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⁽¹⁾ Text with EEA relevance

I

(Legislative acts)

DIRECTIVES

DIRECTIVE 2012/12/EU OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL

of 19 April 2012

amending Council Directive 2001/112/EC relating to fruit juices and certain similar products intended for human consumption

THE EUROPEAN PARLIAMENT AND THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty on the Functioning of the European Union, and in particular Article 43(2) thereof,

Having regard to the proposal from the European Commission,

After transmission of the draft legislative act to the national parliaments,

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

Acting in accordance with the ordinary legislative procedure ⁽²⁾,

Whereas:

(1) In order to protect the interests of consumers and to enhance the free movement of fruit juices and certain similar products within the Union, Council Directive 2001/112/EC ⁽³⁾ has laid down specific provisions regarding production, composition and labelling of the products concerned. Those rules should be adapted to technical progress and should, as far as possible, take account of developments in relevant international standards, in particular the Codex General Standard for fruit juices and nectars (Codex Stan 247-2005) which was adopted by the Codex Alimentarius Commission during its 28th session held from 4 to 9 July 2005 ('Codex Standard'). The Codex Standard establishes, in particular, quality factors and labelling requirements for fruit juices and similar products.

(2) Without prejudice to Directive 2000/13/EC of the European Parliament and of the Council of 20 March 2000 on the approximation of the laws of the Member States relating to the labelling, presentation and advertising of foodstuffs ⁽⁴⁾, it is necessary to amend the specific provisions of Directive 2001/112/EC concerning the labelling of fruit juices and similar products to reflect the new rules on authorised ingredients, such as those pertaining to the addition of sugars, which are no longer authorised in fruit juices. For other products, added sugars should continue to be labelled in accordance with Directive 2000/13/EC.

(3) The nutrition claim 'with no added sugars', as listed in the Annex to Regulation (EC) No 1924/2006 of the European Parliament and of the Council of 20 December 2006 on nutrition and health claims made on foods ⁽⁵⁾, has been used in relation to fruit juices for a very long time. In the light of the new compositional requirements for fruit juices provided for in this Directive, its disappearance from one day to the next after a transitional period might not allow an immediate clear distinction to be made between fruit juices and other drinks in terms of the addition of sugars in the products, which would be detrimental to the fruit juices sector. In order to enable the industry to inform consumers properly, it should be possible to use, for a limited time, a statement indicating that no fruit juices contain added sugars.

(4) In order to bring the Annexes to Directive 2001/112/EC into line with developments in relevant international standards and to take into account technical progress, the power to adopt acts in accordance with Article 290 of the Treaty on the Functioning of the European Union should be delegated to the Commission in respect of amending those Annexes, with the exception of Part I of Annex I, and of Annex II. It is of particular importance that the Commission carry out

⁽¹⁾ OJ C 84, 17.3.2011, p. 45.

⁽²⁾ Position of the European Parliament of 14 December 2011 (not yet published in the Official Journal) and decision of the Council of 8 March 2012 (not yet published in the Official Journal).

⁽³⁾ OJ L 10, 12.1.2002, p. 58.

⁽⁴⁾ OJ L 109, 6.5.2000, p. 29.

⁽⁵⁾ OJ L 404, 30.12.2006, p. 9.

appropriate consultations during its preparatory work, including at expert level. The Commission, when preparing and drawing up delegated acts, should ensure a simultaneous, timely and appropriate transmission of relevant documents to the European Parliament and to the Council.

- (5) In order to allow Member States to adopt national laws, regulations and administrative provisions necessary to comply with this Directive, a transposition period of 18 months should be established. During that period the requirements of Directive 2001/112/EC, without the amendments introduced by this Directive, should remain applicable.
- (6) In order to take into account the interests of economic operators who place on the market or label their products in accordance with the requirements applicable before the application of the national provisions transposing this Directive, it is necessary to establish appropriate transitional measures. Therefore, this Directive should provide that those products may continue to be marketed for a limited time beyond the transposition period.
- (7) Since the objective of this Directive, namely to adapt Directive 2001/112/EC to technical progress whilst taking into account the Codex Standard, cannot be sufficiently achieved by the Member States and can therefore be better achieved at Union level, the Union may adopt measures, in accordance with the principle of subsidiarity as set out in Article 5 of the Treaty on European Union. In accordance with the principle of proportionality as set out in that Article, this Directive does not go beyond what is necessary in order to achieve that objective.
- (8) Directive 2001/112/EC should be amended accordingly,

HAVE ADOPTED THIS DIRECTIVE:

Article 1

Amendments to Directive 2001/112/EC

Directive 2001/112/EC is amended as follows:

- (1) in Article 1, the following paragraph is added:

'The products defined in Annex I are subject to provisions of Union law applicable to food, such as Regulation (EC) No 178/2002 of the European Parliament and of the Council of 28 January 2002 laying down the general principles and requirements of food law, establishing the European Food Safety Authority and laying down procedures in matters of food safety (*), unless this Directive provides otherwise.

(*) OJ L 31, 1.2.2002, p. 1.;

- (2) Article 2 is deleted;

- (3) Article 3 is amended as follows:

- (a) point 3 is replaced by the following:

'3. For products manufactured from two or more fruits, except where lemon and/or lime juice are used under the conditions laid down in point 2 of Part II of Annex I, the product name shall be composed of a list of the fruits used, in descending order of the volume of the fruit juices or purées included, as indicated in the list of ingredients. However, in the case of products manufactured from three or more fruits, the indication of the fruits used may be replaced by the words "several fruits" or a similar wording, or by the number of fruits used.';

- (b) point 4 is deleted;

- (4) Article 4 is replaced by the following:

'Article 4

The labelling of concentrated fruit juice referred to in point 2 of Part I of Annex I, not intended for delivery to the final consumer, shall bear a reference indicating the presence and quantity of added lemon juice, lime juice or acidifying agents permitted by Regulation (EC) No 1333/2008 of the European Parliament and of the Council of 16 December 2008 on food additives (*). This reference shall appear on one of the following:

- on the packaging,
- on a label attached to the packaging, or
- on an accompanying document.

(*) OJ L 354, 31.12.2008, p. 16.;

- (5) in Article 5, the following paragraph is added:

'This Directive shall apply to the products defined in Annex I which are placed on the market within the Union in accordance with Regulation (EC) No 178/2002.';

- (6) Article 7 is replaced by the following:

'Article 7

In order to bring the Annexes to this Directive into line with developments in relevant international standards and to take into account technical progress, the Commission

shall be empowered to adopt delegated acts in accordance with Article 7a to amend the Annexes to this Directive, with the exception of Part I of Annex I, and of Annex II.;

(7) the following Article is inserted:

‘Article 7a

1. The power to adopt delegated acts is conferred on the Commission subject to the conditions laid down in this Article.

2. The power to adopt delegated acts referred to in Article 7 shall be conferred on the Commission for a period of five years from 28 October 2013. The Commission shall draw up a report in respect of the delegation of power not later than nine months before the end of the five-year period. The delegation of power shall be tacitly extended for periods of an identical duration, unless the European Parliament or the Council opposes such extension not later than three months before the end of each period.

3. The delegation of power referred to in Article 7 may be revoked at any time by the European Parliament or by the Council.

A decision to revoke shall put an end to the delegation of the power specified in that decision. It shall take effect the day following the publication of the decision in the *Official Journal of the European Union* or at a later date specified therein. It shall not affect the validity of any delegated acts already in force.

4. As soon as it adopts a delegated act, the Commission shall notify it simultaneously to the European Parliament and to the Council.

5. A delegated act adopted pursuant to Article 7 shall enter into force only if no objection has been expressed either by the European Parliament or the Council within a period of two months of notification of that act to the European Parliament and the Council or if before the expiry of that period, the European Parliament and the Council have both informed the Commission that they will not object. That period shall be extended by two months at the initiative of the European Parliament or of the Council.;

(8) Article 8 is deleted.

(9) the Annexes are replaced by the text set out in the Annex to this Directive.

Article 2

Transposition

1. Member States shall adopt the laws, regulations and administrative provisions necessary to comply with this Directive before 28 October 2013. They shall forthwith communicate to the Commission the text of those provisions.

When Member States adopt those provisions, they shall contain a reference to this Directive or shall be accompanied by such a reference on the occasion of their official publication. Member States shall determine how such reference is to be made.

Member States shall apply those provisions from 28 October 2013.

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

Article 3

Transitional measures

1. Products which are placed on the market or labelled before 28 October 2013 in accordance with Directive 2001/112/EC may continue to be marketed until 28 April 2015.

2. The statement ‘from 28 October 2015 no fruit juices contain added sugars’ may appear on the label in the same field of vision as the name of products referred to in points 1 to 4 of Part I of Annex I until 28 October 2016.

Article 4

Entry into force

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

Article 5

Addressees

This Directive is addressed to the Member States.

Done at Strasbourg, 19 April 2012.

For the European Parliament

The President

M. SCHULZ

For the Council

The President

M. BØDSKOV

ANNEX

‘ANNEX I

PRODUCT NAMES, DEFINITIONS OF PRODUCTS AND CHARACTERISTICS**I. DEFINITIONS****1. (a) Fruit juice**

The fermentable but unfermented product obtained from the edible part of fruit which is sound and ripe, fresh or preserved by chilling or freezing of one or more kinds mixed together having the characteristic colour, flavour and taste typical of the juice of the fruit from which it comes.

Flavour, pulp, and cells obtained by suitable physical means from the same species of fruit may be restored to the juice.

In the case of citrus fruits, the fruit juice must come from the endocarp. Lime juice, however, may be obtained from the whole fruit.

Where juices are processed from fruits with pips, seeds and peel, parts or components of pips, seeds and peel shall not be incorporated in the juice. This provision shall not apply to cases where parts or components of pips, seeds and peel cannot be removed by good manufacturing practices.

The mixing of fruit juice with fruit purée is authorised in the production of the fruit juice.

(b) Fruit juice from concentrate

The product obtained by reconstituting concentrated fruit juice defined in point 2 with potable water that meets the criteria set out in Council Directive 98/83/EC of 3 November 1998 on the quality of water intended for human consumption ⁽¹⁾.

The soluble solids content of the finished product shall meet the minimum Brix level for reconstituted juice specified in Annex V.

If a juice from concentrate is manufactured from a fruit not mentioned in Annex V, the minimum Brix level of the reconstituted juice shall be the Brix level of the juice as extracted from the fruit used to make the concentrate.

Flavour, pulp and cells obtained by suitable physical means from the same species of fruit may be restored to the fruit juice from concentrate.

The fruit juice from concentrate is prepared by suitable processes, which maintain the essential physical, chemical, organoleptical and nutritional characteristics of an average type of juice of the fruit from which it comes.

The mixing of fruit juice and/or concentrated fruit juice with fruit purée and/or concentrated fruit purée is authorised in the production of fruit juice from concentrate.

2. Concentrated fruit juice

The product obtained from fruit juice of one or more fruit species by the physical removal of a specific proportion of the water content. Where the product is intended for direct consumption, the removal shall be at least 50 % of the water content.

Flavour, pulp and cells obtained by suitable physical means from the same species of fruit may be restored to the concentrated fruit juice.

3. Water extracted fruit juice

The product obtained by diffusion with water of:

- pulpy whole fruit whose juice cannot be extracted by any physical means, or
- dehydrated whole fruit.

⁽¹⁾ OJ L 330, 5.12.1998, p. 32.

4. Dehydrated/powdered fruit juice

The product obtained from fruit juice of one or more fruit species by the physical removal of virtually all the water content.

5. Fruit nectar

The fermentable but unfermented product which:

- is obtained by adding water with or without the addition of sugars and/or honey to the products defined in points 1 to 4 to fruit purée and/or to concentrated fruit purée and/or to a mixture of those products, and
- meets the requirements of Annex IV.

Without prejudice to Regulation (EC) No 1924/2006 of the European Parliament and of the Council of 20 December 2006 on nutrition and health claims made on foods ⁽¹⁾, where fruit nectars are manufactured without added sugars or with reduced energy value, sugars may be replaced wholly or partially by sweeteners, in accordance with Regulation (EC) No 1333/2008.

Flavour, pulp and cells obtained by suitable physical means from the same species of fruit may be restored to the fruit nectar.

II. AUTHORISED INGREDIENTS, TREATMENTS AND SUBSTANCES

1. Composition

The species corresponding to the botanical name in Annex V shall be used in the preparation of fruit juices, fruit purées and fruit nectars bearing the product name for the applicable fruit or the common name of the product. For fruit species not included in Annex V, the correct botanical or common name shall apply.

For fruit juice the Brix level shall be the one of the juice as extracted from the fruit and shall not be modified, except by blending with the juice of the same species of fruit.

The minimum Brix level established in Annex V for reconstituted fruit juice and reconstituted fruit purée is exclusive of the soluble solids of any added optional ingredients and additives.

2. Authorised ingredients

Only the following ingredients may be added to the products referred to in Part I:

- Vitamins and minerals as authorised in Regulation (EC) No 1925/2006 of the European Parliament and of the Council of 20 December 2006 on the addition of vitamins and minerals and of certain other substances to foods ⁽²⁾;
- Food additives authorised in accordance with Regulation (EC) No 1333/2008;

and in addition:

- For fruit juice, fruit juices from concentrate and concentrated fruit juices: restored flavour, pulp and cells;
- For grape juice: restored salts of tartaric acids;
- For fruit nectars: restored flavour, pulp and cells; sugars and/or honey up to 20 % of the total weight of the finished products; and/or sweeteners;

A claim stating that sugars have not been added to fruit nectar, and any claim likely to have the same meaning for the consumer, may only be made where the product does not contain any added mono- or disaccharides or any other food used for its sweetening properties, including sweeteners as defined in Regulation (EC) No 1333/2008. If sugars are naturally present in fruit nectar, the following indication should also appear on the label: "contains naturally occurring sugars";

⁽¹⁾ OJ L 404, 30.12.2006, p. 9.

⁽²⁾ OJ L 404, 30.12.2006, p. 26.

- For products referred to in point (a), the first indent of point (b), point (c), the second indent of point (e) and point (h) of Annex III: sugars and/or honey;
- For products defined in points 1 to 5 of Part I, in order to regulate acidic taste: lemon and/or lime juice and/or concentrated lemon and/or lime juice, up to 3 g per litre of juice, expressed as anhydrous citric acid;
- For tomato juice and tomato juice from concentrate: salt, spices and aromatic herbs.

3. Authorised treatments and substances

Only the following treatments may be applied and only the following substances may be added to the products referred to in Part I:

- Mechanical extraction processes;
- The usual physical processes, including in-line water extraction (diffusion) of the edible part of fruits other than grapes for the manufacture of concentrated fruit juices, provided that the fruit juices thus obtained comply with point 1 of Part I;
- For grape juice, where sulphitation with sulphur dioxide of the grapes has been used, desulphitation by physical means is authorised, provided that the total quantity of SO₂ present in the final product does not exceed 10 mg/l;
- Enzyme preparations: pectinases (for breakdown of pectin), proteinases (for breakdown of proteins) and amylases (for breakdown of starch) meeting the requirements of Regulation (EC) No 1332/2008 of the European Parliament and of the Council of 16 December 2008 on food enzymes ⁽¹⁾;
- Edible gelatine;
- Tannins;
- Silica sol;
- Charcoal;
- Nitrogen;
- Bentonite as an adsorbent clay;
- Chemically inert filtration aids and precipitation agents (including perlite, washed diatomite, cellulose, insoluble polyamide, polyvinylpyrrolidone, polystyrene), which comply with Regulation (EC) No 1935/2004 of the European Parliament and of the Council of 27 October 2004 on materials and articles intended to come into contact with food ⁽²⁾;
- Chemically inert adsorption aids which comply with Regulation (EC) No 1935/2004, and which are used to reduce the limonoid and naringin content of citrus juice without significantly affecting the limonoid glucosides, acid, sugars (including oligosaccharides) or mineral content.

⁽¹⁾ OJ L 354, 31.12.2008, p. 7.

⁽²⁾ OJ L 338, 13.11.2004, p. 4.

ANNEX II

DEFINITIONS OF RAW MATERIALS

For the purposes of this Directive, the following definitions shall apply:

(1) Fruit

All fruits. For the purposes of this Directive, tomatoes are also considered as fruit.

The fruit shall be sound, appropriately mature, and fresh or preserved by physical means or by treatment(s), including post-harvest treatments applied in accordance with Union law.

(2) Fruit purée

The fermentable but unfermented product obtained by suitable physical processes such as sieving, grinding, milling the edible part of whole or peeled fruit without removing the juice.

(3) Concentrated fruit purée

The product obtained from fruit purée by the physical removal of a specific proportion of its water content.

Concentrated fruit purée may have restored flavour which shall be obtained by suitable physical means, as defined in point 3 of Part II of Annex I and all of which must be recovered from the same species of fruit.

(4) Flavour

Without prejudice to Regulation (EC) No 1334/2008 of the European Parliament and of the Council of 16 December 2008 on flavourings and certain food ingredients with flavouring properties for use in and on foods ⁽¹⁾, flavours for restoration are obtained during the processing of the fruit by applying suitable physical processes. Those physical processes may be applied to retain, preserve or stabilise the flavour quality and include in particular squeezing, extraction, distillation, filtration, adsorption, evaporation, fractionation and concentration.

Flavour is obtained from the edible parts of the fruit; however it could also be cold pressed oil from citrus peel and compounds from the stones.

(5) Sugars

— sugars as defined by Council Directive 2001/111/EC of 20 December 2001 relating to certain sugars intended for human consumption ⁽²⁾,

— fructose syrup,

— sugars derived from fruits.

(6) Honey

The product defined by Council Directive 2001/110/EC of 20 December 2001 relating to honey ⁽³⁾.

(7) Pulp or cells

The products obtained from the edible parts of fruit of the same species without removing the juice. Furthermore, for citrus fruit, pulp or cells are the juice sacs obtained from the endocarp.

⁽¹⁾ OJ L 354, 31.12.2008, p. 34.

⁽²⁾ OJ L 10, 12.1.2002, p. 53.

⁽³⁾ OJ L 10, 12.1.2002, p. 47.

ANNEX III

PARTICULAR DESIGNATIONS FOR CERTAIN PRODUCTS LISTED IN ANNEX I

(a) “vruchtendrank”, for fruit nectars;

(b) “Süßmost”;

The designation “Süßmost” may be used only in conjunction with the product names “Fruchtsaft” or “Fruchtnektar”:

— for fruit nectar obtained exclusively from fruit juices, concentrated fruit juices or a mixture of these products, unpalatable in the natural state because of their high natural acidity,

— for fruit juice obtained from apples or from pears, with the addition of apples where appropriate, but with no added sugar;

(c) “succo e polpa” or “sumo e polpa”, for fruit nectars obtained exclusively from fruit purée and/or concentrated fruit purée;

(d) “æblemost”, for apple juice with no added sugar;

(e) — “sur ... saft”, together with the name (in Danish) of the fruit used, for juices with no added sugar obtained from blackcurrants, cherries, redcurrants, whitecurrants, raspberries, strawberries or elderberries,

— “sød ... saft” or “sødet ... saft” together with the name (in Danish) of the fruit used, for juices obtained from this fruit, with more than 200 g of added sugar per litre;

(f) “äppelmust/äpplemust”, for apple juice with no added sugar;

(g) “mosto”, synonym of grape juice;

(h) “smiltsērķšķu sula ar cukuru” or “astelpaju mahl suhkruga” or “słodzony sok z rokitnika” for juices obtained from seabuckthorn berries with no more than 140 g of added sugar per litre.

ANNEX IV

SPECIAL PROVISIONS RELATING TO FRUIT NECTARS

Fruit nectars made from	Minimum juice and/or purée content (% by volume of finished product)
I. Fruits with acidic juice unpalatable in the natural state	
Passion fruit	25
Quito naranjillos	25
Blackcurrants	25
Whitecurrants	25
Redcurrants	25
Gooseberries	30
Seabuckthorn berries	25
Sloes	30
Plums	30
Quetsches	30
Rowanberries	30
Rose hips	40
Sour cherries	35
Other cherries	40
Bilberries	40
Elderberries	50
Raspberries	40
Apricots	40
Strawberries	40
Mulberries/blackberries	40
Cranberries	30
Quinces	50
Lemons and limes	25
Other fruits belonging to this category	25
II. Low-acid, pulpy or highly flavoured fruits with juice unpalatable in the natural state	
Mangoes	25
Bananas	25
Guavas	25
Papayas	25
Lychees	25
Azeroles (Neapolitan medlars)	25
Soursop	25
Bullock's heart or custard apple	25
Sugar apples	25
Pomegranates	25
Cashew fruits	25
Spanish plums	25
Umbu	25
Other fruits belonging to this category	25

Fruit nectars made from	Minimum juice and/or purée content (% by volume of finished product)
III. Fruits with juice palatable in the natural state	
Apples	50
Pears	50
Peaches	50
Citrus fruits except lemons and limes	50
Pineapples	50
Tomatoes	50
Other fruits belonging to this category	50

ANNEX V

MINIMUM BRIX LEVELS FOR RECONSTITUTED FRUIT JUICE AND RECONSTITUTED FRUIT PURÉE

Common Name of the Fruit	Botanical Name	Minimum Brix levels
Apple (*)	<i>Malus domestica</i> Borkh.	11,2
Apricot (**)	<i>Prunus armeniaca</i> L.	11,2
Banana (**)	<i>Musa x paradisiaca</i> L. (excluding plantains)	21,0
Blackcurrant (*)	<i>Ribes nigrum</i> L.	11,0
Grape (*)	<i>Vitis vinifera</i> L. or hybrids thereof <i>Vitis labrusca</i> L. or hybrids thereof	15,9
Grapefruit (*)	<i>Citrus x paradisi</i> Macfad.	10,0
Guava (**)	<i>Psidium guajava</i> L.	8,5
Lemon (*)	<i>Citrus limon</i> (L.) Burm.f.	8,0
Mango (**)	<i>Mangifera indica</i> L.	13,5
Orange (*)	<i>Citrus sinensis</i> (L.) Osbeck	11,2
Passion Fruit (*)	<i>Passiflora edulis</i> Sims	12,0
Peach (**)	<i>Prunus persica</i> (L.) Batsch var. <i>persica</i>	10,0
Pear (**)	<i>Pyrus communis</i> L.	11,9
Pineapple (*)	<i>Ananas comosus</i> (L.) Merr.	12,8
Raspberry (*)	<i>Rubus idaeus</i> L.	7,0
Sour Cherry (*)	<i>Prunus cerasus</i> L.	13,5
Strawberry (*)	<i>Fragaria x ananassa</i> Duch.	7,0
Tomato (*)	<i>Lycopersicon esculentum</i> , Mill.	5,0
Mandarin (*)	<i>Citrus reticulata</i> Blanco	11,2

For those products marked with an asterisk (*), which are produced as a juice, a minimum relative density is determined as such in relation to water at 20/20 °C.

For those products marked with two asterisks (**), which are produced as a purée, only a minimum uncorrected Brix reading (without correction of acid) is determined.

II

(Non-legislative acts)

REGULATIONS

COMMISSION DELEGATED REGULATION (EU) No 363/2012

of 23 February 2012

on the procedural rules for the recognition and withdrawal of recognition of monitoring organisations as provided for in Regulation (EU) No 995/2010 of the European Parliament and of the Council laying down the obligations of operators who place timber and timber products on the market

(Text with EEA relevance)

THE EUROPEAN COMMISSION,

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

Having regard to Regulation (EU) No 995/2010 of the European Parliament and of the Council of 20 October 2010 laying down the obligations of operators who place timber and timber products on the market ⁽¹⁾, and in particular Article 8(7) thereof,

Whereas:

- (1) Regulation (EU) No 995/2010 aims, in particular, at minimising the risk of placing illegal timber and products derived from such timber on the internal market. Monitoring organisations should assist operators in meeting the requirements of that Regulation. To that end, they should develop a due diligence system, grant the operators the right to use it, and verify its proper use.
- (2) The procedure under which the Commission recognises monitoring organisations should be fair, transparent and independent. Therefore, applicants should be assessed after consulting the competent authorities of the Member States and after collecting sufficient information about an applicant. Where necessary, the collection of information should include visits to an applicant's premises.
- (3) It is necessary to specify the appropriate expertise and capacity that monitoring organisations should have in order to determine the compliance of wood with relevant legislation in its country of harvest and to propose measures to assess the risk of placing illegal timber and products derived from such timber on the market. Where the risk identified is not negligible, monitoring organisation should also be able to propose adequate measures to effectively minimising it.

- (4) It should be ensured that monitoring organisations exercise their functions in a transparent and independent manner, avoiding any conflict of interest arising out of their functions and providing their services to operators in a non-discriminatory manner.

- (5) The Commission should decide upon a withdrawal of recognition following a procedure, which is fair, transparent and independent. Before taking a decision the Commission should consult the Member States' competent authorities concerned and should collect sufficient information, including on-the-spot visits where necessary. The monitoring organisation concerned should be given the opportunity to submit comments before a decision is taken.

- (6) In accordance with the principle of proportionality, the Commission should be able to withdraw recognition either in a temporary and/or conditional basis, or permanently, as it may deem required by the level of shortcomings detected, where a monitoring organisation no longer fulfils the functions or meets the requirements laid down in Article 8 of Regulation (EU) No 995/2010.

- (7) It is necessary to ensure that the level of protection of individuals with regard to the processing of their personal data within the scope of this Regulation, in particular as regards the processing of personal data in the applications for recognition as a monitoring organisation complies with the requirements laid down in Directive 95/46/EC of the European Parliament and of the Council of 24 October 1995 on the protection of individual with regard to the processing of personal data and on the free movement of such data ⁽²⁾ and with Regulation (EC) No 45/2001 of the European Parliament and of the Council of 18 December 2000 on the

⁽¹⁾ OJ L 295, 12.11.2010, p. 23.

⁽²⁾ OJ L 281, 23.11.1995, p. 31.

protection of individuals with regard to the processing of personal data by the Community institutions and bodies and on the free movement of such data ⁽¹⁾,

HAS ADOPTED THIS REGULATION:

Article 1

Definitions

For the purpose of this Regulation, in addition to the definitions laid down in Article 2 of Regulation (EU) No 995/2010, the following definitions shall apply:

- (1) 'competent authorities concerned' means competent authorities of the Member States in which a monitoring organisation or an applicant for recognition as monitoring organisation is legally established or in which provides services or intends to provide services within the meaning of Directive 2006/123/EC of the European Parliament and of the Council ⁽²⁾;
- (2) 'evidence of formal qualifications' means diplomas, certificates and other evidence issued by an authority in a State, designated pursuant to legislative or administrative provisions of that State and certifying successful completion of professional training;
- (3) 'professional experience' means the actual and lawful pursuit of the profession concerned.

Article 2

Application for recognition

1. Any entity, public or private, being a company, corporation, firm, enterprise, institution or authority, legally established in the Union, may submit to the Commission an application to be recognised as a monitoring organisation.

The entity shall submit the application in any of the official languages of the Union together with the documents listed in the Annex.

2. To be recognised as a monitoring organisation, an applicant shall demonstrate that it fulfils all requirements provided in Article 8(2) of Regulation (EU) No 995/2010 and in Articles 5 to 8 of this Regulation.

3. The Commission shall acknowledge the receipt of an application and provide the applicant with a reference number within 10 working days from the date of receipt.

It shall also provide the applicant with an indicative time limit within which it will decide on the application. The Commission shall inform the applicant anytime it revises the indicative time limit due to the necessity to obtain additional information or documents for the assessment of the application.

⁽¹⁾ OJ L 8, 12.1.2001, p. 1.

⁽²⁾ OJ L 376, 27.12.2006, p. 36.

4. Where three months have lapsed since the receipt of an application or the Commission's last written communication to an applicant, whichever is later, and the Commission has not adopted a recognition decision or rejected the application, the Commission shall inform the applicant in writing of the progress in assessment of the application.

The first subparagraph may apply more than once to the handling of one application.

5. The Commission shall transmit a copy of the application and supporting documents to the competent authorities concerned, which may provide comments on the application within one month of the date of transmission.

Article 3

Additional documents and access to premises

1. Upon request by the Commission, an applicant or the competent authorities concerned shall submit any additional information or documents required by the Commission within a specified time limit.

2. The applicant shall grant the Commission access to its premises to verify that all requirements provided in Article 8 of Regulation (EU) No 995/2010 and in Articles 5 to 8 are fulfilled. The Commission shall inform the applicant of a visit in advance. The competent authorities concerned may participate in the visit.

The applicant shall offer all assistance necessary to facilitate such visits.

Article 4

Recognition decision

Where the Commission has adopted a recognition decision pursuant to Article 8(3) of Regulation (EU) No 995/2010, it shall notify the applicant concerned within 10 working days of the date of adoption of that decision.

The Commission shall also provide the applicant with a certificate of recognition without delay and shall communicate its decision to the competent authorities of all Member States in accordance with the second subparagraph of Article 8(3) of Regulation (EU) No 995/2010 within the time limit referred to in the first paragraph.

Article 5

Legal personality and legal establishment within the Union

1. Where an applicant is legally established in more than one Member State, it shall provide information about its registered office, central administration or principal place of business within the Union as well as about all its agencies, branches or subsidiaries set up in the territory of any Member State. The applicant shall also declare in which Member States it intends to provide services.

2. An applicant which is, or forms part of an authority of a Member State shall not be required to prove its legal personality and legal establishment within the Union.

Article 6

Appropriate expertise

1. For the purpose of ensuring proper exercise of the functions of a monitoring organisation as required by Article 8(2)(b) of Regulation (EU) No 995/2010, the technically competent personnel of an applicant shall meet the following minimum criteria, attested by evidence of formal qualifications and professional experience:

- (a) formal professional training in a discipline relevant to the functions of a monitoring organisation;
- (b) for senior technical positions, at least five years of professional experience in function related to the functions of a monitoring organisation.

For the purposes of point (a) of the first subparagraph, disciplines related to forestry, environment, law, business management, risk management, trade, auditing, financial control or supply chain management shall be considered relevant disciplines.

2. An applicant shall maintain records documenting the duties and responsibilities of its personnel. The applicant shall have in place procedures for monitoring the performance and technical competence of its personnel.

Article 7

Capacity to exercise functions as a monitoring organisation

1. An applicant shall demonstrate that it has in place all of the following:

- (a) an organisational structure that ensures a proper exercise of the functions of a monitoring organisation;
- (b) a due diligence system to be made available to and used by operators;
- (c) policies and procedures that allow for the evaluation and improvement of the due diligence system;
- (d) procedures and processes to verify the proper use of its due diligence system by operators;
- (e) procedures for corrective actions to be taken in a case of a failure by an operator to properly use its due diligence system.

2. In addition to requirements of paragraph 1, an applicant shall demonstrate that it has financial and technical capacity to exercise the functions of a monitoring organisation.

Article 8

Absence of conflict of interest

1. An applicant shall be organised so as to safeguard the objectivity and impartiality of its activities.

2. An applicant shall identify, analyse and maintain records documenting risks of conflict of interest arising as a result of it exercising functions as a monitoring organisation, including any conflicts arising from its relationships with related bodies or subcontractors.

3. Where a risk of a conflict of interest has been identified the applicant shall have in place written policies and procedures to avoid conflicts of interest at organisational and individual level. The written policies and procedures shall be maintained and implemented. Those policies and procedures may include third party audits.

Article 9

Information on subsequent changes

1. A monitoring organisation shall inform the Commission without delay of any of the following situations occurring after its recognition:

- (a) a change that may affect the ability of that monitoring organisation to comply with the requirements in Articles 5 to 8, which have occurred after its recognition;
- (b) the monitoring organisation sets up agencies, branches or subsidiaries within the Union, other than those declared in its application;
- (c) the monitoring organisation decides to provide services in a Member States other than as declared in its application or in a Member State where it declared to have ceased to provide its services in accordance with point (d);
- (d) the monitoring organisation ceases to provide services in any Member State.

2. The Commission shall communicate all information obtained pursuant to paragraph 1 to the competent authorities concerned.

Article 10

Review of the recognition decision

1. The Commission may review a decision recognising a monitoring organisation at any time.

The Commission shall carry out such a review in any of the following situations:

- (a) a competent authority concerned informs the Commission that it has determined that a monitoring organisation no longer fulfils the functions laid down in Article 8(1) of Regulation (EU) No 995/2010 or no longer complies with the requirements laid down in Article 8(2) of Regulation (EU) No 995/2010 as specified in Articles 5 to 8 of this Regulation;

(b) the Commission is in possession of relevant information, including substantiated concerns from third parties, that a monitoring organisation no longer complies with the requirements laid down in Article 8(1) and (2) of Regulation (EU) No 995/2010 and in Articles 5 to 8 of this Regulation;

(c) a monitoring organisation has informed the Commission of changes referred to in Article 9(1)(a) of this Regulation.

2. Where a review is initiated the Commission shall be assisted by a review team to conduct the review and perform checks.

3. An applicant shall grant the review team access to its premises to verify that all requirements provided in Article 8 of Regulation (EU) No 995/2010 and in Articles 5 to 8 in this Regulation are fulfilled. The competent authorities concerned may participate in the visit.

The applicant shall offer all assistance necessary to facilitate such visits.

4. The review team shall draft a report stating its findings. Supporting evidence shall be annexed to the review report.

The review report shall include a recommendation as to whether the recognition of a monitoring organisation should be withdrawn.

The review team shall send the review report to the competent authorities concerned. Those authorities may provide comments within three weeks of the date of transmission of the report.

The review team shall provide the monitoring organisation concerned with a summary of the findings and conclusions of the report. The organisation may provide comments to the review team within three weeks of the date of transmission of the summary.

5. The review team shall recommend in its review report withdrawal of recognition on a temporary and/or conditional basis, or permanently, as it may deem required by the level of shortcomings detected, where it determines that a monitoring

organisation no longer fulfils the functions or meets the requirements laid down in Article 8 of Regulation (EU) No 995/2010.

The review team may instead recommend that the Commission issue a notice of remedial actions or an official warning, or that the Commission take no further action.

Article 11

Decision to withdraw recognition

1. The Commission shall decide whether to withdraw recognition of a monitoring organisation on a temporary and/or conditional basis, or permanently, taking into account the review report referred to in Article 10.

2. The Commission may issue a notice of remedial actions or an official warning where the level of detected shortcomings does not lead to a determination, in accordance with Article 8(6) of Regulation (EU) No 995/2010 that the monitoring organisation no longer fulfils the functions or the requirements laid down in Article 8(2) of that Regulation.

3. A decision to withdraw recognition of a monitoring organisation as well as a notice or a warning pursuant to paragraph 2 shall be notified to the monitoring organisation concerned and communicated to the competent authorities of all the Member States in accordance with Article 8(6) of Regulation (EU) No 995/2010 within 10 working days of its adoption.

Article 12

Data protection

This Regulation shall be without prejudice to the rules concerning the processing of personal data laid down in Directive 95/46/EC and Regulation (EC) No 45/2001.

Article 13

Final provisions

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

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

Done at Brussels, 23 February 2012.

For the Commission

The President

José Manuel BARROSO

ANNEX

List of supporting documents

Legal personality; legal establishment; provision of services:

- certified copies of evidence as provided for in the relevant national legislation,
- list of Member States in which the applicant intends to provide services.

Appropriate expertise:

- description of the organisation and structure of the entity,
- list of technically competent personnel with copies of CVs,
- description of duties and responsibilities and their division,
- detailed describing of procedures for monitoring the performance and competences of the technically competent personnel.

Capacity to exercise functions as a monitoring organisation:

A detailed description of the following:

- a due diligence system,
- policies and procedures for evaluation and improvement of the due diligence system,
- policies and procedures for dealing with complaints from operators or third parties,
- procedures and processes to verify the proper use of the due diligence system by operators,
- procedures for corrective actions to be taken in the case of a failure by an operator to properly use the due diligence system,
- a record keeping system.

Financial capacity:

- copies of financial statements for the last financial year, or
- a declaration concerning the sales turnover, or
- other substantiating documents if the applicant cannot, for valid reasons, provide those indicated above,
- proof of liability insurance.

Absence of conflict of interest:

- declaration of absence of conflict of interest,
- description of the written policies and procedures for avoidance of conflict of interest at organisational and individual level, which may include third party audits.

Subcontracting:

- description of tasks subcontracted,
- evidence that all subcontractors or the subsidiaries, where these are established, meet the relevant requirements above.

COMMISSION IMPLEMENTING REGULATION (EU) No 364/2012**of 26 April 2012****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:

- (1) Implementing Regulation (EU) No 543/2011 lays down, pursuant to the outcome of the Uruguay Round multi-lateral 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.

- (2) The standard import value is calculated each working day, in accordance with Article 136(1) of Implementing Regulation (EU) No 543/2011, taking into account variable daily data. Therefore this Regulation should enter into force on the day of its publication in the *Official Journal of the European Union*,

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 to this Regulation.

Article 2

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

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

Done at Brussels, 26 April 2012.

*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
0702 00 00	JO	98,8
	MA	60,4
	TN	124,7
	TR	115,6
	ZZ	99,9
0707 00 05	JO	216,8
	TR	133,3
	ZZ	175,1
0709 93 10	MA	29,9
	TR	107,1
	ZZ	68,5
0805 10 20	CL	48,2
	EG	58,6
	IL	73,9
	MA	50,7
	TR	50,5
	ZZ	56,4
0805 50 10	TR	55,4
	ZA	63,9
	ZZ	59,7
0808 10 80	AR	94,2
	BR	79,9
	CA	117,0
	CL	96,0
	CN	117,5
	MK	31,8
	NZ	126,1
	US	151,5
	ZA	85,6
	ZZ	100,0
0808 30 90	AR	110,3
	CL	108,7
	CN	88,0
	US	107,0
	ZA	115,4
	ZZ	105,9

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

COMMISSION IMPLEMENTING REGULATION (EU) No 365/2012**of 26 April 2012****on the issue of licences for importing rice under the tariff quotas opened for the April 2012 subperiod by Implementing Regulation (EU) No 1273/2011**

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 1301/2006 of 31 August 2006 laying down common rules for the administration of import tariff quotas for agricultural products managed by a system of import licences ⁽²⁾, and in particular Article 7(2) thereof,

Having regard to Commission Implementing Regulation (EU) No 1273/2011 of 7 December 2011 opening and providing for the administration of certain tariff quotas for imports of rice and broken rice ⁽³⁾, and in particular the first paragraph of Article 5 thereof,

Whereas:

- (1) Implementing Regulation (EU) No 1273/2011 opened and provided for the administration of certain import tariff quotas for rice and broken rice, broken down by country of origin and split into several subperiods in accordance with Annex I to that Implementing Regulation.
- (2) April is the second subperiod for the quota provided for under Article 1(1)(a) of Implementing Regulation (EU) No 1273/2011.
- (3) The notifications sent in accordance with point (a) of Article 8 of Implementing Regulation (EU) No 1273/2011 show that, for the quota with order number 09.4130, the applications lodged in the first 10 working days of April 2012 under Article 4(1) of that Implementing Regulation cover a quantity greater than that available. The extent to which import licences

may be issued should therefore be determined by fixing the allocation coefficient to be applied to the quantity requested under the quota concerned.

- (4) Those notifications also show that, for the quotas with order number 09.4127 — 09.4128 — 09.4129, the applications lodged in the first 10 working days of April 2012 under Article 4(1) of Implementing Regulation (EU) No 1273/2011 cover a quantity less than that available.
- (5) The total quantity available for the following subperiod should also be fixed for the quotas with order number 09.4127 — 09.4128 — 09.4129 — 09.4130, in accordance with the first subparagraph of Article 5 of Implementing Regulation (EU) No 1273/2011.
- (6) In order to ensure sound management of the procedure of issuing import licences, this Regulation should enter into force immediately after its publication,

HAS ADOPTED THIS REGULATION:

Article 1

1. For import licence applications for rice under the quota with order number 09.4130 referred to in Implementing Regulation (EU) No 1273/2011 lodged in the first 10 working days of April 2012, licences shall be issued for the quantity requested, multiplied by the allocation coefficient set out in the Annex to this Regulation.

2. The total quantity available for the following subperiod under the quotas with order number 09.4127 — 09.4128 — 09.4129 — 09.4130, referred to in Implementing Regulation (EU) No 1273/2011, is set out in the Annex to this Regulation.

Article 2

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

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

Done at Brussels, 26 April 2012.

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 238, 1.9.2006, p. 13.

⁽³⁾ OJ L 325, 8.12.2011, p. 6.

ANNEX

Quantities to be allocated for the April 2012 subperiod and quantities available for the following subperiod under Implementing Regulation (EU) No 1273/2011

Quota of wholly milled or semi-milled rice covered by CN code 1006 30 as provided for in Article 1(1)(a) of Implementing Regulation (EU) No 1273/2011:

Origin	Order number	Allocation coefficient for the April 2012 subperiod	Total quantity available for the July 2012 subperiod (kg)
United States	09.4127	(¹)	27 865 684
Thailand	09.4128	(¹)	8 627 076
Australia	09.4129	(¹)	916 000
Other origins	09.4130	0,988521 %	0

(¹) Applications cover quantities less than or equal to the quantities available: all applications are therefore acceptable.

DECISIONS

COUNCIL IMPLEMENTING DECISION

of 29 March 2012

amending Implementing Decision 2011/344/EU on granting Union financial assistance to Portugal

(2012/224/EU)

THE COUNCIL OF THE EUROPEAN UNION,

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

Having regard to Council Regulation (EU) No 407/2010 of 11 May 2010 establishing a European financial stabilisation mechanism ⁽¹⁾, and in particular Article 3(2) thereof,

Having regard to the proposal from the European Commission,

Whereas:

(1) In line with Article 3(9) of Council Implementing Decision 2011/344/EU ⁽²⁾, the Commission, together with the International Monetary Fund and in liaison with the European Central Bank, has conducted the third review of the Portuguese authorities' progress on the implementation of the agreed measures under the economic and financial adjustment programme (Programme) as well as of their effectiveness and economic and social impact.

(2) The review has found that Portugal's compliance with the conditionality for the fourth quarter of 2011 was satisfactory. In 2011, the general government deficit fell below the target of 5,9 % of GDP and it is now estimated at around 4 % of GDP, albeit by exceptionally resorting to a transfer of about EUR 6 billion (about 3,5 % of GDP) of the banks' pension funds to the State social security system. The 2012 budget is consistent with meeting the deficit target of 4,5 % of GDP in line with the Programme. Policy efforts to support financial system stability continue. Portuguese banks work towards meeting the higher capital requirements as required by the Programme, taking into account the implications of the European Banking Authority's requirement for a new temporary capital buffer for sovereign exposures, the special on-site inspection programme and the transfer of the banks' pension funds to the State social security system. Labour and product market reforms are also progressing: an agreement was reached with social

partners on a broad and ambitious labour market reform and a significant revision of the competition legal framework has been submitted to the Parliament which will create conditions for an effective competition enforcement regime. The privatisation programme is being implemented under a new framework law. The energy company EDP and the energy network company REN have been sold. A strategy to restructure state-owned enterprises (SOEs) has been put in place. The legal framework for public procurement is being improved and the modernisation of the legal framework for the housing market is underway. The reform of the judicial system is making good progress.

(3) In the light of these developments, Implementing Decision 2011/344/EU should be amended,

HAS ADOPTED THIS DECISION:

Article 1

Article 3 of Implementing Decision 2011/344/EU is hereby amended as follows:

(1) paragraph 6 is replaced by the following:

'6. Portugal shall adopt the following measures during 2012, in line with specifications in the Memorandum of Understanding:

- (a) The measures defined in points (b) and (c), amounting to at least EUR 9,8 billion, shall be included in the 2012 budget. Further measures, notably on the expenditure side, shall be taken to fill any possible gap arising from budgetary developments in 2012. The government shall adopt a supplementary budget in March which will incorporate various elements such as the implications of the transfer of the banks' pension funds to the State social security system, the financial agreement with the RAM, the fiscal impact of the deterioration of the economic outlook, lower interest payments and the strategy for the settlement of arrears. The supplementary budget shall leave the target for the 2012 general government deficit (corresponding to 4,5 % of GDP) unchanged.

⁽¹⁾ OJ L 118, 12.5.2010, p. 1.

⁽²⁾ OJ L 159, 17.6.2011, p. 88.

- (b) Portugal shall aim to reduce expenditure in 2012 by at least EUR 6,8 billion, including by reducing public sector wages and employment; making cuts in pensions; carrying out a comprehensive reorganisation of the central administration, eliminating redundancies and other inefficiencies; reducing transfers to SOEs; reorganising and reducing the number of municipalities and parishes; making cuts in education and health; lowering transfers to regional and local authorities; and reducing capital expenditure and other expenditure as set out in the Programme.
- (c) On the revenue side, Portugal shall implement revenue measures totalling around EUR 3 billion, including by broadening VAT bases through reducing exemptions and rearranging the lists of goods and services subject to reduced, intermediate and higher rates; increasing excise taxes; broadening the corporate and personal income tax bases by reducing tax deductions and special regimes; ensuring the convergence of personal income tax deductions applied to pensions and labour income; and changing property taxation by substantially reducing exemptions. These measures shall be complemented by action to fight tax evasion, fraud and informality.
- (d) Portugal shall adopt measures to reinforce public finance management. It shall implement the measures provided for in the new Budgetary Framework Law, including setting up a medium-term budgetary framework. The budgetary framework at local and regional levels shall be considerably strengthened, in particular by putting forward the key options for the alignment of the respective financing laws to the requirements of the Budgetary Framework Law. Portugal shall step up the reporting and monitoring of public finances and reinforce budgetary execution rules and procedures. The Portuguese Government shall prepare a strategy for the validation and settlement of arrears. The strategy shall lay out the prioritisation criteria for paying creditors, as well as governance arrangements to ensure a fair and transparent settling process across all sectors. Portugal shall put in place a strengthened legal and institutional framework for assessing fiscal risks prior to engaging in a PPP contract. Similarly, Portugal shall adopt a law to regulate the creation and functioning of SOEs at central, regional and local levels. Portugal shall not engage in any new PPP contract or create an SOE until the reviews and the new legal structure are in place.
- (e) Local government administration in Portugal has currently 308 municipalities and 4 259 parishes. Portugal shall develop a consolidation plan to reorganise and significantly reduce the number of such entities. These changes shall come into effect by the beginning of the next local election cycle.
- (f) Portugal shall modernise the revenue administration by creating a single entity, reducing the number of municipal offices and addressing remaining bottlenecks in the tax appeal system.
- (g) Portugal shall implement the financial arrangement with the RAM.
- (h) Portugal shall adopt measures to improve the efficiency and sustainability of SOEs at central, regional and local level. Portugal shall implement a strategy to restructure and reduce the indebtedness of SOEs and to ensure improved conditions for market financing. Portugal shall implement this strategy to reach operational balance at sector level by the end of 2012.
- (i) Portugal shall continue implementing the privatisation programme. In particular, in 2012 the public sector shares in GALP, TAP and ANA shall be sold and the privatisation of the freight branch of Comboios de Portugal, Correios de Portugal as well as a number of smaller firms shall be launched. A strategy for Parpública shall be prepared, considering its winding down or consolidation with the general government.
- (j) Portugal shall implement legislation to reform the unemployment insurance system, including by reducing the maximum duration of unemployment insurance benefits; placing a cap on unemployment benefits to 2,5 times the social support index; reducing benefits over the period of unemployment; reducing the minimum contributory period; and extending unemployment insurance to certain categories of self-employed.
- (k) The Portuguese Government shall prepare a proposal to align the system for severance payments to reduce its level to the Union average of 8-12 days per year of work and create a compensation fund for severance payments;
- (l) Regulations on overtime pay shall be eased and flexibility of working time arrangements shall be increased.
- (m) Portugal shall promote wage developments consistent with the objectives of fostering job creation and improving firms' competitiveness with a view to correcting macroeconomic imbalances. Over the Programme period, any increase in minimum wages shall take place only if justified by economic and labour market developments. Measures shall be taken to address weaknesses in the current wage bargaining schemes, including legislation to redefine the criteria and modalities of the extension of collective agreements and to facilitate firm-level agreements. Until then, the application of extensions shall be suspended.

- (n) Active labour market policies shall be strengthened after a review of current practices and the establishment of an agreed action plan.
 - (o) An action plan shall be prepared to improve the quality of secondary and vocational education and training.
 - (p) The functioning of the judicial system shall be improved by implementing the measures proposed under the Judicial Reform Map and by conducting an audit of the backlog of cases in order to target measures to eliminate the court backlog and foster alternative dispute settlements.
 - (q) Portugal shall continue opening up its economy to competition. The Portuguese Government shall take the necessary measures to ensure that obstacles to free movement of capital will not be created by their action and in particular that the Portuguese State or any public body does not conclude, in a shareholder capacity, agreements which may hinder the free movement of capital or influence the management control of companies. Professional services shall be liberalised by improving the professional qualification framework and by eliminating restrictions on regulated professions. In construction and real estate activities, Portugal shall make the requirements for cross-border providers less burdensome and review obstacles to the establishment of services providers.
 - (r) The competition and regulatory framework shall be improved. Portugal shall reinforce the independence and resources of the main national regulatory authorities; implement the Competition Law with a view to improving the speed and effectiveness of enforcement of competition rules; and make the specialised court for competition, regulation and supervision operational.
 - (s) In the energy sector, Portugal shall take measures to facilitate market entry and promote the establishment of the Iberian gas market and it shall take further steps towards the full transposition of the Third EU Energy Package. Portugal shall take measures to review the support and compensation schemes for the production of electricity. Portugal shall take measures to reduce excessive rents and eliminate the tariff debt by 2020, focusing on compensation schemes for power guarantee, special regime (renewables — excluding those granted under tender mechanisms — and cogeneration), and the ordinary regime (“CMECs” and “CAEs”).
 - (t) In other network industries, in particular transport, telecommunications and postal services, Portugal shall adopt additional measures to promote competition and flexibility.
 - (u) Portugal shall adopt the revised public procurement code, thereby contributing to a more competitive business environment and to more efficient public spending.
 - (v) Portugal shall implement legislation on the housing rental market to further balance the obligations of tenants and landlords, to increase incentives for renovation and to make the market more flexible and dynamic.’;
- (2) paragraph 8 is amended as follows:
- (a) points (b) and (c) are replaced by the following:
 - ‘(b) follow closely the plans presented by the banks to reach a Core Tier 1 ratio of 10 % at the latest by the end of 2012. The capital requirements stemming from valuing sovereign debt based on market prices according to the European Banking Authority shall be met in June 2012 together with the capital implications from the special on-site inspections programme and the transfer of the banks’ pension funds to the State social security system. If banks cannot reach the capital requirement thresholds on time, they might temporarily require public provision of capital, which for privately-owned banks shall be available through the EUR 12 billion bank solvency support facility established under the Programme;
 - (c) ensure a balanced and orderly deleveraging of the banking sector, which remains critical to eliminating funding imbalances on a permanent basis. Banks’ funding plans aim at reducing the loan-to-deposit ratio to an indicative value of around 120 % by the end of the Programme and potentially reducing reliance on Eurosystem funding for the duration of the Programme. These funding plans shall be reviewed quarterly;’;
 - (b) points (e) and (f) are replaced by the following:
 - ‘(e) ensure that the state-owned Caixa Geral de Depósitos (CGD) is streamlined to increase the capital base of its core banking arm as needed. The sale of its insurance arm is expected to take place in 2012 directly to a final buyer and to contribute to meeting that year’s additional capital needs, while CGD will continue efforts to divest itself of non-strategic assets. Insofar as these needs cannot be met from internal group sources by the end of June 2012, CGD shall be provided with government capital support from cash buffers outside the bank solvency support facility;
 - (f) ensure that the proceeds associated with the partial transfer of the banks’ pension funds to the State social security system shall be used respecting State aid rules of the Union. The Portuguese Government shall carry out, under strict eligibility criteria, a credit

assignment of up to EUR 3 billion from the banks to the general government, while maintaining the contractual obligations of the debtor;;

(e) point (j) is deleted.

Article 2

(c) point (g) is replaced by the following:

This Decision is addressed to the Portuguese Republic.

‘(g) develop and implement a more effective strategy for the recovery of the distressed assets of special purpose vehicles with a view to maximising returns for the tax payer within a reasonable timeframe;’;

Done at Brussels, 29 March 2012.

(d) point (i) is replaced by the following:

‘(i) ensure that banks have incorporated the available results of the special on-site inspections programme in the stress test exercise with a 6 % Core Tier 1 threshold.’;

For the Council

The President

N. WAMMEN

COUNCIL DECISION 2012/225/CFSP
of 26 April 2012
amending Decision 2010/232/CFSP renewing restrictive measures against Burma/Myanmar

THE COUNCIL OF THE EUROPEAN UNION,

HAS ADOPTED THIS DECISION:

Having regard to the Treaty on European Union, and in particular Article 29 thereof,

Whereas:

- (1) On 26 April 2010, the Council adopted Decision 2010/232/CFSP ⁽¹⁾.
- (2) The Union has followed with respect and appreciation the historic changes in Burma/Myanmar over the past year and has encouraged the wide-ranging reforms to continue in a developing partnership with political and civil society actors. The Union has welcomed the concrete steps taken towards these ends.
- (3) In view of these developments and as a means to welcome and encourage the reform process, restrictive measures should be suspended with the exception of the arms embargo and the embargo on equipment which might be used for internal repression which should be retained.
- (4) Decision 2010/232/CFSP should be amended accordingly,

Article 1

Article 15 of Decision 2010/232/CFSP is hereby replaced by the following:

‘Article 15

1. This Decision shall enter into force on the date of its adoption.
2. This Decision shall apply until 30 April 2013.
3. The measures referred to in Articles 3 to 13a shall be suspended until 30 April 2013.’.

Article 2

The persons listed in the Annex shall be removed from the list of persons in part J of Annex II to Decision 2010/232/CFSP.

Article 3

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

Done at Luxembourg, 26 April 2012.

For the Council
The President
M. BØDSKOV

⁽¹⁾ OJ L 105, 27.4.2010, p. 22.

ANNEX

Persons referred to in Article 2

1. Thidar Zaw
 2. Pye Phyo Tay Za
 3. Ohn
 4. Shwe Shwe Lin
 5. Nan Than Htwe a.k.a Nan Than Htay
 6. Nang Lang Kham a.k.a. Nan Lan Khan
 7. Lo Hsing-han
 8. San San Kywe
 9. Nandar Hlaing
 10. Aye Aye Maw
 11. Nan Mauk Loung Sai a.k.a. Nang Mauk Lao Hsai
 12. Than Than Nwe
 13. Nay Soe
 14. Theint Theint Soe
 15. Sabai Myaing
 16. Htin Htut
 17. Htay Htay Khine (Khaing)
 18. Sandar Tun
 19. Aung Zaw Naing
 20. Mi Mi Khaing
 21. Moe Mya Mya
 22. Thurane Aung a.k.a. Christopher Aung, Thurein Aung
 23. Khin Phylene
 24. Nyunt Nyunt Oo
 25. Myint Myint Aye
 26. Min Thein a.k.a. Ko Pauk
 27. Tin Tin Latt
 28. Wut Yi Oo
 29. Captain Htun Zaw Win
 30. Yin Thu Aye
 31. Yi Phone Zaw
-

COMMISSION DECISION
of 23 April 2012
on the second set of common safety targets as regards the rail system

(notified under document C(2012) 2084)

(Text with EEA relevance)

(2012/226/EU)

THE EUROPEAN COMMISSION,

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

Having regard to Directive 2004/49/EC of the European Parliament and of the Council of 29 April 2004 on safety on the Community's railways and amending Council Directive 95/18/EC on the licensing of railway undertakings and Directive 2001/14/EC on the allocation of railway infrastructure capacity and the levying of charges for the use of railway infrastructure and safety certification (Railway Safety Directive) ⁽¹⁾, and in particular the second subparagraph of Article 7(3) thereof,

Whereas:

- (1) The Commission issued a mandate to the European Railway Agency ('the Agency') in accordance with Directive 2004/49/EC to draw up draft common safety targets ('CSTs') and the related draft common safety methods for the period from 2011 to 2015. The Agency submitted its recommendation on the second set of draft CSTs to the Commission. This Decision is based on the recommendation by the Agency.
- (2) According to the methodology established by Commission Decision 2009/460/EC of 5 June 2009 on the adoption of a common safety method for assessment of achievement of safety targets, as referred to in Article 6 of Directive 2004/49/EC of the European Parliament and of the Council ⁽²⁾, and in order to establish the first and second set of CSTs in accordance with Directive 2004/49/EC, it is necessary to quantitatively identify the current safety performance of railway systems in Member States by means of national reference values ('NRVs'). Decision 2009/460/EC defines NRV as a reference measure indicating, for the Member State concerned, the maximum tolerable level for a railway risk category. However, if the NRV is higher than the corresponding CST calculated on the basis of the methodology, the maximum tolerable level of risk for a Member State is the corresponding CST derived from the NRVs, in accordance with the methodology set out in Section 2.2 of the Annex to Decision 2009/460/EC.
- (3) The values for the first set of CSTs, calculated on the basis of data from 2004 to 2007, were set out in

Commission Decision 2010/409/EU of 19 July 2010 on Common Safety Targets as referred to in Article 7 of Directive 2004/49/EC of the European Parliament and of the Council ⁽³⁾.

- (4) Directive 2004/49/EC provides for a second set of CSTs, which are to be based on the experience gained from the first set of common safety targets and their implementation. It should reflect any priority areas where safety needs to be further improved. The values for the second set of CSTs have been calculated on the basis of the data from 2004 to 2009, which have been supplied to Eurostat by Member States in accordance with Regulation (EC) No 91/2003 of the European Parliament and of the Council of 16 December 2002 on rail transport statistics ⁽⁴⁾. They have been calculated using the methodology set out in points 2.1.1 and 2.3.1 of the Annex to Decision 2009/460/EC.
- (5) Since the first set of CSTs was published in July 2010, there has not been enough time to gain sufficient experience to change the risk categories. The risk categories remain therefore the same as for the first set of CSTs. However, based on the number of accidents and fatalities in rail traffic, the two main risk categories are unauthorised persons on railway premises (60 % of fatalities) and level crossing users (29 % of fatalities).
- (6) The values for the second set of CSTs cover the Union rail system as a whole. There are no data available for calculating CSTs for the different parts of the rail system as laid down in point (e) of Article 3 of Directive 2004/49/EC. That provision defines CSTs as the safety levels that must at least be reached by different parts of the rail system (such as the conventional rail system, the high speed rail system, long railway tunnels or lines solely used for freight transport) and by the system as a whole, expressed in risk acceptance criteria. The development of CSTs for those parts of the rail system is at the moment not feasible due to the lack of harmonised and reliable data on safety performance of parts of rail systems which are in operation in the Member States. However, it is appropriate to adopt the second set of CSTs.
- (7) Decision 2010/409/EU should therefore be replaced by this Decision.

⁽¹⁾ OJ L 164, 30.4.2004, p. 44.

⁽²⁾ OJ L 150, 13.6.2009, p. 11.

⁽³⁾ OJ L 189, 22.7.2010, p. 19.

⁽⁴⁾ OJ L 14, 21.1.2003, p. 1.

- (8) The measures provided for in this Decision are in accordance with the opinion of the Committee referred to in Article 27(1) of Directive 2004/49/EC,

HAS ADOPTED THIS DECISION:

Article 1

Subject matter and definitions

This Decision establishes the second set of common safety targets for the rail system in accordance with Directive 2004/49/EC and Decision 2009/460/EC.

For the purposes of this Decision, the definitions of Directive 2004/49/EC, Regulation (EC) No 91/2003 and Decision 2009/460/EC apply.

Article 2

National reference values

The national reference values for the Member States and for the different risk categories used to calculate the common safety targets are set out in Part 1 of the Annex.

Article 3

Common safety targets

The values, which cover the rail system as a whole, of the second set of common safety targets for the different risk categories are set out in Part 2 of the Annex.

Article 4

Repeal

Decision 2010/409/EU is repealed.

Article 5

Addressees

This Decision is addressed to the Member States.

Done at Brussels, 23 April 2012.

For the Commission

Siim KALLAS

Vice-President

ANNEX

1. National Reference Values (NRVs)

1.1. NRVs for risk to passengers (NRV 1.1 and NRV 1.2)

Member State	NRV 1.1 ($\times 10^{-9}$) (*)	NRV 1.2 ($\times 10^{-9}$) (**)
Belgium (BE)	37,30	0,318
Bulgaria (BG)	170,00	1,65
Czech Republic (CZ)	46,50	0,817
Denmark (DK)	9,04	0,11
Germany (DE)	8,13	0,081
Estonia (EE)	78,20	0,665
Ireland (IE)	2,74	0,0276
Greece (EL)	54,70	0,503
Spain (ES)	29,20	0,27
France (FR)	22,50	0,11
Italy (IT)	38,10	0,257
Latvia (LV)	78,20	0,665
Lithuania (LT)	97,20	0,757
Luxembourg (LU)	23,80	0,176
Hungary (HU)	170,00	1,65
Netherlands (NL)	7,43	0,0889
Austria (AT)	26,30	0,292
Poland (PL)	116,10	0,849
Portugal (PT)	41,80	0,309
Romania (RO)	170,00	1,65
Slovenia (SI)	25,30	0,362
Slovakia (SK)	35,80	0,513
Finland (FI)	9,04	0,11
Sweden (SE)	3,54	0,0329
United Kingdom (UK)	2,73	0,0276

(*) NRV1.1 expressed as: Number of passenger FWSIs per year arising from significant accidents/Number of passenger train-km per year. Passenger train-km here is the unit of traffic for passenger trains only.

(**) NRV1.2 expressed as: Number of passenger FWSIs per year arising from significant accidents/Number of passenger-km per year. FWSIs in (*) and (**) are as defined in point d of Article 3 of Decision 2009/460/EC.

1.2. NRVs for risk to employees (NRV 2)

Member State	NRV 2 ($\times 10^{-9}$) (*)
Belgium (BE)	24,60
Bulgaria (BG)	21,20
Czech Republic (CZ)	16,50

Member State	NRV 2 ($\times 10^{-9}$) (*)
Denmark (DK)	9,10
Germany (DE)	12,60
Estonia (EE)	64,80
Ireland (IE)	5,22
Greece (EL)	77,90
Spain (ES)	8,81
France (FR)	6,06
Italy (IT)	18,90
Latvia (LV)	64,80
Lithuania (LT)	41,00
Luxembourg (LU)	12,00
Hungary (HU)	9,31
Netherlands (NL)	5,97
Austria (AT)	20,30
Poland (PL)	17,20
Portugal (PT)	53,10
Romania (RO)	21,2
Slovenia (SI)	40,90
Slovakia (SK)	1,36
Finland (FI)	9,21
Sweden (SE)	2,86
United Kingdom (UK)	5,17

(*) NRV 2 expressed as: Number of employee FWSIs per year arising from significant accidents/Number of train-km per year. FWSIs here are as defined in point d of Article 3 of Decision 2009/460/EC.

1.3. NRVs for risk to level crossing users (NRV 3.1 and NRV 3.2)

Member State	NRV 3.1 ($\times 10^{-9}$) (*)	NRV 3.2 (**)
Belgium (BE)	138,0	n/a
Bulgaria (BG)	341,0	n/a
Czech Republic (CZ)	238,0	n/a
Denmark (DK)	65,4	n/a
Germany (DE)	67,8	n/a
Estonia (EE)	400,0	n/a
Ireland (IE)	23,6	n/a
Greece (EL)	710,0	n/a
Spain (ES)	109,0	n/a

Member State	NRV 3.1 ($\times 10^{-9}$) (*)	NRV 3.2 (**)
France (FR)	78,7	n/a
Italy (IT)	42,9	n/a
Latvia (LV)	239,0	n/a
Lithuania (LT)	522,0	n/a
Luxembourg (LU)	95,9	n/a
Hungary (HU)	274,0	n/a
Netherlands (NL)	127,0	n/a
Austria (AT)	160,0	n/a
Poland (PL)	277,0	n/a
Portugal (PT)	461,0	n/a
Romania (RO)	341,0	n/a
Slovenia (SI)	364,0	n/a
Slovakia (SK)	309,0	n/a
Finland (FI)	164,0	n/a
Sweden (SE)	64,0	n/a
United Kingdom (UK)	23,5	n/a

(*) NRV3.1 expressed as: Number of level crossing user FWSIs per year arising from significant accidents/Number of train-km per year.

(**) NRV3.2 expressed as: Number of level crossing user FWSIs per year arising from significant accidents/[(Number of Train-km per year $\times$ Number of level crossings)/Track-km]. Data on the number of level crossings and track-km were not sufficiently reliable at the time of data extraction (most of the Member States reported common data on line-km instead of track-km).

FWSIs in (*) and (**) are as defined in point d of Article 3 of Decision 2009/460/EC.

1.4. NRVs for risk to persons classified as 'others' (NRV 4)

Member State	NRV 4 ($\times 10^{-9}$) (*)
Belgium (BE)	2,86
Bulgaria (BG)	4,51
Czech Republic (CZ)	2,41
Denmark (DK)	14,20
Germany (DE)	3,05
Estonia (EE)	11,60
Ireland (IE)	7,00
Greece (EL)	4,51
Spain (ES)	5,54
France (FR)	7,71
Italy (IT)	6,70
Latvia (LV)	11,60
Lithuania (LT)	11,60

Member State	NRV 4 ($\times 10^{-9}$) (*)
Luxembourg (LU)	5,47
Hungary (HU)	4,51
Netherlands (NL)	4,70
Austria (AT)	11,10
Poland (PL)	11,60
Portugal (PT)	5,54
Romania (RO)	4,51
Slovenia (SI)	14,50
Slovakia (SK)	2,41
Finland (FI)	14,20
Sweden (SE)	14,20
United Kingdom (UK)	7,00

(*) NRV 4 expressed as: Yearly number of FWSIs to persons belonging to the category 'others' arising from significant accidents/
Number of train-km per year.
FWSIs here are as defined in point d of Article 3 of Decision 2009/460/EC.

1.5. NRVs for risk to unauthorised persons on railway premises (NRV 5)

Member State	NRV 5 ($\times 10^{-9}$) (*)
Belgium (BE)	72,6
Bulgaria (BG)	829,0
Czech Republic (CZ)	301,0
Denmark (DK)	116,0
Germany (DE)	113,0
Estonia (EE)	1 550,0
Ireland (IE)	85,2
Greece (EL)	723,0
Spain (ES)	168,0
France (FR)	67,2
Italy (IT)	119,0
Latvia (LV)	1 310,0
Lithuania (LT)	2 050,0
Luxembourg (LU)	79,9
Hungary (HU)	588,0
Netherlands (NL)	15,9
Austria (AT)	119,0
Poland (PL)	1 210,0
Portugal (PT)	834,0

Member State	NRV 5 ($\times 10^{-9}$) (*)
Romania (RO)	829,0
Slovenia (SI)	236,0
Slovakia (SK)	779,0
Finland (FI)	249,0
Sweden (SE)	94,8
United Kingdom (UK)	84,5

(*) NRV 5 expressed as: Number of FWSIs to unauthorised persons on railway premises per year arising from significant accidents/
Number of train-km per year.
FWSIs here are as defined in point d of Article 3 of Decision 2009/460/EC.

1.6. NRVs for societal risk (NRV 6)

Member State	NRV 6 ($\times 10^{-9}$) (*)
Belgium (BE)	275,0
Bulgaria (BG)	1 240,0
Czech Republic (CZ)	519,0
Denmark (DK)	218,0
Germany (DE)	203,0
Estonia (EE)	2 110,0
Ireland (IE)	114,0
Greece (EL)	1 540,0
Spain (ES)	323,0
France (FR)	180,0
Italy (IT)	231,0
Latvia (LV)	1 660,0
Lithuania (LT)	2 590,0
Luxembourg (LU)	210,0
Hungary (HU)	1 020,0
Netherlands (NL)	148,0
Austria (AT)	329,0
Poland (PL)	1 590,0
Portugal (PT)	1 360,0
Romania (RO)	1 240,0
Slovenia (SI)	698,0
Slovakia (SK)	1 130,0
Finland (FI)	417,0

Member State	NRV 6 ($\times 10^{-9}$) (*)
Sweden (SE)	169,0
United Kingdom (UK)	120,0

(*) NRV 6 expressed as: Total number of FWSIs per year arising from significant accidents/Number of train-km per year.
The total number of FWSIs here is the sum of all the FWSIs considered for calculating all the other NRVs.

2. Values assigned to the second set of common safety targets

Risk Category	CST Value ($\times 10^{-6}$)		Measurement units
Risk to passengers	CST 1.1	0,17	Number of passenger FWSIs per year arising from significant accidents/Number of passenger train-km per year
	CST 1.2	0,00165	Number of passenger FWSIs per year arising from significant accidents/Number of passenger-km per year
Risk to employees	CST 2	0,0779	Number of employee FWSIs per year arising from significant accidents/Number of train-km per year
Risk to level crossing users	CST 3.1	0,710	Number of level crossing user FWSIs per year arising from significant accidents/Number of train-km per year
	CST 3.2	n/a (*)	Number of level crossing user FWSIs per year arising from significant accidents/[(Number of Train-km per year $\times$ Number of level crossings)/Track-km]
Risk to 'others'	CST 4	0,0145	Yearly number of FWSIs to persons belonging to the category 'others' arising from significant accidents/Number of train-km per year
Risk to unauthorised persons on railway premises	CST 5	2,05	Number of FWSIs to unauthorised persons on railway premises per year arising from significant accidents/Number of train-km per year
Risk to society as a whole	CST 6	2,59	Total number of FWSIs per year arising from significant accidents/Number of train-km per year

(*) Data on the number of level crossings and track-km, which are necessary to calculate this CST, were not sufficiently reliable at the time of data extraction (e.g. most Member States reported line-km instead of track-km).

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