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II

(Non-legislative acts)

INTERNATIONAL AGREEMENTS

COUNCIL DECISION

of 6 December 2010

on the position to be taken by the European Union in the Joint Committee established under the Agreement between the European Community and its Member States, of the one part, and the Swiss Confederation, of the other, on the free movement of persons as regards the replacement of Annex II to that Agreement on the coordination of social security schemes

(2011/505/EU)

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty on the Functioning of the European Union, and in particular Article 79(2)(b), in conjunction with Article 218(9) thereof,

Having regard to Decision 2002/309/EC, Euratom of the Council, and of the Commission as regards the Agreement on Scientific and Technological Cooperation, of 4 April 2002 on the conclusion of seven agreements with the Swiss Confederation ⁽¹⁾, and in particular Article 2 thereof,

Having regard to the proposal from the European Commission,

Whereas:

- (1) The Agreement between the European Community and its Member States, of the one part, and the Swiss Confederation, of the other, on the free movement of persons ⁽²⁾ ('the Agreement') entered into force on 1 June 2002.
- (2) Article 18 of the Agreement provides that the Joint Committee may, by decision, adopt amendments to the Agreement, inter alia, to Annex II to the Agreement, dealing with the coordination of social security schemes.
- (3) In order to ensure the coherent and correct application of legal acts of the Union and to avoid administrative and possibly legal difficulties, Annex II to the Agreement needs to be amended to integrate new legal acts of the Union to which the Agreement does not currently refer.
- (4) In the interests of clarity and rationality, Annex II to the Agreement and the Protocol to that Annex should be codified.

- (5) The Protocol on the position of the United Kingdom and Ireland in respect of the area of Freedom, Security and Justice annexed to the Treaty on European Union and to the Treaty on the Functioning of the European Union applies to this Decision. The Protocol on the position of Denmark annexed to the Treaty on European Union and to the Treaty on the Functioning of the European Union also applies to this Decision.

- (6) In accordance with Articles 1 and 2 of the Protocol on the position of the United Kingdom and Ireland, annexed to the Treaty on European Union and to the Treaty on the Functioning of the European Union, and without prejudice to Article 4 of the said Protocol, these Member States are not taking part in the adoption of this Decision and are not bound by it or subject to its application. In accordance with Articles 1 and 2 of the Protocol on the position of Denmark, annexed to the Treaty on European Union and to the Treaty on the Functioning of the European Union, Denmark is not taking part in the adoption of this Decision and is not bound by it or subject to its application.

- (7) The undertakings contained in the Agreement that fall within the scope of Part Three, Title V of the Treaty on the Functioning of the European Union are not binding on Denmark, Ireland and the United Kingdom as obligations under Union law but continue to apply as obligations arising from an undertaking between those Member States and the Swiss Confederation,

HAS ADOPTED THIS DECISION:

Article 1

The position to be taken by the Union in the Joint Committee established under Article 14 of the Agreement between the European Community and its Member States, of the one part, and the Swiss Confederation, of the other, on the Free Movement of Persons shall be based on the draft Decision of the Joint Committee set out in Annex I to this Decision.

⁽¹⁾ OJ L 114, 30.4.2002, p. 1.

⁽²⁾ OJ L 114, 30.4.2002, p. 6.

Article 2

The Declaration set out in Annex II to this Decision is hereby approved and shall be made on behalf of the Union in the Joint Committee when the Joint Committee adopts its Decision referred to in Article 1.

Done at Brussels, 6 December 2010.

For the Council
The President
J. MILQUET

ANNEX I

DRAFT

DECISION No .../2010 OF THE JOINT COMMITTEE
established under the Agreement between the European Community and its Member States, of the
one part, and the Swiss Confederation, of the other, on the free movement of persons
of ...
replacing Annex II to that Agreement on the coordination of social security schemes

THE JOINT COMMITTEE,

Having regard to the Agreement between the European Community and its Member States, of the one part, and the Swiss Confederation, of the other, on the Free Movement of Persons (hereinafter referred to as 'the Agreement'), and in particular Article 18 thereof,

Whereas:

- (1) The Agreement was signed on 21 June 1999 and entered into force on 1 June 2002.
- (2) Annex II to the Agreement on the coordination of social security schemes was last amended by Decision No 1/2006 of 6 July 2006 ⁽¹⁾ and should now be updated to take account of the new legal acts of the European Union that have entered into force since then, in particular Regulation (EC) No 883/2004 of the European Parliament and of the Council of 29 April 2004 on the coordination of social security systems ⁽²⁾ and the measures adopted to implement that Regulation.
- (3) Regulation (EC) No 883/2004 has replaced Council Regulation (EEC) No 1408/71 of 14 June 1971 on the application of social security schemes to employed persons, to self-employed persons and to members of their families moving within the Community ⁽³⁾.
- (4) In the interests of clarity and rationality, Annex II to the Agreement and the Protocol to that Annex should be consolidated in a legally binding version.
- (5) Annex II to the Agreement should be maintained in line with the evolution of the relevant legal acts of the European Union,

HAS ADOPTED THIS DECISION:

Article 1

Annex II to the Agreement between the European Community and its Member States, of the one part, and the Swiss Confederation, of the other, on the Free Movement of Persons (hereinafter referred to as 'the Agreement') is replaced by the Annex to this Decision.

Article 2

This Decision is established in the Bulgarian, Czech, Danish, Dutch, English, Estonian, Finnish, French, German, Greek, Hungarian, Italian, Latvian, Lithuanian, Maltese, Polish, Portuguese, Romanian, Slovak, Slovenian, Spanish and Swedish languages, the texts in each of these languages being equally authentic.

Article 3

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

Done at ...,

For the Joint Committee

The Chairman

The Secretaries

⁽¹⁾ OJ L 270, 29.9.2006, p. 67.

⁽²⁾ OJ L 166, 30.4.2004, p. 1.

⁽³⁾ OJ L 149, 5.7.1971, p. 2.

ANNEX

‘ANNEX II

COORDINATION OF SOCIAL SECURITY SCHEMES

Article 1

(1) The contracting parties agree, with regard to the coordination of social security schemes, to apply among themselves the legal acts of the European Union to which reference is made in, and as amended by, section A of this Annex, or rules equivalent to such acts.

(2) The term “Member State(s)” contained in the legal acts referred to in section A of this Annex shall be understood to include Switzerland in addition to the States covered by the relevant legal acts of the European Union.

Article 2

(1) For the purposes of applying the provisions of this Annex, the contracting parties shall take into due account the legal acts of the European Union referred to in section B of this Annex.

(2) For the purposes of applying the provisions of this Annex, the contracting parties shall take note of the legal acts of the European Union referred to in section C of this Annex.

Article 3

(1) Special provisions concerning the transitory arrangements relating to unemployment insurance for nationals of certain Member States of the European Union holding a Swiss residence permit valid for less than one year, concerning the Swiss allowances for helpless persons and concerning benefits under the occupational benefit plans regarding old-age, survivors’ and invalidity pensions are set out in the Protocol to this Annex.

(2) The Protocol forms an integral part of this Annex.

SECTION A: LEGAL ACTS REFERRED TO

1. Regulation (EC) No 883/2004 of the European Parliament and of the Council of 29 April 2004 on the coordination of social security systems ⁽¹⁾, as amended by Regulation (EC) No 988/2009 of the European Parliament and of the Council of 16 September 2009 amending Regulation (EC) No 883/2004 on the coordination of social security systems, and determining the content of its Annexes ⁽²⁾.

For the purposes of this Agreement, Regulation (EC) No 883/2004 shall be adapted as follows:

- (a) The following shall be added to *Annex I, section I*:

“Switzerland

Cantonal legislation concerning the advances of maintenance payments based on Articles 131 paragraph 2 and 293 paragraph 2 of the Federal Civil Act”;

- (b) The following shall be added to *Annex I, section II*:

“Switzerland

Birth grants and adoption grants pursuant to the relevant cantonal legislation based on Article 3 paragraph 2 of the Federal Family Allowances Act”;

- (c) The following shall be added to *Annex II*:

“Germany-Switzerland

- (a) Convention on social security of 25 February 1964, as amended by Complementary Conventions No 1 of 9 September 1975 and No 2 of 2 March 1989:

(i) point 9b, paragraph 1, Nos 1-4 of the Final Protocol (legislation applicable and entitlement to sickness benefits in kind for residents of the German exclave of Büsingen);

(ii) point 9e, paragraph 1(b), first, second and fourth sentences, of the Final Protocol (access to voluntary sickness insurance in Germany by relocation in Germany).

⁽¹⁾ OJ L 166, 30.4.2004, p. 1.

⁽²⁾ OJ L 284, 30.10.2009, p. 43.

(b) Convention on unemployment insurance of 20 October 1982, as amended by the Additional Protocol of 22 December 1992:

- (i) Article 8(5), Germany (district of Büsingen) shall contribute a sum equivalent to the cantonal contribution under Swiss law towards the cost of actual places on employment-promotion measures for workers subject to this provision.

Spain-Switzerland

Point 17 of the Final Protocol to the Convention on social security of 13 October 1969, as amended by the Complementary Convention of 11 June 1982; persons insured under the Spanish scheme by virtue of this provision are exempted from the requirement to join the Swiss sickness insurance scheme.

Italy-Switzerland

Article 9(1) of the Convention on social security of 14 December 1962, as amended by Complementary Convention No 1 of 18 December 1963, the Complementary Agreement of 4 July 1969, the Additional Protocol of 25 February 1974 and Complementary Agreement No 2 of 2 April 1980.”;

(d) The following shall be added to *Annex IV*:

“Switzerland”;

(e) The following shall be added to *Annex VIII, part 1*:

“Switzerland

All claims for old-age, survivors’ and invalidity pensions under the basic scheme (Federal Law on old-age and survivors’ insurance and Federal Law on invalidity insurance) and old-age pensions under the statutory occupational benefit plans (Federal Law on occupational benefits plans for old-age, survivors’ and invalidity insurance).”;

(f) The following shall be added to *Annex VIII, part 2*:

“Switzerland

Old-age, survivors’ and invalidity pensions under the statutory occupational benefit plans (Federal Law on occupational benefits plans for old-age, survivors’ and invalidity insurance).”;

(g) The following shall be added to *Annex IX, part II*:

“Switzerland

Survivors’ and invalidity pensions under the statutory occupational benefit plans (Federal Law on occupational benefits plans for old-age, survivors’ and invalidity insurance).”;

(h) The following shall be added to *Annex X*:

“1. Supplementary benefits (Federal Supplementary Benefits Act of 19 March 1965) and similar benefits provided for under cantonal legislation.

2. Pensions in the case of hardship under invalidity insurance (Article 28 subparagraph 1a of the Federal Invalidity Insurance Act of 19 June 1959, as amended on 7 October 1994).

3. Non-contributory mixed benefits in the event of unemployment, as provided for under cantonal legislation.

4. Non-contributory extraordinary invalidity pensions for disabled persons (Article 39 of the Federal Invalidity Insurance Act of 19 June 1959) who have not been subject, before their incapacity for work, to the Swiss legislation on the basis of an activity as an employed or self-employed person.”;

(i) The following shall be added to *Annex XI*:

“Switzerland

1. Article 2 of the Federal Old-Age and Survivors’ Insurance Act and Article 1 of the Federal Invalidity Insurance Act, which govern voluntary insurance in these insurance branches for Swiss nationals resident in States not subject to this Agreement, shall be applicable to persons resident outside Switzerland who are nationals of the other States to which this Agreement applies, and to refugees and stateless persons resident in the territory of these States, where these persons join the voluntary insurance scheme not later than one year after the date on which they ceased to be covered by old-age, survivors’ and invalidity insurance after a continuous period of insurance of at least five years.

2. Where a person ceases to be insured under Swiss old-age, survivors' and invalidity insurance after a continuous period of insurance of at least five years, he shall continue to be entitled to be insured with the agreement of the employer if he works in a State to which this Agreement does not apply for an employer in Switzerland and if he submits an application to this effect within six months of the date on which he ceases to be insured.
3. Compulsory insurance under Swiss sickness insurance and possible exemptions
 - (a) The Swiss legal provisions governing compulsory sickness insurance shall apply to the following persons not resident in Switzerland:
 - (i) persons subject to Swiss legal provisions under Title II of the Regulation;
 - (ii) persons for whom Switzerland shall bear the costs of benefits according to Articles 24, 25, 26 of the Regulation;
 - (iii) persons receiving Swiss unemployment insurance benefits;
 - (iv) family members of persons referred to in (i) and (iii) or of an employed or self-employed person resident in Switzerland who is insured under the Swiss sickness insurance scheme, unless these family members are resident in one of the following States: Denmark, Spain, Hungary, Portugal, Sweden or the United Kingdom;
 - (v) family members of persons referred to in (ii) or of a pensioner resident in Switzerland who is insured under the Swiss sickness insurance scheme, unless these family members are resident in one of the following States: Denmark, Portugal, Sweden or the United Kingdom.
 - As family members are considered those persons who are defined as family members according to the legislation of the state of residence.
 - (b) Persons referred to in (a) may, on request, be exempted from compulsory insurance if and as long as they are resident in one of the following States and can prove that they are eligible for cover in the event of sickness: Germany, France, Italy, Austria, and, with regard to persons referred to in (a) (iv) and (v), Finland and, with regard to persons referred to in (a)(ii), Portugal.

This request

 - (aa) must be submitted within three months of the date on which the obligation to take out insurance in Switzerland comes into effect; where, in justified cases, the request is submitted after this deadline, the exemption shall take effect as from the commencement of the insurance obligation;
 - (bb) shall apply to all family members residing in the same State.
4. Where a person subject to Swiss legal provisions under Title II of the Regulation is, in application of 3(b), subject for the purposes of sickness insurance to the legal provisions of another State covered by this Agreement, the costs of these benefits in kind for non-occupational accidents shall be shared equally between the Swiss insurer against occupational and non-occupational accidents and industrial diseases and the competent sickness insurance institution if an entitlement exists to benefits in kind from both bodies. The Swiss insurer against occupational and non-occupational accidents and industrial diseases shall meet all costs in the event of occupational accidents, accidents on the way to work or industrial diseases, even where there is an entitlement to benefits from a sickness insurance body in the country of residence.
5. Persons who are working, but not residing in Switzerland and who have statutory insurance cover in their State of residence in accordance with point 3(b), as well as their family members, shall benefit from the provisions of Article 19 of the Regulation during a stay in Switzerland.
6. For the purposes of applying Articles 18, 19, 20, 27 of the Regulation in Switzerland, the competent insurer shall bear all invoiced costs.
7. Periods of daily allowance insurance completed under the insurance scheme of another State to which this Agreement applies shall be taken into account for reducing or lifting a possible reserve in daily allowance insurance in the event of maternity or sickness where the person becomes insured with a Swiss insurer within three months of ceasing to be covered by insurance in another country.

8. Where a person who was gainfully employed or self-employed in Switzerland and covering his vital needs has had to cease his activity owing to an accident or illness and is no longer subject to Swiss legislation on invalidity insurance, he shall be considered to be covered by that insurance for the purpose of eligibility for rehabilitation measures until the payment of an invalidity pension and throughout the period during which he benefits from these measures, provided that he has not taken up a new activity outside Switzerland.”
2. Regulation (EC) No 987/2009 of the European Parliament and of the Council of 16 September 2009 laying down the procedure for implementing Regulation (EC) No 883/2004 on the coordination of social security systems ⁽¹⁾.

For the purposes of this Agreement, Regulation (EC) No 987/2009 shall be adapted as follows:

- (a) The following shall be added to Annex 1:

“Arrangement between Switzerland and France of 26 October 2004 fixing the special procedures for the reimbursement of health care benefits

Arrangement between Switzerland and Italy of 20 December 2005 fixing the special procedures for the reimbursement of health care benefits”.

3. Council Regulation (EEC) No 1408/71 of 14 June 1971 on the application of social security schemes to employed persons, to self-employed persons and to the members of their families moving within the Community ⁽²⁾, as last amended by Regulation (EC) No 592/2008 of the European Parliament and of the Council of 17 June 2008 ⁽³⁾, as applicable between Switzerland and the Member States before the entry into force of this Decision, and when referred to in Regulations (EC) No 883/2004 or (EC) No 987/2009 or when cases are concerned which occurred in the past.
4. Council Regulation (EEC) No 574/72 of 21 March 1972 fixing the procedure for implementing Regulation (EEC) No 1408/71 on the application of social security schemes to employed persons, to self-employed persons and to the members of their families moving within the Community ⁽⁴⁾, as last amended by Commission Regulation (EC) No 120/2009 of 9 February 2009 ⁽⁵⁾, as applicable between Switzerland and the Member States before the entry into force of this Decision, and when referred to in Regulations (EC) No 883/2004 or (EC) No 987/2009 or when cases are concerned which occurred in the past.
5. Council Directive 98/49/EC of 29 June 1998 on safeguarding the supplementary pension rights of employed and self-employed persons moving within the Community ⁽⁶⁾.

SECTION B: LEGAL ACTS OF WHICH THE CONTRACTING PARTIES SHALL TAKE DUE ACCOUNT

- (1) Decision of the Administrative Commission for the Coordination of Social Security Systems No A1 of 12 June 2009 concerning the establishment of a dialogue and conciliation procedure concerning the validity of documents, the determination of the applicable legislation and the provision of benefits under Regulation (EC) No 883/2004 of the European Parliament and of the Council ⁽⁷⁾.
- (2) Decision of the Administrative Commission for the Coordination of Social Security Systems No A2 of 12 June 2009 concerning the interpretation of Article 12 of Regulation (EC) No 883/2004 of the European Parliament and of the Council on the legislation applicable to posted workers and self-employed workers temporarily working outside the competent State ⁽⁸⁾.
- (3) Decision of the Administrative Commission for the Coordination of Social Security Systems No A3 of 17 December 2009 concerning the aggregation of uninterrupted posting periods completed under the Council Regulation (EEC) No 1408/71 and Regulation (EC) No 883/2004 of the European Parliament and of the Council ⁽⁹⁾.

⁽¹⁾ OJ L 284, 30.10.2009, p. 1.

⁽²⁾ OJ L 149, 5.7.1971, p. 2.

⁽³⁾ OJ L 177, 4.7.2008, p. 1.

⁽⁴⁾ OJ L 74, 27.3.1972, p. 1.

⁽⁵⁾ OJ L 39, 10.2.2009, p. 29.

⁽⁶⁾ OJ L 209, 25.7.1998, p. 46.

⁽⁷⁾ OJ C 106, 24.4.2010, p. 1.

⁽⁸⁾ OJ C 106, 24.4.2010, p. 5.

⁽⁹⁾ OJ C 149, 8.6.2010, p. 3.

- (4) Decision of the Administrative Commission for the Coordination of Social Security Systems No E1 of 12 June 2009 concerning the practical arrangements for the transitional period for the data exchange via electronic means referred to in Article 4 of Regulation (EC) No 987/2009 of the European Parliament and of the Council ⁽¹⁾.
- (5) Decision of the Administrative Commission for the Coordination of Social Security Systems No F1 of 12 June 2009 concerning the interpretation of Article 68 of Regulation (EC) No 883/2004 of the European Parliament and of the Council relating to priority rules in the event of overlapping of family benefits ⁽²⁾.
- (6) Decision of the Administrative Commission for the Coordination of Social Security Systems No H1 of 12 June 2009 concerning the framework for the transition from Council Regulations (EEC) No 1408/71 and (EEC) No 574/72 to Regulations (EC) No 883/2004 and (EC) No 987/2009 of the European Parliament and of the Council and the application of Decisions and Recommendations of the Administrative Commission for the coordination of social security systems ⁽³⁾.
- (7) Decision of the Administrative Commission for the Coordination of Social Security Systems No H2 of 12 June 2009 concerning the methods of operation and the composition of the Technical Commission for data processing of the Administrative Commission for the coordination of social security systems ⁽⁴⁾.
- (8) Decision of the Administrative Commission for the Coordination of Social Security Systems No H3 of 15 October 2009 concerning the date to be taken into consideration for determining the rates of conversion referred to in Article 90 of Regulation (EC) No 987/2009 of the European Parliament and of the Council ⁽⁵⁾.
- (9) Decision of the Administrative Commission for the Coordination of Social Security Systems No H4 of 22 December 2009 concerning the composition and working methods of the Audit Board of the Administrative Commission for the Coordination of Social Security Systems ⁽⁶⁾.
- (10) Decision of the Administrative Commission for the Coordination of Social Security Systems No H5 of 18 March 2010 concerning cooperation on combating fraud and error within the framework of Council Regulation (EC) No 883/2004 and Regulation (EC) No 987/2009 of the European Parliament and of the Council on the coordination of social security systems ⁽⁷⁾.
- (11) Decision of the Administrative Commission for the Coordination of Social Security Systems No P1 of 12 June 2009 on the interpretation of Articles 50(4), 58 and 87(5) of Regulation (EC) No 883/2004 of the European Parliament and of the Council for the award of invalidity, old-age and survivors' benefits ⁽⁸⁾.
- (12) Decision of the Administrative Commission for the Coordination of Social Security Systems No S1 of 12 June 2009 concerning the European Health Insurance Card ⁽⁹⁾.
- (13) Decision of the Administrative Commission for the Coordination of Social Security Systems No S2 of 12 June 2009 concerning the technical specifications of the European Health Insurance Card ⁽¹⁰⁾.
- (14) Decision of the Administrative Commission for the Coordination of Social Security Systems No S3 of 12 June 2009 defining the benefits covered by Articles 19(1) and 27(1) of Regulation (EC) No 883/2004 of the European Parliament and of the Council and Article 25(A)(3) of Regulation (EC) No 987/2009 of the European Parliament and of the Council ⁽¹¹⁾.
- (15) Decision of the Administrative Commission for the Coordination of Social Security Systems No S4 of 2 October 2009 concerning refund procedures for the implementation of Articles 35 and 41 of Regulation (EC) No 883/2004 of the European Parliament and of the Council ⁽¹²⁾.

⁽¹⁾ OJ C 106, 24.4.2010, p. 9.

⁽²⁾ OJ C 106, 24.4.2010, p. 11.

⁽³⁾ OJ C 106, 24.4.2010, p. 13.

⁽⁴⁾ OJ C 106, 24.4.2010, p. 17.

⁽⁵⁾ OJ C 106, 24.4.2010, p. 56.

⁽⁶⁾ OJ C 107, 27.4.2010, p. 3.

⁽⁷⁾ OJ C 149, 8.6.2010, p. 5.

⁽⁸⁾ OJ C 106, 24.4.2010, p. 21.

⁽⁹⁾ OJ C 106, 24.4.2010, p. 23.

⁽¹⁰⁾ OJ C 106, 24.4.2010, p. 26.

⁽¹¹⁾ OJ C 106, 24.4.2010, p. 40.

⁽¹²⁾ OJ C 106, 24.4.2010, p. 52.

- (16) Decision of the Administrative Commission for the Coordination of Social Security Systems No S5 of 2 October 2009 on interpretation of the concept of “benefits in kind” as defined in Article 1(va) of Regulation (EC) No 883/2004 of the European Parliament and of the Council in the event of sickness or maternity pursuant to Articles 17, 19, 20 and 22, Article 24(1), Articles 25 and 26, Article 27(1), (3), (4) and (5), Articles 28 and 34 and Article 36(1) and (2) of Regulation (EC) No 883/2004 and on calculation of the amounts to be refunded under Articles 62, 63 and 64 of Regulation (EC) No 987/2009 of the European Parliament and of the Council ⁽¹⁾.
- (17) Decision of the Administrative Commission for the Coordination of Social Security Systems No S6 of 22 December 2009 concerning the registration in the Member State of residence under Article 24 of Regulation (EC) No 987/2009 and the compilation of the inventories provided for in Article 64(4) of Regulation (EC) No 987/2009 ⁽²⁾.
- (18) Decision of the Administrative Commission for the Coordination of Social Security Systems No S7 of 22 December 2009 concerning the transition from Regulations (EEC) Nos 1408/71 and 574/72 to Regulations (EC) Nos 883/2004 and 987/2009 and the application of reimbursement procedures ⁽³⁾.
- (19) Decision of the Administrative Commission for the Coordination of Social Security Systems No U1 of 12 June 2009 concerning Article 54(3) of Regulation (EC) No 987/2009 of the European Parliament and of the Council relating to increases in unemployment benefit for dependent members of the family ⁽⁴⁾.
- (20) Decision of the Administrative Commission for the Coordination of Social Security Systems No U2 of 12 June 2009 concerning the scope of Article 65(2) of Regulation (EC) No 883/2004 of the European Parliament and of the Council on the right to unemployment benefits of wholly unemployed persons other than frontier workers who were resident in the territory of a Member State other than the competent Member State during their last period of employment or self-employment ⁽⁵⁾.
- (21) Decision of the Administrative Commission for the Coordination of Social Security Systems No U3 of 12 June 2009 concerning the scope of the concept of “partial unemployment” applicable to the unemployed persons referred to in Article 65(1) of Regulation (EC) No 883/2004 of the European Parliament and of the Council ⁽⁶⁾.

SECTION C: LEGAL ACTS OF WHICH THE CONTRACTING PARTIES SHALL TAKE NOTE

1. Recommendation of the Administrative Commission for the Coordination of Social Security Systems No U1 of 12 June 2009 concerning the legislation applicable to unemployed persons engaging in part-time professional or trade activity in a Member State other than the State of residence ⁽⁷⁾.
2. Recommendation of the Administrative Commission for the Coordination of Social Security Systems No U2 of 12 June 2009 concerning the application of Article 64(1)(a) of Regulation (EC) No 883/2004 of the European Parliament and of the Council to unemployed persons accompanying their spouses or partners pursuing a professional or trade activity in a Member State other than the competent State ⁽⁸⁾.

⁽¹⁾ OJ C 106, 24.4.2010, p. 54.

⁽²⁾ OJ C 107, 27.4.2010, p. 6.

⁽³⁾ OJ C 107, 27.4.2010, p. 8.

⁽⁴⁾ OJ C 106, 24.4.2010, p. 42.

⁽⁵⁾ OJ C 106, 24.4.2010, p. 43.

⁽⁶⁾ OJ C 106, 24.4.2010, p. 45.

⁽⁷⁾ OJ C 106, 24.4.2010, p. 49.

⁽⁸⁾ OJ C 106, 24.4.2010, p. 51.

PROTOCOL to Annex II to the Agreement

I. Unemployment insurance

The following arrangements shall apply to workers who are nationals of the Czech Republic, the Republic of Estonia, the Republic of Latvia, the Republic of Lithuania, the Republic of Hungary, the Republic of Poland, the Republic of Slovenia and the Slovak Republic until 30 April 2011 and to workers who are nationals of the Republic of Bulgaria and Romania until 31 May 2016.

1. The following rules shall apply with respect to unemployment insurance for workers holding a residence permit with a period of validity of less than one year:
 - 1.1 Only workers who have paid contributions in Switzerland for the minimum period required under the Federal Unemployment Insurance and Insolvency Allowances Act (loi fédérale sur l'assurance-chômage obligatoire et l'indemnité en cas d'insolvabilité – LACI) ⁽¹⁾ and who also satisfy the other conditions of eligibility for unemployment benefit shall be entitled to such benefit provided by the unemployment insurance under the conditions laid down by law.
 - 1.2 A portion of the contributions levied for workers whose period of contribution is too short to give entitlement to unemployment benefit in Switzerland under 1.1 shall be refunded to their States of origin in accordance with the provisions of 1.3 in order to contribute towards the cost of benefits provided to these workers in the event of full unemployment; these workers shall then have no entitlement to benefit in the event of their being fully unemployed in Switzerland. They shall, however, be entitled to allowances for bad weather and in the event of the employer becoming insolvent. Benefits in the event of full unemployment shall be paid by the State of origin, provided that the workers concerned make themselves available for work. Periods of insurance completed in Switzerland shall be taken into account in the same way as if they had been completed in the State of origin.
 - 1.3 The portion of the contributions levied for workers referred to in 1.2 shall be refunded on an annual basis in accordance with the following provisions:
 - (a) The total contributions of these workers shall be calculated, by country, on the basis of the annual number of workers employed and the average annual contributions paid for each worker (employer's and employee's contributions).
 - (b) Of the amount calculated in this way, a portion thereof corresponding to the relative share represented by unemployment benefit as a percentage of all the allowances referred to in 1.2 shall be refunded to the workers' States of origin, and a portion shall be retained by Switzerland as a reserve for subsequent benefits ⁽²⁾.
 - (c) Switzerland shall, on an annual basis, provide a statement showing the contributions refunded. If the States of origin so request, it shall indicate the bases for the calculation and the sums refunded. The States of origin shall each year notify Switzerland of the number of recipients of unemployment benefit as referred to in 1.2.
2. If a Member State concerned by this arrangement encounters difficulties with the ending of the arrangements for refunding of contributions, or Switzerland encounters difficulties with the aggregation arrangements, the matter may be referred to the Joint Committee by any of the contracting parties.

II. Allowances for helpless persons

Allowances for helpless persons granted under the Swiss Federal Act of 19 June 1959 on invalidity insurance (LAI) and under the Federal Act of 20 December 1946 on old-age and survivors' pensions (LAVS) as amended on 8 October 1999 shall be provided exclusively if the person concerned resides in Switzerland.

III. Occupational benefit plans concerning old-age, survivors' and invalidity pensions

Notwithstanding Article 10(2) of Council Regulation (EEC) No 1408/71, the vested benefit provided for under the Federal Act on free movement among occupational benefit plans concerning old-age, survivors' and invalidity pensions (Loi fédérale sur le libre passage dans la prévoyance professionnelle vieillesse, survivants et invalidité) of 17 December 1993 shall be paid out on request to an employed or self-employed person who intends to leave Switzerland for good and who, under Title II of the Regulation, will no longer be subject to Swiss law, provided that they leave Switzerland within five years of this Agreement entering into effect.

⁽¹⁾ Currently 12 months.

⁽²⁾ Refunded contributions for workers who will exercise their right to unemployment benefit in Switzerland after having paid contributions for at least 12 months — over several periods of residence -within the space of two years.

*ANNEX II***DECLARATION****on the Declaration on Swiss attendance of committees**

The Administrative Commission on Social Security for Migrant Workers referred to in the second indent of the Declaration on Swiss attendance of committees (OJ L 114, 30.4.2002, p. 72) has been renamed as Administrative Commission for the Coordination of Social Security Systems by Article 71 of Regulation (EC) No 883/2004 of the European Parliament and of the Council.

REGULATIONS

COMMISSION REGULATION (EU) No 817/2011

of 11 August 2011

establishing a prohibition of fishing for tusk in EU and international waters of V, VI and VII by vessels flying the flag of France

THE EUROPEAN COMMISSION,

HAS ADOPTED THIS REGULATION:

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

Article 1

Quota exhaustion

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,

The fishing quota allocated to the Member State referred to in the Annex to this Regulation for the stock referred to therein for 2011 shall be deemed to be exhausted from the date set out in that Annex.

Whereas:

Article 2

Prohibitions

(1) Council Regulation (EU) No 57/2011 of 18 January 2011 fixing for 2011 the fishing opportunities for certain fish stocks and groups of fish stocks, applicable in EU waters and, for EU vessels, in certain non-EU waters ⁽²⁾, lays down quotas for 2011.

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

(2) According to the information received by the Commission, catches of the stock referred to in the Annex to this Regulation by vessels flying the flag of or registered in the Member State referred to therein have exhausted the quota allocated for 2011.

Article 3

Entry into force

(3) It is therefore necessary to prohibit fishing activities for that stock,

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 August 2011.

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

Lowri EVANS

Director-General for Maritime Affairs and Fisheries

⁽¹⁾ OJ L 343, 22.12.2009, p. 1.

⁽²⁾ OJ L 24, 27.1.2011, p. 1.

ANNEX

No	26/T&Q
Member State	France
Stock	USK/567El.
Species	Tusk (<i>Brosme brosme</i>)
Zone	EU and international waters of V, VI and VII
Date	9.7.2011

COMMISSION REGULATION (EU) No 818/2011**of 11 August 2011****establishing a prohibition of fishing for haddock in EU and international waters of Vb and VIa by vessels flying the flag of Spain**

THE EUROPEAN COMMISSION,

HAS ADOPTED THIS REGULATION:

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

*Article 1***Quota exhaustion**

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,

The fishing quota allocated to the Member State referred to in the Annex to this Regulation for the stock referred to therein for 2011 shall be deemed to be exhausted from the date set out in that Annex.

Whereas:

*Article 2***Prohibitions**

(1) Council Regulation (EU) No 57/2011 of 18 January 2011 fixing for 2011 the fishing opportunities for certain fish stocks and groups of fish stocks, applicable in EU waters and, for EU vessels, in certain non-EU waters ⁽²⁾, lays down quotas for 2011.

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

(2) According to the information received by the Commission, catches of the stock referred to in the Annex to this Regulation by vessels flying the flag of or registered in the Member State referred to therein have exhausted the quota allocated for 2011.

*Article 3***Entry into force**

(3) It is therefore necessary to prohibit fishing activities for that stock,

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 August 2011.

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

Lowri EVANS

Director-General for Maritime Affairs and Fisheries

⁽¹⁾ OJ L 343, 22.12.2009, p. 1.

⁽²⁾ OJ L 24, 27.1.2011, p. 1.

ANNEX

No	25/T&Q
Member State	Spain
Stock	HAD/5BC6A.
Species	Haddock (<i>Melanogrammus aeglefinus</i>)
Zone	EU and international waters of Vb and VIa
Date	4.7.2011

COMMISSION REGULATION (EU) No 819/2011**of 11 August 2011****establishing a prohibition of fishing for saithe in VI; EU and international waters of Vb, XII and XIV
by vessels flying the flag of Spain**

THE EUROPEAN COMMISSION,

HAS ADOPTED THIS REGULATION:

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

*Article 1***Quota exhaustion**

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,

The fishing quota allocated to the Member State referred to in the Annex to this Regulation for the stock referred to therein for 2011 shall be deemed to be exhausted from the date set out in that Annex.

Whereas:

*Article 2***Prohibitions**

(1) Council Regulation (EU) No 57/2011 of 18 January 2011 fixing for 2011 the fishing opportunities for certain fish stocks and groups of fish stocks, applicable in EU waters and, for EU vessels, in certain non-EU waters ⁽²⁾, lays down quotas for 2011.

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

(2) According to the information received by the Commission, catches of the stock referred to in the Annex to this Regulation by vessels flying the flag of or registered in the Member State referred to therein have exhausted the quota allocated for 2011.

*Article 3***Entry into force**

(3) It is therefore necessary to prohibit fishing activities for that stock,

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 August 2011.

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

Lowri EVANS

Director-General for Maritime Affairs and Fisheries

⁽¹⁾ OJ L 343, 22.12.2009, p. 1.

⁽²⁾ OJ L 24, 27.1.2011, p. 1.

ANNEX

No	24/T&Q
Member State	Spain
Stock	POK/56-14
Species	Saithe (<i>Pollachius virens</i>)
Zone	VI; EU and international waters of Vb, XII and XIV
Date	4.7.2011

COMMISSION IMPLEMENTING REGULATION (EU) No 820/2011

of 16 August 2011

approving the active substance terbuthylazine, in accordance with Regulation (EC) No 1107/2009 of the European Parliament and of the Council concerning the placing of plant protection products on the market, and amending the Annex to Commission Implementing Regulation (EU) No 540/2011 and Commission Decision 2008/934/EC

(Text with EEA relevance)

THE EUROPEAN COMMISSION,

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

Having regard to Regulation (EC) No 1107/2009 of the European Parliament and of the Council of 21 October 2009 concerning the placing of plant protection products on the market and repealing Council Directives 79/117/EEC and 91/414/EEC ⁽¹⁾, and in particular Article 13(2) and Article 78(2) thereof,

Whereas:

- (1) In accordance with Article 80(1)(c) of Regulation (EC) No 1107/2009, Council Directive 91/414/EEC ⁽²⁾ is to apply to active substances for which completeness has been established in accordance with Article 16 of Commission Regulation (EC) No 33/2008 ⁽³⁾, with respect to the procedure and the conditions for approval. Terbuthylazine is an active substance for which completeness has been established in accordance with that Regulation.
- (2) Commission Regulations (EC) No 451/2000 ⁽⁴⁾ and (EC) No 1490/2002 ⁽⁵⁾ lay down the detailed rules for the implementation of the second and third stages of the programme of work referred to in Article 8(2) of Directive 91/414/EEC and establish a list of active substances to be assessed, with a view to their possible inclusion in Annex I to Directive 91/414/EEC. That list included terbuthylazine.
- (3) In accordance with Article 3(2) of Commission Regulation (EC) No 1095/2007 of 20 September 2007 amending Regulation (EC) No 1490/2002 laying down further detailed rules for the implementation of the third stage of the programme of work referred to in Article 8(2) of Council Directive 91/414/EEC and Regulation (EC) No 2229/2004 laying down further detailed rules for the implementation of the fourth stage of the programme of work referred to in Article 8(2) of Council Directive 91/414/EEC ⁽⁶⁾ the notifier withdrew its support of the inclusion of that active substance in Annex I to Directive 91/414/EEC within two months from entry into force of that Regulation. Consequently, Commission Decision 2008/934/EC of 5 December 2008 concerning the non-inclusion of certain active

substances in Annex I to Council Directive 91/414/EEC and the withdrawal of authorisations for plant protection products containing these substances ⁽⁷⁾ was adopted on the non-inclusion of terbuthylazine.

- (4) Pursuant to Article 6(2) of Directive 91/414/EEC the original notifier (hereinafter 'the applicant') submitted a new application requesting the accelerated procedure to be applied, as provided for in Articles 14 to 19 of Regulation (EC) No 33/2008 laying down detailed rules for the application of Directive 91/414/EEC as regards a regular and an accelerated procedure for the assessment of active substances which were part of the programme of work referred to in Article 8(2) of that Directive but have not been included into its Annex I.
- (5) The application was submitted to the United Kingdom, which had been designated rapporteur Member State by Regulation (EC) No 1490/2002. The time period for the accelerated procedure was respected. The specification of the active substance and the supported uses are the same as were the subject of Decision 2008/934/EC. That application also complies with the remaining substantive and procedural requirements of Article 15 of Regulation (EC) No 33/2008.
- (6) The United Kingdom evaluated the additional data submitted by the applicant and prepared an additional report. It communicated that report to the European Food Safety Authority (hereinafter 'the Authority') and to the Commission on 3 February 2010. The Authority communicated the additional report to the other Member States and the applicant for comments and forwarded the comments it had received to the Commission. In accordance with Article 20(1) of Regulation (EC) No 33/2008 and at the request of the Commission, the Authority presented its conclusion on terbuthylazine to the Commission on 20 December 2010 ⁽⁸⁾. The draft assessment report, the additional report and the conclusion of the Authority were reviewed by the Member States and the Commission within the Standing Committee on the Food Chain and Animal Health and finalised on 17 June 2011 in the format of the Commission review report for terbuthylazine.
- (7) It has appeared from the various examinations made that plant protection products containing terbuthylazine may be expected to satisfy, in general, the requirements laid down in Article 5(1)(a) and (b) of Directive 91/414/EEC,

⁽¹⁾ OJ L 309, 24.11.2009, p. 1.

⁽²⁾ OJ L 230, 19.8.1991, p. 1.

⁽³⁾ OJ L 15, 18.1.2008, p. 5.

⁽⁴⁾ OJ L 55, 29.2.2000, p. 25.

⁽⁵⁾ OJ L 224, 21.8.2002, p. 23.

⁽⁶⁾ OJ L 246, 21.9.2007, p. 19.

⁽⁷⁾ OJ L 333, 11.12.2008, p. 11.

⁽⁸⁾ European Food Safety Authority, Conclusion on the peer review of the pesticide risk assessment of the active substance terbuthylazine. *EFSA Journal* 2011; 9(1):1969 [133 pp.], doi:10.2903/j.efsa.2010.1969. Available online: www.efsa.europa.eu

in particular as regards the uses which were examined and detailed in the Commission review report. It is therefore appropriate to approve terbuthylazine in accordance with Regulation (EC) No 1107/2009.

- (8) In accordance with Article 13(2) of Regulation (EC) No 1107/2009 in conjunction with Article 6 thereof and in the light of current scientific and technical knowledge, it is, however, necessary to include certain conditions and restrictions.
- (9) Without prejudice to the conclusion that terbuthylazine should be approved, it is, in particular, appropriate to require further confirmatory information.
- (10) A reasonable period should be allowed to elapse before approval in order to permit Member States and the interested parties to prepare themselves to meet the new requirements resulting from the approval.
- (11) Without prejudice to the obligations defined by Regulation (EC) No 1107/2009 as a consequence of the approval, taking into account the specific situation created by the transition from Directive 91/414/EEC to Regulation (EC) No 1107/2009 the following should, however, apply. Member States should be allowed a period of six months after approval to review authorisations of plant protection products containing terbuthylazine. Member States should, as appropriate, vary, replace or withdraw existing authorisations. By way of derogation from the above deadline, a longer period should be provided for the submission and assessment of the update of the complete Annex III dossier, as set out in Directive 91/414/EEC, of each plant protection product for each intended use in accordance with the uniform principles.
- (12) The experience gained from inclusions in Annex I to Directive 91/414/EEC of active substances assessed in the framework of Commission Regulation (EEC) No 3600/92 of 11 December 1992 laying down the detailed rules for the implementation of the first stage of the programme of work referred to in Article 8(2) of Council Directive 91/414/EEC concerning the placing of plant protection products on the market⁽¹⁾ has shown that difficulties can arise in interpreting the duties of holders of existing authorisations in relation to access to data. In order to avoid further difficulties it therefore appears necessary to clarify the duties of the Member States, especially the duty to verify that the holder of an authorisation demonstrates access to a dossier satisfying the requirements of Annex II to that Directive. However, this clarification does not impose any new obligations on Member States or holders of authorisations compared to the directives which have been adopted until now amending Annex I to that Directive or the Regulations approving active substances.
- (13) In accordance with Article 13(4) of Regulation (EC) No 1107/2009 the Annex to Commission Implementing Regulation (EU) No 540/2011⁽²⁾ should be amended accordingly.

- (14) Decision 2008/934/EC provides for the non-inclusion of terbuthylazine and the withdrawal of authorisations for plants protection products containing that substance by 31 December 2011. It is necessary to delete the line concerning terbuthylazine in the Annex to that Decision. It is therefore appropriate to amend Decision 2008/934/EC accordingly.
- (15) 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

Approval of active substance

The active substance terbuthylazine, as specified in Annex I, is approved subject to the conditions laid down in that Annex.

Article 2

Re-evaluation of plant protection products

1. Member States shall in accordance with Regulation (EC) No 1107/2009, where necessary, amend or withdraw existing authorisations for plant protection products containing terbuthylazine as an active substance by 30 June 2012.

By that date they shall in particular verify that the conditions in Annex I to this Regulation are met, with the exception of those identified in Part B of the column on specific provisions of that Annex, and that the holder of the authorisation has, or has access to, a dossier satisfying the requirements of Annex II to Directive 91/414/EEC in accordance with the conditions of Article 13(1) to (4) of that Directive and Article 62 of Regulation (EC) No 1107/2009.

2. By way of derogation from paragraph 1, for each authorised plant protection product containing terbuthylazine as either the only active substance or as one of several active substances all of which were listed in the Annex to Implementing Regulation (EU) No 540/2011 by 31 December 2011 at the latest, Member States shall re-evaluate the product in accordance with the uniform principles, as referred to in Article 29(6) of Regulation (EC) No 1107/2009, on the basis of a dossier satisfying the requirements of Annex III to Directive 91/414/EEC and taking into account Part B of the column on specific provisions of Annex I to this Regulation. On the basis of that evaluation, they shall determine whether the product satisfies the conditions set out in Article 29(1) of Regulation (EC) No 1107/2009. Following that determination Member States shall:

- (a) in the case of a product containing terbuthylazine as the only active substance, where necessary, amend or withdraw the authorisation by 31 December 2015 at the latest; or

⁽¹⁾ OJ L 366, 15.12.1992, p. 10.

⁽²⁾ OJ L 153, 11.6.2011, p. 1.

(b) in the case of a product containing terbuthylazine as one of several active substances, where necessary, amend or withdraw the authorisation by 31 December 2015 or by the date fixed for such an amendment or withdrawal in the respective act or acts which added the relevant substance or substances to Annex I to Directive 91/414/EEC or approved that substance or substances, whichever is the latest.

Article 3

Amendments to Implementing Regulation (EU) No 540/2011

The Annex to Implementing Regulation (EU) No 540/2011 is amended in accordance with Annex II to this Regulation.

Article 4

Amendments to Decision 2008/934/EC

The line concerning terbuthylazine in the Annex to Decision 2008/934/EC is deleted.

Article 5

Entry into force and date of application

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

It shall apply from 1 January 2012.

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

Done at Brussels, 16 August 2011.

For the Commission

The President

José Manuel BARROSO

ANNEX I

Common name, identification numbers	IUPAC name	Purity ⁽¹⁾	Date of approval	Expiration of approval	Specific provisions
Terbutylazine CAS No 5915-41-3 CIPAC No 234	N2-tert-butyl-6-chloro- N4-ethyl-1,3,5-triazine- 2,4-diamine	≥ 950 g/kg Impurities: Propazine not more than 10 g/kg Atrazine not more than 1 g/kg Simazine not more than 30 g/kg	1 January 2012	31 December 2021	PART A Only uses as herbicide may be authorised. PART B For the implementation of the uniform principles, as referred to in Article 29(6) of Regulation (EC) No 1107/2009, the conclusions of the review report on terbutylazine, and in particular Appendices I and II thereof, as finalised in the Standing Committee on the Food Chain and Animal Health on 17 June 2011 shall be taken into account. In this overall assessment Member States shall pay particular attention to: (a) the protection of groundwater, when the active substance is applied in regions with vulnerable soil and/or climatic conditions; (b) the risk to mammals and earthworms. Conditions of use shall include risk mitigation measures and the obligation to carry out monitoring programmes to verify potential groundwater contamination in vulnerable zones, where appropriate. The applicant shall submit confirmatory information as regards: (1) the specification of the technical material, as commercially manufactured including information on the relevance of the impurities; (2) the equivalence between the specifications of the technical material, as commercially manufactured, and the specifications of the test material used in the toxicity studies; (3) groundwater exposure assessment for the unidentified metabolites LM1, LM2, LM3, LM4, LM5 and LM6; (4) the relevance of the metabolites MT1 (N-tert-butyl-6-chloro-1,3,5-triazine-2,4-diamine), MT 13 (4-(tert-butylamino)-6-(ethylamino)-1,3,5-triazin-2-ol or 6-hydroxy-N2-ethyl-N4-tert-butyl-1,3,5-triazine-2,4-diamine), MT14 (4-amino-6-(tert-butylamino)-1,3,5-triazin-2-ol or N-tert-butyl-6-hydroxy-1,3,5-triazine-2,4-diamine), and of the unidentified metabolites LM1, LM2, LM3, LM4, LM5 and LM6 with respect to cancer, if terbutylazine is classified under Regulation (EC) No 1272/2008 as 'suspected of causing cancer'. The applicant shall submit to the Commission, the Member States and the Authority the information set out in points (1) and (2) by 30 June 2012, the information set out in point (3) by 30 June 2013 and the information set out in point (4) within six months from the notification of the classification decision concerning that substance.

⁽¹⁾ Further details on identity and specification of active substance are provided in the review report.

ANNEX II

In Part B of the Annex to Implementing Regulation (EU) No 540/2011, the following entry is added:

Number	Common name, identification numbers	IUPAC name	Purity (*)	Date of approval	Expiration of approval	Specific provisions
'16	Terbuthylazine CAS No 5915-41-3 CIPAC No 234	N2-tert-butyl-6-chloro-N4-ethyl-1,3,5-triazine-2,4-diamine	≥ 950 g/kg Impurities: Propazine not more than 10 g/kg Atrazine not more than 1 g/kg Simazine not more than 30 g/kg	1 January 2012	31 December 2021	PART A Only uses as herbicide may be authorised. PART B For the implementation of the uniform principles, as referred to in Article 29(6) of Regulation (EC) No 1107/2009, the conclusions of the review report on terbuthylazine, and in particular Appendices I and II thereof, as finalised in the Standing Committee on the Food Chain and Animal Health on 17 June 2011 shall be taken into account. In this overall assessment Member States shall pay particular attention to: (a) the protection of groundwater, when the active substance is applied in regions with vulnerable soil and/or climatic conditions; (b) the risk to mammals and earthworms. Conditions of use shall include risk mitigation measures and the obligation to carry out monitoring programmes to verify potential groundwater contamination in vulnerable zones, where appropriate. The applicant shall submit confirmatory information as regards: (1) the specification of the technical material, as commercially manufactured, by appropriate analytical data, including information on the relevance of the impurities; (2) the equivalence between the specifications of the technical material, as commercially manufactured, and the specifications of the test material used in the toxicity studies; (3) groundwater exposure assessment for the unidentified metabolites LM1, LM2, LM3, LM4, LM5 and LM6; (4) the relevance of the metabolites MT1 (N-tert-butyl-6-chloro-1,3,5-triazine-2,4-diamine), MT 13 (4-(tert-butylamino)-6-(ethylamino)-1,3,5-triazin-2-ol or 6-hydroxy-N2-ethyl-N4-tert-butyl-1,3,5-triazine-2,4-diamine), MT14 (4-amino-6-(tert-butylamino)-1,3,5-triazin-2-ol or N-tert-butyl-6-hydroxy-1,3,5-triazine-2,4-diamine), and of the unidentified metabolites LM1, LM2, LM3, LM4, LM5 and LM6 with respect to cancer, if terbuthylazine is classified under Regulation (EC) No 1272/2008 as “suspected of causing cancer”.

Number	Common name, identification numbers	IUPAC name	Purity (*)	Date of approval	Expiration of approval	Specific provisions
						The applicant shall submit to the Commission, the Member States and the Authority the information set out in points (1) and (2) by 30 June 2012, the information set out in point (3) by 30 June 2013 and the information set out in point (4) within six months from the notification of the classification decision concerning that substance.'

(*) Further details on identity and specification of active substance are provided in the review report.

COMMISSION REGULATION (EU) No 821/2011**of 16 August 2011****imposing a provisional anti-dumping duty on imports of vinyl acetate originating in the United States of America**

THE EUROPEAN COMMISSION,

Having regard to the Treaty on the Functioning of the European Union (the 'Union'),

Having regard to Council Regulation (EC) No 1225/2009 of 30 November 2009 on protection against dumped imports from countries not members of the European Community⁽¹⁾, and in particular Article 7 thereof,

After consulting the Advisory Committee,

Whereas:

A. PROCEDURE**1. Initiation**

- (1) On 4 December 2010, the Commission announced, by a notice published in the *Official Journal of the European Union*⁽²⁾, the initiation of an anti-dumping proceeding with regard to imports into the Union of vinyl acetate originating in the United States of America (hereinafter USA or the country concerned).
- (2) The proceeding was initiated as a result of a complaint lodged on 22 October 2010 by Ineos Oxide Ltd ('the complainant') representing a major proportion, in this case more than 25 % of the total Union industry production of vinyl acetate. The complaint contained prima facie evidence of dumping of the said product and of material injury resulting therefrom, which was considered sufficient to justify the initiation of a proceeding.

2. Parties concerned by the proceeding

- (3) The Commission officially advised the complainant, other known producers in the Union, exporting producers in the country concerned, importers, traders, users, suppliers and associations known to be concerned, and the representatives of the United States of America of the initiation of the proceeding. Interested parties were given the opportunity to make their views known in writing and to request a hearing within the time limit set in the notice of initiation.
- (4) All interested parties, who so requested and showed that there were particular reasons why they should be heard were granted a hearing.
- (5) The Commission sent questionnaires to the four known exporting producers in the country concerned. Three

such exporting producers provided a questionnaire response. The fourth exporting producer declined to cooperate with the investigation and was subsequently informed that it would be treated as a non-cooperating company in accordance with Article 18 of the basic Regulation.

- (6) The Commission also sent questionnaires to the complainant and the other Union producer mentioned in the complaint.
- (7) In view of the apparent large number of unrelated importers which are potentially concerned by this investigation, sampling was envisaged in the notice of initiation in accordance with Article 17 of the basic Regulation. In order to enable the Commission to decide whether sampling would be necessary and, if so, to select a sample, all unrelated importers were asked to make themselves known to the Commission and to provide information specified in the notice of initiation. However, given that only two importers came forward within the deadline set by the notice of initiation, it was decided that sampling was not necessary. Two importers in the Union duly replied to the questionnaire and a verification visit took place at the premises of one of them.
- (8) On the other hand, a number of interested parties made themselves known as users. A questionnaire specifically designed for users was sent to such parties. Twelve companies replied to the questionnaire and verification visits were carried out at the premises of two of them.
- (9) The Commission sought and verified all the information deemed necessary for a provisional determination of dumping, resulting injury and Union interest and carried out verifications at the premises of the following companies:

(a) *Union producers*

Ineos Oxide Ltd, United Kingdom

Wacker Chemie AG, Germany

(b) *Exporting producers in the country concerned*

Celanese Ltd.

The Dow Chemical Company

LyondellBasell Industries, Acetyls, LLC

⁽¹⁾ OJ L 343, 22.12.2009, p. 51.

⁽²⁾ OJ C 327, 4.12.2010, p. 23.

(c) *Unrelated companies in the country concerned*

Terminal, United States [name of party and exact location confidential]

(d) *Related and unrelated companies in the Union*

Celanese Chemicals Europe GmbH, Germany

Lyondell Chemie Nederland B.V., Netherlands

Terminal, Union [name of party and exact location confidential]

(e) *Related companies neither in the Union, nor the United States of America*

Dow Europe GmbH, Switzerland

(f) *Importers*

Gantrade Ltd, United Kingdom

(g) *Users*

Vinavil, Mapei, Italy

Synthomer, United Kingdom

3. Investigation period

- (10) The investigation of dumping and injury covered the period from 1 October 2009 to 30 September 2010 (the investigation period or IP). The examination of trends relevant for the assessment of injury covered the period from 1 January 2007 to the end of the IP (the period considered).

B. PRODUCT CONCERNED AND LIKE PRODUCT**1. Product concerned**

- (11) The product concerned is defined as vinyl acetate originating in the United States of America currently falling within CN code 2915 32 00.
- (12) Vinyl acetate (hereinafter VAM or the product concerned) is a commodity chemical derived from acetic acid.
- (13) Vinyl acetate has a wide variety of applications. The majority of vinyl acetate produced is used as an input into two downstream products: polyvinyl acetate and polyvinyl alcohol. These downstream products are an

important polymer in the various industries. Vinyl acetate polymers are commonly used in the production of paints, adhesives, coatings and textile finishes.

- (14) The investigation revealed that there is only one type of the product concerned.

2. Like product

- (15) The investigation showed that vinyl acetate produced and sold in the Union by the Union industry and the vinyl acetate produced in the country concerned and exported to the Union had the same basic physical, chemical and technical characteristics and uses. Therefore, these products are provisionally considered to be alike within the meaning of Article 1(4) of the basic Regulation.

C. DUMPING**1. Normal value**

- (16) For the determination of normal value, it was first established that domestic sales of the like product to independent customers of the respective exporting producers in the country concerned were representative, i.e. whether the total volume of such sales represented at least 5 % of its total export sales volume of the product concerned to the Union, in accordance with Article 2(2) of the basic Regulation.
- (17) The Commission subsequently examined whether the domestic sales of each exporting producer could be considered as having been made in the ordinary course of trade pursuant to Article 2(4) of the basic Regulation. This was done by establishing the proportion of profitable domestic sales to independent customers during the IP.
- (18) Domestic sales transactions were considered profitable where the unit price was equal to or above the cost of production. Cost of production on the domestic market during the IP was therefore determined.
- (19) In the case where more than 80 % by volume of sales on the domestic market were above cost and the weighted average sales price was equal to or higher than the weighted average production cost, normal value was calculated as the weighted average of all domestic sales prices, irrespective of whether they were profitable or not. However, where the volume of profitable sales represented 80 % or less of the total sales volume, or where the weighted average sales price was below the weighted average production cost, normal value was on the weighted average price of only the profitable domestic sales.
- 2. Export price**
- (20) The investigation revealed that vinyl acetate was exported from the country concerned to the Union either (i) through related trading companies located in the Union; or (ii) for one exporting producer, through a related trading company outside the Union.

- (21) In both cases, the export prices were established on the basis of the resale prices to the first independent customers in the Union, pursuant to Article 2(9) of the basic Regulation, duly adjusted for all costs incurred between importation and resale, and profits.

3. Comparison

- (22) The normal value and the export price of the respective exporting producers were compared on an ex works basis.
- (23) For the purpose of ensuring a fair comparison between the normal value and the export price, due allowance in the form of adjustments was made for differences affecting prices and price comparability in accordance with Article 2(10) of the basic Regulation. Adjustments for differences in handling and storage costs, transport and insurance costs, credit costs, rebates, commissions, import duties have been made where applicable and justified.

4. Dumping margin

- (24) Pursuant to Article 2(11) of the basic Regulation, the dumping margin for the cooperating exporting producers in the United States of America was established on the basis of a comparison of the weighted average normal value with a weighted average export price.
- (25) In order to determine the dumping margin for non-cooperating exporting producers, the level of non-cooperation was first established. To this end, the volume of exports to the Union reported by the cooperating exporting producers was compared with the equivalent Eurostat import statistics.
- (26) As the level of cooperation in the United States of America was high (above 90 %) it was provisionally considered appropriate to set the residual dumping margin for any non-cooperating exporting producers in this country at the level of the highest duty imposed on a cooperating exporter. This matter may be subsequently reconsidered at the definitive stage.
- (27) On the basis of the above methodology, the provisional dumping margins, expressed as a percentage of the CIF import price at the Union border, duty unpaid, are the following:

Company	Provisional Dumping Margin
Celanese Ltd.	12,1 %
LyondellBasell Acetyls, LLC	13,0 %
The Dow Chemical Company	13,8 %
All other companies	13,8 %

D. INJURY

1. Union production and Union industry

- (28) The complaint was lodged by Ineos Oxide Ltd hereinafter "the Complainant", a producer of vinyl acetate in the Union, representing a major proportion of the total Union production. A second Union producer, Wacker GmbH, supported the initiation of the proceeding. Thus, the complaint was supported by Union producers who represent more than 25 % of total production of vinyl acetate produced by the Union industry. Therefore, the proceeding has been initiated according to the provisions of article 5(4) of the basic Regulation.
- (29) A third producer located in the Union (Celanese Europe GmbH) was found to be related to an exporting producer located in the country concerned. According to the information obtained in the course of the investigation, it was provisionally established that this producer was fully controlled by the US-based Celanese Corporation which has decisive role in key European business operations such as business planning, production control, purchase and sales activity.
- (30) Given the abovementioned, it was considered that the relationship of Celanese Europe GmbH within the group was such as to cause a behaviour that would be different from that of other non related producers within the meaning of article 4 (2) of the basic Regulation. It was also considered that through this relationship, the company could be shielded from the negative consequences of the injurious dumping. Furthermore, to include such a company in the injury findings would distort aggregate data on the constitution of the Union industry.
- (31) On this ground, it was provisionally established that Celanese Europe GmbH should be excluded from the definition of the Union industry.
- (32) Therefore, the two producers Ineos Oxide Ltd and Wacker GmbH constitute the Union industry within the meaning of Article 4(1) and Article 5(4) of the basic Regulation, representing 100 % of the Union production. They will hereinafter be referred to as the 'Union industry'.

2. Determination of the relevant Union market

(33) For the purpose of establishing whether the Union industry, as defined in recitals (28) *et seq.*, had suffered material injury, it was examined to what extent the Union industry's captive production of the product concerned had to be considered in the analysis.

(34) Indeed, the product concerned is sold by the Union industry to both (a) the free market and (b) the captive market (within the same group of the company). In the captive market, the product concerned is used as a raw material for the manufacture of various products used in paints, adhesives, coatings, etc.

(35) In this context, sales of the product concerned for use as a raw material to manufacture other products for companies in the same group shall be considered as 'captive use', in so far as at least any of the following two conditions occur: (i) sales are not made at market prices or (ii) the customer does not have a free choice of supplier within the same group of companies. In the course of the investigation, it was provisionally found that sales to related entities which purchase the product concerned as a raw material for the manufacture of a different product had to be considered as captive sales; it was found that pursuant to the commercial policy of the companies, these related entities did not have a free choice of supplier.

(36) This distinction is relevant for the injury analysis. Vinyl acetate destined for captive use was found not to be directly in competition with imports from the country concerned. By contrast, production destined for the free market sales was found to be in direct competition with those imports, because these sales were made under normal market conditions; this implies free choice of supplier. This warranted the differentiation between the captive and the free market in the analysis for certain injury indicators.

(37) In this respect, it was found that the following economic indicators related to the Union industry could reasonably be examined by referring to the total activity, i.e. including the captive use of the Union industry, production, capacity, capacity utilisation, investments,

stocks, employment, productivity, wages and magnitude of the dumping margin. This is because those indicators are affected regardless of the fact whether the product is transferred downstream within a company or a group of companies for further processing or whether it is sold on the free market.

(38) As for profitability, cash flow, return on investment and ability to raise capital, the analysis was performed at the level of the free market only because the fact that prices in the captive markets are not representative of the normal market conditions has a bearing on the reliability of those indicators.

(39) The other economic indicators relating to the Union industry, namely consumption, sales, market shares and prices in the Union market were analysed and evaluated mainly referring to the situation prevailing on the free market, in particular where measurable market conditions exist and where transactions are made under normal market conditions implying free choice of supplier.

(40) For those indicators, the captive market was however also taken into account and compared to data for the free market in order to determine whether the situation of the captive market was likely to change the findings based on the analysis of the free market alone.

3. Union Consumption

(41) The Union consumption was established by adding the total import volume of vinyl acetate based on Eurostat, cross-checked against the verified data provided by the exporting producers for imports from the country concerned, to the total sales volume on the Union market of the Union industry and the other producer located in the Union.

(42) In view of the small number of suppliers and the need to protect confidential business data pursuant to Article 19 of the basic Regulation, the development of consumption is indexed.

Table 1

Consumption in the Union

Index 2007 = 100	2007	2008	2009	IP
Total consumption	100	90	87	99
Captive market	100	96	100	104
Free market	100	88	82	97

- (43) In the period considered the consumption on the total Union market and on the free market slightly decreased by 1 % and 3 % respectively. Conversely, an increase of 4 % was recorded on the captive market during the same period.

4. Imports from the country concerned

4.1. Volume and market share

- (44) The evolution of imports from the country concerned, in volume and market share, has been the following:

Table 2

Imports from the United States of America

Import volumes (MT)	2007	2008	2009	IP
United States of America	103 192	146 800	133 763	152 445
(Index 2007 = 100)	100	142	130	148
Market share in total market (Index 2007 = 100)	100	159	150	149
Market share in free market (Index 2007 = 100)	100	162	157	152

Source: Eurostat and information obtained from interested parties through the questionnaire responses.

- (45) Over the period considered, imports to the total Union market (captive and free market) from the country concerned increased by 48 %. This led to a market share increase during the same period by 49 %. Market share in the free market increased by 52 %.

4.2. Prices of imports and price undercutting

- (46) Average prices of the imports from the country concerned, developed as follows:

Table 3

Price of imports from the United States of America

Import prices (EUR/MT)	2007	2008	2009	IP
United States of America	774	814	541	573
(Index 2007 = 100)	100	105	70	74

Source: Eurostat

- (47) While seeing a slight increase in the IP, the overall average imports prices from the country concerned decreased by 26 % between 2007 and the IP.
- (48) A comparison of sales prices on the Union market was made between the average prices of the Union industry charged on the free market and average import prices from the country concerned. The relevant sales prices of the Union industry were adjusted where necessary to an ex-works level, i.e. excluding freight costs in the Union and after deduction of discounts and rebates.
- (49) These prices were compared with prices charged by the cooperating US exporting producers net of discounts and adjusted where necessary to CIF Union frontier price duly adjusted for customs clearance costs and post-importation costs.

- (50) The comparison showed that during the IP, imports of the product concerned from all the cooperating exporters were sold in the Union at prices which undercut the Union industry's prices. The average level of undercutting, when expressed as a percentage of the Union industry's prices, was 17,9 %, based on the verified data submitted by the cooperating exporting producers. This level of undercutting was combined with a negative price development and a substantial price depression.

5. Imports from other third countries

- (51) The following table shows the developments of imports from other third countries.

Table 4

Volume of imports from other third countries

Import volumes (MT)	2007	2008	2009	IP
United States of America	103 192	146 800	133 763	152 445
(Index 2007 = 100)	100	142	130	148
Saudi Arabia	0	0	0	73 156
Other	88 138	52 414	15 937	8 198
Index 2007 = 100	100	59	18	9
Market share in total market (Index 2007 = 100)	100	66	21	9
Market share in free market (Index 2007 = 100)	100	68	22	10

Source: Eurostat

- (52) At the beginning of the period considered, imports from the country concerned competed with other countries including Taiwan, Ukraine and Russia. At the end of the period considered, imports from these traditional sources had decreased to almost nil.

- (53) A new exporting country, Saudi Arabia, which entered the Union market during the IP, exported around 73 000 tonnes in the IP. The impact of this development on the Union industry is discussed in recitals (91) *et seq.*

6. Situation of the Union industry

6.1. General

- (54) Pursuant to Article 3(5) of the basic Regulation, the examination of the impact of dumped imports on the Union industry included an evaluation of all economic factors and indices relating to the state of the Union industry from 2007 to the end of the IP.
- (55) Macroeconomic indicators (production, production capacity, capacity utilisation, sales volumes, market share, employment, productivity, wages and magnitude of dumping margins) as well as micro-economic indicators (stocks, sales prices, profitability, cash flow, and return on investment, ability to raise capital and investments, production costs) were assessed at the

level of the entire Union industry. The assessment was based on the information derived from the verified questionnaires submitted by the Union industry.

- (56) It is to be noted that the complainant procured its production facilities only during 2007; as a consequence, the data for certain injury indicators (profitability, wages, investments, return on investment, cash flow) could not be obtained for 2007. Therefore, for those indicators, the analysis covers the period 2008 to IP. For the remaining indicators, figures for 2007 were available. Thus, for such indicators, the analysis covers the entire period under consideration (from 2007 to the IP).

- (57) The complainant is focused on delivering the product concerned entirely to the free market whereas the other Union producer is focused mainly on the captive market with a small fraction destined for the free market. Taking into account the fact that the data for the injury analysis is mainly derived from two sources only, one of which is mainly focused on the captive market, and considering that it has been found that a distinction between the total market and the free market has to be made for a number of injury indicators, data relating to the Union industry had to be indexed in order to preserve confidentiality pursuant to Article 19 of the basic Regulation.

6.2. Macro-economic indicators

6.2.1. Production, production capacity and capacity utilisation

- (58) The table below indicates the evolution of production, production capacity and capacity utilisation of the total Union industry:

Table 5

Total Union production, production capacity and capacity utilisation

(Index 2007 = 100)	2007	2008	2009	IP
Total Production	100	105	102	92
Total Production capacity	100	121	126	143
Total Capacity utilisation	100	87	81	64

- (59) As shown in the table above, during the period considered, the overall Union production has decreased by 8 %.
- (60) During the same period, the production capacity increased by 43 %. However, this increase in capacity was not linked to the establishment of new production lines but to the improved efficiency in the utilisation of the existing capacity.
- (61) The combination of these two factors, i.e. decrease in production volume and increase in production capacity during the same period led to a significant decrease in capacity utilisation by 36 % over the period considered.

6.2.2. Sales volumes and market share

- (62) The figures below present the sales volume, market share and average unit sales prices of the Union industry split between the total, captive and free market.

Table 6

Sales volumes and market share

(Index 2007 = 100)	2007	2008	2009	IP
Total sales	100	99	96	88
Market share (%)	100	110	111	88
Captive market sales	100	111	109	113
Market share (%)	100	115	108	109
Free market sales	100	89	86	67
Market share (%)	100	102	104	69

- (63) The overall sales volume decreased by 12 % in the period considered. This drop was even steeper in the free market where it fell by 33 % between 2007 and the IP. The captive market followed the opposite trend and sales volume increased by 13 % in the same period.
- (64) The drop in sales volume was reflected in market share that saw an 11 % decrease for the whole market and 31 % decrease in the free market between 2007 and the IP. Again, the captive market followed the opposite trend and saw an increase of 9 % during the same period.

6.2.3. Employment, productivity and wages

Table 7

Employment, productivity and wages

(Index 2007 = 100)	2007	2008	2009	IP
Total Number of employees	100	96	98	100
Total Productivity (unit/employee)	100	109	104	92
Total Yearly wages	0	100	95	88

- (65) Total employment remained stable between 2007 and the IP. It should be noted that production of vinyl acetate is not labour-intensive and employment figures are therefore not closely linked to the production figures. Employment is therefore not of significant importance as an indicator in this sector.
- (66) During the period considered the total productivity per employee decreased by 8 % between 2007 and the IP. This followed the decrease in production and the increase in production capacity as explained in the recital (58) *et seq.*

6.2.4. Magnitude of the actual margin of dumping

- (67) The dumping margins are specified above in the dumping section. All margins established were above the *de minimis* level. Furthermore, given the volumes and the prices of the dumped imports, the impact of the actual margin of dumping cannot be considered as negligible.

6.3. Micro-economic indicators

6.3.1. General remarks

- (68) The analysis of micro-economic indicators (stocks, sales prices, profitability, cash flow, and return on investment, ability to raise capital and investments, production costs) was carried out at the level of the entire Union industry as established in recitals (28) *et seq.*
- (69) From the above indicators, the assessment of profitability, wages, investments, return on investment, cash flow had to be focused on the free market, meaning that it would reflect mainly the data provided by the Complainant. Given the aforementioned, the development of the indicators profit and cash-flow, could not be given in index format due to confidentiality reasons.
- (70) In addition, as explained in recital (56), the complainant could not provide data for 2007 concerning certain injury indicators; therefore, the analysis of those indicators was performed for the period of 2008 to the IP.

6.3.2. Stocks

- (71) The figures below represent the evolution of the stocks of the Union industry during each of the period concerned:

Table 8

Stocks

Index 2007 = 100	2007	2008	2009	IP
Total Stocks	100	86	49	69

- (72) Stocks decreased by 31 % over the period considered. However, this indicator is not to be considered as relevant in this sector, as vinyl acetate producers produce to order and tend to hold limited stocks. In fact, stocks correspond only to a few weeks of supply.

6.3.3. Sales prices

- (73) The following table represents the Union industry's price evolution split between the total, captive and free market.

Table 9

Sales prices

Index 2007 = 100	2007	2008	2009	IP
Average unit selling price total market	100	107	74	84
Average unit selling price on captive market	100	115	82	92
Average unit selling price on free market	100	102	69	77

- (74) Sales prices for the total Union market decreased by 16 % in the period considered. Sales prices fell in both markets, even if the decrease was sharper in the free market (– 23 %) than in the captive market (– 8 %).

6.3.4. Profitability, cash flow, return on investment, ability to raise capital and investments

- (75) Profitability for the like product on the free market was established by expressing the pre-tax net profit of the sales of the like product by the Union industry, as the percentage of the turnover of such sales.
- (76) The profitability on the free market decreased over the period considered. During the IP, losses were reported for each month. This was the effect of a strong decrease both in sales volumes and in sales prices.
- (77) The table below demonstrates that the Union industry has increased its investments in the product concerned, even when faced with decreasing profitability. The investments were mainly made in improving and maintaining production technology and process in order to improve efficiency.

Table 10

Investments

Index 2008 = 100	2007	2008	2009	IP
Total Investments	n.a.	100	129	127

- (78) Investments increased by 27 % over the period under consideration.
- (79) Despite the increase in investment, the return on investments (ROI) of the product concerned did not meet the expected return and decreased between 2008 and the IP.
- (80) A decrease was observed also in cash flow between 2008 and the IP shows a constant deterioration of the ability of the Union industry to generate cash and consequently, a weakening of the financial situation of the Union industry.
- (81) Therefore, by increasing its investments, the industry still showed ability to raise capital; nevertheless, this ability is hampered by falling sales and increasing difficulties in generating cash flow.

7. Conclusion on injury

- (82) The analysis of the situation of the Union industry shows a downwards trend for all the main injury indicators. Against a relatively stable consumption, overall production fell by 8 % in the period considered. During the same period, the Union industry lost 11 % of the overall market share and 33 % of the free market. Capacity utilisation decreased by 36 %. In the same period, imports from the country concerned increased by 48 %.
- (83) Over the period under consideration, the overall Union industry's sales volume decreased by 12 %. A stronger downward trend in sales volumes could be observed when looking at trends related to the free market which saw a 33 % decrease over the period under consideration.
- (84) The decrease in sales volumes of Union industry was accompanied by a 16 % overall price depression. As was the case for sales volume, the situation was even worse in the free market where a price depression of 23 % was recorded. The loss of sales volume along with the decrease in prices had an effect on profit levels and led to losses for each month of the IP.
- (85) The only indicators which recorded a positive trend were investments which increased by 27 % and so did the ability to raise capital. However, the investments did not meet the expected return and decreased between 2008 and the IP.
- (86) In view of the above, the investigation confirmed that should the situation continue, losses seen in the course of the investigation would be likely to lead to the discontinuation of any sizeable Union Industry production of vinyl acetate destined for the free market.
- (87) Due to the circumstances presented above, the Union industry has suffered material injury during the IP.

E. CAUSATION

1. Introduction

- (88) In accordance with Article 3(6) and (7) of the basic Regulation it was examined whether the material injury

suffered by the Union industry has been caused by the dumped imports from the country concerned. Furthermore, known factors other than dumped imports, which might have injured the Union industry, were examined to ensure that any injury caused by those factors was not attributed to dumped imports.

2. Impact of the imports from the USA

2.1. General

- (89) There is a clear coincidence in time between the increase of dumped imports between 2007 and the IP, along with a parallel loss of market share by the Union industry over the same period. The investigation has also established the existence of negative price effects of dumped imports which continuously undercut prices of Union industries and consequently pushed down their profitability.
- (90) Some parties claimed that the increase in imports was simply replacing the imports previously made by other importing countries and/or due to the increasing demand on the EU market. However, neither the import figures (see table 2), nor the consumption figures (see table 1) can confirm this claim. In this context it is recalled as seen in recital (43), that consumption was rather stable and even decreased slightly in the period considered while the imports from the USA increased by 48 %.

3. Effects of other factors

3.1. Impact of imports from other third countries

3.1.1. Impact of imports from Saudi Arabia

- (91) Some interested parties have claimed that imports of VAM from Saudi Arabia are the cause of the injury of the Union industry.
- (92) Saudi Arabia is indeed, as stated in recital (53) above, the second largest exporter of VAM to the Union after the USA. Imports from Saudi Arabia entered the market only during the IP.
- (93) Eurostat figures presented in table 11 below show the prices of imports from Saudi Arabia and other third countries.

Table 11

Sales price of exports from other third countries

EURO/MT	2007	2008	2009	IP
Saudi Arabia	n.a.	n.a.	n.a.	636
(Index IP = 100)	0	0	0	100
Other	878	919	473	633
(Index 2007 = 100)	100	105	54	72

(94) The table shows that the average price of imports from Saudi Arabia at 636 EUR was comparable with those of imports from other third countries which were on average 633 EUR, while they were 11 % higher than the average US price of 573 EUR.

(95) The fact that the Saudis are operating in the same price segment as other importers with a significant price differential in comparison to US exports shows that the Saudi exporting producers behave differently from the US in terms of the price setting and in terms of the possible impact on the Union producers.

(96) On these grounds, it can be provisionally concluded that imports from Saudi Arabia do not break the causal link between dumped imports from the USA and the injury suffered by the Union industry.

3.2. Impact of the economic crisis

(97) Some interested parties claimed that the decrease in production and sales volume of the Union industry should be attributed to the decreasing consumption. These parties also claimed that the downward trend in average sales prices was caused by the world wide economic crisis.

(98) Other interested parties claimed that during the economic crisis, all petro-chemical producers, including VAM producers, suffered serious losses and that therefore the losses suffered by the Union industry should not be attributed to the dumped imports from the country concerned.

(99) However, the present investigation, as mentioned in recitals (41) to (43) showed that the decrease of Union consumption on the free market was negligible during the period considered. Therefore, the impact of the economic crisis in terms of a decrease in consumption could not have been responsible for the steep decrease in sales volume as shown in recitals (62) to (64).

(100) The analysis of the profitability figures of the free market of Union industry has revealed that the VAM business suffered particular losses when compared to other similar chemical products manufactured. Moreover, the profitability of these other products recovered after the crisis, whereas the VAM business has continued to deteriorate. This leads to the provisional conclusion that while the VAM business was most likely to be affected by the economic crisis, it should be distinguished from other petro-chemical sectors, because of persistent losses suffered by the Complainant that continued post-crisis which was directly linked to low priced imports from the USA. The claim is therefore provisionally rejected.

(101) In the light of the above, it is provisionally concluded that the economic crisis has not contributed to the injury suffered by the Union industry to the extent that it would break the causal link between the injury suffered by the Union industry and the dumped imports from the USA.

3.3. Self-inflicted injury

(102) Several interested parties claimed that the Complainant had contributed to its precarious situation by building additional production capacity during the recession. It was alleged that any decrease in sales and profit therefore was caused by the combination of the recession and poor business decision on behalf of the Complainant

(103) Several interested parties have furthermore claimed that the technology used in the Complainant's plant is the main cause of injury. Over the period considered, the Complainant has suffered several outages and *force majeure* situations and it was claimed that the decrease in the Complainant's sales should be attributed to the numerous stoppages and not to the dumped imports from the USA. Similar arguments were raised in relation to the Complainant's profitability.

(104) As for the claim that the Complainant should not have expanded the production capacity during the world economic downturn, it is recalled that the Complainant did not procure any new capacity but simply expanded its production capacity through the optimisation of existing processes. This must be considered a reasonable business decision in a market where total consumption is stable but sales are falling because of the competition of low priced imports. This claim is therefore provisionally rejected.

(105) As concerns the claim that it was outages caused by technical problems with the complainant that led to the injury suffered by the complainant, the investigation showed that the production process for VAM requires a cyclic maintenance and closure of the plant at regular, planned intervals. Therefore, three out of five stoppages must be considered as part of the regular running of a VAM plant.

(106) Furthermore, it was found that all three planned outages were based on conscious decisions by the Complainant to stop production at times when price pressure caused by dumped imports was so strong that the Complainant was not in the position to deliver at sustainable price levels. During these stoppages, the Complainant had sufficient stock levels to deliver the low volumes demanded which were either agreed by contract or earned through spot sales. Moreover, the decreasing stock levels, as stated in recital (72), confirm that constant deliveries were made over the period considered.

- (107) On these grounds, it was found that the overall impact of the outages of the Complainant was not such as to break the causal link. Therefore, the arguments raised by the interested parties with regards to the self-inflicted injury were rejected.

3.4. Access to raw material: The natural competitive advantage by producers in the country concerned

- (108) Several interested parties claimed that the Complainant's dependency on external supplies of raw material, rather than the dumped imports should be considered as one of the main sources of its problems. It was also alleged that US exporters have a natural competitive advantage as they have access to cheaper raw materials, i.e. ethylene and acetic acid.
- (109) In terms of the alleged problems of the raw material sources available to the Complainant, the argument raised above could not be upheld as it was found that the Complainant also benefits from preferential channels, materials sourced from its supplier's on-site plant as well as from a sister company. Accordingly, prices of the main raw materials were thus comparable with those available to the market of the country concerned.
- (110) It follows that while the general prices of the main raw material used for production of VAM indeed may have been lower in the USA than on the Union market this did not have an impact on the costs of the Complainant.
- (111) The fact that the raw material price difference could only have had partial impact on the problems experienced by the Complainant was furthermore supported by the fact that significantly better profitability figures were recorded for other products produced by the Complainant that contained the same raw materials.
- (112) On these grounds, it is provisionally concluded that the impact of raw material prices was not such as to break the causal link between the dumped imports from the USA and the material injury suffered by the Union industry.

4. Conclusion on causation

- (113) It was thus concluded that there is a causal link between the injury suffered by the Union industry and the dumped imports from the USA. Other possible causes of injury, i.e. impact of import from other third countries, impact of economic crisis, natural competitive advantage of exporting producers on raw material and self-inflicted injury, have been analysed and none of them had an impact on the situation of the Union industry such as to break the causal link established between the dumped imports from the USA and the material injury suffered by the Union industry.

- (114) Based on the above analysis of the effects of all known factors on the situation of the Union industry, it was therefore provisionally concluded that there is a causal link between the dumped imports from the USA and the material injury suffered by the Union industry during the IP.

F. UNION INTEREST

1. Interest of the Union industry

- (115) The investigation showed that the Union industry is suffering material injury because of the effects of dumped imports which undercut its prices as elaborated in recital (48) *et seq.*
- (116) The Union industry is investing to improve its efficiency and is gradually streamlining its production process. It can be expected that measures would prevent further unfair competition from dumped, low-priced imports and consequently allow for the recovery of the Union industry's situation.
- (117) On the other hand, should measures not be imposed, the current financial situation and profitability of the Union industry, as analysed in the present investigation in recitals (54) *et seq.*, are not strong enough to withstand further the pressure exerted by the dumped imports. The consequence would be likely to lead to the discontinuation or significant reduction of the Union industry's production for the free market.
- (118) In the light of the above analysis, it is expected that the Union industry would benefit from the imposition of provisional measures.

2. Interest of importers

- (119) The Commission sent questionnaires to the two known unrelated importers which came forward within the deadline set in the Notice of Initiation.
- (120) The investigation showed that a relevant part of its overall turnover relates to the product concerned.
- (121) The impact of the duties on the importer's profitability was analysed. The analysis showed that the profit and mark-up made on its imports are such that the imposition of measures indeed could lead to a decrease in its profitability. Consequently, from a cost perspective, should measures be imposed, they would in all likelihood have an impact on the importer's business. Nevertheless, the importer confirmed that it would be able to pass at least part of the cost increase on its customers in view of the current situation of the market, where demand is expected to remain constant. Moreover, the investigation revealed that it is possible for the importer to switch to sourcing the product from producers which are not subject to the duty, such as Taiwanese exporters or Union producers.

- (122) In view of the above, it is concluded that the effect on importers of the imposition of measures would be limited.

3. Interest of users

- (123) Users have shown a strong interest in this case. Twelve users cooperated in the investigation; out of these, two were verified on the basis of their volume of imports from the country concerned. These companies are located throughout the Union and are present in the sector of industrial applications such as coatings, paints and adhesives.
- (124) The imports of cooperating users account for around one-third of the total imports from the US based on Eurostat figures. The investigation showed that 30 % of the cooperating users' VAM purchases are of US origin and 57 % are of EU origin.
- (125) The investigation showed that VAM represented, on average, around one-third of the cost of production of the two verified users.
- (126) Some users claimed that the imposition of measures would increase their cost of production and that it would be difficult to transfer this cost increase onto their customers due to the fierce price competition in the market. Allegedly, this difficulty may result either in a reduction of the users' market share to the advantage of their competitors located outside the Union, or in a switch from their current production process to others not involving the product concerned. Allegedly, the final consequence of the measures would be an important reduction of the users' profit margins.
- (127) Two of these users alleged that the reduced profit margins would lead to fewer investments in their production and that, consequently, employment would be affected.
- (128) As to the claim concerning the profit margin reduction, taking into account the users' healthy profitability levels, it is expected that should users not be able to transfer the cost increase onto their customers, the imposition of duties would only slightly decrease their profit margins. Therefore, it is likely that investments in production would not be disrupted and that there would be no significant adverse effect on the employment. In the light of the above, the claim is rejected.
- (129) As regards the claim that measures on imports of the product concerned would harm the competitiveness of Union users as they would increase their production costs and favour imports of downstream products from other third countries, it is recalled that the duties do not

intend to stop imports and that the level of measures is not such as to prevent users from sourcing from the USA. The purpose of anti-dumping duties is to re-establish a fair level playing field in the Union market for the product concerned. Based on the above and on the consideration that only one third of the users' VAM consumption is of US origin, the claim is rejected.

- (130) In addition to the above, it must also be underlined that many users reported that due to the scarce number of sources of VAM, sufficient supply of Union origin VAM is a priority. In this respect, it is recalled that the investigation has shown that there is the likelihood that the Union industry will as good as discontinue supply of free market VAM if measures are not imposed. In relation to the diversity of supply, the imposition of measures would thus also be in the interest of the Union users.
- (131) In view of the above, it is provisionally concluded that any negative effects of the imposition of measures on users would be limited.

4. Conclusion on Union interest

- (132) In view of the above, it is provisionally concluded that, based on the information available on Union interest, it cannot be clearly concluded that the imposition of provisional measures on imports of vinyl acetate originating in the USA would not be in the Union interest.

G. PROPOSAL FOR PROVISIONAL ANTI-DUMPING MEASURES

- (133) In view of the conclusions reached above with regard to dumping, injury, causation and Union interest, provisional anti-dumping measures should be imposed in order to prevent further injury being caused to the Union industry by the dumped imports.

1. Injury elimination level

- (134) For the purpose of determining the level of these measures, account was taken of the dumping margins found and the amount of duty necessary to eliminate the injury sustained by the Union industry.
- (135) When calculating the amount of duty necessary to remove the effects of the injurious dumping, it was considered that any measures should allow the Union industry to cover its costs of production and to obtain a profit before tax that could reasonably be achieved by an industry of this type in the sector under normal conditions of competition, i.e. in the absence of dumped imports, on sales of the like product in the Union.

(136) Therefore, the injury elimination level was calculated on the basis of a comparison of the average price of the dumped imports and the target price of the Union industry. The target price was established by adding a target profit margin to the costs of production of the Union industry. The target profit margin was provisionally set at the level of 9,9 %. This profit margin was established by reference to the profitability based on the average return (measured as EBITDA/sales) that petrochemical companies operating in a sector similar to VAM generated during the period 2007-2009.

(137) The resulting underselling margins are in excess of 30 %.

2. Provisional measures

(138) In the light of the foregoing, and in accordance with Article 7(2) of the basic Regulation, it is considered that the provisional anti-dumping measures should be imposed on imports originating in the country concerned at the level of the lower of the dumping and the injury margins in line with the lesser duty rule. In this case, the duty rate should accordingly be set at the level of the dumping margins found.

(139) The individual company anti-dumping duty rates specified in this Regulation were established on the basis of the findings of the present investigation. Therefore, they reflect the situation found during that investigation with respect to these companies. These duty rates (as opposed to the country-wide duty applicable to 'all other companies') are thus exclusively applicable to imports of products originating in the United States of America and produced by the companies and thus by the specific legal entities mentioned. Imported products produced by any other company not specifically mentioned in the operative part of this Regulation including entities related to those specifically mentioned, cannot benefit from these rates and shall be subject to the duty rate applicable to 'all other companies'.

(140) Any claim regarding the application of these individual company anti-dumping duty rates (e.g. following a change in the name of the entity or following the setting up of new production or sales entities) should be addressed to the Commission⁽¹⁾ forthwith with all relevant information, in particular any modification in the company's activities linked to production, domestic and export sales associated with, for example, that name change or that change in the production and sales entities. The Commission, if appropriate, will, after consultation of the Advisory Committee, amend the Regulation accordingly by updating the list of companies benefiting from individual duty rates.

(141) On the basis of the above, the proposed anti-dumping duty rates, expressed on the CIF Union border, are provisionally as follows:

Company	Dumping margin	Injury margin	Provisional Duty Rates
Celanese Ltd.	12,1 %	38,4 %	12,1 %
LyondellBasell Acetyls, LLC	13 %	65,8 %	13 %
The Dow Chemical Company	13,8 %	66,2 %	13,8 %
All other companies	13,8 %	66,2 %	13,8 %

H. DISCLOSURE

(142) In the interest of sound administration, a period should be fixed within which the interested parties which made themselves known within the time limit specified in the notice of initiation may make their views known in writing and request a hearing. Furthermore, it should be stated that the findings concerning the imposition of anti-dumping duties made for the purposes of this Regulation are provisional and may have to be reconsidered for the purposes of any definitive findings,

HAS ADOPTED THIS REGULATION:

Article 1

1. A provisional anti-dumping duty is hereby imposed on imports of vinyl acetate, currently falling within CN codes 2915 32 00 and originating in the United States of America.

2. The rate of the provisional anti-dumping duty applicable to the net, free-at-Union-frontier price, before duty, of the product described in paragraph 1 and manufactured by the companies listed below shall be as follows:

Company	Anti-Dumping Duty	TARIC additional code
Celanese Ltd.	12,1 %	B233
LyondellBasell Acetyls, LLC	13 %	B234
The Dow Chemical Company	13,8 %	B235
All other companies	13,8 %	B999

3. The release for free circulation in the Union of the product referred to in paragraph 1 shall be subject to the provision of a security equivalent to the amount of the provisional duty

4. Unless otherwise specified, the provisions in force concerning customs duties shall apply.

⁽¹⁾ European Commission, Directorate-General for Trade, Directorate H, 1049 Brussels, Belgium.

Article 2

Without prejudice to Article 20 of Regulation (EC) No 1225/2009 interested parties may request disclosure of the essential facts and considerations on the basis of which this Regulation was adopted, make their views known in writing and apply to be heard orally by the Commission within one month of the date of entry into force of this Regulation.

Pursuant to Article 21(4) of Regulation (EC) No 1225/2009, the parties concerned may comment on the application of this Regulation within one month of the date of its entry into force.

Article 3

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

Article 1 of this Regulation shall apply for a period of six months.

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

Done at Brussels, 16 August 2011.

For the Commission
The President
José Manuel BARROSO

COMMISSION IMPLEMENTING REGULATION (EU) No 822/2011**of 16 August 2011****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 Implementing Regulation (EU) No 543/2011 of 7 June 2011 laying down detailed rules for the application of Council Regulation (EC) No 1234/2007 in respect of the fruit and vegetables and processed fruit and vegetables sectors ⁽²⁾, and in particular Article 136(1) thereof,

Whereas:

Implementing Regulation (EU) No 543/2011 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 XVI, Part A thereto,

HAS ADOPTED THIS REGULATION:

Article 1

The standard import values referred to in Article 136 of Implementing Regulation (EU) No 543/2011 are fixed in the Annex hereto.

Article 2

This Regulation shall enter into force on 17 August 2011.

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

Done at Brussels, 16 August 2011.

*For the Commission,
On behalf of the President,
José Manuel SILVA RODRÍGUEZ
Director-General for Agriculture and
Rural Development*

⁽¹⁾ OJ L 299, 16.11.2007, p. 1.

⁽²⁾ OJ L 157, 15.6.2011, 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
0707 00 05	TR	105,8
	ZZ	105,8
0709 90 70	TR	116,3
	ZZ	116,3
0805 50 10	AR	78,3
	CL	75,4
	TR	61,0
	UY	47,4
	ZA	73,9
	ZZ	67,2
0806 10 10	EG	136,4
	TR	153,4
	ZZ	144,9
0808 10 80	AR	164,4
	BR	66,9
	CA	98,2
	CL	115,6
	CN	71,5
	NZ	105,3
	US	167,9
	ZA	97,4
	ZZ	110,9
0808 20 50	AR	162,9
	CL	81,6
	CN	49,3
	NZ	115,4
	ZA	130,0
0809 30	TR	143,3
	ZZ	143,3
0809 40 05	BA	52,7
	ZZ	52,7

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

COMMISSION IMPLEMENTING REGULATION (EU) No 823/2011**of 16 August 2011****amending the representative prices and additional import duties for certain products in the sugar sector fixed by Regulation (EU) No 867/2010 for the 2010/11 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 2010/11 marketing year are fixed by Commission Regulation (EU) No 867/2010 ⁽³⁾. These prices and duties have been last amended by Commission Implementing Regulation (EU) No 815/2011 ⁽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 (EU) No 867/2010 for the 2010/11 marketing year, are hereby amended as set out in the Annex hereto.

Article 2

This Regulation shall enter into force on 17 August 2011.

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

Done at Brussels, 16 August 2011.

*For the Commission,
On behalf of the President,
José Manuel SILVA RODRÍGUEZ
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 259, 1.10.2010, p. 3.

⁽⁴⁾ OJ L 208, 13.8.2011, p. 82.

ANNEX

Amended representative prices and additional import duties applicable to white sugar, raw sugar and products covered by CN code 1702 90 95 from 17 August 2011

(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⁾	46,44	0,00
1701 11 90 ⁽¹⁾	46,44	0,97
1701 12 10 ⁽¹⁾	46,44	0,00
1701 12 90 ⁽¹⁾	46,44	0,68
1701 91 00 ⁽²⁾	51,42	2,04
1701 99 10 ⁽²⁾	51,42	0,00
1701 99 90 ⁽²⁾	51,42	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.

DECISIONS

COMMISSION IMPLEMENTING DECISION

of 16 August 2011

amending Decision 2005/240/EC authorising methods for grading pig carcasses in Poland

(notified under document C(2011) 5745)

(Only the Polish text is authentic)

(2011/506/EU)

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⁾, and in particular Article 43(m), in conjunction with Article 4 thereof,

Whereas:

- (1) By Commission Decision 2005/240/EC ⁽²⁾, the use of four methods for grading pig carcasses in Poland was authorised.
- (2) Poland has stated that since the adoption of Decision 2005/240/EC the slaughter value of the fatteners in Poland has improved considerably. It is therefore necessary to update the formula of the methods after nearly 6 years of use since their approval and to obtain and use new, up-to-date grading methods with a view to increasing competition as well as to introduce cheaper grading methods.
- (3) Poland has requested the Commission to authorise the replacement of the formula used in the 'CAPTEUR GRAS/MAIGRE — SYDEL (CGM)', 'ULTRA FOM 300', 'FULLY AUTOMATIC ULTRASONIC CARCASS GRADING (AUTOFOM)' and 'IM-03', methods of grading pig carcasses as well as to authorise four new methods for grading pig carcasses on its territory and has presented a detailed description of the dissection trial, indicating the principles on which that method is based, the results of its dissection trial and the equations used for assessing the percentage of lean meat in the protocol provided for in Article 23(4) of Commission Regulation (EC) No 1249/2008 of 10 December 2008 laying down detailed rules on the

implementation of the Community scales for the classification of beef, pig and sheep carcasses and the reporting of prices thereof ⁽³⁾.

- (4) Examination of that request has revealed that the conditions for authorising those grading methods are fulfilled. Those grading methods should therefore be authorised in Poland.
- (5) Decision 2005/240/EC should therefore be amended accordingly.
- (6) Modifications of the apparatus or grading methods should not be allowed, unless they are explicitly authorised by Commission Decision.
- (7) The measures provided for in this Decision are in accordance with the opinion of the Management Committee for the Common Organisation of the Agricultural Markets,

HAS ADOPTED THIS DECISION:

Article 1

Decision 2005/240/EC is amended as follows:

- (1) Article 1 is replaced by the following:

'Article 1

The use of the following methods is authorised for grading pig carcasses pursuant to point 1 of Section B.IV of Annex V to Council Regulation (EC) No 1234/2007 (*) in Poland:

- (a) the "Capteur Gras/Maigre — Sydel (CGM)" apparatus and the assessment methods related thereto, details of which are given in Part 1 of the Annex;
- (b) the "Ultra FOM 300" apparatus and the assessment methods related thereto, details of which are given in Part 2 of the Annex;
- (c) the "Fully automatic ultrasonic carcass grading (Autofom)" apparatus and the assessment methods related thereto, details of which are given in Part 3 of the Annex;

⁽¹⁾ OJ L 299, 16.11.2007, p. 1.

⁽²⁾ OJ L 74, 19.3.2005, p. 62.

⁽³⁾ OJ L 337, 16.12.2008, p. 3.

- (d) the “IM-03” apparatus and the assessment methods related thereto, details of which are given in Part 4 of the Annex;
- (e) the “Autofom III” apparatus and the assessment methods related thereto, details of which are given in Part 5 of the Annex;
- (f) the “CSB Image-Meater (CSB)” apparatus and the assessment methods related thereto, details of which are given in Part 6 of the Annex;
- (g) the “Fat-O-Meater II (FOM II)” apparatus and the assessment methods related thereto, details of which are given in Part 7 of the Annex;
- (h) the “manual method (ZP)” and the assessment methods related thereto, details of which are given in Part 8 of the Annex.

As regards the apparatus “Ultra FOM 300”, referred to in point (b) of the first subparagraph, after the end of the measurement procedure it must be possible to verify on the carcass that the apparatus measured the values of measurement F_1 and F_2 on the site provided for in the Annex, Part 2, point 3. The corresponding marking of the measurement site must be made at the same time as the measurement procedure.

The manual method ZP, referred to in point (h) of the first subparagraph, shall only be authorised for abattoirs having a slaughter line with a capacity to process no more than 40 pigs per hour.

(*) OJ L 299, 16.11.2007, p. 1.;

- (2) the Annex is replaced by the text in the Annex to this Decision.

Article 2

This Decision shall apply from 12 December 2011.

Article 3

This Decision is addressed to the Republic of Poland.

Done at Brussels, 16 August 2011.

For the Commission

Dacian CIOLOȘ

Member of the Commission

ANNEX

‘ANNEX

METHODS FOR GRADING PIG CARCASSES IN POLAND**Part 1**

CAPTEUR GRAS/MAIGRE — SYDEL (CGM)

1. The rules provided for in this Part shall apply when the grading of pig carcasses is carried out by means of the apparatus known as “Capteur Gras/Maigre — Sydel (CGM)”.
2. The apparatus shall be equipped with a high-definition Sydel probe 8 mm in width, a light-emitting infra-red diode (Honeywell) and two light sensors (Honeywell). The operating distance is between 0 and 105 mm. The values measured will be converted into estimated lean meat content by the CGM itself.
3. The lean meat content of the carcass shall be calculated according to the following formula:

$$\hat{Y} = 59,42 + 0,1322 \times M_2 - 0,6275 \times F_2$$

where:

$\hat{Y}$ = the estimated percentage of lean meat in the carcass,

M_2 = the thickness of the dorsal muscle in millimetres, measured at the third to fourth last rib position, 6 centimetres from the dorsal midline, measured parallel to the split line of the carcass,

F_2 = the thickness of back-fat (including rind) in millimetres measured at the same time, in the same place and in the same way as M_2 .

This formula shall be valid for carcasses weighing between 60 and 120 kilograms.

Part 2

ULTRA FOM 300

1. The rules provided for in this Part shall apply when the grading of pig carcasses is carried out by means of the apparatus known as “Ultra FOM 300”.
2. The apparatus shall be equipped with an ultrasonic transducer array at 3,5 MHz (U-Systems). The results of the measurements shall be converted into estimated lean meat content by means of the Ultra FOM apparatus itself.
3. The lean meat content of the carcass shall be calculated according to the following formula:

$$\hat{Y} = 54,48 + 0,1272 \times M_1 - 0,3090 \times F_1 + 0,0828 \times M_2 - 0,2802 \times F_2$$

where:

$\hat{Y}$ = the estimated percentage of lean meat in the carcass,

M_1 = the thickness of the dorsal muscle in millimetres, measured at the last rib position, 7 centimetres from the dorsal midline perpendicularly to the muscle,

M_2 = the thickness of the dorsal muscle in millimetres, measured at the third to fourth rib from the last rib position, 7 centimetres from the dorsal midline perpendicularly to the muscle,

F_1 = the thickness of back-fat (including rind) in millimetres measured at the same time, in the same place and in the same way as M_1 ,

F_2 = the thickness of back-fat (including rind) in millimetres measured at the same time, in the same place and in the same way as M_2 ,

This formula shall be valid for carcasses weighing between 60 and 120 kilograms.

Part 3

FULLY AUTOMATIC ULTRASONIC CARCASS GRADING (AUTOFOM)

1. The rules provided for in this Part shall apply when the grading of pig carcasses is carried out by means of the apparatus known as "Autofom (Fully automatic ultrasonic carcass grading)".
2. The apparatus shall be equipped with 16 ultrasonic transducers at 2 MHz (GE Inspection Technologies). The ultrasonic data shall comprise measurements of back-fat thickness and muscle thickness. The results of the measurements are converted into estimated lean meat content using a computer.
3. The lean meat content of the carcass shall be calculated according to the following formula:

$$\begin{aligned} \hat{Y} = & 62,9442 + (AF1_IP005 \times -0,018154) + (AF1_IP006 \times -0,027186) + (AF1_IP008 \times -0,047431) + \\ & (AF1_IP022 \times -0,011910) + (AF1_IP023 \times -0,071926) + (AF1_IP024 \times 0,005814) + (AF1_IP034 \times 0,029288) \\ & + (AF1_IP036 \times 0,005096) + (AF1_IP038 \times 0,010231) + (AF1_IP039 \times 0,012659) + (AF1_IP041 \times 0,022470) + \\ & (AF1_IP047 \times -0,007939) + (AF1_IP049 \times -0,075061) + (AF1_IP050 \times -0,028977) + (AF1_IP052 \times \\ & -0,091722) + (AF1_IP055 \times -0,060411) + (AF1_IP058 \times -0,098989) + (AF1_IP060 \times -0,064891) + \\ & (AF1_IP061 \times -0,065688) + (AF1_IP063 \times -0,064035) + (AF1_IP074 \times -0,078333) + (AF1_IP078 \times \\ & -0,078486) + (AF1_IP079 \times -0,035330) + (AF1_IP081 \times -0,048421) + (AF1_IP091 \times -0,107559) + \\ & (AF1_IP094 \times 0,008816) + (AF1_IP096 \times 0,000797) + (AF1_IP098 \times 0,014608) + (AF1_IP103 \times 0,007774) + \\ & (AF1_IP104 \times 0,008251) + (AF1_IP122 \times 0,012957) \end{aligned}$$

where:

$\hat{Y}$ = the estimated percentage of lean meat in the carcass,

AF1_IP005, AF1_IP006, AF1_IP008 ... AF1_IP122 are the variables measured by Autofom.

4. The measuring points and the statistical method are described in Part II of the protocol presented to the Commission by Poland in accordance with Article 23(4) of Commission Regulation (EC) No 1249/2008 (*).

This formula shall be valid for carcasses weighing between 60 and 120 kg.

Part 4

IM-03

1. The rules provided for in this Part shall apply when the grading of pig carcasses is carried out by means of the apparatus known as "IM-03".
2. The apparatus shall be equipped with a needle-optical probe (single line scanner SLS01) of 7 millimetres diameter. The probe contains the line of contact image sensors (CIS) and green light-emitting diodes. The operating distance is between 0 and 132 millimetres.
3. The lean meat content of the carcass shall be calculated according to the following formula:

$$\hat{Y} = 60,55 + 0,1142 \times M_2 - 0,6292 \times F_2$$

where:

$\hat{Y}$ = the estimated percentage of lean meat in the carcass,

M_2 = the thickness of the dorsal muscle in millimetres, measured at the third to fourth last rib position, 6 centimetres from the dorsal midline, measured parallel to the split line of the carcass,

F_2 = the thickness of back-fat (including rind) in millimetres measured at the same time, in the same place and in the same way as M_2 .

This formula shall be valid for carcasses weighing between 60 and 120 kilograms.

Part 5

AUTOFOM III

1. The rules provided for in this Part shall apply when the grading of pig carcasses is carried out by means of the apparatus known as "Autoform III".
2. The apparatus shall be equipped with 16 2 MHz ultrasonic transducers (Carometec A/S), with an operating distance between transducers of 25 mm. The ultrasonic data shall comprise measurements of back-fat thickness, muscle thickness and related parameters. The results of the measurements shall be converted into estimates of the percentage of lean meat by using a computer.
3. The lean meat content of carcasses shall be calculated on the basis of 10 variables according to the following formula:

$$\hat{Y} = 73,8876 + (AF3_R2P1 \times -1,036616) + (AF3_R2P3 \times -0,180173) + (AF3_R2P13 \times -0,144679) + (AF3_R2P15 \times -0,221519) + (AF3_R3P5 \times 0,136061) + (AF3_R4P4 \times 0,249888) + (AF3_R4P5 \times 0,330109) + (AF3_R4P6 \times 0,184696) + (AF3_R4P8 \times -0,112875) + (AF3_R4P9 \times -0,113663)$$

where:

$\hat{Y}$ = the estimated percentage of lean meat in the carcass,

R2P1, R2P3, R2P13 ... R4P9 — are the variables measured by Autofom III.

4. The measuring points are described in Part II of the protocol presented to the Commission by Poland in accordance with Article 23(4) of Regulation (EC) No 1249/2008.

This formula shall be valid for carcasses weighing between 60 and 120 kg.

Part 6

CSB IMAGE-MEATER (CSB)

1. The rules provided for in this Part shall apply when the grading of pig carcasses is carried out by means of the apparatus known as "CSB Image-Meater".
2. The CSB Image-Meater consists in particular of a video camera, a PC equipped with an image-analysis card, a screen, a printer, a command mechanism, a trigger mechanism and interfaces. The 5 Image-Meater variables are all measured at the split line in the ham area (around *M. gluteus medius*).

The results of the measurements shall be converted into estimates of the percentage of lean meat by using a computer.

3. The lean meat content of carcasses shall be calculated according to the following formula:

$$\hat{Y} = 54,0770376148 - (0,4460170496 \times MS) + (0,1046346719 \times MF) - (0,0575429366 \times VaF) + (0,2303135777 \times VcF) - (0,1637971133 \times VdF)$$

where:

$\hat{Y}$ = the estimated percentage of lean meat in the carcass,

MS — mean averaged fat depth over *M. gluteus medius* (mm),

MF — mean averaged muscle depth of the muscles lumbar and *M. gluteus medius* (mm),

VaF, VcF, VdF — mean averaged muscle depth over the selected three lumbar vertebral bodies cranial (mm).

4. The measuring points are described in Part II of the protocol presented to the Commission by Poland in accordance with Article 23(4) of Regulation (EC) No 1249/2008.

This formula shall be valid for carcasses weighing between 60 and 120 kg.

Part 7

FAT-O-MEATER II (FOM II)

1. The rules provided for in this Part shall apply when the grading of pig carcasses is carried out by means of the apparatus known as "Fat-O-Meater II".
2. The apparatus is a new version of the Fat-O-Meater measurement system. The FOM II consists of an optical probe with a knife, a depth measurement device having a measurement depth of 125 mm and a data acquisition and analysis board – Carometec Touch Panel i15 computer (Ingress Protection IP69K).

All legally relevant acquisition and analysis are contained within the FOM II pistol. The terminal is part of the FOM II and fully integrated with it.

The results of the measurements are converted into estimated lean meat content by means of a computer.

3. The lean meat content of carcasses shall be calculated according to the following formula:

$$\hat{Y} = 59,75 + 0,1533 \times M_2 - 0,6342 \times F_2$$

where:

$\hat{Y}$ = the estimated percentage of lean meat in the carcass,

M_2 = the thickness of the dorsal muscle in millimetres, measured at the third to fourth last rib position, 7 centimetres from the dorsal midline, measured perpendicularly to the muscle,

F_2 = the thickness of back-fat (including rind) in millimetres measured at the same time, in the same place and in the same way as M_2 .

This formula shall be valid for carcasses weighing between 60 and 120 kilograms.

Part 8

MANUAL METHOD (ZP)

1. The rules provided for in this Part shall apply when the grading of pig carcasses is carried out by use of the "manual method (ZP)" measuring by ruler.
2. This method may be implemented using a ruler, with the grading determined on the basis of the prediction equation. It is based on the manual measurement on the midline of the split carcass of the thickness of the fat and of the thickness of the muscle.
3. The lean meat content of carcasses shall be calculated according to the following formula:

$$\hat{Y} = 52,61 - 0,6148 \times F + 0,1842 \times M$$

where:

$\hat{Y}$ = the estimated percentage of lean meat in the carcass,

F = the minimum thickness of visible fat on the midline of the split carcass in millimetres, covering the *M. gluteus medius* (mm),

M = the visible thickness of the lumbar muscle on the midline of the split carcass, measured as the shortest connection between the front (cranial) end of the *M. gluteus medius* and the upper (dorsal) edge of the vertebral canal (mm).

This formula shall be valid for carcasses weighing between 60 and 120 kilograms.

(*) OJ L 337, 16.12.2008, p. 3.

COMMISSION IMPLEMENTING DECISION

of 16 August 2011

amending Decision 2005/382/EC authorising methods for grading pig carcasses in Hungary

(notified under document C(2011) 5746)

(Only the Hungarian text is authentic)

(2011/507/EU)

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⁾, and in particular Article 43(m), in conjunction with Article 4 thereof,

Whereas:

- (1) By Commission Decision 2005/382/EC ⁽²⁾, the use of four methods for grading pig carcasses in Hungary was authorised.
- (2) Hungary has stated that since the adoption of Decision 2005/382/EC the formula and grading methods have evolved considerably. It is therefore necessary to update the formula of one of the methods, to replace the three other methods, to add a new method, and to simplify the grading methods through the use of only one measurement point instead of the present two measurement points.
- (3) Hungary has requested the Commission to authorise the replacement of the formula used in the 'Fat-O-Meater FOM S70 and Fat-O-Meater FOM S71', method of grading pig carcasses as well as to authorise four new methods for grading pig carcasses on its territory and has presented a detailed description of the dissection trial, indicating the principles on which those methods are based, the results of its dissection trial and the equations used for assessing the percentage of lean meat in the protocol provided for in Article 23(4) of Commission Regulation (EC) No 1249/2008 of 10 December 2008 laying down detailed rules on the implementation of the Community scales for the classification of beef, pig and sheep carcasses and the reporting of prices thereof ⁽³⁾.
- (4) Examination of that request has revealed that the conditions for authorising those grading methods are fulfilled. Those grading methods should therefore be authorised in Hungary.
- (5) Decision 2005/382/EC should therefore be amended accordingly.
- (6) Modifications of the apparatus or grading methods should not be allowed, unless they are explicitly authorised by Commission Decision.

- (7) The measures provided for in this Decision are in accordance with the opinion of the Management Committee for the Common Organisation of the Agricultural Markets,

HAS ADOPTED THIS DECISION:

Article 1

Decision 2005/382/EC is amended as follows:

- (1) Article 1 is replaced by the following:

'Article 1

The use of the following methods is authorised for grading pig carcasses pursuant to point 1 of Section B.IV of Annex V to Council Regulation (EC) No 1234/2007 (*) in Hungary:

- (a) the "Fat-O-Meater FOM S70" and "Fat-O-Meater FOM S71" apparatus and the assessment methods related thereto, details of which are given in Part I of the Annex;
- (b) the "Ultra FOM 300" apparatus and the assessment methods related thereto, details of which are given in Part II of the Annex;
- (c) the "OptiScan-TP" apparatus and the assessment methods related thereto, details of which are given in Part III of the Annex;
- (d) the "IM-03" apparatus and the assessment methods related thereto, details of which are given in Part IV of the Annex;
- (e) the "OptiGrade-MCP" apparatus and the assessment methods related thereto, details of which are given in Part V of the Annex.

As regards the apparatus "Ultra FOM 300", referred to in point (b) of the first subparagraph, after the end of the measurement procedure it must be possible to verify on the carcass that the apparatus measured the values of measurement BF and LD on the site provided for in the Annex, Part II, point 3. The corresponding marking of the measurement site must be made at the same time as the measurement procedure.

(*) OJ L 299, 16.11.2007, p. 1.;

⁽¹⁾ OJ L 299, 16.11.2007, p. 1.

⁽²⁾ OJ L 126, 19.5.2005, p. 55.

⁽³⁾ OJ L 337, 16.12.2008, p. 3.

- (2) the Annex is replaced by the text in the Annex to this Decision.

Article 2

This Decision shall apply from 2 July 2012.

Article 3

This Decision is addressed to the Republic of Hungary.

Done at Brussels, 16 August 2011.

For the Commission

Dacian CIOLOȘ

Member of the Commission

ANNEX

‘ANNEX

METHODS FOR GRADING PIG CARCASSES IN HUNGARY**Part I****FAT-O-MEATER FOM S70 AND FAT-O-MEATER FOM S71**

1. The rules provided for in this Part shall apply when the grading of pig carcasses is carried out by means of the apparatus known as Fat-O-Meater “FOM S70” and “Fat-O-Meater S71”.
2. The apparatus shall be equipped with a probe of 6 millimetres (mm) diameter containing an optical sonde of the Fremstillet AF Radiometer Copenhagen/Slagteriernes Forskningsinstitut Optisk Sonde MQ type and having an operating distance of between 5 and 105 mm. The results of the measurements are converted into estimated lean meat content by means of a computer type S70 and S71 respectively.
3. The lean meat content of the carcass shall be calculated according to the following formula:

$$\hat{Y} = 63,78987 - 0,77968 \times BF + 0,10715 \times LD$$

where:

$\hat{Y}$ = the estimated percentage of lean meat in the carcass,

BF = the thickness of back-fat (including rind) in millimetres, measured at 6 cm off the midline of the split carcass, between the second and third last ribs,

LD = the thickness of the dorsal muscle in millimetres, measured at the same time and in the same place as BF.

This formula shall be valid for carcasses weighing between 50 and 120 kg.

Part II**ULTRA FOM 300**

1. The rules provided for in this Part shall apply when the grading of pig carcasses is carried out by means of the apparatus known as “Ultra FOM 300”.
2. The apparatus shall be equipped with an ultrasonic probe with an array of transducer emitting ultrasonic waves at 3,5 MHz. The ultrasonic signal is digitised, stored and processed by a microprocessor. The results of the measurements shall be converted into estimated lean meat content by means of the Ultra FOM 300 apparatus itself.
3. The lean meat content of carcasses shall be calculated according to the following formula:

$$\hat{Y} = 69,38252 - 0,79120 \times BF + 0,00994 \times LD$$

where:

$\hat{Y}$ = the estimated percentage of lean meat in the carcass,

BF = the thickness of back-fat (including rind) in millimetres, measured at 7 cm off the midline of the split carcass, between the second and third last ribs,

LD = the thickness of the dorsal muscle in millimetres, measured at the same time and in the same place as BF.

This formula shall be valid for carcasses weighing between 50 and 120 kg.

Part III**OPTISCAN TP**

1. The rules provided for in this Part shall apply when the grading of pig carcasses is carried out by means of the apparatus known as “OptiScan TP”.
2. The Optiscan-TP apparatus shall be equipped with a digital imager taking an illuminated photo of the two measurement points on the carcasses. The images are the base for the calculation of fat and muscle thickness according to the two points method “Zwei-Punkte Messverfahren (ZP)”.

The results of the measurements shall be converted into estimated lean meat content by means of the Optiscan-TP apparatus itself. The photos are saved and can later be controlled. The integrated Bluetooth® interface permits easy data transfer.

3. The lean meat content of carcasses shall be calculated according to the following formula:

$$\hat{Y} = 58,31147 - 0,62677 \times BF + 0,14664 \times LD$$

where:

$\hat{Y}$ = the estimated percentage of lean meat in the carcass,

BF = the minimal fat depth (including rind) in millimetres over the *M. gluteus medius*,

LD = the minimal muscle depth in millimetres between the anterior extremity of the *M. gluteus medius* and the dorsal part of medullar canal.

This formula shall be valid for carcasses weighing between 50 and 120 kg.

Part IV

IM-03

1. The rules provided for in this Part shall apply when the grading of pig carcasses is carried out by means of the apparatus known as "IM-03".
2. The apparatus shall be equipped with an optical needle probe (single line scanner SLS01) of 7 mm diameter with the knife. The probe contains the line of contact image sensors (CIS) and green light-emitting diodes. The operating distance is between 0 and 132 mm. The results of the measurements shall be converted into estimated lean meat content by means of the IM-03 apparatus itself.
3. The lean meat content of carcasses shall be calculated according to the following formula:

$$\hat{Y} = 59,63994 - 0,63951 \times BF + 0,12083 \times LD$$

where:

$\hat{Y}$ = the estimated percentage of lean meat in the carcass,

BF = the thickness of back-fat (including rind) in millimetres, measured at 6 cm off the midline of the split carcass, between the second and third last ribs,

LD = the thickness of the dorsal muscle in millimetres, measured at the same time and in the same place as BF.

This formula shall be valid for carcasses weighing between 50 and 120 kg.

Part V

OPTIGRADE-MCP

1. The rules provided for in this Part shall apply when the grading of pig carcasses is carried out by means of the apparatus known as "OptiGrade-MCP".
2. The apparatus shall be equipped with an optical probe 6 mm in diameter, one infrared photodiode (Siemens) and a photo transistor (Siemens). The operating distance shall be between 0 and 110 mm.
The results of the measurements are converted into estimated lean meat content by means of a computer.
3. The lean meat content of carcasses shall be calculated according to the following formula:

$$\hat{Y} = 61,45261 - 0,62941 \times BF + 0,11736 \times LD$$

where:

$\hat{Y}$ = the estimated percentage of lean meat in the carcass,

BF = the thickness of back-fat (including rind) in millimetres, measured at 6 cm off the midline of the split carcass, between the second and the third last ribs,

LD = the thickness of the dorsal muscle in millimetres, measured at the same time and in the same place as BF.

This formula shall be valid for carcasses weighing between 50 and 120 kg.'

COMMISSION IMPLEMENTING DECISION**of 16 August 2011****concerning certain protection measures relating to classical swine fever in Lithuania***(notified under document C(2011) 5798)***(Text with EEA relevance)****(2011/508/EU)**

THE EUROPEAN COMMISSION,

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

Having regard to Council Directive 89/662/EEC of 11 December 1989 concerning veterinary checks in intra-Community trade with a view to the completion of the internal market ⁽¹⁾, and in particular Article 9(4) thereof,

Having regard to Council Directive 90/425/EEC of 26 June 1990 concerning veterinary and zootechnical checks applicable in intra-Community trade in certain live animals and products with a view to the completion of the internal market ⁽²⁾, and in particular Article 10(4) thereof,

Having regard to Council Directive 2001/89/EC of 23 October 2001 on Community measures for the control of classical swine fever ⁽³⁾ and in particular Article 11(1)(f) thereof,

Having regard to Council Directive 2002/99/EC of 16 December 2002 laying down the animal health rules governing the production, processing, distribution and introduction of products of animal origin for human consumption ⁽⁴⁾, and in particular the first subparagraph of Article 4(3) thereof,

Whereas:

- (1) Outbreaks of classical swine fever have occurred in Lithuania.
- (2) In view of the trade in live pigs and certain pig products, those outbreaks are liable to endanger the herds of other Members States.
- (3) It is necessary to reinforce the measures taken by Lithuania in the framework of Directive 2001/89/EC.
- (4) Commission Decision 2002/106/EC of 1 February 2002 approving a Diagnostic Manual establishing diagnostic procedures, sampling methods and criteria for evaluation of the laboratory tests for the confirmation of classical swine fever ⁽⁵⁾ provides for risk adapted surveillance protocols.
- (5) The animal health conditions and the certification requirements for trade in live pigs are laid down in

Council Directive 64/432/EEC of 26 June 1964 on animal health problems affecting intra-Community trade in bovine animals and swine ⁽⁶⁾.

- (6) The animal health conditions and certification requirements for trade in porcine semen are laid down in Council Directive 90/429/EEC of 26 June 1990 laying down the animal health requirements applicable to intra-Community trade in and imports of semen of domestic animals of the porcine species ⁽⁷⁾.
- (7) 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 ⁽⁸⁾ concerns, amongst others, trade in embryos of porcine animals.
- (8) The model health certificates for trade within the Union in semen, ova and embryos of animals of the ovine and caprine species and in ova and embryos of animals of the porcine species are laid down in Commission Decision 2010/470/EU of 26 August 2010 laying down model health certificates for trade within the Union in semen, ova and embryos of animals of the equine, ovine and caprine species and in ova and embryos of animals of the porcine species ⁽⁹⁾.
- (9) Regulation (EC) No 853/2004 of the European Parliament and of the Council of 29 April 2004 laying down specific hygiene rules for food of animal origin ⁽¹⁰⁾ concerns, amongst others, the health conditions for the production and marketing of fresh meat, minced meat, mechanically separated meat, meat preparations, farmed game meat, meat products, including treated stomachs, bladders and intestines, and dairy products.
- (10) 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 ⁽¹¹⁾ concerns, amongst others, the health marking of food of animal origin.

⁽¹⁾ OJ L 395, 30.12.1989, p. 13.

⁽²⁾ OJ L 224, 18.8.1990, p. 29.

⁽³⁾ OJ L 316, 1.12.2001, p. 5.

⁽⁴⁾ OJ L 18, 23.1.2003, p. 11.

⁽⁵⁾ OJ L 39, 9.2.2002, p. 71.

⁽⁶⁾ OJ L 121, 29.7.1964, p. 1977/64.

⁽⁷⁾ OJ L 224, 18.8.1990, p. 62.

⁽⁸⁾ OJ L 268, 14.9.1992, p. 54.

⁽⁹⁾ OJ L 228, 31.8.2010, p. 15.

⁽¹⁰⁾ OJ L 139, 30.4.2004, p. 55.

⁽¹¹⁾ OJ L 139, 30.4.2004, p. 206.

- (11) It is necessary to complete the certificate provided for in Commission Regulation (EC) No 599/2004 of 30 March 2004 concerning the adoption of a harmonised model certificate and inspection report linked to intra-Community trade in animals and products of animal origin ⁽¹⁾ with an official animal health attestation which should be set up in an Annex to this Decision.
- (12) Article 6 of Commission Decision 2007/275/EC of 17 April 2007 concerning lists of animals and products to be subject to controls at border inspection posts under Council Directives 91/496/EEC and 97/78/EC ⁽²⁾ provides for a derogation from the veterinary checks for certain products containing animal products. It is appropriate to allow dispatch from areas under restrictions of such products under a simplified certification regime.
- (13) Council Directive 92/118/EEC ⁽³⁾ lays down animal health and public health requirements governing trade in and imports into the Community of products not subject to the said requirements laid down in specific Community rules referred to in Annex A (I) to Directive 89/662/EEC and, as regards pathogens, to Directive 90/425/EEC.
- (14) Regulation (EC) No 1069/2009 of the European Parliament and of the Council of 21 October 2009 laying down health rules as regards animal by-products and derived products not intended for human consumption and repealing Regulation (EC) No 1774/2002 (Animal by-products Regulation) ⁽⁴⁾, provides animal health conditions for the processing of animal byproducts derived from animals in restricted areas.
- (15) In so far as medicinal products defined in Directive 2001/82/EC of the European Parliament and of the Council of 6 November 2001 on the Community code relating to veterinary medicinal products ⁽⁵⁾, Directive 2001/83/EC of the European Parliament and of the Council of 6 November 2001 on the Community code relating to medicinal products for human use ⁽⁶⁾, and Directive 2001/20/EC of the European Parliament and of the Council of 4 April 2001 on the approximation of the laws, regulations and administrative provisions of the Member States relating to the implementation of good clinical practice in the conduct of clinical trials on medicinal products for human use ⁽⁷⁾ no longer fall under the scope of Regulation (EC) No 1069/2009 they should be excluded from animal health-related restrictions set up by this Decision.
- (16) Based on the information provided by Lithuania it is appropriate to establish protective measures relating to classical swine fever in Lithuania for a period sufficient to complete the necessary investigations.

- (17) It is also necessary to establish the measures so as to minimise contacts to and between pig holdings in certain parts of Lithuania and to require a regional limitation of certain services related to pigs so as to prevent spread of the virus.
- (18) 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

Lithuania shall ensure that no pigs are dispatched to other Member States and to third countries from:

- (a) the areas listed in Annex I;
- (b) holdings on its territory located outside the areas listed in Annex I that have received pigs since 1 March 2011 from a holding located in the areas listed in Annex I.

Article 2

Lithuania shall ensure that:

- (a) no pigs are transported from holdings within the areas listed in Part A of Annex I;
- (b) the transport of slaughter pigs coming from holdings situated outside the areas listed in Part A of Annex I to slaughterhouses located within those areas and the transit of pigs through those areas is only allowed:
 - (i) via major roads or railways; and
 - (ii) in accordance with the detailed instructions provided for by the competent authority to prevent such pigs coming into direct or indirect contact with other pigs during transport and in the slaughterhouse;
- (c) no pigs are dispatched from the areas listed in Part B of Annex I to other areas in Lithuania, except for the direct transport of:
 - (i) slaughter pigs to a slaughterhouse for immediate slaughter, provided that the pigs originate from one single holding;
 - (ii) breeding and production pigs to a holding, provided that the pigs have been resident for at least 30 days, or since birth if less than 30 days of age, on a single holding:
 - which has not received live pigs during the 30-day period immediately prior to the date of dispatch of the pigs, and
 - on which the clinical examinations carried out in accordance with Chapter IV(D)(2) of the Annex to Decision 2002/106/EC have been completed with negative results.

⁽¹⁾ OJ L 94, 31.3.2004, p. 44.

⁽²⁾ OJ L 116, 4.5.2007, p. 9.

⁽³⁾ OJ L 62, 15.3.1993, p. 49.

⁽⁴⁾ OJ L 300, 14.11.2009, p. 1.

⁽⁵⁾ OJ L 311, 28.11.2001, p. 1.

⁽⁶⁾ OJ L 311, 28.11.2001, p. 67.

⁽⁷⁾ OJ L 121, 1.5.2001, p. 34.

Article 3

1. By way of derogation from Article 2(a), the competent authority may authorise the transport of pigs from a holding situated within the areas listed in Part A of Annex I but outside a protection or surveillance zone:

- (a) directly to a slaughterhouse situated within those areas, or in exceptional cases, to designated slaughterhouses in Lithuania located outside those areas, for immediate slaughter, provided that the pigs are dispatched from a holding on which the clinical examinations carried out in accordance with Chapter IV(D)(3) of the Annex to Decision 2002/106/EC have been completed with negative results;
- (b) to a holding situated within those areas, provided that the pigs have been resident for at least 45 days, or since birth if less than 45 days of age, on a single holding of origin:
 - (i) which has not received live pigs during the 45-day period immediately prior to the date of dispatch of the pigs;
 - (ii) on which the clinical examinations carried out in accordance with Chapter IV(D)(2) and the second to fourth paragraph of Chapter IV(D)(4) of the Annex to Decision 2002/106/EC have been completed with negative results;
- (c) to a holding situated within those areas, provided that the pigs have been resident for at least 45 days, or since birth if less than 45 days of age, on a single holding of origin:
 - (i) which has not received live pigs during the 20-day period immediately prior to the date of dispatch of the pigs, provided that during the six-month period immediately prior to the date of dispatch of the pigs the holding of origin has not received any other pigs than gilts from one and the same single holding;
 - (ii) on which the clinical examinations carried out in accordance with Chapter IV(D)(2) and the second to fourth paragraph of Chapter IV(D)(4) of the Annex to Decision 2002/106/EC have been completed with negative results;
- (d) to a holding situated within those areas, provided that the pigs have been resident for at least 45 days, or since birth if less than 45 days of age, on a single holding of origin and that:
 - (i) the holding of origin has not received any other pigs than gilts, which have been subjected to laboratory tests, carried out on samples taken within 10 days of the date of dispatch, with negative results for the following:
 - a test for the detection of antibodies,
 - two consecutive tests at seven days interval for the detection of the classical swine fever virus genome (RT-PCR) carried out in the national reference laboratory;

(ii) the clinical examinations carried out in that holding of origin in accordance with Chapter IV(D)(2) and the second to fourth paragraph of Chapter IV(D)(4) of the Annex to Decision 2002/106/EC have been completed with negative results.

2. By way of derogation from Article 2(a), the competent authority may authorise the direct transport of pigs from a holding situated within a surveillance zone to a designated holding in which no pigs are present and which is situated within the same surveillance zone, provided that:

- (a) the conditions in Article 11(1)(f) and Article 11(2) of Directive 2001/89/EC are applied at the designated holding of destination;
- (b) the examinations provided for in Chapter IV(D)(2) of the Annex to Decision 2002/106/EC have been completed with negative results on the holding from which the pigs are dispatched.

3. By way of derogation from Article 2(a), the competent authority may authorise the direct transport of pigs from a holding situated within a surveillance zone to a designated holding in the protection zone, provided that:

- (a) the designated holding of destination is situated at least 10 km from the national border with another Member State or third country and no pigs have been present on that holding for at least 21 days following the date of completion of the cleaning and disinfection in accordance with Article 12 of Directive 2001/89/EC;
- (b) the designated holding of destination has undergone a third cleansing and disinfection under veterinary supervision prior to the introduction of the pigs;
- (c) all the pigs arrive at the designated holding of destination within a period of 20 days;
- (d) pigs in the designated holding of destination are subjected to a serological examination in accordance with Chapter IV(E) of the Annex to Decision 2002/106/EC, carried out on samples taken not earlier than 40 days following the date of the arrival of the last pigs at that holding;
- (e) no pigs leave the designated holding of destination except if moved for direct slaughter in a slaughterhouse situated in the areas listed in Part A of Annex I, provided that the examinations referred to in point (d) have been completed with negative results.

4. The competent authority shall record the transports of pigs referred to in paragraphs 1 to 3 and notify the Commission thereof in the Standing Committee on the Food Chain and Animal Health.

Article 4

Lithuania shall ensure that no consignments of the following commodities are dispatched to other Member States or to third countries:

- (a) porcine semen, unless the semen originates from boars kept at a collection centre referred to in Article 3(a) of Directive 90/429/EEC and situated outside the areas listed in Annex I;
- (b) ova and embryos of animals of the porcine species, unless the ova and embryos originate from porcine animals kept at a holding situated outside the areas listed in Annex I.

Article 5

Lithuania shall ensure that:

1. the health certificate provided for in Annex F (Model 2) to Directive 64/432/EEC accompanying animals of the porcine species dispatched from Lithuania to other Member States includes the words:

‘Animals in accordance with Commission Implementing Decision 2011/508/EU of 16 August 2011 concerning certain protection measures relating to classical swine fever in Lithuania’;

2. the animal health certificate provided for in Annex D to Directive 90/429/EEC accompanying semen from boars dispatched from Lithuania to other Member States includes the words:

‘Semen in accordance with Commission Implementing Decision 2011/508/EU of 16 August 2011 concerning certain protection measures relating to classical swine fever in Lithuania’;

3. the health certificates provided for in Annex V to Decision 2010/470/EU accompanying ova and embryos of animals of the porcine species dispatched from Lithuania to other Member States include the words:

‘Ova/Embryos (*delete as appropriate*) in accordance with Commission Implementing Decision 2011/508/EU of 16 August 2011 concerning certain protection measures relating to classical swine fever in Lithuania’.

Article 6

1. By way of derogation from the fourth indent of Article 10(3)(f) of Directive 2001/89/EC, Lithuania may apply the health marking laid down in Article 5(2) of Regulation (EC) No 854/2004 and may permit that fresh meat not be submitted to a subsequent treatment in accordance with Article 4(1) of Directive 2002/99/EC, in the case of pigmeat which is obtained from pigs that comply with the following requirements:

- (a) they have been slaughtered within 12 hours of arrival at the slaughterhouse;
- (b) they originate from a holding:
 - (i) situated in a surveillance zone established in accordance with Article 9(1) of Directive 2001/89/EC in the areas listed in Part A of Annex I to this Decision, and around a protection zone where:

- no outbreak of classical swine fever has been detected during a period of 21 days prior to the movement of the pigs to the slaughterhouse and where at least 21 days have elapsed following the disinfection of the infected holdings,

- clinical examinations for classical swine fever have been carried out in all holdings in those protection and surveillance zones following the detection of classical swine fever, with negative results;

- (ii) which has been authorised by the competent authority to remove pigs to a designated slaughterhouse, and:

- which had no contact with an infected holding, following the epidemiological inquiry,

- which has been subject to regular inspections by a veterinarian following the establishment of the surveillance zone and that inspection has included all pigs kept on the holding,

- where all pigs have been submitted to clinical and laboratory examinations in accordance with paragraphs 1, 3, 4 and 5 of Chapter IV(D) of the Annex to Decision 2002/106/EC.

2. Lithuania shall ensure that the slaughterhouse referred to in paragraph 1(a):

- (a) is located within the areas listed in Part A of Annex I;

- (b) does not on the same day, accept pigs for slaughter, other than the pigs referred to in paragraph 1.

3. Lithuania shall ensure that the vehicles used for the transport of the pigs referred to in paragraph 1 are cleaned and disinfected twice following each transport.

Article 7

1. Lithuania shall ensure that pigmeat referred to in Article 6 is accompanied by a certificate issued in accordance with the Annex to Regulation (EC) No 599/2004 and completed by the official veterinarian with the animal health attestation as set out in Annex II to this Decision.

2. Lithuania shall ensure that the Commission and the Member States are provided with the following information concerning the pigs referred to in Article 6:

- (a) before the slaughtering of the pigs, the name and location of the slaughterhouses designated to receive the pigs for slaughter;

- (b) after the slaughtering of the pigs, on a weekly basis, a report which contains information on:

- (i) the number of the pigs slaughtered at the designated slaughterhouses;

- (ii) the identification system and movement controls applied in order to ensure compliance with Article 11(1)(f) of Directive 2001/89/EC.

Article 8

1. Lithuania shall not dispatch to other Member States or to third countries consignments of:

- (a) products of animals of the porcine species not referred to in Articles 6 and 7 coming from the areas listed in Part A of Annex I;
- (b) products obtained from animals of the porcine species originating in the areas listed in Part A of Annex I;
- (c) dung and manure of animals of the porcine species from the areas listed in Part A of Annex I.

2. The prohibition set out in paragraph 1(a) and (b) shall not apply to:

(a) products derived from animals of the porcine species which:

(i) have been subjected to a heat treatment:

— in a hermetically sealed container with a F_0 value of 3,00 or more, or

— in which the centre temperature is raised to at least 70 °C; or

(ii) were produced outside the areas listed in Annex I in accordance with the conditions laid down in Regulation (EC) No 1069/2009, and which since introduction into Lithuania have been stored and transported separately from animal products not eligible for dispatch in accordance with paragraph 1;

(b) blood and blood products as defined in points 2 and 4 of Annex I to Commission Regulation (EU) No 142/2011⁽¹⁾ which have been subjected to at least one of the treatments provided for in point 3.1 of Section 2 of Chapter II of Annex XIV to Regulation (EU) No 142/2011, followed by an effectiveness check, or have been imported in accordance with Section 2 of Chapter II of Annex XIV to Regulation (EU) No 142/2011;

(c) lard and rendered fats which have been processed by processing method 1 (pressure sterilisation) or in accordance with one of the other processing methods referred to in Chapter III of Annex IV to Regulation (EU) No 142/2011;

(d) petfood conforming to the requirements of points 3(a) and 3(b)(i), (ii) and (iii) of Chapter II of Annex XIII to Regulation (EU) No 142/2011;

(e) game trophies in accordance with point C.2 of Chapter VI of Annex XIII to Regulation (EU) No 142/2011;

(f) pigs bristles which have undergone factory washing or have been obtained from tanning and unprocessed pigs bristles which are securely enclosed in packaging and dry;

(g) packed animal products intended for use as in-vitro diagnostic, laboratory reagents;

(h) medicinal products as defined in Directive 2001/83/EC, medical devices manufactured utilising animal tissue which is rendered non-viable as referred to in Article 1(5)(g) of Council Directive 93/42/EEC⁽²⁾, veterinary medicinal products as defined in Directive 2001/82/EC, and investigational medicinal products as defined in Directive 2001/20/EC;

(i) animal casings complying with the conditions in Part A of Chapter 2 of Annex I to Directive 92/118/EEC and which have been cleaned, scraped and then either salted, bleached or dried, followed by steps to prevent the recontamination of the casings;

(j) composite products which are not subject to further treatment containing products of animal origin, on the understanding that the treatment was not necessary for finished products, the ingredients of which comply with the respective animal health conditions laid down in this Decision.

3. Lithuania shall ensure that the animal products referred to in paragraph 2 which are dispatched to other Member States are accompanied by an official certificate which includes the following words:

‘Animal products conforming to Commission Implementing Decision 2011/508/EU of 16 August 2011 concerning certain protection measures against classical swine fever in Lithuania’.

Article 9

By way of derogation from Article 8(3), it shall be sufficient, in the case of:

(a) products referred to in paragraph 2(a) to (d) and (i) of Article 8 that compliance with the conditions for the treatment stated in the commercial document required in accordance with the respective Union legislation is endorsed in accordance with Article 10;

(b) products referred to in paragraph 2(f) of Article 8 to be accompanied by a commercial document stating that they:

(i) have undergone factory washing; or

(ii) have been obtained from tanning; or

(iii) comply with the conditions set out in point A.1 of Chapter VII of Annex XIII to Regulation (EU) No 142/2011;

(c) products referred to in paragraph 2(g) and (h) of Article 8, to be accompanied by a commercial document stating that the products are for use as in-vitro diagnostic, laboratory reagents, medical products or medical devices, provided that the products are clearly labelled ‘for in-vitro diagnostic use only’ or ‘for laboratory use only’, as ‘medicinal products’ or as ‘medical devices’;

⁽¹⁾ OJ L 54, 26.2.2011, p. 1.

⁽²⁾ OJ L 169, 12.7.1993, p. 1.

- (d) products referred to in paragraph 2(j) of Article 8 which have been produced in an establishment operating HACCP and an auditable standard operating procedure which ensures that pre-processed ingredients comply with the respective animal health conditions laid down in this Decision, that this is stated on the commercial document accompanying the consignment, endorsed in accordance with Article 10;
- (e) composite products that fulfil the conditions laid down in Article 6(1) of Decision 2007/275/EC that they are accompanied by a commercial document, which includes the following words:

'These composite products are shelf stable at ambient temperature or have clearly undergone in their manufacture a complete cooking or heat-treatment process throughout their substance, so that any raw material is de-natured'.

Article 10

1. Where reference is made to this Article, the competent authority shall ensure that the commercial document required by Union legislation for trade between Member States is endorsed by the attachment of a copy of an official certificate stating that:

- (a) the products concerned have been produced:
 - (i) in a production process that has been audited and found in compliance with the appropriate requirements in Union animal health legislation and suitable to destroy the classical swine fever virus; or
 - (ii) from pre-processed materials which had been certified accordingly to comply with the requirements laid down in Articles 8 and 9; and
- (b) provisions are in place to avoid possible re-contamination with the classical swine fever virus after treatment.

2. The certificate referred to in paragraph 1 shall:

- (a) include a reference to this Decision;
- (b) be valid for 30 days;
- (c) include a mention of its date of expiry;
- (d) be renewable after an inspection of the establishment.

Article 11

1. The competent authority shall define risk based zones in the areas listed in Annex I.

2. The services provided by persons in direct contact to pigs or requiring entry into the housing areas for pigs shall be limited to those risk based zones and shall not be shared with other parts of the Union. The same shall apply to services requiring the use of vehicles for the transport of feed, manure or dead animals to and from pig holdings situated in the areas listed in Annex I.

3. Paragraph 2 shall not apply to services provided that the following conditions are complied with:

- (a) the vehicles, equipment and any other fomites have been cleansed and disinfected;
- (b) the persons, vehicles and equipment were not in direct contact with pigs or pig holdings for at least three days.

4. Lithuania shall ensure that:

- (a) the following surveillance measures are carried out in the areas listed in Annex I:
 - (i) any case of a contagious disease in pig holdings for which a treatment with antibiotic or other antibacterial drugs is indicated, shall be reported to the competent authority without delay and before treatment is commenced;
 - (ii) in the pig holdings referred to in (a), the clinical examinations and sampling procedures laid down in Chapter IV(A) of the Annex to Decision 2002/106/EC are carried out by a veterinarian without delay;
- (b) preventive disease control measures are applied as necessary, in accordance with Article 4(3)(a) of Directive 2001/89/EC;
- (c) an appropriate information campaign is addressed to pig farmers.

Article 12

Lithuania shall ensure that in the areas listed in Part A of Annex I:

- (a) the measures in the protection and surveillance zones continue to apply until at least 40 days have elapsed following the completion of preliminary cleaning and disinfection measures on the infected holdings;
- (b) pigs on all holdings in the surveillance zones have, in addition to the examinations referred to in Article 11(3)(b) of Directive 2001/89/EC and before the measures provided for in Directive 2001/89/EC are withdrawn in the surveillance zone, undergone clinical and laboratory examinations carried out in accordance with Chapter IV(F) of the Annex to Decision 2002/106/EC; those examinations must not take place before 30 days have elapsed following the completion of preliminary cleaning and disinfection measures on the infected holdings.

Article 13

1. Member States other than Lithuania shall not send pigs to slaughterhouses in the areas listed in Part A of Annex I.

2. Member States shall ensure that:

- (a) vehicles which have been used for the transport of pigs in Lithuania are cleaned and disinfected twice after each transport in that Member State and do not transport pigs for at least three days following disinfection;

(b) vehicles which have entered a holding where pigs are kept in Lithuania are cleaned and disinfected twice after leaving that holding and do not transport pigs for at least three days following disinfection;

(c) the transporters furnish proof to the competent authority of such cleaning and disinfection.

Article 14

Member States shall amend the measures they apply to trade so as to bring them into compliance with this Decision and they shall give immediate appropriate publicity to the measures adopted. They shall immediately inform the Commission thereof.

Article 15

This Decision shall apply until 31 October 2011.

Article 16

This Decision is addressed to the Member States.

Done at Brussels, 16 August 2011.

For the Commission

John DALLI

Member of the Commission

ANNEX I

Part A

The district of Jonava, Kaišiadorys, Kaunas and Kėdainiai in Kaunas county and the districts of Ukmergė and Širvintos in Vilnius county.

Part B

The whole of the territory of Lithuania, except the part included in Part A.

ANNEX II

EUROPEAN UNION

Fresh meat restricted area

II. Health information	II.a. Certificate reference No	II.b.
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II.1. Animal Health Attestation

I, the undersigned official veterinarian, hereby certify that the meat described:

- II.1.1. Was obtained in a slaughterhouse
 (name), from pigs situated in a restricted region or area of
 (name of Member State) due to
 (name of the disease) according to the Decision
 (number) and conforms to the requirement of Article(s) of this Decision.

Part II: Certification

Official veterinarian or official inspector

Name (in capital letters):

Qualification and title:

Local veterinary unit:

LVU No:

Date:

Signature:

Stamp:

CORRIGENDA

Corrigendum to Commission Decision 2009/894/EC of 30 November 2009 on establishing the ecological criteria for the award of the Community eco-label for wooden furniture*(Official Journal of the European Union L 320 of 5 December 2009)*

On page 28, Criterion 3:

for: '(e) *Formaldehyde emission from untreated raw wood-based materials*

Wood-based materials are only allowed in a piece of furniture if they comply with the following requirements:

- (i) Particleboard: the emission of formaldehyde from particleboards in their raw state, i.e. prior to machining or coating, shall not exceed 50 % of the threshold value that would allow it to be classified as E1 according to standard EN 312.

Assessment and verification: The applicant and/or his supplier shall provide evidence that the wood-based materials comply with this requirement according to the European standard EN 312-1.

- (ii) Fibreboard: The formaldehyde measured in any fibreboard used shall not exceed 50 % of the threshold value that would allow it to be classified as class A quality according to EN 622-1. However fibreboards classified as class A will be accepted if they do not represent more than 50 % of the total wood and wood-based materials used in the product.

Assessment and verification: The applicant and/or his supplier shall provide evidence that the wood-based materials comply with this requirement according to the European standard EN 622-1.'

read: '(e) *Formaldehyde emission from untreated raw wood-based materials*

Wood-based materials are only allowed in a piece of furniture if they comply with the following requirements:

- (i) Particleboard: the emission of formaldehyde from particleboards in their raw state, i.e. prior to machining or coating, shall not exceed 50 % of the threshold value that would allow it to be classified as E1 according to standard EN 312.
- (ii) Fibreboard: the emission of formaldehyde from fibreboard(s) in their raw state, i.e. prior to machining or coating shall not exceed 50 % of the threshold value that would allow it to be classified as E1 quality according to EN 622-1. However, fibreboard(s) classified as E1 will be accepted if they do not represent more than 50 % of the total wood and wood-based materials used in the product.

Assessment and verification: The applicant and/or his supplier shall provide evidence that the wood-based materials emit less than 4 mg/100 g according to EN 120 (perforation method) or less than 0,062 mg/m³ according to EN 717-1 (chamber method). Additionally, a declaration that a system of factory production control in accordance with EN 312 or EN 622-1 has been established, shall be provided.'

On page 29, Criterion 4:

for: '(c) *Formaldehyde*

Formaldehyde emissions from substances and preparations for surface treatment liberating formaldehyde shall be less than 0,05 ppm.

Assessment and verification: The applicant and/or his supplier shall provide a declaration that the above requirement is met, together with information on the formulation of the surface treatment (e.g. Material safety data sheets).'

read: '(c) *Formaldehyde*

Formaldehyde emissions from substances and preparations for surface treatment liberating formaldehyde shall be less than 0,062 mg/m³.

Assessment and verification: The applicant and/or his supplier shall provide a declaration that the above requirement is met, together with either information on the formulation of the surface treatment (e.g. Safety Data Sheets) or test results proving that the maximum formaldehyde emission value does not exceed the stated limit (based on EN 717-1).'

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