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I

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

REGULATIONS

COUNCIL REGULATION (EC) No 319/2009

of 16 April 2009

**clarifying the scope of the definitive anti-dumping duties imposed by Regulation (EC) No 85/2006
on imports of farmed salmon originating in Norway**

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty establishing the European Community,

Having regard to Council Regulation (EC) No 384/96 of 22 December 1995 on protection against dumped imports from countries not members of the European Community ⁽¹⁾ (the basic Regulation), and in particular Article 11(3) thereof,

Having regard to the proposal submitted by the Commission after having consulted the Advisory Committee,

Whereas:

A. PROCEDURE

1. Former investigations and anti-dumping measures

- (1) Following the initiation of an anti-dumping proceeding in October 2004 ⁽²⁾, the Commission, by Regulation (EC) No 628/2005 ⁽³⁾, imposed provisional anti-dumping duties on imports of farmed salmon originating in Norway in the form of an *ad valorem* duty.
- (2) On 1 July 2005, by Regulation (EC) No 1010/2005 ⁽⁴⁾, the Commission changed the form of the provisional duties to a minimum import price (MIP).
- (3) The Council, by Regulation (EC) No 85/2006 ⁽⁵⁾, imposed a definitive anti-dumping duty on imports of farmed salmon originating in Norway (the original investigation and definitive Regulation). The definitive duty was imposed in the form of a MIP.

- (4) By Regulation (EC) No 685/2008 ⁽⁶⁾, following an interim review limited in scope to the aspects of dumping with the objective of assessing the need for the continuation, removal or amendment of the existing measures, the Council repealed the anti-dumping measures imposed by the definitive Regulation.

2. Initiation of the review investigation

- (5) A partial interim review was initiated on the Commission's own initiative after the Tallinn Administrative Court applied to the European Court of Justice for a preliminary ruling on the question whether frozen backbones (bones with fish meat) of salmon (salmon backbones) fall within one of the Taric codes mentioned in Article 1 of the definitive Regulation. Article 1 of the definitive Regulation imposes measures at different levels depending on the presentations of the product concerned. One of these presentations is 'Other (including gutted, head off), fresh, chilled or frozen'.
- (6) Therefore, it was considered appropriate to examine whether frozen backbones of salmon fall within the definition of the product concerned, and in particular within the presentation 'Other (including gutted, head off), fresh, chilled or frozen', with the conclusion thereon possibly having retroactive effect as of the date of the imposition of the relevant anti-dumping measures.
- (7) After consulting the Advisory Committee, the Commission announced by a notice (the notice of initiation) published in the *Official Journal of the European Union* ⁽⁷⁾ the initiation of a partial interim review of the anti-dumping measures applicable to farmed salmon originating in Norway in accordance with Article 11(3) of the basic Regulation, limited in scope to the examination of the product scope.

⁽¹⁾ OJ L 56, 6.3.1996, p. 1.

⁽²⁾ OJ C 261, 23.10.2004, p. 8.

⁽³⁾ OJ L 104, 23.4.2005, p. 5.

⁽⁴⁾ OJ L 170, 1.7.2005, p. 32.

⁽⁵⁾ OJ L 15, 20.1.2006, p. 1.

⁽⁶⁾ OJ L 192, 19.7.2008, p. 5.

⁽⁷⁾ OJ C 181, 18.7.2008, p. 25.

B. PRESENT INVESTIGATION

- (8) The Commission officially informed the authorities of Norway, the Norwegian producer association, known importers in the Community, known users in the Community, the associations of producers in the Community and other known producers in the Community of the initiation of the investigation. Interested parties were given the opportunity to make their views known in writing and request a hearing within the time limit set in the notice of initiation.
- (9) The Commission sent questionnaires to all parties known to be concerned and to all other companies which made themselves known within the deadlines set out in the notice of initiation.
- (10) In view of the scope of the partial review, no investigation period was set for the purpose of this partial review. The information received in the questionnaire replies covered the period from 2005 to 2007 (period considered). For the period considered, information concerning purchase volumes, sales volumes and value was requested. In addition, the parties concerned were asked to comment on any differences or similarities between salmon backbones and farmed salmon with respect to their physical, chemical and/or biological characteristics, end-uses, interchangeability and competition with one another.
- (11) Two importers in the Community and the Norwegian producer association cooperated in the present investigation and submitted the basic information requested.

The Commission sought and verified all information deemed necessary for the purpose of the clarification of the scope of the existing anti-dumping measures and carried out investigations at the premises of the following importers:

— Nereus AS, Pärnu, Estonia,

— Pärilitigu OÜ, Tallinn, Estonia,

The following salmon backbone processor was also visited:

— Korvekula Kalatoostuse, Tartu, Estonia,

- (12) All interested parties were informed of the essential facts and considerations on the basis of which the present conclusions were reached. In accordance with Article 20(5) of the basic Regulation, parties were granted a period within which they can make representations subsequent to the disclosure. The oral and written comments submitted by the parties were considered and, where appropriate, the findings have been modified accordingly.

C. PRODUCT CONCERNED

- (13) The product under review is the same as in the original investigation, i.e. farmed (other than wild) salmon, whether or not filleted, fresh, chilled or frozen, originating in Norway (the product concerned). The definition excludes other similar farmed fish products such as large (salmon) trout, biomass (live salmon) as well as wild salmon and further processed types such as smoked salmon.
- (14) The product is currently classifiable within CN codes ex 0302 12 00, ex 0303 11 00, ex 0303 19 00, ex 0303 22 00, ex 0304 19 13 and ex 0304 29 13 corresponding to different presentations of the product (fresh or chilled fish, fresh or chilled fillets, frozen fish and frozen fillets).

D. RESULTS OF THE INVESTIGATION**1. Methodology**

- (15) In order to assess whether salmon backbones should fall within the product scope of Article 1 of the definitive Regulation, it was examined whether salmon backbones and farmed salmon shared the same basic physical and/or biological characteristics and end-uses. In this regard, the interchangeability and the competition between salmon backbones and other farmed salmon in the Community were also assessed.

2. Basic physical characteristics

- (16) Salmon backbone, which usually weighs about 10 % of a whole fish, is a by-product which results from the salmon filleting process. After gutting and heading off operations, fillets are obtained by parting the salmon in at least three separate pieces: two fillets and a backbone to which some flesh is still attached. A higher level of trimming can be achieved by performing additional tasks such as the removal of back fins, collar bone, pin bone, belly flaps and skin.
- (17) Article 1 of the definitive Regulation refers to various farmed salmon presentation types, including whole fish, whole fish gutted head-on and fillets in different presentations (weight, skin on/off).

- (18) It is undisputed that salmon backbones do not fall within presentation types referring to the whole fish, gutted head on, gutted head-off, or any of the presentation types referring to fillets listed in Article 1 of the definitive Regulation. Indeed, as far as these presentation types are concerned, salmon backbones are clearly and easily distinguishable because they have, as outlined below, clear different physical characteristics.
- (19) The question arises whether salmon backbones would fall within the category 'Other' in Article 1 of the definitive Regulation, which includes gutted head-off salmon (fresh, chilled or frozen) but is not exclusively reserved for this kind of presentation.
- (20) In this regard, it was considered that the definitive Regulation only distinguished between two types of products; i.e. filleted and non-filleted salmon, and that the latter referred to the whole salmon. This is apparent from the original investigation where information was only collected concerning the whole fish and the fillets, but not for other parts of the fish. Consequently, the applicable MIPs were calculated on the basis of that information only. Thus, it seems that although salmon backbones were not explicitly excluded, the investigation at that time did not mean to target backbones.
- (21) As mentioned above, some flesh is still attached to the backbone and this flesh is also partly destined for human consumption. However, backbones, as suggested by the name, are mainly characterised by the bone whereas farmed salmon whether filleted or not is mainly characterised by the flesh. Indeed, salmon backbone represents about 10 % of a whole salmon weight, and the flesh on the backbone represents between 25 % and 40 % of the backbone weight. The flesh attached to the backbone thus accounts for only 2,5 to 4 % of a whole fish weight while salmon flesh of a whole fish accounts for more than 65 % of the whole fish weight.
- (22) Therefore, it was concluded that salmon backbones and farmed salmon as defined by the definitive Regulation do not share the same basic physical characteristics.
- (24) Very often salmon backbones are considered as waste and disposed of during the filleting process. When salmon backbones are not disposed of at the packing station where the filleting takes place, they will mostly be sold as low-end products and used mainly in animal feed but also as ingredients in soups, hamburger patties and pâtés. Only in some limited cases will salmon backbones also be smoked and sold as such (i.e. without scraping off the flesh beforehand) for human consumption. The smoked flesh on the backbone will, however, be even more limited in weight.
- (25) The information gathered showed that salmon backbones are priced at a significantly lower level than farmed salmon. While farmed salmon was never imported below EUR 2,88/kg over the period January 2006 to July 2008, salmon backbones were imported at an average of EUR 0,50/kg over the same period. Also it should be noted that whereas the price of farmed salmon varied significantly in the period mentioned above, the price evolution for salmon backbones was flat.
- (26) Given the above, it is concluded that both products do not share the same basic end uses and are targeted at distinct markets. While farmed salmon is a high-end product, salmon backbone is a salmon by-product destined for the low-end market and used mainly as an ingredient in the animal feed or food processing industry.
- (27) It follows from the above that farmed salmon and salmon backbones do not have the same basic end-uses and are not interchangeable.
- (23) The investigation further revealed that farmed salmon as defined in the definitive Regulation has several high-end uses. Indeed such product will be marketed in a gutted head-on/off presentation, as a fillet, a steak or will be filleted before being smoked or marinated. Such products are usually sold in supermarkets or are further processed and offered in restaurants or specialised shops. Given their price level, they will be advertised as high-end products and can be regarded as sub-luxury products.

3. Basic end-uses and interchangeability

E. CONCLUSIONS ON THE PRODUCT SCOPE

- (28) The above findings show that salmon backbones and farmed salmon as defined in the definitive Regulation do not share the same basic physical characteristics and do not have the same basic end-uses. They are not interchangeable and do not compete with each other on the Community market. On this basis, it is concluded that salmon backbones and farmed salmon as defined in Article 1 of the definitive Regulation are two different products. Since salmon backbones did not fall within the scope of the original investigation the anti-dumping duty should not have been applied to imports of salmon backbones.
- (29) Based on the above, the scope of application of the measures should be clarified retroactively by an amendment to the definitive Regulation.

F. RETROACTIVE APPLICATION

- (30) Since the present review investigation is limited to the clarification of the product scope and since salmon backbones were not covered by the original investigation and the consequent anti-dumping measure, it is considered appropriate that the findings be applied from the date of the entry into force of the definitive Regulation, including any imports subject to provisional duties.

- (31) Consequently, the provisional duties definitively collected and the definitive anti-dumping duties paid pursuant to Regulation (EC) No 85/2006 on imports of salmon backbones in the Community should be repaid or remitted. The repayment or remission must be requested from national customs authorities in accordance with applicable national customs legislation,

HAS ADOPTED THIS REGULATION:

Article 1

Article 1(1) of Regulation (EC) No 85/2006 shall be replaced by the following:

‘1. A definitive anti-dumping duty is hereby imposed on imports of farmed (other than wild) salmon, whether or not filleted, fresh, chilled or frozen, falling within CN codes ex 0302 12 00, ex 0303 11 00, ex 0303 19 00, ex 0303 22 00, ex 0304 10 13 and ex 0304 20 13 (here-

inafter farmed salmon) originating in Norway. Salmon backbones, composed of a fishbone partly covered with flesh, being an edible by-product of the fishing industry, and falling within CN codes ex 0302 12 00, ex 0303 11 00, ex 0303 19 00, ex 0303 22 00, shall not be covered by the definitive anti-dumping duty provided that the flesh attached to the backbone represents not more than 40 % of the salmon backbone weight.’.

Article 2

For goods not covered by Article 1(1) of Regulation (EC) No 85/2006 as amended by this Regulation, the definitive anti-dumping duties paid or entered into the accounts pursuant to Article 1(1) of Regulation (EC) No 85/2006 in its initial version and the provisional anti-dumping duties definitively collected pursuant to Article 2 of that Regulation shall be repaid or remitted.

Repayment and remission shall be requested from national customs authorities in accordance with applicable customs legislation. In duly justified cases, the time limit of three years provided in Article 236(2) of Council Regulation (EEC) No 2913/92 of 12 October 1992 establishing the Community Customs Code ⁽¹⁾ shall be extended for a period of two years.

Article 3

This Regulation shall enter into force on the day following its publication in the *Official Journal of the European Union* and shall apply retroactively from 21 January 2006.

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

Done at Brussels, 16 April 2009.

For the Council
The President

K. SCHWARZENBERG

⁽¹⁾ OJ L 302, 19.10.1992, p. 1.

COMMISSION REGULATION (EC) No 320/2009**of 20 April 2009****establishing the standard import values for determining the entry price of certain fruit and vegetables**

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Council Regulation (EC) No 1234/2007 of 22 October 2007 establishing a common organisation of agricultural markets and on specific provisions for certain agricultural products (Single CMO Regulation) ⁽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 21 April 2009.

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

Done at Brussels, 20 April 2009.

For the Commission

Jean-Luc DEMARTY

*Director-General for Agriculture and
Rural Development*

⁽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	JO	93,2
	MA	79,3
	TN	139,0
	TR	145,4
	ZZ	114,2
0707 00 05	JO	155,5
	MA	55,7
	TR	142,7
	ZZ	118,0
0709 90 70	JO	220,7
	MA	28,1
	TR	126,1
	ZZ	125,0
0805 10 20	EG	42,7
	IL	60,4
	MA	49,5
	TN	53,9
	TR	71,2
	US	49,7
	ZZ	54,6
0805 50 10	TR	61,3
	ZA	76,0
	ZZ	68,7
0808 10 80	AR	85,6
	BR	75,3
	CA	124,7
	CL	78,3
	CN	65,4
	MK	22,6
	NZ	109,8
	US	140,5
	UY	70,7
	ZA	75,4
0808 20 50	ZZ	84,8
	AR	76,3
	CL	100,6
	CN	34,7
	ZA	92,5
	ZZ	76,0

⁽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 321/2009**of 20 April 2009****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 306/2009 ⁽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 21 April 2009.

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

Done at Brussels, 20 April 2009.

For the Commission

Jean-Luc DEMARTY

*Director-General for Agriculture and
Rural Development*

⁽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 97, 16.4.2009, p. 3.

ANNEX

Amended representative prices and additional import duties applicable to white sugar, raw sugar and products covered by CN code 1702 90 95 from 21 April 2009

(EUR)

CN code	Representative price per 100 kg net of the product concerned	Additional duty per 100 kg net of the product concerned
1701 11 10 ⁽¹⁾	25,96	3,50
1701 11 90 ⁽¹⁾	25,96	8,55
1701 12 10 ⁽¹⁾	25,96	3,36
1701 12 90 ⁽¹⁾	25,96	8,12
1701 91 00 ⁽²⁾	31,29	9,59
1701 99 10 ⁽²⁾	31,29	5,07
1701 99 90 ⁽²⁾	31,29	5,07
1702 90 95 ⁽³⁾	0,31	0,34

⁽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 322/2009

of 20 April 2009

concerning the permanent authorisations of certain additives in feedingstuffs

(Text with EEA relevance)

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Council Directive 70/524/EEC of 23 November 1970 concerning additives in feedingstuffs ⁽¹⁾, and in particular Articles 3 and 9d(1) thereof,

Having regard to Regulation (EC) No 1831/2003 of the European Parliament and of the Council of 22 September 2003 on additives for use in animal nutrition ⁽²⁾, and in particular Article 25 thereof,

Whereas:

- (1) Regulation (EC) No 1831/2003 provides for the authorisation of additives for use in animal nutrition.
- (2) Article 25 of Regulation (EC) No 1831/2003 lays down transitional measures for applications for the authorisation of feed additives submitted in accordance with Directive 70/524/EEC before the date of application of Regulation (EC) No 1831/2003.
- (3) The applications for authorisation of the additives set out in the Annexes to this Regulation were submitted before the date of application of Regulation (EC) No 1831/2003.
- (4) Initial comments on those applications, as provided for in Article 4(4) of Directive 70/524/EEC, were forwarded to the Commission before the date of application of Regulation (EC) No 1831/2003. Those applications are therefore to continue to be treated in accordance with Article 4 of Directive 70/524/EEC.
- (5) The use of the enzyme preparation of endo-1,4-beta-xylanase produced by *Bacillus subtilis* (LMG S-15136) was provisionally authorised for laying hens by Commission Regulation (EC) No 358/2005 ⁽³⁾. It was authorised without a time limit for chickens for fattening by Commission Regulation (EC) No 1259/2004 ⁽⁴⁾, for piglets (weaned) by Commission

Regulation (EC) No 1206/2005 ⁽⁵⁾, for pigs for fattening and turkeys for fattening by Commission Regulation (EC) No 516/2007 ⁽⁶⁾ and for 10 years for ducks by Commission Regulation (EC) No 242/2007 ⁽⁷⁾. New data were submitted in support of an application for authorisation without a time limit of that enzyme preparation for laying hens. The assessment shows that the conditions laid down in Article 3a of Directive 70/524/EEC for such authorisation are satisfied. Accordingly, the use of that enzyme preparation, as specified in Annex I to this Regulation, should be authorised without a time limit.

- (6) The use of the enzyme preparation of endo-1,4-beta-xylanase produced by *Trichoderma longibrachiatum* (IMI SD 135) was provisionally authorised for laying hens, pigs for fattening and weaned piglets by Commission Regulation (EC) No 1436/1998 ⁽⁸⁾. It was authorised without a time limit for chickens for fattening by Commission Regulation (EC) No 2148/2004 ⁽⁹⁾, for turkeys for fattening by Commission Regulation (EC) No 828/2007 ⁽¹⁰⁾. New data were submitted in support of an application for authorisation without a time limit of that enzyme preparation for laying hens and weaned piglets. The assessment shows that the conditions laid down in Article 3a of Directive 70/524/EEC for such authorisation are satisfied. Accordingly, the use of that enzyme preparation, as specified in Annex II to this Regulation, should be authorised without a time limit.
- (7) The use of the enzyme preparation of endo-1,3(4)-beta-glucanase and endo-1,4-beta-xylanase produced by *Penicillium funiculosum* (IMI SD 101) was provisionally authorised for piglets (weaned) and ducks for fattening by Regulation (EC) No 2148/2004. It was authorised for chickens for fattening without a time limit by Regulation (EC) No 1259/2004, for laying hens and turkeys for fattening by Commission Regulation (EC) No 943/2005 ⁽¹¹⁾ and for pigs for fattening by Regulation (EC) No 1206/2005. New data were submitted in support of an application for authorisation without a time limit of that enzyme preparation for ducks for fattening and weaned piglets. The assessment shows that the conditions laid down in Article 3a of Directive 70/524/EEC for such authorisation are satisfied. Accordingly, the use of that enzyme preparation, as specified in Annex III to this Regulation, should be authorised without a time limit.

⁽¹⁾ OJ L 270, 14.12.1970, p. 1.

⁽²⁾ OJ L 268, 18.10.2003, p. 29.

⁽³⁾ OJ L 57, 2.3.2005, p. 3.

⁽⁴⁾ OJ L 239, 9.7.2004, p. 8.

⁽⁵⁾ OJ L 197, 28.7.2005, p. 12.

⁽⁶⁾ OJ L 122, 11.5.2007, p. 22.

⁽⁷⁾ OJ L 73, 13.3.2007, p. 1.

⁽⁸⁾ OJ L 191, 7.7.1998, p. 15.

⁽⁹⁾ OJ L 370, 17.12.2004, p. 24.

⁽¹⁰⁾ OJ L 184, 14.7.2007, p. 12.

⁽¹¹⁾ OJ L 159, 22.6.2005, p. 6.

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

Article 2

The preparation belonging to the group 'Enzymes', as specified in Annex II, is authorised without a time limit as additive in animal nutrition under the conditions laid down in that Annex.

Article 3

The preparation belonging to the group 'Enzymes', as specified in Annex III, is authorised without a time limit as additive in animal nutrition under the conditions laid down in that Annex.

Article 4

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

Article 1

The preparation belonging to the group 'Enzymes', as specified in Annex I, is authorised without a time limit as additive in animal nutrition under the conditions laid down in that Annex.

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

Done at Brussels, 20 April 2009.

For the Commission

Androulla VASSILIOU

Member of the Commission

Enzymes

EC No	Additive	Chemical formula, description	Species or category of animal	Maximum age	Units of activity/kg of complete feedingsstuff		Other provisions	End of period of authorisation
					Minimum content	Maximum content		
Enzymes								
E 1606	Endo-1,4-beta-xylanase EC 3.2.1.8	Preparation of endo-1,4-beta-xylanase produced by <i>Bacillus subtilis</i> (LMG S-15136) having a minimum activity of: solid and liquid form: 100 IU ⁽¹⁾ /g or ml	Laying hens	-	10 IU	-	1. In the directions for use of the additive and premixture, indicate the storage temperature, storage life, and stability to pelleting. 2. Recommended dose per kg of complete feedingsstuff: 10 IU 3. For use in compound feed rich in arabinoxylan, e.g. containing minimum 40 % wheat or barley.	Without a time limit.

⁽¹⁾ 1 IU is the amount of enzyme which liberates 1 micromole of reducing sugars (xylose equivalents) from birchwood xylan per minute at pH 4.5 and 30 °C.

⁽¹⁾ 1 IU is the amount of enzyme which liberates 1 micromole of reducing sugars (xylose equivalents) from birchwood xylan per minute at pH 4.5 and 30 °C.

ANNEX III

EC No	Additive	Chemical formula, description	Species or category of animal	Maximum age	Units of activity/kg of complete feedingsuff		Other provisions	End of period of authorisation
					Minimum content	Maximum content		
Enzymes								
E 1604	Endo-1,3(4)-beta-glucanase EC 3.2.1.6 Endo-1,4-beta-xylanase EC 3.2.1.8	Preparation of endo-1,3(4)-beta-glucanase and endo-1,4-beta-xylanase produced from <i>Penicillium funiculosum</i> (IMI SD101) having a minimum activity of: powder form Endo-1,3(4)-beta-glucanase: 2 000 U ⁽¹⁾ /g Endo-1,4-beta-xylanase: 1 400 U ⁽²⁾ /g liquid form Endo-1,3(4)-beta-glucanase: 500 U/ml Endo-1,4-beta-xylanase: 350 U/ml	Ducks for fattening	-	Endo-1,3(4)-beta-glucanase: 100 U Endo-1,4-beta-xylanase: 70 U	-	1. In the directions for use of the additive and premixture, indicate the storage temperature, storage life, and stability to pelleting. 2. Recommended dose per kg of complete feedingsuff: endo-1,3(4)-beta-glucanase: 100 U endo-1,4-beta-xylanase: 70 U 3. For use in compound feed rich in non-starch polysaccharides, (mainly betaglacans and arabinoxylans), e.g. containing more than 50 % barley or 60 % wheat.	Without a time limit.
			Piglets (weaned)	-	Endo-1,3(4)-beta-glucanase: 100 U Endo-1,4-beta-xylanase: 70 U	-	1. In the directions for use of the additive and premixture, indicate the storage temperature, storage life, and stability to pelleting. 2. Recommended dose per kg of complete feedingsuff: endo-1,3(4)-beta-glucanase: 100 U endo-1,4-beta-xylanase: 70 U 3. For use in compound feed rich in non-starch polysaccharides, (mainly betaglacans and arabinoxylans), e.g. containing more than 30 % barley or 20 % wheat. 4. For use in weaned piglets until approximately 35 kg.	Without a time limit.

⁽¹⁾ 1 U is the amount of enzyme which liberates 5,55 micromoles of reducing sugars (maltose equivalents) from barley betaglukan per minute at pH 5,0 and 50 °C.

⁽²⁾ 1 U is the amount of enzyme which liberates 4,00 micromoles of reducing sugars (maltose equivalents) from birchwood xylan per minute at pH 5,5 and 50 °C.

⁽¹⁾ 1 U is the amount of enzyme which liberates 5,55 micromoles of reducing sugars (maltose equivalents) from barley betaglacan per minute at pH 5,0 and 50 °C.

⁽²⁾ 1 U is the amount of enzyme which liberates 4,00 micromoles of reducing sugars (maltose equivalents) from birchwood xylan per minute at pH 5,5 and 50 °C.

COMMISSION REGULATION (EC) No 323/2009**of 20 April 2009****entering certain names in the register of protected designations of origin and protected geographical indications (Wielkopolski ser smażony (PGI), Budapesti téliszalámi (PGI))**

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

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

Whereas:

- (1) Pursuant to the first subparagraph of Article 6(2) and in accordance with Article 17(2) of Regulation (EC) No 510/2006, Poland's application to register the name 'Wielkopolski ser smażony' and Hungary's application

to register the name 'Budapesti téliszalámi' were published in the *Official Journal of the European Union* ⁽²⁾.

- (2) As no objection under Article 7 of Regulation (EC) No 510/2006 has been received by the Commission, these names should be entered in the register,

HAS ADOPTED THIS REGULATION:

Article 1

The names contained in the Annex to this Regulation are hereby entered in the register.

Article 2

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

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

Done at Brussels, 20 April 2009.

For the Commission

Mariann FISCHER BOEL

Member of the Commission

⁽¹⁾ OJ L 93, 31.3.2006, p. 12.

⁽²⁾ OJ C 202, 8.8.2008, p. 23 (Wielkopolsky ser smażony), OJ C 206, 13.8.2008, p. 16 (Budapesti téliszalámi).

ANNEX

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

Class 1.2. Meat products (cooked, salted, smoked, etc.)

HUNGARY

Budapesti téliszalámi (PGI)

Class 1.3. Cheeses

POLAND

Wielkopolski ser smażony (PGI)

COMMISSION REGULATION (EC) No 324/2009**of 20 April 2009****approving a non-minor amendment to the specification for a name entered in the register of protected designations of origin and protected geographical indications (Jamón de Teruel (PDO))**

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

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

Whereas:

- (1) By virtue of the first subparagraph of Article 9(1) and having regard to Article 17(2) of Regulation (EC) No 510/2006, the Commission has examined Spain's application for approval of an amendment to the specification for the protected designation of origin 'Jamón de Teruel' registered under Commission Regulation (EC) No 1107/96 ⁽²⁾.

- (2) Since the amendment in question is not minor within the meaning of Article 9 of Regulation (EC) No 510/2006, the Commission published the amendment application in the *Official Journal of the European Union* as required by the first subparagraph of Article 6(2) of that Regulation ⁽³⁾. As no statement of objection within the meaning of Article 7 of Regulation (EC) No 510/2006 has been sent to the Commission, the amendment should be approved,

HAS ADOPTED THIS REGULATION:

Article 1

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

Article 2

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

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

Done at Brussels, 20 April 2009.

For the Commission

Mariann FISCHER BOEL

Member of the Commission

⁽¹⁾ OJ L 93, 31.3.2006, p. 12.

⁽²⁾ OJ L 148, 21.6.1996, p. 1.

⁽³⁾ OJ C 234, 12.9.2008, p. 16.

ANNEX

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

Class 1.2. Meat products (cooked, salted, smoked, etc.)

SPAIN

Jamón de Teruel (PDO)

II

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

DECISIONS

COMMISSION

COMMISSION DECISION

of 20 April 2009

on the financial contribution of the Community for the year 2009 for the computerisation of veterinary procedures, the system of notification of animal diseases, communication measures and studies and evaluations and on a direct grant to the OIE based on Article 168(1)(c) of Regulation (EC, Euratom) No 2342/2002

(2009/333/EC)

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Council Decision 90/424/EEC of 26 June 1990 on expenditure in the veterinary field ⁽¹⁾, and in particular Articles 17, 20, 37(2) and 37a(2) thereof,

Whereas:

- (1) Decision 90/424/EEC lays down the procedures governing the Community's financial contribution towards specific veterinary measures, in particular as regards the information policy for animal health, animal welfare and food safety, technical and scientific measures and control.
- (2) Pursuant to Article 16 of Decision 90/424/EEC, the Community shall make a financial contribution to the establishment of an information policy in the field of animal health, animal welfare and food safety in products of animal origin, including the performance of studies necessary for the preparation and development of legislation in the field of animal welfare.
- (3) It is therefore appropriate for the Community to fund for the year 2009, studies, impact assessments, evaluations, and information policy covering the areas of food safety, animal health and welfare and zootechnics. The maximum amount to be allocated to these actions should be specified.

- (4) A feasibility study concerning the general revision of the Community farm animal welfare legislation and the integration of farm animal welfare indicators in the legislation should be performed. Furthermore, an impact assessment study concerning the animal welfare at transport and slaughter of farmed fish should be conducted. These studies will support the actions identified in the Community Action Plan on the Protection and Welfare of Animals 2006-2010.

- (5) The Community Action Plan on the Protection and Welfare of Animals 2006-2010 ⁽²⁾ in particular foresees an evaluation of the progress as well as follow-up programming beyond 2010. There is therefore a need for a global evaluation of the Community policy on animal welfare before 2010.

- (6) The Communication from the Commission to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions on a new Animal Health Strategy for the European Union (2007-2013) where 'Prevention is better than cure' ⁽³⁾ foresees the development of an EU Animal Health General Law and a harmonised EU framework of the criteria for responsibility and cost sharing schemes. Therefore, a study to support the Impact Assessment of the Animal Health General Law and a feasibility study for the revision of Decision 90/424/EEC should be conducted.

⁽¹⁾ OJ L 224, 18.8.1990, p. 19.

⁽²⁾ COM(2006) 13 final.

⁽³⁾ COM(2007) 539 final.

- (7) All the studies except for the feasibility study for the revision of Decision 90/424/EEC are subject to specific contracts under the DG SANCO Framework Contract on Evaluation, Impact Assessment and related services Lot 3 (Food Chain) (for which a call for tender was launched in 2004. Those specific contracts are to be signed between the Commission and the selected contractor as defined in the framework contract. A call for tender is to be launched in 2009 for carrying out the feasibility study for the revision of Decision 90/424/EEC.
- (8) Article 37a(1)(b) of Decision 90/424/EEC provides that a Community financial contribution may be granted for the computerisation of the veterinary procedures relating to hosting, management and maintenance of integrated computerised veterinary systems, including interfaces with national databases, where appropriate. A Community financial contribution should therefore be granted for the hosting, management and maintenance of the integrated computerised veterinary system Traces (Trade Control and Expert System), introduced by Commission Decision 2003/24/EC of 30 December 2002 concerning the development of an integrated computerised veterinary system⁽¹⁾, in order to ensure that the system is available, secure and updated.
- (9) Article 37(1) of Decision 90/424/EEC provides that the introduction of systems for identifying animals and notifying diseases under legislation concerning veterinary checks in intra-Community trade in live animals, with a view to the completion of the internal market, may receive Community financial assistance. A Community financial contribution should therefore be granted in order to update the animal disease notification system (ADNS), based on Commission Decision 2005/176/EC of 1 March 2005 laying down the codified form and the codes for the notification of animal diseases pursuant to Council Directive 82/894/EEC⁽²⁾, with the necessary technical improvements.
- (10) The Communication on a new Animal Health Strategy for the European Union (2007-2013) acknowledges the importance of dialogue between citizens, civil society associations and the EC institutions (particularly the Commission). An effective communication strategy is therefore needed to promote animal health issues and the Animal Health Strategy principles to stakeholders, organisations and society as a whole.
- (11) Pursuant to Article 19 of Decision 90/424/EEC, the Community may undertake, or assist the Member States or international organisations in undertaking, the technical and scientific measures necessary for the development of Community veterinary legislation and for the development of veterinary education or training.
- (12) The World Organisation for Animal Health (OIE) is the intergovernmental organisation responsible for improving animal health worldwide. It is recognised as a reference organisation by the World Trade Organisation (WTO) for setting standards for international trade of animals and their products.
- (13) The OIE is planning an International Conference on Foot and Mouth Disease. This conference will support the actions identified in the Communication on a new Animal Health Strategy for the European Union (2007-2013). Therefore it is appropriate for the Community to contribute to this initiative in order to achieve a better protection from this disease. Therefore, the Community should support this OIE initiative.
- (14) The OIE has a de facto monopoly in its sector, as mentioned in Article 168(1)(c) of Commission Regulation (EC, Euratom) No 2342/2002 of 23 December 2002 laying down detailed rules for the implementation of Council Regulation (EC, Euratom) No 1605/2002 on the Financial Regulation applicable to the general budget of the European Communities⁽³⁾; hence a call for proposals is not required in order for the Community to contribute to the organisation and hosting of an International Conference on Foot and Mouth Disease.
- (15) The present Decision constitutes a financing decision within the meaning of Article 75 of Council Regulation (EC, Euratom) No 1605/2002 of 25 June 2002 on the Financial Regulation applicable to the general budget of the European Communities⁽⁴⁾ and Article 90 of Regulation (EC, Euratom) No 2342/2002.
- (16) The measures provided for in this Decision are in accordance with the opinion of the Standing Committee on the Food Chain and Animal Health,

⁽¹⁾ OJ L 8, 14.1.2003, p. 44.

⁽²⁾ OJ L 59, 5.3.2005, p. 40.

⁽³⁾ OJ L 357, 31.12.2002, p. 1.

⁽⁴⁾ OJ L 248, 16.9.2002, p. 1.

HAS DECIDED AS FOLLOWS:

Article 1

A Community financial contribution for the performance of a study on the feasibility of a general revision of the Community farm animal welfare legislation and the integration of farm animal welfare indicators in the legislation up to a maximum of EUR 250 000 is hereby approved.

Article 2

A Community financial contribution for the performance of an impact assessment study on animal welfare at transport and slaughter of farmed fish up to a maximum of EUR 150 000 is hereby approved.

Article 3

A Community financial contribution for the performance of a study on the evaluation of the Community policy on animal welfare up to a maximum of EUR 350 000 is hereby approved.

Article 4

A Community financial contribution for the performance of a study to support the Impact Assessment on the Animal Health General Law up to a maximum of EUR 150 000 is hereby approved.

Article 5

A Community financial contribution for the performance of a feasibility study for the revision of Decision 90/424/EEC up to a maximum of EUR 250 000 is hereby approved.

Article 6

A Community financial contribution for the hosting, management and maintenance of the Traces system, introduced by Decision 2003/24/EC, for the following amounts and objectives is hereby approved:

- (a) EUR 600 000 for the hosting;
- (b) EUR 450 000 for the acquisition of the necessary logistical support within the framework of assistance to the users;

(c) EUR 400 000 for the purchase of maintenance support needed in order to bring the system in line with legal and technical developments;

(d) EUR 380 000 for the necessary data processing developments;

(e) EUR 300 000 for the development of the interface between the national bovine identification databases;

(f) EUR 120 000 for the purchase of the informatic licences.

Article 7

A Community financial contribution of EUR 270 000 for the update of the animal disease notification system (ADNS) based on Decision 2005/176/EC is hereby approved.

Article 8

The provision of information by the Commission to the competent authorities and to the public concerning Community legislation on animal health and welfare is hereby approved for the following amounts and objectives:

- EUR 1 400 000 for publications and the dissemination of information and the strategy on animal health,
- EUR 150 000 for publications and the dissemination of information and the strategy on animal welfare.

Article 9

A Community financial contribution, for the financing of the International Conference on Foot and Mouth Disease, organised by the OIE in 2009, of EUR 200 000 constituting a Community co-financing of at maximum 33 % of the total eligible costs is hereby approved.

Article 10

The financial contribution provided for in Articles 1 to 9 shall be financed through the budget line 17 04 02 01 of the budget of the European Union for 2009.

Contractors for the studies provided for in Articles 1, 2, 3 and 4 will be selected on the basis of the DG SANCO Evaluation Framework Contract Lot 3 (Food Chain).

Contractors for the study provided for in Article 5 will be selected on the basis of a call for tender for a specific contract during the last trimester of the year 2009.

The financial contribution provided for in Articles 6 and 7 would be granted through the following DIGIT framework contracts: DI 5370, DI 5711, DI 5712, DI 5716, DI 5717, DI 5719, DI 5720, DI 6350.

Article 11

A grant agreement for the financial contributions provided for in Article 9 will be awarded to the OIE without a call for proposals as the OIE is the intergovernmental organisation for improving animal health worldwide and has a de facto monopoly.

Done at Brussels, 20 April 2009.

For the Commission

Androulla VASSILIOU

Member of the Commission

COMMISSION DECISION
of 20 April 2009
establishing an expert group on the security of the European GNSS systems
(Text with EEA relevance)
(2009/334/EC)

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

carry out the tasks entrusted until then to the Security Board established by Article 7 of Regulation (EC) No 876/2002, the Commission needs the assistance of experts from the Member States.

Having regard to the Treaty establishing the European Community,

Whereas:

(1) Regulation (EC) No 683/2008 of the European Parliament and of the Council of 9 July 2008 on the further implementation of the European satellite navigation programmes (EGNOS and Galileo) ⁽¹⁾ has significantly changed the system of governance and financing of these two programmes.

(2) Article 13(1) of Regulation (EC) No 683/2008 lays down that the Commission shall manage all questions relating to the security of the systems, duly taking into account the need for oversight and integration of security requirements in the overall programmes. Under paragraph 2 of that Article, the Commission shall adopt implementing measures laying down the main technical requirements for controlling the access to, and handling of, technologies that provide security to the systems. Meanwhile, paragraph 3 lays down that the Commission shall ensure that the necessary steps are taken to comply with the measures referred to in paragraph 2 and that any further requirements related to the security of the systems are met, taking full account of expert advice.

(3) Moreover, Article 23 of Regulation (EC) No 683/2008 repeals, with effect from 25 July 2009, Article 7 of Council Regulation (EC) No 876/2002 of 21 May 2002 setting up the Galileo Joint Undertaking ⁽²⁾. The said Article 7 establishes a Security Board to deal with security matters regarding the Galileo system.

(4) In order to fulfil the mission assigned to it by the aforementioned provisions of Article 13 of Regulation (EC) No 683/2008 and, with effect from 25 July 2009, to

(5) Moreover, when Regulation (EC) No 683/2008 was adopted, the Commission made a statement in which it expressed its intention to create an expert group composed of representatives from the Member States, in order to implement the aforementioned provisions of Article 13(1) of the Regulation and to examine matters related to the security of the systems.

(6) This statement specifies that the Commission will ensure that the expert group shall be composed of one representative of each Member State and one representative from the Commission, be chaired by the representative of the Commission and adopt its rules of procedures that foresee, inter alia, the adoption of opinions by consensus and a provision for the experts to raise any relevant issue related to the security of the systems.

(7) In the statement, the Commission also undertook, in exercising its responsibilities, to take full account of the opinions of this expert group and to consult it, inter alia, before defining the main requirements for the security of the systems as set out in Article 13 of Regulation (EC) No 683/2008.

(8) Also in the statement, the Commission considered, on the one hand, that representatives of the European GNSS Supervisory Authority, the European Space Agency as well as the SG/HR should be involved as observers in the work of the expert group under the conditions laid down in its rules of procedure and, on the other hand, that agreements concluded by the European Community may provide for the participation of representatives of third countries in the work of the expert group under conditions laid down in its rules of procedure.

⁽¹⁾ OJ L 196, 24.7.2008, p. 1.

⁽²⁾ OJ L 138, 28.5.2002, p. 1.

- (9) It is thus appropriate to establish an expert group, called the 'Security Board for the European GNSS Systems', the establishment, mission, composition and operation of which are in line with the content of the aforementioned Commission statement and also comply with the horizontal rules set out in the framework for Commission expert groups established in Commission Decision C(2005) 2817.
- (10) Moreover, provision must be made for the possible participation of third countries in the work of the expert group. In particular, given that Norway and Switzerland, which are members of the European Space Agency, participate in the European GNSS programmes and are closely involved in the security issues linked thereto, it is important to allow them to be involved in the work of the expert group for a temporary period of three years, which may be extended in the context of an agreement to be reached between the European Community and both of these third countries,

HAS DECIDED AS FOLLOWS:

Article 1

The Security Board for the European GNSS Systems

An expert group on the security of the European GNSS systems, called the Security Board for the European GNSS Systems (hereinafter referred to as the Security Board) is hereby established.

Article 2

Mission

The Security Board shall assist the Commission in implementing the provisions of Article 13(1) of Regulation (EC) No 683/2008 and in examining matters concerning the security of the European GNSS systems. The Commission shall consult it prior to defining the main requirements, provided for in Article 13(2), concerning the security of the systems and it shall provide ongoing support to the Commission as regards the implementation of the provisions of Article 13(3).

Article 3

Consultation

The Commission shall regularly consult the Security Board and take its opinions fully into account.

Article 4

Composition

1. The Security Board shall be composed of one representative of each Member State, selected from among the recognised

experts in the field of safety and security, and a representative of the Commission.

2. Representatives of the European GNSS Supervisory Authority, the European Space Agency and the SG/HR may be involved as observers in the work of the Security Board under the conditions laid down in its rules of procedure.

3. Agreements concluded by the European Community may make provision for representatives of third countries to participate in the work of the Security Board, including as full members thereof.

4. With effect from the entry into force of this Decision, representatives of Norway and Switzerland may be temporarily involved as observers in the work of the Security Board under the conditions laid down in its rules of procedure. This is conditional upon Norway and Switzerland each providing prior confirmation of their intention to apply, on their territory, all the necessary security measures to ensure an appropriate degree of protection of the infrastructure, services and technologies of the European GNSS programmes and systems, particularly as regards export controls. The duration of this temporary participation must be sufficient to allow an agreement as referred to in paragraph 3 to be concluded and may not, in any event, exceed three years.

5. The participation of a third country in the work of the Security Board may be reduced or suspended if it appears that the actions taken by that country do not make it possible to ensure the degree of protection required as regards security or to comply with the security rules laid down for the European GNSS programmes.

6. The chairperson of the Security Board may invite other experts to participate in the work of the Security Board on occasion, under the conditions laid down in its rules of procedure. The reasons justifying the presence of such experts must be notified in advance by the chairperson to the members of the Security Board.

7. The representatives nominated by a country or organisation shall remain in their position until they are replaced or their mandate ends. The Commission may refuse the expert nominated by a country or organisation when this nomination does not seem appropriate, particularly in the event of a conflict of interest. In such a case, the Commission shall quickly inform the country or organisation, which shall then nominate another expert.

*Article 5***Operation**

1. The Security Board shall be chaired by a representative of the Commission.
2. In agreement with the Commission, sub-committees may be set up to examine specific matters on the basis of a mandate established by the Security Board. They shall be disbanded as soon as their mandates are fulfilled.
3. The Security Board and its sub-committees shall normally meet on Commission premises in accordance with the procedures and schedule established by the Commission. The meeting locations shall be secured in a manner appropriate to the nature of the work. The secretariat shall be provided by the Commission. Other Commission officials concerned may take part in the meetings.
4. The Security Board shall adopt its rules of procedure on the basis of the standard rules of procedure adopted by the Commission ⁽¹⁾. The rules of procedure shall specify, inter alia, that the Security Board shall adopt its opinions or reports by consensus as far as possible and that each member may raise any relevant issue linked to the security of the European GNSS systems.
5. The participants in meetings of the Security Board and its sub-committees must strictly comply with the Commission's safety and security rules, particularly as regards classified documents.

*Article 6***Meeting expenses**

1. The travel and accommodation expenses incurred by the members, experts and observers in connection with the Security Board's activities shall be reimbursed by the Commission in accordance with the Commission rules in force. There shall be no remuneration for the tasks performed.
2. Meeting expenses shall be reimbursed within the limits of the appropriations allocated to the departments concerned under the annual procedure for allocating resources.

*Article 7***Entry into force**

This Decision shall enter into force on the day of its adoption by the Commission. It shall be published in the *Official Journal of the European Union*.

Done at Brussels, 20 April 2009.

For the Commission

Antonio TAJANI
Vice-President

⁽¹⁾ Annex III to document SEC(2005) 1004 of 27.7.2005.

COMMISSION DECISION

of 20 April 2009

on technical guidelines for the establishment of the financial guarantee in accordance with Directive 2006/21/EC of the European Parliament and of the Council concerning the management of waste from extractive industries

(notified under document number C(2009) 2798)

(2009/335/EC)

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Directive 2006/21/EC of the European Parliament and of the Council of 15 March 2006 on the management of waste from extractive industries and amending Directive 2004/35/EC ⁽¹⁾, and in particular Article 22(1)(c) thereof,

Whereas:

- (1) In order to ensure a common approach between the Member States when the financial guarantee referred in Article 14 of Directive 2006/21/EC is established, a minimum common basis for the calculation of the guarantee should be defined and notably for what concerns the information to take into account and the method of calculation of the guarantee;
- (2) The measures provided for in this Decision are in accordance with the opinion of the Committee established in accordance with Article 23(2) of Directive 2006/21/EC,

HAS ADOPTED THIS DECISION:

Article 1

1. Member States and competent authorities shall base the calculation of the financial guarantee referred to in Article 14 of Directive 2006/21/EC on the following:

- (a) the likely impacts on the environment and on human health of the waste facility;
- (b) the definition of the rehabilitation including the after use of the waste facility;

(c) applicable environmental standards and objectives, including physical stability of the waste facility, minimum quality standards for the soil and water resources and maximum release rates of contaminants;

(d) the technical measures needed to achieve environmental objectives, in particular measures aiming at ensuring the stability of the waste facility and limit environmental damages;

(e) the measures required to achieve objectives during and after closure, including land rehabilitation, after closure treatment and monitoring if required, and, if relevant, measures to reinstate biodiversity;

(f) the estimated time scale of impacts and required mitigation measures;

(g) an assessment of the costs necessary to ensure land rehabilitation, closure and after closure including possible after closure monitoring or treatment of contaminants.

2. The assessment referred to in point (g) shall be performed by independent and suitably qualified third parties and shall take into account the possibility of unplanned or premature closure.

Article 2

This Decision is addressed to the Member States.

Done at Brussels, 20 April 2009.

For the Commission

Stavros DIMAS

Member of the Commission

⁽¹⁾ OJ L 102, 11.4.2006, p. 15.

COMMISSION DECISION

of 20 April 2009

**setting up the Education, Audiovisual and Culture Executive Agency for the management of
Community action in the fields of education, audiovisual and culture in application of Council
Regulation (EC) No 58/2003**

(2009/336/EC)

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Council Regulation (EC) No 58/2003 of 19 December 2002 laying down the statute for executive agencies to be entrusted with certain tasks in the management of Community programmes ⁽¹⁾, and in particular Article 3(1) thereof,

Whereas:

- (1) By means of Commission Decision 2005/56/EC ⁽²⁾, the Commission created the Education, Audiovisual and Culture Executive Agency (hereinafter referred to as the Agency) and entrusted it with the management of Community action in the fields of education, audiovisual and culture.
- (2) Subsequently, the Commission amended the Agency's remit on several occasions, extending it to cover the management of new projects and programmes.
- (3) The introduction of new amendments means that, for reasons of clarity, Decision 2005/56/EC has to be replaced by this Decision.
- (4) Regulation (EC) No 58/2003 empowers the Commission to set up executive agencies in accordance with the general statute laid down by that Regulation and to entrust them with certain management tasks relating to one or more Community programmes.
- (5) The purpose of empowering the Commission to set up executive agencies is to allow it to focus on its core activities and functions, which cannot be outsourced, without relinquishing control over, or ultimate responsibility for, activities managed by the said executive agencies.
- (6) Management of certain centralised strands of a number of programmes in the fields of education, audiovisual and culture involves implementation of technical projects which do not entail political decision-making and requires a high level of technical and financial expertise throughout the project cycle.
- (7) The delegation, to an executive agency, of tasks related to implementation of the programme is possible with a clear separation between, on the one hand, the project programming stages and the adoption of funding decisions, which should be carried out by the Commission, and, on the other hand, the project implementation, which can be entrusted to an executive agency.
- (8) The setting up of an executive agency affects neither the delegation by the Council to the Commission of the management of certain phases of action under the various programmes nor the delegation of management tasks to national agencies under certain programmes.
- (9) A cost-benefit analysis carried out for that purpose has shown that using an executive agency to manage certain centralised strands of programmes in the fields of education and culture is the most advantageous of the options available, both in financial and in non-financial terms.
- (10) The programme for the enhancement of quality in higher education and the promotion of intercultural understanding through cooperation with third countries (Erasmus Mundus) is part of the agency's current mandate; this programme expired on 31 December 2008 and was replaced, for the period 1 January 2009 to 31 December 2013, by the Erasmus Mundus action programme 2009-2013 for the enhancement of quality in higher education and the promotion of intercultural understanding through cooperation with third countries (hereinafter referred to as Erasmus Mundus II).
- (11) An external evaluation completed in February 2009 by the Commission showed that the use of an executive agency was the best solution for managing Erasmus Mundus II. The evaluation therefore recommended that the agency's mandate be extended to include the management of this programme.

⁽¹⁾ OJ L 11, 16.1.2003, p. 1.

⁽²⁾ OJ L 24, 27.1.2005, p. 35.

(12) Commission Regulation (EC) No 1653/2004 ⁽¹⁾ establishes a standard financial regulation for executive agencies pursuant to Regulation (EC) No 58/2003.

(13) The measures provided for by this Decision are in accordance with the opinion of the Committee for Executive Agencies.

(14) Decision 2005/56/EC should be repealed,

HAS DECIDED AS FOLLOWS:

Article 1

Establishment of the Agency

1. An executive agency (hereinafter referred to as the Agency) for the management of Community action in the fields of education, audiovisual and culture, the statute and main operating rules of which are laid down in Regulation (EC) No 58/2003, is hereby established.

2. The name of the Agency shall be the 'Education, Audiovisual and Culture Executive Agency'.

Article 2

Location

The Agency shall be located in Brussels.

Article 3

Duration

The Agency is hereby established for the period beginning on 1 January 2005 and ending on 31 December 2015.

Article 4

Objectives and tasks

1. The Agency is hereby entrusted with the management of certain strands of the following Community programmes:

1. projects in the field of higher education eligible for funding under the provisions on economic aid for certain countries of central and eastern Europe (phare), as provided for in Council Regulation (EEC) No 3906/89 ⁽²⁾;

2. the programme encouraging the development and distribution of European audiovisual works (MEDIA II — Development and distribution) (1996-2000), approved by Council Decision 95/563/EC ⁽³⁾;

3. the training programme for professionals in the European audiovisual programme industry (MEDIA II — Training) (1996-2000), approved by Council Decision 95/564/EC ⁽⁴⁾;

4. the second phase of the Community action programme in the field of education 'Socrates' (2000-2006), approved by Decision No 253/2000/EC of the European Parliament and of the Council ⁽⁵⁾;

5. the second phase of the Community vocational training action programme 'Leonardo da Vinci' (2000-2006), approved by Council Decision 1999/382/EC ⁽⁶⁾;

6. the 'Youth' Community action programme (2000-2006), approved by Decision No 1031/2000/EC of the European Parliament and of the Council ⁽⁷⁾;

7. the 'Culture 2000' programme (2000-2006), approved by Decision No 508/2000/EC of the European Parliament and of the Council ⁽⁸⁾;

8. projects in the field of higher education eligible for funding under the provisions on assistance for the partner States of Eastern Europe and Central Asia (2000-2006), as provided for in Council Regulation (EC, Euratom) No 99/2000 ⁽⁹⁾;

9. projects in the field of higher education eligible for funding under the provisions on assistance for Albania, Bosnia-Herzegovina, Croatia, the Former Yugoslav Republic of Macedonia, Montenegro, Serbia and Kosovo (UNSCR 1244) (2000-2006), approved under Council Regulation (EC) No 2666/2000 ⁽¹⁰⁾;

⁽²⁾ OJ L 375, 23.12.1989, p. 11.

⁽³⁾ OJ L 321, 30.12.1995, p. 25.

⁽⁴⁾ OJ L 321, 30.12.1995, p. 33.

⁽⁵⁾ OJ L 28, 3.2.2000, p. 1.

⁽⁶⁾ OJ L 146, 11.6.1999, p. 33.

⁽⁷⁾ OJ L 117, 18.5.2000, p. 1.

⁽⁸⁾ OJ L 63, 10.3.2000, p. 1.

⁽⁹⁾ OJ L 12, 18.1.2000, p. 1.

⁽¹⁰⁾ OJ L 306, 7.12.2000, p. 1.

⁽¹⁾ OJ L 297, 22.9.2004, p. 6.

10. projects in the field of higher education eligible for funding under the provisions on financial and technical measures to accompany the reform of economic and social structures in the framework of the Euro-Mediterranean partnership (MEDA), approved under Council Regulation (EC) No 2698/2000 ⁽¹⁾;
11. the third phase of the trans-European cooperation scheme for higher education (Tempus III) (2000-2006), approved by Council Decision 1999/311/EC ⁽²⁾;
12. projects eligible for funding under the provisions of the Agreement between the European Community and the United States of America renewing a programme of cooperation in the field of higher education and vocational education and training (2001-2005), approved by Council Decision 2001/196/EC ⁽³⁾;
13. projects eligible for funding under the provisions of the Agreement between the European Community and the Government of Canada renewing a cooperation programme in the field of higher education and training (2001-2005), approved by Council Decision 2001/197/EC ⁽⁴⁾;
14. the programme to encourage the development of European audiovisual works (MEDIA Plus — Development, Distribution and Promotion) (2001-2006), approved by Council Decision 2000/821/EC ⁽⁵⁾;
15. the training programme for professionals of the European audiovisual programme industry (MEDIA — Training) (2001-2006), approved by Decision No 163/2001/EC of the European Parliament and of the Council ⁽⁶⁾;
16. the multiannual programme for the effective integration of information and communication technologies (ICT) in education and training systems in Europe (e-Learning) (2004-2006), approved by Decision No 2318/2003/EC of the European Parliament and of the Council ⁽⁷⁾;
17. the Community action programme to promote active European citizenship (civic participation) (2004-2006), approved by Council Decision 2004/100/EC ⁽⁸⁾;
18. the Community action programme to promote bodies active at European level in the field of youth (2004-2006), approved by Decision No 790/2004/EC of the European Parliament and of the Council ⁽⁹⁾;
19. the Community action programme to promote bodies active at European level and support specific activities in the field of education and training (2004-2006), approved by Decision No 791/2004/EC of the European Parliament and of the Council ⁽¹⁰⁾;
20. the Community action programme to promote bodies active at European level in the field of culture (2004-2006), approved by Decision No 792/2004/EC of the European Parliament and of the Council ⁽¹¹⁾;
21. the programme for the enhancement of quality in higher education and the promotion of intercultural understanding through cooperation with third countries (Erasmus Mundus) (2004-2008), approved by Decision No 2317/2003/EC of the European Parliament and of the Council ⁽¹²⁾;
22. projects eligible for funding under the provisions of the Agreement between the European Community and the United States of America renewing the programme of cooperation in the field of higher education and vocational education and training (2006-2013), approved by Council Decision 2006/910/EC ⁽¹³⁾;
23. projects eligible for funding under the provisions of the Agreement between the European Community and the Government of Canada establishing a cooperation framework in the field of higher education, training and youth (2006-2013), approved by Council Decision 2006/964/EC ⁽¹⁴⁾;

⁽¹⁾ OJ L 311, 12.12.2000, p. 1.

⁽²⁾ OJ L 120, 8.5.1999, p. 30.

⁽³⁾ OJ L 71, 13.3.2001, p. 7.

⁽⁴⁾ OJ L 71, 13.3.2001, p. 15.

⁽⁵⁾ OJ L 336, 30.12.2000, p. 82.

⁽⁶⁾ OJ L 26, 27.1.2001, p. 1.

⁽⁷⁾ OJ L 345, 31.12.2003, p. 9.

⁽⁸⁾ OJ L 30, 4.2.2004, p. 6.

⁽⁹⁾ OJ L 138, 30.4.2004, p. 24.

⁽¹⁰⁾ OJ L 138, 30.4.2004, p. 31.

⁽¹¹⁾ OJ L 138, 30.4.2004, p. 40.

⁽¹²⁾ OJ L 345, 31.12.2003, p. 1.

⁽¹³⁾ OJ L 346, 9.12.2006, p. 33.

⁽¹⁴⁾ OJ L 397, 30.12.2006, p. 14.

24. the action programme in the field of lifelong learning (2007-2013), approved by Decision No 1720/2006/EC of the European Parliament and of the Council ⁽¹⁾;
25. the 'Culture' programme (2007-2013), approved by Decision No 1855/2006/EC of the European Parliament and of the Council ⁽²⁾;
26. the 'Europe for Citizens' programme to promote active European citizenship (2007-2013), approved by Decision No 1904/2006/EC of the European Parliament and of the Council ⁽³⁾;
27. the 'Youth in Action' programme (2007-2013), approved by Decision No 1719/2006/EC of the European Parliament and of the Council ⁽⁴⁾;
28. the support programme for the European audiovisual sector (MEDIA 2007) (2007-2013), approved by Decision No 1718/2006/EC of the European Parliament and of the Council ⁽⁵⁾;
29. the Erasmus Mundus (II) action programme 2009-2013 for the enhancement of quality in higher education and the promotion of intercultural understanding through cooperation with third countries, approved by Decision No 1298/2008/EC of the European Parliament and of the Council ⁽⁶⁾;
30. projects in the field of higher education eligible for funding under the provisions on aid for economic cooperation with the developing countries in Asia, approved under Council Regulation (EEC) No 443/92 ⁽⁷⁾;
31. projects in the fields of higher education and youth eligible for funding under the provisions of the Instrument for Pre-Accession Assistance (IPA), established by Council Regulation (EC) No 1085/2006 ⁽⁸⁾;
32. projects in the field of higher education eligible for funding under the provisions of the European neighbourhood and partnership instrument, created by Regulation (EC) No 1638/2006 of the European Parliament and of the Council ⁽⁹⁾;
33. projects in the field of higher education eligible for funding under the provisions of the financing instrument for development cooperation, established by Regulation (EC) No 1905/2006 of the European Parliament and of the Council ⁽¹⁰⁾;
34. projects in the field of higher education and youth eligible for funding under the provisions of the financing instrument for cooperation with industrialised and other high-income countries and territories, established by Council Regulation (EC) No 1934/2006 ⁽¹¹⁾;
35. projects in the field of higher education eligible for funding from the European Development Fund, pursuant to the Partnership Agreement between members of the African, Caribbean and Pacific Group of States of the one part, and the European Community and its Member States, of the other part, signed in Cotonou on 23 June 2000 (Council Decision 2003/159/EC ⁽¹²⁾), as amended by the Agreement signed in Luxembourg on 25 June 2005 (Council Decision 2005/599/EC ⁽¹³⁾).
2. The Agency shall be responsible for the following tasks for the management of the Community programme strands referred to in paragraph 1:
- (a) managing, throughout their duration, the projects implementing the Community programmes entrusted to it, on the basis of the annual work programme which serves as a funding decision with regard to grants and contracts in the fields of education, audiovisual and culture and is adopted by the Commission, or on the basis of specific funding decisions adopted by the Commission, and the necessary checks to that end, by adopting the relevant decisions where the Commission has empowered it to do so;
- (b) adopting the instruments of budget implementation for revenue and expenditure and carrying out, where the Commission has empowered it to do so, some or all of the operations necessary for the management of the Community programmes and, in particular, those linked to the award of grants and contracts;

⁽¹⁾ OJ L 327, 24.11.2006, p. 45.

⁽²⁾ OJ L 372, 27.12.2006, p. 1.

⁽³⁾ OJ L 378, 27.12.2006, p. 32.

⁽⁴⁾ OJ L 327, 24.11.2006, p. 30.

⁽⁵⁾ OJ L 327, 24.11.2006, p. 12.

⁽⁶⁾ OJ L 340, 19.12.2008, p. 83.

⁽⁷⁾ OJ L 52, 27.2.1992, p. 1.

⁽⁸⁾ OJ L 210, 31.7.2006, p. 82.

⁽⁹⁾ OJ L 310, 9.11.2006, p. 1.

⁽¹⁰⁾ OJ L 378, 27.12.2006, p. 41.

⁽¹¹⁾ OJ L 405, 30.12.2006, p. 41; corrected by OJ L 29, 3.2.2007, p. 16.

⁽¹²⁾ OJ L 65, 8.3.2003, p. 27.

⁽¹³⁾ OJ L 209, 11.8.2005, p. 26.

(c) gathering, analysing and passing on to the Commission all the information needed to guide the implementation of the Community programmes;

(d) the implementation, at Community level, of the network of information on education in Europe (Eurydice) for the collection, analysis and dissemination of information and the production of studies and publications.

3. The Agency may be empowered by the Commission, after receiving the opinion of the Committee for Executive Agencies, to carry out tasks of the same type under Community programmes in the fields of education, audiovisual and culture, within the meaning of Article 2 of Regulation (EC) No 58/2003, other than those referred to in paragraph 1.

4. The Commission Decision delegating authority to the Agency shall set out in detail all the tasks entrusted to it and shall be amended should any additional tasks be entrusted to the Agency. It shall be forwarded, for information purposes, to the Committee for Executive Agencies.

Article 5

Organisational structure

1. The Agency shall be managed by a Steering Committee and a Director appointed by the Commission.

2. The members of the Steering Committee shall be appointed for two years.

3. The Director of the Agency shall be appointed, in principle, for four years. The term of his or her mandate shall

take into account the period envisaged for carrying out the Community programmes whose management is delegated to the Agency.

Article 6

Grant

Without prejudice to any other revenue, the Agency shall receive, for its operation, a grant entered in the General Budget of the European Union and resources from the European Development Fund. This grant and these resources shall be taken from the funds allocated to the programmes referred to in Article 4(1) and, if necessary, from the funds allocated to other Community programmes the implementation of which has been entrusted to the Agency pursuant to Article 4(3).

Article 7

Supervision and reporting requirement

The Agency shall be subject to supervision by the Commission and shall report regularly on progress in implementing the programmes for which it is responsible in accordance with the arrangements and at the intervals stipulated in the instrument of delegation.

Article 8

Implementation of the operating budget

The Agency shall implement its operating budget in accordance with the provisions of Regulation (EC) No 1653/2004.

Article 9

Repeal

Decision 2005/56/EC is hereby repealed.

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

Done at Brussels, 20 April 2009.

For the Commission

Ján FIGEL

Member of the Commission

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