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Legislation

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Price: EUR 18

EN

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I

(Acts whose publication is obligatory)

COUNCIL REGULATION (EC, EURATOM) No 1734/2005**of 17 October 2005****repealing Regulation No 6/66/Euratom, 121/66/EEC of the Councils, Regulation No 7/66/Euratom, 122/66/EEC of the Councils and Regulation No 174/65/EEC, 14/65/Euratom of the Councils**

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Staff Regulations of officials of the European Communities and the Conditions of employment of other servants of the European Communities laid down by Regulation (EEC, Euratom, ECSC) No 259/68 ⁽¹⁾, as last amended by Regulation (EC, Euratom) No 31/2005 ⁽²⁾,

Having regard to the proposal from the Commission,

Having regard to the opinion of the Staff Regulations Committee,

Whereas:

places for which a transport allowance may be granted, the maximum amount of that allowance and the rules for granting it ⁽³⁾ lays down detailed rules for granting the transport allowance provided for in Article 14b of Annex VII to the Staff Regulations. That Article was also repealed by Regulation (EC, Euratom) No 723/2004.

(3) Regulation No 174/65/EEC, 14/65/Euratom of the Councils of 28 December 1965 laying down mortality and disability tables and the assumed salary increases to be used for calculating the actuarial values provided for in the Staff Regulations of Officials of the Communities ⁽⁶⁾ concerns the implementation of Article 39 of Annex VIII to the Staff Regulations, which was also repealed by Regulation (EC, Euratom) No 723/2004.

(4) For reasons of clarity and legal certainty, the above Regulations, which have now become obsolete, should be expressly repealed,

(1) Regulation No 6/66/Euratom, 121/66/EEC of the Councils of 28 July 1966 laying down the list of places for which a rent allowance may be granted, the maximum amount of that allowance and the rules for granting it ⁽³⁾ lays down detailed rules for the application of Article 14a of Annex VII to the Staff Regulations. That Article was repealed by Council Regulation (EC, Euratom) No 723/2004 amending the Staff Regulations of officials of the European Communities and the Conditions of employment of other servants of the European Communities ⁽⁴⁾.

(2) Regulation No 7/66/Euratom, 122/66/EEC of the Councils of 28 July 1966 laying down the list of

HAS ADOPTED THIS REGULATION:

Article 1

Regulations No 6/66/Euratom, 121/66/EEC, No 7/66/Euratom, 122/66/EEC and No 174/65/EEC, 14/65/Euratom are hereby repealed.

Article 2

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

⁽¹⁾ OJ L 56, 4.3.1968, p. 1.

⁽²⁾ OJ L 8, 12.1.2005, p. 1.

⁽³⁾ OJ 150, 12.8.1966, p. 2749/66. Regulation as last amended by Regulation (ECSC, EC, Euratom) No 3358/94 (OJ L 356, 31.12.1994, p. 1).

⁽⁴⁾ OJ L 124, 27.4.2004, p. 1.

⁽⁵⁾ OJ 150, 12.8.1966, p. 2751/66. Regulation as amended by Regulation (EC, ECSC, Euratom) No 2460/98 (OJ L 307, 17.11.1998, p. 4).

⁽⁶⁾ OJ 226, 31.12.1965, p. 3309/65.

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

Done at Luxembourg, 17 October 2005.

For the Council

The President

M. BECKETT

COMMISSION REGULATION (EC) No 1735/2005**of 21 October 2005****establishing the standard import values for determining the entry price of certain fruit and vegetables**

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Commission Regulation (EC) No 3223/94 of 21 December 1994 on detailed rules for the application of the import arrangements for fruit and vegetables ⁽¹⁾, and in particular Article 4(1) thereof,

Whereas:

- (1) Regulation (EC) No 3223/94 lays down, pursuant to the outcome of the Uruguay Round multilateral trade negotiations, the criteria whereby the Commission fixes the

standard values for imports from third countries, in respect of the products and periods stipulated in the Annex thereto.

- (2) In compliance with the above criteria, the standard import values must be fixed at the levels set out in the Annex to this Regulation,

HAS ADOPTED THIS REGULATION:

Article 1

The standard import values referred to in Article 4 of Regulation (EC) No 3223/94 shall be fixed as indicated in the Annex hereto.

Article 2

This Regulation shall enter into force on 22 October 2005.

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

Done at Brussels, 21 October 2005.

For the Commission

J. M. SILVA RODRÍGUEZ

*Director-General for Agriculture and
Rural Development*

⁽¹⁾ OJ L 337, 24.12.1994, p. 66. Regulation as last amended by Regulation (EC) No 386/2005 (OJ L 62, 9.3.2005, p. 3).

ANNEX

to Commission Regulation of 21 October 2005 establishing the 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	052	49,2
	096	30,0
	204	43,1
	624	421,2
	999	135,9
0707 00 05	052	79,1
	999	79,1
0709 90 70	052	94,0
	999	94,0
0805 50 10	052	75,8
	388	68,6
	524	55,3
	528	61,3
	999	65,3
0806 10 10	052	94,5
	400	200,0
	508	241,7
	624	178,2
	999	178,6
0808 10 80	052	77,3
	388	76,8
	400	99,7
	404	84,6
	512	47,0
	528	45,5
	720	75,5
	800	163,4
	804	70,3
0808 20 50	999	82,2
	052	90,4
	388	57,1
	720	65,1
	999	70,9

⁽¹⁾ Country nomenclature as fixed by Commission Regulation (EC) No 750/2005 (OJ L 126, 19.5.2005, p. 12). Code '999' stands for 'of other origin'.

COMMISSION REGULATION (EC) No 1736/2005**of 21 October 2005****opening a tendering procedure for the sale of wine alcohol for use as bioethanol in the Community**

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

HAS ADOPTED THIS REGULATION:

Having regard to the Treaty establishing the European Community,

Having regard to Council Regulation (EC) No 1493/1999 of 17 May 1999 on the common organisation of the market in wine ⁽¹⁾, and in particular Article 33 thereof,

Whereas:

- (1) Commission Regulation (EC) No 1623/2000 of 25 July 2000 laying down detailed rules for implementing Regulation (EC) No 1493/1999 on the common organisation of the market in wine with regard to market mechanisms ⁽²⁾ includes detailed rules for disposing of stocks of alcohol obtained from distillation under Articles 35, 36 and 39 of Council Regulation (EEC) No 822/87 of 16 March 1987 on the common organisation of the market in wine ⁽³⁾, and referred to in Articles 27, 28 and 30 of Regulation (EC) No 1493/1999 and held by the intervention agencies.
- (2) A tendering procedure for the sale of wine alcohol for exclusive use as bioethanol in the fuel sector in the Community should be organised in accordance with Article 92 of Regulation (EC) No 1623/2000 with a view to reducing Community stocks of wine alcohol and ensuring the continuity of supplies to firms approved under that Article.
- (3) Since 1 January 1999, in accordance with Council Regulation (EC) No 2799/98 of 15 December 1998 establishing agrimonetary arrangements for the euro ⁽⁴⁾, the selling price and securities must be expressed, and payments made, in euro.
- (4) The measures provided for in this Regulation are in accordance with the opinion of the Management Committee for Wine,

Article 1

1. Tendering procedure No 3/2005 EC is hereby opened for the sale of wine alcohol for use as bioethanol in the Community.

The alcohol concerned has been produced from distillation under Articles 27, 28 and 30 of Regulation (EC) No 1493/1999 and is held by the intervention agencies of the Member States.

2. The total volume put up for sale is 676 071,378 hectolitres of alcohol at 100 % volume, broken down as follows:

- (a) one lot with the number 20/2005 EC for a quantity of 100 000 hectolitres of alcohol at 100 % volume,
- (b) one lot with the number 21/2005 EC for a quantity of 50 000 hectolitres of alcohol at 100 % volume,
- (c) one lot with the number 22/2005 EC for a quantity of 97 469 hectolitres of alcohol at 100 % volume,
- (d) one lot with the number 23/2005 EC for a quantity of 50 000 hectolitres of alcohol at 100 % volume,
- (e) one lot with the number 24/2005 EC for a quantity of 50 000 hectolitres of alcohol at 100 % volume,
- (f) one lot with the number 25/2005 EC for a quantity of 50 000 hectolitres of alcohol at 100 % volume,
- (g) one lot with the number 26/2005 EC for a quantity of 50 000 hectolitres of alcohol at 100 % volume,
- (h) one lot with the number 27/2005 EC for a quantity of 50 000 hectolitres of alcohol at 100 % volume,
- (i) one lot with the number 28/2005 EC for a quantity of 100 000 hectolitres of alcohol at 100 % volume,

⁽¹⁾ OJ L 179, 14.7.1999, p. 1. Regulation as last amended by the 2003 Act of Accession.

⁽²⁾ OJ L 194, 31.7.2000, p. 45. Regulation as last amended by Regulation (EC) No 1219/2005 (OJ L 199, 29.7.2005, p. 45).

⁽³⁾ OJ L 84, 27.3.1987, p. 1. Regulation repealed by Regulation (EC) No 1493/1999.

⁽⁴⁾ OJ L 349, 24.12.1998, p. 1.

(j) one lot with the number 29/2005 EC for a quantity of 70 000 hectolitres of alcohol at 100 % volume,

(k) one lot with the number 30/2005 EC for a quantity of 8 602,378 hectolitres of alcohol at 100 % volume.

3. The location and references of the vats making up the lots, the quantity of alcohol in each vat, the alcoholic strength and the characteristics of the alcohol are as set out in Annex I to this Regulation.

4. Only firms approved under Article 92 of Regulation (EC) No 1623/2000 may take part in the tendering procedure.

Article 2

The sale shall be conducted in accordance with Articles 93, 94, 94b, 94c, 94d, 95, 96, 97, 98, 100 and 101 of Regulation (EC) No 1623/2000 and Article 2 of Regulation (EC) No 2799/98.

Article 3

1. Tenders shall be delivered to the intervention agencies holding the alcohol listed in Annex II or sent by registered mail to the address of the intervention agency.

2. Tenders shall be placed in two sealed envelopes, the inside envelope marked 'Tender under procedure No 3/2005 EC for use as bioethanol in the Community', the outer envelope bearing the address of the intervention agency concerned.

3. Tenders must reach the intervention agency concerned not later than 12 noon Brussels time on 21 November 2005.

Article 4

1. To be eligible for consideration, tenders must comply with Articles 94 and 97 of Regulation (EC) No 1623/2000.

2. To be eligible for consideration, when they are presented, tenders must be accompanied by:

(a) proof that a tendering security of EUR 4 per hectolitre of alcohol at 100 % volume has been lodged with the intervention agency holding the alcohol concerned,

(b) an indication of the Member State(s) of final use of the alcohol and an undertaking by the tenderer to comply with that destination,

(c) the name and address of the tenderer, the reference number of the notice of invitation to tender and the price proposed, expressed in euro per hectolitre of alcohol at 100 % volume,

(d) an undertaking by tenderers that they will comply with all the rules applicable to this tendering procedure,

(e) a statement by tenderers to the effect that:

(i) they waive all claims in respect of the quality and characteristics of any alcohol awarded to them,

(ii) they agree to submit to any checks made on the destination and use made of the alcohol,

(iii) they accept that it is their responsibility to provide evidence that the alcohol is used as specified in the notice of invitation to tender in question.

Article 5

The notifications provided for in Article 94a of Regulation (EC) No 1623/2000 relating to the tendering procedure opened by this Regulation shall be sent to the Commission at the address given in Annex III to this Regulation.

Article 6

The formalities for sampling shall be as set out in Article 98 of Regulation (EC) No 1623/2000.

The intervention agency shall provide all the necessary information on the characteristics of the alcohol put up for sale.

On application to the intervention agency concerned, interested parties may obtain samples of the alcohol put up for sale, taken by a representative of the intervention agency concerned.

Article 7

1. The intervention agencies in the Member States in which the alcohol put up for sale is stored shall carry out appropriate checks to verify the nature of the alcohol at the time of end-use. To that end, they may:

- (a) apply Article 102 of Regulation (EC) No 1623/2000 *mutatis mutandis*,
- (b) carry out checks on samples using nuclear magnetic resonance analysis to verify the nature of the alcohol at the time of end-use.

2. The costs of the checks referred to in paragraph 1 shall be borne by the firms to which the alcohol is sold.

Article 8

Member States shall notify the Commission of the name and address of the tenderer corresponding to each tender by 31 December 2005 at the latest.

Article 9

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, 21 October 2005.

For the Commission

Mariann FISCHER BOEL

Member of the Commission

ANNEX I

Member State and lot number	Location	Vat No	Quantity in hectolitres of alcohol at 100 % vol	Regulation (EC) No 1493/1999 (Article)	Type of alcohol
Spain Lot No 20/2005 EC	Tarancón	A-9	24 338	30	raw
		A-10	24 698	30	raw
		B-8	1 682	30	raw
		B-9	24 568	30	raw
		B-10	24 714	30	raw
	Total		100 000		
Spain Lot No 21/2005 EC	Tarancón	B-5	24 753	27+28	raw
		C-3	25 247	27	raw
	Total		50 000		
France Lot No 22/2005 EC	Onivins — Chez Vopak 3197 XK Botlek Rotterdam Netherlands	410	21 011	30	raw
		804	18 201	30	raw
		804	50 781	30	raw
		804B	7 476	27	raw
	Total		97 469		
France Lot No 23/2005 EC	Onivins — Port-la-Nouvelle Entrepôt d'alcool Av. Adolphe Turrel, BP 6 11218 Port-la-Nouvelle	31	290	28	raw
		31	12 389	30	raw
		21	2 785	28	raw
		20	12 315	27	raw
		19	5 701	30	raw
		19	6 755	28	raw
		21	9 765	30	raw
	Total		50 000		
France Lot No 24/2005 EC	Onivins — Port-la-Nouvelle Entrepôt d'alcool Av. Adolphe Turrel, BP 6 11218 Port-la-Nouvelle	31	9 336	30	raw
		33	18 044	27	raw
		32	22 620	27	raw
	Total		50 000		
France Lot No 25/2005 EC	Deulep — PSL 13230 Port-Saint-Louis-du-Rhône Deulep BD Chanzy 30800 Saint-Gilles-du-Gard	B4	33 760	27	raw
		503	8 180	27	raw
		504	8 060	30	raw
	Total		50 000		
Italy Lot No 26/2005 EC	Balice-Valenzano (BA)	13A-43A-46A-48A-52A-54A	11 250	27+30	raw
	Deta-Barberino Val d'Elsa (FI)	5A	1 625	27	raw
	S.V.A.-Ortona (CH)	18A	1 375	30	raw
	Bonollo-Paduni (FR)	15A-26A			
	Bonollo-Torrita di Siena (SI)	1C-3C-4C-9C-10C-11C-12C-13C-16C-17C-19C-20C-21C	27 500	27+30	raw
	D'Auria-Ortona (CH)	8A-38A-39A-40A-61A	8 250	27	raw
	Total		50 000		

Member State and lot number	Location	Vat No	Quantity in hectolitres of alcohol at 100 % vol	Regulation (EC) No 1493/1999 (Article)	Type of alcohol
Italy Lot No 27/2005 EC	Enodistil-Alcamo (PA)	22A	1 500	30	raw
	Trapas-Petrosino (TP)	2A-24A	6 000	30	raw
	S.V.M.-Sciacca (AG)	3A-29A-37A	1 200	27	raw
	Gedis-Marsala (TP)	88	7 000	30	raw
	Bertolino-Petrosino (PA)	2A-3A-34A	26 500	27+30	raw
	De Luca-Novoli (LE)	4A-7A-18A	6 000	27	raw
	Balice Distilli-Mottola (TA)	2A-3A	1 800	27	raw
	Total		50 000		
Italy Lot No 28/2005 EC	Dister-Faenza (RA)	124A	6 975	30	raw
	Di Lorenzo-Ponte Valleceppe (PG)	18A-26A	11 900	30	raw
	F.lli Cipriani-Chizzola di Ala (TN)	31A-32A	8 000	27	raw
	I.C.V.-Borgoricco (PD)	5A	1 600	27	raw
	Mazzari-S. Agata sul Santerno (RA)	4A-5A-6A-7A	27 000	27+30	raw
	Caviro-Faenza (RA)	2A-5A-13A-17A	30 100	27	raw
	Villapana-Faenza (RA)	5A-8A	11 000	27	raw
	Tampieri-Faenza (RA)	1A-3A-4A	1 800	27	raw
	Bonollo U.-Conselve (PD)	1A	1 384	30	raw
	Cantine Soc. Venete-Ponte di Piave (TV)	14A	241	30	raw
	Total		100 000		
Portugal Lot No 29/2005 EC	Riachos	1-C	4 775,28	27	raw
	Armazém da SLD	1-D	4 841,71	27	raw
	Casal do Bernardino	1-E	4 705,93	27	raw
	2350-336 Riachos	1-F	4 749,53	27	raw
	Aveiro	S 201	34 300,34	27	raw
	Instalações da Petrogal				
	Cais da Mó do Meio				
	3834-908 Gafanha da Nazaré				
	S. João da Pesqueira	Inox 4	2 305,47	27	raw
	Armazéns da SDD	Inox 14	9 979,42	27	raw
	Parque de Seixas	Inox 15	4 342,32	27	raw
	Ervedosa do Douro				
	5130 S. João da Pesqueira				
	Total		70 000		
Germany Lot No 30/2005 EC	Papiermühle 16 D-37603 Holzminden	107	8 602,378	30	raw
	Total		8 602,378		

ANNEX II**Intervention agencies holding the alcohol referred to in Article 3**

Onivins-Libourne — Délégation nationale 17, avenue de la Ballastière, BP 231, F-33505 Libourne Cedex
[tel. (33) 557 55 20 00; telex 57 20 25; fax (33) 557 55 20 59]

FEGA — Beneficencia 8, E-28004 Madrid [tel. (34) 913 47 64 66; fax (34) 913 47 64 65]

AGEA — Via Torino 45, I-00184 Roma [tel. (39) 064 94 99 714; fax (39) 064 94 99 761]

IVV — Instituto da Vinha e do Vinho, R. Mouzinho da Silveira, No 5, P-1250-165 Lisbon [tel. (351) 21 350 67 00;
fax (351) 21 356 12 25]

Bundesanstalt für Landwirtschaft und Ernährung (BLE) — Deichmanns Aue 29, D-53179 Bonn
(tel. (49) 228/68 45-33 86/34 79, fax (49) 228/68 45-37 94)

ANNEX III**Address referred to in Article 5**

European Commission
Directorate-General for Agriculture and Rural Development, Unit D-2
Rue de la Loi/Wetstraat 200
B-1049 Brussels
Fax (32-2) 298 55 28
E-mail address: agri-market-tenders@cec.eu.int

COMMISSION REGULATION (EC) No 1737/2005**of 21 October 2005****amending Regulation (EC) No 1726/1999 as regards the definition and transmission of information on labour costs****(Text with EEA relevance)**

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Council Regulation (EC) No 530/1999 of 9 March 1999 concerning structural statistics on earnings and on labour costs ⁽¹⁾ and in particular Article 11(ii) and (iii) thereof,

Whereas:

- (1) Commission Regulation (EC) No 1726/1999 of 27 July 1999 implementing Council Regulation (EC) No 530/1999 concerning structural statistics on earnings and on labour costs as regards the definition and transmission of information on labour costs ⁽²⁾ sets out implementing measures concerning the definition and breakdown of the information to be provided and the appropriate technical format for the transmission of the results as provided for in Article 11 of Regulation (EC) No 530/1999.
- (2) The labour cost survey for the reference year 2000 was the first survey based on Regulation (EC) No 1726/1999. The experience with this survey has demonstrated the need to improve the provisions of Regulation (EC) No 1726/1999, in order to bring them into line with the corresponding provisions of Commission Regulation (EC) No 1916/2000 of 8 September 2000 on implementing

Council Regulation (EC) No 530/1999 concerning structural statistics on earnings and on labour costs as regards the definition and transmission of information on structure of earnings ⁽³⁾ and to improve the links between the data from the various surveys on earnings and on labour costs every second year.

- (3) Regulation (EC) No 1726/1999 should therefore be amended accordingly.

- (4) The measures provided for in this Regulation are in accordance with the opinion of the Statistical Programme Committee,

HAS ADOPTED THIS REGULATION:

Article 1

The Annexes to Regulation (EC) No 1726/1999 are replaced by the text in the Annexes 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*.

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

Done at Brussels, 21 October 2005.

For the Commission

Joaquín ALMUNIA

Member of the Commission

⁽¹⁾ OJ L 63, 12.3.1999, p. 6. Regulation as amended by Regulation (EC) No 1882/2003 of the European Parliament and of the Council (OJ L 284, 31.10.2003, p. 1).

⁽²⁾ OJ L 203, 3.8.1999, p. 28.

⁽³⁾ OJ L 229, 9.9.2000, p. 3.

ANNEX I

LIST OF VARIABLES

Structural statistics on labour costs

Table A — National data

Table B — National data by size class of enterprise

Table C — Regional data

For the variables listed below, either Table A only or all three tables must be provided. Mandatory delivery is indicated by 'm' and optional delivery by 'o'. The transmission codes belonging to the different categories of qualitative variables or size classes of quantitative variables are set by Eurostat in an implementation paper.

Variable		Only A	A-C ⁽¹⁾
A.	Number of employees		
A.1	Total number of employees		m
A.11	Full-time employees (excluding apprentices)		m
A.12	Part-time employees (excluding apprentices)		m
A.121	Part-time employees converted into full-time units (excluding apprentices)		m
A.13	Apprentices		m
A.131	Apprentices converted into full-time units		m
B.	Hours actually worked		
B.1	Total hours actually worked		m
B.11	Hours actually worked by full-time employees (excluding apprentices)		m
B.12	Hours actually worked by part-time employees (excluding apprentices)		m
B.13	Hours actually worked by apprentices		m
C.	Paid hours		
C.1	Total hours paid	m	
C.11	Paid hours for full-time employees (excluding apprentices)	m	
C.12	Paid hours for part-time employees (excluding apprentices)	m	
C.13	Paid hours for apprentices	m	
D.	Labour costs (for details see Figure 1 below)		
D.1	Compensation of employees		m
D.11	Wages and salaries (for details see Figure 2 below)		m
D.111	Wages and salaries (excluding apprentices)		m
D.1111	Direct remuneration, bonuses and allowances		m
D.11111	Direct remuneration, bonuses and allowances paid in each pay period	m	
D.11112	Direct remuneration, bonuses and allowances not paid in each pay period ⁽²⁾	m	
D.1112	Payments to employees' savings schemes		m

Variable		Only A	A-C ⁽¹⁾
D.1113	Payments for days not worked		m
D.1114	Wages and salaries in kind		m
D.11141	Company products <i>(optional)</i>	o	
D.11142	Staff housing ⁽²⁾ <i>(optional)</i>	o	
D.11143	Company cars <i>(optional)</i>	o	
D.11144	Stock options and share purchase schemes <i>(optional)</i>	o	
D.11145	Other <i>(optional)</i>	o	
D.112	Wages and salaries of apprentices		m
D.12	Employers' social contributions <i>(for details see Figure 3 below)</i>		m
D.121	Employers' actual social contributions <i>(excluding apprentices)</i>		m
D.1211	Statutory social-security contributions	m	
D.1212	Collectively agreed, contractual and voluntary social-security contributions	m	
D.122	Employers' imputed social contributions <i>(excluding apprentices)</i>		m
D.1221	Guaranteed remuneration in the event of sickness <i>(optional)</i>	o	
D.1222	Employers' imputed social contributions for pensions and health care <i>(optional)</i>	o	
D.1223	Payments to employees leaving the enterprise <i>(optional)</i>	o	
D.1224	Other imputed social contributions of the employer <i>(optional)</i>	o	
D.123	Employers' social contributions for apprentices		m
D.2	Vocational training costs		m
D.3	Other expenditure paid by the employer		m
D.4	Taxes		m
D.5	Subsidies received by the employer		m
E.	Information on units		
E.1	Local units, universe		m
E.2	Local units, sample		m

⁽¹⁾ Tables C are relevant only to countries with NUTS 1 regions.

⁽²⁾ Except payments to employee savings schemes.

⁽³⁾ Except removal allowances.

Optionally, Member States may record more detailed data for the following variables (transmission to Eurostat only on request):

A.11 Full-time employees

A.12 Part-time employees

D.11112 Direct remuneration, bonuses and allowances not paid in each pay period

D.1113 Payments for days not worked

D.1211 Statutory social-security contributions

D.1212 Collectively agreed, contractual and voluntary social-security contributions

D.1223 Payments to employees leaving the enterprise

Figure 1

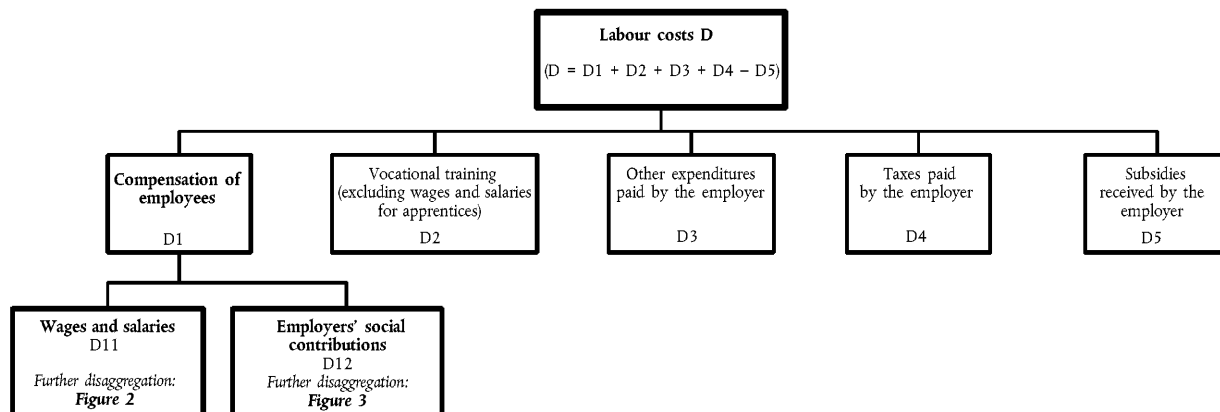
Labour costs and their main components

Figure 2

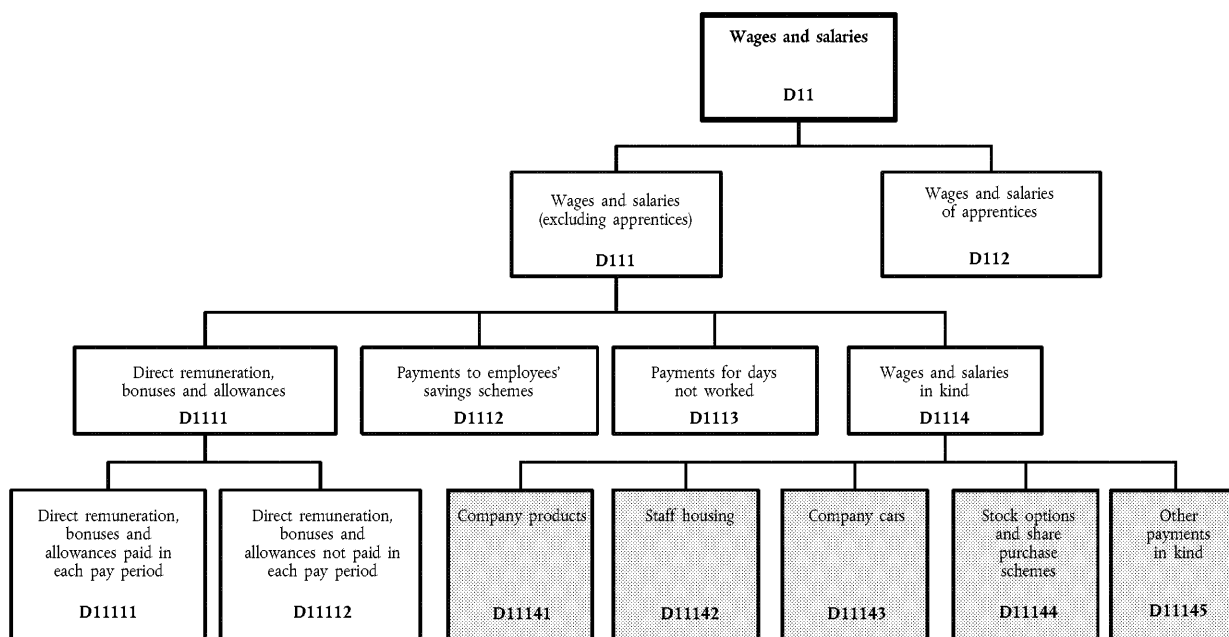
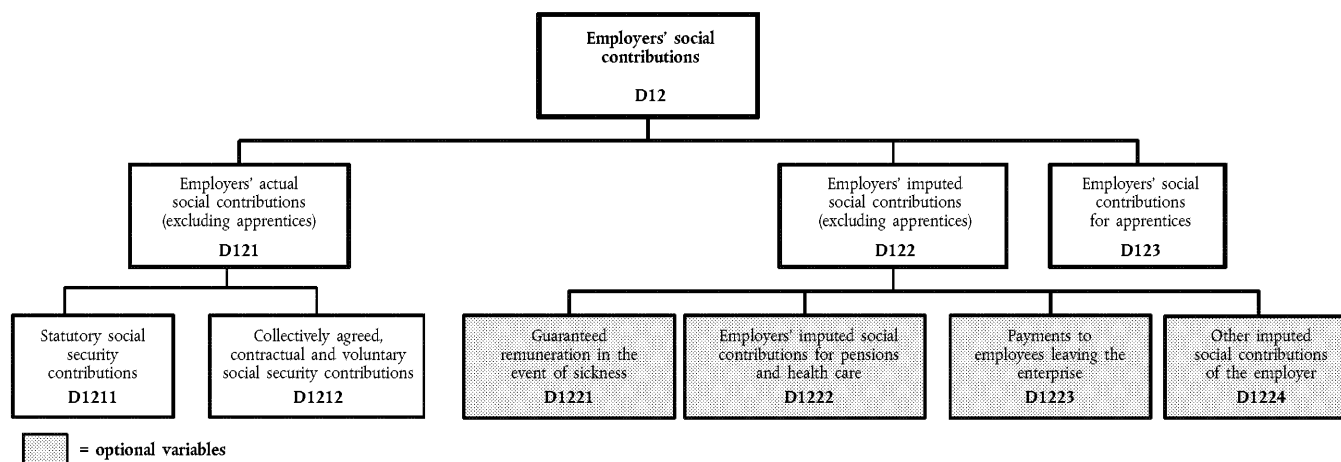
Disaggregation of the component 'Wages and salaries' (D.11)

Figure 3

Disaggregation of the component 'Employers' social contributions' (D.12)



ANNEX II

DEFINITIONS OF THE VARIABLES

A. NUMBER OF EMPLOYEES

Employees are all persons irrespective of their nationality or the length of their working time in the country who have a direct employment contract with the enterprise or local unit (whether the agreement is formal or informal) and receive remuneration, irrespective of the type of work performed, the number of hours worked (full-time or part-time) and the duration of the contract (fixed or indefinite). The remuneration of employees can take the form of wages and salaries including bonuses, pay for piecework and shift work, allowances, fees, tips and gratuities, commission and remuneration in kind.

This definition of employees covers manual and non-manual workers and management personnel in the private and public sectors in economic activities classified to Sections C-K and M-O of NACE Rev. 1.1 in enterprises with at least 10 employees ⁽¹⁾.

The following list gives illustrative examples of categories of employees that are *included*:

- sales representatives, provided they are on the payroll and receive another form of remuneration in addition to any commission,
- paid working proprietors,
- apprentices,
- students and trainees (articled clerks, student nurses, research or teaching assistants, hospital interns, etc.) who have a formal commitment whereby they contribute to the unit's production process in return for remuneration,
- interim or temporary workers (e.g. secretarial staff) recruited, employed and remunerated by employment agencies to work elsewhere, often for temporary periods ⁽²⁾; seasonal and occasional workers, if they have a formal or informal agreement with the enterprise or local unit and pre-defined working hours,
- employees for whom labour costs were incurred in the reference year but who were temporarily not at work because of illness or injury, holiday or vacation, strike or lock-out, educational or training leave, maternity or parental leave, reduced economic activity, suspension of work due to bad weather, mechanical breakdowns, lack of materials, fuels or power, or other temporary absence with or without leave,
- those working abroad if they continue to receive remuneration from the statistical unit,
- outworkers ⁽³⁾, including home workers and tele-workers, if there is an explicit agreement that such workers are remunerated on the basis of the work done: that is, the amount of labour which is contributed as an input into some process of production.

The following categories should be *excluded*:

- sales representatives and other persons who are wholly remunerated by way of fees or commission, are not on the payroll, or who are self-employed,
- owners, directors or managers whose remuneration wholly takes the form of a share in profits,
- family workers who are not employees (as defined above) of the enterprise or local unit,
- own-account workers,
- unpaid voluntary workers (e.g. those who typically work for non-profit institutions such as charities).

Reference ESA 95: 11.12 to 11.14

⁽¹⁾ The coverage of Section L of NACE Rev.1.1 is optional. The coverage of employees in enterprises with less than 10 employees is optional as well. The transmission codes for the economic activities of NACE Rev. 1.1, the country or region according to the NUTS classification in force and the size classes of enterprises are set by Eurostat in an implementation paper.

⁽²⁾ To avoid double counting, the hours worked by persons employed by employment agencies are to be included in the NACE category of the employment agency (NACE Rev.1.1, 74.50) and not in the NACE category of the enterprise for which they actually work.

⁽³⁾ An outworker is a person who agrees to work for a particular enterprise or to supply a certain quantity of goods or services to a particular enterprise by prior arrangement or contract with that enterprise, but whose place of work is not within it (Reference ESA 95: 11.13(g)). Hours actually worked by outworkers might be estimated.

A.1 *Total number of employees*

This variable covers full-time employees (A.11), part-time employees (A.12) and apprentices (A.13)

Reference SBS: code 16130 (number of employees)

A.11 *Full-time employees (excluding apprentices)*

This covers employees (except apprentices) whose regular working hours are the same as the collectively agreed or customary hours worked in the enterprise or local unit, even if their contract is for less than one year. The number of employees required is the average monthly number of full-time employees employed in the reporting unit during the reference year.

A.12 *Part-time employees (excluding apprentices)*

This covers employees (except apprentices) whose regular working hours are less than the collectively agreed or customary hours worked in the enterprise or local unit, whether daily, weekly or monthly (half-day, three-quarter time, four-fifths time, etc.) The number of employees required is the average monthly number of part-time employees employed in the reporting unit during the reference year.

A.121 *Part-time employees converted into full-time units*

This conversion is to be carried out either directly by the enterprise or local unit making returns or by the collecting agency/national statistical institute on the basis of the normal working hours of full-time workers in this enterprise/local unit, using the method they consider most appropriate. The number of employees required is the average monthly number of part-time employees (converted into full-time units) employed in the reporting unit during the reference year.

Reference ESA 95: 11.32 to 11.34

A.13 *Apprentices*

This covers all employees, full-time or part-time, who do not yet fully participate in the production process and who work either under an apprenticeship contract or in a situation in which vocational training predominates over productivity. The number of apprentices required is the average monthly number employed in the reporting unit during the reference year.

A.131 *Part-time apprentices converted into full-time units*

This conversion is to be carried out either directly by the enterprise or local unit making returns or by the collecting agency/national statistical institute, using the method they consider most appropriate. The hours spent in training either in the enterprise/local unit or in educational establishments should be excluded. The number of apprentices required is the average monthly number of part-time apprentices (converted into full-time units) employed in the reporting unit during the reference year ⁽¹⁾.

References ESA 95: 11.32 to 11.34; SBS: code 16140 (A.11 + A.121 + A.131 corresponds to the SBS variable 'number of employees in full-time units')

B. HOURS ACTUALLY WORKED

The statistics cover the total number of hours worked by all employees during the year. The total number of hours actually worked (B.1) is recorded separately for full-time employees (B.11), part-time employees (B.12) and apprentices (B.13).

Hours actually worked are defined as the sum of all periods spent on direct and ancillary activities to produce goods and services.

Hours actually worked include:

- hours worked during normal periods of work,
- periods of paid overtime, i.e. hours worked in addition to normal working hours, irrespective of the hourly pay rate applied (e.g. one hour worked at double the normal hourly pay rate should be entered as one hour),
- periods of unpaid overtime ⁽²⁾,
- time spent on tasks such as: work and site preparation; preparing, maintaining, repairing and cleaning tools and machines; making out receipts and invoices; writing up work cards and reports, etc.,

⁽¹⁾ If preferred, the average can be based on the weekly (or daily) numbers of employees over the reference year. An average based on quarterly figures on employees is also admissible.

⁽²⁾ Unpaid hours worked as a component of 'hours actually worked' often have to be estimated, for example from household survey data.

- time spent at the place of work during which no work is done owing to, for example, machine stoppages, accidents or occasional lack of work but for which payment is made in accordance with the employment contract,
- short rest periods at the place of work, including tea and coffee breaks,
- hours spent in training either in the enterprise/local unit or in educational establishments (this item is excluded for apprentices).

Hours actually worked *exclude* the following, however:

- hours paid but not worked, for example: paid holidays/vacation, public holidays, absence due to sickness, maternity leave, etc.,
- hours not worked and not paid, for example, during sickness and maternity, etc.,
- hours not worked (whether paid or not) during special leave for medical examinations, marriages, funerals, moving house, following an accident, etc.,
- main meal breaks (i.e. not short rest periods or refreshment breaks),
- hours not worked (whether paid or not) during short-time working, labour disputes, lock-outs, etc.,
- time spent by the employee travelling between home and place of work,
- hours spent by apprentices in training either in the enterprise/local unit or in educational establishments.

References ESA 95: 11.26 to 11.29; SBS: code 16150 (number of hours worked by employees)

C. PAID HOURS

This variable covers the total number of hours paid during the year. The total number of paid hours (C.1) is recorded separately for full-time (C.11), part-time employees (C.12) and apprentices (C.13).

The annual number of paid hours is defined as:

- normal and overtime hours remunerated during the year,
- any hours for which the employee was paid at a reduced rate, even if the difference was made up by payments from social-security funds,
- hours not worked during the reference period but nevertheless paid (annual holidays/vacation, absence due to sickness, public holidays and other hours paid, including time off for medical examinations, births, weddings, funerals, moving house, etc).

Calculation of annual hours actually worked and annual paid hours

These calculations are to be carried out either directly by the enterprises or local units making returns or by the collecting agencies/national statistical institutes, using the method they consider most appropriate. The following models illustrate how hours actually worked and paid hours can be estimated, by making use of information that is available.

Annual hours actually worked for full-time employees (B.11)

Suppose that information is available for the variables listed below:

(A.11) Average monthly number of full-time employees

- (a) Average annual normal contractual hours of a full-time employee, excluding overtime and main meal breaks
- (b) Average annual overtime (both paid and unpaid) of a full-time employee
- (c) Average *daily* number of contractual plus overtime hours worked by a full-time employee, excluding main meal breaks
- (d) Average annual number of days of holidays/vacation per full-time employee, granted by the employer
- (e) Average annual number of days of official public holidays per full-time employee
- (f) Average annual number of days of sickness and maternity leave per full-time employee

- (g) Average annual number of days of short-time working and labour disputes per full-time employee
- (h) Average annual number of other days not actually worked per full-time employee (e.g. special leave for medical examinations, births, marriage, funerals, moving house, following an accident, etc.).

The total annual number of *hours worked* by full-time employees (before corrections for days not actually worked) results to be $(A.11) \times (a+b)$. If one subtracts the total annual number of *hours not actually worked* which is defined by $(A.11) \times c \times (d + e + f + g + h)$ one gets (B.11), the total annual hours actually worked by full-time employees:

$$(B.11) = (A.11) \times [(a+b) - c (d + e + f + g + h)].$$

Annual hours actually worked for part-time employees (B.12) and for apprentices (B.13)

Similar models can be used for the calculation of hours worked by part-time employees and by apprentices.

Annual paid hours for full-time employees (C.11)

Where information is available for the variables listed below

(A.11) Average monthly number of full-time employees

(a1) Average annual paid contractual hours of a full-time employee, excluding overtime and main meal breaks

(b1) Average annual paid overtime hours of a full-time employee

the total *annual* number of *paid hours* for full-time employees is expressed by the equation

$$(C.11) = (A.11) \times (a1 + b1).$$

Annual paid hours for part-time employees (C.12) and for apprentices (C.13)

Similar models can be used to calculate paid hours for part-time employees and for apprentices.

D. LABOUR COSTS

Labour costs mean the total expenditure borne by employers in order to employ staff, a concept which has been adopted in the Community framework and complies broadly with the international definition of the International Conference of Labour Statisticians (Geneva, 1966). Labour costs include compensation of employees (D.1) with wages and salaries in cash or in kind and employers' social contributions, vocational-training costs (D.2), other expenditures (D.3), taxes relating to employment regarded as labour costs (D.4), less any subsidies received (D.5). The costs for persons employed by temporary employment agencies are to be included in the industry of the agency which employs them (NACE Rev. 1.1, 74.50) and not in the industry of the enterprise for which they actually work.

A breakdown at a glance of total labour costs by component is provided by Figures 1 to 3 in Annex I.

D.1 *Compensation of employees*

Compensation of employees is defined as the total remuneration, in cash or in kind, payable by an employer to an employee in return for work done by the latter during the reference period. It is broken down into:

- wages and salaries (D.11), mainly consisting of wages and salaries (excluding apprentices) (D.111) and wages and salaries of apprentices (D.112)
- employers' social contributions (D.12), mainly consisting of employers' actual social contributions (excluding apprentices) (D.121), employers' imputed social contributions (excluding apprentices) (D.122) and employers' social contributions for apprentices (D.123).

References ESA 95: 4.02 (code D.1), SBS: code 13310 (personnel costs)

D.11 *Wages and salaries*

Wages and salaries include bonuses, pay for piecework and shift work, allowances, fees, tips and gratuities, commission and remuneration in kind. They are recorded in the period during which the work is done. However, *ad hoc* bonuses or other exceptional payments (13th month pay, back-dated pay arrears, etc.) are recorded when they are due to be paid.

A full breakdown of wages and salaries by component is given in Figure 2 in Annex I.

References ESA 95: 4.03 to 4.07 and 4.12(a) (code D.11); SBS: code 13320 (wages and salaries)

D.111 Wages and salaries (excluding apprentices)**D.1111 Direct remuneration, bonuses and allowances**

Direct remuneration, bonuses and allowances include the values of any social contributions, income taxes, etc., payable by the employee even if they are actually withheld by the employer and paid directly to social-insurance schemes, tax authorities etc. on behalf of the employee.

A *bonus* is a form of reward or recognition granted by an employer. When an employee receives a bonus payment, there is no expectation or assumption that the bonus will be used to cover any specific expense. The value and timing of a bonus payment can be at the discretion of the employer or stipulated in workplace agreements.

An *allowance* is an entitlement granted by the employer to an employee and intended to cover a specific expense, not work-related, incurred by the employee. It is often stipulated in workplace agreements and is normally paid at the time of entitlement.

D.11111 Direct remuneration, bonuses and allowances paid in each pay period

This means remuneration in the form of regular cash payments paid regularly at each pay period during the year. For most employees, the pay period is weekly or monthly. Hence, payments received less frequently (monthly in the case of weekly regular payments, quarterly, bi-annually, annually) or on an *ad hoc* basis should not be included here. Payments to employees' savings schemes should be excluded here and are to be included under D.1112.

Specifically, the variable refers to:

- basic wages and salaries,
- direct remuneration calculated on the basis of time worked, output or piecework and paid to employees for hours worked,
- remuneration and additional payments for overtime, night work, working on Sundays and public holidays, and shift work,
- bonuses and allowances paid regularly at each pay period, such as:
 - workplace bonuses for noise, risk, difficult work, shift or continuous work, night work and working on Sundays and public holidays,
 - individual performance bonuses, bonuses for output, production, productivity, responsibility, diligence, punctuality; regularly paid length-of-service bonuses; qualifications and special knowledge.

Further examples of pay items which should be included here are given in the Appendix to Annex II.

Variable D.11111 refers to gross amounts before deduction of taxes and social-security contributions payable by employees.

D.11112 Direct remuneration, bonuses and allowances not paid in each pay period

All payments to employees which are not paid regularly at each (weekly or monthly) pay period. These include bonuses and allowances paid at fixed periods (e.g. paid monthly where regular payments are weekly, or paid quarterly, bi-annually or annually), and bonuses linked to individual or collective performance. Exceptional payments to employees who leave the enterprise are included here, provided that such payments are *not* linked to a collective agreement. If no information about a possible linkage with a collective agreement is available or if it is known that such a linkage exists, exceptional leave payments are excluded here and should be included under D.1223. Payments to employees' savings schemes are also excluded and covered by D.1112.

Examples of pay items belonging to D.11112 are listed in the Appendix to Annex II.

Variable D.11112 likewise refers to gross amounts before deduction of taxes and social-security contributions payable by employees.

D.1112 Payments to employees' savings schemes

This refers to sums paid into savings schemes for employees (such as company savings schemes).

Reference ESA 95: 4.03(i)

D.1113 Payments for days not worked

Remuneration paid for statutory, contractual or voluntarily granted leave and public holidays or other paid days not worked. The Appendix to Annex II provides examples.

D.1114 Wages and salaries in kind

This variable refers to an estimate of the value of all goods and services made available to employees through the enterprise or local unit. It includes company products, staff housing, company cars, stock options and share purchase schemes. If information is available on personal income taxation on wages and salaries in kind, this could be used as a proxy.

The Appendix to Annex II gives examples of wages and salaries in kind.

Reference ESA 95: 4.04, 4.05, 4.06 (code D.11)*D.11141 Company products*

These are supplied free of charge for private use or sold to staff below their cost to the enterprise. For example, food and drink (excluding expenditure on canteens and meal vouchers), coal, gas, electricity, fuel oil, heating, footwear and clothing (excluding working clothes), micro-computers, etc.

The net price to the enterprise should be entered, i.e. the cost of products supplied free of charge or the difference between the cost and the price at which the products are sold to staff. Compensatory payments or benefits in kind which are not taken up must also be entered.

D.11142 Staff housing

This refers to expenditure by the enterprise to assist employees with housing, including: expenditure on housing owned by the enterprise (expenditure on the maintenance and administration of housing, and tax and insurance relating to such housing) and reduced-interest loans for the construction or purchase of housing by staff (the difference between the interest payment at market rates and at the rate granted), allowances and subsidies granted to employees in connection with their housing, and installation, but excluding removal allowances.

D.11143 Company cars

Company cars, or the cost to the enterprise of company cars supplied to employees for their private use. This should include the net running costs incurred by the enterprise (the annual cost of leasing and interest payments – depreciation, insurance, maintenance and repairs and parking). It should not include the capital expenditure involved in purchasing the vehicles or any income derived from their resale.

Estimates should be calculated from information available in the enterprises, such as records of the fleet of vehicles of this type, the assessment of the average cost per vehicle, and the estimate of the proportion attributable to the private use of the vehicle by the employee.

D.11144 Stock options and share purchase schemes

This optional variable refers to all forms of payments in kind linked to share-based compensation. Stock options, share purchase schemes and other equity instruments possibly evolving in the future belong to this category. A typical feature of such instruments is that they are equity-settled, i.e. they represent a transfer of equity instruments from the enterprise/local unit to the employee. The forms of compensation covered by D11144 are identical to those covered by the heading 'Equity-settled share-based payment transactions' of the International Financial Reporting Standard 2 'Share-based payment'.

Share purchase schemes typically transfer shares from the employing enterprise to employees. The transfer takes place in the present (grant date) and is based on a price below today's market price (the 'strike price'). The costs to the enterprise are equivalent to the product of the amount of shares and the difference between the market price and the 'strike price'.

Stock options schemes typically transfer the right to buy the employing enterprise's shares not before a well-defined point of time in the future (vesting date) to a favourable 'strike price' already fixed in the present (grant date). Employees will make use of this right only if the market price on or after the vesting date exceeds the 'strike price'. The costs to the enterprise are again equivalent to the product of the amount of shares and the difference between the market price and the 'strike price'. In both labour costs statistics and accounting, the costs are assigned to and distributed over the 'vesting period', which is the period between the grant date and the vesting date. These values are uncertain during the vesting period and therefore have to be estimated.

An estimate of the variable D.11144 for the reference year could ideally be arrived at with the help of guidelines from International Financial Reporting Standard 2, 'Share-based payment'. If such an estimate is not available, values according to accounting standards or the tax regulation of the Member State can be taken, provided that they cover the equity instruments of D.11144 and refer to the Labour Cost Survey reference period.

Payments made to set up a special fund for purchasing company shares for employees, even if they do not have immediate access to such assets, must be reduced by the amount of any tax exemption which might apply to them. Cash-settled share-based compensation such as stock-appreciation rights are covered not by variable D.11144, but by D.11112.

D.11145 *Other*

This covers in particular indirect benefits chargeable to the employer:

- canteens and meal vouchers,
- cultural, sporting and leisure facilities and services,
- kindergartens and day nurseries,
- staff shops,
- transport costs for journeys between home and the usual place of work,
- payments into trade union funds and the costs of works committees.

All such expenditure includes small repairs and regular maintenance of buildings and installations devoted to social, cultural or leisure services and facilities as listed above. Salaries and wages paid by the enterprise directly to staff working in these services and facilities are not entered under the heading of variable D.11145.

D.112 *Wages and salaries of apprentices*

See D.11.

D.12 *Employers' social contributions*

This variable refers to an amount equal to the value of the social contributions incurred by employers in order to secure for their employees the entitlement to social benefits. Employers' social contributions may be either actual or imputed.

A full breakdown of employer's social contributions by component is provided by Figure 3 in Annex I.

References ESA 95: 4.08 (code D.12); SBS: code 13330 (social-security costs)

D.121 *Employers' actual social contributions (excluding apprentices)*

These consist of payments made by employers for the benefit of their employees to insurers (social-security funds and private funded schemes such as occupational-pension schemes). These payments cover statutory, conventional, contractual and voluntary contributions in respect of insurance against social risks or needs. Employers' actual social contributions are recorded in the period during which the work is done.

Examples are given in the Appendix to Annex II.

Reference ESA 95: 4.09 (code D.121) and 4.12(b)

D.1211 *Statutory social-security contributions*

Contributions paid to social-security institutions payable by the employer and made compulsory by law. The amounts of such contributions must be entered net of any subsidies. They include:

- contributions to insurance schemes for retirement pension, sickness, maternity and disability,
- statutory contributions to unemployment insurance schemes,
- statutory contributions to insurance schemes for occupational accidents and diseases,
- statutory contributions to family allowance schemes,
- all other statutory contributions not mentioned elsewhere.

D.1212 Collectively agreed, contractual and voluntary social-security contributions payable by the employer

These are all contributions paid by the employer to social-security schemes which are supplementary to those which are compulsory by law. Account should be taken of any tax exemptions which might apply. They include:

- supplementary pension schemes, occupational pension schemes (insured plans, self-administered funds, book reserves or provisions, all other expenditure intended to fund supplementary pension schemes),
- supplementary sickness insurance schemes,
- supplementary unemployment insurance schemes,
- all other non-compulsory supplementary social-security schemes not mentioned elsewhere.

D.122 Employers' imputed social contributions (excluding apprentices)

Employers' imputed social contributions are needed in order to get a complete measure of labour costs at the time the work is done. They represent the counterpart to the observable unfunded social benefits paid.

Unfunded social benefits are paid directly by employers to their employees or former employees and other eligible persons without involving a social-security fund, an insurance enterprise or an autonomous pension fund, and without creating a special fund or segregated reserve for the purpose. Instead, the benefits are paid out of the own resources of the employers that operate unfunded schemes. The fact that certain social benefits are paid directly by employers, and not through the medium of social-security funds or other insurers, in no way detracts from their character as social welfare benefits. D.122 may be particularly relevant when the employer is a non-market producer (government sector).

The amount of D.122 is determined by reference to the employers' future obligations to provide social benefits. The ideal source for calculating D.122 for employers operating unfunded social-insurance schemes are estimates based on actuarial considerations. If such actuarial estimates are not available, other estimation methods should be applied. Some countries, for example, use the observable unfunded social benefits paid, less eventual employees' social contributions, as an estimate for D.122.

Variable D.122 includes in particular imputed employers' social contributions for pensions and health care. It also includes an amount equal in value to the wages and salaries which employers temporarily continue to pay in the event of sickness, maternity, industrial injury, disability, redundancy, etc. of their employees, if that amount can be separated.

Examples are given in the Appendix to Annex II.

Reference ESA 95: 4.10 (code D.122) and 4.12(c)

D.1221 Guaranteed remuneration in the event of sickness

This variable covers sums paid directly by the employer to employees to maintain remuneration in the event of sickness, maternity or occupational accident to compensate for loss of earnings, minus any reimbursements paid by social-security institutions.

D.1222 Employers' imputed social contributions for pensions and health care

This component of D.122 covers imputed payments to unfunded pension and health care schemes, in particular in the government sector. In some European countries, employers in the general government sector operate unfunded pension schemes either for all employees or for specific groups (officials). In these cases, the employer does not create special reserves or accumulate assets to pay future pensions. For these employees, imputed employers' payments to pension and health-care schemes must be taken into account.

D.1223 Payments to employees leaving the enterprise

This component represents sums actually paid to dismissed workers (severance pay and compensation in lieu of notice) if these payments are linked to a collective agreement or if the existence of such a linkage is unknown. Payments not linked to a collective agreement are included in D.11112.

Payments made to employees on retirement, e.g. as part of their pension entitlement, should *not* be included in D.1223.

D.1224 Other imputed social contributions

This item refers to all other imputed social contributions of the employer not mentioned elsewhere, such as study grants for employees and their families or guaranteed remuneration in the event of short-time working. The latter is defined as direct payments of the employer to employees to maintain remuneration in the event of short-time working minus any reimbursements paid to the employer by social-security institutions.

D.123 Employers' social contributions for apprentices

This variable is the sum of contributions actually paid and any imputed contributions for apprentices. Imputed social contributions for apprentices, if any, are usually tiny.

Reference ESA 95: 4.09 (code D.121), 4.10 (code D.122) and 4.12(b)**D.2 Vocational training costs paid by the employer**

These include: expenditure on vocational-training services and facilities (also those for apprentices but not their wages and salaries), small repairs and maintenance of buildings and installations, excluding staff costs; expenditure on participation in courses; the fees of instructors from outside the enterprise; expenditure on teaching aids and tools used for training; sums paid by the enterprise to vocational-training organisations, etc. Subsidies linked to vocational training should be deducted.

Reference ESA 95: Intermediate consumption**D.3 Other expenditure paid by the employer**

This includes in particular:

- recruitment costs (these are the sums paid to recruitment agencies, expenditure on job advertisements in the press, travel expenses paid to candidates called for interview, installation allowances paid to newly recruited staff, etc. This does not include administrative running costs (office expenses, staff wages, etc.),
- working clothes provided by the employer.

The Appendix to Annex II provides examples.

Reference ESA 95: Intermediate consumption**D.4 Taxes paid by the employer**

This variable covers all taxes based on the wage and salary bill or on employment. These taxes are regarded as labour costs.

Variable D4 also covers penalty taxes to be paid in some European countries by employers for employing too few handicapped persons, and similar taxes or fees.

Reference ESA 95: 4.23(c) (code D.29)**D.5 Subsidies received by the employer**

These are all amounts received in the form of subsidies of a general nature intended to refund part or all of the cost of direct remuneration but not intended to cover social-security or vocational-training costs. They do not include refunds paid to the employer by social-security institutions or supplementary insurance funds.

Reference ESA 95: 4.37(a) (code D.39)

*Appendix to Annex II***Illustrative examples for the classification of certain labour cost items****D.11111: Direct remuneration, bonuses and allowances paid in each pay period**

(see also ESA 95, 4.03 (a-c, e, g, k), code D.11)

Payments that belong under labour cost item D.11111 have the following characteristics:

They are: cash transactions from an employer to an employee.

They are not:

- paid on an ad hoc basis or with a frequency below that of the regular remuneration payments (these belong to D.11112)
- payments in kind (these belong to D.1114)
- payments to an employee savings scheme (these belong to D.1112)
- payments intended to cover a specific period that is not worked (these belong to D.1113 or, in the case of sickness, to D.1221).

They can:

- be bonuses paid for work risks or shift work
- be paid weekly or monthly depending on the normal pay period
- reflect performance of an employee or group of employees

Examples: Payments that come under variable D.11111

Item	Description
Expatriation allowance/cost-of-living allowance	Payment to employees working outside their usual country of origin or residence/their usual domicile to reflect the difference in the costs of living
Household allowance	Payment towards the costs of accommodation
Duty or on-call payments	Payment for employees who must be available to work during periods outside normal working hours
Additional pay for risks or hazards	Bonus paid to employees where there are specific risks associated with the work, e.g. dangerous chemicals
Reduced working time allowance	Extra payment (non-guaranteed) to compensate employees in full or in part for a reduction in the normal working time. (Guaranteed payments belong to D.1224)
Sales commissions	Bonus linked to the number of products sold
Overtime pay	Bonus payment for hours worked beyond the normal working hours
Retention allowance	Continuous payment to encourage or commit existing employees to stay with the employer
Payment by results	Bonus payment dependent on the number of products processed by the employee, e.g. the number of garments made
Shift pay	Bonus payment for working non-standard hours, e.g. during the night

D.11112: Direct remuneration, bonuses and allowances not paid in each pay period

(see also ESA 95, 4.03 (f, h, j), code D.11)

Payments that belong under labour cost item D.11112 have the following characteristics:

They are: cash transactions from an employer to an employee.

They are not:

- paid in every pay period (these may belong to D.11111)
- payments in kind (these belong to D.1114)
- payments to an employee savings scheme (these belong to D.1112)
- payments intended to cover a specific period that is not worked (these belong to D.1113 or, in the case of sickness, to D.1221).

They can:

- be an allowance towards specific costs or expenses
- reflect the performance of an employee or group of employees
- be an obligatory payment stipulated in the employment contract or collective agreement
- be a discretionary payment
- be paid either at variable time points or at fixed points during the year

Examples: Payments that come under variable D.11112

Item	Description
Exceptional length-of-service award	Paid once when an employee has worked a specific number of years for the employer
Leaving or retirement bonus	Payment on leaving or retiring from employment, not associated with pension entitlements, if those payments are not linked to a collective agreement. (Otherwise, or if no information about a possible linkage with a collective agreement is available, these payments belong to D.1223)
Golden handshake	Exceptional payments to employees leaving the enterprise if those payments are not linked to a collective agreement. (Otherwise or if no information about a possible linkage is available, exceptional leave payments are assigned to D.1223)
Recruitment incentive	Single payment paid to a new employee at the start of employment
Backdated pay arrears	Payments which represent increases in direct remuneration that are applied retrospectively
Company merger bonus	One-off payment made to employees as a result of a company merger
Employee recognition awards	Exceptional payment awarded by the employer to distinguish individuals or groups of employees

Item	Description
Productivity bonuses/awards for meeting performance targets	Payments which depend on an employee or group of employees achieving pre-set targets, e.g. relating to sales, customer service or budgets
Special festive bonus	Paid at the time of certain festivals, e.g. Christmas
Company profit-sharing and stock-appreciation rights	Payment in cash dependent on company's profit. Stock appreciation rights represent a form of company profit-sharing where an employee becomes entitled to a future cash payment based on the increase in the company's share price from a specified level over a specified period of time. Stock-appreciation rights are to be evaluated at and refer to the time of the cash payment, regardless of the value at grant date or the duration of the vesting period.
Quarterly company bonus	Paid every quarter, based on employer's profit or performance (pay period assumed not to be each quarter)
13 th or 14 th month pay	Annual extra payments
Annual company bonus	Paid once each year and dependent on employer's profit or performance

D.1113: Payments for days not worked**Examples: Payments that fall under variable D.1113**

Item	Description
Holiday pay	Payments to employees to cover days not worked owing to annual, national or local holidays. (Payments made by the employer to cover absence of employees due to sickness or maternity leave are treated as employers' social contributions under D.1221)
Special leave	Payments to employees to cover days not worked for special personal reasons, e.g. marriage, death of family members, union representation, military or jury service. (Payments made by the employer to cover absence of employees due to sickness or maternity leave are treated as employers' social contributions under D.1221)

D.1114: Wages and salaries in kind and their components

(see ESA 95, 4.04, 4.05, 4.06 (code D.11))

Examples: Wages and salaries that fall under variable D.1114

Item	Description	Further breakdown
Product discounts	Employer sells products to employees at reduced rates. The income in kind is equal to the difference between the market price and the reduced price	D.11141
Free or subsidised housing	Employer pays employees' housing costs in full or in part. Again, the income in kind is arrived at by comparing with the market price	D.11142
Use of a car owned by the employer	Employer meets the running costs for a car owned by the employer and made available to the employee for business as well as private use (The income in kind refers to the value of the use of the private car)	D.11143

Item	Description	Further breakdown
Free or subsidised petrol	Employer pays all or part of the employee's private fuel costs associated with the use of a car owned by the employer. The income in kind is equal to the cash value of this benefit	D.11143
Share purchase schemes	Share-based payments in kind where shares are granted to employees as part of their compensation packages. The employee receives the shares without delay at a price below the market price (Stock appreciation rights are cash-settled forms of share-based compensation and should come under D.11112)	D.11144
Stock options	Share-based payments in kind where shares are granted to employees as part of their compensation packages. The employee receives the right to buy shares at a well-defined point of time in the future for a price already fixed in the present (Stock-appreciation rights are cash-settled forms of share-based compensation and should come under D.11112)	D.11144
Free or subsidised parking at work	Employer provides parking facilities for employees at reduced or zero cost to the employee. The income in kind is equal to the cash value of this benefit	D.11145
Free or subsidised use of a mobile telephone	Employer provides a mobile phone for business and private use and pays all the associated costs. The income corresponds to the cash value of this benefit	D.11145
Free or subsidised travel to and from work	Employees' travel costs to and from work are paid in full or in part. The income in kind is equal to the cash value, as above	D.11145
Free or subsidised meals	Meals are provided by the employer at reduced or zero cost to the employee. The income in kind is equal to the cash value, as above	D.11145

D.121: Employers' actual social contributions

(see ESA 95, 4.08 (code D.121), and 4.12(b))

Examples: Payments that fall under variable D.121

Item	Description	Further breakdown
Employers' payments to an insurance scheme for disability	Regular funded payments of the employer into the insurance scheme	D.1211
Employers' statutory payments to pension funds	The employer pays during occupation into a pension scheme involving a social-security fund, an insurance enterprise or an autonomous pension fund	D.1211
Enhanced employer pension contributions	Employer pays an extra contribution to the employee's pension scheme	D.1212

D.122: Employers' imputed social contributions

(see ESA 95, 4.10 (code D.122), and 4.12(c))

Examples: Payments that come under variable D.122

Item	Description	Further breakdown
Payments during maternity leave	Employer pays directly to the employee during maternity as compensation for loss of earnings	D.1221
Employers' imputed social contributions for pensions of civil servants	The employer does not make payments into a pension scheme during the person's employment. Pensions are later paid out from the employer's own resources	D.1222
Payments in early-retirement schemes for part-timers	Additional payments made by the employer into part-time early retirement schemes	D.1222
Severance payments based on a collective agreement	Employer pays directly to employees leaving the enterprise	D.1223
Study grants	Employer meets part or all of the cost of non-work-related training undertaken outside the enterprise	D.1224
Marriage or childbirth award	Payment made to the employee following the event	D.1224
Free or subsidised child education	Education fees for the employee's children are paid in full or in part	D.1224
Reduced working time allowance	Guaranteed payment to compensate employees in full or in part for a reduction in the normal working time. (Additional payments, paid in each pay period, belong to D.11111)	D.1224

D.2: Vocational training paid by the employer

(see ESA 95, intermediate consumption)

Examples: Payments that come under variable D.2

Item	Description
Fees for instructors from outside the enterprise	Costs related to vocational training for employees, e.g. organised in the form of in-house seminars (subsidies, if any, belong to D.5 and must be excluded)
Expenditure on teaching aids	Costs related to vocational training, e.g. in the form of Intranet-based e-courses developed by specialist companies (subsidies, if any, belong to D.5 and must be excluded)

D.3: Other expenditure by the employer

(see ESA 95, intermediate consumption)

Examples: Payments that come under variable D.3

Item	Description
Clothing allowance	Paid in occupations where special clothing is required, e.g. for protection or presentation and not intended for personal use
Recruitment costs	Costs of recruitment agencies or job advertisements
Installation or relocation allowance	Paid when the employee is required to change the place of residence

ANNEX III

TRANSMISSION OF DATA INCLUDING BREAKDOWNS BY ECONOMIC ACTIVITY, ENTERPRISE SIZE CLASS AND COUNTRY OR REGION

Three files are to be provided, corresponding to Tables A, B and C:

- Table A contains national data (one record for each economic activity at the section and division levels of NACE Rev. 1.1)
- Table B contains national data by size class (one record for each economic activity at the section and division levels of NACE Rev. 1.1, for each of the size classes)
- Table C contains regional data at the NUTS 1 level (one record for each economic activity at the section and division levels of NACE Rev. 1.1, for each of the regions).

Table C is not required for those countries where NUTS 1 corresponds to the national level. For a subset of variables listed in Annex I, only table A is required. These variables are marked in Annex I.

Identification of a record

The records are sorted by an identification sequence containing the following items:

- the year of the survey,
- the type of table,
- the country or region code,
- the economic activity and
- the size class.

The transmission codes for

- the economic activities of NACE Rev. 1.1,
- the size classes for enterprises and
- the countries or regions

are set by Eurostat in an implementation paper.

Confidentiality Flag

The individual records transmitted for Tables A, B and C consist of grossed-up data, i.e. population estimates. When strictly necessary, individual records may be flagged as 'confidential'. A breach of confidentiality may arise in Tables A, B or C if the number of enterprises or local units in the population is tiny for an individual record relating to a given economic activity, size class or region. Clearly, the risks are greater when the individual record relates to one or two large units. Likewise, the confidentiality risk may be higher for Tables B or C because of the additional breakdown by size class and region respectively. Two codes are to be used to identify confidential records:

'1': if the data for an individual record in Table A, B or C are confidential ⁽¹⁾;

': if the data are not confidential, insert a space ' ' (not a zero or a dash '-').

⁽¹⁾ When an individual record is flagged as confidential, Eurostat takes appropriate action to protect the confidentiality of the data submitted for Tables A, B and C.

Variables

The variables requested are defined in Annex I. Figures should be inserted without spaces, points or commas (for example, 13967 is correct; the following are incorrect: 13 967 or 13.967 or 13,967).

Missing (or zero) variables should be *coded* according to the following rules:

'NA' when the variable is not available (even though it definitely exists and is greater than zero).

'OPT' when the variable is optional and is not completed.

'0' for zero values, or for those variables which do not exist in the country concerned.

The variables for number of employees, working time and number of statistical units should be expressed in absolute terms, i.e. by giving the numbers in full (not in decimals, tens, thousands, millions, etc).

The variables relating to expenditure should be expressed in the national currency of the country concerned. For the euro-zone countries, the figures should be expressed in euros. The units used in each country should be identical for all variables and should be expressed in absolute terms, i.e. by giving the numbers in full (not in decimals, or in tens, thousands, millions, etc).

Transmission

Member States shall transmit to the Commission (Eurostat) the data and metadata required by this regulation in an electronic format compliant with an interchange standard proposed by Eurostat. Eurostat will make available detailed documentation in relation to approved standards and will supply guidelines on how to implement these standards according to the requirements of this regulation.

COMMISSION REGULATION (EC) No 1738/2005**of 21 October 2005****amending Regulation (EC) No 1916/2000 as regards the definition and transmission of information on the structure of earnings****(Text with EEA relevance)**

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Council Regulation (EC) No 530/1999 of 9 March 1999 concerning structural statistics on earnings and on labour costs ⁽¹⁾, and in particular Article 11(ii) and (iii) thereof,

Whereas:

- (1) Commission Regulation (EC) No 1916/2000 of 8 September 2000 on implementing Council Regulation (EC) No 530/1999 concerning structural statistics on earnings and on labour costs as regards the definition and transmission of information on structure of earnings ⁽²⁾ sets out implementing measures concerning the definition and breakdown of the information to be provided and the appropriate technical format for the transmission of the results as provided for in Article 11 of Regulation (EC) No 530/1999.
- (2) The structure of earnings survey for the reference year 2002 was the first survey based on Regulation (EC) No 1916/2000. The experience with this survey has demonstrated the need to improve the provisions of Regulation (EC) No 1916/2000, in order to bring them into line with the corresponding provisions of Commission Regu-

lation (EC) No 1726/1999 of 27 July 1999 implementing Council Regulation (EC) No 530/1999 concerning structural statistics on earnings and on labour costs as regards the definition and transmission of information on labour costs ⁽³⁾ and to improve the links between the data from the various surveys on earnings and on labour costs every second year.

- (3) Regulation (EC) No 1916/2000 should therefore be amended accordingly.

- (4) The measures provided for in this Regulation are in accordance with the opinion of the Statistical Programme Committee,

HAS ADOPTED THIS REGULATION:

Article 1

The Annexes to Regulation (EC) No 1916/2000 are replaced by the text in the Annexes to this Regulation.

Article 2

This Regulation shall enter into force on the twentieth 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, 21 October 2005.

For the Commission

Joaquín ALMUNIA

Member of the Commission

⁽¹⁾ OJ L 63, 12.3.1999, p. 6. Regulation as amended by Regulation (EC) No 1882/2003 of the European Parliament and of the Council (OJ L 284, 31.10.2003, p. 1).

⁽²⁾ OJ L 229, 9.9.2000, p. 3.

⁽³⁾ OJ L 203, 3.8.1999, p. 28.

ANNEX I

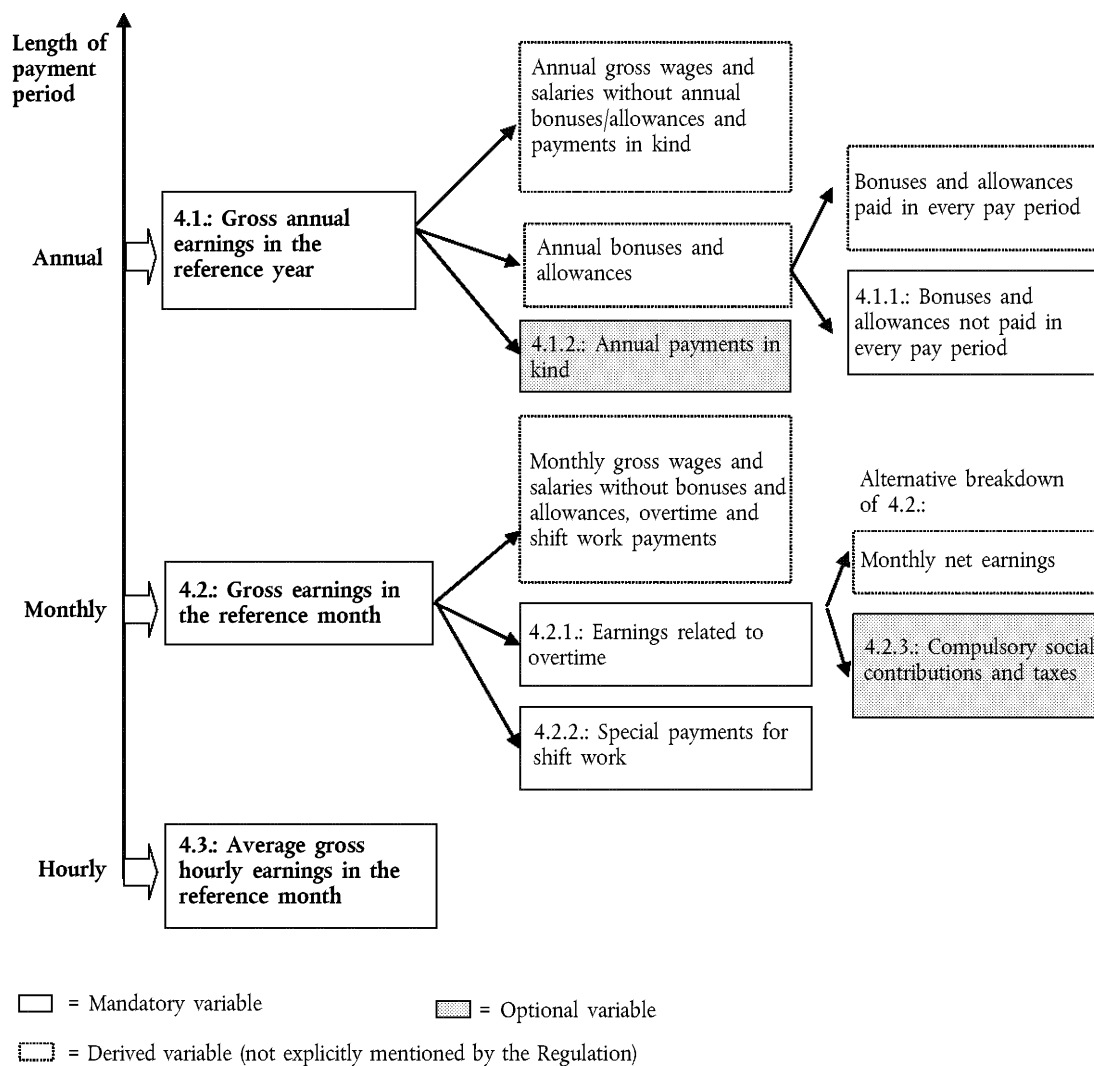
LIST OF VARIABLES

1. **Information about the local unit to which the sampled employees are attached**
 - 1.1. Geographical location of the local unit (NUTS-1)
 - 1.2. Size of the enterprise to which the local unit belongs
 - 1.3. Principal economic activity of the local unit (NACE Rev. 1.1.)
 - 1.4. Form of economic and financial control
 - 1.5. Collective pay agreement
 - 1.6. Total number of employees in the local unit in the reference month (*optional*)
 - 1.7. Affiliation of the local unit to a group of enterprises (*optional*)
2. **Information on individual characteristics of each employee in the sample relating to the reference month**
 - 2.1. Sex
 - 2.2. Age
 - 2.3. Occupation (ISCO-88 (COM))
 - 2.4. Managerial or supervisory position (*optional*)
 - 2.5. Highest successfully completed level of education and training (ISCED 97)
 - 2.6. Length of service in the enterprise
 - 2.7. Contractual working time (full-time or part-time)
 - 2.7.1. Share of a full-timer's normal hours
 - 2.8. Type of employment contract
 - 2.9. Citizenship (*optional*)
3. **Information on working periods for each employee in the sample**
 - 3.1. Number of weeks in the reference year to which the gross annual earnings relate
 - 3.2. Number of hours paid during the reference month
 - 3.2.1. Number of overtime hours paid in the reference month
 - 3.3. Annual days of holiday leave
 - 3.4. Other annual days of paid absence (*optional*)
4. **Information on earnings for each employee in the sample** (see also the figure below)
 - 4.1. Gross annual earnings in the reference year
 - 4.1.1. Annual bonuses and allowances not paid in each pay period
 - 4.1.2. Annual payments in kind (*optional*)
 - 4.2. Gross earnings in the reference month
 - 4.2.1. Earnings related to overtime

- 4.2.2. Special payments for shift work
- 4.2.3. Compulsory social contributions and taxes paid by the employer on behalf of the employee (*optional*)
- 4.2.3.1. Compulsory social-security contributions (*optional*)
- 4.2.3.2. Taxes (*optional*)
- 4.3. Average gross hourly earnings in the reference month
- 5. **Grossing-up factors**
 - 5.1. Grossing-up factor for the local unit
 - 5.2. Grossing-up factor for the employees

Optionally, Member States may record more detailed information related to the categories of variable 2.8. They may also record data for the following components of variable 3.4.: *Annual days of sick leave* and *Annual days of vocational training* (transmission to Eurostat only on request).

Earnings variables of the SES



□ = Mandatory variable

▨ = Optional variable

▤ = Derived variable (not explicitly mentioned by the Regulation)

ANNEX II

DEFINITION OF VARIABLES

1. **Information about the local unit to which the sampled employees are attached**

The compilation of structural statistics on earnings shall be based on local units and enterprises, as defined in Council Regulation (EEC) No 696/93 ⁽¹⁾, and shall provide information on employees in enterprises with 10 or more employees classified by size and principal activity. Information for employees in enterprises with fewer than 10 employees is optional. The statistics shall cover all activities defined in sections C to K and M to O of the general industrial classification of economic activities within the European Communities (hereinafter 'NACE Rev. 1.1') in enterprises with at least 10 employees ⁽²⁾.

1.1. *Geographical location of the statistical unit (NUTS-1)*

The region in which the local unit is located should be classified according to the nomenclature of territorial statistical units (NUTS, level 1).

The transmission codes for the different NUTS categories will be presented in an implementation paper to be distributed by Eurostat.

1.2. *Size of the enterprise to which the local unit belongs*

The size of the enterprise in terms of the number of employees should be assigned to one of the following bands: 1 to 9, 10 to 49, 50 to 249, 250 to 499, 500 to 999, and 1 000 or more employees. The size class 1 to 9 is optional.

The transmission codes for the size classes listed above will be presented in an implementation paper to be distributed by Eurostat.

1.3. *Principal economic activity of the local unit (NACE rev. 1.1)*

The main economic activity of the local unit should be coded at the 2-digit level of NACE Rev. 1.1 (division level).

The transmission codes for the different NACE categories will be presented in an implementation paper to be distributed by Eurostat.

1.4. *Form of economic and financial control of the enterprise*

This variable distinguishes only between the categories 'public control' and 'private control'. The first category refers to any undertaking over which the public authorities may exercise, directly or indirectly, a dominant influence by virtue of their ownership of it, their financial participation therein, or the rules which govern it. A dominant influence (or control) on the part of the public authorities shall be presumed when these authorities directly or indirectly:

- hold the major part of the undertaking's subscribed capital (> 50 %), or
- control the majority of the votes attached to shares issued by the undertaking or can appoint more than half of the members of the undertaking's administrative, managerial or supervisory body.

The second category is defined analogously. Balanced public and private ownership (50/50 'shared control') is very rare in practice. Such cases will not therefore be coded separately and should, if they occur, be treated as being under 'private control'.

The transmission codes for the two categories of variable 1.4 will be presented in an implementation paper to be distributed by Eurostat.

⁽¹⁾ OJ L 76, 30.3.1993, p. 1. Regulation as last amended by Regulation (EC) No 1882/2003 of the European Parliament and of the Council.

⁽²⁾ The coverage of section L of NACE Rev. 1.1 is optional. The coverage of employees in enterprises with less than 10 employees is optional as well.

1.5. *Collective pay agreement*

Collective pay agreements covering the majority of employees in the statistical unit may fall into one of the categories listed below. If no collective agreement exists, this should also be indicated. The categories are as follows:

- an agreement at national level, or an interconfederal agreement, covering employees of more than one industry, and usually signed by one or more trade-union confederations and by one or more national employers' organisations,
- an industry agreement setting the terms and conditions of employment for all or most workers and employees in an individual industry or economic sector,
- an agreement for individual industries in individual regions,
- an enterprise or single-employer agreement covering only those employees with the same employer, regardless of size. The agreement may cover only certain local units or groups of employees within the enterprise,
- an agreement applying only to the employees in one local unit,
- any other type of agreement not covered above,
- no collective pay agreement exists.

One of the above categories must be chosen ('yes' answer) if more than 50 % of the employees in the local unit are covered. Several categories may apply simultaneously.

Instead of directly asking for the type of collective agreement, the unit may be asked what collective provisions are applied and the type of collective agreement determined on the basis of the answers.

The transmission codes for the categories of variable 1.5 listed above will be presented in an implementation paper to be distributed by Eurostat.

1.6. *Number of employees in the local unit (optional)*

This variable represents a head count of the total number of employees in the reference month (e.g. on 1 or 31 October) and covers all employees, including apprentices, paid trainees and students.

1.7. *Affiliation of the local unit to a group of enterprises (optional)*

This variable is a binary variable ('yes'/'no') and indicates whether a local unit belongs to a group of enterprises. The transmission codes for the two categories are set out by Eurostat in an implementation paper.

The group of enterprises is a statistical unit defined in Regulation (EEC) No 696/93. The group of enterprises should be considered at world level. In most cases the local unit belongs to an enterprise which is not controlled by any national or foreign group. If local units belong to an enterprise group, this is generally well known. A practical guideline that can be given to respondents is whether the accounts of the enterprise concerned are fully consolidated in the accounts of its group of enterprises.

2. **Information on the individual characteristics of each employee in the sample relating to the reference month**

Employees are all persons, irrespective of their nationality or the length of their working time in the country, who have a direct employment contract with the enterprise or local unit (whether the agreement is formal or informal) and receive remuneration, irrespective of the type of work performed, the number of hours worked (full-time or part-time) and the duration of the contract (fixed or indefinite). The remuneration of employees can take the form of wages and salaries including bonuses, pay for piecework and shift work, allowances, fees, tips and gratuities, commission and remuneration in kind. The employees to be included in the sample are those who actually received remuneration during the reference month. Employees who did not receive remuneration in the reference month should be excluded.

The definition of employees covers manual and non-manual workers and management personnel in the private and public sectors in economic activities classified to Sections C to K and M to O of NACE Rev. 1.1 in enterprises with at least 10 employees ⁽¹⁾.

⁽¹⁾ The coverage of Section L of NACE Rev. 1.1 is optional. The coverage of employees in enterprises with less than 10 employees is optional as well.

The following list gives illustrative examples of categories of employees that are *included*:

- sales representatives, providing they are on the payroll and receive other forms of remuneration in addition to any commission,
- paid working proprietors,
- apprentices,
- students and trainees (articled clerks, student nurses, research or teaching assistants, hospital interns, etc.) who have a formal commitment to contribute to the unit's production process in return for remuneration,
- interim or temporary workers (e.g. secretarial staff) recruited, employed and remunerated by employment agencies to work elsewhere, often for temporary periods ⁽¹⁾,
- seasonal and occasional workers, if they have a formal or informal agreement with the enterprise or local unit and pre-defined working hours,
- employees for whom labour costs were incurred in the reference period but who were temporarily not at work because of illness or injury, holiday or vacation, strike or lock-out, educational or training leave, maternity or parental leave, reduced economic activity, suspension of work due to bad weather, mechanical breakdowns, lack of materials, fuels or power, or other temporary absence with or without leave,
- those working abroad if they continue to receive remuneration from the reporting unit,
- outworkers ⁽²⁾, including home workers and teleworkers if there is an explicit agreement that such workers are remunerated on the basis of the work done: that is, the amount of labour which is contributed as an input into some process of production.

The following categories should be *excluded*:

- sales representatives and other persons who are wholly remunerated by way of fees or commission, are not on the payroll, or are self-employed,
- owners, directors or managers whose remuneration wholly takes the form of a share in profits,
- family workers who are not employees (as defined above) of the enterprise or local unit,
- own-account workers,
- unpaid voluntary workers (e.g. those who typically work for non-profit institutions such as charities).

2.1. Sex

The transmission codes for the two categories are set out by Eurostat in an implementation paper.

2.2. Age

Only the year of birth is to be given here. The age is then calculated as the difference between the reference year of the survey and the year of birth.

2.3. Occupation in the reference month (ISCO-88 (COM))

The occupation is to be coded according to the International Standard Classification of Occupations, 1988 version (ISCO-88 (COM)) at the two-digit level and, if possible, at the three-digit level. The essential information for determining the occupation is usually the employee's job title and a description of the main tasks undertaken in the course of his/her duties.

Trainees or students with an employment contract and apprentices are classified in the occupation for which they carry out their apprenticeship or training period. Foremen are also classified in the occupation in which they supervise.

The transmission codes for the categories of variable 2.3 are set out by Eurostat in an implementation paper.

⁽¹⁾ To avoid double counting, the hours worked by persons employed by employment agencies are to be included in the NACE category of the employment agency (NACE Rev. 1.1, 74.50) and not in the NACE category of the enterprise for which they actually work.

⁽²⁾ An outworker is a person who agrees to work for a particular enterprise or to supply a certain quantity of goods or services to a particular enterprise by prior arrangement or contract with that enterprise, but whose place of work is not within it (European system of national and regional accounts in the European Community, ESA 95: 11.13(g)).

2.4. *Managerial or supervisory position (optional)*

This binary variable (categories 'yes'/'no') indicates whether an employee has some form of managerial or supervisory function. The word 'managerial' is not identical to 'supervisory' because some managers do not supervise other employees. Further, employees who do have a 'supervisory' position do not belong exclusively to ISCO-88 (COM), major group 1 (legislators, senior officials and managers). Many employees coded to group 2 (professionals) and group 3 (technicians and associate professionals) may have supervisory responsibilities. A supervisory position can occur in any of the ISCO-88 (COM) groups, including manual workers.

Managerial functions are related to determining, formulating, implementing, directing or advising policies and activities of enterprises or institutions. They often include supervisory responsibilities.

A person is considered to have a supervisory position when he or she supervises the work of at least one person (other than apprentices). Typically such a person might have a job title/description of 'foreman' or 'supervisor' together with the name of the occupation.

The transmission codes for the two categories are set out by Eurostat in an implementation paper.

2.5. *Highest successfully completed level of education and training (ISCED 97)*

This variable concerns the level of general, professional or higher education which the employee has received according to the International Standard Classification of Education, 1997 version (ISCED 97). The expression 'level successfully completed' must be associated with obtaining a certificate or a diploma, when there is certification. In cases where there is no certification, successful completion must be associated with full attendance.

The following ISCED 97 levels should be distinguished:

ISCED 0 and 1 (code 01): Pre-primary education and primary education or first stage of basic education

Programmes at this level are normally designed on a unit or project basis to give children a sound basic education in reading, writing and mathematics along with an elementary understanding of other subjects such as history, geography, natural science, social science, art and music. This level usually covers six years of full-time schooling.

ISCED 2 (code 02): Lower secondary education or second stage of basic education

The programmes at this level usually follow a more subject-oriented pattern, using more specialised teachers and often several teachers conducting classes in their field of specialisation. The full implementation of basic skills occurs at this level.

ISCED 3 and 4 (code 03): Upper secondary and post-secondary non-tertiary education

The educational programmes at upper secondary level (ISCED 3) typically require the completion of some nine years of full-time education since the beginning of ISCED level 1, or a combination of education and vocational or technical experience.

Post-secondary non-tertiary education (ISCED 4) captures programmes that straddle the boundary between upper-secondary and post-secondary education from an international point of view, even though they might clearly be considered as upper-secondary or post-secondary programmes in a national context. From the point of view of their content these programmes cannot be regarded as tertiary programmes. They are often not significantly more advanced than programmes at ISCED level 3, but they serve to broaden the knowledge of participants who have already completed a programme at ISCED level 3. Typical examples are programmes designed to prepare students for studies at ISCED level 5 who, although having completed ISCED level 3, did not follow a curriculum which would allow entry to level 5, i.e. pre-degree foundation courses or short vocational programmes. Second-cycle programmes may be included as well.

ISCED 5B (code 04): First stage of tertiary education (not leading to an advanced research qualification)
— Technical

Unlike 5A, these programmes are practically oriented/occupationally specific, and are mainly designed to enable participants to acquire the practical skills and know-how needed for employment in a particular occupation or trade or class of occupations or trades, the successful completion of which usually provides the participants with a labour-market relevant qualification.

ISCED 5 A (code 05): First stage of tertiary education (not leading to an advanced research qualification)
— General

This level consists of tertiary programmes having an educational content more advanced than those offered at ISCED levels 3 and 4. Entry to these programmes normally requires the successful completion of ISCED level 3 or a similar qualification at ISCED level 4. They do not lead to the award of an advanced research qualification. These programmes must have a cumulative duration of at least two years. 5A programmes are largely theoretically based and are intended to provide sufficient qualifications for gaining entry into advanced research programmes and professions with high skills requirements.

ISCED 6 (code 06): Second stage of tertiary education (leading to an advanced research qualification)

This level is reserved for tertiary programmes which lead to the award of an advanced research qualification. The programmes are therefore devoted to advanced study and original research and not based on coursework only. They typically require the submission of a thesis or dissertation of publishable quality which is the product of original research and represents a significant contribution to knowledge.

The transmission codes for the categories of variable 2.5 listed above are set out by Eurostat in an implementation paper.

2.6. *Length of service in the enterprise*

The total length of service in the reference month should be based on the number of *completed* years of service. Any point of time during the reference month will suffice as a qualifying date (e.g. 1 or 31 October). The total length of service relates to the period since the employee joined the enterprise, which may have been in another local unit. Career breaks will not be subtracted. Where enterprises have been merged or there have been changes of ownership, the length of service is to be recorded as counted by the enterprise.

Size bands for variable 2.6 and transmission codes for the bands are set out by Eurostat in an implementation paper.

2.7. *Contractual working time (full-time or part-time)*

Full-time employees are those whose normal working hours are the same as the collectively agreed or customary hours worked in the local unit under consideration, even if their contract is for less than one year. *Part-time employees* are those who work fewer hours than the normal working hours of full-time employees.

The transmission codes for the two categories of variable 2.7 are set out by Eurostat in an implementation paper.

2.7.1. *Share of a full-timer's normal hours*

For a *full-time employee*, this share is always 100 %. For a *part-time employee*, the hours contractually worked should be expressed as a percentage of the number of normal hours worked by a full-time employee in the local unit (in an job equivalent to that of the part-time employee).

2.8. *Type of employment contract*

The following information on the type of employment contract is requested:

- indefinite duration,
- temporary/fixed duration (except apprentices, including trainees or students receiving remuneration),
- apprentice.

An *indefinite duration contract of employment* is a contract between the employee and the employer, for which the actual duration of the contract has not been agreed in advance.

An *employment contract is regarded as temporary or of fixed duration* if it was the intention of the employer and employee that the duration of the contract was to be determined by certain conditions such as a definite time schedule for the completion of the work, the completion of a certain task, or the return to work of another employee who was currently being replaced. Trainees and students who are paid for their work belong to this category.

Apprenticeship contracts are specific fixed-duration contracts drawn up between the employer and the apprentice. The purpose of the contract is to enable the apprentice to acquire practical experience in a specific field.

The transmission codes for the three categories of variable 2.8 are set out by Eurostat in an implementation paper.

2.9. *Citizenship (optional)*

Citizenship is defined as the legal nationality of each person, and a citizen is a person who is a legal national by birth or naturalisation, whether by declaration, option, marriage or other means.

One of the following should be selected:

- resident with citizenship,
- resident with foreign citizenship,
- commuter from another country.

The transmission codes for the three categories of variable 2.9 are set out by Eurostat in an implementation paper.

3. **Information on working periods for each employee in the sample**

The following variables relating to time are used for calculating the number of hours paid. The latter are defined as:

- normal and overtime hours remunerated during the reference period,
- any hours for which the employee was paid at a reduced rate, even if the difference was made up of payments from social-security funds,
- hours not worked during the reference period but nevertheless paid (annual holidays/vacation, absence due to sickness, public holidays and other hours paid, including time off for medical examinations, births, weddings, funerals, moving house, etc.).

3.1. *Number of weeks to which the gross annual earnings relate*

Variable 3.1 refers to the employee's *working time actually paid* during the year and should correspond to the actual gross annual earnings (variable 4.1). It will be used to gross up the actual gross annual earnings and the annual bonuses and allowances where the employee has worked for less than a full year, i.e. less than 52 weeks.

Part-time employees should be treated like full-time employees, irrespective of the hours worked. If a part-timer has been paid for a full year, insert '52' weeks. If a part-timer has been paid for 6 months, insert '26' weeks.

3.2. *Number of hours actually paid during the reference month*

What is required here is the number of hours actually paid during the reference month, not the number of hours in a standard working month. Hours actually paid include all normal and overtime hours worked and remunerated by the employer during the month. Hours not worked but nevertheless paid are counted as 'paid hours' (e.g. for annual leave, public holidays, paid sick leave, paid vocational training, paid special leave etc.).

Variable 3.2 should be consistent with the gross earnings for the reference month (variable 4.2). This implies that hours paid by the employer at a reduced rate for periods of absence are not counted.

If the employee's paid hours are affected by unpaid absence, then they should be adjusted to obtain paid hours for a full month. If, for example, the information is available that an employee had 20 % of the reference month as unpaid absence, variable 3.2 will be multiplied by the correction factor 1,25.

3.2.1. *Number of overtime hours paid in the reference month*

Overtime hours include those worked in addition to those of the normal or conventional working month. If, for example, four hours are paid at a rate of 1,5 times the normal rate, enter 4, not 6. Only those overtime hours corresponding to overtime pay registered in 4.2.1 should be included. Hence, variable 3.2.1 should be consistent with overtime earnings in the reference month (variable 4.2.1). Time off in lieu of unpaid work periods and travel time are not regarded as overtime.

The adjustment procedure applied to variable 3.2 implies that the grossing-up procedure also concerns the variable 3.2.1, which is a component of 3.2. If, for example, it is known that an employee had 20 % of the reference month as unpaid absence, variable 3.2.1 should be multiplied by the correction factor 1,25.

3.3. *Annual days of holiday leave*

This refers to the total number of *paid* annual holidays, excluding sick leave and public holidays, expressed in *days*. It relates to the annual total of all normal paid-leave days, including those granted to the employee on the grounds of age, performance of special duties, seniority etc.

It is recognised that many employers are unable to state the number of holidays actually taken by the employee during the year. For this reason variable 3.3 refers to annual holiday *entitlement*, which acts as a proxy for annual holidays actually taken.

The following are not regarded as holidays:

- sick leave,
- training leave,
- paid special leave granted for personal reasons,
- additional time off granted under working-time reduction agreements.

For purposes of comparison, each week of holiday corresponds to five days. Saturdays and Sundays should not be included. For example, if a full-time employee is normally entitled to five weeks' annual holiday, this corresponds to 25 days.

In contrast, five weeks' holiday entitlement for a part-timer who works 60 % of the normal full-timer's hours (variable 2.7.1) represents an entitlement to only 15 'full' days of leave.

3.4. *Other annual days of paid absence (optional)*

This variable is again expressed in days. It includes, for example:

- the total number of paid sick leave days actually taken during the year,
- paid special leave granted for personal reasons,
- public holidays.

It excludes paid days which are treated as being equivalent to days actually worked, such as paid annual days spent by the employee on vocational training.

4. **Information on earnings for each employee in the sample**

The employees to be included in all the following variables on annual, monthly and hourly earnings are those who actually received remuneration during the reference month. Employees who did not receive remuneration in the reference month should be *excluded*.

Further, if the employee's gross earnings in the reference month (variable 4.2) are affected by unpaid absence (due to sickness, maternity or study leave, etc.) and *cannot* be suitably adjusted in order to provide a satisfactory estimate of the employee's earnings for a full month, then that employee should also be *excluded*.

The grossing-up factor for employees (variable 5.2) should strictly relate to those sampled employees for whom soundly-based estimates of gross monthly earnings can be provided.

4.1. *Gross annual earnings in the reference year*

Gross annual earnings cover remuneration in cash and in kind paid during the reference year before any tax deductions and social-security contributions payable by wage earners and retained by the employer.

The main difference between *annual* and *monthly* earnings is that annual earnings are not only the sum of the direct remuneration, bonuses and allowances paid to an employee in each pay period. Annual earnings hence usually exceed the figure produced by multiplying the 'standard monthly package' by 12.

The 'standard monthly package' includes those bonuses and allowances which occur in every pay period, even if the amount for these 'regular' bonuses and allowances varies, but excludes bonuses and allowances not occurring in every pay period. Furthermore, monthly earnings leave payments in kind out of consideration. However, annual earnings also cover all 'non-standard payments', i.e. payments not occurring in each pay period (variable 4.1.1), and payments in kind (variable 4.1.2).

Data for variable 4.1 should be provided for all employees for whom gross monthly earnings (variable 4.2) can be supplied, i.e. variable 4.1 should *not* be provided for employees for whom an estimate of an employee's gross monthly earnings is not feasible. These employees will be excluded from the sample.

It does not matter if the employee's earnings do not always relate to a full year. Some employees will have periods of unpaid absence, or will have joined or left the enterprise during the year. The *actual* gross earnings in the reference year are required. When variable 3.1 (number of weeks to which the annual earnings relate) is less than 52 weeks, variable 3.1 will be used to gross up variable 4.1 and its components.

4.1.1. Annual bonuses and allowances not paid at each pay period

This variable covers items which do not occur each pay period, such as:

- 13th or 14th month pay,
- holiday bonuses,
- quarterly or annual company bonuses,
- productivity bonuses depending on pre-set targets, employee recognition awards, recruitment incentives,
- leaving or retirement bonuses,
- back-dated arrears.

4.1.2. Annual payments in kind (*optional*)

This variable refers to an estimate of the value of all goods and services made available to employees through the enterprise or local unit during the reference year. Included are company products, staff housing, company cars, stock options and share purchase schemes. If information is available from personal income taxation on wages and salaries in kind, this may be used as a proxy.

When variable 3.1 is less than 52 weeks, do *not* adjust variable 4.1.2.

4.2. Gross earnings for the reference month

This variable covers remuneration in cash paid during the reference month before any tax deductions and social-security contributions payable by wage earners and retained by the employer. Variable 4.2 should be consistent with the number of hours paid during the reference month (variable 3.2).

The following elements are *included*:

- all payments relating to this period (even if actually paid outside the representative month), including any overtime pay, shift premium, bonus, commission, etc.,
- payments for overtime, allowances for teamwork, night work, weekend work, commissions etc.,
- bonuses and allowances paid regularly in each pay period, even if the amount varies monthly,
- payments for periods of absence and work stoppage paid for entirely by the employer,
- family allowances and other gratuities in cash fixed by collective agreements or voluntarily agreed,
- payments to employees' savings scheme.

The following are *excluded*:

- payments paid in this period but relating to other periods, such as arrears, advances or pay for holiday or sickness absences outside this period,
- periodic bonuses and gratuities not paid regularly at each pay date,

- payments for periods of absence paid by the employer at a reduced rate,
- statutory family allowances,
- allowances for work clothes or tools,
- reimbursements or payments for travel, subsistence etc., and expenses incurred in carrying out the employer's business,
- payments in kind.

Where the employee's gross monthly earnings are affected by unpaid absence (due to sickness, maternity or study leave etc. or simply because the employee joined or left the enterprise during the reference month), then the earnings should be suitably adjusted in order to provide an estimate of the employee's earnings for a full month. Where it is not feasible to adjust the employee's monthly earnings so that the estimated figure corresponds to a full month's earnings, then the employee should be excluded from the sample.

4.2.1. Earnings related to overtime

The amount of overtime earnings paid for overtime hours. The full rate should be counted, not just the premium element added to the normal hourly rate. Variable 4.2.1 should be consistent with variable 3.2.1 (number of overtime hours paid in the reference month).

4.2.2. Special payments for shift work

This relates to the special premium payments for shift work, night work or weekend work where these are not treated as overtime. The amount to include is the premium element or supplementary payment, not the total payment for such shift work.

4.2.3. Compulsory social contributions and taxes paid by the employer on behalf of the employee (*optional*)

This variable refers to the total amount of compulsory social contributions and taxes paid by the employer on behalf of the employee to government authorities during the reference month. This information is requested in order to obtain net monthly earnings for each employee (see the figure 'Variables on earnings' at the end of Annex I).

If the employee's monthly earnings are affected by unpaid absence, then variable 4.2.3 (together with its sub-components 4.2.3.1 and 4.2.3.2) should be adjusted to obtain the estimated deductions for a full month.

4.2.3.1. Compulsory social-security contributions (*optional*)

This refers to the amount of the employee's social security contribution laid down by law or by collective agreements and withheld by the employer.

4.2.3.2. Taxes (*optional*)

This refers to the amount of all taxes on the employee's earnings withheld by the employer for the reference month and paid by the employer to the tax authorities on behalf of the employee.

4.3. Average gross hourly earnings in the reference month

The figure required is the average gross earnings per hour paid to the employee in the reference month. This figure should be consistent with the average gross hourly earnings derived from gross earnings for the reference month (variable 4.2) divided by the number of hours paid during the same period (variable 3.2).

5. Grossing-up factors

The data collection for the structure-of-earnings survey usually follows a two-stage sampling scheme. In this case, the total population of local units is first divided into non-overlapping subpopulations (strata) and a sample of local units is drawn from each stratum. After that, a sample of employees is drawn from each local unit.

The grossing-up factor 5.1 is needed to draw conclusions from the data collected on the sampled local units to the population of all local units in the stratum concerned. Analogously, the grossing-up factor 5.2 allows conclusions to be drawn from data on sampled employees to the population of all employees in the same stratum.

In general, whenever it is decided that the micro-data for an individual business or individual employee should be withdrawn (for whatever reason) or are not available, then the grossing-up factors should be recalculated by suitable methods such as calibration, in order to adjust the initial weights of local units and employees respectively.

5.1. *Grossing-up factor for the local unit*

The grossing-up factor 5.1 for each local unit is calculated within each sampling stratum. It gives an indication of the number of local units in the stratum represented by each local unit in the sample. Hence, variable 5.1 is (at least before applying any method of reweighting the local units) the factor by which the number of local units in the sample needs to be multiplied to obtain estimates for the population of all local units in the stratum concerned.

Whenever it is decided that a local unit should be withdrawn from the sample (owing to non-response, coverage error, post-stratification etc.), the grossing-up factor 5.1 needs to be recalculated to take account of the local units excluded.

5.2. *Grossing-up factor for the employees*

The grossing-up factor for employees is calculated for each local unit in the sample. Variable 5.2 is (at least before applying any method for reweighting the initial weights of employees) the factor by which the number of employees in the sample needs to be multiplied in order to obtain population estimates for the stratum concerned.

It is essential for the number of employees in the sample drawn from the local unit to be the same as the number of employees who have received a full month's remuneration in the reference month. Where it is necessary to exclude some of the sampled employees who have periods of unpaid absence(s) in the reference month, then the grossing-up factor 5.2 supplied should be recalculated to take account of the employees excluded.

ANNEX III

TRANSMISSION OF RESULTS

The individual data concerning each local unit and each employee should be provided in the form of two types of micro-data record:

A: records for the local units

B: records for the employees.

The employee records should be linked to the local unit records by a key which does not disclose the identity of the business. This could be an artificial number or an existing key, provided the same key is used for both the local unit and the employee records. Additionally, for easy identification of an employee, a key for each employee should be provided which does not identify the person.

Variables

All items for records A and B should be completed in full. There should be entries for all individual items, including optional variables (see below). 'Blank' information is not acceptable.

Mandatory variables

Complete information should be supplied for all mandatory variables on all micro-data records. Otherwise, the grossing-up factors supplied will not be suitable for all variables.

Optional variables

These should be coded strictly according to the following rules:

When information is available for an optional variable, data should preferably be provided (as for mandatory variables) for all observation units or employees.

When information is *not* available for an optional variable, insert 'OPT' for *alphanumeric* variables and '99999999' for *numeric* variables (the number of 'nines' corresponds to the length of the field).

Zero values

'0': this should strictly be used *only* for those variables where a zero value may sometimes genuinely occur (e.g. when an employee has no overtime in the reference month).

Categories for SES variables

The SES variables listed in Annex I are either qualitative or quantitative variables. Most of the variables related to the local unit and to individual characteristics of the employees are *qualitative* variables. These SES variables are linked to a limited number of categories.

The *quantitative* SES variables are either count variables (number of employees, number of hours, days or weeks) or variables related to earnings.

The categories of the qualitative SES variables as well as bands for quantitative SES variables are set out by Eurostat in an implementation paper.

Content of records A and B

The content and sequence of the variables in records A and B and the codes to be used will be specified in separate documents.

The records should contain one field per variable. Numeric variables should be expressed in absolute terms, that is, giving the numbers in full (not in decimals, or in tens, hundreds, thousands, millions, etc.). However, because of the need for precision, the values for variables 4.3, 5.1 and 5.2 should be given to two decimal places.

There is one numeric variable that is different. This is the 'share of a full-timer's normal hours' (variable 2.7.1), which should be expressed as a percentage and also given to two decimal places, e.g. 43,27.

Where numeric variables relate to money values (e.g. hourly, monthly annual earnings and bonuses, taxes, social-security contributions, payments in kind), these should be expressed in *units of the national currency* of the country concerned.

Transmission

Member States shall transmit to the Commission (Eurostat) the data and metadata required by this Regulation in an electronic format compliant with an interchange standard proposed by Eurostat. Eurostat will make available detailed documentation in relation to approved standard(s) and will supply guidelines on how to implement this (these) standard(s) according to the requirements of this regulation.

COMMISSION REGULATION (EC) No 1739/2005**of 21 October 2005****laying down animal health requirements for the movement of circus animals between Member States****(Text with EEA relevance)**

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Council Directive 92/65/EEC of 13 July 1992 laying down animal health requirements governing trade in and imports into the Community of animals, semen, ova and embryos not subject to animal health requirements laid down in specific Community rules referred to in Annex A(1) to Directive 90/425/EEC⁽¹⁾, and in particular Article 23 thereof,

Whereas:

(1) It is appropriate, in accordance with Directive 92/65/EEC, to lay down, by way of derogation from the general rules on animal movements in Chapter II of that Directive, special animal health requirements for the movement of circus animals. The measures provided for in this Regulation should apply to travelling exhibitions, fairs or animal acts but not permanent establishments referred to in Article 2(1)(c) of Directive 92/65/EEC.

(2) For animal health purposes, it is necessary for the competent authorities to have certain information on circuses and fairs which contain circus animals, in particular as regards movements between Member States. It is therefore appropriate to require that such circuses and fairs be registered in a Member State and that their itineraries be recorded.

(3) Circuses and fairs often perform outside their Member State of origin. It should therefore be possible for them to be registered in the Member State in which they are ordinarily resident or in which they are situated, even if that is not their Member State of origin.

(4) An animal act contains a single animal or a limited number of animals kept for the primary purpose of public exhibition or entertainment, and may be independently managed or owned. Animal acts may perform outside their Member State of origin, for example when forming part of a circus or when carrying out work on an individual basis such as activities for entertainment or filming. It is therefore also appropriate to include animal acts within the scope of this Regulation.

(5) The animal health risk posed by a circus or fair is directly related to the species of animals kept in it. Operators of circuses and of animal acts should therefore be required to keep registers recording the relevant information about the presence of their animals.

(6) It is necessary to facilitate controls on the animal health status of circus animals. Taking into account the different ways in which circus animals are moved within the Community, it is appropriate to provide for passports for circus animals which should record all the relevant animal health information, including details of official testing and vaccinations.

(7) The animal health rules for circus animals can be based on the same principles as the Community animal health legislation concerning intra-Community trade in domestic animals kept in holdings, including Council Directive 64/432/EEC of 26 June 1964 on animal health problems affecting intra-Community trade in bovine animals and swine⁽²⁾ and Council Directive 91/68/EEC of 28 January 1991 on animal health conditions governing intra-Community trade in ovine and caprine animals⁽³⁾. However, these rules should be adapted to the particular problems posed by the relevant animal species when they are kept in circuses and fairs and properly attested by an official veterinarian as defined in Article 2(7) of Council Directive 90/425/EEC⁽⁴⁾.

⁽¹⁾ OJ L 268, 14.9.1992, p. 54. Directive as last amended by Directive 2004/68/EC (OJ L 139, 30.4.2004, p. 320); corrected version in (OJ L 226, 25.6.2004, p. 128).

⁽²⁾ OJ L 121, 29.7.1964, p. 1977/64. Directive as last amended by Regulation (EC) No 1/2005 (OJ L 3, 5.1.2005, p. 1).

⁽³⁾ OJ L 46, 19.2.1991, p. 19. Directive as last amended by Commission Decision 2004/554/EC (OJ L 248, 22.7.2004 p. 1).

⁽⁴⁾ OJ L 224, 18.8.90, p. 29. Directive as last amended by Directive 2002/33/EC of the European Parliament and of the Council (OJ L 315, 19.11.2002, p. 14).

- (8) Animal health conditions and accompanying documentation or passports have been laid down for the intra-Community movement of cats, dogs and ferrets in Regulation (EC) No 998/2003 of the European Parliament and of the Council ⁽¹⁾ and of equidae in Commission Decision 93/623/EEC ⁽²⁾. Circus animals of those species should therefore comply with the rules on passports and animal health laid down therein.
- (9) In the interests of consistency, it is appropriate to permit Ireland, Cyprus, Malta, and the United Kingdom to apply to circus animals which are susceptible to rabies their national rules on quarantine as provided for in Directive 92/65/EEC.
- (10) The measures provided for in this Regulation should be without prejudice to legislation implementing Council Regulation (EC) No 338/97 of 9 December 1996 on the protection of species of wild fauna and flora by regulating trade therein ⁽³⁾.
- (11) To ensure full traceability of circus animals, it is necessary to record intra-Community movements of circus animals using the Traces system introduced by Commission Decision 2004/292/EC ⁽⁴⁾, and to apply the certification requirements for intra-Community trade as laid down in Commission Regulation (EC) No 599/2004 of 30 March 2004 concerning the adoption of a harmonised model certificate and inspection report linked to intra-Community trade in animals and products of animal origin ⁽⁵⁾.
- (12) Sufficient time should be allowed to permit the implementation of the new requirements provided for in this Regulation.
- (13) 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

Subject matter and scope

By way of derogation from Chapter II of Directive 92/65/EEC, this Regulation lays down the animal health requirements applicable to the movement of circus animals between Member States.

⁽¹⁾ OJ L 146, 13.6.2003, p. 1. Regulation as last amended by Commission Regulation (EC) No 1193/2005 (OJ L 194, 26.7.2005 p. 4).

⁽²⁾ OJ L 298, 3.12.1993, p. 45. Decision as amended by Decision 2000/68/EC (OJ L 23, 28.1.2000, p. 72).

⁽³⁾ OJ L 61, 3.3.1997, p. 1. Regulation as last amended by Commission Regulation (EC) No 1332/2005 (OJ L 215, 19.8.2005, p. 1).

⁽⁴⁾ OJ L 94, 31.3.2004, p. 63. Decision as last amended by Decision 2005/515/EC (OJ L 187, 19.7.2005, p. 29).

⁽⁵⁾ OJ L 94, 31.3.2004, p. 44.

The rules on circuses apply *mutatis mutandis* to animal acts.

This Regulation shall apply without prejudice to:

- (a) the measures applicable to animals susceptible to rabies in certain Member States as provided for in Article 10(4) of Directive 92/65/EEC;
- (b) the relevant rules on certification contained within legislation implementing Regulation (EC) No 338/97 on the protection of species of wild fauna and flora by regulating trade therein.

Article 2

Definitions

For the purpose of this Regulation the following definitions shall apply:

1. 'circus' means a travelling exhibition or fair that includes one or more animals;
2. 'animal' means an animal of the species listed in Annex A to Directive 92/65/EEC which is kept for public exhibition for purposes of entertainment or education;
3. 'circus operator' means the owner of the circus, his agent or another person with overall responsibility for the circus;
4. 'official veterinarian' means the official veterinarian as defined in Article 2(7) of Directive 90/425/EEC.

Article 3

Movement between Member States

A circus may move to another Member State only if it is registered in accordance with Article 4 and if Articles 8, 9 and 10 are complied with.

Article 4

Registration of circuses

1. At least 40 working days before a circus first moves to another Member State, the circus operator shall submit in writing an application for registration to the competent authority of the Member State in which the circus has its legal residence or in the Member State in which it is situated.

2. Following receipt of the application referred to in paragraph 1, the competent authority shall carry out all the necessary checks on compliance with the animal health requirements laid down in this Regulation.

3. If the requirements referred to in paragraph 2 are met, the competent authority shall issue:

- (a) a unique registration number for the circus which shall commence with the ISO code of the Member State;
- (b) a register of animals in the circus in accordance with Article 5;
- (c) a venue register in accordance with Article 6;
- (d) animal passports in accordance with Article 7.

4. The competent authority shall keep a record of all the documents issued by it under paragraph 3.

Article 5

Register of animals

The register of animals in the circus referred to in Article 4(3)(b) shall be in conformity with the model laid down in Annex I and bear the registration number referred to in Article 4(3)(a). Each page shall be stamped and signed by the official veterinarian prior to issue.

Article 6

Venue register

The venue register referred to in Article 4(3)(c) shall be in conformity with the model laid down in Annex II and bear the registration number referred to in Article 4(3)(a). Each entry shall be stamped and signed by the official veterinarian prior to each movement referred to in Article 9.

Article 7

Animal passports

1. In accordance with Article 4 the competent authority shall issue for each animal in the circus, other than those referred to in paragraphs 2, 3 and 4 of this Article, a passport in conformity with the model laid down in Annex III.

2. In accordance with Article 4 the competent authority shall issue for birds and rodents in the circus a collective passport in conformity with the model laid down in Annex IV.

3. Dogs, cats and ferrets in the circus shall be subject to the passport and animal health rules in Regulation (EC) No 998/2003.

4. Equidae in the circus shall be subject to the passport and animal health rules in Decision 93/623/EEC.

Article 8

Obligations of the circus operator

1. Before a circus moves to another Member State, the circus operator shall ensure that:

- (a) the registers referred to in Article 4(3)(b) and (c) are duly updated;
- (b) all the animals in the circus are accompanied by duly updated passports;
- (c) at least 10 working days before departure, the competent authority in the Member State in which the circus is situated is informed of its intention to move to another Member State.

2. The circus operator shall ensure that each animal in the circus is kept in a way that prevents direct or indirect contact with any animal not registered under this Regulation.

3. The circus operator shall ensure that all information in the registers referred to in Articles 4(3)(b) and (c) is kept for at least five years.

Article 9

Requirements for movements of circuses between Member States

1. Before a circus moves to another Member State, the official veterinarian in the Member State of departure shall:

- (a) verify that the place of departure is not subject to any animal health restriction relating to a disease to which an animal in the circus is susceptible;
- (b) in the 10 working days before departure inspect all the animals in the circus to ensure that they are clinically healthy;
- (c) verify that the register of animals in the circus referred to in Article 4(3)(b) is up to date and complete at the day of the inspection;
- (d) verify that the passports of the animals in the circus are up to date.

2. If all the conditions set out in paragraph 1 are met, the official veterinarian shall indicate that the circus is authorised to move within the next 10 working days by signing and stamping the last column of the venue register referred to in Article 4(3)(c).

Article 10

Information on movements of circuses between Member States

1. The circus operator shall, at least 48 hours before the circus moves from one Member State to another, communicate the relevant information to complete the intra-Community trade certificate in Traces to the competent authority of the Member State of departure.

2. The competent authority of the Member State of departure shall, using the Traces system, notify the movement to the

competent authority of the Member State of destination and to the competent authority of any Member State of transit.

3. In the intra-Community trade certificate model as laid down in Regulation (EC) No 599/2004, the species and passport number of the animals in the circus shall be inserted in point I.31 on the identification of animals/products and the present Regulation shall be mentioned in part II.

Article 11

Entry into force

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

It shall apply from 1 January 2007.

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

Done at Brussels, 21 October 2005.

For the Commission

Markos KYPRIANOU

Member of the Commission

ANNEX I
REGISTER OF ANIMALS IN A CIRCUS or ANIMAL ACT (pursuant to Commission Regulation (EC)
No 1739/2005) ⁽¹⁾

1.1. Circus or animal act name		1.3. Address of circus or animal act owner		1.5. Competent authority (address)		1.7. Date of issue	
1.2. Owner of circus or animal act		1.4. Registration number		1.6. Number of pages		1.8. Name and address of circus or animal act operator	

2.1. SERIAL NUMBER	2.2. ANIMAL OWNER ⁽¹⁾ (name and address)	2.3. PASSPORT NUMBER	2.4. SPECIES	2.5. INDIVIDUAL IDENTIFICATION ⁽²⁾	2.6. ENTERED INTO THE CIRCUS or ACT ON	2.7. LEFT THE CIRCUS or ACT ON
1.						
2.						
3.						
4.						
5.						
...						

⁽¹⁾ To be completed when the animals are not owned by the circus. Details of each animal must be entered separately for each separate owner.
⁽²⁾ Where practical, specify type (tattoo, microchip, ear tag, sketch card, or photograph, etc.), number and location.

PAGE ...

3. STAMP AND SIGNATURE OF THE OFFICIAL VETERINARIAN

⁽¹⁾ The register must be in the form of a book, the pages are proof against substitution. To this end each page shall be signed and stamped by an official veterinarian prior to being issued to the circus operator. It must be kept for a minimum of five years.

ANNEX II

VENUE REGISTER FOR A CIRCUS or ANIMAL ACT (pursuant to Commission Regulation (EC) No 1739/2005)

1.1. Circus or animal act name:

1.2. Registration number:

1.3. Address:

1.4. Circus operator:

1.5. Address of resting/winter quarters (if applicable):

1.6. Point of contact (including phone number):

Permanent:

when travelling (if available — e.g. GSM):

2.1. Date of arrival	2.2. Country	2.3. Last place visited prior to movement to another Member State (region and town)	2.4. Intended date of departure	2.5. Stamp and signature of official veterinarian (*)
				Stamp Date Signature
				Stamp Date Signature
				Stamp Date Signature
				Stamp Date Signature

(*) To be completed when the circus is authorised to move to another Member State.

ANNEX III

INDIVIDUAL PASSPORT FOR ANIMALS IN A CIRCUS or ANIMAL ACT

COVER  EUROPEAN UNION [MEMBER STATE] ANIMAL PASSPORT (CIRCUSES AND ANIMAL ACTS) Number Issued at on / / Competent authority Regional/local service of	COVER
---	--------------

1. Owner	2. Description and identification of the animal
1.1. First name	2.1. Name
1.2. Surname	2.2. Species
1.3. Address	2.3. Breed
1.4. Post code	2.4. Sex
1.5. City	2.5. Date of birth
1.6. Country	2.6. Coat colour (if any)
1.7. Telephone number	2.7. Particular feature(s)
1.8. GSM ⁽¹⁾	2.8. Individual identification number (if practical)
1.9. Fax ⁽¹⁾	2.9. Type (tattoo, ear tag, microchip, sketch card, photograph etc.)
1.10. E-mail ⁽¹⁾	2.10. Location
⁽¹⁾ Not mandatory. In the event of a change of ownership, this section shall be crossed out and the relevant addendum must be completed.	3. Notes The identification must be verified before any new entry is made on this passport.

[illegible]

6. Treatments			
6.1. Date	6.2. Treat- ment	6.3. Reason for treatment	6.4. Stamp and signature

In sections 4, 5, and 6, more numbered pages in accordance with the models may be added.

Notes for guidance

(*) Tests have to be performed as follows:

- for animals belonging to the ovine or caprine species:
 - yearly test for brucellosis with negative result to one of the tests described under Annex C to Council Directive 91/68/EEC
- for animals belonging to the bovine species (*Bos Taurus*, *Bubalus bubalis* and *Bison bison*):
 - yearly test for brucellosis with negative result to one of the tests described under Annex C to Council Directive 64/432/EEC
 - yearly test for TB with negative result to intradermal tuberculin test as described in Annex B to Council Directive 64/432/EEC
- for camelids:
 - yearly test for brucellosis with negative result to one of the tests described under Annex I, part 4 to Council Decision 79/542/EEC
 - yearly test for TB with negative result to intradermal tuberculin test as described in Annex I, part 4 to Council Decision 79/542/EEC

Notes

ADDENDUM 1		ADDENDUM 2	
Date		Date	
Stamp and signature of official veterinarian		Stamp and signature of official veterinarian	
1. Owner (to be completed only in the event of a change of ownership)		1. Owner (to be completed only in the event of a change of ownership)	
1.1. First name		1.1. First name	
1.2. Surname		1.2. Surname	
1.3. Address		1.3. Address	
1.4. Post code		1.4. Post code	
1.5. City		1.5. City	
1.6. Country		1.6. Country	
1.7. Telephone number		1.7. Telephone number	
1.8. GSM ⁽¹⁾		1.8. GSM ⁽¹⁾	
1.9. Fax ⁽¹⁾		1.9. Fax ⁽¹⁾	
1.10. E-mail ⁽¹⁾		1.10. E-mail ⁽¹⁾	
⁽¹⁾ Not mandatory.		⁽¹⁾ Not mandatory.	

Sequence of the headings, numbering of pages and languages:

1. The sequence of the headings (including the numbers) of the model passport must be strictly followed.
2. Each page of the passport must be numbered at the bottom. The number of pages of the passport as issued must be indicated on page 1 in the following format: 1 out of [insert total number of pages].
3. Headings must be given in the official language(s) of the Member State of issue and in English.
4. The size and the shape of the 'boxes' of the model passport are indicative and not binding.

ANNEX IV

PASSPORT FOR BIRDS AND RODENTS IN A CIRCUS or ANIMAL ACT

COVER  EUROPEAN UNION [MEMBER STATE] ANIMAL PASSPORT: BIRDS AND RODENTS (CIRCUSES AND ANIMAL ACTS) Number Issued at on / / Competent authority Regional/local service of	COVER
--	--------------

1. Owner	2. Description and identification of the animal		
1.1. First name	2.1. Species		
1.2. Surname	2.2. Breed		
1.3. Address	2.3. Individual identification numbers (if practical)		
1.4. Post code			
1.5. City			
1.6. Country			
1.7. Telephone number			
1.8. GSM ⁽¹⁾			
1.9. Fax ⁽¹⁾	3. Notes		
1.10. E-mail ⁽¹⁾			
(¹) Not mandatory. In the event of a change of ownership, this section shall be crossed out and the relevant addendum must be completed.			
	The identification must be verified before any new entry is made on this passport.		

4. Vaccination history		
4.1. Date	4.2. Vaccine	4.3. Stamp and signature

5. Testing details (*)			
5.1. Date	5.2. Test	5.3. Result	5.4. Stamp and signature (official vet)

(*) For pigeons:

— yearly vaccination against Newcastle disease.

ADDENDUM 1	ADDENDUM 2
<i>Date</i>	<i>Date</i>
<i>Stamp and signature of official veterinarian</i>	<i>Stamp and signature of official veterinarian</i>
1. Owner (to be completed only in the event of a change of ownership)	1. Owner (to be completed only in the event of a change of ownership)
1.1. First name	1.1. First name
1.2. Surname	1.2. Surname
1.3. Address	1.3. Address
1.4. Post code	1.4. Post code
1.5. City	1.5. City
1.6. Country	1.6. Country
1.7. Telephone number	1.7. Telephone number
1.8. GSM ⁽¹⁾	1.8. GSM ⁽¹⁾
1.9. Fax ⁽¹⁾	1.9. Fax ⁽¹⁾
1.10. E-mail ⁽¹⁾	1.10. E-mail ⁽¹⁾
⁽¹⁾ Not mandatory.	⁽¹⁾ Not mandatory.

Sequences of the headings, numbering of pages and languages:

1. The sequence of the headings (including the numbers) of the model passport must be strictly followed.
2. Each page of the passport must be numbered at the bottom. The number of pages of the passport as issued must be indicated on page 1 in the following format: 1 out of [insert total number of pages].
3. Headings must be given in the official language(s) of the Member State of issue and in English.
4. The size and the shape of the 'boxes' of the model passport are indicative and not binding.

COMMISSION DIRECTIVE 2005/72/EC**of 21 October 2005****amending Council Directive 91/414/EEC to include chlorpyrifos, chlorpyrifos-methyl, mancozeb, maneb, and metiram as active substances****(Text with EEA relevance)**

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

information was submitted on 3 October 2000, 29 November 2000 and 22 August 2000 respectively.

Having regard to the Treaty establishing the European Community,

Having regard to Council Directive 91/414/EEC of 15 July 1991 concerning the placing of plant protection products on the market ⁽¹⁾, and in particular Article 6(1) thereof,

Whereas:

(1) Commission Regulation (EEC) No 3600/92 of 11 December 1992 laying down the detailed rules for the implementation of the first stage of the programme of work referred to in Article 8(2) of Council Directive 91/414/EEC concerning the placing of plant protection products on the market ⁽²⁾, establishes a list of active substances to be assessed, with a view to their possible inclusion in Annex I to Directive 91/414/EEC. That list includes chlorpyrifos, chlorpyrifos-methyl (under the spelling chlorpyriphos and chlorpyriphos-methyl) mancozeb, maneb and metiram.

(2) For those active substances the effects on human health and the environment have been assessed in accordance with the provisions laid down in Regulation (EEC) No 3600/92 for a range of uses proposed by the notifiers. By Commission Regulation (EC) No 933/94 of 27 April 1994 laying down the active substances of plant protection products and designating the Rapporteur Member States for the implementation of Commission Regulation (EEC) No 3600/92 ⁽³⁾, the following Rapporteur Member States were designated, which submitted the relevant assessment reports and recommendations to the Commission in accordance with Article 7(1)(c) of Regulation (EEC) No 3600/92. For chlorpyrifos and chlorpyrifos-methyl the Rapporteur Member State was Spain, and all relevant information was submitted on 16 September 1997 and 7 May 1999. For mancozeb, maneb and metiram Italy was designated as Rapporteur Member State and all relevant

(3) The assessment reports have been reviewed by the Member States and the Commission within the Standing Committee on the Food Chain and Animal Health. The reviews were finalised on 3 June 2005 in the format of the Commission review reports for chlorpyrifos, chlorpyrifos-methyl, mancozeb, maneb and metiram.

(4) The reviews of chlorpyrifos, chlorpyrifos-methyl, mancozeb, maneb and metiram did not reveal any open question to be addressed by the Scientific Committee on Plants or the European Food Safety Authority (EFSA) which has taken over the role of that Committee.

(5) It has appeared from the various examinations made, that plant protection products containing chlorpyrifos, chlorpyrifos-methyl, mancozeb, maneb and metiram may be expected to satisfy, in general, the requirements laid down in Article 5(1)(a) and (b) of Directive 91/414/EEC, in particular with regard to the uses which were examined and detailed in the Commission review report. It is therefore appropriate to include these active substances in Annex I, in order to ensure that, in all Member States, the authorisations of plant protection products containing these active substances can be granted in accordance with the provisions of that Directive.

(6) Without prejudice to that conclusion, it is appropriate to obtain further information on certain specific points. Article 6(1) of Directive 91/414/EEC provides that inclusion of a substance in Annex I may be subject to conditions. Therefore it is appropriate to require that chlorpyrifos, chlorpyrifos-methyl, mancozeb, maneb and metiram should be subjected to further testing for confirmation of the risk assessment for some non-target organisms and in case of maneb, and mancozeb also for developmental toxicity, and that such studies should be presented by the notifiers.

(7) A reasonable period should be allowed to elapse before an active substance is included in Annex I in order to permit Member States and the interested parties to prepare themselves to meet the new requirements which will result from the inclusion.

⁽¹⁾ OJ L 230, 19.8.1991, p. 1. Directive as last amended by Regulation (EC) No 396/2005 of the European Parliament and of the Council (OJ L 70, 16.3.2005, p. 1).

⁽²⁾ OJ L 366, 15.12.1992, p. 10. Regulation as last amended by Regulation (EC) No 2266/2000 (OJ L 259, 13.10.2000, p. 10).

⁽³⁾ OJ L 107, 28.4.1994, p. 8. Regulation as last amended by Regulation (EC) No 2230/95 (OJ L 225, 22.9.1995, p. 1).

- (8) Without prejudice to the obligations defined by Directive 91/414/EEC as a consequence of including an active substance in Annex I, Member States should be allowed a period of six months after inclusion to review existing authorisations of plant protection products containing chlorpyrifos, chlorpyrifos-methyl, mancozeb, maneb or metiram to ensure that the requirements laid down by Directive 91/414/EEC, in particular in its Article 13 and the relevant conditions set out in Annex I, are satisfied. Member States should vary, replace or withdraw, as appropriate, existing authorisations in accordance with the provisions of Directive 91/414/EEC. By derogation from the above deadline, a longer period should be provided for the submission and assessment of the complete Annex III dossier of each plant protection product for each intended use in accordance with the uniform principles laid down in Directive 91/414/EEC.
- (9) The experience gained from previous inclusions in Annex I to Directive 91/414/EEC of active substances assessed in the framework of Regulation (EEC) No 3600/92 has shown that difficulties can arise in interpreting the duties of holders of existing authorisations in relation to access to data. In order to avoid further difficulties it therefore appears necessary to clarify the duties of the Member States, especially the duty to verify that the holder of an authorisation demonstrates access to a dossier satisfying the requirements of Annex II to that Directive. However, this clarification does not impose any new obligations on Member States or holders of authorisations compared to the directives which have been adopted until now amending Annex I.
- (10) It is therefore appropriate to amend Directive 91/414/EEC accordingly.
- (11) The measures provided for in this Directive are in accordance with the opinion of the Standing Committee on the Food Chain and Animal Health,

HAS ADOPTED THIS DIRECTIVE:

Article 1

Annex I to Directive 91/414/EEC is amended as set out in the Annex to this Directive.

Article 2

Member States shall adopt and publish by 31 December 2006 at the latest the laws, regulations and administrative provisions necessary to comply with this Directive. They shall forthwith communicate to the Commission the text of those provisions and a correlation table between those provisions and this Directive.

They shall apply those provisions from 1 January 2007.

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

Article 3

1. Member States shall in accordance with Directive 91/414/EEC, where necessary, amend or withdraw existing authorisations for plant protection products containing chlorpyrifos, chlorpyrifos-methyl, mancozeb, maneb or metiram as active substances by 31 December 2006. By that date they shall in particular verify that the conditions in Annex I to that Directive relating to chlorpyrifos, chlorpyrifos-methyl, mancozeb, maneb and metiram are met, with the exception of those identified in part B of the entries concerning those active substances, and that the holder of the authorisation has, or has access to, a dossier satisfying the requirements of Annex II to that Directive in accordance with the conditions of Article 13.

2. By way of derogation from paragraph 1, for each authorised plant protection product containing chlorpyrifos, chlorpyrifos-methyl, mancozeb, maneb or metiram as either the only active substance or as one of several active substances all of which were listed in Annex I to Directive 91/414/EEC by 30 June 2006 at the latest, Member States shall re-evaluate the product in accordance with the uniform principles provided for in Annex VI to Directive 91/414/EEC, on the basis of a dossier satisfying the requirements of Annex III to that Directive and taking into account part B of the entry in Annex I to that Directive concerning chlorpyrifos, chlorpyrifos-methyl, mancozeb, maneb and metiram respectively. On the basis of that evaluation, they shall determine whether the product satisfies the conditions set out in Article 4(1)(b), (c), (d) and (e) of Directive 91/414/EEC.

Following that determination Member States shall:

- (a) in the case of a product containing chlorpyrifos, chlorpyrifos-methyl, mancozeb, maneb or metiram as the only active substance, where necessary, amend or withdraw the authorisation by 30 June 2010 at the latest; or
- (b) in the case of a product containing chlorpyrifos, chlorpyrifos-methyl, mancozeb, maneb or metiram as one of several active substances, where necessary, amend or withdraw the authorisation by 30 June 2010 or by the date fixed for such an amendment or withdrawal in the respective Directive or Directives which added the relevant substance or substances to Annex I to Directive 91/414/EEC, whichever is the latest.

Article 4

This Directive shall enter into force on 1 July 2006.

Article 5

This Directive is addressed to the Member States.

Done at Brussels, 21 October 2005.

For the Commission

Markos KYPRIANOU

Member of the Commission

ANNEX

The following entries shall be added at the end of the table in Annex I to Directive 91/414/EEC:

No	Common Name, Identification Numbers	IUPAC Name	Purity (%)	Entry into force	Expiration of inclusion	Specific provisions
112	Chlorpyrifos CAS No 2921-88-2 CIPAC No 221	O,O-diethyl-O-3,5,6-trichloro-2-pyridyl phosphorothioate	≥ 970 g/kg The impurity O,O,O,O-tetraethyl dithiopyrophosphate (Sulfotep) was considered of toxicological concern and a maximum level of 3 g/Kg is established.	1 July 2006	30 June 2016	PART A Only uses as insecticide may be authorised. PART B For the implementation of the uniform principles of Annex VI, the conclusions of the review report on chlorpyrifos, and in particular Appendices I and II thereof, as finalised in the Standing Committee on the Food Chain and Animal Health on 3 June 2005 shall be taken into account. Member States must pay particular attention to the protection of birds, mammals, aquatic organisms, bees and non-target arthropods and must ensure that the conditions of authorisation include risk mitigation measures, where appropriate, such as buffer zones. Member States shall request the submission of further studies to confirm the risk assessment for birds and mammals. They shall ensure that the notifiers at whose request chlorpyrifos has been included in this Annex provide such studies to the Commission within two years from the entry into force of this Directive.
113	Chlorpyrifos-methyl CAS No 5598-13-0 CIPAC No 486	O,O-dimethyl-O-3,5,6-trichloro-2-pyridyl phosphorothioate	≥ 960 g/kg The impurities O,O,O,O-tetramethyl dithiopyrophosphate (Sulfotemp) and OOO-trimethyl-O-(3,5,6-trichloro-2-pyridinyl) diphosphorodithioate (Sulfotemp - ester) were considered of toxicological concern and a maximum level of 5 g/Kg is established for each impurity.	1 July 2006	30 June 2016	PART A Only uses as insecticide may be authorised. PART B For the implementation of the uniform principles of Annex VI, the conclusions of the review report on chlorpyrifos-methyl, and in particular Appendices I and II thereof, as finalised in the Standing Committee on the Food Chain and Animal Health on 3 June 2005 shall be taken into account.

No	Common Name, Identification Numbers	IUPAC Name	Purity (1)	Entry into force	Expiration of inclusion	Specific provisions
						Member States must pay particular attention to the protection of birds, mammals, aquatic organisms, bees and non-target arthropods and must ensure that the conditions of authorisation include risk mitigation measures, where appropriate, such as buffer zones. Member States shall request the submission of further studies to confirm the risk assessment for birds and mammals in case of outdoor uses. They shall ensure that the notifiers at whose request chlorpyrifos-methyl has been included in this Annex provide such studies to the Commission within two years from the entry into force of this Directive.
114	Maneb CAS No 12427-38-2 CIPAC No 61	manganese ethylenebis (dithiocarbamate) (polymeric)	≥ 860 g/kg The manufacturing impurity ethylene thiourea is considered to be of toxicological concern and must not exceed 0,5 % of the maneb content.	1 July 2006	30 June 2016	PART A Only uses as fungicide may be authorised. PART B For the implementation of the uniform principles of Annex VI, the conclusions of the review report on maneb, and in particular Appendices I and II thereof, as finalised in the Standing Committee on the Food Chain and Animal Health on 3 June 2005 shall be taken into account. Member States must pay particular attention to the potential for groundwater contamination when the active substance is applied in regions with vulnerable soils and/or extreme climatic conditions. Member States must pay particular attention to the residues in food and evaluate the dietary exposure of consumers. Member States must pay particular attention to the protection of birds, mammals, aquatic organisms and non-target arthropods and ensure that the conditions of authorisation include risk mitigation measures.

No	Common Name, Identification Numbers	IUPAC Name	Purity (1)	Entry into force	Expiration of inclusion	Specific provisions
						Member States shall request the submission of further studies to confirm the risk assessment for birds and mammals and for developmental toxicity. They shall ensure that the notifiers at whose request maneb has been included in this Annex provide such studies to the Commission within two years from the entry into force of this Directive.
115	Mancozeb CAS No 8018-01-7 (formerly 8065-67-5) CIPAC No 34	Manganese ethylenebis (dithiocarbamate) (polymetric) complex with zinc salt	≥ 800 g/kg The manufacturing impurity ethylene thiourea is considered to be of toxico- logical concern and must not exceed 0,5 % of the mancozeb content.	1 July 2006	30 June 2016	PART A Only uses as fungicide may be authorised. PART B For the implementation of the uniform principles of Annex VI, the conclusions of the review report on mancozeb, and in particular Appendices I and II thereof, as finalised in the Standing Committee on the Food Chain and Animal Health on 3 June 2005 shall be taken into account. Member States must pay particular attention to the potential for groundwater contamination when the active substance is applied in regions with vulnerable soils and/or extreme climatic conditions. Member States must pay particular attention to the residues in food and evaluate the dietary exposure of consumers. Member States must pay particular attention to the protection of birds, mammals, aquatic organisms and non-target arthropods and ensure that the conditions of authorisation include risk mitigation measures. Member States shall request the submission of further studies to confirm the risk assessment for birds and mammals and for developmental toxicity.

No	Common Name, Identification Numbers	IUPAC Name	Purity ⁽¹⁾	Entry into force	Expiration of inclusion	Specific provisions
116	Metiram CAS No 9006-42-2 CIPAC No 478	Zinc ammoniate ethyle- nebis(dithiocarbamate) — poly[ethylenebis(thiuram- disulfide)]	≥ 840 g/kg The manufacturing impurity ethylene thiourea is considered to be of toxico- logical concern and must not exceed 0,5 % of the metiram content.	1 July 2006	30 June 2016	They shall ensure that the notifiers at whose request mancozeb has been included in this Annex provide such studies to the Commission within two years from the entry into force of this Directive. PART A Only uses as fungicide may be authorised. PART B For the implementation of the uniform principles of Annex VI, the conclusions of the review report on metiram, and in particular Appendices I and II thereof, as finalised in the Standing Committee on the Food Chain and Animal Health on 3 June 2005 shall be taken into account. Member States must pay particular attention to the potential for ground water contamination when the active substance is applied in regions with vulnerable soils and/or extreme climatic conditions. Member States must pay particular attention to the residues in food and evaluate the dietary exposure of consumers. Member States must pay particular attention to the protection of birds, mammals, aquatic organisms and non target arthropods and must ensure that the conditions of authorisation include risk mitigation measures. Member States shall request the submission of further studies to confirm the risk assessment for birds and mammals. They shall ensure that the notifiers at whose request metiram has been included in this Annex provide such studies to the Commission within two years from the entry into force of this Directive.

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

II

(Acts whose publication is not obligatory)

COUNCIL

**DECISION OF THE REPRESENTATIVES OF THE GOVERNMENTS OF THE MEMBER STATES
of 14 October 2005
appointing an advocate general to the Court of Justice of the European Communities
(2005/741/EC, Euratom)**

THE REPRESENTATIVES OF THE GOVERNMENTS OF THE MEMBER STATES OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community, and in particular Article 223 thereof, and Articles 5, 7 and 8 of the Protocol on the Statute of the Court of Justice,

Having regard to the Treaty establishing the European Atomic Energy Community, and in particular Article 139 thereof,

Whereas:

As a consequence of the resignation of Mr Francis JACOBS, an advocate general should be appointed for the remainder of his term of office,

HAVE DECIDED AS FOLLOWS:

Article 1

Ms Eleanor SHARPSTON is hereby appointed advocate general to the Court of Justice of the European Communities from the date of her swearing in until 6 October 2009.

Article 2

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

Done at Brussels, 14 October 2005.

The President
J. GRANT

COMMISSION

COMMISSION DECISION

of 19 October 2005

amending Decision 2003/858/EC as regards the list of territories from which importation of certain species of live fish, their eggs and gametes intended for farming in the European Community is authorised

(notified under document number C(2005) 3964)

(Text with EEA relevance)

(2005/742/EC)

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Council Directive 91/67/EEC of 28 January 1991 concerning the animal health conditions governing the placing on the market of aquaculture animals and products ⁽¹⁾, and in particular Article 19(1) thereof,

Whereas:

(1) Commission Decision 2003/858/EC of 21 November 2003 laying down the animal health conditions and certification requirements for imports of live fish, their eggs and gametes intended for farming, and live fish of aquaculture origin and products thereof intended for human consumption ⁽²⁾, establishes a list of third countries or parts thereof from which imports of live fish, their eggs and gametes intended for farming in the Community are authorised.

(2) The inclusion of the comment 'carps only' in the table in Annex I to Decision 2003/858/EC has led to different interpretations concerning the application of the Decision. For the sake of clarity, that comment should therefore be made more precise from a taxonomical point of view to meet the aim of the Decision.

(3) It is also appropriate to simplify the presentation of the table in Annex I in order to avoid repeating the requirements set out in the model certificates.

(4) Decision 2003/858/EC should therefore be amended accordingly.

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

HAS ADOPTED THIS DECISION:

Article 1

Annex I to Decision 2003/858/EC is replaced by the text in the Annex to this Decision.

Article 2

This Decision is addressed to the Member States.

Done at Brussels, 19 October 2005.

For the Commission

Markos KYPRIANOU

Member of the Commission

⁽¹⁾ OJ L 46, 19.2.1991, p. 1. Directive as last amended by Regulation (EC) No 806/2003 (OJ L 122, 16.5.2003, p. 1).

⁽²⁾ OJ L 324, 11.12.2003, p. 37. Decision as last amended by Decision 2004/914/EC (OJ L 385, 29.12.2004, p. 60).

ANNEX

'ANNEX I

Territories from which importation of certain species of live fish, their eggs, and gametes intended for farming in the European Community (EC) is authorised

Country		Territory		Comments ⁽¹⁾
ISO Code	Name	Code	Description	
AL	Albania			
AU	Australia			
BR	Brazil			Cyprinidae only
BG	Bulgaria			
CA	Canada			
CL	Chile			
CN	China			Cyprinidae only
CO	Colombia			Cyprinidae only
CG	Congo			Cyprinidae only
HR	Croatia			
MK ⁽²⁾	Former Yugoslav Republic of Macedonia			Cyprinidae only
ID	Indonesia			
IL	Israel			
JM	Jamaica			Cyprinidae only
JP	Japan			Cyprinidae only
MY	Malaysia (Peninsular, Western Malaysia only)			Cyprinidae only
NZ	New Zealand			
RU	Russia			
SG	Singapore			Cyprinidae only
ZA	South Africa			
LK	Sri Lanka			Cyprinidae only
TW	Taiwan			Cyprinidae only
TH	Thailand			Cyprinidae only
TR	Turkey			
US	United States			

⁽¹⁾ No limitations if left blank. If a country or territory is allowed to export certain species, and/or eggs or gametes, the species must be specified and/or a comment, for example, "eggs only" must be inserted in this column.

⁽²⁾ Provisional code that does not affect the definitive denomination of the country to be attributed after the conclusion of the negotiations currently taking place in the United Nations.'

COMMISSION DECISION

of 19 October 2005

allowing Member States to extend provisional authorisations granted for the new active substances boscalid, indoxacarb, spinosad and *Spodoptera exigua* nuclear polyhedrosis virus

(notified under document number C(2005) 4002)

(Text with EEA relevance)

(2005/743/EC)

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Council Directive 91/414/EEC of 15 July 1991 concerning the placing of plant protection products on the market ⁽¹⁾, and in particular the fourth subparagraph of Article 8(1) thereof,

Whereas:

- (1) In accordance with Article 6(2) of Directive 91/414/EEC, in April 2001 Germany received an application from BASF AG for the inclusion of the active substance boscalid (former name: nicobifen) in Annex I to Directive 91/414/EEC. Commission Decision 2002/268/EC ⁽²⁾ confirmed that the dossier was complete and could be considered as satisfying, in principle, the data and information requirements of Annex II and Annex III to that Directive.
- (2) In October 1997 the Netherlands received an application from DuPont de Nemours concerning indoxacarb (former name: DPX-KN128). Commission Decision 98/398/EC ⁽³⁾ confirmed that the dossier was complete and could be considered as satisfying, in principle, the data and information requirements of Annex II and Annex III to that Directive.
- (3) In July 1999 the Netherlands received an application from Dow Agrosciences concerning spinosad. Commission Decision 2000/210/EC ⁽⁴⁾ confirmed that the dossier was complete and could be considered as satisfying, in principle, the data and information requirements of Annex II and Annex III to that Directive.
- (4) In July 1996 the Netherlands received an application from Biosys concerning *Spodoptera exigua* nuclear polyhedrosis virus. Commission Decision 97/865/EC ⁽⁵⁾

confirmed that the dossier was complete and could be considered as satisfying, in principle, the data and information requirements of Annex II and Annex III to that Directive.

- (5) Confirmation of the completeness of the dossiers was necessary in order to allow them to be examined in detail and to allow Member States the possibility of granting provisional authorisations, for periods up to three years, for plant protection products containing the active substances concerned, while complying with the conditions laid down in Article 8(1) of Directive 91/414/EEC and, in particular, the condition relating to the detailed assessment of the active substance and the plant protection product in the light of the requirements laid down by that Directive.
- (6) For these active substances, the effects on human health and the environment have been assessed, in accordance with the provisions of Article 6(2) and (4) of Directive 91/414/EEC, for the uses proposed by the respective applicants. The rapporteur Member States submitted the draft assessment reports to the Commission on 22 November 2002 (boscalid), 7 February 2000 (indoxacarb), 5 March 2001 (spinosad) and 19 November 1999 (*Spodoptera exigua* nuclear polyhedrosis virus).
- (7) Following submission of the draft assessment reports by the rapporteur Member States, it has been necessary to request further information from the applicants and to have the Rapporteur Member States examine that information and submit their assessments. Therefore, the examination of the dossiers is still ongoing and it will not be possible to complete the evaluation within the timeframe provided for in Directive 91/414/EEC.
- (8) As the evaluation so far has not identified any reason for immediate concern, Member States should be given the possibility of prolonging provisional authorisations granted for plant protection products containing the active substances concerned for a period of 24 months in accordance with the provisions of Article 8 of Directive 91/414/EEC so as to enable the examination of the dossiers to continue. It is expected that the evaluation and decision-making process with respect to a decision on possible Annex I inclusion for each of the active substances concerned will have been completed within 24 months.

⁽¹⁾ OJ L 230, 19.8.1991, p. 1. Directive as last amended by Commission Directive 2005/34/EC (OJ L 125, 18.5.2005, p. 5).

⁽²⁾ OJ L 92, 9.4.2002, p. 34.

⁽³⁾ OJ L 176, 20.6.1998, p. 34.

⁽⁴⁾ OJ L 64, 11.3.2000, p. 24.

⁽⁵⁾ OJ L 351, 23.12.1997, p. 67.

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

Article 2

This Decision is addressed to the Member States.

HAS ADOPTED THIS DECISION:

Article 1

Done at Brussels, 19 October 2005.

Member States may extend provisional authorisations for plant protection products containing boscalid, indoxacarb, spinosad or *Spodoptera exigua* nuclear polyhedrosis virus for a period not exceeding 24 months from the date of adoption of this Decision.

For the Commission
Markos KYPRIANOU
Member of the Commission

COMMISSION DECISION

of 21 October 2005

laying down the requirements for the prevention of highly pathogenic avian influenza caused by influenza A virus of subtype H5N1 in susceptible birds kept in zoos in the Member States

(notified under document number C(2005) 4197)

(Text with EEA relevance)

(2005/744/EC)

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Council Directive 90/425/EEC of 26 June 1990 concerning veterinary and zootechnical checks applicable in intra-Community trade in certain live animals and products with a view to the completion of the internal market ⁽¹⁾, and in particular Article 10(4) thereof,

Whereas:

- (1) Avian influenza is an infectious viral disease in poultry and birds, causing mortality and disturbances which can quickly take epizootic proportions liable to present a serious threat to animal and public health and to reduce sharply the profitability of poultry farming.
- (2) Council Directive 92/40/EEC of 19 May 1992 introducing Community measures for the control of avian influenza ⁽²⁾ sets out the control measures to be applied in the event of an outbreak of avian influenza in poultry, without prejudice to the Community provisions governing intra-Community trade. That Directive does not apply where avian influenza is detected in other birds but it provides that in such cases, the Member State concerned must inform the Commission of any measure it takes.
- (3) Council Directive 92/65/EEC of 13 July 1992 laying down animal health requirements governing trade in and imports into the Community of animals, semen, ova and embryos not subject to animal health requirements laid down in specific Community rules referred to in Annex A(I) to Directive 90/425/EEC ⁽³⁾, and in particular Article 3 thereof, provides that trade in and imports of the animals, semen, ova and

embryos concerned must not be prohibited or restricted for animal health reasons, other than those arising from the application of Community legislation, and in particular any safeguard measures taken. Council Directive 1999/22/EC of 29 March 1999 relating to the keeping of wild animals in zoos ⁽⁴⁾, defines zoos which are covered by that Directive. That definition of zoos should be taken into account for the purposes of this Decision. However, that definition needs to be supplemented with regard to trade for the purpose of the present Decision.

- (4) Highly pathogenic avian influenza caused by influenza A virus of subtype H5N1 has been recently confirmed in Turkey, Romania, Russia, west of the Ural mountains. Circumstantial evidence and molecular epidemiology data strongly suggest that the avian influenza virus has spread into those countries proceeding from central Asia via migratory birds. This is also suggested by the report of a recent mission to Russia carried out by the World Organization for Animal Health (OIE), that was published on 14 October 2005.
- (5) In relation to the risk of the introduction of highly pathogenic avian influenza caused by influenza A virus of subtype H5N1 into the Community, the Commission has adopted several Decisions, including Decision 2005/734/EC of 19 October 2005 laying down biosecurity measures to reduce the risk of transmission of highly pathogenic avian influenza caused by influenza virus A subtype H5N1 from birds living in the wild to poultry and other captive birds and providing for an early detection system in areas at particular risk ⁽⁵⁾.
- (6) It is appropriate to lay down at Community level biosecurity measures for the prevention of highly pathogenic avian influenza caused by influenza A virus of subtype H5N1 in susceptible birds kept in zoos in the Member State to protect wild fauna and to conserve bio-diversity.
- (7) Vaccination of susceptible birds kept in zoos could be an appropriate additional preventative measure, under certain circumstances.

⁽¹⁾ OJ L 224, 18.8.1990, p. 29. Directive as last amended by Directive 2002/33/EC of the European Parliament and of the Council (OJ L 315, 19.11.2002, p. 14).

⁽²⁾ OJ L 167, 22.6.1992, p. 1. Directive as last amended by the 2003 Act of Accession.

⁽³⁾ OJ L 268, 14.9.1992, p. 54. Directive as last amended by Directive 2004/68/EC (OJ L 139, 30.4.2004, p. 320).

⁽⁴⁾ OJ L 94, 9.4.1999, p. 24.

⁽⁵⁾ OJ L 274, 20.10.2005, p. 105. Decision as amended by Decision 2005/745/EC (see page 79 of this Official Journal).

- (8) It is therefore also appropriate to lay down at Community level the essential requirements concerning vaccination of birds kept in zoos that the Member States should follow, if they consider it appropriate to vaccinate such birds.
- (9) The vaccination, even though limited to special categories of animals not primarily concerned by trade, may contribute to jeopardise the avian influenza status in terms of international trade, not only for the Member State or part of its territory where vaccination is carried out. Therefore the vaccinated birds should not be traded unless certain requirements are met. The Member States should inform the Commission by 30 November 2005 of the measures taken to ensure proper implementation of this Decision.
- (10) The measures provided for in this Decision are in accordance with the opinion of the Standing Committee on the Food Chain and Animal Health,

HAS ADOPTED THIS DECISION:

Article 1

This Decision lays down rules to reduce the spread of avian influenza caused by influenza A virus of subtype H5N1 (hereinafter 'avian influenza') from birds living in the wild to susceptible birds in zoos. Depending on the specific epidemiological situation, those rules shall be directed, in particular, at preventing direct and indirect contact between birds living in the wild, especially waterfowl, with the susceptible birds in zoos.

Article 2

For the purpose of this Decision, the following definitions shall apply:

(a) 'Zoo' means:

(i) all permanent establishments where animals of wild species are kept for exhibition to the public for seven or more days a year, with the exception of circuses, pet shops and establishments which Member States exempt from the requirements of this Decision on the grounds that they do not exhibit a significant number of animals or species to the public and that the exemption will not jeopardise the objectives of this Decision; and

(ii) an 'approved body, institute or centre' as defined in point (c) of Article 2(1) of Directive 92/65/EEC;

(b) 'Susceptible bird' means any bird species likely to be susceptible to avian influenza and not intended for the production of animal products.

Article 3

Member States shall take appropriate and practicable measures to reduce the risk of transmission of avian influenza from birds living in the wild to susceptible birds kept in zoos, taking into account the criteria and risk factors set out in Annex I.

Article 4

Based on a risk-assessment, Member States may decide to apply vaccination against avian influenza to susceptible birds kept in zoos, which are considered to be at risk from avian influenza, in accordance with the requirements set out in the Annex II.

Article 5

1. Member States that intend to apply the vaccination, as provided for in Article 3, shall submit to the Commission and officially present in the Standing Committee on the Food Chain and Animal Health, their programme on the vaccination of susceptible birds kept in zoos.

2. The vaccination programme referred to in paragraph 1 shall contain at least detailed information on:

- (a) the exact address and location of the zoos where the vaccination is to be carried out;
- (b) the specific identification and number of susceptible birds;
- (c) the individual identification of the birds to be vaccinated;
- (d) the type of vaccine to be used, the vaccination scheme and the timing of the vaccination;
- (e) the reasons for decision to implement the vaccination measures;
- (f) the time-table of the vaccinations to be carried out.

Article 6

Member States shall immediately take the necessary measures to comply with this Decision. They shall immediately inform the Commission thereof.

Article 7

This Decision is addressed to the Member States.

Done at Brussels, 21 October 2005.

For the Commission
Markos KYPRIANOU
Member of the Commission

*ANNEX I***Criteria and risk factors to be considered when applying the measures set out in Article 3 in individual zoos**

1. Location of the zoo along migratory flyways of birds, in particular if proceeding from central and eastern Asia, and the Caspian Sea and the Black Sea areas.
 2. Distance of the zoo from wet areas such as ponds, swamps, lakes or rivers where migratory waterfowl may gather.
 3. Location of the zoo in areas of a high density of migratory birds, particularly waterfowl.
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ANNEX II

REQUIREMENTS FOR THE USE OF VACCINATION

1.	Extent of the vaccination to be carried out	The vaccination shall only take place on susceptible birds in a zoo
2.	Species of the birds to be vaccinated	A list of all the birds to be vaccinated together with the individual identification shall be laid down and kept for at least 10 years from the date of the vaccination
3.	Duration of the vaccination	All birds to be vaccinated in a zoo shall be vaccinated as quickly as possible. In any case, each vaccination in a zoo shall be completed within 96 hours
4.	Specific standstill of vaccinated birds and products of vaccinated birds	Vaccinated birds shall not be traded or moved unless under official supervision between zoos in the same Member State, or after specific authorisation of another Member State. Bird products from such birds shall not enter the food chain
5.	Special identification and special registration of the vaccinated birds	Vaccinated birds must be individually identifiable and the identity records of these birds must be clearly annotated accordingly. An indelible identification indicating the birds that have been vaccinated shall be applied at the time of vaccination wherever possible
6.	Execution of the vaccination campaign	Vaccination shall be carried out under the supervision of an official veterinarian of the competent authorities. Necessary measures must be in place to avoid possible spread of virus. Any residual quantities of vaccine shall be returned to the point of vaccine distribution with a written record on number of animals vaccinated and the number of doses used. Wherever possible blood samples shall be taken prior to and at least 30 days after vaccination for serological testing for avian influenza. A record of the test results must be kept for at least 10 years
7.	Vaccine to be used	The inactivated vaccine to be used shall be suitably formulated and be effective against the virus type circulating. It shall be used in accordance with the instructions of the manufacturer and/or the veterinary authorities
8.	Information on implementation of this programme to the Commission	A detailed report on the execution of the programme including results of testing carried out shall be provided to the Commission and the Member States in the framework of a Standing Committee on the Food Chain and Animal Health

COMMISSION DECISION

of 21 October 2005

amending Decision 2005/734/EC laying down biosecurity measures to reduce the risk of transmission of highly pathogenic avian influenza caused by influenza A virus of subtype H5N1 from birds living in the wild to poultry and other captive birds and providing for an early detection system in areas at particular risk

(notified under document number C(2005) 4199)

(Text with EEA relevance)

(2005/745/EC)

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Council Directive 90/425/EEC of 26 June 1990 concerning veterinary and zootechnical checks applicable in intra-Community trade in certain live animals and products with a view to the completion of the internal market ⁽¹⁾, and in particular Article 10(4) thereof,

Whereas:

(1) Avian influenza is an infectious viral disease in poultry and birds, causing mortality and disturbances which can quickly take epizootic proportions liable to present a serious threat to animal and public health and to reduce sharply the profitability of poultry farming. There is a risk that the disease agent might be introduced via international trade in live poultry and poultry products.

(2) Highly pathogenic avian influenza caused by influenza A virus of subtype H5N1 has been recently confirmed in third countries neighbouring the Community. Circumstantial evidence and molecular epidemiology data strongly indicate that the avian influenza virus has spread via migratory birds.

(3) To monitor the situation in the Member States, the Commission adopted Decision 2005/732/EC of 17 October 2005 approving the programmes for the implementation of Member States' surveys for avian influenza in poultry and wild birds during 2005 and laying down reporting and eligibility rules for the Community financial contribution to the implementation costs of those programmes ⁽²⁾.

⁽¹⁾ OJ L 224, 18.8.1990, p. 29. Directive as last amended by Directive 2002/33/EC of the European Parliament and of the Council (OJ L 315, 19.11.2002, p. 14).

⁽²⁾ OJ L 274, 20.10.2005, p. 95.

(4) In order to reduce the risk of highly pathogenic avian influenza caused by influenza A virus of subtype H5N1 being introduced into poultry farms and other premises where birds are kept in captivity via wild birds, Commission Decision 2005/734/EC of 19 October 2005 laying down biosecurity measures to reduce the risk of transmission of highly pathogenic avian influenza caused by influenza A virus of subtype H5N1 from birds living in the wild to poultry and other captive birds and providing for an early detection system in areas at particular risk ⁽³⁾, was adopted.

(5) Pursuant to that Decision, Member States are to identify individual holdings keeping poultry or other captive birds, which according to epidemiological and ornithological data should be considered particularly at risk from the avian influenza A virus of subtype H5N1 spread via wild birds.

(6) With the approach of the new migratory season for wild birds in the Community and reports concerning new outbreaks of avian influenza in third countries neighbouring the Community, it is appropriate to strengthen and, where appropriate, to supplement the Community measures already in place pursuant to Decision 2005/734/EC in order to mitigate the risk of the spread of avian influenza.

(7) Decision 2005/734/EC should therefore be amended accordingly.

(8) Member States are to inform the Commission by 5 November 2005 of the measures taken to ensure proper implementation of this Decision.

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

⁽³⁾ OJ L 274, 20.10.2005, p. 105.

HAS ADOPTED THIS DECISION:

Article 1

Decision 2005/734/EC is amended as follows:

1. The following Article 2a is added:

'Article 2a

Additional risk mitigating measures

1. Member States shall ensure that in the areas of their territory that they have identified as being particularly at risk for the introduction of avian influenza, in accordance with Article 1(1), the following conditions are complied with:

- (a) the keeping of poultry in the open air is prohibited without undue delay; however, the competent authority may authorise the keeping of poultry in the open air, provided the poultry are provided with food and water indoors or under a shelter which sufficiently discourages the landing of wild birds and prevents contact by wild birds with the feed or water intended for poultry;
- (b) outdoor water reservoirs required for animal welfare reasons for certain poultry are sufficiently screened against wild waterfowl;
- (c) the poultry is not be provided with water from surface water reservoirs accessed by wild birds, unless such water was treated to ensure inactivation of possible virus;
- (d) the use of birds of the orders *Anseriformes* and *Charadriiformes* as decoy during bird-hunting is prohibited;

however, such birds may be used as decoy under the strict supervision of the competent authority for the attraction of wild birds intended for sampling in the framework of the surveillance programme set up in Decision 2005/732/EC.

2. Member States shall ensure that the collection of poultry and other birds on markets, shows, exhibitions and cultural events is prohibited; however the competent authority may authorise the collection of poultry and other captive birds on such premises subject to the favourable outcome of a risk assessment.'

2. The date '31 January 2006' in Article 4 is replaced by the words '1 December 2005'.

Article 2

Member States shall immediately take the necessary measures to comply with this Decision and publish those measures. They shall immediately inform the Commission thereof.

Article 3

This Decision is addressed to the Member States.

Done at Brussels, 21 October 2005.

For the Commission

Markos KYPRIANOU

Member of the Commission