*Article 1*

The Exchange of Letters between the European Union and the Government of Kenya on the conditions and modalities for the transfer of persons suspected of having committed acts of piracy and detained by EUNAVFOR, and seized property in the possession of EUNAVFOR, from EUNAVFOR to Kenya and for their treatment after such transfer, is hereby approved on behalf of the European Union.

The text of the Exchange of Letters is attached to this Decision.

*Article 2*

The President of the Council is hereby authorised to designate the person(s) empowered to sign the respective letter in order to bind the European Union.

<sup>(1)</sup> OJ L 301, 12.11.2008, p. 33.

*Article 3*

This Decision shall take effect on the day of its adoption.

*Article 4*

This Decision shall be published in the *Official Journal of the European Union*.

Done at Brussels, 26 February 2009.

*For the Council*

*The President*

I. LANGER

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**Exchange of Letters between the European Union and the Government of Kenya on the conditions and modalities for the transfer of persons suspected of having committed acts of piracy and detained by the European Union-led naval force (EUNAVFOR), and seized property in the possession of EUNAVFOR, from EUNAVFOR to Kenya and for their treatment after such transfer**

*A. Letter from the European Union*

Nairobi, *6<sup>th</sup> March 2009, 10.15 a.m.*

Sir,

With reference to my letter dated 14 November 2008 and your letter dated 5 December 2008, I have the honour to confirm the intention of the European Union to conclude with the Government of Kenya an Exchange of Letters with a view to defining the conditions and modalities for the transfer of persons suspected of having committed acts of piracy on the high seas and detained by the European Union-led naval force (EUNAVFOR), and seized property in the possession of EUNAVFOR, from EUNAVFOR to Kenya, and for their treatment after such transfer.

This exchange of letters is concluded in the framework of the EU Council Joint Action 2008/851/CFSP of 10 November 2008 on a European Union military operation to contribute to the deterrence, prevention and repression of acts of piracy and armed robbery off the coast of Somalia (operation 'Atalanta').

Furthermore, this exchange of letters does not affect the participant's rights and obligations under international agreements and other instruments establishing international courts and tribunals, and relevant domestic laws and is concluded in full respect of:

- United Nations Security Council Resolutions (UNSCR) 1814 (2008), 1838 (2008), 1846 (2008), 1851 (2008) and successor UNSCRs,
- the 1982 United Nations Convention on the Law of the Sea (UNCLOS), in particular Articles 100 to 107,
- International Human Rights Law, including the 1966 International Covenant on Civil and Political Rights, and the 1984 Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment.

Accordingly, I have the honour to propose, as set out in the Annex to this letter, such provisions defining the conditions and modalities for the transfer of persons suspected of having committed acts of piracy and detained by EUNAVFOR, and seized property in the possession of EUNAVFOR, from EUNAVFOR to Kenya, and for their treatment after such transfer.

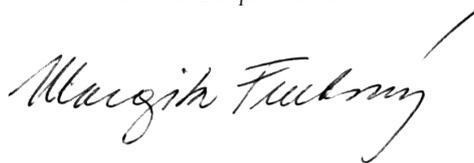
I would be grateful if you could confirm, on behalf of the Government of Kenya, your acceptance of those provisions.

This Instrument will be applied provisionally from the date on which it is signed and will enter into force when each of the participants has completed its own internal procedures. This Instrument will continue to have effect until six months after either participant has given the other signatory written notification of a decision to terminate the instrument. This Instrument may be varied by mutual arrangement between the signatories. Termination of this instrument will not affect any benefits or obligations arising out of the application of this Instrument before such termination, including the benefits to any transferred persons as long as they are held in custody or are prosecuted by Kenya.

After the termination of the Operation, as defined in the Annex to this letter, all benefits of EUNAVFOR, as defined in that Annex, under this Instrument may be exercised by any person or entity designated by the State exercising the Presidency of the Council of the EU. A designated person or entity may, inter alia, be a diplomatic agent or consular official of that State accredited to Kenya. After the termination of the Operation, all notifications that were to be made to EUNAVFOR under this Instrument will be made to the State exercising the Presidency of the Council of the EU.

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

*For the European Union*



Margit Fuhring

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## ANNEX

**PROVISIONS ON THE CONDITIONS OF TRANSFER OF SUSPECTED PIRATES AND SEIZED PROPERTY FROM THE EU-LED NAVAL FORCE TO THE REPUBLIC OF KENYA**

## 1. Definitions

For the purposes of this Exchange of Letters:

- (a) 'European Union-led naval force (EUNAVFOR)' means EU military headquarters and national contingents contributing to the EU operation 'Atalanta', their ships, aircrafts and assets;
- (b) 'operation' means the preparation, establishment, execution and support of the military mission established by EU Council Joint Action 2008/851/CFSP and/or its successors;
- (c) 'EU Operation Commander' means the commander of the operation;
- (d) 'EU Force Commander' means the EU commander in the area of operations as defined within Article 1(2) of EU Council Joint Action 2008/851/CFSP;
- (e) 'national contingents' means units and ships belonging to the Member States of the European Union and to other States participating in the operation;
- (f) 'sending State' means a State providing a national contingent for EUNAVFOR.
- (g) 'piracy' means piracy as defined in Article 101 of UNCLOS;
- (h) 'transferred person' means any person suspected of intending to commit, committing, or having committed, acts of piracy transferred by EUNAVFOR to Kenya under this Exchange of Letters.

## 2. General principles

- (a) Kenya will accept, upon the request of EUNAVFOR, the transfer of persons detained by EUNAVFOR in connection with piracy and associated seized property by EUNAVFOR and will submit such persons and property to its competent authorities for the purpose of investigation and prosecution.
- (b) EUNAVFOR will, when acting under this Exchange of Letters, transfer persons or property only to competent Kenyan law enforcement authorities.
- (c) The signatories confirm that they will treat persons transferred under this Exchange of Letters, both prior to and following transfer, humanely and in accordance with international human rights obligations, including the prohibition against torture and cruel, inhumane and degrading treatment or punishment, the prohibition of arbitrary detention and in accordance with the requirement to have a fair trial.

## 3. Treatment, prosecution and trial of transferred persons

- (a) Any transferred person will be treated humanely and will not be subjected to torture or cruel, inhuman or degrading treatment or punishment, will receive adequate accommodation and nourishment, access to medical treatment and will be able to carry out religious observance.
- (b) Any transferred person will be brought promptly before a judge or other officer authorised by law to exercise judicial power, who will decide without delay on the lawfulness of his detention and will order his release if the detention is not lawful.
- (c) Any transferred person will be entitled to trial within a reasonable time or to release.

- (d) In the determination of any criminal charge against him, any transferred person will be entitled to a fair and public hearing by a competent, independent and impartial tribunal established by law.
- (e) Any transferred person charged with a criminal offence will be presumed innocent until proved guilty according to law.
- (f) In the determination of any criminal charge against him, every transferred person will be entitled to the following minimum guarantees, in full equality:
  - (1) to be informed promptly and in detail in a language which he understands of the nature and cause of the charge against him;
  - (2) to have adequate time and facilities for the preparation of his defence and to communicate with counsel of his own choice;
  - (3) to be tried without undue delay;
  - (4) to be tried in his presence, and to defend himself in person or through legal assistance of his own choice; to be informed, if he does not have legal assistance, of this right; and to have legal assistance assigned to him, in any case where the interests of justice so require, and without payment by him in any such case if he does not have sufficient means to pay for it;
  - (5) to examine, or have examined, all evidence against him, including affidavits of witnesses who conducted the arrest, and to obtain the attendance and examination of witnesses on his behalf under the same conditions as witnesses against him;
  - (6) to have the free assistance of an interpreter if he cannot understand or speak the language used in court;
  - (7) not to be compelled to testify against himself or to confess guilt.
- (g) Any transferred person convicted of a crime will be permitted to have the right to his conviction and sentence reviewed by or appealed to a higher tribunal in accordance with the law of Kenya.
- (h) Kenya will not transfer any transferred person to any other State for the purposes of investigation or prosecution without prior written consent from EUNAVFOR.

#### 4. Death penalty

No transferred person will be liable to suffer the death sentence. Kenya will, in accordance with the applicable laws, take steps to ensure that any death sentence is commuted to a sentence of imprisonment.

#### 5. Records and notifications

- (a) Any transfer will be the subject of an appropriate document signed by a representative of EUNAVFOR and a representative of the competent Kenyan law enforcement authorities.
- (b) EUNAVFOR will provide detention records to Kenya with regard to any transferred person. These records will include, so far as possible, the physical condition of the transferred person while in detention, the time of transfer to Kenyan authorities, the reason for his detention, the time and place of the commencement of his detention, and any decisions taken with regard to his detention.
- (c) Kenya will be responsible for keeping an accurate account of all transferred persons, including, but not limited to, keeping records of any seized property, the person's physical condition, the location of their places of detention, any charges against him and any significant decisions taken in the course of his prosecution and trial.
- (d) These records will be available to representatives of the EU and EUNAVFOR upon request in writing to the Kenyan Ministry of Foreign Affairs.

- (e) In addition, Kenya will notify EUNAVFOR of the place of detention of any person transferred under this Exchange of Letters, any deterioration of his physical condition and of any allegations of alleged improper treatment. Representatives of the EU and EUNAVFOR will have access to any persons transferred under this Exchange of Letters as long as such persons are in custody and will be entitled to question them.
- (f) National and international humanitarian agencies will, at their request, be allowed to visit persons transferred under this Exchange of Letters.
- (g) For the purposes of ensuring that EUNAVFOR is able to provide timely assistance to Kenya with attendance of witnesses from EUNAVFOR and the provision of relevant evidence, Kenya will notify EUNAVFOR of its intention to initiate criminal trial proceedings against any transferred person and the timetable for provision of evidence, and the hearing of evidence.

#### 6. EUNAVFOR Assistance

- (a) EUNAVFOR, within its means and capabilities, will provide all assistance to Kenya with a view to the investigation and prosecution of transferred persons.
- (b) In particular, EUNAVFOR will:
  - (1) hand over detention records drawn up pursuant to paragraph 5(b) of this Exchange of Letters;
  - (2) process any evidence in accordance with the requirements of the Kenyan competent authorities as agreed in the implementing arrangements described in paragraph 9;
  - (3) endeavour to produce statements of witness or affidavits by EUNAVFOR personnel involved in any incident in relation to which persons have been transferred under this Exchange of Letters;
  - (4) hand over all relevant seized property in the possession of EUNAVFOR.

#### 7. Relationship to other rights of transferred persons.

Nothing in this Exchange of Letters is intended to derogate, or may be construed as derogating, from any rights that a transferred person may have under applicable domestic or international law.

#### 8. Liaison and disputes

- (a) All issues arising in connection with the application of these provisions will be examined jointly by Kenyan and EU competent authorities.
- (b) Failing any prior settlement, disputes concerning the interpretation or application of these provisions will be settled exclusively by diplomatic means between Kenyan and EU representatives.

#### 9. Implementing arrangements

- (a) For the purposes of the application of these provisions, operational, administrative and technical matters may be the subject of implementing arrangements to be approved between competent Kenyan authorities on the one hand and the competent EU authorities, as well as the competent authorities of the sending States, on the other hand.
- (b) Implementing arrangements may cover, inter alia:
  - (1) the identification of competent law enforcement authorities of Kenya to whom EUNAVFOR may transfer persons;
  - (2) the detention facilities where transferred persons will be held;
  - (3) the handling of documents, including those related to the gathering of evidence, which will be handed over to the competent law enforcement authorities of Kenya upon transfer of a person;
  - (4) points of contact for notifications;
  - (5) forms to be used for transfers;
  - (6) provision of technical support, expertise, training and other assistance upon request of Kenya in order to achieve the objectives of this Exchange of Letters.

*B. Letter from the Republic of Kenya*

Nairobi, 6<sup>th</sup> March 2009, 10.15 a.m

Sir,

I have the honour to acknowledge receipt of your letter dated 6<sup>th</sup> March 2009 and its Annex regarding the conditions and modalities for the transfer of persons suspected of having committed acts of piracy on the high seas and detained by the European Union-led naval force (EUNAVFOR), and seized property in the possession of EUNAVFOR, from EUNAVFOR to Kenya, and for their treatment after such transfer, which reads as follows:

'With reference to my letter dated 14 November 2008 and your letter dated 5 December 2008, I have the honour to confirm the intention of the European Union to conclude with the Government of Kenya an Exchange of Letters with a view to defining the conditions and modalities for the transfer of persons suspected of having committed acts of piracy on the high seas and detained by the European Union-led naval force (EUNAVFOR), and seized property in the possession of EUNAVFOR, from EUNAVFOR to Kenya, and for their treatment after such transfer.

This exchange of letters is concluded in the framework of the EU Council Joint Action 2008/851/CFSP of 10 November 2008 on a European Union military operation to contribute to the deterrence, prevention and repression of acts of piracy and armed robbery off the coast of Somalia (operation "Atalanta").

Furthermore, this exchange of letters does not affect the participant's rights and obligations under international agreements and other instruments establishing international courts and tribunals, and relevant domestic laws and is concluded in full respect of:

- United Nations Security Council Resolutions (UNSCR) 1814 (2008), 1838 (2008), 1846 (2008), 1851 (2008) and successor UNSCRs,
- the 1982 United Nations Convention on the Law of the Sea (UNCLOS), in particular Articles 100 to 107,
- International Human Rights Law, including the 1966 International Covenant on Civil and political Rights, and the 1984 Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment.

Accordingly, I have the honour to propose, as set out in the Annex to this letter, such provisions defining the conditions and modalities for the transfer of persons suspected of having committed acts of piracy and detained by EUNAVFOR, and seized property in the possession of EUNAVFOR, from EUNAVFOR to Kenya, and for their treatment after such transfer.

I would be grateful if you could confirm, on behalf of the Government of Kenya, your acceptance of those provisions.

This Instrument will be applied provisionally from the date on which it is signed and will enter into force when each of the participants has completed its own internal procedures. This Instrument will continue to have effect until six months after either participant has given the other signatory written notification of a decision to terminate the instrument. This Instrument may be varied by mutual arrangement between the signatories. Termination of this instrument will not affect any benefits or obligations arising out of the application of this Instrument before such termination, including the benefits to any transferred persons as long as they are held in custody or are prosecuted by Kenya.

After the termination of the Operation, as defined in the Annex to this letter, all benefits of EUNAVFOR, as defined in that Annex, under this Instrument may be exercised by any person or entity designated by the State exercising the Presidency of the Council of the EU. A designated person or entity may, inter alia, be a diplomatic agent or consular official of that State accredited to Kenya. After the termination of the Operation, all notifications that were to be made to EUNAVFOR under this Instrument will be made to the State exercising the Presidency of the Council of the EU.

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## ANNEX

**PROVISIONS ON THE CONDITIONS OF TRANSFER OF SUSPECTED PIRATES AND SEIZED PROPERTY FROM THE EU-LED NAVAL FORCE TO THE REPUBLIC OF KENYA**

## 1. Definitions

For the purposes of this Exchange of Letters:

- (a) "European Union-led naval force (EUNAVFOR)" means EU military headquarters and national contingents contributing to the EU operation "Atalanta", their ships, aircrafts and assets;
- (b) "Operation" means the preparation, establishment, execution and support of the military mission established by EU Council Joint Action 2008/851/CFSP and/or its successors;
- (c) "EU Operation Commander" means the commander of the operation;
- (d) "EU Force Commander" means the EU commander in the area of operations as defined within Article 1(2) of EU Council Joint Action 2008/851/CFSP;
- (e) "national contingents" means units and ships belonging to the Member States of the European Union and to other States participating in the operation;
- (f) "sending State" means a State providing a national contingent for EUNAVFOR.
- (g) "Piracy" means piracy as defined in Article 101 of UNCLOS;
- (h) "Transferred person" means any person suspected of intending to commit, committing, or having committed, acts of piracy transferred by EUNAVFOR to Kenya under this Exchange of Letters.

## 2. General principles

- (a) Kenya will accept, upon the request of EUNAVFOR, the transfer of persons detained by EUNAVFOR in connection with piracy and associated seized property by EUNAVFOR and will submit such persons and property to its competent authorities for the purpose of investigation and prosecution.
- (b) EUNAVFOR will, when acting under this Exchange of Letters, transfer persons or property only to competent Kenyan law enforcement authorities.
- (c) The signatories confirm that they will treat persons transferred under this Exchange of Letters, both prior to and following transfer, humanely and in accordance with international human rights obligations, including the prohibition against torture and cruel, inhumane and degrading treatment or punishment, the prohibition of arbitrary detention and in accordance with the requirement to have a fair trial.

## 3. Treatment, prosecution and trial of transferred persons

- (a) Any transferred person will be treated humanely and will not be subjected to torture or cruel, inhuman or degrading treatment or punishment, will receive adequate accommodation and nourishment, access to medical treatment and will be able to carry out religious observance.
- (b) Any transferred person will be brought promptly before a judge or other officer authorised by law to exercise judicial power, who will decide without delay on the lawfulness of his detention and will order his release if the detention is not lawful.

- (c) Any transferred person will be entitled to trial within a reasonable time or to release.
- (d) In the determination of any criminal charge against him, any transferred person will be entitled to a fair and public hearing by a competent, independent and impartial tribunal established by law.
- (e) Any transferred person charged with a criminal offence will be presumed innocent until proved guilty according to law.
- (f) In the determination of any criminal charge against him, every transferred person will be entitled to the following minimum guarantees, in full equality:
  - (1) to be informed promptly and in detail in a language which he understands of the nature and cause of the charge against him;
  - (2) to have adequate time and facilities for the preparation of his defence and to communicate with counsel of his own choice;
  - (3) to be tried without undue delay;
  - (4) to be tried in his presence, and to defend himself in person or through legal assistance of his own choice; to be informed, if he does not have legal assistance, of this right; and to have legal assistance assigned to him, in any case where the interests of justice so require, and without payment by him in any such case if he does not have sufficient means to pay for it;
  - (5) to examine, or have examined, all evidence against him, including affidavits of witnesses who conducted the arrest, and to obtain the attendance and examination of witnesses on his behalf under the same conditions as witnesses against him;
  - (6) to have the free assistance of an interpreter if he cannot understand or speak the language used in court;
  - (7) not to be compelled to testify against himself or to confess guilt.
- (g) Any transferred person convicted of a crime will be permitted to have the right to his conviction and sentence reviewed by or appealed to a higher tribunal in accordance with the law of Kenya.
- (h) Kenya will not transfer any transferred person to any other State for the purposes of investigation or prosecution without prior written consent from EUNAVFOR.

#### 4. Death penalty

No transferred person will be liable to suffer the death sentence. Kenya will, in accordance with the applicable laws, take steps to ensure that any death sentence is commuted to a sentence of imprisonment.

#### 5. Records and notifications

- (a) Any transfer will be the subject of an appropriate document signed by a representative of EUNAVFOR and a representative of the competent Kenyan law enforcement authorities.
- (b) EUNAVFOR will provide detention records to Kenya with regard to any transferred person. These records will include, so far as possible, the physical condition of the transferred person while in detention, the time of transfer to Kenyan authorities, the reason for his detention, the time and place of the commencement of his detention, and any decisions taken with regard to his detention.
- (c) Kenya will be responsible for keeping an accurate account of all transferred persons, including, but not limited to, keeping records of any seized property, the persons physical condition, the location of their places of detention, any charges against him and any significant decisions taken in the course of his prosecution and trial.

- (d) These records will be available to representatives of the EU and EUNAVFOR upon request in writing to the Kenyan Ministry of Foreign Affairs.
- (e) In addition, Kenya will notify EUNAVFOR of the place of detention of any person transferred under this Exchange of Letters, any deterioration of his physical condition and of any allegations of alleged improper treatment. Representatives of the EU and EUNAVFOR will have access to any persons transferred under this Exchange of Letters as long as such persons are in custody and will be entitled to question them.
- (f) National and international humanitarian agencies will, at their request, be allowed to visit persons transferred under this Exchange of Letters.
- (g) For the purposes of ensuring that EUNAVFOR is able to provide timely assistance to Kenya with attendance of witnesses from EUNAVFOR and the provision of relevant evidence, Kenya will notify EUNAVFOR of its intention to initiate criminal trial proceedings against any transferred person and the timetable for provision of evidence, and the hearing of evidence.

#### 6. EUNAVFOR Assistance

- (a) EUNAVFOR, within its means and capabilities, will provide all assistance to Kenya with a view to the investigation and prosecution of transferred persons.
- (b) In particular, EUNAVFOR will:
  - (1) hand over detention records drawn up pursuant to paragraph 5(b) of this Exchange of Letters;
  - (2) process any evidence in accordance with the requirements of the Kenyan competent authorities as agreed in the implementing arrangements described in paragraph 9;
  - (3) endeavour to produce statements of witness or affidavits by EUNAVFOR personnel involved in any incident in relation to which persons have been transferred under this Exchange of Letters;
  - (4) hand over all relevant seized property in the possession of EUNAVFOR.

#### 7. Relationship to other rights of transferred persons.

Nothing in this Exchange of Letters is intended to derogate, or may be construed as derogating, from any rights that a transferred person may have under applicable domestic or international law.

#### 8. Liaison and disputes

- (a) All issues arising in connection with the application of these provisions will be examined jointly by Kenyan and EU competent authorities.
- (b) Failing any prior settlement, disputes concerning the interpretation or application of these provisions will be settled exclusively by diplomatic means between Kenyan and EU representatives.

#### 9. Implementing arrangements

- (a) For the purposes of the application of these provisions, operational, administrative and technical matters may be the subject of implementing arrangements to be approved between competent Kenyan authorities on the one hand and the competent EU authorities, as well as the competent authorities of the sending States on the other hand.
- (b) Implementing arrangements may cover, inter alia:
  - (1) the identification of competent law enforcement authorities of Kenya to whom EUNAVFOR may transfer persons;
  - (2) the detention facilities where transferred persons will be held;

- (3) the handling of documents, including those related to the gathering of evidence, which will be handed over to the competent law enforcement authorities of Kenya upon transfer of a person;
- (4) points of contact for notifications;
- (5) forms to be used for transfers;
- (6) provision of technical support, expertise, training and other assistance upon request of Kenya in order to achieve the objectives of this Exchange of Letters.

I have the honour to confirm, on behalf of the Government of the Republic of Kenya, that the content of your letter and of its Annex are acceptable to the Government of the Republic of Kenya. As set out in your letter, this instrument will enter into force provisionally from the date of signature of this letter and will enter into force when each of the signatories has completed its own internal procedures.

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

*For the Government of the Republic of Kenya*



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**COUNCIL JOINT ACTION 2009/294/CFSP****of 23 March 2009****amending Joint Action 2008/736/CFSP on the European Union Monitoring Mission in Georgia,  
EUMM Georgia**

THE COUNCIL OF THE EUROPEAN UNION,

HAS ADOPTED THIS JOINT ACTION:

*Article 1*

Having regard to the Treaty on European Union, and in particular Article 14 thereof,

Article 14(1) of Joint Action 2008/736/CFSP shall be replaced by the following:

Whereas:

‘1. The financial reference amount intended to cover the expenditure related to the Mission shall be EUR 37 100 000.’.

*Article 2*

- (1) On 15 September 2008, the Council adopted Joint Action 2008/736/CFSP on the European Union Monitoring Mission in Georgia, EUMM Georgia <sup>(1)</sup>, with a financial reference amount of EUR 31 000 000.

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

It shall apply from 1 February 2009.

*Article 3*

- (2) On 25 September 2008, the Council adopted Joint Action 2008/759/CFSP amending Joint Action 2008/736/CFSP on the European Union Monitoring Mission in Georgia, EUMM Georgia <sup>(2)</sup>, in order to increase the financial reference amount to EUR 35 000 000.

This Joint Action shall be published in the *Official Journal of the European Union*.

Done at Brussels, 23 March 2009.

- (3) The financial reference amount for EUMM Georgia should be increased further, with effect from 1 February 2009, in order to allow for the additional operational needs of the Mission,

*For the Council*  
*The President*  
P. GANDALOVIČ

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<sup>(1)</sup> OJ L 248, 17.9.2008, p. 26.

<sup>(2)</sup> OJ L 259, 27.9.2008, p. 15.