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Legislation

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Price: EUR 3

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II

(Non-legislative acts)

INTERNATIONAL AGREEMENTS

COUNCIL DECISION

of 13 May 2011

on the conclusion of the Protocol setting out the fishing opportunities and financial contribution provided for in the Partnership Agreement in the fisheries sector between the European Community and the Union of the Comoros

(2011/294/EU)

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty on the Functioning of the European Union, and in particular Article 43, in conjunction with point (a) of Article 218(6), thereof,

Having regard to the proposal from the European Commission,

Having regard to the consent of the European Parliament,

Whereas:

- (1) On 5 October 2006, the Council adopted Regulation (EC) No 1563/2006 on the conclusion of the Partnership Agreement in the fisheries sector between the European Community and the Union of the Comoros ⁽¹⁾. A Protocol is annexed to that Agreement.
- (2) The European Union negotiated with the Union of the Comoros (hereinafter 'the Comoros') a new Protocol, providing EU vessels with fishing opportunities in the waters over which the Comoros has sovereignty or jurisdiction in respect of fisheries.
- (3) On conclusion of those negotiations, the new Protocol was initialled on 21 May 2010 and amended by an Exchange of Letters on 16 September 2010.
- (4) In accordance with Council Decision 2010/783/EU ⁽²⁾, the new Protocol was signed on 31 December 2010, on behalf of the European Union, and is being applied provisionally.

(5) The new Protocol should be concluded,

HAS ADOPTED THIS DECISION:

Article 1

The Protocol setting out the fishing opportunities and financial contribution provided for in the Partnership Agreement in the fisheries sector between the European Community and the Union of the Comoros is approved on behalf of the European Union.

Article 2

The President of the Council shall, on behalf of the European Union, give the notification provided for in Article 14 of the Protocol ⁽³⁾.

Article 3

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

Done at Brussels, 13 May 2011.

For the Council
The President
MARTONYI J.

⁽¹⁾ OJ L 290, 20.10.2006, p. 6.

⁽²⁾ OJ L 335, 18.12.2010, p. 1.

⁽³⁾ The date of entry into force of the Protocol will be published in the *Official Journal of the European Union* by the General Secretariat of the Council.

REGULATIONS

COMMISSION REGULATION (EU) No 494/2011

of 20 May 2011

amending Regulation (EC) No 1907/2006 of the European Parliament and of the Council on the Registration, Evaluation, Authorisation and Restriction of Chemicals (REACH) as regards Annex XVII (Cadmium)

(Text with EEA relevance)

THE EUROPEAN COMMISSION,

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

Having regard to Regulation (EC) No 1907/2006 of the European Parliament and of the Council of 18 December 2006 concerning the Registration, Evaluation, Authorisation and Restriction of Chemicals (REACH), establishing a European Chemicals Agency, amending Directive 1999/45/EC and repealing Council Regulation (EEC) No 793/93 and Commission Regulation (EC) No 1488/94 as well as Council Directive 76/769/EEC and Commission Directives 91/155/EEC, 93/67/EEC, 93/105/EC and 2000/21/EC⁽¹⁾, and in particular Article 131 thereof,

Whereas:

- (1) By its Resolution of 25 January 1988 on a Community action programme⁽²⁾ the Council invited the Commission to combat environmental pollution by cadmium.
- (2) In the table set out in Annex XVII to Regulation (EC) No 1907/2006, entry 23 contains restrictions on the use and marketing of cadmium in mixtures and articles.
- (3) Cadmium and cadmium oxide are classified as carcinogen category 1B and aquatic acute and chronic toxicity category 1.
- (4) Since 31 December 1992, cadmium has been prohibited under Council Directive 76/769/EEC of 27 July 1976 on the approximation of the laws, regulations and administrative provisions of the Member States relating to restrictions on the marketing and use of certain dangerous substances and preparations⁽³⁾ as a

colouring agent in a number of polymers and paints, as a stabiliser in polyvinyl chloride (PVC) in a number of applications, and cadmium plating is prohibited in a number of applications. Directive 76/769/EEC was repealed and replaced by Regulation (EC) No 1907/2006 with effect from 1 June 2009.

- (5) In 2007 the European risk assessment on cadmium⁽⁴⁾ under Council Regulation (EEC) No 793/93 of 23 March 1993 on the evaluation and control of the risks of existing substances⁽⁵⁾ was completed. On 14 June 2008 the Commission published a Communication on the results of the risk evaluation and the risk reduction strategies for cadmium and cadmium oxide⁽⁶⁾ which recommended a marketing and use restriction for cadmium in brazing sticks and jewellery.
- (6) The Communication outlined the need for specific measures to limit the risks from the use of cadmium-containing brazing sticks and from wearing cadmium-containing jewellery. Professionals and hobbyists are exposed to fumes in the process of brazing. Consumers including children are exposed to cadmium in jewellery through skin contact or licking.
- (7) The Commission has commissioned a study on Socio-Economic Impact of a Potential Update of the Restrictions on the Marketing and Use of Cadmium in jewellery, brazing alloys and PVC. The results of the study were published in January 2010⁽⁷⁾.
- (8) The existing provisions concerning paint containing zinc should be clarified to define high zinc content. Provisions concerning paint on painted articles should be also clarified.

⁽¹⁾ OJ L 396, 30.12.2006, p. 1.

⁽²⁾ OJ C 30, 4.2.1988, p. 1.

⁽³⁾ OJ L 262, 27.9.1976, p. 201.

⁽⁴⁾ http://ecb.jrc.ec.europa.eu/documents/Existing-chemicals/RISK_ASSESSMENT/REPORT/cdmetalreport303.pdf

⁽⁵⁾ OJ L 84, 5.4.1993, p. 1.

⁽⁶⁾ OJ C 149, 14.6.2008, p. 6.

⁽⁷⁾ http://ec.europa.eu/enterprise/sectors/chemicals/files/markrestr/study-cadmium_en.pdf

- (9) Since 2001 the European PVC industry has taken the initiative on a voluntary basis to refrain from using cadmium as a stabiliser in newly produced PVC for those applications which were not yet regulated under Directive 76/769/EEC. This voluntary initiative eventually led to a phase out of the use of cadmium in PVC.
- (10) The prohibition of the use of cadmium should be extended to all articles made from PVC in order to comply with the objective of combating cadmium pollution.
- (11) A derogation for mixtures produced from PVC waste and referred to as 'recovered PVC' should be granted to allow their placing on the market for use in certain construction products.
- (12) The use of recovered PVC should be encouraged in the manufacture of certain construction products because it allows the reuse of old PVC, which may contain cadmium. Consequently a higher limit value for cadmium should be granted for these construction products. This avoids PVC being discarded in landfills or incinerated causing release of carbon dioxide and cadmium in the environment.
- (13) This Regulation should apply 6 months after the entry into force to allow operators to ensure compliance with the provisions of this Regulation.
- (14) It is foreseen that due to the prohibition of cadmium in new PVC, the content of cadmium in construction products manufactured from recovered PVC should diminish gradually. Therefore, the limit value for cadmium should be reviewed accordingly and the European Chemicals Agency (ECHA) should be involved in reviewing the restriction as provided for in Article 69 of Regulation (EC) No 1907/2006.
- (15) In accordance with the provisions on transitional measures in Article 137(1)a of REACH it is necessary to amend Annex XVII to Regulation (EC) No 1907/2006.
- (16) The measures provided for in this Regulation are in accordance with the opinion of the Committee established under Article 133 of Regulation (EC) No 1907/2006,

HAS ADOPTED THIS REGULATION:

Article 1

Annex XVII to Regulation (EC) No 1907/2006 is amended in accordance with the Annex to this Regulation.

Article 2

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

It shall apply from 10 January 2012.

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

Done at Brussels, 20 May 2011.

For the Commission
The President

José Manuel BARROSO

ANNEX

In Annex XVII to Regulation (EC) No 1907/2006, the table setting out the designation of the substances, groups of substances and mixtures and the conditions of restriction is amended as follows:

1. in the second column of entry 23, paragraphs 1 to 4 are replaced by the following:

- | | |
|--|--|
| | <p>1. Shall not be used in mixtures and articles produced from synthetic organic polymers (hereafter referred to as plastic material) such as:</p> <ul style="list-style-type: none"> — polymers or copolymers of vinyl chloride (PVC) [3904 10] [3904 21] — polyurethane (PUR) [3909 50] — low-density polyethylene (LDPE), with the exception of low-density polyethylene used for the production of coloured masterbatch [3901 10] — cellulose acetate (CA) [3912 11] — cellulose acetate butyrate (CAB) [3912 11] — epoxy resins [3907 30] — melamine-formaldehyde (MF) resins [3909 20] — urea-formaldehyde (UF) resins [3909 10] — unsaturated polyesters (UP) [3907 91] — polyethylene terephthalate (PET) [3907 60] — polybutylene terephthalate (PBT) — transparent/general-purpose polystyrene [3903 11] — acrylonitrile methylmethacrylate (AMMA) — cross-linked polyethylene (VPE) — high-impact polystyrene — polypropylene (PP) [3902 10] — high-density polyethylene (HDPE) [3901 20] — acrylonitrile butadiene styrene (ABS) [3903 30] — poly(methyl methacrylate) (PMMA) [3906 10]. <p>Mixtures and articles produced from plastic material shall not be placed on the market if the concentration of cadmium (expressed as Cd metal) is equal to or greater than 0,01 % by weight of the plastic material.</p> <p>By way of derogation, the second subparagraph shall not apply to articles placed on the market before 10 January 2012.</p> <p>The first and second subparagraphs apply without prejudice to Council Directive 94/62/EC (*) and acts adopted on its basis.</p> <p>2. Shall not be used in paints [3208] [3209].</p> <p>For paints with a zinc content exceeding 10 % by weight of the paint, the concentration of cadmium (expressed as Cd metal) shall not be equal to or greater than 0,1 % by weight.</p> <p>Painted articles shall not be placed on the market if the concentration of cadmium (expressed as Cd metal) is equal to or greater than 0,1 % by weight of the paint on the painted article.</p> <p>3. By way of derogation, paragraphs 1 and 2 shall not apply to articles coloured with mixtures containing cadmium for safety reasons.</p> <p>4. By way of derogation, paragraph 1, second subparagraph shall not apply to:</p> <ul style="list-style-type: none"> — mixtures produced from PVC waste, hereinafter referred to as “recovered PVC”, — mixtures and articles containing recovered PVC if their concentration of cadmium (expressed as Cd metal) does not exceed 0,1 % by weight of the plastic material in the following rigid PVC applications: <ul style="list-style-type: none"> (a) profiles and rigid sheets for building applications; (b) doors, windows, shutters, walls, blinds, fences, and roof gutters; |
|--|--|

	(c) decks and terraces; (d) cable ducts; (e) pipes for non-drinking water if the recovered PVC is used in the middle layer of a multilayer pipe and is entirely covered with a layer of newly produced PVC in compliance with paragraph 1 above. Suppliers shall ensure, before the placing on the market of mixtures and articles containing recovered PVC for the first time, that these are visibly, legibly and indelibly marked as follows: "Contains recovered PVC" or with the following pictogram:  In accordance with Article 69 of this Regulation, the derogation granted in paragraph 4 will be reviewed, in particular with a view to reducing the limit value for cadmium and to reassess the derogation for the applications listed in points (a) to (e), by 31 December 2017.
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(*) OJ L 365, 31.12.1994, p. 10.'

2. in the second column of entry 23, paragraphs 8, 9, 10 and 11 are added as follows:

	'8. Shall not be used in brazing fillers in concentration equal to or greater than 0,01 % by weight. Brazing fillers shall not be placed on the market if the concentration of cadmium (expressed as Cd metal) is equal to or greater than 0,01 % by weight. For the purpose of this paragraph brazing shall mean a joining technique using alloys and undertaken at temperatures above 450 °C. 9. By way of derogation, paragraph 8 shall not apply to brazing fillers used in defence and aerospace applications and to brazing fillers used for safety reasons. 10. Shall not be used or placed on the market if the concentration is equal to or greater than 0,01 % by weight of the metal in: (i) metal beads and other metal components for jewellery making; (ii) metal parts of jewellery and imitation jewellery articles and hair accessories, including: — bracelets, necklaces and rings, — piercing jewellery, — wrist-watches and wrist-wear, — brooches and cufflinks. 11. By way of derogation, paragraph 10 shall not apply to articles placed on the market before 10 January 2012 and jewellery more than 50 years old on 10 January 2012.'
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COMMISSION IMPLEMENTING REGULATION (EU) No 495/2011**of 20 May 2011****amending Regulation (EC) No 109/2007 as regards the composition of the feed additive monensin sodium****(Text with EEA relevance)**

THE EUROPEAN COMMISSION,

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

Having regard to Regulation (EC) No 1831/2003 of the European Parliament and of the Council of 22 September 2003 on additives for use in animal nutrition⁽¹⁾, and in particular Article 13(3) thereof,

Whereas:

- (1) Regulation (EC) No 1831/2003 provides for the possibility to modify the authorisation of a feed additive further to a request from the holder of the authorisation and an opinion of the European Food Safety Authority (the Authority).
- (2) The use of monensin sodium, belonging to the group of coccidiostats and histomonostats, was authorised for 10 years as a feed additive for use on chickens for fattening and turkeys by Commission Regulation (EC) No 109/2007⁽²⁾.
- (3) The holder of the authorisation submitted an application for a modification of the authorisation of monensin sodium as regards an additional composition of that feed additive. Relevant data were submitted to support this request.

(4) The Authority concluded in its opinion of 1 February 2011⁽³⁾ that the use of this new formulation of the additive on chickens for fattening and turkeys does not raise any additional concerns for animal health, human health or the environment and that it is effective in controlling coccidiosis. It also verified the report on the method of analysis of the feed additive in feed submitted by the Reference Laboratory for Feed Additives set up by Regulation (EC) No 1831/2003.

(5) The conditions provided for in Article 5 of Regulation (EC) No 1831/2003 are satisfied.

(6) Regulation (EC) No 109/2007 should therefore be amended accordingly.

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

HAS ADOPTED THIS REGULATION:

Article 1

The Annex to Regulation (EC) No 109/2007 is replaced by the Annex to this Regulation.

Article 2

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

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

Done at Brussels, 20 May 2011.

For the Commission
The President

José Manuel BARROSO

⁽¹⁾ OJ L 268, 18.10.2003, p. 29.

⁽²⁾ OJ L 31, 6.2.2007, p. 6.

⁽³⁾ EFSA Journal 2011; 9(2):2009.

Identification number of the additive	Name of the holder of authorisation	Additive (Trade name)	Composition, chemical formula, description, analytical method	Species or category of animal	Maximum age	Minimum content	Maximum content	Other provisions	End of period of authorisation	Provisional maximum residue limits (MRLs) in the relevant foodstuffs of animal origin
						mg of active substance/kg of complete feedingstuff with a moisture content of 12 %				
Coccidiostats and histomonostats										
51701	Huvepharma NV Belgium	Monensin sodium (Coxidin)	<i>Additive composition</i>	Chickens for fattening	—	100	125	1. Use prohibited at least 1 day before slaughter. 2. The additive shall be incorporated in compound feedingstuffs in form a premixture. 3. Maximum permitted dose of monensin sodium in complementary feedingstuffs: — 625 mg/kg for chickens for fattening, — 500 mg/kg for turkeys. 4. Monensin sodium shall not be mixed with other coccidiostats. 5. Indicate in the instructions for use: “Dangerous for equines. This feedingstuff contains an ionophore: avoid simultaneous administration with tiamulin and monitor for possible adverse reactions when used concurrently with other medicinal substances”. 6. Wear suitable protective clothing, gloves and eye/face protection. In case of insufficient ventilation in the premise, wear suitable respiratory equipments.	6.2.2017	25 µg monensin sodium/kg of wet skin + fat 8 µg monensin sodium/kg of wet liver, wet kidney and wet muscle
			Monensin sodium technical substance equivalent to monensin activity: 25 % Perlite: 15 – 20 % Wheat bran 55 – 60 % <i>Active substance</i> C ₃₆ H ₆₁ O ₁₁ Na Sodium salt of polyether monocarboxylic acid produced by <i>Streptomyces cinnamonensis</i> 28682, LMG S-19095 in powder form Factor composition Monensin A: not less than 90 % Monensin A + B: not less than 95 % Monensin C: 0,2 – 0,3 % <i>Analytical method</i> ⁽¹⁾ Method for determination of the active substance: high performance liquid chromatography (HPLC) with post-column derivatisation and UV detection (λ = 520nm)	Turkeys	16 weeks	60	100			

Identification number of the additive	Name of the holder of authorisation	Additive (Trade name)	Composition, chemical formula, description, analytical method	Species or category of animal	Maximum age	Minimum content	Maximum content	Other provisions	End of period of authorisation	Provisional maximum residue limits (MRLs) in the relevant foodstuffs of animal origin
						mg of active substance/kg of complete feedingstuff with a moisture content of 12 %				
51701	Huvepharma NV Belgium	Monensin sodium (Coxidin)	<i>Additive composition</i> Monensin sodium technical substance equivalent to monensin activity: 25 % Perlite: 15 – 20 % Calcium Carbonate: qs. 100 % <i>Active substance</i> C ₃₆ H ₆₁ O ₁₁ Na Sodium salt of polyether monocarboxylic acid produced by <i>Streptomyces cinnamensis</i> 28682, LMG S-19095 in powder form Factor composition Monensin A: not less than 90 % Monensin A + B: not less than 95 % Monensin C: 0,2 – 0,3 % <i>Analytical method</i> ⁽¹⁾ Method for determination of the active substance: high-performance liquid chromatography (HPLC) with post-column derivatisation and UV-VIS detection (EN ISO standard method 14183:2008)	Chickens for fattening	—	100	125	1. Use prohibited at least 1 day before slaughter. 2. The additive shall be incorporated in compound feedingstuffs in form of a granulated premixture. 3. Monensin sodium shall not be mixed with other coccidiostats. 4. Indicate in the instructions for use: “Dangerous for equines. This feedingstuff contains an ionophore: avoid simultaneous administration with tiamulin and monitor for possible adverse reactions when used concurrently with other medicinal substances”. 5. Wear suitable protective clothing, gloves and eye/face protection. In case of insufficient ventilation in the premise, wear suitable respiratory equipments.	10.6.2021	25 µg monensin sodium/kg of wet skin + fat 8 µg monensin sodium/kg of wet liver, wet kidney and wet muscle
			Turkeys	16 weeks	60	100				

⁽¹⁾ Details of the analytical methods are available at the following address of the European Union Reference Laboratory for Feed Additives: http://irmm.jrc.ec.europa.eu/EURLs/EURL_feed_additives/Pages/index.aspx

COMMISSION IMPLEMENTING REGULATION (EU) No 496/2011**of 20 May 2011****concerning the authorisation of sodium benzoate as a feed additive for weaned piglets (holder of the authorisation Kemira Oyj)****(Text with EEA relevance)**

THE EUROPEAN COMMISSION,

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

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

Whereas:

- (1) Regulation (EC) No 1831/2003 provides for the authorisation of additives for use in animal nutrition and for the grounds and procedures for granting such authorisation.
- (2) In accordance with Article 7 of Regulation (EC) No 1831/2003, an application was submitted for the authorisation of sodium benzoate. That application was accompanied by the particulars and documents required under Article 7(3) of Regulation (EC) No 1831/2003.
- (3) The application concerns the authorisation of sodium benzoate as a feed additive for weaned piglets, to be classified in the additive category 'zootechnical additives'.
- (4) The European Food Safety Authority (the Authority) concluded in its opinion of 1 February 2011⁽²⁾ that the substance set out in the Annex, under the proposed conditions of use, does not have an adverse effect on animal health, human health or the environment, and that this additive has shown a

significant benefit in terms of a final body weight and an improvement in efficiency of feed conversion of the target species. The Authority does not consider that there is a need for specific requirements of post-market monitoring. It also verified the report on the method of analysis of the feed additive in feed submitted by the Reference Laboratory set up by Regulation (EC) No 1831/2003.

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

HAS ADOPTED THIS REGULATION:

Article 1

The substance specified in the Annex, belonging to the additive category 'zootechnical additives' and to the functional group 'other zootechnical additives', is authorised as an additive in animal nutrition subject to the conditions laid down in that Annex.

Article 2

This Regulation shall enter into force on the 20th day following 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, 20 May 2011.

For the Commission

The President

José Manuel BARROSO

⁽¹⁾ OJ L 268, 18.10.2003, p. 29.

⁽²⁾ EFSA Journal 2011;9(2):2005.

ANNEX

Identification number of the additive	Name of the holder of authorisation	Additive	Composition, chemical formula, description, analytical method	Species or category of animal	Maximum age	Minimum content	Maximum content	Other provisions	End of period of authorisation
						mg of active substance/kg of complete feedingstuff with a moisture content of 12 %			
Zootechnical additives: other zootechnical additives (improvement of performance parameters)									
4d 5	Kemira Oyj	Sodium benzoate	<i>Additive composition</i> Sodium benzoate: ≥ 99,9 % <i>Active substance</i> Sodium benzoate C ₇ H ₅ O ₂ Na <i>Analytical method ⁽¹⁾</i> For determination of sodium benzoate in feed additive: Titrimetric method (Monograph 01/2008:0123 European Pharmacopoeia) For determination of sodium benzoate in premixtures and feedstuffs: HPLC method with UV-detection	Piglets (weaned)	—	—	4 000	1. The additive shall not be mixed with other sources of benzoic acid or benzoates. 2. Complementary feed containing sodium benzoate may not be fed to piglets as such. 3. For piglets (weaned) up to 35 kg. 4. Recommended minimum dose 4 000 mg/kg. 5. For safety: breathing protection, glasses and gloves shall be used during handling.	10 June 2021

⁽¹⁾ Details of the analytical methods are available at the following address of the Reference Laboratory: http://irmm.jrc.ec.europa.eu/EURLs/EURL_feed_additives/Pages/index.aspx

COMMISSION IMPLEMENTING REGULATION (EU) No 497/2011
of 18 May 2011
concerning the classification of certain goods in the Combined Nomenclature

THE EUROPEAN COMMISSION,

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

Having regard to Council Regulation (EEC) No 2658/87 of 23 July 1987 on the tariff and statistical nomenclature and on the Common Customs Tariff⁽¹⁾, and in particular Article 9(1)(a) thereof,

Whereas:

- (1) In order to ensure uniform application of the Combined Nomenclature annexed to Regulation (EEC) No 2658/87, it is necessary to adopt measures concerning the classification of the goods referred to in the Annex to this Regulation.
- (2) Regulation (EEC) No 2658/87 has laid down the general rules for the interpretation of the Combined Nomenclature. Those rules apply also to any other nomenclature which is wholly or partly based on it or which adds any additional subdivision to it and which is established by specific provisions of the Union, with a view to the application of tariff and other measures relating to trade in goods.
- (3) Pursuant to those general rules, the goods described in column (1) of the table set out in the Annex should be classified under the CN code indicated in column (2), by virtue of the reasons set out in column (3) of that table.

(4) It is appropriate to provide that binding tariff information which has been issued by the customs authorities of Member States in respect of the classification of goods in the Combined Nomenclature but which is not in accordance with this Regulation can, for a period of three months, continue to be invoked by the holder, under Article 12(6) of Council Regulation (EEC) No 2913/92 of 12 October 1992 establishing the Community Customs Code⁽²⁾.

(5) The Customs Code Committee has not issued an opinion within the time limit set by its Chairman,

HAS ADOPTED THIS REGULATION:

Article 1

The goods described in column (1) of the table set out in the Annex shall be classified within the Combined Nomenclature under the CN code indicated in column (2) of that table.

Article 2

Binding tariff information issued by the customs authorities of Member States, which is not in accordance with this Regulation, can continue to be invoked for a period of three months under Article 12(6) of Regulation (EEC) No 2913/92.

Article 3

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

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

Done at Brussels, 18 May 2011.

*For the Commission,
On behalf of the President,
Algirdas ŠEMETA
Member of the Commission*

⁽¹⁾ OJ L 256, 7.9.1987, p. 1.

⁽²⁾ OJ L 302, 19.10.1992, p. 1.

ANNEX

Description of the goods	Classification (CN code)	Reasons
(1)	(2)	(3)
1. Syrupy flavoured liquid with the following composition (percentage by weight): Water 65,13 Cane sugar 28,47 Lime juice 3,18 Citric acid 1,49 Lemon juice 1,18 Flavouring 0,46 Colourings 0,0003 Excipients After dilution with water or alcohol the preparation is ready to drink as a cocktail.	2106 90 59	Classification is determined by General Rules 1 and 6 for the interpretation of the Combined Nomenclature and the wording of CN codes 2106, 2106 90 and 2106 90 59. Because the product is undrinkable on its own, classification as a beverage in Chapter 22 is to be excluded. Because of its composition, the product containing flavouring and colouring matter is to be classified as a flavoured sugar syrup of CN code 2106 90 59. See also HS Explanatory Notes to heading 2106, point (12).
2. Syrupy flavoured liquid with the following composition (percentage by weight): Water 51,27 Cane sugar 28,40 Raspberry juice 10,60 Raspberry purée 8,20 Flavouring 0,18 Colourings 0,02 Excipients After dilution with water or alcohol the preparation is ready to drink as a cocktail.	2106 90 98	Classification is determined by General Rules 1 and 6 for the interpretation of the Combined Nomenclature and the wording of CN codes 2106, 2106 90 and 2106 90 98. Because the product is undrinkable on its own, classification as a beverage in Chapter 22 is to be excluded. Because of its composition, the product containing higher quantities of fruit juice and fruit purée is more complex than the flavoured sugar syrups of CN code 2106 90 59. The product should therefore be classified as a preparation for the manufacture of beverages under CN code 2106 90 98. See also HS Explanatory Notes to heading 2106, point (12).

COMMISSION REGULATION (EU) No 498/2011**of 18 May 2011****establishing a prohibition of fishing for mackerel in VI, VII, VIIIa, VIIIb, VIIIc and VIId; EU and international waters of Vb; international waters of IIa, XII and XIV by vessels flying the flag of Spain**

THE EUROPEAN COMMISSION,

HAS ADOPTED THIS REGULATION:

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

*Article 1***Quota exhaustion**

Having regard to Council Regulation (EC) No 1224/2009 of 20 November 2009 establishing a Community control system for ensuring compliance with the rules of the common fisheries policy ⁽¹⁾, and in particular Article 36(2) thereof,

The fishing quota allocated to the Member State referred to in the Annex to this Regulation for the stock referred to therein for 2011 shall be deemed to be exhausted from the date set out in that Annex.

Whereas:

*Article 2***Prohibitions**

(1) Council Regulation (EU) No 57/2011 of 18 January 2011 fixing for 2011 the fishing opportunities for certain fish stocks and groups of fish stocks, applicable in EU waters and, for EU vessels, in certain non-EU waters ⁽²⁾, lays down quotas for 2011.

Fishing activities for the stock referred to in the Annex to this Regulation by vessels flying the flag of or registered in the Member State referred to therein shall be prohibited from the date set out in that Annex. In particular it shall be prohibited to retain on board, relocate, tranship or land fish from that stock caught by those vessels after that date.

(2) According to the information received by the Commission, catches of the stock referred to in the Annex to this Regulation by vessels flying the flag of or registered in the Member State referred to therein have exhausted the quota allocated for 2011.

*Article 3***Entry into force**

(3) It is therefore necessary to prohibit fishing activities for that stock,

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

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

Done at Brussels, 18 May 2011.

*For the Commission,
On behalf of the President,*

Lowri EVANS
Director-General for Maritime Affairs and Fisheries

⁽¹⁾ OJ L 343, 22.12.2009, p. 1.

⁽²⁾ OJ L 24, 27.1.2011, p. 1.

ANNEX

No	3/T&Q
Member State	SPAIN
Stock	MAC/2CX14-
Species	Mackerel (<i>Scomber scombrus</i>)
Zone	VI, VII, VIIa, VIIb, VIId and VIIe; EU and international waters of Vb; international waters of IIa, XII and XIV
Date	14 January 2011

**COMMISSION IMPLEMENTING REGULATION (EU) No 499/2011
of 18 May 2011**

amending Regulation (EU) No 945/2010 adopting the plan allocating to the Member States resources to be charged to the 2011 budget year for the supply of food from intervention stocks for the benefit of the most deprived persons in the EU and derogating from certain provisions of Regulation (EU) No 807/2010

THE EUROPEAN COMMISSION,

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

Having regard to Council Regulation (EC) No 1234/2007 of 22 October 2007 establishing a common organisation of agricultural markets and on specific provisions for certain agricultural products (Single CMO Regulation) ⁽¹⁾, and in particular points (f) and (g) of Article 43, in conjunction with Article 4 thereof,

Having regard to Council Regulation (EC) No 2799/98 of 15 December 1998 establishing agrimonetary arrangements for the euro ⁽²⁾, and in particular Article 3(2) thereof,

Whereas:

(1) A number of Member States have informed the Commission in accordance with Article 3(5) of Commission Regulation (EU) No 807/2010 of 14 September 2010 laying down detailed rules for the supply of food from intervention stocks for the benefit of the most deprived persons in the Union ⁽³⁾ that they shall not be able to use certain quantities of products allocated to them under the 2011 plan adopted by Commission Regulation (EU) No 945/2010 ⁽⁴⁾.

(2) In accordance with Article 3(5) of Regulation (EU) No 807/2010 the Commission may allocate the available resources to other Member States on the basis of their applications and their actual use of products made available and allocations made during previous financial years.

(3) This revision of the plan for 2011 being made at a time when national administrative arrangements for the implementation of the plan should be approaching completion, it is appropriate that the reallocated quantities are not taken into account for calculating whether Member States have respected their obligation

laid down in the first paragraph of Article 5 of Regulation (EU) No 945/2010 and in the second subparagraph of Article 3(2) of Regulation (EU) No 807/2010 to have withdrawn 70 % of cereals by the deadlines fixed therein.

(4) Regulation (EU) No 945/2010 should therefore be amended accordingly.

(5) The Management Committee for the Common Organization of the Agricultural Markets has not delivered an opinion within the time limit set by its Chair,

HAS ADOPTED THIS REGULATION:

Article 1

Regulation (EU) No 945/2010 is amended as follows:

(a) In Article 5, the following paragraph is added:

‘For the 2011 distribution plan, the first paragraph of this Article and the first sentence of the second subparagraph of Article 3(2) of Regulation (EU) No 807/2010 shall not apply to the following quantities of cereals stored in Finland:

— 12 856 tonnes allocated to Italy and

— 306 tonnes allocated to Slovenia.’

(b) Annex I and III are amended in accordance with the Annex to this Regulation.

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*.

⁽¹⁾ OJ L 299, 16.11.2007, p. 1.

⁽²⁾ OJ L 349, 24.12.1998, p. 1.

⁽³⁾ OJ L 242, 15.9.2010, p. 9.

⁽⁴⁾ OJ L 278, 22.10.2010, p. 1.

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

Done at Brussels, 18 May 2011.

*For the Commission,
On behalf of the President,
José Manuel SILVA RODRÍGUEZ
Director-General for Agriculture and
Rural Development*

ANNEX

Annex I and III to Regulation (EU) No 945/2010 are amended as follows:

(1) Annex I is replaced by the following:

‘ANNEX I

ANNUAL DISTRIBUTION PLAN FOR 2011

(a) Financial resources made available to implement the 2011 plan in each Member State:

(in EUR)

Member State	Distribution
Belgique/België	10 935 075
България	11 042 840
Česká republika	45 959
Eesti	755 405
Éire/Ireland	1 196 457
Elláda	20 045 000
España	74 731 353
France	72 741 972
Italia	102 023 445
Latvija	6 723 467
Lietuva	7 781 341
Luxembourg	107 483
Magyarország	14 146 729
Malta	640 243
Polska	75 422 222
Portugal	20 513 026
România	49 578 143
Slovenija	2 441 755
Slovakia	4 809 692
Suomi/Finland	4 318 393
Total	480 000 000

(b) Quantity of each type of product to be withdrawn from EU intervention stocks for distribution in each Member State subject to the maximum amounts laid down in point (a) of this Annex:

(in tonnes)

Member State	Cereals	Butter	Skimmed milk powder	Sugar
Belgique/België	74 030	—	1 687	
България	103 318	—	—	

(in tonnes)

Member State	Cereals	Butter	Skimmed milk powder	Sugar
Česká Republika	401	—	—	9
Eesti	7 068	—	—	—
Eire/Ireland	250	109	—	—
Elláda	88 836	976	—	—
España	305 207	—	23 507	—
France	491 108	—	11 305	—
Italia	480 539	—	28 281	—
Latvija	50 663	—	730	—
Lietuva	61 000	—	704	—
Luxembourg (*)	—	—	—	—
Magyarország	132 358	—	—	—
Malta	5 990	—	—	—
Polska	441 800	—	15 743	—
Portugal	61 906	458	5 000	—
România	370 000	—	5 600	—
Slovenija	14 465	—	500	—
Slovakia	45 000	—	—	—
Suomi/Finland	25 338	—	899	—
Total	2 759 277	1 543	93 956	9

(*) Luxembourg: allocation for the purchase of dairy products on the EU market: 101 880 EUR, to be accounted against the skimmed milk powder allocation of Luxembourg.

(2) Annex III is amended as follows:

(a) point (a) is replaced by the following:

‘(a) Intra-EU transfers of cereals authorised under the plan for the 2011 budget year:

	Quantity (tonnes)	Holder	Recipient
1.	39 080	BLE, Deutschland	BIRB, Belgique
2.	57 631	Pôdohospodárska platobná agentúra, Slovenská Republika	Държавен фонд ‘Земеделие’ — Разплащателна агенция, България
3.	250	FranceAgriMer, France	OFI, Ireland
4.	88 836	Mezőgazdasági és Vidékfejlesztési Hivatal, Magyarország	OPEKEPE, Elláda
5.	305 207	FranceAgriMer, France	FEGA, España
6.	467 683	BLE, Deutschland	AGEA, Italia
7.	27 670	PRIA, Eesti	Rural Support Service, Latvia

	Quantity (tonnes)	Holder	Recipient
8.	5 990	AMA, Austria	Ministry for Resources and Rural Affairs Paying Agency, Malta
9.	75 912	BLE, Deutschland	ARR, Polska
10.	61 906	FranceAgriMer, France	IFAP I.P., Portugal
11.	146 070	SZIF, Česká republika	Agenția de Plăți și Intervenție pentru Agricultură, România
12.	162 497	Mezőgazdasági és Vidékfejlesztési Hivatal, Magyarország	Agenția de Plăți și Intervenție pentru Agricultură, România
13.	14 159	AMA, Austria	Agencija Republike Slovenije za kmetijske trge in razvoj podeželja, Slovenija
14.	12 856	Agency for Rural Affairs, Suomi/Finland	AGEA, Italia
15.	306	Agency for Rural Affairs, Suomi/Finland	Agencija Republike Slovenije za kmetijske trge in razvoj podeželja, Slovenija'

(b) In point (b), row 4 is replaced by the following:

'4.	13 147	BLE, Deutschland	ARR, Polska'
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COMMISSION IMPLEMENTING REGULATION (EU) No 500/2011**of 20 May 2011****establishing the standard import values for determining the entry price of certain fruit and vegetables**

THE EUROPEAN COMMISSION,

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

Having regard to Council Regulation (EC) No 1234/2007 of 22 October 2007 establishing a common organisation of agricultural markets and on specific provisions for certain agricultural products (Single CMO Regulation) ⁽¹⁾,Having regard to Commission 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 21 May 2011.

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

Done at Brussels, 20 May 2011.

*For the Commission,
On behalf of the President,
José Manuel SILVA RODRÍGUEZ
Director-General for Agriculture and
Rural Development*

⁽¹⁾ OJ L 299, 16.11.2007, p. 1.

⁽²⁾ OJ L 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	JO	50,2
	MA	40,8
	TN	91,1
	TR	89,8
	ZZ	68,0
0707 00 05	TR	108,9
	ZZ	108,9
0709 90 70	MA	86,8
	TR	120,8
	ZZ	103,8
0709 90 80	EC	23,2
	ZZ	23,2
0805 10 20	EG	56,8
	IL	59,0
	MA	49,2
	TR	74,4
	ZZ	59,9
0805 50 10	AR	72,2
	TR	76,7
	ZA	112,0
	ZZ	87,0
0808 10 80	AR	113,9
	BR	76,6
	CA	108,5
	CL	82,7
	CN	108,5
	CR	69,1
	NZ	106,2
	US	125,9
	UY	60,0
	ZA	85,3
	ZZ	93,7

⁽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'.

DECISIONS

DECISION OF THE EUROPEAN CENTRAL BANK

of 20 April 2011

on the selection of TARGET2-Securities network service providers

(ECB/2011/5)

(2011/295/EU)

THE GOVERNING COUNCIL OF THE EUROPEAN CENTRAL BANK,

Having regard to the Statute of the European System of Central Banks and of the European Central Bank (hereinafter the 'Statute of the ESCB') and in particular Articles 3.1 and 12.1 and Articles 17, 18 and 22 thereof,

Whereas:

- (1) TARGET2-Securities (hereinafter 'T2S') aims to facilitate post-trading integration by offering core, neutral and borderless pan-European cash and securities settlement in central bank money so that central securities depositories (CSDs) can provide their customers with harmonised and commoditised delivery-versus-payment settlement services in an integrated technical environment with cross-border capabilities.
 - (2) In the context of the Third Interim T2S Progress Report, in February 2010, the T2S Programme Board decided that the Deutsche Bundesbank, the Banco de España, the Banque de France and the Banca d'Italia (hereinafter the '4CB') would make necessary preparations to have up to three T2S network service providers to provide connectivity services to the T2S platform and that the Banca d'Italia would lead the selection procedure.
 - (3) In the context of the Fourth T2S Progress Report, at its meeting of 21 April 2010, the Governing Council decided that the network provision in T2S would be subject to a competition and that a maximum of three licences would be granted.
 - (4) In the context of the Fifth T2S Progress Report, in July 2010, the T2S Programme Board decided that the Banca d'Italia would act as the operating arm of the Eurosystem for the selection procedure. It also decided that the T2S Programme Board would be responsible for designating the selection panel members since the Eurosystem central banks would be responsible and liable for the selection criteria and for the outcome of the selection panel's decision based on the selection criteria. The Banca d'Italia would be responsible for correctly conducting the selection procedure and its specific liability related to the selection procedure would be separate from the liability assumed by the 4CB under the Level 2-Level 3 agreement.
 - (5) On 13 August 2010, the T2S Programme Board decided that the Banca d'Italia's liability should be specified more precisely in a mandate from the Eurosystem central banks to the Banca d'Italia to carry out the selection procedure.
 - (6) The purpose of the selection procedure is to entrust network service providers to provide a set of predefined connectivity services, on the basis of which the T2S network service providers design, implement, deliver and operate connectivity solutions intended to securely exchange business information between the directly connected T2S actors and the T2S platform.
 - (7) Although a selection procedure for T2S network service providers falls outside the scope of Directive 2004/18/EC of the European Parliament and of the Council of 31 March 2004 on the coordination of procedures for the award of public works contracts, public supply contracts and public service contracts ⁽¹⁾, the rules laid down in Directive 2004/18/EC, the procedures laid down in Decision ECB/2008/17 of 17 November 2008 laying down the framework for joint Eurosystem procurement ⁽²⁾ and the national law implementing Directive 2004/18/EC where applicable to the mandated central bank should be used as general guidelines.
 - (8) Banca d'Italia has been appointed by the Governing Council to carry out the selection procedure for T2S network service providers.
 - (9) Banca d'Italia had accepted the appointment and has confirmed its willingness to act in accordance with this Decision,
- HAS ADOPTED THIS DECISION:
- Article 1*
- Definitions**
- For the purposes of this Decision, the following definitions shall apply:
- (a) 'central bank' means the European Central Bank (ECB) or a euro area national central bank (NCB) or another central bank that makes its currency available in T2S;
- ⁽¹⁾ OJ L 134, 30.4.2004, p. 114.
⁽²⁾ OJ L 319, 29.11.2008, p. 76.

- (b) 'central securities depository' (CSD) means an entity that: (a) enables securities transactions to be processed and settled by book entry; (b) provides custodial services, e.g. the administration of corporate actions and redemptions; and (c) plays an active role in ensuring the integrity of issues of securities;
- (c) 'T2S Programme Board' means the Eurosystem management body established pursuant to Decision ECB/2009/6 of 19 March 2009 on the establishment of the TARGET2-Securities Programme Board ⁽¹⁾, which has the task of developing proposals for the Governing Council on key strategic issues and executing tasks of a purely technical nature in relation to T2S, or its successor;
- (d) 'T2S network service provider' means a network service provider that has signed a licence agreement to provide connectivity services;
- (e) 'connectivity services' means the direct network connection to the T2S platform that a directly connected T2S actor requires a T2S network service provider to provide in order to benefit from, or perform tasks and responsibilities related to, the T2S services;
- (f) 'licence' means the act of conferring the right as granted by the Eurosystem central banks to a T2S network service provider to provide to the directly connected T2S actors a set of predefined connectivity services, on the basis of which a T2S network service provider shall design, implement, deliver and operate solutions intended to exchange securely electronic data between the directly connected T2S actors and the T2S platform;
- (g) 'selection panel' means a panel of five experts composed of one representative from each of the mandated central bank (acting as chairperson), the 4CB and EPCO, as well as two representatives from the Eurosystem central banks, each of them designated by the T2S Programme Board and formally appointed by the mandated central bank;
- (h) 'Eurosystem Procurement Coordination Office' (EPCO) means the body created under Decision 2008/893/EC (ECB/2008/17) to coordinate joint Eurosystem procurement;
- (i) 'Eurosystem central bank' means either a euro area NCB or the ECB;
- (j) 'Level 2-Level 3 agreement' means the supply and operation agreement that is negotiated between the T2S Programme Board and the 4CB, endorsed by the Governing Council and subsequently signed by the Eurosystem central banks and the 4CB. It contains the additional details of the tasks and responsibilities of the 4CB, the T2S Programme Board and the Eurosystem central banks;
- (k) 'directly connected T2S actor' means any entity that is authorised to exchange electronic data with the T2S platform;
- (l) 'mandated central bank' means the euro area NCB appointed by the Governing Council to conduct the selection procedure for the T2S network service providers and vested by the Eurosystem central banks with the power to sign the licence agreements with the selected participants in the name and interest of the Eurosystem central banks;
- (m) 'T2S services' means the services to be provided by the Eurosystem central banks to CSDs and central banks;
- (n) 'licence agreement' means an agreement governed by German law, as proposed by the T2S Programme Board and approved by the Governing Council, setting out the reciprocal rights and obligations of the Eurosystem central banks and of the relevant T2S network service provider;
- (o) 'selected participant' means a participant in the selection procedure for the T2S network service providers that has been awarded a licence agreement;
- (p) 'contract notice' means the notice of the selection procedure to be published in the *Official Journal of the European Union* and in the national official journal of the Member State where the mandated central bank is located;
- (q) 'awarding rules' means the detailed rules governing the selection procedure constituting part of the selection acts to be published;
- (r) 'selection acts' means the award announcement, the contract notice, as well as the awarding rules, and their annexes and attachments;
- (s) 'euro area NCB' means the NCB of a Member State whose currency is the euro;
- (t) 'proof of concept' means a test to be performed by a T2S network service provider after the signature of the licence agreement, aimed at verifying the compliance of its offered solution with basic functional, resilience and security requirements;
- (u) 'go-live date' means the date on which the first CSD starts using the T2S services.

Article 2

Mandated central bank

The mandated central bank shall for the benefit of the Eurosystem central banks:

- (a) carry out the selection procedure for T2S network service providers in full cooperation with the T2S Programme Board and the selection panel, in its own name and in the interest of the Eurosystem central banks, by providing the material and human resources required to ensure that the selection procedure complies with the law applicable in the Member State of the mandated central bank; and
- (b) in line with the selection panel's decision, sign the relevant licence agreement in the name and interest of the Eurosystem central banks, with the total number of T2S network service providers not exceeding two at any given time.

⁽¹⁾ OJ L 102, 22.4.2009, p. 12.

Article 3

Selection and awarding conditions

1. The mandated central bank shall carry out the procedure for the selection of T2S network service providers in compliance with the general principles laid down in the Treaty on the Functioning of the European Union, including transparency, proportionality, equal treatment, equal access and non-discrimination.

2. The total number of T2S network service providers shall not exceed two at any given time.

3. When carrying out the selection procedure, the mandated central bank shall in particular observe the following conditions:

- (a) it shall carry out an open procedure for the award of the licences whereby any interested economic operator may submit an offer;
- (b) all selection acts shall be prepared jointly by the Eurosystem central banks and the mandated central bank, and approved by the T2S Programme Board;
- (c) the T2S network service providers shall be selected on the basis of the lowest maximum price for a standard set of services to be provided to the community of directly connected T2S actors, according to the model approved by the T2S Programme Board;
- (d) all selection acts shall be published in English. The mandated central bank may also publish the contract notice in its official language. The participants in the selection procedure shall submit their offers and all supplemental documents in English;
- (e) the mandated central bank shall specify in the contract notice that the selection procedure is carried out in its name and interest as well as in the interest of the Eurosystem central banks;
- (f) the mandated central bank shall publish the contract notice at a minimum in: (i) the *Official Journal of the European Union*; (ii) the national official journal used for contract notices by the mandated central bank; (iii) two national newspapers; and (iv) the *Financial Times* and *The Economist*. The selection acts shall be published on the mandated central bank's website. The contract notice shall also be published on the ECB's website, with a link to the mandated central bank's website in order to enable access to all the selection acts;
- (g) the mandated central bank shall respond to requests for clarification in the selection procedure sent to the e-mail address specified in the contract notice. Any such response shall be published by the mandated central bank and the ECB on their respective websites;
- (h) selection panel members shall be designated by the T2S Programme Board and formally appointed by the

mandated central bank immediately after the end of the bidding period;

- (i) selection panel members shall be obliged to sign the declaration of absence of conflict of interest that has been approved by the T2S Programme Board;
- (j) the mandated central bank shall undertake the operational aspects of the selection procedure;
- (k) the selection panel shall, inter alia, examine the administrative and technical documentation, and decide on the exclusion from the selection procedure of participants not fulfilling the participation requirements. The selection panel shall evaluate abnormally low offers pursuant to the rules laid down in the selection acts. The selection panel shall rank the participants not excluded from the selection procedure in increasing order of their economic offers;
- (l) The mandated central bank shall formally communicate all of the selection panel's decisions to the participants concerned using a secure and prompt means of written communication.

4. Once the selection panel has ranked the participants in accordance with paragraph 3(k) (preliminary awarding), the mandated central bank shall, under its responsibility, undertake an internal legitimacy check to verify that the selection procedure was carried out correctly. When this check has been successfully completed, the mandated central bank shall issue the final award and shall verify that the selected participants fulfil the participation requirements and that their self declarations are truthful. Should the legitimacy check be unsuccessful, the final award shall be deferred and the mandated central bank shall seek guidance thereon from the T2S Programme Board.

5. The mandated central bank shall act in its name and interest as well as in the interest of the Eurosystem central banks as regards all rights and obligations stemming from the selection procedure. It shall also report thereon to and comply with decisions taken by the T2S Programme Board.

6. The mandated central bank shall bear its own costs related to the tasks it carries out in the selection procedure.

Article 4

Licence agreement

1. Once the selection and awarding procedure have been concluded by the mandated central bank under the conditions mentioned above, the mandated central bank and the selection panel shall undertake all necessary preparatory measures to enable the mandated central bank to enter into a licence agreement with each of the selected participants in the name and interest of the Eurosystem central banks. To this end, the Eurosystem central banks shall vest the mandated central bank with the power to sign the licence agreements, by way of a separate power of attorney to act in the name and interest of the Eurosystem central banks (disclosed agency).

2. Subsequent to signing the licence agreement, a T2S network service provider shall perform a proof of concept. If the T2S network service provider fails to successfully perform the proof of concept, the licence agreement shall be terminated. Under such circumstance, the mandated central bank shall award a licence to the participant in the selection procedure that ranked next highest in the ranking list after the selected participants.

3. Without prejudice to the following paragraphs, a licence awarded in the initial selection procedure shall expire 7 years following the go-live date.

4. Where a licence agreement with a T2S network service provider is terminated before the end of its duration, but after the successful performance of the proof of concept, at the T2S Programme Board's discretion, a licence agreement may either be offered to the participant in the selection procedure that ranked next highest in the ranking list after the selected participants, or be awarded to another network service provider following a new selection procedure to be carried out by the mandated central bank or by another Eurosystem central bank appointed by the Governing Council. The new licence agreement shall have a duration of 7 years.

5. Upon the T2S Programme Board's request, the mandated central bank shall extend the duration of all licence agreements twice by 1 year.

6. The mandated central bank shall be mandated to represent the Eurosystem central banks jointly vis-à-vis the T2S network service providers and other third parties in relation to the connectivity services as well as to manage the licence agreements in the name and interest of the Eurosystem central banks on an ongoing basis, both by, inter alia, enforcing the rights and obligations of the Eurosystem central banks, including in court proceedings, including but not limited to breach of contract, damages, termination, challenges or other alterations of contract. The mandated central bank shall report thereon to, and comply with the instructions issued by, the T2S Programme Board.

7. The mandated central bank shall take all measures necessary for the fulfilment of the Eurosystem central banks' and, if any, of the mandated central bank's, duties and obligations in relation to the licence agreements and shall report thereon to, and respect any related instructions from the T2S Programme Board.

8. The mandated central bank shall receive all notices, declarations and writs of claims, including the service of process, in relation to a licence agreement to enable it to fulfil the Eurosystem central banks', and, if any, the mandated central bank's, rights and obligations in relation to a licence agreement.

9. Without prejudice to Article 5, the Eurosystem central banks shall reimburse the mandated central bank for all

reasonable expenses it incurs for the management and monitoring of the licence agreements pursuant to paragraphs 6 to 8.

Article 5

Compensation claims

1. The mandated central bank shall be liable to the Eurosystem central banks without limitation for any loss or damage resulting from fraud or wilful misconduct in the performance of its rights and obligations under this Decision. It shall be liable to the Eurosystem central banks for any loss or damage resulting from its gross negligence in performing its obligations under this Decision, in which case its liability shall be limited to a maximum total amount of EUR 2 000 000 per calendar year.

2. Where losses or damages are suffered by a third party arising from fraud or wilful misconduct of the mandated central bank in performing its duties under this Decision, the mandated central bank shall be responsible for any compensation to be paid to that third party.

3. Where losses or damages are suffered by a third party arising from the mandated central bank's gross or ordinary negligence in performing its duties under this Decision, the mandated central bank shall be responsible for any compensation to be paid to that third party. The Eurosystem central banks shall reimburse the mandated central bank for any such compensation that exceeds a maximum total amount of EUR 2 000 000 per calendar year, on the basis of a court statement or of a settlement agreement between the mandated central bank and any such third party, provided that the settlement agreement has been approved in advance by the T2S Programme Board.

4. The Eurosystem central banks shall fully and promptly reimburse the mandated central bank for any compensation paid by it to third parties where this stems from: (a) the participation requirements and award criteria; (b) a decision made by the selection panel on the basis of the participation requirements and award criteria; (c) the incorrect conduct of the selection panel, unless it acted in line with the written advice of the mandated central bank or has not received appropriate written advice from the mandated central bank on the issue concerned in advance; (d) any decision or event beyond the control of the mandated central bank including those which may affect the effectiveness of the licences granted.

5. The mandated central bank shall not be reimbursed by the Eurosystem central banks for compensation paid to third parties resulting from operational activities and other procedural acts which fall within its responsibility, unless the mandated central bank has acted, contrary to its own advice, in line with instructions from the T2S Programme Board pursuant to Article 3(5).

6. Where legal actions filed by third parties relate to acts or omissions with respect to the selection procedure for which the Eurosystem central banks have to assume exclusive liability, the Eurosystem central banks, having consulted the mandated central bank, shall instruct the mandated central bank on the measures it shall take, e.g. any representation by external counsel or by in-house legal services of the mandated central bank, in a timely manner. Once a decision as to the course of action in any such proceeding has been taken, the litigation costs and fees arising from any such action shall be borne by the Eurosystem central banks.

7. The Eurosystem central banks shall assume liability for acts and omissions of individual selection panel members in relation to the selection procedure.

8. Where legal actions are filed by third parties for acts or omissions connected to a selection procedure for which the mandated central bank assumes exclusive liability, the mandated central bank shall fully cooperate with the Eurosystem central banks on the measures it shall take, e.g. any representation by external counsel or by its in-house legal services, and shall bear the subsequent costs.

9. Where the Eurosystem central banks and the mandated central bank are jointly responsible for losses or damages

suffered by a third party, each of them shall bear an equal share of the costs.

Article 6

Final provisions

1. A mandate shall continue to be in force for 7 years from the go-live date.

2. The expiration of a mandate shall not affect the validity of the relevant licence agreements.

Article 7

Entry into force

This Decision shall enter into force 2 days after its adoption.

Done at Frankfurt am Main, 20 April 2011.

The President of the ECB

Jean-Claude TRICHET

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