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Price: EUR 4

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

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EN

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

## I

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

## REGULATIONS

**COUNCIL REGULATION (EC) No 1139/2009**  
**of 20 November 2009**  
**repealing certain obsolete Council acts**

THE COUNCIL OF THE EUROPEAN UNION,

2658/87 of 23 July 1987 on the tariff and statistical nomenclature and on the Common Customs Tariff <sup>(4)</sup> and has as a result exhausted its effects.

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

Having regard to the proposal from the Commission,

(4) Council Decision 96/620/EC of 1 October 1996 on the conclusion of an Agreement in the form of an Exchange of Letters between the European Community and the Kingdom of Morocco fixing, from 1 January 1994, the additional amount to be deducted from the levy or the customs duties on imports into the Community of untreated olive oil originating in Morocco <sup>(5)</sup> implemented an Agreement which has been subsequently superseded and Council Decision 2002/958/EC of 28 November 2002 concerning the conclusion of an Agreement in the form of an Exchange of Letters between the European Community and the Kingdom of Morocco derogating temporarily, as regards the importation into the Community of tomatoes originating in Morocco, from Agricultural Protocol No 1 to the Euro-Mediterranean Agreement establishing an association between the European Communities and their Member States, of the one part, and the Kingdom of Morocco, of the other part <sup>(6)</sup>, had a temporary character; they have therefore exhausted their effects.

Whereas:

(1) Improving the transparency of Community law is an essential element of the better lawmaking strategy that Community institutions are implementing. In that context it is appropriate to remove from legislation in force those acts which no longer have real effect.

(2) Council Decision 91/373/EEC of 8 July 1991 on the conclusion by the European Economic Community of an Agreement in the form of an Exchange of Letters between the European Economic Community and the Union of Soviet Socialist Republics on a credit guarantee for exports of agricultural products and foodstuffs from the Community to the Soviet Union <sup>(1)</sup> and Council Regulation (EEC) No 599/91 of 5 March 1991 introducing a credit guarantee for exports of agricultural products and foodstuffs from the Community, Bulgaria, Czechoslovakia, Hungary, Poland, Romania, Yugoslavia, Lithuania, Latvia and Estonia to the Soviet Union <sup>(2)</sup> dealt with a temporary situation and have therefore exhausted their effects.

(3) Council Regulation (EC) No 3093/95 of 22 December 1995 laying down the rates of duty to be applied by the Community resulting from negotiations under GATT Article XXIV.6 consequent upon the accession of Austria, Finland and Sweden to the European Union <sup>(3)</sup> has been incorporated into Council Regulation (EEC) No

(5) Council Regulation (EC) No 1804/98 of 14 August 1998 establishing an autonomous duty applicable for residues from the manufacture of starch from maize falling within CN codes 2303 10 19 and 2309 90 20 and introducing a tariff rate quota on imports of residues from the manufacture of starch from maize (corn gluten feed) falling within CN codes 2303 10 19 and 2309 90 20 originating in the United States of America <sup>(7)</sup> was adopted in the framework of a trade dispute with the United States of America which has since been settled and as a result that Regulation no longer has any practical relevance.

<sup>(1)</sup> OJ L 202, 25.7.1991, p. 39.

<sup>(2)</sup> OJ L 67, 14.3.1991, p. 21.

<sup>(3)</sup> OJ L 334, 30.12.1995, p. 1.

<sup>(4)</sup> OJ L 256, 7.9.1987, p. 1.

<sup>(5)</sup> OJ L 277, 30.10.1996, p. 35.

<sup>(6)</sup> OJ L 333, 10.12.2002, p. 21.

<sup>(7)</sup> OJ L 233, 20.8.1998, p. 1.

- (6) Council Regulation (EC) No 2249/1999 of 22 October 1999 opening a Community tariff quota for the import of meat of bovine animals, boneless, dried <sup>(1)</sup> had a temporary character and has therefore exhausted its effects.
- (7) The following measures concerning certain states have become obsolete following the accession of those states to the European Union: (i) Council Decision 85/211/EEC of 26 March 1985 concerning the conclusion of an Exchange of Letters extending the arrangement relating to clause 2 of the Agreement between the European Economic Community and the Socialist Republic of Romania on trade in sheep meat and goat meat <sup>(2)</sup>; (ii) Council Decision 93/722/EC of 23 November 1993 concerning the conclusion of an Agreement between the European Community and Republic of Bulgaria on the reciprocal protection and control of wine names <sup>(3)</sup>; (iii) Council Decision 93/724/EC of 23 November 1993 concerning the conclusion of an Agreement between the European Community and Republic of Hungary on the reciprocal protection and control of wine names <sup>(4)</sup>; (iv) Council Decision 93/726/EC of 23 November 1993 concerning the conclusion of an Agreement between the European Community and Romania on the reciprocal protection and control of wine names <sup>(5)</sup>; (v) Council Regulation (EC) No 933/95 of 10 April 1995 opening and providing for the administration of Community tariff quotas for certain wines originating in Bulgaria, Hungary and Romania <sup>(6)</sup>; (vi) Council Regulation (EC) No 1926/96 of 7 October 1996 establishing certain concessions in the form of Community tariff quotas for certain agricultural products and providing for the adjustment, as an autonomous and transitional measure, of certain agricultural concessions provided for in the agreements on free trade and trade-related matters with Estonia, Latvia and Lithuania, to take account of the Agreement on Agriculture concluded during the Uruguay Round Multilateral Trade Negotiations <sup>(7)</sup>; (vii) Council Regulation (EC) No 410/97 of 24 February 1997 on certain procedures for applying the Interim Agreement on Trade and Trade-Related Measures between the European Community, the European Coal and Steel Community and the European Atomic Energy Community, of the one part, and the Republic of Slovenia, of the other part <sup>(8)</sup>; (viii) Council Regulation (EC) No 2658/98 of 19 January 1998 concerning the approval of an Exchange of Letters between the European Community and the Republic of Hungary on certain import arrangements for agricultural products <sup>(9)</sup>; (ix) Council Decision 1999/86/EC of 18 May 1998 on the conclusion of a Protocol adjusting trade aspects of the Europe Agreement estab-

lishing an association between the European Communities and their Member States, of the one part, and the Republic of Estonia, of the other part, to take account of the accession of the Republic of Austria, the Republic of Finland and the Kingdom of Sweden to the European Union and the outcome of the Uruguay Round negotiations on agriculture, including improvements to the existing preferential arrangements <sup>(10)</sup>; (x) Council Regulation (EC) No 1037/1999 of 17 May 1999 on the application of specific measures for the import of grape juice and must originating in Cyprus <sup>(11)</sup>; (xi) Council Regulation (EC) No 678/2001 of 26 February 2001 concerning the conclusion of Agreements in the form of Exchanges of Letters between the European Community and the Republic of Bulgaria, the Republic of Hungary and Romania on reciprocal preferential trade concessions for certain wines and spirits <sup>(12)</sup>; (xii) Council Decision 2002/63/EC of 23 October 2001 relating to the conclusion of a Protocol adjusting trade aspects of the Europe Agreement between the European Communities and their Member States, of the one part, and the Republic of Poland, of the other part, to take account of the accession of the Republic of Austria, the Republic of Finland and the Kingdom of Sweden to the European Union and the outcome of the Uruguay Round negotiations on agriculture, including improvements to the existing preferential arrangements <sup>(13)</sup>; (xiii) Council Regulation (EC) No 1361/2002 of 22 July 2002 establishing concessions in the form of Community tariff quotas for certain agricultural products and providing for an adjustment, as an autonomous and transitional measure, of certain agricultural concessions provided for in the Europe Agreement with Lithuania <sup>(14)</sup>; (xiv) Council Decision 2003/18/EC of 19 December 2002 concerning the conclusion of a Protocol adjusting the trade aspects of the Europe Agreement establishing an association between the European Communities and their Member States, of the one part, and Romania, of the other part, to take account of the outcome of negotiations between the Parties on new mutual agricultural concessions <sup>(15)</sup>; (xv) Council Decision 2003/285/EC of 18 March 2003 concerning the conclusion of a Protocol adjusting the trade aspects of the Europe Agreement establishing an association between the European Communities and their Member States, of the one part, and the Republic of Hungary, of the other part, to take account of the outcome of negotiations between the parties on new mutual agricultural concessions <sup>(16)</sup>; (xvi) Council Decision 2003/463/EC of 18 March 2003 concerning the conclusion of a Protocol adjusting the trade aspects of the Europe Agreement establishing an association between the European Communities and their Member States, of the one part, and the Republic of Estonia, of the other part, to take account of the outcome of negotiations between the parties on new mutual agricultural concessions <sup>(17)</sup>; (xvii) Council Decision 2003/286/EC of 8 April 2003 on the conclusion of a

<sup>(1)</sup> OJ L 275, 26.10.1999, p. 2.

<sup>(2)</sup> OJ L 96, 3.4.1985, p. 30.

<sup>(3)</sup> OJ L 337, 31.12.1993, p. 11.

<sup>(4)</sup> OJ L 337, 31.12.1993, p. 93.

<sup>(5)</sup> OJ L 337, 31.12.1993, p. 177.

<sup>(6)</sup> OJ L 96, 28.4.1995, p. 1.

<sup>(7)</sup> OJ L 254, 8.10.1996, p. 1.

<sup>(8)</sup> OJ L 62, 4.3.1997, p. 5.

<sup>(9)</sup> OJ L 336, 11.12.1998, p. 1.

<sup>(10)</sup> OJ L 29, 3.2.1999, p. 9.

<sup>(11)</sup> OJ L 127, 21.5.1999, p. 5.

<sup>(12)</sup> OJ L 94, 4.4.2001, p. 1.

<sup>(13)</sup> OJ L 27, 30.1.2002, p. 1.

<sup>(14)</sup> OJ L 198, 27.7.2002, p. 1.

<sup>(15)</sup> OJ L 8, 14.1.2003, p. 18.

<sup>(16)</sup> OJ L 102, 24.4.2003, p. 32.

<sup>(17)</sup> OJ L 156, 25.6.2003, p. 31.

Protocol adjusting the trade aspects of the Europe Agreement establishing an association between the European Communities and their Member States, of the one part, and the Republic of Bulgaria, of the other part, to take account of the outcome of negotiations between the Parties on new mutual agricultural concessions <sup>(1)</sup>; (xviii) Council Decision 2003/298/EC of 14 April 2003 on the conclusion of a Protocol adjusting the trade aspects of the Europe Agreement establishing an Association between the European Communities and their Member States, of the one part, and the Czech Republic, of the other part, to take account of the outcome of negotiations between the parties on new mutual agricultural concessions <sup>(2)</sup>; (xix) Council Decision 2003/299/EC of 14 April 2003 on the conclusion of a Protocol adjusting the trade aspects of the Europe Agreement establishing an Association between the European Communities and their Member States, of the one part, and the Slovak Republic, of the other part, to take account of the outcome of negotiations between the parties on new mutual agricultural concessions <sup>(3)</sup>; (xx) Council Decision 2003/452/EC of 26 May 2003 on the conclusion of a Protocol adjusting the trade aspects of the Europe Agreement establishing an association between the European Communities and their Member States, acting within the framework of the European Union, of the one part, and the Republic of Slovenia, of the other part, to take account of the outcome of negotiations between the parties on new mutual agricultural concessions <sup>(4)</sup>; (xxi) Council Decision 2004/484/EC of 22 September 2003 on the conclusion of a Protocol adjusting the trade aspects of the Europe Agreement establishing an association between the European Communities and

their Member States, of the one part, and the Republic of Latvia, of the other part, to take account of the outcome of negotiations between the parties on new mutual agricultural concessions <sup>(5)</sup>.

- (8) For reasons of legal certainty and clarity, those obsolete Regulations and Decisions should be repealed,

HAS ADOPTED THIS REGULATION:

#### Article 1

1. Regulations (EEC) No 599/91, (EC) No 933/95, (EC) No 3093/95, (EC) No 1926/96, (EC) No 410/97, (EC) No 1804/98, (EC) No 2658/98, (EC) No 1037/1999, (EC) No 2249/1999, (EC) No 678/2001 and (EC) No 1361/2002 and Decisions 85/211/EEC, 91/373/EEC, 93/722/EC, 93/724/EC, 93/726/EC, 96/620/EC, 1999/86/EC, 2002/63/EC, 2002/958/EC, 2003/18/EC, 2003/285/EC, 2003/286/EC, 2003/298/EC, 2003/299/EC, 2003/452/EC, 2003/463/EC and 2004/484/EC are repealed.

2. The repeal of the Regulations and Decisions referred to in paragraph 1 shall be without prejudice to the maintenance in force of Community acts adopted on the basis of those Regulations and Decisions.

#### Article 2

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

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

Done at Brussels, 20 November 2009.

For the Council

The President

E. ERLANDSSON

<sup>(1)</sup> OJ L 102, 24.4.2003, p. 60.

<sup>(2)</sup> OJ L 107, 30.4.2003, p. 12.

<sup>(3)</sup> OJ L 107, 30.4.2003, p. 36.

<sup>(4)</sup> OJ L 152, 20.6.2003, p. 22.

<sup>(5)</sup> OJ L 162, 30.4.2004, p. 78.

**COUNCIL REGULATION (EC) No 1140/2009****of 20 November 2009****amending Regulation (EC) No 1234/2007 establishing a common organisation of agricultural markets and on specific provisions for certain agricultural products (Single CMO Regulation)**

THE COUNCIL OF THE EUROPEAN UNION,

1 April 2009 and 1 April 2010 and only as regards milk deliveries in order to limit the measure to the extent necessary.

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

(5) Article 186 of Regulation (EC) No 1234/2007 provides that the Commission can take measures in cases of disturbances of the market of certain agricultural products where internal market prices significantly rise or fall. Milk and milk products are, however, not covered by that Article.

Having regard to the proposal from the Commission,

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

(6) In view of the serious difficulties and the increasing price volatility on the dairy market it is appropriate to enlarge the scope of Article 186 of Regulation (EC) No 1234/2007 to milk and milk products, thus enabling the Commission to react to market disturbances in a flexible and swift manner.

Whereas:

(7) Regulation (EC) No 1234/2007 should therefore be amended accordingly,

(1) For the purpose of restructuring milk production in the Community, Article 75(1)(a) of Regulation (EC) No 1234/2007 <sup>(2)</sup> gives to the Member States the possibility to grant compensation to producers who undertake to abandon permanently all or part of their milk production and place the individual quotas thus released in the national reserve.

HAS ADOPTED THIS REGULATION:

*Article 1*

Regulation (EC) No 1234/2007 shall be amended as follows:

(2) In order to stimulate further the necessary restructuring, the surplus levy payable by the milk producers pursuant to Article 78(1) of Regulation (EC) No 1234/2007 should be calculated on the basis of the national quota reduced by the individual quotas bought-up under Article 75(1)(a), subject to the condition that those released quotas remain in the national reserve in the quota year concerned.

1. Article 78 is amended as follows:

(3) Given the necessity to reinforce the financial instruments for further restructuring of the sector, Member States should be allowed to use for the same restructuring purposes the additional money collected on the basis of the new calculation method.

(a) after paragraph 1, the following paragraph is inserted:

'1a. By way of derogation from the first subparagraph of paragraph 1, for the 12-month periods starting on 1 April 2009 and 1 April 2010 and as regards deliveries the surplus levy shall be payable on milk marketed in excess of the national quota as established in accordance with Subsection II and reduced by individual quotas for deliveries released into the national reserve in accordance with Article 75(1)(a) as from 30 November 2009 and kept therein until 31 March of the 12-month period concerned.'

(4) This calculation method should be applicable on a temporary basis, for the 12-month periods starting on

(b) after paragraph 2, the following paragraph is inserted:

'2a. The difference between the amount of the surplus levy resulting from the application of paragraph 1a and that resulting from the application of the first subparagraph of paragraph 1 shall be used by the Member State for financing restructuring measures in the dairy sector.'

<sup>(1)</sup> Opinion of 22 October 2009 (not yet published in the Official Journal).

<sup>(2)</sup> OJ L 299, 16.11.2007, p. 1.

2. in Article 79, the following paragraph is added:

'For the 12-month periods starting on 1 April 2009 and 1 April 2010 and as regards the deliveries, the surplus levy shall be entirely allocated, in accordance with Articles 80 and 83, among the producers who have contributed to the overrun of the national quota as established by application of Article 78(1a).';

3. in Article 186, point (a) is replaced by the following:

'(a) with regard to the products of the sugar, hops, beef and veal, milk and milk products, sheepmeat and goatmeat sectors, where the prices on the Community market for any of those products rise or fall significantly;'

*Article 2*

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

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

Done at Brussels, 20 November 2009.

*For the Council*  
*The President*  
E. ERLANDSSON

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**COMMISSION REGULATION (EC) No 1141/2009**  
**of 26 November 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 27 November 2009.

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

Done at Brussels, 26 November 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	MA	37,9
	MK	54,6
	TR	61,2
	ZZ	51,2
0707 00 05	MA	52,9
	TR	76,1
	ZZ	64,5
0709 90 70	MA	40,4
	TR	124,9
	ZZ	82,7
0805 20 10	MA	67,6
	ZZ	67,6
0805 20 30, 0805 20 50, 0805 20 70, 0805 20 90	CN	48,0
	HR	67,0
	MA	63,0
	TR	74,1
	ZZ	63,0
0805 50 10	AR	64,7
	TR	68,8
	ZZ	66,8
0808 10 80	AU	142,2
	CA	105,6
	CN	108,9
	MK	20,3
	US	97,5
	XS	24,5
	ZA	115,0
ZZ	87,7	
0808 20 50	CN	68,5
	TR	91,0
	US	163,7
	ZZ	107,7

<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 1142/2009

of 26 November 2009

amending Regulation (EC) No 1126/2008 adopting certain international accounting standards in accordance with Regulation (EC) No 1606/2002 of the European Parliament and of the Council as regards International Financial Reporting Interpretations Committee's (IFRIC) Interpretation 17

(Text with EEA relevance)

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

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

Whereas:

- (1) By Commission Regulation (EC) No 1126/2008<sup>(2)</sup> certain international standards and interpretations that were in existence at 15 October 2008 were adopted.
- (2) On 27 November 2008, the International Financial Reporting Interpretations Committee (IFRIC) published IFRIC Interpretation 17 *Distribution of Non-cash Assets to Owners*, hereinafter 'IFRIC 17'. IFRIC 17 is an interpretation that provides clarification and guidance on the accounting treatment of distributions of non-cash assets to owners of an entity.
- (3) The consultation with the Technical Expert Group (TEG) of the European Financial Reporting Advisory Group (EFRAG) confirms that IFRIC 17 meets the technical criteria for adoption set out in Article 3(2) of Regulation (EC) No 1606/2002. In accordance with Commission Decision 2006/505/EC of 14 July 2006 setting up a Standards Advice Review Group to advise the Commission on the objectivity and neutrality of the European Financial Reporting Advisory Group's (EFRAG's) opinions<sup>(3)</sup>, the Standards Advice Review Group considered EFRAG's opinion on endorsement and advised the Commission that it is well-balanced and objective.
- (4) The adoption of IFRIC 17 implies, by way of consequence, amendments to International Financial

Reporting Standard (IFRS) 5 and International Accounting Standard (IAS) 10 in order to ensure consistency between international accounting standards.

- (5) Regulation (EC) No 1126/2008 should therefore be amended accordingly.
- (6) The measures provided for in this Regulation are in accordance with the opinion of the Accounting Regulatory Committee,

HAS ADOPTED THIS REGULATION:

*Article 1*

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

1. International Financial Reporting Interpretations Committee's (IFRIC) Interpretation 17 *Distributions of Non-cash Assets to Owners* is inserted as set out in the Annex to this Regulation;
2. International Financial Reporting Standard (IFRS) 5 is amended as set out in the Annex to this Regulation;
3. International Accounting Standard (IAS) 10 is amended as set out in the Annex to this Regulation.

*Article 2*

Each company shall apply IFRIC 17 and the amendments to IFRS 5 and IAS 10, as set out in the Annex to this Regulation, at the latest, as from the commencement date of its first financial year starting after 31 October 2009.

*Article 3*This Regulation shall enter into force on the third day following that of its publication in the *Official Journal of the European Union*.

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

Done at Brussels, 26 November 2009.

For the Commission

Charlie McCREEVY

Member of the Commission

<sup>(1)</sup> OJ L 243, 11.9.2002, p. 1.<sup>(2)</sup> OJ L 320, 29.11.2008, p. 1.<sup>(3)</sup> OJ L 199, 21.7.2006, p. 33.

## ANNEX

## INTERNATIONAL ACCOUNTING STANDARDS

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IFRIC 17	IFRIC Interpretation 17 <i>Distributions of Non-cash Assets to Owners</i>
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**IFRIC INTERPRETATION 17*****Distributions of Non-cash Assets to Owners***

## REFERENCES

- IFRS 3 *Business Combinations* (as revised in 2008)
- IFRS 5 *Non-current Assets Held for Sale and Discontinued Operations*
- IFRS 7 *Financial Instruments: Disclosures*
- IAS 1 *Presentation of Financial Statements* (as revised in 2007)
- IAS 10 *Events after the Reporting Period*
- IAS 27 *Consolidated and Separate Financial Statements* (as amended in May 2008)

## BACKGROUND

- 1 Sometimes an entity distributes assets other than cash (non-cash assets) as dividends to its owners (\*) acting in their capacity as owners. In those situations, an entity may also give its owners a choice of receiving either non-cash assets or a cash alternative. The IFRIC received requests for guidance on how an entity should account for such distributions.
- 2 International Financial Reporting Standards (IFRSs) do not provide guidance on how an entity should measure distributions to its owners (commonly referred to as dividends). IAS 1 requires an entity to present details of dividends recognised as distributions to owners either in the statement of changes in equity or in the notes to the financial statements.

## SCOPE

- 3 This Interpretation applies to the following types of non-reciprocal distributions of assets by an entity to its owners acting in their capacity as owners:
  - (a) distributions of non-cash assets (eg items of property, plant and equipment, businesses as defined in IFRS 3, ownership interests in another entity or disposal groups as defined in IFRS 5); and
  - (b) distributions that give owners a choice of receiving either non-cash assets or a cash alternative.
- 4 This Interpretation applies only to distributions in which all owners of the same class of equity instruments are treated equally.
- 5 This Interpretation does not apply to a distribution of a non-cash asset that is ultimately controlled by the same party or parties before and after the distribution. This exclusion applies to the separate, individual and consolidated financial statements of an entity that makes the distribution.
- 6 In accordance with paragraph 5, this Interpretation does not apply when the non-cash asset is ultimately controlled by the same parties both before and after the distribution. Paragraph B2 of IFRS 3 states that 'A group of individuals shall be regarded as controlling an entity when, as a result of contractual arrangements, they collectively have the power to govern its financial and operating policies so as to obtain benefits from its activities.' Therefore, for a distribution to be outside the scope of this Interpretation on the basis that the same parties control the asset both before and after the distribution, a group of individual shareholders receiving the distribution must have, as a result of contractual arrangements, such ultimate collective power over the entity making the distribution.
- 7 In accordance with paragraph 5, this Interpretation does not apply when an entity distributes some of its ownership interests in a subsidiary but retains control of the subsidiary. The entity making a distribution that results in the entity recognising a non-controlling interest in its subsidiary accounts for the distribution in accordance with IAS 27 (as amended in 2008).

(\*) Paragraph 7 of IAS 1 defines owners as holders of instruments classified as equity.

- 8 This Interpretation addresses only the accounting by an entity that makes a non-cash asset distribution. It does not address the accounting by shareholders who receive such a distribution.

#### ISSUES

- 9 When an entity declares a distribution and has an obligation to distribute the assets concerned to its owners, it must recognise a liability for the dividend payable. Consequently, this Interpretation addresses the following issues:
- (a) When should the entity recognise the dividend payable?
  - (b) How should an entity measure the dividend payable?
  - (c) When an entity settles the dividend payable, how should it account for any difference between the carrying amount of the assets distributed and the carrying amount of the dividend payable?

#### CONSENSUS

##### **When to recognise a dividend payable**

- 10 The liability to pay a dividend shall be recognised when the dividend is appropriately authorised and is no longer at the discretion of the entity, which is the date:
- (a) when declaration of the dividend, eg by management or the board of directors, is approved by the relevant authority, eg the shareholders, if the jurisdiction requires such approval, or
  - (b) when the dividend is declared, eg by management or the board of directors, if the jurisdiction does not require further approval.

##### **Measurement of a dividend payable**

- 11 An entity shall measure a liability to distribute non-cash assets as a dividend to its owners at the fair value of the assets to be distributed.
- 12 If an entity gives its owners a choice of receiving either a non-cash asset or a cash alternative, the entity shall estimate the dividend payable by considering both the fair value of each alternative and the associated probability of owners selecting each alternative.
- 13 At the end of each reporting period and at the date of settlement, the entity shall review and adjust the carrying amount of the dividend payable, with any changes in the carrying amount of the dividend payable recognised in equity as adjustments to the amount of the distribution.

##### **Accounting for any difference between the carrying amount of the assets distributed and the carrying amount of the dividend payable when an entity settles the dividend payable**

- 14 When an entity settles the dividend payable, it shall recognise the difference, if any, between the carrying amount of the assets distributed and the carrying amount of the dividend payable in profit or loss.

##### **Presentation and disclosures**

- 15 An entity shall present the difference described in paragraph 14 as a separate line item in profit or loss.
- 16 An entity shall disclose the following information, if applicable:
- (a) the carrying amount of the dividend payable at the beginning and end of the period; and
  - (b) the increase or decrease in the carrying amount recognised in the period in accordance with paragraph 13 as result of a change in the fair value of the assets to be distributed.
- 17 If, after the end of a reporting period but before the financial statements are authorised for issue, an entity declares a dividend to distribute a non-cash asset, it shall disclose:
- (a) the nature of the asset to be distributed;

- (b) the carrying amount of the asset to be distributed as of the end of the reporting period; and
- (c) the estimated fair value of the asset to be distributed as of the end of the reporting period, if it is different from its carrying amount, and the information about the method used to determine that fair value required by IFRS 7 paragraph 27(a) and (b).

## EFFECTIVE DATE

- 18 An entity shall apply this Interpretation prospectively for annual periods beginning on or after 1 July 2009. Retrospective application is not permitted. Earlier application is permitted. If an entity applies this Interpretation for a period beginning before 1 July 2009, it shall disclose that fact and also apply IFRS 3 (as revised in 2008), IAS 27 (as amended in May 2008) and IFRS 5 (as amended by this Interpretation).

## Appendix

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

*Paragraph 5A is added.*

## SCOPE

- 5A The classification, presentation and measurement requirements in this IFRS applicable to a non-current asset (or disposal group) that is classified as held for sale apply also to a non-current asset (or disposal group) that is classified as held for distribution to owners acting in their capacity as owners (held for distribution to owners).

*After paragraph 5A the heading and paragraph 8 are amended, and paragraph 12A is added.*

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

- 8 For the sale to be highly probable, the appropriate level of management must be committed to a plan to sell the asset (or disposal group), and an active programme to locate a buyer and complete the plan must have been initiated. Further, the asset (or disposal group) must be actively marketed for sale at a price that is reasonable in relation to its current fair value. In addition, the sale should be expected to qualify for recognition as a completed sale within one year from the date of classification, except as permitted by paragraph 9, and actions required to complete the plan should indicate that it is unlikely that significant changes to the plan will be made or that the plan will be withdrawn. The probability of shareholders' approval (if required in the jurisdiction) should be considered as part of the assessment of whether the sale is highly probable.
- 12A A non-current asset (or disposal group) is classified as held for distribution to owners when the entity is committed to distribute the asset (or disposal group) to the owners. For this to be the case, the assets must be available for immediate distribution in their present condition and the distribution must be highly probable. For the distribution to be highly probable, actions to complete the distribution must have been initiated and should be expected to be completed within one year from the date of classification. Actions required to complete the distribution should indicate that it is unlikely that significant changes to the distribution will be made or that the distribution will be withdrawn. The probability of shareholders' approval (if required in the jurisdiction) should be considered as part of the assessment of whether the distribution is highly probable.

*Paragraph 15A and a footnote are added.*

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

- 15A An entity shall measure a non-current asset (or disposal group) classified as held for distribution to owners at the lower of its carrying amount and fair value less costs to distribute (\*).

*Paragraph 44D is added.*

(\*) Costs to distribute are the incremental costs directly attributable to the distribution, excluding finance costs and income tax expense.

## EFFECTIVE DATE

- 44D Paragraphs 5A, 12A and 15A were added and paragraph 8 was amended by IFRIC 17 *Distributions of Non-cash Assets to Owners* in November 2008. Those amendments shall be applied prospectively to non-current assets (or disposal groups) that are classified as held for distribution to owners in annual periods beginning on or after 1 July 2009. Retrospective application is not permitted. Earlier application is permitted. If an entity applies the amendments for a period beginning before 1 July 2009 it shall disclose that fact and also apply IFRS 3 *Business Combinations* (as revised in 2008), IAS 27 (as amended in May 2008) and IFRIC 17.

**Amendment to IAS 10*****Events after the Reporting Period***

Paragraph 13 is amended.

## DIVIDENDS

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

## COMMISSION REGULATION (EC) No 1143/2009

of 26 November 2009

## approving non-minor amendments to the specification for a name entered in the register of protected designations of origin and protected geographical indications (Picodon de l'Ardèche ou Picodon de la Drôme (PDO))

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Council Regulation (EC) No 510/2006 of 20 March 2006 on the protection of geographical indications and designations of origin for agricultural products and foodstuffs <sup>(1)</sup>, and in particular the first subparagraph of Article 7(4) thereof,

Whereas:

- (1) In accordance with the first subparagraph of Article 9(1) and in application of Article 17(2) of Regulation (EC) No 510/2006, the Commission has examined France's application for the approval of amendments to the specification of the protected designation of origin 'Picodon de l'Ardèche ou Picodon de la Drôme' registered on the basis of Commission Regulation (EC) No 1107/96 <sup>(2)</sup>.
- (2) The application for an amendment includes, among other things, amendment of the name of 'Picodon de l'Ardèche ou Picodon de la Drôme', which now becomes 'Picodon'. This is a traditional name which, in accordance with Article 2(2) of Regulation (EC) No 510/2006, is considered a designation of origin fulfilling the same conditions as those for a protected designation of origin. The name 'Picodon' is the shortened common form, traditionally used in trade and in normal speech

to identify the product obtained in accordance with the specification.

- (3) The amendments made also provide more detail as regards the definition and practices used by the producers when manufacturing the product. The formal inclusion in the specification is intended to protect the designation from potential abuse and to make it more distinctive by strengthening the link to its origin. Lastly, the name of the national Decree protecting the designation has been updated.
- (4) Since the amendments in question are not minor within the meaning of Article 9 of Regulation (EC) No 510/2006, the Commission published the amendment application in the *Official Journal of the European Union* <sup>(3)</sup>, as required by the first subparagraph of Article 6(2) of that Regulation. As no statement of objection in accordance with Article 7 of Regulation (EC) No 510/2006 has been sent to the Commission, the amendments should be approved,

HAS ADOPTED THIS REGULATION:

*Article 1*

The amendments to the specification published in the *Official Journal of the European Union* regarding the name in the Annex to this Regulation are hereby approved.

*Article 2*

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

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

Done at Brussels, 26 November 2009.

For the Commission

Mariann FISCHER BOEL

Member of the Commission

<sup>(1)</sup> OJ L 93, 31.3.2006, p. 12.

<sup>(2)</sup> OJ L 148, 21.6.1996, p. 1.

<sup>(3)</sup> OJ C 74, 28.3.2009, p. 74.

## ANNEX

Agricultural products intended for human consumption listed in Annex I to the Treaty:

**Class 1.3. Cheeses**

FRANCE

Picodon (PDO)  
  

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**COMMISSION REGULATION (EC) No 1144/2009****of 26 November 2009****amending Regulation (EC) No 474/2006 establishing the Community list of air carriers which are subject to an operating ban within the Community****(Text with EEA relevance)**

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Regulation (EC) No 2111/2005 of the European Parliament and the Council of 14 December 2005 on the establishment of a Community list of air carriers subject to an operating ban within the Community and on informing air transport passengers of the identity of the operating air carrier, and repealing Article 9 of Directive 2004/36/EC<sup>(1)</sup>, and in particular Article 4 thereof,

Whereas:

- (1) Commission Regulation (EC) No 474/2006 of 22 March 2006 established the Community list of air carriers which are subject to an operating ban within the Community referred to in Chapter II of Regulation (EC) No 2111/2005<sup>(2)</sup>.
- (2) In accordance with Article 4(3) of Regulation (EC) No 2111/2005, some Member States communicated to the Commission information that is relevant in the context of updating the Community list. Relevant information was also communicated by third countries. On this basis, the Community list should be updated.
- (3) The Commission informed all air carriers concerned either directly or, when this was not practicable, through the authorities responsible for their regulatory oversight, indicating the essential facts and considerations which would form the basis for a decision to impose on them an operating ban within the Community or to modify the conditions of an operating ban imposed on an air carrier which is included in the Community list.
- (4) Opportunity was given by the Commission to the air carriers concerned to consult the documents provided by Member States, to submit written comments and to

make an oral presentation to the Commission within 10 working days and to the Air Safety Committee established by Council Regulation (EEC) No 3922/91 of 16 December 1991 on the harmonization of technical requirements and administrative procedures in the field of civil aviation<sup>(3)</sup>.

- (5) The authorities with responsibility for regulatory oversight over the air carriers concerned have been consulted by the Commission as well as, in specific cases, by some Member States.
- (6) The Air Safety Committee has heard presentations by the European Aviation Safety Agency (EASA) and the Commission about the technical assistance projects carried out in countries affected by Regulation (EC) No 2111/2005. It has been informed about the requests for further technical assistance and cooperation to improve the administrative and technical capability of civil aviation authorities with a view to resolving any non compliance with applicable international standards.
- (7) The Air Safety Committee has also been informed about enforcement actions taken by EASA and Member States to ensure the continuing airworthiness and maintenance of aircraft registered in the European Community and operated by air carriers certified by civil aviation authorities of third countries.
- (8) Regulation (EC) No 474/2006 should therefore be amended accordingly.

**Community carriers**

- (9) Following information resulting from SAFA ramp checks carried out on aircraft of certain Community air carriers, as well as area specific inspections and audits carried out by their national aviation authorities, some Member States have taken certain enforcement measures. They informed the Commission and the Air Safety Committee about these measures: the competent authorities of Lithuania revoked the Air Operator Certificate (AOC) of the air carrier FLYLAL Lithuanian Airlines and the competent authorities of Spain launched the procedure to suspend the AOC of the air carrier Euro Continental on 30 October 2009.

<sup>(1)</sup> OJ L 344, 27.12.2005, p. 15.

<sup>(2)</sup> OJ L 84, 23.3.2006, p. 14.

<sup>(3)</sup> OJ L 373, 31.12.1991, p. 4.

**Albanian Airlines MAK**

- (10) There is verified evidence of serious safety deficiencies on the part of Albanian Airlines MAK certified in Albania. These deficiencies have been identified by France, Germany, Italy as well as other ECAC States during ramp inspections performed under the SAFA programme<sup>(1)</sup>. These deficiencies concern mainly aircraft of type MD82.
- (11) Albanian Airlines MAK responded adequately and in a timely fashion to the enquiry by the civil aviation authority of France, Germany and Italy regarding the corrective actions undertaken to address these safety deficiencies.
- (12) The competent authorities of Albania (DGCA) however confirmed that the deficiencies identified in SAFA inspections actually pointed to systemic deficiencies in the operations and the quality system of Albanian Airlines MAK. The DGCA carried out an in-depth investigation of the air carrier's compliance with the applicable safety standards, following which they decided to impose restrictions on the operation and structural changes to the air carrier. In particular the DGCA informed the Air Safety Committee that the fleet was reduced from 3 to 2 aircraft and that the aircraft of type MD-82 with registration ZA-ASA was withdrawn from the AOC of Albanian Airlines and deregistered on 1 October 2009. In addition, the DGCA limited on 23 October the operations of the air carrier to the level and destinations existing at that date and requested the air carrier to change, with immediate effect, its management and reinforce the quality management and safety management systems.
- (13) The DGCA made presentations to the Air Safety Committee on 11 November which confirmed that these corrective actions have been implemented and are deemed to effectively address the safety deficiencies identified.
- (14) The competent authorities of Albania have shown that they acted to ensure the safety oversight of Albanian Airlines MAK.
- (15) The competent authorities of Albania are invited to expedite the implementation of the action plan referred to in recital (32) of Regulation (EC) No 787/2007<sup>(2)</sup>, and reminded of their commitment referred to in recital (33) of the same Regulation, not to issue any further AOC until the restructuring programme has been satisfactorily implemented. In view of this, Albania is invited to accelerate the capacity building of the DGCA in order

to ensure the continuing oversight of air carriers certified in Albania is carried out in a sustainable manner and in compliance with the applicable safety standards.

- (16) The European Aviation Safety Agency will carry out a standardisation inspection of Albania in early 2010 to monitor the implementation of the applicable safety requirements by the competent authorities and by the undertakings under their oversight.

**Egypt Air**

- (17) In accordance with Regulation (EC) No 619/2009<sup>(3)</sup> and following the presentation of the Corrective Action Plan in June 2009, the competent authorities of Egypt have submitted four monthly reports covering July, August, September and October 2009 to show the status of implementation of the plan as verified by these authorities. Further to these reports which have focused on ramp checks of aircraft of Egypt Air, the competent authorities of Egypt were requested to provide the audit reports for maintenance, continuing airworthiness and flight operations that they carried out on the air carrier. The competent authorities of Egypt transmitted on 10 November the report of the base inspection of Egypt Air in October 2009 which led to the renewal of the AOC of the air carrier. The audit reports for continued airworthiness, flight and ground operations were not transmitted. The documents provided show that, while significant progress has been made by the air carrier, further improvements in the areas of maintenance and engineering and operations are anticipated.
- (18) The competent authorities of Egypt have also undertaken to provide information regarding the satisfactory closure of findings previously raised during ramp checks of aircraft of Egypt Air in 2008 and 2009. To that end, they addressed relevant correspondence to certain Member States where aircraft of Egypt Air had been subject to ramp checks in the period 1 January 2008 to 30 September 2009. The process of closure of these findings is ongoing and shall be verified on a regular basis.
- (19) The Air Safety Committee acknowledges the efforts made by the carrier towards completing the actions necessary to redress its safety situation, as well as the strong disposition towards cooperation shown both by the carrier and the competent authorities of Egypt. However, given the scope and range of the corrective action plan and the need to provide for sustainable solutions to the previously identified safety deficiencies, the competent authorities of Egypt are requested to continue sending monthly reports on verification of the implementation of that plan and closure of the findings identified during the SAFA inspections along with any other reports of audits that they carry out on Egypt Air.

<sup>(1)</sup> DGAC/F-2009-541, -798, LBA/D-2008-805, LBA/D-2009-8, -921, ENAC-IT-2008-602, -750, -648, ENAC-IT-2009-126, -198, -359, -374, -451, -597, -686, -730, DGCATR-2008-519, -347, DGCATR-2009-445, -559.

<sup>(2)</sup> OJ L 175, 5.7.2007, p. 12.

<sup>(3)</sup> OJ L 182, 15.7.2009, p. 4.

(20) Upon completion of the corrective action plan, the competent authorities of Egypt should carry out a final audit and communicate the results to the Commission along with any recommendations. The Commission reserves the right to proceed to the verification of the implementation of corrective measures by the air carrier by means of a visit to be carried out by the European Aviation Safety Agency with the assistance of Member States. In the meantime, the Member States shall continue to ensure that the number of inspections of Egypt Air will be intensified in order to provide the basis for a reassessment of this case during the next Air Safety Committee.

#### Yemenia Yemen Airways

(21) Pursuant to Regulations (EC) No 715/2008 and 1131/2008 <sup>(1)</sup>, Member States continued to verify the effective compliance of Yemenia with the relevant safety standards through regular ramp checks of its aircraft landing on Community airports. In 2009, France, Germany, Italy and the United Kingdom reported such inspections. The Commission received documentation demonstrating that the air carrier reacted appropriately and in a timely manner to resolve the findings arising from these inspections.

(22) Following the adoption of Regulation (EC) No 619/2009 the Commission received additional information from the competent authorities of the Republic of Yemen as well as from the carrier Yemenia Yemen Airways on the implementation of the corrective actions plan in the areas of maintenance and operations.

(23) The competent authorities of the Republic of Yemen informed the Commission of the verification they carried out on the maintenance facilities of Yemenia after the suspension of its maintenance organisation approval EASA.145.0177 with a view to assess the compliance of Yemenia with the Yemenite standard YCAR-145. The competent authorities of the Republic of Yemen transmitted a revised corrective action plan from Yemenia dated 15 September 2009 following the audit by the Civil Aviation and Meteorology Authority (CAMA) of the maintenance organisation of Yemenia according to the national requirements (YCAR-145) together with a follow-up audit by CAMA dated 20 September 2009. Both documents showed that all findings have been closed. In addition, individual supporting documentation for the closure of findings were provided by CAMA during the meeting of the Air Safety Committee on 10 November 2009.

(24) Furthermore, the Air Safety Committee was informed of the positive assessment, at this stage, by EASA and the

competent authorities of France of the implementation of corrective actions by Yemenia to regain its European maintenance approval.

(25) The efforts deployed by Yemenia to correct the identified safety deficiencies in the various audits are acknowledged. The completion by Yemenia of the corrective action plan in the field of maintenance as reported in the assessments carried out in this area by CAMA is noted. An on-site visit in Yemen will be organised by EASA and Member States as soon as practicable to verify the safety situation of Yemenia with a view to evaluating its actual compliance with international safety standards and to evaluate the capacity of CAMA to ensure the oversight of the safety of civil aviation in Yemen.

(26) Member States will verify systematically the effective compliance of Yemenia with the relevant safety standards through the prioritisation of ramp inspections to be carried out on aircraft of this carrier pursuant to Regulation (EC) No 351/2008. The Air Safety Committee will review this case in its next session.

#### Air carriers from Democratic Republic of Congo

(27) The Democratic Republic of Congo informed the Commission of the withdrawal of operating licences for the following air carriers: Virunga Air Charter, Air Navette, Air Beni, Air Boyoma, Butembo Airlines, Sun Air services, Rwakabika Bushi Express, Aigle Aviation, Kivu Air, Comair, Free Airlines, Great Lake Business Company, Air Infini, Bel Glob Airlines, Safari Logistics, Tembo Air Services, Katanga Airways, Cargo Bull, Africa One, Malila Airlift, Transport Aérien Congolais (TRACO), El Sam Airlift, Thom's Airways, Piva Airlines, Espace Aviation Service. These air carriers have ceased their activities since 30 July 2009.

(28) Furthermore, the competent authorities of the Democratic Republic of Congo informed of the withdrawal of operating licenses for air carriers of which the Commission had not been previously informed they had an operating license: Air Fox, Trans Kasai Air, Wetrafa, Adala Airways, Executive Aviation, Flight Express, Katana Airways, Showa Air Cargo, Gloria Airways, Soft Trans Air, Lomami Aviation, Pegassus Aviation, African Trading and Transport, Brooks Trading. These air carriers have ceased their activities since 30 July 2009.

(29) In view of the above, on the basis of the common criteria, it is assessed that the aforementioned air carriers licensed in the Democratic Republic of Congo should be removed from Annex A.

<sup>(1)</sup> OJ L 197, 25.7.2008, p. 39 and OJ L 306, 15.11.2008, p. 49.

**Air carriers from Djibouti**

- (30) There is verified evidence of a lack of ability of the authorities responsible for the oversight of air carriers licensed in Djibouti to address safety deficiencies, as demonstrated by the results of the audit of Djibouti carried out by ICAO in the framework of the Universal Safety Oversight Audit Programme (USOAP) in March 2008. This audit reported a large number of significant deficiencies with regard to the capability of the civil aviation authorities of Djibouti to discharge their air safety oversight responsibilities. At the time of the completion of the ICAO audit, more than 96% of ICAO standards were not implemented.
- (31) There is evidence of insufficient ability of the competent authorities of Djibouti to remedy effectively the non-compliance findings made by ICAO, as demonstrated by the fact that ICAO considers in its final report dated February 2009 that a very significant part of the corrective actions proposed or implemented by these authorities do not actually address the deficiencies observed. In the area of aircraft operations in particular, more than two-third of the actions proposed by Djibouti were not considered as fully acceptable by ICAO.
- (32) In addition, ICAO released a significant safety concern to all States Party to the Chicago Convention to notify them that Djibouti has not established a reliable system for the oversight of the air carriers to which the competent authorities of Djibouti have issued an Air Operator Certificate (AOC) nor an acceptable action plan to remedy this situation.
- (33) The Commission, having regard to the above, has entered into consultation with the competent authorities of Djibouti, expressing serious concerns about the safety of the operations of air carriers licensed in this state and asking for clarifications regarding the actions undertaken by the competent authorities of Djibouti to respond to ICAO findings and observations on the acceptability of the remedial actions.
- (34) The competent authorities of Djibouti (DACM) informed the Commission that the implementation of the action plan aimed at addressing the findings made by ICAO is delayed, with only a limited number of findings being considered as closed. The DACM did not provide details about the actions undertaken nor evidence of the satisfactory closure of the related findings. The DACM did not respond to the observations made by ICAO concerning the relevance of 34 actions considered by ICAO as insufficient to address the findings.
- (35) The DACM confirmed that two fatal accidents occurred in 2002 and 2007, affecting aircraft of type Let 410 and

the aircraft of type Antonov 26. However, they did not provide information about the aircraft accident investigations nor their actions to address the causes of these accidents.

- (36) The DACM informed the Commission that they cancelled the AOC of Djibouti Airlines on 30 July 2009 and that the airline had at that date stopped its activities. They also informed that they cancelled the AOC of Daallo Airlines on 15 September. However, Daallo Airlines still retains an operating license and uses aircraft of type DC9 registered in Comores, aircraft of type Antonov 24 registered in Armenia, and aircraft of type Ilyushin 18 registered in Kazakhstan. The identity of the actual operators of these aircraft was not provided. The competent authorities of Djibouti have not demonstrated that they are in a position to effectively discharge their responsibilities regarding safety oversight of air carriers certified in Djibouti.
- (37) In view of this, on the basis of the common criteria, it is assessed that all air carriers certified in Djibouti should be included in Annex A.

**Air carriers from the Republic of Congo**

- (38) ICAO conducted an USOAP audit in the Republic of Congo in November 2008. The following finding gave rise to a significant safety concern: *The ANAC (National Civil Aviation Agency) has issued a certain number of air operator certificates (AOC) without having first established and put in place a process for the certification and continuous oversight of air operators. Consequently, these AOCs have been issued without the ANAC having ensured the operators' compliance with the Standards of Annex 6 to the Chicago Convention or the provisions of ICAO Doc 8335. In addition, there are operators functioning with a provisional operating licence and without an AOC.* This significant safety concern is still in force.
- (39) During this ICAO audit, 63 findings were raised showing a lack of effective implementation of international safety standards. The Republic of Congo consequently submitted a corrective action plan. However, more than one third of the proposed corrective actions were not accepted by ICAO.
- (40) On 26 August 2009, a cargo aircraft operated by the air carrier Aero Fret Business certified in the Republic of Congo suffered an accident near the airport of Brazzaville, killing all six occupants. As State of Occurrence, the Republic of Congo is responsible for the safety investigation which must be carried out under the provisions of Annex 13 to the Chicago Convention in order to identify the causes and avoid the re-occurrence of such an accident. However, the ICAO audit also identified 11 deficiencies in the field of accident investigation in the Republic of Congo, of which 6 proposed corrective actions were not considered satisfactory.

- (41) The competent authorities of the Republic of Congo informed the Commission during two meetings held in Brussels that they intended to proceed to the recertification of three operators with the assistance of ICAO experts. Also, these authorities transmitted its decisions dated 15 October 2009 by which the operators Aero-Service, Equafight Services, Société Nouvelle Air Congo and Trans Air Congo were granted Air Operators Certificates for a one year period. At the same date, the competent authority of the Republic of Congo informed the companies Aero Fret Business, Canadian Airways, Congo Airways (WAC), Emeraude, Equajet, Heli-Union Congo, Mani Air Fret, Mistral Aviation and Protocole Aviation that their AOCs were withdrawn pending examination of the necessary documentation required to obtain a new AOC. In addition, the Air Operators Certificates of the following companies were withdrawn: Air Cargo International, BIP Congo, Brazza Airways, Clesh Aviation, Finalair, Heavy Lift Congo, Ligne Aérienne Colombe, Locair Craft, Maouene, Natalco Airlines and United Express Service. However, these authorities did not demonstrate that the certification process followed for the issuance of any AOC complies with the relevant ICAO standards nor that the oversight of the air carriers to which they have issued AOCs is carried out in compliance with these standards.
- (42) The competent authorities of the Republic of Congo have made written submissions to the Air Safety Committee regarding measures taken to resolve the significant safety concern raised by ICAO as well as other non compliances stated in the ICAO USOAP audit report. The Commission takes note of all measures undertaken to date by the competent authorities of the Republic of Congo and urges them to intensify their efforts to implement sustainable corrective actions. The Commission will monitor closely in cooperation with ICAO any developments in the civil aviation in the Republic of Congo and is willing to engage in technical assistance with a view to enhance the administrative and technical capability of authority with oversight responsibility in this country.
- (43) However, the competent authorities of the Republic of Congo have not demonstrated a sufficient ability to implement the relevant safety standards. In view of the above, and pending the sustainable resolution of the non compliances with international standards, including the significant safety concern, on the basis of the common criteria, it is assessed that all air carriers certified in the Republic of Congo should be subject to an operating ban and included in Annex A.
- (44) There is verified evidence of serious safety deficiencies on the part of Executive Jet Services certified in Sao Tome and Principe. These deficiencies have been identified by Belgium and France during ramp inspections performed under the SAFA programme <sup>(1)</sup>. Executive Jet Services did not respond adequately and have not demonstrated that these deficiencies have been successfully rectified in a sustainable manner.
- (45) There is verified evidence of serious safety deficiencies on the part of STP Airways certified in Sao Tome and Principe. These deficiencies have been identified by France and the United Kingdom during ramp inspections performed under the SAFA programme <sup>(2)</sup>. STP Airways however responded adequately and in a timely fashion to the enquiry by the civil aviation authority of France regarding the safety aspect of its operations.
- (46) There is evidence that some air carriers currently subject to an operating ban within the European Community have been relocating part of their activity in São Tomé and Príncipe.
- (47) In particular, there is verified evidence showing that the air carrier Hewa Bora Airways, certified in the Democratic Republic of Congo and currently subject to an operating ban within the Community, continues to use, under a lease-back agreement, the aircraft of type Boeing 767 with serial number 23178, deregistered from the Democratic Republic of Congo and registered in São Tomé and Príncipe under registration mark S9-TOP <sup>(3)</sup>.
- (48) Further, the air carrier Africa's Connection uses the aircraft of type Dornier 228 with serial number 8068 registered in São Tomé and Príncipe under registration mark S9-RAS, an aircraft previously registered in Gabon and operated by SCD Aviation certified in Gabon, currently subject to an operating ban within the Community.
- (49) In addition, there is verified evidence that the air carrier British Gulf International certified in Sao Tome is the same carrier British Gulf International which was previously certified in Kyrgyzstan and subject to an operating ban in October 2006 <sup>(4)</sup>. British Gulf International also continues to use aircraft of type Antonov 12 and serial number 401901. One aircraft of this type operated by the air carrier had an accident in Al Habniaya (Iraq) on 13 November 2008, which resulted in the total loss of the aircraft and six fatalities.
- (50) The Commission, having regard to the above mentioned situation, has entered into consultation with the competent authorities of Sao Tome and Principe, expressing serious concerns about the safety of the operations of Executive Jet Services, STP Airways, as well as about the relocation to the register of Sao Tome of aircraft used by air carriers currently subject to an operating ban within the Community and asking for clarification regarding the actions undertaken by the competent authorities to respond to these concerns.

#### Air carriers from Sao Tome and Principe

- (44) There is verified evidence of serious safety deficiencies on the part of Executive Jet Services certified in Sao Tome and Principe. These deficiencies have been identified by Belgium and France during ramp inspections performed under the SAFA programme <sup>(1)</sup>. Executive Jet Services did

<sup>(1)</sup> BCAA-2009-122, DGAC/F-2009-2112, DGAC/F-2009-2113.

<sup>(2)</sup> CAA-UK-2009-126, DGAC/F-2009-137, DGAC/F-2009-257, DGAC/F-2009-779, DGAC/F-2009-1776.

<sup>(3)</sup> BCAA-2009-122, DGAC/F-2009-2112, DGAC/F-2009-2113.

<sup>(4)</sup> OJ L 283, 14.10.2006, p. 28.

- (51) The competent authorities of Sao Tome (INAC) informed the Commission that, in the process of re-certification of Executive Jet Services, they decided on 26 October 2009 to provisionally suspend the operations of aircraft of type Boeing 767 with serial number 23178 and registration mark S9-TOP operated by this carrier.
- (52) The air carrier Executive Jet Services airways requested to make presentations to the Air Safety Committee and reported on the actions undertaken in order to address the deficiencies detected in the SAFA programme.
- (53) INAC informed the Commission that, in the process of re-certification of STP Airways, they decided to suspend on 26 October the operations of two aircraft of type Boeing 767 with serial number 25411 (registration mark unknown) and 26208 (registration mark S9-DBY), which were subsequently deregistered. INAC reported that although STP Airways holds a valid AOC, there are currently no aircraft on this certificate.
- (54) The air carrier STP Airways requested to make presentations to the Air Safety Committee and reported on the actions undertaken in order to address the deficiencies detected in the SAFA programme. It confirmed that no aircraft are operated anymore and that it intends to request the suspension of its AOC.
- (55) INAC informed that they have issued 13 AOCs, 3 of which were presented as suspended or revoked. However, INAC failed to provide evidence of suspension or revocation of the air carriers Sky Wind, Styron Trading and Jet Line.
- (56) The documentation submitted by INAC shows that more than half of the air carriers holding valid AOCs issued by these authorities have their principal place of business outside Sao Tome and Principe. In particular, British Gulf International Company Ltd, Global Aviation Operation, Goliaf Air, Transafrik International Ltd, Transcargo and Transliz Aviation do not have their principal place of business in Sao Tome, as evidenced by their response to an enquiry by the Commission as well as the addresses mentioned on their respective AOCs.
- (57) INAC did not demonstrate that it discharges its obligations regarding the safety oversight of the air carriers certified in Sao Tome and Principe in conformity with international safety requirements, given that a substantial part of these carriers are not operating in Sao Tome on a regular basis and that INAC stated that it relies partly on the oversight of the competent authorities of the States in which the operations are actually conducted. However, INAC failed to produce adequate agreements with these authorities.
- (58) In addition, an analysis of the AOC issued by the competent authorities of Sao Tome and Principe revealed substantial inconsistencies with regard to the approval of continuing airworthiness of the fleets operated, the approval for transport of dangerous goods and the authorisation for low visibility operations, which could not be clarified in the course of the consultations.
- (59) There is evidence of a high rate of accidents affecting air carriers certified in Sao Tome and Principe. INAC confirmed that four fatal accidents affected aircraft of type Antonov 12, Ilyushin 76 and DHC 6 operated by air carriers registered in Sao Tome and Principe. In response to this situation, INAC indicated that it decided on 21 February 2009 to suspend all operations of aircraft of type Antonov 12 registered in Sao Tome and Principe. However, INAC confirmed that aircraft of this type are still operated by the air carriers British Gulf International, Transliz Aviation and Goliaf Air certified in Sao Tome and Principe.
- (60) There is evidence of lack of willingness of the competent authorities of Sao Tome and Principe to show compliance with international safety standards, as demonstrated by the fact that Sao Tome and Principe has continuously postponed its audit by ICAO in the framework of the Universal Safety Oversight Audit Programme (USOAP). The ICAO audit scheduled in May 2007 and April 2008 could not be carried out to these dates.
- (61) In view of this, on the basis of the common criteria, it is assessed that the air carriers certified in Sao Tome and Principe do not meet the relevant safety standards and should therefore be included in Annex A.

#### **Air carriers from Ukraine**

##### *Ukraine Cargo Airways*

- (62) The competent authorities of Ukraine informed the Commission on 22 September of their decision N° 574 of 17 August 2009 that operations under AOC Nr. 145 of 20 November 2008 held by Ukraine Cargo Airways were terminated with effect from the day of the decision. During their presentation on 11 November 2009 before the Air Safety Committee the competent authorities of Ukraine confirmed that 'the company Ukraine Cargo Airways is not included among the registered airlines of Ukraine'.

- (63) Therefore, on the basis of the common criteria, Ukraine Cargo Airways should be removed from Annex A.

*Volare*

- (64) The competent authorities of Ukraine informed the Commission on 31 July 2009 of their decision N°357 dated 25 May 2009 to revoke with immediate effect the AOC of the Ukrainian air carrier Volare.

- (65) Therefore, on the basis of the common criteria, the air carrier Volare should be removed from Annex A.

*Motor Sich*

- (66) Following the adoption of Regulation N° 619/2009, a team of EC experts, led by the European Aviation Safety Agency, visited the Ukrainian air carrier Motor Sich (MSI) on 27 October 2009 to verify the status of implementation of corrective actions and the effective closure of safety deficiencies previously detected with a view to resolving in a sustainable manner these deficiencies.

- (67) The report of the visit of the team stated that MSI demonstrated that they have performed root-cause analysis of findings identified during SAFA inspections. It appeared that the root cause analysis as well as the corrective action plans derived thereof are appropriately addressing the findings. During the visit, MSI declared that SAFA findings previously raised on their fleet of aircraft have all been addressed and rectified, including Enhanced Ground Proximity Warning Systems (EGPWS), flight deck seat harnesses, cargo restraint nets. It was furthermore declared that take-off performance calculation charts for all aircraft types and all runways in use have been established. The team led by the European Aviation Safety Agency is satisfied following physical inspection and/or document review, that: a) Flight deck seat harness retrofit on aircraft of types AN-12, AN-72 and YAK-40; b) Flight deck retrofit with quick donning masks on AN-12 (installation was ongoing on aircraft UR-11316 at the time of visit and reviewed by the team); c) Installation of EGPWS on the aircraft of types AN-12 and AN-140; d) Take-off performance charts for all runways currently being used for aircraft of types AN-12 and YAK-40. During their presentation before the Air Safety Committee the competent authorities of Ukraine confirmed that the carrier has the capability to apply the quality management system and undertook to inform the Commission of the results of the verification to be conducted on this matter.

- (68) With regard to flight operations, during the visit the team sampled in particular Minimum Equipment Lists (MEL), Operations Manuals, flight time limitations scheme, operations control and flight dispatch documents and procedures, sampling of returned and completed flight folders. No discrepancies to ICAO Standards were observed. Also, during the visit MSI demonstrated to the team that it performs analysis of recorded flight data for all flights performed on all aircraft operated.

- (69) The air carrier requested to be heard by the Air Safety Committee and made presentations on 11 November 2009 where it submitted written information to support the corrective actions implemented to resolve the previously detected safety deficiencies.

- (70) Following the presentations made on 11 November 2009 by the competent authorities of Ukraine and the air carrier, the Air Safety Committee requested that the State Aviation Administration provides the following documentation in order to be able to determine whether the removal of Motor Sich at this stage is warranted: a) the verification audit of the air carrier's quality management system; b) confirmation that all aircraft of Motor Sich conducting international flights are equipped in conformity with ICAO standards, in particular: i) flight deck seat harness on aircraft of types AN-12, AN-72 and YAK-40; ii) flight deck quick donning masks on AN-12; iii) EGPWS on the aircraft of types AN-12 and AN-140; c) Confirmation that take-off performance data for all runways currently being used for aircraft of types AN-12 and YAK-40 by Motor Sich is available in the carrier's operations manual; d) evidence of satisfactory resolution of the 38 findings raised during 2009 by the State Aviation Administration of Ukraine during its oversight activities on the carrier. The competent authorities of Ukraine submitted this information on 16 November.

- (71) Following receipt of the requested information from the competent authorities of Ukraine, on the basis of the common criteria, it is assessed that Motor Sich should be removed from Annex A.

*UMAir*

- (72) Following the adoption of Regulation (EC) No 619/2009, a team of EC experts visited the Ukrainian air carrier UMAir on 28 October 2009 to verify the status of implementation of corrective actions and the effective closure of safety deficiencies previously detected with a view to resolving in a sustainable manner these deficiencies.

(73) During the visit, the team was presented with an updated corrective action plan which indicated that their quality manager had completed a review of the corrective actions they had implemented. However, verification of the status of findings raised by a team of EC experts during a visit to this air carrier on 28 May 2009, showed that whilst significant efforts had been undertaken since that visit to appropriately address findings raised, certain findings affecting flight safety (flight data monitoring on DC-9 aircraft) and continuing airworthiness, maintenance and engineering (engine condition monitoring programme has yet to be used for DC-9 and MD-80 aircraft) could not yet be considered as closed. Also, with regard to flight operations, a new finding was raised due to a discrepancy observed in the approved Minimum Equipment List (MEL) of the aircraft of type DC-9.

(74) During the meeting of the Air Safety Committee on 11 November 2009, UMAir stated that they had requested that their AOC be restricted to exclude flights into the Community with DC-9 aircraft. The competent authorities of Ukraine issued a new AOC excluding flights into the EU with this type of aircraft on 11 November 2009.

(75) The improvements achieved by UMAir in the period since the visit of EC experts in May 2009 as well as of the limitations imposed on the AOC of the air carrier are noted. Given the significant efforts undertaken by the air carrier to ensure safety of operations in compliance with international standards, it should be allowed to resume its operations into the Community with a part of its fleet.

(76) Therefore, on the basis of the common criteria, UMAir should be transferred from Annex A to Annex B and should thus be allowed to resume operations into the Community with the aircraft of type MD-83, registration mark UR-CFF.

*Overall safety oversight of air carriers from Ukraine*

(77) As provided for in Regulation (EC) No 619/2009, the Commission has continued to monitor closely the implementation of the various measures presented by the competent authorities of Ukraine at the Air Safety Committee on 1 July 2009. To that end a visit of EC experts was carried out to the State Aviation Administration of Ukraine from 26 to 29 October. The objective of this visit was to verify the status of implementation of corrective actions proposed to close the findings raised in the report of the visit of EC experts carried out between 25 and 29 May 2009 as well as of those presented in the corrective action plan presented by the State Aviation

Administration of Ukraine on 23 June to enhance the safety oversight of air carriers under its regulatory control.

(78) The report of the visit indicates that 14 of 33 findings raised during the visit carried out in May 2009 can be considered as closed on the basis of evidence provided by the competent authorities of Ukraine during the visit. 19 findings remain open.

(79) The improvements achieved by the competent authorities in the period since the visit carried out in May 2009 and in particular of the increase in oversight activities on Ukrainian air carriers as well as the removal of a significant number of aircraft from the Ukrainian register (more than 800 aircraft out of 1 600 aircraft in 2008) are noted. The authorities are invited to further intensify their efforts with a view to strengthen their safety oversight.

**Ariana Afghan Airlines**

(80) On the basis of documentation submitted by the carrier the Commission noted that Ariana Afghan Airlines had undergone a change in management, had recruited external experts to assist the carrier in redrafting its policies, procedures and manuals, and had acquired two Airbus A310 aircraft and were being supported in their operation by Turkish Technic. It also noted the carrier's intention to be subject to an audit by the International Air Transport Association.

(81) The Afghan Ministry of Transport and Civil Aviation (MoTCA) has written outlining the progress made by both the MoTCA and Ariana towards meeting International Standards. They confirmed Ariana Afghan Airlines had undergone significant changes in aircraft equipment, management and documentation, but confirmed they had yet to conduct an audit of the operator, although one was planned to be completed by the end of 2009. Thus MoTCA are not yet in a position to confirm that Ariana Afghan Airlines are compliant with ICAO Standards and have an effective system in place for the management of safety. Although MoTCA stated that various oversight activities (e.g. flight and base inspections) had taken place this year, they did not provide any evidence of the results of these inspections.

(82) The Commission notes the progress being made by Ariana Afghan Airlines towards compliance with international safety standards. However, pending the provision of additional evidence that the air carrier has addressed the root causes of previously identified safety deficiencies, it is assessed, on the basis of the common criteria, that the air carrier should remain in Annex A.

**Air carriers from Angola***TAAG Angolan Airlines*

- (83) TAAG Angolan Airlines was allowed since July 2009 to operate in Portugal only with the aircraft of type Boeing 777-200 with registration marks D2-TED, D2-TEE, D2-TEF under the conditions presented in the recital (58) and (59) of Regulation (EC) No 619/2009 <sup>(1)</sup>.
- (84) The Commission requested the competent authorities of Angola (INAVIC) to provide information about the oversight of the air carrier TAAG Angolan Airlines, in particular in respect of the increased oversight of the flights to Portugal and on their results.
- (85) INAVIC informed the Commission that it has strengthened the continuing oversight of TAAG Angolan Airlines, in particular via ramp inspections, and that the results of these ramp checks do not reveal safety or repetitive deficiencies.
- (86) TAAG Angolan Airlines requested to be heard by the Commission and the Air Safety Committee and made presentations on 10 November 2009, with a view to provide information on the progress of its action plan and on the safety performance of its operations to Lisbon. It was noted that more than 100 flights with aircraft of type Boeing 777 have been conducted to Lisbon without safety concern and that TAAG was certified on 23 October 2009 by INAVIC to conducting ETOPS 120 min operations for the Boeing 777. The air carrier also requested to have its B737-700 fleet benefit from the same provisions as the B777 fleet.
- (87) The competent authorities of Portugal confirmed that the results of the ramp inspections of TAAG Angolan Airlines it had carried out since the operations to Lisbon have resumed do not reveal safety or repetitive deficiencies.
- (88) Consequently, on the basis of the common criteria, it is assessed that TAAG should be maintained in Annex B under the condition that the carrier carries out no more than ten flights per week with the aircraft of type Boeing B-777 with registration marks D2-TED, D2-TEE and D2-TEF or with aircraft of type Boeing B-737-700 with registration marks D2-TBF, D2-TBG, D2-TBH and D2-TBJ from Luanda to Lisbon. These flights are to be operated only after the Angolan authorities have carried out ramp checks of the aircraft before each flight departing Angola and the Portuguese authorities have conducted ramp checks of aircraft in Portugal. This is a temporary measure and the Commission will review the situation on the basis of all available information and in particular of an evaluation from the competent authorities of Portugal.

*Overall safety oversight of air carriers from Angola*

- (89) INAVIC reported significant progress in the resolution of the findings remaining after the last EU safety assessment visit made from 8 to 11 June 2009. In particular, it has further updated the specific operating regulations in line with ICAO requirements, continued to recruit qualified personnel, notably flight operations inspectors qualified on aircraft of type Boeing 737-700, leading to an overall increase in the surveillance activities by 30%.
- (90) INAVIC reported progress in the recertification of Angolan air carriers, a process that is expected to be completed by end 2010, however apart from TAAG Angolan Airlines no air carrier has been recertified yet.
- (91) The Commission encourages INAVIC to continue the recertification of the Angolan air carriers with determination and due consideration to potential safety concerns identified in this framework. Pending the recertification of Aerojet, Air26, Air Gemini, Air Gicango, Air Jet, Air Nave, Alada, Angola Air Services, Diexim, Gira Globo, Heliang, Helimalongo, Mavewa, Pha, Rui & Conceicao, Sal, Servisair and Sonair in full compliance with the new Angolan Aviation Safety Regulations, on the basis of the common criteria, it is assessed that these 18 air carriers should remain in Annex A.

**Air carriers from Kazakhstan***Berkut State Aircompany*

- (92) Berkut State Aircompany informed the Commission that it removed one aircraft of type IL-76 and one aircraft of type AN-12 from its fleet and that it decided in August 2009 to restrict its operations to state flights only.
- (93) The competent authorities of Kazakhstan confirmed this situation and provided evidence that they issued an 'Operations Certificate' to Berkut State Aircompany on 30 October 2009 which excludes commercial flights.
- (94) In view of this, on the basis of the common criteria, it is assessed that Berkut State Aircompany should be removed from Annex A.

*Prime Aviation*

- (95) The carrier Prime Aviation certified in Kazakhstan requested to be heard by the Commission and the Air Safety Committee and made presentations on 11 November 2009. It stated that its commercial fleet is limited to one aircraft of type Challenger 604 with registration mark P4-CHV registered outside Kazakhstan (in Aruba).

<sup>(1)</sup> OJ L 182, 15.7.2009, p. 8.

- (96) The competent authority of Aruba is responsible for the oversight of the aircraft of type Challenger 604 with registration mark P4-CHV in accordance with the provisions of Annexes 1 and 8 to the Chicago Convention and Annex 6 for the continuing airworthiness aspects. They carried out an audit of the carrier Prime Aviation in March 2009 which revealed numerous deficiencies. The documentation submitted by the air carrier to the Air Safety Committee does not contain evidence that all corrective actions have been satisfactorily completed. In relation to ICAO Annex 6 requirements, this audit did not provide the evidence that oversight of operations is effectively carried out. In particular, evidence was not shown that the MEL is adequately approved and the conditions to defer defects remain to be clarified.
- (97) In view of this, on the basis of the common criteria, it is assessed that this carrier should remain in Annex A.

*Overall safety oversight of air carriers from Kazakhstan*

- (98) The competent authorities of Kazakhstan requested to be heard by the Commission and the Air Safety Committee and made presentations on 11 November 2009 with a view to report on the improvements of their safety oversight.
- (99) They informed the Air Safety Committee of the actions taken to remove the two significant safety concerns, which were submitted to ICAO on 30 October 2009. These actions are being progressively implemented, with a view to complete the actions pertaining to aircraft involved in commercial air transport by October 2010.
- (100) Also, the competent authorities of Kazakhstan informed that they initiated a series of enforcement measures, leading to the suspension or the revocation of several Air Operator Certificates. In particular, they suspended the AOCs of the carriers Pankh Center Kazakhstan, Air Flamingo, Arkhabay, Air Company Atyrau Aue Joly and Turgay Avia. They also suspended the certificates of airworthiness of 66 aircraft of type Antonov 2 and removed from the registry of Kazakhstan 13 aircraft, including 10 of type Ilyushin 76, one of type Ilyushin 62, one of type Antonov 28 and one of type Antonov 2.
- (101) The competent authorities of Kazakhstan also informed and provided evidence that the AOC of the following ten air carriers certified in Kazakhstan was revoked: Irbis, Aerotur, MAK Air, Excellent Glide, Tulpar Avia Service, Takhmid Air, Starline KZ, Olimp Air, EOL Air (revoked on 1 April 2009), and Sayat Air (revoked on 19 August 2009). Consequently, on the basis of the common criteria, these air carriers should be removed from Annex A.
- (102) On the basis of the common criteria, it is assessed that all air carriers licensed in Kazakhstan, except Air Astana, should remain in Annex A.
- (103) It is noted that Kazakhstan has undertaken an ambitious reform of its aviation sector, in particular with a view to enhance safety. The on-going revision of the aviation legislation as well as the establishment of the Flight Assessment Centre are welcomed, these will provide for a better regulation of civil aviation in Kazakhstan and should pave the way for significant improvements towards compliance with international safety standards. In that respect, the competent authorities of Kazakhstan are invited to cooperate fully with ICAO to ensure that action plans proposed are acceptable to ICAO and are timely implemented.

**Air carriers from Kyrgyzstan**

- (104) The competent authorities of Kyrgyzstan made presentations on 11 November 2009 and reported on their progress in the implementation of their action plan established to remedy the identified safety concerns. In particular, they indicated that the aviation safety legislation was revised, that an independent civil aviation safety agency is being established and that the conditions to be certified as an air carrier have become more stringent. They also stated that a significant part of the AOC was consequently revoked and that the majority of the aircraft had actually been removed from the registry.
- (105) The competent authorities of Kyrgyzstan informed that they have issued a new AOC to the air carrier Asian Air. On the basis of the common criteria, it is assessed that Asian Air should be included in Annex A.
- (106) It is acknowledged that Kyrgyzstan undertook an ambitious reform of its aviation sector, in particular with a view to enhance safety. The importance of the audit carried out by ICAO in April 2009 as part of the Universal Safety Oversight Audit Programme (USOAP) is underlined. The competent authorities of Kyrgyzstan are invited to cooperate fully with ICAO to ensure that the action plans proposed are acceptable to this organisation and timely implemented.
- (107) It was decided that the European Aviation Safety Agency shall carry out an inspection of Kyrgyzstan in order to monitor the implementation of the applicable safety requirements by the competent authorities and by the undertakings under its oversight. The inspection will be carried out once the action plan has been agreed with ICAO and implemented.

### Air carriers from the Russian Federation

- (108) On the basis of verified evidence <sup>(1)</sup> of major safety deficiencies affecting flight operations detected on the part of the air carrier YAK Service certified by the competent authorities of the Russian Federation, the Commission launched a formal investigation of that air carrier on 15 July 2009. The competent authorities of the Russian Federation informed the Commission on 4 August 2009 that following inspections carried out by these authorities which confirmed these findings, the operations of the air carrier with aircraft of type YAK-42 and YAK-40 had been restricted as per decision of these authorities of 24 July 2009.
- (109) The competent authorities of the Russian Federation informed the Commission on 6 October 2009 that following the implementation of corrective measures by the air carrier they lifted the operating restrictions on its aircraft. The air carrier assisted by its authority was heard by the Commission and a Member State on 30 October.
- (110) The competent authorities of the Russian Federation made presentations to the Air Safety Committee on 11 November, where they explained the various oversight activities and enforcement action they had undertaken to ensure that the air carrier would resolve the previously detected safety deficiencies in a sustainable manner. They furthermore stated that aircraft operated by YAK Services will be regularly ramp checked to ensure compliance with international standards. On the basis of this information the Commission and the members of the Air Safety Committee consider that the safety deficiencies previously identified on the part of YAK Service have been addressed under the responsibility of the competent authorities of the Russian Federation.
- (111) Based on the information presented by these authorities, on the basis of the common criteria, it is assessed that, at this stage, no further action is necessary. Member States will verify systematically the effective compliance of YAK Service with the relevant safety standards through the prioritisation of ramp inspections to be carried out on aircraft of this carrier pursuant to Regulation (EC) No 351/2008.
- (112) By correspondence of 9 November 2009 the competent authorities of the Russian Federation informed the Commission of the decision of 6 November 2009 by their certification committee to lift restrictions imposed previously on the operations of the air carriers Aeroflot Nord.
- (113) The competent authorities of the Russian Federation informed the Commission on 9 November 2009 that they modified their decision of 25 April 2008, whereby they excluded from operations into the Community aircraft on the AOC of 13 Russian air carriers. These aircraft were not equipped to perform international flights as per ICAO standards (not equipped with TAWS/E-GPWS) and their certificate of airworthiness had expired and had not been renewed.
- (114) According to the new decision, the following aircraft are excluded from operations into, within and out of the Community:
- a) Aircompany Yakutia: Tupolev TU-154: RA-85007; Antonov AN-140: RA-41250; AN-24RV: RA-46496, RA-46665, RA-47304, RA-47352, RA-47353, RA-47360; AN-26: RA-26660.
  - b) Atlant Soyuz: Tupolev TU-154M: RA-85672 and RA-85682.
  - c) Gazpromavia: Tupolev TU-154M: RA-85625 and RA-85774; Yakovlev Yak-40: RA-87511, RA-88186 and RA-88300; Yak-40K: RA-21505 and RA-98109; Yak-42D: RA-42437; all (22) helicopters Kamov Ka-26 (unknown registration); all (49) helicopters Mi-8 (unknown registration); all (11) helicopters Mi-171 (unknown registration); all (8) helicopters Mi-2 (unknown registration); all (1) helicopter EC-120B: RA-04116.
  - d) Kavminvodyavia: Tupolev TU-154B: RA-85494 and RA-85457.
  - e) Krasnoyarsky Airlines: The aircraft of type TU-154M RA-85683 previously on the AOC of Krasnoyarsky Airlines, which was revoked earlier this year is currently operated by another air carrier certified in the Russian Federation.
  - f) Kuban Airlines: Yakovlev Yak-42: RA-42331, RA-42336, RA-42350, RA-42538, and RA-42541.
  - g) Orenburg Airlines: Tupolev TU-154B: RA-85602; all TU-134 (unknown registration); all Antonov An-24 (unknown registration); all An-2 (unknown registration); all helicopters Mi-2 (unknown registration); all helicopters Mi-8 (unknown registration).
  - h) Siberia Airlines: Tupolev TU-154M: RA-85613, RA-85619, RA-85622 and RA-85690.

<sup>(1)</sup> FOCA-2008-320, ACG-2009-82, ACG-2009-150, CAA-N-2008-98, CAALAT-2009-11, ACG-2008-300, CAA-NL-2008-72, HCAAGR-2008-53, LBA/D-2008-482, ACG-2009-176, DGAC/F-2008-545, DGAC/F-2008-2646, DGAC/F-2009-372, ENAC-IT-2009-226

- i) Tatarstan Airlines: Yakovlev Yak-42D: RA-42374, RA-42433; all Tupolev TU-134A including: RA-65065, RA-65102, RA-65691, RA-65970 and RA-65973; all Antonov AN-24RV including: RA-46625 and RA-47818; the aircraft of type AN24RV with registration marks RA-46625 and RA-47818 are currently operated by another Russian carrier.
- j) Ural Airlines: Tupolev TU-154B: RA-85319, RA-85337, RA-85357, RA-85375, RA-85374, RA-85432 and RA-85508.
- k) UTAir: Tupolev TU-154M: RA-85813, RA-85733, RA-85755, RA-85806, RA-85820; all (25) TU-134: RA-65024, RA-65033, RA-65127, RA-65148, RA-65560, RA-65572, RA-65575, RA-65607, RA-65608, RA-65609, RA-65611, RA-65613, RA-65616, RA-65620, RA-65622, RA-65728, RA-65755, RA-65777, RA-65780, RA-65793, RA-65901, RA-65902, and RA-65977; the aircraft RA-65143 and RA-65916 are operated by another Russian carrier; all (1) TU-134B: RA-65726 is operated by another Russian carrier; all (10) Yakovlev Yak-40: RA-87292, RA-87348, RA-87907, RA-87941, RA-87997, RA-88209, RA 88210, RA-88227, RA-88244 and RA-88280; all helicopters Mil-26: (unknown registration); all helicopters Mil-10: (unknown registration); all helicopters Mil-8 (unknown registration); all helicopters AS-355 (unknown registration); all helicopters BO-105 (unknown registration); the aircraft of type AN-24B (RA-46267 and RA-47289 and the aircraft of type AN-24RV (RA-46509, RA-46519 and RA-47800) are operated by another Russian carrier.
- l) Rossija (STC Russia): Tupolev TU-134: , RA-65904, RA-65905, RA-65911, RA-65921 and RA-65979; TU-214: RA-64504, RA-64505; Ilyushin IL-18: RA-75454 and RA-75464; Yakovlev Yak-40: RA-87203,

RA-87968, RA-87971, and RA-88200; the aircraft RA-65555 is operated by another Russian carrier.

**General considerations concerning the other carriers included in Annexes A and B**

- (115) No evidence of the full implementation of appropriate remedial actions by the other air carriers included in the Community list updated on 13 July 2009 and by the authorities with responsibility for regulatory oversight of these air carriers has been communicated to the Commission so far in spite of specific requests submitted by the latter. Therefore, on the basis of the common criteria, it is assessed that these air carriers should continue to be subject to an operating ban (Annex A) or operating restrictions (Annex B), as the case may be.
- (116) The measures provided for in this Regulation are in accordance with the opinion of the Air Safety Committee,

HAS ADOPTED THIS REGULATION:

*Article 1*

Regulation (EC) No 474/2006 is amended as follows:

1. Annex A is replaced by the text set out in Annex A to this Regulation.
2. Annex B is replaced by the text set out in Annex B to this Regulation.

*Article 2*

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

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

Done at Brussels, 26 November 2009.

For the Commission  
Jacques BARROT  
Vice-President

## ANNEX A

LIST OF AIR CARRIERS OF WHICH ALL OPERATIONS ARE SUBJECT TO A BAN WITHIN THE COMMUNITY <sup>(1)</sup>

Name of the legal entity of the air carrier as indicated on its AOC (and its trading name, if different)	Air Operator Certificate (AOC) Number or Operating Licence Number	ICAO airline designation number	State of the Operator
AIR KORYO	GACA-AOC/KOR-01	KOR	Democratic People Republic of Korea (DPRK)
AIR WEST CO. LTD	004/A	AWZ	Republic of the Sudan
ARIANA AFGHAN AIRLINES	AOC 009	AFG	Afghanistan
SIEM REAP AIRWAYS INTERNATIONAL	AOC/013/00	SRH	Kingdom of Cambodia
SILVERBACK CARGO FREIGHTERS	Unknown	VRB	Republic of Rwanda
<b>All air carriers certified by the authorities with responsibility for regulatory oversight of Angola, with the exception of TAAG Angola Airlines, including,</b>			Republic of Angola
AEROJET	015	Unknown	Republic of Angola
AIR26	004	DCD	Republic of Angola
AIR GEMINI	002	GLL	Republic of Angola
AIR GICANGO	009	Unknown	Republic of Angola
AIR JET	003	MBC	Republic of Angola
AIR NAVE	017	Unknown	Republic of Angola
ALADA	005	RAD	Republic of Angola
ANGOLA AIR SERVICES	006	Unknown	Republic of Angola
DIEXIM	007	Unknown	Republic of Angola
GIRA GLOBO	008	GGL	Republic of Angola
HELIANG	010	Unknown	Republic of Angola
HELIMALONGO	011	Unknown	Republic of Angola
MAVEWA	016	Unknown	Republic of Angola
PHA	019	Unknown	Republic of Angola
RUI & CONCEICAO	012	Unknown	Republic of Angola
SAL	013	Unknown	Republic of Angola
SERVISAIR	018	Unknown	Republic of Angola
SONAIR	014	SOR	Republic of Angola

<sup>(1)</sup> Air carriers listed in Annex A could be permitted to exercise traffic rights by using wet-leased aircraft of an air carrier which is not subject to an operating ban, provided that the relevant safety standards are complied with.

Name of the legal entity of the air carrier as indicated on its AOC (and its trading name, if different)	Air Operator Certificate (AOC) Number or Operating Licence Number	ICAO airline designation number	State of the Operator
<b>All air carriers certified by the authorities with responsibility for regulatory oversight of Benin, including,</b>		—	Republic of Benin
AERO BENIN	PEA No 014/MDCTTATP-PR/ANAC/DEA/SCS	Unknown	Republic of Benin
AFRICA AIRWAYS	Unknown	AFF	Republic of Benin
ALAFIA JET	PEA No 014/ANAC/MDCTTATP-PR/DEA/SCS	N/A	Republic of Benin
BENIN GOLF AIR	PEA No 012/MDCTTP-PR/ANAC/DEA/SCS.	Unknown	Republic of Benin
BENIN LITTORAL AIRWAYS	PEA No 013/MDCTTATP-PR/ANAC/DEA/SCS.	LTL	Republic of Benin
COTAIR	PEA No 015/MDCTTATP-PR/ANAC/DEA/SCS.	COB	Republic of Benin
ROYAL AIR	PEA No 11/ANAC/MDCTTP-PR/DEA/SCS	BNR	Republic of Benin
TRANS AIR BENIN	PEA No 016/MDCTTATP-PR/ANAC/DEA/SCS	TNB	Republic of Benin
<b>All air carriers certified by the authorities with responsibility for regulatory oversight of the Republic of Congo, including</b>			Republic of Congo
AERO SERVICE	RAC06-002	RSR	Republic of Congo
EQUAFLIGHT SERVICES	RAC 06-003	EKA	Republic of Congo
SOCIETE NOUVELLE AIR CONGO	RAC 06-004	Unknown	Republic of Congo
TRANS AIR CONGO	RAC 06-001	Unknown	Republic of Congo
<b>All air carriers certified by the authorities with responsibility for regulatory oversight of Democratic Republic of Congo (RDC), including,</b>		—	Democratic Republic of Congo (RDC)
AFRICAN AIR SERVICES COMMUTER	409/CAB/MIN/TVC/051/09	Unknown	Democratic Republic of Congo (RDC)
AIR KASAI	409/CAB/MIN/ TVC/036/08	Unknown	Democratic Republic of Congo (RDC)
AIR KATANGA	409/CAB/MIN/TVC/031/08	Unknown	Democratic Republic of Congo (RDC)
AIR TROPIQUES	409/CAB/MIN/TVC/029/08	Unknown	Democratic Republic of Congo (RDC)
BLUE AIRLINES	409/CAB/MIN/TVC/028/08	BUL	Democratic Republic of Congo (RDC)
BRAVO AIR CONGO	409/CAB/MIN/TC/0090/2006	BRV	Democratic Republic of Congo (RDC)
BUSINESS AVIATION	409/CAB/MIN/TVC/048/09	Unknown	Democratic Republic of Congo (RDC)
BUSY BEE CONGO	409/CAB/MIN/TVC/052/09	Unknown	Democratic Republic of Congo (RDC)
CETRACA AVIATION SERVICE	409/CAB/MIN/TVC/026/08	CER	Democratic Republic of Congo (RDC)

Name of the legal entity of the air carrier as indicated on its AOC (and its trading name, if different)	Air Operator Certificate (AOC) Number or Operating Licence Number	ICAO airline designation number	State of the Operator
CHC STELLAVIA	409/CAB/MIN/TC/0050/2006	Unknown	Democratic Republic of Congo (RDC)
COMPAGNIE AFRICAINE D'AVIATION (CAA)	409/CAB/MIN/TVC/035/08	Unknown	Democratic Republic of Congo (RDC)
DOREN AIR CONGO	409/CAB/MIN/TVC/0032/08	Unknown	Democratic Republic of Congo (RDC)
ENTREPRISE WORLD AIRWAYS (EWA)	409/CAB/MIN/TVC/003/08	EWS	Democratic Republic of Congo (RDC)
FILAIR	409/CAB/MIN/TVC/037/08	Unknown	Democratic Republic of Congo (RDC)
GALAXY KAVATSI	409/CAB/MIN/TVC/027/08	Unknown	Democratic Republic of Congo (RDC)
GILEMBE AIR SOUTENANCE (GISAIR)	409/CAB/MIN/TVC/053/09	Unknown	Democratic Republic of Congo (RDC)
GOMA EXPRESS	409/CAB/MIN/TC/0051/2006	Unknown	Democratic Republic of Congo (RDC)
GOMAIR	409/CAB/MIN/TVC/045/09	Unknown	Democratic Republic of Congo (RDC)
HEWA BORA AIRWAYS (HBA)	409/CAB/MIN/TVC/038/08	ALX	Democratic Republic of Congo (RDC)
INTERNATIONAL TRANS AIR BUSINESS (ITAB)	409/CAB/MIN/TVC/033/08	Unknown	Democratic Republic of Congo (RDC)
KIN AVIA	409/CAB/MIN/TVC/042/09	Unknown	Democratic Republic of Congo (RDC)
LIGNES AÉRIENNES CONGOLAISES (LAC)	Ministerial signature (ordonnance No. 78/205)	LCG	Democratic Republic of Congo (RDC)
MALU AVIATION	409/CAB/MIN/TVC/04008	Unknown	Democratic Republic of Congo (RDC)
MANGO AVIATION	409/CAB/MIN/TVC/034/08	Unknown	Democratic Republic of Congo (RDC)
SAFE AIR COMPANY	409/CAB/MIN/TVC/025/08	Unknown	Democratic Republic of Congo (RDC)
SERVICES AIR	409/CAB/MIN/TVC/030/08	Unknown	Democratic Republic of Congo (RDC)
SWALA AVIATION	409/CAB/MIN/TVC/050/09	Unknown	Democratic Republic of Congo (RDC)
TMK AIR COMMUTER	409/CAB/MIN/TVC/044/09	Unknown	Democratic Republic of Congo (RDC)
TRACEP CONGO AVIATION	409/CAB/MIN/TVC/046/09	Unknown	Democratic Republic of Congo (RDC)
TRANS AIR CARGO SERVICES	409/CAB/MIN/TVC/024/08	Unknown	Democratic Republic of Congo (RDC)
WIMBI DIRA AIRWAYS	409/CAB/MIN/TVC/039/08	WDA	Democratic Republic of Congo (RDC)
ZAABU INTERNATIONAL	409/CAB/MIN/TVC/049/09	Unknown	Democratic Republic of Congo (RDC)
<b>All air carriers certified by the authorities with responsibility for regulatory oversight of Djibouti, including:</b>			Djibouti
DAALLO AIRLINES	Unknown	DAO	Djibouti
DJIBOUTI AIRLINES	Unknown	DJB	Djibouti
<b>All air carriers certified by the authorities with responsibility for regulatory oversight of Equatorial Guinea, including,</b>			Equatorial Guinea
CRONOS AIRLINES	Unknown	Unknown	Equatorial Guinea
CEIBA INTERCONTINENTAL	Unknown	CEL	Equatorial Guinea

Name of the legal entity of the air carrier as indicated on its AOC (and its trading name, if different)	Air Operator Certificate (AOC) Number or Operating Licence Number	ICAO airline designation number	State of the Operator
EGAMS	Unknown	EGM	Equatorial Guinea
EUROGUINEANA DE AVIACION Y TRANSPORTES	2006/001/MTTCT/DGAC/SOPS	EUG	Equatorial Guinea
GENERAL WORK AVIACION	002/ANAC	n/a	Equatorial Guinea
GETRA — GUINEA ECUATORIAL DE TRANSPORTES AEREOS	739	GET	Equatorial Guinea
GUINEA AIRWAYS	738	n/a	Equatorial Guinea
STAR EQUATORIAL AIRLINES	Unknown	Unknown	Equatorial Guinea
UTAGE — UNION DE TRANSPORT AEREO DE GUINEA ECUATORIAL	737	UTG	Equatorial Guinea
<b>All air carriers certified by the authorities with responsibility for regulatory oversight of Indonesia, with the exception of Garuda Indonesia, Airfast Indonesia, Mandala Airlines, and Ekspres Transportasi Antarbenua, including,</b>			Republic of Indonesia
AIR PACIFIC UTAMA	135-020	Unknown	Republic of Indonesia
ALFA TRANS DIRGANTATA	135-012	Unknown	Republic of Indonesia
ASCO NUSA AIR	135-022	Unknown	Republic of Indonesia
ASI PUDJIASTUTI	135-028	Unknown	Republic of Indonesia
AVIASTAR MANDIRI	135-029	Unknown	Republic of Indonesia
CARDIG AIR	121-013	Unknown	Republic of Indonesia
DABI AIR NUSANTARA	135-030	Unknown	Republic of Indonesia
DERAYA AIR TAXI	135-013	DRY	Republic of Indonesia
DERAZONA AIR SERVICE	135-010	DRZ	Republic of Indonesia
DIRGANTARA AIR SERVICE	135-014	DIR	Republic of Indonesia
EASTINDO	135-038	Unknown	Republic of Indonesia
GATARI AIR SERVICE	135-018	GHS	Republic of Indonesia
INDONESIA AIR ASIA	121-009	AWQ	Republic of Indonesia
INDONESIA AIR TRANSPORT	135-034	IDA	Republic of Indonesia
INTAN ANGKASA AIR SERVICE	135-019	Unknown	Republic of Indonesia
JOHNLIN AIR TRANSPORT	135-043	Unknown	Republic of Indonesia
KAL STAR	121-037	KLS	Republic of Indonesia
KARTIKA AIRLINES	121-003	KAE	Republic of Indonesia
KURA-KURA AVIATION	135-016	KUR	Republic of Indonesia
LION MENTARI AIRLINES	121-010	LNI	Republic of Indonesia
MANUNGGAL AIR SERVICE	121-020	Unknown	Republic of Indonesia
MEGANTARA	121-025	MKE	Republic of Indonesia

Name of the legal entity of the air carrier as indicated on its AOC (and its trading name, if different)	Air Operator Certificate (AOC) Number or Operating Licence Number	ICAO airline designation number	State of the Operator
MERPATI NUSANTARA AIRLINES	121-002	MNA	Republic of Indonesia
METRO BATAVIA	121-007	BTV	Republic of Indonesia
MIMIKA AIR	135-007	Unknown	Republic of Indonesia
NATIONAL UTILITY HELICOPTER	135-011	Unknown	Republic of Indonesia
NUSANTARA AIR CHARTER	121-022	Unknown	Republic of Indonesia
NUSANTARA BUANA AIR	135-041	Unknown	Republic of Indonesia
NYAMAN AIR	135-042	Unknown	Republic of Indonesia
PELITA AIR SERVICE	121-008	PAS	Republic of Indonesia
PENERBANGAN ANGKASA SEMESTA	135-026	Unknown	Republic of Indonesia
PURA WISATA BARUNA	135-025	Unknown	Republic of Indonesia
REPUBLIC EXPRESS AIRLINES	121-040	RPH	Republic of Indonesia
RIAU AIRLINES	121-016	RIU	Republic of Indonesia
SAMPOERNA AIR NUSANTARA	135-036	SAE	Republic of Indonesia
SAYAP GARUDA INDAH	135-004	Unknown	Republic of Indonesia
SKY AVIATION	135-044	Unknown	Republic of Indonesia
SMAC	135-015	SMC	Republic of Indonesia
SRIWIJAYA AIR	121-035	SJY	Republic of Indonesia
SURVEI UDARA PENAS	135-006	Unknown	Republic of Indonesia
TRANSWISATA PRIMA AVIATION	135-021	Unknown	Republic of Indonesia
TRAVEL EXPRESS AVIATION SERVICE	121-038	XAR	Republic of Indonesia
TRAVIRA UTAMA	135-009	Unknown	Republic of Indonesia
TRI MG INTRA ASIA AIRLINES	121-018	TMG	Republic of Indonesia
TRIGANA AIR SERVICE	121-006	TGN	Republic of Indonesia
UNINDO	135-040	Unknown	Republic of Indonesia
WING ABADI AIRLINES	121-012	WON	Republic of Indonesia
<b>All air carriers certified by the authorities with responsibility for regulatory oversight of Kazakhstan, with the exception of Air Astana, including,</b>			Republic of Kazakhstan
AERO AIR COMPANY	Unknown	Unknown	Republic of Kazakhstan
AEROPRAKT KZ	Unknown	APK	Republic of Kazakhstan
AIR ALMATY	AK-0331-07	LMY	Republic of Kazakhstan
AIR COMPANY KOKSHETAU	AK-0357-08	KRT	Republic of Kazakhstan
AIR DIVISION OF EKA	Unknown	Unknown	Republic of Kazakhstan
AIR FLAMINGO	Unknown	Unknown	Republic of Kazakhstan

Name of the legal entity of the air carrier as indicated on its AOC (and its trading name, if different)	Air Operator Certificate (AOC) Number or Operating Licence Number	ICAO airline designation number	State of the Operator
AIR TRUST AIRCOMPANY	Unknown	Unknown	Republic of Kazakhstan
AK SUNKAR AIRCOMPANY	Unknown	AKS	Republic of Kazakhstan
ALMATY AVIATION	Unknown	LMT	Republic of Kazakhstan
ARKHABAY	Unknown	KEK	Republic of Kazakhstan
ASIA CONTINENTAL AIRLINES	AK-0345-08	CID	Republic of Kazakhstan
ASIA CONTINENTAL AVIALINES	AK-0371-08	RRK	Republic of Kazakhstan
ASIA WINGS	AK-0390-09	AWA	Republic of Kazakhstan
ASSOCIATION OF AMATEUR PILOTS OF KAZAKHSTAN	Unknown	Unknown	Republic of Kazakhstan
ATMA AIRLINES	AK-0372-08	AMA	Republic of Kazakhstan
ATYRAU AYE JOLY	AK-0321-07	JOL	Republic of Kazakhstan
AVIA-JAYNAR	Unknown	Unknown	Republic of Kazakhstan
BEYBARS AIRCOMPANY	Unknown	Unknown	Republic of Kazakhstan
BERKUT AIR/BEK AIR	AK-0311-07	BKT/BEK	Republic of Kazakhstan
BERKUT KZ	Unknown	Unknown	Republic of Kazakhstan
BURUNDAYAVIA AIRLINES	AK-0374-08	BRY	Republic of Kazakhstan
COMLUX	AK-0352-08	KAZ	Republic of Kazakhstan
DETA AIR	AK-0344-08	DET	Republic of Kazakhstan
EAST WING	AK-0332-07	EWZ	Republic of Kazakhstan
EASTERN EXPRESS	AK-0358-08	LIS	Republic of Kazakhstan
EURO-ASIA AIR	AK-0384-09	EAK	Republic of Kazakhstan
EURO-ASIA AIR INTERNATIONAL	Unknown	KZE	Republic of Kazakhstan
FENIX	Unknown	Unknown	Republic of Kazakhstan
FLY JET KZ	AK-0391-09	FJK	Republic of Kazakhstan
IJT AVIATION	AK-0335-08	DVB	Republic of Kazakhstan
INVESTAVIA	AK-0342-08	TLG	Republic of Kazakhstan
IRTYSH AIR	AK-0381-09	MZA	Republic of Kazakhstan
JET AIRLINES	AK-0349-09	SOZ	Republic of Kazakhstan
JET ONE	AK-0367-08	JKZ	Republic of Kazakhstan
KAZAIR JET	AK-0387-09	KEJ	Republic of Kazakhstan
KAZAIRTRANS AIRLINE	AK-0347-08	KUY	Republic of Kazakhstan
KAZAIRWEST	Unknown	Unknown	Republic of Kazakhstan
KAZAVIA	Unknown	KKA	Republic of Kazakhstan
KZAVIASPAS	Unknown	KZS	Republic of Kazakhstan
KOKSHETAU	AK-0357-08	KRT	Republic of Kazakhstan

Name of the legal entity of the air carrier as indicated on its AOC (and its trading name, if different)	Air Operator Certificate (AOC) Number or Operating Licence Number	ICAO airline designation number	State of the Operator
MEGA AIRLINES	AK-0356-08	MGK	Republic of Kazakhstan
MIRAS	AK-0315-07	MIF	Republic of Kazakhstan
NAVIGATOR	Unknown	Unknown	Republic of Kazakhstan
ORLAN 2000 AIRCOMPANY	Unknown	KOV	Republic of Kazakhstan
PANKH CENTER KAZAKHSTAN	Unknown	Unknown	Republic of Kazakhstan
PRIME AVIATION			Republic of Kazakhstan
SALEM AIRCOMPANY	Unknown	KKS	Republic of Kazakhstan
SAMAL AIR	Unknown	SAV	Republic of Kazakhstan
SAYAKHAT AIRLINES	AK-0359-08	SAH	Republic of Kazakhstan
SEMEYAVIA	Unknown	SMK	Republic of Kazakhstan
SCAT	AK-0350-08	VSV	Republic of Kazakhstan
SKYBUS	AK-0364-08	BYK	Republic of Kazakhstan
SKYJET	AK-0307-09	SEK	Republic of Kazakhstan
SKYSERVICE	Unknown	Unknown	Republic of Kazakhstan
TYAN SHAN	Unknown	Unknown	Republic of Kazakhstan
UST-KAMENOGORSK	AK-0385-09	UCK	Republic of Kazakhstan
ZHETYSU AIRCOMPANY	Unknown	JTU	Republic of Kazakhstan
ZHERSU AVIA	Unknown	RZU	Republic of Kazakhstan
ZHEZKAZGANAIR	Unknown	Unknown	Republic of Kazakhstan
<b>All air carriers certified by the authorities with responsibility for regulatory oversight of the Kyrgyz Republic, including,</b>			Kyrgyz Republic
AIR MANAS	17	MBB	Kyrgyz Republic
ASIAN AIR	Unknown	AAZ	Kyrgyz Republic
AVIA TRAFFIC COMPANY	23	AVJ	Kyrgyz Republic
AEROSTAN (EX BISTAIR-FEZ BISHKEK)	08	BSC	Kyrgyz Republic
CLICK AIRWAYS	11	CGK	Kyrgyz Republic
DAMES	20	DAM	Kyrgyz Republic
EASTOK AVIA	15	EEA	Kyrgyz Republic
GOLDEN RULE AIRLINES	22	GRS	Kyrgyz Republic
ITEK AIR	04	IKA	Kyrgyz Republic
KYRGYZ TRANS AVIA	31	KTC	Kyrgyz Republic
KYRGYZSTAN	03	LYN	Kyrgyz Republic
MAX AVIA	33	MAI	Kyrgyz Republic
S GROUP AVIATION	6	SGL	Kyrgyz Republic

Name of the legal entity of the air carrier as indicated on its AOC (and its trading name, if different)	Air Operator Certificate (AOC) Number or Operating Licence Number	ICAO airline designation number	State of the Operator
SKY GATE INTERNATIONAL AVIATION	14	SGD	Kyrgyz Republic
SKY WAY AIR	21	SAB	Kyrgyz Republic
TENIR AIRLINES	26	TEB	Kyrgyz Republic
TRAST AERO	05	TSJ	Kyrgyz Republic
VALOR AIR	07	VAC	Kyrgyz Republic
<b>All air carriers certified by the authorities with responsibility for regulatory oversight of Liberia</b>		—	Liberia
<b>All air carriers certified by the authorities with responsibility for regulatory oversight of the Republic of Gabon, with the exception of Gabon Airlines, Afrijet and SN2AG, including,</b>			<b>Republic of Gabon</b>
AIR SERVICES SA	0002/MTACCMDH/SGACC/DTA	AGB	Republic of Gabon
AIR TOURIST (ALLEGIANCE)	0026/MTACCMDH/SGACC/DTA	NIL	Republic of Gabon
NATIONALE ET REGIONALE TRANSPORT (NATIONALE)	0020/MTACCMDH/SGACC/DTA	Unknown	Republic of Gabon
SCD AVIATION	0022/MTACCMDH/SGACC/DTA	Unknown	Republic of Gabon
SKY GABON	0043/MTACCMDH/SGACC/DTA	SKG	Republic of Gabon
SOLENTA AVIATION GABON	0023/MTACCMDH/SGACC/DTA	Unknown	Republic of Gabon
<b>All air carriers certified by the authorities with responsibility for regulatory oversight of Sao Tome and Principe, including</b>	—	—	<b>Sao Tome and Principe</b>
AFRICA CONNECTION	10/AOC/2008	Unknown	Sao Tome and Principe
BRITISH GULF INTERNATIONAL COMPANY LTD	01/AOC/2007	BGI	Sao Tome and Principe
EXECUTIVE JET SERVICES	03/AOC/2006	EJZ	Sao Tome and Principe
GLOBAL AVIATION OPERATION	04/AOC/2006	Unknown	Sao Tome and Principe
GOLIAF AIR	05/AOC/2001	GLE	Sao Tome and Principe
ISLAND OIL EXPLORATION	01/AOC/2008	Unknown	Sao Tome and Principe
STP AIRWAYS	03/AOC/2006	STP	Sao Tome and Principe
TRANSAFRIK INTERNATIONAL LTD	02/AOC/2002	TFK	Sao Tome and Principe
TRANSCARG	01/AOC/2009	Unknown	Sao Tome and Principe
TRANSLIZ AVIATION (TMS)	02/AOC/2007	TMS	Sao Tome and Principe

Name of the legal entity of the air carrier as indicated on its AOC (and its trading name, if different)	Air Operator Certificate (AOC) Number or Operating Licence Number	ICAO airline designation number	State of the Operator
<b>All air carriers certified by the authorities with responsibility for regulatory oversight of Sierra Leone, including,</b>	—	—	Sierra Leone
AIR RUM, LTD	Unknown	RUM	Sierra Leone
DESTINY AIR SERVICES, LTD	Unknown	DTY	Sierra Leone
HEAVYLIFT CARGO	Unknown	Unknown	Sierra Leone
ORANGE AIR SIERRA LEONE LTD	Unknown	ORJ	Sierra Leone
PARAMOUNT AIRLINES, LTD	Unknown	PRR	Sierra Leone
SEVEN FOUR EIGHT AIR SERVICES LTD	Unknown	SVT	Sierra Leone
TEEBAH AIRWAYS	Unknown	Unknown	Sierra Leone
<b>All air carriers certified by the authorities with responsibility for regulatory oversight of Swaziland, including,</b>	—	—	Swaziland
AERO AFRICA (PTY) LTD	Unknown	RFC	Swaziland
JET AFRICA SWAZILAND	Unknown	OSW	Swaziland
ROYAL SWAZI NATIONAL AIRWAYS CORPORATION	Unknown	RSN	Swaziland
SCAN AIR CHARTER, LTD	Unknown	Unknown	Swaziland
SWAZI EXPRESS AIRWAYS	Unknown	SWX	Swaziland
SWAZILAND AIRLINK	Unknown	SZL	Swaziland
<b>All air carriers certified by the authorities with responsibility for regulatory oversight of Zambia, including,</b>			Zambia
ZAMBEZI AIRLINES	Z/AOC/001/2009	ZMA	Zambia

## ANNEX B

LIST OF AIR CARRIERS OF WHICH OPERATIONS ARE SUBJECT TO OPERATIONAL RESTRICTIONS  
WITHIN THE COMMUNITY <sup>(1)</sup>

Name of the legal entity of the air carrier as indicated on its AOC (and its trading name, if different)	Air Operator Certificate (AOC) Number	ICAO airline designation number	State of the Operator	Aircraft type	Registration mark(s) and, when available, construction serial number(s)	State of registry
AFRIJET <sup>(1)</sup>	CTA 0002/MTAC/ ANAC-G/DSA		Republic of Gabon	All fleet with the exception of: 2 aircraft of type Falcon 50; 1 aircraft of type Falcon 900	All fleet with the exception of: TR-LGV; TR-LGY; TR-AFJ	Republic of Gabon
AIR ASTANA <sup>(2)</sup>	AK-0388-09	KZR	Kazakhstan	All fleet with the exception of: 2 aircraft of type B767; 4 aircraft of type B757; 10 aircraft of type A319/320/321; 5 aircraft of type Fokker 50	All fleet with the exception of: P4-KCA, P4-KCB; P4-EAS, P4-FAS, P4-GAS, P4-MAS; P4-NAS, P4-OAS, P4-PAS, P4-SAS, P4-TAS, P4-UAS, P4-VAS, P4-WAS, P4-YAS, P4-XAS; P4-HAS, P4-IAS, P4-JAS, P4-KAS, P4-LAS	Aruba (Kingdom of the Netherlands)
AIR BANGLADESH	17	BGD	Bangladesh	B747-269B	S2-ADT	Bangladesh
AIR SERVICE COMORES	06-819/TA-15/ DGACM	KMD	Comoros	All fleet with the exception of: LET 410 UVP	All fleet with the exception of: D6-CAM (851336)	Comoros
GABON AIRLINES <sup>(3)</sup>	CTA 0001/MTAC/ ANAC	GBK	Republic of Gabon	All fleet with the exception of: 1 aircraft of type Boeing B-767-200	All fleet with the exception of: TR-LHP	Republic of Gabon
NOUVELLE AIR AFFAIRES GABON (SN2AG)	CTA 0003/MTAC/ ANAC-G/DSA	NVS	Republic of Gabon	All fleet with the exception of: 1 aircraft of type Challenger; CL601 1 aircraft of type HS-125-800	All fleet with the exception of: TR-AAG, ZS-AFG	Republic of Gabon; Republic of South Africa
TAAG ANGOLA AIRLINES <sup>(4)</sup>	001	DTA	Republic of Angola	All fleet with the exception of: 3 aircraft of type Boeing B-777 and 4 aircraft of type Boeing B-737-700	All fleet with the exception of: D2-TED, D2-TEE, D2-TEF, D2-TBF, D2, TBG, D2-TBG, D2-TBJ	Republic of Angola
UKRAINIAN MEDITERRANEAN	164	UKM	Ukraine	All fleet with the exception of one aircraft of type MD-83	All fleet with the exception of: UR-CFF	Ukraine

<sup>(1)</sup> Afrijet is only allowed to use the specific aircraft mentioned for its current operations within the European Community.

<sup>(2)</sup> Air Astana is only allowed to use the specific aircraft mentioned for its current operations within the European Community.

<sup>(3)</sup> Gabon Airlines is only allowed to use the specific aircraft mentioned for its current operations within the European Community.

<sup>(4)</sup> TAAG Angola Airlines is allowed to operate only to Portugal using the specific aircraft under the conditions set out in recitals (58) and (59) of this Regulation.

<sup>(1)</sup> Air carriers listed in Annex B could be permitted to exercise traffic rights by using wet-leased aircraft of an air carrier which is not subject to an operating ban, provided that the relevant safety standards are complied with.

**COMMISSION REGULATION (EC) No 1145/2009****of 26 November 2009****establishing a prohibition of fishing for deep-sea sharks in Community waters and waters not under the sovereignty or jurisdiction of third countries of V, VI, VII, VIII and IX by vessels flying the flag of Spain**

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Council Regulation (EC) No 2371/2002 of 20 December 2002 on the conservation and sustainable exploitation of fisheries resources under the common fisheries policy <sup>(1)</sup>, and in particular Article 26(4) thereof,Having regard to Council Regulation (EEC) No 2847/93 of 12 October 1993 establishing a control system applicable to the common fisheries policy <sup>(2)</sup>, and in particular Article 21(3) thereof,

Whereas:

- (1) Council Regulation (EC) No 1359/2008 of 28 November 2008 fixing for 2009 and 2010 the fishing opportunities for Community fishing vessels for certain deep-sea fish stocks <sup>(3)</sup> lays down quotas for 2009 and 2010.
- (2) According to the information received by the Commission, catches of the stock referred to in the Annex to this Regulation by vessels flying the flag of, or registered in, the Member State referred to therein have exhausted the quota allocated for 2009.

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

HAS ADOPTED THIS REGULATION:

*Article 1***Quota exhaustion**

The fishing quota allocated for 2009 to the Member State referred to in the Annex to this Regulation for the stock referred to therein shall be deemed to be exhausted from the date stated in that Annex.

*Article 2***Prohibitions**

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

*Article 3***Entry into force**

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

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

Done at Brussels, 26 November 2009.

*For the Commission*

Fokion FOTIADIS

*Director-General for Maritime Affairs and Fisheries*

<sup>(1)</sup> OJ L 358, 31.12.2002, p. 59.

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

<sup>(3)</sup> OJ L 352, 31.12.2008, p. 1.

## ANNEX

No	8/DSS
Member State	Spain
Stock	DWS/56789-
Species	Deep-sea sharks
Area	Community waters and waters not under the sovereignty or jurisdiction of third countries of V, VI, VII, VIII and IX
Date	17 October 2009

**COMMISSION REGULATION (EC) No 1146/2009****of 26 November 2009****amending the representative prices and additional import duties for certain products in the sugar sector fixed by Regulation (EC) No 877/2009 for the 2009/10 marketing year**

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

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

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

Whereas:

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

for the 2009/10 marketing year are fixed by Commission Regulation (EC) No 877/2009 <sup>(3)</sup>. These prices and duties have been last amended by Commission Regulation (EC) No 1104/2009 <sup>(4)</sup>.

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

HAS ADOPTED THIS REGULATION:

*Article 1*

The representative prices and additional duties applicable to imports of the products referred to in Article 36 of Regulation (EC) No 951/2006, as fixed by Regulation (EC) No 877/2009 for the 2009/10, marketing year, are hereby amended as set out in the Annex hereto.

*Article 2*

This Regulation shall enter into force on 27 November 2009.

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

Done at Brussels, 26 November 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 178, 1.7.2006, p. 24.

<sup>(3)</sup> OJ L 253, 25.9.2009, p. 3.

<sup>(4)</sup> OJ L 303, 18.11.2009, p. 62.

## ANNEX

**Amended representative prices and additional import duties applicable to white sugar, raw sugar and products covered by CN code 1702 90 95 from 27 November 2009**

(EUR)

CN code	Representative price per 100 kg net of the product concerned	Additional duty per 100 kg net of the product concerned
1701 11 10 <sup>(1)</sup>	34,42	0,96
1701 11 90 <sup>(1)</sup>	34,42	4,58
1701 12 10 <sup>(1)</sup>	34,42	0,82
1701 12 90 <sup>(1)</sup>	34,42	4,28
1701 91 00 <sup>(2)</sup>	40,56	5,30
1701 99 10 <sup>(2)</sup>	40,56	2,17
1701 99 90 <sup>(2)</sup>	40,56	2,17
1702 90 95 <sup>(3)</sup>	0,41	0,27

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

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

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

**COMMISSION REGULATION (EC) No 1147/2009**  
**of 26 November 2009**

**fixing the maximum reduction in the duty on maize imported under the invitation to tender issued**  
**in Regulation (EC) No 676/2009**

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Council Regulation (EC) No 1234/2007 of 22 October 2007 establishing a common organisation of agricultural markets and on specific provisions for certain agricultural products (Single CMO Regulation) <sup>(1)</sup>, and in particular Article 144(1) in conjunction with Article 4 thereof,

Whereas:

- (1) An invitation to tender for the maximum reduction in the duty on maize imported into Spain from third countries was opened by Commission Regulation (EC) No 676/2009 <sup>(2)</sup>.
- (2) Under Article 8 of Commission Regulation (EC) No 1296/2008 of 18 December 2008 laying down detailed rules for the application of tariff quotas for imports of maize and sorghum into Spain and imports of maize into Portugal <sup>(3)</sup> the Commission, in accordance the procedure laid down in Article 195(2) of Regulation (EC) No 1234/2007, may decide to fix a maximum

reduction in the import duty. In fixing this maximum the criteria provided for in Articles 7 and 8 of Regulation (EC) No 1296/2008 must be taken into account.

- (3) A contract is awarded to any tenderer whose tender is equal to or less than the maximum reduction in the duty.
- (4) The Management Committee for the Common Organisation of Agricultural Markets has not delivered an opinion within the time limit set by its Chair,

HAS ADOPTED THIS REGULATION:

*Article 1*

For tenders lodged from 13 November to 26 November 2009 under the invitation to tender issued in Regulation (EC) No 676/2009, the maximum reduction in the duty on maize imported shall be 15,49 EUR/t for a total maximum quantity of 25 500 t.

*Article 2*

This Regulation shall enter into force on 27 November 2009.

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

Done at Brussels, 26 November 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 196, 28.7.2009, p. 6.

<sup>(3)</sup> OJ L 340, 19.12.2008, p. 57.

**COMMISSION REGULATION (EC) No 1148/2009****of 26 November 2009****concerning tenders lodged under the invitation to tender for the import of maize issued in Regulation (EC) No 677/2009**

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Council Regulation (EC) No 1234/2007 of 22 October 2007 establishing a common organisation of agricultural markets and on specific provisions for certain agricultural products (Single 'CMO Regulation') <sup>(1)</sup>, and in particular Article 144(1) in conjunction with Article 4 thereof,

Whereas:

- (1) An invitation to tender for the maximum reduction in the duty on maize imported into Portugal from third countries was opened by Commission Regulation (EC) No 677/2009 <sup>(2)</sup>.
- (2) Under Article 8 of Commission Regulation (EC) No 1296/2008 of 18 December 2008 laying down detailed rules for the application of tariff quotas for imports of maize and sorghum into Spain and imports of maize into Portugal <sup>(3)</sup> the Commission, in accordance with the procedure laid down in Article 195(2) of Regu-

lation (EC) No 1234/2007, may decide to make no award.

- (3) On the basis of the criteria laid down in Articles 7 and 8 of Regulation (EC) No 1296/2008 a maximum reduction in the duty should not be fixed.
- (4) The measures provided for in this Regulation are in accordance with the opinion of the Management Committee for the Common Organisation of Agricultural Markets,

HAS ADOPTED THIS REGULATION:

*Article 1*

No award shall be made for the tenders lodged from 13 November to 26 November 2009 under the invitation to tender for the reduction in the duty on imported maize issued in Regulation (EC) No 677/2009.

*Article 2*

This Regulation shall enter into force on 27 November 2009.

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

Done at Brussels, 26 November 2009.

*For the Commission*

Jean-Luc DEMARTY

*Director-General for Agriculture and  
Rural Development*

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

<sup>(2)</sup> OJ L 196, 28.7.2009, p. 7.

<sup>(3)</sup> OJ L 340, 19.12.2008, p. 57.

## DIRECTIVES

## COMMISSION DIRECTIVE 2009/145/EC

of 26 November 2009

**providing for certain derogations, for acceptance of vegetable landraces and varieties which have been traditionally grown in particular localities and regions and are threatened by genetic erosion and of vegetable varieties with no intrinsic value for commercial crop production but developed for growing under particular conditions and for marketing of seed of those landraces and varieties**

(Text with EEA relevance)

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Council Directive 2002/55/EC of 13 June 2002 on the marketing of vegetable seed <sup>(1)</sup>, and in particular Article 4(4), Article 44(2), and Article 48(1)(b) thereof,

Whereas:

- (1) The questions of biodiversity and the conservation of plant genetic resources have grown in importance in recent years, as shown by different developments at international and Community level. Examples include Council Decision 93/626/EEC of 25 October 1993 concerning the conclusion of the Convention on Biological Diversity <sup>(2)</sup>, Council Decision 2004/869/EC of 24 February 2004 concerning the conclusion, on behalf of the European Community, of the International Treaty on Plant Genetic Resources for Food and Agriculture <sup>(3)</sup>, Council Regulation (EC) No 870/2004 of 24 April 2004 establishing a Community programme on the conservation, characterisation, collection and utilisation of genetic resources in agriculture and repealing Regulation (EC) No 1467/94 <sup>(4)</sup> and Council Regulation (EC) No 1698/2005 of 20 September 2005 on support for rural development by the European Agricultural Fund for Rural Development (EAFRD) <sup>(5)</sup>. Specific conditions should be established under Directive 2002/55/EC in order to take account of these issues as regards the marketing of vegetable seed.
- (2) In order to ensure *in situ* conservation and the sustainable use of plant genetic resources, landraces and varieties which have been traditionally grown in

particular localities and regions and are threatened by genetic erosion (conservation varieties) should be grown and marketed even where they do not comply with the general requirements as regards the acceptance of varieties and the marketing of seed. In addition to the general aim of protecting plant genetic resources, the particular interest of preserving these varieties lies in the fact that they are especially well adapted to particular local conditions.

- (3) In order to ensure the sustainable use of plant genetic resources, varieties with no intrinsic value for commercial crop production but developed for growing under particular conditions (varieties developed for growing under particular conditions) should be grown and marketed even where they do not comply with the general requirements as regards the acceptance of varieties and the marketing of seed. In addition to the general aim of protecting plant genetic resources, the particular interest of preserving these varieties lies in the fact that they are apt to be grown under particular climatic, pedological or agro-technical conditions (such as manual care, repeated harvesting).
- (4) In order to preserve conservation varieties and varieties developed for growing under particular conditions, it is necessary to provide for derogations as regards the acceptance of those varieties as well as for the production and marketing of seed of those varieties.
- (5) Those derogations should concern the substantive requirements for the acceptance of a variety and the procedural requirements provided for in Commission Directive 2003/91/EC of 6 October 2003 setting out implementing measures for the purposes of Article 7 of Council Directive 2002/55/EC as regards the characteristics to be covered as a minimum by the examination and the minimum conditions for examining certain varieties of vegetable species <sup>(6)</sup>.

<sup>(1)</sup> OJ L 193, 20.7.2002, p. 33.

<sup>(2)</sup> OJ L 309, 13.12.1993, p. 1.

<sup>(3)</sup> OJ L 378, 23.12.2004, p. 1.

<sup>(4)</sup> OJ L 162, 30.4.2004, p. 18.

<sup>(5)</sup> OJ L 277, 21.10.2005, p. 1.

<sup>(6)</sup> OJ L 254, 8.10.2003, p. 11.

- (6) Member States should, in particular, be authorised to adopt their own provisions as regards distinctness, stability and uniformity. These provisions should, as regards distinctness and stability, at least be based on the characteristics listed in the technical questionnaire to be completed by the applicant in connection with the application for the acceptance of the variety as referred to in Annexes I and II to Directive 2003/91/EC. Where uniformity is established on the basis of off-types, the provisions should be based on defined standards.
- (7) Procedural requirements should be provided for under which a conservation variety or a variety developed for growing under particular conditions may be accepted without official examination. Furthermore, as regards the denomination of those varieties, it is necessary to provide for certain derogations from the requirements laid down in Directive 2002/55/EC and Commission Regulation (EC) No 637/2009 of 22 July 2009 establishing implementing rules as to the suitability of the denominations of varieties of agricultural plant species and vegetable species <sup>(1)</sup>.
- (8) As regards conservation varieties, restrictions should be provided for concerning the production and marketing of seed, in particular regarding the region of origin, to ensure that the marketing of the seed takes place in the context of conservation *in situ* and the sustainable use of plant genetic resources. In this context, Member States should have the possibility to approve additional regions where seed exceeding the quantities necessary to ensure the conservation of the variety concerned in its region of origin may be marketed provided that those additional regions are comparable as regards natural and semi-natural habitats. To ensure that the link with the region of origin is preserved, this should not apply where a Member State has approved additional regions of production.
- (9) Quantitative restrictions should be fixed for the marketing of each conservation variety and each variety developed for growing under particular conditions.
- (10) In the case of conservation varieties, the quantities of seed placed on the market for each variety should not exceed the quantity necessary to produce vegetable of the variety concerned on a limited surface fixed according to the importance of the cultivation of the species concerned. To make sure that these quantities are respected, Member States should require producers to notify the quantities of seed of conservation varieties that they intend to produce and should allocate quantities to producers where appropriate.
- (11) For varieties developed for growing under particular conditions, quantitative restrictions should take the form of requiring seed to be marketed in small packages, the relatively high cost of the seed sold in small packages having the effect of a quantitative limitation.
- (12) For conservation varieties and for varieties developed for growing under particular conditions, the traceability of seed should be ensured through appropriate sealing and labelling requirements.
- (13) To ensure that this Directive is correctly applied seed crops of conservation varieties and of varieties developed for growing under particular conditions should comply with specific conditions with respect to certification and verification of seed. Official post controls should be carried out on the seed. Official monitoring should be performed at all stages of production and marketing. Amounts of seed of conservation varieties placed on the market should be reported by suppliers to the Member States and by the Member States to the Commission.
- (14) After 3 years the Commission should assess whether the measures provided for in this Directive, in particular the provisions concerning quantitative restrictions for the marketing of seed of conservation varieties and of varieties developed for growing under particular conditions, are effective.
- (15) The measures provided for in this Directive are in accordance with the opinion of the Standing Committee on Seeds and Propagating Material for Agriculture, Horticulture and Forestry,

HAS ADOPTED THIS DIRECTIVE:

#### CHAPTER I

### **Subject matter and definitions**

#### *Article 1*

#### **Subject matter**

1. As regards the vegetable species covered by Directive 2002/55/EC, this Directive lays down certain derogations, in relation to the conservation *in situ* and the sustainable use of plant genetic resources through growing and marketing:

- (a) for acceptance for inclusion in the national catalogues of varieties of vegetable species, as provided for in Directive 2002/55/EC, of landraces and varieties which have been traditionally grown in particular localities and regions and threatened by genetic erosion, hereinafter 'conservation varieties'; and
- (b) for acceptance for inclusion in the catalogues referred to in point (a) of varieties with no intrinsic value for commercial crop production but developed for growing under particular conditions, hereinafter 'varieties developed for growing under particular conditions'; and

<sup>(1)</sup> OJ L 191, 23.7.2009, p. 10.

- (c) for the marketing of seed of such conservation varieties and varieties developed for growing under particular conditions.
2. Unless otherwise provided in this Directive, Directive 2002/55/EC shall apply.

#### Article 2

##### Definitions

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

- (a) 'conservation *in situ*' means the conservation of genetic material in its natural surroundings and, in the case of cultivated plant species, in the farmed environment where they have developed their distinctive properties;
- (b) 'genetic erosion' means loss of genetic diversity between and within populations or varieties of the same species over time, or reduction of the genetic basis of a species due to human intervention or environmental change;
- (c) 'landrace' means a set of populations or clones of a plant species which are naturally adapted to the environmental conditions of their region.

#### CHAPTER II

##### Conservation varieties

##### Section I

##### Acceptance of conservation varieties

#### Article 3

##### Conservation varieties

1. Member States may accept conservation varieties subject to the requirements provided for in Articles 4 and 5.
2. Conservation varieties shall be accepted as follows:
- (a) Member States may accept a variety as a variety whose seed may either be certified as 'certified seed of a conservation variety' or verified as 'standard seed of a conservation variety'. Such a variety shall be entered into the common catalogue of varieties of vegetable species as a 'conservation variety whose seed shall be certified in accordance with Article 10 of Commission Directive 2009/145/EC or verified in accordance with Article 11 of that Directive';
- (b) Member States may accept a variety as a variety whose seed may only be verified as 'standard seed of a conservation variety'. Such a variety shall be entered into the common catalogue of varieties of vegetable species as a 'conservation variety whose seed shall be verified in accordance with Article 11 of Commission Directive 2009/145/EC'.

#### Article 4

##### Substantive requirements

1. In order to be accepted as a conservation variety, a landrace or variety referred to in Article 1(1)(a) shall present an interest for the conservation of plant genetic resources.
2. By way of derogation from Article 1(2) of Directive 2003/91/EC, Member States may adopt their own provisions as regards distinctness, stability and uniformity of conservation varieties.

In such cases Member States shall ensure that for distinctness and stability at least the characteristics shall apply which are referred to in:

- (a) the technical questionnaires associated with the test protocols of the Community Plant Variety Office (CPVO), for the species listed in Annex I to Directive 2003/91/EC, which apply to those species; or
- (b) the technical questionnaires of the Guidelines of the International Union for the Protection of New Varieties of Plants (UPOV), for the species listed in Annex II to Directive 2003/91/EC, which apply to those species.

For the assessment of uniformity, Directive 2003/91/EC shall apply.

However, if the uniformity level is established on the basis of off-types, a population standard of 10 % and an acceptance probability of at least 90 % shall be applied.

#### Article 5

##### Procedural requirements

By way of derogation from the first sentence of Article 7(1) of Directive 2002/55/EC, no official examination shall be required if the following information is sufficient for the decision on the acceptance of the conservation varieties:

- (a) the description of the conservation variety and its denomination;
- (b) the results of unofficial tests;
- (c) knowledge gained from practical experience during cultivation, reproduction and use as notified by the applicant to the Member State concerned;
- (d) other information, in particular from the plant genetic resource authorities or from organisations recognised for this purpose by the Member States.

*Article 6***Exclusion of acceptance**

A conservation variety shall not be accepted for inclusion in the national catalogue of varieties if:

- (a) it is already listed in the common catalogue of varieties of vegetable species as a variety other than a conservation variety, or it was deleted from that common catalogue within the last 2 years, or the period granted under Article 15(2) of Directive 2002/55/EC expired less than 2 years ago; or
- (b) it is protected by a Community plant variety right, as provided for in Council Regulation (EC) No 2100/94 <sup>(1)</sup>, or by a national plant variety right, or an application for such a right is pending.

*Article 7***Denomination**

1. With respect to denominations of conservation varieties which were known before 25 May 2000, Member States may permit derogations from Regulation (EC) No 637/2009, except where such derogations would violate prior rights of a third party which are protected under Article 2 of that Regulation.
2. Notwithstanding Article 9(2) of Directive 2002/55/EC, Member States may accept more than one name for a variety if the names concerned are historically known.

*Article 8***Region of origin**

1. When a Member State accepts a conservation variety, it shall identify the locality or localities, region or regions, in which the variety has historically been grown and to which it is naturally adapted, hereinafter 'region of origin'. It shall take into account information from plant genetic resource authorities or from organisations recognised for that purpose by the Member States.

Where the region of origin is located in more than one Member State, it shall be identified by all Member States concerned by common accord.

2. The Member State or Member States performing the identification of the region of origin shall notify the identified region to the Commission.

*Article 9***Maintenance**

Member States shall ensure that a conservation variety must be maintained in its region of origin.

**Section II****Seed production and marketing of conservation varieties***Article 10***Certification**

By way of derogation from Article 20 of Directive 2002/55/EC, Member States may provide that seed of a conservation variety

may be certified as certified seed of a conservation variety if it meets the following requirements:

- (a) the seed descends from seed produced according to well defined practices for the maintenance of the variety;
- (b) the seed complies with the requirements for certification of 'certified seed' provided for in Article 2(1)(d) of Directive 2002/55/EC, with the exception of the requirements in respect of minimal varietal purity and the requirements concerning official examination or examination under official supervision;
- (c) the seed has sufficient varietal purity.

*Article 11***Verification**

By way of derogation from Article 20 of Directive 2002/55/EC, Member States may provide that seed of a conservation variety may be verified as standard seed of a conservation variety if it meets the following requirements:

- (a) the seed complies with the requirements for the marketing of 'standard seed' provided for in Directive 2002/55/EC, with the exception of the requirements in respect of minimal varietal purity;
- (b) the seed has sufficient varietal purity.

*Article 12***Seed testing**

1. Member States shall ensure that tests are carried out to check that seed of conservation varieties complies with the requirements provided for in Articles 10 and 11.
2. The tests referred to in paragraph 1 shall be carried out in accordance with current international methods, or, where such methods do not exist, in accordance with any appropriate methods.
3. Member States shall ensure that samples taken for the tests referred to in paragraph 1 are drawn from homogeneous lots. They shall ensure that the rules on lot weight and sample weight provided for in Article 25(2) of Directive 2002/55/EC are applied.

*Article 13***Region of seed production**

1. Member States shall ensure that seed of a conservation variety may only be produced in the region of origin.

If the seed cannot be produced in that region, due to a specific environmental problem, Member States may approve additional regions for seed production taking into account information from plant genetic resource authorities or from organisations recognised for this purpose by the Member States. However, seed produced in those additional regions shall be used exclusively in the region of origin.

<sup>(1)</sup> OJ L 227, 1.9.1994, p. 1.

2. Member States shall notify to the Commission and to the other Member States the additional regions which they intend to approve for seed production pursuant to paragraph 1.

The Commission and the other Member States may, within 20 working days from receipt of those notifications, request the matter to be referred to the Standing Committee on Seeds and Propagating Material for Agriculture, Horticulture and Forestry. A decision shall be taken in accordance with Article 48(1)(b) of Directive 2002/55/EC, to lay down, if necessary, restrictions or conditions for the designation of such regions.

If neither the Commission nor other Member States make a request under the second subparagraph, the Member State in question may approve the additional regions for seed production as notified.

#### Article 14

##### Marketing conditions

1. Member States shall ensure that seed of a conservation variety may only be marketed subject to the following conditions:

(a) it has been produced in its region of origin or in a region referred to in Article 13;

(b) marketing takes place in its region of origin.

2. By way of derogation from paragraph 1(b), a Member State may approve additional regions in its own territory for the marketing of seed of a conservation variety provided that those regions are comparable to the region of origin as regards the natural and semi-natural habitats of that variety.

Where Member States approve such additional regions, they shall ensure that the amount of seed necessary for the production of at least the quantity of seed referred to in Article 15 is reserved to conserve the variety in its region of origin.

The Member States shall inform the Commission and the other Member States of the approval of such additional regions.

3. Where a Member State approves additional regions for seed production in accordance with Article 13, it shall not use the derogation provided for in paragraph 2 of this Article.

#### Article 15

##### Quantitative restrictions

Each Member State shall ensure that, for each conservation variety, the quantity of seed marketed per year does not

exceed the quantity necessary for producing vegetables on the number of hectares set out in Annex I for the respective species.

#### Article 16

##### Application of quantitative restrictions

1. Member States shall ensure that producers notify them before the beginning of each production season of the size and the location of the area for the seed production.

2. If, based on the notifications referred to in paragraph 1, the quantities laid down by the Member States in accordance with Article 15 are likely to be exceeded, Member States shall allocate to each producer concerned the quantity it may market in the respective production season.

#### Article 17

##### Sealing of packages

1. Member States shall ensure that seed of conservation varieties may be marketed only in closed packages bearing a sealing device.

2. Seed packages shall be sealed by the supplier in such a manner that they cannot be opened without damaging the sealing system or leaving evidence of tampering on the supplier's label or on the package.

3. In order to ensure sealing in accordance with paragraph 2, the sealing system shall comprise at least the label or the affixing of a seal.

#### Article 18

##### Labelling

Member States shall ensure that packages or containers of seed of conservation varieties bear a supplier's label or a printed or stamped notice including the following information:

(a) the words 'EC rules and standards';

(b) the name and address of the person responsible for affixing the labels or his identification mark;

(c) the year of sealing expressed as: 'sealed ...' (year), or the year of the last sampling for the purposes of the last testing of germination expressed as: 'sampled ...' (year);

(d) the species;

(e) the denomination of the conservation variety;

- (f) the words 'certified seed of a conservation variety' or 'standard seed of a conservation variety';
- (g) the region of origin;
- (h) where the region of seed production is different from the region of origin, the indication of the region of seed production;
- (i) the reference number of the lot given by the person responsible for affixing the labels;
- (j) the declared net or gross weight, or declared number of seeds;
- (k) where weight is indicated and granulated pesticides, pelleting substances or other solid additives are used, the nature of the chemical treatment or additive and the approximate ratio between the weight of clusters or pure seeds and the total weight.

#### Article 19

##### Official post control

Member States shall ensure that the seed of a conservation variety marketed under this Directive is subject to official post control by random inspections to verify its varietal identity and varietal purity.

The official post control referred to in paragraph 1 shall be carried out in accordance with current international methods, or, where such methods do not exist, in accordance with any appropriate methods.

#### Article 20

##### Monitoring

Member States shall ensure by official monitoring during production and marketing that the seed complies with this Chapter, paying particular attention to the variety, locations of the seed production and quantities.

#### CHAPTER III

##### Varieties developed for growing under particular conditions

#### Section I

##### Acceptance of varieties developed for growing under particular conditions

#### Article 21

##### Varieties developed for growing under particular conditions

1. Member States may accept varieties developed for growing under particular conditions subject to the requirements provided for in Articles 22 and 23.

2. Member States may accept a variety developed for growing under particular conditions as a variety whose seed may only be verified as 'standard seed of a variety developed for growing under particular conditions'. Such a variety shall be entered into the common catalogue of varieties of vegetable species as a 'variety developed for growing under particular conditions whose seed shall be verified in accordance with Article 26 of Commission Directive 2009/145/EC'.

#### Article 22

##### Substantive requirements

1. In order to be accepted as a variety developed for growing under particular conditions, as referred to in Article 1(1)(b), a variety shall be with no intrinsic value for commercial crop production but developed for growing under particular conditions.

A variety shall be considered as having been developed for growing under particular conditions if it has been developed for growing under particular agro-technical, climatic or pedological conditions.

2. By way of derogation from Article 1(2) of Directive 2003/91/EC, Member States may adopt their own provisions as regards distinctness, stability and uniformity of varieties developed for growing under particular conditions.

In such cases Member States shall ensure that for distinctness and stability at least the characteristics shall apply which are referred to in:

- (a) the technical questionnaires associated with the test protocols of the Community Plant Variety Office (CPVO), for the species listed in Annex I to Directive 2003/91/EC, which apply to those species; or
- (b) the technical questionnaires of the Guidelines of the International Union for the Protection of New Varieties of Plants (UPOV), for the species listed in Annex II to Directive 2003/91/EC, which apply to those species.

For the assessment of uniformity, Directive 2003/91/EC shall apply.

However, if the uniformity level is established on the basis of off-types, a population standard of 10 % and an acceptance probability of at least 90 % shall be applied.

*Article 23***Procedural requirements**

By way of derogation from the first sentence of Article 7(1) of Directive 2002/55/EC, no official examination shall be required if the following information is sufficient for the decision on the acceptance of the varieties developed for growing under particular conditions:

- (a) the description of the variety developed for growing under particular conditions and its denomination;
- (b) the results of unofficial tests;
- (c) knowledge gained from practical experience during cultivation, reproduction and use, as notified by the applicant to the Member State concerned;
- (d) other information, in particular from the plant genetic resource authorities or from organisations recognised for this purpose by the Member States.

*Article 24***Exclusion of acceptance**

A variety developed for growing under particular conditions shall not be accepted for inclusion in the national catalogue of varieties if:

- (a) it is already listed in the common catalogue of varieties of vegetable species as a variety other than a variety developed for growing under particular conditions, or it was deleted from that common catalogue of varieties of vegetable species within the last 2 years, or the period granted under Article 15(2) of Directive 2002/55/EC expired less than 2 years ago; or
- (b) it is protected by a Community plant variety right, as provided for in Regulation (EC) No 2100/94, by a national plant variety right, or if an application for such rights is pending.

*Article 25***Denomination**

1. With respect to denominations of varieties developed for growing under particular conditions which were known before 25 May 2000, Member States may permit derogations from Regulation (EC) No 637/2009, except where such derogations would violate prior rights of a third party which are protected under Article 2 of that Regulation.

2. Notwithstanding Article 9(2) of Directive 2002/55/EC, Member States may accept more than one name for a variety if the names concerned are historically known.

*Section II***Marketing of seed of varieties developed for growing under particular conditions***Article 26***Verification**

By way of derogation from Article 20 of Directive 2002/55/EC, Member States may provide that seed of a variety developed for growing under particular conditions may be verified as standard seed of a variety developed for growing under particular conditions if it meets the following requirements:

- (a) the seed complies with the requirements for the marketing of 'standard seed' provided for in Directive 2002/55/EC, with the exception of the requirements in respect of minimal varietal purity;
- (b) the seed has sufficient varietal purity.

*Article 27***Seed testing**

1. Member States shall ensure that tests are carried out to check that seed of varieties developed for growing under particular conditions complies with the requirements provided for in Article 26.

2. The tests referred to in paragraph 1 shall be carried out in accordance with current international methods, or, where such methods do not exist, in accordance with any appropriate methods.

*Article 28***Quantitative restrictions**

Member States shall ensure that seed of varieties developed for growing under particular conditions is marketed in small packages, not exceeding the maximum net weight set out per species in Annex II.

*Article 29***Sealing of packages**

1. Member States shall ensure that seed of varieties developed for growing under particular conditions may be marketed only in closed packages bearing a sealing device.

2. Seed packages shall be sealed by the supplier in such a manner that they cannot be opened without damaging the sealing system or leaving evidence of tampering on the supplier's label or on the package.

3. In order to ensure sealing in accordance with paragraph 2, the sealing system shall comprise at least the label or the affixing of a seal.

*Article 30***Labelling**

Member States shall ensure that packages of seed of varieties developed for growing under particular conditions bear a supplier's label or a printed or stamped notice including the following information:

- (a) the words 'EC rules and standards';
- (b) the name and address of the person responsible for affixing the labels or his identification mark;
- (c) the year of sealing expressed as: 'sealed ...' (year), or the year of the last sampling for the purposes of the last testing of germination expressed as: 'sampled ...' (year);
- (d) the species;
- (e) the denomination of the variety;
- (f) the words 'variety developed for growing under particular conditions';
- (g) the reference number of the lot given by the person responsible for affixing the labels;
- (h) the declared net or gross weight, or declared number of seeds;
- (i) where weight is indicated and granulated pesticides, pelleting substances or other solid additives are used, the nature of the chemical treatment or additive and the approximate ratio between the weight of clusters or pure seeds and the total weight.

*Article 31***Official post control**

Member States shall ensure that the seed of a variety developed for growing under particular conditions is subject to official post control by random inspections to verify its varietal identity and purity.

The official post control referred to in paragraph 1 shall be carried out in accordance with current international methods, or, where such methods do not exist, in accordance with any appropriate methods.

*Article 32***Monitoring**

Member States shall ensure by official monitoring during production and marketing that the seed complies with this

Chapter, paying particular attention to the variety and quantities.

## CHAPTER IV

**General and final provisions***Article 33***Reporting**

Member States shall ensure that suppliers operating in their territory report for each production season the amount of seed of each conservation variety and of each variety developed for growing under particular conditions placed on the market.

Member States shall report on request to the Commission and to the other Member States the amount of seed of each conservation variety and of each variety developed for growing under particular conditions placed on the market in their territory.

*Article 34***Notification of the recognised organisations of plant genetic resources**

Member States shall notify to the Commission the recognised organisations referred to in Article 5(d), Article 8(1), Article 13(1) and Article 23(d).

*Article 35***Evaluation**

By 31 December 2013 the Commission shall evaluate the implementation of this Directive.

*Article 36***Transposition**

1. Member States shall bring into force the laws, regulations and administrative provisions necessary to comply with this Directive by 31 December 2010 at the latest. They shall forthwith communicate to the Commission the text of those provisions and a correlation table between those provisions and this Directive.

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

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

*Article 37***Entry into force**

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

*Article 38***Addressees**

This Directive is addressed to the Member States.

Done at Brussels, 26 November 2009.

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

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## ANNEX I

## Quantitative restrictions for the marketing of seed of conservation varieties, as referred to in Article 15

Botanical name	Maximum number of hectares per Member State for production of vegetable per conservation varieties
<i>Allium cepa</i> L. — Cepa group <i>Brassica oleracea</i> L. <i>Brassica rapa</i> L. <i>Capsicum annuum</i> L. <i>Cichorium intybus</i> L. <i>Cucumis melo</i> L. <i>Cucurbita maxima</i> Duchesne <i>Cynara cardunculus</i> L. <i>Daucus carota</i> L. <i>Lactuca sativa</i> L. <i>Lycopersicon esculentum</i> Mill. <i>Phaseolus vulgaris</i> L. <i>Pisum sativum</i> L. (partim) <i>Vicia faba</i> L. (partim)	40
<i>Allium cepa</i> L. — Aggregatum group <i>Allium porrum</i> L. <i>Allium sativum</i> L. <i>Beta vulgaris</i> L. <i>Citrullus lanatus</i> (Thunb.) Matsum. et Nakai <i>Cucumis sativus</i> L. <i>Cucurbita pepo</i> L. <i>Foeniculum vulgare</i> Mill. <i>Solanum melongena</i> L. <i>Spinacia oleracea</i> L.	20
<i>Allium fistulosum</i> L. <i>Allium schoenoprasum</i> L. <i>Anthriscus cerefolium</i> (L.) Hoffm. <i>Apium graveolens</i> L. <i>Asparagus officinalis</i> L. <i>Cichorium endivia</i> L. <i>Petroselinum crispum</i> (Mill.) Nyman ex A. W. Hill <i>Phaseolus coccineus</i> L. <i>Raphanus sativus</i> L. <i>Rheum rhubarbarum</i> L. <i>Scorzonera hispanica</i> L. <i>Valerianella locusta</i> (L.) Laterr. <i>Zea mays</i> L. (partim)	10

## ANNEX II

## Maximum net weight per package, as referred to in Article 28

Botanical name	Maximum net weight per package expressed in grams
<i>Phaseolus coccineus</i> L. <i>Phaseolus vulgaris</i> L. <i>Pisum sativum</i> L. (partim) <i>Vicia faba</i> L. (partim) <i>Spinacia oleracea</i> L. <i>Zea mays</i> L. (partim)	250
<i>Allium cepa</i> L. (cepa group, <i>Aggregatum</i> group) <i>Allium fistulosum</i> L. <i>Allium porrum</i> L. <i>Allium sativum</i> L. <i>Anthriscus cerefolium</i> (L.) Hoffm. <i>Beta vulgaris</i> L. <i>Brassica rapa</i> L. <i>Cucumis sativus</i> L. <i>Cucurbita maxima</i> Duchesne <i>Cucurbita pepo</i> L. <i>Daucus carota</i> L. <i>Lactuca sativa</i> L. <i>Petroselinum crispum</i> (Mill.) Nyman ex A. W. Hill <i>Raphanus sativus</i> L. <i>Scorzonera hispanica</i> L. <i>Valerianella locusta</i> (L.) Laterr.	25
<i>Allium schoenoprasum</i> L. <i>Apium graveolens</i> L. <i>Asparagus officinalis</i> L. <i>Brassica oleracea</i> L. (all) <i>Capsicum annuum</i> L. <i>Cichorium endivia</i> L. <i>Cichorium intybus</i> L. <i>Citrullus lanatus</i> (Thunb.) Matsum. et Nakai <i>Cucumis melo</i> L. <i>Cynara cardunculus</i> L. <i>Lycopersicon esculentum</i> Mill. <i>Foeniculum vulgare</i> Mill. <i>Rheum rhabarbarum</i> L. <i>Solanum melongena</i> L.	5

**COMMISSION DIRECTIVE 2009/146/EC****of 26 November 2009****correcting Directive 2008/125/EC amending Council Directive 91/414/EEC to include aluminium phosphide, calcium phosphide, magnesium phosphide, cymoxanil, dodemorph, 2,5-dichlorobenzoic acid methylester, metamitron, sulcotrione, tebuconazole and triadimenol as active substances****(Text with EEA relevance)**

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Council Directive 91/414/EEC of 15 July 1991 concerning the placing of plant protection products on the market <sup>(1)</sup>, and in particular the second indent of the second subparagraph of Article 6(1) thereof,

Whereas:

- (1) Commission Directive 2008/125/EC <sup>(2)</sup> contains terminological errors with respect to the uses which may be authorised for aluminium phosphide, calcium phosphide and magnesium phosphide. Those errors must be corrected.
- (2) The measures provided for in this Directive are in accordance with the opinion of the Standing Committee on the Food Chain and Animal Health,

HAS ADOPTED THIS DIRECTIVE:

*Article 1*

The Annex to Directive 2008/125/EC is corrected as follows:

1. in part A of the seventh column (specific provisions) of row No 266 (aluminium phosphide), the first and the second sentence are replaced by the following:

‘Only uses as insecticide, rodenticide, talpicide and leporicide in the form of ready-to-use aluminium phosphide containing products may be authorised.

As rodenticide, talpicide and leporicide only outdoor uses may be authorised.’;

2. in part A of the seventh column (specific provisions) of row No 267 (calcium phosphide), the first sentence is replaced by the following:

‘Only outdoor uses as rodenticide and talpicide in the form of ready-to-use calcium phosphide containing products may be authorised.’;

3. in part A of the seventh column (specific provisions) of row No 268 (magnesium phosphide), the first and the second sentence are replaced by the following:

‘Only uses as insecticide, rodenticide, talpicide and leporicide in the form of ready-to-use magnesium phosphide containing products may be authorised.

As rodenticide, talpicide and leporicide only outdoor uses may be authorised.’.

*Article 2*

Member States shall adopt and publish by 28 February 2010 at the latest the laws, regulations and administrative provisions necessary to comply with this Directive. They shall forthwith communicate to the Commission the text of those provisions and a correlation table between those provisions and this Directive.

They shall apply those provisions from 1 March 2010.

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

*Article 3*

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

*Article 4*

This Directive is addressed to the Member States.

Done at Brussels, 26 November 2009.

For the Commission  
Androulla VASSILIOU  
Member of the Commission

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

<sup>(2)</sup> OJ L 344, 20.12.2008, p. 78.

## II

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

## DECISIONS

## COMMISSION

## COMMISSION DECISION

of 25 November 2009

**establishing a questionnaire for Member States reports on the implementation of Directive 2006/66/EC of the European Parliament and of the Council on batteries and accumulators and waste batteries and accumulators**

(notified under document C(2009) 9105)

(Text with EEA relevance)

(2009/851/EC)

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Directive 2006/66/EC of the European Parliament and of the Council of 6 September 2006 on batteries and accumulators and waste batteries and accumulators and repealing Directive 91/157/EEC <sup>(1)</sup>, and in particular Article 22(2) thereof,

Whereas:

- (1) Under Article 22(1) of Directive 2006/66/EC, Member States are required to report regularly and on the basis of a questionnaire on the implementation of that Directive.
- (2) In order to avoid excessive administrative burden linked with the drawing up of that report, it is appropriate to limit the list of information required to those data which are most relevant for the Commission to assess the need for improving the implementation of Directive 2006/66/EC.

- (3) The measures provided for in this Decision are in accordance with the opinion of the Committee established in accordance with Article 18(1) of Directive 2006/12/EC of the European Parliament and the Council <sup>(2)</sup>,

HAS ADOPTED THIS DECISION:

*Article 1*

Member States shall draw up their reports on the implementation of Directive 2006/66/EC on the basis of the questionnaire set out in the Annex to this Decision.

*Article 2*

This Decision is addressed to the Member States.

Done at Brussels, 25 November 2009.

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

<sup>(1)</sup> OJ L 266, 26.9.2006, p. 1.

<sup>(2)</sup> OJ L 114, 27.4.2006, p. 9.

## ANNEX

**QUESTIONNAIRE FOR THE REPORT OF THE MEMBER STATES ON THE IMPLEMENTATION OF DIRECTIVE 2006/66/EC****1. Transposition into national law**

Information to be provided in the first Member State report:

- (a) Please provide a reference and an electronic link, if available, to your national laws transposing the Directive, including to any amendments.
- (b) Has any provision set up in Articles 8, 15 and 20 been transposed by means of voluntary agreements between the competent authorities and the economic operators concerned?

**2. Environmental performance**

What steps, including economic instruments of Article 9, have been taken to increase the environmental performance of batteries and accumulators in line with Article 5 of the Directive?

**3. Collection schemes**

Please describe in brief (maximum 100 words) how Article 8 has been implemented in practice.

**4. Collection targets**

Please specify the collection rates achieved in each calendar year covered by this report, including batteries and accumulators incorporated into appliances. The first report shall cover only the year 2011.

**5. Treatment and recycling**

- (a) What measures have been taken to ensure that all collected waste batteries and accumulators have undergone proper treatment and recycling in accordance with Article 12(1) of Directive 2006/66/EC?
- (b) Has use been made of the possibility to dispose of collected hazardous portable batteries or accumulators as specified in the second subparagraph of Article 12(1)? If so, please provide the reference of any draft measure notified to the Commission pursuant to the third subparagraph of Article 12(1).
- (c) What level of recycling was achieved in each calendar year concerned? Have all collected batteries and accumulators been sent for recycling, in accordance with Article 12(1)?
- (d) What level of recycling efficiency was achieved in each calendar year as from 26 September 2011 and, if available, for the preceding year?

**6. Disposal**

- (a) What measures have been taken to ensure that waste industrial and automotive batteries and accumulators are not disposed of in landfills?
- (b) Have any measures that go beyond the provisions in Article 14 been taken to minimise the disposal of batteries and accumulators as mixed municipal waste?

**7. Exports**

How many collected waste batteries and accumulators have been exported to third countries? Please specify to which countries. And for how many of these exported waste batteries and accumulators has sound evidence been given that the recycling operations took place under conditions equivalent to the requirements of this Directive, in line with Article 15?

**8. Financing**

- (a) What measures have been taken to ensure that the collection, treatment and recycling of all waste batteries and accumulators is financed by producers or third parties acting on their behalf?
- (b) What measures have been taken to ensure that producers are not double-charged where batteries and accumulators are collected under schemes set up in accordance with Directive 2000/53/EC of the European Parliament and of the Council <sup>(1)</sup> or Directive 2002/96/EC of the European Parliament and of the Council <sup>(2)</sup>?

**9. National implementation reports**

Please provide information on any measures taken in line with points (a), (b) and (c) of Article 22(3) of Directive 2006/66/EC (maximum 50 words per measure).

**10. Inspections and enforcement**

- (a) Please provide details on the inspections and monitoring systems applied in the Member State to ensure compliance with Directive 2006/66/EC and in particular its Articles 4 and 21.
- (b) How many cases of non-compliance with Directive 2006/66/EC have you found? Have any non-compliant batteries and accumulators been withdrawn from the national market? Please indicate the main reasons for non-compliance and the actions taken in order to ensure compliance with the Directive.

**11. Other information**

- (a) Please summarise in the first report the main difficulties encountered in implementing the Directive. How were or how can these problems be addressed?
- (b) Please indicate the administrative body (name, address, e-mail, other contact details) in charge of coordinating the answers to this questionnaire.

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<sup>(1)</sup> OJ L 269, 21.10.2000, p. 34.

<sup>(2)</sup> OJ L 37, 13.2.2003, p. 24.

## COMMISSION DECISION

of 26 November 2009

**on transitional measures under Regulations (EC) No 852/2004 and (EC) No 853/2004 of the European Parliament and of the Council as regard the processing of non-compliant raw milk in certain milk processing establishments in Romania and the structural requirements of such establishments**

(notified under document C(2009) 9083)

(Text with EEA relevance)

(2009/852/EC)

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Regulation (EC) No 852/2004 of the European Parliament and of the Council of 29 April 2004 on the hygiene of foodstuffs <sup>(1)</sup> and in particular the second subparagraph of Article 12 thereof,

Having regard to Regulation (EC) No 853/2004 of the European Parliament and of the Council of 29 April 2004 laying down specific hygiene rules for food of animal origin <sup>(2)</sup> and in particular Article 9 thereof,

Whereas:

(1) Regulation (EC) No 852/2004 lays down general rules for food business operators on the hygiene of foodstuffs based amongst others on the principles of hazard analysis and critical control points. It provides that food business operators are to comply with certain procedures based on those principles.

(2) Regulation (EC) No 853/2004 lays down specific rules on the hygiene of food of animal origin for food business operators and supplements the rules laid down in Regulation (EC) No 852/2004. The rules laid down in Regulations (EC) No 852/2004 and (EC) No 853/2004 include structural requirements for milk processing establishments, as well as hygiene requirements concerning raw milk and dairy products.

(3) By the Act of Accession of Bulgaria and Romania (the Act of Accession), Romania has been granted a transitional period, expiring on 31 December 2009, for

compliance by certain milk processing establishments with the structural and hygiene requirements of Regulations (EC) No 852/2004 and (EC) No 853/2004.

(4) Point (a) of Section B.I. of Chapter 5 of Annex VII to the Act of Accession, authorises until 31 December 2009 certain milk processing establishments that do not comply with the structural requirements laid down in Regulations (EC) No 852/2004 and (EC) No 853/2004.

(5) Since the accession of Romania, the number of establishments in compliance with those structural requirements has increased. However, certain milk processing establishments are still undergoing the necessary structural improvements in order to comply with those requirements. In light of the ongoing structural improvements, it is necessary to provide for a time-limited derogation from the structural requirements laid down in Regulations (EC) No 852/2004 and (EC) No 853/2004. The list of establishments not in compliance with those structural requirements is set out in Annex I to this Decision.

(6) In addition, point (c) of Section B.I. of Chapter 5 of Annex VII to the Act of Accession, authorises until 31 December 2009 certain milk processing establishments that do not comply with the hygiene requirements laid down in Regulation (EC) No 853/2004.

(7) Milk production holdings that do not comply with those hygiene requirements are spread over the whole territory of Romania. The proportion of raw milk that complies with those requirements, delivered to milk processing establishments in Romania, has only increased slightly during the last years.

(8) Taking into account the current situation, it is appropriate to provide for a time-limited derogation from the hygiene requirements laid down in Regulation (EC) No 853/2004 with a view to permitting Romania to bring its milk sector in compliance with those requirements.

<sup>(1)</sup> OJ L 139, 30.4.2004, p. 1.

<sup>(2)</sup> OJ L 139, 30.4.2004, p. 55.

- (9) In light of this situation, certain milk processing establishments listed in Annex II to this Decision should be allowed, by way of derogation from Regulation (EC) No 853/2004, to continue to process compliant and non-compliant milk provided that the processing is carried out on separate production lines. In addition, certain milk processing establishments listed in Annex III to this Decision should be allowed to continue to process non-compliant milk without separate production lines.
- (10) In addition, in order not to penalise milk processing establishments that comply with the structural requirements, it is appropriate to authorise such establishments to receive non-compliant milk on the same conditions as apply to milk processing establishments that do not comply with those requirements.
- (11) The marketing of dairy products derived from non-compliant milk should be restricted to Romania or used for further processing in the milk processing establishments covered by the derogations provided for in this Decision.
- (12) The transitional period granted by this Decision should be limited to twenty-four months from 1 January 2010. The situation in the milk sector in Romania should be reviewed before the end of that period. Therefore, Romania should submit annual reports to the Commission regarding progress in the upgrading of milk processing establishments in that Member State, milk production holdings supplying raw milk to those establishments and the system for collecting and transporting non-compliant milk.
- (13) The measures provided for in this Decision are in accordance with the opinion of the Standing Committee on the Food Chain and Animal Health,

HAS ADOPTED THIS DECISION:

#### Article 1

For the purpose of this Decision 'non-compliant milk' means raw milk which does not comply with the requirements set out in Annex III, Section IX, Chapter I, Subchapters II and III to Regulation (EC) No 853/2004.

#### Article 2

1. The structural requirements laid down in Regulation (EC) No 852/2004, Annex II, Chapter II and in Regulation (EC) No

853/2004, Annex III, Section I, Chapters II and III, Section II, Chapters II and III, and Section V, Chapter I, shall not apply to milk processing establishments in Romania listed in Annex I to this Decision until 31 December 2011.

2. Dairy products produced by the establishments referred to in paragraph 1 shall only:

- (a) be placed on the domestic market in Romania; or
- (b) used for further processing in establishments in Romania referred to in paragraph 1.

Such dairy products shall bear a health or identification mark which is different from the health or identification mark provided for in Article 5 of Regulation (EC) No 853/2004.

#### Article 3

By way of derogation from the requirements set out in Annex III, Section IX, Chapter I, Subchapters II and III to Regulation (EC) No 853/2004, the milk processing establishments listed in Annex II to this Decision may continue to process, until 31 December 2011, compliant and non-compliant milk provided that the processing of the compliant and the non-compliant milk is carried out on separate production lines.

#### Article 4

By way of derogation from the requirements set out in Annex III, Section IX, Chapter I, Subchapters II and III to Regulation (EC) No 853/2004, the milk processing establishments listed in Annex III to this Decision may continue to process, until 31 December 2011, non-compliant milk without separate production lines.

#### Article 5

Dairy products derived from non-compliant milk shall only:

- (a) be placed on the domestic market in Romania; or
- (b) be used for further processing in the milk processing establishments in Romania referred to in Articles 2, 3 and 4.

Such dairy products shall bear a health or identification mark which is different from the health or identification mark provided for in Article 5 of Regulation (EC) No 853/2004.

*Article 6*

Romania shall submit annual reports to the Commission on progress made in bringing the following in compliance with Regulations (EC) No 852/2004 and (EC) No 853/2004:

- (a) the processing establishments referred to in Article 2(1) including a timetable for their compliance with the structural requirements referred to in that provision;
- (b) production holdings producing non-compliant milk;
- (c) the system for collecting and transporting non-compliant milk.

The first annual report shall be submitted to the Commission by 31 December 2010, at the latest, and the second annual report by 31 October 2011, at the latest.

The form set out in Annex IV shall be used for those reports.

*Article 7*

This Decision shall apply from 1 January 2010 to 31 December 2011.

*Article 8*

This Decision is addressed to the Member States.

Done at Brussels, 26 November 2009.

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

## ANNEX I

## LIST OF ESTABLISHMENTS AS REFERRED TO IN ARTICLE 2(1)

No	Veterinary No	Name of establishment	Town/Street or Village/Region
1	AB 641	S.C. Biomilk SRL	Lopadea Noua, Jud. Alba, 517395
2	AB 1256	S.C. Binal Mob SRL	Rimetea, Jud. Alba, 517610
3	AB 3386	S.C. Lactate C.H. S.RL	Sanmiclaus, Jud. Alba, 517761
4	AR 563	S.C. Silmar Prod SRL	Santana, Jud. Arad, 317280
5	AG 11	S.C. Agrolact Cosesti	Cosesti, Jud. Arges, 115202
6	BC 2519	S.C. Marlact SRL	Buhoci, Jud. Bacau, 607085
7	BH 4020	S.C. Moisi Serv Com SRL	Borsa, nr. 8, jud. Bihor, 417431
8	BH 5158	S.C. Biolact Bihor SRL	Paleu, Jud. Bihor, 4 17166
9	BN 2120	S.C. Eliezer SRL	Lunca Ilvei, Jud. Bistrita-Nasaud, 427125
10	BN 2192	S.C. Simcodrin Com SRL	Budesti-Fanate, Jud. Bistrita-Nasaud, 427021
11	BN 2399	S.C. Carmo- Lact Prod SRL	Monor, Jud. Bistrita-Nasaud, 427175
12	BN 209	S.C. Calatis Group Prod SRL	Bistrita, Jud. Bistrita-Nasaud, 427006
13	BN 2125	S.C. Sinelli SRL	Milas, Jud. Bistrita-Nasaud, 427165
14	BT 8	S.C. General Suhardo SRL	Paltinis, Jud. Botosani, 717295
15	BT 11	S.C. Portas Com SRL	Vlasinesti, Jud. Botosani, 717465
16	BT 109	S.C. Lacto Mac SRL	Bucecea, Jud. Botosani, 717045
17	BT 115	S.C. Comintex SRL	Darabani, Jud. Botosani, 715100
18	BT 263	S.C. Cosmi SRL	Saveni, Jud. Botosani 715300
19	BT 50	S.C. Pris Com Univers SRL	Flamanzi, Jud. Botosani, 717155
20	BV 8	S.C. Prodlacta SA Homorod	Homorod, Jud. Brasov, 507105
21	BV 2451	S.C. Prodlacta SA Fagaras	Fagaras, Jud. Brasov, 505200
22	BR 36	S.C. Hatman SRL	Vadeni, Jud. Braila, 817200

No	Veterinary No	Name of establishment	Town/Street or Village/Region
23	BR 63	S.C. Cas SRL	Braila, Jud. Braila, 810224
24	BZ 0098	S.C. Meridian Agroind	Ramnicu Sarat, Jud. Buzau, 125300
25	BZ 0627	S.C. Ianis Cos Lact SRL	C.A. Rosetti, Jud. Buzau, 127120
26	BZ 2012	S.C. Zguras Lacto SRL	Pogoanele, Jud. Buzau, 25200
27	CL 0044	S.C. Ianis Dim SRL	Lehliu Gară, Jud. Calarasi, 915300
28	CL 0368	S.C. Lacto GMG SRL	Jegalia, Jud. Calarasi, 917145
29	CJ 41	S.C. Kazal SRL	Dej, Jud. Cluj, 405200
30	CJ 7584	S.C. Aquasala SRL	Bobalna, Jud. Cluj, 407085
31	CT 04	S.C. Lacto Baneasa SRL	Baneasa, Jud. Constanta, 907035
32	CT 15	S.C. Nic Costi Trade SRL	Dorobantu, Jud. Constanta, 907211
33	CT 225	S.C. Mih Prod SRL	Cobadin, Jud. Constanta, 907065
34	CT 256	S.C. Ian Prod SRL	Targusor, Jud. Constanta, 907275
35	CT 258	S.C. Binco Lact SRL	Sacele, Jud. Constanta, 907260
36	CT 311	S.C. Alltocs Market SRL	Pietreni, Jud. Constanta, 907112
37	CT 11988	S.C. Lacto Baron SRL	Harsova, Jud. Constanta, 905400
38	CT 12203	S.C. Lacto Genimico SRL	Harsova, Jud. Constanta, 905400
39	CT 30	S.C. Eastern European Foods SRL	Mihail Kogalniceanu, Jud. Constanta, 907195
40	CT 294	S.C. Suflaria Import Export SRL	Cheia, Jud. Constanta, 907277
41	L9	S.C. Covalact SA	Sfantu Gheorghe, Jud. Covasna, 520076
42	CV 2451	S.C. Agro Pan Star SRL	Sfantu Gheorghe, Jud. Covasna, 520020
43	DJ 80	S.C. Duvadi Prod Com SRL	Breasta, Jud. Dolj, 207115
44	DJ 730	S.C. Lactido SA	Craiova, Jud. Dolj, 200378
45	GL 4136	S.C. Galmopan SA	Galati, Jud. Galati, 800506

No	Veterinary No	Name of establishment	Town/Street or Village/Region
46	GR 5610	S.C. Lacta SA	Giurgiu, Jud. Giurgiu, 080556
47	GJ 231	S.C. Sekam Prod SRL	Novaci, Jud. Gorj, 215300
48	GJ 2202	S.C. Arte Import Export	Targu. Jiu, Jud. Gorj, 210112
49	HR 383	S.C. Lactate Harghita SA	Cristuru Secuiesc, Jud. Harghita, 535400
50	HR 166	S.C. Lactopan SRL	Mujna, Jud. Harghita, 537076
51	HR 119	S.C. Bomilact SRL	Mădăraş, Jud. Harghita, 537071
52	HR 213	S.C. Paulact SA	Mărtiniş, Harghita, 537175
53	HR 625	S.C. Lactis SRL	Odorheiu Secuiesc, Harghita, 535600
54	HD 1014	S.C. Sorilact SA	Risculita, Jud. Hunedoara, 337012
55	IL 0750	S.C. Balsam Med SRL	Țândărei, Jud. Ialomita, 925200
56	IL 1167	S.C. Sanalact SRL	Slobozia, Jud. Ialomita, 920002
57	IS 1012	S.C. Agrocom S.A.	Strunga, Jud. Iasi, 707465
58	IS 1540	S.C. Promilch S.R.L.	Podu Iloaiei, Jud. Iasi, 707365
59	MM 793	S.C. Wromsal SRL	Satulung, Jud. Maramures 437270
60	MM 6325	S.C. Ony SRL	Larga, Jud. Maramures, 437317
61	MM 1795	S.C. Calitatea SRL	Tautii Magheraus, Jud. Maramures, 437349
62	MM 4714	S.C. Saturil SRL	Giulesti, Jud. Maramures, 437162
63	MH 1304	S.C. IL SA Mehedinti	Drobeta Turnu Severin, Jud. Mehedinti, 220167
64	MS 297	S.C. Rodos S.R.L.	Faragau, Jud. Mures, 547225
65	MS 483	S.C. Heliantus Prod	Reghin, Jud. Mures, 545300
66	MS 532	S.C. Horuvio Service SRL	Lunca Santu, Jud. Mures, 547375
67	MS 2462	S.C. Lucamex Com SRL	Gornesti, Jud. Mures, 547280
68	MS 5554	S.C. Globivetpharm S.R.L.	Batos, Jud. Mures, 547085
69	L12	S.C. Camytex Prod SRL	Targu Neamt, Jud. Neamt, 615200

No	Veterinary No	Name of establishment	Town/Street or Village/Region
70	NT 900	S.C. Complex Agroalimentar SRL	Bicaz, Jud. Neamt, 615100
71	PH 212	S.C. Vitorio SRL	Ploiesti, Jud. Prahova, 100537
72	SM 4189	S.C. Primalact SRL	Satu Mare, Jud. Satu Mare, 440089
73	SJ 282	S.C. Calion SRL	Jibou, Jud. Salaj, 455200
74	SV 1085	S.C. Bucovina SA Falticeni	Falticeni, Jud. Suceava, 725200
75	SV 1562	S.C. Bucovina SA Suceava	Suceava, Jud. Suceava, 720290
76	SV 1888	S.C. Tocar Prod SRL	Fratautii Vechi, Jud. Suceava, 727255
77	SV 4540	S.C. Kinetas SRL	Boroaia, Jud. Suceava, 727040
78	SV 4909	S.C. Zada Prod SRL	Horodnic de Jos, Jud. Suceava, 727301
79	SV 6159	S.C. Ecolact SRL	Milisauti, Jud. Suceava, 727360
80	TR 78	S.C. Interagro SRL	Zimnicea, Jud. Teleorman, 145400
81	TR 27	S.C. Violact SRL	Putineiu, Jud. Teleorman, 147285
82	TR 81	S.C. Big Family SRL	Videle, Jud. Teleorman, 145300
83	TR 239	S.C. Comalact SRL	Nanov, Jud. Teleorman, 147215
84	TR 241	S.C. Investrom SRL	Sfintesti, Jud. Teleorman, 147340
85	TL 965	S.C. Mineri SRL	Mineri, Jud. Tulcea, 827211
86	VN 231	S.C. Vranlact SA	Focsani, Jud. Vrancea, 620122
87	VN 348	S.C. Stercus Lacto SRL	Ciorasti, Jud. Vrancea, 627082
88	VN 35	S.C. Monaco SRL	Vrancioaia, Jud. Vrancea, 627445

## ANNEX II

## LIST OF ESTABLISHMENTS AS REFERRED TO IN ARTICLE 3

No	Veterinary No	Name of establishment	Town/Street or Village/Region
1	L35	S.C. Danone PDPA Romania SRL	Bucuresti, 032451
2	L81	S.C. Raraul SA	Campulung Moldovenesc, Jud.Suceava, 725100

## ANNEX III

## LIST OF ESTABLISHMENTS AS REFERRED TO IN ARTICLE 4

No	Veterinary No	Name of establishment	Town/Street or Village/Region
1	L18	S.C. Depcoinf MBD SRL	Targu Trotus, Jud. Bacau, 607630
2	L72	S.C. Lactomuntean SRL	Teaca, Jud. Bistrita Nasaud, 427345
3	L78	S.C. Romfulda Prod SRL	Beclean, Jud. Bistrita Nasaud, 425100
4	L107	S.C. Bendear Cris Prod Com SRL	Sieu Magherus, Jud. Bistrita-Nasaud, 427295
5	L109	S.C. G&B Lumidan SRL	Rodna, Jud. Bistrita-Nasaud, 427245
6	L110	S.C. Lech Lacto SRL	Lechinta, Jud. Bistrita-Nasaud, 427105
7	L3	S.C. Aby Impex SRL	Sendriceni, Jud. Botosani, 717380
8	L4	S.C. Spicul 2 SRL	Dorohoi, Jud. Botosani, 715200
9	L116	S.C. Ram SRL	Ibanesti, Jud. Botosani, 717215
10	L73	S.C. Eurocheese Productie SRL	Bucuresti, 030608
11	L97	S.C. Terra Valahica SRL	Berca, Jud. Buzau, 127035
12	L129	S.C. Bonas Import Export SRL	Dezmir, Jud. Cluj, 407039
13	L84	S.C. Picolact Prodcum SRL	Iclod, Jud. Cluj, 407335
14	L122	S.C. Napolact SA	Cluj-Napoca, Jud. Cluj, 400236
15	L43	S.C. Lactocorv SRL	Ion Corvin, Jud. Constanta, 907150
16	L40	S.C. Betina Impex SRL	Ovidiu, Jud. Constanta, 905900
17	L41	S.C. Elda Mec SRL	Topraisar, Jud. Constanta, 907210
18	L87	S.C. Niculescu Prod SRL	Cumpana, Jud. Constanta, 907105
19	L118	S.C. Assla Kar SRL	Medgidia, Jud. Constanta, 905600
20	L130	S.C. Muntina Prod SRL	Constanta, Jud. Constanta, 900735

No	Veterinary No	Name of establishment	Town/Street or Village/Region
21	L58	S.C. Industrializarea Laptelui SA	Targoviste, Jud. Dambovita, 130062
22	L82	S.C. Totallact Group S.A.	Dragodana, Jud. Dambovita, 137200
23	L91	S.C. Cosmilact SRL	Schela, Jud. Galati, 807265
24	L55	S.C. Gordon Prod SRL	Bisericani, Jud. Harghita, 535062
25	L65	S.C. Karpaten Milk	Suseni, Jud. Harghita, 537305
26	L124	S.C. Primulact SRL	Miercurea Ciuc, Jud. Harghita, 530242
27	L15	S.C. Teletext SRL	Slobozia, Jud. Ialomita, 920066
28	L99	S.C. Valizvi Prod Com SRL	Garbovi, Jud. Ialomita, 927120
29	L47	S.C. Oblaza SRL	Bârsana, Jud. Maramures, 437035
30	L85	S.C. Avi-Seb Impex SRL	Copalnic, Manastur, Jud. Maramures, 437103
31	L86	S.C. Zea SRL	Boiu Mare, Jud. Maramures, 437060
32	L16	S.C. Roxar Prod Com SRL	Cernesti, Jud. Maramures, 437085
33	L54	S.C. Rodlacta S.R.L.	Faragau, Jud. Mures, 547225
34	L32	S.C. Hochland Romania SRL	Sighisoara, Jud. Mures, 545400
35	L21	S.C. Industrializarea Laptelui Mures S.A.	Targu Mures, Jud. Mures, 540390
36	L108	S.C. Lactex Reghin SRL	Solovastru, Jud. Mures, 547571
37	L121	S.C. Mirdatod Prod S.R.L	Ibanesti, Jud. Mures, 547325
38	L96	S.C. Prod A.B.C. Company SRL	Grumazesti, Jud. Neamt, 617235
39	L101	S.C. 1 Decembrie SRL	Targu Neamt, Jud. Neamt, 615235
40	L106	S.C. Rapanu SR. COM SRL	Petricani, Jud. Neamt, 617315
41	L6	S.C. Lacta Han Prod SRL	Urecheni, Jud. Neamt, 617490
42	L123	S.C. ProCom Pascal SRL	Pastraveni, Jud. Neamt, 617300
43	L63	S.C. Zoe Gab SRL	Fulga, Jud. Prahova, 107260

No	Veterinary No	Name of establishment	Town/Street or Village/Region
44	L50	S.C. Ecolact Prod SRL	Paulesti, Jud. Prahova, 107246
45	L100	S.C. Alto Impex SRL	Provita de Jos, Jud. Prahova, 107477
46	L53	S.C. Friesland Romania SA	Carei, Jud. Satu Mare, 445100
47	L93	S.C. Agrostar Company Lyc SRL	Ciuperceni, Jud. Satu Mare, 447067
48	L120	S.C. Unicarm SRL	Vetis, Jud. Satu Mare, 447355
49	L88	S.C. Agromec Crasna S.A.	Crasna, Jud. Salaj, 457085
50	L89	S.C. Ovinex SRL	Sarmasag, Jud. Salaj, 457330
51	L67	S.C. Gefa Impex SRL	Talmaciu, Jud. Sibiu, 555700
52	L71	S.C. Lacto Sibiana S.A.	Sura Mica, Jud. Sibiu, 557270
53	L5	S.C. Niro Serv Com SRL	Gura Humorului, Jud. Suceava, 725300
54	L36	S.C. Prolact Prod Com SRL	Vicovu de Sus, Jud. Suceava, 727610
55	L83	S.C. Balaceana Prod SRL	Balaceana, Jud. Suceava, 727125
56	L128	S.C. Tudia SRL	Gramesti, Jud. Suceava, 727285
57	L68	S.C. Aida SRL	Galanesti, Jud. Suceava, 727280
58	L80	S.C. Industrial Marian S.R.L.	Drănceni, Jud. Vaslui, 737220
59	L 136	S.C. Campaei Prest SRL	Hidiseul de Sus, Jud. Bihor, 417277
60	L135	S.C. Multilact SRL	Baia Mare, Jud. Maramures, 430015
61	L134	S.C. Lactocrist S.R.L.	Cristian, Jud. Sibiu, 557085
62	L137	S.C. Dunarea Prod S.R.L.	Milcovul, Jud. Vrancea, 627205



## COMMISSION DECISION

of 26 November 2009

**authorising France to conclude an agreement with Saint-Pierre-et-Miquelon, Mayotte, New Caledonia, French Polynesia and Wallis and Futuna respectively for transfers of funds between France and each of these territories to be treated as transfers of funds within France, pursuant to Regulation (EC) No 1781/2006 of the European Parliament and of the Council**

(notified under document C(2009) 9254)

(Only the French text is authentic)

(2009/853/EC)

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Regulation (EC) No 1781/2006 of the European Parliament and of the Council of 15 November 2006 on information on the payer accompanying transfers of funds <sup>(1)</sup>, and in particular Article 17 thereof,

Having regard to the application from France,

Whereas:

- (1) On 28 November 2007, France requested a derogation under Article 17 of Regulation (EC) No 1781/2006 for the transfers of funds between Saint-Pierre-et-Miquelon, Mayotte, New Caledonia, French Polynesia and Wallis and Futuna respectively and France.
- (2) In accordance with Article 17(2) of Regulation (EC) No 1781/2006, transfers of funds between Saint-Pierre-et-Miquelon, Mayotte, New Caledonia, French Polynesia and Wallis and Futuna respectively and France have been provisionally treated as transfers of funds within France from 4 December 2007.
- (3) Member States were informed at the meeting of the Committee for the Prevention of Money Laundering and Terrorist Financing of 16 June 2009 that the Commission considered that it had received the information necessary for appraising the request made by France.
- (4) Saint-Pierre-et-Miquelon, Mayotte, New Caledonia, French Polynesia and Wallis and Futuna do not form part of the territory of the Community as determined in accordance with Article 299 of the EC Treaty. However, Saint-Pierre-et-Miquelon and Mayotte through a Council Decision of 31 December 1998 as well as New Caledonia, French Polynesia and Wallis and Futuna through Protocol 27 on France annexed to the Treaty of the European Community form part of the currency area of France. Saint-Pierre-et-Miquelon, Mayotte, New Caledonia,

French Polynesia and Wallis and Futuna therefore comply with the criterion set out in Article 17(1)(a) of Regulation (EC) No 1781/2006.

- (5) Payment services providers in Saint-Pierre-et-Miquelon, Mayotte, New Caledonia, French Polynesia and Wallis and Futuna participate directly in payment and settlement systems in France, namely either CORE or Target2-Banque de France. They therefore comply with the criterion set out in Article 17(1)(b) of Regulation (EC) No 1781/2006.
- (6) EC regulations to be applicable to Saint-Pierre-et-Miquelon, Mayotte, New Caledonia, French Polynesia and Wallis and Futuna require the adoption by France of specific legislation to this effect. The adoption by France of Order No 2009-102 of 30 January 2009 on information on the payer accompanying transfers of funds to and from Saint-Pierre-et-Miquelon, Mayotte, New Caledonia, French Polynesia and Wallis and Futuna ensures that those territories have incorporated into their legal order provisions corresponding to those of Regulation (EC) No 1781/2006.
- (7) Order No 2009-103 of 30 January 2009 concerning the freezing of assets notably in the fight against terrorism financing ensure that appropriate measures are in place in to Saint-Pierre-et-Miquelon, Mayotte, New Caledonia, French Polynesia and Wallis and Futuna to impose financial penalties vis-à-vis entities or persons listed by the United Nations or the European Union.
- (8) Order No 2006-60 of 19 January 2006 modernising the financial and economic law applicable to Mayotte, New Caledonia, French Polynesia and Wallis and Futuna, Decree No 2006-736 of 26 June 2006 concerning the fight against money laundering and modifying the financial and monetary code and Law No 2004-130 of 11 February 2004 reforming the statute of some judiciary and legal professions ensure that Saint-Pierre-et-Miquelon, Mayotte, New Caledonia, French Polynesia and Wallis and Futuna have in place an anti-money laundering regime equivalent to that in application on the French territory as regards transfers of funds.

<sup>(1)</sup> OJ L 345, 8.12.2006, p. 1.

- (9) Therefore, Saint-Pierre-et-Miquelon, Mayotte, New Caledonia, French Polynesia and Wallis and Futuna have adopted the same rules as those established under Regulation (EC) No 1781/2006 and require their respective payment services providers to apply them, thus fulfilling the criterion set out in Article 17(1)(c) of that Regulation.
- (10) It is therefore appropriate to grant to France the requested derogation.
- (11) The measures provided for in this Decision are in accordance with the opinion of the Committee on the Prevention of Money Laundering and Terrorist Financing,

and Wallis and Futuna respectively, to the effect that the transfers of funds between Saint-Pierre-et-Miquelon, Mayotte, New Caledonia, French Polynesia and Wallis and Futuna respectively and France are treated as transfers of funds within France for the purposes of Regulation (EC) No 1781/2006.

*Article 2*

This Decision is addressed to the French Republic.

Done at Brussels, 26 November 2009.

HAS ADOPTED THIS DECISION:

*Article 1*

France shall be authorised to conclude an agreement with Saint-Pierre-et-Miquelon, Mayotte, New Caledonia, French Polynesia

*For the Commission*

Charlie McCREEVY

*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 JOINT ACTION 2009/854/CFSP

of 20 November 2009

**amending Joint Action 2005/889/CFSP on establishing a European Union Border Assistance Mission for the Rafah Crossing Point (EU BAM Rafah)**

THE COUNCIL OF THE EUROPEAN UNION,

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

Whereas:

- (1) On 25 November 2005, the Council adopted Joint Action 2005/889/CFSP on establishing a European Union Border Assistance Mission for the Rafah Crossing Point (EU BAM Rafah) <sup>(1)</sup>.
- (2) On 10 November 2008, the Council adopted Joint Action 2008/862/CFSP <sup>(2)</sup> amending and extending Joint Action 2005/889/CFSP until 24 November 2009.
- (3) Joint Action 2005/889/CFSP should be further extended until 24 May 2010,

HAS ADOPTED THIS JOINT ACTION:

*Article 1*

Joint Action 2005/889/CFSP is hereby amended as follows:

1. Article 13(1) is replaced by the following:

‘1. The financial reference amount intended to cover the expenditure related to the mission for the period from 25 November 2009 to 24 May 2010 shall be EUR 1 120 000’;

2. second paragraph of Article 16 is replaced by the following:

‘It shall expire on 24 May 2010.’;

3. Article 17 is replaced by the following:

‘*Article 17*

**Review**

This Joint Action shall be reviewed by 15 April 2010.’.

*Article 2*

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

*Article 3*

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

Done at Brussels, 20 November 2009.

*For the Council*

*The President*

E. ERLANDSSON

<sup>(1)</sup> OJ L 327, 14.12.2005, p. 28.

<sup>(2)</sup> OJ L 306, 15.11.2008, p. 98.







2009/852/EC:

- ★ **Commission Decision of 26 November 2009 on transitional measures under Regulations (EC) No 852/2004 and (EC) No 853/2004 of the European Parliament and of the Council as regard the processing of non-compliant raw milk in certain milk processing establishments in Romania and the structural requirements of such establishments (notified under document C(2009) 9083) <sup>(1)</sup>.....** 59

2009/853/EC:

- ★ **Commission Decision of 26 November 2009 authorising France to conclude an agreement with Saint-Pierre-et-Miquelon, Mayotte, New Caledonia, French Polynesia and Wallis and Futuna respectively for transfers of funds between France and each of these territories to be treated as transfers of funds within France, pursuant to Regulation (EC) No 1781/2006 of the European Parliament and of the Council (notified under document C(2009) 9254).....** 71

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III *Acts adopted under the EU Treaty*

ACTS ADOPTED UNDER TITLE V OF THE EU TREATY

- ★ **Council Joint Action 2009/854/CFSP of 20 November 2009 amending Joint Action 2005/889/CFSP on establishing a European Union Border Assistance Mission for the Rafah Crossing Point (EU BAM Rafah) .....** 73



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

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