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⁽¹⁾ Text with EEA relevance

II

(Non-legislative acts)

INTERNATIONAL AGREEMENTS

Information concerning the entry into force of the Agreement between the European Community and the Hashemite Kingdom of Jordan on scientific and technological cooperation

The Agreement between the European Community and the Hashemite Kingdom of Jordan on scientific and technological cooperation ⁽¹⁾, signed on 30 November 2009, has, in accordance with Article 7(2) thereof, entered into force on 29 March 2011.

⁽¹⁾ OJ L 159, 17.6.2011, p. 108.

COUNCIL DECISION

of 24 April 2012

on the position to be taken by the European Union in the EEA Joint Committee concerning an amendment to Annex II (Technical regulations, standards, testing and certification) to the EEA Agreement

(2012/227/EU)

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty on the Functioning of the European Union, and in particular Article 114 and Article 218(9) thereof,

Having regard to Council Regulation (EC) No 2894/94 of 28 November 1994 concerning arrangements for implementing the Agreement on the European Economic Area ⁽¹⁾, and in particular Article 1(3) thereof,

Having regard to the proposal from the European Commission,

Whereas:

- (1) Annex II to the Agreement on the European Economic Area ⁽²⁾ ('the EEA Agreement'), contains specific provisions and arrangements concerning technical regulations, standards, testing and certification.
- (2) Regulation (EC) No 110/2008 of the European Parliament and of the Council of 15 January 2008 on the definition, description, presentation, labelling and the protection of geographical indications of spirit drinks ⁽³⁾ should be incorporated into the EEA Agreement.
- (3) Commission Recommendation 2010/133/EU of 2 March 2010 on the prevention and reduction of ethyl carbamate contamination in stone fruit spirits and stone fruit marc spirits and on the monitoring of ethyl carbamate levels in these beverages ⁽⁴⁾ should be incorporated into the EEA Agreement.
- (4) Regulation (EC) No 110/2008 repealed Council Regulation (EEC) No 1576/89 of 29 May 1989 laying down general rules on the definition, description and presentation of spirit drinks ⁽⁵⁾ which is incorporated into the EEA Agreement and should therefore be repealed under the EEA Agreement.
- (5) Commission Regulation (EEC) No 1014/90 of 24 April 1990 laying down detailed implementing rules on the definition, description and presentation of spirit drinks ⁽⁶⁾, which is incorporated into the EEA Agreement, has become obsolete ⁽⁷⁾ and should therefore be deleted from the EEA Agreement.

(6) In order to reduce the problems alcohol consumption may cause, EFTA States may prohibit, on a non-discriminatory basis, the placing on their national market of spirit drinks for direct human consumption which exceed an alcoholic strength of 60 %.

(7) Due to the special features of the system of registration of geographical indications for spirit drinks and the fact that a very low number of registrations are expected from the EFTA States, paragraph 4(d) of Protocol 1 to the EEA Agreement is not to be applied for these matters. As a consequence, the procedures for application and registration of geographical indications will be carried out by the Commission also in relation to applications from the EFTA states which are parties to the EEA Agreement.

(8) The position of the Union in the EEA Joint Committee should therefore be based on the attached draft Decision,

HAS ADOPTED THIS DECISION:

Article 1

The position to be taken by the European Union within the EEA Joint Committee on the proposed amendments to Annex II (Technical regulations, standards, testing and certification) to the EEA Agreement shall be based on the draft Decision of the EEA Joint Committee attached to this Decision.

Article 2

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

Done at Luxembourg, 24 April 2012.

For the Council
The President
N. WAMMEN

⁽¹⁾ OJ L 305, 30.11.1994, p. 6.

⁽²⁾ OJ L 1, 3.1.1994, p. 3.

⁽³⁾ OJ L 39, 13.2.2008, p. 16.

⁽⁴⁾ OJ L 52, 3.3.2010, p. 53.

⁽⁵⁾ OJ L 160, 12.6.1989, p. 1.

⁽⁶⁾ OJ L 105, 25.4.1990, p. 9.

⁽⁷⁾ OJ C 30, 6.2.2009, p. 18.

DRAFT

DECISION No .../2012 OF THE EEA JOINT COMMITTEE

of ...

amending Annex II (Technical regulations, standards, testing and certification) to the EEA Agreement

THE EEA JOINT COMMITTEE,

Having regard to the Agreement on the European Economic Area ⁽¹⁾, as amended by the Protocol adjusting the Agreement on the European Economic Area, hereinafter referred to as 'the EEA Agreement', and in particular Article 98 thereof,

Whereas:

- (1) Regulation (EC) No 110/2008 of the European Parliament and of the Council of 15 January 2008 on the definition, description, presentation, labelling and the protection of geographical indications of spirit drinks ⁽²⁾ should be incorporated into the EEA Agreement.
- (2) Commission Recommendation 2010/133/EU of 2 March 2010 on the prevention and reduction of ethyl carbamate contamination in stone fruit spirits and stone fruit marc spirits and on the monitoring of ethyl carbamate levels in these beverages ⁽³⁾ should be incorporated into the EEA Agreement.
- (3) Regulation (EC) No 110/2008 repealed Council Regulation (EEC) No 1576/89 of 29 May 1989 laying down general rules on the definition, description and presentation of spirit drinks ⁽⁴⁾ which is incorporated into the EEA Agreement and should therefore be repealed under the EEA Agreement.
- (4) Commission Regulation (EEC) No 1014/90 ⁽⁵⁾, which is incorporated into the EEA Agreement, has become obsolete ⁽⁶⁾ and should therefore be deleted from the EEA Agreement.
- (5) Due to the special features of the system of registration of geographical indications for spirit drinks and the fact that a very low number of registrations are expected from the EFTA States, it seems reasonable to disapply paragraph 4(d) of Protocol 1 to the EEA Agreement for these matters. This shall be without prejudice to other Joint Committee Decisions.
- (6) This Decision concerns legislation regarding spirit drinks. Legislation regarding spirit drinks does not apply to Liechtenstein as long as the application of the Agreement between the European Community and the Swiss Confederation on trade in agricultural products ⁽⁷⁾ is extended to Liechtenstein, as stated in the introduction

to Chapter XXVII of Annex II to the EEA Agreement. This Decision should therefore not apply to Liechtenstein.

- (7) Annex II to the EEA Agreement should be amended accordingly,

HAS ADOPTED THIS DECISION:

Article 1

Chapter XXVII of Annex II (Technical regulations, standards, testing and certification) to the EEA Agreement is hereby amended as follows:

- (1) The text of point 1 (Council Regulation (EEC) No 1576/89) and point 2 (Commission Regulation (EEC) No 1014/90) is deleted.

- (2) The following points are inserted:

'9. **32008 R 0110:** Regulation (EC) No 110/2008 of the European Parliament and of the Council of 15 January 2008 on the definition, description, presentation, labelling and the protection of geographical indications of spirit drinks (OJ L 39, 13.2.2008, p. 16), as amended by:

— **32008 R 1334:** 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 (OJ L 354, 31.12.2008, p. 34).

The provisions of Regulation (EC) No 110/2008 shall, for the purposes of this Agreement, be read with the following adaptations:

- (a) The provisions of Regulation (EC) No 110/2008 shall not prejudice the right of the EFTA States to prohibit, on a non-discriminatory basis, the placing on their national market of spirit drinks for direct human consumption which exceed an alcoholic strength of 60 %.
- (b) The EFTA States shall be invited to send observers to the meetings of the Committee for Spirit Drinks, as referred to in Article 25, dealing with matters which fall within acts referred to in the EEA Agreement. The representatives of the EFTA States shall participate fully in the work of that Committee, but shall not have the right to vote.

⁽¹⁾ OJ L 1, 3.1.1994, p. 3.

⁽²⁾ OJ L 39, 13.2.2008, p. 16.

⁽³⁾ OJ L 52, 3.3.2010, p. 53.

⁽⁴⁾ OJ L 160, 12.6.1989, p. 1.

⁽⁵⁾ OJ L 105, 25.4.1990, p. 9.

⁽⁶⁾ OJ C 30, 6.2.2009, p. 18.

⁽⁷⁾ OJ L 114, 30.4.2002, p. 132.

- (c) Paragraph 4(d) of Protocol 1 to the EEA Agreement shall not apply to Chapter III of Regulation (EC) No 110/2008.
- (d) The following is added in Annex III to Regulation (EC) No 110/2008:

Product category	Geographical indication	Country of origin (the precise geographical origin is described in the technical file)
15. Vodka	Íslenskt Vodka/Icelandic Vodka	Iceland
	Norsk Vodka/Norwegian Vodka	Norway
24. Akvavit/aquavit	ÍslensktBrennivín/Icelandic Aquavit	Iceland
	Norsk akevitt/Norsk Aquavit/Norsk Akvavit/Norwegian Aquavit	Norway
Other spirit drinks	The geographical indications mentioned under this point concern products which are not defined in Regulation (EC) No 110/2008. Therefore, they must be completed with the sales description "spirit drink". The EFTA States producing these spirit drinks shall inform the other Contracting Parties of the national definitions of these products.	

10. **32010 H 0133**: Commission Recommendation 2010/133/EU of 2 March 2010 on the prevention and reduction of ethyl carbamate contamination in stone fruit spirits and stone fruit marc spirits and on the monitoring of ethyl carbamate levels in these beverages (OJ L 52, 3.3.2010, p. 53).'

Article 2

The texts of Regulation (EC) No 110/2008 and of Recommendation 2010/133/EU in the Icelandic and Norwegian languages, to be published in the EEA Supplement to the *Official Journal of the European Union*, shall be authentic.

Article 3

This Decision shall enter into force on [...], provided that all the notifications under Article 103(1) of the EEA Agreement have been made to the EEA Joint Committee (*).

Article 4

This Decision shall be published in the EEA Section of, and in the EEA Supplement to, the *Official Journal of the European Union*.

Done at ..., ...

For the EEA Joint Committee

The President

The Secretaries
to the EEA Joint Committee

(*) [No constitutional requirements indicated.] [Constitutional requirements indicated.]

COUNCIL DECISION

of 24 April 2012

on the position to be taken by the European Union in the EEA Joint Committee concerning an amendment to Annex XXI (Statistics) to the EEA Agreement

(2012/228/EU)

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty on the Functioning of the European Union, and in particular Article 338(1) and Article 218(9) thereof,

Having regard to Council Regulation (EC) No 2894/94 of 28 November 1994 concerning arrangements for implementing the Agreement on the European Economic Area ⁽¹⁾, and in particular Article 1(3) thereof,

Having regard to the proposal from the European Commission,

Whereas:

- (1) Annex XXI to the Agreement on the European Economic Area ⁽²⁾ ('the EEA Agreement'), contains specific provisions and arrangements concerning statistics.
- (2) Regulation (EU) No 691/2011 of the European Parliament and of the Council of 6 July 2011 on European environmental economic accounts ⁽³⁾ should be incorporated into the Agreement.
- (3) With regard to Iceland, Annexes I, II and III to Regulation (EU) No 691/2011 are to be implemented within two years from the first transmission deadline to allow for the further development of the Icelandic national environmental accounts.
- (4) Since Liechtenstein is already exempted from the European system of national and regional accounts

under Council Regulation (EC) No 2223/96 of 25 June 1996 on the European system of national and regional accounts in the Community ⁽⁴⁾, it is also to be exempted from the obligations concerning the European environmental economic accounts.

- (5) The position of the Union in the EEA Joint Committee should therefore be based on the attached draft Decision,

HAS ADOPTED THIS DECISION:

Article 1

The position to be taken by the European Union within the EEA Joint Committee on the proposed amendment to Annex XXI (Statistics) to the EEA Agreement shall be based on the draft Decision of the EEA Joint Committee attached to this Decision.

Article 2

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

Done at Luxembourg, 24 April 2012.

For the Council

The President

N. WAMMEN

⁽¹⁾ OJ L 305, 30.11.1994, p. 6.

⁽²⁾ OJ L 1, 3.1.1994, p. 3.

⁽³⁾ OJ L 192, 22.7.2011, p. 1.

⁽⁴⁾ OJ L 310, 30.11.1996, p. 1.

DRAFT

DECISION No .../2012 OF THE EEA JOINT COMMITTEE
of
amending Annex XXI (Statistics) to the EEA Agreement

THE EEA JOINT COMMITTEE,

Having regard to the Agreement on the European Economic Area ⁽¹⁾, as amended by the Protocol adjusting the Agreement on the European Economic Area, hereinafter referred to as 'the EEA Agreement', and in particular Article 98 thereof,

Whereas:

(1) Regulation (EU) No 691/2011 of the European Parliament and of the Council of 6 July 2011 on European environmental economic accounts ⁽²⁾ should be incorporated into the EEA Agreement.

(2) Annex XXI to the EEA Agreement should be amended accordingly,

HAS ADOPTED THIS DECISION:

Article 1

The following point shall be inserted in Annex XXI (Statistics) to the EEA Agreement:

'27c. **32011 R 0691**: Regulation (EU) No 691/2011 of the European Parliament and of the Council of 6 July 2011 on European environmental economic accounts (OJ L 192, 22.7.2011, p. 1).

The provisions of Regulation (EU) No 691/2011 shall, for the purposes of this Agreement, be read with the following adaptations:

(a) with regard to Iceland, Annexes I, II and III to Regulation (EU) No 691/2011 shall be implemented within two years from the first transmission deadline;

(b) Regulation (EU) No 691/2011 shall not apply to Liechtenstein.'

Article 2

The texts of Regulation (EU) No 691/2011 in the Icelandic and Norwegian languages, to be published in the EEA Supplement to the *Official Journal of the European Union*, shall be authentic.

Article 3

This Decision shall enter into force on ..., provided that all the notifications under Article 103(1) of the EEA Agreement have been made to the EEA Joint Committee (*).

Article 4

This Decision shall be published in the EEA Section of, and in the EEA Supplement to, the *Official Journal of the European Union*.

Done at ..., ...

For the EEA Joint Committee

The President

*The Secretaries
to the EEA Joint Committee*

⁽¹⁾ OJ L 1, 3.1.1994, p. 3.

⁽²⁾ OJ L 192, 22.7.2011, p. 1.

(*) [No constitutional requirements indicated.] [Constitutional requirements indicated.]

COUNCIL DECISION

of 24 April 2012

on the position to be taken by the European Union in the EEA Joint Committee concerning an amendment to Annex II (Technical regulations, standards, testing and certification) to the EEA Agreement

(2012/229/EU)

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty on the Functioning of the European Union, and in particular Article 43, Article 168(4)(b) and Article 218(9) thereof,

Having regard to Council Regulation (EC) No 2894/94 of 28 November 1994 concerning arrangements for implementing the Agreement on the European Economic Area ⁽¹⁾, and in particular Article 1(3) thereof,

Having regard to the proposal from the European Commission,

Whereas:

- (1) Annex II to the Agreement on the European Economic Area ⁽²⁾ ('the EEA Agreement') contains specific provisions and arrangements concerning technical regulations, standards, testing and certification.
- (2) Regulation (EC) No 470/2009 of the European Parliament and of the Council of 6 May 2009 laying down Community procedures for the establishment of residue limits of pharmacologically active substances in foodstuffs of animal origin ⁽³⁾ should be incorporated into the EEA Agreement. Regulation (EC) No 470/2009 repealed Council Regulation (EEC) No 2377/90 ⁽⁴⁾ and amended Directive 2001/82/EC of the European Parliament and of the Council ⁽⁵⁾ and Regulation (EC) No 726/2004 of the European Parliament and of the Council ⁽⁶⁾. Commission Regulation (EU) No 37/2010 of 22 December 2009 on pharmacologically active

substances and their classification regarding maximum residue limits in foodstuffs of animal origin ⁽⁷⁾, as corrected in OJ L 293, 11.11.2010, p. 72, should also be incorporated into the EEA Agreement.

- (3) Annex II to the EEA Agreement should therefore be amended accordingly.
- (4) The position of the Union in the EEA Joint Committee should therefore be based on the attached draft Decision,

HAS ADOPTED THIS DECISION:

Article 1

The position to be taken by the European Union in the EEA Joint Committee on the proposed amendment to Annex II (Technical regulations, standards, testing and certification) to the EEA Agreement shall be based on the draft Decision of the EEA Joint Committee attached to this Decision.

Article 2

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

Done at Luxembourg, 24 April 2012.

For the Council
The President
N. WAMMEN

⁽¹⁾ OJ L 305, 30.11.1994, p. 6.

⁽²⁾ OJ L 1, 3.1.1994, p. 3.

⁽³⁾ OJ L 152, 16.6.2009, p. 11.

⁽⁴⁾ Regulation (EEC) No 2377/90 of 26 June 1990 laying down a Community procedure for the establishment of maximum residue limits of veterinary medicinal products in foodstuffs of animal origin (OJ L 224, 18.8.1990, p. 1).

⁽⁵⁾ Directive 2001/82/EC of 6 November 2001 on the Community code relating to veterinary medicinal products (OJ L 311, 28.11.2001, p. 1).

⁽⁶⁾ Regulation (EC) No 726/2004 of 31 March 2004 laying down Community procedures for the authorisation and supervision of medicinal products for human and veterinary use and establishing a European Medicines Agency (OJ L 136, 30.4.2004, p. 1).

⁽⁷⁾ OJ L 15, 20.1.2010, p. 1.

DRAFT

DECISION No .../2012 OF THE EEA JOINT COMMITTEE

of

amending Annex II (Technical regulations, standards, testing and certification) to the EEA Agreement

THE EEA JOINT COMMITTEE,

Parliament and of the Council and Regulation (EC) No 726/2004 of the European Parliament and of the Council (OJ L 152, 16.6.2009, p. 11).

Having regard to the Agreement on the European Economic Area, as amended by the Protocol adjusting the Agreement on the European Economic Area ('the EEA Agreement'), and in particular Article 98 thereof,

The provisions of the Regulation shall, for the purposes of this Agreement, be read with the following adaptation:

Whereas:

- (1) Regulation (EC) No 470/2009 of the European Parliament and of the Council of 6 May 2009 laying down Community procedures for the establishment of residue limits of pharmacologically active substances in foodstuffs of animal origin, repealing Council Regulation (EEC) No 2377/90 and amending Directive 2001/82/EC of the European Parliament and of the Council and Regulation (EC) No 726/2004 of the European Parliament and of the Council⁽¹⁾ is to be incorporated into the EEA Agreement.
- (2) Commission Regulation (EU) No 37/2010 of 22 December 2009 on pharmacologically active substances and their classification regarding maximum residue limits in foodstuffs of animal origin⁽²⁾, as corrected in OJ L 293, 11.11.2010, p. 72, is to be incorporated into the EEA Agreement.
- (3) Annex II to the EEA Agreement should therefore be amended accordingly,

- (a) References to other acts in the Regulation shall be considered relevant to the extent and in the form that those acts are incorporated into the Agreement.
- (b) An EFTA State may request the Agency to issue an opinion according to Article 9(1), first paragraph of Article 11, Article 15(1) and Article 27(2). Such a request shall, in the first place, be addressed to the Commission which shall, where it considers that the request is of common interest, forward it to the Agency for further processing.;

(2) point 13 is replaced by the following:

'13. **32010 R 0037**: Commission Regulation (EU) No 37/2010 of 22 December 2009 on pharmacologically active substances and their classification regarding maximum residue limits in foodstuffs of animal origin (OJ L 15, 20.1.2010, p. 1), as corrected in OJ L 293, 11.11.2010, p. 72.;

HAS ADOPTED THIS DECISION:

(3) the text of point 14 (Council Regulation (EEC) No 2377/90) is deleted;

Article 1

Chapter XIII of Annex II (Technical regulations, standards, testing and certification) to the EEA Agreement shall be amended as follows:

(1) point 12 is replaced by the following:

'12. **32009 R 0470**: Regulation (EC) No 470/2009 of the European Parliament and of the Council of 6 May 2009 laying down Community procedures for the establishment of residue limits of pharmacologically active substances in foodstuffs of animal origin, repealing Council Regulation (EEC) No 2377/90 and amending Directive 2001/82/EC of the European

(4) the following indent is added in points 15p (Directive 2001/82/EC of the European Parliament and of the Council) and 15zb (Regulation (EC) No 726/2004 of the European Parliament and of the Council):

— **32009 R 0470**: Regulation (EC) No 470/2009 of the European Parliament and of the Council of 6 May 2009 (OJ L 152, 16.6.2009, p. 11).'

Article 2

The texts of Regulation (EC) No 470/2009 and of Regulation (EU) No 37/2010, as corrected in OJ L 293, 11.11.2010, p. 72, in the Icelandic and Norwegian languages, to be published in the EEA Supplement to the *Official Journal of the European Union*, shall be authentic.

⁽¹⁾ OJ L 152, 16.6.2009, p. 11.

⁽²⁾ OJ L 15, 20.1.2010, p. 1.

Article 3

This Decision shall enter into force on ..., provided that all the notifications under Article 103(1) of the EEA Agreement have been made to the EEA Joint Committee (*).

Article 4

This Decision shall be published in the EEA Section of, and in the EEA Supplement to, the *Official Journal of the European Union*.

Done at ..., ...

For the EEA Joint Committee

The President

*The Secretaries
to the EEA Joint Committee*

(*) [No constitutional requirements indicated.] [Constitutional requirements indicated.]

REGULATIONS

COMMISSION IMPLEMENTING REGULATION (EU) No 366/2012

of 27 April 2012

amending Implementing Regulation (EU) No 543/2011 as regards the trigger levels for additional duties on cucumbers and cherries, other than sour cherries

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 143(b) in conjunction with Article 4 thereof,

Whereas:

- (1) 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⁾ provides for the surveillance of the imports of the products listed in Annex XVIII thereto. That surveillance is to be carried out in accordance with the rules laid down in Article 308d of Commission Regulation (EEC) No 2454/93 of 2 July 1993 laying down provisions for the implementation of Council Regulation (EEC) No 2913/92 establishing the Community Customs Code ⁽³⁾.
- (2) For the purposes of Article 5(4) of the Agreement on Agriculture ⁽⁴⁾ concluded during the Uruguay Round of multilateral trade negotiations and in the light of the

latest data available for 2009, 2010 and 2011, the trigger levels for additional duties should be adjusted from 1 May 2012 for cucumbers and from 21 May 2012 for cherries other than sour cherries.

- (3) Implementing Regulation (EU) No 543/2011 should therefore be amended accordingly.
- (4) Given the need to ensure that this measure applies as soon as possible after the updated data have been made available, this Regulation should enter into force on the day of its publication.
- (5) The measures provided for in this Regulation are in accordance with the opinion of the Management Committee for the Common Organisation of Agricultural Markets,

HAS ADOPTED THIS REGULATION:

Article 1

Annex XVIII to Implementing Regulation (EU) No 543/2011 is replaced by the text 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, 27 April 2012.

For the Commission

The President

José Manuel BARROSO

⁽¹⁾ OJ L 299, 16.11.2007, p. 1.

⁽²⁾ OJ L 157, 15.6.2011, p. 1.

⁽³⁾ OJ L 253, 11.10.1993, p. 1.

⁽⁴⁾ OJ L 336, 23.12.1994, p. 22.

ANNEX

‘ANNEX XVIII

ADDITIONAL IMPORT DUTIES: TITLE IV, CHAPTER I, SECTION 2

Without prejudice to the rules governing the interpretation of the Combined Nomenclature, the description of the products is deemed to be indicative only. The scope of the additional duties for the purposes of this Annex is determined by the scope of the CN codes as they stand at the time of the adoption of this Regulation.

Order number	CN code	Description	Trigger period	Trigger level (tonnes)
78.0015	0702 00 00	Tomatoes	1 October to 31 May	481 762
78.0020			1 June to 30 September	44 251
78.0065	0707 00 05	Cucumbers	1 May to 31 October	13 402
78.0075			1 November to 30 April	18 306
78.0085	0709 91 00	Artichokes	1 November to 30 June	11 620
78.0100	0709 93 10	Courgettes	1 January to 31 December	54 760
78.0110	0805 10 20	Oranges	1 December to 31 May	292 760
78.0120	0805 20 10	Clementines	1 November to end of February	85 392
78.0130	0805 20 30 0805 20 50 0805 20 70 0805 20 90	Mandarins (including tangerines and satsumas); wilkings and similar citrus hybrids	1 November to end of February	99 128
78.0155	0805 50 10	Lemons	1 June to 31 December	340 920
78.0160			1 January to 31 May	90 108
78.0170	0806 10 10	Table grapes	21 July to 20 November	80 588
78.0175	0808 10 80	Apples	1 January to 31 August	701 247
78.0180			1 September to 31 December	64 981
78.0220	0808 30 90	Pears	1 January to 30 April	230 148
78.0235			1 July to 31 December	35 573
78.0250	0809 10 00	Apricots	1 June to 31 July	5 794
78.0265	0809 29 00	Cherries, other than sour cherries	21 May to 10 August	59 061
78.0270	0809 30	Peaches, including nectarines	11 June to 30 September	5 613
78.0280	0809 40 05	Plums	11 June to 30 September	10 293'

COMMISSION IMPLEMENTING REGULATION (EU) No 367/2012

of 27 April 2012

laying down necessary measures as regards the release of additional quantities of out-of-quota sugar and isoglucose on the Union market at reduced surplus levy during marketing year 2011/2012

THE EUROPEAN COMMISSION,

between September 2011 and February 2012, or close to 40 % between February 2011 and February 2012.

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 64(2) and Article 186, in conjunction with Article 4 thereof,

Whereas:

- (1) Prices on the world sugar markets based on the London futures market have stabilized since the beginning of the 2011/2012 marketing year at a historically rather high level. Prices at the London futures exchange moved in the range of 600 – 650 USD per tonne, or 460 – 500 EUR per tonne.
- (2) At the same time the prices on the Union sugar markets, as indicated by the price monitoring system set up by Article 14 of Commission Regulation (EC) No 952/2006 of 29 June 2006 laying down detailed rules for the application of Council Regulation (EC) No 318/2006 as regards the management of the Community market in sugar and the quota system ⁽²⁾, have continued to increase; moreover the price increase accelerated as from October 2011 when the average Union sugar price raised by over 10% within a month.
- (3) In order to improve the supply situation on the Union sugar market, exceptional measures have been taken in November 2011 by Commission Implementing Regulation (EU) No 1239/2011 of 30 November 2011 opening a standing invitation to tender for the 2011/2012 marketing year for imports of sugar of CN code 1701 at a reduced customs duty ⁽³⁾ and by Commission Implementing Regulation (EU) No 1240/2011 of 30 November 2011 laying down exceptional measures as regards the release of out-of-quota sugar and isoglucose on the Union market at reduced surplus levy during marketing year 2011/2012 ⁽⁴⁾. Despite those measures the present upwards trend of the Union sugar prices has continued and the average price reached 701 EUR per tonne in February 2012, representing an increase of over 20 %

- (4) The continued upwards trend of the Union sugar prices indicates that the availability of supply on the Union sugar market has improved only moderately at this stage. This analysis was confirmed by a large majority of Member States in the Management Committee of 8 March 2012 who considered that there were still supply problems which could even become worse in the course of the marketing year. This could concern especially small and medium enterprises and customers with fixed quantities in long term contracts.

- (5) On the other hand, good harvest in several parts of the Union led to the production of sugar in excess of the quota set out in Article 56 of Regulation (EC) No 1234/2007 of 5.3 million tonnes. Taking into account the estimated demand for industrial sugar in accordance with Article 62 of Regulation (EC) No 1234/2007, the 2011/2012 export commitments for out-of-quota sugar fixed by Commission Implementing Regulation (EU) No 372/2011 of 15 April 2011 fixing the quantitative limit for exports of out-of-quota sugar and isoglucose until the end of the 2011/2012 marketing year ⁽⁵⁾, as well as the quantities of out-of-quota sugar released on the Union market in accordance with Implementing Regulation (EU) No 1240/2011, substantial quantities of out-of-quota sugar will still be available. Part of this sugar could be made available immediately to the sugar market of the Union in order to partially satisfy the demand and therefore contribute to constrain the upwards trend of the Union sugar prices currently disturbing the market.

- (6) Article 186 of Regulation (EC) No 1234/2007 empowers the Commission to take the necessary measures for the sector if prices on the Union markets of sugar increase to such an extent that the situation disrupts or threatens to disrupt the markets.

- (7) Article 64(2) of Regulation (EC) No 1234/2007 empowers the Commission to fix the surplus levy on sugar and isoglucose produced in excess of the quota at a sufficiently high level in order to avoid the accumulation of surplus quantities. Article 3(1) of Commission Regulation (EC) No 967/2006 of 29 June 2006 laying down detailed rules for the application of Council Regulation (EC) No 318/2006 as regards sugar production in excess of the quota ⁽⁶⁾ has fixed that levy at EUR 500 per tonne.

⁽¹⁾ OJ L 299, 16.11.2007, p. 1.

⁽²⁾ OJ L 178, 1.7.2006, p. 39.

⁽³⁾ OJ L 318, 1.12.2011, p. 4.

⁽⁴⁾ OJ L 318, 1.12.2011, p. 9.

⁽⁵⁾ OJ L 102, 16.4.2011, p. 8.

⁽⁶⁾ OJ L 176, 30.6.2006, p. 22.

- (8) The Commission has estimated that the continuing low supply of sugar on the internal market, as clearly indicated by the observed considerable increase of the average price on the Union sugar markets in the 2011/2012 marketing year, may make necessary the release of additional quantities of out-of-quota sugar on the internal market. Increasing supply should improve the fluidity of the sugar market. In order to avoid any risk of accumulation of quantities, it is appropriate, to allow the release on the Union market of a limited quantity. Taking into account the estimated shortage and the alternative sources of supply, the limited quantity should be fixed at 250 000 tonnes. The reduced surplus levy for that limited quantity of sugar produced in excess of the quota should be fixed at a level per tonne representing the difference between the most recent publicly available average Union price and the world market price.
- (9) As Regulation (EC) No 1234/2007 fixes quotas for both sugar and isoglucose, a similar measure should apply for an appropriate quantity of isoglucose produced in excess of the quota because the latter product is, to some extent, a commercial substitute for sugar.
- (10) For that reason and with the view to increasing the supply, sugar and isoglucose producers should apply to the competent authorities of the Member States for certificates allowing them to sell certain quantities, produced above the quota limit, on the Union market with a reduced surplus levy.
- (11) The validity of the certificates should be limited in time to encourage a fast improvement of the supply situation.
- (12) Fixing upper limits of the quantities for which each producer can apply in one application period and restricting the certificates to products of the applicant's own production, should prevent speculative actions within the system created by this Regulation.
- (13) With their application, sugar producers should commit themselves to pay the minimum price for sugar beet used to produce the quantity of sugar for which they apply. The minimum eligibility requirements for applications should be specified.
- (14) The competent authorities of the Member States should notify the Commission of the applications received. In order to simplify and standardise those notifications, models should be made available.
- (15) The Commission should ensure that certificates are granted only within the quantitative limits fixed in this Regulation. Therefore, if necessary, the Commission should be able to fix an allocation coefficient applicable to the applications received.
- (16) Member States should immediately inform the applicants whether the quantity applied for was fully or partially granted.
- (17) The reduced surplus levy should be paid after the application is admitted and before the certificate is issued.
- (18) The competent authorities should notify the Commission of the quantities for which certificates with a reduction of the surplus levy have been issued. For this purpose, models should be made available by the Commission.
- (19) Sugar quantities released on the Union market of quantities in excess of the certificates issued under this Regulation should be subject to the surplus levy set out in Article 64(2) of Regulation (EC) No 1234/2007. It is therefore appropriate to provide that any applicant not fulfilling his commitment to release on the Union market the quantity covered by a certificate delivered to him, should also pay an amount of EUR 500 per tonne. This consistent approach is aimed at preventing abuse of the mechanism introduced by this Regulation.
- (20) For the purpose of establishing average prices for quota and out-of-quota sugar on the Union market in accordance with Article 13(1) of Regulation (EC) No 952/2006, sugar covered by a certificate issued pursuant to this Regulation should be considered as quota sugar.
- (21) Article 2(1)(a) of Council Decision 2007/436/EC, Euratom of 7 June 2007 on the system of the European Communities' own resources⁽¹⁾ lays down that contributions and other duties provided for within the framework of the common organisation of the markets in the sugar sector are to constitute own resources. It is therefore necessary to set the date of establishment of the amounts in question within the meaning of Articles 2(2) and 6(3)(a) of Council Regulation (EC, Euratom) No 1150/2000 of 22 May 2000 implementing Decision 2007/436/EC, Euratom on the system of the Communities' own resources⁽²⁾.
- (22) The Management Committee for the Common Organisation of Agricultural Markets has not delivered an opinion within the time limit set by its Chair,

HAS ADOPTED THIS REGULATION:

Article 1

Temporary reduction of the surplus levy

By way of derogation from Article 3(1) of Regulation (EC) No 967/2006, the amount of the surplus levy for an additional maximum quantity of 250 000 tonnes of sugar in white sugar equivalent and 13 000 tonnes of isoglucose in dry matter, produced in excess of the quota fixed in Annex VI to Regulation (EC) No 1234/2007 and released on the Union market in the marketing year 2011/2012, shall be fixed at EUR 211 per tonne. The reduced surplus levy shall be paid after the application, referred to in Article 2, is admitted and before the certificate, referred to in Article 6, is issued.

⁽¹⁾ OJ L 163, 23.6.2007, p. 17

⁽²⁾ OJ L 130, 31.5.2000, p. 1

Article 2

Application for certificates

1. In order to benefit from the conditions specified in Article 1, sugar and isoglucose producers shall apply for a certificate.
2. Applicants may be only undertakings producing beet and cane sugar or isoglucose, which are approved in accordance with Article 57 of Regulation (EC) No 1234/2007 and have been allocated a production quota for the 2011/2012 marketing year, in accordance with Article 56 of that Regulation.
3. Each applicant may submit not more than one application for sugar and one for isoglucose per application period.
4. Applications for certificates shall be submitted by fax or electronic mail to the competent authority in the Member State in which the undertaking was approved. The competent authorities of the Member States may require that electronic applications be accompanied by an advance electronic signature within the meaning of Directive 1999/93/EC of the European Parliament and of the Council ⁽¹⁾.
5. To be admissible, the applications shall fulfil the following conditions:
 - (a) the applications shall indicate:
 - (i) the name, address and VAT number of the applicant; and
 - (ii) the quantities applied for, expressed in tonnes of white sugar equivalent and tonnes of isoglucose in dry matter, rounded to no decimal places;
 - (b) the quantities applied for in this application period, expressed in tonnes of white sugar equivalent and tonnes of isoglucose in dry matter, shall not exceed 50 000 tonnes in the case of sugar and 2 500 tonnes in the case of isoglucose;
 - (c) if the application concerns sugar, the applicant shall commit himself to pay the minimum beet price, set out in Article 49 of Regulation (EC) No 1234/2007, for the quantity of sugar covered by certificates issued in accordance with Article 6 of this Regulation;
 - (d) the application shall be written in the official language or one of the official languages of the Member State in which the application is lodged;
 - (e) the application shall indicate a reference to this Regulation and the expiry date for the submission of the applications for the application period in question, as set out in Article 3.
6. An application may not be withdrawn or amended after its submission, even if the quantity applied for is granted only partially.

Article 3

Submission of applications

1. The first period during which applications may be submitted shall end on 2 May 2012 at 12 noon, Brussels time.

2. The periods during which applications may be submitted for the second and subsequent application periods shall begin on the first working day following the end of the preceding period. They shall end at 12 noon, Brussels time, on 23 May 2012, 6 June 2012 and 20 June 2012.

3. The Commission may suspend the submission of applications for one or several application periods.

Article 4

Transmission of applications by the Member States

1. The competent authorities of the Member States shall decide on the admissibility of applications on the basis of the conditions set out in Article 2. Where the competent authorities decide that an application is inadmissible, they shall inform the applicant without delay.
2. The competent authority shall notify the Commission on Friday at the latest, by fax or electronic mail, of the admissible applications submitted during the preceding application period. That notification shall not contain the data referred to in Article 2(5)(a)(i). Member States that received no applications but have sugar or isoglucose quota allocated to them in marketing year 2011/2012, shall also send their nil returns notifications to the Commission within the same time limit.
3. The form and content of the notifications shall be defined on the basis of models made available by the Commission to the Member States.

Article 5

Exceeded limits

When the information notified by the competent authorities of the Member States pursuant to Article 4(2) indicates that the quantities applied for exceed the limits set out in Article 1, the Commission shall:

- (a) fix an allocation coefficient, which the Member States shall apply to the quantities covered by each notified certificate application;
- (b) reject applications not yet notified;
- (c) close the period for submitting the applications.

Article 6

Issue of certificates

1. Without prejudice to Article 5, on the tenth working day following a week where an application period ended, the competent authority shall issue certificates for the applications notified to the Commission, in accordance with Article 4(2), for that application period.

2. Each Monday Member States shall notify the Commission of the quantities of sugar and/or isoglucose for which they issued certificates in the preceding week.

3. A template of the certificate is set out in the Annex.

⁽¹⁾ OJ L 13, 19.1.2000, p. 12.

*Article 7***Validity of certificates**

Certificates shall be valid until the end of the second month following the month of issue.

*Article 8***Transferability of certificates**

Neither the rights nor the obligations deriving from the certificates shall be transferable.

*Article 9***Price reporting**

For the purpose of Article 13(1) of Regulation (EC) No 952/2006, the quantity of sugar sold which is covered by a certificate issued pursuant to this Regulation shall be considered as quota sugar.

*Article 10***Monitoring**

1. Applicants shall add to their monthly notifications provided for in Article 21(1) of Regulation (EC) No 952/2006 the quantities for which they received certificates in accordance with Article 6 of this Regulation.

2. Before 31 October 2012, each holder of a certificate under this regulation shall submit to the competent authorities of the Member States proof that all quantities covered by his certificates were released on the Union market. Each tonne covered by a certificate but not released on the Union market for reasons other than *force majeure*, shall be subject to payment of an amount of EUR 289 per tonne.

3. Member States shall notify the Commission of the quantities not released on the Union market.

4. Member States shall calculate and notify the Commission of the difference between the total quantity of sugar and isoglucose produced by each producer in excess of the quota and the quantities which have been disposed by the producers in accordance with the second subparagraph of Article 4(1) of Regulation (EC) No 967/2006 and Implementing Regulation (EU) No 1240/2011. If the remaining quantities of out-of-quota sugar or isoglucose of a producer are less than the quantities issued for that producer under this Regulation, the producer shall pay an amount of EUR 500 per tonne on that difference.

*Article 11***Date of establishment**

For the purposes of Article 2(2) and Article 6(3)(a) of Regulation (EC, Euratom) No 1150/2000, the date of establishment of the Union's entitlement shall be the date on which the surplus levy is paid by the applicants in accordance with Article 1.

*Article 12***Entry into force**

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

It shall expire on 31 December 2012.

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

Done at Brussels, 27 April 2012.

For the Commission

The President

José Manuel BARROSO

ANNEX

Model for the certificate referred to in Article 6(3)

CERTIFICATE

for the reduction, for the 2011/12 marketing year, of the levy provided for in Article 3 of Regulation (EC) No 967/2006

Member State:	
Quota holder:	
Product	
Quantities applied:	
Quantities issued:	
Levy paid (EUR/t):	EUR 211/tonne
For the marketing year 2011/2012, the levy referred to in Article 3 of Regulation (EC) No 967/2006 shall not apply to the quantities issued of this certificate, subject to the respect of the rules laid down in Implementing Regulation (EU) No 367/2012, in particular in Article 2(5)(c)	
Signature of the Competent authority of the Member State	
Date of issue	
This certificate shall be valid until the end of the second month following the date of issue.	

COMMISSION IMPLEMENTING REGULATION (EU) No 368/2012

of 27 April 2012

amending Council Regulation (EU) No 44/2012 fixing for 2012 the fishing opportunities available in EU waters and, to EU vessels, in certain non-EU waters for certain fish stocks and groups of fish stocks which are subject to international negotiations or agreement

THE EUROPEAN COMMISSION,

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

Having regard to Council Regulation (EU) No 44/2012 of 17 January 2012 fixing for 2012 the fishing opportunities available in EU waters and, to EU vessels, in certain non-EU waters for certain fish stocks and groups of fish stocks which are subject to international negotiations or agreement ⁽¹⁾, and in particular Article 5(4) thereof,

Whereas:

- (1) Catch limits for sandeel in EU waters of ICES zones IIa, IIIa and IV are laid down in Annex IA of Regulation (EU) No 44/2012.
- (2) Pursuant to point 4 of Annex IIB to Regulation (EU) No 44/2012, the Commission is to revise the total allowable catches (TAC) and quotas for 2012 for sandeel in those zones based on scientific advice provided for each of the seven management areas defined in that Annex.
- (3) The International Council for the Exploration of the Sea (ICES) delivered its advice on sandeel on 1 March 2012, which indicated that catches in Management Area 1 should be limited to 23 000 tonnes compared to the preliminary figure of 200 000 tonnes for that area fixed in Regulation (EU) No 44/2012.

(4) ICES further recommended that catches of up to 5 000 tonnes should be permitted in each of the Management Areas 2, 3 and 4 in order to allow the monitoring of the stock in those areas, that the catches in Management Area 6 should not be allowed to increase beyond the 420 tonnes that was fixed for 2011 and that there should be zero catches allowed in Management Areas 5 and 7.

(5) Annex IA to Regulation (EU) No 44/2012 should therefore be amended accordingly.

(6) The measures provided for in this Regulation are in accordance with the opinion of the Committee for Fisheries and Aquaculture,

HAS ADOPTED THIS REGULATION:

Article 1

Annex IA to Regulation (EU) No 44/2012 is amended in accordance with the Annex to this Regulation.

Article 2

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

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

Done at Brussels, 27 April 2012.

For the Commission

The President

José Manuel BARROSO

⁽¹⁾ OJ L 25, 27.1.2012, p. 55.

ANNEX

In Annex IA to Regulation (EU) No 44/2012 the entry concerning the species sandeel in EU waters of ICES zones IIa, IIIa and IV is replaced by the following:

Species: Sandeel and associated by-catches <i>Ammodytes</i> spp.		Zone: EU waters of IIa, IIIa and IV ⁽¹⁾ (SAN/2A3A4.)
Denmark	17 376 ⁽²⁾	
United Kingdom	380 ⁽²⁾	
Germany	26 ⁽²⁾	
Sweden	638 ⁽²⁾	
EU	18 420 ⁽²⁾	
Norway	20 000	
TAC	38 420	Analytical TAC

⁽¹⁾ Excluding waters within six miles of UK baselines at Shetland, Fair Isle and Foula.

⁽²⁾ At least 98 % of landings counted against the TAC must be of sandeel. By-catches of dab, mackerel and whiting to be counted against the remaining 2 % of the TAC.

Special conditions:

Within the limits of the abovementioned quotas, no more than the quantities given below may be taken in the following sandeel management areas, as defined in Annex IIB:

Zone:	EU waters of sandeel management areas						
	1	2	3	4	5	6	7
	(SAN/*234_1)	(SAN/*234_2)	(SAN/*234_3)	(SAN/*234_4)	(SAN/*234_5)	(SAN/*234_6)	(SAN/*234_7)
Denmark	2 830	4 717	4 717	4 717	0	395	0
United Kingdom	62	103	103	103	0	9	0
Germany	4	7	7	7	0	1	0
Sweden	104	173	173	173	0	15	0
EU	3 000	5 000	5 000	5 000	0	420	0
Norway	20 000	0	0	0	0	0	0
Total	23 000	5 000	5 000	5 000	0	420	0'

COMMISSION IMPLEMENTING REGULATION (EU) No 369/2012

of 27 April 2012

amending Implementing Regulation (EU) No 540/2011 as regards the conditions of approval of the active substances blood meal, calcium carbide, calcium carbonate, limestone, pepper and quartz sand

(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) thereof,

Whereas:

- (1) The active substances blood meal, calcium carbide, calcium carbonate, limestone, pepper and quartz sand were included in Annex I to Council Directive 91/414/EEC ⁽²⁾ by Commission Directive 2008/127/EC ⁽³⁾ in accordance with the procedure provided for in Article 24b of Commission Regulation (EC) No 2229/2004 ⁽⁴⁾ of 3 December 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. Since the replacement of Directive 91/414/EEC by Regulation (EC) No 1107/2009, these substances are deemed to have been approved under that Regulation and are listed in Part A of the Annex to Commission Implementing Regulation (EU) No 540/2011 of 25 May 2011 implementing Regulation (EC) No 1107/2009 of the European Parliament and of the Council as regards the list of approved active substances ⁽⁵⁾.
- (2) In accordance with Article 25a of Regulation (EC) No 2229/2004, the European Food Safety Authority, hereinafter 'the Authority', presented to the Commission the conclusions on the peer review for blood meal ⁽⁶⁾ on

26 September 2011 for calcium carbide ⁽⁷⁾ on 17 October 2011, for calcium carbonate ⁽⁸⁾ and for limestone ⁽⁹⁾ on 6 July 2011, for pepper dust extraction residue ⁽¹⁰⁾ on 4 July 2011, and for quartz sand ⁽¹¹⁾ on 6 July 2011. The draft assessment reports and the conclusions 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 9 March 2012 in the format of the Commission review reports for blood meal, calcium carbide, calcium carbonate, limestone, pepper dust extraction residue and quartz sand.

- (3) In accordance with Article 12(2) of Regulation (EC) No 1107/2009 the Commission invited the notifiers to submit their comments on the conclusions of the Authority. Furthermore, in accordance with Article 13(1) of that Regulation, the Commission invited the notifiers to submit comments on the draft review reports for blood meal, calcium carbide, calcium carbonate, limestone, pepper dust extraction residue and quartz sand. The notifiers submitted their comments, which have been carefully examined.
- (4) It is confirmed that the active substances blood meal, calcium carbide, calcium carbonate, limestone, pepper and quartz sand are to be deemed to have been approved under Regulation (EC) No 1107/2009.
- (5) In accordance with Article 13(2) of Regulation (EC) No 1107/2009 in conjunction with Article 6 thereof and

⁽¹⁾ OJ L 309, 24.11.2009, p. 1.

⁽²⁾ OJ L 230, 19.8.1991, p. 1.

⁽³⁾ OJ L 344, 20.12.2008, p. 89.

⁽⁴⁾ OJ L 379, 24.12.2004, p. 13.

⁽⁵⁾ OJ L 153, 11.6.2011, p. 1.

⁽⁶⁾ European Food Safety Authority; Conclusion on the peer review of the pesticide risk assessment of the active substance blood meal. EFSA Journal 2011; 9(10):2394. [36 pp.]. doi:10.2903/j.efsa.2011.2396. Available online: www.efsa.europa.eu/efsajournal.htm.

⁽⁷⁾ European Food Safety Authority; Conclusion on the peer review of the pesticide risk assessment of the active substance calcium carbide. EFSA Journal 2011; 9(10):2419. [48 pp.]. doi:10.2903/j.efsa.2011.2419. Available online: www.efsa.europa.eu/efsajournal.htm.

⁽⁸⁾ European Food Safety Authority; Conclusion on the peer review of the pesticide risk assessment of the active substance calcium carbonate. EFSA Journal 2011; 9(7):2298. [28 pp.]. doi:10.2903/j.efsa.2011.2298. Available online: www.efsa.europa.eu/efsajournal.htm.

⁽⁹⁾ European Food Safety Authority; Conclusion on the peer review of the pesticide risk assessment of the active substance limestone. EFSA Journal 2011; 9(7):2299. [33 pp.]. doi:10.2903/j.efsa.2011.2299. Available online: www.efsa.europa.eu/efsajournal.htm.

⁽¹⁰⁾ European Food Safety Authority; Conclusion on the peer review of the pesticide risk assessment of the active substance pepper dust extraction residue. EFSA Journal 2011; 9(7):2285. [37 pp.]. doi:10.2903/j.efsa.2011.2285. Available online: www.efsa.europa.eu/efsajournal.htm.

⁽¹¹⁾ European Food Safety Authority; Conclusion on the peer review of the pesticide risk assessment of the active substance quartz sand. EFSA Journal 2011; 9(7):2300. [40 pp.]. doi:10.2903/j.efsa.2011.2300. Available online: www.efsa.europa.eu/efsajournal.htm.

in the light of current scientific and technical knowledge, it is necessary to amend the conditions of approval of blood meal, calcium carbide, calcium carbonate, limestone, pepper and quartz sand. It is, in particular, appropriate to require further confirmatory information as regards blood meal, calcium carbonate and pepper. At the same time certain technical adaptations should be made, in particular the name of the active substance 'pepper' should be replaced by 'pepper dust extraction residue'.

- (6) The Annex to Regulation (EU) No 540/2011 should therefore be amended accordingly.
- (7) A reasonable period of time should be allowed before the application of this Regulation in order to allow Member States, notifiers and holders of authorisations for plant protection products to meet the requirements resulting from amendment to the conditions of the approval.

- (8) 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

Part A of the Annex to Implementing Regulation (EU) No 540/2011 is amended in accordance with the Annex to this Regulation.

Article 2

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

It shall apply from 1 September 2012.

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

Done at Brussels, 27 April 2012.

For the Commission

The President

José Manuel BARROSO

Part A of the Annex to Implementing Regulation (EU) No 540/2011 is amended as follows:

(1) Row 222 on the active substance blood meal is replaced by the following:

Common Name, Identification Numbers	IUPAC Name	Purity	Date of approval	Expiration of approval	Specific provisions
'Blood meal' CAS No: 90989-74-5 CIPAC No: 909	Not available	≥ 990 g/Kg	1 September 2009	31 August 2019	PART A Only uses as repellent may be authorised. Blood meal must be in compliance with Regulation (EC) No 1069/2009 (*) and Regulation (EU) No 142/2011 (**). PART B In assessing applications to authorise plant protection products containing blood meal for uses other than with direct application localised on individual plants, Member States shall pay particular attention to the criteria in Article 4(3) of Regulation (EC) No 1107/2009, and shall ensure that any necessary data and information is provided before such an authorization is granted. For the implementation of the uniform principles, as referred to in Article 29(6) of Regulation (EC) No 1107/2009, the conclusions of the amended review report on blood meal (SANCO/2604/2008) and in particular Appendices I and II thereof, as finalised in the Standing Committee on the Food Chain and Animal Health on 9 March 2012 shall be taken into account. Conditions of use shall include, where appropriate, risk mitigation measures. The notifier shall submit to the Member States, the Commission and the Authority, confirmatory information on the specification of the technical material, by 1 March 2013.

(*) OJ L 300, 14.11.2009, p. 1.
(**) OJ L 54, 26.2.2011, p. 1.'

(2) Row 223 on the active substance calcium carbide is replaced by the following:

Common Name, Identification Numbers	IUPAC Name	Purity	Date of approval	Expiration of approval	Specific provisions
'Calcium carbide' CAS No: 75-20-7 CIPAC No: 910	Calcium acetylide	≥ 765 g/kg Containing 0,08 – 0,9 g/kg Calcium Phosphide	1 September 2009	31 August 2019	PART A Only uses as repellent 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 amended review report on calcium carbide (SANCO/2605/2008) and in particular Appendices I and II thereof, as finalised

Common Name, Identification Numbers	IUPAC Name	Purity	Date of approval	Expiration of approval	Specific provisions
					in the Standing Committee on the Food Chain and Animal Health on 9 March 2012 shall be taken into account. Conditions of use shall include, where appropriate, risk mitigation measures.'

(3) Row 224 on the active substance calcium carbonate is replaced by the following:

Common Name, Identification Numbers	IUPAC Name	Purity	Date of approval	Expiration of approval	Specific provisions
'Calcium carbonate' CAS No: 471-34-1 CIPAC No: 843	Calcium carbonate	≥ 995 g/kg	1 September 2009	31 August 2019	PART A Only uses as repellent 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 amended review report on calcium carbonate (SANCO/2606/2008) and in particular Appendices I and II thereof, as finalised in the Standing Committee on the Food Chain and Animal Health on 9 March 2012 shall be taken into account. Conditions of use shall include, where appropriate, risk mitigation measures. The notifier shall submit confirmatory information as regards: — further data on the specification of the technical material, — analytical methods for the determination of calcium carbonate in the representative formulation and of the impurities in the technical material. These information shall be submitted to the Member States, the Commission and the Authority by 1 March 2013.'

(4) Row 237 on the active substance limestone is replaced by the following:

Common Name, Identification Numbers	IUPAC Name	Purity	Date of approval	Expiration of approval	Specific provisions
'Limestone' CAS No: 1317-65-3 CIPAC No: 852	Calcium carbonate	≥ 980 g/kg	1 September 2009	31 August 2019	PART A Only uses as repellent 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 amended review report on

Common Name, Identification Numbers	IUPAC Name	Purity	Date of approval	Expiration of approval	Specific provisions
					limestone (SANCO/2618/2008) and in particular Appendices I and II thereof, as finalised in the Standing Committee on the Food Chain and Animal Health on 9 March 2012 shall be taken into account. Conditions of use shall include, where appropriate, risk mitigation measures.'

(5) Row 239 on the active substance pepper is replaced by the following:

Common Name, Identification Numbers	IUPAC Name	Purity	Date of approval	Expiration of approval	Specific provisions
'Pepper dust extraction residue (PDER) CAS No: not allocated CIPAC No: not allocated	Steam distilled and solvent extracted Black pepper – <i>Piper nigrum</i>	It is a complex mixture of chemical substances, the component piperine as marker should be minimum 4 %	1 September 2009	31 August 2019	PART A Only uses as repellent may be authorised. PART B In assessing applications to authorise plant protection products containing pepper dust extraction residue (PDER) for uses other than in home garden area, Member States shall pay particular attention to the criteria in Article 4(3) of Regulation (EC) No 1107/2009, and shall ensure that any necessary data and information is provided before such an authorization is granted. For the implementation of the uniform principles, as referred to in Article 29(6) of Regulation (EC) No 1107/2009, the conclusions of the amended review report on pepper (SANCO/2620/2008) and in particular Appendices I and II thereof, as finalised in the Standing Committee on the Food Chain and Animal Health on 9 March 2012 shall be taken into account. Conditions of use shall include, where appropriate, risk mitigation measures The notifier shall submit to the Member States, the Commission and the Authority, confirmatory information on the specification of the technical material, by 1 March 2013.'

(6) Row 247 on the active substance quartz sand is replaced by the following:

Common Name, Identification Numbers	IUPAC Name	Purity	Date of approval	Expiration of approval	Specific provisions
'Quartz sand CAS No: 14808-60-7, 7637-86-9 CIPAC No: 855	Quartz, Silicon dioxide	≥ 915 g/kg Maximum 0,1 % of particles of Crystalline Silica (with diameter below 50 um.)	1 September 2009	31 August 2019	PART A Only uses as repellent may be authorised. PART B In assessing applications to authorise plant protection products containing quartz sand for uses other than on trees in forestry, Member States shall pay particular attention to the

Common Name, Identification Numbers	IUPAC Name	Purity	Date of approval	Expiration of approval	Specific provisions
					criteria in Article 4(3) of Regulation (EC) No 1107/2009, and shall ensure that any necessary data and information is provided before such an authorization is granted. For the implementation of the uniform principles of Annex VI, the conclusions of the review report on quartz sand (SANCO/2628/2008) and in particular Appendices I and II thereof, as finalised in the Standing Committee on the Food Chain and Animal Health shall be taken into account. Conditions of use shall include, where appropriate, risk mitigation measures.'

COMMISSION IMPLEMENTING REGULATION (EU) No 370/2012**of 27 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, 27 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	60,9
	TN	124,7
	TR	115,6
	ZZ	100,0
0707 00 05	JO	225,1
	TR	130,1
	ZZ	177,6
0709 93 10	JO	225,1
	MA	29,9
	TR	143,5
	ZZ	132,8
0805 10 20	CL	48,2
	EG	55,9
	IL	80,9
	MA	65,3
	TR	50,5
	ZA	40,1
	ZZ	56,8
0805 50 10	TR	58,4
	ZA	63,9
	ZZ	61,2
0808 10 80	AR	87,4
	BR	80,7
	CA	117,0
	CL	97,4
	CN	82,3
	MK	31,8
	NZ	128,3
	US	162,4
	ZA	89,6
	ZZ	97,4
0808 30 90	AR	101,2
	CL	119,1
	CN	88,0
	US	107,0
	ZA	118,5
	ZZ	106,8

⁽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 371/2012**of 27 April 2012****amending the representative prices and additional import duties for certain products in the sugar sector fixed by Implementing Regulation (EU) No 971/2011 for the 2011/12 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 2011/12 marketing year are fixed by Commission Implementing Regulation (EU) No 971/2011 ⁽³⁾. Those prices and duties were last amended by Commission Implementing Regulation (EU) No 353/2012 ⁽⁴⁾.

- (2) The data currently available to the Commission indicate that those amounts should be amended in accordance with Article 36 of Regulation (EC) No 951/2006.

- (3) Given the need to ensure that this measure applies as soon as possible after the updated data have been made available, this Regulation should enter into force on the day of its publication,

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 Implementing Regulation (EU) No 971/2011 for the 2011/12 marketing year, are hereby amended as set out in the Annex hereto.

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, 27 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 178, 1.7.2006, p. 24.

⁽³⁾ OJ L 254, 30.9.2011, p. 12.

⁽⁴⁾ OJ L 110, 24.4.2012, p. 33.

ANNEX

Amended representative prices and additional import duties applicable to white sugar, raw sugar and products covered by CN code 1702 90 95 from 28 April 2012

(EUR)

CN code	Representative price per 100 kg net of the product concerned	Additional duty per 100 kg net of the product concerned
1701 12 10 ⁽¹⁾	37,46	0,00
1701 12 90 ⁽¹⁾	37,46	3,37
1701 13 10 ⁽¹⁾	37,46	0,05
1701 13 90 ⁽¹⁾	37,46	3,67
1701 14 10 ⁽¹⁾	37,46	0,05
1701 14 90 ⁽¹⁾	37,46	3,67
1701 91 00 ⁽²⁾	43,62	4,38
1701 99 10 ⁽²⁾	43,62	1,25
1701 99 90 ⁽²⁾	43,62	1,25
1702 90 95 ⁽³⁾	0,44	0,25

⁽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 DECISION

of 18 April 2012

extending the period referred to in Article 114(6) of the Treaty on the Functioning of the European Union in relation to national provisions concerning the maximum admissible content of cadmium in fertilisers notified by the Kingdom of Sweden pursuant to Article 114(5) of the TFEU

*(notified under document C(2012) 2461)***(Only the Swedish text is authentic)****(Text with EEA relevance)**

(2012/230/EU)

THE EUROPEAN COMMISSION,

Having regard to the Treaty on the Functioning of the European Union, and in particular Article 114(6) thereof,

Whereas:

I. FACTS

- (1) On 17 October 2011, the Kingdom of Sweden notified the Commission, pursuant to Article 114(5) of the Treaty on the Functioning of the European Union (TFEU), of its intention to introduce national provisions to lower the content of cadmium allowed in phosphorous fertilisers to a maximum level of 46 grams of cadmium per tonne of phosphorous (equivalent to 20 mg Cd/kg P₂O₅). Those measures would derogate from Regulation (EC) No 2003/2003 of the European Parliament and of the Council of 13 October 2003 relating to fertilisers ⁽¹⁾ and would lower the maximum level of 100 grams of cadmium per tonne of phosphorous (equivalent to 44 mg Cd/kg P₂O₅) for which a derogation has already been granted to the Kingdom of Sweden.

1. Article 114(5) and (6) TFEU

- (2) Article 114, paragraphs (5) and (6) TFEU provide:

‘5. ... if, after the adoption of a harmonisation measure by the European Parliament and the Council, by the Council or by the Commission, a Member State deems it necessary to introduce national provisions based on new scientific evidence relating to the protection of the environment or the working environment on grounds of a problem specific to that Member State arising after the adoption of the harmonisation measure, it shall notify the Commission of the envisaged provisions as well as the grounds for introducing them.

6. The Commission shall, within six months of the notifications ... approve or reject the national provisions

involved after having verified whether or not they are a means of arbitrary discrimination or a disguised restriction on trade between Member States and whether or not they shall constitute an obstacle to the functioning of the internal market.

In the absence of a decision by the Commission within this period the national provisions referred to in paragraphs ... 5 shall be deemed to have been approved.

When justified by the complexity of the matter and in the absence of danger for human health, the Commission may notify the Member State concerned that the period referred to in this paragraph may be extended for a further period of up to six months.’

2. EU legislation

- (3) Council Directive 76/116/EEC of 18 December 1975 on the approximation of the laws of the Member States relating to fertilisers ⁽²⁾, laid down the requirements that fertilisers must fulfil in order to be placed on the market with the designation ‘EC fertiliser’.
- (4) Annex I to Directive 76/116/EEC set out the type designation and the corresponding requirements, e.g. with respect to its composition, that each fertiliser had to fulfil to be eligible for designation as ‘EC fertiliser’. Type designations in this list were grouped into categories, depending on the content of the primary nutrients, i.e. the elements nitrogen, phosphorus and potassium.
- (5) According to Article 7 of Directive 76/116/EEC ⁽³⁾, Member States were not permitted on grounds of composition, identification, labelling or packaging, to prohibit, restrict or hinder the marketing of fertilisers marked ‘EC fertiliser’ which complied with the provisions of the Directive.

⁽¹⁾ OJ L 304, 21.11.2003, p. 1.

⁽²⁾ OJ L 24, 30.1.1976, p. 21, replaced by Regulation (EC) No 2003/2003.

⁽³⁾ Replaced by Article 5 of Regulation (EC) No 2003/2003.

- (6) Commission Decision 2002/399/EC of 24 May 2002 on the national provisions notified by the Kingdom of Sweden under Article 95(4) of the EC Treaty concerning the maximum admissible content of cadmium in fertilisers ⁽¹⁾, granted a derogation from Directive 76/116/EEC, by approving the Swedish provisions which prohibited the placing on the Swedish market of fertilisers containing in excess of 100 grams of cadmium per tonne of phosphorus. This derogation was applicable until 31 December 2005.
- (7) Directive 76/116/EEC has been replaced by Regulation (EC) No 2003/2003 relating to fertilisers.
- (8) Article 35(2) of Regulation (EC) No 2003/2003 states that derogations from Article 7 of Directive 76/116/EEC that were granted by the Commission under former Article 95(6) of the EC Treaty shall be construed as derogations from Article 5 of that Regulation and shall continue to produce their effects notwithstanding the entry into force of the Regulation.
- (9) Recital 15 of Regulation (EC) No 2003/2003 announces that the Commission will address the issue of unintentional cadmium content in mineral fertilisers and will, where appropriate, draw up a proposal for a Regulation and will present it to the European Parliament and the Council. The Commission has conducted extensive preparatory work but due to the complexity of the various factors to be taken into account has not yet adopted a proposal.
- (10) Since the Swedish derogation was granted only until 31 December 2005, Sweden requested in June 2005 an extension of the existing derogation. Commission Decision 2006/347/EC of 3 January 2006 on the national provisions notified by the Kingdom of Sweden under Article 95(4) of the EC Treaty concerning the maximum admissible content of cadmium in fertilisers ⁽²⁾ allows the Swedish authorities to maintain the national measures until harmonised measures on cadmium in fertilisers are applied at EU level.

3. National provisions

- (11) 'The Chemicals Products (Handling, Import and Export Prohibitions) Ordinance' (1998:944) ⁽³⁾ contains provisions relating, *inter alia*, to the maximum permissible cadmium content in fertilisers, including EC-designated fertilisers. Section 3, paragraph 1, provides that fertilisers covered by customs tariffs numbers 25.10, 28.09, 28.35, 31.03 and 31.05 containing in excess of 100 grams of cadmium per tonne of phosphorous may not be offered for sale or transferred.
- (12) The envisaged national measure notified under Article 114(5) TFEU would lower the content of

cadmium allowed in phosphorous fertilisers from the current maximum level of 100 grams of cadmium per tonne of phosphorus to a level of 46 grams of cadmium per tonne of phosphorus (46 mg Cd/kg P, equivalent to 20 mg Cd/kg P₂O₅).

II. PROCEDURE

- (13) By letter of 17 May 2011 the Kingdom of Sweden notified the Commission that, pursuant to Article 114(5) TFEU, it requests approval to introduce national provisions to lower the content of cadmium allowed in phosphorous fertilisers to a maximum concentration of 46 grams per tonne of phosphorus. The Swedish authorities thus request to lower the cadmium content allowed by the derogation provided by Decision 2006/347/EC.
- (14) By letter of 17 October 2011, the Swedish authorities sent additional information to the Commission to provide the text of the national legislation in force reflecting the amendments introduced by Ordinances 2008:255 and 2009:654 ⁽⁴⁾.
- (15) By letter of 14 November 2011, the Commission informed the Swedish authorities that the six-month period for its examination according to Article 114(6) started on 18 October 2011.
- (16) By letter of 17 October 2011, the Commission informed the other Member States about the request received from Sweden. The Commission also published a notice regarding the request in the *Official Journal of the European Union* ⁽⁵⁾ in order to inform other interested parties of the national measures that Sweden intends to introduce as well as the grounds invoked to that effect. In reaction, Latvia supported the Swedish request. No other comments were received by the Commission.

III. ASSESSMENT

1. Consideration of admissibility

- (17) Article 114(5) TFEU concerns cases in which national provisions are notified in relation to an EU harmonisation measure, where the national measures are to be introduced after the harmonisation measure has been adopted and enforced and where the new national measure would be incompatible with the EU harmonisation measure. The national provisions were notified in relation to Regulation (EC) No 2003/2003, which was adopted on the basis of former Article 95 of the EC Treaty, and which sets harmonised rules regarding the composition, identification, labelling and packaging of EC fertilisers. According to Article 5 of that Regulation, Member States are not allowed to introduce obstacles to the free movement of fertilisers based on any of those grounds.

⁽¹⁾ OJ L 138, 28.5.2002, p. 24.

⁽²⁾ OJ L 129, 17.5.2006, p. 19.

⁽³⁾ Swedish Code of Statutes (SFS Svensk Författningssamling) of 14 July 1998.

⁽⁴⁾ Swedish Code of Statutes (SFS Svensk Författningssamling) of 4 June 2009.

⁽⁵⁾ OJ C 309, 21.10.2011, p. 8 and OJ C 339, 19.11.2011, p. 24.

- (18) Furthermore, Article 114(5) TFEU requires that the notification of the intended national measures must be based on new scientific evidence relating to the protection of the environment or the working environment on grounds of a problem specific to the notifying Member State arising after the adoption of the harmonisation measure and must be accompanied by a description of the grounds for introducing the intended national measures.
- (19) In support of the request for a lower limit on cadmium in phosphate fertilisers the Swedish authorities have submitted a national risk assessment and some studies. This assessment takes into account the general EU risk assessment of cadmium and cadmium oxide produced in 2007 in accordance with Council Regulation (EEC) No 793/93 ⁽¹⁾, a scientific opinion from the European Food Safety Authority on cadmium in food ⁽²⁾, as well as old and new data relating to the assessment of the risks to human health and the environment from cadmium in fertilisers in Sweden. The Swedish risk assessment is published on the internet ⁽³⁾.
- (20) According to the Swedish authorities, the new risk assessment shows the need to reduce exposure to cadmium to protect the health of the Swedish population in the long term. Exposure depends on the intake of cadmium via food, mainly from plants and therefore it is necessary to reduce the risk of high levels of cadmium in crops. Arable soils are in general more acidic in Sweden than in Central Europe and this specific situation makes cadmium more readily available for plants.
- (21) Furthermore, lowering the national limit of 100 grams of cadmium per tonne phosphorous to 46 grams of cadmium per tonne phosphorous is a measure intended to reduce the accumulation of cadmium in soils and also risks to aquatic organisms living in extreme soft waters as occur in Sweden.
- (22) In the light of the foregoing, the Commission considers that the application submitted by the Kingdom of Sweden with a view to obtaining approval to lower the content of cadmium in fertilisers to a maximum level of 46 grams of cadmium per tonne of phosphorus is admissible.

⁽¹⁾ EU RAR, ECB 2007: European Union Risk Assessment Report cadmium oxide and cadmium metal, Volume 72 European Commission, Joint Research Centre, Institute of Health and Consumer Protection.

⁽²⁾ EFSA 2009: Scientific Opinion of the Panel on contaminants in the Food Chain on a request from the European Commission on cadmium in food. The EFSA Journal (2009) 980, 1-139.

⁽³⁾ Available at: http://ec.europa.eu/enterprise/sectors/chemicals/documents/specific-chemicals/fertilisers/cadmium/risk-assessment_en.htm

2. Recourse to Article 114(6), third subparagraph TFEU

2.1. Justification based on the complexity of the matter

- (23) To support its request, Sweden has conducted a new risk assessment which was finalised in January 2011, in which it compares the predicted no effect concentrations (PNECs) for organisms representative for various environmental compartments with the cadmium concentrations in the Swedish environment. In their notification, reference is also made to certain studies made available in the framework of the previous requests submitted to the Commission in accordance with Article 114(4) of the Treaty and to the EU risk assessment on cadmium and cadmium oxide.
- (24) The PNEC for fresh water is dependent on hardness. Since Sweden has very soft fresh waters, toxicity for aquatic organisms is expected to occur at lower cadmium concentration compared to other parts of Europe. The Swedish authorities, therefore, consider that it is likely that aquatic organisms in Swedish waters are in general more sensitive to additional cadmium compared to waters in Central and Southern Europe.
- (25) Results of monitoring programmes in Swedish surface waters in 2006 and 2009 show that about 1 % of the lakes and 7 % of the coastal waters show higher cadmium concentrations than the PNEC values. A review conducted in 2008 concluded that emission reduction measures have for most metals led to significant decreased concentrations in aquatic organisms, but for cadmium the situation is less clear. A tendency of increasing effects on the immune system in fish (eelpout) during the last years seems to correlate with increasing concentrations of cadmium in fish. A further report has been produced in 2011 with the aim to describe future trends of cadmium in arable soils and crops to estimate concentrations in 100 years and results have been used in a worst case modelling to estimate the risk to aquatic organisms inhabiting waters close to fields fertilised during 100 years ahead.
- (26) The Swedish authorities conclude in their assessment that there might be an increased risk for aquatic organisms living in extremely soft waters (below hardness 5 mg CaCO₃/l) in the longer term. But this is only likely in small brooks with low dilution of the drainage water from the agricultural soil. No other risk to the environment resulting from the use of cadmium in fertilisers has been identified by the Swedish authorities.
- (27) In the light of the complexity of the relations of cadmium input via phosphate fertilisers, possible accumulation and risks to the environment, as already

demonstrated during the evaluation of similar requests for derogation from Austria, Finland, and the Czech Republic, as well as the earlier requests from Sweden, the Commission requested the Scientific Committee on Health and Environmental Risks (SCHER) for an opinion on the overall quality of the Swedish risk assessment, any significant deficiencies, the appropriateness of the scenarios studied and the assumptions made, as well as the reliability and validity of the conclusions concerning the identified risks for the environment.

- (28) The SCHER adopted its opinion on 27 February 2012 ⁽¹⁾. SCHER concluded that the risk assessment report prepared by the Swedish authorities is of good scientific quality and that in general the scenarios studied are appropriate and most parameter values used in the scenarios are acceptable. However, SCHER considers that a number of statements and/or assumptions in the report are not supported by sufficient evidence. For example, the observations given in the fish monitoring studies assume a cause-effect relationship which is not proven. Another example is the important (central to the risk assessment) assumption of a 1/2 dilution factor used to calculate the cadmium concentration in the surface waters of brooks. No scientific evidence or justification is given to support this factor. SCHER also notes that for some scenarios rather worst-case conditions were used. For example, the calculations for phosphate applications on agricultural soils use application rates that are actually valid for less than 25 % of Swedish soils. The calculations of the water surface concentrations in the brooks after drainage seem problematic and the proposed levels do not correspond with the measured concentrations given elsewhere in the report. The PNECs used in the Swedish risk assessment are those suggested in the EU RAR on cadmium and as such can be supported by SCHER. The presented risk characterisation ratios (RCR) are thus solely dependent on the exposure assessment, i.e. the predicted cadmium concentrations in Swedish surface waters. The latter are dependent on the – unsubstantiated – soil/brook dilution factor. SCHER does not agree either with the assumption that there is no adsorption of cadmium in the soil. This will occur only if the soil is already heavily contaminated and no net adsorption occurs at steady state, which is not the situation in Sweden. The Swedish report also assumes that there is no cadmium adsorption in soil occurring deeper than 30 cm, which is also not the case. Consequently, SCHER does not support the results presented by the Swedish authorities for brooks, which is the only environmental compartment for which the Swedish authorities had identified risks.

- (29) Nonetheless, SCHER recalls the earlier assessment of CSTE in 2002, which estimated that cadmium concentrations in soil are expected not to increase in most

European soils at a limit of 46 mg Cd/kg P. SCHER confirms that such estimate is still defensible including for Swedish agricultural soils and notes that the derivation was based on a 'stand-still principle', not on a risk assessment as performed by the Swedish authorities in their current justification.

- (30) Although, in its opinion of 27 February 2012, SCHER considers that the risk assessment report prepared by the Swedish authorities is of good scientific quality and contains new and relevant data, some uncertainties remain regarding certain key assumptions used by the Swedish authorities to conclude that there is a risk to aquatic organisms in small brooks in Sweden. This will need further clarification from the Swedish authorities to allow the Commission to take a final position.

2.2. Absence of danger to human health

- (31) In their justification, the Swedish authorities identify risks for sensitive groups of the population (diabetics, people suffering from osteoporosis or iron deficiency). These risks are caused by long-term exposure to cadmium through the diet. Therefore, there is no danger to human health linked to a decision to extend the assessment of the Swedish situation for an additional period of six months. This additional period will allow the Commission to take into account further clarifications to be provided by the Swedish authorities in order to take a final decision.
- (32) Based on the above, the Commission considers that the conditions laid down in Article 114(6), third subparagraph, are met in order for it to have recourse to the possibility of extending the six-month period within which it has to approve or reject the national provisions notified by Sweden.

IV. CONCLUSION

- (33) In the light of the foregoing, it can be concluded that the request of the Kingdom of Sweden for introducing national provisions derogating from Regulation (EC) No 2003/2003 is admissible.

- (34) However, in view of the complexity of the matter and of the absence of danger for human health by adopting the present Decision, the Commission considers it justified to extend the period referred to in Article 114(6), first paragraph, TFEU for a further period expiring on 18 October 2012,

⁽¹⁾ http://ec.europa.eu/health/scientific_committees/environmental_risks/docs/scher_o_156.pdf

HAS ADOPTED THIS DECISION:

Article 1

Pursuant to Article 114(6), third paragraph, TFEU, the period to approve or reject the envisaged national provisions on cadmium in fertilisers notified by the Kingdom of Sweden on 17 October 2011 pursuant to Article 114(5) TFEU is extended until 18 October 2012.

Article 2

This Decision is addressed to the Kingdom of Sweden.

Done at Brussels, 18 April 2012.

For the Commission

Antonio TAJANI

Vice-President

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