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I

(Legislative acts)

REGULATIONS

ADDENDUM

to Regulation (EU) No 1007/2011 of the European Parliament and of the Council of 27 September 2011 on textile fibre names and related labelling and marking of the fibre composition of textile products and repealing Council Directive 73/44/EEC and Directives 96/73/EC and 2008/121/EC of the European Parliament and of the Council

(Official Journal of the European Union L 272 of 18 October 2011)

The following Statement is added to Regulation (EU) No 1007/2011:

STATEMENT BY THE EUROPEAN PARLIAMENT AND THE COUNCIL

The European Parliament and the Council are mindful of the importance of providing accurate information to consumers, in particular when products are marked with an indication of origin, so as to protect them against fraudulent, inaccurate or misleading claims. The use of new technologies, such as electronic labelling, including radio frequency identification, may be a useful tool to provide such information while keeping pace with technical development. The European Parliament and the Council invite the Commission, when drawing up the report pursuant to Article 24 of the Regulation, to consider their impact on possible new labelling requirements, including with a view to improve the traceability of products.

DIRECTIVES

DIRECTIVE 2011/99/EU OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL

of 13 December 2011

on the European protection order

THE EUROPEAN PARLIAMENT AND THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty on the Functioning of the European Union, and in particular Article 82(1)(a) and (d) thereof,

Having regard to the initiative of the Kingdom of Belgium, the Republic of Bulgaria, the Republic of Estonia, the Kingdom of Spain, the French Republic, the Italian Republic, the Republic of Hungary, the Republic of Poland, the Portuguese Republic, Romania, the Republic of Finland and the Kingdom of Sweden,

After transmission of the draft legislative act to the national parliaments,

Acting in accordance with the ordinary legislative procedure ⁽¹⁾,

Whereas:

- (1) The European Union has set itself the objective of maintaining and developing an area of freedom, security and justice.
- (2) Article 82(1) of the Treaty on the Functioning of the European Union (TFEU) provides that judicial cooperation in criminal matters in the Union shall be based on the principle of mutual recognition of judgments and judicial decisions.
- (3) According to the Stockholm Programme — An open and secure Europe serving and protecting citizens ⁽²⁾, mutual

recognition should extend to all types of judgments and decisions of a judicial nature, which may, depending on the legal system, be either criminal or administrative. It also calls on the Commission and the Member States to examine how to improve legislation and practical support measures for the protection of victims. The programme also points out that victims of crime can be offered special protection measures which should be effective within the Union. This Directive forms part of a coherent and comprehensive set of measures on victims' rights.

- (4) The resolution of the European Parliament of 26 November 2009 on the elimination of violence against women calls on Member States to improve their national laws and policies to combat all forms of violence against women and to act in order to tackle the causes of violence against women, not least by employing preventive measures and calls on the Union to guarantee the right to assistance and support for all victims of violence. The resolution of the European Parliament of 10 February 2010 on equality between women and men in the European Union 2009 endorses the proposal to introduce the European protection order for victims.

- (5) In its Resolution of 10 June 2011 on a Roadmap for strengthening the rights and protection of victims, in particular in criminal proceedings, the Council stated that action should be taken at the level of the Union in order to strengthen the rights and protection of victims of crime and called on the Commission to present appropriate proposals to that end. In this framework, a mechanism should be created to ensure mutual recognition among Member States of decisions concerning protection measures for victims of crime. According to that Resolution, this Directive, which concerns the mutual recognition of protection measures taken in criminal matters, should be complemented by an appropriate mechanism concerning measures taken in civil matters.

⁽¹⁾ Position of the European Parliament of 14 December 2010 (not yet published in the Official Journal) and position of the Council at first reading of 24 November 2011 (not yet published in the Official Journal). Position of the European Parliament of 13 December 2011 (not yet published in the Official Journal).

⁽²⁾ OJ C 115, 4.5.2010, p. 1.

- (6) In a common area of justice without internal borders, it is necessary to ensure that the protection provided to a natural person in one Member State is maintained and

continued in any other Member State to which the person moves or has moved. It should also be ensured that the legitimate exercise by citizens of the Union of their right to move and reside freely within the territory of Member States, in accordance with Article 3(2) of the Treaty on European Union (TEU) and Article 21 TFEU, does not result in a loss of their protection.

(7) In order to attain these objectives, this Directive should set out rules whereby the protection stemming from certain protection measures adopted according to the law of one Member State ('the issuing State') can be extended to another Member State in which the protected person decides to reside or stay ('the executing State').

(8) This Directive takes account of the different legal traditions of the Member States as well as the fact that effective protection can be provided by means of protection orders issued by an authority other than a criminal court. This Directive does not create obligations to modify national systems for adopting protection measures nor does it create obligations to introduce or amend a criminal law system for executing a European protection order.

(9) This Directive applies to protection measures which aim specifically to protect a person against a criminal act of another person which may, in any way, endanger that person's life or physical, psychological and sexual integrity, for example by preventing any form of harassment, as well as that person's dignity or personal liberty, for example by preventing abductions, stalking and other forms of indirect coercion, and which aim to prevent new criminal acts or to reduce the consequences of previous criminal acts. These personal rights of the protected person correspond to fundamental values recognised and upheld in all Member States. However, a Member State is not obliged to issue a European protection order on the basis of a criminal measure which does not serve specifically to protect a person, but primarily serves other aims, for example the social rehabilitation of the offender. It is important to underline that this Directive applies to protection measures which aim to protect all victims and not only the victims of gender violence, taking into account the specificities of each type of crime concerned.

(10) This Directive applies to protection measures adopted in criminal matters, and does not therefore cover protection measures adopted in civil matters. For a protection measure to be executable in accordance with this Directive, it is not necessary for a criminal offence to have been established by a final decision. Nor is the criminal, administrative or civil nature of the authority adopting a protection measure relevant. This Directive

does not oblige Member States to amend their national law to enable them to adopt protection measures in the context of criminal proceedings.

(11) This Directive is intended to apply to protection measures adopted in favour of victims, or possible victims, of crimes. This Directive should not therefore apply to measures adopted with a view to witness protection.

(12) If a protection measure, as defined in this Directive, is adopted for the protection of a relative of the main protected person, a European protection order may also be requested by and issued in respect of that relative, subject to the conditions laid down in this Directive.

(13) Any request for the issuing of a European protection order should be treated with appropriate speed, taking into account the specific circumstances of the case, including the urgency of the matter, the date foreseen for the arrival of the protected person on the territory of the executing State and, where possible, the degree of risk for the protected person.

(14) Where information is to be provided under this Directive to the protected person or to the person causing danger, this information should also, where relevant, be provided to the guardian or the representative of the person concerned. Due attention should also be paid to the need for the protected person, the person causing danger or the guardian or representative in the proceedings, to receive the information provided for by this Directive, in a language that that person understands.

(15) In the procedures for the issuing and recognition of a European protection order, competent authorities should give appropriate consideration to the needs of victims, including particularly vulnerable persons, such as minors or persons with disabilities.

(16) For the application of this Directive, a protection measure may have been imposed following a judgment within the meaning of Council Framework Decision 2008/947/JHA of 27 November 2008 on the application of the principle of mutual recognition to judgments and probation decisions with a view to the supervision of probation measures and alternative sanctions⁽¹⁾, or following a decision on supervision measures within the meaning of Council Framework Decision 2009/829/JHA of 23 October 2009 on the application, between Member States of the European Union, of the

⁽¹⁾ OJ L 337, 16.12.2008, p. 102.

principle of mutual recognition to decisions on supervision measures as an alternative to provisional detention⁽¹⁾. If a decision was adopted in the issuing State on the basis of one of those Framework Decisions, the recognition procedure should be followed accordingly in the executing State. This, however, should not exclude the possibility to transfer a European protection order to a Member State other than the State executing decisions based on those Framework Decisions.

- (17) In accordance with Article 6 of the European Convention for the Protection of Human Rights and Fundamental Freedoms and with the second paragraph of Article 47 of the Charter of Fundamental Rights of the European Union, the person causing danger should be provided, either during the procedure leading to the adoption of a protection measure or before issuing a European protection order, with the possibility of being heard and challenging the protection measure.
- (18) In order to prevent a crime being committed against the victim in the executing State, that State should have the legal means for recognising the decision previously adopted in the issuing State in favour of the victim, while also avoiding the need for the victim to start new proceedings or to produce evidence in the executing State again, as if the issuing State had not adopted the decision. The recognition of the European protection order by the executing State implies, *inter alia*, that the competent authority of that State, subject to the limitations set out in this Directive, accepts the existence and validity of the protection measure adopted in the issuing State, acknowledges the factual situation described in the European protection order, and agrees that protection should be provided and should continue to be provided in accordance with its national law.
- (19) This Directive contains an exhaustive list of prohibitions and restrictions which, when imposed in the issuing State and included in the European protection order, should be recognised and enforced in the executing State, subject to the limitations set out in this Directive. Other types of protection measures may exist at national level, such as, if provided by national law, the obligation on the person causing danger to remain in a specified place. Such measures may be imposed in the issuing State in the framework of the procedure leading to the adoption of one of the protection measures which, according to this Directive, may be the basis for a European protection order.
- (20) Since, in the Member States, different kinds of authorities (civil, criminal or administrative) are competent to adopt and enforce protection measures, it is appropriate to provide a high degree of flexibility in the cooperation mechanism between the Member States under this Directive. Therefore, the competent authority in the

executing State is not required in all cases to take the same protection measure as those which were adopted in the issuing State, and has a degree of discretion to adopt any measure which it deems adequate and appropriate under its national law in a similar case in order to provide continued protection to the protected person in the light of the protection measure adopted in the issuing State as described in the European protection order.

- (21) The prohibitions or restrictions to which this Directive applies include, among others, measures aimed at limiting personal or remote contacts between the protected person and the person causing danger, for example by imposing certain conditions on such contacts or imposing restrictions on the contents of communications.
- (22) The competent authority of the executing State should inform the person causing danger, the competent authority of the issuing State and the protected person of any measure adopted on the basis of the European protection order. In the notification to the person causing danger, due regard should be taken of the interest of the protected person in not having that person's address or other contact details disclosed. Such details should be excluded from the notification, provided that the address or other contact details are not included in the prohibition or restriction imposed as an enforcement measure on the person causing danger.
- (23) When the competent authority in the issuing State withdraws the European protection order, the competent authority in the executing State should discontinue the measures which it has adopted in order to enforce the European protection order, it being understood that the competent authority in the executing State may — autonomously, and in accordance with its national law — adopt any protection measure under its national law in order to protect the person concerned.
- (24) Given that this Directive deals with situations in which the protected person moves to another Member State, issuing or executing a European protection order should not imply any transfer to the executing State of powers relating to principal, suspended, alternative, conditional or secondary penalties, or relating to security measures imposed on the person causing danger, if the latter continues to reside in the State that adopted the protection measure.
- (25) Where appropriate, it should be possible to use electronic means with a view to putting into practice the measures adopted in application of this Directive, in accordance with national laws and procedures.

⁽¹⁾ OJ L 294, 11.11.2009, p. 20.

- (26) In the context of cooperation among the authorities involved in ensuring the protection of the protected person, the competent authority of the executing State should communicate to the competent authority of the issuing State any breach of the measures adopted in the executing State with a view to executing the European protection order. This communication should enable the competent authority of the issuing State to promptly decide on any appropriate response with respect to the protection measure imposed in its State on the person causing danger. Such a response may comprise, where appropriate, the imposition of a custodial measure in substitution of the non-custodial measure that was originally adopted, for example, as an alternative to preventive detention or as a consequence of the conditional suspension of a penalty. It is understood that such a decision, since it does not impose *ex novo* a penalty in relation to a new criminal offence, does not interfere with the possibility that the executing State may, where applicable, impose penalties in the event of a breach of the measures adopted in order to execute the European protection order.
- (27) In view of the different legal traditions of the Member States, where no protection measure would be available in the executing State in a case similar to the factual situation described in the European protection order, the competent authority of the executing State should report any breach of the protection measure described in the European protection order of which it is aware to the competent authority of the issuing State.
- (28) In order to ensure the smooth application of this Directive in each particular case, the competent authorities of the issuing and the executing States should exercise their competencies in accordance with the provisions of this Directive, taking into account the principle of *ne bis in idem*.
- (29) The protected person should not be required to sustain costs related to the recognition of the European protection order which are disproportionate to a similar national case. When implementing this Directive, Member States should ensure that, after recognition of the European protection order, the protected person is not required to initiate further national proceedings to obtain from the competent authority of the executing State, as a direct consequence of the recognition of the European protection order, a decision adopting any measure that would be available under its national law in a similar case in order to ensure the protection of the protected person.
- (30) Bearing in mind the principle of mutual recognition upon which this Directive is based, Member States should promote, to the widest extent possible, direct contact between the competent authorities when they apply this Directive.
- (31) Without prejudice to judicial independence and differences in the organisation of the judiciary across the Union, Member States should consider requesting those responsible for the training of judges, prosecutors, police and judicial staff involved in the procedures aimed at issuing or recognising a European protection order to provide appropriate training with respect to the objectives of this Directive.
- (32) In order to facilitate the evaluation of the application of this Directive, Member States should communicate to the Commission relevant data related to the application of national procedures on the European protection order, at least with regard to the number of European protection orders requested, issued and/or recognised. In this respect, other types of data, such as, for example, the types of crimes concerned, would also be useful.
- (33) This Directive should contribute to the protection of persons who are in danger, thereby complementing, but not affecting, the instruments already in place in this field, such as Framework Decision 2008/947/JHA and Framework Decision 2009/829/JHA.
- (34) When a decision relating to a protection measure falls within the scope of Council Regulation (EC) No 44/2001 of 22 December 2000 on jurisdiction and the recognition and enforcement of judgments in civil and commercial matters⁽¹⁾, Council Regulation (EC) No 2201/2003 of 27 November 2003 concerning jurisdiction and the recognition and enforcement of judgments in matrimonial matters and the matters of parental responsibility⁽²⁾, or the 1996 Hague Convention on Jurisdiction, Applicable Law, Recognition, Enforcement and Cooperation in respect of Parental Responsibility and Measures for the Protection of Children⁽³⁾, the recognition and enforcement of that decision should be carried out in accordance with the provisions of the relevant legal instrument.
- (35) Member States and the Commission should include information about the European protection order, where it is appropriate, in existing education and awareness-raising campaigns on the protection of victims of crime.
- (36) Personal data processed when implementing this Directive should be protected in accordance with Council Framework Decision 2008/977/JHA of 27 November 2008 on the protection of personal data processed in the framework of police and judicial cooperation in criminal matters⁽⁴⁾ and with the principles laid down in the 1981 Council of Europe Convention for the Protection of Individuals with regard to Automatic Processing of Personal Data.

⁽¹⁾ OJ L 12, 16.1.2001, p. 1.

⁽²⁾ OJ L 338, 23.12.2003, p. 1.

⁽³⁾ OJ L 48, 21.2.2003, p. 3.

⁽⁴⁾ OJ L 350, 30.12.2008, p. 60.

- (37) This Directive should respect the fundamental rights guaranteed by the Charter of Fundamental Rights of the European Union and by the European Convention for the Protection of Human Rights and Fundamental Freedoms, in accordance with Article 6 TEU.
- (38) When implementing this Directive, Member States are encouraged to take into account the rights and principles enshrined in the 1979 United Nations Convention on the elimination of all forms of discrimination against women.
- (39) Since the objective of this Directive, namely to protect persons who are in danger, cannot be sufficiently achieved by the Member States and can therefore, by reason of its scale and effects, be better achieved at Union level, the Union may adopt measures, in accordance with the principle of subsidiarity as set out in Article 5 TEU. In accordance with the principle of proportionality, as set out in that Article, this Directive does not go beyond what is necessary in order to achieve that objective.
- (40) In accordance with Article 3 of the Protocol (No 21) on the position of the United Kingdom and Ireland in respect of the Area of Freedom, Security and Justice annexed to the Treaty on European Union and to the Treaty on the Functioning of the European Union, the United Kingdom has notified its wish to take part in the adoption and application of this Directive.
- (41) In accordance with Articles 1 and 2 of the Protocol (No 21) on the position of the United Kingdom and Ireland in respect of the Area of Freedom, Security and Justice annexed to the Treaty on European Union and to the Treaty on the Functioning of the European Union, and without prejudice to Article 4 of that Protocol, Ireland is not taking part in the adoption of this Directive and is not bound by it or subject to its application.
- (42) In accordance with Articles 1 and 2 of the Protocol (No 22) on the position of Denmark annexed to the Treaty on European Union and to the Treaty on the Functioning of the European Union, Denmark is not taking part in the adoption of this Directive and is not bound by it or subject to its application,

HAVE ADOPTED THIS DIRECTIVE:

Article 1

Objective

This Directive sets out rules allowing a judicial or equivalent authority in a Member State, in which a protection measure has

been adopted with a view to protecting a person against a criminal act by another person which may endanger his life, physical or psychological integrity, dignity, personal liberty or sexual integrity, to issue a European protection order enabling a competent authority in another Member State to continue the protection of the person in the territory of that other Member State, following criminal conduct, or alleged criminal conduct, in accordance with the national law of the issuing State.

Article 2

Definitions

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

- (1) 'European protection order' means a decision, taken by a judicial or equivalent authority of a Member State in relation to a protection measure, on the basis of which a judicial or equivalent authority of another Member State takes any appropriate measure or measures under its own national law with a view to continuing the protection of the protected person;
- (2) 'protection measure' means a decision in criminal matters adopted in the issuing State in accordance with its national law and procedures by which one or more of the prohibitions or restrictions referred to in Article 5 are imposed on a person causing danger in order to protect a protected person against a criminal act which may endanger his life, physical or psychological integrity, dignity, personal liberty or sexual integrity;
- (3) 'protected person' means a natural person who is the object of the protection resulting from a protection measure adopted by the issuing State;
- (4) 'person causing danger' means the natural person on whom one or more of the prohibitions or restrictions referred to in Article 5 have been imposed;
- (5) 'issuing State' means the Member State in which a protection measure has been adopted that constitutes the basis for issuing a European protection order;
- (6) 'executing State' means the Member State to which a European protection order has been forwarded with a view to its recognition;
- (7) 'State of supervision' means the Member State to which a judgment within the meaning of Article 2 of Framework Decision 2008/947/JHA, or a decision on supervision measures within the meaning of Article 4 of Framework Decision 2009/829/JHA, has been transferred.

*Article 3***Designation of competent authorities**

1. Each Member State shall inform the Commission which judicial or equivalent authority or authorities are competent under its national law to issue a European protection order and to recognise such an order, in accordance with this Directive, when that Member State is the issuing State or the executing State.

2. The Commission shall make the information received available to all Member States. Member States shall inform the Commission of any change to the information referred to in paragraph 1.

*Article 4***Recourse to a central authority**

1. Each Member State may designate a central authority or, where its legal system so provides, more than one central authority, to assist its competent authorities.

2. A Member State may, if it is necessary as a result of the organisation of its internal judicial system, make its central authority or authorities responsible for the administrative transmission and reception of any European protection order, as well as for all other official correspondence relating thereto. As a consequence, all communications, consultations, exchanges of information, enquiries and notifications between competent authorities may be dealt with, where appropriate, with the assistance of the designated central authority or authorities of the Member State concerned.

3. Member States wishing to make use of the possibilities referred to in this Article shall communicate to the Commission information relating to the designated central authority or authorities. These indications shall be binding upon all the authorities of the issuing State.

*Article 5***Need for an existing protection measure under national law**

A European protection order may only be issued when a protection measure has been previously adopted in the issuing State, imposing on the person causing danger one or more of the following prohibitions or restrictions:

- (a) a prohibition from entering certain localities, places or defined areas where the protected person resides or visits;
- (b) a prohibition or regulation of contact, in any form, with the protected person, including by phone, electronic or ordinary mail, fax or any other means; or

- (c) a prohibition or regulation on approaching the protected person closer than a prescribed distance.

*Article 6***Issuing of a European protection order**

1. A European protection order may be issued when the protected person decides to reside or already resides in another Member State, or when the protected person decides to stay or already stays in another Member State. When deciding upon the issuing of a European protection order, the competent authority in the issuing State shall take into account, inter alia, the length of the period or periods that the protected person intends to stay in the executing State and the seriousness of the need for protection.

2. A judicial or equivalent authority of the issuing State may issue a European protection order only at the request of the protected person and after verifying that the protection measure meets the requirements set out in Article 5.

3. The protected person may submit a request for the issuing of a European protection order either to the competent authority of the issuing State or to the competent authority of the executing State. If such a request is submitted in the executing State, its competent authority shall transfer this request as soon as possible to the competent authority of the issuing State.

4. Before issuing a European protection order, the person causing danger shall be given the right to be heard and the right to challenge the protection measure, if that person has not been granted these rights in the procedure leading to the adoption of the protection measure.

5. When a competent authority adopts a protection measure containing one or more of the prohibitions or restrictions referred to in Article 5, it shall inform the protected person in an appropriate way, in accordance with the procedures under its national law, about the possibility of requesting a European protection order in the case that that person decides to leave for another Member State, as well as of the basic conditions for such a request. The authority shall advise the protected person to submit an application before leaving the territory of the issuing State.

6. If the protected person has a guardian or representative, that guardian or representative may introduce the request referred to in paragraphs 2 and 3, on behalf of the protected person.

7. If the request to issue a European protection order is rejected, the competent authority of the issuing State shall inform the protected person of any applicable legal remedies that are available, under its national law, against such a decision.

Article 7

Form and content of the European protection order

The European protection order shall be issued in accordance with the form set out in Annex I to this Directive. It shall, in particular, contain the following information:

- (a) the identity and nationality of the protected person, as well as the identity and nationality of the guardian or representative if the protected person is a minor or is legally incapacitated;
- (b) the date from which the protected person intends to reside or stay in the executing State, and the period or periods of stay, if known;
- (c) the name, address, telephone and fax numbers and e-mail address of the competent authority of the issuing State;
- (d) identification (for example, through a number and date) of the legal act containing the protection measure on the basis of which the European protection order is issued;
- (e) a summary of the facts and circumstances which have led to the adoption of the protection measure in the issuing State;
- (f) the prohibitions or restrictions imposed, in the protection measure underlying the European protection order, on the person causing danger, their duration and the indication of the penalty, if any, in the event of the breach of any of the prohibitions or restrictions;
- (g) the use of a technical device, if any, that has been provided to the protected person or to the person causing danger as a means of enforcing the protection measure;
- (h) the identity and nationality of the person causing danger, as well as that person's contact details;
- (i) where such information is known by the competent authority of the issuing State without requiring further inquiry, whether the protected person and/or the person causing danger has been granted free legal aid in the issuing State;
- (j) a description, where appropriate, of other circumstances that could have an influence on the assessment of the danger that confronts the protected person;

(k) an express indication, where applicable, that a judgment within the meaning of Article 2 of Framework Decision 2008/947/JHA, or a decision on supervision measures within the meaning of Article 4 of Framework Decision 2009/829/JHA, has already been transferred to the State of supervision, when this is different from the State of execution of the European protection order, and the identification of the competent authority of that State for the enforcement of such a judgment or decision.

Article 8

Transmission procedure

1. Where the competent authority of the issuing State transmits the European protection order to the competent authority of the executing State, it shall do so by any means which leaves a written record so as to allow the competent authority of the executing State to establish its authenticity. All official communication shall also be made directly between those competent authorities.

2. If the competent authority of either the executing State or the issuing State is not known to the competent authority of the other State, the latter authority shall make all the relevant enquiries, including via the contact points of the European Judicial Network referred to in Council Decision 2008/976/JHA of 16 December 2008 on the European Judicial Network ⁽¹⁾, the National Member of Eurojust or the National System for the coordination of Eurojust of its State, in order to obtain the necessary information.

3. When an authority of the executing State which receives a European protection order has no competence to recognise it, that authority shall, *ex officio*, forward the European protection order to the competent authority and shall, without delay, inform the competent authority of the issuing State accordingly by any means which leaves a written record.

Article 9

Measures in the executing State

1. Upon receipt of a European protection order transmitted in accordance with Article 8, the competent authority of the executing State shall, without undue delay, recognise that order and take a decision adopting any measure that would be available under its national law in a similar case in order to ensure the protection of the protected person, unless it decides to invoke one of the grounds for non-recognition referred to in Article 10. The executing State may apply, in accordance with its national law, criminal, administrative or civil measures.

⁽¹⁾ OJ L 348, 24.12.2008, p. 130.

2. The measure adopted by the competent authority of the executing State in accordance with paragraph 1, as well as any other measure taken on the basis of a subsequent decision as referred to in Article 11, shall, to the highest degree possible, correspond to the protection measure adopted in the issuing State.

3. The competent authority of the executing State shall inform the person causing danger, the competent authority of the issuing State and the protected person of any measures adopted in accordance with paragraph 1, as well as of the possible legal consequence of a breach of such measure provided for under national law and in accordance with Article 11(2). The address or other contact details of the protected person shall not be disclosed to the person causing danger unless such details are necessary in view of the enforcement of the measure adopted in accordance with paragraph 1.

4. If the competent authority in the executing State considers that the information transmitted with the European protection order in accordance with Article 7 is incomplete, it shall without delay inform the competent authority of the issuing State by any means which leaves a written record, assigning a reasonable period for it to provide the missing information.

Article 10

Grounds for non-recognition of a European protection order

1. The competent authority of the executing State may refuse to recognise a European protection order in the following circumstances:

- (a) the European protection order is not complete or has not been completed within the time limit set by the competent authority of the executing State;
- (b) the requirements set out in Article 5 have not been met;
- (c) the protection measure relates to an act that does not constitute a criminal offence under the law of the executing State;
- (d) the protection derives from the execution of a penalty or measure that, according to the law of the executing State, is covered by an amnesty and relates to an act or conduct which falls within its competence according to that law;
- (e) there is immunity conferred under the law of the executing State on the person causing danger, which makes it impossible to adopt measures on the basis of a European protection order;
- (f) criminal prosecution, against the person causing danger, for the act or the conduct in relation to which the protection measure has been adopted is statute-barred under the law of the executing State, when the act or the conduct falls within its competence under its national law;

(g) recognition of the European protection order would contravene the *ne bis in idem* principle;

(h) under the law of the executing State, the person causing danger cannot, because of that person's age, be held criminally responsible for the act or the conduct in relation to which the protection measure has been adopted;

(i) the protection measure relates to a criminal offence which, under the law of the executing State, is regarded as having been committed, wholly or for a major or essential part, within its territory.

2. Where the competent authority of the executing State refuses to recognise a European protection order in application of one of the grounds referred to in paragraph 1, it shall:

- (a) without undue delay, inform the issuing State and the protected person of this refusal and of the grounds relating thereto;
- (b) where appropriate, inform the protected person about the possibility of requesting the adoption of a protection measure in accordance with its national law;
- (c) inform the protected person of any applicable legal remedies that are available under its national law against such a decision.

Article 11

Governing law and competence in the executing State

1. The executing State shall be competent to adopt and to enforce measures in that State following the recognition of a European protection order. The law of the executing State shall apply to the adoption and enforcement of the decision provided for in Article 9(1), including rules on legal remedies against decisions adopted in the executing State relating to the European protection order.

2. In the event of a breach of one or more of the measures taken by the executing State following the recognition of a European protection order, the competent authority of the executing State shall, in accordance with paragraph 1, be competent to:

- (a) impose criminal penalties and take any other measure as a consequence of the breach, if that breach amounts to a criminal offence under the law of the executing State;

- (b) take any non-criminal decisions related to the breach;
- (c) take any urgent and provisional measure in order to put an end to the breach, pending, where appropriate, a subsequent decision by the issuing State.

3. If there is no available measure at national level in a similar case that could be taken in the executing State, the competent authority of the executing State shall report to the competent authority of the issuing State any breach of the protection measure described in the European protection order of which it is aware.

Article 12

Notification in the event of breach

The competent authority of the executing State shall notify the competent authority of the issuing State or of the State of supervision of any breach of the measure or measures taken on the basis of the European protection order. Notice shall be given using the standard form set out in Annex II.

Article 13

Competence in the issuing State

1. The competent authority of the issuing State shall have exclusive competence to take decisions relating to:

- (a) the renewal, review, modification, revocation and withdrawal of the protection measure and, consequently, of the European protection order;
- (b) the imposition of a custodial measure as a consequence of revocation of the protection measure, provided that the protection measure has been applied on the basis of a judgment within the meaning of Article 2 of Framework Decision 2008/947/JHA, or on the basis of a decision on supervision measures within the meaning of Article 4 of Framework Decision 2009/829/JHA;

2. The law of the issuing State shall apply to decisions adopted in accordance with paragraph 1.

3. Where a judgment within the meaning of Article 2 of Framework Decision 2008/947/JHA, or a decision on supervision measures within the meaning of Article 4 of Framework Decision 2009/829/JHA, has already been transferred, or is transferred after the issuing of the European protection order, to another Member State, subsequent decisions, as provided for by those Framework Decisions, shall be taken in accordance with the relevant provisions of those Framework Decisions.

4. When the protection measure is contained in a judgment within the meaning of Article 2 of Framework Decision 2008/947/JHA which has been transferred or is transferred after the issuing of the European protection order to another Member State, and the competent authority of the State of supervision has made subsequent decisions affecting the obligations or instructions contained in the protection measure in accordance with Article 14 of that Framework Decision, the competent authority of the issuing State shall renew, review, modify, revoke or withdraw without delay the European protection order accordingly.

5. The competent authority of the issuing State shall inform the competent authority of the executing State without delay of any decision taken in accordance with paragraph 1 or 4.

6. If the competent authority in the issuing State has revoked or withdrawn the European protection order in accordance with point (a) of paragraph 1 or with paragraph 4, the competent authority in the executing State shall discontinue the measures adopted in accordance with Article 9(1) as soon as it has been duly notified by the competent authority of the issuing State.

7. If the competent authority in the issuing State has modified the European protection order in accordance with point (a) of paragraph 1 or with paragraph 4, the competent authority in the executing State shall, as appropriate:

- (a) modify the measures adopted on the basis of the European protection order, acting in accordance with Article 9; or
- (b) refuse to enforce the modified prohibition or restriction when it does not fall within the types of prohibitions or restrictions referred to in Article 5, or if the information transmitted with the European protection order in accordance with Article 7 is incomplete or has not been completed within the time limit set by the competent authority of the executing State in accordance with Article 9(4).

Article 14

Grounds for discontinuation of measures taken on the basis of a European protection order

1. The competent authority of the executing State may discontinue the measures taken in execution of a European protection order:

- (a) where there is clear indication that the protected person does not reside or stay in the territory of the executing State, or has definitively left that territory;
- (b) where, according to its national law, the maximum term of duration of the measures adopted in execution of the European protection order has expired;

(c) in the case referred to in Article 13(7)(b); or

(d) where a judgment within the meaning of Article 2 of Framework Decision 2008/947/JHA, or a decision on supervision measures within the meaning of Article 4 of Framework Decision 2009/829/JHA, is transferred to the executing State after the recognition of the European protection order.

2. The competent authority of the executing State shall immediately inform the competent authority of the issuing State and, where possible, the protected person of such decision.

3. Before discontinuing measures in accordance with point (b) of paragraph 1 the competent authority of the executing State may invite the competent authority of the issuing State to provide information as to whether the protection provided for by the European protection order is still needed in the circumstances of the case in question. The competent authority of the issuing State shall, without delay, reply to such an invitation.

Article 15

Priority in recognition of a European protection order

A European protection order shall be recognised with the same priority which would be applicable in a similar national case, taking into consideration any specific circumstances of the case, including the urgency of the matter, the date foreseen for the arrival of the protected person on the territory of the executing State and, where possible, the degree of risk for the protected person.

Article 16

Consultations between competent authorities

Where appropriate, the competent authorities of the issuing State and of the executing State may consult each other in order to facilitate the smooth and efficient application of this Directive.

Article 17

Languages

1. A European protection order shall be translated by the competent authority of the issuing State into the official language or one of the official languages of the executing State.

2. The form referred to in Article 12 shall be translated by the competent authority of the executing State into the official language or one of the official languages of the issuing State.

3. Any Member State may, either when this Directive is adopted or at a later date, state in a declaration that it shall deposit with the Commission that it will accept a translation in one or more other official languages of the Union.

Article 18

Costs

Costs resulting from the application of this Directive shall be borne by the executing State, in accordance with its national law, except for costs arising exclusively within the territory of the issuing State.

Article 19

Relationship with other agreements and arrangements

1. Member States may continue to apply bilateral or multi-lateral agreements or arrangements which are in force upon the entry into force of this Directive, in so far as they allow the objectives of this Directive to be extended or enlarged and help to simplify or facilitate further the procedures for taking protection measures.

2. Member States may conclude bilateral or multilateral agreements or arrangements after the entry into force of this Directive, in so far as they allow the objectives of this Directive to be extended or enlarged and help to simplify or facilitate the procedures for taking protection measures.

3. By 11 April 2012, Member States shall notify the Commission of the existing agreements and arrangements referred to in paragraph 1 which they wish to continue applying. Member States shall also notify the Commission of any new agreements or arrangements referred to in paragraph 2 within three months of the signing thereof.

Article 20

Relationship with other instruments

1. This Directive shall not affect the application of Regulation (EC) No 44/2001, Regulation (EC) No 2201/2003, the 1996 Hague Convention on Jurisdiction, Applicable Law, Recognition, Enforcement and Cooperation in respect of Parental Responsibility and Measures for the Protection of Children, or the 1980 Hague Convention on the Civil Aspects of International Child Abduction.

2. This Directive shall not affect the application of Framework Decision 2008/947/JHA or Framework Decision 2009/829/JHA.

*Article 21***Implementation**

1. Member States shall bring into force the laws, regulations and administrative provisions to comply with this Directive by 11 January 2015. They shall forthwith inform the Commission thereof.

When Member States adopt those measures, they shall contain a reference to this Directive or shall be accompanied by such reference on the occasion of their official publication. The methods of making such reference shall be laid down by the Member States.

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 22***Data collection**

Member States shall, in order to facilitate the evaluation of the application of this Directive, communicate to the Commission relevant data related to the application of national procedures on the European protection order, at least on the number of European protection orders requested, issued and/or recognised.

*Article 23***Review**

By 11 January 2016, the Commission shall submit a report to the European Parliament and to the Council on the application of this Directive. That report shall be accompanied, if necessary, by legislative proposals.

*Article 24***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 25***Addressees**

This Directive is addressed to the Member States in accordance with the Treaties.

Done at Strasbourg, 13 December 2011.

For the European Parliament

The President

J. BUZEK

For the Council

The President

M. SZPUNAR

ANNEX I

EUROPEAN PROTECTION ORDER

referred to in Article 7 of

DIRECTIVE 2011/99/EU OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL OF 13 DECEMBER 2011
ON THE EUROPEAN PROTECTION ORDER**The information contained in this form is to be treated with appropriate confidentiality**

| |
|---|
| Issuing State: |
| Executing State: |
| (a) Information regarding the protected person: Surname: Forename(s): Maiden or previous name, where applicable: Sex: Nationality: Identity number or social security number (if any): Date of birth: Place of birth: Addresses/residences: — in the issuing State: — in the executing State: — elsewhere: Language(s) understood (if known): |
| Has the protected person been granted free legal aid in the issuing State (if information is available without further enquiry)? <input type="checkbox"/> Yes. <input type="checkbox"/> No. <input type="checkbox"/> Unknown. Where the protected person is a minor or is legally incapacitated, information regarding the person's guardian or representative: Surname: Forename(s): Maiden name or previous name, where applicable: Sex: Nationality: Office/Address: |

(b) The protected person has decided to reside or already resides in the executing State, or has decided to stay or already stays in the executing State.

Date from which the protected person intends to reside or stay in the executing State (if known):

Period(s) of stay (if known):

(c) Have any technical devices been provided to the protected person or to the person causing danger to enforce the protection measure:

☐ Yes; please give a short summary of the devices used:

☐ No.

(d) Competent authority which issued the European protection order:

Official name:

Full address:

Tel. No (country code) (area/city code) (number):

Fax No (country code) (area/city code) (number):

Details of the person(s) to be contacted

Surname:

Forename(s):

Position (title/grade):

Tel. No (country code) (area/city code) (number):

Fax No (country code) (area/city code) (number):

E-mail (if any):

Languages that may be used for communication:

(e) Identification of the protection measure on the basis of which the European protection order has been issued:

The protection measure was adopted on (date: DD-MM-YYYY):

The protection measure became enforceable on (date: DD-MM-YYYY):

File reference of the protection measure (if available):

Authority that adopted the protection measure:

(f) Summary of the facts and description of the circumstances — including, where applicable, the classification of the offence — which have led to the imposition of the protection measure mentioned under (e) above:

(g) Indications regarding the prohibition(s) or restriction(s) that have been imposed by the protection measure on the person causing danger:

— Nature of the prohibition(s) or restriction(s): (more than one box may be ticked):

☐ a prohibition from entering certain localities, places or defined areas where the protected person resides or visits;

— if you ticked this box, please indicate precisely which localities, places or defined areas the person causing danger is prohibited from entering:

☐ a prohibition or regulation of contact, in any form, with the protected person, including by phone, electronic or ordinary mail, fax or any other means;

— if you ticked this box, please provide any relevant details:

☐ a prohibition or regulation on approaching the protected person closer than a prescribed distance;

— if you ticked this box, please indicate precisely the distance which the person causing danger has to observe in respect of the protected person:

— Please indicate the length of time during which the abovementioned prohibition(s) or restriction(s) are imposed on the person causing danger:

— Indication of the penalty (if any) in the event of the breach of the prohibition or restriction:

(h) Information regarding the person causing danger on whom the prohibition(s) or restriction(s) mentioned under (g) have been imposed:

Surname:

Forename(s):

Maiden or previous name, where applicable:

Aliases, where applicable:

Sex:

Nationality:

Identity number or social security number (if any):

Date of birth:

Place of birth:

Addresses/residences:

— in the issuing State:

— in the executing State:

— elsewhere:

Language(s) understood (if known):

If available, please provide the following information:

— Type and number of the identity document(s) of the person (ID card, passport):

Has the person causing danger been granted free legal aid in the issuing State (if information is available without further enquiry)?

☐ Yes.

☐ No.

☐ Unknown.

(i) Other circumstances that could have an influence on the assessment of the danger that could affect the protected person (optional information):

(j) Other useful information (such as, where available and necessary, information on other States where protection measures have been previously adopted with respect to the same protected person):

(k) Please complete:

☐ a judgment within the meaning of Article 2 of Framework Decision 2008/947/JHA, has already been transmitted to another Member State

— If you ticked this box, please provide the contact details of the competent authority to whom the judgment has been forwarded:

☐ a decision on supervision measures within the meaning of Article 4 of Framework Decision 2009/829/JHA has already been transmitted to another Member State

— If you ticked this box, please provide the contact details of the competent authority to whom the decision on supervision measures has been forwarded:

Signature of the authority issuing the European protection order and/or of its representative to confirm the accuracy of the content of the order:

Name:

Position (title/grade):

Date:

File reference (if any):

(Where appropriate) Official stamp:

ANNEX II

FORM

referred to in Article 12 of

**DIRECTIVE 2011/99/EU OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL OF 13 DECEMBER 2011
ON THE EUROPEAN PROTECTION ORDER****NOTIFICATION OF A BREACH OF THE MEASURE TAKEN ON THE BASIS OF THE EUROPEAN
PROTECTION ORDER****The information contained in this form is to be treated with appropriate confidentiality**

(a) Details of the identity of the person causing danger:

Surname:

Forename(s):

Maiden or previous name, where applicable:

Aliases, where applicable:

Sex:

Nationality:

Identity number or social security number (if any):

Date of birth:

Place of birth:

Address:

Language(s) understood (if known):

(b) Details of the identity of the protected person:

Surname:

Forename(s):

Maiden or previous name, where applicable:

Sex:

Nationality:

Date of birth:

Place of birth:

Address:

Language(s) understood (if known):

(c) Details of the European protection order:

Order issued on:

File reference (if any):

Authority which issued the order:

Official name:

Address:

(d) Details of the authority responsible for the execution of the protection measure, if any, which was taken in the executing State in line with the European protection order:

Official name of the authority:

Name of the person to be contacted:

Position (title/grade):

Address:

Tel. No (country code) (area code) (number):

Fax No (country code) (area code) (number):

E-mail:

Languages that may be used for communication:

(e) Breach of the prohibition(s) or restriction(s) imposed by the competent authorities of the executing State following recognition of the European protection order and/or other findings which could result in taking any subsequent decision:

The breach concerns the following prohibition(s) or restriction(s) (more than one box may be ticked):

- ☐ a prohibition from entering certain localities, places or defined areas where the protected person resides or visits;
- ☐ a prohibition or regulation of contact, in any form, with the protected person, including by phone, electronic or ordinary mail, fax or any other means;
- ☐ a prohibition or regulation on approaching the protected person closer than a prescribed distance;
- ☐ any other measure, corresponding to the protection measure at the basis of the European protection order, taken by the competent authorities of the executing State following recognition of the European protection order

Description of the breach(es) (place, date and specific circumstances):

In accordance with Article 11(2):

— measures taken in the executing State as a consequence of the breach:

— possible legal consequence of the breach in the executing State:

Other findings which could result in taking any subsequent decision

Description of the findings:

(f) Details of the person to be contacted if additional information is to be obtained concerning the breach:

Surname:

Forename(s):

Address:

Tel. No (country code) (area/city code) (number):

Fax No (country code) (area/city code) (number):

E-mail:

Languages that may be used for communication:

Signature of the authority issuing the form and/or its representative, to confirm that the contents of the form are correct:

Name:

Position (title/grade):

Date:

Official stamp (where applicable):

II

(Non-legislative acts)

REGULATIONS

COUNCIL IMPLEMENTING REGULATION (EU) No 1345/2011

of 19 December 2011

implementing Regulation (EC) No 194/2008 renewing and strengthening the restrictive measures in respect of Burma/Myanmar

THE COUNCIL OF THE EUROPEAN UNION,

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

Having regard to Council Regulation (EC) No 194/2008 of 25 February 2008 renewing and strengthening the restrictive measures in respect of Burma/Myanmar⁽¹⁾, and in particular Article 18(5) thereof,

Whereas:

- (1) On 25 February 2008, the Council adopted Regulation (EC) No 194/2008 renewing and strengthening the restrictive measures in respect of Burma/Myanmar.
- (2) In accordance with Council Decision 2011/859/CFSP of 19 December 2011 amending Decision 2010/232/CFSP renewing restrictive measures against Burma/Myanmar⁽²⁾, the information relating to one entity on the list in Annex V to Regulation (EC) No 194/2008 should be updated.

- (3) Annex V to Regulation (EC) No 194/2008 should be updated accordingly,

HAS ADOPTED THIS REGULATION:

Article 1

In Annex V to Regulation (EC) No 194/2008, the entry for Mayar (H.K) Ltd shall be replaced by the following:

'Mayar India Ltd (Yangon Branch)
37, Rm (703/4), Level (7), Alanpya Pagoda Rd, La Pyayt Wun Plaza, Dagon, Yangon.'

*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, 19 December 2011.

For the Council
The President
M. KOROLEC

⁽¹⁾ OJ L 66, 10.3.2008, p. 1.

⁽²⁾ See page 55 of this Official Journal.

COMMISSION REGULATION (EU) No 1346/2011**of 13 December 2011****establishing a prohibition of fishing for boarfish in EU and international waters of VI, VII and VIII
by vessels flying the flag of any Member State, except Denmark and Ireland**

THE EUROPEAN COMMISSION,

HAS ADOPTED THIS REGULATION:

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

*Article 1***Quota exhaustion**Having regard to Council Regulation (EC) No 1224/2009 of 20 November 2009 establishing a Community control system for ensuring compliance with the rules of the common fisheries policy ⁽¹⁾, and in particular Article 36(2) thereof,

The fishing quota allocated to the Member State referred to in the Annex to this Regulation for the stock referred to therein for 2011 shall be deemed to be exhausted from the date set out in that Annex.

Whereas:

*Article 2***Prohibitions**(1) Council Regulation (EU) No 57/2011 of 18 January 2011 fixing for 2011 the fishing opportunities for certain fish stocks and groups of fish stocks, applicable in EU waters and, for EU vessels, in certain non-EU waters ⁽²⁾, lays down quotas for 2011.

Fishing activities 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 set out in that Annex. In particular it shall be prohibited to retain on board, relocate, tranship or land fish from that stock caught by those vessels after that date.

(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 2011.

*Article 3***Entry into force**

(3) It is therefore necessary to prohibit fishing activities for that stock,

This Regulation shall enter into force on the 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, 13 December 2011.

*For the Commission,
On behalf of the President,*

Lowri EVANS

Director-General for Maritime Affairs and Fisheries⁽¹⁾ OJ L 343, 22.12.2009, p. 1.⁽²⁾ OJ L 24, 27.1.2011, p. 1.

ANNEX

| | |
|--------------|---|
| No | 23/T&Q |
| Member State | All Member States except Denmark and Ireland |
| Stock | BOR/678- |
| Species | Boarfish (<i>Caproidae</i>) |
| Zone | EU and international waters of VI, VII and VIII |
| Date | 29.11.2011 |

COMMISSION REGULATION (EU) No 1347/2011**of 13 December 2011****establishing a prohibition of fishing for herring in EU and international waters of Vb, VIb and VIaN
by vessels flying the flag of Germany**

THE EUROPEAN COMMISSION,

HAS ADOPTED THIS REGULATION:

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

*Article 1***Quota exhaustion**

Having regard to Council Regulation (EC) No 1224/2009 of 20 November 2009 establishing a Community control system for ensuring compliance with the rules of the common fisheries policy ⁽¹⁾, and in particular Article 36(2) thereof,

The fishing quota allocated to the Member State referred to in the Annex to this Regulation for the stock referred to therein for 2011 shall be deemed to be exhausted from the date set out in that Annex.

Whereas:

*Article 2***Prohibitions**

(1) Council Regulation (EU) No 57/2011 of 18 January 2011 fixing for 2011 the fishing opportunities for certain fish stocks and groups of fish stocks, applicable in EU waters and, for EU vessels, in certain non-EU waters ⁽²⁾, lays down quotas for 2011.

Fishing activities 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 set out in that Annex. In particular it shall be prohibited to retain on board, relocate, tranship or land fish from that stock caught by those vessels after that date.

(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 2011.

*Article 3***Entry into force**

(3) It is therefore necessary to prohibit fishing activities for that stock,

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, 13 December 2011.

*For the Commission,
On behalf of the President,*

Lowri EVANS
Director-General for Maritime Affairs and Fisheries

⁽¹⁾ OJ L 343, 22.12.2009, p. 1.

⁽²⁾ OJ L 24, 27.01.2011, p. 1.

ANNEX

| | |
|--------------|---|
| No | 85/T&Q |
| Member State | Germany |
| Stock | HER/5B6ANB |
| Species | Herring (<i>Clupea harengus</i>) |
| Zone | EU and international waters of Vb, VIb and VIaN |
| Date | 26.11.2011 |

COMMISSION REGULATION (EU) No 1348/2011**of 13 December 2011****establishing a prohibition of fishing for boarfish in EU and international waters of VI, VII and VIII
by vessels flying of the flag the United Kingdom**

THE EUROPEAN COMMISSION,

HAS ADOPTED THIS REGULATION:

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

*Article 1***Quota exhaustion**

Having regard to Council Regulation (EC) No 1224/2009 of 20 November 2009 establishing a Community control system for ensuring compliance with the rules of the common fisheries policy ⁽¹⁾, and in particular Article 36(2) thereof,

The fishing quota allocated to the Member State referred to in the Annex to this Regulation for the stock referred to therein for 2011 shall be deemed to be exhausted from the date set out in that Annex.

Whereas:

*Article 2***Prohibitions**

(1) Council Regulation (EU) No 57/2011 of 18 January 2011 fixing for 2011 the fishing opportunities for certain fish stocks and groups of fish stocks, applicable in EU waters and, for EU vessels, in certain non-EU waters ⁽²⁾, lays down quotas for 2011.

Fishing activities 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 set out in that Annex. In particular it shall be prohibited to retain on board, relocate, tranship or land fish from that stock caught by those vessels after that date.

(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 2011.

*Article 3***Entry into force**

(3) It is therefore necessary to prohibit fishing activities for that stock,

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, 13 December 2011.

*For the Commission,
On behalf of the President,*

Lowri EVANS

Director-General for Maritime Affairs and Fisheries

⁽¹⁾ OJ L 343, 22.12.2009, p. 1.

⁽²⁾ OJ L 24, 27.01.2011, p. 1.

ANNEX

| | |
|--------------|---|
| No | 83/T&Q |
| Member State | the United Kingdom/GBR |
| Stock | BOR/678- |
| Species | Boarfish (<i>Caproidae</i>) |
| Zone | EU and international waters of VI, VII and VIII |
| Date | 13.11.2011 |

COMMISSION IMPLEMENTING REGULATION (EU) No 1349/2011

of 20 December 2011

amending Regulation (EC) No 376/2008 laying down common detailed rules for the application of the system of import and export licences and advance fixing certificates for agricultural products

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⁾, and in particular Article 134 in conjunction with Article 4 thereof,

Whereas:

- (1) In accordance with Article 130 of Regulation (EC) No 1234/2007 to manage imports, the Commission has been given the power to determine the products for which import will be subject to presentation of a licence. When assessing the need for a licence system, the Commission takes account of the appropriate instruments for the management of the markets and in particular for monitoring the imports.
- (2) Commission Regulation (EC) No 376/2008 ⁽²⁾ in its Article 1(2)(a)(i) in conjunction with its Annex II, Part I, point I, provides for a licence obligation for imports of 'bananas, fresh imported under common customs tariff rate of duty' falling within CN code 0803 00 19.
- (3) Currently, effective import monitoring can be carried out through other means. In the interest of simplification and for the purpose of alleviating the administrative burden for Member States and operators, the requirement of import licences for bananas should be abolished.

Article 1(3) of Commission Regulation (EC) No 1234/2007 of 22 October 2007 on licences under the arrangements for importing bananas into the Community in respect of bananas released into free circulation at the common customs tariff rate of duty ⁽³⁾ limits the validity of licences to the year of issue. It is therefore appropriate to repeal the obligation to obtain import licences as from 1 January 2012.

- (4) Regulation (EC) No 376/2008 should therefore be amended accordingly.

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

HAS ADOPTED THIS REGULATION:

Article 1

In Part I of Annex II to Regulation (EC) No 376/2008, Point I 'Bananas (Part XI of Annex I to Regulation (EC) No 1234/2007)' is deleted.

Article 2

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

It shall apply from 1 January 2012.

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

Done at Brussels, 20 December 2011.

For the Commission

The President

José Manuel BARROSO

⁽¹⁾ OJ L 299, 16.11.2007, p. 1.

⁽²⁾ OJ L 114, 26.4.2008, p. 3.

⁽³⁾ OJ L 324, 10.12.2005, p. 3.

COMMISSION IMPLEMENTING REGULATION (EU) No 1350/2011**of 20 December 2011****temporarily suspending customs duties on imports of certain cereals for the 2011/2012 marketing year**

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⁾, and in particular Article 187 in conjunction with Article 4 thereof,

Whereas:

(1) In order to promote the supply of cereals on the Community market during the first few months of the 2011/2012 marketing year, Commission Implementing Regulation (EU) No 633/2011 ⁽²⁾ suspended customs duties for the import tariff quotas for common wheat of low and medium quality and feed barley opened by Commission Regulations (EC) No 1067/2008 ⁽³⁾ and (EC) No 2305/2003 ⁽⁴⁾ respectively, until 31 December 2011.

(2) The outlook for the cereals market of the European Union for the end of the 2011/2012 marketing year would suggest that prices will remain buoyant, given the low stock levels and the Commission's current estimates regarding the quantities which will actually be available from the 2011 harvest. In order to make it easier to maintain a flow of imports conducive to EU market equilibrium, there is a need to ensure continuity in cereal imports policy by keeping the temporary suspension of customs duties on imports during the 2011/2012 marketing year until 30 June 2012 for the import tariff quotas to which this measure currently applies.

(3) Moreover, traders should not be penalised in cases where cereals are en route for importation into the EU. Therefore, the time required for transport should be taken into account and traders allowed to release cereals for free circulation under the customs-duty suspension regime provided for in this Regulation, for all products whose direct transport to the EU has

started at the latest on 30 June 2012. The evidence to be provided to prove direct transport to the EU and the date on which the transport commenced should also be established.

(4) In order to ensure effective management of the procedure for issuing import certificates from 1 January 2012, this Regulation must enter into force on the day following its publication in the *Official Journal of the European Union*.

(5) 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

1. The application of customs duties on imports of products falling within CN code 1001 99 00, of a quality other than high quality as defined in Annex II to Commission Regulation (EU) No 642/1010 ⁽⁵⁾, and CN code 1003 is suspended for the 2011/2012 marketing year for all imports under the reduced-duty tariff quotas opened by Regulations (EC) No 1067/2008 and (EC) No 2305/2003.

2. Where the cereals referred to in paragraph 1 of this Article are transported directly to the EU and such transport began at the latest on 30 June 2012, the suspension of customs duties under this Regulation shall continue to apply for the purposes of the release into free circulation of the products concerned.

Proof of direct transport to the EU and of the date on which the transport commenced shall be provided, to the satisfaction of the relevant authorities, by the original transport document.

Article 2

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

It shall apply from 1 January 2012 to 30 June 2012.

⁽¹⁾ OJ L 299, 16.11.2007, p. 1.

⁽²⁾ OJ L 170, 30.6.2011, p. 19.

⁽³⁾ OJ L 290, 31.10.2008, p. 3.

⁽⁴⁾ OJ L 342, 30.12.2003, p. 7.

⁽⁵⁾ OJ L 187, 21.7.2010, p. 5.

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

Done at Brussels, 20 December 2011.

For the Commission

The President

José Manuel BARROSO

COMMISSION IMPLEMENTING REGULATION (EU) No 1351/2011**of 20 December 2011****amending Council Regulation (EC) No 747/2001 as regards the suspension of tariff quotas of the Union and reference quantities for certain agricultural products originating in the West Bank and the Gaza Strip**

THE EUROPEAN COMMISSION,

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

Having regard to Council Regulation (EC) No 747/2001 of 9 April 2001 providing for the management of Community tariff quotas and of reference quantities for products eligible for preferences by virtue of agreements with certain Mediterranean countries and repealing Regulations (EC) No 1981/94 and (EC) No 934/95 ⁽¹⁾, and in particular Article 5(1)(b) thereof,

Whereas:

- (1) An Agreement has been concluded in the form of an Exchange of Letters between the European Union, of the one part, and the Palestinian Authority of the West Bank and the Gaza Strip, of the other part, providing further liberalisation of agricultural products, processed agricultural products and fish and fishery products and amending the Euro-Mediterranean Interim Association Agreement on trade and cooperation between the European Community, of the one part, and the Palestine Liberation Organization (PLO) for the benefit of the Palestinian Authority of the West Bank and the Gaza Strip, of the other part ⁽²⁾ (the Agreement). The Agreement was approved on behalf of the Union by Council Decision 2011/824/EU ⁽³⁾.
- (2) The Agreement provides for a period of 10 years from the date of its entry into force, for enlarged tariff concessions applicable to imports into the European Union of unlimited quantities of products originating in the West Bank and the Gaza Strip. Moreover, a further possible extension of the enlarged tariff concessions is also envisaged in the Agreement, depending on the future economic development of the West Bank and the Gaza Strip.
- (3) Since the Agreement provides for a further liberalisation of trade in agricultural products, processed agricultural products and fish and fishery products, it is necessary to suspend the application of the tariff quotas and reference quantities laid down in Annex VIII to Regulation (EC) No 747/2001 for products originating in the West Bank and the Gaza Strip, during the application period of the Agreement.
- (4) Council Regulation (EEC) No 4088/87 of 21 December 1987 fixing conditions for the application of preferential

customs duties on imports of certain flowers originating in Cyprus, Israel, Jordan, Morocco and the West Bank and the Gaza Strip ⁽⁴⁾, was repealed by Council Regulation (EC) No 1234/2007 ⁽⁵⁾.

- (5) Commission Regulation (EEC) No 700/88 of 17 March 1988 laying down detailed rules for the application of the arrangements for the import into the Community of certain floricultural products originating in Cyprus, Israel, Jordan, Morocco and the West Bank and the Gaza Strip ⁽⁶⁾, was repealed by Commission Regulation (EC) No 1227/2006 ⁽⁷⁾.
- (6) As a result of those repeals Article 2 of Regulation (EC) No 747/2001 providing for non-eligibility for the tariff concessions for fresh cut flowers and flower buds where the price conditions laid down in Regulation (EEC) No 4088/87 are not observed, has become redundant and should therefore be deleted.
- (7) Regulation (EC) No 747/2001 should therefore be amended accordingly.
- (8) Since the Agreement enters into force on 1 January 2012, this Regulation should apply from that date.
- (9) The measures provided for in this Regulation are in accordance with the opinion of the Customs Code Committee,

HAS ADOPTED THIS REGULATION:

Article 1

Regulation (EC) No 747/2001 is amended as follows:

- (1) the following Article 1a is inserted:

*'Article 1a***Suspension of the application of tariff quotas and reference quantities for products originating in the West Bank and the Gaza Strip**

The application of the tariff quotas and reference quantities laid down in Annex VIII for products originating in the West Bank and the Gaza Strip shall be temporarily suspended for a period of 10 years from 1 January 2012.

⁽¹⁾ OJ L 109, 19.4.2001, p. 2.⁽²⁾ OJ L 328, 10.12.2011, p. 5.⁽³⁾ OJ L 328, 10.12.2011, p. 2.⁽⁴⁾ OJ L 382, 31.12.1987, p. 22.⁽⁵⁾ OJ L 299, 16.11.2007, p. 1.⁽⁶⁾ OJ L 72, 18.3.1988, p. 16.⁽⁷⁾ OJ L 222, 15.8.2006, p. 4.

However, depending on the future economic development of the West Bank and Gaza Strip, a possible extension for an additional period could be considered at the latest 1 year before the expiration of the 10 years period as provided by the Agreement in the form of an Exchange of Letters approved on behalf of the Union by Council Decision 2011/824/EU (*).

(*) OJ L 328, 10.12.2011, p. 2.;

(2) Article 2 is deleted.

Article 2

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

It shall apply from 1 January 2012.

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

Done at Brussels, 20 December 2011.

For the Commission

The President

José Manuel BARROSO

COMMISSION IMPLEMENTING REGULATION (EU) No 1352/2011**of 20 December 2011****amending Council Regulation (EC) No 1236/2005 concerning trade in certain goods which could be used for capital punishment, torture or other cruel, inhuman or degrading treatment or punishment**

THE EUROPEAN COMMISSION,

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

Having regard to Council Regulation (EC) No 1236/2005 of 27 June 2005 concerning trade in certain goods which could be used for capital punishment, torture or other cruel, inhuman or degrading treatment or punishment⁽¹⁾, and in particular Article 12(2) thereof,

Whereas:

(1) Regulation (EC) No 1236/2005 imposes a prohibition on exports of goods which have no practical use other than for the purpose of capital punishment, torture and other cruel, inhuman or degrading treatment or punishment and controls on exports of certain goods that could be used for such purpose. It respects the fundamental rights and observes the principles recognised by the Charter of Fundamental Rights of the European Union, in particular respect for and protection of human dignity, the right to life and the prohibition of torture and inhumane and degrading treatment or punishment.

(2) In some recent cases medicinal products exported to third countries have been diverted and used for capital punishment, notably by administering a lethal overdose by means of injection. The Union disapproves of capital punishment in all circumstances and works towards its universal abolition. The exporters objected to their involuntary association with such use of the products they developed for medical use.

(3) It is therefore necessary to supplement the list of goods subject to trade restrictions to prevent the use of certain medicinal products for capital punishment and to ensure that all Union exporters of medicinal products are subject to uniform conditions in this regard. The relevant medicinal products were developed for, inter alia, anaesthesia and sedation and their export should therefore not be made subject to a complete prohibition.

(4) It is also necessary to broaden the ban on trade in electric-shock belts to cover similar body-worn devices such as electric shock sleeves and cuffs which have the same impact as electric-shock belts.

(5) It is necessary to prohibit trade in spiked batons which are not admissible for law enforcement. While the spikes are capable of causing significant pain or suffering, spiked batons do not appear more effective for riot control or self-protection than ordinary batons and the pain or suffering caused by the spikes is therefore cruel and not strictly necessary for the purpose of riot control or self-protection.

(6) Changes in the numbering of certain parts of the Combined Nomenclature (CN) have occurred after Regulation (EC) No 1236/2005 was adopted and the relevant CN codes should be updated accordingly.

(7) The measures provided for in this Regulation are in accordance with the opinion of the Committee on Common Rules for Exports of Products.

(8) In order to ensure that the measures provided for in this Regulation are effective, this Regulation must enter into force immediately,

HAS ADOPTED THIS REGULATION:

Article 1

Annex II and Annex III to Regulation (EC) No 1236/2005 shall be replaced by the texts in Annex I and Annex II, respectively.

Article 2

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

It shall not apply to products listed in point 4.1 of Annex III for which an export declaration has been lodged prior to its entry into force.

⁽¹⁾ OJ L 200, 30.7.2005, p. 1.

This Regulation shall be binding in its entirety and directly applicable in the Member States in accordance with the Treaties.

Done at Brussels, 20 December 2011.

For the Commission
The President
 José Manuel BARROSO

ANNEX I

ANNEX II

List of goods referred to in Articles 3 and 4

Introductory Note:

The "CN codes" in this Annex refer to codes specified in Part Two of Annex I to Council Regulation (EEC) No 2658/87 of 23 July 1987 on the tariff and statistical nomenclature and on the Common Customs Tariff ⁽¹⁾.

Where "ex" precedes the CN code, the goods covered by Regulation (EC) No 1236/2005 constitute only a part of the scope of the CN code and are determined by both the description given in this Annex and the scope of the CN code.

Note: this list does not cover medical-technical goods

| CN code | Description |
|---|--|
| | 1. Goods designed for the execution of human beings, as follows: |
| ex 4421 90 98 ex 8208 90 00 | 1.1. Gallows and guillotines |
| ex 8543 70 90 ex 9401 79 00 ex 9401 80 00 ex 9402 10 00 ex 9402 90 00 | 1.2. Electric chairs for the purpose of execution of human beings |
| ex 9406 00 38 ex 9406 00 80 | 1.3. Air-tight vaults, made of e.g. steel and glass, designed for the purpose of execution of human beings by the administration of a lethal gas or substance |
| ex 8413 81 00 ex 9018 90 50 ex 9018 90 60 ex 9018 90 84 | 1.4. Automatic drug injection systems designed for the purpose of execution of human beings by the administration of a lethal chemical substance |
| | 2. Goods designed for restraining human beings, as follows: |
| ex 8543 70 90 | 2.1. Electric-shock devices which are intended to be worn on the body by a restrained individual, such as belts, sleeves and cuffs, designed for restraining human beings by the administration of electric shocks having a no-load voltage exceeding 10 000 V |
| | 3. Portable devices allegedly designed for the purpose of riot control, as follows: |
| ex 9304 00 00 | 3.1. Batons or truncheons made of metal or other material having a shaft with metal spikes |

⁽¹⁾ OJ L 256, 7.9.1987, p. 1.

ANNEX II

‘ANNEX III

List of goods referred to in Article 5

Introductory Note:

The CN codes in this Annex refer to codes specified in Part Two of Annex I to Regulation (EEC) No 2658/87 on the tariff and statistical nomenclature and on the Common Customs Tariff.

Where “ex” precedes the CN code, the goods covered by Regulation (EC) No 1236/2005 constitute only a part of the scope of the CN code and are determined by both the description given in this Annex and the scope of the CN code.

| CN code | Description |
|--|--|
| | 1. Goods designed for restraining human beings, as follows: |
| ex 9401 61 00 ex 9401 69 00 ex 9401 71 00 ex 9401 79 00 ex 9401 80 00 ex 9402 90 00 ex 9403 20 20 ex 9403 20 80 ex 9403 50 00 ex 9403 70 00 ex 9403 81 00 ex 9403 89 00 | 1.1. Restraint chairs and shackle boards <i>Note:</i> This item does not control restraint chairs designed for disabled persons |
| ex 7326 90 98 ex 8301 50 00 ex 3926 90 97 | 1.2. Leg-irons, gang-chains, shackles and individual cuffs or shackle bracelets <i>Note:</i> This item does not control “ordinary handcuffs”. Ordinary handcuffs are handcuffs which have an overall dimension including chain, measured from the outer edge of one cuff to the outer edge of the other cuff, between 150 and 280 mm when locked and have not been modified to cause physical pain or suffering |
| ex 7326 90 98 ex 8301 50 00 ex 3926 90 97 | 1.3. Thumb-cuffs and thumb-screws, including serrated thumb-cuffs |
| | 2. Portable devices designed for the purpose of riot control or self-protection, as follows: |
| ex 8543 70 90 ex 9304 00 00 | 2.1. Portable electric shock devices, including but not limited to, electric shock batons, electric shock shields, stun guns and electric shock dart guns having a no-load voltage exceeding 10 000 V <i>Notes:</i> 1. This item does not control electric shock belts and other devices as described in item 2.1 of Annex II. 2. This item does not control individual electronic shock devices when accompanying their user for the user's own personal protection. |
| | 3. Portable equipment for dissemination of incapacitating substances for the purpose of riot control or self-protection and related substances, as follows: |
| ex 8424 20 00 ex 9304 00 00 | 3.1. Portable devices designed or modified for the purpose of riot control or self-protection by the administration or dissemination of an incapacitating chemical substance <i>Note:</i> This item does not control individual portable devices, even if containing a chemical substance, when accompanying their user for the user's own personal protection. |
| ex 2924 29 98 | 3.2. Pelargonic acid vanillylamide (PAVA) (CAS RN 2444-46-4) |
| ex 2939 99 00 | 3.3. Oleoresin capsicum (OC) (CAS RN 8023-77-6) |

| CN code | Description |
|--------------------------------|--|
| ex 2933 53 90 [(a) to (f)] | 4. Products which could be used for the execution of human beings by means of lethal injection, as follows: |
| ex 2933 59 95 [(g) and (h)] | 4.1. Short and intermediate acting barbiturate anaesthetic agents including, but not limited to: (a) amobarbital (CAS RN 57-43-2) (b) amobarbital sodium salt (CAS RN 64-43-7) (c) pentobarbital (CAS RN 76-74-4) (d) pentobarbital sodium salt (CAS 57-33-0) (e) secobarbital (CAS RN 76-73-3) (f) secobarbital sodium salt (CAS RN 309-43-3) (g) thiopental (CAS RN 76-75-5) (h) thiopental sodium salt (CAS RN 71-73-8), also known as thiopentone sodium <i>Note:</i> This item also controls products containing one of the anaesthetic agents listed under short or intermediate acting barbiturate anaesthetic agents.' |

COMMISSION IMPLEMENTING REGULATION (EU) No 1353/2011**of 20 December 2011****amending Regulation (EC) No 883/2006 laying down detailed rules for the application of Council Regulation (EC) No 1290/2005 as regards the keeping of accounts by the paying agencies, declarations of expenditure and revenue and the conditions for reimbursing expenditure under the EAGF and the EAFRD**

THE EUROPEAN COMMISSION,

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

Having regard to Council Regulation (EC) No 1290/2005 of 21 June 2005 on the financing of the common agricultural policy ⁽¹⁾, and in particular Article 42 thereof,

Whereas:

- (1) Article 70[(4c)] of Council Regulation (EC) No 1698/2005 of 20 September 2005 on support for rural development by the European Agricultural Fund for Rural Development (EAFRD) ⁽²⁾ allows the EAFRD contribution rate to be increased to a maximum of 95 % for Member States which are facing serious difficulties with respect to their financial stability.
- (2) In order to allow Member States to benefit as soon as possible from the increased co-financing rate, the rules for the calculation of the Union contribution in the context of the EAFRD accounts, provided for in Commission Regulation (EC) No 883/2006 ⁽³⁾, should be adapted with immediate effect.
- (3) Regulation (EC) No 883/2006 should therefore be amended accordingly.

- (4) The measures provided for in this Regulation are in accordance with the opinion of the Committee on the Agricultural Funds,

HAS ADOPTED THIS REGULATION:

Article 1

In Article 17(1) of Regulation (EC) No 883/2006 the following subparagraph is added:

'By way of derogation from the first subparagraph, for rural development programmes modified in accordance with Article 70[(4c)] of Regulation (EC) No 1698/2005, the Union contribution shall, during the period in which the derogation referred to in Article 70[(4c)] of that Regulation applies, be calculated on the basis of the financing plan in force on the last day of the reference period. For the last reference period when the derogation referred to in Article 70[(4c)] of Regulation (EC) No 1698/2005 applies, the declaration of expenditure referred to in Article 16 shall indicate separately the expenditure incurred before and after the derogation ceased to apply. The Union contribution to be paid in respect of these sub reference periods shall be calculated on the basis of the financing plan in force during each sub reference period'

*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, 20 December 2011.

*For the Commission**The President*

José Manuel BARROSO

⁽¹⁾ OJ L 209, 11.8.2005, p. 1.⁽²⁾ OJ L 277, 21.10.2005, p. 1.⁽³⁾ OJ L 171, 23.6.2006, p. 1

COMMISSION IMPLEMENTING REGULATION (EU) No 1354/2011**of 20 December 2011****opening annual Union tariff quotas for sheep, goats, sheepmeat and goatmeat**

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 ⁽¹⁾, and in particular Articles 144(1) and 148 in conjunction with Article 4 thereof,

Whereas:

- (1) Union tariff quotas for sheep, goats, sheepmeat and goatmeat should be opened as from 2012. The duties and quantities should be fixed in accordance with the respective international agreements in force in 2012. As a result of the negotiations which led to the Agreement in the form of an Exchange of Letters between the European Union and New Zealand pursuant to Article XXIV:6 and Article XXVIII of the General Agreement on Tariffs and Trade (GATT) 1994 relating to the modification of concessions in the schedules of the Republic of Bulgaria and Romania in the course of their accession to the European Union ⁽²⁾, the Union undertook to increase the annual volume of New Zealand by 400 tonnes and to incorporate in its schedule an *erga omnes* annual import tariff quota of meat of sheep and goats of 200 tonnes carcase weight.
- (2) Council Regulation (EC) No 312/2003 of 18 February 2003 implementing for the Community the tariff provisions laid down in the Agreement establishing an association between the European Community and its Member States, of the one part, and the Republic of Chile, of the other part ⁽³⁾ has provided for an additional bilateral tariff quota of 2 000 tonnes and an additional 10 % annual increase of the original quantity to be opened for product code 0204 from 1 February 2003. Therefore, 200 tonnes shall be added to the GATT/WTO tariff quota for Chile annually and both quotas should continue to be managed together in the same way.
- (3) Commission Regulation (EU) No 1245/2010 of 21 December 2010 opening Union tariff quotas for 2011 for sheep, goats, sheepmeat and goatmeat ⁽⁴⁾ opened for the year 2011 Union tariff quotas in accordance with the respective international agreements in force during the year 2011. Those tariff quotas should

be maintained and opened annually while taking into account the provisions of the agreements with New Zealand and Chile referred to above. Regulation (EU) No 1245/2010 becomes also obsolete at the end of the year 2011 and should therefore be repealed. This Regulation should also be applicable for more than one year and respond to an objective of simplification by avoiding the adoption of a regulation every year.

- (4) Imports under this Regulation should be managed on a calendar-year basis.
- (5) A carcase-weight equivalent needs to be fixed in order to ensure a proper functioning of the Union tariff quotas.
- (6) Tariff quotas of the sheepmeat and goatmeat products should, by way of derogation from Commission Regulation (EC) No 1439/95 of 26 June 1995 laying down detailed rules for the application of Council Regulation (EEC) No 3013/89 as regards the import and export of products in the sheepmeat and goatmeat sector ⁽⁵⁾, be managed in conformity with Article 144(2)(a) of Regulation (EC) No 1234/2007. This should be done in accordance with Articles 308a, 308b and 308c(1) of Commission Regulation (EEC) No 2454/93 of 2 July 1993 laying down provisions for the implementation of Council Regulation (EEC) No 2913/92 establishing the Community Customs Code ⁽⁶⁾.
- (7) Tariff quotas under this Regulation should be regarded initially as non-critical within the meaning of Article 308c of Regulation (EEC) No 2454/93 when managed under the first-come, first-served system. Therefore, customs authorities should be authorised to waive the requirement for security in respect of goods initially imported under those tariff quotas in accordance with Articles 308c(1) and 248(4) of Regulation (EEC) No 2454/93.
- (8) It should be clarified which kind of proof certifying the origin of products has to be provided by operators in order to benefit from the tariff quotas under the first-come, first-served system.
- (9) The measures provided for in this Regulation are in accordance with the opinion of the Management Committee for the Common Organisation of Agricultural Markets,

⁽¹⁾ OJ L 299, 16.11.2007, p. 1.

⁽²⁾ OJ L 317, 30.11.2011, p. 2.

⁽³⁾ OJ L 46, 20.2.2003, p. 1.

⁽⁴⁾ OJ L 338, 22.12.2010, p. 37.

⁽⁵⁾ OJ L 143, 27.6.1995, p. 7.

⁽⁶⁾ OJ L 253, 11.10.1993, p. 1.

HAS ADOPTED THIS REGULATION:

Article 1

This Regulation opens, as from 1 January 2012, annual Union import tariff quotas for sheep, goats, sheepmeat and goatmeat.

Article 2

The customs duties applicable to the products under the tariff quotas referred to in Article 1, the CN codes, the countries of origin, the annual volume, and the order numbers are set out in the Annex.

Article 3

1. The quantities, expressed in carcase-weight equivalent, for the import of products under the tariff quotas referred to in Article 1, shall be those as laid down in the Annex.

2. For the purpose of calculating the quantities of 'carcase weight equivalent' referred to in paragraph 1 the net weight of sheep and goat products shall be multiplied by the following coefficients:

- (a) for live animals: 0,47;
- (b) for boneless lamb and boneless goatmeat of kid: 1,67;
- (c) for boneless mutton, boneless sheep and boneless goatmeat other than of kid and mixtures of any of these: 1,81;
- (d) for bone-in products: 1,00.

'Kid' shall mean goat of up to one year old.

Article 4

By way of derogation from Title II(A) and (B) of Regulation (EC) No 1439/95, the tariff quotas set out in the Annex to this Regulation shall be managed on a first-come, first-served basis in accordance with Articles 308a, 308b and 308c(1) of Regulation (EEC) No 2454/93. No import licences shall be required.

Article 5

1. In order to benefit from the tariff quotas set out in the Annex, a valid proof of origin issued by the competent authorities of the third country concerned together with a

customs declaration for release for free circulation for the goods concerned shall be presented to the Union customs authorities.

The origin of products subject to tariff quotas other than those resulting from preferential tariff agreements shall be determined in accordance with the provisions in force in the Union.

2. The proof of origin referred to in paragraph 1 shall be as follows:

- (a) in the case of a tariff quota which is part of a preferential tariff agreement, it shall be the proof of origin laid down in that agreement;
- (b) in the case of other tariff quotas, it shall be a proof established in accordance with Article 47 of Regulation (EEC) No 2454/93 and, in addition to the elements provided for in that Article, the following data:
 - the CN code (at least the first four digits),
 - the order number or order numbers of the tariff quota concerned,
 - the total net weight per coefficient category as provided for in Article 3(2) of this Regulation;
- (c) in the case of a country whose tariff quota falls under points (a) and (b) and are merged, it shall be the proof referred to in point (a).

Where the proof of origin referred to in point (b) is presented as supporting document for only one declaration for release for free circulation, it may contain several order numbers. In all other cases, it shall only contain one order number.

Article 6

Regulation (EU) No 1245/2010 is repealed.

Article 7

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

It shall apply from 1 January 2012.

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

Done at Brussels, 20 December 2011.

For the Commission,
On behalf of the President,
Dacian CIOLOŞ
Member of the Commission

ANNEX

**SHEEPMEAT AND GOATMEAT (in tonnes (t) of carcase weight equivalent) ANNUAL UNION TARIFF
QUOTAS FROM 2012**

| CN codes | 'Ad valorem' duty % | Specific duty EUR/100 kg | Order number under 'first-come first-served' | | | | Origin | Annual volume in tonnes of carcase weight equivalent |
|---|---------------------|--------------------------|--|---|---|--|---------------------------|--|
| | | | Live animals (coefficient = 0,47) | Boneless lamb ⁽¹⁾ (coefficient = 1,67) | Boneless mutton/sheep ⁽²⁾ (coefficient = 1,81) | Bone-in and carcasses (coefficient = 1,00) | | |
| 0204 | Zero | Zero | — | 09.2101 | 09.2102 | 09.2011 | Argentina | 23 000 |
| | | | — | 09.2105 | 09.2106 | 09.2012 | Australia | 19 186 |
| | | | — | 09.2109 | 09.2110 | 09.2013 | New Zealand | 228 254 |
| | | | — | 09.2111 | 09.2112 | 09.2014 | Uruguay | 5 800 |
| | | | — | 09.2115 | 09.2116 | 09.1922 | Chile ⁽³⁾ | 6 800 |
| | | | — | 09.2121 | 09.2122 | 09.0781 | Norway | 300 |
| | | | — | 09.2125 | 09.2126 | 09.0693 | Greenland | 100 |
| | | | — | 09.2129 | 09.2130 | 09.0690 | Faeroes | 20 |
| | | | — | 09.2131 | 09.2132 | 09.0227 | Turkey | 200 |
| | | | — | 09.2171 | 09.2175 | 09.2015 | Others ⁽⁴⁾ | 200 |
| | | | — | 09.2178 | 09.2179 | 09.2016 | Erga omnes ⁽⁵⁾ | 200 |
| 0204, 0210 99 21, 0210 99 29, 0210 99 60 | Zero | Zero | — | 09.2119 | 09.2120 | 09.0790 | Iceland | 1 850 |
| 0104 10 30 0104 10 80 0104 20 90 | 10 % | Zero | 09.2181 | — | — | 09.2019 | Erga omnes ⁽⁵⁾ | 92 |

⁽¹⁾ And goatmeat of kid.

⁽²⁾ And goatmeat other than kid.

⁽³⁾ Tariff quota for Chile increases by 200 t per annum.

⁽⁴⁾ 'Others' shall refer to all WTO members excluding Argentina, Australia, New Zealand, Uruguay, Chile, Greenland and Iceland.

⁽⁵⁾ 'Erga omnes' shall refer to all origins including the countries mentioned in the current table.

COMMISSION IMPLEMENTING REGULATION (EU) No 1355/2011**of 20 December 2011****amending Council Regulation (EC) No 329/2007 concerning restrictive measures against the Democratic People's Republic of Korea**

THE EUROPEAN COMMISSION,

freezing of funds and economic resources should apply. Annex V should therefore be updated.

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

- (3) In order to ensure that the measures provided for in this Regulation are effective, this Regulation must enter into force immediately.

Having regard to Council Regulation (EC) No 329/2007 ⁽¹⁾, and in particular Article 13(1)(e) thereof,

HAS ADOPTED THIS REGULATION:

Whereas:

Article 1

- (1) Annex V to Regulation (EC) No 329/2007 lists persons, entities and bodies who, having been designated by the Council, are covered by the freezing of funds and economic resources under that Regulation.

Annex V to Regulation (EC) No 329/2007 is hereby replaced by the Annex to this Regulation.

Article 2

- (2) On 19 December 2011, the Council decided to amend the list of persons, entities and bodies to whom the

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, 20 December 2011.

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

⁽¹⁾ OJ L 88, 29.3.2007, p. 1.

ANNEX

'ANNEX V

List of persons, entities and bodies referred to in Article 6(2)

A. Natural persons referred to in Article 6(2)(a):

| # | Name (and possible aliases) | Identifying information | Reasons |
|-----|---|--|---|
| 1. | CHANG Song-taek (alias JANG Song-Taek) | Date of birth: 2.2.1946 or 6.2.1946 or 23.2.1946 (North Hamgyong province) Passport number (as of 2006): PS 736420617 | Member of the National Defence Commission. Director of the Administrative Department of the Korean Workers' Party. |
| 2. | CHON Chi Bu | | Member of the General Bureau of Atomic Energy, former technical director of Yongbyon. |
| 3. | CHU Kyu-Chang (alias JU Kyu-Chang) | Date of birth: between 1928 and 1933 | First Deputy Director of the Defence Industry Department (ballistics programme), Korean Workers' Party, Member of the National Defence Commission. |
| 4. | HYON Chol-hae | Year of birth: 1934 (Manchuria, China) | Deputy Director of the General Political Department of the People's Armed Forces (military adviser to Kim Jong-Il). |
| 5. | JON Pyong-ho | Year of birth: 1926 | Secretary of the Central Committee of the Korean Workers' Party, Head of the Central Committee's Military Supplies Industry Department controlling the Second Economic Committee of the Central Committee, member of the National Defence Commission. |
| 6. | Lieutenant General KIM Yong Chol (alias: Kim Yong-Chol; Kim Young-Chol; Kim Young-Cheol; Kim Young-Chul) | Year of birth: 1946 (Pyongan-Pukto, North Korea) | Commander of Reconnaissance General Bureau (RGB). |
| 7. | KIM Yong-chun (alias Young-chun) | Date of birth: 4.3.1935 Passport number: 554410660 | Deputy Chairman of the National Defence Commission, Minister for the People's Armed Forces, special adviser to Kim Jong-Il on nuclear strategy. |
| 8. | O Kuk-Ryol | Year of birth: 1931 (Jilin Province, China) | Deputy Chairman of the National Defence Commission, supervising the acquisition abroad of advanced technology for nuclear and ballistic programmes. |
| 9. | PAEK Se-bong | Year of birth: 1946 | Chairman of the Second Economic Committee (responsible for the ballistics programme) of the Central Committee of the Korean Workers' Party. Member of the National Defence Commission. |
| 10. | PAK Jae-gyong (alias Chae-Kyong) | Year of birth: 1933 Passport number: 554410661 | Deputy Director of the General Political Department of the People's Armed Forces and Deputy Director of the Logistics Bureau of the People's Armed Forces (military adviser to Kim Jong-Il). |

| # | Name (and possible aliases) | Identifying information | Reasons |
|-----|--------------------------------|--|---|
| 11. | PAK To-Chun | Date of birth: 9.3.1944 (Jagang, Rangrim) | Member of the National Security Council. He is in charge of the arms industry and it is reported that he commands the office for nuclear energy. This institution is decisive for DPRK's nuclear and carrier program. |
| 12. | PYON Yong Rip (alias Yong-Nip) | Date of birth: 20.9.1929 Passport number: 645310121 (issued on 13.09.2005) | President of the Academy of Science, involved in WMD-related biological research. |
| 13. | RYOM Yong | | Director of the General Bureau of Atomic Energy (entity designated by the United Nations), in charge of international relations. |
| 14. | SO Sang-kuk | Date of birth: between 1932 and 1938 | Head of the Department of Nuclear Physics, Kim Il Sung University. |

B. Legal persons, entities and bodies referred to in Article 6(2)(a):

| | Name (and possible aliases) | Identifying information | Reasons |
|----|---|---|---|
| 1. | Green Pine Associated Corporation (alias: Chongsong Yonhap; Ch'o'ngsong Yo'nhap; Saengpil Associated Company; General Precious Metal Complex (GPM); Myong Dae Company; Twin Dragon Trading (TDT)) | c/o Reconnaissance General Bureau Headquarters, Hyongjesan-Guyok, Pyongyang / Nungrado, Pyongyang | Ch'o'ngsong Yo'nhap has been identified for sanctions for exporting arms or related material from North Korea. Green Pine specializes in the production of maritime military craft and armaments, such as submarines, military boats and missile systems, and has exported torpedoes and technical assistance to Iranian defence-related firms. Green Pine is responsible for approximately half of the arms and related materiel exported by North Korea and has taken over many of the activities of KOMID after its designation by the UNSC. |
| 2. | Hesong Trading Corporation | Location: Pyongyang | Controlled by Korea Mining Development Corporation (KOMID) (entity designated by the United Nations, 24.4.2009); primary arms dealer and main exporter of goods and equipment related to ballistic missiles and conventional weapons. Hesong Trading Corporation is involved in supplies with potential use in ballistic missile program. |
| 3. | Korea Complex Equipment Import Corporation | Location: Rakwon-dong, Pothonggang District, Pyongyang | Controlled by Korea Ryonbong General Corporation (entity designated by the United Nations, 24.4.2009); defence conglomerate specialising in acquisition for DPRK defence industries and support to that country's military-related sales. |

| | Name (and possible aliases) | Identifying information | Reasons |
|----|--|--|--|
| 4. | Korea Heungjin Trading Company | Location: Pyongyang | Pyongyang-based entity used by the Korea Mining Development Trading Corporation (KOMID) for trading purposes (KOMID was designated by the United Nations, 24.4.2009). Korea Heungjin Trading Company is also suspected to have been involved in supplying missile-related goods to Iran's Shahid Hemmat Industrial Group. |
| 5. | Korea International Chemical Joint Venture Company (alias Chosun International Chemicals Joint Operation Company; Chosun International Chemicals Joint Operation Company; International Chemical Joint Venture Corporation) | Location: Hamhung, South Hamgyong Province; Man gyongdae-kuyok, Pyongyang; Mangyungdae-gu, Pyongyang | Controlled by Korea Ryonbong General Corporation (entity designated by the United Nations, 24.4.2009); defence conglomerate specialising in acquisition for DPRK defence industries and support to that country's military-related sales. |
| 6. | Korea Kwangsong Trading Corporation | Location: Rakwon-dong, Pothonggang District, Pyongyang | Controlled by Korea Ryonbong General Corporation (entity designated by the United Nations, 24.4.2009); defence conglomerate specialising in acquisition for DPRK defence industries and support to that country's military-related sales. |
| 7. | Korea Pugang mining and Machinery Corporation Ltd | | Subsidiary of Korea Ryongbong General Corporation (entity designated by the United Nations, 24.4.2009); operates facilities for the production of aluminium powder, which can be used in missiles. |
| 8. | Korea Ryonha Machinery Joint Venture Corporation (alias: Chosun Yunha Machinery Joint Operation Company; Korea Ryenha Machinery J/V Corporation; Ryonha Machinery Joint Venture Corporation) | Location: Central District, Pyongyang; Mangungdae-gu, Pyongyang; Mangyongdae District, Pyongyang | Controlled by Korea Ryonbong General Corporation (entity designated by the United Nations, 24.4.2009); defence conglomerate specialising in acquisition for DPRK defence industries and support to that country's military-related sales. The production sites of Korea Ryonha Machinery Joint Venture Corporation have been modernized lately and are partly intended for processing materials relevant to nuclear production. |
| 9. | Korea Taesong Trading Company | Location: Pyongyang | Pyongyang-based entity used by the Korea Mining Development Trading Corporation (KOMID) for trading purposes (KOMID was designated by the United Nations, 24.4.2009). Korea Taesong Trading Company has acted on behalf of KOMID in dealings with Syria. |

| | Name (and possible aliases) | Identifying information | Reasons |
|-----|---|--|--|
| 10. | Munitions Industry Department (alias: Military Supplies Industry Department) | Location: Pyongyang | <p>Responsible for overseeing activities of North Korea's military industries, including the Second Economic Committee (SEC) and KOMID. This includes overseeing the development of North Korea's ballistic missile and nuclear programmes.</p> <p>Until recently, Munitions Industry Department was headed by Jon Pyong Ho; information suggests that former Munitions Industry Department (MID) first vice director Chu Kyu-ch'ang (Ju Gyu-chang) is the current director of the MID, which is publicly referred to as the Machine Building Industry Department. Chu served as the overall supervisor for North Korea's missile development, including oversight of the April 5, 2009 Taepo Dong-2 (TD-2) missile launch and the failed July 2006 TD-2 launch.</p> |
| 11. | Korean Ryengwang Trading Corporation | Rakwon-dong, Pothonggang District, Pyongyang, North Korea | Subsidiary of Korea Ryongbong General Corporation (entity designated by the United Nations, 24.4.2009). |
| 12. | Reconnaissance General Bureau (RGB) (alias: Chongch'al Ch'ongguk; RGB; KPA Unit 586) | Location: Hyongjesan-Guyok, Pyongyang, North Korea; Nungrado, Pyongyang, North Korea | The Reconnaissance General Bureau (RGB) is North Korea's premiere intelligence organization, created in early 2009 by the merger of existing intelligence organizations from the Korean Workers' Party, the Operations Department and Office 35, and the Reconnaissance Bureau of the Korean People's Army. It falls under direct command of the Ministry of Defence and is primarily in charge of gathering military intelligence. RGB trades in conventional arms and controls the North Korean conventional arms firm Green Pine Associated Corporation (Green Pine). |
| 13. | Second Economic Committee and Second Academy of Natural Sciences | | The Second Economic Committee is involved in key aspects of North Korea's missile program. The Second Economic Committee is responsible for overseeing the production of North Korea's ballistic missiles. It also directs the activities of KOMID (KOMID was designated by the United Nations, 24.4.2009). It is a national-level organization responsible for research and development of North Korea's advanced weapons systems, including missiles and probably nuclear weapons. It uses a number of subordinate organizations to obtain technology, equipment, and information from overseas, including Korea Tangun Trading Corporation, for use in North Korea's missile and probably nuclear weapons programs. |

| | Name (and possible aliases) | Identifying information | Reasons |
|-----|--|-------------------------|---|
| 14. | Sobaeksu United Corp. (alias Sobaeksu United Corp.) | | State-owned company, involved in research into, and the acquisition, of sensitive products and equipment. It possesses several deposits of natural graphite, which provide raw material for two processing facilities, which, inter alia, produce graphite blocks that can be used in missiles. |
| 15. | Tosong Technology Trading Corporation | Location: Pyongyang | Controlled by the Korea Mining Development Corporation (KOMID) (entity designated by the United Nations, 24.4.2009); primary arms dealer and main exporter of goods and equipment related to ballistic missiles and conventional weapons. |
| 16. | Yongbyon Nuclear Research Centre | | Research centre which has taken part in the production of military-grade plutonium. Centre maintained by the General Bureau of Atomic Energy (entity designated by the United Nations, 16.7.2009). |

C. Natural persons referred to in Article 6(2)(b):

| # | Name (and possible aliases) | Identifying information | Reasons |
|----|---|--|---|
| 1. | JON Il-chun | Date of birth: 24.8.1941 | In February of 2010 KIM Tong-un was discharged from his office as director of Office 39, which is, among other things, in charge of purchasing goods out of the DPRK diplomatic representations bypassing sanctions. He was replaced by JON Il-chun. JON Il-chun is also said to be one of the leading figures in the State Development Bank. |
| 2. | KIM Tong-un | | Former director of 'Office 39' of the Central Committee of the Workers' Party, which is involved in proliferation financing. |
| 3. | KIM Tong-Myo'ng (alias: Kim Chin-so'k) | Year of birth: 1964 Nationality: North Korean | Kim Tong-Myo'ng acts on behalf of Tanchon Commercial Bank (entity designated by the United Nations, 24.4.2009). Kim Dong Myong has held various positions within Tanchon since at least 2002 and is currently Tanchon's president. He has also played a role in managing Amroggang's affairs (owned or controlled by Tanchon Commercial Bank) using the alias Kim Chin-so'k. |

D. Legal persons, entities or bodies referred to in Article 6(2)(b):

| # | Name (and possible aliases) | Identifying information | Reasons |
|----|--|--|--|
| 1. | Amroggang Development Banking Corporation (alias: Amroggang Development Bank; Amnokkang Development Bank) | Address: Tongan-dong, Pyongyang | Entity owned or controlled by Tanchon Commercial Bank (entity designated by the United Nations, 24.4.2009). Established in 2006, Amroggang Development Banking Corporation is managed by officials of the Tanchon Commercial Bank, which plays a role in financing KOMID's (entity designated by the United Nations, 24.4.2009) sales of ballistic missiles and has also been involved in ballistic missile transactions from KOMID to Iran's Shahid Hemmat Industrial Group (SHIG). |
| 2. | Bank of East Land (alias: Dongbang Bank; Tongbang U'nhang; Tongbang Bank) | Address: PO Box 32, BEL Building, Jonseung-Dung, Moranbong District, Pyongyang | North Korean financial institution that facilitates weapons-related transactions for, and other support to, designated arms manufacturer and exporter Green Pine Associated Corporation (Green Pine). Bank of East Land has actively worked with Green Pine to transfer funds in a manner that circumvents sanctions. In 2007 and 2008, Bank of East Land facilitated transactions involving Green Pine and designated Iranian financial institutions, including Bank Melli and Bank Sepah. Bank of East Land has also facilitated financial transactions for the benefit of North Korea's Reconnaissance General Bureau's (RGB) weapons program. |
| 3. | Korea Daesong Bank (alias: Choson Taesong Unhaeng; Taesong Bank) | Address: Segori-dong, Gyongheung St., Potonggang District, Pyongyang Phone: 850 2 381 8221 Phone: 850 2 18111 ext. 8221 Fax: 850 2 381 4576 | North Korean financial institution that is directly subordinated to Office 39 and is involved in facilitating North Korea's proliferation financing projects. |
| 4. | Korea Daesong General Trading Corporation (alias: Daesong Trading; Daesong Trading Company; Korea Daesong Trading Company; Korea Daesong Trading Corporation) | Address: Pulgan Gori Dong 1, Potonggang District, Pyongyang Phone: 850 2 18111 ext. 8204/8208 Phone: 850 2 381 8208/4188 Fax: 850 2 381 4431/4432 | Company that is subordinated to Office 39 and is used to facilitate foreign transactions on behalf of Office 39. Office 39's Director of Office, Kim Tong-un is listed in Annex V of Council Regulation (EU) No 329/2007. |
| 5. | Korea Kwangson Banking Corp. (KKBC) (alias: Korea Kwangson Banking Corp; KKBC) | Address: Jungson-dong, Sungri Street, Central District, Pyongyang | A subordinate acting on behalf of or at the direction of, owned or controlled by the Korea Ryonbong General Corporation (entity designated by the United Nations, 24.4.2009). Provides financial services in support of both Tanchon Commercial Bank (entity designated by the United Nations, 24.4.2009) and Korea Hyoksin Trading Corporation (entity designated by the United Nations, 16.7.2009); |

| # | Name (and possible aliases) | Identifying information | Reasons |
|----|--|---|--|
| | | | <p>Since 2008, Tanchon Commercial Bank has been utilizing KKBC to facilitate funds transfers likely amounting to millions of dollars, including transfers involving Korea Mining Development Trading Corporation (KOMID) (entity designated by the United Nations, 24.4.2009) related funds from Burma to China in 2009.</p> <p>Additionally, Hyoksin, which the UN described as being involved in the development of weapons of mass destruction, sought to use KKBC in connection with a purchase of dual-use equipment in 2008. KKBC has at least one overseas branch in Dandong, China.</p> |
| 6. | Office 39 of The Korean Workers' Party (alias: Office #39; Office No. 39; Bureau 39; Central Committee; Third Floor Division 39.) | Address: Second KWP Government Building (Korean: Ch'o'ngsa), Chungso'ng, Urban Tower (Korean'Dong), Chung Ward, Pyongyang; Chung-Guyok (Central District), Sosong Street, Kyongrim-Dong, Pyongyang; Changgwang Street, Pyongyang. | <p>Office 39 of the Korean Workers' Party engages in illicit economic activity to support the North Korean government. It has branches throughout the nation that raise and manage funds and is responsible for earning foreign currency for North Korea's Korean Workers' Party senior leadership through illicit activities such as narcotics trafficking. Office 39 controls a number of entities inside North Korea and abroad through which it conducts numerous illicit activities including the production, smuggling, and distribution of narcotics. Office 39 has also been involved in the attempted procurement and transfer to North Korea of luxury goods.</p> <p>Office 39 figures among the most important organisations assigned with currency and merchandise acquisition. The entity is said to be directly under the command of KIM Jong-il; it controls several trading companies some of which are active in illicit activities, among them Daesong General Bureau, part of Daesong group, the largest company group of the country. Office 39 according to some sources entertains representation office in Rome, Beijing, Bangkok, Singapore, Hongkong and Dubai. To the outside Office 39 changes name and appearance regularly. The director of Office 39, JON Il-chun is already listed on the EU sanction list.</p> <p>Office 39 produced methamphetamine in Sangwon, South Pyongan Province and was also involved in the distribution of methamphetamine to small-scale North Korean smugglers for distribution through China and South Korea. Office 39 also operates poppy farms in North Hamkyo'ng Province and North Pyongan Province and produces opium and heroin in Hamhu'ng and Nachin.</p> <p>In 2009, Office 39 was involved in the failed attempt to purchase and export to North Korea – through China – two Italian-made luxury yachts worth more than \$15 million. Halted by Italian authorities, the attempted export of the yachts destined for Kim Jong-il was in violation of United Nations sanctions against North Korea under UNSCR 1718, which specifically require</p> |

| # | Name (and possible aliases) | Identifying information | Reasons |
|---|-----------------------------|-------------------------|--|
| | | | <p>Member States to prevent the supply, sale, or transfer of luxury goods to North Korea.</p> <p>Office 39 previously used Banco Delta Asia to launder illicit proceeds. Banco Delta Asia was identified by the Treasury Department in September 2005 as a “primary money laundering concern” under Section 311 of the USA PATRIOT Act, because it represented an unacceptable risk of money laundering and other financial crimes.’</p> |

COMMISSION IMPLEMENTING REGULATION (EU) No 1356/2011**of 20 December 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 21 December 2011.

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

Done at Brussels, 20 December 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 | AL | 61,8 |
| | MA | 67,1 |
| | TN | 88,5 |
| | TR | 107,8 |
| | ZZ | 81,3 |
| 0707 00 05 | JO | 182,1 |
| | TR | 149,7 |
| | ZZ | 165,9 |
| 0709 90 70 | MA | 37,8 |
| | TR | 140,3 |
| | ZZ | 89,1 |
| 0805 10 20 | AR | 41,5 |
| | BR | 39,7 |
| | CL | 30,5 |
| | MA | 53,2 |
| | TR | 67,2 |
| | ZA | 48,3 |
| | ZZ | 46,7 |
| 0805 20 10 | MA | 87,3 |
| | TR | 79,7 |
| | ZZ | 83,5 |
| 0805 20 30, 0805 20 50, 0805 20 70, 0805 20 90 | IL | 75,8 |
| | MA | 64,3 |
| | TR | 78,1 |
| | ZZ | 72,7 |
| 0805 50 10 | AR | 52,9 |
| | TR | 52,4 |
| | ZZ | 52,7 |
| 0808 10 80 | CA | 112,8 |
| | US | 108,5 |
| | ZA | 121,8 |
| | ZZ | 114,4 |
| 0808 20 50 | CN | 80,4 |
| | ZZ | 80,4 |

⁽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 1357/2011**of 20 December 2011****on the issue of import licences for applications submitted in the first seven days of December 2011
under the tariff quota for high-quality beef administered by Regulation (EC) No 620/2009**

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,

Whereas:

- (1) Commission Regulation (EC) No 620/2009 of 13 July 2009 providing for the administration of an import tariff quota for high-quality beef ⁽³⁾ sets out detailed rules for the submission and issue of import licences.
- (2) Article 7(2) of Regulation (EC) No 1301/2006 provides that in cases where quantities covered by licence appli-

cations exceed the quantities available for the quota period, allocation coefficients should be fixed for the quantities covered by each licence application. The applications for import licences submitted pursuant to Article 3 of Regulation (EC) No 620/2009 between 1 and 7 December 2011 exceed the quantities available. Therefore, the extent to which import licences may be issued and the allocation coefficient should be determined,

HAS ADOPTED THIS REGULATION:

Article 1

Import licence applications covered by the quota with order number 09.4449 and submitted between 1 and 7 December 2011 in accordance with Article 3 of Regulation (EC) No 620/2009, shall be multiplied by an allocation coefficient of 0,401722 %.

Article 2

This Regulation shall enter into force on the 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 December 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 182, 15.7.2009, p. 25.

REGULATION (EU) No 1358/2011 OF THE EUROPEAN CENTRAL BANK**of 14 December 2011****amending Regulation (EC) No 1745/2003 on the application of minimum reserves (ECB/2003/9)****(ECB/2011/26)**

THE GOVERNING COUNCIL OF THE EUROPEAN CENTRAL BANK,

Having regard to the Treaty on the Functioning of the European Union, and in particular the first indent of Article 127(2) thereof,

Having regard to the Statute of the European System of Central Banks and of the European Central Bank (hereinafter the 'Statute of the ESCB'), and in particular Article 19.1 thereof,

Whereas:

- (1) Article 19.1 of the Statute of the ESCB provides that the European Central Bank (ECB) may require credit institutions established in Member States to hold minimum reserve on accounts with the ECB and national central banks in pursuance of monetary policy objectives and that regulations concerning the calculation and determination of the required minimum reserves may be established by the Governing Council.
- (2) Regulation (EC) No 1745/2003 of the European Central Bank of 12 September 2003 on the application of minimum reserves (ECB/2003/9) ⁽¹⁾ establishes, inter alia, the categories of institutions subject to reserve requirements and reserve ratios applicable to certain liability categories.
- (3) On 8 December 2011 the Governing Council decided on additional enhanced credit support measures to support bank lending and liquidity in the euro area money market. As the ECB's minimum reserve system does not need to be applied to the same extent as under normal circumstances to steer money market conditions, in order to enhance the provision of liquidity to

counterparties to Eurosystem monetary policy operations it is necessary to reduce the reserve ratio to 1 %. Regulation (EC) No 1745/2003 (ECB/2003/9) should therefore be amended,

HAS ADOPTED THIS REGULATION:

*Article 1***Amendment to Regulation (EC) No 1745/2003 (ECB/2003/9)**

Article 4(2) of Regulation (EC) No 1745/2003 (ECB/2003/9) is replaced by the following:

'2. A reserve ratio of 1 % shall apply to all other liabilities included in the reserve base.'

*Article 2***Entry into force**

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

2. Article 1 shall apply from the maintenance period starting on 18 January 2012.

Done at Frankfurt am Main, 14 December 2011.

For the Governing Council of the ECB
The President of the ECB
Mario DRAGHI

⁽¹⁾ OJ L 250, 2.10.2003, p. 10.

DECISIONS

COUNCIL DECISION 2011/857/CFSP

of 19 December 2011

amending and extending 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,

HAS ADOPTED THIS DECISION:

Having regard to the Treaty on European Union, and in particular Article 28, Article 42(4) and Article 43(2) thereof,

Article 1

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

Having regard to the proposal from the High Representative of the Union for Foreign Affairs and Security Policy,

(1) Article 12 is replaced by the following:

Whereas:

*'Article 12***Security**

- (1) On 12 December 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) ⁽¹⁾.
- (2) On 26 May 2011, the Council adopted Decision 2011/312/CFSP ⁽²⁾ amending Joint Action 2005/889/CFSP and extending it until 31 December 2011.
- (3) On 8 November 2011 the Political and Security Committee (PSC) recommended the technical extension of EU BAM Rafah for further 6 months.
- (4) EU BAM Rafah should be further extended from 1 January 2012 until 30 June 2012 on the basis of its current mandate.
- (5) It is also necessary to lay down the financial reference amount intended to cover the expenditure related to EU BAM Rafah for the period from 1 January 2012 to 30 June 2012.
- (6) EU BAM Rafah will be conducted in the context of a situation which may deteriorate and could impede the achievement of the objectives of the Union's external action as set out in Article 21 of the Treaty on European Union,

1. The Civilian Operation Commander shall direct the Head of Mission's planning of security measures and ensure their proper and effective implementation for EU BAM Rafah in accordance with Articles 5 and 9, in coordination with the Security Directorate of the European External Action Service (EEAS).

2. The Head of Mission shall be responsible for the security of EU BAM Rafah and for ensuring compliance with minimum security requirements applicable to EU BAM Rafah, in line with the policy of the Union on the security of personnel deployed outside the Union in an operational capacity under Title V of the Treaty and its supporting instruments.

3. The Head of Mission shall be assisted by a Senior Mission Security Officer (SMSO), who shall report to the Head of Mission and also maintain a close functional relationship with the Security Directorate of the EEAS.

4. EU BAM Rafah staff shall undergo mandatory security training before taking up their duties, in accordance with the OPLAN. They shall also receive regular in-theatre refresher training organised by the SMSO.;

(2) in Article 13, paragraph 1 is replaced by the following:

'1. The financial reference amount intended to cover the expenditure related to EU BAM Rafah for the period from 25 November 2005 to 31 December 2011 shall be EUR 21 570 000.

⁽¹⁾ OJ L 327, 14.12.2005, p. 28.

⁽²⁾ OJ L 140, 27.5.2011, p. 55.

The financial reference amount intended to cover the expenditure related to EU BAM Rafah for the period from 1 January 2012 to 30 June 2012 shall be EUR 970 000.;

(3) in Article 16, the second paragraph is replaced by the following:

‘It shall expire on 30 June 2012.’.

Article 2

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

It shall apply from 1 January 2012.

Done at Brussels, 19 December 2011.

For the Council
The President
M. DOWGIELEWICZ

COUNCIL DECISION 2011/858/CFSP**of 19 December 2011****amending and extending Decision 2010/784/CFSP on the European Union Police Mission for the Palestinian Territories (EUPOL COPPS)**

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty on European Union, and in particular Article 28, Article 42(4) and Article 43(2) thereof,

Having regard to the proposal from the High Representative of the Union for Foreign Affairs and Security Policy,

Whereas:

- (1) On 14 November 2005, the Council adopted Joint Action 2005/797/CFSP⁽¹⁾ on the European Union Police Mission for the Palestinian Territories (EUPOL COPPS) which was last extended by Council Decision 2009/955/CFSP⁽²⁾ and expired on 31 December 2010.
- (2) On 17 December 2010, the Council adopted Decision 2010/784/CFSP⁽³⁾ continuing as from 1 January 2011 the European Union Police Mission for the Palestinian Territories, and expiring on 31 December 2011.
- (3) On 8 November 2011, the Political and Security Committee (PSC) recommended the technical extension of EUPOL COPPS for further 6 months.
- (4) EUPOL COPPS should be further extended from 1 January 2012 until 30 June 2012 on the basis of its current mandate.
- (5) It is also necessary to lay down the financial reference amount intended to cover the expenditure related to EUPOL COPPS for the period from 1 January 2012 to 30 June 2012.
- (6) EUPOL COPPS will be conducted in the context of a situation which may deteriorate and could impede the achievement of the objectives of the Union's external action as set out in Article 21 of the Treaty on European Union,

HAS ADOPTED THIS DECISION:

Article 1

Decision 2010/784/CFSP is hereby amended as follows:

- (1) Article 12 is replaced by the following:

*'Article 12***Security**

1. The Civilian Operation Commander shall direct the Head of Mission's planning of security measures and

ensure their proper and effective implementation for EUPOL COPPS in accordance with Articles 5, 6 and 9, in coordination with the Security Directorate of the European External Action Service (EEAS).

2. The Head of Mission shall be responsible for the security of EUPOL COPPS and for ensuring compliance with minimum security requirements applicable to EUPOL COPPS, in line with the policy of the Union on the security of personnel deployed outside the Union in an operational capacity under Title V of the Treaty and its supporting instruments.

3. The Head of Mission shall be assisted by a Senior Mission Security Officer (SMSO), who shall report to the Head of Mission and also maintain a close functional relationship with the Security Directorate of the EEAS.

4. EUPOL COPPS staff shall undergo mandatory security training before taking up their duties, in accordance with the OPLAN. They shall also receive regular in-theatre refresher training organised by the SMSO.;

- (2) in Article 13, paragraph 1 is replaced by the following:

'1. The financial reference amount intended to cover the expenditure related to EUPOL COPPS for the period from 1 January 2011 until 31 December 2011 shall be EUR 8 250 000.

The financial reference amount intended to cover the expenditure related to EUPOL COPPS for the period from 1 January 2012 to 30 June 2012 shall be EUR 4 750 000.;

- (3) in Article 16, the second paragraph is replaced by the following:

'It shall expire on 30 June 2012.'

Article 2

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

It shall apply from 1 January 2012.

Done at Brussels, 19 December 2011.

For the Council

The President

M. DOWGIELEWICZ

⁽¹⁾ OJ L 300, 17.11.2005, p. 65.

⁽²⁾ OJ L 330, 16.12.2009, p. 76.

⁽³⁾ OJ L 335, 18.12.2010, p. 60.

COUNCIL DECISION 2011/859/CFSP
of 19 December 2011
amending Decision 2010/232/CFSP renewing restrictive measures against Burma/Myanmar

THE COUNCIL OF THE EUROPEAN UNION,

HAS ADOPTED THIS DECISION:

Having regard to the Treaty on the European Union, and in particular Article 29 thereof,

Having regard to Council Decision 2010/232/CFSP of 26 April 2010 renewing restrictive measures against Burma/Myanmar ⁽¹⁾, and in particular Article 14 thereof,

Whereas:

- (1) On 26 April 2010, the Council adopted Decision 2010/232/CFSP renewing restrictive measures against Burma/Myanmar.
- (2) The information relating to one entity on the list in Annex I to Decision 2010/232/CFSP should be updated.
- (3) Annex I to Decision 2010/232/CFSP should be amended accordingly,

Article 1

In Annex I to Decision 2010/232/CFSP, the entry for Mayar (H.K) Ltd shall be replaced by the following:

‘Mayar India Ltd (Yangon Branch)
37, Rm (703/4), Level (7), Alanpya Pagoda Rd, La Pyayt Wun Plaza, Dagon, Yangon.’

Article 2

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

Done at Brussels, 19 December 2011.

For the Council
The President
M. KOROLEC

⁽¹⁾ OJ L 105, 27.4.2010, p. 22.

COUNCIL DECISION 2011/860/CFSP**of 19 December 2011****amending Decision 2010/800/CFSP concerning restrictive measures against the Democratic People's Republic of Korea**

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty on European Union, and in particular Article 29 thereof,

Having regard to Council Decision 2010/800/CFSP of 22 December 2010 concerning restrictive measures against the Democratic People's Republic of Korea ⁽¹⁾, and in particular Articles 9(2) and 12(3) thereof,

Whereas:

- (1) On 22 December 2010, the Council adopted Decision 2010/800/CFSP concerning restrictive measures against the Democratic People's Republic of Korea.
- (2) The Council has carried out a complete review of the list of persons and entities, as set out in Annexes II and III to Decision 2010/800/CFSP, to which Articles 4(1)(b) and (c) and 5(1)(b) and (c) of that Decision apply.
- (3) The Council has concluded that the persons and entities listed in Annexes II and III to Decision 2010/800/CFSP should continue to be subject to the specific restrictive measures provided for therein.
- (4) The Council has also concluded that the entry concerning one entity included in Annex II to Decision 2010/800/CFSP should be amended.

(5) The Council has moreover decided that additional persons and entities should be included in the list of persons and entities subject to restrictive measures as set out in Annexes II and III to Decision 2010/800/CFSP.

(6) The list of persons and entities set out in Annexes II and III to Decision 2010/800/CFSP should be updated accordingly,

HAS ADOPTED THIS DECISION:

Article 1

Annexes II and III to Decision 2010/800/CFSP shall be amended as set out in the Annex to this Decision.

Article 2

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

Done at Brussels, 19 December 2011.

For the Council
The President
M. KOROLEC

⁽¹⁾ OJ L 341, 23.12.2010, p. 32.

ANNEX

Decision 2010/800/CFSP shall be amended as follows:

(1) Annex II shall be amended as follows:

(a) The following persons shall be added to point (A) and the following entities shall be added to point (B):

A. List of persons referred to in Articles 4(1)(b) and 5(1)(b)

| | Name (and possible aliases) | Identifying information | Reasons |
|----|--|--|---|
| 1. | Lieutenant General Kim Yong Chol (alias: Kim Yong-Chol; Kim Young-Chol; Kim Young-Cheol; Kim Young-Chul) | DOB: 1946 Location: Pyongan-Pukto, North Korea | Kim Yong Chol is the commander of Reconnaissance General Bureau (RGB). |
| 2. | Pak To-Chun | DBO: March 9th 1944 POB: Jagang, Rangrim | Member of the National Security Council. He is in charge of the arms industry. It is reported that he commands the office for nuclear energy. This institution is decisive for DPRK's nuclear and rocket launcher program. |

B. List of entities referred to in Article 5(1)(b)

| | Name (and possible aliases) | Identifying information | Reasons |
|----|---|--|--|
| 1. | Hesong Trading Corporation | Pyongyang, DPRK | Controlled by Korea Mining Development Corporation (KOMID) (designated by UNSCR 1718 Sanctions Committee in April 2009); primary arms dealer and main exporter of goods and equipment related to ballistic missiles and conventional weapons. Involved in supplies with potential use in ballistic missile program. |
| 2. | Tosong Technology Trading Corporation | Pyongyang, DPRK | Controlled by Korea Mining Development Corporation (KOMID) (designated by UNSCR 1718 Sanctions Committee in April 2009); primary arms dealer and main exporter of goods and equipment related to ballistic missiles and conventional weapons |
| 3. | Korea Complex Equipment Import Corporation | Rakwon-dong, Pothonggang District, Pyongyang, DPRK | Controlled by Korea Ryonbong General Corporation (designated by the UNSCR 1718 Sanctions Committee in April 2009); defence conglomerate specialising in acquisition for DPRK defence industries and support to that country's military-related sales |
| 4. | Korea International Chemical Joint Venture Company (alias Choson International Chemicals Joint Operation Company; Chosun International Chemicals Joint Operation Company; International Chemical Joint Venture Corporation) | Hamhung, South Hamgyong Province, DPRK; Man gyongdae-kuyok, Pyongyang, DPRK; Mangyungdae-gu, Pyongyang, DPRK | Controlled by Korea Ryonbong General Corporation (designated by the UNSCR 1718 Sanctions Committee in April 2009); defence conglomerate specialising in acquisition for DPRK defence industries and support to that country's military-related sales |

| | Name (and possible aliases) | Identifying information | Reasons |
|----|---|--|---|
| 5. | Korea Kwangsong Trading Corporation | Rakwon-dong, Pothonggang District, Pyongyang, DPRK | Controlled by Korea Ryonbong General Corporation (designated by the UNSCR 1718 Sanctions Committee in April 2009): defence conglomerate specialising in acquisition for DPRK defence industries and support to that country's military-related sales |
| 6. | Korea Ryonha Machinery Joint Venture Corporation (a.k.a.: Chosun Yunha Machinery Joint Operation Company; Korea Ryenha Machinery J/V Corporation; Ryonha Machinery Joint Venture Corporation) | Central District, Pyongyang, DPRK; Mangungdae-gu, Pyongyang, DPRK; Mangyongdae District, Pyongyang, DPRK | Controlled by Korea Ryonbong General Corporation (designated by the UNSCR 1718 Sanctions Committee in April 2009): defence conglomerate specialising in acquisition for DPRK defence industries and support to that country's military-related sales Production sites have been modernized lately and are partly intended for processing materials relevant to nuclear production. |
| 7. | Munitions Industry Department (a.k.a.: Military Supplies Industry Department) | Pyongyang, DPRK | Responsible for overseeing activities of North Korea's military industries, including the Second Economic Committee (SEC) and KOMID. This includes overseeing the development of North Korea's ballistic missile and nuclear programmes. Until recently, it was headed by Jon Pyong Ho. Information suggests former Munitions Industry Department (MID) first vice director Chu Kyu-ch'ang (Ju Gyu-chang) is now director of the MID, which is publicly referred to as the Machine Building Industry Department. Chu served as the overall supervisor for North Korea's missile development, including oversight of the April 5, 2009 Taepo Dong-2 (TD-2) missile launch and the failed July 2006 TD-2 launch. |
| 8. | Reconnaissance General Bureau (RGB) (a.k.a.: Chongch'al Ch'ongguk; RGB; KPA Unit 586) | Hyongjesan-Guyok, Pyongyang, North Korea; Nungrado, Pyongyang, North Korea. | The Reconnaissance General Bureau (RGB) is North Korea's premiere intelligence organization, created in early 2009 by the merger of existing intelligence organizations from the Korean Workers' Party, the Operations Department and Office 35, and the Reconnaissance Bureau of the Korean People's Army. It falls under direct command of the Ministry of Defence and is primarily in charge of gathering military intelligence. RGB trades in conventional arms and controls the EU-designated North Korean conventional arms firm Green Pine Associated Corporation (Green Pine). |

(b) In point (B), the entry for Green Pine Associated Corporation shall be replaced by the following:

| | Name | Identifying information | Reasons |
|----|---|---|---|
| 1. | Green Pine Associated Corporation (alias: Chongsong Yonhap; Ch'o'ngsong Yo'nhap; Saengpil Associated Company; General Precious Metal Complex (GPM); Myong Dae Company; Twin Dragon Trading (TDT)) | c/o Reconnaissance General Bureau Headquarters, Hyongjesan-Guyok, Pyongyang/Nungrado, Pyongyang | Ch'o'ngsong Yo'nhap has been identified for sanctions for exporting arms or related material from North Korea. Green Pine specializes in the production of maritime military craft and armaments, such as submarines, military boats and missile systems, and has exported torpedoes and technical assistance to Iranian defence-related firms. Green Pine is responsible for approximately half of the arms and related materiel exported by North Korea and has taken over many of the activities of KOMID after its designation by the UNSC. |

(2) In Annex III, the following persons shall be added to point (A) and the following entities shall be added to point (B):

A. List of persons referred to in Articles 4(1)(c) and 5(1)(c)

| | Name (and possible aliases) | Identifying information | Reasons |
|----|--|---------------------------------------|---|
| 1. | Kim Tong-Myo'ng (a.k.a.: Kim Chin-so'k) | DOB: 1964, Nationality: North Korean. | Kim Tong-Myo'ng acts on behalf of Tanchon Commercial Bank (designated by the 1718 Committee in April 2009). Kim Dong Myong has held various positions within Tanchon since at least 2002 and is currently Tanchon's president. He has also played a role in managing Amroggang's affairs (owned or controlled by Tanchon Commercial Bank) using the alias Kim Chin-so'k. |

B. List of entities referred to in Article 5(1)(c)

| | Name (and possible aliases) | Identifying information | Reasons |
|----|---|--|--|
| 1. | Korea Kwangson Banking Corp. (KKBC) (a.k.a.: Korea Kwangson Banking Corp; KKBC) | Jungson-dong, Sungri Street, Central District, Pyongyang, DPRK | A subordinate acting on behalf of or at the direction of, owned or controlled by the Korea Ryonbong General Corporation (designated by the UNSCR 1718 Sanctions Committee in April 2009). Provides financial services in support of both Tanchon Commercial Bank (designated by UNSCR1718 Sanctions Committee in April 2009) and Korea Hyoksin Trading Corporation (designated by UNSCR1718 Sanctions Committee in July 2009). Since 2008, Tanchon has been utilizing KKBC to facilitate funds transfers likely amounting to millions of dollars, including transfers involving Korea Mining Development Trading Corporation (KOMID) (designated by UNSCR1718 Sanctions Committee in April 2009) related funds from Burma to China in 2009. Additionally, Hyoksin, which the UN described as being involved in the development of weapons of mass destruction, sought to use KKBC in connection with a purchase of dual-use equipment in 2008. KKBC has at least one overseas branch in Dandong, China. |
| 2. | Amroggang Development Banking Corporation (a.k.a.: Amroggang Development Bank; Amnokkang Development Bank) | Tongan-dong, Pyongyang, DPRK | Owned or controlled by Tanchon Commercial Bank (designated by the 1718 Committee in April 2009). Established in 2006, Amroggang is managed by Tanchon officials. Tanchon plays a role in financing KOMID's (designated by the 1718 Committee in April 2009) sales of ballistic missiles and has also been involved in ballistic missile transactions from KOMID to Iran's Shahid Hemmat Industrial Group (SHIG). |
| 3. | Bank of East Land (a.k.a.: Dongbang Bank; Tongbang Bank; U'nhang; Tongbang Bank) | PO Box 32, BEL Building, Jonseung-Dung, Moranbong District, Pyongyang, North Korea | North Korean financial institution Bank of East Land (aka Dongbang Bank) facilitates weapons-related transactions for, and other support to, designated arms manufacturer and exporter Green Pine Associated Corporation (Green Pine). Bank of East Land has actively worked with Green Pine to transfer funds in a manner that circumvents sanctions. |

| | Name (and possible aliases) | Identifying information | Reasons |
|----|---|---|---|
| | | | In 2007 and 2008, Bank of East Land facilitated transactions involving Green Pine and designated Iranian financial institutions, including Bank Melli and Bank Sepah. Bank of East Land has also facilitated financial transactions for the benefit of North Korea's Reconnaissance General Bureau's (RGB) weapons program. |
| 4. | Office 39 of The Korean Workers' Party (a.k.a.: Office #39; Office No. 39; Bureau 39; Central Committee; Third Floor Division 39.) | Second KWP Government Building (Korean: Ch'o'ngsa), Chungso'ng, Urban Tower (Korean'Dong), Chung Ward, Pyongyang, North Korea; Chung-Guyok (Central District), Sosong Street, Kyongrim-Dong, Pyongyang, North Korea; Changgwang Street, Pyongyang, North Korea. | <p>Office 39 of the Korean Workers' Party engages in illicit economic activity to support the North Korean government. It has branches throughout the nation that raise and manage funds and is responsible for earning foreign currency for North Korea's Korean Workers' Party senior leadership through illicit activities such as narcotics trafficking. Office 39 controls a number of entities inside North Korea and abroad through which it conducts numerous illicit activities including the production, smuggling, and distribution of narcotics. Office 39 has also been involved in the attempted procurement and transfer to North Korea of luxury goods.</p> <p>Office 39 figures among the most important organisations assigned with currency and merchandise acquisition. It is said to be directly under the command of KIM Jong-il.</p> <p>It controls several trading companies some of which are active in illicit activities, among them Daesong General Bureau, part of Daesong group, the largest company group of the country. Office 39 according to some sources entertains representation office in Rome, Beijing, Bangkok, Singapore, Hongkong and Dubai. To the outside office 39 changes name and appearance regularly. Director of office 39, JON il-chun is already listed on the EU sanction list.</p> <p>Office 39 produced methamphetamine in Sangwon, South Pyongan Province and was also involved in the distribution of methamphetamine to small-scale North Korean smugglers for distribution through China and South Korea. Office 39 also operates poppy farms in North Hamkyo'ng Province and North Pyongan Province and produces opium and heroin in Hamhu'ng and Nachin.</p> <p>In 2009, Office 39 was involved in the failed attempt to purchase and export to North Korea – through China – two Italian-made luxury yachts worth more than \$15 million. Halted by Italian authorities, the attempted export of the yachts destined for Kim Jong-il was in violation of United Nations sanctions against North Korea under UNSCR 1718, which specifically require Member States to prevent the supply, sale, or transfer of luxury goods to North Korea.</p> <p>Office 39 previously used Banco Delta Asia to launder illicit proceeds. Banco Delta Asia was identified by the Treasury Department in September 2005 as a 'primary money laundering concern' under Section 311 of the USA PATRIOT Act because it represented an unacceptable risk of money laundering and other financial crimes.</p> |

COMMISSION IMPLEMENTING DECISION

of 19 December 2011

on a temporary derogation from rules of origin laid down in Annex II to Council Regulation (EC) No 1528/2007 to take account of the special situation of Kenya with regard to tuna loins

(notified under document C(2011) 9269)

(2011/861/EU)

THE EUROPEAN COMMISSION,

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

Having regard to Council Regulation (EC) No 1528/2007 of 20 December 2007 applying the arrangements for products originating in certain states which are part of the African, Caribbean and Pacific (ACP) Group of States provided for in agreements establishing, or leading to the establishment of, Economic Partnership Agreements ⁽¹⁾, and in particular Article 36(4) of Annex II thereof,

Whereas:

- (1) On 16 February 2011 Kenya requested, in accordance with Article 36 of Annex II to Regulation (EC) No 1528/2007, a derogation from the rules of origin set out in that Annex for a period of one year. On 20 September 2011 Kenya submitted additional information relating to its request. The request covers a total quantity of 2 000 tonnes of tuna loins of HS heading 1604. The request is made because catches and supply of originating raw tuna have decreased and because of the problem of piracy.
- (2) According to the information provided by Kenya catches of raw originating tuna are unusually low even compared to the normal seasonal variations and have led to a decrease in production of tuna loins. In addition, Kenya has pointed out the risk involved due to piracy during the supply of raw tuna. This abnormal situation makes it impossible for Kenya to comply with the rules of origin laid down in Annex II to Regulation (EC) No 1528/2007 during a certain period.
- (3) To ensure continuity of importations from the ACP countries to the Union as well as a smooth transition from the ACP-EC Partnership Agreement to the Agreement establishing a framework for an Interim Economic Partnership Agreement (EAC-EU Interim Partnership Agreement), a new derogation should be granted with retroactive effect from 1 January 2011.

- (4) A temporary derogation from the rules of origin laid down in Annex II to Regulation (EC) No 1528/2007 would not cause serious injury to an established Community industry taking into account the imports concerned, provided that certain conditions relating to quantities, surveillance and duration are respected.
- (5) It is therefore justified to grant a temporary derogation under Article 36(1)(a) of Annex II to Regulation (EC) No 1528/2007.
- (6) Kenya will benefit from an automatic derogation from the rules of origin for tuna loins of HS heading 1604 pursuant to Article 41(8) of the Origin Protocol attached to the EAC-EU Interim Partnership Agreement, when that Agreement enters into force or is provisionally applied.
- (7) In accordance with Article 4(2) of Regulation (EC) No 1528/2007 the rules of origin set out in Annex II to that Regulation and the derogations from them are to be superseded by the rules of the EAC-EU Interim Partnership Agreement, the entry into force or provisional application of which is expected to take place in 2012. The derogation should therefore apply until 31 December 2011. Whilst a derogation is still to be granted in 2011, the overall situation, including the state of ratification of the EAC-EU Interim Partnership Agreement, will be reassessed in 2012.
- (8) In accordance with Article 41(8) of the Origin Protocol attached to the EAC-EU Interim Partnership Agreement, the automatic derogation from the rules of origin is limited to an annual quota of 2 000 tonnes of tuna loins for the countries having initialled the EAC-EU Interim Partnership Agreement (Kenya, Uganda, Tanzania, Rwanda, Burundi). Kenya is the only country in the region that currently exports tuna loins to the Union. It is therefore appropriate to grant to Kenya a derogation under Article 36 of Annex II to Regulation (EC) No 1528/2007 in respect of 2 000 tonnes of tuna loins, quantity which does not exceed the full annual quota granted to the EAC region under the EAC-EU Interim Partnership Agreement.

⁽¹⁾ OJ L 348, 31.12.2007, p. 1.

- (9) Accordingly a derogation should be granted to Kenya in respect of 2 000 tonnes of tuna loins for a period of one year.
- (10) Commission Regulation (EEC) No 2454/93 of 2 July 1993 laying down provisions for the implementation of Council Regulation (EEC) No 2913/92 establishing the Community Customs Code⁽¹⁾ lays down rules relating to the management of tariff quotas. In order to ensure efficient management carried out in close cooperation between the authorities of Kenya, the customs authorities of the Member States and the Commission, those rules should apply *mutatis mutandis* to the quantities imported under the derogation granted by this Decision.
- (11) In order to allow efficient monitoring of the operation of the derogation, the authorities of Kenya should communicate regularly to the Commission details of the EUR.1 movement certificates issued.
- (12) The measures provided for in this Decision are in accordance with the opinion of the Customs Code Committee,

HAS ADOPTED THIS DECISION:

Article 1

By way of derogation from Annex II to Regulation (EC) No 1528/2007 and in accordance with Article 36(1)(a) of that Annex, tuna loins of HS heading 1604 manufactured from non-originating materials shall be regarded as originating in Kenya in accordance with the terms set out in Articles 2 to 6 of this Decision.

Article 2

The derogation provided for in Article 1 shall apply to the products and the quantities set out in the Annex which are declared for free circulation into the Union from Kenya during the period from 1 January 2011 to 31 December 2011.

Article 3

The quantities set out in the Annex to this Decision shall be managed in accordance with Articles 308a, 308b and 308c of Regulation (EEC) No 2454/93.

Article 4

The customs authorities of Kenya shall take the necessary measures to carry out quantitative checks on exports of the products referred to in Article 1.

All the EUR.1 movement certificates they issue in relation to those products shall bear a reference to this Decision.

The competent authorities of Kenya shall forward to the Commission a quarterly statement of the quantities in respect of which EUR.1 movement certificates have been issued pursuant to this Decision and the serial numbers of those certificates.

Article 5

Box 7 of EUR.1 movement certificates issued under this Decision shall contain the following:

‘Derogation — Implementing Decision 2011/861/EU’.

Article 6

This Decision shall apply from 1 January 2011 until 31 December 2011.

Article 7

This Decision is addressed to the Member States.

Done at Brussels, 19 December 2011.

For the Commission

Algirdas ŠEMETA

Member of the Commission

⁽¹⁾ OJ L 253, 11.10.1993, p. 1.

ANNEX

| Order No | CN code | Description of goods | Period | Quantities |
|----------|------------|----------------------|------------------------|--------------|
| 09.1667 | 1604 14 16 | Tuna loins | 1.1.2011 to 31.12.2011 | 2 000 tonnes |

COMMISSION IMPLEMENTING DECISION

of 19 December 2011

approving certain amended programmes for the eradication and monitoring of animal diseases and zoonoses for the year 2011 and amending Decision 2010/712/EU as regards the financial contribution by the Union for programmes approved by that Decision

(notified under document C(2011) 9478)

(2011/862/EU)

THE EUROPEAN COMMISSION,

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

Having regard to Council Decision 2009/470/EC of 25 May 2009 on expenditure in the veterinary field ⁽¹⁾, and in particular Articles 27(5) and (6) and 28(2) thereof,

Whereas:

(1) Decision 2009/470/EC lays down the procedures governing the financial contribution by the Union for programmes for the eradication, control and monitoring of animal diseases and zoonoses.

(2) Commission Decision 2008/341/EC of 25 April 2008 laying down Community criteria for national programmes for the eradication, control and monitoring of certain animal diseases and zoonoses ⁽²⁾ provides that in order to be approved under the measures provided for in Article 27(1) of Decision 2009/470/EC, programmes submitted by the Member States to the Commission for the eradication, control and monitoring of the animal diseases and zoonoses listed in the Annex to that Decision must meet at least the criteria set out in the Annex to Decision 2008/341/EC.

(3) Commission Decision 2010/712/EU of 23 November 2010 approving annual and multiannual programmes and the financial contribution from the Union for the eradication, control and monitoring of certain animal diseases and zoonoses presented by the Member States for 2011 and following years ⁽³⁾ approves certain national programmes and sets out the rate and maximum amount of the financial contribution by the Union for each programme submitted by the Member States.

(4) The Commission has assessed the reports submitted by the Member States on the expenditures incurred for those programmes. The results of that assessment show that certain Member States will not utilise their full allocation for the year 2011 while others will spend in excess of the allocated amount.

(5) Certain Member States have informed the Commission that, under the current financial situation, additional support to the compensation of owners of culled animals and other measures financed at a level of 50 % is required to ensure the continuity of the EU co-financed veterinary programmes, in order to maintain the positive trend regarding the different diseases.

(6) The Commission examined the requests for an increased level of funding taking into account the veterinary situation and the availability of funds from the current financial year, and considered appropriate that the eligible measures financed at a level of 50 %, receive reinforced support by modifying the level of funding to 60 %.

(7) The financial contribution by the Union for a number of national programmes therefore needs to be adjusted. It is appropriate to reallocate funding from national programmes which will not use their full allocation to those that are expected to exceed it. The reallocation should be based on the most recent information on expenditure actually incurred by the concerned Member States.

(8) In addition, Portugal has submitted an amended programme for the eradication of bovine brucellosis, Latvia has submitted an amended programme for the control of salmonellosis, Romania and Slovakia have submitted amended programmes for the control and monitoring of classical swine fever, Denmark has submitted an amended survey programme for avian influenza in poultry and wild birds, Belgium, the Czech Republic, Denmark, Germany, Estonia, Ireland, Spain, France, Italy, Cyprus, Latvia, Luxembourg, Hungary, the Netherlands, Austria, Poland, Portugal, Slovenia, Slovakia, Finland, Sweden, and the United Kingdom have submitted amended programmes for transmissible spongiform encephalopathies (TSE), bovine spongiform encephalopathy (BSE) and scrapie and Romania, Slovenia and Finland submitted amended programmes for the eradication of rabies.

⁽¹⁾ OJ L 155, 18.6.2009, p. 30.

⁽²⁾ OJ L 115, 29.4.2008, p. 44.

⁽³⁾ OJ L 309, 25.11.2010, p. 18.

- (9) The Commission has assessed those amended programmes from both the veterinary and the financial point of view. They were found to comply with relevant Union veterinary legislation and in particular with the criteria set out in the Annex to Decision 2008/341/EC. The amended programmes should therefore be approved.
- (10) Decision 2010/712/EU should therefore be amended accordingly.
- (11) 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

Approval of amended programme for the eradication of bovine brucellosis submitted by Portugal

The amended programme for bovine brucellosis submitted by Portugal on 12 April 2011 is hereby approved for the period from 1 January 2011 to 31 December 2011.

Article 2

Approval of amended programmes for salmonellosis (zoonotic salmonella) in breeding, laying and broiler flocks of *Gallus gallus* and in flocks of turkeys (*Meleagris gallopavo*) submitted by Belgium and Latvia

The following amended programmes for the control of certain zoonotic salmonella in breeding, laying and broiler flocks of *Gallus gallus* and in flocks of turkeys (*Meleagris gallopavo*) are hereby approved for the period from 1 January 2011 to 31 December 2011:

- (a) the programme submitted by Belgium on 26 July 2011;
- (b) the programme submitted by Latvia on 8 March 2011.

Article 3

Approval of amended programme for classical swine fever programmes submitted by Romania and Slovakia

The following amended programmes for the control and monitoring of classical swine fever are hereby approved for the period from 1 January 2011 to 31 December 2011:

- (a) the programme submitted by Romania on 7 October 2011;
- (b) the programme submitted by Slovakia on 21 November 2011.

Article 4

Approval of amended survey programme for avian influenza in poultry and wild birds submitted by Denmark

The amended survey programme for avian influenza in poultry and wild birds submitted by Denmark on 4 March 2011 is hereby approved for the period from 1 January 2011 to 31 December 2011.

Article 5

Approval of amended programmes for transmissible spongiform encephalopathies (TSE), bovine spongiform encephalopathy (BSE) and scrapie submitted by certain Member States

The following amended programmes for the monitoring of transmissible spongiform encephalopathies (TSE), and for the eradication of bovine spongiform encephalopathy (BSE) and of scrapie are hereby approved for the period from 1 January 2011 to 31 December 2011:

- (a) the programme submitted by Belgium on 15 June 2011;
- (b) the programme submitted by the Czech Republic on 17 June 2011;
- (c) the programme submitted by Denmark on 8 June 2011;
- (d) the programme submitted by Germany on 14 June 2011;
- (e) the programme submitted by Estonia on 27 June 2011;
- (f) the programme submitted by Ireland on 29 June 2011;
- (g) the programme submitted by Spain on 1 July 2011;
- (h) the programme submitted by France on 13 July 2011;
- (i) the programme submitted by for Italy on 22 June 2011;
- (j) the programme submitted by Cyprus on 30 June 2011;
- (k) the programme submitted by Latvia on 28 June 2011;
- (l) the programme submitted by Luxembourg on 24 June 2011;
- (m) the programme submitted by Hungary on 29 June 2011;
- (n) the programme submitted by the Netherlands on 30 June 2011;
- (o) the programme submitted by Austria on 29 June 2011;
- (p) the programme submitted by Poland on 28 June 2011;
- (q) the programme submitted by Portugal on 29 June 2011;
- (r) the programme submitted by Slovenia on 8 June 2011;
- (s) the programme submitted by Slovakia on 30 June 2011;
- (t) the programme submitted by Finland on 22 June 2011;

- (u) the programme submitted by Sweden on 20 June 2011;
- (v) the programme submitted by the United Kingdom on 28 June 2011.

Article 6

Approval of amended programmes for rabies submitted by Romania and Finland

The following amended programmes for rabies are hereby approved for the period from 1 January 2011 to 31 December 2011:

- (a) the programme submitted by Romania on 23 September 2011;
- (b) the programme submitted by Finland on 15 September 2011.

Article 7

Approval of amended multiannual programme for rabies submitted by Slovenia

The amended multiannual programme for rabies submitted by Slovenia on 16 September 2011 is hereby approved for the period from 1 January 2011 to 31 December 2012.

Article 8

Amendments to Decision 2010/712/EU

Decision 2010/712/EU is amended as follows:

1. Article 1 is amended as follows:

- (a) in paragraph 2(b), '50 %' is replaced by '60 %';
- (b) paragraph 2(c) is replaced by the following:

'(c) shall not exceed the following:

- (i) EUR 4 600 000 for Spain;
- (ii) EUR 3 000 000 for Italy;
- (iii) EUR 90 000 for Cyprus;
- (iv) EUR 1 040 000 for Portugal;
- (v) EUR 1 350 000 for the United Kingdom.;

- (c) in paragraph 3, points (a) to (d) are replaced by the following:

- '(a) for a rose bengal test: EUR 0,24 per test;
- (b) for a SAT test: EUR 0,24 per test;
- (c) for a complement fixation test: EUR 0,48 per test;
- (d) for an ELISA test: EUR 1,2 per test';

2. Article 2 is amended as follows:

- (a) in paragraph 2(b), '50 %' is replaced by '60 %';

- (b) paragraph 2(c) is replaced by the following:

'(c) shall not exceed the following:

- (i) EUR 16 000 000 for Ireland;
- (ii) EUR 18 500 000 for Spain;
- (iii) EUR 5 500 000 for Italy;
- (iv) EUR 1 440 000 for Portugal;
- (v) EUR 26 500 000 for the United Kingdom.;

- (c) in paragraph 3, points (a) and (b) are replaced by the following:

- '(a) for a tuberculin test: EUR 2,4 per test;
- (b) for a gamma-interferon test: EUR 6 per test';

3. Article 3 is amended as follows:

- (a) in paragraph 2(b), '50 %' is replaced by '60 %';
- (b) paragraph 2(c) is replaced by the following:

'(c) shall not exceed the following:

- (i) EUR 160 000 for Greece;
- (ii) EUR 9 200 000 for Spain;
- (iii) EUR 4 200 000 for Italy;
- (iv) EUR 85 000 for Cyprus;
- (v) EUR 2 260 000 for Portugal.;

- (c) in paragraph 3, points (a) and (b) are replaced by the following:

- '(a) for a rose bengal test: EUR 0,24 per test;
- (b) for a complement fixation test: EUR 0,48 per test';

4. Article 4 is amended as follows:

- (a) in paragraph 2(b), '50 %' is replaced by '60 %';
- (b) paragraph 2(c) is replaced by the following:

'(c) shall not exceed the following:

- (i) EUR 420 000 for Belgium;
- (ii) EUR 10 000 for Bulgaria;
- (iii) EUR 1 700 000 for the Czech Republic;
- (iv) EUR 0 for Denmark;
- (v) EUR 400 000 for Germany;
- (vi) EUR 10 000 for Estonia;
- (vii) EUR 10 000 for Ireland;

- (viii) EUR 100 000 for Greece;
- (ix) EUR 5 200 000 for Spain;
- (x) EUR 3 000 000 for France;
- (xi) EUR 300 000 for Italy;
- (xii) EUR 20 000 for Latvia;
- (xiii) EUR 5 000 for Lithuania;
- (xiv) EUR 60 000 for Hungary;
- (xv) EUR 10 000 for Malta;
- (xvi) EUR 50 000 for the Netherlands;
- (xvii) EUR 160 000 for Austria;
- (xviii) EUR 50 000 for Poland;
- (xix) EUR 1 650 000 for Portugal;
- (xx) EUR 100 000 for Romania;
- (xxi) EUR 50 000 for Slovenia;
- (xxii) EUR 60 000 for Slovakia;
- (xxiii) EUR 20 000 for Finland;
- (xxiv) EUR 20 000 for Sweden.;

(c) in paragraph 3, points (a) to (f) are replaced by the following:

- | | |
|---|---|
| (a) for an ELISA test: | EUR 3 per test; |
| (b) for a PCR test: | EUR 12 per test; |
| (c) for the purchase of monovalent vaccines: | EUR 0,36 per dose; |
| (d) for the purchase of bivalent vaccines: | EUR 0,54 per dose; |
| (e) for the administration of vaccines to bovine animals: | EUR 1,80 per bovine animal vaccinated, regardless of the number and types of doses used; |
| (f) for the administration of vaccines to ovine or caprine animals: | EUR 0,90 per ovine or caprine animal vaccinated, regardless of the number and types of doses used.; |

5. Article 5 is amended as follows:

- (a) in paragraph 2(b), '50 %' is replaced by '60 %';
- (b) paragraph 2(c) is replaced by the following:
 - '(c) shall not exceed the following:
 - (i) EUR 1 200 000 for Belgium;

- (ii) EUR 25 000 for Bulgaria;
- (iii) EUR 2 100 000 for the Czech Republic;
- (iv) EUR 340 000 for Denmark;
- (v) EUR 1 000 000 for Germany;
- (vi) EUR 40 000 for Estonia;
- (vii) EUR 120 000 for Ireland;
- (viii) EUR 1 000 000 for Greece;
- (ix) EUR 1 300 000 for Spain;
- (x) EUR 660 000 for France;
- (xi) EUR 1 700 000 for Italy;
- (xii) EUR 150 000 for Cyprus;
- (xiii) EUR 1 650 000 for Latvia;
- (xiv) EUR 20 000 for Luxembourg;
- (xv) EUR 2 400 000 for Hungary;
- (xvi) EUR 150 000 for Malta;
- (xvii) EUR 3 900 000 for the Netherlands;
- (xviii) EUR 1 200 000 for Austria;
- (xix) EUR 4 800 000 for Poland;
- (xx) EUR 65 000 for Portugal;
- (xxi) EUR 500 000 for Romania;
- (xxii) EUR 120 000 for Slovenia;
- (xxiii) EUR 600 000 for Slovakia;
- (xxiv) EUR 75 000 for the United Kingdom.;

(c) in paragraph 3, points (a) to (e) are replaced by the following:

- | | |
|--|--------------------|
| (a) for a bacteriological test (cultivation/isolation): | EUR 8,4 per test; |
| (b) for the purchase of vaccine: | EUR 0,06 per dose; |
| (c) for serotyping of relevant isolates of <i>Salmonella</i> spp.: | EUR 24 per test; |
| (d) for a bacteriological test to verify the efficiency of disinfection of poultry houses after depopulation of a salmonella-positive flock: | EUR 6 per test; |

- (e) for a test for the detection of antimicrobials or bacterial growth inhibitory effect in tissues from birds from flocks tested for salmonella: EUR 6 per test.;

6. Article 6 is amended as follows:

- (a) in paragraph 2(b), '50 %' is replaced by '60 %';

- (b) paragraph 2(c) is replaced by the following:

'(c) shall not exceed the following:

- (i) EUR 120 000 for Bulgaria;
- (ii) EUR 1 600 000 for Germany;
- (iii) EUR 240 000 for France;
- (iv) EUR 160 000 for Italy;
- (v) EUR 700 000 for Hungary;
- (vi) EUR 700 000 for Romania;
- (vii) EUR 30 000 for Slovenia;
- (viii) EUR 300 000 for Slovakia.;

- (c) in paragraph 3, 'EUR 2,5' is replaced by 'EUR 3';

7. Article 8 is amended as follows:

- (a) in paragraph 2(b), '50 %' is replaced by '60 %';

- (b) paragraph 2(c) is replaced by the following:

'(c) shall not exceed the following:

- (i) EUR 90 000 for Belgium;
- (ii) EUR 25 000 for Bulgaria;
- (iii) EUR 70 000 for the Czech Republic;
- (iv) EUR 80 000 for Denmark;
- (v) EUR 300 000 for Germany;
- (vi) EUR 10 000 for Estonia;
- (vii) EUR 75 000 for Ireland;
- (viii) EUR 50 000 for Greece;
- (ix) EUR 150 000 for Spain;
- (x) EUR 150 000 for France;
- (xi) EUR 1 000 000 for Italy;
- (xii) EUR 20 000 for Cyprus;
- (xiii) EUR 45 000 for Latvia;
- (xiv) EUR 10 000 for Lithuania;
- (xv) EUR 10 000 for Luxembourg;

(xvi) EUR 360 000 for Hungary

(xvii) EUR 20 000 for Malta;

(xviii) EUR 360 000 for the Netherlands;

(xix) EUR 60 000 for Austria;

(xx) EUR 100 000 for Poland;

(xxi) EUR 45 000 for Portugal;

(xxii) EUR 180 000 for Romania;

(xxiii) EUR 50 000 for Slovenia;

(xxiv) EUR 15 000 for Slovakia;

(xxv) EUR 25 000 for Finland;

(xxvi) EUR 50 000 for Sweden;

(xxvii) EUR 160 000 for the United Kingdom.;

- (c) in paragraph 3, points (a) to (e) are replaced by the following:

- '(a) ELISA test: EUR 2,4 per test;
- (b) agar gel immune diffusion test: EUR 1,44 per test;
- (c) HI test for H5/H7: EUR 14,40 per test;
- (d) virus isolation test: EUR 48 per test;
- (e) PCR test: EUR 24 per test.;

8. Article 9 is amended as follows:

- (a) in paragraph 2(c), '50 %' is replaced by '60 %';

- (b) paragraph 2(d) is replaced by the following:

'(d) shall not exceed the following:

- (i) EUR 1 900 000 for Belgium;
- (ii) EUR 330 000 for Bulgaria;
- (iii) EUR 1 030 000 for the Czech Republic;
- (iv) EUR 1 370 000 for Denmark;
- (v) EUR 7 750 000 for Germany;
- (vi) EUR 330 000 for Estonia;
- (vii) EUR 4 000 000 for Ireland;
- (viii) EUR 2 000 000 for Greece;
- (ix) EUR 6 650 000 for Spain;
- (x) EUR 18 850 000 for France;
- (xi) EUR 6 000 000 for Italy;
- (xii) EUR 1 700 000 for Cyprus;

- (xiii) EUR 320 000 for Latvia;
- (xiv) EUR 720 000 for Lithuania;
- (xv) EUR 125 000 for Luxembourg;
- (xvi) EUR 1 180 000 for Hungary;
- (xvii) EUR 25 000 for Malta;
- (xviii) EUR 3 530 000 for the Netherlands;
- (xix) EUR 1 800 000 for Austria;
- (xx) EUR 3 440 000 for Poland;
- (xxi) EUR 1 800 000 for Portugal;
- (xxii) EUR 1 000 000 for Romania;
- (xxiii) EUR 250 000 for Slovenia;
- (xxiv) EUR 550 000 for Slovakia;
- (xxv) EUR 580 000 for Finland;
- (xxvi) EUR 850 000 for Sweden;
- (xxvii) EUR 6 500 000 for the United Kingdom.;

(c) in paragraph 3(d) 'EUR 10' is replaced by 'EUR 12';

9. Article 10, paragraph 2(c) is amended as follows:

- (a) in point (i) 'EUR 1 800 000' is replaced by 'EUR 850 000';
- (b) in point (ii) 'EUR 620 000' is replaced by 'EUR 570 000';
- (c) in point (iv) 'EUR 7 110 000' is replaced by 'EUR 8 110 000';

(d) in point (v) 'EUR 5 000 000' is replaced by 'EUR 2 100 000';

(e) in point (vii) 'EUR 200 000' is replaced by 'EUR 290 000';

10. in Article 10 paragraph 4, 'paragraphs 2 and 3' is replaced by 'paragraph 2(a), paragraph 2(b) and paragraph 3';

11. Article 11, paragraph 5(c) is amended as follows:

(a) in point (i) 'EUR 2 250 000' is replaced by 'EUR 1 600 000';

(b) in point (ii) 'EUR 1 800 000' is replaced by 'EUR 1 500 000';

(c) in point (v) 'EUR 740 000' is replaced by 'EUR 850 000';

12. in Article 11 paragraph 7, 'paragraphs 5 and 6' is replaced by 'paragraph 5(a), paragraph 5(b) and paragraph 6'.

Article 9

Addressees

This Decision is addressed to the Member States.

Done at Brussels, 19 December 2011.

For the Commission

John DALLI

Member of the Commission

ACTS ADOPTED BY BODIES CREATED BY INTERNATIONAL AGREEMENTS

**DECISION No 2/2011 OF THE JOINT COMMUNITY/SWITZERLAND AIR TRANSPORT
COMMITTEE SET UP UNDER THE AGREEMENT BETWEEN THE EUROPEAN COMMUNITY
AND THE SWISS CONFEDERATION ON AIR TRANSPORT**

of 25 November 2011

**replacing the Annex to the Agreement between the European Community and the Swiss
Confederation on Air Transport**

(2011/2/EU)

THE COMMUNITY/SWITZERLAND AIR TRANSPORT COMMITTEE,

Having regard to the Agreement between the European Community and the Swiss Confederation on Air Transport, hereinafter referred to as 'the Agreement', and in particular Article 23(4) thereof,

HAS DECIDED AS FOLLOWS:

Sole Article

The Annex to this Decision replaces the Annex to the Agreement, as from 1 February 2012.

Done at Brussels, 25 November 2011.

For the Joint Committee

The Head of the European Union Delegation
Matthew BALDWIN

The Head of the Swiss Delegation
Peter MÜLLER

ANNEX

For the purposes of this Agreement:

- by virtue of the Treaty of Lisbon, entered into force on 1 December 2009, the European Union shall replace and succeed the European Community,
- wherever acts specified in this Annex contain references to Member States of the European Community, as replaced by the European Union, or a requirement for a link with the latter, the references shall, for the purpose of the Agreement, be understood to apply equally to Switzerland or to the requirement of a link with Switzerland,
- the references to Council Regulations (EEC) No 2407/92 and (EEC) No 2408/92 made in Articles 4, 15, 18, 27 and 35 of the Agreement, shall be understood as references to Regulation (EC) No 1008/2008 of the European Parliament and of the Council,
- without prejudice to Article 15 of this Agreement, the term ‘Community air carrier’ referred to in the following Community directives and regulations shall include an air carrier which is licensed and has its principal place of business and, if any, its registered office in Switzerland in accordance with the provisions of Regulation (EC) No 1008/2008. Any reference to Regulation (EEC) No 2407/92 shall be understood as reference to Regulation (EC) No 1008/2008,
- any reference in the following texts to Articles 81 and 82 of the Treaty or to Articles 101 and 102 of the Treaty on the Functioning of the European Union shall be understood to mean Articles 8 and 9 of this Agreement.

1. Aviation liberalisation and other civil aviation rules

No 1008/2008

Regulation of the European Parliament and of the Council of 24 September 2008 on common rules for the operation of air services in the Community

No 2000/79

Council Directive of 27 November 2000 concerning the implementation of the European Agreement on the Organisation of Working Time of Mobile Workers in Civil Aviation concluded by the Association of European Airlines (AEA), the European Transport Workers' Federation (ETF), the European Cockpit Association (ECA), the European Regions Airline Association (ERA) and the International Air Carrier Association (IACA)

No 93/104

Council Directive of 23 November 1993 concerning certain aspects of the organisation of working time, as amended by:

- Directive 2000/34/EC

No 437/2003

Regulation of the European Parliament and of the Council of 27 February 2003 on statistical returns in respect of the carriage of passengers, freight and mail by air

No 1358/2003

Commission Regulation of 31 July 2003 implementing Regulation (EC) No 437/2003 of the European Parliament and of the Council on statistical returns in respect of the carriage of passengers, freight and mail by air and amending Annexes I and II thereto

No 785/2004

Regulation of the European Parliament and of the Council of 21 April 2004 on insurance requirements for air carriers and aircraft operators, as amended by:

- Commission Regulation (EU) No 285/2010

No 95/93

Council Regulation of 18 January 1993 on common rules for the allocation of slots at Community airports (Articles 1-12), as amended by:

— Regulation (EC) No 793/2004

No 2009/12

Directive of the European Parliament and of the Council of 11 March 2009 on airport charges (to be applied by Switzerland as from 1 July 2011)

No 96/67

Council Directive of 15 October 1996 on access to the groundhandling market at Community airports

(Articles 1-9, 11-23, and 25)

No 80/2009

Regulation of the European Parliament and of the Council of 14 January 2009 on a Code of Conduct for computerised reservation systems and repealing Council Regulation (EEC) No 2299/89

2. Competition rules

No 3975/87

Council Regulation of 14 December 1987 laying down the procedures for the application of the rules on competition to undertakings in the air transport sector (Article 6(3)), as last amended by:

— Council Regulation (EC) No 1/2003 (Articles 1-13, 15-45)

No 1/2003

Council Regulation of 16 December 2002 on the implementation of the rules on competition laid down in Articles 81 and 82 of the Treaty (Articles 1-13, 15-45)

(To the extent that this Regulation is relevant for the application of this Agreement. The insertion of this Regulation does not affect the division of tasks according to this Agreement.)

Regulation (EEC) No 17/62 has been repealed by Regulation (EC) No 1/2003 with the exception of Article 8(3) which continues to apply to decisions adopted pursuant to Article 81(3) of the Treaty prior to the date of application of this Regulation until the date of expiration of those decisions.

No 773/2004

Commission Regulation of 7 April 2004 relating to proceedings by the Commission pursuant to Articles 81 and 82 of the EC Treaty, as amended by:

— Commission Regulation (EC) No 1792/2006

— Commission Regulation (EC) No 622/2008

No 139/2004

Council Regulation of 20 January 2004 on the control of concentrations between undertakings (the EC Merger Regulation)

(Articles 1-18, Article 19(1)-(2), and Articles 20-23)

With respect to Article 4(5) of the Merger Regulation the following shall apply between the European Community and Switzerland:

- (1) with regard to a concentration as defined in Article 3 of Regulation (EC) No 139/2004 which does not have a Community dimension within the meaning of Article 1 of that Regulation and which is capable of being reviewed under the national competition laws of at least three EC Member States and the Swiss Confederation, the persons or undertakings referred to in Article 4(2) of that Regulation may, before any notification to the competent authorities, inform the EC Commission by means of a reasoned submission that the concentration should be examined by the Commission;

(2) the European Commission shall transmit all submissions pursuant to Article 4(5) of Regulation (EC) No 139/2004 and the previous paragraph to the Swiss Confederation without delay;

(3) where the Swiss Confederation has expressed its disagreement as regards the request to refer the case, the competent Swiss competition authority shall retain its competence, and the case shall not be referred from the Swiss Confederation pursuant to this paragraph.

With respect to time limits referred to in Article 4(4) and (5), Article 9(2) and (6), and Article 22(2) of the Merger Regulation:

(1) the European Commission shall transmit all the relevant documents pursuant to Article 4(4) and (5), Article 9(2) and (6) and Article 22(2) to the competent Swiss competition authority without delay;

(2) the calculation of the time limits referred to in Article 4(4) and (5), Article 9(2) and (6), and Article 22(2) of Regulation (EC) No 139/2004 shall start, for the Swiss Confederation, upon receipt of the relevant documents by the competent Swiss competition authority.

No 802/2004

Commission Regulation of 7 April 2004 implementing Council Regulation (EC) No 139/2004 on the control of concentrations between undertakings (Articles 1-24), as amended by:

— Commission Regulation (EC) No 1792/2006

— Commission Regulation (EC) No 1033/2008

No 2006/111

Commission Directive of 16 November 2006 on the transparency of financial relations between Member States and public undertakings as well as on financial transparency within certain undertakings

No 487/2009

Council Regulation (EC) No 487/2009 of 25 May 2009 on the application of Article 81(3) of the Treaty to certain categories of agreements and concerted practices in the air transport sector

3. Aviation safety

No 216/2008

Regulation of the European Parliament and of the Council of 20 February 2008 on common rules in the field of civil aviation and establishing a European Aviation Safety Agency, and repealing Council Directive 91/670/EEC, Regulation (EC) No 1592/2002 and Directive 2004/36/EC, as amended by:

— Commission Regulation (EC) No 690/2009

— Regulation (EC) No 1108/2009

The Agency shall enjoy also in Switzerland the powers granted to it under the provisions of the Regulation.

The Commission shall enjoy also in Switzerland the powers granted to it for decisions pursuant to Article 11(2), Article 14(5) and (7), Article 24(5), Article 25(1), Article 38(3)(i), Article 39(1), Article 40(3), Article 41(3) and (5), Article 42(4), Article 54(1) and Article 61(3).

Notwithstanding the horizontal adaptation provided for in the second indent of the Annex to the Agreement between the European Community and the Swiss Confederation on Air Transport, the references to the 'Member States' made in Article 65 of the Regulation or in the provisions of Decision 1999/468/EC mentioned in that provision shall not be understood to apply to Switzerland.

Nothing in this Regulation shall be construed so as to transfer to the EASA authority to act on behalf of Switzerland under international agreements for other purposes than to assist in the performance of its obligations pursuant to such agreements.

The text of the Regulation shall, for the purposes of the Agreement, be read with the following adaptations:

(a) Article 12 is amended as follows:

- (i) in paragraph 1, the words 'or Switzerland' shall be inserted after the words 'the Community';
- (ii) in paragraph 2(a), the words 'or Switzerland' shall be inserted after the words 'the Community';
- (iii) in paragraph 2, points (b) and (c) are deleted;
- (iv) the following paragraph is added:

'3. Whenever the Community negotiates with a third country in order to conclude an agreement providing that a Member State or the Agency may issue certificates on the basis of certificates issued by the aeronautical authorities of that third country, it shall endeavour to obtain for Switzerland an offer of a similar agreement with the third country in question. Switzerland shall, in turn, endeavour to conclude with third countries agreements corresponding to those of the Community';

(b) in Article 29, the following paragraph shall be added:

'4. By way of derogation from Article 12(2)(a) of the Conditions of Employment of Other Servants of the European Communities, Swiss nationals enjoying their full rights as citizens may be engaged under contract by the Executive Director of the Agency.';

(c) in Article 30, the following paragraph is added:

'Switzerland shall apply to the Agency the Protocol on the Privileges and Immunities of the European Union, which is set out as Annex A to the present Annex, in accordance with the Appendix to Annex A.';

(d) in Article 37, the following paragraph is added:

'Switzerland shall participate fully in the Management Board and shall within it have the same rights and obligations as European Union Member States, except for the right to vote.';

(e) in Article 59, the following paragraph shall be added:

'12. Switzerland shall participate in the financial contribution referred to in paragraph 1(b), according to the following formula:

$$S (0,2/100) + S [1 - (a + b) 0,2/100] c/C$$

where:

S = the part of the budget of the Agency not covered by the fees and charges mentioned in paragraph 1 (c) and (d)

a = the number of Associated States

b = the number of EU Member States

c = the contribution of Switzerland to the ICAO budget,

C = the total contribution of the EU Member States and of the Associated States to the ICAO budget.';

(f) in Article 61, the following paragraph is added:

'The provisions relating to financial control by the Community in Switzerland concerning the participants in the activities of the Agency are set out in Annex B to the present Annex.';

- (g) Annex II to the Regulation shall be extended to include the following aircraft as products covered by Article 2(3)(ii) of Commission Regulation (EC) No 1702/2003 of 24 September 2003 laying down implementing rules for the airworthiness and environmental certification of aircraft and related products, parts and appliances, as well as for the certification of design and production organisations ⁽¹⁾:

A/c — [HB-ID]] — type CL600-2B19

A/c — [HB-IKR, HB-IMY, HB-IWY] — type Gulfstream G-IV

A/c — [HB-IM], HB-IVZ, HB-JES] — type Gulfstream G-V

A/c — [HB-XJF, HB-ZCW, HB-ZDF] — type MD900.

No 1108/2009

Regulation of the European Parliament and of the Council of 21 October 2009 amending Regulation (EC) No 216/2008 in the field of aerodromes, air traffic management and air navigation services and repealing Directive 2006/23/EC

No 91/670

Council Directive of 16 December 1991 on mutual acceptance of personnel licences for the exercise of functions in civil aviation

(Articles 1-8)

No 3922/91

Council Regulation of 16 December 1991 on the harmonisation of technical requirements and administrative procedures in the field of civil aviation (Articles 1-3, Article 4(2) and (5)-(11), and Article 13), as amended by:

— Regulation (EC) No 1899/2006 of the European Parliament and of the Council

— Regulation (EC) No 1900/2006 of the European Parliament and of the Council

— Commission Regulation (EC) No 8/2008

— Commission Regulation (EC) No 859/2008

No 996/2010

Regulation of the European Parliament and of the Council of 20 October 2010 on the investigation and prevention of accidents and incidents in civil aviation and repealing Directive 94/56/EC

No 2004/36

Directive of the Parliament and of the Council of 21 April 2004 on the safety of third-country aircraft using Community airports (Articles 1-9 and 11-14), as last amended by:

— Commission Directive 2008/49/EC

No 351/2008

Commission Regulation of 16 April 2008 implementing Directive 2004/36/EC of the European Parliament and of the Council as regards the prioritisation of ramp inspections on aircraft using Community airports

No 768/2006

Commission Regulation of 19 May 2006 implementing Directive 2004/36/EC of the European Parliament and of the Council as regards the collection and exchange of information on the safety of aircraft using Community airports and the management of the information system

⁽¹⁾ OJ L 243, 27.9.2003, p. 6.

No 2003/42

Directive of the European Parliament and the Council of 13 June 2003 on occurrence reporting in civil aviation (Articles 1-12)

No 1321/2007

Commission Regulation of 12 November 2007 laying down implementing rules for the integration into a central repository of information on civil aviation occurrences exchanged in accordance with Directive 2003/42/EC of the European Parliament and of the Council

No 1330/2007

Commission Regulation of 24 September 2007 laying down implementing rules for the dissemination to interested parties of information on civil aviation occurrences referred to in Article 7(2) of Directive 2003/42/EC of the European Parliament and of the Council

No 736/2006

Commission Regulation of 16 May 2006 on working methods of the European Aviation Safety Agency for conducting standardisation inspections

No 1702/2003

Regulation of 24 September 2003 laying down implementing rules for the airworthiness and environmental certification of aircraft and related products, parts and appliances, as well as for the certification of design and production organisations, as amended by:

- Commission Regulation (EC) No 335/2007
- Commission Regulation (EC) No 381/2005
- Commission Regulation (EC) No 375/2007
- Commission Regulation (EC) No 706/2006
- Commission Regulation (EC) No 287/2008
- Commission Regulation (EC) No 1057/2008
- Commission Regulation (EC) No 1194/2009

For the purposes of the Agreement, the provisions of the Regulation shall be read subject to the following adjustment:

Article 2 is amended as follows:

In paragraphs 3, 4, 6, 8, 10, 11, 13 and 14, the date '28 September 2003' shall be replaced by 'the date of entry into force of the Decision of the Community/Switzerland Air Transport Committee which incorporates Regulation (EC) No 216/2008 into the Annex to the Regulation.'

No 2042/2003

Commission Regulation of 20 November 2003 on the continuing airworthiness of aircraft and aeronautical products, parts and appliances, and on the approval of organisations and personnel involved in these tasks, as amended by:

- Commission Regulation (EC) No 707/2006
- Commission Regulation (EC) No 376/2007
- Commission Regulation (EC) No 1056/2008
- Commission Regulation (EU) No 127/2010
- Commission Regulation (EU) No 962/2010

No 104/2004

Commission Regulation of 22 January 2004 laying down rules on the organisation and composition of the Board of Appeal of the European Aviation Safety Agency

No 593/2007

Commission Regulation of 31 May 2007 on the fees and charges levied by the European Aviation Safety Agency, as last amended by:

— Commission Regulation (EC) No 1356/2008

No 2111/2005

Regulation of the European Parliament and of 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

No 473/2006

Commission Regulation of 22 March 2006 laying down implementing rules for 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 of the European Parliament and of the Council

No 474/2006

Commission Regulation of 22 March 2006 establishing 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 of the European Parliament and of the Council, as last amended by:

— Commission Implementing Regulation (EU) No 1197/2011 ⁽¹⁾

4. Aviation Security

No 300/2008

Regulation of the European Parliament and of the Council of 11 March 2008 on common rules in the field of civil aviation security and repealing Regulation (EC) No 2320/2002

No 272/2009

Commission Regulation of 2 April 2009 supplementing the common basic standards on civil aviation security laid down in the Annex to Regulation (EC) No 300/2008 of the European Parliament and of the Council, as last amended by:

— Commission Regulation (EU) No 297/2010

— Commission Regulation (EU) No 720/2011

No 1254/2009

Commission Regulation (EU) of 18 December 2009 setting criteria to allow Member States to derogate from the common basic standards on civil aviation security and to adopt alternative security measures

No 18/2010

Commission Regulation (EU) of 8 January 2010 amending Regulation (EC) No 300/2008 of the European Parliament and of the Council as far as specifications for national quality control programmes in the field of civil aviation security are concerned

No 72/2010

Commission Regulation (EU) of 26 January 2010 laying down procedures for conducting Commission inspections in the field of aviation security

⁽¹⁾ This Regulation shall apply in Switzerland as long as it is in force in the EU.

No 185/2010

Commission Regulation (EU) of 4 March 2010 laying down detailed measures for the implementation of the common basic standards on aviation security, as amended by:

- Commission Regulation (EU) No 357/2010
- Commission Regulation (EU) No 358/2010
- Commission Regulation (EU) No 573/2010
- Commission Regulation (EU) No 983/2010
- Commission Regulation (EU) No 334/2011

No 2010/774

Commission Decision (EU) of 13 April 2010 laying down detailed measures for the implementation of the common basic standards on aviation security containing information as referred to in point (a) of Article 18 of Regulation (EC) No 300/2008, as amended by:

- Commission Decision 2010/2604/EU
- Commission Decision 2010/3572/EU
- Commission Decision 2010/9139/EU

5. Air traffic management*No 549/2004*

Regulation of the European Parliament and of the Council of 10 March 2004 laying down the framework for the creation of the Single European Sky (the Framework Regulation), as amended by:

- Regulation (EC) No 1070/2009

The Commission shall enjoy in Switzerland the powers granted to it pursuant to Articles 6, 8, 10, 11 and 12.

Article 10 shall be amended as follows:

In paragraph 2, the words 'at Community level' should be replaced by words 'at Community level, involving Switzerland'.

Notwithstanding the horizontal adjustment referred to in the second indent of the Annex to the Agreement between the European Community and the Swiss Confederation on Air Transport, the references to the 'Member States' made in Article 5 of Regulation (EC) No 549/2004 or in the provisions of Decision 1999/468/EC mentioned in that provision shall not be understood to apply to Switzerland.

No 550/2004

Regulation of the European Parliament and of the Council of 10 March 2004 on the provision of air navigation services in the Single European Sky (the Service Provision Regulation), as amended by:

- Regulation (EC) No 1070/2009

The Commission shall enjoy towards Switzerland the powers granted to it pursuant to Articles 9a, 9b and 15a and Articles 16 and 17.

The provisions of the Regulation shall, for the purposes of the Agreement, be amended as follows:

(a) Article 3 shall be amended as follows:

In paragraph 2, the words 'and Switzerland' shall be inserted after the words 'the Community';

(b) Article 7 is amended as follows:

In paragraph 1 and paragraph 6, the words 'and Switzerland' shall be inserted after the words 'the Community',

(c) Article 8 is amended as follows:

In paragraph 1, the words 'and Switzerland' shall be inserted after the words 'the Community';

(d) Article 10 is amended as follows:

In paragraph 1, the words 'and Switzerland' shall be inserted after the words 'the Community';

(e) Article 16(3) is replaced by the following:

'3. The Commission shall address its decision to the Member States and inform the service provider thereof, in so far as it is legally concerned.'

No 551/2004

Regulation of the European Parliament and of the Council of 10 March 2004 on the organisation and use of the airspace in the Single European Sky (the Airspace Regulation), as amended by:

— Regulation (EC) No 1070/2009

The Commission shall enjoy in Switzerland the powers granted to it pursuant to Articles 3a, 6 and 10.

No 552/2004

Regulation of the European Parliament and of the Council of 10 March 2004 on the interoperability of the European Air Traffic Management network (the Interoperability Regulation), as amended by:

— Regulation (EC) No 1070/2009

The Commission shall enjoy in Switzerland the powers granted to it pursuant to Articles 4 and 7 and Article 10(3).

The provisions of the Regulation shall, for the purposes of the Agreement, be amended as follows:

(a) Article 5 is amended as follows:

in paragraph 2, the words 'or Switzerland' shall be inserted after the words 'the Community';

(b) Article 7 is amended as follows:

in paragraph 4, the words 'or Switzerland' shall be inserted after the words 'the Community';

(c) Annex III shall be amended as follows:

in Section 3, second and last indents, the words 'or Switzerland' shall be inserted after the words 'the Community'.

No 2096/2005

Commission Regulation of 20 December 2005 laying down common requirements for the provision of air navigation services, as amended by:

— Commission Regulation (EC) No 1315/2007

— Commission Regulation (EC) No 482/2008

— Commission Regulation (EC) No 668/2008

— Commission Regulation (EU) No 691/2010

The Commission shall enjoy in Switzerland the powers granted to it pursuant to Article 9.

No 2150/2005

Commission Regulation of 23 December 2005 laying down common rules for the flexible use of airspace

No 1033/2006

Commission Regulation of 4 July 2006 laying down the requirements on procedures for flight plans in the pre-flight phase for the Single European Sky, as last amended by:

— Commission Regulation (EU) No 929/2010

No 1032/2006

Commission Regulation of 6 July 2006 laying down requirements for automatic systems for the exchange of flight data for the purpose of notification, coordination and transfer of flights between air traffic control units, as last amended by:

— Commission Regulation (EC) No 30/2009

No 1794/2006

Commission Regulation of 6 December 2006 laying down a common charging scheme for air navigation services (to be applied by Switzerland as from the entry into force of the relevant Swiss legislation but at the latest as from 1 January 2012), as last amended by:

— Commission Regulation (EU) No 1191/2010

No 2006/23

Directive of the European Parliament and of the Council of 5 April 2006 on a Community air traffic controller licence

No 730/2006

Commission Regulation of 11 May 2006 on airspace classification and access of flights operated under visual flight rules above flight level 195

No 219/2007

Council Regulation of 27 February 2007 on the establishment of a Joint Undertaking to develop the new generation European air traffic management system (SESAR), as last amended by:

— Council Regulation (EC) No 1361/2008

No 633/2007

Commission Regulation of 7 June 2007 laying down requirements for the application of a flight message transfer protocol used for the purpose of notification, coordination and transfer of flights between air traffic control units, as amended by:

— Commission Regulation (EU) No 283/2011

No 1265/2007

Commission Regulation of 26 October 2007 laying down requirements on air-ground voice channel spacing for the Single European Sky

No 29/2009

Commission Regulation of 16 January 2009 laying down requirements on data link services for the Single European Sky

No 262/2009

Commission Regulation of 30 March 2009 laying down requirements for the coordinated allocation and use of Mode S interrogator codes for the Single European Sky

No 73/2010

Commission Regulation of 26 January 2010 laying down requirements on the quality of aeronautical data and aeronautical information for the Single European Sky

No 255/2010

Commission Regulation of 25 March 2010 laying down common rules on air traffic flow management

No 691/2010

Commission Regulation of 29 July 2010 laying down a performance scheme for air navigation services and network functions and amending Regulation (EC) No 2096/2005 laying down common requirements for the provision of air navigation services

Corrective measures adopted by the Commission under Article 14 paragraph 3 of the Regulation are mandatory for Switzerland after having been adopted by a decision of the Joint Committee.

No 2010/5134

Commission Decision of 29 July 2010 on the designation of the Performance Review Body of the Single European Sky

No 2010/5110

Commission Decision of 12 August 2010 on the designation of a functional airspace blocks system coordinator in the context of the Single European Sky

No 176/2011

Commission Regulation (EU) No 176/2011 of 24 February 2011 on the information to be provided before the establishment and modification of a functional airspace block

No 2011/121

Commission Decision 2011/121/EU of 21 February 2011 setting the European Union-wide performance targets and alert thresholds for the provision of air navigation services for the years 2012 to 2014

6. Environment and noise

No 2002/30

Directive of the European Parliament and of the Council of 26 March 2002 on the establishment of rules and procedures with regard to the introduction of noise-related operating restrictions at Community airports (Articles 1-12 and 14-18)

(The amendments to Annex I, arising from Annex II, Chapter 8 (Transport policy), Section G (Air transport), point 2 of the Act concerning the conditions of accession of the Czech Republic, the Republic of Estonia, the Republic of Cyprus, the Republic of Latvia, the Republic of Lithuania, the Republic of Hungary, the Republic of Malta, the Republic of Poland, the Republic of Slovenia and the Slovak Republic and the adjustments to the Treaties on which the European Union is founded, shall apply.)

No 89/629

Council Directive of 4 December 1989 on the limitation of noise emissions from civil subsonic jet aeroplanes

(Articles 1-8)

No 2006/93/EC

Directive of the European Parliament and of the Council of 12 December 2006 on the regulation of the operation of aeroplanes covered by Part II, Chapter 3, Volume 1 of Annex 16 to the Convention on International Civil Aviation, second edition (1988)

7. Consumer protection

No 90/314

Council Directive of 13 June 1990 on package travel, package holidays and package tours.

(Articles 1-10)

No 93/13

Council Directive of 5 April 1993 on unfair terms in consumer contracts.

(Articles 1-11)

No 2027/97

Council Regulation of 9 October 1997 on air carrier liability in the event of accidents (Articles 1-8), as amended by:

— Regulation (EC) No 889/2002

No 261/2004

Regulation of the Parliament and of the Council of 11 February 2004 establishing common rules on compensation and assistance to passengers in the event of denied boarding and of cancellation or long delay of flights, and repealing Regulation (EEC) No 295/91

(Articles 1-18)

No 1107/2006

Regulation of the European Parliament and of the Council of 5 July 2006 concerning the right of disabled persons and persons with reduced mobility when travelling by air

8. Miscellaneous

No 2003/96

Council Directive of 27 October 2003 restructuring the Community framework for the taxation of energy products and electricity

(Article 14(1)(b) and Article 14(2))

9. Annexes

A: Protocol on the Privileges and Immunities of the European Union

B: Provisions on financial control by the European Union as regards Swiss participants in activities of the EASA

ANNEX A

PROTOCOL ON THE PRIVILEGES AND IMMUNITIES OF THE EUROPEAN UNION

THE HIGH CONTRACTING PARTIES,

CONSIDERING that, in accordance with Article 343 of the Treaty on the Functioning of the European Union and Article 191 of the Treaty establishing the European Atomic Energy Community (EAEC), the European Union and the EAEC shall enjoy in the territories of the Member States such privileges and immunities as are necessary for the performance of their tasks,

HAVE AGREED upon the following provisions, which shall be annexed to the Treaty on European Union, the Treaty on the Functioning of the European Union and the Treaty establishing the European Atomic Energy Community:

CHAPTER I

PROPERTY, FUNDS, ASSETS AND OPERATIONS OF THE EUROPEAN UNION*Article 1*

The premises and buildings of the Union shall be inviolable. They shall be exempt from search, requisition, confiscation or expropriation. The property and assets of the Union shall not be the subject of any administrative or legal measure of constraint without the authorisation of the Court of Justice.

Article 2

The archives of the Union shall be inviolable.

Article 3

The Union, its assets, revenues and other property shall be exempt from all direct taxes.

The governments of the Member States shall, wherever possible, take the appropriate measures to remit or refund the amount of indirect taxes or sales taxes included in the price of movable or immovable property, where the Union makes, for its official use, substantial purchases the price of which includes taxes of this kind. These provisions shall not be applied, however, so as to have the effect of distorting competition within the Union.

No exemption shall be granted in respect of taxes and dues which amount merely to charges for public utility services.

Article 4

The Union shall be exempt from all customs duties, prohibitions and restrictions on imports and exports in respect of articles intended for its official use: articles so imported shall not be disposed of, whether or not in return for payment, in the territory of the country into which they have been imported, except under conditions approved by the government of that country.

The Union shall also be exempt from any customs duties and any prohibitions and restrictions on import and exports in respect of its publications.

CHAPTER II

COMMUNICATIONS AND LAISSEZ-PASSER*Article 5*

For their official communications and the transmission of all their documents, the institutions of the Union shall enjoy in the territory of each Member State the treatment accorded by that State to diplomatic missions.

Official correspondence and other official communications of the institutions of the Union shall not be subject to censorship.

Article 6

Laissez-passer in a form to be prescribed by the Council, acting by a simple majority, which shall be recognised as valid travel documents by the authorities of the Member States, may be issued to members and servants of the institutions of the Union by the Presidents of these institutions. These *laissez-passer* shall be issued to officials and other servants under conditions laid down in the Staff Regulations of officials and the Conditions of Employment of other servants of the Union.

The Commission may conclude agreements for these *laissez-passer* to be recognised as valid travel documents within the territory of third countries.

CHAPTER III

MEMBERS OF THE EUROPEAN PARLIAMENT*Article 7*

No administrative or other restriction shall be imposed on the free movement of Members of the European Parliament travelling to or from the place of meeting of the European Parliament.

Members of the European Parliament shall, in respect of customs and exchange control, be accorded:

- (a) by their own government, the same facilities as those accorded to senior officials travelling abroad on temporary official missions;
- (b) by the government of other Member States, the same facilities as those accorded to representatives of foreign governments on temporary official missions.

Article 8

Members of the European Parliament shall not be subject to any form of inquiry, detention or legal proceedings in respect of opinions expressed or votes cast by them in the performance of their duties.

Article 9

During the sessions of the European Parliament, its Members shall enjoy:

- (a) in the territory of their own State, the immunities accorded to members of their parliament;
- (b) in the territory of any other Member State, immunity from any measure of detention and from legal proceedings.

Immunity shall likewise apply to Members while they are travelling to and from the place of meeting of the European Parliament.

Immunity cannot be claimed when a Member is found in the act of committing an offence and shall not prevent the European Parliament from exercising its right to waive the immunity of one of its Members.

CHAPTER IV

REPRESENTATIVES OF MEMBER STATES TAKING PART IN THE WORK OF THE INSTITUTIONS OF THE EUROPEAN UNION*Article 10*

Representatives of Member States taking part in the work of the institutions of the Union, their advisers and technical experts shall, in the performance of their duties and during their travel to and from the place of meeting, enjoy the customary privileges, immunities and facilities.

This Article shall also apply to members of the advisory bodies of the Union.

CHAPTER V

OFFICIALS AND OTHER SERVANTS OF THE EUROPEAN UNION*Article 11*

In the territory of each Member State and whatever their nationality, officials and other servants of the Union shall:

- (a) subject to the provisions of the Treaties relating, on the one hand, to the rules on the liability of officials and other servants towards the Union and, on the other hand, to the jurisdiction of the Court of Justice of the European Union in disputes between the Union and its officials and other servants, be immune from legal proceedings in respect of acts performed by them in their official capacity, including their words spoken or written. They shall continue to enjoy this immunity after they have ceased to hold office;
- (b) together with their spouses and dependent members of their families, not be subject to immigration restrictions or to formalities for the registration of aliens;
- (c) in respect of currency or exchange regulations, be accorded the same facilities as are customarily accorded to officials of international organisations;

- (d) enjoy the right to import free of duty their furniture and effects at the time of first taking up their post in the country concerned, and the right to re-export free of duty their furniture and effects, on termination of their duties in that country, subject in either case to the conditions considered to be necessary by the government of the country in which this right is exercised;
- (e) have the right to import free of duty a motor car for their personal use, acquired either in the country of their last residence or in the country of which they are nationals on the terms ruling in the home market in that country, and to re-export it free of duty, subject in either case to the conditions considered to be necessary by the government of the country concerned.

Article 12

Officials and other servants of the Union shall be liable to a tax for the benefit of the Union on salaries, wages and emoluments paid to them by the Union, in accordance with the conditions and procedure laid down by the European Parliament and the Council, acting by means of regulations in accordance with the ordinary legislative procedure and after consultation of the institutions concerned.

They shall be exempt from national taxes on salaries, wages and emoluments paid by the Union.

Article 13

In the application of income tax, wealth tax and death duties and in the application of conventions on the avoidance of double taxation concluded between Member States of the Union, officials and other servants of the Union who, solely by reason of the performance of their duties in the service of the Union, establish their residence in the territory of a Member State other than their country of domicile for tax purposes at the time of entering the service of the Union, shall be considered, both in the country of their actual residence and in the country of domicile for tax purposes, as having maintained their domicile in the latter country provided that it is a member of the Union. This provision shall also apply to a spouse, to the extent that the latter is not separately engaged in a gainful occupation, and to children dependent on and in the care of the persons referred to in this Article.

Movable property belonging to persons referred to in the preceding paragraph and situated in the territory of the country where they are staying shall be exempt from death duties in that country; such property shall, for the assessment of such duty, be considered as being in the country of domicile for tax purposes, subject to the rights of third countries and to the possible application of provisions of international conventions on double taxation.

Any domicile acquired solely by reason of the performance of duties in the service of other international organisations shall not be taken into consideration in applying the provisions of this Article.

Article 14

The European Parliament and the Council, acting by means of regulations in accordance with the ordinary legislative procedure and after consultation of the institutions concerned, shall lay down the scheme of social security benefits for officials and other servants of the Union.

Article 15

The European Parliament and the Council, acting by means of regulations in accordance with the ordinary legislative procedure, and after consulting the other institutions concerned, shall determine the categories of officials and other servants of the Union to whom the provisions of Article 11, the second paragraph of Article 12, and Article 13 shall apply, in whole or in part.

The names, grades and addresses of officials and other servants included in such categories shall be communicated periodically to the governments of the Member States.

CHAPTER VI

PRIVILEGES AND IMMUNITIES OF MISSIONS OF THIRD COUNTRIES ACCREDITED TO THE EUROPEAN UNION

Article 16

The Member State in whose territory the Union has its seat shall accord the customary diplomatic immunities and privileges to missions of third countries accredited to the Union.

CHAPTER VII

GENERAL PROVISIONS*Article 17*

Privileges, immunities and facilities shall be accorded to officials and other servants of the Union solely in the interests of the Union.

Each institution of the Union shall be required to waive the immunity accorded to an official or other servant wherever that institution considers that the waiver of such immunity is not contrary to the interests of the Union.

Article 18

The institutions of the Union shall, for the purpose of applying this Protocol, cooperate with the responsible authorities of the Member States concerned.

Article 19

Articles 11 to 14 and Article 17 shall apply to Members of the Commission.

Article 20

Articles 11 to 14 and Article 17 shall apply to the Judges, the Advocates-General, the Registrars and the Assistant Rapporteurs of the Court of Justice of the European Union, without prejudice to the provisions of Article 3 of the Protocol on the Statute of the Court of Justice of the European Union relating to immunity from legal proceedings of Judges and Advocates-General.

Article 21

This Protocol shall also apply to the European Investment Bank, to the members of its organs, to its staff and to the representatives of the Member States taking part in its activities, without prejudice to the provisions of the Protocol on the Statute of the Bank.

The European Investment Bank shall in addition be exempt from any form of taxation or imposition of a like nature on the occasion of any increase in its capital and from the various formalities which may be connected therewith in the State where the Bank has its seat. Similarly, its dissolution or liquidation shall not give rise to any imposition. Finally, the activities of the Bank and of its organs carried on in accordance with its Statute shall not be subject to any turnover tax.

Article 22

This Protocol shall also apply to the European Central Bank, to the members of its organs and to its staff, without prejudice to the provisions of the Protocol on the Statute of the European System of Central Banks and the European Central Bank.

The European Central Bank shall, in addition, be exempt from any form of taxation or imposition of a like nature on the occasion of any increase in its capital and from the various formalities which may be connected therewith in the State where the bank has its seat. The activities of the Bank and of its organs carried on in accordance with the Statute of the European System of Central Banks and of the European Central Bank shall not be subject to any turnover tax.

*Appendix***PROCEDURES FOR THE APPLICATION IN SWITZERLAND OF THE PROTOCOL ON PRIVILEGES AND IMMUNITIES OF THE EUROPEAN UNION****1. Extension of application to Switzerland**

Wherever the Protocol on the privileges and immunities of the European Union (hereinafter called 'the Protocol') contains references to Member States, the references are to be understood to apply equally to Switzerland, unless the following provisions determine otherwise.

2. Exemption of the Agency from indirect taxation (including VAT)

Goods and services exported from Switzerland are not to be subject to Swiss value added tax (VAT). In the case of goods and services provided to the Agency in Switzerland for its official use, in accordance with the second paragraph of Article 3 of the Protocol, exemption from VAT is by way of refund. Exemption from VAT shall be granted if the actual purchase price of the goods and services mentioned in the invoice or equivalent document totals at least 100 Swiss francs (inclusive of tax).

The VAT refund is to be granted on presentation to the Federal Tax Administration's VAT Main Division of the Swiss forms provided for the purpose. As a rule, refund applications must be processed within the 3 months following the date on which they were lodged together with the necessary supporting documents.

3. Procedures for the application of the rules relating to the Agency's staff

As regards the second paragraph of Article 12 of the Protocol, Switzerland shall exempt, according to the principles of its national law, officials and other servants of the Agency within the meaning of Article 2 of Regulation (Euratom, ECSC, EEC) No 549/69 ⁽¹⁾ from federal, cantonal and communal taxes on salaries, wages and emoluments paid to them by the European Union and subject to an internal tax for its own benefit.

Switzerland shall not be considered as a Member State within the meaning of point 1 above for the application of Article 13 of the Protocol.

Officials and other servants of the Agency and members of their families who are members of the social insurance system applicable to officials and other servants of the European Union are not obliged to be members of the Swiss social security system.

The Court of Justice of the European Union shall have exclusive jurisdiction in any matters concerning relations between the Agency or the Commission and its staff with regard to the application of Council Regulation (EEC, Euratom, ECSC) No 259/68 ⁽²⁾ and the other provisions of the European Union law laying down working conditions.

⁽¹⁾ Regulation (Euratom, ECSC, EEC) No 549/69 of the Council of 25 March 1969 determining the categories of officials and other servants of the European Communities to whom the provisions of Article 12, the second paragraph of Article 13 and Article 14 of the Protocol on the Privileges and Immunities of the Communities apply (OJ L 74, 27.3.1969, p. 1). Regulation last amended by Commission Regulation (EC) No 1749/2002 (OJ L 264, 2.10.2002, p. 13.).

⁽²⁾ Regulation (EEC, Euratom, ECSC) No 259/68 of the Council of 29 February 1968 laying down the Staff Regulations of Officials and the Conditions of Employment of Other Servants of the European Communities and instituting special measures temporarily applicable to officials of the Commission (Conditions of Employment of Other Servants) (OJ L 56, 4.3.1968, p. 1). Regulation last amended by Commission Regulation (EC) No 2104/2005 (OJ L 337, 22.12.2005, p. 7.).

ANNEX B

FINANCIAL CONTROL AS REGARDS SWISS PARTICIPANTS IN ACTIVITIES OF THE EUROPEAN AVIATION AGREEMENT*Article 1***Direct communication**

The Agency and the Commission shall communicate directly with all persons or entities established in Switzerland and participating in activities of the Agency, as contractors, participants in Agency programmes, recipients of payments from the Agency or the Community budget, or subcontractors. Such persons may send directly to the Commission and to the Agency all relevant information and documentation which they are required to submit on the basis of the instruments referred to in this Decision and of contracts or agreements concluded and any decisions taken pursuant to them.

*Article 2***Checks**

1. In accordance with Council Regulation (EC, Euratom) No 1605/2002 of 25 June 2002 on the Financial Regulation applicable to the general budget of the European Communities ⁽¹⁾ and the Financial Regulation adopted by the Management Board of the Agency on 26 March 2003, with Commission Regulation (EC, Euratom) No 2343/2002 of 23 December 2002 on the framework Financial Regulation for the bodies referred to in Article 185 of Council Regulation (EC, Euratom) No 1605/2002 on the Financial Regulation applicable to the general budget of the European Communities ⁽²⁾ and with the other instruments referred to in this Decision, contracts or agreements concluded and decisions taken with beneficiaries established in Switzerland may provide for scientific, financial, technological or other audits to be conducted at any time on the premises of the beneficiaries and of their subcontractors by Agency and Commission officials or by other persons mandated by the Agency and the Commission.

2. Agency and Commission officials and other persons mandated by the Agency and the Commission shall have appropriate access to sites, works and documents and to all the information required in order to carry out such audits, including in electronic form. This right of access shall be stated explicitly in the contracts or agreements concluded to implement the instruments referred to in this Decision.

3. The European Court of Auditors is to have the same rights as the Commission.

4. The audits may take place until 5 years after the expiry of this Decision or under the terms of the contracts or agreements concluded and the decisions taken.

5. The Swiss Federal Audit Office is to be informed in advance of audits conducted on Swiss territory. This information will not be a legal condition for carrying out such audits.

*Article 3***On-the-spot checks**

1. Under this Agreement, the Commission (OLAF) is authorised to carry out on-the-spot checks and inspections on Swiss territory, under the terms and conditions set out in Council Regulation (Euratom, EC) No 2185/96 of 11 November 1996 concerning on-the-spot checks and inspections carried out by the Commission in order to protect the European Communities' financial interests against fraud and other irregularities. ⁽³⁾

2. On-the-spot checks and inspections shall be prepared and conducted by the Commission in close cooperation with the Swiss Federal Audit Office or with other competent Swiss authorities appointed by the Swiss Federal Audit Office, which shall be notified in good time of the object, purpose and legal basis of the checks and inspections, so that they can provide all the requisite help. To that end, the officials of the competent Swiss authorities may participate in the on-the-spot checks and inspections.

3. If the Swiss competent authorities concerned so wish, the on-the-spot checks and inspections may be carried out jointly by the Commission and the Swiss competent authorities.

4. Where the participants in the programme resist an on-the-spot check or inspection, the Swiss authorities, acting in accordance with national rules, shall give the Commission inspectors such assistance as they need to allow them to discharge their duty in carrying out an on-the-spot check or inspection.

⁽¹⁾ OJ L 248, 16.9.2002, p. 1.

⁽²⁾ OJ L 357, 31.12.2002, p. 72.

⁽³⁾ OJ L 292, 15.11.1996, p. 2.

5. The Commission shall report as soon as possible to the Swiss Federal Audit Office any fact or suspicion relating to an irregularity which has come to its notice in the course of the on-the-spot check or inspection. In any event the Commission is required to inform the aforementioned authority of the result of such checks and inspections.

Article 4

Information and consultation

1. For the purposes of proper implementation of this Annex, the competent Swiss and Community authorities shall exchange information regularly and, at the request of one of the Parties, shall conduct consultations.
2. The competent Swiss authorities shall inform the Agency and the Commission without delay of any fact or suspicion which has come to their notice relating to an irregularity in connection with the conclusion and implementation of the contracts or agreements concluded in application of the instruments referred to in this Decision.

Article 5

Confidentiality

Information communicated or acquired in any form whatsoever pursuant to this Annex will be covered by professional confidentiality and protected in the same way as similar information is protected by the national legislation of Switzerland and by the corresponding provisions applicable to the Community institutions. Such information shall not be communicated to persons other than those within the Community institutions, in the Member States, or in Switzerland whose functions require them to know it, nor may it be used for purposes other than to ensure effective protection of the financial interests of the Contracting Parties.

Article 6

Administrative measures and penalties

Without prejudice to application of Swiss criminal law, administrative measures and penalties may be imposed by the Agency or the Commission in accordance with Council Regulation (EC, Euratom) No 1605/2002 of 25 June 2002 and Commission Regulation (EC, Euratom) No 2342/2002 of 23 December 2002 and with Council Regulation (EC, Euratom) No 2988/95 of 18 December 1995 on the protection of the European Communities' financial interests ⁽¹⁾.

Article 7

Recovery and enforcement

Decisions taken by the Agency or the Commission within the scope of this Decision which impose a pecuniary obligation on persons other than States shall be enforceable in Switzerland.

The enforcement order must be issued, without any further control than verification of the authenticity of the act, by the authority designated by the Swiss government, which must inform the Agency or the Commission thereof. Enforcement must take place in accordance with the Swiss rules of procedure. The legality of the enforcement decision is subject to control by the Court of Justice of the European Union.

Judgments given by the Court of Justice of the European Union pursuant to an arbitration clause are enforceable on the same terms.

⁽¹⁾ OJ L 312, 23.12.1995, p. 1.

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| ★ Regulation (EU) No 1358/2011 of the European Central Bank of 14 December 2011 amending Regulation (EC) No 1745/2003 on the application of minimum reserves (ECB/2003/9) (ECB/2011/26) | 51 |
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| ★ Council Decision 2011/857/CFSP of 19 December 2011 amending and extending Joint Action 2005/889/CFSP on establishing a European Union Border Assistance Mission for the Rafah Crossing Point (EU BAM Rafah) | 52 |
| ★ Council Decision 2011/858/CFSP of 19 December 2011 amending and extending Decision 2010/784/CFSP on the European Union Police Mission for the Palestinian Territories (EUPOL COPPS) | 54 |
| ★ Council Decision 2011/859/CFSP of 19 December 2011 amending Decision 2010/232/CFSP renewing restrictive measures against Burma/Myanmar | 55 |
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| ★ Commission Implementing Decision of 19 December 2011 on a temporary derogation from rules of origin laid down in Annex II to Council Regulation (EC) No 1528/2007 to take account of the special situation of Kenya with regard to tuna loins (notified under document C(2011) 9269) | 61 |
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| ★ Commission Implementing Decision of 19 December 2011 approving certain amended programmes for the eradication and monitoring of animal diseases and zoonoses for the year 2011 and amending Decision 2010/712/EU as regards the financial contribution by the Union for programmes approved by that Decision (notified under document C(2011) 9478) | 64 |
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