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Contents

II *Non-legislative acts*

REGULATIONS

★ Commission Regulation (EU) No 29/2010 of 14 January 2010 entering a designation in the register of traditional specialities guaranteed (Skilandis (TSG))	1
★ Commission Regulation (EU) No 30/2010 of 14 January 2010 entering a name in the register of protected designations of origin and protected geographical indications [PESCA di Verona (PGI)]	3
★ Commission Regulation (EU) No 31/2010 of 14 January 2010 entering a designation in the register of traditional specialities guaranteed [Idrijski žlikrofi (TSG)]	5
★ Commission Regulation (EU) No 32/2010 of 14 January 2010 entering a name in the register of protected designations of origin and protected geographical indications [Jihočeská Zlatá Niva (PGI)]	7
★ Commission Regulation (EU) No 33/2010 of 12 January 2010 amending Annex I to Council Regulation (EEC) No 2658/87 on the tariff and statistical nomenclature and on the Common Customs Tariff	9
Commission Regulation (EU) No 34/2010 of 14 January 2010 establishing the standard import values for determining the entry price of certain fruit and vegetables	10

Price: EUR 3

(Continued overleaf)

EN

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

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

Commission Regulation (EU) No 35/2010 of 14 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	12
---	----

DIRECTIVES

★ Council Directive 2009/162/EU of 22 December 2009 amending various provisions of Directive 2006/112/EC on the common system of value added tax	14
--	----

IV Acts adopted before 1 December 2009 under the EC Treaty, the EU Treaty and the Euratom Treaty

★ European Investment Bank — Decision of the Board of Governors of 30 March 2009 on the increase in the capital of the European Investment Bank	19
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II

(Non-legislative acts)

REGULATIONS

COMMISSION REGULATION (EU) No 29/2010

of 14 January 2010

entering a designation in the register of traditional specialities guaranteed (Skilandis (TSG))

THE EUROPEAN COMMISSION,

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

Having regard to Council Regulation (EC) No 509/2006 of 20 March 2006 on agricultural products and foodstuffs as traditional specialities guaranteed ⁽¹⁾, and in particular the first subparagraph of Article 9(4) thereof,

Whereas:

- (1) In accordance with the first subparagraph of Article 8(2) of Regulation (EC) No 509/2006, and pursuant to Article 19(3) of the same Regulation, the application submitted by Lithuania to enter the name 'Skilandis' in the register was published in the *Official Journal of the European Union* ⁽²⁾.

- (2) As no objection under Article 9 of Regulation (EC) No 509/2006 has been received by the Commission, this designation should be entered in the register.

- (3) Protection as referred to in Article 13(2) of Regulation (EC) No 509/2006 has not been requested,

HAS ADOPTED THIS REGULATION:

Article 1

The name contained in the Annex to this Regulation is hereby entered in the Register.

*Article 2*This Regulation shall enter into force on the 20th day following its publication in the *Official Journal of the European Union*.

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

Done at Brussels, 14 January 2010.

*For the Commission**The President*

José Manuel BARROSO

⁽¹⁾ OJ L 93, 31.3.2006, p. 1.

⁽²⁾ OJ C 106, 8.5.2009, p. 27.

ANNEX

Products listed in Annex I to the EC Treaty, intended for human consumption:

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

LITHUANIA

Skilandis (TSG)

COMMISSION REGULATION (EU) No 30/2010**of 14 January 2010****entering a name in the register of protected designations of origin and protected geographical indications [PESCA di Verona (PGI)]**

THE EUROPEAN COMMISSION,

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

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

Whereas:

- (1) Pursuant to the first subparagraph of Article 6(2) of Regulation (EC) No 510/2006, Italy's application to register the name 'PESCA di Verona' was published in the *Official Journal of the European Union* ⁽²⁾.

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

HAS ADOPTED THIS REGULATION:

Article 1

The name contained in the Annex to this Regulation is hereby entered in the Register.

*Article 2*This Regulation shall enter into force on the 20th day following its publication in the *Official Journal of the European Union*.

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

Done at Brussels, 14 January 2010.

*For the Commission**The President*

José Manuel BARROSO

⁽¹⁾ OJ L 93, 31.3.2006, p. 12.

⁽²⁾ OJ C 130, 9.6.2009, p. 12.

ANNEX

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

Class 1.6. Fruit, vegetables and cereals, fresh or processed

ITALY

PESCA di Verona (PGI)

COMMISSION REGULATION (EU) No 31/2010**of 14 January 2010****entering a designation in the register of traditional specialities guaranteed [Idrijski žlikrofi (TSG)]**

THE EUROPEAN COMMISSION,

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

Having regard to Council Regulation (EC) No 509/2006 of 20 March 2006 on agricultural products and foodstuffs as traditional specialities guaranteed ⁽¹⁾, and in particular the first subparagraph of Article 9(4) thereof,

Whereas:

(1) In accordance with the first subparagraph of Article 8(2) of Regulation (EC) No 509/2006, and pursuant to Article 19(3) of the same Regulation, the application submitted by Slovenia to enter the designation 'Idrijski žlikrofi' in the register was published in the *Official Journal of the European Union* ⁽²⁾.

(2) As no objection under Article 9 of Regulation (EC) No 509/2006 has been received by the Commission, this designation should be entered in the register.

(3) The application also requested protection under Article 13(2) of Regulation (EC) No 509/2006. That protection should be granted to the name 'Idrijski žlikrofi' in so far as, in the absence of objections, it could not be demonstrated that the name is used in a lawful, renowned and economically significant manner for similar agricultural products or foodstuffs,

HAS ADOPTED THIS REGULATION:

Article 1

The name contained in the Annex to this Regulation is hereby entered in the Register.

Protection as referred to in Article 13(2) of Regulation (EC) No 509/2006 shall apply.

Article 2

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

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

Done at Brussels, 14 January 2010.

For the Commission

The President

José Manuel BARROSO

⁽¹⁾ OJ L 93, 31.3.2006, p. 1.

⁽²⁾ OJ C 104, 6.5.2009, p. 11.

ANNEX

Foodstuffs referred to in Annex I to Regulation (EC) No 509/2006:

Class 2.4. Pasta, whether or not cooked or stuffed

SLOVENIA

Idrijski žlikrofi (TSG)

The use of the designation is reserved.

COMMISSION REGULATION (EU) No 32/2010

of 14 January 2010

entering a name in the register of protected designations of origin and protected geographical indications [Jihočeská Zlatá Niva (PGI)]

THE EUROPEAN COMMISSION,

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

Having regard to Council Regulation (EC) No 510/2006 of 20 March 2006 on the protection of geographical indications and designations of origin for agricultural products and foodstuffs ⁽¹⁾, and in particular the third and fourth subparagraphs of Article 7(5) thereof,

Whereas:

- (1) Pursuant to Article 6(2) and in accordance with Article 17(2) of Regulation (EC) No 510/2006, the Czech Republic's application to register the name 'Jihočeská Zlatá Niva' was published in the *Official Journal of the European Union* ⁽²⁾.
- (2) Slovakia submitted an objection to the registration under Article 7(1) of Regulation (EC) No 510/2006. The objection was deemed admissible under points (b) and (c) of the first subparagraph of Article 7(3) of that Regulation.
- (3) Slovakia indicated in the objection that the registration of the name in question would be contrary to Article 3(4) of Regulation (EC) No 510/2006 and would jeopardise the existence of trademarks registered on the territory of Slovakia.
- (4) By a letter dated 24 June 2008, the Commission asked the Member States concerned to seek agreement among themselves in accordance with their internal procedures.
- (5) Given that no agreement was reached between Slovakia and the Czech Republic within the designated timeframe, the Commission must adopt a decision in accordance with the procedure outlined in Article 15(2) of Regulation (EC) No 510/2006.

(6) In the light of the information provided by Slovakia, the Commission cannot conclude that the registration of the name 'Jihočeská Zlatá Niva' would be contrary to Article 3(4) of Regulation (EC) No 510/2006. While the objector may have shown evidence that the name 'Jihočeská Zlatá Niva' can be associated with a name 'Niva', no evidence has been provided of the degree of distinctiveness the trademark acquired due to its reputation, renown and the length of time it was used. Therefore, on the basis of the information available, it has not been shown that the registration of 'Jihočeská Zlatá Niva' would be liable to mislead consumers as to the true identity of the product.

(7) No evidence has been presented which would allow the Commission to conclude that having regard to the fair and traditional usage and the actual likelihood of confusion, registration of the name 'Jihočeská Zlatá Niva' as a protected geographical indication would run counter to the provisions laid down in Article 7. According to the evidence presented to the Commission, the term 'Niva' was used in a generic way for a type of cheese, within the Czech and Slovak Republic, since tens of years. Moreover, registration of the said name as a protected geographical indication would not require the cancellation or invalidation of the trade marks, since they were applied for prior to the date of submission of the registration application to the Commission, nor hinder continued use of the same. Furthermore, according to the information available to the Commission, the exclusive right of the proprietor of the said trade marks would not entitle him to prohibit a third party from using, in the course of trade and in accordance with honest practices in industrial or commercial matters, an indication concerning geographical origin pursuant to Article 6 of Directive 2008/95/EC of the European Parliament and of the Council of 22 October 2008 to approximate the laws of the Member States relating to trade ⁽³⁾.

(8) In the light of the above, the name 'Jihočeská Zlatá Niva' should be entered in the 'Register of protected designations of origin and protected geographical indications'.

(9) The measures provided for in this Regulation are in accordance with the opinion of the Standing Committee on Protected Geographical Indications and Protected Designations of Origin,

⁽¹⁾ OJ L 93, 31.3.2006, p. 12.

⁽²⁾ OJ C 249, 24.10.2007, p. 31.

⁽³⁾ OJ L 299, 8.11.2008, p. 25.

HAS ADOPTED THIS REGULATION:

Article 1

The designation contained in the Annex to this Regulation shall be entered in the register.

Article 2

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

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

Done at Brussels, 14 January 2010.

For the Commission

The President

José Manuel BARROSO

ANNEX

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

Class 1.3. Cheeses

CZECH REPUBLIC

Jihočeská Zlatá Niva (PGI)

COMMISSION REGULATION (EU) No 33/2010**of 12 January 2010****amending Annex I to Council Regulation (EEC) No 2658/87 on the tariff and statistical nomenclature and on the Common Customs Tariff**

THE EUROPEAN COMMISSION,

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

Having regard to Council Regulation (EEC) No 2658/87 of 23 July 1987 on the tariff and statistical nomenclature and on the Common Customs Tariff⁽¹⁾, and in particular Article 9(1)(a) thereof,

Whereas:

- (1) For the classification of footwear with uppers consisting of two or more materials, in application of Note 4 (a) together with Additional note 1 to Chapter 64 of the Combined Nomenclature annexed to Regulation (EEC) No 2658/87, the second sentence of Additional note 1 to Chapter 64 should be clarified by stating how to verify whether given materials have the characteristics of an upper.
- (2) In its judgment in case C-165/07, *Skatteministeriet v Ecco Sko A/S* ⁽²⁾, the Court of Justice of the European Union has introduced a 'walking test' for the purpose of that verification. The test requires verification whether the materials of the upper provide sufficient support for the foot to enable the wearer to walk in the footwear.
- (3) It is therefore appropriate to specify in Additional note 1 to Chapter 64 that for materials to have the characteristics of an upper, they must support the foot sufficiently to enable the wearer to walk in the footwear.
- (4) In its judgment the Court does not specify whether the 'walking test' is to be carried out with or without the fastening straps. The Court leaves it to the national referring court to make the necessary findings. The fact that it depends on the way in which the leather is

removed, whether the fastening straps stay in place or not, may lead to divergent interpretations of the judgment.

- (5) In order to obtain uniform interpretation as far as the fastening systems are concerned, it is necessary to specify in Additional note 1 to Chapter 64 that fastening systems have to stay in place during the test. Otherwise, in the case of footwear that requires a fastening system, for example laces, to function, the walking test would fail with any material, because the wearer could never walk with it lacking its fastening system.
- (6) Regulation (EEC) No 2658/87 should therefore be amended accordingly.
- (7) The measures provided for in this Regulation are in accordance with the opinion of the Customs Code Committee,

HAS ADOPTED THIS REGULATION:

Article 1

In Additional note 1 to Chapter 64 of the Combined Nomenclature annexed to Regulation (EEC) No 2658/87, the second sentence of the first paragraph is replaced by the following:

'After the removal of reinforcements, the visible material must have the characteristics of an upper and not lining, supporting the foot sufficiently to enable the wearer, with the original fastening systems in place, to walk in the footwear.'

Article 2

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

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

Done at Brussels, 12 January 2010.

For the Commission,
On behalf of the President,
László KOVÁCS
Member of the Commission

⁽¹⁾ OJ L 256, 7.9.1987, p. 1.

⁽²⁾ [2008] ECR, p. I-4037.

COMMISSION REGULATION (EU) No 34/2010
of 14 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 15 January 2010.

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

Done at Brussels, 14 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	IL	122,3
	MA	71,6
	TN	110,6
	TR	84,4
	ZZ	97,2
0707 00 05	EG	174,9
	JO	158,2
	MA	76,9
	TR	105,7
	ZZ	128,9
0709 90 70	MA	166,7
	TR	93,1
	ZZ	129,9
0709 90 80	EG	225,1
	ZZ	225,1
0805 10 20	EG	53,3
	IL	57,5
	MA	51,7
	TN	56,6
	TR	53,8
	ZZ	54,6
0805 20 10	MA	97,3
	ZZ	97,3
0805 20 30, 0805 20 50, 0805 20 70, 0805 20 90	CN	51,6
	EG	67,7
	HR	59,0
	IL	70,6
	JM	115,8
	MA	83,8
	TR	65,5
	ZZ	73,4
0805 50 10	EG	63,9
	IL	88,6
	MA	65,5
	TR	76,4
	US	87,7
	ZZ	76,4
0808 10 80	CN	94,2
	MK	24,7
	US	110,6
	ZZ	76,5
0808 20 50	CN	63,4
	US	113,8
	ZZ	88,6

⁽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 35/2010**of 14 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 23/2010 ⁽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 15 January 2010.

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

Done at Brussels, 14 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 8, 13.1.2010, p. 7.

ANNEX

Amended representative prices and additional import duties applicable to white sugar, raw sugar and products covered by CN code 1702 90 95 from 15 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⁾	44,86	0,00
1701 11 90 ⁽¹⁾	44,86	1,45
1701 12 10 ⁽¹⁾	44,86	0,00
1701 12 90 ⁽¹⁾	44,86	1,15
1701 91 00 ⁽²⁾	50,52	2,31
1701 99 10 ⁽²⁾	50,52	0,00
1701 99 90 ⁽²⁾	50,52	0,00
1702 90 95 ⁽³⁾	0,51	0,21

⁽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.

DIRECTIVES

COUNCIL DIRECTIVE 2009/162/EU

of 22 December 2009

amending various provisions of Directive 2006/112/EC on the common system of value added tax

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty on the Functioning of the European Union, and in particular Article 113 thereof,

Having regard to the proposal from the Commission,

Having regard to the Opinion of the European Parliament ⁽¹⁾,

Having regard to the opinion of the European Economic and Social Committee ⁽²⁾,

Acting in accordance with a special legislative procedure,

Whereas:

(1) Council Directive 2006/112/EC of 28 November 2006 on the common system of value added tax ⁽³⁾ should be amended in order to incorporate various amendments of a primarily technical nature.

(2) Regarding the provisions on imports and the place where the supply of gas and electricity is taxed, the text of Directive 2006/112/EC, taken literally, means that the special scheme set up under Council Directive 2003/92/EC of 7 October 2003 amending Directive 77/388/EEC as regards the rules on the place of supply of gas and electricity ⁽⁴⁾ does not apply to imports or supplies of gas transported through pipelines that are

not part of the distribution system, and in particular, does not apply to the pipelines of the transmission system by which a large number of cross-border transactions through pipelines are nevertheless carried out. However, the purpose of Directive 2003/92/EC was to apply the special scheme also to those cross-border transactions. In order to bring the letter of the text into line with its purpose, it should therefore be specified that the special scheme does apply to imports and supplies of gas through any natural gas system situated within the territory of the Community or any network connected to such system.

(3) Gas imported by vessels is identical in terms of its characteristics to that imported through pipelines and is intended, following re-gasification, for transportation through pipelines. For reasons of neutrality, the exemption should therefore apply to imports by vessels where the gas is fed into a natural gas system or any upstream pipeline network.

(4) The first cross-border heating and cooling networks are already operational. The same issues that apply to the supply and import of gas or electricity also apply to the supply and import of heat or cooling energy. Under the current rules, VAT on natural gas and electricity is levied at the place where they are actually consumed by the customer; the rules thus prevent any distortion of competition between Member States. Consequently, the same scheme that applies to natural gas and electricity should apply to heat and cooling energy.

(5) Regarding the place where VAT is levied on services, the text of Directive 2006/112/EC, taken literally, means that the special scheme set up under Directive 2003/92/EC applies only to the supply of access to the natural gas and electricity distribution systems and thus excludes supplies of the same kind relating to a transmission system, or even an upstream pipeline network. However, the purpose of Directive 2003/92/EC was to apply the special scheme also to those supplies. In order to bring the letter of the text into line with its purpose, it should therefore be specified that the special scheme applies to all services relating to the supply of access to all natural gas and electricity systems or networks and to heating and cooling networks.

⁽¹⁾ Opinion of the European Parliament of 8 July 2008 (not yet published in the Official Journal) and Opinion of the European Parliament of 24 November 2009 (not yet published in the Official Journal).

⁽²⁾ OJ C 204, 9.8.2008, p. 119.

⁽³⁾ OJ L 347, 11.12.2006, p. 1.

⁽⁴⁾ OJ L 260, 11.10.2003, p. 8.

- (6) Experience gained during the recent implementation of the current procedure, whereby the Commission is charged with deciding whether a risk of distortion of competition exists as a result of the application of a reduced VAT rate to natural gas, electricity and district heating, has demonstrated that the procedure is obsolete and superfluous. The rules for determining the place of taxation ensure that VAT is levied at the place where the natural gas, electricity, heat and cooling energy are actually consumed by the customer; the rules thus prevent any distortion of competition between Member States. Nevertheless, it is still important that the Commission and the other Member States be properly informed whenever a Member State introduces a reduced rate in this very sensitive sector. Consequently, a prior consultation procedure involving the VAT Committee is needed.
- (7) The Protocol of 8 April 1965 on the privileges and immunities of the European Communities as a legal basis for the exemption, through remittance or refund of indirect taxes, afforded to the Communities and certain Community agencies and other bodies with respect to certain purchases made for their official use, is specific and should be distinguished from the legal basis for the exemption from VAT on certain transactions benefiting international bodies in general. It is therefore appropriate to further clarify the wording of Directive 2006/112/EC and to include provision for a specific exemption, which may be exercised by means of a refund of the tax, thereby avoiding certain difficulties with respect to the application of the exemption to bodies set up by the Communities, in particular certain joint undertakings established in accordance with Article 187 of the Treaty.
- (8) In the context of their accession, Bulgaria and Romania were authorised to grant an exemption to small enterprises and to continue applying an exemption to the international transport of passengers. For purposes of clarity and consistency, these exemptions should be incorporated into Directive 2006/112/EC.
- (9) Regarding the right of deduction, the basic rule is that this right arises only in so far as the goods and services are used by a taxable person for the purposes of his business activity.
- (10) This rule should be clarified and strengthened with respect to the supply of immovable property and expenditure relating thereto in order to ensure that taxable persons are dealt with in an identical manner whenever immovable goods that they use for their business activity are not used exclusively for purposes related to that activity.
- (11) Whilst immovable property and related expenditure account for the most significant cases where a clarification and strengthening of the rule is appropriate, given the value and economic lifetime of such property and the fact that mixed use of this type of property is a common practice, the issue also arises, though in a less significant and less uniform manner, with respect to movable goods with a durable nature. In accordance with the principle of subsidiarity, Member States should therefore be given the means to take the same measures with respect to such movable goods that form part of the business assets where appropriate.
- (12) With a view to ensuring an equitable deduction system for taxable persons in the context of the new rules, an adjustment system in accordance with the other rules on adjustment of deductions should be provided for which takes into account changes in the business and non-business use of the property concerned.
- (13) Directive 2006/112/EC should therefore be amended accordingly,

HAS ADOPTED THIS DIRECTIVE:

Article 1

Directive 2006/112/EC is hereby amended as follows:

1. Article 2(3) shall be replaced by the following:

‘3. “Products subject to excise duty” shall mean energy products, alcohol and alcoholic beverages and manufactured tobacco, as defined by current Community legislation, but not gas supplied through a natural gas system situated within the territory of the Community or any network connected to such a system.’;

2. Article 13(2) shall be replaced by the following:

‘2. Member States may regard activities, exempt under Articles 132, 135, 136 and 371, Articles 374 to 377, Article 378(2), Article 379(2) or Articles 380 to 390b, engaged in by bodies governed by public law as activities in which those bodies engage as public authorities.’;

3. Article 15(1) shall be replaced by the following:

‘1. Electricity, gas, heat or cooling energy and the like shall be treated as tangible property.’;

4. Article 17(2), point (d) shall be replaced by the following:

‘(d) the supply of gas through a natural gas system situated within the territory of the Community or any network connected to such a system, the supply of electricity or the supply of heat or cooling energy through heating or cooling networks, in accordance with the conditions laid down in Articles 38 and 39;’

5. Section 4 of Chapter 1 of Title V shall be replaced by the following:

Section 4

Supplies of gas through a natural gas system, of electricity and of heat or cooling energy through heating and cooling networks

Article 38

1. In the case of the supply of gas through a natural gas system situated within the territory of the Community or any network connected to such a system, the supply of electricity, or the supply of heat or cooling energy through heating or cooling networks to a taxable dealer, the place of supply shall be deemed to be the place where that taxable dealer has established his business or has a fixed establishment for which the goods are supplied or, in the absence of such a place of business or fixed establishment, the place where he has his permanent address or usually resides.

2. For the purposes of paragraph 1, “taxable dealer” shall mean a taxable person whose principal activity in respect of purchases of gas, electricity, heat or cooling energy is reselling those products and whose own consumption of those products is negligible.

Article 39

In the case of the supply of gas through a natural gas system situated within the territory of the Community or any network connected to such a system, the supply of electricity or the supply of heat or cooling energy through heating or cooling networks, where such a supply is not covered by Article 38, the place of supply shall be deemed to be the place where the customer effectively uses and consumes the goods.

Where all or part of the gas, electricity or heat or cooling energy is not effectively consumed by the customer, those non-consumed goods shall be deemed to have been used and consumed at the place where the customer has established his business or has a fixed establishment for

which the goods are supplied. In the absence of such a place of business or fixed establishment, the customer shall be deemed to have used and consumed the goods at the place where he has his permanent address or usually resides.’;

6. Article 59, point (h), as established by Directive 2008/8/EC of 12 February 2008 amending Directive 2006/112/EC as regards the place of supply of services ⁽¹⁾, shall be replaced by the following:

‘(h) the provision of access to a natural gas system situated within the territory of the Community or to any network connected to such a system, to the electricity system or to heating or cooling networks, or the transmission or distribution through these systems or networks, and the provision of other services directly linked thereto;’

7. in Article 80(1)(b), the words ‘Articles 380 to 390’ shall be replaced by ‘Articles 380 to 390b’;

8. Article 102 shall be replaced by the following:

Article 102

After consultation of the VAT Committee, each Member State may apply a reduced rate to the supply of natural gas, electricity or district heating.’;

9. in Article 136(a), the words ‘Articles 380 to 390’ shall be replaced by ‘Articles 380 to 390b’;

10. Article 143(1) shall be amended as follows:

(a) the following point shall be added after point (f):

‘(fa) the importation of goods by the European Community, the European Atomic Energy Community, the European Central Bank or the European Investment Bank, or by the bodies set up by the Communities to which the Protocol of 8 April 1965 on the privileges and immunities of the European Communities applies, within the limits and under the conditions of that Protocol and the agreements for its implementation or the headquarters agreements, in so far as it does not lead to distortion of competition;’

⁽¹⁾ OJ L 44, 20.2.2008, p. 11.

(b) point (g) shall be replaced by the following:

‘(g) the importation of goods by international bodies, other than those referred to in point (fa), recognised as such by the public authorities of the host Member State, or by members of such bodies, within the limits and under the conditions laid down by the international conventions establishing the bodies or by headquarters agreements;’;

(c) point (l) shall be replaced by the following:

‘(l) the importation of gas through a natural gas system or any network connected to such a system or fed in from a vessel transporting gas into a natural gas system or any upstream pipeline network, of electricity or of heat or cooling energy through heating or cooling networks;’;

11. Article 151(1) shall be amended as follows:

(a) the following point shall be added after point (a):

‘(aa) the supply of goods or services to the European Community, the European Atomic Energy Community, the European Central Bank or the European Investment Bank, or to the bodies set up by the Communities to which the Protocol of 8 April 1965 on the privileges and immunities of the European Communities applies, within the limits and under the conditions of that Protocol and the agreements for its implementation or the headquarters agreements, in so far as it does not lead to distortion of competition;’;

(b) point (b) shall be replaced by the following:

‘(b) the supply of goods or services to international bodies, other than those referred to in point (aa), recognised as such by the public authorities of the host Member States, and to members of such bodies, within the limits and under the conditions laid down by the international conventions establishing the bodies or by headquarters agreements;’;

12. the following Article shall be inserted in Chapter 1 of Title X:

‘Article 168a

1. In the case of immovable property forming part of the business assets of a taxable person and used both for purposes of the taxable person's business and for his private use or that of his staff, or, more generally, for purposes other than those of his business, VAT on expenditure related to this property shall be deductible in accordance with the principles set out in Articles 167, 168, 169 and 173 only up to the proportion of the property's use for purposes of the taxable person's business.

By way of derogation from Article 26, changes in the proportion of use of immovable property referred to in the first subparagraph shall be taken into account in accordance with the principles provided for in Articles 184 to 192 as applied in the respective Member State.

2. Member States may also apply paragraph 1 in relation to VAT on expenditure related to other goods forming part of the business assets as they specify.’;

13. in Article 221(2), the words ‘Articles 380 to 390’ shall be replaced by ‘Articles 380 to 390b’;

14. in Article 287, the following points shall be added:

‘(17) Bulgaria: EUR 25 600;

(18) Romania: EUR 35 000.’;

15. the following Articles shall be inserted in Section 2 of Chapter 1 of Title XIII:

‘Article 390a

Bulgaria may, in accordance with the conditions applying in that Member State on the date of its accession, continue to exempt the international transport of passengers as referred to in point 10 of Annex X, Part B, for as long as the same exemption is applied in any of the Member States which were members of the Community on 31 December 2006.

Article 390b

Romania may, in accordance with the conditions applying in that Member State on the date of its accession, continue to exempt the international transport of passengers, as referred to in point 10 of Annex X, Part B, for as long as the same exemption is applied in any of the Member States which were members of the Community on 31 December 2006.’;

16. in Article 391, the words 'Articles 380 to 390' shall be replaced by 'Articles 380 to 390b';

17. in Annex X, the title shall be replaced by the following:

'LIST OF TRANSACTIONS COVERED BY THE DEROGATIONS REFERRED TO IN ARTICLES 370 AND 371 AND ARTICLES 375 TO 390b'.

Article 2

Transposition

1. Member States shall bring into force the laws, regulations and administrative provisions necessary to comply with this Directive with effect from 1 January 2011. They shall forthwith inform the Commission thereof.

When they are adopted by Member States, those measures shall contain a reference to this Directive or shall be accompanied by

such reference on the occasion of their official publication. The methods of making such reference shall be laid down by Member States.

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

Article 3

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

Article 4

This Directive is addressed to the Member States.

Done at Brussels, 22 December 2009.

For the Council

The President

A. CARLGREN

IV

(Acts adopted before 1 December 2009 under the EC Treaty, the EU Treaty and the Euratom Treaty)

EUROPEAN INVESTMENT BANK
DECISION OF THE BOARD OF GOVERNORS
of 30 March 2009
on the increase in the capital of the European Investment Bank

THE BOARD OF GOVERNORS OF THE EUROPEAN INVESTMENT BANK,

HAVING REGARD to Articles 4(3) and 5(2) of the Statute,

WHEREAS the task of the Bank is set out in Article 267 of the Treaty establishing the European Community,

WHEREAS according to Article 4(1), second subparagraph, of the Bank's Statute the unit of account shall be defined as being the euro,

WHEREAS the recent development of the Bank's activity and the likely evolution of lending, in particular with a view to respond to the European and Ecofin Councils' invitations, requires an increasing EIB support for a range of activities, particularly against the current outlook of the economic situation in the EU over the coming years,

WHEREAS according to the deliberations of the Board of Directors on the Bank's requirements for capital at its meeting on 16 December 2008, the subscribed capital of the Bank should be increased to EUR 232 392 989 000; the portion to be paid in should be 5 percent, funded entirely by the Bank from its Additional Reserves, and the Reserve Fund should progressively be rebuilt up to its statutory requirement of 10 percent of subscribed capital,

UNANIMOUSLY DECIDED on 30 March 2009, using the written procedure provided for in Article 5 of the Bank's Rules of Procedure, on a proposal from the Board of Directors, in accordance with Article 4(3) of the EIB's Statute that:

1. Additional Reserves of the Bank in the amount of EUR 5 379 241 000 shall be considered as free reserves;
2. Of the free reserves, EUR 2 000 000 000 shall be transferred to a dedicated reserve to support SFF and similar undertakings;
3. With effect from 1 April 2009, the capital of the Bank shall be increased as follows:
 - 3.1. The capital subscribed by the Member States shall be raised pro rata, from EUR 164 808 169 000 to EUR 232 392 989 000, so as to arrive at the following amounts (EUR):

Germany	37 578 019 000
France	37 578 019 000
Italy	37 578 019 000
United Kingdom	37 578 019 000

Spain	22 546 811 500
Belgium	10 416 365 500
Netherlands	10 416 365 500
Sweden	6 910 226 000
Denmark	5 274 105 000
Austria	5 170 732 500
Poland	4 810 160 500
Finland	2 970 783 000
Greece	2 825 416 500
Portugal	1 820 820 000
Czech Republic	1 774 990 500
Hungary	1 679 222 000
Ireland	1 318 525 000
Romania	1 217 626 000
Slovakia	604 206 500
Slovenia	560 951 500
Bulgaria	410 217 500
Lithuania	351 981 000
Luxembourg	263 707 000
Cyprus	258 583 500
Latvia	214 805 000
Estonia	165 882 000
Malta	98 429 500

3.2. Of the free reserves, EUR 3 379 241 000 shall be transformed into paid-in capital by the way of transfer from the Bank's Additional Reserves to its capital;

3.3. This capital shall be deemed to be part of the subscribed and paid-in capital, so increasing the Bank's paid-in capital from EUR 8 240 408 450 to EUR 11 619 649 450;

CONSEQUENTLY

3.4. The Bank's Statute shall be amended. As from 1 April 2009, the first subparagraph of Article 4(1) of the Bank's Statute shall read as follows:

'The capital of the Bank shall be EUR 232 392 989 000, subscribed by the Member States as follows

Germany	37 578 019 000
France	37 578 019 000
Italy	37 578 019 000
United Kingdom	37 578 019 000
Spain	22 546 811 500
Belgium	10 416 365 500
Netherlands	10 416 365 500

Sweden	6 910 226 000
Denmark	5 274 105 000
Austria	5 170 732 500
Poland	4 810 160 500
Finland	2 970 783 000
Greece	2 825 416 500
Portugal	1 820 820 000
Czech Republic	1 774 990 500
Hungary	1 679 222 000
Ireland	1 318 525 000
Romania	1 217 626 000
Slovakia	604 206 500
Slovenia	560 951 500
Bulgaria	410 217 500
Lithuania	351 981 000
Luxembourg	263 707 000
Cyprus	258 583 500
Latvia	214 805 000
Estonia	165 882 000
Malta	98 429 500'

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

For the Board of Governors

The Chairman

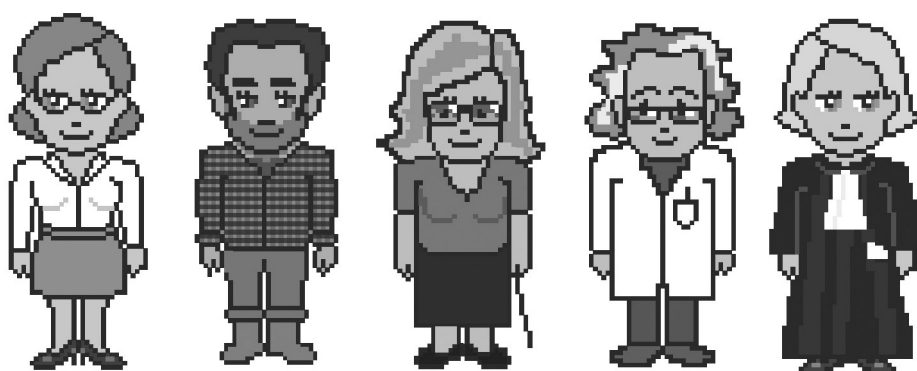
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The Secretary

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