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<sup>(1)</sup> Text with EEA relevance

## I

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

## REGULATIONS

**COMMISSION REGULATION (EC) No 965/2008****of 1 October 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 Council Regulation (EC) No 1234/2007 of 22 October 2007 establishing a common organisation of agricultural markets and on specific provisions for certain agricultural products (Single CMO Regulation) <sup>(1)</sup>,

Having regard to Commission Regulation (EC) No 1580/2007 of 21 December 2007 laying down implementing rules for Council Regulations (EC) No 2200/96, (EC) No 2201/96 and (EC) No 1182/2007 in the fruit and vegetable sector <sup>(2)</sup>, and in particular Article 138(1) thereof,

Whereas:

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 Annex XV, Part A thereto,

HAS ADOPTED THIS REGULATION:

*Article 1*

The standard import values referred to in Article 138 of Regulation (EC) No 1580/2007 are fixed in the Annex hereto.

*Article 2*

This Regulation shall enter into force on 2 October 2008.

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

Done at Brussels, 1 October 2008.

*For the Commission*

Jean-Luc DEMARTY

*Director-General for Agriculture and  
Rural Development*

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<sup>(1)</sup> OJ L 299, 16.11.2007, p. 1.

<sup>(2)</sup> OJ L 350, 31.12.2007, p. 1.

## ANNEX

**Standard import values for determining the entry price of certain fruit and vegetables**

(EUR/100 kg)

| CN code    | Third country code <sup>(1)</sup> | Standard import value |
|------------|-----------------------------------|-----------------------|
| 0702 00 00 | MK                                | 31,4                  |
|            | TR                                | 87,3                  |
|            | ZZ                                | 59,4                  |
| 0707 00 05 | JO                                | 156,8                 |
|            | TR                                | 74,9                  |
|            | ZZ                                | 115,9                 |
| 0709 90 70 | TR                                | 116,7                 |
|            | ZZ                                | 116,7                 |
| 0805 50 10 | AR                                | 79,3                  |
|            | BR                                | 51,8                  |
|            | EG                                | 71,4                  |
|            | TR                                | 105,5                 |
|            | UY                                | 86,7                  |
|            | ZA                                | 87,3                  |
|            | ZZ                                | 80,3                  |
| 0806 10 10 | TR                                | 114,7                 |
|            | US                                | 162,4                 |
|            | ZZ                                | 138,6                 |
| 0808 10 80 | CL                                | 127,5                 |
|            | CN                                | 93,4                  |
|            | CR                                | 67,4                  |
|            | NZ                                | 99,1                  |
|            | US                                | 91,5                  |
|            | ZA                                | 85,8                  |
|            | ZZ                                | 94,1                  |
| 0808 20 50 | CN                                | 86,3                  |
|            | TR                                | 140,7                 |
|            | ZA                                | 92,0                  |
|            | ZZ                                | 106,3                 |

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

**COMMISSION REGULATION (EC) No 966/2008****of 1 October 2008****approving non-minor amendments to the specification of a name entered in the register of traditional specialties guaranteed (Panelllets (TSG))**

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Council Regulation (EC) No 509/2006 of 20 March 2006 on agricultural products and foodstuffs as traditional specialties guaranteed <sup>(1)</sup>, and in particular the first subparagraph of Article 9(4) thereof,

Whereas:

- (1) In accordance with the first subparagraph of Article 11(1) of Regulation (EC) No 509/2006 and in application of Article 19(3) thereof, the Commission has examined Spain's application for the approval of amendments to the specification of the traditional speciality guaranteed 'Panelllets' registered on the basis of Commission Regulation (EC) No 2301/97 <sup>(2)</sup>, as amended by Regulation (EC) No 688/2002 <sup>(3)</sup>.

- (2) Since the amendments in question are not minor within the meaning of Article 11 of Regulation (EC) No 509/2006, the Commission published the amendment application in the *Official Journal of the European Union* <sup>(4)</sup> as required by the first subparagraph of Article 8(2) of that Regulation. As no statement of objection within the meaning of Article 9 of Regulation (EC) No 509/2006 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 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, 1 October 2008.

*For the Commission*

Mariann FISCHER BOEL

*Member of the Commission*

<sup>(1)</sup> OJ L 93, 31.3.2006, p. 1.

<sup>(2)</sup> OJ L 319, 21.11.1997, p. 8.

<sup>(3)</sup> OJ L 106, 23.4.2002, p. 7.

<sup>(4)</sup> OJ C 280, 23.11.2007, p. 20.

## ANNEX

Foodstuffs listed in Annex I to Regulation (EC) No 509/2006:

**Class 2.3 Confectionery, bread, pastry, cakes, biscuits and other baker's wares**

Panellets (TSG)

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## II

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

## DECISIONS

## COMMISSION

## COMMISSION DECISION

of 2 April 2008

on State aid C 41/07 (ex NN 49/07) which Romania has implemented for Tractorul

(notified under document number C(2008) 1102)

(Only the Romanian version is authentic)

(Text with EEA relevance)

(2008/767/EC)

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

meeting with the Romanian authorities was held on 3 May 2007.

Having regard to the Treaty establishing the European Community, and in particular the first subparagraph of Article 88(2) thereof,

Having regard to the Agreement on the European Economic Area, and in particular Article 62(1)(a) thereof,

Having called on interested parties to submit their comments pursuant to those provisions<sup>(1)</sup>, and having regard to their comments,

Whereas:

(2) By letters of 5 July 2007 and 30 July 2007, the Commission urged the Romanian authorities to annul specific conditions attached to the privatisation contract of Tractorul, indicating at the same time that the failure to suspend any unlawful aid might lead the Commission to adopt a decision on the basis of Article 88(2) of the EC Treaty and of Article 11(1) of Council Regulation (EC) No 659/1999 of 22 March 1999 laying down detailed rules for the application of Article 93 of the EC Treaty<sup>(2)</sup> (suspension injunction).

(3) By letters of 8 August 2007 and 10 August 2007, the Romanian authorities submitted additional information.

#### 1. PROCEDURE

(1) On 17 January 2007, the Commission requested general information on several Romanian public undertakings, including SC Tractorul U.T.B. SA Braşov (hereinafter Tractorul), in the context of the voluntary liquidation procedure. Romania submitted information by letter dated 15 February 2007. The Commission requested further information on 8 March 2007 and 22 May 2007, which Romania submitted by letters dated 21 March 2007, 25 May 2007 and 31 May 2007. A

(4) By letter dated 25 September 2007, the Commission informed Romania that it had decided to initiate the procedure laid down in Article 88(2) of the EC Treaty in respect of unlawful aid and to issue a suspension injunction. The Commission decision to initiate the procedure with the suspension injunction was published in the *Official Journal of the European Union*<sup>(3)</sup>. The Commission invited interested parties to submit their comments on the aid.

<sup>(1)</sup> OJ C 249, 24.10.2007, p. 21.

<sup>(2)</sup> OJ L 83, 27.3.1999, p. 1.

<sup>(3)</sup> See footnote 1.

- (5) By letter of 27 November 2007, Romania submitted its comments. By letter of 28 November 2007, Flăvius Investiții SRL (hereinafter Flăvius) submitted its comments, which were forwarded to Romania on 5 December 2007. Romania submitted its observations on Flăvius' comments by letter dated 4 January 2008.
- (6) By letter of 12 December 2007, the Commission requested further information, which was submitted by letters of 14 and 15 January 2008.
- (7) On 19 December 2007, the Commission services met with the Romanian authorities, accompanied by representatives of Flăvius.

## 2. DESCRIPTION

### 2.1. The undertaking concerned

- (8) Tractorul is a state owned company. The Romanian public privatisation agency, AVAS, holds 80,17 % of the shares, 17,15 % being held by a private investment fund, SIF Transilvania, and the remaining 2,67 % by private natural and legal persons. Until the end of 2006, Tractorul was a large producer of tractors and agricultural machinery, located in an industrial area close to the city centre of Braşov. It employed around 2 300 people.
- (9) In 2006, Tractorul made losses of EUR 46 million and accumulated debts of around EUR 250 million, of which EUR 200 million were owed to the State budget. Due to this high level of losses and debts, on 23 February 2007 Tractorul ceased its activities and entered into voluntary liquidation under Government Emergency Ordinance 3/2007.
- (10) AVAS had previously tried several times to privatise the company, however, without any success.
- (11) Tractorul is situated in Braşov, an area eligible for regional aid under Article 87(3)(a) of the EC Treaty.

### 2.2. Description of the measures

- (12) At the beginning of 2007, Tractorul had accumulated significant debts, which it could not repay. The Romanian government, however, postponed the insolvency proceeding for 6 months, by adopting GEO 3/2007, during which time AVAS as shareholder had to decide either to privatise or voluntarily liquidate the company.
- (13) On 23 February 2007, AVAS decided to voluntarily liquidate the company. To this end, in May 2007,

AVAS organised a public tender for the appointment of a liquidator, determining at the same time in the tender documents the object of the liquidation: two 'functional modules' <sup>(4)</sup>, i.e. the production of tractors and the production of iron forged components. The liquidator Casa de Insolvență Transilvania (hereinafter CIT) won the tender and was assigned the management of the sale of Tractorul.

- (14) After identifying the assets which were the object of the liquidation, on 5 July 2007, CIT organised the tender in the form of an open bid for all the company's assets, comprising real estate (126 ha of land) plus factory buildings, offices and apartments, machinery, intellectual property rights and trademarks. The starting price for the block sale was EUR 77 035 000.
- (15) Several undertakings announced their participation, but only two accepted the starting price of EUR 77 million. Since Flăvius was the first undertaking to submit its offer and the other competitor did not offer a higher price, Flăvius won the tender. The sales framework contract and the sales purchase agreement were signed shortly after.
- (16) The tender documents stipulated various obligations for the buyer: maintaining the object of activity, i.e. production of tractors, for the next 10 years; rehiring with priority former Tractorul employees; ensuring spare parts and service for the next two years (warranty) and 10 years (post-warranty); supplying cast iron components for the next 5 years.

## 3. DECISION TO OPEN THE FORMAL INVESTIGATION AND TO ISSUE A SUSPENSION INJUNCTION

- (17) The formal investigation procedure was opened due to concerns that the liquidation process was in fact a privatisation with conditions attached requiring the continuation of the production activity of the company, which lowered the sale price and, thus, might have conferred an advantage on the sold entity or the buyer.
- (18) First, according to the information available at that moment, which was mostly based on press articles, the Commission had grounds to assume that AVAS envisaged attaching to the sale of Tractorul certain conditions which would ensure the maintenance of the production and the current employment level. The Commission suspected that these conditions were liable to lower the sale price and might have deterred other potentially interested parties from even submitting a bid.

<sup>(4)</sup> The Commission used in its opening decision the expression 'viable activity'. However, this wording was contested by Romania, with the argument that the assets of Tractorul are not in a state which would allow the performance of an activity which is economically self-sustainable. Romania proposed the term 'functional asset'.

- (19) Second, the Romanian authorities failed to provide any conclusive information that the voluntary liquidation involving the sale of the functional modules would be the most advantageous outcome for the State as shareholder and the creditors as opposed to judicial liquidation. The Commission had doubts whether a market economy operator would have bundled valuable land close to the Braşov city centre with obsolete factory buildings and machinery instead of parcelling up the land which is not necessary for the production activity and selling it off separately, thereby possibly obtaining a higher price.
- (20) Since, despite the Commission's repeated warnings, the Romanian authorities carried out the public tender for the viable modules and concluded the sales contract with the winner of the tender shortly afterwards, the Commission issued a suspension injunction at the same time.

#### 4. COMMENTS SUBMITTED BY ROMANIA

- (21) Romania argues that, when selling the viable modules of Tractorul, AVAS acted like a market economy operator, obtaining the highest possible price. Thus, no State aid was involved.
- (22) First, Romania argues that Tractorul was not privatised, but in fact went into voluntary liquidation. While privatisation involves the sale of the company's shares from the State to third parties and the company continues to exist, voluntary liquidation involves the sale of the company's assets, the payment of its debts to the creditors according to the order established by law and the distribution of any surplus amount to shareholders. At the end of the operation the company ceases to exist and is deleted from the company register.
- (23) Further, Romania explains that the voluntary liquidation of the company was organised by means of an open, transparent, non-discriminatory and unconditional tender. This tender was widely publicised in the local and national press.
- (24) The tender of the viable modules was unconditional, so that the sale price was not lowered. The sale purchase agreement between Tractorul and Flăvius does not stipulate any obligation for the buyer to maintain the activity for a period of 10 years or to employ a particular number of employees from the former company. Thus, the sale price represents the market value of Tractorul.
- (25) Second, Romania argues that, although AVAS intended to sell the two functional modules separately, the independent liquidator, CIT, recommended after an initial assessment the sale of the entire industrial platform as a whole, as it would be more advantageous than a piece-by-piece sale, in particular since the industrial platform contains also some unattractive assets (i.e. plots of land which do not have access to any local infrastructure and/or are located near the city waste dump, the buildings are outdated etc.), which could probably not be sold individually.
- (26) According to this evaluation report, the sum of the total assets included in Tractorul amounted to around EUR 100 million. In order to avoid additional liquidation and maintenance costs of selling the assets individually, the liquidator offered the assets as a whole (functional module) and calculated a discount of 23 %. Thus, the starting price was of EUR 77 million and represented the market value. Moreover, no competitor offered a higher price.
- (27) Finally, Romania explained that the voluntary liquidation was allowed under the national company law (Law 31/1990) and under the special law for speeding up privatisations (Law 137/2002). Romania gave assurances that voluntary liquidation was a faster procedure implying lower costs for the undertaking. At the same time, the creditors have identical control tools at their disposal to ensure that their rights are not being breached.

#### 5. COMMENTS SUBMITTED BY THIRD PARTIES

- (28) By letter of 24 October 2007, Flăvius intervened in the Commission proceedings as an interested party.
- (29) First, Flăvius argues that the tender of Tractorul was open, transparent and non-discriminatory. It was widely advertised in the local and national press.
- (30) Second, Flăvius substantiates that there were no conditions attached to the sale of Tractorul's viable modules. The requirement to maintain the object of activity (i.e. production of tractors) for the next 10 years could not qualify as a condition since it did not imply the obligation to effectively produce tractors. Moreover, Flăvius explains that it has bought the viable modules because of the economic potential of the land for real estate development and has no intention to restart tractor production on the site. Thus, the requirement was not onerous, but a mere administrative procedure to register the object of activity with the Trade Registry.
- (31) Also, as regards the obligation to rehire as a priority former Tractorul employees, Flăvius argues that this was not an onerous condition liable to lower the sale price.

- (32) In conclusion, Flavus argues that the alleged conditions attached in the tender document did not lower the sale price. This is also reflected by the evaluation report drafted by an independent expert appointed by the liquidator to carry out an evaluation of Tractorul.

## 6. ASSESSMENT

### 6.1. Existence of State aid within the meaning of Article 87(1) of the EC Treaty

- (33) Article 87(1) of the EC Treaty states that, save as otherwise provided in the Treaty, any aid granted by a Member State or through State resources which distorts or threatens to distort competition by favouring certain undertakings or the production of certain goods is incompatible with the common market, insofar as it affects trade between Member States.

- (34) Article 295 of the EC Treaty provides that Community rules are neutral as regards public and private ownership. According to Article 86(1) of the EC Treaty, public undertakings are equally subject to State aid rules.

- (35) In accordance with consistent European Court <sup>(5)</sup> case law and Commission rules and practice on State aid in the context of privatisations <sup>(6)</sup>, when a Member State owns or sells undertakings, or otherwise purchases or sells shares of undertakings, no State aid is present if the Member State's behaviour is consistent with that of a private market economy investor.

- (36) Therefore, when the privatisation takes place by sale of shares on the stock exchange, it is generally assumed to be under market conditions and not to involve aid. When the privatisation is carried out through a trade sale, it can similarly be assumed that no aid is involved if the following conditions are fulfilled: first, the company is sold by a competitive tender that is open to all comers, transparent and non-discriminatory; second, no conditions are attached which are not customary in comparable transactions between private parties and which may potentially reduce the sale price; third, the company is sold to the highest bidder; and fourth, bidders must be given enough time and infor-

mation to carry out a proper valuation of the assets forming the basis for their bid <sup>(7)</sup>. In other cases, trade sales must be examined for possible aid implications and must therefore be notified.

- (37) In such cases, assessing whether a transaction concerning State assets involves an aid generally requires evaluating whether a market economy operator placed in a similar situation would have behaved in the same way, i.e. would have sold the company at the same price. In applying the market economy investor principle, non-economical considerations, such as for example industrial policy reasons, employment considerations or regional development objectives, which would not be acceptable to a market economy operator, cannot be taken into account as reasons for accepting a lower price and, on the contrary, point to the existence of aid. This principle has been repeatedly explained by the Commission <sup>(8)</sup> and consistently confirmed by the Court <sup>(9)</sup>.

- (38) Therefore, if any of the requirements mentioned above are not fulfilled, the Commission considers that the public sale must be examined for possible aid implications and, thus, must be notified <sup>(10)</sup>. Consequently, by respecting these requirements, the State would be sure to obtain the highest price, i.e. the market price, for its assets and, thus, no State aid is involved.

- (39) By imposing certain conditions on the buyer, the State potentially lowers the sale price and thus forgoes additional revenues. Also, conditions can deter potentially interested investors from submitting a bid in the first place, so that the competitive environment of the tender is disturbed and even the highest of the offers eventually submitted does not necessarily represent the actual market value <sup>(11)</sup>.

<sup>(5)</sup> See, for example, Case T-296/97 Rec, *Alitalia*, Cases T-228/99 and T-233/99, *WestLB v Commission*; Case T-366/00, *Scott SA*, Cases C-328/99 and C-399/00, *Italy and SIM 2 Multimedia v Commission*; Case T-358/94, *Air France v Commission*.

<sup>(6)</sup> XXIIIrd Report on Competition Policy, 1993, p. 255.

<sup>(7)</sup> Points 402 et seq. of XXIIIrd Report on Competition Policy (1993). See also point 248 of XXIst Report on Competition Policy (1991): 'No aid is involved where shareholdings are sold to the highest bidder as a result of an open and unconditional bidding procedure. If shareholdings are sold under other conditions, aid elements may be present'.

<sup>(8)</sup> See for example Commission Decision of 3 May 2000, *TASQ*, OJ L 272, 25.10.2000, where the Commission found that 'The French authorities also showed that the invitation to tender was transparent and unconditional [...]. In particular, the documents submitted to the Commission showed that the sale of TASQ was not conditional on, for example, job maintenance, locations or continuation of activity'. This allowed the Commission to conclude that no aid was present in the privatisation.

<sup>(9)</sup> See, for example, Cases T-228/99 and T-233/99, *WestLB v Commission*; Case T-366/00, *Scott SA*, Cases C-328/99 and C-399/00, *Italy and SIM 2 Multimedia v Commission*; Case T-358/94, *Air France v Commission*; Case T-296/97 Rec, *Alitalia*.

<sup>(10)</sup> See XXIIIrd Report on Competition Policy, 1993, p. 255.

<sup>(11)</sup> In Commission Decision of 15 February 2000, *Dessauer Geräteindustrie* (OJ L 1, 4.1.2001, p. 10), the absence of conditions, i.e. the unconditional nature of a tender led the Commission to conclude that no aid was involved in the privatisation procedure.

(40) By imposing such conditions and thus accepting that it will not receive the best price for the owned shares or assets, the State does not act like a market economy operator, who would try to obtain the highest possible price. Instead the State chooses to sell the undertaking at a price below the market value. A market economy operator would not have an economic interest in attaching comparable conditions (in particular such as maintenance of the level of employment, conditions beneficial for the geographical region concerned or ensuring a certain investment level) but would sell the company to the highest bidder, who would then be free to determine the future of the acquired company or assets <sup>(12)</sup>.

(41) This does not mean that all conditions in a privatisation automatically lead to State aid elements being present. First, conditions which are also common for such kind of transactions between private parties (i.e. certain standard indemnities, proof of the financial standing of the bidder, or compliance with national labour market rules) are not problematic. Second, even conditions which appear to be unusual between private parties only show the existence of state aid if they are liable to reduce the sale price and provide an advantage. The fact that such conditions do not amount to aid needs to be demonstrated on a case by case basis <sup>(13)</sup>.

#### *Conditions attached to the sale of Tractorul*

(42) When initiating the procedure under Article 88(2) of the Treaty, the Commission had doubts whether the sale of Tractorul was conducted on the basis of an open, transparent, non-discriminatory and unconditional tender. According to the information available at that stage, which was based mostly on press articles, the Commission suspected that, according to the tender documents published by AVAS in order to appoint the liquidator, AVAS decided to sell off Tractorul as functional modules and already at an early stage attached conditions to ensure the maintenance of the production activity for the next 10 years and the re-hiring of former employees. The Commission considered that these conditions were liable to lower the sale price, and, thus, by attaching them, the State did not act like a market economy operator. In conclusion, the conditions might have resulted in State aid.

(43) On the basis of the information provided by Romania, the Commission notes that the conditions attached to the sale of Tractorul were formulated in such a manner that they did not impose any onerous obligations on potential

buyers, as they were mere formal requirements. The condition to maintain the object of activity for the next 10 years referred to the registration of the object of activity, i.e. production of tractors and other agricultural devices, in the Trade Registry, and does not oblige the buyer to continue the actual production of tractors. The acquirer, Flavus, explained that their legal advisor had also confirmed that the clause would not imply the necessity to carry out any productive activity. In any event, they do not intend to re-start any production activity at the site.

(44) Similarly, the obligation to give priority to former employees of Tractorul or to provide spare parts and components are not onerous obligations. They were included in the tender documents as best-effort clauses, and thus are not mandatory and binding for the new owner.

(45) The Romanian authorities explained that AVAS was motivated to attach these symbolic requirements by the wish to maintain the renown of the undertaking and its products, which can still be found to a large extent on the Romanian market.

(46) In view of the above considerations, the Commission concludes that, since these conditions did not have an onerous character and this was obvious for all potential buyers from the formulation of the tender documents, they did not lower the sale price and did not have the potential to deter potential investors from submitting a bid, and therefore did not involve the loss of state resources for the State. This conclusion is also supported by the fact that none of the four bidders participating in the tender were even remotely involved in tractor manufacturing. Thus, the Commission considers that the conditions attached did not entail State aid.

#### *Block sale*

(47) When initiating the procedure under Article 88(2) of the EC Treaty, the Commission expressed doubts that the voluntary liquidation involving the sale of the viable modules would be the most advantageous outcome for the State as shareholder and the creditors as opposed to judicial liquidation or a piece by piece sale.

(48) Romania argues that AVAS acted like a market economy operator and obtained the highest possible price for Tractorul. To this end, AVAS appointed an independent liquidator by means of an open, transparent, non-discriminatory and unconditional tender, who would carry out the voluntary liquidation.

<sup>(12)</sup> See Commission Decision of 27 February 2008, Privatisation of Automobile Craiova, Romania, not yet published.

<sup>(13)</sup> Such an analysis was, for example, carried out in Commission Decision of 20 June 2001, Sale of shares in GSG — Land Berlin, OJ C 67, 16.3.2002, p. 33, and allowed the Commission to conclude that no aid was involved even given the unusual conditions, because it found that the conditions were not liable to reduce the sale price.

(49) On the basis of the information provided by Romania, the Commission notes that, initially, AVAS intended to sell separately the two viable modules — the tractor plant and the cast-iron forge and foundry. However, based on its own evaluation of the 37 individual assets, CIT, the liquidator recommended the sale of the industrial platform as a whole in order to maximise the proceeds, and only in the event that no potential buyer expressed interest in acquiring the area as a whole would it proceed to a piece by piece sale of the company's assets.

(50) The liquidator substantiated the advantages of such a comprehensive sale. First, the maps provided by the Romanian authorities show that several land plots are situated at the back of the industrial platform, near the city waste dump, and are not connected to any road, so that in fact they are not individually accessible. Second, the value of the individual assets of the industrial platform varied significantly depending on their individual location, the state of the buildings and the existence of access to local infrastructure. Third, the majority of potential investors were interested in the area for real estate development; out of 26 tender documents acquired in total, 17 were bought for the entire Tractorul platform.

(51) Consequently, the liquidator considered that it was most likely that the less attractive assets could not be sold on an individual basis to a potential investor. As a result, such assets would generate additional administration and maintenance costs for Tractorul and ultimately for AVAS as the owner. Also, the parcelling of the land would generate substantial administrative costs, e.g. expenses for cadastral measurement and land registration.

(52) The strategy of selling Tractorul as a whole was also subsequently approved by AVAS.

(53) As regards the price obtained, the Commission notes that according to the evaluation report commissioned by the liquidator, the asset value of Tractorul (i.e. the sum of the value of the 37 individual assets) was around EUR 100 million, on which the liquidator applied a 23 % discount for bundled assets, thereby giving a starting sale price of EUR 77 million. Such a discount is based on the liquidator's experience and on the fact that a block sale bears significant advantages as opposed to a piece by piece sale.

(54) The procedure chosen by the liquidator for the sale of Tractorul was the method of competitive tender.

According to the procedural rules established in Government Decision No 577/2002, if at a certain stage there are at least two bidders, and no one bids higher at that stage (which was predetermined before the bid at 5 %), the bidder with the lowest registration number wins the tender<sup>(14)</sup>. Since Flavus and a second investor accepted the starting price, but none of them was willing to overbid, Tractorul was sold for EUR 77 million to the bidder with the lowest registration number, i.e. Flavus. Consequently, the liquidator obtained the market price for the company's assets and did not therefore forego state resources.

(55) In view of the above, the Commission concludes that, given the particularities of this case, by selling the assets of Tractorul as a whole, AVAS obtained the market price for them, did not therefore forego state resources, and behaved like a market economy operator.

## 6.2. Classification as State aid: conclusion

(56) Based on the above assessment, no conditions were attached to the sale of Tractorul which were liable to lower the sale price or deter potential investors from submitting a bid. By selling all the assets as a whole under the voluntary liquidation procedure, AVAS obtained the highest price on the market, did not forego state resources and acted like a market economy operator. Consequently, the sale of Tractorul does not involve State aid.

## 7. CONCLUSION

(57) The Commission finds that the sale of Tractorul by the Romanian privatisation Agency, AVAS, on 6 July 2007 does not constitute aid,

HAS ADOPTED THIS DECISION:

### Article 1

The sale by Romania to Flavus Investiții SRL of the Tractorul industrial platform does not involve aid within the meaning of Article 87(1) of the Treaty.

<sup>(14)</sup> The registration number corresponds to the order in which the tender documentation was submitted.

*Article 2*

This Decision is addressed to Romania.

Done at Brussels, 2 April 2008.

*For the Commission*  
Neelie KROES  
*Member of the Commission*

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## COMMISSION DECISION

of 30 September 2008

**concerning the non-inclusion of *Beauveria brongniartii* and potassium permanganate in Annex I to Council Directive 91/414/EEC and the withdrawal of authorisations for plant protection products containing these substances**

*(notified under document number C(2008) 5106)***(Text with EEA relevance)**

(2008/768/EC)

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to the Council Directive 91/414/EEC of 15 July 1991 concerning the placing of plant protection products on the market <sup>(1)</sup>, and in particular the fourth subparagraph of Article 8(2) thereof,

Whereas:

(1) Article 8(2) of Directive 91/414/EEC provides that a Member State may, during a period of 12 years following the notification of that Directive, authorise the placing on the market of plant protection products containing active substances not listed in Annex I to that Directive that are already on the market two years after the date of notification, while those substances are gradually being examined within the framework of a programme of work.

(2) Commission Regulations (EC) No 1112/2002 <sup>(2)</sup> and (EC) No 2229/2004 <sup>(3)</sup> lay down the detailed rules for the implementation of the fourth stage of the programme of work referred to in Article 8(2) of Directive 91/414/EEC.

(3) *Beauveria brongniartii* and potassium permanganate are substances designated in the fourth stage programme.

(4) The sole notifiers for *Beauveria brongniartii* and potassium permanganate informed the Commission on 5 September 2007 and 22 February 2008 respectively, that they no longer wished to participate in the programme of work for these active substances, and therefore further information will not be submitted. As a consequence, these active substances should not be included in the Annex I of Directive 91/414/EEC.

(5) For the active substances for which there is only a short period of advance notice for the withdrawal of plant protection products containing such substances, it is reasonable to provide for a period of grace for disposal, storage, placing on the market and use of existing stocks no longer than 12 months to allow existing stocks to be used in no more than one further growing season. In cases where a longer advance notice period is provided, such period can be shortened to expire at the end of the growing season.

(6) This decision does not prejudice the submission of an application for these active substances according to the provisions of Article 6(2) of Directive 91/414/EEC in view of a possible inclusion in its Annex I.

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

HAS ADOPTED THIS DECISION:

*Article 1*

The active substances listed in Annex I to this Decision shall not be included as active substances in Annex I to Directive 91/414/EEC.

*Article 2*

Member States shall ensure that:

(a) authorisations for plant protection products containing the active substances listed in Annex I are withdrawn by 30 March 2009;

(b) no authorisations for plant protection products containing these active substances are granted or renewed from the date of publication of this Decision.

<sup>(1)</sup> OJ L 230, 19.8.1991, p. 1.

<sup>(2)</sup> OJ L 168, 27.6.2002, p. 14.

<sup>(3)</sup> OJ L 379, 24.12.2004, p. 13.

*Article 3*

Any period of grace granted by Member States in accordance with Article 4(6) of Directive 91/414/EEC, shall be as short as possible and shall expire not later than 30 March 2010.

*Article 4*

This Decision is addressed to the Member States.

Done at Brussels, 30 September 2008.

*For the Commission*

Androulla VASSILIOU

*Member of the Commission*

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## COMMISSION DECISION

of 30 September 2008

**concerning the non-inclusion of propanil in Annex I to Council Directive 91/414/EEC and the withdrawal of authorisations for plant protection products containing that substance**

*(notified under document number C(2008) 5107)***(Text with EEA relevance)**

(2008/769/EC)

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

propanil the rapporteur Member State was Italy and all relevant information was submitted on 13 June 2007.

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 <sup>(1)</sup>, and in particular the fourth subparagraph of Article 8(2) thereof,

Whereas:

(1) Article 8(2) of Directive 91/414/EEC provides that a Member State may, during a period of 12 years following the notification of that Directive, authorise the placing on the market of plant protection products containing active substances not listed in Annex I to that Directive that are already on the market two years after the date of notification, while those substances are gradually being examined within the framework of a programme of work.

(2) Commission Regulations (EC) No 451/2000 <sup>(2)</sup> and (EC) No 1490/2002 <sup>(3)</sup> lay down the detailed rules for the implementation of the third stage of the programme of work referred to in Article 8(2) of Directive 91/414/EEC and establish a list of active substances to be assessed with a view to their possible inclusion in Annex I to Directive 91/414/EEC. That list includes propanil.

(3) For propanil the effects on human health and the environment have been assessed in accordance with the provisions laid down in Regulations (EC) No 451/2000 and (EC) No 1490/2002 for a range of uses proposed by the notifier. Moreover, those Regulations designate the rapporteur Member States which have to submit the relevant assessment reports and recommendations to the European Food Safety Authority (EFSA) in accordance with Article 8(1) of Regulation (EC) No 451/2000. For

(4) The Commission examined propanil in accordance with Article 11a of Regulation (EC) No 1490/2002. A draft review report for that substance was reviewed by the Member States and the Commission within the Standing Committee on the Food Chain and Animal Health and finalised on 20 May 2008 in the format of the Commission review report.

(5) During the examination of this active substance by the Committee, taking into account comments received from Member States, it was concluded that there are clear indications that it may be expected that it has harmful effects on human health and in particular on operators, because the exposure is greater than 100 % of the acceptable operator exposure level (AOEL). Moreover, other concerns which were identified by the rapporteur Member States in its assessment report are included in the review report for the substance.

(6) The Commission invited the notifier to submit its comments on the results of the examination of propanil and on its intention or not to further support the substance. The notifier submitted its comments which have been carefully examined. However, despite the arguments put forward by the notifier, the concerns identified could not be eliminated, and assessments made on the basis of the information submitted have not demonstrated that it may be expected that, under the proposed conditions of use, plant protection products containing propanil satisfy in general the requirements laid down in Article 5(1)(a) and (b) of Directive 91/414/EEC.

(7) Propanil should therefore not be included in Annex I to Directive 91/414/EEC.

(8) Measures should be taken to ensure that authorisations granted for plant protection products containing propanil are withdrawn within a fixed period of time and are not renewed and that no new authorisations for such products are granted.

<sup>(1)</sup> OJ L 230, 19.8.1991, p. 1.

<sup>(2)</sup> OJ L 55, 29.2.2000, p. 25.

<sup>(3)</sup> OJ L 224, 21.8.2002, p. 23.

(9) Any period of grace granted by a Member State for the disposal, storage, placing on the market and use of existing stocks of plant protection products containing propanil should be limited to 12 months in order to allow existing stocks to be used in one further growing season, which ensures that plant protection products containing propanil remain available for 18 months from the adoption of this Decision.

(10) This Decision does not prejudice the submission of an application for propanil in accordance with Article 6(2) of Directive 91/414/EEC and Commission Regulation (EC) No 33/2008 of 17 January 2008 laying down detailed rules for the application of Council Directive 91/414/EEC as regards a regular and an accelerated procedure for the assessment of active substances which were part of the programme of work referred to in Article 8(2) of that Directive but have not been included into its Annex I<sup>(1)</sup>, in view of a possible inclusion in its Annex I.

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

HAS ADOPTED THIS DECISION:

*Article 1*

Propanil shall not be included as an active substance in Annex I to Directive 91/414/EEC.

*Article 2*

Member States shall ensure that:

- (a) authorisations for plant protection products containing propanil are withdrawn by 30 March 2009;
- (b) no authorisations for plant protection products containing propanil are granted or renewed from the date of publication of this Decision.

*Article 3*

Any period of grace granted by Member States in accordance with the provisions of Article 4(6) of Directive 91/414/EEC, shall be as short as possible and shall expire on 30 March 2010 at the latest.

*Article 4*

This Decision is addressed to the Member States.

Done at Brussels, 30 September 2008.

*For the Commission*

Androulla VASSILIOU

*Member of the Commission*

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<sup>(1)</sup> OJ L 15, 18.1.2008, p. 5.

## COMMISSION DECISION

of 30 September 2008

**concerning the non-inclusion of tricyclazole in Annex I to Council Directive 91/414/EEC and the withdrawal of authorisations for plant protection products containing that substance**

*(notified under document number C(2008) 5108)***(Text with EEA relevance)**

(2008/770/EC)

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

tricyclazole the rapporteur Member State was France and all relevant information was submitted on 26 June 2006.

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 <sup>(1)</sup>, and in particular the fourth subparagraph of Article 8(2) thereof,

Whereas:

- (1) Article 8(2) of Directive 91/414/EEC provides that a Member State may, during a period of 12 years following the notification of that Directive, authorise the placing on the market of plant protection products containing active substances not listed in Annex I to that Directive that are already on the market two years after the date of notification, while those substances are gradually being examined within the framework of a programme of work.
- (2) Commission Regulations (EC) No 451/2000 <sup>(2)</sup> and (EC) No 1490/2002 <sup>(3)</sup> lay down the detailed rules for the implementation of the third stage of the programme of work referred to in Article 8(2) of Directive 91/414/EEC and establish a list of active substances to be assessed with a view to their possible inclusion in Annex I to Directive 91/414/EEC. That list includes tricyclazole.
- (3) For tricyclazole the effects on human health and the environment have been assessed in accordance with the provisions laid down in Regulations (EC) No 451/2000 and (EC) No 1490/2002 for a range of uses proposed by the notifier. Moreover, those Regulations designate the rapporteur Member States which have to submit the relevant assessment reports and recommendations to the European Food Safety Authority (EFSA) in accordance with Article 8(1) of Regulation (EC) No 451/2000. For

- (4) The Commission examined tricyclazole in accordance with Article 11a of Regulation (EC) No 1490/2002. A draft review report for that substance was reviewed by the Member States and the Commission within the Standing Committee on the Food Chain and Animal Health and finalised on 20 May 2008 in the format of the Commission review report.
- (5) During the examination of this active substance by the Committee, taking into account comments received from Member States, it was concluded that there are clear indications that it may be expected that it has harmful effects on human health and in particular the crucial missing data does not allow to set reliable ADI, ARfD and AOEL and such values are necessary to conduct the risk assessment. Moreover, other concerns which were identified by the rapporteur Member States in its assessment report are included in the review report for the substance.
- (6) The Commission invited the notifier to submit its comments on the results of the examination of tricyclazole and on its intention or not to further support the substance. The notifier submitted its comments which have been carefully examined. However, despite the arguments put forwards by the notifier, the concerns identified could not be eliminated, and assessments made on the basis of the information submitted have not demonstrated that it may be expected that, under the proposed conditions of use, plant protection products containing tricyclazole satisfy in general the requirements laid down in Article 5(1)(a) and (b) of Directive 91/414/EEC.
- (7) Tricyclazole should therefore not be included in Annex I to Directive 91/414/EEC.
- (8) Measures should be taken to ensure that authorisations granted for plant protection products containing tricyclazole are withdrawn within a fixed period of time and are not renewed and that no new authorisations for such products are granted.

<sup>(1)</sup> OJ L 230, 19.8.1991, p. 1.

<sup>(2)</sup> OJ L 55, 29.2.2000, p. 25.

<sup>(3)</sup> OJ L 224, 21.8.2002, p. 23.

(9) Any period of grace granted by a Member State for the disposal, storage, placing on the market and use of existing stocks of plant protection products containing tricyclazole should be limited to 12 months in order to allow existing stocks to be used in one further growing season, which ensures that plant protection products containing tricyclazole remain available for 18 months from the adoption of this Decision.

(10) This Decision does not prejudice the submission of an application for tricyclazole in accordance with Article 6(2) of Directive 91/414/EEC and Commission Regulation (EC) No 33/2008 of 17 January 2008 laying down detailed rules for the application of Council Directive 91/414/EEC as regards a regular and an accelerated procedure for the assessment of active substances which were part of the programme of work referred to in Article 8(2) of that Directive but have not been included into its Annex I<sup>(1)</sup>, in view of a possible inclusion in its Annex I.

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

HAS ADOPTED THIS DECISION:

#### *Article 1*

Tricyclazole shall not be included as an active substance in Annex I to Directive 91/414/EEC.

#### *Article 2*

Member States shall ensure that:

- (a) authorisations for plant protection products containing tricyclazole are withdrawn by 30 March 2009;
- (b) no authorisations for plant protection products containing tricyclazole are granted or renewed from the date of publication of this Decision.

#### *Article 3*

Any period of grace granted by Member States in accordance with the provisions of Article 4(6) of Directive 91/414/EEC, shall be as short as possible and shall expire on 30 March 2010 at the latest.

#### *Article 4*

This Decision is addressed to the Member States.

Done at Brussels, 30 September 2008.

*For the Commission*

Androulla VASSILIOU

*Member of the Commission*

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<sup>(1)</sup> OJ L 15, 18.1.2008, p. 5.

## COMMISSION DECISION

of 30 September 2008

**concerning the non-inclusion of buprofezin in Annex I to Council Directive 91/414/EEC and the withdrawal of authorisations for plant protection products containing that substance**

*(notified under document number C(2008) 5109)***(Text with EEA relevance)**

(2008/771/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 <sup>(1)</sup>, and in particular the fourth subparagraph of Article 8(2) thereof,

Whereas:

(1) Article 8(2) of Directive 91/414/EEC provides that a Member State may, during a period of 12 years following the notification of that Directive, authorise the placing on the market of plant protection products containing active substances not listed in Annex I of that Directive that are already on the market two years after the date of notification, while those substances are gradually being examined within the framework of a programme of work.

(2) Commission Regulations (EC) No 451/2000 <sup>(2)</sup> and (EC) No 1490/2002 <sup>(3)</sup> lay down the detailed rules for the implementation of the third stage of the programme of work referred to in Article 8(2) of Directive 91/414/EEC and establish a list of active substances to be assessed with a view to their possible inclusion in Annex I to Directive 91/414/EEC. That list includes buprofezin.

(3) For buprofezin the effects on human health and the environment have been assessed in accordance with the provisions laid down in Regulations (EC) No 451/2000 and (EC) No 1490/2002 for a range of uses proposed by the notifier. Moreover, those Regulations designate the rapporteur Member States which have to submit the relevant assessment reports and recommendations to the European Food Safety Authority (EFSA) in accordance with Article 10(1) of Regulation (EC) No 1490/2002. For buprofezin the rapporteur Member State was Finland and all relevant information was submitted on 7 July 2005.

(4) The assessment report has been peer reviewed by the Member States and the EFSA within its Working Group Evaluation and presented to the Commission on 3 March 2008 in the format of the EFSA conclusion regarding the peer review of the pesticide risk assessment of the active substance buprofezin <sup>(4)</sup>. This report has been reviewed by the Member States and the Commission within the Standing Committee on the Food Chain and Animal Health and finalised on 20 May 2008 in the format of the Commission review report for buprofezin.

(5) During the evaluation of this active substance, a number of concerns have been identified. In particular it was not possible to perform a reliable consumer exposure assessment as data are missing to determine an appropriate residue definition. Consequently, it was not possible to conclude on the basis of the information available that buprofezin met the criteria for inclusion in Annex I to Directive 91/414/EEC.

(6) The Commission invited the notifier to submit its comments on the results of the peer review and on its intention or not to further support the substance. The notifier submitted its comments which have been carefully examined. However, despite the arguments put forward by the notifier, the concerns identified could not be eliminated, and assessments made on the basis of the information submitted and evaluated during the EFSA expert meetings have not demonstrated that it may be expected that, under the proposed conditions of use, plant protection products containing buprofezin satisfy in general the requirements laid down in Article 5(1)(a) and (b) of Directive 91/414/EEC.

(7) Buprofezin should therefore not be included in Annex I to Directive 91/414/EEC.

(8) Measures should be taken to ensure that authorisations granted for plant protection products containing buprofezin are withdrawn within a fixed period of time and are not renewed and that no new authorisations for such products are granted.

<sup>(1)</sup> OJ L 230, 19.8.1991, p. 1.

<sup>(2)</sup> OJ L 55, 29.2.2000, p. 25.

<sup>(3)</sup> OJ L 224, 21.8.2002, p. 23.

<sup>(4)</sup> EFSA Scientific Report (2008) 128, Conclusion regarding the peer review of the pesticide risk assessment of the active substance buprofezin, finalised 3 March 2008.

- (9) Any period of grace granted by a Member State for the disposal, storage, placing on the market and use of existing stocks of plant protection products containing buprofezin should be limited to 12 months in order to allow existing stocks to be used in one further growing season, which ensures that plant protection products containing buprofezin remain available to farmers for 18 months from the adoption of this Decision.
- (10) This Decision does not prejudice the submission of an application for buprofezin according to the provisions of Article 6(2) of Directive 91/414/EEC, the detailed implementation rules of which have been laid down in Commission Regulation (EC) No 33/2008 <sup>(1)</sup>, in view of a possible inclusion in its Annex I.
- (11) The measures provided for in this Decision are in accordance with the opinion of the Standing Committee on the Food Chain and Animal Health,

HAS ADOPTED THIS DECISION:

#### *Article 1*

Buprofezin shall not be included as active substance in Annex I to Directive 91/414/EEC.

#### *Article 2*

Member States shall ensure that:

- (a) authorisations for plant protection products containing buprofezin are withdrawn by 30 March 2009;
- (b) no authorisations for plant protection products containing buprofezin are granted or renewed from the date of publication of this Decision.

#### *Article 3*

Any period of grace granted by Member States in accordance with the provisions of Article 4(6) of Directive 91/414/EEC, shall be as short as possible and shall expire on 30 March 2010 at the latest.

#### *Article 4*

This Decision is addressed to the Member States.

Done at Brussels, 30 September 2008.

*For the Commission*

Androulla VASSILIOU

*Member of the Commission*

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<sup>(1)</sup> OJ L 15, 18.1.2008, p. 5.

## COMMISSION DECISION

of 1 October 2008

**amending Decision 2004/432/EC on the approval of residue monitoring plans submitted by third countries in accordance with Council Directive 96/23/EC***(notified under document number C(2008) 5531)***(Text with EEA relevance)**

(2008/772/EC)

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

plan for wild and farmed game, other than ostriches. In particular, sampling was being performed, but laboratory analyses have not been carried out.

Having regard to the Treaty establishing the European Community,

Having regard to Council Directive 96/23/EC of 29 April 1996 on measures to monitor certain substances and residues thereof in live animals and animal products and repealing Directives 85/358/EEC and 86/469/EEC and Decisions 89/187/EEC and 91/664/EEC <sup>(1)</sup>, and in particular the fourth subparagraph of Article 29(1) thereof,

Whereas:

- (1) Directive 96/23/EC lays down measures to monitor the substances and groups of residues listed in Annex I thereto. Pursuant to Directive 96/23/EC, the inclusion and retention on the lists of third countries from which Member States are authorised to import animals and primary products of animal origin covered by that Directive, are subject to the submission by the third countries concerned of a plan setting out the guarantees which they offer as regards the monitoring of the groups of residues and substances listed in that Annex.
- (2) Commission Decision 2004/432/EC of 29 April 2004 on the approval of residue monitoring plans submitted by third countries in accordance with Council Directive 96/23/EC <sup>(2)</sup> approves the residue monitoring plans submitted by certain third countries listed in the Annex to that Decision for the animals and primary products indicated in that list.
- (3) As regards the entry for South Africa, imports of wild and farmed game meat, other than ostriches, were deleted from the list of authorised imports set out in the Annex to Decision 2004/432/EC, as amended by Commission Decision 2008/407/EC <sup>(3)</sup>, as South Africa failed to provide evidence of the implementation of the

- (4) A Commission inspection to South Africa carried out from 2 to 7 July 2008 revealed that the 2007 to 2008 residues monitoring plan for both wild and farmed game has been implemented in that third country and that sampling in accordance with the residues monitoring plan for 2007 to 2008 was completed and the sampling in accordance with the residues monitoring plan for 2008 to 2009 is underway. Therefore, as the approved plans covering the years 2006 to 2007, 2007 to 2008 were implemented and as the laboratory analyses results were adequate, the overall situation regarding residue controls in farmed and wild game is satisfactory. On that basis, it is appropriate to amend the list in the Annex to Decision 2004/432/EC so that imports are authorised into the Community from South Africa of wild and farmed game, including ostriches, as provided for in the approved plans.
- (5) Israel has submitted a residue monitoring plan to the Commission for farmed game. The evaluation of that plan and the additional information obtained by the Commission provide sufficient guarantees, on the residue monitoring plan in respect of farmed game. That product should therefore be included in the entry for Israel in the list in the Annex to Decision 2004/432/EC.
- (6) China has submitted a residue monitoring plan to the Commission for eggs. The evaluation of this plan and the additional information obtained by the Commission provide sufficient guarantees, on the residue monitoring plan in respect of eggs. That product should therefore be included in the entry for China in the list in the Annex to Decision 2004/432/EC.
- (7) Ukraine has submitted a residue monitoring plan to the Commission for poultry, equidae and aquaculture. The evaluation of that plan and the additional information obtained by the Commission provide sufficient guarantees, on the residue monitoring plan in respect of those products. They should therefore be included in the entry for Ukraine in the list in the Annex to Decision 2004/432/EC.

<sup>(1)</sup> OJ L 125, 23.5.1996, p. 10.

<sup>(2)</sup> OJ L 154, 30.4.2004, p. 44, as corrected by OJ L 189, 27.5.2004, p. 33.

<sup>(3)</sup> OJ L 143, 3.6.2008, p. 49.

(8) Some mistakes concerning the numbering of certain footnotes in the Annex to Decision 2008/407/EC should be corrected.

*Article 2*

This Decision shall apply from 30 September 2008.

(9) Decision 2004/432/EC should therefore be amended accordingly.

*Article 3*

This Decision is addressed to the Member States.

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

Done at Brussels, 1 October 2008.

HAS ADOPTED THIS DECISION:

*Article 1*

The Annex to Decision 2004/432/EC is replaced by the text in the Annex to this Decision.

*For the Commission*

Androulla VASSILIOU

*Member of the Commission*

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## ANNEX

## ANNEX

| Code ISO2 | Country                | Bovine | Ovine/caprine    | Swine | Equine           | Poultry | Aquaculture | Milk             | Eggs | Rabbit | Wild game | Farmed game | Honey |
|-----------|------------------------|--------|------------------|-------|------------------|---------|-------------|------------------|------|--------|-----------|-------------|-------|
| AD        | Andorra <sup>(1)</sup> | X      | X                |       | X                |         |             |                  |      |        |           |             |       |
| AE        | United Arab Emirates   |        |                  |       |                  |         | X           |                  |      |        |           |             |       |
| AL        | Albania                |        | X                |       |                  |         | X           |                  | X    |        |           |             |       |
| AN        | Netherlands Antilles   |        |                  |       |                  |         |             | X <sup>(2)</sup> |      |        |           |             |       |
| AR        | Argentina              | X      | X                |       | X                | X       | X           | X                | X    | X      | X         | X           | X     |
| AU        | Australia              | X      | X                |       | X                |         | X           | X                |      |        | X         | X           | X     |
| BA        | Bosnia and Herzegovina |        |                  |       |                  |         | X           |                  |      |        |           |             |       |
| BD        | Bangladesh             |        |                  |       |                  |         | X           |                  |      |        |           |             |       |
| BR        | Brazil                 | X      |                  |       | X                | X       | X           |                  |      |        |           |             | X     |
| BW        | Botswana               | X      |                  |       |                  |         |             |                  |      |        |           | X           |       |
| BY        | Belarus                |        |                  |       | X <sup>(3)</sup> |         | X           | X                | X    |        |           |             |       |
| BZ        | Belize                 |        |                  |       |                  |         | X           |                  |      |        |           |             |       |
| CA        | Canada                 | X      | X                | X     | X                | X       | X           | X                | X    | X      | X         | X           | X     |
| CH        | Switzerland            | X      | X                | X     | X                | X       | X           | X                | X    | X      | X         | X           | X     |
| CL        | Chile                  | X      | X <sup>(4)</sup> | X     |                  | X       | X           | X                |      |        | X         |             | X     |
| CN        | China                  |        |                  |       |                  | X       | X           |                  | X    | X      |           |             | X     |
| CO        | Colombia               |        |                  |       |                  |         | X           |                  |      |        |           |             |       |
| CR        | Costa Rica             |        |                  |       |                  |         | X           |                  |      |        |           |             |       |
| CU        | Cuba                   |        |                  |       |                  |         | X           |                  |      |        |           |             | X     |
| EC        | Ecuador                |        |                  |       |                  |         | X           |                  |      |        |           |             |       |
| ET        | Ethiopia               |        |                  |       |                  |         |             |                  |      |        |           |             | X     |
| FK        | Falkland Islands       | X      | X                |       |                  |         |             |                  |      |        |           |             |       |
| FO        | Faeroe Islands         |        |                  |       |                  |         | X           |                  |      |        |           |             |       |

[illegible]

| Code ISO2 | Country                    | Bovine           | Ovine/caprine    | Swine            | Equine           | Poultry          | Aquaculture      | Milk             | Eggs | Rabbit | Wild game | Farmed game      | Honey |
|-----------|----------------------------|------------------|------------------|------------------|------------------|------------------|------------------|------------------|------|--------|-----------|------------------|-------|
| NC        | New Caledonia              | X                |                  |                  |                  |                  | X                |                  |      |        | X         | X                | X     |
| NI        | Nicaragua                  |                  |                  |                  |                  |                  | X                |                  |      |        |           |                  | X     |
| NZ        | New Zealand                | X                | X                |                  | X                |                  | X                | X                |      |        | X         | X                | X     |
| PA        | Panama                     |                  |                  |                  |                  |                  | X                |                  |      |        |           |                  |       |
| PE        | Peru                       |                  |                  |                  |                  | X                | X                |                  |      |        |           |                  |       |
| PH        | Philippines                |                  |                  |                  |                  |                  | X                |                  |      |        |           |                  |       |
| PN        | Pitcairn Islands           |                  |                  |                  |                  |                  |                  |                  |      |        |           |                  | X     |
| PY        | Paraguay                   | X                |                  |                  |                  |                  |                  |                  |      |        |           |                  |       |
| RS        | Serbia <sup>(6)</sup>      | X                | X                | X                | X <sup>(6)</sup> | X                | X                | X                | X    |        | X         |                  | X     |
| RU        | Russia                     | X                | X                | X                | X <sup>(6)</sup> | X                |                  | X                | X    |        |           | X <sup>(9)</sup> | X     |
| SA        | Saudi Arabia               |                  |                  |                  |                  |                  | X                |                  |      |        |           |                  |       |
| SC        | Seychelles                 |                  |                  |                  |                  |                  | X                |                  |      |        |           |                  |       |
| SG        | Singapore                  | X <sup>(5)</sup> | X <sup>(5)</sup> | X <sup>(5)</sup> |                  | X <sup>(5)</sup> | X <sup>(5)</sup> | X <sup>(5)</sup> |      |        |           |                  |       |
| SM        | San Marino <sup>(10)</sup> | X                |                  | X                |                  |                  |                  |                  |      |        |           |                  | X     |
| SR        | Suriname                   |                  |                  |                  |                  |                  | X                |                  |      |        |           |                  |       |
| SV        | El Salvador                |                  |                  |                  |                  |                  |                  |                  |      |        |           |                  | X     |
| SZ        | Swaziland                  | X                |                  |                  |                  |                  |                  |                  |      |        |           |                  |       |
| TH        | Thailand                   |                  |                  |                  |                  | X                | X                |                  |      |        |           |                  | X     |
| TN        | Tunisia                    |                  |                  |                  |                  | X                | X                |                  |      |        | X         |                  |       |
| TR        | Turkey                     |                  |                  |                  |                  | X                | X                | X                |      |        |           |                  | X     |
| TW        | Taiwan                     |                  |                  |                  |                  |                  | X                |                  |      |        |           |                  | X     |
| TZ        | Tanzania                   |                  |                  |                  |                  |                  | X                |                  |      |        |           |                  | X     |
| UA        | Ukraine                    |                  |                  |                  | X                | X                | X                | X                | X    |        |           |                  | X     |
| UG        | Uganda                     |                  |                  |                  |                  |                  |                  |                  |      |        |           |                  | X     |
| US        | United States              | X                | X                | X                | X                | X                | X                | X                | X    | X      | X         | X                | X     |
| UY        | Uruguay                    | X                | X                |                  | X                |                  | X                | X                |      | X      | X         | X                | X     |

| Code ISO2 | Country      | Bovine | Ovine/caprine | Swine | Equine | Poultry | Aquaculture | Milk | Eggs | Rabbit | Wild game | Farmed game | Honey |
|-----------|--------------|--------|---------------|-------|--------|---------|-------------|------|------|--------|-----------|-------------|-------|
| VE        | Venezuela    |        |               |       |        |         | X           |      |      |        |           |             |       |
| VN        | Vietnam      |        |               |       |        |         | X           |      |      |        |           |             |       |
| YT        | Mayotte      |        |               |       |        |         | X           |      |      |        |           |             |       |
| ZA        | South Africa |        |               |       |        |         |             |      |      |        | X         | X           |       |
| ZM        | Zambia       |        |               |       |        |         |             |      |      |        |           |             | X     |
| ZW        | Zimbabwe     |        |               |       |        |         | X           |      |      |        |           | X           |       |

(1) Initial residue monitoring plan approved by veterinary sub-group EC-Andorra (in accordance with Decision No 2/1999 of EC-Andorra Joint Committee of 22 December 1999) (OJ L 31, 5.2.2000, p. 84).

(2) Third countries using only raw material from other approved third countries for food production.

(3) Export of live equidae for slaughter (food producing animals only).

(4) Only ovine animals.

(5) Provisional situation pending further information on residues.

(6) The former Yugoslav Republic of Macedonia; provisional code which does not prejudice in any way the definitive nomenclature for this country, which is currently under discussion at the United Nations.

(7) Peninsular (western) Malaysia only.

(8) Not including Kosovo as defined by the United Nations Security Council Resolution 1244 of 10 June 1999.

(9) Only for reindeer from the Murmansk and Yamalo-Nenets regions.

(10) Monitoring plan approved in accordance with Decision No 1/94 of the EC-San Marino Cooperation Committee of 28 June 1994 (OJ L 238, 13.9.1994, p. 25).

## CORRIGENDA

**Corrigendum to Commission Directive 2008/88/EC of 23 September 2008 amending Council Directive 76/768/EEC, concerning cosmetic products, for the purpose of adapting Annexes II and III thereto to technical progress**

*(Official Journal of the European Union L 256 of 24 September 2008)*

On page 12, Article 2(1):

*for:* '1. Member States shall adopt and publish, by 14 February 2009 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 14 August 2009.

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.'

*read:* '1. Member States shall adopt and publish, by 14 April 2009 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 14 October 2009.

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.'

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#### **NOTE TO THE READER**

The institutions have decided no longer to quote in their texts the last amendment to cited acts.

Unless otherwise indicated, references to acts in the texts published here are to the version of those acts currently in force.