

Official Journal

of the European Union

L 149



English edition

Legislation

Volume 53

15 June 2010

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Price: EUR 3

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⁽¹⁾ Text with EEA relevance

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II

(Non-legislative acts)

REGULATIONS

COMMISSION REGULATION (EU) No 505/2010

of 14 June 2010

amending Annex II to Regulation (EC) No 854/2004 of the European Parliament and of the Council laying down specific rules for the organisation of official controls on products of animal origin intended for human consumption

(Text with EEA relevance)

THE EUROPEAN COMMISSION,

sification of production areas is based on the presence of certain microorganisms related to faecal contamination.

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

Having regard to Regulation (EC) No 854/2004 of the European Parliament and of the Council of 29 April 2004 laying down specific rules for the organisation of official controls on products of animal origin intended for human consumption ⁽¹⁾, and in particular Article 17(1) thereof,

Whereas:

(1) Regulation (EC) No 854/2004 lays down specific rules for the organisation of official controls on products of animal origin intended for human consumption.

(2) Regulation (EC) No 854/2004 provides that Member States are to ensure that the production and placing on the market of live bivalve molluscs and, by analogy, live echinoderms, live tunicates and live marine gastropods undergo official controls as described in Annex II. Chapter II of that Annex sets out provisions concerning classification of production areas and monitoring of such areas.

(3) Production areas are classified according to the level of faecal contamination. Filter feeders animals, as bivalve molluscs, can accumulate micro-organisms representing a risk for public health. This is the reason why the clas-

(4) Marine gastropods are generally not filter feeding animals, consequently the risk to accumulate micro-organisms related to faecal contamination should be considered as remote. Moreover, no epidemiological information has been reported to link the provisions for classification of production areas with risks for public health associated with not filter feeding marine gastropods.

(5) Taking into account this scientific progress, such marine gastropods, which are not filter feeders, should be excluded from provisions on the classification of production areas.

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

HAS ADOPTED THIS REGULATION:

Article 1

Annex II to Regulation (EC) No 854/2004 is amended in accordance with the Annex to this Regulation.

Article 2

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

⁽¹⁾ OJ L 139, 30.4.2004, p. 206.

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

Done at Brussels, 14 June 2010.

For the Commission
The President
José Manuel BARROSO

ANNEX

Annex II to Regulation (EC) No 854/2004 is amended as follows:

'CHAPTER III: OFFICIAL CONTROLS CONCERNING PECTINIDAE AND LIVE MARINE GASTROPODS NOT FILTER FEEDERS HARVESTED OUTSIDE CLASSIFIED PRODUCTION AREAS

Official controls on pectinidae and live marine gastropods, which are not filter feeders, harvested outside classified production areas are to be carried out in fish auctions, dispatch centres and processing establishments.

Such official controls are to verify compliance with the health standards for live bivalve molluscs laid down in Annex III, Section VII, Chapter V, to Regulation (EC) No 853/2004 as well as compliance with other requirements of Annex III, Section VII, Chapter IX to that Regulation.'

COMMISSION REGULATION (EU) No 506/2010**of 14 June 2010****amending the Annex to Council Regulation (EC) No 21/2004 as regards ovine and caprine animals kept in zoos****(Text with EEA relevance)**

THE EUROPEAN COMMISSION,

the purpose of exhibiting the animals in zoos to the public as they may affect the authentic look of the animals, in particular exotic species.

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

Having regard to Council Regulation (EC) No 21/2004 of 17 December 2003 establishing a system for the identification and registration of ovine and caprine animals and amending Regulation (EC) No 1782/2003 and Directives 92/102/EEC and 64/432/EEC ⁽¹⁾, and in particular the first subparagraph of Article 10(1) thereof,

(5) With a view to a reduction of administrative burdens and to the specific nature of zoo animals, i.e. the very limited number of animals concerned and their special purpose of exhibition, it would be proportionate to allow derogations from specific elements of Regulation (EC) No 21/2004 concerning identification, and more precisely the obligation to use visible or electronic identifiers.

Whereas:

(1) Article 1 of Regulation (EC) No 21/2004 provides that each Member State shall establish a system for the identification and registration of ovine and caprine animals in accordance with the provisions of that Regulation.

(6) It is therefore appropriate to allow for the competent authorities of the Member States to exempt ovine and caprine animals that are kept in and moved between zoos which are approved in accordance with Article 13(2) of Directive 92/65/EEC from the obligation to use visible or electronic identifiers, in so far as the animals in question are already individually identifiable and traceable on the basis of the provisions of that Directive. However, in case the animals are moved to any holding other than an approved zoo they need to be identified in accordance with Article 4(1) of Regulation (EC) No 21/2004.

(2) The aim of Regulation (EC) No 21/2004 is to ensure individual traceability of ovine and caprine animals throughout their lifetime. In accordance with Article 4(2) and Section A of the Annex to that Regulation, these animals shall be identified by visible identifiers, such as an eartag, a mark on the pastern or a tattoo.

(7) Section A of the Annex to Regulation (EC) No 21/2004 should therefore be amended accordingly.

(3) Specific animal health requirements for exotic animals kept in zoos are provided for under Council Directive 92/65/EEC of 13 July 1992 laying down animal health requirements governing trade in and imports into the Community of animals, semen, ova and embryos not subject to animal health requirements laid down in specific Community rules referred to in Annex A(I) to Directive 90/425/EEC ⁽²⁾. That Directive also sets out provisions on identification and record keeping, which means that most of the ovine and caprine animals that are kept in approved zoos are already subject to requirements aiming at individual identification and traceability.

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

(4) Furthermore, the vast majority of ovine and caprine animals that are kept in zoos belong to exotic species. Visible identifiers, however, might be impracticable for

HAS ADOPTED THIS REGULATION:

Article 1

The Annex to Regulation (EC) No 21/2004 is amended in accordance with the Annex to this Regulation.

Article 2

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

⁽¹⁾ OJ L 5, 9.1.2004, p. 8.

⁽²⁾ OJ L 268, 14.9.1992, p. 54.

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

Done at Brussels, 14 June 2010.

For the Commission
The President
José Manuel BARROSO

ANNEX

In Section A of the Annex to Regulation (EC) No 21/2004, the following point is added after point 7:

- '8. By way of derogation, to the identification requirement provided for in Article 4(1), the competent authority may decide that the provisions of Section A shall not apply to ovine and caprine animals kept in and moved between zoos approved in accordance with Article 13(2) of Council Directive 92/65/EEC (*), provided that the animals are individually identified and traceable.

(*) OJ L 268, 14.9.1992, p. 54.'

COMMISSION REGULATION (EU) No 507/2010**of 11 June 2010****amending for the 129th time Council Regulation (EC) No 881/2002 imposing certain specific restrictive measures directed against certain persons and entities associated with Usama bin Laden, the Al-Qaida network and the Taliban**

THE EUROPEAN COMMISSION,

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

Having regard to Council Regulation (EC) No 881/2002 of 27 May 2002 imposing certain specific restrictive measures directed against certain persons and entities associated with Usama bin Laden, the Al-Qaida network and the Taliban, and repealing Council Regulation (EC) No 467/2001 prohibiting the export of certain goods and services to Afghanistan, strengthening the flight ban and extending the freeze of funds and other financial resources in respect of the Taliban of Afghanistan, ⁽¹⁾ and in particular Articles 7(1)(a) and 7a(5) ⁽²⁾ thereof,

Whereas:

- (1) Annex I to Regulation (EC) No 881/2002 lists the persons, groups and entities covered by the freezing of funds and economic resources under that Regulation.

- (2) On 4 June 2010 the Sanctions Committee of the United Nations Security Council decided to remove one natural person from its list of persons, groups and entities to whom the freezing of funds and economic resources should apply.

- (3) Annex I should therefore be amended accordingly,

HAS ADOPTED THIS REGULATION:

Article 1

Annex I to Regulation (EC) No 881/2002 is hereby amended as set out in the Annex to this Regulation.

Article 2

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

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

Done at Brussels, 11 June 2010.

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

João VALE DE ALMEIDA
Director-General for External Relations

⁽¹⁾ OJ L 139, 29.5.2002, p. 9.

⁽²⁾ Article 7a was inserted by Council Regulation (EU) No 1286/2009 (OJ L 346, 23.12.2009, p. 42).

ANNEX

Annex I to Regulation (EC) No 881/2002 is amended as follows:

The following entry under the heading 'Natural persons' is deleted:

'Mohamed **El Mahfoudi**. Address: via Puglia 22, Gallarate (Varese), Italy. Date of birth: 24.9.1964. Place of birth: Agadir, Morocco. Other information: (a) fiscal code: LMH MMD 64P24 Z330F, (b) sentenced on 3.12.2004 by Milan's first instance Court to 1 year and 4 months imprisonment with suspended sentence following "Abbreviated trial procedure". The appeal process was pending at Milan's Court of appeal as of September 2007. He was in Morocco as of September 2007.'

COMMISSION REGULATION (EU) No 508/2010**of 14 June 2010****prohibiting fishing activities for purse seiners flying the flag of or registered in Spain, fishing for bluefin tuna in the Atlantic ocean, east of longitude of 45° W, and in the Mediterranean sea**

THE EUROPEAN COMMISSION,

HAS ADOPTED THIS REGULATION:

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

Having regard to Council Regulation (EC) No 1224/2009 of 20 November 2009 establishing a Community control system for ensuring compliance with the rules of the common fisheries policy ⁽¹⁾, and in particular Article 36(2) thereof,

Whereas:

- (1) Council Regulation (EU) No 53/2010 of 14 January 2010 fixing for 2010 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⁾, lays down quotas for 2010.
- (2) According to the information received by the Commission, catches of the stock referred to in the Annex to this Regulation by purse seiners flying the flag of or registered in the Member State referred to therein have exhausted the quota allocated to them for 2010.
- (3) It is therefore necessary to prohibit fishing activities for that stock carried out by purse seiners flying the flag of, or registered in, that Member State,

*Article 1***Quota exhaustion**

The fishing quota allocated to the purse seiners of the Member State referred to in the Annex to this Regulation for the stock referred to therein for 2010 shall be deemed to be exhausted from the date set out in that Annex.

*Article 2***Prohibitions**

Fishing activities for the stock referred to in the Annex to this Regulation by purse seiners flying the flag of or registered in the Member State referred to therein shall be prohibited from the date set out in that Annex. In particular it shall be prohibited to retain on board, place in cages for fattening or farming, tranship, transfer or land fish from that stock caught by those vessels after that date.

*Article 3***Entry into force**

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

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

Done at Brussels, 14 June 2010

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

Fokion FOTIADIS
Director-General for Maritime Affairs and Fisheries

⁽¹⁾ OJ L 343, 22.12.2009, p. 1.

⁽²⁾ OJ L 21, 26.1.2010, p. 1.

ANNEX

Member State	Spain
Stock	BFT/AE045W
Gear	Purse seiners (PS)
Species	Bluefin tuna (<i>Thunnus thynnus</i>)
Zone	Atlantic Ocean, east of longitude 45° W, and the Mediterranean
Date	10.6.2010

COMMISSION REGULATION (EU) No 509/2010**of 14 June 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 June 2010.

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

Done at Brussels, 14 June 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	44,4
	MK	34,9
	TR	65,0
	ZZ	48,1
0707 00 05	MA	37,3
	MK	43,1
	TR	117,0
	ZZ	65,8
0709 90 70	MA	68,1
	TR	82,9
	ZZ	75,5
0805 50 10	AR	93,3
	BR	112,1
	TR	102,9
	US	83,4
	ZA	108,4
	ZZ	100,0
0808 10 80	AR	92,0
	BR	78,2
	CL	84,8
	CN	54,0
	NZ	114,4
	US	127,7
	UY	123,8
	ZA	92,4
	ZZ	95,9
0809 10 00	TN	380,0
	TR	182,0
	ZZ	281,0
0809 20 95	SY	245,9
	TR	389,9
	US	576,0
	ZZ	403,9
0809 30	TR	174,9
	ZZ	174,9

⁽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'.

DECISIONS

COUNCIL DECISION 2010/329/CFSP

of 14 June 2010

amending and extending Joint Action 2007/405/CFSP on the European Union police mission undertaken in the framework of reform of the security sector (SSR) and its interface with the system of justice in the Democratic Republic of the Congo (EUPOL RD Congo)

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty on European Union, and in particular Articles 28 and 43(2) thereof,

Whereas:

- (1) On 12 June 2007, the Council adopted Joint Action 2007/405/CFSP ⁽¹⁾ establishing a European Union police mission within the framework of reform of the security sector (SSR) and its interface with the system of justice in the Democratic Republic of the Congo (EUPOL RD Congo).
- (2) On 23 June 2008, the Council adopted Joint Action 2008/485/CFSP ⁽²⁾ amending and extending Joint Action 2007/405/CFSP until 30 June 2009.
- (3) On 15 June 2009, the Council adopted Joint Action 2009/466/CFSP ⁽³⁾ amending and extending Joint Action 2007/405/CFSP until 30 June 2010. Joint Action 2009/466/CFSP provided that the Council would establish a new financial reference amount in order to cover expenditure related to the mission for the period from 1 November 2009 to 30 June 2010, which was done with Joint Action 2009/769/CFSP ⁽⁴⁾ amending Joint Action 2007/405/CFSP.
- (4) On 13 April 2010, following consultation with the Congolese authorities and other parties concerned, the Political and Security Committee endorsed an extension of the mission for 3 months, namely from 1 July 2010 until 30 September 2010.
- (5) The mandate of the mission is being carried out in a security context that is liable to deteriorate and to

undermine the objectives of the Common Foreign and Security Policy as defined in Article 24 TEU.

- (6) Joint Action 2007/405/CFSP should be amended accordingly,

HAS ADOPTED THIS DECISION:

Article 1

Joint Action 2007/405/CFSP is hereby amended as follows:

1. in Article 9(1), the following subparagraph shall be added:

‘The financial reference amount intended to cover the expenditure related to the mission for the period from 1 July 2010 to 30 September 2010 shall be EUR 2 020 000’;

2. in Article 16, the second paragraph shall be replaced by the following:

‘It shall expire on 30 September 2010’.

Article 2

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

Done at Luxembourg, 14 June 2010.

For the Council
The President
C. ASHTON

⁽¹⁾ OJ L 151, 13.6.2007, p. 46.

⁽²⁾ OJ L 164, 25.6.2008, p. 44.

⁽³⁾ OJ L 151, 16.6.2009, p. 40.

⁽⁴⁾ OJ L 274, 20.10.2009, p. 45.

COUNCIL DECISION 2010/330/CFSP**of 14 June 2010****on the European Union Integrated Rule of Law Mission for Iraq, EUJUST LEX-IRAQ**

THE COUNCIL OF THE EUROPEAN UNION,

*Article 2***Mission statement**

Having regard to the Treaty on European Union, and in particular Articles 28 and 43(2) thereof,

Whereas:

- (1) On 7 March 2005, the Council adopted Joint Action 2005/190/CFSP on the European Union Integrated Rule of Law Mission in Iraq, EUJUST LEX⁽¹⁾. That Joint Action, as subsequently amended and extended, expired on 30 June 2009.
- (2) On 24 March 2009, the Political and Security Committee (PSC) agreed that EUJUST LEX should be extended for another 12 months until 30 June 2010. During this period, EUJUST LEX was to conduct, in addition to continuing its core business, a pilot phase including activities in Iraq.
- (3) On 21 May 2010, the PSC agreed that EUJUST LEX-IRAQ should be extended for another 24 months until 30 June 2012. During this period, EUJUST LEX-IRAQ should progressively shift its activities and relevant structures to Iraq, focusing on specialised training, while maintaining out-of-country activities.
- (4) The mandate of the Mission is being carried out in a security context that is liable to deteriorate and to undermine the objectives of the Common Foreign and Security Policy as defined in Article 21 of the Treaty on European Union.
- (5) The command and control structure of the Mission should be without prejudice to the contractual responsibility of the Head of Mission towards the Commission for implementing the budget of the Mission,

HAS ADOPTED THIS DECISION:

*Article 1***Mission**

1. The European Union Integrated Rule of Law Mission for Iraq, established by Joint Action 2005/190/CFSP ('EUJUST LEX-IRAQ' or the 'Mission'), shall be continued from 1 July 2010.

2. EUJUST LEX-IRAQ shall operate in accordance with the objectives and other provisions as contained in the Mission statement set out in Article 2.

1. EUJUST LEX-IRAQ shall continue to address the needs in the Iraqi criminal justice system through the provision of training for high- and mid-level officials in senior management and criminal investigation. This training shall aim to improve the capacity, coordination and collaboration of the different components of the Iraqi criminal justice system.

2. EUJUST LEX-IRAQ shall promote closer collaboration between the different actors across the Iraqi criminal justice system and strengthen the management capacity of senior and high-potential officials primarily from the police, judiciary and penitentiary and improve skills and procedures in criminal investigation in full respect for the rule of law and human rights.

3. EUJUST LEX-IRAQ shall, where security conditions and resources allow, continue to provide strategic mentoring and advising activities based on verified Iraqi needs and taking into account other international presence and the Union's added value in this area.

4. The training activities shall take place in Iraq and in the region as well as in the Union. EUJUST LEX-IRAQ shall have offices in Brussels and Baghdad, including an antenna in Basra, in preparation for a possible office opening, subject to an appropriate decision to that effect. EUJUST LEX-IRAQ shall also have an office in Erbil (Kurdistan Region). Taking into account the evolution of the situation in Iraq during the implementation of this new mandate, the Head of Mission and the bulk of its staff shall move from Brussels to Iraq and be posted to Baghdad as soon as the situation so permits.

5. Taking into account further developments in the security conditions in Iraq and the outcome of the Mission activities in Iraq, the Council shall examine the results of this new mandate and shall decide on the future of the Mission after 30 June 2012.

6. An effective strategic and technical partnership with the Iraqi counterparts shall be developed throughout the Mission, particularly in relation to the design of the curricula during the planning phase. EUJUST LEX-IRAQ activities should maintain a balanced representation of the Iraqi population, based on a human rights and gender equality approach. Participants shall continue to be able to attend relevant in-country activities, regardless of where they are held. Coordination shall also be needed for the selection, vetting, evaluation, follow-up and coordination of personnel attending the training with the aim of continued appropriation by the Iraqis. There shall also be a need for close coordination during the planning and implementation phases between EUJUST LEX-IRAQ and the Member States providing training. This shall include the involvement

⁽¹⁾ OJ L 62, 9.3.2005, p. 37.

of the relevant Member States' diplomatic missions in Iraq and liaison with those Member States with current experience in providing training relevant for the Mission.

7. EUJUST LEX-IRAQ shall be independent and distinct but shall be complementary and bring added value to the efforts of the Government of Iraq and the international community, in particular those of the United Nations (UN) and the United States of America. It shall also develop synergies with relevant activities of the Union and Member States. In this context, EUJUST LEX-IRAQ shall liaise with the relevant Iraqi authorities, and shall deepen collaboration and avoid duplication with international actors already operating in the country as well as with Member States presently conducting training projects in Iraq.

Article 3

Structure

EUJUST LEX-IRAQ shall have its offices in Brussels and Iraq and shall, in principle, be structured as follows:

- (a) the Head of Mission;
- (b) a coordinating office in Brussels;
- (c) an office in Baghdad with an antenna in Basra;
- (d) an office in Erbil (Kurdistan Region);
- (e) training facilities, trainers and experts provided by the Member States and coordinated by EUJUST LEX-IRAQ.

These elements shall be developed in the Concept of Operations (CONOPS) and the Operation Plan (OPLAN).

Article 4

Civilian Operation Commander

1. The Civilian Planning and Conduct Capability Director shall be the Civilian Operation Commander for EUJUST LEX-IRAQ.
2. The Civilian Operation Commander, under the political control and strategic direction of the Political and Security Committee (PSC) and the overall authority of the High Representative of the Union for Foreign Affairs and Security Policy (HR), shall exercise command and control of EUJUST LEX-IRAQ at the strategic level.
3. The Civilian Operation Commander shall ensure proper and effective implementation of the Council's decisions as well as the PSC's decisions, including by issuing instructions at strategic level as required to the Head of Mission.
4. All seconded staff shall remain under the full command of the national authorities of the sending State or Union institution. National authorities shall transfer Operational Control of their personnel, teams and units to the Civilian Operation Commander.

5. The Civilian Operation Commander shall have overall responsibility for ensuring that the Union's duty of care is properly discharged.

Article 5

Head of Mission

1. The Head of Mission shall assume responsibility and exercise command and control of the Mission at theatre level.
2. The Head of Mission shall exercise command and control over personnel, teams and units from sending States as assigned by the Civilian Operation Commander together with administrative and logistic responsibility including over assets, resources and information put at the disposal of the Mission.
3. The Head of Mission shall issue instructions to all Mission staff, including the Brussels coordinating office, the Erbil and Baghdad offices, and the Basra antenna, for the effective conduct of EUJUST LEX-IRAQ, assuming its coordination and day-to-day management, following the instructions at strategic level of the Civilian Operation Commander.
4. The Head of Mission shall be responsible for the implementation of the Mission's budget. For this purpose, the Head of Mission shall sign a contract with the Commission.
5. The Head of Mission shall be responsible for disciplinary control over the staff. For seconded staff, disciplinary action shall be exercised by the national authority or Union institution concerned.
6. The Head of Mission shall represent EUJUST LEX-IRAQ and shall ensure appropriate visibility of the Mission.

Article 6

Staff

1. The numbers and competence of EUJUST LEX-IRAQ staff shall be consistent with the Mission statement set out in Article 2 and the structure set out in Article 3.
2. EUJUST LEX-IRAQ shall consist primarily of staff seconded by Member States or Union institutions.
3. Each Member State or Union institution shall bear the costs related to any of the staff seconded by it, including travel expenses to and from the place of deployment, salaries, medical coverage, and allowances other than applicable *per diem* allowances as well as hardship and risk allowances.
4. International and local staff may also be recruited by EUJUST LEX-IRAQ, as required, on a contractual basis, if the functions required are not provided by personnel seconded by the Member States.
5. All staff shall carry out their duties and act in the interest of the Mission. All staff shall respect the security principles and minimum standards established by Council Decision 2001/264/EC of 19 March 2001 adopting the Council's security regulations ⁽¹⁾.

⁽¹⁾ OJ L 101, 11.4.2001, p. 1.

*Article 7***Status of staff**

1. Where required, the status of EUJUST LEX-IRAQ staff, including where appropriate the privileges, immunities and further guarantees necessary for the completion and smooth functioning of EUJUST LEX-IRAQ shall be agreed in accordance with the procedure laid down in Article 37 of the Treaty on European Union.

2. The State or Union institution having seconded a staff member shall be responsible for answering any claims linked to the secondment, from or concerning the staff member. The State or Union institution in question shall be responsible for bringing any action against the person seconded.

*Article 8***Chain of Command**

1. EUJUST LEX-IRAQ shall have a unified chain of command, as a crisis management operation.

2. Under the responsibility of the Council and of the HR, the PSC shall exercise political control and strategic direction of EUJUST LEX-IRAQ.

3. The Civilian Operation Commander, under the political control and strategic direction of the PSC and the overall authority of the HR, is the commander of EUJUST LEX-IRAQ at strategic level and, as such, shall issue instructions to the Head of Mission and provide him with advice and technical support.

4. The Civilian Operation Commander shall report to the Council through the HR.

5. The Head of Mission shall exercise command and control of EUJUST LEX-IRAQ at theatre level and shall be directly responsible to the Civilian Operation Commander.

*Article 9***Political control and strategic direction**

1. The PSC shall exercise, under the responsibility of the Council and of the HR, political control and strategic direction of the Mission. The Council hereby authorises the PSC to take the relevant decisions for this purpose in accordance with the third paragraph of Article 38 of the Treaty on European Union.

2. This authorisation shall include the powers to amend the CONOPS and the OPLAN. It shall also include powers to take decisions regarding the appointment of the Head of Mission. The powers of decision with respect to the objectives and termination of the Mission shall remain vested in the Council.

3. The PSC shall report to the Council at regular intervals.

4. The PSC shall receive on a regular basis and, as required, reports by the Civilian Operation Commander and the Head of Mission on issues within their areas of responsibility.

*Article 10***Security**

1. The Civilian Operation Commander shall direct the Head of Mission's planning of security measures and ensure their proper and effective implementation for EUJUST LEX-IRAQ in accordance with Articles 4 and 8 and in coordination with the Council Security Office.

2. The Head of Mission shall be responsible for the security of the Mission and for ensuring compliance with minimum security requirements applicable to the Mission, in line with the policy of the European Union on the security of personnel deployed outside the Union in an operational capacity under Title V of the Treaty on European Union and its supporting documents.

3. For the elements of the Mission which are carried out in Member States, the host Member State shall take all necessary and appropriate measures to ensure the security of the participants and the trainers on its territory.

4. For the coordinating office in Brussels the necessary and appropriate measures shall be organised by the Security Office of the General Secretariat of the Council (GSC) in collaboration with the host Member State's authorities.

5. Should the training take place in a third State, the Union, with the involvement of the Member States concerned, shall ask the third State's authorities to make the appropriate arrangements regarding the security of the participants and the trainers or experts on its territory.

6. EUJUST LEX-IRAQ shall have a dedicated Security Officer for the Mission reporting to the Head of Mission.

7. The Head of Mission shall consult with the PSC on security issues affecting the deployment of the Mission as directed by the HR.

8. EUJUST LEX-IRAQ staff members, trainers and experts shall undergo mandatory security training organised by the GSC Security Office and, when appropriate, medical checks prior to any deployment or travel to Iraq.

9. Member States shall endeavour to provide EUJUST LEX-IRAQ, in particular the offices in Iraq, staff, trainers and experts travelling to and in Iraq, with secure accommodation, body armour and close protection and other security requirements, as appropriate, within Iraq. For such purpose, the Head of Mission may conclude appropriate arrangements with Member States or local authorities as necessary.

*Article 11***Financial arrangements**

1. The financial reference amount intended to cover the expenditure related to the Mission between 1 July 2010 and 30 June 2011 shall be EUR 17 500 000.

2. The financial reference amount for the subsequent periods shall be decided by the Council.

3. All expenditure shall be managed in accordance with the procedures and rules applicable to the general budget of the European Union.

4. Given the particular security situation in Iraq, services in Baghdad and Basra shall be provided through the contracts entered into by the United Kingdom, other Member States where appropriate or through arrangements concluded between the Iraqi authorities and the companies providing and invoicing for these services. The budget of EUJUST LEX-IRAQ shall cover these expenses. The United Kingdom or other Member States concerned shall, in consultation with the Head of Mission, report with adequate information to the Council on these expenses.

5. The Head of Mission shall report fully to, and be supervised by, the Commission on the activities undertaken in the framework of his contract.

6. The financial arrangements shall respect the operational requirements of EUJUST LEX-IRAQ, including compatibility of equipment.

7. Expenditure shall be eligible as of the date of entry into force of this Decision.

8. The equipment and supplies for the coordination office in Brussels shall be purchased or rented on behalf of the Union.

Article 12

Participation of third States

1. Without prejudice to the Union's decision-making autonomy and its single institutional framework, candidate and other third States may be invited to contribute to EUJUST LEX-IRAQ on the basis that they bear the cost of sending the police experts and/or the civilian staff seconded by them, including salaries, allowances, medical coverage, high risk insurance and travel expenses to and from Iraq, and contribute to the running costs of EUJUST LEX-IRAQ as appropriate.

2. The Council hereby authorises the PSC to take the relevant decisions on acceptance of the proposed contributions.

3. Third States making contributions to EUJUST LEX-IRAQ shall have the same rights and obligations in terms of day-to-day management of the Mission as Member States taking part in the Mission.

4. The PSC shall take appropriate action with regard to participation arrangements and shall, if required, submit a proposal to the Council, including on possible financial participation or contributions in kind from third States.

5. Detailed arrangements regarding the participation of third States shall be the subject of agreements pursuant to Article 37

of the Treaty on European Union and additional technical arrangements as necessary. Where the Union and a third State have concluded an agreement establishing a framework for the participation of that third State in EU crisis management operations, the provisions of such agreement shall apply in the context of the Mission.

Article 13

Coordination

1. Without prejudice to the chain of command, the Head of Mission shall act in close coordination with the EU delegation to Iraq to ensure the consistency of Union action in support of Iraq.

2. The Head of Mission shall coordinate closely with the Heads of the diplomatic missions of the relevant Member States.

3. The Head of Mission shall cooperate with other international actors present in the country, in particular the UN.

Article 14

Release of classified information

The HR is authorised to release to the host State and the UN, as appropriate and in accordance with the operational needs of the Mission, EU classified information and documents up to the level 'RESTREINT UE' generated for the purposes of the Mission, in accordance with the Council's security regulations. Local arrangements shall be drawn up for this purpose.

The HR shall be authorised to release to third states associated with this Decision, Union non-classified documents related to the deliberations of the Council with regard to the Mission covered by the obligation of professional secrecy pursuant to Article 6(1) of the Council Rules of Procedure ⁽¹⁾.

Article 15

Watch-keeping

The Watch-keeping Capability shall be activated for EUJUST LEX-IRAQ.

Article 16

Entry into force

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

It shall apply from 1 July 2010 until 30 June 2012.

Done at Luxembourg, 14 June 2010.

For the Council

The President

C. ASHTON

⁽¹⁾ Council Decision 2009/937/EU of 1 December 2009 adopting the Council's Rules of Procedure (OJ L 325, 11.12.2009, p. 35).

COMMISSION DECISION

of 14 June 2010

authorising the placing on the market of Ferric Sodium EDTA as a novel food ingredient under Regulation (EC) No 258/97 of the European Parliament and of the Council

*(notified under document C(2010) 3729)***(Only the German text is authentic)**

(2010/331/EU)

THE EUROPEAN COMMISSION,

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

Having regard to Regulation (EC) No 258/97 of the European Parliament and of the Council of 27 January 1997 concerning novel foods and novel food ingredients⁽¹⁾, and in particular Article 7 thereof,

Whereas:

Parliament and of the Council of 10 June 2002 on the approximation of the laws of the Member States relating to food supplements⁽³⁾ and/or Regulation (EC) No 1925/2006 of the European Parliament and of the Council of 20 December 2006 on the addition of vitamins and minerals and of certain other substances to foods⁽⁴⁾ lay down specific provision for the use of vitamins, minerals and other substances in food. The use of Ferric Sodium EDTA should be authorised without prejudice to the requirements of this legislation. The limits set in Annex II of this Decision relate exclusively to EDTA as such and are without prejudice to any limits for the addition of iron to foods. On the basis of the scientific assessment it is established that Ferric Sodium EDTA complies with the criteria laid down in Article 3(1) of Regulation (EC) No 258/97.

(1) On 4 September 2006 the company Akzo Nobel Chemicals GmbH made a request to the competent authorities of the United Kingdom to place Ferric Sodium EDTA on the market as a novel food ingredient.

(2) On 11 September 2006 the competent food assessment body of the United Kingdom issued its initial assessment report. In that report it came to the conclusion that an additional assessment was required.

(3) The Commission informed all Member States about the request on 27 November 2006. EFSA was requested to carry out the assessment on 22 December 2006.

(4) On 26 November 2009 following a request from the Commission, the Scientific Panel on Food Additives and Nutrient Sources added to Food (ANS) adopted an opinion on the safety of Ferric Sodium EDTA. In the opinion EFSA concluded that EDTA is of no safety concern as long as the intake of EDTA does not exceed 1,9 mg EDTA per kg bodyweight per day.

(5) Commission Regulation (EC) No 953/2009 of 13 October 2009 on substances that may be added for specific nutritional purposes in foods for particular nutritional uses⁽²⁾, Directive 2002/46/EC of the European

(6) In order to ensure that children will not exceed the Acceptable Daily Intake (ADI) of EDTA it appears appropriate to set limits for the addition of EDTA to foods.

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

HAS ADOPTED THIS DECISION:

Article 1

Ferric Sodium EDTA as a source of iron as specified in the Annex I may be placed on the market in the Union as a novel food ingredient to be used in food without prejudice to the specific provisions of Regulation (EC) No 953/2009, Directive 2002/46/EC and/or Regulation (EC) No 1925/2006.

The maximum amount of Ferric Sodium EDTA (expressed as anhydrous EDTA) to be used in foods is set out in Annex II.

Article 2

The designation of the novel food ingredient authorised by this Decision on the labelling of the foodstuff containing it shall be 'Ferric Sodium EDTA'.

⁽¹⁾ OJ L 43, 14.2.1997, p. 1.

⁽²⁾ OJ L 269, 14.10.2009, p. 9.

⁽³⁾ OJ L 183, 12.7.2002, p. 51.

⁽⁴⁾ OJ L 404, 30.12.2006, p. 26.

Article 3

This Decision is addressed to Akzo Nobel Chemicals GmbH, Kreuzauer Strasse 46, D — 52355 Düren.

Done at Brussels, 14 June 2010.

For the Commission

John DALLI

Member of the Commission

ANNEX I

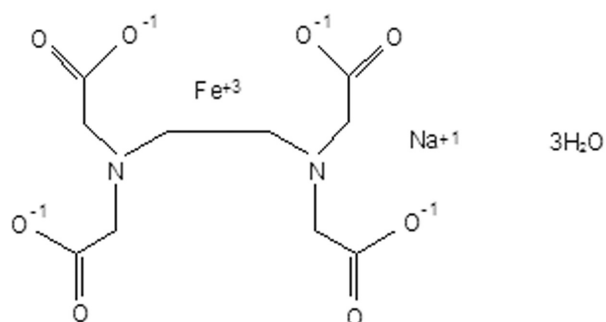
Specifications of Ferric Sodium EDTA**DESCRIPTION**

Ferric Sodium EDTA (ethylenediaminetetraacetic acid) is an odourless free-flowing, yellow to brown powder with a chemical purity of more than 99 % (w/w). It is freely soluble in water.

CAS No: 18154-32-0 (CAS anhydrous 15708-41-5)

Chemical Formula: $\text{C}_{10}\text{H}_{12}\text{FeN}_2\text{NaO}_8 \cdot 3\text{H}_2\text{O}$

Structural Formula:



Chemical characteristics of Ferric Sodium EDTA without prejudice to the provisions of Regulation (EC) No 953/2009, Directive 2002/46/EC and/or Regulation (EC) No 1925/2006

pH of 1 % solution	3,5 to 5,5
Iron	12,5 % to 13,5 %
Sodium	5,5 %
Water	12,8 %
Organic matter (CHNO)	68,4 %
EDTA	65,5 % to 70,5 %
Water insoluble matter	not more than 0,1 %
Nitrilo-triacetic acid	not more than 0,1 %

ANNEX II

Maximum amounts of Ferric Sodium EDTA (expressed as anhydrous EDTA)

Food supplements (in accordance with Directive 2002/46/EC)	children: 18 mg per daily dose as recommended by the manufacturer
	adults: 75 mg per daily dose as recommended by the manufacturer
Dietetic foods (in accordance with Regulation (EC) No 953/2009)	12 mg EDTA per 100 g of final food
Fortified foods (in accordance with Regulation (EC) No 1925/2006)	12 mg EDTA per 100 g of final food

IV

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

COMMISSION DECISION

of 10 December 2008

concerning State aid C 31/06 (ex N 621/05) granted by Italy on urgent measures to prevent avian influenza

(notified under document C(2008) 7802)

(only the Italian text is authentic)

(2010/332/EC)

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community, and in particular the first subparagraph of Article 88(2) thereof,

Having given interested parties notice to submit their comments pursuant to that Article, and having regard to those comments,

Whereas:

I. PROCEDURE

- (1) By letter of 9 December 2005, registered on 13 December 2005, the Italian Permanent Representation to the European Union notified the Commission, pursuant to Article 88(3) of the Treaty, of Article 5 of Law No 244 of 30 November 2005 (Law 244/05).
- (2) By telexes of 14 February 2006 (ref. AGR 4535) and of 20 March 2006 (ref. AGR 7800), the Commission requested additional information.
- (3) By e-mail of 2 March 2006, registered on 3 March 2006, the Italian authorities notified the Commission of Article 1a(8) and (10) to (14) of the draft law converting Decree-Law No 2 of 10 January 2006 into law. This Decree-Law was converted into law, with amendments, through Law No 81 of 11 March 2006 (Law 81/06). This law amends Article 5 of Law 244/05. The provisions of Article 1a establishing an Emergency Poultry Fund were examined under State aid N 322/2006.
- (4) By e-mail of 20 April 2006, registered on 25 April 2006, the Italian authorities provided additional information.
- (5) By letter of 13 June 2006, the Commission asked the Italian authorities to extend the 30-day time limit laid down in Article 4(5) of Council Regulation (EC)

No 659/1999 ⁽¹⁾ to be able to take its decision, i.e. until 26 July 2006, to take account of the time required for the translation of the decision itself.

- (6) By e-mail of 22 June 2006, registered on 23 June 2006, the Italian authorities agreed to the extension of the time limit requested by the Commission.
- (7) By letter of 5 July 2006, the Commission informed Italy of its decision to initiate the procedure under Article 88(2) of the Treaty in respect of some of the aid measures at issue.
- (8) By letter of 19 July 2006, registered on 3 August 2006, the Italian Permanent Representation to the European Union sent the Commission the Italian authorities' comments regarding the decision to initiate the formal investigation procedure.
- (9) The decision by the Commission to initiate the procedure was published in the *Official Journal of the European Union* ⁽²⁾. The Commission called on the interested parties to submit their comments on the aid at issue.
- (10) The Commission received no comments on this matter from the interested parties.
- (11) By letter of 7 May 2008, the Commission asked the Italian authorities for additional information to enable it to close the case in question. The Italian authorities did not reply.
- (12) By letter of 30 October 2008, the Commission sent the Italian authorities a reminder. By letters of 4 November 2008, the Italian authorities sent the Commission the information requested by letter of 7 May 2008, confirming that they had not implemented the measures provided for in Article 5(1), (3a) and (3b) of Decree-Law No 202/2005, as amended by Article 1a(7) of Law 81/06.

⁽¹⁾ OJ L 83, 27.3.1999, p. 1.

⁽²⁾ OJ C 233, 28.9.2006, p. 5.

II. DESCRIPTION**Title**

- (13) Urgent measures to prevent avian influenza.

Legal basis

- (14) Article 5 of Decree-Law No 202 of 1 October 2005 (DL 202/05) converted to Law No 244 of 30 November 2005 (Law 244/05) ⁽³⁾, as amended by Article 1a(7) of Law No 81 of 11 March 2006 (Law 81/06) converting Decree-Law No 2 of 10 January 2006.

- (15) Ministry of Agricultural Policy Decree of 13 January 2006 (Decree of 13 January 2006) laying down detailed rules for implementing the provisions on the withdrawal of poultry meat from the market under Article 5(1) and (2) of Law 244/2005 ⁽⁴⁾.

- (16) Article 1a(8), (10), (11) and (12) of Law 81/06 ⁽⁵⁾.

Budget

- (17) The resources used to finance the various measures are from the national budget. The Italian authorities indicated an overall budget of EUR 120 million, distributed as follows: EUR 20 million allocated to food aid and EUR 100 million to setting up the Emergency Poultry Fund.

Duration

- (18) The Italian authorities' intention was to grant the aid until 1 January 2007; to date, however, no aid has been granted under this scheme.

Beneficiaries

- (19) Poultry farms, abattoirs and poultry meat-processing companies, poultry-meat wholesalers and poultry-feed manufacturers.

Measures

- (20) Article 5 of DL 202/05, as amended by Article 1a(7) of Law 81/06, provides for:

- (a) the purchase by AGEA of 17 000 tonnes of poultry meat and other poultry products for humanitarian aid (paragraphs 1 and 2);

- (b) the suspension of tax payments, social security contributions and payments in respect of operators in the poultry sector (paragraph 3a);

- (c) the granting of aid for loans for the conversion and restructuring of poultry undertakings affected by the emergency situation in the poultry sector (paragraph 3c).

- (21) Article 1a(8), (10), (11) and (12) of Law 81/06 provides for an Emergency Poultry Fund ('the Fund') to be set up at the Ministry of Agricultural Policy, with an overall budget of EUR 100 million for 2006, to be used for:

- (a) rescue and restructuring aid for the poultry sector (in accordance with Community guidelines on State aid for rescuing and restructuring firms in difficulty ⁽⁶⁾);

- (b) compensation for the loss of income or additional expenditure incurred by farmers as a result of implementing the Community, national or regional plans for preventing and eradicating avian influenza and indirect damage resulting from restrictions on moving animals or production stoppages imposed by the health authorities;

- (c) aid for closing production (in accordance with paragraph 9 of the Community Guidelines for State aid in the agriculture sector ⁽⁷⁾ ('the guidelines'));

- (d) investments for biosecurity and health measures in poultry farms;

- (e) the slaughter of animals ordered by the health authority with a view to improving the well-being of animals in the event of overpopulation of production structures or a ban on moving animals.

- (22) Article 1a(12) of Law 81/06 states that the implementing measures for aid financed by the Fund are to be adopted by decrees of the Ministry of Agricultural Policy and the Ministry of Health. The Italian authorities undertook, by e-mail of 20 April 2006, to notify the above decrees to the Commission under Article 88(3) of the Treaty.

- (23) By e-mail of 23 May 2006, registered on the same day, the Italian Permanent Representation to the European Union notified the Commission, pursuant to Article 88(3) of the Treaty, of the draft Ministerial Decree on the implementing measures for aid financed by the Fund. These measures were approved under State aid N 322/06 ⁽⁸⁾.

⁽³⁾ Official Gazette of the Italian Republic of 30.11.2005, general series No 279, p. 44.

⁽⁴⁾ Official Gazette of the Italian Republic of 26.1.2006, general series No 21, p. 50.

⁽⁵⁾ Official Gazette of the Italian Republic of 11.3.2006, ordinary supplement No 58.

⁽⁶⁾ OJ C 244, 1.10.2004, p. 2.

⁽⁷⁾ OJ C 28, 1.2.2000, p. 2.

⁽⁸⁾ By letter C(2007) 3249 of 10.7.2007 for component A and by letter D(2008) 13797 of 13.5.2008 for component B (ref. AGR 11275).

(24) On several occasions the Commission advised the Italian authorities not to implement the measure provided for in Article 5 of DL 202/05 on the purchase of frozen meat for humanitarian aid ⁽⁹⁾.

(25) The decree of 13 January 2006, which governs the procedures to be adhered to by the AGEA for the purchase of poultry products of Community origin, provides for the following purchase prices:

Carcasses and cuts of meat	Fresh EUR/kg	Frozen EUR/kg
Golden and/or Livorno chickens	2,40	2,10
'Vallespluga' chickens	2,40	2,10
Chickens	1,40	1,20
Chicken legs	1,40	1,20
Chicken wings	1,00	0,80
Turkey drumsticks	1,00	0,80
Turkey legs	1,10	0,90
Turkey wings	1,00	0,80
Turkey (breasts)	1,30	1,10
Guinea fowl and duck	2,40	2,10

(26) All natural or legal persons involved in farming and processing poultry meat for more than 12 months on the date of entry into force of the decree of 13 January 2006 and registered for these activities on the company register of the Chamber of Commerce can offer their products for humanitarian aid purposes.

III. GROUNDS FOR INITIATING THE PROCEDURE

(27) The measures laid down in Article 1a(8), (10), (11) and (12) of Law 81/06 setting up a Fund to be used for financing the measures set out in recital 21(a)-(e) of this final decision were examined under State aid N 322/2006 and declared compatible with the common market ⁽¹⁰⁾ since they fulfil the relevant conditions of paragraphs 4.1, 4.2, 9 and 11.4 of the guidelines ⁽¹¹⁾.

(28) This decision therefore relates to the sub-measures set out in recital 20(a), (b) and (c), which deal with the purchase by the AGEA of 17 000 tonnes of poultry meat and other poultry products for humanitarian aid;

⁽⁹⁾ By letter D(2005) 38372 of 12.12.2005 (ref. AGR 31606), by telex D(2006) 9256 of 20.3.2006 (ref. AGRI 7800) and by letter D(2006) 1927 of 12.4.2006 (Directorate-General for Development).

⁽¹⁰⁾ See footnote 7.

⁽¹¹⁾ See footnote 6.

the suspension of payment of taxes, social security contributions and payments in respect of operators in the poultry sector and the granting of aid for loans for the conversion and restructuring of poultry undertakings affected by the situation.

(29) The measures set out in recital 20 appear to qualify as State aid in so far as they are granted by way of State resources, either in the form of loss of earnings from tax revenues for public authorities, or in terms of prices to be paid for the purchase of poultry meat and in so far as these measures could affect trade because of Italy's position in this sector of production (Italy was the fourth biggest producer of poultry meat in the EU in 2004).

(30) The Italian authorities did not provide any information to justify these measures in the light of State aid rules, in particular paragraph 11.4 of the guidelines ⁽¹²⁾ and the Community guidelines on State aid for rescuing and restructuring firms in difficulty. ⁽¹³⁾ The Commission could not therefore rule out the possibility of this aid constituting operating aid, i.e. aid designed to relieve an undertaking of costs which it would normally have to pay in the course of its day-to-day business or its normal activities.

(31) The Commission therefore initiated the procedure provided for in Article 88(2) of the EC Treaty because it had doubts as to the compatibility of the measures provided for in Article 5 of DL 202/05, as amended by Article 1a(7) of Law 81/06. According to the aforementioned Article 88, aid to facilitate the development of certain economic activities or of certain economic regions may be considered to be compatible with the common market where such aid does not adversely affect trading conditions to an extent contrary to the common interest.

IV. COMMENTS FROM INTERESTED PARTIES

(32) Following the initiation of the procedure, the Commission has received no comments.

V. COMMENTS MADE BY ITALY

(33) The Italian authorities sent their comments on the initiation of the procedure by letter of 19 July 2006, registered on 3 August 2006.

(34) First of all, the Italian authorities draw the Commission's attention to the fact that, despite the urgency, no specific measures have been adopted yet.

⁽¹²⁾ See footnote 6.

⁽¹³⁾ See footnote 5.

(35) The Italian authorities then refer to paragraph 18 of the initiation decision, which provides that under Article 87(1) of the Treaty, any aid granted by a Member State or through State resources in any form whatsoever which distorts or threatens to distort competition by favouring certain undertakings or the production of certain goods shall, insofar as it affects trade between Member States, be incompatible with the common market.

(36) They conclude that, based on the interpretation of the spirit and of the letter of the regulation, State aid is prohibited not systematically or absolutely, but only in cases where trade is distorted or market advantage conferred on beneficiaries.

(37) The Italian authorities believe that, in the case in question, these eventualities can be considered to have been ruled out entirely, since the sole intention of the legislature was to establish a system of partial and ex post compensation in respect of losses caused by the crisis in the sector.

(38) In this regard, they stress, in particular, that the measures referred to in (b) (the suspension of tax payments, social security contributions and payments in respect of operators in the poultry sector — paragraph 3a of Article 1a(7) of Law 81/06) would have applied as *de minimis* aid if the three-year budget allocated to Italy had not been fully absorbed by another measure.

(39) The Italian authorities cite paragraph 22 of the decision to initiate the procedure, which refers to the possibility of a derogation under Article 87(3)(c) of the Treaty, which provides that aid to facilitate the development of certain economic activities or of certain economic areas may be considered to be compatible with the common market where such aid does not adversely affect trading conditions to an extent contrary to the common interest.

(40) In that respect, they point out that there is no dispute that the present case is of a well-known kind and, in accordance with the well-established principles of legal literature and of case-law, well-known facts need not be demonstrated on the basis of evidence; such evidence is only necessary in the case of situations where there is doubt or uncertainty regarding the establishment of facts.

(41) The Italian authorities also draw the Commission's attention to the fact that if it were deemed that Article 87(3)(c) of the Treaty did not apply to the

proposed measure, such measure should be authorised on the basis of Article 87(2)(b), which provides that aid to make good the damage caused by natural disasters or exceptional occurrences is compatible with the common market.

(42) In the present case, according to the Italian authorities, the Council of Ministers already explicitly acknowledged the exceptional nature of the occurrence by adopting Regulation (EC) No 679/2006 of 25 April 2006 amending Regulations (EEC) No 2771/75 and (EEC) No 2777/75 as regards the application of exceptional market support measures ⁽¹⁴⁾.

(43) The Italian authorities consider that one and the same occurrence, deemed to be exceptional for the purposes of adopting exceptional market measures, cannot be deemed to be normal for the purposes of evaluating State aid designed to respond to the same emergency situation.

(44) Finally, the Italian authorities point out that the Commission itself actually recognised the exception nature of the occurrence by adopting Regulation (EC) No 1010/2006 of 3 July 2006 on certain exceptional market support measures in the eggs and poultry sector in certain Member States ⁽¹⁵⁾.

VI. ASSESSMENT OF THE AID

1. Prohibition of State aid within the meaning of Article 87(1) of the EC Treaty

(45) Under Article 87(1) of the Treaty, any aid granted by a Member State or through State resources in any form whatsoever which distorts or threatens to distort competition by favouring certain undertakings or the production of certain goods shall, insofar as it affects trade between Member States, be incompatible with the common market.

(46) The measures set out in paragraph 20 of this text appear to qualify as State aid inasmuch as they confer an economic advantage (in the form of a loss of earnings from tax revenues for the state and in terms of the price to be paid for purchasing poultry meat with no access to the Community market on account of avian influenza) on a particular sector (poultry), it amounts to funding from (national) public resources and such aid is likely to affect trade.

⁽¹⁴⁾ OJ L 119, 4.5.2006, p. 1.

⁽¹⁵⁾ OJ L 180, 4.7.2006, p. 3.

- (47) According to the case-law of the European Court of Justice, an improvement in the competitive position of an undertaking as a result of State aid generally leads to distortion of competition in relation to competing undertakings not receiving such assistance⁽¹⁶⁾. The Court has held that the relatively small amount of aid or the relatively small size of the undertaking which receives it does not as such exclude the possibility that trade between Member States might be affected⁽¹⁷⁾.
- (48) A measure affects trade between Member States when it hinders imports from other Member States or facilitates exports to other Member States. The crucial factor is that intra-Community trade develops, or is in danger of developing, differently because of the measure in question.
- (49) The product benefiting from the aid scheme is the subject of trade between Member States and is therefore exposed to competition.
- (50) Thus, the criteria concerning the effect on trade and the distortion of competition are fully met.
- (51) The measure at issue is in effect, therefore, State aid within the meaning of Article 87(1) of the EC Treaty.
- (52) The fact that the measure is intended to compensate the poultry sector for losses due to the avian influenza makes no difference to the nature of the aid if such aid fulfils the conditions of Article 87(1), as is the case with the measure in question. On the other hand, both the guidelines that apply in the present case (in view of the fact that it was notified in 2005) and the new Community guidelines for State aid in the agriculture and forestry sector 2007 to 2013⁽¹⁸⁾ specifically provide for the possibility of granting aid to make good the damage caused by natural disasters or exceptional occurrences, or by animal and plant diseases.

2. Assessment of compatibility

- (53) The prohibition referred to in Article 87(1) of the EC Treaty is not unconditional. In order to be considered compatible with the common market, the proposed measure must benefit from one of the derogations provided for by Article 87(2) and (3) of the Treaty. The Commission will discuss below the conditions for the applicability of Article 87(2)(b) of the EC Treaty and

of the provisions of the 2000-2006 agricultural guidelines on animal diseases, which were in force when the above measure was notified in 2005.

Derogations provided for by Article 87(2) of the EC Treaty

- (54) The Italian authorities referred to Article 87(2)(b) of the EC Treaty, which declares aid to make good damage caused by exceptional occurrences compatible with the common market. In their letter of reply of 19 July 2006 they refer to avian influenza as an exceptional occurrence.
- (55) No definitions of the terms 'exceptional occurrence' and 'natural disaster' are given by the Treaty so it needs to be verified whether the avian influenza affecting Italy can be considered a 'natural disaster' within the meaning of Article 87(2)(b) of the Treaty. Since they constitute exceptions from the general principle of the incompatibility of State aid with the common market, laid down by Article 87(1) of the Treaty, it has been the consistent practice of the Commission to give a restrictive interpretation of the notions of 'natural disaster' and 'exceptional occurrence' referred to in Article 87(2)(b), as set out in paragraph 11.2 of the guidelines.
- (56) The need for such a restrictive interpretation has been consistently confirmed by the Court of Justice⁽¹⁹⁾.
- (57) To date, the Commission has considered earthquakes, avalanches, landslides and floods as natural disasters. Exceptional occurrences that have been accepted include war, internal disturbances or strikes and, with certain reservations and depending on their extent, major nuclear or industrial accidents and fires that result in widespread loss.
- (58) As a general rule, the Commission does not accept that outbreaks of animal or plant diseases can be considered to constitute natural disasters or exceptional occurrences. However, in one case the Commission did recognise the very widespread outbreak of a completely new animal disease as an exceptional occurrence⁽²⁰⁾.
- (59) The consistent practice of the Commission has been to consider avian influenza as an animal disease⁽²¹⁾ and to use long-established principles in the Guidelines on the fight against animal and plant diseases.

⁽¹⁶⁾ Judgment of the Court of Justice of 17 September 1980 in Case C-730/79, [1980] ECR 2671, paragraphs 11 and 12.

⁽¹⁷⁾ Judgment of the Court of Justice of 21 March 1990 in Case C-142/87, [1990] ECR I-959, paragraph 43, and Judgment of 14 September 1994 in Joined Cases C-278/92 and C-280/92, [1994] ECR I-4103, paragraphs 40 to 42.

⁽¹⁸⁾ OJ C 319, 27.12.2006, p. 1.

⁽¹⁹⁾ Judgment of the Court of Justice of 11 November 2004 in Case C-73/03 *Spain v Commission* paragraph 37, and Judgment of 23 February 2006 in Joined Cases C-346/03 and C-529/03 *Giuseppe Atzeni and Others*, paragraph 79.

⁽²⁰⁾ In particular for aid to farmers affected by the BSE crisis. See letter D(2001) 290558 of 27.7.2001 (ref. AGR 25807) case NN46/01, letter D(2001) 292096 of 9.11.2001 (ref. AGR 37860) case N 657/01, and letter D(2001) 290526 of 27.7.2001 (ref. AGR 25798) case N 437/01.

⁽²¹⁾ Avian influenza is also an International Office of Epizootics (OIE) listed disease.

- (60) In general, an exceptional occurrence must at least present the characteristics of an occurrence that, by its nature and its effect on the operators concerned, is clearly distinguished from usual conditions and is outside the framework of the normal conditions under which a market operates.
- (61) Moreover, the data submitted by Italy lead to the conclusion not that the aforementioned disease was of an exceptional nature but that it is a recurring phenomenon.
- (62) According to the Italian authorities the exceptional nature of the occurrence was explicitly recognised by the Council of Ministers when it adopted Regulation (EC) No 679/2006 and Regulation (EC) No 1010/2006.
- (63) In the cases above, the avian influenza crisis had led to a fall in the consumption of poultry and eggs in a number of Member States, resulting in a sharp drop in prices. The regulations governing the eggs and poultry market allowed the EU to co-finance compensation measures only in cases where there was a case of avian influenza on a farm or where farmers were prevented from moving their poultry because of restrictions imposed on farmers by veterinary orders. There was no possibility to provide EU aid to take account of market problems linked to a fall in sales caused by a loss of consumer confidence. Because of the severity of the market crisis in some countries in 2006, the Commission authorised the co-financing of 50 % of the cost of market support measures, with national budgets paying the other half.
- (64) The Commission would point out that the slump in prices suffered by the sector is not in itself an exceptional occurrence within the meaning of the Treaty. Rather, it is an economic circumstance well-known in some agricultural sectors, which is caused by various factors including an incorrect planning of supply compared with demand (cyclical falls in price in the pigmeat sector are proof of this), or by purely commercial factors, the origin of which cannot be termed an exceptional occurrence (e.g. the reorientation of consumers' preferences to alternative products). Similarly, the mere existence of a well-known disease such as avian influenza does not constitute an exceptional occurrence. On the contrary, the spread of the disease and the subsequent crisis of the poultry sector may, in some cases, even be a result of the failure by national authorities to apply rigorously the safety and prevention standards required to control the disease.
- (65) Through the market support measures proposed in the aforementioned regulations, the Commission's intention was to deal with the problem of the negative consequences of the avian influenza crisis on the market. The Commission has therefore made very clear its intention to intervene in the crisis, entirely excluding any other measures considered to affect commercial conditions to an extent contrary to the common interest.
- (66) However, the Italian authorities have provided no evidence of the reasons why the present case is any different from other cases of avian influenza which were not considered as exceptional occurrences. As a result, the aid proposed by the Italian authorities cannot be authorised on this legal basis: the derogations referred to in Article 87(2) are not applicable. Specifically, the provisions of paragraph (b), which state that aid to make good damage caused by natural disasters or exceptional occurrences are compatible with the common market, do not apply.
- Derogations provided for by Article 87(3) of the EC Treaty*
- (67) It must be examined whether the measure proposed may be considered to be compatible with the common market within the meaning of Article 87(3) of the Treaty. The provisions of paragraph (c) are particularly relevant. According to these, aid to facilitate the development of certain economic activities or of certain economic areas may be considered to be compatible with the common market where such aid does not adversely affect trading conditions to an extent contrary to the common interest.
- (68) Paragraph 11.4 of the guidelines governs State aid to compensate farmers for losses caused by animal diseases.
- (69) These state that where a farmer loses livestock as a result of animal disease, or where his crops are affected by plant disease, this does not normally constitute a natural disaster or an exceptional occurrence within the meaning of the Treaty. In such cases, aid provided in compensation for the losses incurred and aid to prevent future losses may only be permitted by the Commission on the basis of Article 87(3)(c) of the Treaty, which provides that aid to facilitate the development of certain activities may be considered compatible with the common market provided that it does not affect trading conditions to an extent contrary to the common interest.
- (70) For this derogation to apply, the Member State must demonstrate that all the conditions for the compatibility of the proposed measures are fulfilled.

- (71) According to paragraph 1.1.4 of the guidelines, the Commission considers that the payment of aid to farmers to compensate for losses resulting from animal or plant diseases may only be accepted as part of an appropriate programme at Community, national or regional level for the prevention, control or eradication of the disease concerned. Aid which simply compensates farmers for losses incurred without taking any steps to remedy the problem at source must be considered as pure operating aid, which is incompatible with the common market.
- (72) The Commission considers, however, that the Italian authorities did not provide sufficient evidence to justify the application of such derogation in the light of the rules applicable to State aid, in particular paragraph 11.4 of the guidelines.
- (73) Accordingly, the aid proposed by the Italian authorities cannot be authorised on this legal basis.
- (74) The Italian authorities did not indicate any other measures as a legal basis for the aid.
- (75) Even though the Italian authorities never referred to the application of the rescue and restructuring guidelines, for the sake of completeness, the Commission examined whether the Community Guidelines on State aid for rescuing and restructuring firms in difficulty⁽²²⁾ do not apply in the present case. The first condition in order to qualify for rescue or restructuring aid is that the firm in question is regarded as being in difficulty within the meaning of the aforementioned guidelines. Based on the information at the Commission's disposal, it does not appear that the firms concerned were in difficulty within the meaning of the aforementioned guidelines.
- (76) In any event, the Commission would point out that, in order to fulfil its duty to cooperate with the Commission, the Member State concerned must provide all the information necessary to enable the Commission to verify that the conditions for the derogation from

which it seeks to benefit are satisfied⁽²³⁾. The Italian authorities never submitted any document enabling the Commission to examine the information in the light of the guidelines, despite the indications given by the Commission in paragraph 24 of the initiation decision (paragraph 30 of the final decision).

VII. CONCLUSION

- (77) In light of the foregoing, the Commission may conclude that the aid which Italy proposes granting to the poultry sector constitutes State aid within the meaning of Article 87(1), which cannot benefit from any derogation provided for in Article 87(2) and (3).
- (78) Since the measure has been notified in accordance with Article 88(3) of the Treaty and the Italian authorities have not granted it, there is no need to request recovery of the aid,

HAS ADOPTED THIS DECISION:

Article 1

The State aid which Italy proposes granting in order to prevent the avian influenza is not compatible with the common market.

Accordingly, the granting of the aid is not authorised.

Article 2

This Decision is addressed to the Italian Republic.

Done at Brussels, 10 December 2008.

For the Commission
Mariann FISCHER BOEL
Member of the Commission

⁽²²⁾ See footnote 5.

⁽²³⁾ Judgment of the Court of First Instance of 15 June 2005 in Case T-171/02 *Regione autonoma della Sardegna v Commission* [2005] ECR II-2123, paragraph 129.

CORRIGENDA

Corrigendum to Commission Regulation (EC) No 948/2009 of 30 September 2009 amending Annex I to Council Regulation (EEC) No 2658/87 on the tariff and statistical nomenclature and on the Common Customs Tariff*(Official Journal of the European Union L 287 of 31 October 2009)*

On page 6, Chapter 34:

for: 'Soap; organic surface-active agents; washing preparations; lubricating preparations; artificial waxes; prepared waxes; polishing or scouring preparations; candles and similar articles, modelling pastes; 'dental waxes' and dental preparations with a basis of plaster',

read: 'Soap, organic surface-active agents, washing preparations, lubricating preparations, artificial waxes, prepared waxes, polishing or scouring preparations, candles and similar articles, modelling pastes, "dental waxes" and dental preparations with a basis of plaster';

Section XII:

for: 'Footwear; headgear; umbrellas, sun umbrellas, walking sticks, seat-sticks, whips, riding-crops and parts thereof; ...',

read: 'Footwear, headgear, umbrellas, sun umbrellas, walking sticks, seat-sticks, whips, riding-crops and parts thereof; ...';

Chapter 66:

for: '..., riding crops ...',

read: '..., riding-crops ...';

On page 7, Chapter 77:

for: '(... the Harmonised system)',

read: '(... the Harmonised System)';

On page 171, the line after CN code 2204 29 82, column 3:

delete: 'I' ;

On page 313:

CN code 4412 99 40, column 3:

for: '10 ⁽¹⁾',

read: '10';

CN code 4412 99 50, column 3:

for: '10 ⁽¹⁾',

read: '10';

On page 809, column 1:

for: '3003 90 10',

read: '3003 90 00';

On page 809, column 1:

for: '3003 90 90',

read: '3003 90 00';

On page 811, column 1:

for: '3907 20 21',

read: '3907 20 20';

On page 811, column 1:

for: '3907 99 19',

read: '3907 99 90';

On page 812, column 1:

for: '3912 39 80',

read: '3912 39 85'.

Corrigendum to Directive 97/24/EC of the European Parliament and of the Council of 17 June 1997 on certain components and characteristics of two or three-wheel motor vehicles

(Official Journal of the European Communities L 226 of 18 August 1997)

On page 287, Chapter 7, Anti-tampering measures for two-wheel mopeds and motorcycles, Annex, point 2.2:

for: '2.2. The manufacturer must declare that modifications of the following characteristics will not increase the maximum power of a motorcycle by more than 10 % or ...',

read: '2.2. The manufacturer must declare that modifications of the following characteristics will not increase the maximum power of a category B motorcycle by more than 10 % or ...'.

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