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⁽¹⁾ Text with EEA relevance

I

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

REGULATIONS

COMMISSION REGULATION (EC) No 137/2009**of 18 February 2009****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) ⁽¹⁾,

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 ⁽²⁾, 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 19 February 2009.

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

Done at Brussels, 18 February 2009.

For the Commission

Jean-Luc DEMARTY

*Director-General for Agriculture and
Rural Development*

⁽¹⁾ OJ L 299, 16.11.2007, p. 1.

⁽²⁾ 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 ⁽¹⁾	Standard import value
0702 00 00	IL	129,4
	JO	62,0
	MA	42,8
	TN	106,6
	TR	88,9
	ZZ	85,9
0707 00 05	JO	161,3
	MA	77,9
	TR	178,8
	ZZ	139,3
0709 90 70	JO	239,8
	MA	75,2
	TR	137,4
	ZZ	150,8
0709 90 80	EG	94,1
	ZZ	94,1
0805 10 20	EG	44,7
	IL	55,8
	MA	52,8
	TN	46,7
	TR	61,4
	ZZ	52,3
0805 20 10	IL	149,0
	MA	91,1
	ZZ	120,1
0805 20 30, 0805 20 50, 0805 20 70, 0805 20 90	EG	75,3
	IL	91,6
	JM	119,0
	MA	75,8
	PK	52,1
	TR	64,4
	ZZ	79,7
0805 50 10	EG	81,5
	MA	51,7
	TR	56,7
	ZZ	63,3
0808 10 80	CA	89,7
	CN	69,2
	MK	25,2
	US	111,9
	ZZ	74,0
0808 20 50	AR	103,3
	CL	77,2
	CN	67,7
	US	113,6
	ZA	97,1
	ZZ	91,8

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

COMMISSION REGULATION (EC) No 138/2009**of 18 February 2009****amending Regulation (EC) No 826/2008 laying down common rules for the granting of private storage aid for certain agricultural products**

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

storage aid for the Italian cheeses established in Article 28 of Regulation (EC) No 1234/2007. This abolition will come into effect as from 1 April 2009.

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) ⁽¹⁾, and in particular Article 43(d), in conjunction with Article 4 thereof,

Whereas:

(1) Article 28(b) in conjunction with Article 30 of Regulation (EC) No 1234/2007 provide for compulsory private storage aid for certain Italian cheeses.

(2) Commission Regulation (EC) No 2659/94 ⁽²⁾ has laid down the detailed rules concerning the private storage aid for certain Italian cheeses.

(3) Article 42 of Commission Regulation (EC) No 826/2008 ⁽³⁾ repealed Regulation (EC) No 2659/94 which however is continuing to apply in respect of contracts concluded under that Regulation before 1 March 2009.

(4) Council Regulation (EC) No 72/2009 of 19 January 2009 on modifications to the Common Agricultural Policy by amending Regulations (EC) No 247/2006, (EC) No 320/2006, (EC) No 1405/2006, (EC) No 1234/2007, (EC) No 3/2008 and (EC) No 479/2008 and repealing Regulations (EEC) No 1883/78, (EEC) No 1254/89, (EEC) No 2247/89, (EEC) No 2055/93, (EC) No 1868/94, (EC) No 2596/97, (EC) No 1182/2005 and (EC) No 315/2007 ⁽⁴⁾ (Health Check) abolishes the private

(5) For a period of one month (1 March-31 March 2009) Regulation (EC) No 826/2008 would apply for private storage aid granted to certain Italian cheeses. This regulation does not contain all necessary detailed rules for this purpose. A new regulation for granting private storage aid for these Italian cheeses would then have to be adopted in accordance with Article 28 of Regulation (EC) No 1234/2007. This new regulation would be applicable for only one month.

(6) In order to preserve the effectiveness of the scheme and to reduce the administrative burden on operators and national administrations it is considered more appropriate to extend the application of Regulation (EC) No 2659/94 for the contracts concluded under that Regulation before 1 April 2009.

(7) Regulation (EC) No 826/2008 should be amended accordingly.

(8) The measures provided for in this Regulation are in accordance with the opinion of the Management Committee for the Common Organisation of Agricultural markets,

HAS ADOPTED THIS REGULATION:

Article 1

The second sentence of the second subparagraph of Article 42 of Regulation (EC) No 826/2008 is replaced by the following:

'However, it shall continue to apply in respect of contracts concluded under that repealed Regulation before 1 April 2009.'

⁽¹⁾ OJ L 299, 16.11.2007, p. 1.

⁽²⁾ OJ L 284, 1.11.1994, p. 26.

⁽³⁾ OJ L 223, 21.8.2008, p. 3.

⁽⁴⁾ OJ L 30, 31.1.2009, p. 1.

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, 18 February 2009.

For the Commission
Mariann FISCHER BOEL
Member of the Commission

DIRECTIVES

COMMISSION DIRECTIVE 2009/11/EC

of 18 February 2009

amending Council Directive 91/414/EEC to include bensulfuron, sodium 5-nitroguaiacolate, sodium o-nitrophenolate, sodium p-nitrophenolate and tebufenpyrad as active substances

(Text with EEA relevance)

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 Article 6(1) thereof,

Whereas:

(1) Commission Regulations (EC) No 451/2000 ⁽²⁾ and (EC) No 1490/2002 ⁽³⁾ 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 bensulfuron, sodium 5-nitroguaiacolate, sodium o-nitrophenolate, sodium p-nitrophenolate and tebufenpyrad.

(2) For those active substances 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 notifiers. 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 bensulfuron the rapporteur Member State was Italy and all relevant information was submitted on 11 September 2006. For sodium 5-nitroguaiacolate, sodium o-nitrophenolate and sodium p-

nitrophenolate the rapporteur Member State was Greece and all relevant information was submitted on 7 December 2005. For tebufenpyrad the rapporteur Member State was Germany and all relevant information was submitted on 12 March 2007.

(3) The assessment reports have been peer reviewed by the Member States and the EFSA and presented to the Commission on 26 September 2008 for bensulfuron, on 30 September 2008 for sodium 5-nitroguaiacolate, sodium o-nitrophenolate and sodium p-nitrophenolate and on 23 October 2008 for tebufenpyrad in the format of the EFSA Scientific Reports ⁽⁴⁾. These reports have been reviewed by the Member States and the Commission within the Standing Committee on the Food Chain and Animal Health and finalised on 2 December 2008 in the format of the Commission review reports for sodium 5-nitroguaiacolate, sodium o-nitrophenolate, sodium p-nitrophenolate and tebufenpyrad and on 8 December 2008 in the format of the Commission review reports for bensulfuron.

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

⁽⁴⁾ EFSA Scientific Report (2008) 178, Conclusion regarding the peer review of the pesticide risk assessment of the active substance bensulfuron (finalised 26 September 2008).

EFSA Scientific Report (2008) 191, Conclusion regarding the peer review of the pesticide risk assessment of the active substance sodium (5-nitroguaiacolate, o-nitrophenolate, p-nitrophenolate) (finalised 30 September 2008).

EFSA Scientific Report (2008) 192, Conclusion regarding the peer review of the pesticide risk assessment of the active substance tebufenpyrad (finalised 23 October 2008).

⁽¹⁾ OJ L 230, 19.8.1991, p. 1.

⁽²⁾ OJ L 55, 29.2.2000, p. 25.

⁽³⁾ OJ L 224, 21.8.2002, p. 23.

- (5) Without prejudice to that conclusion, it is appropriate to obtain further information on certain specific points. Article 6(1) of Directive 91/414/EEC provides that inclusion of a substance in Annex I may be subject to conditions. Therefore, the notifier should be required to submit further information on the chemical specification, information to further address the route and rate of degradation of bensulfuron under aerobic flooded soil conditions and information to address the relevance of metabolites for the consumer risk assessment. Furthermore, it is appropriate to require that sodium 5-nitroguaiacolate, sodium o-nitrophenolate and sodium p-nitrophenolate should be subjected to further testing for confirmation of the risk assessment for groundwater and such studies should be presented by the notifier. Finally, it is appropriate as regards tebufenpyrad, to require the notifier to submit information confirming that no relevant impurities are present and addressing further the risk to insectivorous birds.
- (6) A reasonable period should be allowed to elapse before an active substance is included in Annex I in order to permit Member States and the interested parties to prepare themselves to meet the new requirements which will result from the inclusion.
- (7) Without prejudice to the obligations defined by Directive 91/414/EEC as a consequence of including an active substance in Annex I, Member States should be allowed a period of six months after inclusion to review existing authorisations of plant protection products containing bensulfuron, sodium 5-nitroguaiacolate, sodium o-nitrophenolate, sodium p-nitrophenolate and tebufenpyrad to ensure that the requirements laid down by Directive 91/414/EEC, in particular in its Article 13 and the relevant conditions set out in Annex I, are satisfied. Member States should vary, replace or withdraw, as appropriate, existing authorisations, in accordance with the provisions of Directive 91/414/EEC. By way of derogation from the above deadline, a longer period should be provided for the submission and assessment of the complete Annex III dossier of each plant protection product for each intended use in accordance with the uniform principles laid down in Directive 91/414/EEC.
- (8) The experience gained from previous inclusions in Annex I to Directive 91/414/EEC of active substances assessed in the framework of Commission Regulation (EEC) No 3600/92 ⁽¹⁾ has shown that difficulties can arise in interpreting the duties of holders of existing authorisations in relation to access to data. In order to avoid further difficulties it therefore appears necessary to clarify the duties of the Member States, especially the duty to verify that the holder of an authorisation demonstrates access to a dossier satisfying the requirements of Annex II to that

Directive. However, this clarification does not impose any new obligations on Member States or holders of authorisations compared to the directives which have been adopted until now amending Annex I.

- (9) It is therefore appropriate to amend Directive 91/414/EEC accordingly.
- (10) The measures provided for in this Directive are in accordance with the opinion of the Standing Committee on the Food Chain and Animal Health,

HAS ADOPTED THIS DIRECTIVE:

Article 1

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

Article 2

Member States shall adopt and publish by 30 April 2010 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 May 2010.

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

Article 3

1. Member States shall in accordance with Directive 91/414/EEC, where necessary, amend or withdraw existing authorisations for plant protection products containing bensulfuron, sodium 5-nitroguaiacolate, sodium o-nitrophenolate, sodium p-nitrophenolate and tebufenpyrad as active substances by 30 April 2010.

By that date they shall in particular verify that the conditions in Annex I to that Directive relating to bensulfuron, sodium 5-nitroguaiacolate, sodium o-nitrophenolate, sodium p-nitrophenolate and tebufenpyrad are met, with the exception of those identified in part B of the entry concerning that active substance, and that the holder of the authorisation has, or has access to, a dossier satisfying the requirements of Annex II to that Directive in accordance with the conditions of Article 13 of that Directive.

⁽¹⁾ OJ L 366, 15.12.1992, p. 10.

2. By way of derogation from paragraph 1, for each authorised plant protection product containing bensulfuron, sodium 5-nitroguaiacolate, sodium o-nitrophenolate, sodium p-nitrophenolate and tebufenpyrad as either the only active substance or as one of several active substances all of which were listed in Annex I to Directive 91/414/EEC by 31 October 2009 at the latest, Member States shall re-evaluate the product in accordance with the uniform principles provided for in Annex VI to Directive 91/414/EEC, on the basis of a dossier satisfying the requirements of Annex III to that Directive and taking into account part B of the entry in Annex I to that Directive concerning bensulfuron, sodium 5-nitroguaiacolate, sodium o-nitrophenolate, sodium p-nitrophenolate and tebufenpyrad respectively. On the basis of that evaluation, they shall determine whether the product satisfies the conditions set out in Article 4(1)(b), (c), (d) and (e) of Directive 91/414/EEC.

Following that determination Member States shall:

- (a) in the case of a product containing bensulfuron, sodium 5-nitroguaiacolate, sodium o-nitrophenolate, sodium p-nitrophenolate and tebufenpyrad as the only active substance, where necessary, amend or withdraw the authorisation by 30 April 2014 at the latest; or

- (b) in the case of a product containing bensulfuron, sodium 5-nitroguaiacolate, sodium o-nitrophenolate, sodium p-nitrophenolate and tebufenpyrad as one of several active substances, where necessary, amend or withdraw the authorisation by 30 April 2014 or by the date fixed for such an amendment or withdrawal in the respective Directive or Directives which added the relevant substance or substances to Annex I to Directive 91/414/EEC, whichever is the latest.

Article 4

This Directive shall enter into force on 1 November 2009.

Article 5

This Directive is addressed to the Member States.

Done at Brussels, 18 February 2009.

For the Commission
Androulla VASSILIOU
Member of the Commission

ANNEX

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

No	Common name, identification numbers	IUPAC name	Purity (1)	Entry into force	Expiration of inclusion	Specific provisions
'276	Bensulfuron CAS No 83055-99-6 CIPAC No 502.201	<i>α</i> -[4,6-dimethoxyppyrimidin-2-ylcarbamoyl]sul[amoyl]-o-toluic acid (bensulfuron) methyl <i>α</i> -[4,6-dimethoxyppyrimidin-2-ylcarbamoyl]sul[amoyl]-o-toluate (bensulfuron-methyl)	≥ 975 g/kg	1 November 2009	31 October 2019	PART A Only uses as a herbicide PART B For the implementation of the uniform principles of Annex VI, the conclusions of the review report on bensulfuron, and in particular Appendices I and II thereof, as finalised in the Standing Committee on the Food Chain and Animal Health on 8 December 2008 shall be taken into account. In this overall assessment Member States must pay particular attention to the following: — the protection of aquatic organisms; in relation to these identified risks, risk mitigation measures, such as buffer zones, shall be applied where appropriate, — the protection of the groundwater, where the active substance is applied in regions with vulnerable soil and/or climatic conditions. The Member States concerned shall ensure that the notifier submits to the Commission: — further studies on the specification, — information to further address the route and rate of degradation of bensulfuron-methyl under aerobic flooded soil conditions, — information to address the relevance of metabolites for the consumer risk assessment. They shall ensure that the notifiers provide such studies to the Commission by 31 October 2011.

No	Common name, identification numbers	IUPAC name	Purity (1)	Entry into force	Expiration of inclusion	Specific provisions
277	Sodium 5-nitroguaiacolate CAS No 67233-85-6 CIPAC number not allocated	Sodium 2-methoxy- 5-nitrophenolate	≥ 980 g/kg	1 November 2009	31 October 2019	PART A Only use as plant growth regulator may be authorised. PART B For the implementation of the uniform principles of Annex VI, the conclusions of the review report on sodium 5-nitroguaiacolate, sodium o-nitrophenolate and sodium p-nitrophenolate, and in particular Appendices I and II thereof, as finalised in the Standing Committee on the Food Chain and Animal Health on 2 December 2008 shall be taken into account. In this overall assessment Member States must pay particular attention to: — the specification of the technical material as commercially manufactured must be confirmed and supported by appropriate analytical data. The test material used in the toxicity dossiers should be compared and verified against this specification of the technical material, — the protection of the operators and workers safety. Authorised conditions of use must prescribe the application of adequate personal protective equipment and risk mitigation measures to reduce the exposure, — the protection of the groundwater, when the active substance is applied in regions with vulnerable soil and/or climatic conditions. Conditions of authorisation should include risk mitigation measures, where appropriate. The Member States concerned shall request the submission of further studies to address the risk to groundwater. They shall ensure that the notifiers provide such studies to the Commission by 31 October 2011.

No	Common name, identification numbers	IUPAC name	Purity (1)	Entry into force	Expiration of inclusion	Specific provisions
278	Sodium o-nitrophenolate CAS No 824-39-5 CIPAC number not allocated	Sodium 2-nitrophenolate; sodium o-nitrophenolate	≥ 980 g/kg <i>The following impurities are of toxicological concern:</i> Phenol Max content: 0,1 g/kg 2,4 dinitrophenol max content: 0,14 g/kg 2,6 dinitrophenol max content: 0,32 g/kg	1 November 2009	31 October 2019	PART A Only use as plant growth regulator may be authorised. PART B For the implementation of the uniform principles of Annex VI, the conclusions of the review report on sodium 5-nitroguaiacolate, sodium o-nitrophenolate and sodium p-nitrophenolate, and in particular Appendices I and II thereof, as finalised in the Standing Committee on the Food Chain and Animal Health on 2 December 2008 shall be taken into account. In this overall assessment Member States must pay particular attention to: — the specification of the technical material as commercially manufactured must be confirmed and supported by appropriate analytical data. The test material used in the toxicity dossiers should be compared and verified against this specification of the technical material, — the protection of the operators and workers safety. Authorised conditions of use must prescribe the application of adequate personal protective equipment and risk mitigation measures to reduce the exposure, — the protection of the groundwater, when the active substance is applied in regions with vulnerable soil and/or climatic conditions. Conditions of authorisation should include risk mitigation measures, where appropriate. The Member States concerned shall request the submission of further studies to address the risk to groundwater. They shall ensure that the notifiers provide such studies to the Commission by 31 October 2011.

No	Common name, identification numbers	IUPAC name	Purity (1)	Entry into force	Expiration of inclusion	Specific provisions
279	Sodium p-nitrophenolate CAS No 824-78-2 CIPAC number not allocated	Sodium 4-nitrophenolate; sodium p-nitrophenolate	≥ 998 g/kg <i>The following impurities are of toxicological concern:</i> Phenol max content: 0,1 g/kg 2,4 dinitrophenol max content: 0,07 g/kg 2,6 dinitrophenol max content: 0,09 g/kg	1 November 2009	31 October 2019	PART A Only use as plant growth regulator may be authorised. PART B For the implementation of the uniform principles of Annex VI, the conclusions of the review report on sodium 5-nitroguaiacolate, sodium o-nitrophenolate and sodium p-nitrophenolate, and in particular Appendices I and II thereof, as finalised in the Standing Committee on the Food Chain and Animal Health on 2 December 2008 shall be taken into account. In this overall assessment Member States must pay particular attention to: — the specification of the technical material as commercially manufactured must be confirmed and supported by appropriate analytical data. The test material used in the toxicity dossiers should be compared and verified against this specification of the technical material, — the protection of the operators and workers safety. Authorised conditions of use must prescribe the application of adequate personal protective equipment and risk mitigation measures to reduce the exposure, — the protection of the groundwater, when the active substance is applied in regions with vulnerable soil and/or climatic conditions. Conditions of authorisation should include risk mitigation measures, where appropriate. The Member States concerned shall request the submission of further studies to address the risk to groundwater. They shall ensure that the notifiers provide such studies to the Commission by 31 October 2011.

No	Common name, identification numbers	IUPAC name	Purity ⁽¹⁾	Entry into force	Expiration of inclusion	Specific provisions
280	Tebufenpyrad CAS No 119168-77-3 CIPAC No 725	N-(4- <i>tert</i> -butylbenzyl)-4-chloro-3-ethyl-1-methylpyrazole-5-carboxamide	≥ 980 g/kg	1 November 2009	31 October 2019	PART A Only uses as acaricide and insecticide may be authorised. PART B In assessing applications to authorise plant protection products containing tebufenpyrad in formulations other than water soluble bags Member States shall pay particular attention to the criteria in Article 4(1)(b), and shall ensure that any necessary data and information is provided before such an authorisation is granted. For the implementation of the uniform principles of Annex VI, the conclusions of the review report on tebufenpyrad, and in particular Appendices I and II thereof, as finalised in the Standing Committee on the Food Chain and Animal Health on 2 December 2008 shall be taken into account. In this overall assessment Member States must pay particular attention to: — the operator and worker safety and ensure that conditions of use prescribe the application of adequate personal protective equipment, — the protection of aquatic organisms and must ensure that conditions of authorisation include risk mitigation measures such as buffer zones, where appropriate, — the protection of insectivorous birds and must ensure that the conditions of authorisation include, where appropriate, risk mitigation measures. The Member States concerned shall ensure that the notifier submits to the Commission: — further information confirming that no relevant impurities are present, — information to further address the risk to insectivorous birds. They shall ensure that the notifier provides such information to the Commission by 31 October 2011.

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

II

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

DECISIONS

COMMISSION

COMMISSION DECISION

of 10 February 2009

on the non-publication of the reference of standard EN 3-9:2006 'Portable fire extinguishers — Part 9: Additional requirements to EN 3-7 for pressure resistance of CO₂ extinguishers', in accordance with Directive 97/23/EC concerning pressure equipment

(notified under document number C(2009) 666)

(Text with EEA relevance)

(2009/140/EC)

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Directive 97/23/EC of the European Parliament and of the Council of 29 May 1997 on the approximation of the laws of the Member States concerning pressure equipment ⁽¹⁾, and in particular Article 6 thereof,

Having regard to the opinion of the Standing Committee set up in accordance with Article 5 of Directive 98/34/EC of the European Parliament and of the Council of 22 June 1998 laying down a procedure for the provision of information in the field of technical standards and regulations and of rules on information society services ⁽²⁾,

Whereas:

(1) Directive 97/23/EC provides that pressure equipment and assemblies may be placed on the market and put into service only if, when properly installed and maintained and used for their intended purpose, they do not endanger the health and safety of persons and, where appropriate, domestic animals and property.

(2) Pressure equipment and assemblies are presumed to meet the essential requirements set out in Annex I to Directive 97/23/EC if they conform to the national standards transposing the harmonised standards the reference numbers of which have been published in the *Official Journal of the European Union*.

(3) Pursuant to Article 6 of Directive 97/23/EC Sweden lodged a formal objection in respect of standard EN 3-9:2006 adopted by the European Committee for Standardisation (CEN) on 2 November 2006 the references of which have not yet been published in the *Official Journal of the European Union*.

(4) Sweden considers that sections 4, 5.1, 5.2, 5.4, 6 and 8 of standard EN 3-9:2006 do not satisfy the essential requirements of Directive 97/23/EC.

(5) With regard to section 4 (materials) of EN 3-9:2006, Sweden considers that only general information is given and that it is therefore not possible to provide for technical solutions with regard to the material requirements in point 4 of Annex I to Directive 97/23/EC. The precise choice of material is, in this context, an essential element in order to meet several of the essential safety requirements for pressure equipment in accordance with the relevant requirement of Mandate M/071 to CEN.

⁽¹⁾ OJ L 181, 9.7.1997, p. 1.

⁽²⁾ OJ L 204, 21.7.1998, p. 37.

- (6) Section 4 of standard EN 3-9:2006 does not specify the types of materials to be used. The standard only precludes the use of non-metallic materials for bodies of operating devices and it requires that the materials of the components that may be in contact with the contents shall be compatible with both the contents and the material of other components. Therefore, in the absence of concrete technical specifications, section 4 of EN 3-9:2006 can not confer the presumption of conformity to the requirements of point 4 of Annex I to Directive 97/23/EC.
- (7) With regard to section 5 (design) of standard EN 3-9:2006, and in particular sections 5.1 and 5.2, Sweden is of the opinion that they do not contain technical requirements with regard to the design of CO₂ containers for adequate strength as regards pressure containment. Sweden considers that these clauses do not comply with points 2.3 and 2.9 of Annex I to Directive 97/23/EC.
- (8) Sections 5.1 and 5.2 of standard EN 3-9:2006 do not contain any specific requirements on the design of the cylinder and of the operating device, neither any detailed technical solution to ensure safe filling and discharge. Therefore, they are not sufficient to confer the presumption of conformity to the requirements of safe handling and operation in point 2.3 and of safe filling and discharge in point 2.9 of Annex I to Directive 97/23/EC.
- (9) Sweden also considers that section 5.4 of standard EN 3-9:2006 does not comply with point 2.11.2 of Annex I to Directive 97/23/EC.
- (10) Section 5.4 of standard EN 3-9:2006 states that the bursting disc safety device of the extinguisher must be activated when the pressure is between 10 % more than the maximum allowable pressure PS and the test pressure PT. The bursting disc is classified in the standard as a safety accessory. However, the bursting disc is not a typical pressure limiting device but rather a protection device, as it intends to limit damage in case of overfilling or overheating. Furthermore, point 2.11.2 of Annex I to Directive 97/23/EC on pressure limiting devices requires that these devices are so designed that the pressure will not permanently exceed the maximum allowable pressure PS and that only a short-duration surge may exceed PS and even then only 10 %. Therefore, this section can not confer the presumption of conformity to Directive 97/23/EC.
- (11) In the view of Sweden, section 6 of standard EN 3-9:2006 (manufacturing of the assembled extinguisher) is intended, according to its Annex ZA, to ensure compliance with the requirements of point 2.8 (Assemblies) of Annex I to Directive 97/23/EC. However, point 2.8 of Annex I to that Directive relates rather to the design and not to the manufacturing of the assembled extinguisher.
- (12) Point 2.8 of Annex I to Directive 97/23/EC contains design requirements for the assemblies, in order to ensure the suitability of the different components, their proper integration and appropriate assembly to an integrated and functional whole. Point 3 of Annex I to that Directive contains detailed requirements relating to manufacturing.
- (13) Section 6 of standard EN 3-9:2006 does not contain specific requirements with regard to the design. It contains rather general information on both the design and manufacturing, without however being sufficient to confer the presumption of conformity to the requirements of point 2.8 of Annex I to Directive 97/23/EC. Furthermore, as the content of this section does not correspond to the relevant requirements of the Directive, it might create confusion.
- (14) Finally, Sweden considers that section 8 of standard EN 3-9:2006 does not comply with the requirements of point 3.3 of Annex I to Directive 97/23/EC, as two of the most important parameters, the maximum allowable pressure PS and the maximum allowable temperature (TSmax) are missing.
- (15) Directive 97/23/EC contains in point 3.3 of Annex I detailed requirements on the marking and labelling of pressure equipment. This includes, for all pressure equipment, information on the essential maximum/minimum allowable limits.
- (16) Section 8 of standard EN 3-9:2006 contains marking requirements on the maximum allowable pressure PS, but not on the allowable minimum and maximum temperature (TSmin/TSmax). Therefore, it is not sufficient to confer the presumption of conformity to point 3.3 of Annex I to Directive 97/23/EC.

- (17) In addition, the overall assessment of the structure and the content of standard EN 3-9:2006 is unclear as to whether it addresses the design requirements for the assembly only (portable pressure extinguisher) or also covers the design of the components and the manufacturing phase of the assembly. It is liable to create confusion as to its scope and the relationship between its clauses and the essential requirements of Directive 97/23/EC.
- (18) Therefore, on the basis of EN 3-9:2006, of the information received in the framework of the consultation of the national authorities, CEN and industry and following assessment of all aspects concerned, it results that harmonised standard EN 3-9:2006 fails to meet the corresponding essential requirements of Directive 97/23/EC.
- (19) The references of standard EN 3-9:2006 should therefore not be published in the *Official Journal of the European Union*,

HAS ADOPTED THIS DECISION:

Article 1

The reference of standard EN 3-9:2006 'Portable fire extinguishers — Part 9: Additional requirements to EN 3-7 for pressure resistance of CO₂ extinguishers' shall not be published in the list of standards published in the *Official Journal of the European Union*.

Article 2

This Decision is addressed to the Member States.

Done at Brussels, 10 February 2009.

For the Commission
Günter VERHEUGEN
Vice-President

COMMISSION DECISION

of 13 February 2009

advancing the date for the payment of the second instalment of the restructuring aid granted for the marketing year 2008/09 under Council Regulation (EC) No 320/2006*(notified under document number C(2009) 798)**(2009/141/EC)*

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Council Regulation (EC) No 320/2006 of 20 February 2006 establishing a temporary scheme for the restructuring of the sugar industry in the Community and amending Regulation (EC) No 1290/2005 on the financing of the common agricultural policy ⁽¹⁾, and in particular Article 10(5) thereof,

Whereas:

- (1) Article 10(5) of Regulation (EC) No 320/2006 allows the Commission to advance the dates for the payment of the aids granted under the temporary scheme for the restructuring of the sugar industry established by that Regulation.
- (2) Since the necessary financial resources are available in the restructuring fund referred to in Article 1 of Regulation (EC) No 320/2006, Member States should be given the possibility to advance the date for the payment of the second instalment of the restructuring aid granted in the marketing year 2008/09 to undertakings, growers and

machinery contractors which renounced their quota as of 1 October 2008 to the date of the payment of the first instalment,

HAS ADOPTED THIS DECISION:

Article 1

By way of derogation from Article 10(4) of Regulation (EC) No 320/2006, Member States may pay 100 % of the restructuring aid provided for in Article 3 of that Regulation in respect of the marketing year 2008/09 in one instalment. In such case, the payment shall be due in June 2009.

Member States shall inform the Commission by 31 March 2009 if they want to make use of the possibility provided for in the first paragraph.

Article 2

This Decision is addressed to the Member States.

Done at Brussels, 13 February 2009.

For the Commission
Mariann FISCHER BOEL
Member of the Commission

⁽¹⁾ OJ L 58, 28.2.2006, p. 42.

COMMISSION DECISION

of 18 February 2009

on a financial contribution from the Community towards emergency measures to combat avian influenza in the United Kingdom in 2008*(notified under document number C(2009) 977)***(Only the English text is authentic)**

(2009/142/EC)

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

emergency measures. Pursuant to Article 3a of that Decision, Member States shall obtain a financial contribution towards the costs of certain measures to eradicate avian influenza.

Having regard to the Treaty establishing the European Community,

Having regard to Council Decision 90/424/EEC of 26 June 1990 on expenditure in the veterinary field ⁽¹⁾, and in particular Articles 3(3) and 3a(1) thereof,

Whereas:

(1) Avian influenza is an infectious viral disease of poultry and other captive birds with a severe impact on the profitability of poultry farming causing disturbance to intra-community trade and export to third countries.

(2) In the event of an outbreak of avian influenza, there is a risk that the disease agent might spread to other poultry holdings within that Member State, but also to other Member States and to third countries through trade in live poultry or their products.

(3) Council Directive 2005/94/EC of 20 December 2005 on Community measures for the control of avian influenza and repealing Directive 92/40/EEC ⁽²⁾ sets out measures which in the event of an outbreak have to be immediately implemented by Member States as a matter of urgency to prevent further spread of the virus.

(4) Decision 90/424/EEC lays down the procedures governing the Community's financial contribution towards specific veterinary measures, including

(5) Article 3a(3), first and second indents of Decision 90/424/EEC lay down rules on the percentage of the costs incurred by the Member State that may be covered by the Community's financial contribution.

(6) The payment of a Community financial contribution towards emergency measures to eradicate avian influenza is subject to the rules laid down in Commission Regulation (EC) No 349/2005 of 28 February 2005 laying down rules on the Community financing of emergency measures and of the campaign to combat certain animal diseases under Council Decision 90/424/EEC ⁽³⁾.

(7) Outbreaks of avian influenza occurred in the United Kingdom in 2008. The United Kingdom took measures, in accordance with Council Directive 2005/94/EC to combat those outbreaks.

(8) The United Kingdom has fully complied with its technical and administrative obligations as set out in Article 3(3) of Decision 90/424/EEC and Article 6 of Regulation (EC) No 349/2005.

(9) On 1 August 2008 and 3 September 2008, the United Kingdom submitted an estimate of the costs incurred in taking measures to eradicate avian influenza.

(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,

⁽¹⁾ OJ L 224, 18.8.1990, p. 19.

⁽²⁾ OJ L 10, 14.1.2006, p. 16.

⁽³⁾ OJ L 55, 1.3.2005, p. 12.

HAS ADOPTED THIS DECISION:

Article 1

Financial contribution from the Community to the United Kingdom

A financial contribution from the Community may be granted to the United Kingdom towards the costs incurred by that Member State in taking measures pursuant to Article 3a(2) and (3) of Decision 90/424/EEC, to combat avian influenza in 2008.

Article 2

Addressee

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

Done at Brussels, 18 February 2009.

For the Commission

Androulla VASSILIOU

Member of the Commission

COMMISSION DECISION

of 18 February 2009

on a financial contribution from the Community towards emergency measures to combat avian influenza in Denmark in 2008*(notified under document number C(2009) 978)***(Only the Danish text is authentic)**

(2009/143/EC)

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Council Decision 90/424/EEC of 26 June 1990 on expenditure in the veterinary field ⁽¹⁾, and in particular Articles 3(3) and 3a(1) thereof,

Whereas:

(1) Avian influenza is an infectious viral disease of poultry and other captive birds with a severe impact on the profitability of poultry farming causing disturbance to intra-community trade and export to third countries.

(2) In the event of an outbreak of avian influenza, there is a risk that the disease agent might spread to other poultry holdings within that Member State, but also to other Member States and to third countries through trade in live poultry or their products.

(3) Council Directive 2005/94/EC of 20 December 2005 on Community measures for the control of avian influenza and repealing Directive 92/40/EEC ⁽²⁾ sets out measures which in the event of an outbreak have to be immediately implemented by Member States as a matter of urgency to prevent further spread of the virus.

(4) Decision 90/424/EEC lays down the procedures governing the Community's financial contribution towards specific veterinary measures, including emergency measures. Pursuant to Article 3a of that Decision, Member States shall obtain a financial contribution towards the costs of certain measures to eradicate avian influenza.

(5) Article 3a(3), first and second indents of Decision 90/424/EEC lay down rules on the percentage of the costs incurred by the Member State that may be covered by the Community's financial contribution.

(6) The payment of a Community financial contribution towards emergency measures to eradicate avian influenza is subject to the rules laid down in Commission Regulation (EC) No 349/2005 of 28 February 2005 laying down rules on the Community financing of emergency measures and of the campaign to combat certain animal diseases under Council Decision 90/424/EEC ⁽³⁾.

(7) Outbreaks of avian influenza occurred in Denmark in 2008. Denmark took measures, in accordance with Directive 2005/94/EC to combat those outbreaks.

(8) Denmark has fully complied with its technical and administrative obligations as set out in Article 3(3) of Decision 90/424/EEC and Article 6 of Regulation (EC) No 349/2005.

(9) On 13 May 2008 and 1 July 2008, Denmark submitted an estimate of the costs incurred in taking measures to eradicate avian influenza.

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

HAS ADOPTED THIS DECISION:

*Article 1***Financial contribution from the Community to Denmark**

A financial contribution from the Community may be granted to Denmark towards the costs incurred by that Member State in taking measures pursuant to Article 3a(2) and (3) of Decision 90/424/EEC, to combat avian influenza in 2008.

⁽¹⁾ OJ L 224, 18.8.1990, p. 19.

⁽²⁾ OJ L 10, 14.1.2006, p. 16.

⁽³⁾ OJ L 55, 1.3.2005, p. 12.

*Article 2***Addressee**

This Decision is addressed to the Kingdom of Denmark.

Done at Brussels, 18 February 2009.

For the Commission

Androulla VASSILIOU

Member of the Commission

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.