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Legislation

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Contents

[1] Text with EEA relevance

(Continued overleaf)

EN

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

The titles of all other acts are printed in bold type and preceded by an asterisk.

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

EN

(1) Text with EEA relevance

I

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

REGULATIONS

COUNCIL REGULATION (EC) No 1210/2008

of 20 November 2008

amending Regulation (EC) No 55/2008 introducing autonomous trade preferences for the Republic of Moldova

THE COUNCIL OF THE EUROPEAN UNION,

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

Having regard to the proposal from the Commission,

Whereas:

(1) Council Regulation (EC) No 55/2008 [1] (hereinafter 'the Regulation') entered into force on 31 January 2008 and is being applied as of 1 March 2008. The Regulation gives all products originating in the Republic of Moldova (hereinafter: 'Moldova') free access to the Community markets, except for certain agricultural products listed in Annex I to the Regulation for which limited concessions have been given either in the form of exemption from customs duties within the limit of tariff quotas or of reduction of customs duties.

(2) The wording of Article 14 of the Regulation created a gap between the application of the generalised system of preferences (hereinafter 'GSP') to which Moldova was entitled until the entry into force of Regulation (EC) No 55/2008, and the application of the autonomous trade preferences (hereinafter 'ATPs'), whereas the intention had been to ensure that the GSP would continue to apply for all eligible exports until the ATPs were introduced. According to Article 14 goods covered by the GSP, which have been exported to the Community between the entry into force of the ATPs and the start of the application of the regime would not be covered by either regime in cases where no purchase contract was made before 31 January 2008 and it could be shown that the goods left Moldova no later than 31 January 2008. To correct this situation the wording in Article 14 should be amended so as to refer to the date of application of the Regulation and not its entry into force.

(3) In preparing the application of the Regulation (EC) No 55/2008 and the management of the quotas listed in its Annex I, a few inconsistencies between the quota descriptions and the applicable CN codes were detected. In order to correct those errors the word 'domestic' should be deleted in the description for quota No 09.0504, the CN code 1001 90 99 should be added to quota No 09.0509 and the description 'of an actual alcoholic strength by volume not exceeding 15 %' should be deleted in the description of quota No 09.0514. The proposed corrections do not contradict or change the methodology used to determine the size of the quotas for each product group, which was based on best export performance of the years 2004-2006 with yearly increases corresponding to the potential increases in production and export capacity of Moldova until 2012.

(4) Regulation (EC) No 55/2008 should therefore be amended accordingly.

(5) In order to ensure that the measures provided for in this Regulation can be applied without undue delay, it should enter into force on the day following its publication,

HAS ADOPTED THIS REGULATION:

Article 1

Regulation (EC) No 55/2008 is hereby amended as follows:

1. Article 14 shall be amended as follows:

(a) Article 14(1), the introductory phrase, the words 'the entry into force' shall be replaced by the following: 'the date of application';

[1] OJ L 20, 24.1.2008, p. 1.

(b) Article 14(1)(a), (1)(b), (2)(a), (2)(b), (2)(c) and (2)(d), the words 'the date of entry into force' shall be replaced by the following: 'the date of application'.

2. Annex I shall be replaced by the text appearing in the Annex to this Regulation.

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 November 2008.

For the Council
The President
B. LAPORTE

ANNEX

'ANNEX I

PRODUCTS SUBMITTED TO QUANTITATIVE LIMITS OR PRICE THRESHOLDS REFERRED TO IN ARTICLE 3

Notwithstanding the rules for the interpretation of the Combined Nomenclature, the wording for the description of the products is to be considered as having no more than an indicative value, the preferential scheme being determined, within the context of this Annex, by the coverage of the CN codes. Where ex CN codes are indicated, the preferential scheme is to be determined by application of the CN code and corresponding description taken together.

1. **Products subject to annual duty free tariff quotas**

Order No	CN Code	Description	2008 (1)	2009 (1)	2010 (1)	2011 (1)	2012 (1)
09.0504	0201 to 0204	Fresh, chilled and frozen meat of bovine animals, swine and sheep and goats	3 000 (2)	3 000 (2)	4 000 (2)	4 000 (2)	4 000 (2)
09.0505	ex 0207	Meat and edible offal of the poultry of heading 0105, fresh, chilled or frozen, other than fatty livers of subheading 0207 34	400 (2)	400 (2)	500 (2)	500 (2)	500 (2)
09.0506	ex 0210	Meat and edible meat offal of swine and bovine animals, salted, in brine, dried or smoked; edible flours and meals of meat or meat offals of domestic swine and bovine animals	400 (2)	400 (2)	500 (2)	500 (2)	500 (2)
09.4210	0401 to 0406	Dairy products	1 000 (2)	1 000 (2)	1 500 (2)	1 500 (2)	1 500 (2)
09.0507	0407 00	Birds' eggs, in shell	90 (3)	95 (3)	100 (3)	110 (3)	120 (3)
09.0508	ex 0408	Birds' eggs, not in shell and egg yolks, other than unfit for human consumption	200 (2)	200 (2)	300 (2)	300 (2)	300 (2)
09.0509	1001 90 91 1001 90 99	Other spelt (other than spelt for sowing), common wheat and meslin	25 000 (2)	30 000 (2)	35 000 (2)	40 000 (2)	50 000 (2)
09.0510	1003 00 90	Barley	20 000 (2)	25 000 (2)	30 000 (2)	35 000 (2)	45 000 (2)
09.0511	1005 90	Maize	15 000 (2)	20 000 (2)	25 000 (2)	30 000 (2)	40 000 (2)
09.0512	1601 00 91 and 1601 00 99	Sausages and similar products, of meat, meat offal or blood; food preparations based on these products	500 (2)	500 (2)	600 (2)	600 (2)	600 (2)
	ex 1602	Other prepared or preserved meat, meat offal or blood: — of fowls of the species *Gallus domesticus*, uncooked, — of domestic swine, — of bovine animals, uncooked					
09.0513	1701 99 10	White Sugar	15 000 (2)	18 000 (2)	22 000 (2)	26 000 (2)	34 000 (2)
09.0514	2204 21 and 2204 29	Wine of fresh grapes other than sparkling wine	60 000 (4)	70 000 (4)	80 000 (4)	100 000 (4)	120 000 (4)

(1) From 1 January until 31 December, except for 2008 from the first day of application of the Regulation until 31 December.
(2) Tonnes (net weight).
(3) Million units.
(4) Hectolitres.

2. **Products for which the *ad valorem* component of the import duty is exempted**

CN Code	Description
0702	Tomatoes, fresh or chilled
0703 20	Garlic, fresh or chilled
0707	Cucumbers and gherkins, fresh or chilled
0709 90 70	Courgettes, fresh or chilled
0709 90 80	Globe artichokes
0806	Grapes, fresh or dried
0808 10	Apples, fresh
0808 20	Pears and quinces
0809 10	Apricots
0809 20	Cherries
0809 30	Peaches, including nectarines
0809 40	Plums and sloes'

COMMISSION REGULATION (EC) No 1211/2008

of 5 December 2008

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

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

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

Having regard to Commission Regulation (EC) No 1580/2007 of 21 December 2007 laying down implementing rules for Council Regulations (EC) No 2200/96, (EC) No 2201/96 and (EC) No 1182/2007 in the fruit and vegetable sector [2], and in particular Article 138(1) thereof,

Whereas:

Regulation (EC) No 1580/2007 lays down, pursuant to the outcome of the Uruguay Round multilateral trade negotiations, the criteria whereby the Commission fixes the standard values for imports from third countries, in respect of the products and periods stipulated in Annex XV, Part A thereto,

HAS ADOPTED THIS REGULATION:

Article 1

The standard import values referred to in Article 138 of Regulation (EC) No 1580/2007 are fixed in the Annex hereto.

Article 2

This Regulation shall enter into force on 6 December 2008.

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

Done at Brussels, 5 December 2008.

For the Commission

Jean-Luc DEMARTY

Director-General for Agriculture and Rural Development

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[1] OJ L 299, 16.11.2007, p. 1.
[2] OJ L 350, 31.12.2007, p. 1.

ANNEX

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

(EUR/100 kg)

CN code	Third country code (1)	Standard import value
0702 00 00	MA	71,4
	TR	76,9
	ZZ	74,2
0707 00 05	JO	167,2
	MA	58,0
	TR	91,5
	ZZ	105,6
0709 90 70	JO	230,6
	MA	83,9
	TR	107,2
	ZZ	140,6
0805 10 20	BR	44,6
	EG	30,5
	MA	76,3
	TR	55,3
	UY	34,6
	ZA	43,1
	ZW	28,4
	ZZ	44,7
0805 20 10	MA	66,9
	TR	73,0
	ZZ	70,0
0805 20 30, 0805 20 50, 0805 20 70, 0805 20 90	AR	62,9
	CN	52,4
	HR	17,0
	IL	74,8
	TR	59,7
	ZZ	53,4
0805 50 10	MA	64,0
	TR	63,4
	ZA	79,4
	ZZ	68,9
0808 10 80	CA	89,4
	CL	67,1
	CN	76,6
	MK	34,8
	US	104,1
	ZA	113,0
	ZZ	80,8
0808 20 50	AR	73,4
	CL	48,4
	CN	50,1
	TR	104,0
	US	126,1
	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 REGULATION (EC) No 1212/2008

of 5 December 2008

amending the representative prices and additional import duties for certain products in the sugar sector fixed by Regulation (EC) No 945/2008 for the 2008/2009 marketing year

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

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

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

Whereas:

(1) The representative prices and additional duties applicable to imports of white sugar, raw sugar and certain syrups for the 2008/2009 marketing year are fixed by Commission Regulation (EC) No 945/2008 [3]. These prices and duties have been last amended by Commission Regulation (EC) No 1209/2008 [4].

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

HAS ADOPTED THIS REGULATION:

Article 1

The representative prices and additional duties applicable to imports of the products referred to in Article 36 of Regulation (EC) No 951/2006, as fixed by Regulation (EC) No 945/2008 for the 2008/2009, marketing year, are hereby amended as set out in the Annex hereto.

Article 2

This Regulation shall enter into force on 6 December 2008.

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

Done at Brussels, 5 December 2008.

For the Commission

Jean-Luc DEMARTY

Director-General for Agriculture and Rural Development

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[1] OJ L 299, 16.11.2007, p. 1.
[2] OJ L 178, 1.7.2006, p. 24.
[3] OJ L 258, 26.9.2008, p. 56.
[4] OJ L 327, 5.12.2008, p. 5.

ANNEX

Amended representative prices and additional import duties applicable to white sugar, raw sugar and products covered by CN code 1702 90 95 from 6 December 2008

(EUR)

CN code	Representative price per 100 kg net of the product concerned	Additional duty per 100 kg net of the product concerned
1701 11 10 (1)	23,24	4,68
1701 11 90 (1)	23,24	9,91
1701 12 10 (1)	23,24	4,49
1701 12 90 (1)	23,24	9,48
1701 91 00 (2)	24,46	13,28
1701 99 10 (2)	24,46	8,48
1701 99 90 (2)	24,46	8,48
1702 90 95 (3)	0,24	0,40

(1) For the standard quality defined in point III of Annex IV to Regulation (EC) No 1234/2007.
(2) For the standard quality defined in point II of Annex IV to Regulation (EC) No 1234/2007.
(3) Per 1 % sucrose content.

COMMISSION REGULATION (EC) No 1213/2008

of 5 December 2008

concerning a coordinated multiannual Community control programme for 2009, 2010 and 2011 to ensure compliance with maximum levels of and to assess the consumer exposure to pesticide residues in and on food of plant and animal origin

(Text with EEA relevance)

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Regulation (EC) No 396/2005 of the European Parliament and of the Council of 23 February 2005 on maximum residue levels of pesticides in or on food and feed of plant and animal origin and amending Council Directive 91/414/EEC [1], in particular Article 29 thereof,

Whereas:

(1) In accordance with Directives 76/895/EEC, 86/362/EEC, 86/363/EEC and 90/642/EEC the Commission adopted recommendations concerning a coordinated Community monitoring programme for pesticide residues in and on cereals and certain other products of plant origin. On 1 September 2008 those Directives were replaced by Regulation (EC) No 396/2005. Under that Regulation the Community control programme of pesticide residues is to cover food of animal origin in addition to food of plant origin and it is to take the form of a binding act. It should therefore be adopted as a Regulation. It should be without prejudice to Council Directive 96/23/EC of 29 April 1996 on measures to monitor certain substances and residues thereof in live animals and animal products and repealing Directives 85/358/EEC and 86/469/EEC and Decisions 89/187/EEC and 91/664/EEC [2].

(2) Thirty foodstuffs constitute the major components of the diet in the Community. Since pesticide uses show significant changes over a period of three years, pesticides should be monitored in those thirty foodstuffs over a series of three-year cycles to allow consumer exposure and the application of Community legislation to be assessed.

(3) On the basis of a binomial probability distribution, it can be calculated that examination of 642 samples allows, with a certainty of more than 99 %, the detection of a sample containing pesticide residues above the limit of determination (LOD), provided that not less than 1 % of the products contain residues above that limit. Collection of these samples should be apportioned among Member States according to population numbers, with a minimum of 12 samples per product and per year.

(4) Where the residue definition of a pesticide includes other active substances, metabolites or breakdown products, those metabolites should be reported separately.

(5) Guidance concerning 'Method validation and quality control procedures for pesticide residue analysis in food and feed' is published on the Commission website [3].

(6) For the sampling procedures Commission Directive 2002/63/EC of 11 July 2002 establishing Community methods of sampling for the official control of pesticide residues in and on products of plant and animal origin and repealing Directive 79/700/EEC [4] which incorporates the sampling methods and procedures recommended by the Codex Alimentarius Commission should apply.

(7) It is also necessary to assess whether maximum residue levels for baby food established provided for in Article 10 of Commission Directive 2006/141/EC of 22 December 2006 on infant formulae and follow-on formulae and amending Directive 1999/21/EC [5] and Article 7 of Commission Directive 2006/125/EC of 5 December 2006 on processed cereal-based foods and baby foods for infants and young children [6] are respected.

(8) It is necessary to assess possible aggregate, cumulative and synergistic effects of pesticides. This assessment should start with some organophosphates, carbamates, triazoles and pyrethroides, as set out in Annex I.

[1] OJ L 70, 16.3.2005, p. 1.
[2] OJ L 125, 23.5.1996, p. 10.
[3] Document SANCO/3131/2007, 31 October 2007 http://ec.europa.eu/food/plant/protection/resources/qualcontrol_en.pdf
[4] OJ L 187, 16.7.2002, p. 30.
[5] OJ L 401, 30.12.2006, p. 1.
[6] OJ L 339, 6.12.2006, p. 16.

(9) Member States should submit by 31 August of each year the information concerning the previous calendar year.

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

HAS ADOPTED THIS REGULATION:

Article 1

Member States shall, during the years 2009, 2010 and 2011 take and analyse samples for the product/pesticide residue combinations, as set out in Annex I.

The number of samples of each product shall be as set out in Annex II.

Article 2

1. The lot to be sampled shall be chosen randomly.

The sampling procedure, including the number of units, shall comply with Directive 2002/63/EC.

2. The samples taken and analysed shall include at least:

(a) ten samples of baby food based mainly on vegetables, fruits or cereals;

(b) one sample, where available, from products originating from organic farming that reflects the market share of organic products in each Member State.

Article 3

1. Member States shall submit the results of the analysis of samples tested in 2009, 2010 and 2011 by 31 August 2010, 2011 and 2012 respectively.

In addition to those results, Member States shall provide the following information:

(a) the analytical methods used and reporting levels achieved, in accordance with the guidance on Method validation and quality control procedures for pesticide residue analysis in food and feed;

(b) limit of determination applied in the national and community control programmes;

(c) details of the accreditation status of the analytical laboratories involved in the control;

(d) where permitted by national legislation, details of enforcement measures taken;

(e) in case of MRL exceedance, a statement of the possible reasons why the MRLs were exceeded, together with any appropriate observations regarding risk management options.

2. Where the residue definition of a pesticide includes active substances, metabolites and/or breakdown or reaction products, Member States shall report the analysis results in accordance with the legal residue definition. Where relevant, the results of each of the main isomers or metabolites mentioned in the residue definition shall be submitted separately.

Article 4

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

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

Done at Brussels, 5 December 2008.

For the Commission
Androulla VASSILIOU
Member of the Commission

ANNEX I

Pesticide/product combinations to be monitored

	2009	2010	2011
2,4-D (sum of 2,4-D and its esters expr. as 2,4-D)		[c]	[a]
4,4′-Methoxychlor	[d]	[e]	[f]
Abamectin (sum of avermectin B1a, avermectin B1b and delta-8,9 isomer of avermectin B1a)	[b] [d]	[c] [e]	[a] [f]
Acephate	[b]	[c]	[a]
Acetamiprid	[b]	[c]	[a]
Acrinathrin		[c]	[a]
Aldicarb (sum of aldicarb, its sulfoxide and its sulfone, expressed as aldicarb)	[b]	[c]	[a]
Amitraz (amitraz including the metabolites containing the 2,4-dimethylaniline moity expressed as amitraz)		[c]	[a]
Amitrole (***)	[b]	[c]	[a]
Azinphos-ethyl (***)	[d]	[e]	[f]
Azinphos-methyl	[b]	[c]	[a]
Azoxystrobin	[b]	[c]	[a]
Benfuracarb (***)	[b]	[c]	[a]
Bifenthrin	[b] [d]	[c] [e]	[a] [f]
Bitertanol		[c]	[a]
Boscalid	[b]	[c]	[a]
Bromide ion		[c]	[a]
Bromopropylate	[b]	[c]	[a]
Bromuconazole (sum of diasteroisomers) (***)	[b]	[c]	[a]
Bupirimate	[b]	[c]	[a]
Buprofezin	[b]	[c]	[a]
Cadusafos (***)	[b]	[c]	[a]
Campfechlor (sum of parlar No 26, 50 and 62) (***)	[d]	[e]	[f]
Captan	[b]	[c]	[a]
Carbaryl	[b]	[c]	[a]
Carbendazim (sum of Benomyl and carbendazim expressed as carbendazim)	[b]	[c]	[a]
Carbofuran (sum of Carbofuran and 3-Hydroxycarbofuran expr. as Carbofuran)	[b]	[c]	[a]
Carbosulfan (***)	[b]	[c]	[a]
Chlordane (sum of cis- and trans-isomers and oxychlordane expr. as chlordane)	[d]	[e]	[f]
Chlorfenapyr		[c]	[a]

	2009	2010	2011
Chlorfenvinphos	[b]	[c]	[a]
Chlormequat (*)	[b]	[c]	[a]
Chlorobenzilate (***)	[d]	[e]	[f]
Chlorothalonil	[b]	[c]	[a]
Chlorpropham (Chlorpropham and 3-Chloroaniline expr. as Chlorpropham)	[b]	[c]	[a]
Chlorpyriphos	[b] [d]	[c] [e]	[a] [f]
Chlorpyriphos-methyl	[b] [d]	[c] [e]	[a] [f]
clofentezin (sum of all compounds containing the 2-Chlorbenzoyl-moiety expr. as Clofentezin)	[b]	[c]	[a]
Clothianidin (sum of Thiamethoxam and Clothianidin expr. as Thiamethoxam)		[c]	[a]
Cyfluthrin (Cyfluthrin incl. other mixtures of constituent isomers (sum of isomers))	[b] [d]	[c] [e]	[a] [f]
Cypermethrin (Cypermethrin incl. other mixtures of constituent isomers (sum of isomers))	[b] [d]	[c] [e]	[a] [f]
cyproconazole (***)	[b]	[c]	[a]
Cyprodinil	[b]	[c]	[a]
DDT (sum of p,p′-DDT, o,p′-DDT, p-p′-DDE and p,p′-DDD (TDE) expr. as DDT)	[d]	[e]	[f]
Deltamethrin (cis-deltamethrin)	[b] [d]	[c] [e]	[a] [f]
Diazinon	[b]	[c] [e]	[a] [f]
Dichlofluanid	[b]	[c]	[a]
Dichlorvos	[b]	[c]	[a]
Dicloran		[c]	[a]
Dicofol (sum of p,p′ and o,p′ isomers)	[b]	[c]	[a]
Dieldrin (Aldrin and dieldrin combined expressed as dieldrin)	[d]	[e]	[f]
Difenoconazole	[b]	[c]	[a]
Dimethoate (sum of Dimethoate and Omethoate expressed as dimethoate)	[b]	[c]	[a]
Dimethomorph	[b]	[c]	[a]
Dinocap (sum of dinocap isomers and their corresponding phenols expressed as dinocap)		[c]	[a]
Diphenylamine	[b]	[c]	[a]
Endosulfan (sum of alpha- and beta-isomers and Endosulfan-sulphate expr. as Endosulfan)	[b] [d]	[c] [e]	[a] [f]
Endrin	[d]	[e]	[f]
Epoxiconazole		[c]	[a]
Ethion	[b]	[c]	[a]
Ethoprophos (***)	[b]	[c]	[a]
Fenamiphos (sum of fenamiphos and its sulphoxide and sulphone expressed as fenamiphos) (***)	[b]	[c]	[a]
fenarimol	[b]	[c]	[a]

	2009	2010	2011
Fenazaquin		[c]	[a]
Fenbuconazole (***)	[b]	[c]	[a]
Fenhexamid	[b]	[c]	[a]
Fenitrothion	[b]	[c]	[a]
Fenoxycarb	[b]	[c]	[a]
Fenpropathrin (***)	[b]	[c]	[a]
Fenpropimorph		[c]	[a]
Fenthion (sum of fenthion and its oxigen analogue, their sulfoxides and sulfone expr. as parent)	[d]	[c] [e]	[a] [f]
Fenvalerate/Esfenvalerate (sum of RS/SR and RR/SS isomers)	[d]	[c] [e]	[a] [f]
Fipronil (sum of Fipronil + sulfone metabolite (MB46136) expr. as Fipronil)	[b]	[c]	[a]
Fluazifop (Fluazifop-P-butyl (fluazifop acid (free and conjugate)))		[c]	[a]
Fludioxonil	[b]	[c]	[a]
Flufenoxuron	[b]	[c]	[a]
Fluquiconazole (***)	[b]	[c]	[a]
flusilazole	[b]	[c]	[a]
Flutriafol (***)	[b]	[c]	[a]
Folpet	[b]	[c]	[a]
Formetanate (sum of Formetanate and its salts expr. as Formetanate hydrochloride)	[b]	[c]	[a]
Fosthiazate (***)	[b]	[c]	[a]
Glyphosate (**)		[c]	[a]
Haloxyfop including haloxyfop-R (Haloxyfop-R methyl ester, haloxyfop-R and conjugates of haloxyfop-R expressed as haloxyfop-R) (F) (R)		[c]	[a]
HCB	[d]	[e]	[f]
Heptachlor (sum of heptachlor and heptachlor epoxide expressed as heptachlor)	[d]	[e]	[f]
Hexachlorcyclohexan (HCH), Alpha-Isomer	[d]	[e]	[f]
Hexachlorcyclohexan (HCH), Beta-Isomer	[d]	[e]	[f]
Hexachlorocyclohexane (HCH) (Gamma-isomer) (Lindane)	[d]	[e]	[f]
Hexaconazole	[b]	[c]	[a]
Hexythiazox	[b]	[c]	[a]
Imazalil	[b]	[c]	[a]
Imidacloprid	[b]	[c]	[a]
Indoxacarb (Indoxacarb as sum of the isomers S and R)	[b]	[c]	[a]
Iprodione	[b]	[c]	[a]
Iprovalicarb	[b]	[c]	[a]

	2009	2010	2011
Kresoxim-methyl	[b]	[c]	[a]
Lambda-cyhalothrin (Lambda-cyhalothrin, incl. other mixed isomeric consituents (sum of isomers))	[b]	[c]	[a]
Linuron	[b]	[c]	[a]
Lufenuron		[c]	[a]
Malathion (sum of Malathion and Malaoxon expr. as Malathion)	[b]	[c]	[a]
Maneb group (sum expr. as CS2: Maneb, Mancozeb, Metiram, Propineb, Thiram, Ziram)	[b]	[c]	[a]
Mepanipyrim and its metabolite (2-anilino-4-(2-hydroxypropyl)-6-methylpyrimidine) expr. as mepanipyrim)	[b]	[c]	[a]
Mepiquat (*)	[b]	[c]	[a]
Metalaxyl (Metalaxyl incl. mixtures of constituent isomers incl. Metalaxyl-M (sum of isomers))	[b]	[c]	[a]
Metconazole (***)	[b]	[c]	[a]
Methamidophos	[b]	[c]	[a]
Methidathion	[b] [d]	[c] [e]	[a] [f]
Methiocarb (sum of Methiocarb and Methiocarb-Sulfoxide and Sulfone, expr. as Methiocarb)	[b]	[c]	[a]
Methomyl (sum of Methomyl and Thiodicarb expr. as Methomyl)	[b]	[c]	[a]
Methoxyfenozide		[c]	[a]
Monocrotophos	[b]	[c]	[a]
Myclobutanil	[b]	[c]	[a]
Oxadixyl		[c]	[a]
Oxamyl	[b]	[c]	[a]
Oxydemeton-methyl (sum of Oxydemeton-Methyl and Demeton-S-Methylsulfone expr. as Oxydemeton-Methyl)	[b]	[c]	[a]
Paclobutrazole (***)	[b]	[c]	[a]
Parathion	[b] [d]	[c] [e]	[a] [f]
Parathion-Methyl (sum of Parathion-Methyl and Paraoxon-Methyl expr. as Parathion-Methyl)	[b] [d]	[c] [e]	[a] [f]
Penconazole	[b]	[c]	[a]
Pendimethalin		[c]	[a]
Permethrin (sum of cis- and trans-permethrin)	[d]	[e]	[f]
Phenthoate		[c]	[a]
Phosalone	[b]	[c]	[a]
Phosmet (Phosmet and Phosmet oxon expr. as Phosmet)	[b]	[c]	[a]
phoxim (***)	[b]	[c]	[a]
Pirimicarb (sum of Pirimicarb and Desmethylpirimicarb expr. as Pirimicarb)	[b]	[c]	[a]
Pirimiphos-methyl	[b] [d]	[c] [e]	[a] [f]

	2009	2010	2011
Prochloraz (sum of Prochloraz + its metabolites cont. the 2,4,6-Trichlorophenol moiety expr. as Prochloraz)	[b]	[c]	[a]
Procymidone	[b]	[c]	[a]
Profenofos	[b] [d]	[c] [e]	[a] [f]
Propamocarb (sum of Propamocarb and its salt expr. as Propamocarb)	[b]	[c]	[a]
Propargite	[b]	[c]	[a]
Propiconazole		[c]	[a]
Propyzamide		[c]	[a]
Prothioconazole (Prothioconazole-desthio) (***)	[b]	[c]	[a]
Pyrazophos	[d]	[e]	[f]
Pyrethrins			[a]
Pyridaben	[b]	[c]	[a]
Pyrimethanil	[b]	[c]	[a]
Pyriproxyfen	[b]	[c]	[a]
Quinoxyfen	[b]	[c]	[a]
Quintozene (sum of Quintozen und Pentachloraniline, expr. as Quintozene)		[e]	[f]
Resmethrin (sum of isomers)	[d]	[e]	[f]
Spinosad (sum of Spinosyn A and Spinosyn D, expr. as Spinosad)		[c]	[a]
Spiroxamine	[b]	[c]	[a]
Tebuconazole	[b]	[c]	[a]
Tebufenozide	[b]	[c]	[a]
Tebufenpyrad	[b]	[c]	[a]
Tecnazene		[e]	[f]
Teflubenzuron	[b]	[c]	[a]
Tefluthrin (***)	[b]	[c]	[a]
Tetraconazole		[c]	[a]
Tetradifon	[b]	[c]	[a]
Thiabendazole	[b]	[c]	[a]
Thiacloprid	[b]	[c]	[a]
Thiophanate-methyl	[b]	[c]	[a]
Tolcloflos-methyl	[b]	[c]	[a]
Tolylfluanid (sum of Tolylfluanid and Dimethylaminosulfotoluidide expr. as Tolylfluanid)	[b]	[c]	[a]
Triadimefon and triadimenol (sum of triadimefon and triadimenol)	[b]	[c]	[a]
Triazophos	[b] [d]	[c] [e]	[a] [f]

	2009	2010	2011
Trichlorfon (***)	[b]	[c]	[a]
trifloxystrobin	[b]	[c]	[a]
Trifluralin		[c]	[a]
Triticonazole (***)	[b]	[c]	[a]
Vinclozolin (sum of Vinclozolin and all metabolites cont. the 3,5-dichloraniniline moiety, expr. as Vinclozolin)	[b]	[c]	[a]

[a] Beans (fresh or frozen, without pod), carrots, cucumbers, oranges or mandarins, pears, potatoes, rice and spinach (fresh or frozen).
[b] Aubergines, bananas, cauliflower, table grapes, orange juice (Member States shall specify the source (concentrates or fresh fruits)), peas (fresh/frozen, without pod), peppers (sweet) and wheat.
[c] Apples, head cabbage, leek, lettuce, tomatoes, peaches including nectarines and similar hybrids; rye or oats and strawberries.
[d] Butter, egg.
[e] Milk, swine meat.
[f] Poultrymeat, liver (bovine and other ruminants, swine and poultry).
(*) Chlormequat and mepiquat shall be analysed in cereals (excluding rice), carrots, fruiting vegetables and pears.
(**) Only cereals.
(***) To be analysed on voluntary basis in 2009.

ANNEX II

Number of samples of each product to be taken and analysed by each Member State.

Member State	Samples
BE	12 (*) 15 (**)
BG	12 (*) 15 (**)
CZ	12 (*) 15 (**)
DK	12 (*) 15 (**)
DE	93
EE	12 (*) 15 (**)
EL	12 (*) 15 (**)
ES	45
FR	66
IE	12 (*) 15 (**)
IT	65
CY	12 (*) 15 (**)
LV	12 (*) 15 (**)
LT	12 (*) 15 (**)
LU	12 (*) 15 (**)
HU	12 (*) 15 (**)
MT	12 (*) 15 (**)
NL	17
AT	12 (*) 15 (**)
PL	45
PT	12 (*) 15 (**)
RO	17
SI	12 (*) 15 (**)
SK	12 (*) 15 (**)
FI	12 (*) 15 (**)
SE	12 (*) 15 (**)
UK	66

TOTAL MINIMUM NUMBER OF SAMPLES: 642

(*) Minimum number of samples for each single residue method applied.
(**) Minimum number of samples for each multi-residue method applied.

COMMISSION REGULATION (EC) No 1214/2008

of 5 December 2008

fixing the coefficients applicable to cereals exported in the form of Irish whiskey for the period 2008/2009

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Council Regulation (EC) No 1234/2007 of 22 October 2007 establishing a common organisation of agricultural markets and on specific provisions for certain agricultural products (Single CMO Regulation) ([1]), and in particular Article 162(3) thereof,

Having regard to Commission Regulation (EC) No 1670/2006 of 10 November 2006 laying down certain detailed rules for the application of Council Regulation (EC) No 1784/2003 as regards the fixing and granting of adjusted refunds in respect of cereals exported in the form of certain spirit drinks ([2]), and in particular Article 5 thereof,

Whereas:

(1) Article 4(1) of Regulation (EC) No 1670/2006 lays down that the quantities of cereals eligible for the refund are to be the quantities placed under control and distilled, weighted by a coefficient to be fixed annually for each Member State concerned. The coefficient is to express the average ratio between the total quantities exported and the total quantities marketed of the spirit drink concerned, on the basis of the trend noted in those quantities during the number of years corresponding to the average ageing period of the spirit drink in question.

(2) According to the information provided by Ireland in respect of the period 1 January to 31 December 2007, the average ageing period for Irish whiskey in 2007 was five years.

(3) The coefficients for the period 1 October 2008 to 30 September 2009 should therefore be fixed accordingly.

(4) Article 10 of Protocol 3 to the Agreement on the European Economic Area excludes the grant of refunds in respect of exports to Liechtenstein, Iceland and Norway. Moreover, the Community has concluded agreements abolishing export refunds with certain third countries. Under the terms of Article 7(2) of Regulation (EC) No 1670/2006, this should be taken into account in calculating the coefficients for 2008/2009,

HAS ADOPTED THIS REGULATION:

Article 1

For the period 1 October 2008 to 30 September 2009, the coefficients provided for in Article 4 of Regulation (EC) No 1670/2006 applying to cereals used in Ireland for manufacturing Irish whiskey shall be as set out in the Annex to this Regulation.

Article 2

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

It shall apply from 1 October 2008.

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

Done at Brussels, 5 December 2008.

For the Commission
Mariann FISCHER BOEL
Member of the Commission

([1]) OJ L 299, 16.11.2007, p. 1.
([2]) OJ L 312, 11.11.2006, p. 33.

ANNEX

Coefficients applicable in Ireland

Period of application	Coefficient applicable	
	to barley used in the production of Irish whiskey, category B [1]	to cereals used in the production of Irish whiskey, category A
1 October 2008 to 30 September 2009	0,086	0,150

[1] Including malted barley.

COMMISSION REGULATION (EC) No 1215/2008

of 5 December 2008

on opening and providing for the administration of a Community tariff quota for malting barley from third countries and derogating from Council Regulation (EC) No 1234/2007

(Codified version)

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

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

Having regard to Council Decision 2006/333/EC of 20 March 2006 on the conclusion of an Agreement in the form of an Exchange of Letters between the European Community and the United States of America 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 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 in the course of their accession to the European Union ([2]), and in particular Article 2 thereof,

Having regard to Council Decision 2007/444/EC of 22 February 2007 on the conclusion of an Agreement between the European Community and the Government of Canada on the conclusion of GATT Article XXIV:6 Negotiations ([3]), and in particular Article 2 thereof,

Whereas:

(1) Commission Regulation (EC) No 2377/2002 of 27 December 2002 opening and providing for the administration of a Community tariff quota for malting barley from third countries and derogating from Council Regulation (EEC) No 1766/92 ([4]) has been substantially amended several times ([5]). In the interests of clarity and rationality the said Regulation should be codified.

(2) Following trade negotiations, the Community has changed the conditions for the import of common wheat of low and medium quality and of barley by creating import quotas. For barley, the Community has decided to replace the 'margin of preference' system by two tariff quotas: one tariff quota of 50 000 tonnes for malting barley and one tariff quota of 300 000 for barley. This Regulation concerns the tariff quota of 50 000 tonnes of malting barley.

(3) Under the Community's international commitments, malting barley for import must be intended for use in the manufacture of beer aged in vats containing beechwood. In this respect, provisions should be adopted relating to the quality criteria for barley and to processing requirements similar to those of Commission Regulation (EC) No 1234/2001 of 22 June 2001 laying down detailed rules for applying Council Regulation (EC) No 822/2001 and providing for the partial reimbursement of import duties levied on a quota of barley for malting ([6]).

(4) 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 ([7]) applies to import licences for tariff quota periods starting from 1 January 2007.

(5) Regulation (EC) No 1301/2006 applies without prejudice to additional conditions or derogations which might be laid down by this Regulation.

(6) To ensure that imports of the barley covered by this tariff quota are orderly and not speculative, they should be made subject to the issue of import licences.

(7) To ensure the proper management of this quota, deadlines for the lodging of licence applications should be laid down and the information to be included in applications and licences should be specified.

(8) To take account of supply conditions, a derogation should be made concerning the period of validity of the licences.

([1]) OJ L 299, 16.11.2007, p. 1.
([2]) OJ L 124, 11.5.2006, p. 13.
([3]) OJ L 169, 29.6.2007, p. 53.
([4]) OJ L 358, 31.12.2002, p. 95.
([5]) See Annex II.
([6]) OJ L 168, 23.6.2001, p. 12.
([7]) OJ L 238, 1.9.2006, p. 13.

(9) Taking account of the obligation to apply a high level of guarantee to ensure sound management of the quota and that this guarantee would have to be in place during all the processing period, it is appropriate to exempt importers whose consignments of malting barley are accompanied by a certificate of conformity agreed with the government of the United States of America according to the administrative cooperation procedure provided for in Articles 63, 64 and 65 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 [1].

(10) To ensure sound management of this quota, the security on the import licences should be set at a relatively high level, notwithstanding Article 12 of Commission Regulation (EC) No 1342/2003 of 28 July 2003 laying down special detailed rules for the application of the system of import and export licences for cereals and rice [2].

(11) Rapid two-way communication should be established between the Commission and the Member States regarding the quantities applied for and imported.

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

HAS ADOPTED THIS REGULATION:

Article 1

Notwithstanding Article 135 of Regulation (EC) No 1234/2007, the import duty for malting barley falling within CN code 1003 00 shall be fixed in the framework of the quota opened by this Regulation.

Article 135 of Regulation (EC) No 1234/2007 shall apply to imports of the products referred to in this Regulation, in excess of the quantity provided for in Article 2 of this Regulation.

Article 2

1. A tariff import quota of 50 000 tonnes of malting barley falling within CN code 1003 00 to be used in the manufacture of beer aged in beechwood vats is hereby opened on 1 January each year. It carries the serial number 09.4061.

2. Duties on imports within the tariff quota shall be levied at a rate of EUR 8 per tonne.

3. Commission Regulation (EC) No 376/2008 [3] and Regulations (EC) No 1342/2003 and (EC) No 1301/2006 shall apply, save as otherwise provided for in this Regulation.

Article 3

For the purposes of applying this Regulation, the following definitions shall apply:

(a) 'damaged grains' means grains of barley, other cereals or wild oats that display damage, including deterioration caused by disease, frost, heat, insects or fungus, bad weather and all other forms of physical damage;

(b) 'sound and fair merchantable barley' means barley grains or pieces of grains that are not damaged as defined in point (a), except grains damaged by frost or fungus.

Article 4

1. The benefit of the tariff quota shall be granted provided the imported barley meets the following criteria:

(a) specific weight: minimum 60,5 kg/hl;

(b) damaged grains: maximum 1 %;

(c) moisture: maximum 13,5 %;

(d) sound and fair merchantable barley: minimum 96 %.

2. Compliance with the quality criteria set out in paragraph 1 shall be certified by one of the following documents:

(a) a certificate of analysis carried out at the importer's request by the customs office of release for free circulation; or

(b) a certificate of conformity for the imported barley issued by a government authority of the country of origin and recognised by the Commission.

Article 5

1. The benefit of access to this quota shall be granted provided the following conditions are fulfilled:

(a) the imported barley must be malted within six months from the date of release for free circulation;

[1] OJ L 253, 11.10.1993, p. 1.
[2] OJ L 189, 29.7.2003, p. 12.
[3] OJ L 114, 26.4.2008, p. 3.

(b) the resulting malt must be used in the manufacture of beer aged in vats containing beechwood within no more than 150 days following the date on which the barley is processed into malt.

2. Applications for import licences under the tariff quota shall be accepted only if they are accompanied by:

(a) the proof or proofs provided for in Article 5 of Regulation (EC) No 1301/2006;

(b) proof that the applicant has lodged a security of EUR 85 per tonne with the competent authority of the Member State of release for free circulation. In case the malting barley consignments are accompanied by a certificate of conformity issued by the Federal Grain Inspection Service (FGIS) as referred to in Article 7, the security shall be reduced to EUR 10 per tonne;

(c) a written undertaking by the applicant that all the imported goods will be processed, within six months from the date of acceptance of entry for free circulation, into malt for use in the manufacture of beer aged in vats containing beechwood within 150 days following the date on which the barley was processed into malt. He shall specify the processing location by stating either a processing firm and Member State or a maximum of five processing plants. Before the goods are consigned for processing a control copy T5 shall be made out of the office of customs clearance in accordance with Regulation (EEC) No 2454/93. The information required in the first sentence of this point (c) and the name and location of the processing plant shall be given in Box 104 of the T5.

3. Processing of the imported barley into malt shall be deemed to have taken place when the malting barley has undergone steeping. The use of the malt to manufacture beer aged in vats containing beechwood within no more than 150 days following the date on which the barley is processed into malt shall be subject to verification by the competent authority.

Article 6

1. The security provided for in Article 5(2)(b) shall be released provided the following conditions are fulfilled:

(a) the quality of the barley, established on the basis of the certificate of conformity or analysis certificate, meets the criteria laid down in Article 4(1);

(b) the certificate applicant provides proof of the specific final use referred to in Article 5(1), certifying that this use has taken place within the time limit provided for in the written undertaking referred to in Article 5(2)(c). That proof, possibly in the form of the T5 control copy, must demonstrate to the satisfaction of the competent authorities of the Member State of importation that all the quantities imported have been processed into the product referred in Article 5(2)(c).

2. Where the quality criteria and/or the conditions relating to processing set out in Articles 4 and 5 of this Regulation are not fulfilled, the security for import licences referred to in Article 12(a) of Regulation (EC) No 1342/2003 and the additional security referred to in Article 5(2)(b) of this Regulation shall be forfeited.

Article 7

A blank specimen of the certificates to be issued by the FGIS is given in Annex I. Certificates issued by the FGIS for malting barley destined to be used in the manufacture of beer aged in vats containing beechwood shall be officially recognised by the Commission under the administrative cooperation procedure as provided for in Articles 63, 64 and 65 of Regulation (EEC) No 2454/93. When the analytical parameters entered in the certificate of conformity issued by FGIS show conformity with the malting barley quality standards established in Article 4 of this Regulation samples shall be taken of at least 3 % of the cargoes arriving at each entry port during the marketing year. Reproduction of the stamp and signatures authorised by the Government of the United States of America shall be published in the C series of the *Official Journal of the European Union*.

Article 8

1. Notwithstanding Article 6(1) of Regulation (EC) No 1301/2006, applicants may not submit more than one licence application per month. Where applicants lodge more than one application, none of those applications shall be admissible and the securities lodged when the applications were submitted shall be forfeited to the Member State concerned.

Import licence applications shall be lodged with the competent authorities of the Member States no later than the second Friday of each month at 13.00 (Brussels time).

2. Each licence application shall indicate a quantity in kilograms (whole numbers).

3. No later than 18:00 (Brussels time) on the Monday following submission of the licence application, the competent authorities shall send the Commission, by electronic means, a notification showing each application with the quantity applied for, including 'nil' notifications.

4. Licences shall be issued on the fourth working day following the deadline for the notification referred to in paragraph 3.

Member States shall communicate to the Commission, by electronic means, on the day of issue of the import licences, the information on the licences issued as referred to in Article 11(1)(b) of Regulation (EC) No 1301/2006, with the total quantities for which import licences have been issued.

Article 9

Import licences shall be valid for 60 days from the day of issue. In accordance with Article 22(2) of Regulation (EC) No 376/2008, the period of validity of the licence shall be calculated from the actual date of issue.

Article 10

Section 20 of the import licence application and the import licence shall contain the name of the processed product to be made from the cereals concerned.

Article 11

Regulation (EC) No 2377/2002 is repealed.

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

Article 12

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

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

Done at Brussels, 5 December 2008.

For the Commission
The President
José Manuel BARROSO

ANNEX I

Blank certificate of conformity authorised by the Government of the United States of America for malting barley destined to be used in the manufacture of beer aged in vats containing beechwood

FGIS FORM 905-L
FEB 00

UNITED STATES DEPARTMENT OF AGRICULTURE
FEDERAL GRAIN INSPECTION SERVICE

APPROVED OMB NO. 0580-0013
ORIGINAL
NOT NEGOTIABLE

U.S. GRAIN STANDARDS ACT
OFFICIAL EXPORT GRAIN INSPECTION CERTIFICATE

ISSUED AT | DATE OF SERVICE

I certify that I am licensed or authorized under the United States Grain Standards Act (7 U.S.C. 71 et seq.) to inspect the kind of grain covered by this certificate and that on the above date the following identified grain was inspected under the Act, with the following results:

☐ Original Inspection ☐ Reinspection ☐ Appeal Inspection ☐ Board Appeal Inspection

QUANTITY (This is NOT a Weight Certificate)

LOCATION | IDENTIFICATION OF CARRIER

GRADE AND KIND (In accordance with the Official Grain Standards of the United States)

STOWAGE

REMARKS

Damaged Grains:
Sound and fair merchantable barley:
Test weight (kg/hl):
Moisture:

APPEAL NO (If applicable) | APPLICANT | NAME AND SIGNATURE

This certificate is issued under the authority of the United States Grain Standards Act, as amended (7 U.S.C. 71 et seq.), and the regulations thereunder (7 CFR 800.0 et seq.). It is issued to show the kind, class, grade, quality, condition, or quantity of grain, or the condition of a carrier or container for the storage or transportation of grain, or other facts relating to grain as determined by official personnel. The statements on the certificate are considered true at the time and place the inspection or weighing service was performed. The certificate is not considered representative of the lot if the grain is transshipped or is otherwise transferred from the identified carrier or container or if grain or other material is added to or removed from the total lot. If this certificate is not canceled by a superseding certificate, it is receivable by all officers and all courts of the United States as prima facie evidence of the truth of the facts stated therein. This certificate does not excuse failure to comply with the provisions of the Federal Food, Drug, and Cosmetic Act, or other federal law.

WARNING: *Any person who shall knowingly falsely make, issue, alter, forge, or counterfeit this certificate, or participate in any such actions, or otherwise violate provisions in the U.S. Grain Standards Act, the U.S. Warehouse Act, or related Federal laws is subject to criminal, civil, and administrative penalties.*

The conduct of all services and the licensing of personnel under the regulations governing such services shall be accomplished without discrimination as to race, color, religion, sex, national origin, age, or handicap.

EXPORT

ANNEX II

Repealed Regulation with list of its successive amendments

Commission Regulation (EC) No 2377/2002 (OJ L 358, 31.12.2002, p. 95)	
Commission Regulation (EC) No 159/2003 (OJ L 25, 30.1.2003, p. 37)	
Commission Regulation (EC) No 626/2003 (OJ L 90, 8.4.2003, p. 32)	
Commission Regulation (EC) No 1112/2003 (OJ L 158, 27.6.2003, p. 23)	
Commission Regulation (EC) No 777/2004 (OJ L 123, 27.4.2004, p. 50)	Only Article 13
Commission Regulation (EC) No 2022/2006 (OJ L 384, 29.12.2006, p. 70)	Only Article 2
Commission Regulation (EC) No 1456/2007 (OJ L 325, 11.12.2007, p. 76)	Only Article 3

ANNEX III

Correlation table

Regulation (EC) No 2377/2002	This Regulation
Articles 1 and 2	Articles 1 and 2
Article 4	Article 3
Article 5	Article 4
Article 6	Article 5
Article 7	Article 6
Article 8	Article 7
Article 9	Article 8
Article 10	Article 9
Article 13	Article 10
—	Article 11
Article 14, first paragraph	Article 12
Article 14, second paragraph	—
Annex I	Annex I
—	Annex II
—	Annex III

COMMISSION REGULATION (EC) No 1216/2008

of 5 December 2008

amending Council Regulation (EC) No 872/2004 concerning further restrictive measures in relation to Liberia

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Council Regulation (EC) No 872/2004 concerning further restrictive measures in relation to Liberia [1], and in particular Article 11(a) thereof,

Whereas:

(1) Annex I to Regulation (EC) No 872/2004 lists the natural and legal persons, bodies and entities covered by the freezing of funds and economic resources under that Regulation.

(2) On 2 and 24 October and on 10 November 2008, the Sanctions Committee of the United Nations Security Council decided to amend the list of persons, groups and entities to whom the freezing of funds and economic resources should apply. Annex I should therefore be amended accordingly,

HAS ADOPTED THIS REGULATION:

Article 1

Annex I to Regulation (EC) No 872/2004 is hereby amended as set out in the Annex to this Regulation.

Article 2

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

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

Done at Brussels, 5 December 2008.

For the Commission
Eneko LANDÁBURU
Director-General for External Relations

[1] OJ L 162, 30.4.2004, p. 32.

ANNEX

Annex I to Council Regulation (EC) No 872/2004 is amended as follows:

(1) The following natural person shall be removed:

'Charles R. Bright. Date of birth: 29.8.1948. Other information: former Minister of Finance.'

(2) The entry 'Ali Kleilat. Date of birth: 10.7.1970. Place of birth: Beirut. Nationality: Lebanese' shall be replaced by:

'Ali **Kleilat** (*alias* (a) Ali **Qoleilat**, (b) Ali **Koleilat Delbi**). Date of birth: 10.7.1970. Place of birth: Beirut. Nationality: Lebanese. Passport No: 0508734. National Registry No: 2016, Mazraa. Other information: Businessman, involved in arms delivery to Charles Taylor in 2003. Still, in relation with former Liberian President Charles Taylor.'

(3) The entry 'Agnes Reeves Taylor (*alias* Agnes Reeves-Taylor). Date of birth: 27.9.1965. Nationality: Liberian. Other information: former wife of former President Charles Taylor. Former Permanent Representative of Liberia to the International Maritime Organisation. Former senior member of the Liberian Government' shall be replaced by:

'Agnes Reeves **Taylor** (*alias* Agnes **Reeves-Taylor**). Date of birth: 27.9.1965. Nationality: Liberian. Other information: (a) Former wife of former President Charles Taylor with ongoing ties to him; (b) Former Permanent Representative of Liberia to the International Maritime Organisation; Former Senior Member of the Liberian Government. (c) Currently resident in the United Kingdom.'

(4) The entry 'Charles Ghankay Taylor (*alias* Charles MacArthur Taylor). Date of birth: (a) 1.9.1947, (b) 28.1.1948. Other information: former President of Liberia' shall be replaced by:

'Charles Ghankay **Taylor** (*alias* (a) Charles MacArthur **Taylor**, (b) Jean-Paul Some, (c) Jean-Paul Sone). Date of birth: (a) 1.9.1947, (b) 28.1.1948. Other information: (a) Former President of Liberia, (b) Currently on trial in The Hague.'

(5) The entry 'Charles "Chuckie" Taylor (Junior). Other information: son of former President Charles Taylor' shall be replaced by:

'Charles **Taylor** (Junior) (*alias* (a) Chuckie **Taylor** (b) Charles McArthur Emmanuel Roy M. Belfast, (c) Junior Charles **Taylor** II). Other information: (a) Associate, adviser and son of former Liberian President Charles Taylor with ongoing ties to him, (b) Currently on trial in the United States of America).'

DIRECTIVES

DIRECTIVE 2008/99/EC OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL

of 19 November 2008

on the protection of the environment through criminal law

(Text with EEA relevance)

THE EUROPEAN PARLIAMENT AND THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty establishing the European Community, and in particular Article 175(1) thereof,

Having regard to the proposal from the Commission,

Having regard to the opinion of the European Economic and Social Committee [1],

After consulting the Committee of the Regions,

Acting in accordance with the procedure laid down in Article 251 of the Treaty [2],

Whereas:

(1) According to Article 174(2) of the Treaty, Community policy on the environment must aim at a high level of protection.

(2) The Community is concerned at the rise in environmental offences and at their effects, which are increasingly extending beyond the borders of the States in which the offences are committed. Such offences pose a threat to the environment and therefore call for an appropriate response.

(3) Experience has shown that the existing systems of penalties have not been sufficient to achieve complete compliance with the laws for the protection of the environment. Such compliance can and should be strengthened by the availability of criminal penalties, which demonstrate a social disapproval of a qualitatively different nature compared to administrative penalties or a compensation mechanism under civil law.

(4) Common rules on criminal offences make it possible to use effective methods of investigation and assistance within and between Member States.

(5) In order to achieve effective protection of the environment, there is a particular need for more dissuasive penalties for environmentally harmful activities, which typically cause or are likely to cause substantial damage to the air, including the stratosphere, to soil, water, animals or plants, including to the conservation of species.

(6) Failure to comply with a legal duty to act can have the same effect as active behaviour and should therefore also be subject to corresponding penalties.

(7) Therefore, such conduct should be considered a criminal offence throughout the Community when committed intentionally or with serious negligence.

(8) The legislation listed in the Annexes to this Directive contains provisions which should be subject to criminal law measures in order to ensure that the rules on environmental protection are fully effective.

(9) The obligations under this Directive only relate to the provisions of the legislation listed in the Annexes to this Directive which entail an obligation for Member States, when implementing that legislation, to provide for prohibitive measures.

(10) This Directive obliges Member States to provide for criminal penalties in their national legislation in respect of serious infringements of provisions of Community law on the protection of the environment. This Directive creates no obligations regarding the application of such penalties, or any other available system of law enforcement, in individual cases.

[1] OJ C 10, 15.1.2008, p. 47.

[2] Opinion of the European Parliament of 21 May 2008 (not yet published in the Official Journal) and Council Decision of 24 October 2008.

(11) This Directive is without prejudice to other systems of liability for environmental damage under Community law or national law.

(12) As this Directive provides for minimum rules, Member States are free to adopt or maintain more stringent measures regarding the effective criminal law protection of the environment. Such measures must be compatible with the Treaty.

(13) Member States should provide information to the Commission on the implementation of this Directive, in order to enable it to evaluate the effect of this Directive.

(14) Since the objective of this Directive, namely to ensure a more effective protection of the environment, cannot be sufficiently achieved by the Member States and can therefore, by reason of the scale and effects of this Directive, be better achieved at Community level, the Community may adopt measures, in accordance with the principle of subsidiarity as set out in Article 5 of the Treaty. 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.

(15) Whenever subsequent legislation on environmental matters is adopted, it should specify where appropriate that this Directive will apply. Where necessary, Article 3 should be amended.

(16) This Directive respects the fundamental rights and observes the principles as recognised in particular by the Charter of Fundamental Rights of the European Union,

HAVE ADOPTED THIS DIRECTIVE:

Article 1

Subject matter

This Directive establishes measures relating to criminal law in order to protect the environment more effectively.

Article 2

Definitions

For the purpose of this Directive:

(a) 'unlawful' means infringing:

(i) the legislation adopted pursuant to the EC Treaty and listed in Annex A; or

(ii) with regard to activities covered by the Euratom Treaty, the legislation adopted pursuant to the Euratom Treaty and listed in Annex B; or

(iii) a law, an administrative regulation of a Member State or a decision taken by a competent authority of a Member State that gives effect to the Community legislation referred to in (i) or (ii);

(b) 'protected wild fauna and flora species' are:

(i) for the purposes of Article 3(f), those listed in:

— Annex IV to Council Directive 92/43/EEC of 21 May 1992 on the conservation of natural habitats and of wild fauna and flora [1],

— Annex I to, and referred to in Article 4(2) of, Council Directive 79/409/EEC of 2 April 1979 on the conservation of wild birds [2];

(ii) for the purposes of Article 3(g), those listed in Annex A or B to Council Regulation (EC) No 338/97 of 9 December 1996 on the protection of species of wild fauna and flora by regulating trade therein [3];

(c) 'habitat within a protected site' means any habitat of species for which an area is classified as a special protection area pursuant to Article 4(1) or (2) of Directive 79/409/EEC, or any natural habitat or a habitat of species for which a site is designated as a special area of conservation pursuant to Article 4(4) of Directive 92/43/EEC;

(d) 'legal person' means any legal entity having such status under the applicable national law, except for States or public bodies exercising State authority and for public international organisations.

Article 3

Offences

Member States shall ensure that the following conduct constitutes a criminal offence, when unlawful and committed intentionally or with at least serious negligence:

(a) the discharge, emission or introduction of a quantity of materials or ionising radiation into air, soil or water, which causes or is likely to cause death or serious injury to any person or substantial damage to the quality of air, the quality of soil or the quality of water, or to animals or plants;

[1] OJ L 206, 22.7.1992, p. 7.
[2] OJ L 103, 25.4.1979, p. 1.
[3] OJ L 61, 3.3.1997, p. 1.

(b) the collection, transport, recovery or disposal of waste, including the supervision of such operations and the after-care of disposal sites, and including action taken as a dealer or a broker (waste management), which causes or is likely to cause death or serious injury to any person or substantial damage to the quality of air, the quality of soil or the quality of water, or to animals or plants;

(c) the shipment of waste, where this activity falls within the scope of Article 2(35) of Regulation (EC) No 1013/2006 of the European Parliament and of the Council of 14 June 2006 on shipments of waste [1] and is undertaken in a non-negligible quantity, whether executed in a single shipment or in several shipments which appear to be linked;

(d) the operation of a plant in which a dangerous activity is carried out or in which dangerous substances or preparations are stored or used and which, outside the plant, causes or is likely to cause death or serious injury to any person or substantial damage to the quality of air, the quality of soil or the quality of water, or to animals or plants;

(e) the production, processing, handling, use, holding, storage, transport, import, export or disposal of nuclear materials or other hazardous radioactive substances which causes or is likely to cause death or serious injury to any person or substantial damage to the quality of air, the quality of soil or the quality of water, or to animals or plants;

(f) the killing, destruction, possession or taking of specimens of protected wild fauna or flora species, except for cases where the conduct concerns a negligible quantity of such specimens and has a negligible impact on the conservation status of the species;

(g) trading in specimens of protected wild fauna or flora species or parts or derivatives thereof, except for cases where the conduct concerns a negligible quantity of such specimens and has a negligible impact on the conservation status of the species;

(h) any conduct which causes the significant deterioration of a habitat within a protected site;

(i) the production, importation, exportation, placing on the market or use of ozone-depleting substances.

[1] OJ L 190, 12.7.2006, p. 1.

Article 4

Inciting, aiding and abetting

Member States shall ensure that inciting, aiding and abetting the intentional conduct referred to in Article 3 is punishable as a criminal offence.

Article 5

Penalties

Member States shall take the necessary measures to ensure that the offences referred to in Articles 3 and 4 are punishable by effective, proportionate and dissuasive criminal penalties.

Article 6

Liability of legal persons

1. Member States shall ensure that legal persons can be held liable for offences referred to in Articles 3 and 4 where such offences have been committed for their benefit by any person who has a leading position within the legal person, acting either individually or as part of an organ of the legal person, based on:

(a) a power of representation of the legal person;

(b) an authority to take decisions on behalf of the legal person; or

(c) an authority to exercise control within the legal person.

2. Member States shall also ensure that legal persons can be held liable where the lack of supervision or control, by a person referred to in paragraph 1, has made possible the commission of an offence referred to in Articles 3 and 4 for the benefit of the legal person by a person under its authority.

3. Liability of legal persons under paragraphs 1 and 2 shall not exclude criminal proceedings against natural persons who are perpetrators, inciters or accessories in the offences referred to in Articles 3 and 4.

Article 7

Penalties for legal persons

Member States shall take the necessary measures to ensure that legal persons held liable pursuant to Article 6 are punishable by effective, proportionate and dissuasive penalties.

Article 8

Transposition

1. Member States shall bring into force the laws, regulations and administrative provisions necessary to comply with this Directive before 26 December 2010.

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

2. Member States shall communicate to the Commission the text of the main provisions of national law which they adopt in the field covered by this Directive and a table indicating the correlation between those provisions and this Directive.

Article 9

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 10

Addressees

This Directive is addressed to the Member States.

Done at Strasbourg, 19 November 2008.

For the European Parliament	*For the Council*
The President	*The President*
H.-G. PÖTTERING	J.-P. JOUYET

ANNEX A

List of Community legislation adopted pursuant to the EC Treaty, the infringement of which constitutes unlawful conduct pursuant to Article 2(a)(i) of this Directive

— Council Directive 70/220/EEC of 20 March 1970 on the approximation of the laws of the Member States on measures to be taken against air pollution by emissions from motor vehicles [1],

— Council Directive 72/306/EEC of 2 August 1972 on the approximation of the laws of the Member States relating to the measures to be taken against the emission of pollutants from diesel engines for use in vehicles [2],

— Council Directive 75/439/EEC of 16 June 1975 on the disposal of waste oils [3],

— Council Directive 76/160/EEC of 8 December 1975 concerning the quality of bathing water [4],

— Council Directive 76/769/EEC of 27 July 1976 on the approximation of the laws, regulations and administrative provisions of the Member States relating to restrictions on the marketing and use of certain dangerous substances and preparations [5],

— Council Directive 77/537/EEC of 28 June 1977 on the approximation of the laws of the Member States relating to the measures to be taken against the emission of pollutants from diesel engines for use in wheeled agricultural or forestry tractors [6],

— Council Directive 78/176/EEC of 20 February 1978 on waste from the titanium dioxide industry [7],

— Council Directive 79/117/EEC of 21 December 1978 prohibiting the placing on the market and use of plant protection products containing certain active substances [8],

— Council Directive 79/409/EEC of 2 April 1979 on the conservation of wild birds [9],

— Council Directive 82/176/EEC of 22 March 1982 on limit values and quality objectives for mercury discharges by the chlor-alkali electrolysis industry [10],

— Council Directive 83/513/EEC of 26 September 1983 on limit values and quality objectives for cadmium discharges [11],

— Council Directive 84/156/EEC of 8 March 1984 on limit values and quality objectives for mercury discharges by sectors other than the chlor-alkali electrolysis industry [12],

— Council Directive 84/360/EEC of 28 June 1984 on the combating of air pollution from industrial plants [13],

— Council Directive 84/491/EEC of 9 October 1984 on limit values and quality objectives for discharges of hexachlorocyclohexane [14],

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[1] OJ L 76, 6.4.1970, p. 1.
[2] OJ L 190, 20.8.1972, p. 1.
[3] OJ L 194, 25.7.1975, p. 23.
[4] OJ L 31, 5.2.1976, p. 1.
[5] OJ L 262, 27.9.1976, p. 201.
[6] OJ L 220, 29.8.1977, p. 38.
[7] OJ L 54, 25.2.1978, p. 19.
[8] OJ L 33, 8.2.1979, p. 36.
[9] OJ L 103, 25.4.1979, p. 1.
[10] OJ L 81, 27.3.1982, p. 29.
[11] OJ L 291, 24.10.1983, p. 1.
[12] OJ L 74, 17.3.1984, p. 49.
[13] OJ L 188, 16.7.1984, p. 20.
[14] OJ L 274, 17.10.1984, p. 11.

— Council Directive 85/203/EEC of 7 March 1985 on air quality standards for nitrogen dioxide [1],

— Council Directive 86/278/EEC of 12 June 1986 on the protection of the environment, and in particular of the soil, when sewage sludge is used in agriculture [2],

— Council Directive 86/280/EEC of 12 June 1986 on limit values and quality objectives for discharges of certain dangerous substances included in List I of the Annex to Directive 76/464/EEC [3],

— Council Directive 87/217/EEC of 19 March 1987 on the prevention and reduction of environmental pollution by asbestos [4],

— Council Directive 90/219/EEC of 23 April 1990 on the contained use of genetically modified micro-organisms [5],

— Council Directive 91/271/EEC of 21 May 1991 concerning urban waste-water treatment [6],

— Council Directive 91/414/EEC of 15 July 1991 concerning the placing of plant protection products on the market [7],

— Council Directive 91/676/EEC of 12 December 1991 concerning the protection of waters against pollution caused by nitrates from agricultural sources [8],

— Council Directive 91/689/EEC of 12 December 1991 on hazardous waste [9],

— Council Directive 92/43/EEC of 21 May 1992 on the conservation of natural habitats and of wild fauna and flora [10],

— Council Directive 92/112/EEC of 15 December 1992 on procedures for harmonising the programmes for the reduction and eventual elimination of pollution caused by waste from the titanium dioxide industry [11],

— Directive 94/25/EC of the European Parliament and of the Council of 16 June 1994 on the approximation of the laws, regulations and administrative provisions of the Member States relating to recreational craft: the provisions amended by Directive 2003/44/EC [12],

— European Parliament and Council Directive 94/62/EC of 20 December 1994 on packaging and packaging waste [13],

— European Parliament and Council Directive 94/63/EC of 20 December 1994 on the control of volatile organic compound (VOC) emissions resulting from the storage of petrol and its distribution from terminals to service stations [14],

— Council Directive 96/49/EC of 23 July 1996 on the approximation of the laws of the Member States with regard to the transport of dangerous goods by rail [15],

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[1] OJ L 87, 27.3.1985, p. 1.
[2] OJ L 181, 4.7.1986, p. 6.
[3] OJ L 181, 4.7.1986, p. 16.
[4] OJ L 85, 28.3.1987, p. 40.
[5] OJ L 117, 8.5.1990, p. 1.
[6] OJ L 135, 30.5.1991, p. 40.
[7] OJ L 230, 19.8.1991, p. 1.
[8] OJ L 375, 31.12.1991, p. 1.
[9] OJ L 377, 31.12.1991, p. 20.
[10] OJ L 206, 22.7.1992, p. 7.
[11] OJ L 409, 31.12.1992, p. 11.
[12] OJ L 214, 26.8.2003, p. 18.
[13] OJ L 365, 31.12.1994, p. 10.
[14] OJ L 365, 31.12.1994, p. 24.
[15] OJ L 235, 17.9.1996, p. 25.

— Council Directive 96/59/EC of 16 September 1996 on the disposal of polychlorinated biphenyls and polychlorinated terphenyls (PCB/PCT) ([1]),

— Council Directive 96/62/EC of 27 September 1996 on ambient air quality assessment and management ([2]),

— Council Directive 96/82/EC of 9 December 1996 on the control of major-accident hazards involving dangerous substances ([3]),

— Directive 97/68/EC of the European Parliament and of the Council of 16 December 1997 on the approximation of the laws of the Member States relating to measures against the emission of gaseous and particulate pollutants from internal combustion engines to be installed in non-road mobile machinery ([4]),

— Council Regulation (EC) No 338/97 of 9 December 1996 on the protection of species of wild fauna and flora by regulating trade therein ([5]),

— Directive 98/8/EC of the European Parliament and of the Council of 16 February 1998 concerning the placing of biocidal products on the market ([6]),

— Directive 98/70/EC of the European Parliament and of the Council of 13 October 1998 relating to the quality of petrol and diesel fuels ([7]),

— Council Directive 98/83/EC of 3 November 1998 on the quality of water intended for human consumption ([8]),

— Council Directive 1999/13/EC of 11 March 1999 on the limitation of emissions of volatile organic compounds due to the use of organic solvents in certain activities and installations ([9]),

— Council Directive 1999/30/EC of 22 April 1999 relating to limit values for sulphur dioxide, nitrogen dioxide and oxides of nitrogen, particulate matter and lead in ambient air ([10]),

— Council Directive 1999/31/EC of 26 April 1999 on the landfill of waste ([11]),

— Council Directive 1999/32/EC of 26 April 1999 relating to a reduction in the sulphur content of certain liquid fuels ([12]),

— Directive 2000/53/EC of the European Parliament and of the Council of 18 September 2000 on end of life vehicles ([13]),

— Directive 2000/60/EC of the European Parliament and of the Council of 23 October 2000 establishing a framework for Community action in the field of water policy ([14]),

— Directive 2000/69/EC of the European Parliament and of the Council of 16 November 2000 relating to limit values for benzene and carbon monoxide in ambient air ([15]),

([1]) OJ L 243, 24.9.1996, p. 31.
([2]) OJ L 296, 21.11.1996, p. 55.
([3]) OJ L 10, 14.1.1997, p. 13.
([4]) OJ L 59, 27.2.1998, p. 1.
([5]) OJ L 61, 3.3.1997, p. 1.
([6]) OJ L 123, 24.4.1998, p. 1.
([7]) OJ L 350, 28.12.1998, p. 58.
([8]) OJ L 330, 5.12.1998, p. 32.
([9]) OJ L 85, 29.3.1999, p. 1.
([10]) OJ L 163, 29.6.1999, p. 41.
([11]) OJ L 182, 16.7.1999, p. 1.
([12]) OJ L 121, 11.5.1999, p. 13.
([13]) OJ L 269, 21.10.2000, p. 34.
([14]) OJ L 327, 22.12.2000, p. 1.
([15]) OJ L 313, 13.12.2000, p. 12.

— Directive 2000/76/EC of the European Parliament and of the Council of 4 December 2000 on the incineration of waste ([1]),

— Regulation (EC) No 2037/2000 of the European Parliament and of the Council of 29 June 2000 on substances that deplete the ozone layer ([2]),

— Directive 2001/18/EC of the European Parliament and of the Council of 12 March 2001 on the deliberate release into the environment of genetically modified organisms ([3]),

— Directive 2001/80/EC of the European Parliament and of the Council of 23 October 2001 on the limitation of emissions of certain pollutants into the air from large combustion plants ([4]),

— Directive 2002/3/EC of the European Parliament and of the Council of 12 February 2002 relating to ozone in ambient air ([5]),

— Directive 2002/95/EC of the European Parliament and of the Council of 27 January 2003 on the restriction of the use of certain hazardous substances in electrical and electronic equipment ([6]),

— Directive 2002/96/EC of the European Parliament and of the Council of 27 January 2003 on waste electrical and electronic equipment (WEEE) ([7]),

— Directive 2004/107/EC of the European Parliament and of the Council of 15 December 2004 relating to arsenic, cadmium, mercury, nickel and polycyclic aromatic hydrocarbons in ambient air ([8]),

— Regulation (EC) No 648/2004 of the European Parliament and of the Council of 31 March 2004 on detergents ([9]),

— Regulation (EC) No 850/2004 of the European Parliament and of the Council of 29 April 2004 on persistent organic pollutants ([10]),

— Directive 2005/55/EC of the European Parliament and of the Council of 28 September 2005 on the approximation of the laws of the Member States relating to the measures to be taken against the emission of gaseous and particulate pollutants from compression-ignition engines for use in vehicles, and the emission of gaseous pollutants from positive-ignition engines fuelled with natural gas or liquefied petroleum gas for use in vehicles ([11]),

— Commission Directive 2005/78/EC of 14 November 2005 implementing Directive 2005/55/EC of the European Parliament and of the Council on the approximation of the laws of the Member States relating to the measures to be taken against the emission of gaseous and particulate pollutants from compression-ignition engines for use in vehicles, and the emission of gaseous pollutants from positive ignition engines fuelled with natural gas or liquefied petroleum gas for use in vehicles and amending Annexes I, II, III, IV and VI thereto ([12]),

— Directive 2006/7/EC of the European Parliament and of the Council of 15 February 2006 concerning the management of bathing water quality ([13]),

— Directive 2006/11/EC of the European Parliament and of the Council of 15 February 2006 on pollution caused by certain dangerous substances discharged into the aquatic environment of the Community ([14]),

— Directive 2006/12/EC of the European Parliament and of the Council of 5 April 2006 on waste ([15]),

([1]) OJ L 332, 28.12.2000, p. 91.
([2]) OJ L 244, 29.9.2000, p. 1.
([3]) OJ L 106, 17.4.2001, p. 1.
([4]) OJ L 309, 27.11.2001, p. 1.
([5]) OJ L 67, 9.3.2002, p. 14.
([6]) OJ L 37, 13.2.2003, p. 19.
([7]) OJ L 37, 13.2.2003, p. 24.
([8]) OJ L 23, 26.1.2005, p. 3.
([9]) OJ L 104, 8.4.2004, p. 1.
([10]) OJ L 158, 30.4.2004, p. 7.
([11]) OJ L 275, 20.10.2005, p. 1.
([12]) OJ L 313, 29.11.2005, p. 1.
([13]) OJ L 64, 4.3.2006, p. 37.
([14]) OJ L 64, 4.3.2006, p. 52.
([15]) OJ L 114, 27.4.2006, p. 9.

— Directive 2006/21/EC of the European Parliament and of the Council of 15 March 2006 on the management of waste from extractive industries ([1]),

— Directive 2006/40/EC of the European Parliament and of the Council of 17 May 2006 relating to emissions from air conditioning systems in motor vehicles ([2]),

— Directive 2006/44/EC of the European Parliament and of the Council of 6 September 2006 on the quality of fresh waters needing protection or improvement in order to support fish life ([3]),

— Directive 2006/66/EC of the European Parliament and of the Council of 6 September 2006 on batteries and accumulators and waste batteries and accumulators ([4]),

— Directive 2006/118/EC of the European Parliament and of the Council of 12 December 2006 on the protection of groundwater against pollution and deterioration ([5]),

— Regulation (EC) No 842/2006 of the European Parliament and of the Council of 17 May 2006 on certain fluorinated greenhouse gases ([6]),

— Regulation (EC) No 1013/2006 of the European Parliament and of the Council of 14 June 2006 on shipments of waste ([7]),

— Regulation (EC) No 715/2007 of the European Parliament and of the Council of 20 June 2007 on type approval of motor vehicles with respect to emissions from light passenger and commercial vehicles (Euro 5 and Euro 6) and on access to vehicle repair and maintenance information ([8]),

— Commission Regulation (EC) No 1418/2007 of 29 November 2007 concerning the export for recovery of certain waste listed in Annex III or IIIA to Regulation (EC) No 1013/2006 of the European Parliament and of the Council to certain countries to which the OECD Decision on the control of transboundary movements of wastes does not apply ([9]),

— Directive 2008/1/EC of the European Parliament and of the Council of 15 January 2008 concerning integrated pollution prevention and control ([10]).

([1]) OJ L 102, 11.4.2006, p. 15.
([2]) OJ L 161, 14.6.2006, p. 12.
([3]) OJ L 264, 25.9.2006, p. 20.
([4]) OJ L 266, 26.9.2006, p. 1.
([5]) OJ L 372, 27.12.2006, p. 19.
([6]) OJ L 161, 14.6.2006, p. 1.
([7]) OJ L 190, 12.7.2006, p. 1.
([8]) OJ L 171, 29.6.2007, p. 1.
([9]) OJ L 316, 4.12.2007, p. 6.
([10]) OJ L 24, 29.1.2008, p. 8.

ANNEX B

List of Community Legislation adopted pursuant to the Euratom Treaty, the infringement of which constitutes unlawful conduct pursuant to Article 2(a)(ii) of this Directive

— Council Directive 96/29/Euratom of 13 May 1996 laying down basic safety standards for the protection of the health of workers and the general public against the dangers arising from ionising radiation ([1]);

— Council Directive 2003/122/Euratom of 22 December 2003 on the control of high-activity sealed radioactive sources and orphan sources ([2]);

— Council Directive 2006/117/Euratom of 20 November 2006 on the supervision and control of shipments of radioactive waste and spent fuel ([3]).

([1]) OJ L 159, 29.6.1996, p. 1.
([2]) OJ L 346, 31.12.2003, p. 57.
([3]) OJ L 337, 5.12.2006, p. 21.

II

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

DECISIONS

COUNCIL

COUNCIL DECISION

of 27 November 2008

amending Parts 1 and 2 of the Schengen consultation network (technical specifications)

(2008/910/EC)

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to Council Regulation (EC) No 789/2001 of 24 April 2001 reserving to the Council implementing powers with regard to certain detailed provisions and practical procedures for examining visa applications [1], and in particular Article 1(2) thereof,

Having regard to the initiative by the Republic of Slovenia,

Whereas:

(1) The Vision network has been established to allow consultation between the central authorities of the partner States for visa applications made by nationals from sensitive countries.

(2) In order to achieve a pragmatic approach and to avoid overburdening the Schengen consultation network by sending a high number of error messages when a Member State's message transfer agent (MTA) seems to be temporarily unavailable, the resend procedure should be modified.

(3) In order to avoid inconsistent use of different visa type codes which could lead to misinterpretations in the Schengen consultation procedure, a common approach is needed when visas D + C are subject to the consultation procedure.

(4) Taking into account the inputs from different Member States and in order to simplify the Schengen consultation procedure, a single code for each visa type should be used.

(5) It is necessary to update the technical specifications of the Schengen consultation network to ensure that they reflect these changes.

(6) In accordance with Articles 1 and 2 of the Protocol on the position of Denmark, annexed to the Treaty on European Union and to the Treaty establishing the European Community, Denmark is not taking part in the adoption of this Decision and is not bound by it or subject to its application. Given that this Decision builds upon the Schengen *acquis* under the provisions of Title IV of Part Three of the Treaty establishing the European Community, Denmark is to decide, in accordance with Article 5 of the said Protocol, within a period of six months after the adoption of this Decision whether it will implement it in its national law.

(7) As regards Iceland and Norway, this Decision constitutes a development of provisions of the Schengen *acquis* within the meaning of the Agreement concluded by the Council of the European Union and the Republic of Iceland and the Kingdom of Norway concerning the latters' association with the implementation, application and development of the Schengen *acquis* [2], which fall within the area referred to in Article 1, point A of Council Decision 1999/437/EC [3] on certain arrangements for the application of that Agreement.

[1] OJ L 116, 26.4.2001, p. 2.

[2] OJ L 176, 10.7.1999, p. 36.

[3] OJ L 176, 10.7.1999, p. 31.

(8) As regards Switzerland, this Decision constitutes a development of provisions of the Schengen *acquis* within the meaning of the Agreement between the European Union, the European Community and the Swiss Confederation concerning the association of the Swiss Confederation with the implementation, application and development of the Schengen *acquis* [1], which fall within the area referred to in Article 1, point A of Decision 1999/437/EC read in conjunction with Article 3 of Council Decision 2008/146/EC [2] on the conclusion, on behalf of the European Community, of that Agreement.

(9) As regards Liechtenstein, this Decision constitutes a development of provisions of the Schengen *acquis* within the meaning of the Protocol between the European Union, the European Community, the Swiss Confederation and the Principality of Liechtenstein on the accession of the Principality of Liechtenstein to the Agreement between the European Union, the European Community and the Swiss Confederation on the Swiss Confederation's association with the implementation, application and development of the Schengen *acquis*, which fall within the area referred to in Article 1, point A of Decision 1999/437/EC read in conjunction with Article 3 of Council Decision 2008/261/EC [3] on the signature, on behalf of the European Community, and on the provisional application of certain provisions of that Protocol.

(10) This Decision constitutes a development of provisions of the Schengen *acquis* in which the United Kingdom does not take part, in accordance with Council Decision 2000/365/EC of 29 May 2000 concerning the request of the United Kingdom of Great Britain and Northern Ireland to take part in some of the provisions of the Schengen *acquis* [4]; the United Kingdom is therefore not taking part in its adoption and is not bound by it or subject to its application.

(11) This Decision constitutes a development of provisions of the Schengen *acquis* in which Ireland does not take part, in accordance with Council Decision 2002/192/EC of 28 February 2002 concerning Ireland's request to take part in some of the provisions of the Schengen *acquis* [5]; Ireland is therefore not taking part in its adoption and is not bound by it or subject to its application.

(12) As regards Cyprus, this Decision constitutes an act building on the Schengen *acquis* or otherwise related to it within the meaning of Article 3(2) of the 2003 Act of Accession.

(13) This Decision constitutes an act building on the Schengen *acquis* or otherwise related to it within the meaning of Article 4(2) of the 2005 Act of Accession,

HAS ADOPTED THIS DECISION:

Article 1

Part 1 of the Schengen consultation network (technical specifications) is amended as shown in Annex I.

Article 2

Part 2 of the Schengen consultation network (technical specifications) is amended as shown in Annex II.

Article 3

This Decision shall apply from 1 February 2009.

Article 4

This Decision is addressed to the Member States in accordance with the Treaty establishing the European Community.

Done at Brussels, 27 November 2008.

For the Council
The President
M. ALLIOT-MARIE

[1] OJ L 53, 27.2.2008, p. 52.
[2] OJ L 53, 27.2.2008, p. 1.
[3] OJ L 83, 26.3.2008, p. 3.
[4] OJ L 131, 1.6.2000, p. 43.
[5] OJ L 64, 7.3.2002, p. 20.

ANNEX I

Part 1 of the Schengen consultation network (technical specifications) is hereby amended as follows:

1. point 1.2 shall be replaced by the following:

'1.2. AVAILABILITY OF THE TOTAL SYSTEM

As a matter of principle Vision is designed as a system running 24 hours a day, seven days a week. In the event of one of the connections breaking down, the MTA, the user agent, and if necessary, the national application, should have the capacity to store the data to be sent or received via the network for several days. Consequently, bearing in mind the estimated daily traffic and the potential increases in traffic due to political decisions on visa matters, the MTA, the user agent, and where necessary, the national application, must meet the following minimum requirements.

In addition, the MTA, the user agent and the national application must be able to cope with possible breakdowns of other partner systems. They must resend messages which have not been delivered, but not overload other partner systems by, for example, unnecessary repetition of messages which are thought to have been lost.';

2. point 1.2.1 shall be replaced by the following:

'1.2.1. *Strategy to avoid and reduce breakdown-related disruption*

If the system breaks down, operation must be resumed within 24 hours. To ensure that operations are resumed, the following minimum undertakings apply:

— the Schengen States are required to have a service contract guaranteeing repairs to, and/or replacement of, hardware and software,

— the Schengen States are required to have a backup system,

— the Schengen States are required to equip their MTA with a preventative peripheral device to compensate any power malfunctions,

— the Schengen States are required to guarantee that MTA and applications hardware and software are not cut off for any reason other than breakdown or maintenance. In case of regular maintenance, such as database backups, the maintenance slot shall not exceed a maximum of two hours,

— the Schengen States are to guarantee the availability of sufficient personnel during working hours to ensure operation of the MTA at the best possible rate,

— the Schengen States are required to distinguish clearly between the test environment and the operational environment; adapting the test environment should not affect the operational equipment and vice versa,

— adaptations to the Schengen Consultation Network should always be tested in the test environment before being used in the operational environment.

In addition the system must be able to cope with the following amounts of data:

— store the equivalent of two days operations, i.e. a maximum of 100 Megabytes,

— send up to 30 000 messages and 30 000 delivery reports per day,

— receive up to 30 000 messages and 30 000 delivery reports per day.

In addition, each Schengen State must distinguish between "retransmitting" and "resending as a new message". The term "re-send" in the next chapters (especially 1.2.2) covers both cases, but the following distinction must be made:

— "retransmitting" means sending again the same message, usually subject to retransmission parameters of the MTA (e.g. sendmail, MS-Exchange, Lotus Notes). After each retransmission there are no more messages in the system, the first message is just transmitted again;

— "resending as a new message" means that a new message with the same content is prepared. The destination point might receive two different messages, but with the same content, if the first one was held in a queue somewhere.

Schengen States are invited to use the first possibility (retransmitting) wherever possible, to avoid the unnecessary multiplying of messages in the system.'

ANNEX II

Part 2 of the Schengen consultation network (technical specifications) is hereby amended as follows:

1. in point 2.1.4, Heading No 026 shall be replaced by the following:

'Heading No 026: Type of visa format: code (2)

Codification of the various types of visas defined in the Common Visa Instructions. The entire heading, or part of it, can be used for the visa sticker.

"B" transit visas

"C" short -stay visas

"DC" long-stay visas valid concurrently as short-stay visas';

2. in points 2.1.4 (Form A), 2.1.6 (Form C), 2.1.7 (Form F), the content of row 026 in the fifth column of the table ('Examples/Comments') shall be replaced by the following:

'C {B|'C'|'DC'}'.

COMMISSION

COMMISSION DECISION

of 21 November 2008

establishing of a list of herbal substances, preparations and combinations thereof for use in traditional herbal medicinal products

(notified under document number C(2008) 6933)

(Text with EEA relevance)

(2008/911/EC)

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Directive 2001/83/EC of the European Parliament and of the Council of 6 November 2001 on the Community code relating to medicinal products for human use [1], and in particular Article 16(f) thereof,

Having regard to the opinions of the European Medicines Agency, formulated on 7 September 2007 by the Committee for Herbal Medicinal Products,

Whereas:

(1) *Foeniculum vulgare* Miller subsp. *vulgare* var. *vulgare* and *Foeniculum vulgare* Miller subsp. *vulgare* var. *dulce* (Miller) Thellung comply with the requirements set out in Directive 2001/83/EC. *Foeniculum vulgare* Miller subsp. *vulgare* var. *vulgare* and *Foeniculum vulgare* Miller subsp. *vulgare* var. *dulce* (Miller) Thellung can be considered as herbal substances, herbal preparations and/or combinations thereof.

(2) It is therefore appropriate to establish a list of herbal substances, preparations and combinations thereof for use in traditional herbal medicinal products including the entry of *Foeniculum vulgare* Miller subsp. *vulgare* var. *vulgare* and the entry of *Foeniculum vulgare* Miller subsp. *vulgare* var. *dulce* (Miller) Thellung.

(3) The measures provided for in this Decision are in accordance with the opinion of the Standing Committee on Medicinal Products for Human Use,

HAS ADOPTED THIS DECISION:

Article 1

A list of herbal substances, preparations and combinations thereof for use in traditional herbal medicinal products is established in Annex I including the entry of *Foeniculum vulgare* Miller subsp. *vulgare* var. *vulgare* and the entry of *Foeniculum vulgare* Miller subsp. *vulgare* var. *dulce* (Miller) Thellung.

Article 2

The indications, the specified strengths and the posology, the route of administration and any other information necessary for the safe use as a traditional medicinal product relevant for *Foeniculum vulgare* Miller subsp. *vulgare* var. *vulgare* and *Foeniculum vulgare* Miller subsp. *vulgare* var. *dulce* (Miller) Thellung are set out in Annex II to this decision.

Article 3

This Decision is addressed to the Member States.

Done at Brussels, 21 November 2008.

For the Commission
Günter VERHEUGEN
Vice-President

[1] OJ L 311, 28.11.2001, p. 67.

ANNEX I

List of herbal substances, preparations and combinations thereof for use in traditional herbal medicinal products established in accordance with Article 16f of Directive 2001/83/EC as amended by Directive 2004/24/EC

Foeniculum vulgare Miller subsp. *vulgare* var. *vulgare* (bitter fennel fruit)

Foeniculum vulgare Miller subsp. *vulgare* var. *dulce* (Miller) Thellung (sweet fennel fruit)

ANNEX II

A.

COMMUNITY LIST ENTRY ON *FOENICULUM VULGARE* MILLER SUBSP. *VULGARE* VAR. *VULGARE*, FRUCTUS

Scientific name of the plant

Foeniculum vulgare Miller subsp. *vulgare* var. *vulgare*

Botanical family

Apiaceae

Herbal substance

Fennel, bitter

Common name in all EU official languages of herbal substance

BG (bălgarski): Горчиво резене, плод

CS (čeština): Plod fenyklu obecného pravého

DA (dansk): Fennikel, bitter

DE (Deutsch): Bitterer Fenchel

EL (elliniká): Μαραθόσπορος πικρός

EN (English): Bitter fennel, fruit

ES (español): Hinojo amargo, fruto de

ET (eesti keel): Mõru apteegitill, vili

FI (suomi): Karvasfenkoli, hedelmä

FR (français): Fruit de fenouil amer

HU (magyar): Keserűédeskömény-termés

IT (italiano): Finocchio amaro (o selvatico), frutto

LT (lietuvių kalba): Karčiųjų pankolių vaisiai

LV (latviešu valoda): Rūgtā fenheļa augļi

MT (malti): Bużbież morr, frotta

NL (nederlands): Venkelvrucht, bitter

PL (polski): Owoc kopru włoskiego (odmiana gorzka)

PT (português): Fruto de funcho amargo

RO (română): Fruct de fenicul amar

SK (slovenčina): Feniklový plod horký

SL (slovenščina): Plod grenkega navadnega komarčka

SV (svenska): Bitterfänkål, frukt

IS (íslenska): Bitur fennel aldin

NO (norsk): Fenikkel, bitter

Herbal preparation(s)

Fennel, bitter, dried comminuted ([1]) fruit.

European Pharmacopoeia monograph reference

Foeniculi amari fructus (01/2005:0824).

Indication(s)

(a) Traditional herbal medicinal product for symptomatic treatment of mild, spasmodic gastro-intestinal complaints including bloating and flatulence.

(b) Traditional herbal medicinal product for symptomatic treatment of minor spasm associated with menstrual periods.

(c) Traditional herbal medicinal product used as an expectorant in cough associated with cold.

The product is a traditional herbal medicinal product for use in specified indications exclusively based upon long-standing use.

Type of tradition

European, Chinese.

Specified strength

Please see 'Specified posology'.

([1]) 'Comminuted fruit' is intended to cover also 'crushed fruit'.

Specified posology

Adults

Single dose

1,5 to 2,5 g of (freshly [1]) comminuted fennel fruits with 0,25 l of boiling water (brew for 15 minutes) three times daily as a herbal tea.

Adolescents over 12 years of age, indication (a)

Adult dose

Children between four and 12 years of age, indication (a)

Average daily dose

3-5 g of (freshly) comminuted fruits as a herbal tea, in three divided doses, for short-term use in mild transitory symptoms only (less than one week).

The use in children under four years of age is not recommended (see section 'Special warnings and precautions for use').

Route of administration

Oral use.

Duration of use or any restrictions on the duration of use

Adults

Adolescents over 12 years of age, indication (a)

Not to be taken for more than two weeks.

Children between four and 12 years of age, indication (a)

For short-term use in mild transitory symptoms only (less than one week).

If the symptoms persist during the use of the medicinal product, a doctor or a qualified health-care practitioner should be consulted.

Any other information necessary for the safe use

Contraindications

Hypersensitivity to the active substance or to Apiaceae (Umbelliferae) (aniseed, caraway, celery, coriander and dill) or to anethole.

Special warnings and precautions for use

The use in children under four years of age is not recommended due to the lack of adequate data and a paediatrician's advice should be sought.

Interactions with other medicinal products and other forms of interaction

None reported.

Pregnancy and lactation

There are no data from the use of fennel fruit in pregnant patients.

It is unknown if fennel constituents are excreted in human breast milk.

In the absence of sufficient data, the use during pregnancy and lactation is not recommended.

Effects on ability to drive and use machines

No studies on the effect on the ability to drive and use machines have been performed.

[1] For commercial preparation of comminuted fennel fruits the applicant must carry out appropriate stability testing related to the content of essential oil components.

Undesirable effects

Allergic reactions to fennel, affecting the skin or the respiratory system may occur. The frequency is not known.

If other adverse reactions not mentioned above occur, a doctor or a qualified health-care practitioner should be consulted.

Overdose

No case of overdose has been reported.

Pharmaceutical particulars (if necessary)

Not applicable.

Pharmacological effects or efficacy plausible on the basis of long-standing use and experience (if necessary for the safe use of the product)

Not applicable.

B.

COMMUNITY LIST ENTRY ON *FOENICULUM VULGARE* MILLER SUBSP. *VULGARE* VAR. *DULCE* (MILLER) THELLUNG, FRUCTUS

Scientific name of the plant

Foeniculum vulgare Miller subsp. *vulgare* var. *dulce* (Miller) Thellung

Botanical family

Apiaceae

Herbal substance

Fennel, sweet

Common name in all EU official languages of herbal substance

BG (bălgarski): Сладко резене, плод

CS (čeština): Plod fenyklu obecného sladkého

DA (dansk): Fennikel, sød

DE (Deutsch): Süßer Fenchel

EL (elliniká): Μαραθόσπορος γλυκύς

EN (English): Sweet fennel, fruit

ES (español): Hinojo dulce, fruto de

ET (eesti keel): Magus apteegitill, vili

FI (suomi): Makea fenkoli, hedelmä

FR (français): Fruit de fenouil doux

HU (magyar): Édesköménytermés

IT (italiano): Finocchio dolce (o romano), frutto

LT (lietuvių kalba): Saldžiųjų pankolių vaisiai

LV (latviešu valoda): Saldā fenheļa augļi

MT (malti): Bużbież ħelu, frotta

NL (nederlands): Venkelvrucht, zoet

PL (polski): Owoc kopru włoskiego (odmiana słodka)

PT (português): Fruto de funcho doce

RO (română): Fruct de fenicul dulce

SK (slovenčina): Feniklový plod sladký

SL (slovenščina): Plod sladkega navadnega komarčka

SV (svenska): Sötfänkål, frukt

IS (íslenska): Sæt fennel aldin

NO (norsk): Fenikkel, søt

Herbal preparation(s)

Fennel, sweet, dried comminuted ([1]) or powdered fruit.

European Pharmacopoeia monograph reference

Foeniculi dulcis fructus (01/2005:0825).

Indication(s)

(a) Traditional herbal medicinal product for symptomatic treatment of mild, spasmodic gastro-intestinal complaints including bloating and flatulence.

([1]) 'Comminuted fruit' is intended to cover also 'crushed fruit'.

(b) Traditional herbal medicinal product for symptomatic treatment of minor spasm associated with menstrual periods.

(c) Traditional herbal medicinal product used as an expectorant in cough associated with cold.

The product is a traditional herbal medicinal product for use in specified indications exclusively based upon long-standing use.

Type of tradition

European, Chinese.

Specified strength

Please see 'Specified posology'.

Specified posology

Adults

Single dose

1,5 to 2,5 g of (freshly [1]) comminuted fennel fruits with 0,25 l of boiling water (brew for 15 minutes) three times daily as a herbal tea.

Fennel powder: 400 mg three times a day (with a maximum of 2 g daily).

Adolescents over 12 years of age, indication (a)

Adult dose

Children between four and 12 years of age, indication (a)

Average daily dose

3-5 g of (freshly) comminuted fruits as a herbal tea, in three divided doses, for short-term use in mild transitory symptoms only (less than one week).

The use in children under four years of age is not recommended (see section 'Special warnings and precautions for use').

Route of administration

Oral use.

Duration of use or any restrictions on the duration of use

Adults

Adolescents over 12 years of age, indication (a)

Not to be taken for more than two weeks.

Children between four and 12 years of age, indication (a)

For short-term use in mild transitory symptoms only (less than one week).

If the symptoms persist during the use of the medicinal product, a doctor or a qualified health-care practitioner should be consulted.

Any other information necessary for the safe use

Contraindications

Hypersensitivity to the active substance or to Apiaceae (Umbelliferae) (aniseed, caraway, celery, coriander and dill) or to anethole.

Special warnings and precautions for use

The use in children under four years of age is not recommended due to the lack of adequate data and a paediatrician's advice should be sought.

Interactions with other medicinal products and other forms of interaction

None reported.

[1] For commercial preparation of comminuted or powdered fennel fruits the applicant must carry out appropriate stability testing related to the content of essential oil components.

Pregnancy and lactation

There are no data from the use of fennel fruit in pregnant patients.

It is unknown if fennel constituents are excreted in human breast milk.

In the absence of sufficient data, the use during pregnancy and lactation is not recommended.

Effects on ability to drive and use machines

No studies on the effect on the ability to drive and use machines have been performed.

Undesirable effects

Allergic reactions to fennel, affecting the skin or the respiratory system, may occur. The frequency is not known.

If other adverse reactions not mentioned above occur, a doctor or a qualified health-care practitioner should be consulted.

Overdose

No case of overdose has been reported.

Pharmaceutical particulars (if necessary)

Not applicable.

Pharmacological effects or efficacy plausible on the basis of long-standing use and experience (if necessary for the safe use of the product)

Not applicable.

COMMISSION DECISION

of 28 November 2008

as regards a Community financial contribution for the year 2009 to certain Community reference laboratories in the feed and food control area

(notified under document number C(2008) 7283)

(Only the texts in Spanish, Danish, German, English, French, Italian, Dutch and Swedish are authentic)

(2008/912/EC)

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Regulation (EC) No 882/2004 of the European Parliament and of the Council of 29 April 2004 on official controls performed to ensure the verification of compliance with feed and food law, animal health and animal welfare rules [1], and in particular Article 32(7) thereof,

Whereas:

(1) Community reference laboratories in the food and feed control area may be granted a Community financial contribution in accordance with Article 28 of Council Decision 90/424/EEC of 26 June 1990 on expenditure in the veterinary field [2].

(2) Commission Regulation (EC) No 1754/2006 of 28 November 2006 laying down detailed rules for the granting of Community financial assistance to Community reference laboratories for feed and food and the animal health sector [3] provides that the financial contribution from the Community is to be granted if the approved work programmes are efficiently carried out and that the beneficiaries supply all the necessary information within certain time limits.

(3) In accordance with Article 2 of Regulation (EC) No 1754/2006 the relationship between the Commission and each Community reference laboratories is laid down in a partnership agreement which is supported by a multiannual work programme.

(4) The Commission has assessed the work programmes and corresponding budget estimates submitted by the Community reference laboratories for the year 2009.

(5) Accordingly, a Community financial contribution should be granted to the Community reference laboratories designated in order to co-finance their activities to carry out the functions and duties provided for in Regulation (EC) No 882/2004. The Community's financial contribution should be at the rate of 100 % of eligible costs as defined in Regulation (EC) No 1754/2006.

(6) Regulation (EC) No 1754/2006 lays down eligibility rules for the workshops organised by the Community reference laboratories. It also limits the financial assistance to a maximum of 32 participants in workshops. Derogations to that limitation should be provided in accordance with Article 13(3) of Regulation (EC) No 1754/2006 to some Community reference laboratory that needs support for attendance by more than 32 participants in order to achieve the best outcome of its workshops.

(7) In accordance with Article 3(2)(a) of Council Regulation (EC) No 1290/2005 of 21 June 2005 on the financing of the common agricultural policy [4], animal disease eradication and control programmes (veterinary measures) shall be financed from the European Agricultural Guarantee Fund (EAGF). Furthermore, Article 13, second paragraph of that Regulation foresees that in duly justified exceptional cases, for measures and programmes covered by Decision 90/424/EEC, expenditure relating to administrative and personnel costs incurred by Member States and beneficiaries of aid from the EAGF shall be borne by the Fund. For financial control purposes, Articles 9, 36 and 37 of Regulation (EC) No 1290/2005 are to apply.

(8) The measures provided for in this Decision are in accordance with the opinion of the Standing Committee of the Food Chain and Animal Health,

[1] OJ L 165, 30.4.2004, p. 1.
[2] OJ L 224, 18.8.1990, p. 19.
[3] OJ L 331, 29.11.2006, p. 8.
[4] OJ L 209, 11.8.2005, p. 1.

HAS ADOPTED THIS DECISION:

Article 1

1. The Community grants financial aid to the Laboratoire d'études et de recherches sur la qualité des aliments et sur les procédés agroalimentaires (LERQAP), of the Agence française de sécurité sanitaire des aliments (AFSSA), Maisons-Alfort, France, to carry out the functions and duties provided for in Article 32 of Regulation (EC) No 882/2004, in particular for the analysis and testing of milk and milk products.

For the period from 1 January 2009 to 31 December 2009, that financial aid shall not exceed EUR 223 031.

2. In addition to the maximum amount provided for in paragraph 1, the Community grants financial aid to the laboratory referred to in paragraph 1 for the organisation of workshops. That aid shall not exceed EUR 23 000.

Article 2

1. The Community grants financial aid to the Rijksinstituut voor Volksgezondheid en Milieu (RIVM), Bilthoven, the Netherlands, to carry out the functions and duties provided for in Article 32 of Regulation (EC) No 882/2004, in particular for the analysis and testing of zoonoses (salmonella).

For the period from 1 January 2009 to 31 December 2009, that financial aid shall not exceed EUR 337 509.

2. In addition to the maximum amount provided for in paragraph 1, the Community grants financial aid to the laboratory referred to in paragraph 1 for the organisation of workshops. That aid shall not exceed EUR 31 072.

Article 3

1. The Community grants financial aid to the Laboratorio de Biotoxinas Marinas, Agencia Española de Seguridad Alimentaria (Ministerio de Sanidad y Consumo), Vigo, Spain, to carry out the functions and duties provided for in Article 32 of Regulation (EC) No 882/2004, in particular for the monitoring of marine biotoxins.

For the period from 1 January 2009 to 31 December 2009, that financial aid shall not exceed EUR 325 000.

2. In addition to the maximum amount provided for in paragraph 1, the Community grants financial aid to the laboratory referred to in paragraph 1 for the organisation of workshops. That aid shall not exceed EUR 42 560.

Article 4

1. The Community grants financial aid to the laboratory of the Centre for Environment, Fisheries and Aquaculture Science, Weymouth, United Kingdom, to carry out the functions and duties provided for in Article 32 of Regulation (EC) No 882/2004, in particular for the monitoring of viral and bacteriological contamination of bivalve molluscs.

For the period from 1 January 2009 to 31 December 2009, that financial aid shall not exceed EUR 304 772.

2. In addition to the maximum amount provided for in paragraph 1, the Community grants financial aid to the laboratory referred to in paragraph 1 for the organisation of workshops. That aid shall not exceed EUR 36 505.

Article 5

1. The Community grants a financial contribution to the Laboratoire d'études et de recherches sur la qualité des aliments et sur les procédés agroalimentaires (LERQAP), of the Agence française de sécurité sanitaire des aliments (AFSSA), Maisons-Alfort, France, to carry out the functions and duties provided for in Article 32 of Regulation (EC) No 882/2004, in particular for the analysis and testing of *Listeria monocytogenes*.

For the period from 1 January 2009 to 31 December 2009, that financial contribution shall not exceed EUR 277 377.

2. In addition to the maximum amount provided for in paragraph 1, the Community grants financial contribution to the laboratory referred to in paragraph 1 for the organisation of workshops. That contribution shall not exceed EUR 23 000.

Article 6

1. The Community grants financial aid to the Laboratoire d'études et de recherches sur la qualité des aliments et sur les procédés agroalimentaires (LERQAP), of the Agence française de sécurité sanitaire des aliments (AFSSA), Maisons-Alfort, France, to carry out the functions and duties provided for in Article 32 of Regulation (EC) No 882/2004, in particular for the analysis and testing of Coagulase positive *Staphylococci*, including *Staphylococcus aureus*.

For the period from 1 January 2009 to 31 December 2009, that financial contribution shall not exceed EUR 245 406.

2. In addition to the maximum amount provided for in paragraph 1, the Community grants financial contribution to the laboratory referred to in paragraph 1 for the organisation of workshops. That contribution shall not exceed EUR 23 000.

Article 7

1. The Community grants financial contribution to the Istituto Superiore di Sanità (ISS), Rome, Italy, to carry out the functions and duties provided for in Article 32 of Regulation (EC) No 882/2004, in particular for the analysis and testing of *Escherichia coli*, including Verotoxigenic *E. Coli* (VTEC).

For the period from 1 January 2009 to 31 December 2009, that financial contribution shall not exceed EUR 235 891.

2. In addition to the maximum amount provided for in paragraph 1, the Community grants financial contribution to the laboratory referred to in paragraph 1 for the organisation of workshops. That contribution shall not exceed EUR 32 000.

Article 8

1. The Community grants financial contribution to the Statens Veterinärmedicinska Anstalt (SVA), Uppsala, Sweden, to carry out the functions and duties provided for in Article 32 of Regulation (EC) No 882/2004, in particular for the monitoring of *Campylobacter*.

For the period from 1 January 2009 to 31 December 2009, that financial contribution shall not exceed EUR 278 570.

2. In addition to the maximum amount provided for in paragraph 1, the Community grants financial contribution to the laboratory referred to in paragraph 1 for the organisation of workshops. That contribution shall not exceed EUR 40 000.

Article 9

1. The Community grants financial contribution to the Istituto Superiore di Sanità (ISS), Rome, Italy, to carry out the functions and duties provided for in Article 32 of Regulation (EC) No 882/2004, in respect of analysis and testing of parasites (in particular *Trichinella, Echinococcus* and *Anisakis*).

For the period from 1 January 2009 to 31 December 2009, that financial contribution shall not exceed EUR 299 584.

2. In addition to the maximum amount provided for in paragraph 1, the Community grants financial contribution to the laboratory referred to in paragraph 1 for the organisation of workshops. That contribution shall not exceed EUR 32 000.

Article 10

1. The Community grants financial contribution to the Fødevareinstituttet, Danmarks Tekniske Universitet (DTU), Copenhagen, Denmark, to carry out the functions and duties provided for in Article 32 of Regulation (EC) No 882/2004, in particular for the monitoring of antimicrobial resistance.

For the period from 1 January 2009 to 31 December 2009, that financial contribution shall not exceed EUR 436 345.

2. In addition to the maximum amount provided for in paragraph 1, the Community grants financial contribution to the laboratory referred to in paragraph 1 for the organisation of workshops. That contribution shall not exceed EUR 24 000.

Article 11

1. The Community grants financial contribution to the Centre wallon de recherches agronomiques (CRA-W), Gembloux, Belgium, to carry out the functions and duties provided for in Article 32 of Regulation (EC) No 882/2004, in particular for the analysis and testing of animal proteins in feedingstuffs.

For the period from 1 January 2009 to 31 December 2009, that financial contribution shall not exceed EUR 566 999.

2. In addition to the maximum amount provided for in paragraph 1, the Community grants financial contribution to the laboratory referred to in paragraph 1 for the organisation of workshops. That contribution shall not exceed EUR 30 000.

Article 12

1. The Community grants financial aid to the Rijksinstituut voor Volksgezondheid en Milieuhygiëne (RIVM), Bilthoven, the Netherlands, to carry out the functions and duties provided for in Article 32 of Regulation (EC) No 882/2004, in particular for residues of certain substances listed in Annex I to Council Directive 96/23/EC [1].

For the period from 1 January 2009 to 31 December 2009, that financial aid shall not exceed EUR 447 000.

[1] OJ L 125, 23.5.1996, p. 10.

2. In addition to the maximum amount provided for in paragraph 1, the Community grants financial aid to the laboratory referred to in paragraph 1 for the organisation of workshops. That aid shall not exceed EUR 30 000.

Article 13

1. The Community grants financial aid to the Laboratoire d'études et de recherches sur les médicaments vétérinaires et les désinfectants de l'Agence française de sécurité sanitaire des aliments, Fougères, France, to carry out the functions and duties provided for in Article 32 of Regulation (EC) No 882/2004, in particular for residues of certain substances listed in Annex I to Directive 96/23/EC.

For the period from 1 January 2009 to 31 December 2009, that financial aid shall not exceed EUR 447 000.

2. In addition to the maximum amount provided for in paragraph 1, the Community grants financial aid to by the laboratory referred to in paragraph 1 for the organisation of workshops. That aid shall not exceed EUR 30 000.

Article 14

1. The Community grants financial aid to the Bundesamt für Verbraucherschutz und Lebensmittelsicherheit (BVL), Berlin, Germany, to carry out the functions and duties provided for in Article 32 of Regulation (EC) No 882/2004, in particular for residues of certain substances listed in Annex I to Directive 96/23/EC.

For the period from 1 January 2009 to 31 December 2009, that financial aid shall not exceed EUR 447 000.

2. In addition to the maximum amount provided for in paragraph 1, the Community grants financial aid to the laboratory referred to in paragraph 1 for the organisation of workshops. That aid shall not exceed EUR 30 000.

Article 15

1. The Community grants financial aid to the Istituto Superiore di Sanità, Rome, Italy, to carry out the functions and duties provided for in Article 32 of Regulation (EC) No 882/2004, in particular for residues of certain substances listed in Annex I to Directive 96/23/EC.

For the period from 1 January 2009 to 31 December 2009, that financial aid shall not exceed EUR 260 000.

2. In addition to the maximum amount provided for in paragraph 1, the Community grants financial aid to the laboratory referred to in paragraph 1 for the organisation of workshops. That aid shall not exceed EUR 26 000.

Article 16

1. The Community grants financial aid to the Veterinary Laboratories Agency, Addlestone, United Kingdom, to carry out the functions and duties provided in Chapter B of Annex X to Regulation (EC) No 999/2001 of the European Parliament and of the Council [1], in particular for the monitoring of transmissible spongiform encephalopathies.

For the period from 1 January 2009 to 31 December 2009, that financial aid shall not exceed EUR 605 608.

2. In addition to the maximum amount provided for in paragraph 1, the Community grants financial aid to the laboratory referred to in paragraph 1 for the organisation of workshops. That aid shall not exceed EUR 68 995.

3. By way of derogation from Article 13(1) of Regulation (EC) No 1754/2006, the laboratory referred to in paragraph 1 shall be entitled to claim financial assistance for attendance by a maximum of 50 participants at one of its workshops referred to in paragraph 2 of this Article.

Article 17

The Community grants financial contribution to the Chemisches und Veterinäruntersuchungsamt (CVUA) Freiburg, Germany, to carry out the functions and duties provided for in Article 32 of Regulation (EC) No 882/2004, in particular for the analysis and testing of residues of pesticides in food of animal origin and commodities with high fat content.

For the period from 1 January 2009 to 31 December 2009, that financial contribution shall not exceed EUR 198 900.

Article 18

1. The Community grants financial contribution to the Fødevareinstituttet, Danmarks Tekniske Universitet (DTU), Copenhagen, Denmark, to carry out the functions and duties provided for in Article 32 of Regulation (EC) No 882/2004, in particular for the analysis and testing of residues of pesticides in cereals and feedingstuffs.

For the period from 1 January 2009 to 31 December 2009, that financial contribution shall not exceed EUR 198 900.

2. In addition to the maximum amount provided for in paragraph 1, the Community grants financial contribution to the laboratory referred to in paragraph 1 for the organisation of workshops. That contribution shall not exceed EUR 110 000.

[1] OJ L 147, 31.5.2001, p. 1.

3. By way of derogation from Article 13(1) of Regulation (EC) No 1754/2006, the laboratory referred to in paragraph 1 shall be entitled to claim financial assistance for attendance by a maximum of 110 participants at its workshops referred to in paragraph 2 of this Article.

Article 19

1. The Community grants financial contribution to the Laboratorio Agrario de la Generalitat Valenciana (LAGV)/Grupo de Residuos de Plaguicidas de la Universidad de Almería (PRRG), Spain, to carry out the functions and duties provided for in Article 32 of Regulation (EC) No 882/2004, in particular for the analysis and testing of residues of pesticides in fruits and vegetables, including commodities with high water and high acid content.

For the period from 1 January 2009 to 31 December 2009, that financial contribution shall not exceed EUR 440 840.

2. In addition to the maximum amount provided for in paragraph 1, the Community grants financial contribution to the laboratory referred to in paragraph 1 for the organisation of workshops. That contribution shall not exceed EUR 10 000.

Article 20

The Community grants financial contribution to the Chemisches und Veterinäruntersuchungsamt (CVUA) Stuttgart, Germany, to carry out the functions and duties provided for in Article 32 of Regulation (EC) No 882/2004, in particular for the analysis and testing of residues of pesticides by single residue methods.

For the period from 1 January 2009 to 31 December 2009, that financial contribution shall not exceed EUR 332 000.

Article 21

1. The Community grants financial contribution to the Chemisches und Veterinäruntersuchungsamt (CVUA) Freiburg, Germany, to carry out by the functions and duties provided for in Article 32 of Regulation (EC) No 882/2004, in particular for the analysis and testing of dioxins and PCBs in feed and food.

For the period from 1 January 2009 to 31 December 2009, that financial contribution shall not exceed EUR 432 000.

2. In addition to the maximum amount provided for in paragraph 1, the Community grants financial contribution to the laboratory referred to in paragraph 1 for the organisation of workshops. That contribution shall not exceed EUR 55 410.

Article 22

The Community's financial contribution referred to in Articles 1 to 21 shall be at the rate of 100 % of eligible costs as defined in Regulation (EC) No 1754/2006.

Article 23

This Decision is addressed to the:

— for milk and milk products: Laboratoire d'études et de recherches sur la qualité des aliments et sur les procédés agroalimentaires (LERQAP), of the Agence française de sécurité sanitaire des aliments (AFSSA), 23 avenue du Général de Gaulle, 94700 Maisons-Alfort, France,

— for the analysis and testing of zoonoses (salmonella): Rijksinstituut voor Volksgezondheid en Milieu (RIVM), Postbus 1, Anthony van Leeuwenhoeklaan 9, 3720 BA Bilthoven, The Netherlands,

— for the monitoring of marine biotoxins: Laboratorio de Biotoxinas Marinas, Agencia Española de Seguridad Alimentaria (Ministerio de Sanidad y Consumo), Estacion Maritima, s/n, 36200 Vigo, Spain,

— for monitoring the viral and bacteriological contamination of bivalve molluscs: Laboratory of the Centre for Environment, Fisheries and Aquaculture Science (CEFAS), Weymouth Laboratory, Barrack Road, The Nothe, Weymouth, Dorset, DT4 8UB, United Kingdom,

— for *Listeria monocytogenes*: Laboratoire d'études et de recherches sur la qualité des aliments et sur les procédés agroalimentaires (LERQAP), of the Agence française de sécurité sanitaire des aliments (AFSSA), 23 avenue du Général de Gaulle, 94700 Maisons-Alfort, France,

— for coagulase positive *Staphylococci*, including *Staphylococcus aureus*: Laboratoire d'études et de recherches sur la qualité des aliments et sur les procédés agroalimentaires (LERQAP), of the Agence française de sécurité sanitaire des aliments (AFSSA), 23 avenue du Général de Gaulle, 94700 Maisons-Alfort, France,

— for *Escherichia coli*, including Verotoxigenic *E. Coli* (VTEC): Istituto Superiore di Sanità (ISS), Viale Regina Elena 299, 00161 Roma, Italy,

— for *Campylobacter*: Statens Veterinärmedicinska Anstalt (SVA), Ulls väg 2 B, 751 89 Uppsala, Sweden,

— for parasites (in particular *Trichinella, Echinococcus* and *Anisakis*): Istituto Superiore di Sanità (ISS), Viale Regina Elena 299, 00161 Roma, Italy,

— for antimicrobial resistance: Fødevareinstituttet, Danmarks Tekniske Universitet (DTU), Bülowsvej 27, 1790 Copenhagen V, Denmark,

— for animal proteins in feedingstuffs: Centre wallon de recherches agronomiques (CRA-W), Chaussée de Namur 24, 5030 Gembloux, Belgium,

— for residues: Rijksinstituut voor Volksgezondheid en Milieu (RIVM), Postbus 1, Anthony van Leeuwenhoeklaan 9, 3720 BA Bilthoven, The Netherlands,

— for residues: Laboratoire d'études et de recherches sur les médicaments vétérinaires et les désinfectants de l'Agence française de sécurité sanitaire des aliments (AFSSA), Site de Fougères, BP 90203, 35302 Fougères, France,

— for residues: Bundesamt für Verbraucherschutz und Lebensmittelsicherheit, Postfach 100214, Mauerstrasse 39-42, 10562 Berlin, Germany,

— for residues: Istituto Superiore di Sanità (ISS), Viale Regina Elena 299, 00161 Roma, Italy,

— for transmissible spongiform encephalopathies (TSEs): Veterinary Laboratories Agency, Woodham Lane, New Haw, Addlestone, Surrey KT15 3NB, United Kingdom,

— for the analysis and testing of residues of pesticides in food of animal origin: Chemisches und Veterinäruntersuchungsamt (CVUA), Postfach 100462, Bissierstrasse 5, 79114 Freiburg, Germany,

— for the analysis and testing of residues of pesticides in cereals: Fødevareinstituttet, Danmarks Tekniske Universitet (DTU), Department of Food Chemistry, Moerkhoej Bygade 19, 2860 Soeborg, Denmark,

— for the analysis and testing of residues of pesticides in fruits and vegetables: Laboratorio Agrario de la Generalitat Valenciana (LAGV)/Grupo de Residuos de Plaguicidas de la Universidad de Almería (PRRG), Ctra. Sacramento s/n, La Canada de San Urbano, 04120 Almeria, Spain,

— for the analysis and testing of residues of pesticides by single residue methods: Chemisches und Veterinäruntersuchungsamt (CVUA), Postfach 1206, Schaflandstrasse 3/2, 70736 Stuttgart, Germany,

— for the analysis and testing of dioxins and PCBs in feed and food: Chemisches und Veterinäruntersuchungsamt (CVUA), Postfach 100462, Bissierstrasse 5, 79114 Freiburg, Germany.

Done at Brussels, 28 November 2008.

For the Commission

Androulla VASSILIOU

Member of the Commission

III

(Acts adopted under the EU Treaty)

ACTS ADOPTED UNDER TITLE VI OF THE EU TREATY

COUNCIL FRAMEWORK DECISION 2008/913/JHA

of 28 November 2008

on combating certain forms and expressions of racism and xenophobia by means of criminal law

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty on European Union, and in particular Articles 29, 31 and 34(2)(b) thereof,

Having regard to the proposal from the Commission,

Having regard to the Opinion of the European Parliament [1],

Whereas:

(1) Racism and xenophobia are direct violations of the principles of liberty, democracy, respect for human rights and fundamental freedoms and the rule of law, principles upon which the European Union is founded and which are common to the Member States.

(2) The Action Plan of the Council and the Commission on how best to implement the provisions of the Treaty of Amsterdam on an area of freedom, security and justice [2], the Conclusions of the Tampere European Council of 15 and 16 October 1999, the Resolution of the European Parliament of 20 September 2000 on the European Union's position at the World Conference Against Racism and the current situation in the Union [3] and the Communication from the Commission to the Council and the European Parliament on the biannual update of the Scoreboard to review progress on the creation of an area of 'freedom, security and justice' in the European Union (second half of 2000) call for action in this field. In the Hague Programme of 4 and 5 November 2004, the Council recalls its firm commitment to oppose any form of racism, anti-Semitism and xenophobia as already expressed by the European Council in December 2003.

(3) Council Joint Action 96/443/JHA of 15 July 1996 concerning action to combat racism and xenophobia [4] should be followed by further legislative action addressing the need for further approximation of law and regulations of Member States and for overcoming obstacles for efficient judicial cooperation which are mainly based on the divergence of legal approaches in the Member States.

(4) According to the evaluation of Joint Action 96/443/JHA and work carried out in other international fora, such as the Council of Europe, some difficulties have still been experienced regarding judicial cooperation and therefore there is a need for further approximation of Member States' criminal laws in order to ensure the effective implementation of comprehensive and clear legislation to combat racism and xenophobia.

(5) Racism and xenophobia constitute a threat against groups of persons which are the target of such behaviour. It is necessary to define a common criminal-law approach in the European Union to this phenomenon in order to ensure that the same behaviour constitutes an offence in all Member States and that effective, proportionate and dissuasive penalties are provided for natural and legal persons having committed or being liable for such offences.

(6) Member States acknowledge that combating racism and xenophobia requires various kinds of measures in a comprehensive framework and may not be limited to criminal matters. This Framework Decision is limited to combating particularly serious forms of racism and xenophobia by means of criminal law. Since the Member States' cultural and legal traditions are, to some extent, different, particularly in this field, full harmonisation of criminal laws is currently not possible.

[1] Opinion of 29 November 2007 (not yet published in the Official Journal).
[2] OJ C 19, 23.1.1999, p. 1.
[3] OJ C 146, 17.5.2001, p. 110.
[4] OJ L 185, 24.7.1996, p. 5.

(7) In this Framework Decision 'descent' should be understood as referring mainly to persons or groups of persons who descend from persons who could be identified by certain characteristics (such as race or colour), but not necessarily all of these characteristics still exist. In spite of that, because of their descent, such persons or groups of persons may be subject to hatred or violence.

(8) 'Religion' should be understood as broadly referring to persons defined by reference to their religious convictions or beliefs.

(9) 'Hatred' should be understood as referring to hatred based on race, colour, religion, descent or national or ethnic origin.

(10) This Framework Decision does not prevent a Member State from adopting provisions in national law which extend Article 1(1)(c) and (d) to crimes directed against a group of persons defined by other criteria than race, colour, religion, descent or national or ethnic origin, such as social status or political convictions.

(11) It should be ensured that investigations and prosecutions of offences involving racism and xenophobia are not dependent on reports or accusations made by victims, who are often particularly vulnerable and reluctant to initiate legal proceedings.

(12) Approximation of criminal law should lead to combating racist and xenophobic offences more effectively, by promoting a full and effective judicial cooperation between Member States. The difficulties which may exist in this field should be taken into account by the Council when reviewing this Framework Decision with a view to considering whether further steps in this area are necessary.

(13) Since the objective of this Framework Decision, namely ensuring that racist and xenophobic offences are sanctioned in all Member States by at least a minimum level of effective, proportionate and dissuasive criminal penalties, cannot be sufficiently achieved by the Member States individually, since such rules have to be common and compatible and since this objective can therefore be better achieved at the level of the European Union, the Union may adopt measures, in accordance with the principle of subsidiarity as referred to in Article 2 of the Treaty on European Union and as set out in Article 5 of the Treaty establishing the European Community. In accordance with the principle of proportionality, as set out in the latter Article, this Framework Decision does not go beyond what is necessary in order to achieve that objective.

(14) This Framework Decision respects the fundamental rights and observes the principles recognised by Article 6 of the Treaty on European Union and by the European Convention for the Protection of Human Rights and Fundamental Freedoms, in particular Articles 10 and 11 thereof, and reflected in the Charter of Fundamental Rights of the European Union, and notably Chapters II and VI thereof.

(15) Considerations relating to freedom of association and freedom of expression, in particular freedom of the press and freedom of expression in other media have led in many Member States to procedural guarantees and to special rules in national law as to the determination or limitation of liability.

(16) Joint Action 96/443/JHA should be repealed since, with the entry into force of the Treaty of Amsterdam, Council Directive 2000/43/EC of 29 June 2000 implementing the principle of equal treatment between persons irrespective of racial or ethnic origin [1] and this Framework Decision, it becomes obsolete,

HAS ADOPTED THIS FRAMEWORK DECISION:

Article 1

Offences concerning racism and xenophobia

1. Each Member State shall take the measures necessary to ensure that the following intentional conduct is punishable:

(a) publicly inciting to violence or hatred directed against a group of persons or a member of such a group defined by reference to race, colour, religion, descent or national or ethnic origin;

(b) the commission of an act referred to in point (a) by public dissemination or distribution of tracts, pictures or other material;

(c) publicly condoning, denying or grossly trivialising crimes of genocide, crimes against humanity and war crimes as defined in Articles 6, 7 and 8 of the Statute of the International Criminal Court, directed against a group of persons or a member of such a group defined by reference to race, colour, religion, descent or national or ethnic origin when the conduct is carried out in a manner likely to incite to violence or hatred against such a group or a member of such a group;

(d) publicly condoning, denying or grossly trivialising the crimes defined in Article 6 of the Charter of the International Military Tribunal appended to the London Agreement of 8 August 1945, directed against a group of persons or a member of such a group defined by reference to race, colour, religion, descent or national or ethnic origin when the conduct is carried out in a manner likely to incite to violence or hatred against such a group or a member of such a group.

[1] OJ L 180, 19.7.2000, p. 22.

2. For the purpose of paragraph 1, Member States may choose to punish only conduct which is either carried out in a manner likely to disturb public order or which is threatening, abusive or insulting.

3. For the purpose of paragraph 1, the reference to religion is intended to cover, at least, conduct which is a pretext for directing acts against a group of persons or a member of such a group defined by reference to race, colour, descent, or national or ethnic origin.

4. Any Member State may, on adoption of this Framework Decision or later, make a statement that it will make punishable the act of denying or grossly trivialising the crimes referred to in paragraph 1(c) and/or (d) only if the crimes referred to in these paragraphs have been established by a final decision of a national court of this Member State and/or an international court, or by a final decision of an international court only.

Article 2

Instigation, aiding and abetting

1. Each Member State shall take the measures necessary to ensure that instigating the conduct referred to in Article 1(1)(c) and (d) is punishable.

2. Each Member State shall take the measures necessary to ensure that aiding and abetting in the commission of the conduct referred to in Article 1 is punishable.

Article 3

Criminal penalties

1. Each Member State shall take the necessary measures to ensure that the conduct referred to in Articles 1 and 2 is punishable by effective, proportionate and dissuasive criminal penalties.

2. Each Member State shall take the necessary measures to ensure that the conduct referred to in Article 1 is punishable by criminal penalties of a maximum of at least between 1 and 3 years of imprisonment.

Article 4

Racist and xenophobic motivation

For offences other than those referred to in Articles 1 and 2, Member States shall take the necessary measures to ensure that racist and xenophobic motivation is considered an aggravating circumstance, or, alternatively that such motivation may be taken into consideration by the courts in the determination of the penalties.

Article 5

Liability of legal persons

1. Each Member State shall take the necessary measures to ensure that a legal person can be held liable for the conduct referred to in Articles 1 and 2, committed for its benefit by any person, acting either individually or as part of an organ of the legal person, who has a leading position within the legal person, based on:

(a) a power of representation of the legal person;

(b) an authority to take decisions on behalf of the legal person; or

(c) an authority to exercise control within the legal person.

2. Apart from the cases provided for in paragraph 1 of this Article, each Member State shall take the necessary measures to ensure that a legal person can be held liable where the lack of supervision or control by a person referred to in paragraph 1 of this Article has made possible the commission of the conduct referred to in Articles 1 and 2 for the benefit of that legal person by a person under its authority.

3. Liability of a legal person under paragraphs 1 and 2 of this Article shall not exclude criminal proceedings against natural persons who are perpetrators or accessories in the conduct referred to in Articles 1 and 2.

4. 'Legal person' means any entity having such status under the applicable national law, with the exception of States or other public bodies in the exercise of State authority and public international organisations.

Article 6

Penalties for legal persons

1. Each Member State shall take the necessary measures to ensure that a legal person held liable pursuant to Article 5(1) is punishable by effective, proportionate and dissuasive penalties, which shall include criminal or non-criminal fines and may include other penalties, such as:

(a) exclusion from entitlement to public benefits or aid;

(b) temporary or permanent disqualification from the practice of commercial activities;

(c) placing under judicial supervision;

(d) a judicial winding-up order.

2. Member States shall take the necessary measures to ensure that a legal person held liable pursuant to Article 5(2) is punishable by effective, proportionate and dissuasive penalties or measures.

Article 7

Constitutional rules and fundamental principles

1. This Framework Decision shall not have the effect of modifying the obligation to respect fundamental rights and fundamental legal principles, including freedom of expression and association, as enshrined in Article 6 of the Treaty on European Union.

2. This Framework Decision shall not have the effect of requiring Member States to take measures in contradiction to fundamental principles relating to freedom of association and freedom of expression, in particular freedom of the press and the freedom of expression in other media as they result from constitutional traditions or rules governing the rights and responsibilities of, and the procedural guarantees for, the press or other media where these rules relate to the determination or limitation of liability.

Article 8

Initiation of investigation or prosecution

Each Member State shall take the necessary measures to ensure that investigations into or prosecution of the conduct referred to in Articles 1 and 2 shall not be dependent on a report or an accusation made by a victim of the conduct, at least in the most serious cases where the conduct has been committed in its territory.

Article 9

Jurisdiction

1. Each Member State shall take the necessary measures to establish its jurisdiction with regard to the conduct referred to in Articles 1 and 2 where the conduct has been committed:

(a) in whole or in part within its territory;

(b) by one of its nationals; or

(c) for the benefit of a legal person that has its head office in the territory of that Member State.

2. When establishing jurisdiction in accordance with paragraph 1(a), each Member State shall take the necessary measures to ensure that its jurisdiction extends to cases where the conduct is committed through an information system and:

(a) the offender commits the conduct when physically present in its territory, whether or not the conduct involves material hosted on an information system in its territory;

(b) the conduct involves material hosted on an information system in its territory, whether or not the offender commits the conduct when physically present in its territory.

3. A Member State may decide not to apply, or to apply only in specific cases or circumstances, the jurisdiction rule set out in paragraphs 1(b) and (c).

Article 10

Implementation and review

1. Member States shall take the necessary measures to comply with the provisions of this Framework Decision by 28 November 2010.

2. By the same date Member States shall transmit to the General Secretariat of the Council and to the Commission the text of the provisions transposing into their national law the obligations imposed on them under this Framework Decision. On the basis of a report established using this information by the Council and a written report from the Commission, the Council shall, by 28 November 2013, assess the extent to which Member States have complied with the provisions of this Framework Decision.

3. Before 28 November 2013, the Council shall review this Framework Decision. For the preparation of this review, the Council shall ask Member States whether they have experienced difficulties in judicial cooperation with regard to the conduct under Article 1(1). In addition, the Council may request Eurojust to submit a report, on whether differences between national legislations have resulted in any problems regarding judicial cooperation between the Member States in this area.

Article 11

Repeal of Joint Action 96/443/JHA

Joint Action 96/443/JHA is hereby repealed.

Article 12

Territorial application

This Framework Decision shall apply to Gibraltar.

Article 13

Entry into force

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

Done at Brussels, 28 November 2008.

For the Council
The President
M. ALLIOT-MARIE

NOTE TO THE READER

The institutions have decided no longer to quote in their texts the last amendment to cited acts.

Unless otherwise indicated, references to acts in the texts published here are to the version of those acts currently in force.