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I

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

REGULATIONS

COUNCIL REGULATION (EC) No 753/2009

of 27 July 2009

**amending Regulation (EC) No 43/2009, as regards fishing opportunities and associated conditions
for certain fish stocks**

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty establishing the European Community,

Having regard to Council Regulation (EC) No 2371/2002 of 20 December 2002 on the conservation and sustainable exploitation of fisheries resources under the Common Fisheries Policy ⁽¹⁾, and in particular Article 20 thereof,

Having regard to Council Regulation (EC) No 1342/2008 of 18 December 2008 establishing a long-term plan for cod stocks and the fisheries exploiting those stocks ⁽²⁾, and in particular Article 12 thereof,

Having regard to Council Regulation (EC) No 302/2009 of 6 April 2009 concerning a multiannual recovery plan for bluefin tuna in the eastern Atlantic and Mediterranean ⁽³⁾, and in particular Article 9, paragraphs (3), (4), (5), (7), (8), (9) and (10) thereof,

Having regard to the proposal from the Commission,

Whereas:

- (1) Council Regulation (EC) No 43/2009 ⁽⁴⁾ fixes for 2009 the fishing opportunities and associated conditions for certain fish stocks and groups of fish stocks, applicable in Community waters and, for Community vessels, in waters where catch limitations are required.

- (2) Annex IIA to Regulation (EC) No 43/2009 lays down the rules for the management of fishing effort in the context of the long-term plan for the management of Cod stocks established in Regulation (EC) No 1342/2008 and in particular establishes, in Appendix 1 to that Annex, the maximum allowable effort in kW days for each Member State to be deployed in the concerned areas and with the concerned gear groupings. Having regard to Council Regulation (EC) No 754/2009 of excluding certain groups of vessels from the application of the effort regime laid down in Chapter III of Regulation (EC) No 1342/2008 ⁽⁵⁾, it is necessary to adjust the maximum allowable effort as laid down in Appendix 1 of Annex IIA to Regulation (EC) No 43/2009 by deducting for Spain 590 583 kW-days from effort group TR1 in area (d) and for Sweden 148 118 kW-days from effort group TR2 in geographical area (a) and 705 625 kW-days from effort group TR2 in geographical area (b). In view of the retroactive application of Regulation (EC) No 754/2009 from 1 February 2009, these adjustments should apply from that same date.

- (3) According to Article 9 of Regulation (EC) No 302/2009 concerning a multiannual recovery plan for bluefin tuna in the eastern Atlantic and Mediterranean, the Council is to determine and distribute among the Member States the maximum number of baitboats and trolling boats authorised to fish actively bluefin tuna in the Atlantic; of vessels fishing actively bluefin tuna in the Adriatic for farming purposes, and of the coastal artisanal baitboats, longliners and handliners fishing actively for fresh bluefin tuna in the Mediterranean. In addition, the Council is to decide on the allocation among Member States of the Community quota of bluefin tuna. The Community quota of undersized bluefin tuna is based on the Community quota allocated to the European Community by ICCAT Recommendation 08-05 amending the Recommendation by ICCAT to establish a multiannual recovery plan for bluefin tuna in the Eastern Atlantic and Mediterranean.

⁽¹⁾ OJ L 358, 31.12.2002, p. 59.

⁽²⁾ OJ L 348, 24.12.2008, p. 20.

⁽³⁾ OJ L 96, 15.4.2009, p. 1.

⁽⁴⁾ OJ L 22, 26.1.2009, p. 1.

⁽⁵⁾ See page 16 of this Official Journal.

- (4) In order to gather more scientific information on krill, a species of fundamental importance to the Antarctic marine ecosystem, it is appropriate to implement multiple recent recommendations from the Conservation of Antarctic Marine Living Resources Scientific Committee, established under the Convention on the Conservation of Antarctic Marine Living Resources (CCAMLR), reiterated at the 2008 meeting of the Scientific Committee to guarantee a 100 % observer coverage in krill fishery in the CCAMLR Convention Area under Community law.
- (5) In the context of the fisheries agreement with Norway, a further 750 tonnes of cod in Norwegian waters of ICES zones I and II have been made available to the Community.
- (6) The proposal made by representatives from the European Community, the Faeroe Islands, Greenland, Iceland, Norway and the Russian Federation at a meeting in London from 9 to 11 February 2009 regarding the management of redfish in the Irminger Sea and adjacent waters in the NEAFC Convention Area in 2009 and subsequently agreed by the Contracting Parties of the North-East Atlantic Fisheries Commission (NEAFC) should be implemented in Community law. As that Agreement is applicable for the whole of 2009, the fishing opportunities should apply retroactively from 1 January 2009.
- (7) The conclusions of the EU-Greenland Joint Committee meeting in Copenhagen on 25 November 2008, as regards the Community share of redfish in Greenland waters of ICES zones V and XIV should be implemented in Community law. As the arrangement concluded with Greenland is connected to the NEAFC Agreement on the management of redfish in the Irminger Sea and adjacent waters, the measures adopted for the implementation of the conclusions of the EU-Greenland Joint Committee meeting should also apply retroactively from 1 January 2009.
- (8) The total allowable catch (TAC) adopted for Greenland halibut in management area EC waters of IIa and IV; EC and international waters of VI, for mackerel in management area VI, VII, VIIIa, VIIIb, VIIIc and VIId, EC waters of Vb and international waters of IIa, XII and XIV and for horse mackerel in management area VI, VII, VIIIa, VIIIb, VIIIc and VIId, EC waters of Vb, international waters of XII and XIV, should cover EC waters and international waters of Vb in order to avoid misreporting. The management areas for those TACs should therefore be amended accordingly.
- (9) In order to protect juveniles of cod, haddock, saithe and whiting species, a system of real-time closures in the North Sea and Skagerrak should be established, in accordance with the agreed record of conclusions of consultation between the European Community and Norway agreed in London on 3 July 2009.
- (10) It is necessary to correct the provisions regarding the restrictions on fishing for cod, haddock and whiting in ICES zone VI in order to ensure that the geographical scope of the derogations for fishing for nephrops and for fishing with trawls, demersal seines or similar gears is the same.
- (11) The proposal made by the Heads of Delegation of the Contracting Parties of the North-East Atlantic Fisheries Commission (NEAFC) (Denmark in respect of the Faeroe Islands and Greenland, European Community, Iceland, Norway and the Russian Federation) at a meeting in London from 24 to 27 March 2009 regarding the protection of vulnerable marine ecosystems from significant adverse impacts in the NEAFC regulatory area and subsequently agreed by the Contracting Parties of NEAFC should be implemented into Community law.
- (12) In order to ensure that catches of mackerel by third-country vessels in Community waters are correctly accounted for, it is necessary to put in place strengthened control provisions for such vessels. Having regard to the distribution of the mackerel stock, appearing mainly in the waters of the United Kingdom, it is appropriate that third country vessels transmit their reports to the UK Fisheries Monitoring Centre (Edinburgh).
- (13) In order to ensure certainty for the fishermen concerned and to allow them to plan their activities for this fishing season as soon as possible, it is imperative to grant an exception to the six-week period referred to in Title I, Article 3, of the Protocol on the role of national Parliaments in the European Union annexed to the Treaty on the European Union and to the Treaties establishing the European Communities.
- (14) Regulation (EC) No 43/2009 should therefore be amended accordingly,

HAS ADOPTED THIS REGULATION:

Article 1

Amendments to Regulation (EC) No 43/2009

Regulation (EC) No 43/2009 is hereby amended as follows:

1. the following Chapter VIIIa is inserted:

CHAPTER VIIIa

LABELLING OF FISH FROZEN AFTER BEING CAUGHT IN THE NEAFC CONVENTION AREA BY COMMUNITY VESSELS OR THIRD COUNTRY VESSELS

Article 39a

Labelling of frozen fish

When frozen, all fish caught in the NEAFC Convention Area shall be identified with a clearly legible label or stamp. The label or stamp, which shall be placed on each box or block of frozen fish, shall indicate the species, production date, the ICES sub-area and division where the catch was taken and the name of the vessel which caught the fish.;

2. in Article 48, the following paragraph is inserted:

‘1a. Each vessel participating in the krill fishery referred to in Article 49 shall have at least one scientific observer appointed in accordance with the CCAMLR Scheme of International Scientific Observation or fulfilling the requirements under that scheme, on board throughout all fishing activities within the fishing period.’;

3. in Article 50, paragraph 4 is deleted;

4. the following Articles are inserted:

Article 91a

Maximum number of vessels fishing bluefin tuna in the Eastern Atlantic

The maximum number of Community bait boats and trolling boats authorised to fish actively bluefin tuna

between 8 kg or 75 cm and 30 kg or 115 cm in the Eastern Atlantic, and the allocation among the Member States of that maximum number shall be fixed as follows:

Spain	63
France	44
EC	107

Article 91b

Catch limits for bluefin tuna in the Eastern Atlantic

1. Within the catch limits laid down in Annex ID, the catch limit for bluefin tuna between 8 kg or 75 cm and 30 kg or 115 cm applicable to authorised Community vessels referred to in Article 91a, and the allocation of that catch limit among the Member States, shall be fixed as follows (in tonnes):

Spain	599,3
France	269,3
EC (*)	868,6

2. Within the catch limits laid down in paragraph 1, the catch limit for bluefin tuna weighing no less than 6,4 kg or measuring no less than 70 cm applicable to bait boats of an overall length of less than 17 metres among the Community vessels referred to in Article 91a, and the allocation of that catch limit among the Member States, shall be fixed as follows (in tonnes):

France	45 (**)
EC	45

Article 91c

Maximum number of vessels fishing bluefin tuna in the Mediterranean applicable to the Community coastal artisanal fishery

The maximum number of Community coastal artisanal fishing vessels authorised to fish actively bluefin tuna between 8 kg or 75 cm and 30 kg or 115 cm in the Mediterranean, and the allocation among the Member States of that maximum number shall be fixed as follows:

Spain	139
France	86
Italy	35
Cyprus	25
Malta	89
EC	374

*Article 91d***Catch limits for bluefin tuna in the Mediterranean applicable to the Community coastal artisanal fishery**

Within the catch limits laid down in Annex ID, the catch limit for bluefin tuna between 8 kg and 30 kg allocated to the Community coastal artisanal fishery for fresh fish by bait boats, longliners and handliners in the Mediterranean referred to in Article 91c, and the allocation of that catch limit among the Member States, shall be fixed as follows (in tonnes):

Spain	82,3
France	71,8
Italy	63,5
Cyprus	2,3
Malta	5,3
EC (*)	225,2

*Article 91e***Maximum number of vessels fishing bluefin tuna in the Adriatic Sea for farming purposes**

The maximum number of Community vessels fishing actively bluefin tuna in the Adriatic Sea for farming purposes authorised to fish bluefin tuna between 8 kg or 75 cm and 30 kg or 115 cm, and the allocation among the

Member States of that maximum number shall be fixed as follows:

Italy	68
EC	68

*Article 91f***Catch limits for bluefin tuna in the Adriatic Sea for farming purposes**

Within the catch limits laid down in Annex ID, the catch limit for bluefin tuna between 8 kg and 30 kg allocated to the Community vessels fishing bluefin tuna in the Adriatic Sea for farming purposes referred to in Article 91e, and the allocation of that catch limit among the Member States, shall be fixed as follows (in tonnes):

Italy	63,5
EC	63,5

(*) The Community catch limits are based on the Community quota allocated to the European Community by ICCAT Recommendation 08-05 amending the Recommendation by ICCAT to establish a multiannual recovery plan for bluefin tuna in the Eastern Atlantic and Mediterranean.

(**) This quantity may be revised by the Commission upon request of France, up to an amount of 100 tonnes as indicated by ICCAT Recommendation 08-05.;

5. Annex IA is amended as follows:

- (a) the entry concerning the species Greenland Halibut in EC waters of IIa and IV; EC and international waters of VI is replaced by the following:

*Species: Greenland Halibut <i>Reinhardtius hippoglossoides</i>		Zone: EC waters of IIa and IV; EC and international waters of Vb and VI (GHL/2A-C46)
Denmark	4	Analytical TAC. Article 3 of Regulation (EC) No 847/96 does not apply. Article 4 of Regulation (EC) No 847/96 does not apply. Article 5(2) of Regulation (EC) No 847/96 applies.
Germany	7	
Estonia	4	
Spain	4	
France	69	
Ireland	4	
Lithuania	4	
Poland	4	
United Kingdom	270	
EC	720 ⁽¹⁾	
TAC	Not relevant	

⁽¹⁾ Of which 350 tonnes are allocated to Norway and are to be taken in the EC waters of ICES zones IIa and VI. In ICES zone VI this quantity may only be fished with long-lines.'

- (b) the entry concerning the species Mackerel in ICES zones VI, VII, VIIa, VIIb, VIIc and VIId; EC waters of Vb; international waters of IIa, XII and XIV is replaced by the following:

'Species: Mackerel <i>Scomber scombrus</i>		Zone: VI, VII, VIIa, VIIb, VIIc and VIId; EC and international waters of Vb; international waters of IIa, XII and XIV (MAC/2CX14-)
Germany	19 821	Analytical TAC. Article 3 of Regulation (EC) No 847/96 does not apply. Article 4 of Regulation (EC) No 847/96 does not apply. Article 5(2) of Regulation (EC) No 847/96 applies.
Spain	20	
Estonia	165	
France	13 216	
Ireland	66 070	
Latvia	122	
Lithuania	122	
The Netherlands	28 905	
Poland	1 396	
United Kingdom	181 694	
EC	311 531	
Norway	12 300 ⁽¹⁾	
Faeroe Islands	4 798 ⁽²⁾	
TAC	511 287 ⁽³⁾	

⁽¹⁾ May be fished only in ICES zones IIa, VIa (north of 56° 30' N), IVa, VIId, VIIe, VIIf and VIIh.

⁽²⁾ May be fished in EC waters of ICES zones IVa north of 59° N from 1 January to 15 February and from 1 October to 31 December. A quantity of 3 982 tonnes of the Faeroe Islands' own quota may be fished in ICES zone VIa north of 56° 30' N throughout the year.

⁽³⁾ TAC agreed by the EC, Norway and Faeroe Islands for the northern area.

Special conditions:

Within the limits of the abovementioned quotas, no more than the quantities given below may be taken in the zones specified and only during the periods 1 January to 15 February and 1 October to 31 December.

EC waters of IVa (MAC/*04A-C)	
Germany	5 981
France	3 988
Ireland	19 938
The Netherlands	8 723
United Kingdom	54 829
EC	93 459'

- (c) the entry concerning the species Horse Mackerel in ICES zones VI, VII, VIIla, VIIlb, VIIId and VIIle; EC waters of Vb; international waters of XII and XIV is replaced by the following:

*Species: Horse mackerel <i>Trachurus spp.</i>		Zone: VI, VII, VIIla, VIIlb, VIIId and VIIle; EC and international waters of Vb; international waters of XII and XIV (JAX/578/14)
Denmark	15 056	Analytical TAC. Article 3 of Regulation (EC) No 847/96 applies. Article 4 of Regulation (EC) No 847/96 applies. Article 5(2) of Regulation (EC) No 847/96 applies.
Germany	12 035	
Spain	16 435	
France	7 952	
Ireland	39 179	
The Netherlands	57 415	
Portugal	1 591	
United Kingdom	16 276	
EC	165 939	
Faeroe Islands	4 061 ⁽¹⁾	
TAC	170 000	

(¹) May be fished in ICES zone IV, VIa North of 56° 30' N, VIIe, VIIIf and VIIIf.

6. Annex IB is amended as follows:

- (a) the entry concerning the species Cod in Norwegian waters of I and II is replaced by the following:

*Species: Cod <i>Gadus morhua</i>		Zone: Norwegian waters of I and II (COD/1N2AB.)
Germany	2 425	Article 3 of Regulation (EC) No 847/96 does not apply. Article 4 of Regulation (EC) No 847/96 does not apply. Article 5(2) of Regulation (EC) No 847/96 applies.
Greece	301	
Spain	2 706	
Ireland	301	
France	2 226	
Portugal	2 706	
United Kingdom	9 410	
EC	20 074	
TAC	525 000'	

- (b) the entry concerning the species Redfish in EC and international waters of ICES zone V and EC waters of ICES zones XII and XIV is replaced by the following:

Species: Redfish <i>Sebastes spp.</i>		Zone: EC and international waters of V; international waters of XII and XIV (RED/51214.)
Estonia	210	Article 3 of Regulation (EC) No 847/96 does not apply. Article 4 of Regulation (EC) No 847/96 does not apply. Article 5(2) of Regulation (EC) No 847/96 applies.
Germany	4 266	
Spain	749	
France	398	
Ireland	1	
Latvia	76	
The Netherlands	2	
Poland	384	
Portugal	896	
United Kingdom	10	
EC	6 992 ⁽¹⁾	
TAC	46	

⁽¹⁾ No more than 70 % of the quota may be taken within the area bounded by the following coordinates and no more than 15 % of the quota may be taken within that area during the period from 1 April to 10 May. (RED/*5X14.)

Point No	Latitude N	Longitude W
1	64° 45	28° 30
2	62° 50	25° 45
3	61° 55	26° 45
4	61° 00	26° 30
5	59° 00	30° 00
6	59° 00	34° 00
7	61° 30	34° 00
8	62° 50	36° 00
9	64° 45	28° 30'

(c) The entry concerning the species Redfish in Greenland waters of ICES zones V and XIV is replaced by the following:

Species: Redfish <i>Sebastes spp.</i>		Zone: Greenland waters of V and XIV (RED/514GRN)
Germany	4 742 ⁽¹⁾	Article 3 of Regulation (EC) No 847/96 does not apply. Article 4 of Regulation (EC) No 847/96 does not apply. Article 5(2) of Regulation (EC) No 847/96 applies.
France	24 ⁽¹⁾	
United Kingdom	33 ⁽¹⁾	
EC	8 000 ⁽¹⁾ ⁽²⁾ ⁽³⁾	
TAC	Not relevant	

⁽¹⁾ May only be fished by pelagic trawl. May be fished East or West. The quota may be taken in the NEAFC Regulatory Area on the condition that Greenlandic reporting conditions are fulfilled (RED/*51214).
⁽²⁾ 3 000 tonnes to be fished with pelagic trawl are allocated to Norway and 200 tonnes are allocated to the Faeroe Islands.
⁽³⁾ No more than 70 % of the quota may be taken within the area bounded by the following coordinates and no more than 15 % of the quota may be taken within that area during the period from 1 April to 10 May. (RED/*5-14.)

Point No	Latitude N	Longitude W
1	64° 45	28° 30
2	62° 50	25° 45
3	61° 55	26° 45
4	61° 00	26° 30
5	59° 00	30° 00
6	59° 00	34° 00
7	61° 30	34° 00
8	62° 50	36° 00
9	64° 45	28° 30'

7. Appendix 1 to Annex IIA is amended as follows:

0

80 781

(a) in table (a), the column concerning Sweden is replaced by the following:

53 078

110 468'

'SE
16 609
739 281
55 853
0
0
13 155
22 130
25 339'

(c) in table (d), the column concerning Spain is replaced by the following:

'ES
0
0
0
0
0
0
0
13 836
0
1 402 142'

(b) in table (b), the column concerning Sweden is replaced by the following:

'SE
286 779
830 400
263 772
0

8. Annex III is amended as follows:

(a) in point 5c, 5c.1, 5c.2 and 5c.3 the words 'North Sea, Skagerrak and Eastern Channel' are replaced by 'Eastern Channel';

(b) the following point 5e is inserted:

‘5e. Real time closures in the North Sea and Skagerrak

5e.1. For the purpose of this point:

(a) the following shall be considered as juveniles:

- specimens of cod smaller than 35 cm,
- specimens of haddock smaller than 30 cm,
- specimens of saithe smaller than 35 cm,
- specimens of whiting smaller than 27 cm;

(b) the trigger level shall be 15 % by weight of juveniles with respect to the total of the four species mentioned in paragraph a). However, if the quantity of cod in the sample exceeds 75 % with respect to the total of the four species, the trigger level shall be 10 %.

5e.2. Member States shall identify areas where there is a risk of catching juveniles in excess of the trigger levels.

5e.3. In the areas identified in accordance with point 5e.2, Member States shall carry out inspections to measure whether the percentage of juveniles exceeds the trigger level, including through Joint Deployment Plans. For this purpose, Member States shall:

- (a) take and measure samples of cod, haddock, saithe and whiting from a haul in accordance with provisions in Appendix 7 to this Annex;
- (b) document each sampling by completing a sampling report as set out in Appendix 8 to this Annex and send it to the Coastal State.

Member States may invite other countries undertaking inspection in the area concerned to carry out samples on their behalf.

5e.4. The Coastal Member State concerned shall publicise without delay on its website the position at which the sample referred to in point 5e.3(a) was taken, the time it was taken

and the quantity of juveniles as a percentage of the total catch of cod, haddock, saithe and whiting in weight. The percentage shall be publicised both by species and as a total of the four species.

5e.5. When a sample referred to in point 5e.3(a) shows a percentage of juveniles that exceeds the trigger level, the Coastal Member State concerned shall prohibit fishing in that area with any fishing gear other than pelagic trawls, purse seines, driftnets and jiggers targeting herring, mackerel, horse mackerel, pots and scallop dredges and gillnets.

The closed area shall be based on the following criteria:

- the area shall have 4, 5 or 6 joining points,
- the midpoint of the fishing operation or operations with samples above the trigger level shall equal the midpoint of the closed area,
- when the closed area is based on one sample and lies outside the waters up to 12 miles from the baselines under the jurisdiction and sovereignty of the concerned Member State, it shall be 50 square miles, and,
- there shall be a maximum of 3 closures simultaneously in the Skagerrak.

5e.6. The prohibition referred to in point 5e.5 shall:

- enter into force 12 hours following the decision by the concerned Member State, and,
- apply for 21 days after which it shall automatically cease to apply at midnight UTC.

5e.7. By way of derogation from point 5e.5, when the percentage is slightly above the trigger level or the haul due to its total size, catch composition or size distribution cannot be regarded as representative, the Coastal Member State may, within 48 hours from the moment that the initial sample was taken, seek further information including inspections of additional hauls, before taking a decision in accordance with point 5e.5.

5e.8. If the area to be closed includes areas under the jurisdiction or sovereignty of different Member States or third countries, the Member State that has established the exceeded trigger level shall without delay inform the concerned neighbouring Member States and third countries of the findings and the prohibition decided in accordance with point 5e.5. The neighbouring Member State shall close their part of the area without delay.

5e.9. The Coastal Member State shall without delay:

- (a) make the details of the prohibition established in accordance with point 5e.5 available on its website;
- (b) inform vessels in the vicinity of the area to the extent possible; and
- (c) inform the Commission and the FMCs, as referred to in Article 3 of Regulation (EC) No 2244/2003 of 18 December 2003 laying down detailed provisions regarding satellite based Vessel Monitoring Systems (*), of the other Member States and third countries with vessels fishing in that area by e-mail of the prohibition established in accordance with point 5e.5. Member States shall take the necessary measures to ensure that their FMCs inform the vessels flying their flag that are affected by the prohibition.

5e.10. Upon request, the Coastal Member State concerned shall provide the Commission with the detailed sampling reports and justifications underlying the decision taken in accordance with point 5e.5. Where the Commission considers that this decision is not sufficiently justified, it may request the Member State to cancel or amend the decision with immediate effect.

(*) OJ L 333, 20.12.2003, p. 17.

(c) the following paragraph is added at the end of point 6.6:

'This derogation shall not apply within the area enclosed by sequentially joining with rhumb lines the following positions, which shall be measured according to the WGS84 coordinate system:

59° 05' N, 06° 45' W

59° 30' N, 06° 00' W

59° 40' N, 05° 00' W

60° 00' N, 04° 00' W

59° 30' N, 04° 00' W

59° 05' N, 06° 45' W.;

(d) the following point 9a is inserted:

'9a. **Special measures for the redfish fishery in the Irminger Sea and adjacent waters**

9a.1 The measures set out in this point 9a shall apply to the fishery for redfish (*Sebastes spp.*) in international waters of ICES zone V and EC waters of ICES zones XII and XIV bounded by the following coordinates (hereinafter referred to as the "Redfish Conservation Area"):

Point No	Latitude N	Longitude W
1	64° 45	28° 30
2	62° 50	25° 45
3	61° 55	26° 45
4	61° 00	26° 30
5	59° 00	30° 00
6	59° 00	34° 00
7	61° 30	34° 00
8	62° 50	36° 00
9	64° 45	28° 30

9a.2 In addition to the data required under Article 5(1) of Regulation (EC) No 2791/1999, masters of fishing vessels shall record in their fishing logbooks each entry and exit from the Redfish Conservation Area and the cumulative catches retained on board. The record shall identify the area by the specific code "RCA".

9a.3 Masters of fishing vessels engaged in the fishery in the Redfish Conservation Area, shall transmit the catch report provided for in Article 6(1)(a) of Regulation (EC) No 2791/1999, on a daily basis after the fishing operations of that calendar day have been completed. It shall indicate the catches on board taken since the last communication of catches.

9a.4 In addition to information required under Article 6(1)(a) of Regulation (EC) No 2791/1999, the masters of fishing vessels shall communicate the catch on board taken since the last communication of catches prior to entering and exiting the Redfish Conservation Area.

9a.5 The reports referred to in points 9a.3 and 9a.4 shall be made in accordance with Annex I to Regulation (EC) No 1085/2000. Reports of catches taken in the Redfish Conservation Area shall indicate the code "RCA" as the relevant area.

9a.6 Without prejudice to Article 39a of this Regulation, the label or stamp identifying redfish caught in the Redfish Conservation Area shall bear the specific code "RCA".

9a.7 Buyers or holders of fish shall ensure that any quantity of redfish caught in the Redfish Conservation Area and first landed into a Community port or transhipped is weighed when landed or transhipped.

9a.8 It shall be prohibited to use trawls with a mesh size of less than 100 mm.

9a.9 The conversion factor to be applied to the gutted and headed presentation, including Japanese cut, of redfish caught in the Redfish Conservation Area shall be 1,70.;

(e) point 15.1 is replaced by the following:

'15.1. It shall be prohibited to conduct bottom trawling and fishing with static gear, including bottom set gill-nets and long-lines, within the areas enclosed by sequentially joining with rhumb lines the following positions, which shall be measured according to the WGS84 coordinate system:

Part of the Reykjanes Ridge:

- 55° 04,5327' N, 36° 49,0135' W,
- 55° 05,4804' N, 35° 58,9784' W,
- 54° 58,9914' N, 34° 41,3634' W,
- 54° 41,1841' N, 34° 00,0514' W,
- 54° 00,0' N, 34° 00,0' W,
- 53° 54,6406' N, 34° 49,9842' W,
- 53° 58,9668' N, 36° 39,1260' W,
- 55° 04,5327' N, 36° 49,0135' W,

Northern MAR Area:

- 59° 45' N, 33° 30' W,
- 57° 30' N, 27° 30' W,
- 56° 45' N, 28° 30' W,
- 59° 15' N, 34° 30' W,
- 59° 45' N, 33° 30' W,

Middle MAR Area (Charlie-Gibbs Fracture zone and Subpolar Frontal Region):

- 53° 30' N, 38° 00' W,
- 53° 30' N, 36° 49' W,
- 55° 04,5327' N, 36° 49' W,
- 54° 58,9914' N, 34° 41,3634' W,
- 54° 41,1841' N, 34° 00' W,
- 53° 30' N, 34° 00' W,
- 53° 30' N, 30° 00' W,
- 51° 30' N, 28° 00' W,
- 49° 00' N, 26° 30' W,
- 49° 00' N, 30° 30' W,
- 51° 30' N, 32° 00' W,
- 51° 30' N, 38° 00' W,
- 53° 30' N, 38° 00' W,

Southern MAR Area

- 44° 30' N, 30° 30' W,
- 44° 30' N, 27° 00' W,
- 43° 15' N, 27° 15' W,
- 43° 15' N, 31° 00' W,
- 44° 30' N, 30° 30' W,

The Altair Seamounts:

- 45° 00' N, 34° 35' W,
- 45° 00' N, 33° 45' W,
- 44° 25' N, 33° 45' W,
- 44° 25' N, 34° 35' W,
- 45° 00' N, 34° 35' W,

The Antialtair Seamounts:

- 43° 45' N, 22° 50' W,
- 43° 45' N, 22° 05' W,
- 43° 25' N, 22° 05' W,
- 43° 25' N, 22° 50' W,
- 43° 45' N, 22° 50' W,

Hatton Bank:

- 59° 26' N, 14° 30' W,
- 59° 12' N, 15° 08' W,
- 59° 01' N, 17° 00' W,
- 58° 50' N, 17° 38' W,
- 58° 30' N, 17° 52' W,
- 58° 30' N, 18° 22' W,
- 58° 03' N, 18° 22' W,
- 58° 03' N, 17° 30' W,
- 57° 55' N, 17° 30' W,
- 57° 45' N, 19° 15' W,
- 58° 30' N, 18° 45' W,
- 58° 47' N, 18° 37' W,
- 59° 05' N, 17° 32' W,
- 59° 16' N, 17° 20' W,
- 59° 22' N, 16° 50' W,
- 59° 21' N, 15° 40' W,

North West Rockall:

- 57° 00' N, 14° 53' W,
- 57° 37' N, 14° 42' W,
- 57° 55' N, 14° 24' W,
- 58° 15' N, 13° 50' W,
- 57° 57' N, 13° 09' W,
- 57° 50' N, 13° 14' W,
- 57° 57' N, 13° 45' W,
- 57° 49' N, 14° 06' W,
- 57° 29' N, 14° 19' W,
- 57° 22' N, 14° 19' W,
- 57° 00' N, 14° 34' W,
- 56° 56' N, 14° 36' W,
- 56° 56' N, 14° 51' W,
- 57° 00' N, 14° 53' W,

South-West Rockall (Empress of Britain Bank):

- 56° 24' N, 15° 37' W,
- 56° 21' N, 14° 58' W,
- 56° 04' N, 15° 10' W,

- 55° 51' N, 15° 37' W,
- 56° 10' N, 15° 52' W,
- 56° 24' N, 15° 37' W,

Logachev Mound:

- 55° 17' N 16° 10' W,
- 55° 33' N 16° 16' W,
- 55° 50' N 15° 15' W,
- 55° 58' N 15° 05' W,
- 55° 54' N 14° 55' W,
- 55° 45' N 15° 12' W,
- 55° 34' N 15° 07' W,
- 55° 17' N 16° 10' W,

West Rockall Mound:

- 57° 20' N, 16° 30' W,
- 57° 05' N, 15° 58' W,
- 56° 21' N, 17° 17' W,
- 56° 40' N, 17° 50' W,
- 57° 20' N, 16° 30' W.;

(f) the following point 19a is inserted:

'19a. Conditions for third-country vessels fishing for mackerel in EC waters

The following provisions shall apply to third-country vessels intending to fish for mackerel in EC waters:

(a) vessels may only commence their fishing trip after having received authorisation from the competent authority of the coastal Member State concerned. Such vessels shall only enter EC waters after passing through one of the following control areas:

- ICES rectangle 48 E2 in Division Via,
- ICES rectangle 50 F1 in Division Iva,
- ICES rectangle 46 F1 in Division IVa.

At least four hours prior to entering one of the control areas, upon entering EC waters, the master of the vessel shall contact the UK Fisheries Monitoring Centre (Edinburgh) by e-mail at the following address: ukfcc@scotland.gsi.gov.uk or by telephone (+ 44 131 271 9700).

The notification shall specify the name, international radio call sign and port letters and number (PLN) of the vessel, the total quantity by species on board and the control area through which the vessel will enter EC waters. The vessel shall not commence fishing until it has received acknowledgement of the notification and instructions on whether or not the master is required to present the vessel for inspection. Each acknowledgement shall have a unique authorisation number which the master shall retain until the fishing trip is terminated;

- (b) vessels that enter EC waters with no catch on board shall be exempt from the requirements laid down in point (a);
- (c) the fishing trip shall be considered as being terminated when the vessel leaves EC waters or enters a Community port where its catch is fully discharged.

Vessels shall only leave the EC waters after passing through one of the control areas.

Upon leaving EC waters, the master of the vessel shall give at least two hours prior notification of entering one of the control areas to the Fisheries Monitoring Centre in Edinburgh by e-mail or telephone as provided for in paragraph a).

The notification shall specify the name, international radio call sign and port letters and number (PLN) of the vessel, the total quantity by species on board and the control area through which the vessel intends to pass. The vessel shall not leave the control area until it has received acknowledgement of the notification and instructions on whether or not the master is required to present the vessel for inspection. Each acknowledgement shall have a unique authorisation number which the master shall retain until the vessel leaves the EC waters.;

- (d) the following Appendixes shall be added to Annex III:

'Appendix 7 to Annex III

Sampling Methodology

Samples shall be taken and measured in accordance with following provisions:

- Samples should be taken and measured in close cooperation with the master of fishing vessel and his crew. They should be encouraged to participate in the process. They should also be encouraged to share any information that could be relevant with respect to the delimitation of a closed area.
- The total catch in the haul shall be estimated.
- A sample shall be taken when it is estimated that at least 300 kg of cod, haddock, saithe and whiting are present in one haul.
- The minimum size of the sample shall be 200 kg of cod, haddock, saithe and whiting.
- The sample must be taken in such a way that it reflects the catch composition with respect to the four species.
- When appropriate due to the size of the catch the sample should be taken in the beginning, the middle and the end of the catch.
- The quantity of juveniles shall be calculated as a percentage by species and as a total of all four species.
- The sampling report shall be duly completed immediately after the sample has been measured. The report shall then be sent to the Coastal State.'

Appendix 8 to Annex III

REAL TIME CLOSURES — SAMPLING REPORT TO COASTAL STATE									
JUVENILES OF COD, HADDOCK, SAITHE AND WHITING									
Inspection/ observation details	Inspection platform		Inspector/observer name		Inspector/observer name		Date and time ⁽¹⁾ of inspection/observation	Position ⁽²⁾ of inspection/observation	
Fishing vessel details	Name		Call sign		Registration number		Flag State	Type of gear	Mesh size mm
Fishing vessel details (Pair trawler)	Name		Call sign		Registration number		Flag State	Type of gear	Mesh size mm
Fishing operation details	Start	Date and time ⁽³⁾		Position ⁽²⁾		Duration of fishing operation ⁽³⁾		Midpoint of fishing operation ⁽³⁾	
	Stop	Date and time ⁽³⁾		Position ⁽²⁾					
Catch details in weight	Estimated total catch in the haul (kilo)								
	Size of sample (kilo of cod, haddock saithe and whiting in the haul)								
	Cod		Haddock		Saithe		Whiting		
	Total		Total		Total		Total		
	Juveniles		Juveniles		Juveniles		Juveniles		
	%		%		%		%		
	All four species total								
	All four species juveniles								
	All four species %								
Observations and additional information	Observations made by the inspector/observer during the inspection including non-mandatory use of selective gears. Additional information from other sources, e.g. received from master. If relevant, advice with respect to the delimiting of a closed area (min. 4, max. 6 joining points).								
Inspector Signature	Not required if completed electronically and transmitted to Coastal State by e-mail.								

⁽¹⁾ dd/mm/yy hh mm (local time 24 hours).⁽²⁾ e.g. 56°24' N 001°30' E⁽³⁾ hh mm.'

*Article 2***Entry into force**

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

Article 1(6) shall apply from 1 January 2009, Article 1(7) from 1 February 2009 and Article 1(8)(a),(b), (f) and (g) from 1 September 2009.

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

Done at Brussels, 27 July 2009.

For the Council

The President

C. BILDT

COUNCIL REGULATION (EC) No 754/2009**of 27 July 2009****excluding certain groups of vessels from the fishing effort regime laid down in Chapter III of Regulation (EC) No 1342/2008**

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty establishing the European Community,

Having regard to Council Regulation (EC) No 1342/2008 of 18 December establishing a long-term plan for cod stocks and the fisheries exploiting those stocks ⁽¹⁾, and in particular Article 11 thereof,

Having regard to the proposal from the Commission,

Whereas:

(1) Chapter III of Regulation (EC) No 1342/2008 establishes a fishing effort regime whereby fishing opportunities in terms of fishing effort are allocated to Member States on an annual basis. According to Article 11(2) of that Regulation, the Council may, acting on a Commission proposal and on the basis of the information provided by Member States and the advice of the Scientific, Technical and Economic Committee for Fisheries (STECF), exclude certain groups of vessels from the application of the fishing effort regime provided that appropriate data is available on the cod catches and discards of the vessels concerned, that the percentage of cod catches does not exceed 1,5 % of the total catches of the group of vessels and that the inclusion of the group in the effort regime would constitute an administrative burden disproportionate to its overall impact on cod stocks.

(2) Sweden provided information on the cod catches by a group of vessels fishing in the Skagerrak and Kattegat for Norway lobster with a selective sorting grid as defined in Appendix 2 to Annex III to Regulation (EC) No 43/2009 ⁽²⁾. On the basis of that information, as assessed by STECF, it can be established that the cod

catches, including discards, of vessels involved in that activity during the period that they deploy solely that selective fishing gear, do not exceed 1,5 % of the total catches of the group of vessels involved in that activity during that same period. Moreover, having regard to the Swedish control program for cod stocks in the North Sea, Skagerrak and the Kattegat and considering that the inclusion of that group would constitute an administrative burden disproportionate to its overall impact on cod stocks, it is appropriate to exclude the group of vessels fishing in the Skagerrak and Kattegat for Norway lobster with a selective sorting grid, for the period where they solely deploy the gear in question, from the application of the effort regime laid down in Chapter III of Regulation (EC) No 1342/2008.

(3) Spain provided information on cod catches by a group of vessels fishing with bottom trawls to the West of Scotland mainly for hake. On the basis of that information, as assessed by STECF, it can be established that the cod catches, including discards, of vessels involved in that activity, do not exceed 1,5 % of the total catches of that group of vessels during that same period. Having moreover regard to the measures in place ensuring the monitoring and control of the fishing activities of the group of vessels involved in that activity and considering that the inclusion of that group would constitute an administrative burden disproportionate to its overall impact on cod stocks, it is appropriate to exclude the group of vessels fishing with bottom trawls to the West of Scotland mainly for hake, from the application of the effort regime laid down in Chapter III of Regulation (EC) No 1342/2008.

(4) Considering that Member States are managing the effort and the compliance with effort limitations on the basis of the fishing season running from 1 February 2009 until 31 January 2010 and having regard to the fact that Regulation (EC) No 1342/2008 was adopted only shortly before the start of that season, it is appropriate that these exemptions be applicable for the entire fishing season and therefore that they apply from 1 February 2009.

(5) In order to ensure certainty for the fishermen concerned and to allow them to plan their activities for the current fishing season as soon as possible, it is imperative to grant an exception to the six-week period referred to in Title I, Article 3, of the Protocol on the role of national Parliaments in the European Union annexed to the Treaty on the European Union and to the Treaties establishing the European Communities,

⁽¹⁾ OJ L 348, 24.12.2008, p. 20.

⁽²⁾ Council Regulation (EC) No 43/2009 of 16 January 2009 fixing for 2009 the fishing opportunities and associated conditions for certain fish stocks and groups of fish stocks, applicable in Community waters and, for Community vessels, in waters where catch limitations are required (OJ L 22, 26.1.2009, p. 1).

HAS ADOPTED THIS REGULATION:

Article 1

**Exclusion from the effort regime under Regulation
(EC) No 1342/2008**

The following groups of vessels shall be excluded from the application of the fishing effort regime laid down in Chapter III of Regulation (EC) No 1342/2008:

- (a) the group of vessels flying the flag of Sweden, participating in the fishery indicated in the request from Sweden dated 26 February 2009 as completed by letter dated 8 April 2009, fishing in the Skagerrak and Kattegat during the period in which these vessel are fishing solely with a sorting grid as defined in Appendix 2 to Annex III to Regulation (EC) No 43/2009 and targeting Norway lobster;

- (b) the group of vessels flying the flag of Spain, participating in the fishery indicated in the request from Spain dated 2 December 2008 as completed by letters dated 6 and 14 March 2009, using bottom trawls of mesh size equal to or larger than 100 mm on the shelf slope off the West of Scotland in depths between 200 and 1 000 metres and targeting mainly deep-sea species and hake.

Article 2

Entry into force

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

It shall apply from 1 February 2009.

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

Done at Brussels, 27 July 2009.

For the Council

The President

C. BILDT

COMMISSION REGULATION (EC) No 755/2009**of 18 August 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 19 August 2009.

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

Done at Brussels, 18 August 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	MK	29,6
	XS	27,8
	ZZ	28,7
0707 00 05	MK	29,2
	TR	101,3
	ZZ	65,3
0709 90 70	TR	105,4
	ZZ	105,4
0805 50 10	AR	89,3
	UY	83,6
	ZA	68,3
	ZZ	80,4
0806 10 10	EG	167,5
	IL	133,8
	TR	122,5
	US	170,2
	ZA	151,7
	ZZ	149,1
0808 10 80	AR	105,9
	BR	72,4
	CL	82,6
	NZ	85,9
	ZA	77,9
	ZZ	84,9
0808 20 50	AR	104,5
	CN	60,2
	TR	130,7
	ZA	95,5
	ZZ	97,7
0809 30	TR	128,0
	ZZ	128,0
0809 40 05	IL	107,7
	ZZ	107,7

⁽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 756/2009**of 17 August 2009****establishing a prohibition of fishing for deep-sea sharks in Community waters and waters not under the sovereignty or jurisdiction of third countries of V, VI, VII, VIII and IX by vessels flying the flag of Portugal**

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Council Regulation (EC) No 2371/2002 of 20 December 2002 on the conservation and sustainable exploitation of fisheries resources under the common fisheries policy ⁽¹⁾, and in particular Article 26(4) thereof,

Having regard to Council Regulation (EEC) No 2847/93 of 12 October 1993 establishing a control system applicable to the common fisheries policy ⁽²⁾, and in particular Article 21(3) thereof,

Whereas:

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

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

HAS ADOPTED THIS REGULATION:

*Article 1***Quota exhaustion**

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

*Article 2***Prohibitions**

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

*Article 3***Entry into force**

This Regulation shall enter into force on the day following 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, 17 August 2009.

For the Commission

Fokion FOTIADIS

Director-General for Maritime Affairs and Fisheries

⁽¹⁾ OJ L 358, 31.12.2002, p. 59.

⁽²⁾ OJ L 261, 20.10.1993, p. 1.

⁽³⁾ OJ L 352, 31.12.2008, p. 1.

ANNEX

No	2/DSS
Member State	PRT
Stock	DWS/56789-
Species	Deep-sea sharks
Area	Community waters and waters not under the sovereignty or jurisdiction of third countries of V, VI, VII, VIII and IX
Date	23 July 2009

COMMISSION REGULATION (EC) No 757/2009

of 18 August 2009

amending Regulation (EC) No 1189/2008 laying down detailed rules for the application in 2009 of the import tariff quotas for 'baby beef' products originating in Croatia, Bosnia and Herzegovina, the former Yugoslav Republic of Macedonia, Serbia, Kosovo and Montenegro

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) and Article 148(a), in conjunction with Article 4 thereof,

Whereas:

- (1) In accordance with Commission Regulation (EC) No 1189/2008 ⁽²⁾, all applications for imports licences under the quotas referred to in Article 1 thereof have to be accompanied by a certificate of authenticity issued by the authorities of the exporting country or customs territory. The list of authorities in exporting countries and customs territory empowered to issue the certificates of authenticity is set out in Annex II to that Regulation.
- (2) Croatia has changed the name of the issuing authority for certificates of authenticity. In accordance with Article 5(2) of Regulation (EC) No 1189/2008, the list set out in Annex II to that Regulation should therefore be revised.
- (3) Regulation (EC) No 1189/2008 should therefore be amended accordingly.

(4) For the sake of avoiding that the name of the authority mentioned on the certificates of authenticity recently issued does not correspond with the name of the authority listed in Regulation (EC) No 1189/2008, the amendment to the latter Regulation should apply as from 15 June 2009, the date in which Croatia notified to the Commission the name of the new issuing authority.

(5) 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

In Annex II to Regulation (EC) No 1189/2008, the entry related to the issuing authority of Croatia is replaced by the following:

— Republic of Croatia: Croatian Agricultural Agency, Poljana Križevačka 185, 48260 Križevci, Croatia'.

Article 2

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

It shall apply from 15 June 2009.

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

Done at Brussels, 18 August 2009.

For the Commission

Mariann FISCHER BOEL

Member of the Commission

⁽¹⁾ OJ L 299, 16.11.2007, p. 1.

⁽²⁾ OJ L 322, 2.12.2008, p. 11.

DIRECTIVES

DIRECTIVE 2009/63/EC OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL

of 13 July 2009

on certain parts and characteristics of wheeled agricultural or forestry tractors

(codified version)

(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 95 thereof,

Having regard to the proposal from the Commission,

Having regard to the opinion of the European Economic and Social Committee ⁽¹⁾,

Acting in accordance with the procedure laid down in Article 251 of the Treaty ⁽²⁾,

Whereas:

(1) Council Directive 74/151/EEC of 4 March 1974 on the approximation of the laws of the Member States relating to certain parts and characteristics of wheeled agricultural or forestry tractors ⁽³⁾ has been substantially amended several times ⁽⁴⁾. In the interests of clarity and rationality the said Directive should be codified.

(2) Directive 74/151/EEC is one of the separate Directives of the EC type-approval system provided for in Council Directive 74/150/EEC of 4 March 1974 on the approximation of the laws of the Member States relating to type-approval of wheeled agricultural or forestry tractors, as replaced by Directive 2003/37/EC of the European Parliament and of the Council of 26 May 2003 on type-approval of agricultural or forestry tractors, their

trailers and interchangeable towed machinery, together with their systems, components and separate technical units ⁽⁵⁾ and lays down technical prescriptions concerning the design and construction of agricultural or forestry tractors with regard, inter alia, to their maximum permissible laden mass, the location and fixing of rear registration plates, tanks for liquid fuel, ballast weights, audible warning devices, permissible sound levels and the exhaust system (silencer). Those technical prescriptions seek to approximate the laws of the Member States to enable the EC type-approval procedure provided for in Directive 2003/37/EC to be applied in respect of each type of tractor. Consequently, the provisions laid down in Directive 2003/37/EC relating to agricultural and forestry tractors, their trailers, and their interchangeable towed machinery, together with their systems, components and separate technical units, apply to this Directive.

(3) This Directive should be without prejudice to the obligations of the Member States concerning the time-limits for transposition into national law and application of the Directives set out in Annex VII, Part B,

HAVE ADOPTED THIS DIRECTIVE:

Article 1

1. 'Tractor' (agricultural or forestry) means any motor vehicle, fitted with wheels or endless tracks and having at least two axles, the main function of which lies in its tractive power and which is specially designed to tow, push, carry or power certain tools, machinery or trailers intended for agricultural or forestry use. It may be equipped to carry a load and passengers.

2. This Directive shall apply only to tractors defined in paragraph 1 which are equipped with pneumatic tyres and have a maximum design speed of between 6 and 40 km/h.

⁽¹⁾ OJ C 161, 13.7.2007, p. 36.

⁽²⁾ Opinion of the European Parliament of 19 June 2007 (OJ C 146 E, 12.6.2008, p. 74) and Council Decision of 22 June 2009.

⁽³⁾ OJ L 84, 28.3.1974, p. 25.

⁽⁴⁾ See Annex VII, Part A.

⁽⁵⁾ OJ L 171, 9.7.2003, p. 1.

Article 2

1. No Member State may refuse to grant EC type-approval or national type-approval in respect of a type of tractor on grounds relating to the following parts and characteristics, if these satisfy the requirements set out in Annexes I to VI:

- the maximum permissible laden mass,
- the location and fitting of the rear registration plates,
- fuel tanks,
- ballast weights,
- audible warning devices,
- the permissible sound level and exhaust system (silencer),

2. With respect to vehicles which do not comply with the requirements laid down in this Directive, and on grounds relating to the subject-matter of this Directive, Member States:

- shall no longer grant EC type-approval,
- may refuse to grant national type-approval,

3. With respect to new vehicles which do not comply with the requirements laid down in this Directive, and on grounds relating to the subject-matter of this Directive, Member States:

- shall consider certificates of conformity which accompany those new vehicles in accordance with the provisions of Directive 2003/37/EC to be no longer valid for the purposes of Article 7(1) of that Directive,
- may refuse the registration, sale or entry into service of those new vehicles.

Article 3

No Member State may refuse registration, or prohibit the sale, entry into service or use of tractors on grounds relating to the parts and characteristics listed in Article 2(1) if these satisfy the requirements set out in Annexes I to VI.

Article 4

The amendments necessary to adapt to technical progress the requirements of Annexes I to VI, apart from those set out at points 1.1 and 1.4.1.2 of Annex VI, shall be adopted in accordance with the procedure referred to in Article 20(3) of Directive 2003/37/EC.

Article 5

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

Article 6

Directive 74/151/EEC, as amended by the Directives listed in Part A of Annex VII, is repealed, without prejudice to the obligations of the Member States concerning the time-limits for transposition into national law and application of the Directives listed in Annex VII, Part B.

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

Article 7

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

It shall apply from 1 January 2010.

Article 8

This Directive is addressed to the Member States.

Done at Brussels, 13 July 2009.

For the European Parliament

The President

H.-G. PÖTTERING

For the Council

The President

E. ERLANDSSON

ANNEX I

MAXIMUM PERMISSIBLE LADEN MASS

1. The technically permissible maximum laden mass as stated by the manufacturer shall be accepted by the competent administration as the maximum permissible laden mass provided that:
 - 1.1. the results of any tests which that administration makes, in particular those in respect of braking and steering, are satisfactory;
 - 1.2. the maximum permissible laden mass and the maximum permissible mass per axle depending on the vehicle category does not exceed the values given in Table 1.

Table 1

Maximum Permissible Laden Mass and Maximum Permissible Mass per Axle Depending on the Vehicle Category

Vehicle category	Number of axles	Maximum permissible mass (t)	Maximum permissible mass per axle	
			Driven axle (t)	Non-driven axle (t)
T1, T2, T4.1	2	18 (laden)	11,5	10
	3	24 (laden)	11,5	10
T3	2 or 3	0,6 (unladen)	^(a)	^(a)
T4.3	2, 3 or 4	10 (laden)	^(a)	^(a)

^(a) It is not necessary to establish an axle limit for vehicle categories T3 and T4.3, as they have by definition limitations on the maximum permissible laden and/or unladen mass.

2. Whatever the state of loading of the tractor, the mass transmitted to the road by the wheels on the forward axle must not be less than 20 % of the unladen mass of that tractor.

ANNEX II

1. SHAPE AND DIMENSIONS OF THE SPACE FOR MOUNTING REAR REGISTRATION PLATES

The space for mounting shall comprise an even or virtually even rectangular surface with the following minimum dimensions:

- length: 255 or 520 mm,
- width: 165 or 120 mm,

The choice must take account of the dimensions in force in the Member States of destination.

2. LOCATION OF THE SPACE FOR MOUNTING AND THE FIXING OF THE PLATES

The space for mounting shall be such that, after correct fixing, the plates shall have the following characteristics:

2.1. Lateral position of the plate

The centre of the plate may not be further to the right than the plane of symmetry of the tractor.

The left lateral edge of the plate may not be further to the left than the vertical plane parallel to the plane of symmetry of the tractor and tangent to the point where the cross section of the tractor is at its widest.

2.2. Position of the plate in relation to the longitudinal plane of symmetry of the tractor

The plate shall be perpendicular or practically perpendicular to the plane of symmetry of the tractor.

2.3. Position of the plate in relation to the vertical plane

The plate shall be vertical within a tolerance of 5°. However, where the shape of the tractor so requires, it may be inclined to the vertical:

- 2.3.1. at not more than 30° when the surface bearing the registration number is inclined upwards, provided that the height of the upper edge of the plate is not more than 1,2 metres from the ground.
- 2.3.2. at not more than 15° when the surface bearing the registration number is inclined downwards, provided that the height of the upper edge of the plate is more than 1,2 metres from the ground.

2.4. Height of the plate from the ground

The height of the lower edge of the plate above ground may not be less than 0,3 metres; the height of the upper edge of the plate above ground must not exceed 4 metres.

2.5. Determination of the height of the plate from the ground

The heights given in points 2.3 and 2.4 shall be measured with the tractor unladen.

*ANNEX III***TANKS FOR LIQUID FUEL**

1. Fuel tanks must be made so as to be corrosion resistant. They must satisfy the leakage tests carried out by the manufacturer at a pressure equal to double the working pressure but in any event not less than 0,3 bar. Any excess pressure or any pressure exceeding the working pressure must be automatically compensated by suitable devices (vents, safety valves etc.). The vents must be designed in such a way as to prevent any fire risk. The fuel must not escape through the fuel-tank cap or through the devices provided to compensate excess pressure even if the tank is completely overturned: a drip shall be tolerated.
2. Fuel tanks must be installed in such a way as to be protected from the consequences of an impact to the front or to the rear of the tractor; there shall be no protruding parts, sharp edges etc. near the tanks.

The fuel supply pipework and the filler orifice must be installed outside the cab.

*ANNEX IV***BALLAST WEIGHTS**

If the tractor is to be fitted with ballast weights in order to meet the other requirements of EC approval, those ballast weights must be supplied by the manufacturer of the tractor, be intended for fitting, and bear the manufacturer's mark and a statement of their mass in kilograms to an accuracy of $\pm 5\%$. Front ballast weights that have been designed for frequent removal/fitting must leave a safety clearance of at least 25 mm for the grab handles. The method of locating the ballast weights must be such that any inadvertent separation is avoided (e.g. in the event of tractor rollover).

ANNEX V

AUDIBLE WARNING DEVICE

1. The warning device must bear the EC approval mark prescribed by Council Directive 70/388/EEC of 27 July 1970 on the approximation of the laws of Member States relating to audible warning devices for motor vehicles ⁽¹⁾.
2. **Characteristics of the audible warning device when fitted to the tractor**
 - 2.1. Acoustic tests

When a tractor is type approved, the characteristics of the warning device fitted to that type of tractor shall be tested as follows:

 - 2.1.1. The sound pressure level of the device when fitted to the tractor shall be measured at a point 7 metres in front of the tractor, at a site which is open and as level as possible. The engine of the tractor shall be stopped. The effective voltage shall be that laid down in point 1.2.1. of Annex I to Directive 70/388/EEC.
 - 2.1.2. Measurements shall be made on the 'A' weighting scale of the IEC (International Electrotechnical Commission) standard.
 - 2.1.3. The maximum sound pressure level shall be determined at a height between 0,5 and 1,5 metres above ground level.
 - 2.1.4. The maximum value for the sound-pressure level must be at least 93 dB(A) and at the most 112 dB(A).

⁽¹⁾ OJ L 176, 10.8.1970, p. 12.

ANNEX VI

1. **PERMISSIBLE SOUND LEVELS**1.1. **Limits**

The sound level of the tractors referred to in Article 1 of this Directive, when measured under the conditions set out in this Annex, may not exceed the following levels:

- 89 dB (A) for tractors with an unladen weight exceeding 1,5 metric tons,
- 85 dB (A) for tractors with an unladen weight not exceeding 1,5 metric tons.

1.2. **Measuring instruments**

The noise emitted by tractors shall be measured by means of a sound-level meter of the type described in Publication 179, 1st Edition (1965) of the International Electrotechnical Commission.

1.3. **Conditions of measurement**

Measurements shall be made on unladen tractors in a sufficiently silent and open area (ambient noise and wind noise at least 10 dB (A) below the noise being measured).

This area may take the form, for instance, of an open space of 50 metres radius having a central part of at least 20 metres radius which is practically level; it may be surfaced with concrete, asphalt, or similar material and may not be covered with powdery snow, tall grass, loose soil or ashes.

The surface of the test track shall be such as not to cause excessive tyre noise. This condition applies only to measurement of the noise made by tractors in motion.

Measurement shall be carried out in fine weather with little wind. No person other than the observer taking the readings from the apparatus may remain near the tractor or the microphone, as the presence of spectators near either the tractor or the microphone may considerably affect the readings from the apparatus. Marked fluctuations of the pointer which appear to be unrelated to the characteristics of the general sound level shall be ignored in taking readings.

1.4. **Method of measurement**

1.4.1. Measurement of noise of tractors in motion (for type-approval).

At least two measurements shall be made on each side of the tractor. Preliminary measurements may be made for adjustment purposes but shall be disregarded.

The microphone shall be situated 1,2 metres above ground level at a distance of 7,5 metres from the path of the tractor's centre line, CC, measured along the perpendicular PP' to that line (figure 1).

Two lines AA' and BB', parallel to line PP' and situated respectively 10 metres forward and 10 metres rearward of the line, shall be marked out on the test track. Tractors shall approach line AA' at a steady speed, as specified below. The throttle shall then be fully opened as rapidly as practicable and held in the fully opened position until the rear of the tractor⁽¹⁾ crosses line BB'; the throttle shall then be closed again as rapidly as possible.

The maximum sound level recorded shall constitute the result of the measurement.

1.4.1.1. The test speed shall be three-quarters of the maximum speed which can be attained in the highest gear used for road movement.

1.4.1.2. Interpretation of results

1.4.1.2.1. To take account of inaccuracies in the measuring instruments, the result obtained from each measurement shall be determined by deducting 1 dB (A) from the meter reading.

1.4.1.2.2. Measurements shall be considered valid if the difference between two consecutive measurements on the same side of the tractor does not exceed 2 dB (A).

1.4.1.2.3. The highest sound level measured shall constitute the test result. Should that result exceed by 1 dB (A) the maximum permissible sound level for the category of tractor tested, two further measurements shall be made. Three of the four measurements thus obtained must fall within the prescribed limits.

⁽¹⁾ If the tractor includes a trailer, this shall not be taken into account in determining when line BB' is crossed.

Measuring positions for tractors in motion

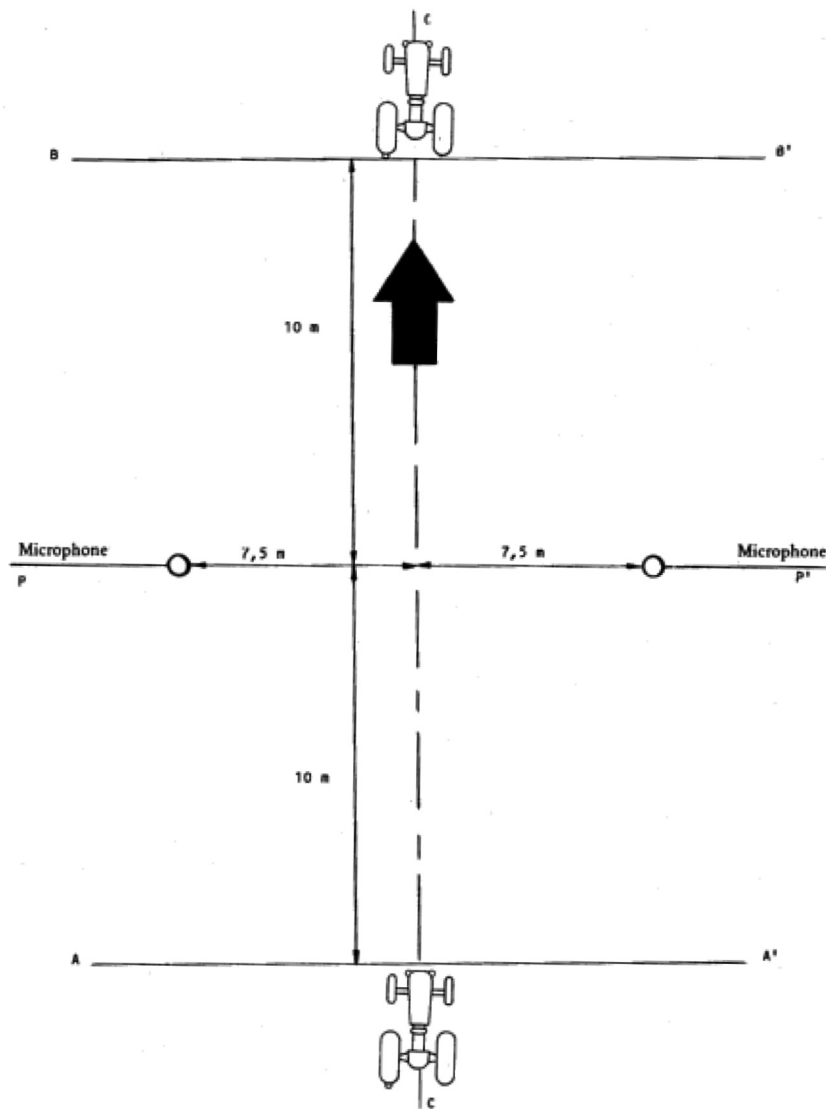


Figure 1

1.4.2. Measurement of noise with tractor stationary (not for type-approval, but must be recorded).

1.4.2.1. Position of sound-level meter

Measurements shall be made at point X (shown in figure 2) at a distance of 7 metres from the nearest surface of the tractor.

The microphone shall be situated 1,2 metres above ground level.

1.4.2.2. Number of measurements

At least two measurements shall be made.

1.4.2.3. Tractor test conditions

The engine of a tractor without a speed governor shall be run at three-quarters of the rpm speed at which, according to the tractor manufacturer, it develops its maximum power. The rpm speed of the engine shall be measured by means of an independent instrument, e.g. a roller bed and a tachometer. If the engine is fitted with a governor preventing the engine from exceeding the speed at which it develops its maximum power, it shall be run at the maximum speed permitted by the governor.

Before taking any measurements, the engine shall be brought to its normal running temperature.

1.4.2.4. Interpretation of results

All sound-level readings recorded shall be given in the report.

The method used to calculate the engine power shall also be shown where possible. The state of loading of the tractor must also be given.

The measurements shall be considered valid if the difference between two consecutive measurements on the same side of the tractor does not exceed 2 dB (A).

The maximum figure recorded shall constitute the result of the measurement.

Measuring positions for stationary tractors

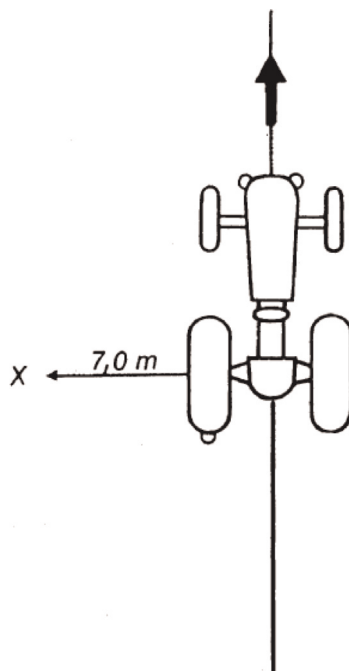


Figure 2

2. EXHAUST SYSTEM (SILENCER)

- 2.1. If the tractor is fitted with a device designed to reduce the exhaust noise (silencer), the requirements of this Item 2 shall apply. If the inlet of the engine is fitted with an air filter which is necessary in order to ensure compliance with the permissible sound level, the filter shall be considered to be part of the silencer, and the requirements of this Item 2 shall also apply to that filter.

The exhaust tailpipe must be positioned in such a way that the exhaust gases cannot penetrate inside the cab.

- 2.2. A drawing of the exhaust system must be annexed to the tractor type-approval certificate.
- 2.3. The silencer must be marked with a reference to its make and type which is clearly legible and indelible.
- 2.4. The use of fibrous absorbent material is permitted in the construction of silencers only if the following conditions are fulfilled:
- 2.4.1. the fibrous absorbent material may not be placed in those parts of the silencer through which gases pass;
- 2.4.2. suitable devices must ensure that the fibrous absorbent material is kept in place for the whole time that the silencer is being used;
- 2.4.3. the fibrous absorbent material must be resistant to a temperature at least 20 % higher than the operating temperature (degrees C) which may occur in the region of the silencer where those fibrous absorbent materials are situated.

ANNEX VII

PART A

**Repealed Directive with its successive amendments (referred to in Article 6)
(referred to in Article 6)**

Council Directive 74/151/EEC
(OJ L 84, 28.3.1974, p. 25).

Council Directive 82/890/EEC
(OJ L 378, 31.12.1982, p. 45).

Only as regards the references to Directive 74/151/EEC in Article 1(1)

Commission Directive 88/410/EEC
(OJ L 200, 26.7.1988, p. 27).

Directive 97/54/EC of the European Parliament and of the Council
(OJ L 277, 10.10.1997, p. 24).

Only the references to Directive 74/151/EEC in the first indent of Article 1

Commission Directive 98/38/EC
(OJ L 170, 16.6.1998, p. 13).

Commission Directive 2006/26/EC
(OJ L 65, 7.3.2006, p. 22).

Only Article 1

PART B

**List of time-limits for transposition into national law and application
(referred to in Article 6)**

Directive	Time-limit for transposition	Date of application
74/151/EEC	8 September 1975	—
82/890/EEC	22 June 1984	—
88/410/EEC	30 September 1988 ⁽¹⁾	—
97/54/EC	22 September 1998	23 September 1998
98/38/EC	30 April 1999 ⁽²⁾	—
2006/26/EC	31 December 2006 ⁽³⁾	—

⁽¹⁾ Pursuant to Article 2 of Directive 88/410/EEC:

1. From 1 October 1988, no Member State may:

- refuse, in respect of a type of tractor, to grant EEC type approval, to issue the document referred to in Article 10(1), final indent of Directive 74/150/EEC, or to grant national type approval, or,
 - prohibit the entry into service of tractors,
- if the liquid-fuel tanks, ballast weights and permissible sound levels of that type of tractor or tractors comply with the provisions of this Directive.

2. From 1 October 1989, Member States:

- may no longer issue the document referred to in Article 10(1), final indent, of Directive 74/150/EEC for a type of tractor of which the liquid-fuel tanks, ballast weights and permissible sound levels do not comply with the provisions of this Directive,
- may refuse to grant national type-approval in respect of a type of tractor of which the fuel tanks, ballast weights and permissible sound levels do not comply with the provisions of this Directive.

⁽²⁾ Pursuant to Article 2 of Directive 98/38/EC:

1. From 1 May 1999 no Member State may:

- refuse, in respect of a type of tractor, to grant EC type-approval, to issue the document referred to in Article 10(1), final indent, of Directive 74/150/EEC, or to grant national type-approval, or,
 - prohibit the entry into service of tractors,
- if these tractors meet the requirements of Directive 74/151/EEC, as amended by this Directive.

2. From 1 October 1999, Member States:

- may no longer issue the document referred to in Article 10(1), final indent, of Directive 74/150/EEC for a type of tractor that does not meet the requirements of Directive 74/151/EEC as amended by this Directive,
- may refuse to grant national type approval in respect of a type of tractor if this does not meet the requirements of Directive 74/151/EEC as amended by this Directive.

(³) Pursuant to Article 5 of Directive 2006/26/EC:

'1. With effect from 1 January 2007, with respect to vehicles which comply with the requirements laid down respectively in Directives 74/151/EEC, 78/933/EEC, 77/311/EEC and 89/173/EEC as amended by this Directive, Member States shall not, on grounds relating to the subject-matter of the Directive concerned:

- (a) refuse to grant EC type-approval or to grant national type-approval;
- (b) prohibit the registration, sale or entry into service of such a vehicle.

2. With effect from 1 July 2007, with respect to vehicles which do not comply with the requirements laid down respectively in Directives 74/151/EEC, 78/933/EEC, 77/311/EEC and 89/173/EEC as amended by this Directive, and on grounds relating to the subject-matter of the Directive concerned, Member States:

- (a) shall no longer grant EC type-approval;
- (b) may refuse to grant national type-approval.

3. With effect from 1 July 2009, with respect to vehicles which do not comply with the requirements laid down respectively in Directives 74/151/EEC, 78/933/EEC, 77/311/EEC and 89/173/EEC as amended by this Directive, and on grounds relating to the subject-matter of the Directive concerned, Member States:

- (a) shall consider certificates of conformity which accompany new vehicles in accordance with the provisions of Directive 2003/37/EC to be no longer valid for the purposes of Article 7(1);
- (b) may refuse the registration, sale or entry into service of those new vehicles.'

ANNEX VIII

Correlation table

Directive 74/151/EEC	Directive 2006/26/EC	This Directive
Article 1		Article 1
Article 2(1)		Article 2(1)
	Article 5(2)	Article 2(2)
	Article 5(3)	Article 2(3)
Article 3		Article 3
Article 4		Article 4
Article 5(1)		—
Article 5(2)		Article 5
—		Article 6
—		Article 7
Article 6		Article 8
Annex I to VI		Annex I to VI
—		Annex VII
—		Annex VIII

II

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

DECISIONS

COUNCIL

COUNCIL DECISION

of 27 July 2009

concerning the conclusion of consultations with the Republic of Guinea under Article 96 of the Cotonou agreement

(2009/618/EC)

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty establishing the European Community,

Having regard to the partnership agreement between the members of the African, Caribbean and Pacific Group of States of the one part, and the European Community and its Member States, of the other part, signed in Cotonou on 23 June 2000 ⁽¹⁾, as revised by the agreement signed in Luxembourg on 25 June 2005 ⁽²⁾ (hereinafter referred to as the Cotonou Agreement), and in particular Article 96 thereof,

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

Having regard to the proposal from the Commission,

Whereas:

(1) The essential elements referred to in Article 9 of the Cotonou Agreement have been violated.

⁽¹⁾ OJ L 317, 15.12.2000, p. 3.

⁽²⁾ OJ L 209, 11.8.2005, p. 27.

⁽³⁾ OJ L 317, 15.12.2000, p. 376.

(2) On 29 April 2009, pursuant to Article 96 of the Cotonou Agreement, consultations started with Guinea, in the presence of the representatives of the African, Caribbean and Pacific Group of States during which representatives of the ruling military junta and the transitional government presented satisfactory proposals and commitments,

HAS DECIDED AS FOLLOWS:

Article 1

Consultations with Guinea under Article 96 of the Cotonou Agreement are hereby concluded.

Article 2

The measures set out in the annexed letter are hereby adopted as appropriate measures under Article 96(2)(c) of the Cotonou Agreement.

Article 3

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

This Decision shall expire on 27 July 2011. It is reviewed regularly at least once every six months in the light of the conclusions of the joint monitoring missions by the Presidency of the European Union and the Commission.

Article 4

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

Done at Brussels, 27 July 2009.

For the Council
The President
C. BILDT

ANNEX

DRAFT LETTER

Sir,

The European Union considers that the coup d'état in the Republic of Guinea (hereinafter referred to as Guinea) on 23 December 2008 constitutes a serious violation of the essential elements of the Cotonou Agreement referred to in Article 9. In an EU Presidency statement on 31 December 2008, it roundly condemned the coup as being in contradiction with the very principles of democracy, but stated its readiness to support the ongoing transition in Guinea and a return to constitutional rule. In application of Article 96 of the Cotonou Agreement, the European Union has therefore engaged in a political dialogue with the ruling regime in order to study the situation and possible solutions. The consultations opened in Brussels on 29 April 2009.

During the opening meeting, the participants discussed how to organise a return to constitutional rule and the establishment of a democratic government elected through free and transparent elections. Guinea also presented a memorandum on the stages and issues at stake in the transition. The European Union has noted the following proposals put forward by Guinea during the discussions, in particular:

Transition roadmap

Guinea has confirmed its commitment to the roadmap proposed by the Coalition des Forces vives on 17 March 2009 and adopted by communiqué No 50 of the President of the CNDD on 28 March 2009. The stages of the roadmap will follow the timetable below:

- the continuation of voter registration in accordance with the electoral code,
- the establishment of a National Council for Transition (NCT),
- the start of work on revising the Fundamental Law,
- the manufacture and distribution of poll cards,
- the adoption of amendments to the Fundamental Law,
- parliamentary elections,
- presidential elections,
- resumption of the work of the Commission of Inquiry into the tragic events of June 2006 and January and February 2007.

National Council for Transition

- Guinea confirmed that the NCT provided for in the roadmap and adopted by CNDD Presidential Decree No 50 will be established in May 2009.
- The European Union will make sure that the NCT is established as soon as possible and that the rules relating to its composition, mandate and powers reflect an inclusive and consensual approach.
- Guinea confirmed that the National Forum, provided for in the memorandum, is a distinct exercise from the establishment of the NCT and will have no bearing on its actual implementation.

Revision of the Fundamental Law

- The European Union has noted Guinea's intention to ask the NCT to revise the Fundamental Law and certain organic laws, including the electoral code, before the elections.
- The European Union will monitor that this work is confined to essential aspects of the transition and the holding of elections and that it has no adverse impact on the roadmap timetable.

Elections

- Guinea has pledged to comply with the election schedule laid down in the roadmap, i.e. parliamentary elections on 11 October 2009 and two rounds of presidential elections on 13 and 27 December 2009. The European Union will monitor compliance with this schedule.
- Guinea has confirmed the undertaking by the President of the CNDD that he, the members of the CNDD and the Prime Minister of the transitional government will not stand in the elections. The European Union considers this to be a crucial undertaking that must be embodied in a formal decision.
- Regarding the preparation and organisation of the elections, Guinea has specified the following measures to ensure that the elections are free and transparent:
 - the National Independent Election Commission has been made wholly responsible for the organisation and management of the elections by CNDD Presidential decree No 015 of 4 January 2009,
 - Guinea intends to request an international election observation mission and also undertakes to invite representatives of Guinean civil society to assist in the election observation,
 - steps have been taken to give election candidates fair access to the media,
 - the Constitutional Chamber of the Supreme Court will be restored to settle electoral disputes and publish the results of the elections.
- As regards the financing of elections, a detailed budget for each activity will be submitted to the International Contact Group on Guinea for review.

Human rights, rule of law and governance

The European Union has noted the ongoing efforts of the Guinean transitional government to tackle drug-trafficking, impunity and corruption, and its commitment to carry out audits in order to reform public finances. The European Union attaches particular importance in this respect to the Guinean Government's commitment to respect the principles of the rule of law, human rights and good governance, in particular:

- confirmation that no political prisoners are being held,
- the restoration of the Supreme Court's judicial chamber as the higher judicial body of the country,
- respect for the rights of those detained for common law offences, in particular their right to legal representation on being arrested and to a fair trial by the competent legal body,
- respect for the principle of equality before the law,
- repayment to the Treasury of funds recovered through audits so that they can be entered in the national budget accounts,
- resumption of the work of the Commission of Inquiry into the tragic events of June 2006 and January and February 2007 once the newly elected government is in place.

The European Union found the undertakings made by Guinea broadly encouraging but is concerned about the lack of progress in implementing the roadmap. It has therefore decided to adopt the following appropriate measures under Article 96(2)(c) of the Cotonou Agreement with a view to the gradual resumption of cooperation in order to assist in the transition:

1. The European Union will continue to finance humanitarian and emergency operations and measures in direct support of the people of Guinea, to assist in the political transition or aimed at ending the crisis. Note that further support for the preparation of the parliamentary and presidential elections could be provided, in particular through mobilisation of the 10th European Development Fund (EDF) B envelope and, if an invitation is received in due course from the Guinean authorities, through the sending of an election observation mission. The European Commission will also continue to finance ongoing contracts for operations other than the above.
2. The precautionary measures adopted for ongoing projects and programmes under the Ninth and earlier EDFs, excluding projects for the rehabilitation of public buildings and to support decentralisation, will be lifted as soon as an NCT is actually in place, with its mandate, powers and composition agreed by the stakeholders of the transition in Guinea.

3. The precautionary measures adopted for ongoing projects and programmes under the Ninth and earlier EDFs will be completely lifted on publication of the electoral roll and the decree setting the dates for the election and for the official opening of the election campaign and arrangements for guaranteeing freedom of public assembly and to campaign for political parties.
4. The continuation of the International Monetary Fund (IMF) programme and the resumption of the debt relief process under the HIPC (heavily indebted poor countries) initiative could be supported by a contribution of around EUR 8 million from the European Union to clear arrears owed to the European Investment Bank (EIB) on loans from the EDF by mobilising the 10th EDF B envelope. This support can be mobilised as soon as the filing of nominations for the presidential election is officially closed and it is confirmed that the President and members of the CNDD and the Prime Minister of the transitional government are not standing.
5. The Country Strategy Paper and National Indicative Programme for Guinea, for an indicative total of EUR 237 million, will be updated, renegotiated and signed as soon as the parliamentary and presidential elections have been held and the members of the National Assembly appointed. A mid-term review of the 10th EDF, the conclusions of which are scheduled for 2010, will analyse the implementation performance and might agree to a reassessment of Guinea's allocation.

In order to ensure the smooth continuation of cooperation measures, the European Commission reserves the right, if necessary, to take over the duties of the EDF National Authorising Officer, in full or in part, on its own account.

As part of the procedure under Article 96 of the Cotonou Agreement, the European Union will continue to monitor the situation in Guinea closely over a period of 24 months. During this period, an enhanced dialogue will be pursued with the Guinean Government pursuant to Article 8 of the Cotonou Agreement in order to support the process of transition and regular reviews will be conducted involving the Presidency of the European Union and the European Commission. The first monitoring mission will take place within no more than six months.

The European Union reserves the right to amend the 'appropriate measures' described above in the light of progress in the implementation of commitments, particularly those relating to the section on 'Human rights, rule of law and governance'.

The two parties undertake to hold a regular political dialogue under Article 8 of the Cotonou Agreement with the newly elected government on reforms in the area of political, judicial and economic governance and in the security sector.

We have the honour to be, Sir, yours faithfully,

Done at Brussels,

For the Commission

...

For the Council

...

ANNEX: SCHEDULE OF COMMITMENTS

Commitments by partners	
Guinea	European Union
0. Current situation	0. Continuation of financing for humanitarian and emergency operations and measures in direct support of the people of Guinea, to assist in the political transition or aimed at ending the crisis. Possible grant of further support for the preparation of the parliamentary and presidential elections, in particular through mobilisation of the 10th EDF 'B' envelope and, if an invitation is received from the Guinean authorities, through the sending of an election observation mission. The allocation of funding for regional projects covering Guinea will be examined on a case-by-case basis. The precautionary measures relating to other cooperation under the Ninth and earlier EDFs remain in force.
1. Establishment of an NCT, with a mandate, powers and composition agreed by the stakeholders of the transition in Guinea.	1. Lifting of the precautionary measures adopted for ongoing projects and programmes under the Ninth and earlier EDFs, excluding projects for the rehabilitation of public buildings and to support decentralisation.
2. Publication of the electoral roll and the decree setting the dates for the election and for the official opening of the election campaign.	2. Lifting of all precautionary measures under the Ninth and earlier EDFs.
3. Official closing of nominations for the presidential election (confirming that the President and members of the CNDD and the Prime Minister of the transitional government are not standing).	3. Clearance of arrears to the EIB on loans from the EDF by mobilising the 10th EDF 'B' envelope, subject to continuation of the IMF programme and resumption of the debt relief process under the HIPC initiative.
4. The holding of free and transparent parliamentary and legislative elections and appointment of the elected members.	4. Signing of the updated and renegotiated 10th EDF CSP/ NIP.

III

(Acts adopted under the EU Treaty)

ACTS ADOPTED UNDER TITLE V OF THE EU TREATY

POLITICAL AND SECURITY COMMITTEE DECISION EUMM GEORGIA/1/2009

of 31 July 2009

concerning the extension of the mandate of the Head of Mission of the European Union Monitoring Mission in Georgia (EUMM Georgia)

(2009/619/CFSP)

THE POLITICAL AND SECURITY COMMITTEE,

Having regard to the Treaty on European Union, and in particular the third paragraph of Article 25 thereof,

Having regard to Joint Action 2008/736/CFSP of 15 September 2008 on the European Union Monitoring Mission in Georgia (EUMM Georgia) ⁽¹⁾, and in particular Article 10(1) thereof,

Whereas:

(1) Under Article 10(1) of Joint Action 2008/736/CFSP, the Political and Security Committee (PSC) is authorised, in accordance with Article 25 of the Treaty, to take the relevant decisions for the purposes of political control and strategic direction of EUMM Georgia and in particular to appoint a Head of Mission.

(2) On 16 September 2008, upon a proposal by the Secretary-General/High Representative, the PSC appointed by its Decision EUMM/1/2008 ⁽²⁾ Mr Hansjörg HABER as Head of Mission of EUMM Georgia until 15 September 2009.

(3) On 16 July 2009 the Secretary-General/High Representative proposed to the PSC that it extend the mandate of Mr Hansjörg HABER for an additional year, until 15 September 2010,

HAS DECIDED AS FOLLOWS:

Article 1

The mandate of Mr Hansjörg HABER as Head of Mission of the European Union Monitoring Mission in Georgia (EUMM Georgia) is hereby extended until 15 September 2010.

Article 2

This Decision shall take effect on the day of its adoption.

It shall apply until 15 September 2010.

Done at Brussels, 31 July 2009.

For the Political and Security Committee
The Chairperson
O. SKOOG

⁽¹⁾ OJ L 248, 17.9.2008, p. 26.

⁽²⁾ OJ L 319, 29.11.2008, p. 79.

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