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⁽¹⁾ Text with EEA relevance

Price: EUR 3

EN

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

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II

(Non-legislative acts)

REGULATIONS

COMMISSION REGULATION (EU) No 1/2010

of 4 January 2010

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

THE EUROPEAN COMMISSION,

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

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

Having regard to Commission 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 5 January 2010.

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

Done at Brussels, 4 January 2010.

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

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	MA	45,8
	TN	99,9
	TR	86,1
	ZZ	77,3
0707 00 05	EG	196,3
	MA	80,6
	TR	133,3
	ZZ	136,7
0709 90 70	MA	31,0
	TR	98,5
	ZZ	64,8
0805 10 20	EG	57,9
	MA	55,7
	TR	55,5
	ZZ	56,4
0805 20 10	MA	74,9
	ZZ	74,9
0805 20 30, 0805 20 50, 0805 20 70, 0805 20 90	CN	53,3
	IL	67,2
	TR	76,3
	US	75,0
	ZZ	68,0
0805 50 10	TR	75,6
	ZZ	75,6
0808 10 80	CA	101,1
	CN	97,4
	US	95,5
	ZZ	98,0
0808 20 50	US	103,1
	ZZ	103,1

⁽¹⁾ Nomenclature of countries laid down by Commission Regulation (EC) No 1833/2006 (OJ L 354, 14.12.2006, p. 19). Code 'ZZ' stands for 'of other origin'.

COMMISSION REGULATION (EU) No 2/2010**of 4 January 2010****amending the representative prices and additional import duties for certain products in the sugar sector fixed by Regulation (EC) No 877/2009 for the 2009/10 marketing year**

THE EUROPEAN COMMISSION,

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

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

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 2009/10 marketing year are fixed by Commission Regulation (EC) No 877/2009 ⁽³⁾. These prices and duties have been last amended by Commission Regulation (EU) No 1271/2009 ⁽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 877/2009 for the 2009/10, marketing year, are hereby amended as set out in the Annex hereto.

Article 2

This Regulation shall enter into force on 5 January 2010.

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

Done at Brussels, 4 January 2010.

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

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 253, 25.9.2009, p. 3.

⁽⁴⁾ OJ L 339, 22.12.2009, p. 32.

ANNEX

Amended representative prices and additional import duties applicable to white sugar, raw sugar and products covered by CN code 1702 90 95 from 5 January 2010

(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⁾	42,90	0,00
1701 11 90 ⁽¹⁾	42,90	2,03
1701 12 10 ⁽¹⁾	42,90	0,00
1701 12 90 ⁽¹⁾	42,90	1,74
1701 91 00 ⁽²⁾	49,28	2,69
1701 99 10 ⁽²⁾	49,28	0,00
1701 99 90 ⁽²⁾	49,28	0,00
1702 90 95 ⁽³⁾	0,49	0,22

⁽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 (EU) No 3/2010**of 4 January 2010****amending Regulation (EU) No 1290/2009 fixing the import duties in the cereals sector applicable from 1 January 2010**

THE EUROPEAN COMMISSION,

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

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

Having regard to Commission Regulation (EC) No 1249/96 of 28 June 1996 laying down detailed rules for the application of Council Regulation (EEC) No 1766/92 in respect of import duties in the cereals sector ⁽²⁾, and in particular Article 2(1) thereof,

Whereas:

- (1) The import duties in the cereals sector applicable from 1 January 2010 were fixed by Commission Regulation (EU) No 1290/2009 ⁽³⁾.

- (2) As the average of the import duties calculated differs by more than EUR 5/tonne from that fixed, a corresponding adjustment must be made to the import duties fixed by Regulation (EU) No 1290/2009.

- (3) Regulation (EU) No 1290/2009 should therefore be amended accordingly,

HAS ADOPTED THIS REGULATION:

Article 1

Annexes I and II to Regulation (EU) No 1290/2009 are hereby replaced by the text in the Annex to this Regulation.

Article 2

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

It shall apply from 5 January 2010.

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

Done at Brussels, 4 January 2010.

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

Jean-Luc DEMARTY
*Director-General for Agriculture and
Rural Development*

⁽¹⁾ OJ L 299, 16.11.2007, p. 1.

⁽²⁾ OJ L 161, 29.6.1996, p. 125.

⁽³⁾ OJ L 347, 24.12.2009, p. 11.

ANNEX I

Import duties on the products referred to in Article 136(1) of Regulation (EC) No 1234/2007 applicable from 5 January 2010

CN code	Description	Import duties ⁽¹⁾ (EUR/t)
1001 10 00	Durum wheat, high quality	0,00
	medium quality	0,00
	low quality	2,44
1001 90 91	Common wheat seed	0,00
ex 1001 90 99	High quality common wheat, other than for sowing	0,00
1002 00 00	Rye	38,56
1005 10 90	Maize seed other than hybrid	18,00
1005 90 00	Maize, other than seed ⁽²⁾	18,00
1007 00 90	Grain sorghum other than hybrids for sowing	38,56

⁽¹⁾ For goods arriving in the Community via the Atlantic Ocean or via the Suez Canal the importer may benefit, under Article 2(4) of Regulation (EC) No 1249/96, from a reduction in the duty of:

- 3 EUR/t, where the port of unloading is on the Mediterranean Sea, or
- 2 EUR/t, where the port of unloading is in Denmark, Estonia, Ireland, Latvia, Lithuania, Poland, Finland, Sweden, the United Kingdom or the Atlantic coast of the Iberian peninsula.

⁽²⁾ The importer may benefit from a flatrate reduction of EUR 24 per tonne where the conditions laid down in Article 2(5) of Regulation (EC) No 1249/96 are met.

ANNEX II

Factors for calculating the duties laid down in Annex I

31.12.2009

1. Averages over the reference period referred to in Article 2(2) of Regulation (EC) No 1249/96:

(EUR/t)

	Common wheat ⁽¹⁾	Maize	Durum wheat, high quality	Durum wheat, medium quality ⁽²⁾	Durum wheat, low quality ⁽³⁾	Barley
Exchange	Minneapolis	Chicago	—	—	—	—
Quotation	150,20	109,83	—	—	—	—
Fob price USA	—	—	135,93	125,93	105,93	98,22
Gulf of Mexico premium	—	8,71	—	—	—	—
Great Lakes premium	7,46	—	—	—	—	—

⁽¹⁾ Premium of 14 EUR/t incorporated (Article 4(3) of Regulation (EC) No 1249/96).⁽²⁾ Discount of 10 EUR/t (Article 4(3) of Regulation (EC) No 1249/96).⁽³⁾ Discount of 30 EUR/t (Article 4(3) of Regulation (EC) No 1249/96).

2. Averages over the reference period referred to in Article 2(2) of Regulation (EC) No 1249/96:

Freight costs: Gulf of Mexico–Rotterdam: 22,39 EUR/t

Freight costs: Great Lakes–Rotterdam: — EUR/t

DECISIONS

COMMISSION DECISION

of 23 December 2009

on the renewal of the mandate of the European Group on Ethics in Science and New Technologies

(2010/1/EU)

THE EUROPEAN COMMISSION,

Article 2

Mission

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

The task of the EGE shall be to advise the Commission on ethical questions relating to sciences and new technologies, either at the request of the Commission or on its own initiative. The Parliament and the Council may draw the Commission's attention to questions which they consider to be of major ethical importance. The Commission shall, when seeking the opinion of the EGE, set a time limit within which such an opinion shall be given.

Whereas:

Article 3

Composition — Nomination — Appointment

- (1) In November 1991, the European Commission decided to incorporate ethics into the decision-making process for Community research and technological development policies by setting up the Group of Advisers on the Ethical Implications of Biotechnology (GAEIB).
- (2) The Commission decided on 16 December 1997 to replace the GAEIB by the European Group on Ethics in Science and New Technologies (EGE) extending the Group's mandate to cover all areas of the application of science and technology.
- (3) The EGE's mandate, with a slightly modified remit, was renewed by Commission Decision of 26 March 2001 for a four-year period (C(2001) 691).
- (4) The current EGE's mandate was decided on 11 May 2005 (Commission Decision 2005/383/EC ⁽¹⁾), and extended by Commission Decision 2009/757/EC ⁽²⁾.
- (5) It is now appropriate to renew the mandate for a period of five years and thus to appoint the new members; the present Decision, however, does not prejudice the possibility for the new Commission to review the substance of the mandate.
- (6) The following decision replaces Decision 2009/757/EC,

1. The EGE members are appointed by the President of the Commission.

2. The following rules will apply:

— members are nominated *ad personam*. Members serve in a personal capacity and are asked to advise the Commission independently from any outside influence. The EGE shall be independent, pluralist and multidisciplinary,

— the EGE shall have up to 15 members,

— each member of the EGE shall be appointed for a term of five years. Such appointment may be renewable for a maximum of two further terms,

— the identification and selection of the EGE members will be made on the basis of an open call for expressions of interest. Additional applications received through other channels will also be taken into consideration in the selection procedure,

HAS ADOPTED THIS DECISION:

Article 1

The Commission hereby decides to renew the mandate of the European Group on Ethics in Science and New Technologies (EGE) for a five-year period.

— the list of EGE members shall be published by the Commission in the *Official Journal of the European Union*,

— suitable candidates who are not nominated members shall be placed on a reserve list,

⁽¹⁾ OJ L 127, 20.5.2005, p. 17.

⁽²⁾ OJ L 270, 15.10.2009, p. 18.

— where a member is no longer capable of contributing efficiently to the work of the group, or resigns, the President may appoint a replacement member from the reserve list, for the remaining duration of the original member's mandate.

Article 4

Functioning

1. The EGE members shall elect a chairperson and a vice-chairperson from among its members for the duration of the term of office.

2. The EGE Work Programme, including such ethical reviews suggested on its own initiative by the EGE, shall be agreed by the President of the Commission. The Bureau of European Policy Advisers (BEPA) of the Commission, acting in close cooperation with the EGE's chairperson, shall be responsible for organising the work of the EGE and its Secretariat.

3. The EGE's working sessions shall be private. Outside these working sessions the EGE may discuss its work with concerned Commission departments and may invite representatives of NGOs or representative organisations when appropriate for an exchange of views. The agenda for the EGE meetings will be distributed to relevant Commission services.

4. The EGE will normally meet at the Commission's seat according to the modalities and the calendar fixed by the Commission. The EGE should meet at least six times during a 12-month period involving around 12 working days a year. Members are expected to attend a minimum of four meetings a year.

5. For the purposes of preparing its opinions and within the limits of the available resources for this action, the EGE:

- may invite experts having a specific competence, to guide and inform the work of the EGE if this is deemed useful and/or necessary,
- may initiate studies in order to collect all necessary scientific and technical information,
- may set up working groups to consider specific issues,
- shall organise a public round table in order to promote dialogue and improve transparency for each opinion that it produces,

— shall establish close links with the Commission departments involved in the topic the Group is working on,

— may establish closer links with representatives of the various ethics bodies in the European Union and in the applicant countries.

6. Every opinion shall be published immediately after its adoption. Where an opinion is not adopted unanimously, it shall include any dissenting point of view. Where there is an operational requirement for advice to be given more quickly on a particular subject, short statements will be produced, to be followed if necessary by a fuller analysis, while ensuring that transparency is respected as for any other opinion. EGE opinions always refer to the state of the art of the technology at the time the opinion is issued. The EGE may decide to update opinions if it deems it necessary.

7. The EGE shall adopt its own rules of procedure.

8. A report on the EGE's activities shall be produced under the responsibility of the chairperson before the end of its term of office. The report shall be published.

Article 5

Meeting expenses

Travel and subsistence expenses for the meetings of the EGE shall be covered by the Commission according to Commission rules.

Article 6

Entry into force

The present decision will be published in the *Official Journal of the European Union* and shall enter into force on the day of the nomination of the new EGE members. It shall replace Decision 2009/757/EC.

Done at Brussels, 23 December 2009.

For the Commission

The President

José Manuel BARROSO

COMMISSION DECISION

of 24 December 2009

determining, pursuant to Directive 2003/87/EC of the European Parliament and of the Council, a list of sectors and subsectors which are deemed to be exposed to a significant risk of carbon leakage*(notified under document C(2009) 10251)***(Text with EEA relevance)**

(2010/2/EU)

THE EUROPEAN COMMISSION,

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

Having regard to Directive 2003/87/EC of the European Parliament and of the Council of 13 October 2003 establishing a scheme for greenhouse gas emission allowance trading within the Community and amending Council Directive 96/61/EC ⁽¹⁾, and in particular Article 10a(13) thereof,

Whereas:

(1) Directive 2003/87/EC, as amended by Directive 2009/29/EC of the European Parliament and of the Council ⁽²⁾, provides that auctioning should be the basic principle for allocation of greenhouse gas emission allowances.

(2) The Union supports an ambitious international agreement on climate change that aims to limit the global temperature increase to 2 °C. In the event that other developed countries and other major emitters of greenhouse gases do not participate in that international agreement, this could lead to an increase in greenhouse gas emissions in third countries where industry would not be subject to comparable carbon constraints ('carbon leakage') and undermine the environmental integrity and benefit of actions by the Union. To address the risk of carbon leakage, Directive 2003/87/EC provides that, subject to the outcome of the international negotiations, the Union should allocate allowances free of charge at 100 % of the quantity determined in accordance with the measures referred to in Article 10a(1) of Directive 2003/87/EC to sectors or sub-sectors deemed to be exposed to a significant risk of carbon leakage.

(3) By 31 December 2009 and every five years thereafter, the Commission shall determine a list of the sectors or

subsectors deemed to be exposed to a significant risk of carbon leakage, hereinafter 'list of sectors and subsectors', on the basis of the criteria referred to in paragraphs 14 to 17 of Article 10a of Directive 2003/87/EC.

(4) According to Article 10a(14) of Directive 2003/87/EC, in order to determine the sectors or subsectors deemed to be exposed to a significant risk of carbon leakage the Commission shall assess, at Union level, the extent to which it is possible for the sector or subsector concerned, at the relevant level of disaggregation, to pass on the direct cost of the required allowances and the indirect costs from higher electricity prices resulting from the implementation of Directive 2003/87/EC into product prices without significant loss of market share to less carbon efficient installations outside the Union. These assessments shall be based on an average carbon price according to the Commission's impact assessment accompanying the package of implementation measures for the Union's objectives on climate change and renewable energy for 2020 and, if available, trade, production and value added data from the three most recent years for each sector or subsector.

(5) In accordance with Article 10a(15) of Directive 2003/87/EC, a sector or subsector shall be deemed to be exposed to a significant risk of carbon leakage if the sum of direct and indirect additional costs induced by the implementation of that Directive would lead to a substantial increase of production costs, calculated as a proportion of the gross value added, of at least 5 %; and the intensity of trade with third countries, defined as the ratio between the total value of exports to third countries plus the value of imports from third countries and the total market size for the Union (annual turnover plus total imports from third countries), is above 10 %. In accordance with Article 10a(16) of Directive 2003/87/EC, a sector or subsector is also deemed to be exposed to a significant risk of carbon leakage if the sum of direct and indirect additional costs induced by the implementation of Directive 2003/87/EC would lead to a particularly high increase of production costs, calculated as a proportion of the gross value added, of at least 30 %, or the intensity of trade with third countries, defined as the ratio between the total value of exports to third countries plus the value of imports from third countries and the total market size for the Union (annual turnover plus total imports from third countries), is above 30 %.

⁽¹⁾ OJ L 275, 25.10.2003, p. 32.

⁽²⁾ OJ L 140, 5.6.2009, p. 63.

- (6) In order to establish the list of sectors and subsectors which are deemed to be exposed to a significant risk of carbon leakage, the risk of carbon leakage should be assessed, as a starting point, at a 3-digit level (NACE-3 level) or, where appropriate and where the data is available, at a 4-digit level (NACE-4 level). Sectors and subsectors should be included in the list of sectors and subsectors using the most accurate NACE description. Some sectors not found to be exposed to a significant risk of carbon leakage at the NACE 4-level were disaggregated and a number of corresponding sub-sectors, for which certain characteristics led to a significantly different impact from the rest of the sector, were assessed.
- (7) Information necessary for making the determination on the basis of the criteria referred to in paragraphs 14 to 17 of Article 10a of Directive 2003/87/EC was collected, as of December 2008, from Member States, Eurostat, publicly and commercially available sources and industry associations. Information not provided by Member States or any other official sources has been verified. Confidential data processed by Eurostat have also been used.
- (8) The data in the 'Community Independent Transaction Log' (CITL) are considered to be the most accurate, reliable and transparent estimation of CO₂ emissions for sectors, the activities of which were in Annex I to Directive 2003/87/EC, prior to amendment by Directive 2009/29/EC, and have therefore been used as the main source to calculate the direct cost of the allowances for those sectors.
- (9) As regards process emissions of new activities and greenhouse gases included in Annex I to Directive 2003/87/EC, as amended by Directive 2009/29/EC, for some sectors with a substantial number of small installations or installations which were excluded in periods 2005-2007 and 2008-2012 of the emissions trading scheme, or for which no CITL data was available, or where emissions could not be attributed at NACE-4 level, data have been collected from Member States and from the greenhouse gas inventory of the Union for the relevant years. As regards the assessment of electricity consumption used for the calculation of indirect cost from higher electricity prices, no data is available from Eurostat, and the data collected directly from Member States can be considered as the most reliable data available. Regarding the estimation of gross value added, data from the Eurostat Structural Business Statistics have been used as it is considered to be the most accurate source. The data reported by Eurostat in the Comext database on trade between Member States and with third countries are considered as the most reliable data on the total values of exports to third countries and imports from third countries, as well as on the total annual turnover in the Union.
- (10) The assessments were based on the average carbon price according to the impact assessment of the Commission accompanying the package of implementation measures for objectives of the Union on climate change and renewable energy for 2020 ⁽¹⁾. The resulting carbon price from the most relevant scenario including Joint Implementation and Clean Development Mechanism credits is EUR 30 per tonne of CO₂ equivalent.
- (11) In order to assess the direct additional costs induced by the implementation of Directive 2003/87/EC, it is necessary to take into account the amount of allowances that the sector would be required to purchase if not deemed to be exposed to significant risk of carbon leakage. In accordance with Article 10a(11) of that Directive the amount of allowances allocated free of charge to such sectors in 2013 is to be 80 % of the quantity determined in accordance with Article 10a(1) and this amount is to decrease each year by equal amounts resulting in 30 % free allocation in 2020 with a view to reaching 0 % free allocation in 2027. The starting point for the benchmarks determined under Article 10a(1) is the average performance of the 10 % most efficient installations in the sector or subsector in the Union in the years 2007-2008 and they shall take into account the most efficient techniques, substitutes and alternative production processes.
- (12) The benchmarks to be determined in accordance with Article 10a(1) of Directive 2003/87/EC are to be adopted only by the end of 2010. Assessment of direct costs on the basis of those benchmarks can therefore only be taken into account on the occasion of revision of the list of sectors and subsectors. It is thus necessary to estimate the amount of allowances which need to be allocated free of charge in order to determine the list of sectors and subsectors. These estimates have to be made at Union level and for the years 2013 and 2014. The best estimate, for the purposes of this Decision and reflecting the stringent requirements for benchmarks and the application of the linear reduction factor, is that 75 % of allowances for non-exposed sectors will need to be purchased in 2013 and 2014.
- (13) The assessment of indirect cost was based on the Union average emission factor for electricity of 0,465 tonnes of CO₂ per MWh according to the Model-based Analysis of the 2008 EU Policy Package on Climate Change and Renewables ⁽²⁾ used for the impact assessment of the Commission accompanying the package of implementation measures for objectives of the Union on climate
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- ⁽¹⁾ http://ec.europa.eu/energy/climate_actions/doc/2008_res_ia_en.pdf
- ⁽²⁾ P. Capros et al., *Model-based Analysis of the 2008 EU Policy Package on Climate Change and Renewables*, Primes Model — E3MLab/NTUA, June 2008;
http://ec.europa.eu/environment/climat/pdf/climat_action/analysis.pdf

change and renewable energy for 2020. The use of an average Union value is appropriate as it is consistent with the requirement to perform the assessment at Union level and as it reflects the actual emissions linked to the electricity production in the Union.

(14) According to Article 10a(17) of Directive 2003/87/EC, the list may be supplemented after completion of a qualitative assessment, where the relevant data is available, taking into account the extent to which it is possible for individual installations in the sector or subsector concerned to reduce emission levels or electricity consumption, including, as appropriate, the increase in production costs that the related investment may entail, for instance on the basis of the most efficient techniques; current and projected market characteristics, including when trade exposure or direct and indirect cost increase rates are close to one of the thresholds; and profit margins as a potential indicator of long-run investment or relocation decisions.

(15) A qualitative assessment has been carried out on a number of sectors and subsectors that were not deemed to be exposed to carbon leakage based on the quantitative criteria set out in paragraphs 14 and 15 of Article 10a of Directive 2003/87/EC. The qualitative assessment was mainly applied to sectors not sufficiently represented in the quantitative assessment, and to sectors considered to be borderline cases or for which statistics were absent or of poor quality, and for which Member States or industry representatives had requested a qualitative analysis, based on plausible reasoning and substantiated requests. Following that assessment, some of the sectors analysed should be deemed as exposed to a significant risk of carbon leakage. The additional sectors and subsectors that have been added to the list are specified separately in the third section of the Annex to this Decision.

(16) Other sectors and subsectors, which, under the given time constraints, have not been completely analysed on this occasion or for which data quality and availability was limited, such as for manufacture of bricks and roof tiles, will be reassessed as soon as possible according to Article 10a(13) of the Directive and — subject to the outcome of the analysis — added to the list.

(17) A qualitative assessment has been carried out on the sector of 'Finishing of textiles' (NACE code 1730), primarily due to the fact that no official trade data at Union level is available to assess trade intensity and that all other textile sectors are highly trade intensive. The assessment demonstrated increased international competitive pressure, significant drop in production in the Union over the last years and negative or only very modest profit margins for the years evaluated, which limit the capacity of installations to invest and reduce emissions. Based on the combined impact of those

factors, the sector should be deemed as exposed to a significant risk of carbon leakage.

(18) A qualitative assessment has been carried out on the sector of 'Manufacture of veneer sheets; manufacture of plywood, laminated board, particle board, fibre board and other panels and boards' (NACE code 2020). The assessment demonstrated limited scope to reduce emissions without significant increase in costs, challenging market characteristics, such as high price sensitivity and increasing trend in imports from low cost manufacturing countries, and significant impact of additional costs due to implementation of Directive 2003/87/EC on the profit margins, limiting the capacity of installations to invest and reduce emissions. Based on the combined impact of those factors, the sector should be deemed as exposed to a significant risk of carbon leakage.

(19) A qualitative assessment has been carried out on the sector of 'Manufacture of plastics in primary forms' (NACE code 2416). With respect to current market characteristics, the assessment demonstrated a high level of integration with other parts of the chemical industry, which are deemed to be exposed to a significant risk of carbon leakage; prices set at the world market impeding unilateral price increases, and distortions of the world or Union market due to unfair commercial practices from producers in certain third countries. As regards the projected market characteristics, while already close to the 30 % trade intensity threshold, the sector experiences a strong increase in imports which will continue mainly due to large new investments in the Middle East. Based on the combined impact of those factors, the sector should be deemed as exposed to a significant risk of carbon leakage.

(20) A qualitative assessment has been carried out on the sector of 'Casting of iron' (NACE code 2751), primarily due to the fact that no official trade data at Union level are available to assess trade intensity, as the main casting products are split into different groups in the Eurostat Comext database. The assessment demonstrated limited abatement potential due to partly unavoidable process-related emissions and limited capacity to invest in abatement technologies due to significant impact of additional costs resulting from the implementation of Directive 2003/87/EC on profit margins. With respect to market characteristics, the market concentration is low, while a high level of concentration exists in the client sectors. This implies limited potential for the sector to pass through additional costs. Existing trade data from alternative sources also indicate that the casting production is increasingly traded internationally. Based on the combined impact of those factors, the sector should be deemed as exposed to a significant risk of carbon leakage.

(21) A qualitative assessment has been carried out on the sector of 'Casting of light metals' (NACE code 2753), primarily due to the fact that no official trade data at Union level are available to assess trade intensity, as the main casting products are split into different groups in the Eurostat Comext database. With respect to market characteristics, the assessment demonstrated low market concentration and high dependence on demand from one concentrated client sector. This implies limited potential for the sector to pass through additional costs. Moreover, the sector experienced losses or only very modest margins in the evaluated years, which adversely affects the capacity to investment in abatement technologies, and which could be further exacerbated by the additional costs. Existing trade data from alternative sources also indicate that the casting production is increasingly traded internationally. Based on the combined impact of those factors, the sector should be deemed as exposed to a significant risk of carbon leakage.

(22) When determining the list of sectors and subsectors, account should be taken, where the relevant data is available, of the extent to which third countries, representing a decisive share of global production in sectors or subsectors deemed to be at risk of carbon leakage, firmly commit to reducing greenhouse gas emissions in those sectors or subsectors to an extent comparable to that of the Union and within the same time frame, and the extent to which the carbon efficiency of installations located in those countries is comparable to that of the Union. At the current stage, only Norway, Iceland and Switzerland have made such commitments, and they do not together represent a decisive share of global production in the sectors or subsectors which are deemed to be at significant risk of carbon leakage. As regards the carbon efficiency, the relevant data necessary for the assessment is not available due to incomparability of statistical definitions and general lack of global data at the required level of disaggregation and sectoral detail. Therefore, the criteria set out in Article 10a(18) of Directive 2003/87/EC had no effect on the list of sectors and subsectors.

(23) The assessment on which the list of sectors and subsectors is based has covered all NACE-codes from 1010 up to and including 3720, thus covering mining, quarrying and manufacturing sectors. Certain other industrial sectors, falling outside this range of NACE codes, but whose stationary installations are potentially

covered by the EU ETS provisions on carbon leakage, will be analysed by the Commission during 2010. If any such industrial sector satisfies the criteria in paragraphs 14 to 17 of Article 10a of Directive 2003/87/EC it will be added to the list in the annual update.

(24) This list applies for the years 2013-2014, subject to the outcome of the international negotiations.

(25) Various stakeholders, including Member States, industry associations, environmental non-governmental organisations and academics have been consulted on the list of sectors and subsectors and information on the process was made available on the website of the Commission ⁽¹⁾.

(26) The measures provided for in this Decision are in accordance with the opinion of the Climate Change Committee,

HAS ADOPTED THIS DECISION:

Article 1

The sectors and subsectors listed in the Annex shall be deemed to be exposed to a significant risk of carbon leakage.

Certain other industrial sectors, falling outside range of the assessed NACE codes (from 1010 to including 3720), but potentially covered by the EU ETS provisions on carbon leakage, will be analysed by the Commission during 2010. If any such industrial sector satisfies the criteria in paragraphs 14 to 17 of Article 10a of Directive 2003/87/EC it will be added to the list in the annual update.

Article 2

This Decision is addressed to the Member States.

Done at Brussels, 24 December 2009.

For the Commission

Stavros DIMAS

Member of the Commission

⁽¹⁾ http://ec.europa.eu/environment/climat/emission/carbon_en.htm

ANNEX

Sectors and subsectors which, pursuant to Article 10a(13) of Directive 2003/87/EC, are deemed to be exposed to a significant risk of carbon leakage

1. AT THE NACE-4 LEVEL

1.1. **BASED ON THE QUANTITATIVE CRITERIA SET OUT IN PARAGRAPHS 15 AND 16 OF ARTICLE 10a OF DIRECTIVE 2003/87/EC**

NACE Code	Description
1010	Mining and agglomeration of hard coal
1430	Mining of chemical and fertilizer minerals
1597	Manufacture of malt
1711	Preparation and spinning of cotton-type fibres
1810	Manufacture of leather clothes
2310	Manufacture of coke oven products
2413	Manufacture of other inorganic basic chemicals
2414	Manufacture of other organic basic chemicals
2415	Manufacture of fertilizers and nitrogen compounds
2417	Manufacture of synthetic rubber in primary forms
2710	Manufacture of basic iron and steel and of ferro-alloys
2731	Cold drawing
2742	Aluminium production
2744	Copper production
2745	Other non-ferrous metal production
2931	Manufacture of agricultural tractors

1.2. **BASED ON THE QUANTITATIVE CRITERIA SET OUT IN PARAGRAPH 15 OF ARTICLE 10a OF DIRECTIVE 2003/87/EC**

NACE Code	Description
1562	Manufacture of starches and starch products
1583	Manufacture of sugar
1595	Manufacture of other non-distilled fermented beverages
1592	Production of ethyl alcohol from fermented materials
2112	Manufacture of paper and paperboard
2320	Manufacture of refined petroleum products
2611	Manufacture of flat glass
2613	Manufacture of hollow glass
2630	Manufacture of ceramic tiles and flags
2721	Manufacture of cast iron tubes
2743	Lead, zinc and tin production

1.3. BASED ON THE QUANTITATIVE CRITERIA SET OUT IN POINT (a) OF ARTICLE 10a(16) OF DIRECTIVE 2003/87/EC

NACE Code	Description
2651	Manufacture of cement
2652	Manufacture of lime

1.4. BASED ON THE QUANTITATIVE CRITERIA SET OUT IN POINT (b) OF ARTICLE 10a(16) OF DIRECTIVE 2003/87/EC

NACE Code	Description
1110	Extraction of crude petroleum and natural gas
1310	Mining of iron ores
1320	Mining of non-ferrous metal ores, except uranium and thorium ores
1411	Quarrying of ornamental and building stone
1422	Mining of clays and kaolin
1450	Other mining and quarrying n.e.c.
1520	Processing and preserving of fish and fish products
1541	Manufacture of crude oils and fats
1591	Manufacture of distilled potable alcoholic beverages
1593	Manufacture of wines
1712	Preparation and spinning of woollen-type fibres
1713	Preparation and spinning of worsted-type fibres
1714	Preparation and spinning of flax-type fibres
1715	Throwing and preparation of silk, including from noils, and throwing and texturing of synthetic or artificial filament yarns
1716	Manufacture of sewing threads
1717	Preparation and spinning of other textile fibres
1721	Cotton-type weaving
1722	Woollen-type weaving
1723	Worsted-type weaving
1724	Silk-type weaving
1725	Other textile weaving
1740	Manufacture of made-up textile articles, except apparel
1751	Manufacture of carpets and rugs
1752	Manufacture of cordage, rope, twine and netting
1753	Manufacture of non-wovens and articles made from non-wovens, except apparel
1754	Manufacture of other textiles n.e.c.
1760	Manufacture of knitted and crocheted fabrics
1771	Manufacture of knitted and crocheted hosiery
1772	Manufacture of knitted and crocheted pullovers, cardigans and similar articles
1821	Manufacture of workwear
1822	Manufacture of other outerwear
1823	Manufacture of underwear
1824	Manufacture of other wearing apparel and accessories n.e.c.

NACE Code	Description
1830	Dressing and dyeing of fur; manufacture of articles of fur
1910	Tanning and dressing of leather
1920	Manufacture of luggage, handbags and the like, saddlery and harness
1930	Manufacture of footwear
2010	Sawmilling and planing of wood; impregnation of wood
2052	Manufacture of articles of cork, straw and plaiting materials
2111	Manufacture of pulp
2124	Manufacture of wallpaper
2215	Other publishing
2330	Processing of nuclear fuel
2412	Manufacture of dyes and pigments
2420	Manufacture of pesticides and other agro-chemical products
2441	Manufacture of basic pharmaceutical products
2442	Manufacture of pharmaceutical preparations
2452	Manufacture of perfumes and toilet preparations
2463	Manufacture of essential oils
2464	Manufacture of photographic chemical material
2465	Manufacture of prepared unrecorded media
2466	Manufacture of other chemical products n.e.c.
2470	Manufacture of man-made fibres
2511	Manufacture of rubber tyres and tubes
2615	Manufacture and processing of other glass, including technical glassware
2621	Manufacture of ceramic household and ornamental articles
2622	Manufacture of ceramic sanitary fixtures
2623	Manufacture of ceramic insulators and insulating fittings
2624	Manufacture of other technical ceramic products
2625	Manufacture of other ceramic products
2626	Manufacture of refractory ceramic products
2681	Production of abrasive products
2722	Manufacture of steel tubes
2741	Precious metals production
2861	Manufacture of cutlery
2862	Manufacture of tools
2874	Manufacture of fasteners, screw machine products, chain and springs
2875	Manufacture of other fabricated metal products n.e.c.
2911	Manufacture of engines and turbines, except aircraft, vehicle and cycle engines
2912	Manufacture of pumps and compressors
2913	Manufacture of taps and valves
2914	Manufacture of bearings, gears, gearing and driving elements
2921	Manufacture of furnaces and furnace burners
2923	Manufacture of non-domestic cooling and ventilation equipment
2924	Manufacture of other general purpose machinery n.e.c.

NACE Code	Description
2932	Manufacture of other agricultural and forestry machinery
2941	Manufacture of portable hand held power tools
2942	Manufacture of other metalworking machine tools
2943	Manufacture of other machine tools n.e.c.
2951	Manufacture of machinery for metallurgy
2952	Manufacture of machinery for mining, quarrying and construction
2953	Manufacture of machinery for food, beverage and tobacco processing
2954	Manufacture of machinery for textile, apparel and leather production
2955	Manufacture of machinery for paper and paperboard production
2956	Manufacture of other special purpose machinery n.e.c.
2960	Manufacture of weapons and ammunition
2971	Manufacture of electric domestic appliances
3001	Manufacture of office machinery
3002	Manufacture of computers and other information processing equipment
3110	Manufacture of electric motors, generators and transformers
3120	Manufacture of electricity distribution and control apparatus
3130	Manufacture of insulated wire and cable
3140	Manufacture of accumulators, primary cells and primary batteries
3150	Manufacture of lighting equipment and electric lamps
3162	Manufacture of other electrical equipment n.e.c.
3210	Manufacture of electronic valves and tubes and other electronic components
3220	Manufacture of television and radio transmitters and apparatus for line telephony and line telegraphy
3230	Manufacture of television and radio receivers, sound or video recording or reproducing apparatus and associated goods
3310	Manufacture of medical and surgical equipment and orthopaedic appliances
3320	Manufacture of instruments and appliances for measuring, checking, testing, navigating and other purposes, except industrial process control equipment
3340	Manufacture of optical instruments and photographic equipment
3350	Manufacture of watches and clocks
3511	Building and repairing of ships
3512	Building and repairing of pleasure and sporting boats
3530	Manufacture of aircraft and spacecraft
3541	Manufacture of motorcycles
3542	Manufacture of bicycles
3543	Manufacture of invalid carriages
3550	Manufacture of other transport equipment n.e.c.
3621	Striking of coins
3622	Manufacture of jewellery and related articles n.e.c.
3630	Manufacture of musical instruments
3640	Manufacture of sports goods
3650	Manufacture of games and toys

NACE Code	Description
3661	Manufacture of imitation jewellery
3662	Manufacture of brooms and brushes
3663	Other manufacturing n.e.c.

2. BEYOND NACE-4 LEVEL BASED ON THE QUANTITATIVE CRITERIA SET OUT IN PARAGRAPHS 15 AND 16 OF ARTICLE 10a OF DIRECTIVE 2003/87/EC

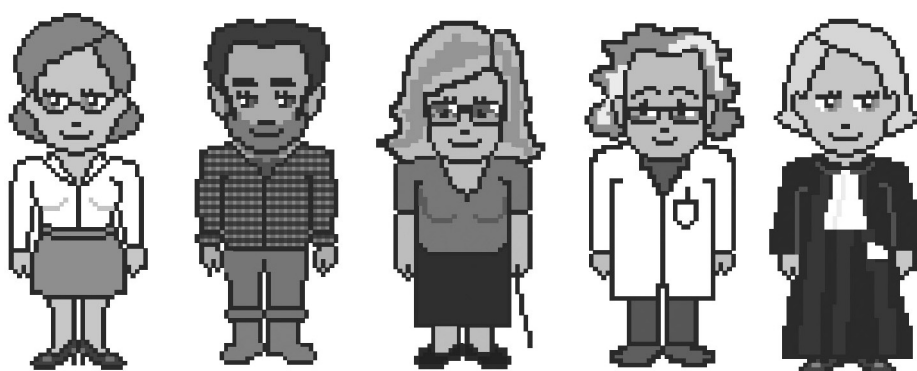
Prodcom Code	Description
15331427	Concentrated tomato puree and paste
155120	Milk and cream in solid forms
155153	Casein
155154	Lactose and lactose syrup
15891333	Dry bakers' yeast
24111150	Hydrogen (including the production of hydrogen in combination with syngas).
24111160	Nitrogen
24111170	Oxygen
243021	Prepared pigments, opacifiers and colours, vitrifiable enamels and glazes, engobes, liquid lustres and the like; glass frit
24621030	Gelatin and its derivatives; isinglass (excluding casein glues and bone glues)
261411	Slivers, rovings, yarn and chopped strands, of glass fibre
26821400	Artificial graphite, colloidal, semi-colloidal graphite and preparations
26821620	Exfoliated vermiculite, expanded clays, foamed slag and similar expanded mineral materials and mixtures thereof

3. AT NACE-4 LEVEL BASED ON THE QUALITATIVE CRITERIA SET OUT IN PARAGRAPH 17 OF ARTICLE 10a OF DIRECTIVE 2003/87/EC

NACE Code	Description
1730	Finishing of textiles
2020	Manufacture of veneer sheets; manufacture of plywood, laminboard, particle board, fibre board and other panels and boards
2416	Manufacture of plastics in primary forms
2751	Casting of iron
2753	Casting of light metals

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