

Official Journal

of the European Union

L 252



English edition

Legislation

Volume 54

28 September 2011

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⁽¹⁾ Text with EEA relevance

II

(Non-legislative acts)

INTERNATIONAL AGREEMENTS

COUNCIL DECISION

of 26 September 2011

amending and extending the period of application of Decision 2007/641/EC on the conclusion of consultations with the Republic of the Fiji Islands under Article 96 of the ACP-EC Partnership Agreement and Article 37 of the Development Cooperation Instrument

(2011/637/EU)

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty on the Functioning of the European Union, and in particular Article 217 thereof,

Having regard to the Partnership Agreement between the members of the African, Caribbean and Pacific Group of States of the one part, and the European Community and its Member States, of the other part, signed in Cotonou on 23 June 2000 ⁽¹⁾, as last amended in Ouagadougou on 22 June 2010 ⁽²⁾ ('the ACP-EU Partnership Agreement'), and in particular Article 96 thereof,

Having regard to the Internal Agreement between the representatives of the governments of the Member States, meeting within the Council, on measures to be taken and procedures to be followed for the implementation of the ACP-EC Partnership Agreement ⁽³⁾, and in particular Article 3 thereof,

Having regard to Regulation (EC) No 1905/2006 of the European Parliament and of the Council of 18 December 2006 establishing a financing instrument for development cooperation ('the Development Cooperation Instrument') ⁽⁴⁾, and in particular Article 37 thereof,

Having regard to the proposal from the European Commission,

Whereas:

(1) Council Decision 2007/641/EC ⁽⁵⁾ was adopted to take appropriate measures following the violation of the

essential elements referred to in Article 9 of the ACP-EU Partnership Agreement and of the values referred to in Article 3 of the Development Cooperation Instrument.

(2) Those measures have been extended by Council Decision 2009/735/EC ⁽⁶⁾, and subsequently by Council Decisions 2010/208/EU ⁽⁷⁾, 2010/589/EU ⁽⁸⁾ and 2011/219/EU ⁽⁹⁾, since not only has the Republic of Fiji yet to implement important commitments it made in consultations held in April 2007 concerning essential elements of the ACP-EU Partnership Agreement and the Development Cooperation Instrument, but there have also been important regressive developments concerning a number of these commitments.

(3) Decision 2007/641/EC expires on 30 September 2011. It is appropriate to extend its validity, and to update the content of the appropriate measures accordingly,

HAS ADOPTED THIS DECISION:

Article 1

Decision 2007/641/EC is hereby amended as follows:

(1) in Article 3, the second paragraph is replaced by the following:

'It shall expire on 30 September 2012. It shall be reviewed regularly at least once every 6 months.;

(2) the Annex is replaced by the Annex to this Decision.

⁽¹⁾ OJ L 317, 15.12.2000, p. 3.

⁽²⁾ OJ L 287, 4.11.2010, p. 3.

⁽³⁾ OJ L 317, 15.12.2000, p. 376.

⁽⁴⁾ OJ L 378, 27.12.2006, p. 41.

⁽⁵⁾ OJ L 260, 5.10.2007, p. 15.

⁽⁶⁾ OJ L 262, 6.10.2009, p. 43.

⁽⁷⁾ OJ L 89, 9.4.2010, p. 7.

⁽⁸⁾ OJ L 260, 2.10.2010, p. 10.

⁽⁹⁾ OJ L 93, 7.4.2011, p. 2.

Article 2

The letter in the Annex to this Decision shall be addressed to the Republic of Fiji.

Article 3

This Decision shall enter into force on the day of its adoption.

Done at Brussels, 26 September 2011.

For the Council
The President
M. KOROLEC

ANNEX

LETTER

H.E. Ratu Epeli NAILATIKAU

President of the Republic of Fiji

Suva

Republic of Fiji

Excellency,

The European Union (EU) attaches great importance to the provisions of Article 9 of the ACP-EU Partnership Agreement and Article 3 of the Development Cooperation Instrument. The ACP-EU partnership is founded on respect for human rights, democratic principles and the rule of law, which form the essential elements of the ACP-EU Partnership Agreement, and form the basis of our relations.

On 11 December 2006 the Council of the EU condemned the military takeover in the Republic of Fiji (Fiji).

Under Article 96 of the ACP-EU Partnership Agreement, and considering that the military takeover on 5 December 2006 constituted a violation of the essential elements listed in Article 9 thereof, the EU invited Fiji to consultations, as provided for in the ACP-EU Partnership Agreement, in order to thoroughly examine the situation and, where necessary, take steps to remedy it.

The formal part of those consultations began in Brussels on 18 April 2007. The EU was pleased that at the time the Interim Government confirmed a number of key commitments regarding human rights and fundamental freedoms, respect for democratic principles and the rule of law, as noted below, and proposed positive steps regarding their implementation.

Regrettably, there have since been a series of regressive developments, in particular in April 2009, meaning that Fiji is now in breach of a range of its commitments. This concerns notably the abrogation of the Constitution, the very substantial delay in holding the parliamentary elections, and human rights violations. Although implementation of the commitments has been substantially delayed, the majority of those commitments remain highly relevant to Fiji's present situation, and are therefore attached to this letter. As Fiji has unilaterally decided to break a number of key commitments, this has led to losses for Fiji in terms of development funds.

However, in the spirit of partnership forming the cornerstone of the ACP-EU Partnership Agreement, the EU expresses its readiness to engage in new formal consultations as soon as there is a reasonable prospect for a positive conclusion to such consultations. On 1 July 2009 the Interim Prime Minister presented a roadmap for reforms and for a return to democratic order. The EU stands ready to engage in dialogue regarding this roadmap, and to consider whether it may serve as a basis for new consultations. Accordingly, the EU has decided to extend the existing appropriate measures for Fiji in order to create a window of opportunity for new consultations. While some of the appropriate measures are now out-of-date, it has been concluded that rather than update them unilaterally, the EU prefers to further explore possibilities for new consultations with Fiji. Consequently, it is of particular importance that the Interim Government commits to an inclusive domestic political dialogue and to flexibility concerning the time-frame for the roadmap. While the EU's position is and always will be guided by the essential elements of the ACP-EU Partnership Agreement as well as its fundamental principles, notably regarding the pivotal role of dialogue and the fulfilment of mutual obligations, it is stressed that there are no foregone conclusions on the EU's side regarding the outcome of future consultations.

If new consultations result in substantial commitments from Fiji, the EU is committed to an early, positive review of these appropriate measures. Conversely, if the situation in Fiji does not improve, then further losses of development funds for Fiji are set to continue. In particular, the assessment of progress made towards return to constitutional rule will guide the EU in the upcoming decisions on accompanying measures for Sugar Protocol countries and Fiji's National Indicative Programme under the 10th European Development Fund (EDF).

Until new consultations have taken place, the EU invites Fiji to continue and intensify the enhanced political dialogue.

The appropriate measures are as follows:

— humanitarian aid and direct support to civil society and vulnerable populations may continue,

- the cooperation activities under way, in particular under the 8th and 9th EDFs, may continue,
- cooperation activities that would help the return to democracy and improve governance may be pursued, save under very exceptional circumstances,
- implementation of the sugar reform accompanying measures for 2006 may proceed. The financing agreement was signed at the technical level by Fiji on 19 June 2007. It is noted that the financing agreement includes a suspension clause,
- the preparation and potential signing of the multi-annual indicative programme for sugar reform accompanying measures for 2011-2013 can proceed,
- the finalisation, signing at technical level and implementation of the Country Strategy Paper and National Indicative Programme for the 10th EDF with an indicative financial envelope, as well as the possible allocation of an incentive tranche of up to 25 % of this sum, will be subject to respect of the commitments made with regard to human rights and the rule of law notably: that the Interim Government upholds the Constitution, that the independence of the judiciary is fully respected, that the Public Emergency Regulations, reintroduced on 6 September 2007, are lifted as soon as possible, that all allegations of human rights infringements are investigated or dealt with in accordance with the various procedures and forums under the laws of Fiji, and that the Interim Government shall use best endeavours to prevent security agencies from issuing statements designed to intimidate,
- the 2007 sugar allocation is zero,
- availability of the 2008 sugar allocation was subject to evidence of credible and timely preparation of elections in accordance with the agreed commitments, notably regarding a census, the redrafting of boundaries and electoral reform in accordance with the Constitution, and measures taken to ensure the functioning of the Elections Office, including the appointment of a Supervisor of Elections by 30 September 2007 in accordance with the Constitution. This 2008 sugar allocation was lost on 31 December 2009,
- the 2009 sugar allocation was cancelled in May 2009 because the Interim Government decided to delay general elections until September 2014,
- the 2010 allocation was cancelled before 1 May 2010 as no progress was made in the continuation of the democratic process; however, given the critical situation of the sugar sector, part of the allocation was set aside for direct assistance to the population directly dependent on sugar production in order to mitigate adverse social consequences. These funds are centrally managed by the EU's Delegation in Suva and not channelled through the Government,
- the availability of the indicative allocation under the multi-annual indicative programme for accompanying measures for former Sugar Protocol countries 2011-2013 will be conditional on an agreement in the consultation process; in the absence of such an agreement only social mitigation interventions will be considered for funding through this allocation,
- specific support for the preparation and implementation of key commitments, in particular in support of the preparation and/or holding of elections, could be considered,
- regional cooperation, and Fiji's participation therein, is unaffected.

Monitoring of the commitments will be in accordance with the terms in the Annex to this letter concerning regular dialogue, and effective cooperation with assessment and monitoring missions and reporting.

Furthermore, the EU expects Fiji to cooperate fully with the Pacific Islands Forum regarding the implementation of the recommendations by the Eminent Persons' Group, as endorsed by the Forum Foreign Ministers at their meeting in Vanuatu on 16 March 2007.

The EU will continue to closely follow the situation in Fiji. Under Article 8 of the ACP-EU Partnership Agreement, an enhanced political dialogue will be conducted with Fiji to ensure respect for human rights, restoration of democracy and respect for the rule of law until both parties conclude that the enhanced nature of the dialogue has served its purpose.

If there is a slowing down, breakdown or reversal in the implementation by the Interim Government of the commitments made, the EU reserves the right to adjust the appropriate measures.

The EU stresses that Fiji's privileges in its cooperation with the EU depend on respect for the essential elements of the ACP-EU Partnership Agreement and the principles set in the Development Cooperation Instrument. In order to convince the EU that the Interim Government is fully prepared to follow up on the commitments given, it is essential that early and substantial progress be made in the fulfilment of the agreed commitments.

Yours sincerely,

Done at Brussels,

For the Council of the European Union

For the European Commission

ANNEX TO THE ANNEX

COMMITMENTS AGREED WITH THE REPUBLIC OF FIJI**A. Respect for Democratic Principles**

Commitment No 1

That free and fair parliamentary elections take place within 24 months from 1 March 2007, subject to the findings of an assessment to be carried out by the independent auditors appointed by the Pacific Islands Forum Secretariat. The processes leading to the holding of the elections will be jointly monitored, adapted and revised as necessary on the basis of mutually agreed benchmarks. This implies in particular that:

- by 30 June 2007 the Interim Government will adopt a schedule setting out dates for the completion of the various steps to be taken in preparation for the new parliamentary elections,
- the schedule specifies the timing of a census, the redrafting of boundaries and electoral reform,
- the determination of boundaries and electoral reform will be carried out in accordance with the Constitution,
- measures will be taken to ensure the functioning of the Elections Office, including the appointment of a Supervisor of Elections by 30 September 2007 in accordance with the Constitution,
- the appointment of the Vice-President will be in accordance with the Constitution.

Commitment No 2

That the Interim Government, when adopting major legislative, fiscal and other policy initiatives and changes, will take into account consultations with civil society and other relevant stakeholders.

B. Rule of Law

Commitment No 1

That the Interim Government will use its best endeavours to prevent statements by security agencies designed to intimidate.

Commitment No 2

That the Interim Government upholds the 1997 Constitution and guarantees the normal and independent functioning of constitutional institutions, such as the Fiji Human Rights Commission, the Public Service Commission, and the Constitutional Offices Commission. The substantial independence and functioning of the Great Council of Chiefs will be preserved.

Commitment No 3

That the independence of the judiciary is fully respected, that it is allowed to work freely and that its rulings are respected by all concerned parties, in particular:

- that the Interim Government undertakes to appoint the tribunal pursuant to Section 138(3) of the Constitution by 15 July 2007,
- that any appointment and/or dismissal of judges is henceforth carried out in strict conformity with constitutional provisions and procedural rules,
- that there will be no instances whatsoever of interference, of whatever form, by the military and the police or by the Interim Government with the judicial process, including full respect for the legal profession.

Commitment No 4

That all criminal proceedings in connection with corruption are dealt with through the appropriate judicial channels and that any other bodies that may be set up to investigate alleged cases of corruption will operate within constitutional boundaries.

C. Human Rights and Fundamental Freedoms

Commitment No 1

The Interim Government will take all necessary steps to facilitate that all allegations of human rights infringements are investigated or dealt with in accordance with the various procedures and forums under the laws of the Fiji Islands.

Commitment No 2

The Interim Government will lift the Public Emergency Regulations in May 2007, subject to any threats to national security, public order and safety.

Commitment No 3

The Interim Government is committed to ensuring that the Fiji Human Rights Commission functions with full independence and in accordance with the Constitution.

Commitment No 4

That freedom of expression and freedom of the media, in all forms, are fully respected as provided in the Constitution.

D. Follow-up of Commitments

Commitment No 1

That the Interim Government undertakes to maintain a regular dialogue to allow verification of the progress made and gives EU and European Commission authorities/representatives full access to information on all matters relating to human rights, the peaceful restoration of democracy and the rule of law in Fiji.

Commitment No 2

That the Interim Government cooperates fully with any missions from the EU to assess and monitor progress.

Commitment No 3

That the Interim Government sends progress reports every 3 months starting 30 June 2007 regarding the essential elements of the Cotonou Agreement and the commitments.

It is noted that certain issues can only be effectively addressed through a pragmatic approach that acknowledges the realities of the present and which focuses on the future.

REGULATIONS

COMMISSION IMPLEMENTING REGULATION (EU) No 960/2011

of 26 September 2011

amending for the 158th time Council Regulation (EC) No 881/2002 imposing certain specific restrictive measures directed against certain persons and entities associated with the Al-Qaida network

THE EUROPEAN COMMISSION,

Having regard to the Treaty on the Functioning of the European Union,

Having regard to Council Regulation (EC) No 881/2002 of 27 May 2002 imposing certain specific restrictive measures directed against certain persons and entities associated with the Al-Qaida network, ⁽¹⁾ and in particular Article 7(1)(a) and 7a(1) thereof,

Whereas:

- (1) Annex I to Regulation (EC) No 881/2002 lists the persons, groups and entities covered by the freezing of funds and economic resources under that Regulation.
- (2) On 15 September 2011 the Sanctions Committee of the United Nations Security Council decided to add two

natural persons to its list of persons, groups and entities to whom the freezing of funds and economic resources should apply.

- (3) Annex I to Regulation (EC) No 881/2002 should therefore be updated accordingly.
- (4) In order to ensure that the measures provided for in this Regulation are effective, this Regulation should enter into force immediately,

HAS ADOPTED THIS REGULATION:

Article 1

Annex I to Regulation (EC) No 881/2002 is amended in accordance with the Annex to this Regulation.

Article 2

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

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

Done at Brussels, 26 September 2011.

*For the Commission,
On behalf of the President,
Head of the Service for Foreign Policy Instruments*

⁽¹⁾ OJ L 139, 29.5.2002, p. 9.

ANNEX

Annex I to Regulation (EC) No 881/2002 is amended as follows:

The following entries shall be added under the heading 'Natural persons':

- (a) 'Hassan Muhammad Abu Bakr Qayed (*alias* (a) Hasan Muhammad Abu Bakr Qa'id, (b) Al-Husain Muhammad Abu Bakr Qayid, (c) Muhammad Hassan Qayed, (d) Mohammad Hassan Abu Bakar, (e) Hasan Qa'id, (f) Muhammad Hasan al-Libi, (g) Abu Yahya al-Libi, (h) Abu Yahya, (i) Sheikh Yahya, (j) Abu Yahya Yunis al Sahrawi, (k) Abu Yunus Rashid, (l) al-Rashid, (m) Abu al-Widdan, (n) Younes Al-Sahrawi, (o) Younes Al-Sahraoui). Address: Wadi 'Ataba, Libya (previous location in 2004). Date of birth: (a) 1963, (b) 1969. Place of birth: Marzaq, Libyan Arab Jamahiriya. Nationality: Libyan. Passport No: 681819/88 (Libyan passport). National identification No: 5617/87 (Libyan national identification). Other information: (a) Senior Al-Qaida leader who, as of late 2010, was responsible for the supervision of other senior Al-Qaida officials; (b) As of 2010, Al-Qaida commander in Pakistan and provider of financial assistance to Al-Qaida fighters in Afghanistan, (c) Has also been a top Al-Qaida strategist and field commander in Afghanistan, and instructor at Al-Qaida training camp; (d) Mother's name is Al-Zahra Amr Al-Khouri (a.k.a. al Zahra' Umar). Date of designation referred to in Article 2a(4)(b): 15.9.2011.'
 - (b) 'Abd Al-Rahman Ould Muhammad Al- Husayn Ould Muhammad Salim (*alias* (a) Abdarrahmane ould Mohamed el Houcein ould Mohamed Salem, (b) Yunis al-Mauritani, (c) Younis al-Mauritani, (d) Sheikh Yunis al-Mauritani, (e) Shaykh Yunis the Mauritanian, (f) Salih the Mauritanian, (g) Mohamed Salem, (h) Youssef Ould Abdel Jelil, (i) El Hadj Ould Abdel Ghader, (j) Abdel Khader, (k) Abou Souleimane, (l) Chingheity). Date of birth: Approximately 1981. Place of birth: Saudi Arabia. Nationality: Mauritanian. Other information: (a) Pakistan-based senior Al-Qaida leader also associated with The Organization of Al-Qaida in the Islamic Maghreb; (b) Wanted by Mauritanian authorities. Date of designation referred to in Article 2a(4)(b): 15.9.2011.'
-

COMMISSION IMPLEMENTING REGULATION (EU) No 961/2011**of 27 September 2011****imposing special conditions governing the import of feed and food originating in or consigned from Japan following the accident at the Fukushima nuclear power station and repealing Regulation (EU) No 297/2011****(Text with EEA relevance)**

THE EUROPEAN COMMISSION,

Having regard to the Treaty on the Functioning of the European Union,

Having regard to Regulation (EC) No 178/2002 of the European Parliament and of the Council of 28 January 2002 laying down the general principles and requirements of food law, establishing the European Food Safety Authority and laying down procedures in matters of food safety⁽¹⁾, and in particular Article 53 (1) (b)(ii) thereof,

Whereas:

- (1) Article 53 of Regulation (EC) No 178/2002 provides for the possibility to adopt appropriate Union emergency measures for food and feed imported from a third country in order to protect public health, animal health or the environment, where the risk cannot be contained satisfactorily by means of measures taken by the Member States individually.
- (2) Following the accident at the Fukushima nuclear power station on 11 March 2011, the Commission was informed that radionuclide levels in certain food products originating in Japan such as milk and spinach exceeded the action levels in food applicable in Japan. Such contamination may constitute a threat to public and animal health in the Union and therefore Commission Implementing Regulation (EU) No 297/2011 imposing special conditions governing the import of feed and food originating in or consigned from Japan following the accident at the Fukushima nuclear power station⁽²⁾ was adopted.
- (3) Regulation (EU) No 297/2011 has been amended at several occasions to take into account the development of the situation. These amendments concerned the adoption of maximum levels of radioactivity to be applied for feed and food originating from Japan, addition of prefectures to the zone for which specific restrictions apply after contamination in these prefectures was found at levels above the maximum levels and removing prefectures from the zone with restrictions in

case extensive monitoring has provided evidence that these prefectures were not affected to a significant extent by radioactive contamination.

- (4) Since mid July 2011, the Commission was informed by the Japanese authorities of findings of high levels of caesium in beef from cattle grown in different prefectures in Japan. As the import of beef from Japan into the EU is not allowed for animal and public health reasons other than radioactivity, these findings do not affect the European consumer. Also recently, new food products have been found to contain levels of radioactivity above the maximum levels. These findings and the fact that new/other agricultural/horticultural crops are grown and harvested in the contaminated zone provide evidence that it is appropriate to maintain the current measures after 30 September 2011. It is therefore appropriate to continue to implement the present Regulation until 31 December 2011, instead of 30 September 2011 as initially foreseen. The principle of a monthly review of the implementation of the Regulation is maintained.
- (5) Given that Regulation (EU) No 297/2011 has been amended several times in a short period of time it is appropriate to replace Regulation (EU) No 297/2011 by a new Regulation.
- (6) The measures provided for in this Regulation are in accordance with the opinion of the Standing Committee on the Food Chain and Animal Health,

HAS ADOPTED THIS REGULATION:

*Article 1***Scope**

This Regulation shall apply to feedstuffs and foodstuffs within the meaning of Article 1 (2) of Regulation (Euratom) No 3954/87⁽³⁾ originating in or consigned from Japan, with the exclusion of products which left Japan before 28 March 2011 and of products which have been harvested and/or processed before 11 March 2011.

*Article 2***Attestation**

1. All consignments of products referred to in Article 1 shall be subject to the conditions laid down in this Regulation.

⁽¹⁾ OJ L 31, 1.2.2002, p. 1.

⁽²⁾ OJ L 80, 26.3.2011, p. 5.

⁽³⁾ OJ L 371, 30.12.1987, p. 11.

2. Consignments of products referred to in Article 1 falling outside the scope of Council Directive 97/78/EC of 18 December 1997 laying down the principles governing the organisation of veterinary checks on products entering the Community for third countries ⁽¹⁾ shall be introduced into the Union through a designated point of entry within the meaning of Article 3 (b) of Commission Regulation (EC) No 669/2009 (hereinafter "designated point of entry") ⁽²⁾.

3. Each consignment of products referred to in Article 1 shall be accompanied by a declaration, attesting that:

- (a) the product has been harvested and/or processed before 11 March 2011, or
- (b) the product originates in and is consigned from a prefecture other than Fukushima, Gunma, Ibaraki, Tochigi, Miyagi, Nagano, Yamanashi, Saitama, Tokyo, Chiba, Kanagawa and Shizuoka, or
- (c) the product is consigned from Fukushima, Gunma, Ibaraki, Tochigi, Miyagi, Nagano, Yamanashi, Saitama, Tokyo, Chiba, Kanagawa and Shizuoka prefectures, but does not originate in one of those prefectures and has not been exposed to radioactivity during transiting, or
- (d) where a product originates in Fukushima, Gunma, Ibaraki, Tochigi, Miyagi, Nagano, Yamanashi, Saitama, Tokyo, Chiba, Kanagawa and Shizuoka prefectures, the product does not contain levels of radionuclides iodine-131, caesium-134 and caesium-137 above the maximum levels provided for in Annex II to this Regulation.

4. Point (d) of paragraph 3 shall apply also to products caught or harvested in the coastal waters of the prefectures referred to therein, irrespective of where such products are landed.

5. The declaration referred to in paragraph 3 shall be drawn up in accordance with the model set out in Annex I. It shall be signed by an authorised representative of the competent authority of Japan. For the products referred to in point (d) of paragraph 3, the declaration shall be accompanied by an analytical report containing the results of sampling and analysis.

Article 3

Identification

Each consignment of the products referred to in Article 1 shall be identified by means of a code which shall be indicated on the declaration referred to in Article 2(3), on the analytical report referred to in Article 2(5), on the sanitary certificate and on any commercial documents accompanying the consignment.

⁽¹⁾ OJ L 24, 30.1.1998, p. 9.

⁽²⁾ OJ L 194, 25.7.2009, p. 11.

Article 4

Prior notification

Feed and food business operators or their representatives shall give prior notification of the arrival of each consignment of the products referred to in Article 1, at least two working days prior to the physical arrival of the consignment, to the competent authorities at the Border Inspection Post or at the designated point of entry.

Article 5

Official controls

1. The competent authorities of the border inspection post or designated point of entry shall carry out:

- (a) documentary and identity checks on all consignments of products referred to in Article 1, and
- (b) physical checks, including laboratory analysis on the presence of iodine-131, caesium-134 and caesium-137, on at least:
 - 10 % of the consignments of products referred to in Article 2 (3) (d) and
 - 20 % of the consignments of products referred to in Article 2 (3) (b) and (c).

2. Consignments shall be kept under official control, for a maximum of 5 working days, pending the availability of the results of the laboratory analysis.

3. The release for free circulation of consignments shall be subject to the presentation by the feed and food business operator or its representative to the customs authorities of the declaration referred to Article 2(3), duly endorsed by the competent authority at the border inspection post or designated point of entry, giving evidence that the official controls referred to in paragraph 1 have been carried out and that the results from physical checks, where such checks were carried out, have been favourable.

Article 6

Costs

All costs resulting from the official controls referred to in Article 5(1) and 5(2) and any measures taken following non-compliance, shall be borne by the feed and food business operator.

*Article 7***Non-compliant products**

Feed and food originating in or consigned from Japan which do not comply with the maximum levels referred to in Annex II shall not be placed on the market. Such non-compliant feed and food shall be safely disposed of or returned to the country of origin.

*Article 8***Reports**

Member States shall inform the Commission monthly through the Rapid Alert System for Food and Feed (RASFF) and the European Union's Urgent Radiological Information Exchange system (ECURIE) of all analytical results obtained.

*Article 9***Repeal**

Regulation (EU) No 297/2011 is repealed.

References to the repealed Regulation shall be construed as references to this Regulation.

*Article 10***Entry into force and period of application**

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

It shall apply from the date of entry into force until 31 December 2011. The Regulation will be reviewed monthly taking into account the development of the contamination situation.

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

Done at Brussels, 27 September 2011.

For the Commission

The President

José Manuel BARROSO

ANNEX I

Declaration for the import into the European Union of

..... (*)

Batch identification Code **Declaration Number**

According to the provisions of the Commission Implementing Regulation (EU) No 961/2011 imposing special conditions governing the import of feed and food originating in or consigned from Japan following the accident at the Fukushima nuclear power station the

.....

..... (competent authority referred to in Article 2(5))

DECLARES that the

..... (products referred to in Article 1)

of this consignment composed of:

.....

..... (description of consignment, product, number and type of packages, gross or net weight)

embarked at (embarkation place)

on (date of embarkation)

by (identification of transporter)

going to (place and country of destination)

which comes from the establishment

..... (name and address of establishment)

☐ has been harvested and/or processed before 11 March 2011.

☐ is originating in and consigned from a prefecture other than Fukushima, Gunma, Ibaraki, Tochigi, Miyagi, Nagano, Yamanashi, Saitama, Tokyo, Chiba, Kanagawa and Shizuoka.

☐ is consigned from the prefectures Fukushima, Gunma, Ibaraki, Tochigi, Miyagi, Nagano, Yamanashi, Saitama, Tokyo, Chiba, Kanagawa and Shizuoka, but not originating in one of these prefectures and has not been exposed to radio-activity during transiting.

☐ is originating in the prefectures Fukushima, Gunma, Ibaraki, Tochigi, Miyagi, Nagano, Yamanashi, Saitama, Tokyo, Chiba, Kanagawa and Shizuoka and has been sampled on (date), subjected to laboratory analysis on (date) in the (name of laboratory), to determine the level of the radionuclides, iodine-131, caesium-134 and caesium-137, and the analytical results are in compliance with the maximum levels referred to in Article 2 (3). The analytical report is attached.

Done at on

Stamp and signature of
authorised representative of competent authority referred to in Article 2(5)

.....
(*) Product and country of origin.

Part to be completed by the competent authority at the border inspection post or designated point of entry

- ☐ The consignment has been accepted to be presented to the custom authorities for release for free circulation in the European Union
- ☐ The consignment has NOT been accepted to be presented to the custom authorities for release for free circulation in the European Union

.....
(Competent authority, Member State)

.....
Date

.....
Stamp

.....
Signature

ANNEX II

Maximum levels for foodstuffs ⁽¹⁾ (Bq/kg)

	Foods for infants and young children	Milk and dairy products	Other foodstuffs, except liquid foodstuffs	Liquid foodstuffs
Sum of Isotopes of strontium, notably Sr-90	75	125	750	125
Sum of Isotopes of iodine, notably I-131	100 ⁽¹⁾	300 ⁽¹⁾	2 000	300 ⁽¹⁾
Sum of Alpha-emitting isotopes of plutonium and trans-plutonium elements, notably Pu-239, Am-241	1	1 ⁽¹⁾	10 ⁽¹⁾	1 ⁽¹⁾
Sum of all other nuclides of half-life greater than 10 days, notably Cs-134 and Cs-137, except C-14 and H-3	200 ⁽¹⁾	200 ⁽¹⁾	500 ⁽¹⁾	200 ⁽¹⁾

⁽¹⁾ In order to ensure consistency with action levels currently applied in Japan, these values replace on a provisional basis the values laid down in Council Regulation (Euratom) 3954/87.

Maximum levels for feedingstuffs ⁽²⁾ (Bq/kg)

	Feedingstuffs
Sum of Cs-134 and Cs-137	500 ⁽¹⁾
Sum of Isotopes of iodine, notably I-131	2 000 ⁽²⁾

⁽¹⁾ In order to ensure consistency with action levels currently applied in Japan, this value replaces on a provisional basis the value laid down in Commission Regulation (Euratom) No 770/90.

⁽²⁾ This value is laid down on a provisional basis and taken to be the same as for foodstuffs, pending an assessment of transfer factors of iodine from feedingstuffs to food products.

⁽¹⁾ The level applicable to concentrated or dried products is calculated on the basis of the reconstituted product as ready for consumption.

⁽²⁾ Maximum level is relative to a feed with a moisture content of 12 %.

COMMISSION IMPLEMENTING REGULATION (EU) No 962/2011**of 27 September 2011****establishing the standard import values for determining the entry price of certain fruit and vegetables**

THE EUROPEAN COMMISSION,

Having regard to the Treaty on the Functioning of the European Union,

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) ⁽¹⁾,

Having regard to Commission Implementing Regulation (EU) No 543/2011 of 7 June 2011 laying down detailed rules for the application of Council Regulation (EC) No 1234/2007 in respect of the fruit and vegetables and processed fruit and vegetables sectors ⁽²⁾, and in particular Article 136(1) thereof,

Whereas:

Implementing Regulation (EU) No 543/2011 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 XVI, Part A thereto,

HAS ADOPTED THIS REGULATION:

Article 1

The standard import values referred to in Article 136 of Implementing Regulation (EU) No 543/2011 are fixed in the Annex hereto.

Article 2

This Regulation shall enter into force on 28 September 2011.

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

Done at Brussels, 27 September 2011.

*For the Commission,
On behalf of the President,
José Manuel SILVA RODRÍGUEZ
Director-General for Agriculture and
Rural Development*

⁽¹⁾ OJ L 299, 16.11.2007, p. 1.

⁽²⁾ OJ L 157, 15.6.2011, p. 1.

ANNEX

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

(EUR/100 kg)

CN code	Third country code ⁽¹⁾	Standard import value
0702 00 00	AR	25,3
	EC	25,3
	MK	52,7
	ZZ	34,4
0707 00 05	MK	44,0
	TR	107,2
	ZZ	75,6
0709 90 70	TR	121,6
	ZZ	121,6
0805 50 10	AR	72,7
	CL	69,1
	TR	68,8
	UY	67,6
	ZA	78,4
	ZZ	71,3
0806 10 10	CL	69,0
	IL	136,9
	MK	82,2
	TR	102,0
	ZA	63,5
	ZZ	90,7
0808 10 80	BZ	86,4
	CL	142,0
	NZ	95,3
	US	90,6
	ZA	101,7
	ZZ	103,2
0808 20 50	AR	47,4
	CN	68,0
	TR	120,5
	ZA	61,3
	ZZ	74,3
0809 30	TR	166,1
	ZZ	166,1

⁽¹⁾ 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 IMPLEMENTING REGULATION (EU) No 963/2011

of 27 September 2011

fixing the allocation coefficient for the issuing of import licences applied for from 8 to 14 September 2011 for sugar products under certain tariff quotas and suspending submission of applications for such licences

THE EUROPEAN COMMISSION,

Having regard to the Treaty on the Functioning of the European Union,

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) ⁽¹⁾,

Having regard to Commission Regulation (EC) No 1301/2006 of 31 August 2006 laying down common rules for the administration of import tariff quotas for agricultural products managed by a system of import licences ⁽²⁾, and in particular Article 7(2) thereof,

Having regard to Commission Regulation (EC) No 891/2009 of 25 September 2009 opening and providing for the administration of certain Community tariff quotas in the sugar sector ⁽³⁾, and in particular Article 5(2) thereof,

Whereas:

- (1) Quantities covered by applications for import licences submitted to the competent authorities from 8 to 14 September 2011, in accordance with Regulation (EC) No 891/2009, exceed the quantity available under order number 09.4320.
- (2) Quantities covered by applications for import licences submitted to the competent authorities from 8 to 14 September 2011, in accordance with Regulation

(EC) No 891/2009, are equal to the quantity available under order number 09.4317.

- (3) In these circumstances, an allocation coefficient for licences to be issued regarding order number 09.4320 should be fixed in accordance with Regulation (EC) No 1301/2006.
- (4) Submission of further applications for licences for order numbers 09.4317 and 09.4320 should be suspended until the end of the marketing year, in accordance with Regulation (EC) No 891/2009,

HAS ADOPTED THIS REGULATION:

Article 1

1. The quantities for which import licence applications have been lodged under Regulation (EC) No 891/2009 from 8 to 14 September 2011 shall be multiplied by the allocation coefficients set out in the Annex to this Regulation.

2. Submission of further applications for licences, which correspond to the order numbers indicated in the Annex, shall be suspended until the end of the marketing year 2011/2012.

Article 2

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

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

Done at Brussels, 27 September 2011.

*For the Commission,
On behalf of the President,
José Manuel SILVA RODRÍGUEZ
Director-General for Agriculture and
Rural Development*

⁽¹⁾ OJ L 299, 16.11.2007, p. 1.

⁽²⁾ OJ L 238, 1.9.2006, p. 13.

⁽³⁾ OJ L 254, 26.9.2009, p. 82.

ANNEX

CXL Concessions Sugar**2011/12 marketing year****Applications lodged from 8.9.2011 to 14.9.2011**

Order No	Country	Allocation coefficient (%)	Further applications
09.4317	Australia	(¹)	Suspended
09.4318	Brazil	—	
09.4319	Cuba	—	
09.4320	Any third countries	4,761909	Suspended
09.4321	India	—	

— Not applicable: no licence application has been sent to the Commission.

(¹) Not applicable: the applications do not exceed the quantities available and are fully granted.**Balkans Sugar****2011/12 marketing year****Applications lodged from 8.9.2011 to 14.9.2011**

Order No	Country	Allocation coefficient (%)	Further applications
09.4324	Albania	—	
09.4325	Bosnia and Herzegovina	—	
09.4326	Serbia	(¹)	
09.4327	Former Yugoslav Republic of Macedonia	—	
09.4328	Croatia	(¹)	

— Not applicable: no licence application has been sent to the Commission.

(¹) Not applicable: the applications do not exceed the quantities available and are fully granted.**Exceptional import sugar and industrial import sugar****2011/12 marketing year****Applications lodged from 8.9.2011 to 14.9.2011**

Order No	Type	Allocation coefficient (%)	Further applications
09.4380	Exceptional	—	
09.4390	Industrial	(¹)	

— Not applicable: no licence application has been sent to the Commission.

(¹) Not applicable: the applications do not exceed the quantities available and are fully granted.

DECISIONS

COMMISSION DECISION

of 26 September 2011

on benchmarks to allocate greenhouse gas emission allowances free of charge to aircraft operators pursuant to Article 3e of Directive 2003/87/EC of the European Parliament and of the Council

(Text with EEA relevance)

(2011/638/EU)

THE EUROPEAN COMMISSION,

Having regard to the Treaty on the Functioning of the European Union,

Having regard to Directive 2003/87/EC of the European Parliament and of the Council of 13 October 2003 establishing a scheme for greenhouse gas emission allowance trading within the Community and amending Council Directive 96/61/EC ⁽¹⁾, and in particular Article 3e(3)(e) thereof,

Whereas:

- (1) It is necessary to adopt benchmarks to be used to allocate allowances free of charge to aircraft operators in the trading period from 1 January to 31 December 2012, referred to in Article 3c(1) of Directive 2003/87/EC and in the trading period from 1 January 2013 to 31 December 2020, referred to in Article 13(1) in conjunction with Article 3c(2) of that Directive.
- (2) Allocations according to those benchmarks should be fixed until 2020 except where acts adopted pursuant to Article 25a of Directive 2003/87/EC require consequential modifications.
- (3) Following the incorporation into the European Economic Area (EEA) Agreement of Directive 2008/101/EC of the European Parliament and of the Council of 19 November 2008 amending Directive 2003/87/EC so as to include aviation activities in the scheme for greenhouse gas emission allowance trading within the Community ⁽²⁾ by Decision of the EEA Joint Committee No 6/2011 of 1 April 2011 amending Annex XX (Environment) to the EEA Agreement ⁽³⁾, the benchmarks are to be applied within the EEA.

- (4) It is therefore necessary to base the benchmarks on the EEA-wide number of free allowances fixed by Decision of the EEA Joint Committee No 93/2011 of 20 July 2011 amending Annex XX (Environment) to the EEA Agreement ⁽⁴⁾.

- (5) The benchmarks should be calculated by dividing the EEA-wide numbers of allowances applicable to the trading period from 1 January to 31 December 2012 and those applicable to the trading period from 1 January 2013 to 31 December 2020 by the sum of figures in the tonne-kilometre data included in applications submitted to the Commission in accordance with Article 3e(2) of Directive 2003/87/EC,

HAS ADOPTED THIS DECISION:

Article 1

1. Without prejudice to Article 25a of Directive 2003/87/EC, the benchmark to be used to allocate allowances free of charge to aircraft operators pursuant to Article 3e(1) of that Directive for the period from 1 January to 31 December 2012 shall be 0,000679695907431681 allowances per tonne-kilometre.

2. Without prejudice to Article 25a of Directive 2003/87/EC, the benchmark to be used to allocate allowances free of charge to aircraft operators pursuant to Article 3e(1) of that Directive for the period from 1 January 2013 to 31 December 2020 shall be 0,000642186914222035 allowances per tonne-kilometre.

Article 2

Calculations relating to a number of allowances to be allocated in accordance with the benchmarks set out in Article 1 shall be rounded down to the nearest allowance.

⁽¹⁾ OJ L 275, 25.10.2003, p. 32.

⁽²⁾ OJ L 8, 13.1.2009, p. 3.

⁽³⁾ OJ L 93, 7.4.2011, p. 35.

⁽⁴⁾ Not yet published in the Official Journal.

Article 3

This Decision shall enter into force on the 3rd day following its publication in the *Official Journal of the European Union*.

Done at Brussels, 26 September 2011.

For the Commission
The President
José Manuel BARROSO

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