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⁽¹⁾ Text with EEA relevance

I

(Acts adopted under the EC Treaty/Euratom Treaty whose publication is obligatory)

REGULATIONS

COUNCIL REGULATION (EC) No 388/2008

of 29 April 2008

extending the definitive anti-dumping measures imposed by Regulation (EC) No 1472/2006 on imports of certain footwear with uppers of leather originating in the People's Republic of China to imports of the same product consigned from the Macao SAR, whether declared as originating in the Macao SAR or not

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty establishing the European Community,

Having regard to Council Regulation (EC) No 384/96 of 22 December 1995 on protection against dumped imports from countries not members of the European Community ⁽¹⁾ (the 'basic Regulation'), and in particular Article 13 thereof,

Having regard to the proposal submitted by the Commission after consulting the Advisory Committee,

Whereas:

A. PROCEDURE

1. Existing measures and former investigations

- (1) By Regulation (EC) No 1472/2006 ⁽²⁾, (the 'original Regulation'), the Council imposed definitive anti-dumping duties ranging from 9,7 to 16,5 % on imports of footwear with uppers of leather originating in the People's Republic of China ('the original investigation').

⁽¹⁾ OJ L 56, 6.3.1996, p. 1. Regulation as amended by Regulation (EC) No 2117/2005 (OJ L 340, 23.12.2005, p. 17).

⁽²⁾ OJ L 275, 6.10.2006, p. 1.

2. Ex-Officio Initiation

- (2) In accordance with recital (325) of the original Regulation, the Commission carried out monitoring of imports in order to identify any changes in the pattern of trade which could indicate circumvention of the measures.
- (3) The evidence at the disposal of the Commission indicated that since the imposition of the anti-dumping measures, there had been a change in the pattern of trade, based on transshipment and/or assembly practices, for which there was insufficient due cause or economic justification other than the imposition of the anti-dumping measures. In addition, the evidence showed that the remedial effects of the existing anti-dumping measures on imports of certain footwear with uppers of leather originating in the PRC were being undermined both in terms of quantity and price. Finally, the evidence indicated that the prices of certain footwear with uppers of leather consigned from the Macao SAR were dumped in relation to the normal value established for the like product during the original investigation.
- (4) Having determined, after consulting the Advisory Committee, that sufficient *prima facie* evidence existed for the initiation of an investigation pursuant to Article 13 of the basic Regulation, the Commission published, in the *Official Journal of the European Union*, a Regulation of Initiation ⁽³⁾ (the 'initiating Regulation') on an ex-officio basis to investigate the alleged circumvention of the anti-dumping measures. The Commission, by means of the initiating Regulation and Article 14(5) of the basic Regulation, also instructed the customs authorities to register imports of certain footwear with uppers of leather consigned from the Macao SAR whether declared as originating in the Macao SAR or not, as from 7 September 2007.

⁽³⁾ OJ L 234, 6.9.2007, p. 3.

3. Investigation

- (5) The Commission officially advised the authorities of the Macao SAR and the PRC and known manufacturers/exporters in the Macao SAR and the PRC, the importers in the Community known to be concerned and producers of certain footwear with uppers of leather in the Community of the initiation of the investigation. Questionnaires were sent to the exporters/manufacturers in the Macao SAR, to the exporters/producers in the PRC and to the importers in the Community which were known to the Commission from the original investigation and which had made themselves known within the deadlines specified in Article 3 of the initiating Regulation. Interested parties were given the opportunity to make their views known in writing and to request a hearing within the time limit set in the initiating Regulation.
- (6) Eight manufacturers/exporters in the Macao SAR submitted questionnaire replies. Replies to questionnaires were also submitted by 16 unrelated importers in the Community. Other importers also made themselves known but did not complete questionnaire responses.
- (7) The following companies cooperated in the investigation and submitted replies to the questionnaires:

Macanese manufacturers/exporters:

- Fabrica de Sapatos Paolina Limitada, Macao,
- Feifer Footwear/Ultime Footwear, Macao,
- Fabrica de Sapatos Fairwear, Macao,
- Hap Yun Shoes Factory, Macao,
- Hong Wan, Macao,
- K. Wah Shoes Factory Limited, Macao,
- Fabrica de Sapatos Sunrise, Macao,
- Vai Un Footwear Factory, Macao.

Importers in the Community:

- a+w shoes GmbH & Co. KG, Germany,
- Aasics Europe B.V., The Netherlands,
- Aldo UK Ltd, UK,

- Caprice Schuhproduktion GmbH & Co. KG, Germany,
- Eurohispana De Inversiones, S.A., Spain,
- Firma Handlowa 'C.A.M.', Poland,
- Footex International B.V., The Netherlands,
- Heson International B.V., The Netherlands,
- Mexx Shoes B.V., The Netherlands,
- Orion Italiana GmbH & Co. KG, Germany,
- PWH Originals International B.V., The Netherlands,
- Shoe.com GmbH & Co. KG, Germany,
- Wendel GmbH & Co. KG, Germany,
- Wolverine Europe Ltd., UK,
- Wolverine Europe B.V., The Netherlands,
- Wortman KG Internationale Schuhproduktionen, Germany.

- (8) In addition, twenty-seven producers/exporters in the PRC replied to mini-questionnaires regarding trade in footwear via Macao.

- (9) Verification visits were carried out at the premises of the following companies:

- Fabrica de Sapatos Paolina Limitada, Macao,
- Feifer Footwear (Macao)/Ultimate Footwear (Macao), Macao,
- Fabrica de Sapatos Fairwear (Macao) Limitada, Macao,
- Hap Yun Shoes Factory, Macao,
- Hong Wan Factory, Macao,
- Fabrica de Sapatos K. Wah Limitada, Macao,
- Vai Un Footwear Factory, Macao.

- (10) By visiting seven companies, over 90 % of the production of the cooperating manufacturers was covered.

- (11) Where appropriate, verification visits were also carried out to traders in both the Macao SAR and the Hong Kong SAR which traded the product concerned for sale to the Community market. Such visits were limited to sales of the product concerned produced by the verified Macanese companies and the authorities of the Hong Kong SAR were informed of these visits.

4. Product concerned and like product

- (12) The product concerned by the possible circumvention is footwear with uppers of leather or composition leather, excluding sports footwear, footwear involving special technology, slippers and other indoor footwear and footwear with a protective toecap ('certain footwear with uppers of leather') originating in the People's Republic of China, normally declared under CN codes 6403 20 00, ex 6403 51 05, ex 6403 51 11, ex 6403 51 15, ex 6403 51 19, ex 6403 51 91, ex 6403 51 95, ex 6403 51 99, ex 6403 59 05, ex 6403 59 11, ex 6403 59 31, ex 6403 59 35, ex 6403 59 39, ex 6403 59 91, ex 6403 59 95, ex 6403 59 99, ex 6403 91 05, ex 6403 91 11, ex 6403 91 13, ex 6403 91 16, ex 6403 91 18, ex 6403 91 91, ex 6403 91 93, ex 6403 91 96, ex 6403 91 98, ex 6403 99 05, ex 6403 99 11, ex 6403 99 31, ex 6403 99 33, ex 6403 99 36, ex 6403 99 38, ex 6403 99 91, ex 6403 99 93, ex 6403 99 96, ex 6403 99 98 and ex 6405 10 00 (the 'product concerned').

- (13) The product under investigation is footwear with uppers of leather or composition leather, excluding sports footwear, footwear involving special technology, slippers and other indoor footwear and footwear with a protective toecap consigned from the Macao SAR (the 'product under investigation'), whether declared as originating in Macao SAR or not, normally declared under the same CN codes as the product concerned.

- (14) The investigation showed that footwear exported to the Community from the People's Republic of China and those consigned from the Macao SAR to the Community have the same basic physical characteristics and have the same uses. They are therefore to be considered as like products within the meaning of Article 1(4) of the basic Regulation.

5. Investigation period

- (15) The investigation period (the 'IP') covered the period from 1 July 2006 to 30 June 2007. Data was collected from 2004 up to the end of the IP to investigate the alleged change in the pattern of trade and the other aspects set out in Article 13 of the basic Regulation.

6. Disclosure

- (16) All interested parties were informed of the essential facts and considerations on the basis of which it was intended to recommend:

(i) the extension of the definitive anti-dumping measures imposed by Regulation (EC) No 1472/2006 on imports of certain footwear with uppers of leather originating in the People's Republic of China to imports of the same product consigned from the Macao SAR;

(ii) not to grant exemptions to the companies having requested them. In accordance with the provisions of the basic Regulation, parties were granted a period in which they could make representations subsequent to this disclosure.

- (17) The oral and written comments submitted by the parties were considered and, where appropriate, the definitive findings were modified accordingly.

B. RESULTS OF THE INVESTIGATION

1. General considerations

- (18) As mentioned above, the analysis of a change in the pattern of trade covered the period from 2004 up to the end of the IP. Data was collected and analysed on the basis of the enlarged Community market ('EU27') as at the date of the initiating Regulation. However, it should be noted that the original measures were imposed on the PRC on the basis of calculations based on the Community market as it existed at that time ('EU25'). Bearing this in mind, the import levels into the two new Member States (Bulgaria and Romania) were analysed and it was clear that these accounted for only a very small percentage of total EU27 imports and that therefore the decision as to which EU market level (EU27 or EU25) should be used as a basis for analysis had no impact on the outcome of the conclusions reached.

2. Degree of cooperation and determination of the import volume

- (19) As stated above in recital (6), eight exporters/manufacturers in the Macao SAR cooperated with the investigation by submitting questionnaire replies and all of those companies exported the product concerned to the Community during the IP either directly or indirectly via traders. Based on information supplied by the Macanese authorities, it was clear that at least fifteen companies were manufacturing footwear in Macao at the initiation of the investigation. However, the largest manufacturer, which amounted for around 50 % of exports to the Community, did not cooperate and therefore cooperation levels were determined to be below 50 %. Furthermore, only twenty-seven exporting producers replied to the Commission's mini-questionnaire for producer/exporters in the PRC. During the original investigation it was clear that the number of producers in the PRC was many hundreds. None of the twenty-seven respondents stated that they exported to the Community market via Macao.
- (20) As it was clear that the cooperation level for both the Macao SAR and the PRC was not high, the determination of the import volume had to be obtained via statistical sources. This data was cross-checked and confirmed by other statistical sources available to the Commission. This approach was further confirmed by other information received during the investigation which indicated the existence of a number of other non-cooperating exporters/manufacturers in the Macao SAR and the PRC which exported the product concerned to the Community during the IP.

3. Methodology

- (21) In accordance with Article 13(1) of the basic Regulation, the assessment of the existence of circumvention was done by analysing whether there was a change in the pattern of trade between third countries and the Community, whether that change stemmed from a practice, process or work for which there was insufficient due cause or economic justification other than the imposition of the duty, whether there was evidence of injury or that the remedial effects of the duty were being undermined in terms of the prices and/or quantities of the like product, and whether there was evidence of dumping in relation to the normal values previously established for the like product, if necessary in accordance with the provisions of Article 2 of the basic Regulation.
- (22) The practice, process or work referred to above includes, *inter alia*, the consignment of the product subject to measures via the Macao SAR and the assembly of parts by an assembly operation in the Macao SAR. For this purpose, the existence of assembly operations was determined in accordance with Article 13(2) of the basic Regulation.

- (23) In this regard, it is noted that eight manufacturing companies in Macao submitted questionnaire responses. The seven largest manufacturers were checked on the spot and all eight responses were used as a basis for the calculation of the following aspects of the investigation mentioned at Article 13 of the basic Regulation:
- (a) the value of the parts used in the assembly operations;
 - (b) the value added in terms of cost of manufacturing (COM);
 - (c) dumping using the normal value from the previous investigation;
 - (d) the determination of when the companies started manufacturing, or whether operations substantially increased, since the imposition of measures;
 - (e) the assessment of whether the imported products had, in terms of quantities and/or prices, undermined the remedial effects of the measures in force.
- (24) As regards (a) and (b) above, cost information from the Macanese manufacturers including their purchases from Chinese suppliers was used. As none of the Chinese suppliers involved received MET status in the original investigation, the question arose whether the cost information relating to the Chinese suppliers could be used. In the original investigation, where it was found that Chinese costs were unreliable because no MET status was granted, costs from an analogue country (Brazil) were used as a replacement. In respect of this investigation, calculations were made using both Chinese and analogue country data from the original investigation.
- (25) Where a particular company did not supply a full questionnaire response, findings relating to (a) to (e) above as necessary were based on facts available in accordance with Article 18 of the basic Regulation. Where this was necessary, the relevant manufacturer/exporter was informed by means of, *inter alia*, a disclosure and given an opportunity to comment.
- (26) Bearing in mind that the statistical evidence collected in this investigation did not distinguish amongst the types of footwear concerned, the tests mentioned at recital (23) above were assessed on the basis of data received from the cooperating Macanese manufacturers/exporters.

(27) To assess whether the imported products from the Macao SAR had, in terms of quantities and/or prices, undermined the remedial effects of the measures in force, the sales quantities and prices of the eight co-operating manufacturers were compared to the injury elimination level established for Community producers in the original investigation.

(28) In accordance with Article 13(1) and (2) of the basic Regulation, it was examined whether there was evidence of dumping in relation to the normal value previously established for like or similar products. In this regard, export prices of the cooperating manufacturers in the Macao SAR during the IP were compared with the normal value established in the investigation leading to the imposition of the definitive measures for the like product. In the original investigation normal value was established on the basis of prices or constructed value in Brazil, which was found to be an appropriate market economy analogue country for the PRC. For the purpose of a fair comparison between the normal value and the export price, due allowance, in the form of adjustments, was made for differences which affect prices and price comparability.

(29) In accordance with Article 2(11) and (12) of the basic Regulation, dumping was calculated by comparing the weighted average normal value as established in the original investigation and the weighted average export prices during this investigation's IP, expressed as a percentage of the CIF price at the Community frontier, duty unpaid.

4. Change in the pattern of trade

(30) Imports from China have diminished since the imposition of provisional measures in the original investigation by Regulation (EC) No 553/2006 ⁽¹⁾. In contrast, imports from the Macao SAR have increased enormously. This change in trade pattern is most accurately expressed in this investigation by analysing sales volumes in the period April to December of the years 2005, 2006 and 2007 because measures were originally imposed in April 2006 and footwear is a product with seasonal variations.

The PRC

Period	Volume exported to the EU
April to December 2005	around 142 million pairs
April to December 2006	around 66 million pairs
April to December 2007	around 70 million pairs (extrapolation based on available data)

The Macao SAR

Period	Volume exported to the EU
April to December 2005	around 0,5 million pairs
April to December 2006	around 8,0 million pairs
April to December 2007	around 8,5 million pairs (extrapolation based on available data)

Source — statistical data (TARIC) available to the Commission covering only the product concerned (figures rounded for reasons of confidentiality)

(31) It is clear from the above figures that imports from the PRC fell substantially in the last nine months of 2007 and 2006 as compared to 2005. In contrast, imports from the Macao SAR increased substantially over the same time periods. These findings support the allegation that goods have been consigned from China via the Macao SAR to the Community.

(32) The Commission carried out cross-checking of this data to other available statistical sources which revealed similar trends.

(33) The Commission also used Macanese import and export statistics for shoe parts which showed that:

Period	Volume imported to the Macao SAR from the PRC
April to December 2005	around 30 tonnes
April to December 2006	around 900 tonnes
April to December 2007	around 800 tonnes (extrapolation based on available data)

In contrast, the volume of exports of such shoe parts during the above three periods was negligible. Source — Macao Economic Services Database

(34) The above findings show that the importation of shoe parts increased by a massive amount after the imposition of the provisional measures in April 2006 and provides evidence that a large assembly operation was being set up in the Macao SAR after the imposition of those measures.

(35) The Commission also used Macanese import and export statistics for finished footwear which showed that:

⁽¹⁾ OJ L 98, 6.4.2006, p. 3.

Period	Volume imported to the Macao SAR from the PRC
April to December 2005	0,04 million pairs
April to December 2006	4,5 million pairs
April to December 2007	5,1 million pairs (extrapolation based on available data)
Period	Volume exported to the EU from the Macao SAR
April to December 2005	0,3 million pairs
April to December 2006	10,8 million pairs
April to December 2007	8,2 million pairs (extrapolation based on available data)

Source — Macao Economic Services Database

(36) The above findings show that the importation of footwear from the PRC to the Macao SAR and the exportation of the same footwear from the Macao SAR to the EU increased by a massive amount after the imposition of the provisional measures in April 2006. This provides evidence that large-scale transshipment operations were performed via the Macao SAR after the imposition of those measures.

(37) The overall decrease of Chinese exports to the Community and the parallel increase of exports from the Macao SAR after the imposition of the provisional measures constitute a change in the pattern of trade between the abovementioned countries.

5. Circumvention via Assembly Operations

(38) In addition to the evidence used above at recital (37), circumvention via assembly operations was assessed using data supplied by the cooperating Macanese exporters/producers.

5.1. The Value of Parts Test (Article 13(2)(b))

(39) For all eight cooperating Macanese exporters the vast majority of the raw materials were supplied from Chinese suppliers. These raw materials were not simply leather, plastics, etc. but complete uppers, outsoles, insoles, laces, shoe-boxes and other accessories. In some cases, even glue was sourced from these Chinese suppliers. This was evidenced by copies of raw materials invoices seen on the spot together with a physical inspection of the production lines and stocks of raw materials.

(40) None of the Chinese companies which supplied the eight Macanese manufacturers received MET status in the original investigation and the question therefore arose whether the purchase data from the Chinese suppliers could be used. In the original investigation, where it was found that Chinese costs were unreliable because no MET status was granted, costs from an analogue country (Brazil) were used as a replacement. In respect of this investigation, calculations were made using both Chinese and analogue country data.

(41) As regards the calculation using the cost data of the Macanese manufacturers, including the actual purchase costs from their Chinese suppliers, a limited amount of very minor materials were sourced locally in Macao but these did not amount to more than 2 % of the total value of the assembled parts.

(42) As regards the calculation using the analogue country data in Brazil, a very similar result was obtained although, as the Brazilian raw material costs were slightly higher than the actual Chinese data, the percentage of total raw material costs sourced in the Macao SAR was even lower.

(43) It was therefore concluded that more than 60 % of the total value of the raw materials of the assembled product were sourced from the PRC.

5.2. The Value Added Test of the Cost of Manufacturing ('COM') (Article 13(2)(b))

(44) This test was assessed using data supplied by the eight cooperating Macanese manufacturers. For all the companies it was clear that the vast majority of the value added in the COM was carried out in the PRC rather than in the Macao SAR. The sourcing from the PRC was in all cases of the parts which were so far advanced that the assembly in Macao related to machinery and labour for glueing and finishing of the footwear.

(45) For each company a calculation was performed to assess the value added in terms of COM in Macao. Such data was obtained from the accounting records held by each company. However, some companies operated only on the basis of processing fees and were unaware of the value of the processing carried out in the PRC by their suppliers. In such cases, it was possible to estimate this value using information relating to raw materials obtained from the PRC and the export price of the goods from Macao excluding profit and SGA costs. This test was carried out through examination of copies of raw materials invoices, accounting records of other COM items seen on the spot and export invoices together with a physical inspection of the production lines and stocks of raw materials.

- (46) None of the Chinese companies which supplied the eight Macanese manufacturers received MET status in the original investigation and therefore the question arose whether the purchases from the Chinese suppliers could be used. In the original investigation, where it was found that Chinese costs were unreliable because no MET status was granted, costs from an analogue country (Brazil) were used as a replacement. In respect of this investigation, calculations were made using both Chinese and analogue country data.
- (47) As regards the calculation using the cost data of the Macanese manufacturers, including the actual purchase costs from their Chinese suppliers, calculations showed that the COM of the assembly operations in Macao amounted to between 6 and 18 % depending on the company and the weighted average was 9,5 %. As regards the calculation using the analogue country data in Brazil, a very similar result was obtained although as the Brazilian COM costs were slightly higher than the actual Chinese data, the percentage of COM costs sourced in the Macao SAR was even lower.
- (48) One cooperating importer argued that the Macanese manufacturers were not breaching the test concerning 25 % value added of the manufacturing cost. They claimed that, as the Macanese manufacturers had Certificates of Origin for their footwear exports, they were not circumventing the measures in place. However, whether the Macanese manufacturers offer Certificates of Origin with their exports is not at issue. Compliance with the rules of origin does not exclude the possibility of circumvention.
- (49) It was concluded based on recitals (44) to (48) that the value added to the parts brought in, during the assembly operation, did not exceed 25 % of the value of the cost of manufacturing.

5.3. Increase in Production since the Opening of the Original Investigation (Article 13(2)(a))

- (50) The original investigation relating to this product was initiated on 7 July 2005. It was therefore necessary to establish whether production had increased since that date. This test was carried out using purchase invoices of raw materials, production records and sales invoices of finished goods of the eight cooperating Macanese exporters.
- (51) For three companies, it was clear that the footwear production at the company had been set up since July 2005.
- (52) For all remaining companies, a substantial increase in production was established when comparing 2005 production volumes with those of the IP. These increases averaged over 100 %. It was therefore concluded that there had been a substantial increase in production since the original case was opened in July 2005.
- (53) The legal representatives for several cooperating importers claimed that their customers (retailers) preferred footwear made in Macao to those made in the PRC because they were made to higher production standards and used a better quality of raw materials. They also claimed that intellectual property theft was a concern in the PRC. The importers claim that this is one reason why they source from the Macao SAR. However, none of these claims has been substantiated by the cooperating manufacturers in the Macao SAR. Indeed, none of the cooperators had major production facilities and simply assembled parts sourced from the PRC. The investigation further showed that in terms of raw material quality and production standards, the footwear sourced in the Macao SAR was identical to that sourced in the PRC. In respect of intellectual property rights, this allegation was also unsubstantiated and could not explain why concerns over this issue had led to such a sudden increase in production in the Macao SAR as explained above. The investigation concluded that the reason for such an increase in production was the imposition of anti-dumping measures on footwear from the PRC.
- (54) Another importer claimed that the existence of manufacturing facilities in the Macao SAR before the imposition of measures in the PRC showed that there was an economic justification for the imports from the Macao SAR. However, the investigation showed that before the imposition of measures concerning imports from the PRC, the level of manufacturing activity in the Macao SAR was very low. Indeed, as the above findings show, there has been a massive increase in footwear manufacturing activity since the measures were imposed. This was caused by new companies being formed and pre-existing companies increasing and/or restarting production.

6. Circumvention via Transshipment

- (55) As none of the twenty-seven Chinese exporters which cooperated in the investigation declared that they performed shoe business via Macao, the Commission analysed statistical data in order to examine whether transshipment via Macao occurred.
- (56) The change in the pattern of trade described above at recitals (30) to (37) supports the allegation of circumvention via transshipment. In particular, the trade in finished footwear set out in recital (35) shows that the product concerned, which was exported to the Community market from the PRC, was being consigned through the Macao SAR.

- (57) Bearing in mind that the population of the Macao SAR numbered only around 0,5 million persons during the IP, it cannot be claimed that the 4,5 million pairs of shoes imported from the PRC in 2006 could be consumed in Macao. On the contrary, the export statistics show that a large proportion of such footwear was re-exported to the Community market. The volume exported in the IP from Macao to the Community was in fact higher than 4,5 million pairs (around 10 million pairs). This increase can be explained by the conversion of shoe parts into finished footwear.
- (58) The investigation did not uncover any justification other than the imposition of the measures for such practices.
- (59) In conclusion, the investigation has shown that large-scale transshipment operations were performed via the Macao SAR after the imposition of the anti-dumping measures on footwear originating in the PRC.

7. Dumping Test (Article 13(1))

- (60) In accordance with Article 2(11) and (12) of the basic Regulation, a comparison of the weighted average normal value as established in the original investigation and the weighted average of export prices during this investigation's IP, expressed as a percentage of the CIF price at the Community frontier duty unpaid, showed dumping of the imports of the product concerned consigned from the Macao SAR.
- (61) The methodology for this test is described at recitals (21) to (29). The dumping margin for the cooperating companies ranged from 8 % to 57 %. In the absence of cooperation for transshipping operations, a calculation of dumping was performed on the basis of available statistical sources, confirming significant dumping levels.
- (62) One cooperating importer claimed that imports from Macao were not dumped and contested the methodology of using normal value from the original investigation. However, it must be pointed out that the methodology employed is the one set out in Article 13(1) of the basic Regulation.

8. Undermining of the remedial effect of the anti-dumping duty (Article 13(1))

- (63) The trade flow analysis at recitals (30) to (37) shows a change in the pattern of Community imports, which occurred after the original investigation was opened. It was therefore examined whether this change in the pattern of trade undermined the remedial effects of the anti-dumping measures imposed in the original investigation.

- (64) In terms of quantities, recital (35) above shows an increase in footwear exports to the Community market of around 10 million pairs in the period of April to December 2006 and 2007 as compared to the same period in 2005. In the original investigation the Community market was established at 714 million pairs which mean that the imports account for around 1,5 % of consumption. Furthermore, as CIF import prices averaged over EUR 10 per pair, the imports from the Macao SAR totalled over EUR 100 million. The imports from the Macao SAR must therefore be deemed to be material and significant.
- (65) With regard to dumped prices of the product consigned from the Macao SAR, it was found that they were, on average, well below the injury elimination level established for Community producers in the original investigation.
- (66) Therefore, it was concluded that the imports from the Macao SAR of the product concerned undermined the remedial effects of the duty in terms of prices and quantities.

C. CONCLUSIONS

- (67) The present investigation was characterised by a high level of non-cooperation in the PRC, whereas cooperation in the Macao SAR, whilst not high, was deemed adequate to provide a representative basis for the assessment of trade consigned from the Macao SAR by means of assemblers. As regards the allegations of transshipment via the Macao SAR (without assembly), no companies cooperated with the investigation leaving the Commission to rely, *inter alia*, on statistical information.
- (68) The investigation showed that there was clear circumvention of the measures on the product concerned from the PRC within the meaning of Article 13(1) and (2) of the basic Regulation via the Macao SAR. In view of the above, the existing anti-dumping measures imposed on imports of the product concerned originating in the PRC should be extended to the same product consigned from the Macao SAR, whether declared as originating in the Macao SAR or not.
- (69) The measures to be extended should be those established in Article 1(3) of the original Regulation for 'all other companies'.
- (70) In accordance with Article 14(5) of the basic Regulation, which provides that any extended measures should apply to imports which entered the Community under registration imposed by the initiating Regulation, duties should be collected on those registered imports of the product concerned consigned from the Macao SAR.

D. REQUESTS FOR EXEMPTION

- (71) None of the eight companies in the Macao SAR which submitted a questionnaire reply requested an exemption in accordance with Article 13(4) of the basic Regulation.
- (72) However, it should be noted that all of the eight companies carried out very similar limited assembly functions and sourced all of their main raw materials in the PRC. As all these companies consequently failed each of the circumvention tests outlined in Article 13(1) and (2) of the basic Regulation, no such exemptions would therefore have been granted even if they had been requested,

HAS ADOPTED THIS REGULATION:

Article 1

1. The definitive anti-dumping duty applicable to 'all other companies' imposed by Regulation (EC) No 1472/2006 on imports of certain footwear with uppers of leather or composition leather as defined in Article 1 of Regulation (EC) No 1472/2006 originating in the People's Republic of China, is hereby extended to certain footwear with uppers of leather or composition leather as defined in Article 1 of Regulation (EC) No 1472/2006 falling within CN codes:

ex 6403 20 00, ex 6403 51 05, ex 6403 51 11, ex 6403 51 15, ex 6403 51 19, ex 6403 51 91, ex 6403 51 95, ex 6403 51 99, ex 6403 59 05, ex 6403 59 11, ex 6403 59 31, ex 6403 59 35, ex 6403 59 39, ex 6403 59 91, ex 6403 59 95, ex 6403 59 99,

ex 6403 91 05, ex 6403 91 11, ex 6403 91 13, ex 6403 91 16, ex 6403 91 18, ex 6403 91 91, ex 6403 91 93, ex 6403 91 96, ex 6403 91 98, ex 6403 99 05, ex 6403 99 11, ex 6403 99 31, ex 6403 99 33, ex 6403 99 36, ex 6403 99 38, ex 6403 99 91, ex 6403 99 93, ex 6403 99 96, ex 6403 99 98 and ex 6405 10 00

consigned from the Macao SAR whether declared as originating in the Macao SAR or not. The TARIC codes for imports consigned from the Macao SAR are listed in the Annex of this Regulation.

2. The duties extended by paragraph 1 of this Article shall be collected on imports registered in accordance with Article 2 of Regulation (EC) No 1028/2007 ⁽¹⁾ and Articles 13(3) and 14(5) of Regulation (EC) No 384/96.

3. The provisions in force concerning customs duties shall apply.

Article 2

Customs authorities are hereby directed to discontinue the registration of imports established in accordance with Article 2 of Regulation (EC) No 1028/2007.

Article 3

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

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

Done at Luxembourg, 29 April 2008.

For the Council
The President
D. RUPEL

⁽¹⁾ OJ L 234, 6.9.2007, p. 3.

ANNEX

TARIC codes for footwear with uppers of leather or composition leather as defined in Article 1 of Regulation (EC) No 1472/2006, consigned from Macao, whether originating in Macao or not

CN code	TARIC code Consigned from Macao
6403 20 00	20
6403 51 05	15
6403 51 05	95
6403 59 05	15
6403 59 05	95
6403 91 05	15
6403 91 05	95
6403 99 05	15
6403 99 05	95
6403 51 11	91
6403 51 15	91
6403 51 19	91
6403 51 91	91
6403 51 95	91
6403 51 99	91
6403 59 11	91
6403 59 31	91
6403 59 35	91
6403 59 39	91
6403 59 91	91
6403 59 95	91
6403 59 99	91

CN code	TARIC code Consigned from Macao
6403 91 11	95
6403 91 13	95
6403 91 16	95
6403 91 18	95
6403 91 91	95
6403 91 93	95
6403 91 96	95
6403 91 98	95
6403 99 11	91
6403 99 31	91
6403 99 33	91
6403 99 36	91
6403 99 38	91
6403 99 91	95
6403 99 93	25
6403 99 93	95
6403 99 96	25
6403 99 96	95
6403 99 98	25
6403 99 98	95
6405 10 00	81

COMMISSION REGULATION (EC) No 389/2008**of 30 April 2008****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 1580/2007 of 21 December 2007 laying down implementing rules of Council Regulations (EC) No 2200/96, (EC) No 2201/96 and (EC) No 1182/2007 in the fruit and vegetable sector ⁽¹⁾, and in particular Article 138(1) thereof,

Whereas:

- (1) Regulation (EC) No 1580/2007 lays down, pursuant to the outcome of the Uruguay Round multilateral trade negotiations, the criteria whereby the Commission fixes

the standard values for imports from third countries, in respect of the products and periods stipulated in 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 138 of Regulation (EC) No 1580/2007 shall be fixed as indicated in the Annex hereto.

Article 2

This Regulation shall enter into force on 1 May 2008.

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

Done at Brussels, 30 April 2008.

For the Commission

Jean-Luc DEMARTY

*Director-General for Agriculture and
Rural Development*

⁽¹⁾ OJ L 350, 31.12.2007, p. 1.

ANNEX

to Commission Regulation of 30 April 2008 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	IL	71,4
	MA	61,4
	TN	111,3
	TR	115,0
	ZZ	89,8
0707 00 05	JO	178,8
	TR	145,7
	ZZ	162,3
0709 90 70	MA	92,6
	MK	68,1
	TR	100,9
	ZZ	87,2
0805 10 20	EG	48,2
	IL	57,5
	MA	53,4
	TN	62,7
	TR	53,3
	US	44,3
	ZZ	53,2
0805 50 10	EG	126,4
	IL	130,3
	MK	118,8
	TR	128,7
	US	115,8
	ZA	122,1
0808 10 80	ZZ	123,7
	AR	90,1
	BR	73,7
	CA	84,7
	CL	94,8
	CN	87,5
	MK	65,0
	NZ	117,2
	US	108,5
	UY	77,9
	ZA	75,1
	ZZ	87,5

⁽¹⁾ Country nomenclature as fixed by Commission Regulation (EC) No 1833/2006 (OJ L 354, 14.12.2006, p. 19). Code 'ZZ' stands for 'of other origin'.

COMMISSION REGULATION (EC) No 390/2008**of 30 April 2008****approving non-minor amendments to the specification for a name entered in the register of protected designations of origin and protected geographical indications (Lenteja de la Armuña (PGI))**

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Council Regulation (EC) No 510/2006 of 20 March 2006 on the protection of geographical indications and designations of origin for agricultural products and foodstuffs ⁽¹⁾, and in particular the first subparagraph of Article 7(4) thereof,

Whereas:

- (1) By virtue of the first subparagraph of Article 9(1) and having regard to Article 17(2) of Regulation (EC) No 510/2006, the Commission has examined Spain's request for approval of amendments to the specification for the protected geographical indication 'Lenteja de la Armuña', registered under Commission Regulation (EC) No 1107/96 ⁽²⁾.

- (2) Since the amendments in question are not minor within the meaning of Article 9 of Regulation (EC) No 510/2006, the Commission published the amendment application in the *Official Journal of the European Union* as required by the first subparagraph of Article 6(2) of that Regulation ⁽³⁾. As no statement of objection within the meaning of Article 7 of Regulation (EC) No 510/2006 has been sent to the Commission, the amendments should be approved,

HAS ADOPTED THIS REGULATION:

Article 1

The amendments to the specification published in the *Official Journal of the European Union* regarding the name in the Annex to this Regulation are hereby approved.

Article 2

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

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

Done at Brussels, 30 April 2008.

For the Commission

Mariann FISCHER BOEL

Member of the Commission

⁽¹⁾ OJ L 93, 31.3.2006, p. 12. Regulation as amended by Regulation (EC) No 1791/2006 (OJ L 363, 20.12.2006, p. 1).

⁽²⁾ OJ L 148, 21.6.1996, p. 1. Regulation as last amended by Regulation (EC) No 1486/2007 (OJ L 330, 15.12.2007, p. 15).

⁽³⁾ OJ C 171, 24.7.2007, p. 24.

ANNEX

Agricultural products intended for human consumption listed in Annex I to the Treaty:

Class 1.6. Fruit, vegetables and cereals, fresh or processed

SPAIN

Lenteja de la Armuña (PGI)

COMMISSION REGULATION (EC) No 391/2008**of 30 April 2008****amending Regulation (EC) No 102/2007 adopting the specifications of the 2008 ad hoc module on the labour market situation of migrants and their immediate descendants****(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 577/98 of 9 March 1998 on the organisation of a labour force sample survey in the Community ⁽¹⁾, and in particular Article 4(2) thereof,

Whereas:

- (1) For reasons of reliability and quality of the data to be provided, some variables described in the Annex to the Commission Regulation (EC) No 102/2007 ⁽²⁾ should be optional for Member States with a small sample size for migrants. Bulgaria and Romania are in this situation but were not Member States when this Regulation was proposed for adoption.

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

HAS ADOPTED THIS REGULATION:

Article 1

Article 2 of Regulation (EC) No 102/2007 is replaced by the following:

'Article 2

Columns 213, 214, 215, 216, 217, 218 and 219 of the Annex shall be optional for Bulgaria, the Czech Republic, Denmark, Estonia, Latvia, Lithuania, Hungary, Malta, Poland, Romania, Slovenia, Slovakia and Finland.'

Article 2

This Regulation shall enter into force on the seventh 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, 30 April 2008.

For the Commission

Joaquín ALMUNIA

Member of the Commission

⁽¹⁾ OJ L 77, 14.3.1998, p. 3. Regulation as last amended by Regulation (EC) No 1372/2007 of the European Parliament and of the Council (OJ L 315, 3.12.2007, p. 42).

⁽²⁾ OJ L 28, 3.2.2007, p. 3.

COMMISSION REGULATION (EC) No 392/2008

of 30 April 2008

approving minor amendments to the specification for a name entered in the register of protected designations of origin and protected geographical indications (Ternasco de Aragón (PGI))

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Council Regulation (EC) No 510/2006 of 20 March 2006 on the protection of geographical indications and designations of origin for agricultural products and foodstuffs ⁽¹⁾, and in particular the second sentence of Article 9(2) thereof,

Whereas:

- (1) In accordance with the first subparagraph of Article 9(1) and Article 17(2) of Regulation (EC) No 510/2006, the Commission has examined the application from Spain for approval of an amendment to the specification for the protected geographical indication 'Ternasco de Aragón' registered by Commission Regulation (EC) No 1107/96 ⁽²⁾.
- (2) The purpose of this application is to amend the specification concerning the description of the product by increasing the carcase weight range of 'Ternasco de Aragón' from 8,5-11,5 kg to 8-12,5 kg. The reference

to live weight at slaughter has also been deleted since this quality parameter duplicates the checked measurement of the carcase weight.

- (3) The Commission has examined the amendment in question and decided that it is justified. Since this is a minor amendment within the meaning of Article 9 of Regulation (EC) No 510/2006, the Commission may adopt it without using the procedure set out in Articles 5, 6 and 7 of that Regulation,

HAS ADOPTED THIS REGULATION:

Article 1

The specification for the protected geographical indication 'Ternasco de Aragón' is hereby amended in accordance with Annex I to this Regulation.

Article 2

A consolidated version of the summary containing the main points of the specification is given in Annex II to this Regulation.

Article 3

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

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

Done at Brussels, 30 April 2008.

For the Commission

Mariann FISCHER BOEL

Member of the Commission

⁽¹⁾ OJ L 93, 31.3.2006, p. 12. Regulation as amended by Regulation (EC) No 1791/2006 (OJ L 363, 20.12.2006, p. 1).

⁽²⁾ OJ L 148, 21.6.1996, p. 1. Regulation as last amended by Regulation (EC) No 1486/2007 (OJ L 330, 15.12.2007, p. 15).

ANNEX I

The following amendments to the specification for the protected geographical indication 'Ternasco de Aragón' (Spain) have been adopted:

Description of the product

The reference to live weight at slaughter of 18-24 kg is deleted because this quality parameter duplicates a measurement which is already checked by means of the carcase weight, the latter being more precise and more objective.

The carcase weight range for 'Ternasco de Aragón' is increased to 8-12,5 kg. The quality of the carcase and of the meat of the product covered by the protected geographical indication is maintained, in accordance with the studies and tests carried out with respect to this.

ANNEX II

SUMMARY

COUNCIL REGULATION (EC) No 510/2006

'TERNASCO DE ARAGÓN'

EC No: ES/PGI/117/0096/19.10.2005

PDO () PGI (X)

This summary sets out the main points of the product specification for information purposes.

1. Responsible department in the member state

Name: Subdirección General de Calidad y Promoción Agroalimentaria — Dirección General de Industria Agroalimentaria y Alimentación — Secretaría General de Agricultura y Alimentación del Ministerio de Agricultura, Pesca y Alimentación

Address: C/ Paseo Infanta Isabel nº 1

Telephone: 91 347 53 97

Fax: 91 347 54 10

e-mail: sgcaproagro@mapya.es

2. Applicant group

Name: Regulatory Board for the PGI 'Ternasco de Aragón'

Address: Ctra. Cogullada, s/n, Mercazaragoza — Edificio Centrorigen — 50014 ZARAGOZA

Telephone: 976 470813

Fax: 976 464813

e-mail: info@ternascodearagon.es

Composition: Producers/processors (X) other ()

3. Type of product

Class 1.1 — Meat

4. Specification (summary of requirements under article 4(2))**4.1. Name**

'Ternasco de Aragón'

4.2. Description

Lamb meat from the following breeds: *rasa Aragonesa*, *ojinegra de Teruel* and *roya Bilbilitana*. 'Ternasco de Aragón' must come from lambs of an age at slaughter of between 70 and 90 days, no distinction being made between genders (non-castrated males or females). The carcase weight ranges from 8 to 12,5 kg. Firm white fat, rectilinear profile with subconvex tendency and rounded contours. Meat tender, juicy, soft in texture, pale pink.

4.3. Geographical area

Autonomous Community of Aragón.

4.4. Proof of origin

The meat covered by the PGI comes from holdings situated in the production area and registered with the Regulatory Board. Rearing, slaughter, cutting and packaging are supervised by the Regulatory Board. The meat is marketed with a guarantee certificate approved by the Regulatory Board.

4.5. *Method of production*

The livestock comes from the 'Rasa Aragonesa', 'Ojinegra de Teruel' and 'Roya Bilbilitana' breeds. Slaughter, skinning and evisceration are carried out in accordance with the statutory methods. The carcasses are left to air until the interior of the muscle tissue reaches an appropriate temperature for maturing and transportation. The carcasses will be kept at a temperature of 3-4 °C for a period of under 24 hours and 1-3 °C for longer periods; they will be preserved for a period not exceeding six days.

4.6. *Link*

The continental climatic conditions of this sparsely vegetated area (low rainfall, strong winds and major thermal variations) promote the development of three native breeds whose principal characteristic is their precocious growth. Since they attain an optimum degree of fat cover at an early age, they produce an exquisite meat which is appreciated for its quality.

4.7. *Inspection body*

Name: Regulatory Board for the PGI 'Ternasco de Aragón'
Address: Ctra. Cogullada, s/n, Mercazaragoza — Edificio Centrorigen — 50014 ZARAGOZA
Telephone: 976 470813
Fax: 976 464813
e-mail: info@ternascodearagon.es

The Regulatory Board for the 'Ternasco de Aragón' designation of origin meets the requirements laid down in standard EN-45011.

4.8. *Labelling*

Labels will bear the name 'Ternasco de Aragón'. Labels and stamps will be authorised, numbered and issued by the Regulatory Board.

COMMISSION REGULATION (EC) No 393/2008
of 30 April 2008
concerning the authorisation of astaxanthin dimethyldisuccinate as a feed additive
(Text with EEA relevance)

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Regulation (EC) No 1831/2003 of the European Parliament and of the Council of 22 September 2003 on additives for use in animal nutrition⁽¹⁾, and in particular Article 9(2) thereof,

Whereas:

- (1) Regulation (EC) No 1831/2003 provides for the authorisation of additives for use in animal nutrition and for the grounds and procedures for granting such authorisation.
- (2) In accordance with Article 7 of Regulation (EC) No 1831/2003, an application was submitted for the authorisation of the preparation set out in the Annex to this Regulation. That application was accompanied by the particulars and documents required under Article 7(3) of Regulation (EC) No 1831/2003.
- (3) The application concerns authorisation of the preparation of astaxanthin dimethyldisuccinate as a feed additive for salmon and trout, to be classified in the additive category 'sensory additives'.
- (4) The European Food Safety Authority (the Authority) concluded in its opinion of 17 October 2007 that astaxanthin dimethyldisuccinate does not have an adverse effect on animal health, human health or the environment⁽²⁾. It further concluded that astaxanthin dimethyldisuccinate does not present any other risk which would,

in accordance with Article 5(2) of Regulation (EC) No 1831/2003, exclude authorisation. It does not consider that there is a need for specific requirements of post market monitoring. This opinion also verifies the report on the method of analysis of the feed additive in feed submitted by the Community Reference Laboratory set up by Regulation (EC) No 1831/2003.

- (5) The assessment of that preparation shows that the conditions for authorisation, provided for in Article 5 of Regulation (EC) No 1831/2003, are satisfied. Accordingly, the use of that preparation should be authorised, as specified in the Annex to this Regulation.
- (6) The measures provided for in this Regulation are in accordance with the opinion of the Standing Committee on the Food Chain and Animal Health,

HAS ADOPTED THIS REGULATION:

Article 1

The preparation specified in the Annex, belonging to the additive category 'sensory additives' and to the functional group 'a(ii) Colourants; substances which when fed to animals add colours to food of animal origin', is authorised as an additive in animal nutrition subject to the conditions laid down in that Annex.

Article 2

This Regulation shall enter into force on the 20th 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, 30 April 2008.

For the Commission
Androulla VASSILOU
Member of the Commission

⁽¹⁾ OJ L 268, 18.10.2003, p. 29. Regulation as amended by Commission Regulation (EC) No 378/2005 (OJ L 59, 5.3.2005, p. 8).

⁽²⁾ Opinion of the Scientific Panel on Additives and Products or Substances used in Animal Feed entitled 'on the safety and efficacy of Carophyll® Stay-Pink (astaxanthin dimethyldisuccinate) as a feed additive for salmon and trout'. Adopted on 17 October 2007. *The EFSA Journal* (2007) 574, p. 1-25.

ANNEX

Identification number of the additive	Name of the holder of authorisation	Additive	Composition, chemical formula, description, analytical method	Species or category of animal	Maximum age	Minimum content	Maximum content	Other provisions	End of period of authorisation
Category: sensory additives. Functional group: a(ii) Colourants; substances which when fed to animals add colours to food of animal origin									
2a(ii) 165	—	Astaxanthin dimethylsuccinate	Active substance: Astaxanthin dimethylsuccinate (C ₅₀ H ₆₄ O ₁₀ , CAS No: 578006-46-9) Astaxanthin dimethylsuccinate > 96 % Other carotenoids < 4 % Additive composition: Formulated in an organic matrix Purity criteria: Triphenylphosphine oxide (TPPO) ≤ 100 mg/kg of additive Dichloromethane: ≤ 600 mg/kg additive Analytical methods: High performance liquid chromatography (HPLC) coupled with ultraviolet detection (UV) ⁽¹⁾	Salmon and trout	—	—	138	1. Use permitted from the age of 6 months onwards or from 50 g weight onwards. 2. In order to be used in fish feed, the additive shall be used in a formulated form, properly stabilized with authorized anti-oxidants. If ethoxyquin is used in the formulation, the ethoxyquin content shall be indicated in the label. 3. If astaxanthin dimethylsuccinate is mixed with canthaxanthin and other astaxanthin sources, the total concentration of the mixture shall not exceed 100 g astaxanthin-equivalents ⁽²⁾ /kg in the complete fish feedingsstuff.	21 May 2018

⁽¹⁾ Further details of the analytical methods are available at the following address of the Community Reference Laboratory: www.irmm.jrc.be/crl-feed-additives

⁽²⁾ 1,38 mg astaxanthin dimethylsuccinate is equivalent to 1 mg astaxanthin.

COMMISSION REGULATION (EC) No 394/2008**of 30 April 2008****amending Regulation (EC) No 1266/2007 as regards the conditions for exempting certain animals of susceptible species from the exit ban provided for in Council Directive 2000/75/EC****(Text with EEA relevance)**

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Council Directive 2000/75/EC of 20 November 2000 laying down specific provisions for the control and eradication of bluetongue⁽¹⁾, and in particular Article 9(1)(c), Articles 11 and 12 and the third paragraph of Article 19 thereof,

Whereas:

- (1) Commission Regulation (EC) No 1266/2007⁽²⁾ lays down rules for the control, monitoring, surveillance and restrictions on movements of animals, in relation to bluetongue, in and from the restricted zones. It also establishes the conditions for exemptions from the exit ban applicable to movements of susceptible animals, their semen, ova and embryos provided for in Directive 2000/75/EC.
- (2) In recent months, experience has shown that in a number of Member States the effectiveness of the measures provided for in Regulation (EC) No 1266/2007 to ensure the protection of animals against attacks by vectors might be undermined by a combination of factors, including the vector species, climate conditions and the type of husbandry of the susceptible ruminants.
- (3) In view of those circumstances and pending their further scientific assessment, it is appropriate to allow Member States of destination, in which the introduction of non-immune animals under such circumstances could pose a risk for animal health to require that the movement of non-immune animals is subject to additional conditions justified on the basis of a risk assessment taking into account the entomological and epidemiological conditions in which animals are being introduced. Such additional conditions should be limited to what it is necessary to ensure an effective protection of non-immune animals against vectors attacks.

- (4) The vector protected confinement of animals is a practicable and effective tool to protect younger animals from attacks by vectors provided that it is carried out subject to certain conditions. Therefore, Member States of destination should be allowed to require the application of these conditions in relation to the introduction of young, non-immune animals for which vaccination is not feasible. As this would affect intra-Community trade, the intention to apply these additional conditions should be notified to the Commission, together with all information demonstrating that it is justified.
- (5) The Commission has requested further scientific advice from the European Food Safety Authority. In light of that advice and of additional knowledge and experience that becomes available, the measures provided for in this Regulation may be reviewed in the future. Therefore, the transitional period should be limited to 31 December 2008.
- (6) Points 6 and 7 of Section A of Annex III to Regulation (EC) No 1266/2007 lay down the conditions under which naturally immunised animals may be exempted from the exit ban provided for in Directive 2000/75/EC. There have been experiments which indicate that protection post-infection with bluetongue lasts for a substantial period of time. Therefore, the naturally infected animals are immune for long periods after infection with a particular serotype. The detection of an immune response to bluetongue virus in non-vaccinated animals indicates previous infection. However, that protection can vary depending on the breed of the animal, virus strain and individual animal variation. Therefore, confirmation of the persistence of the antibody response by means of two serological tests, the first being carried out between 60 and 360 days before the movement and the second seven days before movement can provide further reassurance that such animals are immune and thus can be safely moved.
- (7) Regulation (EC) No 1266/2007 should therefore be amended accordingly.
- (8) The measures provided for in this Regulation are in accordance with the opinion of the Standing Committee on the Food Chain and Animal Health,

⁽¹⁾ OJ L 327, 22.12.2000, p. 74. Directive as last amended by Commission Decision 2007/729/EC (OJ L 294, 13.11.2007, p. 26).

⁽²⁾ OJ L 283, 27.10.2007, p. 37. Regulation as amended by Regulation (EC) No 289/2008 (OJ L 89, 1.4.2008, p. 3).

HAS ADOPTED THIS REGULATION:

Article 1

Regulation (EC) No 1266/2007 is amended as follows:

1. In Chapter 4, the following Article 9a is inserted:

'Article 9a

Transitional provisions

1. Until 31 December 2008, by way of derogation from Article 8(1)(a) and based on the outcome of a risk assessment taking into account the entomological and epidemiological conditions of the introduction of animals, Member States of destination may require that the movement of animals, which are covered by the exemption provided for in Article 8(1) and which comply with at least one of the conditions set out in points 1 to 4 of Section A of Annex III but which do not comply with points 5, 6 and 7 of that Section, comply with the following additional conditions:

- (a) those animals must be less than 90 days old;
- (b) they must have been kept since birth in vector protected confinement;
- (c) the tests referred in points 1, 3 and 4 of Section A of Annex III must have been carried out on samples taken not earlier than seven days before the date of the movement.

2. A Member State which intends to apply the additional conditions laid down in paragraph 1 shall notify the Commission in advance.

It shall provide the Commission with all the necessary information and data required to justify the application of those additional conditions in view of its entomological and epidemiological situation, in particular with regard to the vector species and virus serotype involved, climate conditions, and the type of husbandry of the susceptible ruminants.

If the Commission has not opposed the application within a period of seven days from the date of notification, the

notifying Member State shall be entitled to apply those additional conditions forthwith. It shall inform the other Member States without delay.

3. The Commission shall make available to the public information regarding the application of additional conditions in accordance with paragraph 2.'

2. In Annex III, Section A is amended as follows:

(a) Point 6(a) is replaced by the following:

'(a) they were subjected to two serological tests according to the OIE Terrestrial Manual to detect antibodies against the bluetongue virus serotype, with positive results; the first test being carried out on samples taken between 60 and 360 days before the date of movement and the second test being carried out on samples taken not earlier than seven days before the date of the movement; or';

(b) In point 7, the introductory phrase and point (a) are replaced by the following:

'The animals have never been vaccinated against the bluetongue virus and were subjected with positive results to two adequate serological tests according to the OIE Terrestrial Manual able to detect specific antibodies against all the bluetongue virus serotypes present or likely to be present, in the epidemiologically relevant geographical area of origin, and

(a) the first test must have been carried out on samples that were taken between 60 and 360 days before the date of movement and the second test must have been carried out on samples that were taken not earlier than seven days before the date of movement; or'.

Article 2

This Regulation shall enter into force on the third 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, 30 April 2008.

For the Commission

Androulla VASSILIOU

Member of the Commission

COMMISSION REGULATION (EC) No 395/2008**of 30 April 2008****fixing the import duties in the cereals sector applicable from 1 May 2008**

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Council Regulation (EC) No 1784/2003 of 29 September 2003 on the common organisation of the market in cereals ⁽¹⁾,

Having regard to Commission Regulation (EC) No 1249/96 of 28 June 1996 on rules of application (cereal sector import duties) for Council Regulation (EEC) No 1766/92 ⁽²⁾, and in particular Article 2(1) thereof,

Whereas:

- (1) Article 10(2) of Regulation (EC) No 1784/2003 states that the import duty on products falling within CN codes 1001 10 00, 1001 90 91, ex 1001 90 99 (high quality common wheat), 1002, ex 1005 other than hybrid seed, and ex 1007 other than hybrids for sowing, is to be equal to the intervention price valid for such products on importation and increased by 55 %, minus the cif import price applicable to the consignment in question. However, that duty may not exceed the rate of duty in the Common Customs Tariff.
- (2) Article 10(3) of Regulation (EC) No 1784/2003 lays down that, for the purposes of calculating the import duty referred to in paragraph 2 of that Article, representative cif import prices are to be established on a regular basis for the products in question.

- (3) Under Article 2(2) of Regulation (EC) No 1249/96, the price to be used for the calculation of the import duty on products of CN codes 1001 10 00, 1001 90 91, ex 1001 90 99 (high quality common wheat), 1002 00, 1005 10 90, 1005 90 00 and 1007 00 90 is the daily cif representative import price determined as specified in Article 4 of that Regulation.
- (4) Import duties should be fixed for the period from 1 May 2008, and should apply until new import duties are fixed and enter into force.
- (5) However, in accordance with Council Regulation (EC) No 1/2008 of 20 December 2007 temporarily suspending customs duties on imports of certain cereals for the 2007/08 marketing year ⁽³⁾, the application of certain duties set by this Regulation is suspended,

HAS ADOPTED THIS REGULATION:

Article 1

From 1 May 2008, the import duties in the cereals sector referred to in Article 10(2) of Regulation (EC) No 1784/2003 shall be those fixed in Annex I to this Regulation on the basis of the information contained in Annex II.

Article 2

This Regulation shall enter into force on 1 May 2008.

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

Done at Brussels, 30 April 2008.

For the Commission

Jean-Luc DEMARTY

*Director-General for Agriculture and
Rural Development*

⁽¹⁾ OJ L 270, 21.10.2003, p. 78. Regulation as last amended by Regulation (EC) No 735/2007 (OJ L 169, 29.6.2007, p. 6). Regulation (EC) No 1784/2003 will be replaced by Regulation (EC) No 1234/2007 (OJ L 299, 16.11.2007, p. 1) as from 1 July 2008.

⁽²⁾ OJ L 161, 29.6.1996, p. 125. Regulation as last amended by Regulation (EC) No 1816/2005 (OJ L 292, 8.11.2005, p. 5).

⁽³⁾ OJ L 1, 4.1.2008, p. 1.

ANNEX I

Import duties on the products referred to in Article 10(2) of Regulation (EC) No 1784/2003 applicable from 1 May 2008

CN code	Description	Import duties ⁽¹⁾ (EUR/t)
1001 10 00	Durum wheat, high quality	0,00 (*)
	medium quality	0,00 (*)
	low quality	0,00 (*)
1001 90 91	Common wheat seed	0,00
ex 1001 90 99	High quality common wheat, other than for sowing	0,00 (*)
1002 00 00	Rye	0,00 (*)
1005 10 90	Maize seed other than hybrid	0,00
1005 90 00	Maize, other than seed ⁽²⁾	0,00 (*)
1007 00 90	Grain sorghum other than hybrids for sowing	0,00 (*)

⁽¹⁾ For goods arriving in the Community via the Atlantic Ocean or via the Suez Canal the importer may benefit, under Article 2(4) of Regulation (EC) No 1249/96, from a reduction in the duty of:

- 3 EUR/t, where the port of unloading is on the Mediterranean Sea, or
- 2 EUR/t, where the port of unloading is in Denmark, Estonia, Ireland, Latvia, Lithuania, Poland, Finland, Sweden, the United Kingdom or the Atlantic coast of the Iberian peninsula.

⁽²⁾ The importer may benefit from a flatrate reduction of EUR 24 per tonne where the conditions laid down in Article 2(5) of Regulation (EC) No 1249/96 are met.

(*) In accordance with Regulation (EC) No 1/2008, application of this duty is suspended.

ANNEX II

Factors for calculating the duties laid down in Annex I

16.4.2008-29.4.2008

1. Averages over the reference period referred to in Article 2(2) of Regulation (EC) No 1249/96:

(EUR/t)

	Common wheat (*)	Maize	Durum wheat, high quality	Durum wheat, medium quality (**)	Durum wheat, low quality (***)	Barley
Exchange	Minneapolis	Chicago	—	—	—	—
Quotation	287,13	147,43	—	—	—	—
Fob price USA	—	—	312,22	302,22	282,22	160,14
Gulf of Mexico premium	—	8,69	—	—	—	—
Great Lakes premium	- 1,88	—	—	—	—	—

(*) Premium of 14 EUR/t incorporated (Article 4(3) of Regulation (EC) No 1249/96).

(**) Discount of 10 EUR/t (Article 4(3) of Regulation (EC) No 1249/96).

(***) Discount of 30 EUR/t (Article 4(3) of Regulation (EC) No 1249/96).

2. Averages over the reference period referred to in Article 2(2) of Regulation (EC) No 1249/96:

Freight costs: Gulf of Mexico–Rotterdam: 43,09 EUR/t

Freight costs: Great Lakes–Rotterdam: 39,20 EUR/t

DIRECTIVES

COMMISSION DIRECTIVE 2008/53/EC

of 30 April 2008

amending Annex IV to Council Directive 2006/88/EC as regards Spring viraemia of carp (SVC)

(Text with EEA relevance)

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Council Directive 2006/88/EC of 24 October 2006 on animal health requirements for aquaculture animals and products thereof, and on the prevention and control of certain diseases in aquatic animals ⁽¹⁾, and in particular Article 61(2) thereof,

Whereas:

- (1) Directive 2006/88/EC lays down certain animal health rules applicable to aquaculture animals and products thereof. Those rules take into account the listing of diseases as exotic and non-exotic in Part II of Annex IV to that Directive and the susceptible species.
- (2) Spring viraemia of carp (SVC) is included in the list of non-exotic diseases in Part II of Annex IV to Directive 2006/88/EC.
- (3) In the framework of discussions in the Council leading to the adoption of Directive 2006/88/EC, the Commission issued a declaration acknowledging the concerns raised by several of the carp producing Member States on the consequences of having SVC subject to harmonised Community provisions. The Commission therefore declared that it would, after the entry into force of Directive 2006/88/EC, but before its date of application, upon the request and based on the arguments presented to it, re-assess whether SVC should continue be included in the list in Part II of Annex IV to that Directive. The Commission has received requests for re-assessment from several Member States.
- (4) Part I of Annex IV to Directive 2006/88/EC sets out the criteria for listing diseases as exotic and non-exotic. According to the criteria for listing non-exotic diseases, consideration should be given as to whether the disease has the potential for significant economic impact if introduced into a Member State free of the disease by production losses and by annual costs associated with the disease and its control exceeding 5 % of the value of the production of the susceptible aquaculture animal species production in the region.
- (5) According to information from the main carp production Member States, SVC is already an endemic disease. However, during the last 20 to 25 years, SVC has not caused major losses to the industry.
- (6) In addition, it is appropriate to consider whether SVC may be controlled at Member State level and whether such control is cost-beneficial. Due to the hydrographical situation and the structure of the carp aquaculture in the main carp producing Member States, the costs related to measures to eradicate that disease would be disproportionate to the economic losses caused by the disease. On the basis of the recent information received, SVC appears not to meet all the criteria for inclusion in the list of non-exotic diseases in Part II of Annex IV to Directive 2006/88/EC.
- (7) Consequently, it is appropriate to delete SVC from the list of non-exotic diseases in Part II of Annex IV to Directive 2006/88/EC.
- (8) Article 43 of Directive 2006/88/EC provides that Member States may take measures to prevent the introduction of, or to control, diseases not listed in Part II of Annex IV thereto, where those diseases constitute a significant risk for the animal health situation of aquaculture or wild aquatic animals in those Member States. Those measures are not to exceed the limits of what is appropriate and necessary to prevent the introduction of, or control of, such diseases.

⁽¹⁾ OJ L 328, 24.11.2006, p. 14.

- (9) Pursuant to Article 63 of Directive 2006/88/EC, Commission Decision 2004/453/EC of 29 April 2004 implementing Council Directive 91/67/EEC as regards measures against certain diseases in aquaculture animals ⁽¹⁾ is to continue to apply for the purposes of Directive 2006/88/EC pending the adoption of the necessary provisions in accordance with Article 43 of that Directive, which are to be adopted no later than three years after entry into force of the Directive.
- (10) Under Commission Decision 2004/453/EC, Denmark, Ireland, Finland, Sweden and United Kingdom have their whole territory or parts thereof approved as SVC-free or under control and eradication programmes. Those Member States may consequently require additional guarantees for the introduction into those territories of species susceptible to SVC.
- (11) The Member States that may require additional guarantees in place in accordance with Decision 2004/453/EC should be allowed to continue to apply measures in accordance with Article 43 of Directive 2006/88/EC, including restrictions on the placing on the market and imports, in order to control SVC and maintain their disease-free status.
- (12) Annex IV to Directive 2006/88/EC should therefore be amended accordingly.
- (13) Directive 2006/88/EC provides that the Member States are to adopt national measures complying with that Directive by 1 May 2008 and apply the national provisions by 1 August 2008. In order to give Member States sufficient time, the national measures complying with Directive 2006/88/EC, as amended by the present Directive, should be adopted by 1 August 2008, and the national provisions applied from 1 August 2008.
- (14) 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 IV to Directive 2006/88/EC is amended in accordance with the Annex to this Directive.

Article 2

Member States shall adopt and publish, by 1 August 2008 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 August 2008.

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.

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

Article 3

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

Article 4

This Directive is addressed to the Member States.

Done at Brussels, 30 April 2008.

For the Commission

Androulla VASSILIOU

Member of the Commission

⁽¹⁾ OJ L 156, 30.4.2004, p. 5; as corrected by OJ L 202, 7.6.2004, p. 4. Decision as amended by Decision 2006/272/EC (OJ L 99, 7.4.2006, p. 31).

ANNEX

Part II to Annex IV is replaced by the following:

PART II
Listed diseases

EXOTIC DISEASES		
	DISEASE	SUSCEPTIBLE SPECIES
FISH	Epizootic haematopoietic necrosis	Rainbow trout (<i>Oncorhynchus mykiss</i>) and redbfin perch (<i>Perca fluviatilis</i>)
	Epizootic ulcerative syndrome	Genera: <i>Catla</i> , <i>Channa</i> , <i>Labeo</i> , <i>Mastacembelus</i> , <i>Mugil</i> , <i>Puntius</i> and <i>Trichogaster</i>
MOLLUSCS	Infection with <i>Bonamia exitiosa</i>	Australian mud oyster (<i>Ostrea angasi</i>) and Chilean flat oyster (<i>O. chilensis</i>)
	Infection with <i>Perkinsus marinus</i>	Pacific oyster (<i>Crassostrea gigas</i>) and Eastern oyster (<i>C. virginica</i>)
	Infection with <i>Microcytos mackini</i>	Pacific oyster (<i>Crassostrea gigas</i>), Eastern oyster (<i>C. virginica</i>), Olympia flat oyster (<i>Ostrea conchaphila</i>) and European flat oyster (<i>O. edulis</i>)
CRUSTACEANS	Taura syndrome	Gulf white shrimp (<i>Penaeus setiferus</i>), Pacific blue shrimp (<i>P. stylirostris</i>), and Pacific white shrimp (<i>P. vannamei</i>)
	Yellowhead disease	Gulf brown shrimp (<i>Penaeus aztecus</i>), Gulf pink shrimp (<i>P. duorarum</i>), Kuruma prawn (<i>P. japonicus</i>), black tiger shrimp (<i>P. monodon</i>), Gulf white shrimp (<i>P. setiferus</i>), Pacific blue shrimp (<i>P. stylirostris</i>), and Pacific white shrimp (<i>P. vannamei</i>)
NON-EXOTIC DISEASES		
	DISEASES	SUSCEPTIBLE SPECIES
FISH	Viral haemorrhagic septicaemia (VHS)	Herring (<i>Clupea</i> spp.), whitefish (<i>Coregonus</i> spp.), pike (<i>Esox lucius</i>), haddock (<i>Gadus aeglefinus</i>), Pacific cod (<i>G. macrocephalus</i>), Atlantic cod (<i>G. morhua</i>), Pacific salmon (<i>Oncorhynchus</i> spp.) rainbow trout (<i>O. mykiss</i>), rockling (<i>Onos mustelus</i>), brown trout (<i>Salmo trutta</i>), turbot (<i>Scophthalmus maximus</i>), sprat (<i>Sprattus sprattus</i>) and grayling (<i>Thymallus thymallus</i>)
	Infectious haematopoietic necrosis (IHN)	Chum salmon (<i>Oncorhynchus keta</i>), coho salmon (<i>O. kisutch</i>), Masou salmon (<i>O. masou</i>), rainbow or steelhead trout (<i>O. mykiss</i>), sockeye salmon (<i>O. nerka</i>), pink salmon (<i>O. rhodurus</i>), chinook salmon (<i>O. tshawytscha</i>), and Atlantic salmon (<i>Salmo salar</i>)
	Koi herpes virus (KHV) disease	Common carp and koi carp (<i>Cyprinus carpio</i>)
	Infectious salmon anaemia (ISA)	Rainbow trout (<i>Oncorhynchus mykiss</i>), Atlantic salmon (<i>Salmo salar</i>), and brown and sea trout (<i>S. trutta</i>)
MOLLUSCS	Infection with <i>Marteilia refringens</i>	Australian mud oyster (<i>Ostrea angasi</i>), Chilean flat oyster (<i>O. chilensis</i>), European flat oyster (<i>O. edulis</i>), Argentinian oyster (<i>O. puelchana</i>), blue mussel (<i>Mytilus edulis</i>) and Mediterranean mussel (<i>M. galloprovincialis</i>)
	Infection with <i>Bonamia ostreae</i>	Australian mud oyster (<i>Ostrea angasi</i>), Chilean flat oyster (<i>O. chilensis</i>), Olympia flat oyster (<i>O. conchaphila</i>), Asiatic oyster (<i>O. denselammellosa</i>), European flat oyster (<i>O. edulis</i>), and Argentinian oyster (<i>O. puelchana</i>)
CRUSTACEANS	White spot disease	All decapod crustaceans (order Decapoda)

II

(Acts adopted under the EC Treaty/Euratom Treaty whose publication is not obligatory)

DECISIONS

COMMISSION

COMMISSION DECISION

of 3 April 2008

on the rules of England, Wales, Northern Ireland and Scotland concerning permit exemptions for undertakings and establishments recovering hazardous waste under Article 3 of Council Directive 91/689/EEC

(notified under document number C(2008) 1212)

(Only the English text is authentic)

(Text with EEA relevance)

(2008/350/EC)

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to Council Directive 91/689/EEC of 12 December 1991 on hazardous waste ⁽¹⁾, and in particular Article 3(4) thereof,

Whereas:

- (2) The United Kingdom only notified the paragraphs 17(1), 18(1), 38, 39(1) and (2), 43, 45(1) and (2), 47A(2) and 48A(2) of the Draft Waste Management Exemptions (Amendment and Related Provisions) (England and Wales) Regulations 2006 which are relating to hazardous waste. For Northern Ireland the paragraphs 49-51 of Annex A to Schedule A to Schedule 2 (Exemptions from Waste Management Licensing) of the Waste Management Licensing Regulations (Northern Ireland) 2003, were notified. In contrast Scotland notified permit exemptions governing hazardous and non-hazardous waste all together (paragraphs 3(a)(ii), 3(c), 6(1) and (2), 17(1), 18(2)(a) and (b), 28, 36(1) to (3), 38, 39(1) and (2), 43(1) to (3), 45(1) and (2), 47(2) and 48(2) of the Draft Waste Management Licensing Amendment (Scotland) Regulations 2006).

1. NATIONAL PROVISIONS NOTIFIED

- (1) By notifications of 13 September 2005, 18 January 2006, 3 and 4 August 2006 and 6 December 2006 the United Kingdom sent to the Commission the proposed changes to the existing waste management licensing exemptions relating to hazardous waste in England, Wales and Scotland set out in Schedule 3 (Activities Exempt from Waste Management Licensing) of the Waste Management Licensing Regulations 1994 (Statutory Instrument (SI) No 1056/1994, as amended).

2. ASSESSMENT

- (3) With regard to the compliance with Article 3(2) of Directive 91/689/EEC, the notified exemptions relating to hazardous waste in England, Wales, Northern Ireland and Scotland do fulfil the requirements under that Directive. The notified drafts list the types and maximum quantities of hazardous wastes, and prescribe further requirements relating to the carrying out of the storage activities. The typology of the waste involved is appropriately identified according to Commission Decision 2000/532/EC of 3 May 2000 replacing Decision 94/3/EC establishing a list of wastes pursuant

⁽¹⁾ OJ L 377, 31.12.1991, p. 20. Directive as last amended by Regulation (EC) No 166/2006 of the European Parliament and of the Council (OJ L 33, 4.2.2006, p. 1).

to Article 1(a) of Council Directive 75/442/EEC on waste and Council Decision 94/404/EC establishing a list of hazardous waste pursuant to Article 1(4) of Council Directive 91/689/EEC on hazardous waste ⁽¹⁾.

- (4) Paragraph 38 of the notified drafts, covering the storage of waste which is being tested to establish its classification and to ensure it is treated in the right way, does not contain the appropriate reference according to Decision 2000/532/EC. The Commission has, however, accepted this exception as the testing and analysis of waste is necessary to ascertain the characteristics of some wastes, including whether it is hazardous or non-hazardous. Thus the correct waste reference can only be assigned after the testing and the waste treated appropriately. The exemption does not extend to any treatment of the waste that will be regulated under a separate waste authorisation.
- (5) The Commission is of the opinion that with regard to the notified exemptions the provision of the limits for the content of hazardous substances in the waste and emission limit values would be disproportionate. The Commission considers that, by fulfilling the other requirements listed in Article 3(2) and 3(3) of Directive 91/689/EEC, the management of the exempted waste is satisfactorily ensured pursuant to Article 1(1) of Directive 91/689/EEC.
- (6) As regards the condition in Article 3(2) of Directive 91/689/EEC concerning the compliance of the types or quantities of waste and methods of recovery with the conditions laid down in Article 4 of Directive 2006/12/EC of the European Parliament and of the Council of 5 April 2006 on waste ⁽²⁾, Paragraph 4(1)(a) of Schedule 4 to the SI No 1056/1994 duplicates the requirements of Article 4 of Directive 2006/12/EC. The condition of Article 3(2) of Directive 91/689/EEC is, therefore, fulfilled.
- (7) Regulation 18(1) of the SI No 1056/1994 provides that it is an offence for an establishment or undertaking to carry on an exempt activity involving the recovery or disposal of waste without being registered with the appropriate registration authority. Therefore the registration requirement contained in Article 3(3) of Directive 91/689/EEC is satisfied through that provision.
- (8) The Commission has consulted Member States for their views on compliance of the notified exemptions with Article 3 of Directive 91/689/EEC. During the consultation phase, no Member State has objected to the draft rules being accepted.

3. CONCLUSION

- (9) In the light of the consultation with the Member States, and in view of its own analysis that the draft rules comply with the requirements of Article 3 of Directive 91/689/EEC, the draft rules should be finally agreed upon.
- (10) The Annex to this Decision provides a summary of the rules notified by the United Kingdom which are compliant with the conditions set out in Article 3(2) and (4) of Directive 91/689/EEC in conjunction with Article 11(1)(b) of Directive 2006/12/EC. This agreement relates exclusively to the provisions as summarised in the Annex and is without prejudice to the application of other provisions contained in Directives 2006/12/EC and 91/689/EEC or other Community legislation to the notified Regulations.
- (11) The measures provided for in this Decision are in accordance with the opinion of the Committee established by Article 18 of Directive 2006/12/EC,

HAS ADOPTED THIS DECISION:

Article 1

The rules on permit exemptions concerning the recovery of hazardous wastes laid down in the draft Waste Management Licensing Exemptions (Amendment and Related Provisions) (England and Wales) Regulations 2006, the Waste Electrical and Electronic Equipment (Waste Management Licensing) (Northern Ireland) Regulations 2006 and the Waste Management Licensing Amendment (Scotland) Regulations 2006, notified by the United Kingdom and listed in the Annex to this Decision, comply with Article 3(2) and (4) of Directive 91/689/EEC.

Article 2

This Decision is addressed to the United Kingdom of Great Britain and Northern Ireland.

Done at Brussels, 3 April 2008.

For the Commission

Stavros DIMAS

Member of the Commission

⁽¹⁾ OJ L 226, 6.9.2000, p. 3. Decision as last amended by Council Decision 2001/573/EC (OJ L 203, 28.7.2001, p. 18).

⁽²⁾ OJ L 114, 27.4.2006, p. 9.

ANNEX

Rules notified by the United Kingdom and considered by the Commission compliant with Article 3(2) to (4) of Directive 91/689/EEC in conjunction with Article 11(1) (b) of Directive 2006/12/EC

1. The waste management exemptions (amendment and related provisions) (England and Wales) Regulations 2006

Provision	Type of waste, including code	Type of activity ⁽¹⁾	Limit values	Other requirements (not exclusive listing)
Paragraph 17(1)	14 06 01* ⁽²⁾	Storage	Maximum quantity stored at one time: 18 tonnes Maximum duration of storage: 6 months	The storage must be on an impermeable surface, and in sealed leak proof containers. When stored on the premises, the waste is kept separately.
	14 06 02*, 14 06 03*, 20 01 13*	Storage	Maximum quantity stored at one time: 5 cubic metres Maximum duration of storage: 6 months	
	20 01 27* (Paints (excluding specialist and industrial paints, wood preservatives, aerosol and spray paints, inks, adhesives and resins) pending re-use as paint).	Storage	Maximum quantity stored at one time: 10 000 litres. Maximum duration of storage: 6 months	
	17 02 04* (Wood including telegraph poles and railway sleepers)	Storage	Maximum quantity stored at one time: 100 tonnes Maximum duration of storage: 1 year	The storage must be on an impermeable surface. When stored on the premises, the waste is kept separately.
Paragraph 18(1)	13 01 09* to 13 07 01* except 13 03 01* to 13 03 10* and 13 05 01* to 13 05 08*	Storage	Maximum storage capacity of the container: 3 cubic metres, no more than 20 containers on those premises Maximum duration of storage: 1 year	The waste is stored in secure containers at a distance of not less than 10 metres from any inland or coastal waters or less than 50 metres from any well, borehole or similar work sunk into underground strata for the purpose of any water supply. When stored on the premises, the waste is kept separately.
	20 01 33* (Sorted or unsorted separate collections of batteries, batteries containing hazardous batteries)	Storage	Maximum storage capacity of the container: 400 cubic metres Maximum duration of storage: 1 year	When stored in secure containers on the premises, the waste is kept separately.
Paragraph 38	Samples of waste (including samples of hazardous waste) which are to be subjected to testing and analysis	Storage	Maximum storage limit: 10 tonnes	
Paragraph 39(1)	Medicines included in 18 01 08* and 20 01 31* and hypodermic syringes included in 18 01 03*	Storage at a pharmacy (returned by households and individuals)	Maximum quantity stored at one time: 5 cubic metres Maximum duration of storage: 6 months	These wastes are stored in secure containers separately.

Provision	Type of waste, including code	Type of activity ⁽¹⁾	Limit values	Other requirements (not exclusive listing)
Paragraph 39(2)	Hypodermic syringes and sharps included in 18 01 03* and 18 02 02* General healthcare waste (other than hypodermic syringes and sharps) included in 18 01 03* and 18 02 02 Medicines included in 18 01 08*, 18 02 07* and 20 01 31*	Storage at the premises of a medical, nursing or veterinary practice produced in carrying out that practice	Maximum quantity stored at one time: 5 cubic metres. Maximum duration of storage: 3 months	The waste is stored in secure containers
Paragraph 43(1) and (3)	Waste gas discharge lamps including fluorescent tubes (within code 20 01 21*)	Crushing for the purposes of volume reduction prior to collection	Maximum quantity of lamps processed in any period of 24 hours: 3 tonnes. Maximum mercury concentration in emissions: 50 µg/cubic metres.	Crushing operation is carried out in equipment designed for the purpose of the volume reduction prior to collection. The crushing operation is carried out solely for that purpose.
Paragraph 43(2) and (4)	Waste gas discharge lamps including fluorescent tubes within code 20 01 21*	Storage prior to crushing or storage after crushing but prior to collection.	Mercury concentration in emissions ≤ 50 µg/m ³	The storage of the lamps prior to crushing is under weather proof covering in compliance with paragraph 1 of Annex III to Directive 2002/96/EC on Waste Electrical and Electronic Equipment (WEEE). ⁽³⁾ The storage after the crushing is in a secure container.
Paragraph 45(1)	Lead acid motor vehicle batteries included in 16 06 01* whether or not forming part of, or contained in, a motor vehicle	Sorting	Maximum limit: 20 tonnes/7 days	The waste is stored at any secure place designed or adapted for the recovery of scrap metal or the dismantling of waste motor vehicles; every part of that place upon which the activity is carried out is surfaced with an impermeable pavement provided with a sealed drainage system and the plant or equipment used in carrying on the activity is maintained in reasonable working order.
Paragraph 45(2)	Lead acid motor vehicle batteries included in 16 06 01* whether or not forming part of, or contained in, a motor vehicle	Storage	40 tonnes/12 months	The waste is stored separately or is kept in separate containers at any secure place. Any container in which it is stored, is stored on an impermeable pavement which is provided with a sealed drainage system. In a case where a consignment consisting of more than one kind of waste is delivered to that place it may be stored unseparated at that place pending sorting for a period not exceeding 2 months. The height of any pile or stack of waste does not exceed 5 metres.

Provision	Type of waste, including code	Type of activity ⁽¹⁾	Limit values	Other requirements (not exclusive listing)
Paragraph 49	16 02 11*, 20 01 23*	Treatment (repair and/or refurbishment) and storage where the activity is carried on of any such WEEE intended to be submitted to repair or refurbishment or both	Storage limits: 80 cubic metres Treatment limits: 5 tonnes/day Maximum duration of storage: 12 months	The waste is stored and treated in a manner that will prevent the release of the CFCs, HCFCs or HFCs
	16 02 13*, 20 01 35*	Treatment (repair and/or refurbishment) and storage where the activity is carried on of any such WEEE intended to be submitted to repair or refurbishment or both	Storage limit: 80 cubic metres Treatment limits: 5 tonnes/day Maximum duration of storage: 12 months	
Paragraph 50	16 02 11*, 20 01 23*	Storage	Storage limit: 80 cubic metres. Maximum duration of storage: 3 months	The storage has to be on an impermeable surface within a secure container or a secure place. A weatherproof covering shall be used. This waste should be stored in a manner that will prevent the release of the CFC, HCFC and HFC; the number of units in any stack shall not exceed 2; the overall height of any stack shall not exceed 3,5 metres.
	16 02 13*, 20 01 35*	Storage	Storage limit: 80 cubic metres. Maximum duration of storage: 3 months	The storage has to be on an impermeable surface within a secure container or a secure place. A weatherproof covering shall be used.
	20 01 21*	Storage	Storage limit: 50 cubic metres. Maximum duration of storage: 3 months	The storage has to be in appropriate leak proof containers at any secure place; a weatherproof covering shall be used. This kind of waste shall be stored in such a way that the glass is not broken.

⁽¹⁾ The activities listed in this Annex are carried out for the purpose of recovery.

⁽²⁾ The six digit codes with the asterisk used in this Annex refer to the nomenclature laid down in the Commission Decision 2000/532/EC.

⁽³⁾ OJ L 37, 13.2.2003, p. 24.

2. The waste management licensing amendment (Scotland) Regulations 2006

Provision	Type of waste, including code	Type of activity	Limit values	Other requirements
Paragraph 3(a) (ii)	13 01 09* to 13 01 13*, 13 02 04* to 13 02 08*, 13 03 06* to 13 03 10*, 13 04 01* to 13 04 03*, 13 07 01* to 13 07 03*	Burning as a fuel		Authorisation granted under part I of the 1990 Act or a permit granted under the 2000 Regulations and compliance with the Waste Incineration (Scotland) Regulations 2003 is required
Paragraph 3(c)	13 01 09* to 13 01 13*, 13 02 04* to 13 02 08*, 13 03 06* to 13 03 10*, 13 04 01* to 13 04 03*, 13 07 01* to 13 07 03*	Storage (at the place where it is produced)	Storage limit: 23 000 litres Maximum duration of storage: 12 months	
Paragraph 6(1)	13 01 09* to 13 01 13*, 13 02 04* to 13 02 08*, 13 03 06* to 13 03 10*, 13 04 01* to 13 04 03*, 13 07 01* to 13 07 03*	Burning as a fuel in an engine of an aircraft, hovercraft, mechanically propelled vehicle, railway locomotive, ship or other vessel	The total amount burned of such waste does not exceed 2 500 litre/hour in any one engine	
6(2)	13 01 09* to 13 01 13*, 13 02 04* to 13 02 08*, 13 03 06* to 13 03 10*, 13 04 01* to 13 04 03*, 13 07 01* to 13 07 03*	Storage of waste oil intended to be burned according to paragraph 6(1)	23 000 litres	
Paragraph 17(1)	Solvents within codes 14 06 02*, 14 06 03* and 20 01 13*, batteries within Code 20 01 33*	Storage	Maximum total quantity: 5 cubic metres Maximum duration of storage: 12 months	When stored, the waste is kept separately in a secure place on any premises.
	Refrigerants and halons within code 14 06 01* (chlorofluorocarbons, HCFC and HFC)	Storage	Maximum total quantity: 18 tonnes Maximum duration of storage: 12 months	
Paragraph 18(2)(a)	Batteries within code 20 01 33*	Storage	The storage capacity of the container(s) used for its storage does not exceed 400 cubic metres in total. No more than 20 containers are stored on those premises. Maximum duration of storage: 12 months	Provision is made to prevent oil escaping into the ground or a drain. When stored, the waste is kept separately.
Paragraph 18(2)(b)	13 01 09* to 13 01 13*, 13 02 04* to 13 02 08*, 13 03 06* to 13 03 10*, 13 04 01* to 13 04 03*, 13 07 01* to 13 07 03*	Storage	The storage capacity of any container(s) used for its storage does not exceed 3 cubic metres in total. No more than 20 containers are stored on those premises. Maximum duration of storage: 12 months	Provision is made to prevent oil escaping into the ground or a drain. When stored, the waste is kept separately.

Provision	Type of waste, including code	Type of activity	Limit values	Other requirements
Paragraph 28	18 01 03*, 18 01 06*, 18 01 08*, 18 01 10*	Use of autoclaves to sterilise waste at the place where the waste is produced	Maximum autoclave capacity: 3 cubic metres, maximum waste quantity sterilised at any one place in any one calendar month: 100 tonnes	The autoclaves are accredited by the Medicine and Healthcare Products Regulatory Agency
Paragraph 36(1) and (2)	Waste other than tank washings: 15 02 02*, 16 02 09* to 16 02 13*, 16 02 15*, 16 04 03*, 16 05 04*, 16 06 01* to 16 06 03*, 16 06 06*, 18 01 03*, 18 01 06*, 18 01 08*, 20 01 13*, 20 01 21*, 20 01 23*, 20 01 26*, 20 01 27*, 20 01 29*, 20 01 31*, 20 01 33*, 20 01 35*, 20 01 37*	Storage at waste reception facilities provided within a harbour area, where such storage is incidental to the collection or transport of the waste	Maximum storage capacity at one time: 20 cubic metres/ship Maximum duration of storage: 7 days	
Paragraph 36(1) and (3)	Tank washings: 13 01 09* to 13 01 13*, 13 02 04* to 13 02 08*, 13 03 06* to 13 03 10*, 13 04 01* to 13 04 03*, 13 07 01* to 13 07 03*, 13 08 01*, 13 08 02*, 13 08 99*, 16 07 08*, 16 07 09*, 16 10 01* and 16 10 03*	Storage at waste reception facilities provided within a harbour area, where such storage is incidental to the collection or transport of the waste	The amount of tank washings consisting of dirty ballast does not exceed 30 % of the total deadweight of the ships. The amount of tank washings consisting of waste mixtures containing oil does not exceed 1 % of the total deadweight of the ships.	
Paragraph 38	Samples of hazardous waste (including the temporary storage of WEEE pending its recovery) which are being or are to be subjected to testing and analysis	The storage at any place where they are being or are to be tested or analysed	Maximum storage limit: 10 tonnes	
Paragraph 39(1)	16 02 09*, 16 02 10*, 16 02 11*, 16 02 12*, 16 02 13*, 16 02 15*, 16 06 01*, 16 06 02*, 16 06 03*, 18 01 03*, 18 01 08*, 18 02 02*, 18 02 07*, 20 01 31*, 20 01 33*, 20 01 35*	The storage at a pharmacy or at the premises of a medical, nursing or veterinary practice or any other authorised needle exchange, which have been returned to those places from resi- dential or nursing homes, households or by individuals.	Maximum storage capacity: 10 cubic metres Maximum amount returned/24 hrs: 5 kg/5 l Maximum duration of storage: 3 months	
Paragraph 39(2)	16 02 09*, 16 02 10*, 16 02 11*, 16 02 12*, 16 02 13*, 16 02 15*, 16 06 01*, 16 06 02*, 16 06 03*, 18 01 03*, 18 01 08*, 18 02 02*, 18 02 07*, 20 01 31*, 20 01 33*, 20 01 35	The storage at the premises of a medical, nursing or veterinary practice of the wastes produced in carrying on that practice	Maximum storage capacity: 10 cubic metres Maximum duration of storage: 3 months	

Provision	Type of waste, including code	Type of activity	Limit values	Other requirements
Paragraph 43(1) and (3)	Waste gas discharge lamps including fluorescent tubes (within code 20 01 21*)	Crushing for the purposes of volume reduction prior to collection	Maximum quantity of lamps processed in any period of 24 hours: 3 tonnes Maximum mercury concentration in emissions: 50 µg/cubic metres	Crushing operation is carried out in equipment designed for the purpose of the volume reduction prior to collection. The crushing operation is carried out solely for that purpose.
Paragraph 43(2) and (3)	Waste gas discharge lamps including fluorescent tubes within code 20 01 21*	Storage prior to crushing or storage after crushing but prior to collection	Mercury concentration in emissions $\leq 50 \mu\text{g}/\text{m}^3$	The storage of the lamps prior to crushing is under weather proof covering in compliance with paragraph 1 of Annex III to Directive 2002/96/EC on Waste Electrical and Electronic Equipment (WEEE) ⁽¹⁾ . The storage after the crushing is in a secure container.
Paragraph 45(1)	Lead acid motor vehicles batteries (within category 16 06 01* of the European Waste Catalogue) not forming part of, nor contained in, a motor vehicle	Sorting	Maximum capacity: 20 tonnes/7 days.	The place is surfaced with an impermeable pavement provided with a sealed drainage system. The plant or equipment used in carrying on the activity is maintained in reasonable working order.
Paragraph 45(2)	Lead acid motor vehicles batteries (within category 16 06 01* of the European Waste Catalogue) not forming part of, nor contained in, a motor vehicle	The storage at any place designed or adapted for the recovery of scrap metal or the dismantling of waste motor vehicles	Maximum storage capacity: 40 tonnes Maximum duration of storage: 12 months The height of any pile or stack of waste does not exceed 5 metres	The waste is stored in secure containers, where appropriate, on an impermeable pavement provided with a sealed drainage system.
Paragraph 47(2)	16 02 11* and 20 01 23*	Treatment (repair and/or refurbishment) and incidental storage	Storage limit (either awaiting repair or refurbishment or stored following such treatment): 80 cubic metres Treatment limits: 5 tonnes/day. Maximum duration of storage: 12 months	The activity is carried on primarily with a view to the reuse of the WEEE for its original purpose, at any secure place. The waste is stored in such a manner that the environmentally sound reuse or recycling of the waste is not hindered. Best available treatment, recovery and recycling techniques are used when carrying out the activity. The waste is stored in a manner that will prevent the release of the CFCs, HCFCs or HFCs.
	16 02 13* and 20 01 35*	Treatment (repair and/or refurbishment) and incidental storage	Storage limit (either awaiting repair or refurbishment or stored following such treatment): 80 cubic metres Treatment limits: 5 tonnes/day. Maximum duration of storage: 12 months	The activity is carried on primarily with a view to the reuse of the WEEE for its original purpose, at any secure place. The waste is stored in such a manner that the environmentally sound reuse or recycling of the waste is not hindered. Best available treatment, recovery and recycling techniques are used when carrying out the activity.

Provision	Type of waste, including code	Type of activity	Limit values	Other requirements
Paragraph 48(2)	16 02 11*, 20 01 23*	Storage	Storage limit: 80 cubic metres Maximum duration of storage: 3 months. Overall height of any stack shall not exceed 2 units or 3,5 m, whichever is the lower	The waste is stored in a manner that will prevent the release of the CFC, HCFC and HFC on an impermeable surface within a secure store. The waste is stored in such a manner that the environmentally sound reuse or recycling of the waste is not hindered. The weatherproof covering of stored WEEE is required.
	16 02 13* and 20 01 35*	Storage	Storage limit: 80 cubic metres Maximum duration of storage: 3 months	The WEEE is stored on an impermeable surface within a secure store. The weatherproof covering of stored WEEE is required. The waste is stored in such a manner that the environmentally sound reuse or recycling of the waste is not hindered.
	20 01 21*	Storage	Maximum quantity: 50 cubic metres Maximum duration: 3 months	The waste is stored at any secure place in such a way that the glass is not broken. The waste is stored in such a manner that the environmentally sound reuse or recycling of the waste is not hindered

(¹) OJ L 37, 13.2.2003, p. 24.

3. Proposed exemptions for operations involving WEEE to be added to schedule 2 of the waste management licensing regulations (Northern Ireland) 2003

Provision	Type of waste, including code	Type of activity (¹)	Limit values	Other requirements (not exclusive listing)
Paragraph 49	16 02 11*, 20 01 23*	Treatment (repair and/or refurbishment), but not including the degassing and capture of ozone depleting substances, and storage where the activity is carried on of any such WEEE intended to be submitted to repair or refurbishment or both	Storage limits: 80 cubic metres Treatment limits: 5 tonnes/day Maximum duration of storage: 12 months	The waste is stored and treated in a manner that will prevent the release of the CFCs, HCFCs or HFCs

Provision	Type of waste, including code	Type of activity ⁽¹⁾	Limit values	Other requirements (not exclusive listing)
	16 02 13*, 20 01 35*	Treatment (repair and/or refurbishment), but not including the degassing and capture of ozone depleting substances, and storage where the activity is carried on of any such WEEE intended to be submitted to repair or refurbishment or both	Storage limit: 80 cubic metres Treatment limits: 5 tonnes/day Maximum duration of storage: 12 months	
Paragraph 50	16 02 11*, 20 01 23*	Storage	Storage limit: 80 cubic metres Maximum duration of storage: 3 months	The storage has to be on an impermeable surface. A weatherproof covering shall be used. This waste should be stored in a manner that will prevent the release of the CFC, HCFC and HFC; the number of units in any stack shall not exceed 2; the overall height of any stack shall not exceed 3,5 metres.
	16 02 13*, 20 01 35*	Storage	Storage limit: 80 cubic metres. Maximum duration of storage: 3 months	The storage has to be on an impermeable surface. A weatherproof covering shall be used.
	20 01 21*	Storage	Storage limit: 50 cubic metres. Maximum duration of storage: 3 months	The storage has to be in appropriate secure containers. A weatherproof covering shall be used. This kind of waste shall be stored in such a way that the glass is not broken.
Paragraph 51	20 01 21*	Crushing for the purpose of volume reduction prior to collection	Total quantity of lamps processed in any period of 24 hours: Maximal 3 tonnes Mercury concentration in emissions $\leq 50 \mu\text{g}/\text{m}^3$	Crushing operation is carried out in equipment designed for the purpose of the volume reduction prior to collection. The crushing operation is carried out solely for that purpose The lamps are stored under waterproof covering. After crushing the lamps are stored in a secure container.

⁽¹⁾ The activities listed in this Annex are carried out for the purpose of recovery.

COMMISSION DECISION

of 28 April 2008

amending Decision 2000/57/EC as regards events to be reported within the early warning and response system for the prevention and control of communicable diseases*(notified under document number C(2008) 1574)***(Text with EEA relevance)**

(2008/351/EC)

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Decision No 2119/98/EC of the European Parliament and of the Council of 24 September 1998 setting up a network for the epidemiological surveillance and control of communicable diseases in the Community⁽¹⁾, and in particular Articles 1 and 7 thereof,

Whereas:

- (1) Annex I to Decision 2000/57/EC of 22 December 1999 on the early warning and response system for the prevention and control of communicable diseases under Decision No 2119/98/EC of the European Parliament and of the Council⁽²⁾ lays down events to be reported by the competent public health authorities of each Member State within that system.
- (2) The early warning and response system of the Community network should be reserved for events defined in Annex I to Commission Decision 2000/96/EC⁽³⁾ or for any other communicable diseases pursuant to Article 7 of that Decision, which, by themselves or in association with other similar events, are or have potential to become public health threats.
- (3) In its conclusions of 30 November and 1 December 2006 the Council of the European Union considered that the World Health Organization and the Community network under Decision No 2119/98/EC should be notified of potential public-health emergencies of international concern at the same time as the Community network, in order to prevent any delay.
- (4) Under the International Health Regulations (2005), which entered into force on 15 June 2007, the competent authorities of the Member States must notify or consult the World Health Organization on certain public health events, in particular those which may constitute a public

health emergency of international concern, as well as on any health measure implemented in response to those events.

- (5) Those notifications and consultations concerning communicable diseases pursuant to Annex of Decision No 2119/98/EC should be transmitted through the early warning and response system set up by Decision 2000/57/EC at the same time as to the World Health Organization, in order to ensure that the Commission and the other Member States are informed without delay.
- (6) Annex I to Decision 2000/57/EC should therefore be amended accordingly.
- (7) The measures provided for in this Decision are in accordance with the opinion of the Committee set up by Article 7 of Decision No 2119/98/EC,

HAS ADOPTED THIS DECISION:

Article 1

Annex I to Decision 2000/57/EC is amended in accordance with the Annex to this Decision.

Article 2

This Decision shall apply from 1 May 2008.

Article 3

This Decision is addressed to the Member States.

Done at Brussels, 28 April 2008.

For the Commission
Androulla VASSILIOU
Member of the Commission

⁽¹⁾ OJ L 268, 3.10.1998, p. 1. Decision as last amended by Commission Decision 2007/875/EC (OJ L 344, 28.12.2007, p. 48).

⁽²⁾ OJ L 21, 26.1.2000, p. 32.

⁽³⁾ OJ L 28, 3.2.2000, p. 50. Decision as last amended by Decision 2007/875/EC.

ANNEX

In Annex I to Decision 2000/57/EC, the following point 5 is added:

- '5. Manifestation of a disease or an occurrence that creates a potential for a disease pursuant to Article 1 of the International Health Regulations (2005) which is a communicable disease pursuant to Annex to Decision No 2119/98/EC and related measures to be notified to the World Health Organization under Article 6 of the International Health Regulations (2005).'

COMMISSION DECISION

of 29 April 2008

imposing special conditions governing guar gum originating in or consigned from India due to contamination risks of those products by pentachlorophenol and dioxins*(notified under document number C(2008) 1641)***(Text with EEA relevance)**

(2008/352/EC)

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Member States. It is therefore appropriate to adopt special measures at Community level.

Having regard to the Treaty establishing the European Community,

Having regard to Regulation (EC) No 178/2002 of the European Parliament and of the Council of 28 January 2002 laying down the general principles and requirements of food law, establishing the European Food Safety Authority and laying down procedures in matters of food safety⁽¹⁾, and in particular Article 53 (1)(b)(ii) thereof,

Whereas:

- (1) High levels of pentachlorophenol and dioxins have been found in certain batches of guar gum originating in or consigned from India. Such contamination constitutes a threat to public health within the Community if no measures are taken to avoid the presence of pentachlorophenol (PCP) and dioxins in guar gum.
- (2) In response to this finding of elevated levels of PCP and dioxins, the Commission carried out an urgent inspection visit to India from 5 to 11 October 2007. The objective was to gather information on the possible source of the contamination and to assess the control measures put in place by the Indian authorities to avoid the re-occurrence of this contamination. The inspection team concluded that there is to date insufficient evidence of the cause of the contamination incident, and the investigation carried out by the Indian authorities has been inadequate to provide any conclusions. With availability of sodium pentachlorophenolate and its use in the guar gum industry, and with a largely self regulated industry, there are inadequate controls in place to ensure that this contamination does not occur again.
- (3) Without prejudice to the control obligations of the Member States, the measures to be adopted further to the likely imports of contaminated products should form a comprehensive and common approach allowing rapid and effective action to be taken and avoiding disparities between the treatment of the situation by the various

- (4) To prevent fraudulent practice with the aim of evading from the application of special conditions provided for in this Decision to protect animal and public health, it is important that compound foodstuffs and feedingstuffs containing to a significant amount guar gum originating in or consigned from India are also within the scope of this Decision. A threshold of 10 % is established.
- (5) The Community Reference Laboratory for Dioxins and PCBs in Feed and Food has carried out a study on the correlation between PCP and dioxins in contaminated guar gum from India. From this study it can be concluded that guar gum containing a level of PCP below the level of 0,01 mg/kg does not contain unacceptable levels of dioxins.
- (6) The Vimta Laboratory in Hyderabad, which was visited by the inspection team, is an accredited, well staffed and well equipped laboratory. Analytical performance for PCP in this laboratory was found to be adequate. The analytical performance in the other visited laboratories was assessed to be inadequate.
- (7) It is appropriate to require that all consignments of guar gum or products containing guar gum at significant amounts originating in or consigned from India and imported into the Community intended for human or animal consumption, should be accompanied by an analytical report issued by a laboratory accredited according EN ISO/IEC 17025 for the analysis of PCP in food and feed or by a laboratory that is pursuing the necessary accreditation procedures and which has adequate quality control schemes in place and this analytical report is endorsed by the competent authority from the country where the laboratory is located.
- (8) The measures provided for in this Decision are in accordance with the opinion of the Standing Committee on the Food Chain and Animal Health,

⁽¹⁾ OJ L 31, 1.2.2002, p. 1. Regulation as last amended by Commission Regulation (EC) No 202/2008 (OJ L 60, 5.3.2008, p. 17).

HAS ADOPTED THIS DECISION:

Article 1

Scope

This Decision shall apply to:

- (a) guar gum, falling within CN code 1302 32 90, originating in or consigned from India, and intended for animal or human consumption;
- (b) compound feedingstuffs and foodstuffs containing at least 10 % guar gum originating in or consigned from India.

Article 2

Conditions for first placing on the market

1. Member States shall prohibit the first placing on the market of the products referred to in Article 1 unless an original analytical report, issued by a laboratory accredited according to EN ISO/IEC 17025 for the analysis of PCP in food and feed or by a laboratory that is pursuing the necessary accreditation procedures and which has adequate quality control schemes in place⁽¹⁾ accompanying the consignment demonstrates that the product does not contain more than 0,01 mg/kg pentachlorophenol (PCP). The analytical result must be reported with the expanded measurement uncertainty.

2. The analytical report shall be endorsed by a representative of the competent authority from the country where the laboratory is located.

3. Before the physical arrival of consignments of products referred to in Article 1, the feed or food business operator responsible for the consignment or his representative shall provide prior notification to the competent authority of the Member State of arrival.

4. The competent authorities in the Member States shall check that each consignment of the products referred to in Article 1 presented for first placing on the market is accompanied by an analytical report as provided for in paragraph 1. Each consignment of products referred to in Article 1, shall be identified with a code which corresponds to the code mentioned on the abovementioned analytical report containing

⁽¹⁾ Following the findings of the FVO, the Vimta Labs, Hyderabad, Andhra Pradesh is the only laboratory in India which fulfils this requirement.

the results of sampling and analysis. Each individual bag or other packaging form of the consignment shall be identified with that code.

5. In the absence of such an analytical report as provided for in paragraph 1, the feed or food business operator established in the Community shall have the product tested by an accredited laboratory accredited according to EN ISO/IEC 17025 for the analysis of PCP in food and feed or by a laboratory that is pursuing the necessary accreditation procedures and which has adequate quality control schemes in place to demonstrate that it does not contain more than 0,01 mg/kg PCP. Pending availability of the analytical report endorsed by a representative of the competent authority from the country where the laboratory is located, the product shall be detained under official supervision for a period of no more than 60 days, after which the competent authority shall take measures as regards this product in accordance with Article 19(1)(a) of the Regulation (EC) No 882/2004 of the European Parliament and of the Council of 29 April 2004 on official controls performed to ensure the verification of compliance with feed and food law, animal health and animal welfare rules⁽²⁾.

6. For the purposes of the test referred to in paragraphs 1 and 5, the analysis must be performed on a sample, taken representatively from the consignment in accordance with the provisions of Commission Directive 2002/63/EC of 11 July 2002 establishing Community methods of sampling for the official control of pesticide residues in and on products of plant and animal origin and repealing Directive 79/700/EEC⁽³⁾. The extraction before analysis shall be performed with an acidified solvent. The analysis shall be carried out according to the modified version of the QuEChERS method as set out on the website of the Community Reference Laboratories for Residues of Pesticides⁽⁴⁾ or according to an equally reliable method.

Article 3

Sampling and analysis

1. Member States shall take the appropriate measures, including random sampling and analysis of products referred to in Article 1 with a frequency of 5 % of the consignments of products referred to in Article 1, presented for first placing on the market, in order to verify that the level of 0,01 mg/kg PCP is not exceeded.

Member States shall inform the Commission through the Rapid Alert System for food and feed of all consignments which are found to contain PCP above 0,01 mg/kg taking into account the measurement uncertainty.

⁽²⁾ OJ L 165, 30.4.2004; corrected by OJ L 191, 28.5.2004, p. 1. Regulation as last amended by Council Regulation (EC) No 301/2008 (OJ L 97, 9.4.2008, p. 85).

⁽³⁾ OJ L 187, 16.7.2002, p. 30.

⁽⁴⁾ <http://www.crl-pesticides.eu/library/docs/srm/QuechersForGuarGum.pdf>

Member States shall submit to the Commission every three months a report of all analytical results of official controls on consignments of products referred to in Article 1. This report shall be submitted during the month following each quarter (April, July, October, and January).

2. Any consignment subjected to official sampling and analysis may be detained before release onto the market for a maximum period of 15 working days.

Article 4

Splitting of a consignment

If a consignment is split, a certified copy of the analytical report provided for in Article 2(1) and 2(5) shall accompany each part of the split consignment up to and including the wholesale stage. Certified copies of the analytical report can also be provided by the competent authority at the moment of the release for free circulation in case the feed or food business operator indicates to have the intention to split the consignment.

Article 5

Fate of non-compliant consignments

Measures in respect of consignments of products referred to in Article 1, which are found to contain more than 0,01 mg/kg PCP, taking into account the measurement uncertainty, shall be taken in accordance with Article 19(1)(a) of Regulation (EC) No 882/2004.

Article 6

Recovery of the costs

All costs resulting from sampling, analysis, storage or measures following non-compliance shall be borne by the feed or food business operators concerned in accordance with Article 22 and Annex VI of Regulation (EC) No 882/2004.

Article 7

Transitional measures

By derogation from Article 2(1) and 2(5), consignments of products referred to in Article 1, which left the country of origin or consignment before the date of application of this Decision, shall be accepted by the Member States even if they are not accompanied by an analytical report as provided for in that Article.

Article 8

Review of the measures

This Decision shall be reviewed at the latest one year after the date of application.

Article 9

Date of application

This Decision shall apply from 5 May 2008.

Article 10

Addressees

This Decision is addressed to the Member States.

Done at Brussels, 29 April 2008.

For the Commission

Androulla VASSILIOU

Member of the Commission

COMMISSION DECISION

of 29 April 2008

**allowing Member States to extend provisional authorisations granted for the new active substances
cyflufenamid, FEN 560 and flonicamid***(notified under document number C(2008) 1644)***(Text with EEA relevance)**

(2008/353/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 January 2003 the United Kingdom received an application from Nippon Soda Co. Ltd., for the inclusion of the active substance cyflufenamid in Annex I to Directive 91/414/EEC. Commission Decision 2003/636/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 June 2003 France received an application from Société occitane de fabrications et de technologies concerning FEN 560. Commission Decision 2004/131/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 December 2003 France received an application from Enhold B.V. concerning flonicamid (former name: IKI-220). Commission Decision 2004/686/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) 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 of 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 substances and the plant protection product in the light of the requirements laid down by that Directive.

- (5) 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 applicants. The rapporteur Member States submitted the draft assessment reports to the Commission on 30 January 2006 (cyflufenamid), 18 February 2005 (FEN 560), 24 May 2005 (flonicamid), respectively.
- (6) Following submission of the draft assessment reports by the rapporteur Member States, it has been found to be necessary to request further information from the applicants and to have the rapporteur Member States examine that information and submit their assessment. 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.
- (7) 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 cyflufenamid, FEN 560 and flonicamid will have been completed within 24 months.
- (8) The measures provided for in this Decision are in accordance with the opinion of the Standing Committee on the Food Chain and Animal Health,

⁽¹⁾ OJ L 230, 19.8.1991, p. 1. Directive as last amended by Commission Directive 2008/45/EC (OJ L 94, 5.4.2008, p. 21).

⁽²⁾ OJ L 221, 4.9.2003, p. 42.

⁽³⁾ OJ L 37, 10.2.2004, p. 34.

⁽⁴⁾ OJ L 313, 12.10.2004, p. 21.

HAS ADOPTED THIS DECISION:

Article 1

Member States may extend provisional authorisations for plant protection products containing cyflufenamid, FEN 560 or flonicamid for a period not exceeding 24 months from the date of adoption of this Decision.

Article 2

This Decision is addressed to the Member States.

Done at Brussels, 29 April 2008.

For the Commission
Androulla VASSILIOU
Member of the Commission
