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II

(Non-legislative acts)

INTERNATIONAL AGREEMENTS

COUNCIL DECISION

of 23 January 2012

on the position to be taken by the European Union in the EEA Joint Committee concerning an amendment to Annex XIII (Transport) to the EEA Agreement

(2012/54/EU)

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty on the Functioning of the European Union, and in particular Articles 100(2) and 218(9) thereof,

Having regard to Council Regulation (EC) No 2894/94 of 28 November 1994 concerning arrangements for implementing the Agreement on the European Economic Area ⁽¹⁾, and in particular Article 1(3) thereof,

Having regard to the proposal from the European Commission,

Whereas:

(1) Annex XIII to the Agreement on the European Economic Area ⁽²⁾ ('the EEA Agreement') contains specific provisions and arrangements concerning transport.

(2) Commission Regulation (EU) No 255/2010 of 25 March 2010 laying down common rules on air traffic flow management ⁽³⁾ should be incorporated into the EEA Agreement.

(3) Annex XIII to the EEA Agreement should therefore be amended accordingly.

(4) The position of the Union to be taken within the EEA Joint Committee should be based on the draft Decision of the EEA Joint Committee attached to this Decision,

HAS ADOPTED THIS DECISION:

Article 1

The position to be taken by the Union within the EEA Joint Committee on the proposed amendment to Annex XIII (Transport) to the EEA Agreement shall be based on the draft Decision of the EEA Joint Committee attached to this Decision.

Article 2

This Decision shall enter into force on the day of its adoption.

Done at Brussels, 23 January 2012.

*For the Council**The President*

M. GJERSKOV

⁽¹⁾ OJ L 305, 30.11.1994, p. 6.

⁽²⁾ OJ L 1, 3.1.1994, p. 3.

⁽³⁾ OJ L 80, 26.3.2010, p. 10.

DRAFT

DECISION OF THE EEA JOINT COMMITTEE No ...
of ...
amending Annex XIII (Transport) to the EEA Agreement

THE EEA JOINT COMMITTEE,

Having regard to the Agreement on the European Economic Area, as amended by the Protocol adjusting the Agreement on the European Economic Area ('the Agreement'), and in particular Article 98 thereof,

Whereas:

- (1) Annex XIII to the Agreement was last amended by Decision of the EEA Joint Committee No .../... of ... (1).
- (2) Commission Regulation (EU) No 255/2010 of 25 March 2010 laying down common rules on air traffic flow management (2) is to be incorporated into the Agreement,

HAS ADOPTED THIS DECISION:

Article 1

The following point shall be inserted after point 66wh (Commission Regulation (EC) No 262/2009) of Annex XIII to the Agreement:

⁶⁶wi. **32010 R 0255**: Commission Regulation (EU) No 255/2010 of 25 March 2010 laying down common rules on air traffic flow management (OJ L 80, 26.3.2010, p. 10).

The provisions of the Regulation shall, for the purposes of this Agreement, be read with the following adaptation:

This Regulation shall not apply to Liechtenstein.’.

Article 2

The text of Regulation (EU) No 255/2010 in the Icelandic and Norwegian languages, to be published in the EEA Supplement to the *Official Journal of the European Union*, shall be authentic.

Article 3

This Decision shall enter into force on ..., provided that all the notifications pursuant to Article 103(1) of the Agreement have been made to the EEA Joint Committee (*).

Article 4

This Decision shall be published in the EEA Section of, and in the EEA Supplement to, the *Official Journal of the European Union*.

Done at Brussels,

For the EEA Joint Committee

The President The Secretaries
to the EEA Joint Committee

(¹) OJ L

(²) OJ L 80, 26.3.2010, p. 10.

(*) [No constitutional requirements indicated.] [Constitutional requirements indicated.]

COMMISSION DECISION**of 2 March 2011****on the conclusion of the Agreement for cooperation in the peaceful uses of nuclear energy between
the European Atomic Energy Community and the Government of Australia**

(2012/55/Euratom)

THE EUROPEAN COMMISSION,

Having regard to the Treaty establishing the European Atomic Energy Community, and in particular Article 101, the second paragraph thereof,

Having regard to the approval of the Council,

Whereas:

The Agreement for cooperation in the peaceful uses of nuclear energy between the European Atomic Energy Community and the Government of Australia should be concluded,

HAS ADOPTED THIS DECISION:

Article 1

The Agreement for cooperation in the peaceful uses of nuclear energy between the European Atomic Energy Community and

the Government of Australia is hereby approved on behalf of the European Atomic Energy Community. The text of the Agreement is attached to this Decision.

Article 2

The President of the Commission or the Member of the Commission responsible for Energy are hereby authorised to sign the Agreement and to carry out all necessary steps for the entry into force of this Agreement to be concluded on behalf of the European Atomic Energy Community.

Done at Brussels, 2 March 2011.

For the Commission

Günther OETTINGER

Member of the Commission

AGREEMENT**between the Government of Australia and the European Atomic Energy Community (Euratom) for cooperation in the peaceful uses of nuclear energy**

THE GOVERNMENT OF AUSTRALIA

and

THE EUROPEAN ATOMIC ENERGY COMMUNITY (Euratom), hereinafter referred to as 'the Community',

DESIRING to promote their cooperation in the use of nuclear energy for peaceful purposes;

CONSIDERING that the Agreement between the Government of Australia and the European Atomic Energy Community concerning transfers of nuclear material from Australia to the European Atomic Energy Community done at Brussels on 21 September 1981 is limited in scope and expires in 2012;

REAFFIRMING the strong commitment of the Government of Australia, the Community and the Governments of its Member States to nuclear non-proliferation including the strengthening and efficient application of the related safeguards and export control regimes under which cooperation in the peaceful uses of nuclear energy between Australia and the Community is carried out;

REAFFIRMING the support of the Government of Australia, the Community and the Governments of its Member States for the objectives of the International Atomic Energy Agency (hereinafter referred to as 'IAEA') and its safeguards system;

REAFFIRMING the strong commitment of the Government of Australia, the Community and its Member States to the Convention on the Physical Protection of Nuclear Material done at New York and Vienna on 3 March 1980 and entering into force generally on 8 February 1987;

WHEREAS Australia and all Member States of the Community are Parties to the Treaty on the Non-Proliferation of Nuclear Weapons done at Washington, London and Moscow on 1 July 1968 and entering into force on 5 March 1970, hereinafter referred to as 'NPT';

NOTING that nuclear safeguards are applied in all Member States of the Community pursuant to both the Treaty establishing the European Atomic Energy Community (hereinafter referred to as 'the Euratom Treaty') and the safeguards agreements concluded between the Community, its Member States and the IAEA;

NOTING that the Governments of Australia and of all Member States of the Community participate in the Nuclear Suppliers Group;

NOTING that account should be taken of the commitments made by the Government of Australia and the Government of each Member State of the Community in the framework of the Nuclear Suppliers Group;

RECOGNISING the fundamental principle of free movement in the internal market within the European Union;

AGREEING that the Agreement should be in compliance with international obligations of the European Union and the Government of Australia under the World Trade Organisation agreements;

REITERATING commitments of the Government of Australia and the Governments of Member States of the Community to their bilateral agreements in the peaceful uses of nuclear energy;

HAVE AGREED AS FOLLOWS:

Article I

Definitions

For the purpose of this Agreement, except as otherwise specified:

1. 'by-product' means special fissionable material derived by one or more processes, whether successive or not, from nuclear material transferred pursuant to this Agreement.
2. 'competent authority' means:
 - for the Government of Australia, the Australian Safeguards and Non-Proliferation Office,
 - for the Community, the European Commission,or such other authority as the Party concerned may at any time notify in writing to the other Party.
3. 'equipment' means those items listed in Sections 1, 3, 4, 5, 6 and 7 of Annex B to IAEA INFCIRC/254/Rev.9/Part 1 (Guidelines for Nuclear Transfers).
4. 'intellectual property' shall have the meaning set out in Article 2 of the Convention establishing the World Intellectual Property Organization, done at Stockholm on 14 July 1967, as amended on 28 September 1979, and may include other subject matter as mutually determined by the Parties.
5. 'non-nuclear material' means:
 - Deuterium and heavy water (deuterium oxide) and any other deuterium compound in which the ratio of deuterium to hydrogen exceeds 1:5000, for use in a nuclear reactor, as defined in paragraph 1.1 of Annex B to IAEA INFCIRC/254/Rev.9/Part 1 (Guidelines for Nuclear Transfers),
 - Nuclear grade graphite: graphite, for use in a nuclear reactor, as defined in paragraph 1.1 of Annex B to IAEA INFCIRC/254/Rev.9/Part 1 (Guidelines for Nuclear Transfers), having a purity level better than 5 parts per million boron equivalent and with a density greater than 1,50 grams per cubic centimetre.
6. 'nuclear material' means any source material or special fissionable material as those terms are defined in Article XX of the Statute of the IAEA done at the Headquarters of the United Nations on 23 October 1956, and which entered into force on 29 July 1957 (hereinafter referred to as the Statute of the IAEA). Any determination by the Board of Governors of the IAEA under Article XX of the Statute of the IAEA that amends the list of material considered to be 'source material' or 'special fissionable

material', shall only have effect under this Agreement when the Parties have informed each other in writing that they accept that determination.

7. 'Parties' means the Government of Australia on the one hand and the Community on the other hand.
8. 'peaceful purpose' includes the use of nuclear material, non-nuclear material, equipment and technology in such fields as electric power generation, medicine, agriculture and industry, but does not include research on or development of any explosive devices, or any military purpose. Military purpose does not include provision of power for a military base drawn from any power network, or production of radioisotopes to be used for medical purposes in a military hospital.
9. 'persons' means any natural person, undertaking or other entity governed by the applicable laws and regulations in the respective territorial jurisdiction of the Parties, but does not include the Parties to this Agreement.
10. 'technology' has the meaning as defined in Annex A to IAEA INFCIRC/254/Rev.9/Part 1 (Guidelines for Nuclear Transfers).
11. 'the Community' means both:
 - the legal person created by the Euratom Treaty, and
 - the territories to which the Euratom Treaty applies.

Article II

Objective

The objective of this Agreement is to provide a framework for cooperation between the Parties in the peaceful uses of nuclear energy on the basis of mutual benefit and reciprocity and without prejudice to the respective competences of each Party.

Article III

Scope of cooperation

1. Nuclear material, non-nuclear material, equipment and technology subject to this Agreement shall only be used for peaceful purposes and shall not be used for the manufacture of nuclear weapons or other nuclear explosive devices, research on or development of nuclear weapons or other nuclear explosive devices, or be used for any military purpose or in any way to further any military purpose.

Nuclear material, equipment, non-nuclear material or nuclear material produced as a by-product shall be used only for peaceful purposes; and shall not be used for any military purpose.

2. The cooperation envisaged between the Parties under this Agreement may include:

- (a) the supply of nuclear material, non-nuclear material, and equipment;
- (b) technology transfer, including supply of information relevant to this Article, providing that Australia and relevant Member States of the Community have expressed their willingness to place such transfers in the framework of this Agreement;
- (c) transfer of equipment which has been designated by the Parties as equipment designed, constructed or operated on the basis of or by the use of information obtained from the other Party and which is within the jurisdiction of one of the Parties at the time of designation;
- (d) the procurement of equipment and devices;
- (e) access to and use of equipment and facilities;
- (f) management of spent fuel and radioactive waste;
- (g) nuclear safety and radiation protection;
- (h) safeguards;
- (i) use of radioisotopes and radiation in agriculture, industry and medicine;
- (j) geological and geophysical exploration, development, production, further processing and use of uranium resources;
- (k) regulatory aspects of the peaceful uses of nuclear energy; and
- (l) other areas relevant to the subject of this Agreement, insofar as they are covered by the Parties' respective programmes.

3. Cooperation shall extend to nuclear research and development activities of mutual interest to the Parties according to complementary provisions to be agreed by the Parties.

4. The cooperation referred to in paragraph 2 of this Article may be undertaken in the following forms:

- (a) organisation of symposia and seminars;
- (b) organisation of joint projects and establishment of joint ventures;
- (c) establishment of bilateral working groups for implementation of the joint projects;
- (d) supply of nuclear fuel cycle services including uranium conversion and isotopic enrichment;
- (e) trade and commercial cooperation relating to the nuclear fuel cycle;

(f) transfer of industrial equipment and industrial technology; and

(g) other forms of cooperation as may be determined by the Parties in writing.

5. The cooperation in specific areas outlined in paragraph 2 of this Article may be implemented as necessary through arrangements between a legal entity of Australia and a legal entity of the Community, which the respective competent authority notifies the other competent authority as being duly authorised to implement such cooperation. Any such arrangements shall include provisions dealing with intellectual property rights protection where such rights exist or arise.

Article IV

Items subject to the Agreement

1. This Agreement shall apply to:

- (a) Nuclear material, non-nuclear material, or equipment, transferred between the Parties or their respective persons, whether directly or through a third country.

Such nuclear material, non-nuclear material, or equipment shall become subject to this Agreement upon its entry into the territorial jurisdiction of the receiving Party, provided that the supplying Party has notified the receiving Party in writing of the transfer, and the receiving Party has confirmed in writing that such item is or will be held subject to this Agreement and that the proposed recipient, if other than the receiving Party, is an authorised person under the territorial jurisdiction of the receiving Party.

- (b) All forms of nuclear material prepared by chemical or physical processes or isotopic separation provided that the quantity of nuclear material so prepared shall only be regarded as falling within the scope of this Agreement in the same proportion as the quantity of nuclear material used in its preparation, and which is subject to this Agreement, bears to the total quantity of nuclear material so used;
- (c) All generations of nuclear material produced by neutron irradiation provided that the quantity of nuclear material so produced shall only be regarded as falling within the scope of the Agreement in the same proportion as the quantity of nuclear material which is subject to this Agreement and which, used in its production, contributes to this production;
- (d) Nuclear material produced, processed or used in equipment where:
 - (i) non-nuclear material subject to this Agreement was principally or wholly responsible for the production, processing or use of that nuclear material;
 - (ii) equipment subject to this Agreement was wholly responsible for the production, processing or use of that nuclear material;

- (iii) equipment has been designated by the supplying Party after consultation with the recipient Party as being designed, constructed, manufactured or operated on the basis of, or by the use of technology transferred subject to this Agreement; and
 - (iv) equipment referred to in sub paragraphs (ii) and (iii) is restricted to items 1.1, 3, 4, 5, 6, 7 of Annex B to INFCIRC/254/Rev.9/Part 1, and expressly excludes any sub-components of such equipment.
 - (e) Nuclear material which was subject to the Agreement concerning transfers of nuclear material from Australia to the European Atomic Energy Community, done at Brussels on 21 September 1981;
 - (f) Nuclear material which was transferred from Member States of the Community to Australia pursuant to bilateral agreements, and which is notified to the Community at the time this Agreement comes into force; and
 - (g) Nuclear material recovered for nuclear purposes from ores or concentrates, other than uranium ore concentrates, which are transferred between the Parties directly or through a third country, and which recovery has been notified by the transferring Party as being of relevance to the Agreement. If such nuclear material cannot be subject to all of the conditions set out in Article VII, then such nuclear material shall not be used until the Parties have mutually determined the necessary safeguards and physical protection measures to apply.
2. Nuclear material, non-nuclear material, or equipment, referred to in paragraph 1 of this Article shall remain subject to the provisions of this Agreement until it has been determined, in accordance with the procedures set out in the administrative arrangements established pursuant to Article XII of this Agreement:
- (a) that such item has been re-transferred beyond the jurisdiction of the receiving Party in accordance with paragraphs 5 and 6 of Article VII of this Agreement;
 - (b) that nuclear material is no longer usable for any nuclear activity relevant from the point of view of safeguards referred to in paragraph 1 of Article VII or has become practicably irrecoverable. For the purpose of determining when nuclear material subject to this Agreement is no longer usable or is no longer practicably recoverable for processing into a form in which it is usable for any nuclear activity relevant from the point of view of safeguards, both Parties shall accept a determination made by the IAEA in accordance with the provisions for the termination of safeguards of the relevant safeguards agreement to which the IAEA is a party;
 - (c) that non-nuclear material and equipment are no longer usable for nuclear purposes; or

- (d) that the Parties mutually determine that it should no longer be subject to this Agreement.

3. Technology transfer shall be subject to this Agreement for the Member States of the Community that have expressed their willingness to place such transfers in the framework of this Agreement through a written notification from the Member State concerned to the European Commission. A prior notification between the Member State(s) concerned and the European Commission, on one side, and the Government of Australia, on the other, should be given before each transfer.

Article V

Enrichment

Prior to the enrichment of any nuclear material subject to this Agreement to twenty (20) percent or more in the isotope uranium 235, the written consent of both Parties shall be obtained. Such consent shall describe the conditions under which the uranium enriched to twenty (20) percent or more may be used. An arrangement to facilitate the implementation of this provision may be established by the Parties.

Article VI

Trade in nuclear material, non-nuclear material, equipment or technology

1. Any transfer of nuclear material, non-nuclear material or equipment carried out pursuant to the cooperation activities shall be made in accordance with the relevant international commitments of the Community, the Member States of the Community, and Australia in relation to peaceful uses of nuclear energy as listed in Article VII.
2. The Parties shall, to such extent as is practicable, assist each other in the procurement, by either Party or by persons within the Community or under the jurisdiction of the Government of Australia, of nuclear material, non-nuclear material or equipment.
3. The continuation of the cooperation envisaged in the present Agreement shall be contingent upon the mutually satisfactory application of the system for safeguards and control established by the Community in accordance with the Euratom Treaty and of the system for safeguards and control of nuclear material, non-nuclear material or equipment established by the Government of Australia.
4. The provisions of this Agreement shall not be used to impede the implementation of the principle of free movement in the internal market within the EU.
5. Transfers of nuclear material and appropriate services shall be carried out under fair commercial conditions. The implementation of this paragraph shall be without prejudice to the Euratom Treaty and its derived legislation, and to Australian laws and regulations.

6. Further to paragraphs 5 and 6 of Article VII any retransfers of any items or technology subject to this Agreement outside the jurisdiction of the Parties shall only be made in the framework of the commitments undertaken by the Governments of individual Member States of the Community and the Government of Australia within the group of nuclear supplier countries known as the Nuclear Suppliers Group. In particular, the Guidelines for Nuclear Transfers, as set out in IAEA INFCIRC/254/Rev.9/Part 1, shall apply to retransfers of any items subject to this Agreement.

Article VII

Nuclear material subject to the Agreement

1. Nuclear material subject to this Agreement shall be subject to the following conditions:

(a) In the Community, to the Euratom safeguards pursuant to the Euratom Treaty and to the IAEA safeguards pursuant to the following safeguards agreements, as they may be revised and replaced, and in accordance with the Non-Proliferation Treaty:

(i) the Agreement between the Community's non-nuclear weapon Member States, the European Atomic Energy Community and the International Atomic Energy Agency, done at Brussels on 5 April 1973 and which entered into force on 21 February 1977 (IAEA INFCIRC/193);

(ii) the Agreement between France, the European Atomic Energy Community and the International Atomic Energy Agency, done in July 1978 and which entered into force on 12 September 1981 (IAEA INFCIRC/290);

(iii) the Agreement between the United Kingdom of Great Britain and Northern Ireland, the European Atomic Energy Community and the International Atomic Energy Agency for the application of safeguards in the United Kingdom of Great Britain and Northern Ireland in connection with the Treaty on the Non-Proliferation of Nuclear Weapons, done at Vienna on 6 September 1976 and which entered into force on 14 August 1978 (IAEA INFCIRC/263);

(iv) the Additional Protocols IAEA INFCIRC/193/Add.8, IAEA INFCIRC/263/Add.1, and IAEA INFCIRC/290/Add.1 signed in Vienna on 22 September 1998 and which entered into force on 30 April 2004 on the basis of the IAEA INFCIRC/540 (corrected) (Strengthened Safeguards System, Part II);

(b) In Australia, to the IAEA safeguards pursuant to the Agreement between Australia and the International Atomic Energy Agency for the Application of Safeguards in connection with the Treaty on the Non-Proliferation of Nuclear Weapons, which entered into force on 10 July 1974 (IAEA INFCIRC/217); supplemented by a Protocol Additional to the Agreement between Australia and the International Atomic Energy Agency for the application of

safeguards in connection with the Treaty on the Non-Proliferation of Nuclear Weapons, done at Vienna on 23 September 1997 and which entered into force on 12 December 1998 (IAEA INFCIRC/217/Add.1).

2. In the event of the application of any of the agreements with the IAEA referred to in paragraph 1 of this Article being suspended or terminated for any reason within the Community or Australia, the relevant Party shall enter into an agreement with the IAEA which provides for effectiveness and coverage equivalent to that provided by the safeguards agreements referred to in provision (a) or (b) of paragraph 1 of this Article, or, if that is not possible,

(a) the Community, as far as it is concerned, shall apply safeguards based on the Euratom safeguards system, which provides for effectiveness and coverage equivalent to that provided by the safeguards agreements referred to in provision (a) of paragraph 1 of this Article; or, if that is not possible

(b) the Parties shall enter into arrangements for the application of safeguards, which provide for effectiveness and coverage equivalent to that provided by the safeguards agreements referred to in provision (a) or (b) of paragraph 1 of this Article.

3. Application of physical protection measures shall be at all times at levels which satisfy as a minimum the criteria set out in Annex C to IAEA INFCIRC/254/Rev.9/Part 1 (Guidelines for Nuclear Transfers); supplementary to this document, the Member States of the Community, the European Commission, as appropriate, and Australia will refer when applying physical protection measures to their obligations under the Convention on the Physical Protection of Nuclear Material done on 3 March 1980, including any amendments that are in force for each Party and the recommendations in IAEA INFCIRC/225/Rev.5 (Nuclear Security Recommendations on Physical Protection of Nuclear Material and Nuclear Facilities). Transport shall be subject to the provisions of the International Convention on the Physical Protection of Nuclear Material done on 3 March 1980, including any amendments that are in force for each Party, and to the IAEA Regulations for the Safe Transport of Radioactive Material (IAEA Safety Standards Series No TS-R-1).

4. Nuclear safety and waste management shall be subject to the Convention on Nuclear Safety, done at Vienna on 17 June 1994 and which entered into force on 24 October 1996 (IAEA INFCIRC/449), the Joint Convention on the Safety of Spent Fuel Management and on the Safety of Radioactive Waste Management, done at Vienna on 5 September 1997 and which entered into force on 18 June 2001 (IAEA INFCIRC/546), the Convention on Assistance in the Case of a Nuclear Accident or Radiological Emergency, done at Vienna on 26 September 1986 and which entered into force on 26 February 1987 (IAEA INFCIRC/336), the Convention on Early Notification of a Nuclear Accident, done at Vienna on 26 September 1986 and which entered into force on 27 October 1986 (IAEA INFCIRC/335).

5. Nuclear material subject to this Agreement shall not be transferred beyond the territorial jurisdiction of the receiving Party without the prior written consent of the supplier Party, except in accordance with paragraph 6 of this Article.

6. Upon entry into force of this Agreement, the Parties shall exchange lists of third countries to which retransfers by the other Party pursuant to paragraph 5 of this Article are authorised. Each Party shall notify the other Party of changes to its list of third countries.

Article VIII

Reprocessing

The Parties grant their consent to the reprocessing of nuclear fuel containing nuclear material subject to this Agreement provided that such reprocessing takes place in accordance with the conditions set out in Annex A.

Article IX

Intellectual property

The Parties shall ensure the adequate and effective protection of intellectual property created and technology transferred pursuant to the cooperation under this Agreement in accordance with the relevant international agreements and arrangements, and the laws and regulations in force in Australia and in the European Union, the Community or their Member States.

Article X

Exchange of information

1. The Parties may make available to each other and to persons within the Community or under the jurisdiction of the Government of Australia, information at their disposal on matters within the scope of this Agreement.

Information received from any third party under terms which prevents the further supply of such information shall be excluded from the scope of this Agreement.

Information regarded by the supplying Party as being of commercial value shall be supplied only under terms and conditions specified by the supplying Party.

2. The Parties shall encourage and facilitate the exchange of information between persons under the jurisdiction of the Government of Australia on the one hand and persons within the Community on the other hand on matters within the scope of this Agreement.

Information owned by such persons shall be supplied only with the consent of and under terms and conditions to be specified by those persons.

3. The Parties shall take all appropriate precautions to preserve the confidentiality of information received as a result of the operation of this Agreement.

Article XI

Implementation of the Agreement

1. The provisions of this Agreement shall be implemented in good faith in such a manner as to avoid hampering, delay or

undue interference in the nuclear activities in Australia and in the Community and so as to be consistent with the prudent management practices required for the economic and safe conduct of nuclear activities.

2. The provisions of this Agreement shall not be used for the purpose of seeking commercial or industrial advantages, nor of interfering with the commercial or industrial interests, whether domestic or international, of either Party or authorised persons, nor of interfering with the nuclear policy of either Party or of the Governments of the Member States of the Community, nor of hindering the promotion of the peaceful and non-explosive uses of nuclear energy, nor of hindering the movement of items subject to or notified to be made subject to this Agreement either within the respective territorial jurisdiction of the Parties or between the Government of Australia and the Community.

3. The accounting of nuclear material and non-nuclear material subject to this Agreement will be based on the fungibility and the principles of proportionality and equivalence of nuclear materials and non-nuclear material as set out in the administrative arrangements established pursuant to Article XII of this Agreement.

4. Any amendment to IAEA Information Circulars mentioned in Articles I, IV, VI and VII of this Agreement shall have effect under this Agreement only when the Parties have informed each other in writing through diplomatic channels that they accept such amendment.

Article XII

Administrative arrangements

1. The competent authorities of both Parties shall establish administrative arrangements to ensure the effective implementation of the provisions of this Agreement.

2. An administrative arrangement established pursuant to paragraph 1 of this Article may be amended as mutually determined in writing by the competent authorities.

Article XIII

Applicable law

1. The cooperation provided for in this Agreement shall be in accordance with the laws and regulations in force in Australia and within the European Union as well as with the international agreements entered into by the Parties. In the case of the Community the applicable law includes the Euratom Treaty and its derived legislation.

2. Each Party shall be responsible toward the other for ensuring that the provisions of this Agreement are accepted and complied with as to Australia, by all of its governmental enterprises and by all persons under its jurisdiction to whom authorisation has been granted pursuant to this Agreement, and as to the Community, by all persons within the Community to whom authorisation has been granted pursuant to this Agreement.

*Article XIV***Non-compliance**

1. If either Party or any Member State of the Community violates any of the material provisions of the Agreement, the other Party may, on giving written notice to that effect, suspend or terminate in whole or in part cooperation under this Agreement.

2. Before either Party takes action to that effect, the Parties shall consult with a view to reaching a decision on whether corrective or other measures are needed, and if so, the measures to be taken and the time-scale within which such measures shall be taken.

3. Suspension or termination pursuant to paragraph 1 of this Article shall be taken only if there has been failure to implement the corrective or other measures within the time determined by the Parties or, in the event of failure to find a solution, after the lapse of a reasonable period of time. In such cases, the supplier Party shall have the right to require the return of nuclear material, non-nuclear material, equipment and technology subject to this Agreement.

4. In the event of detonation of a nuclear explosive device by a non-nuclear weapon Member State of the Community or by Australia, paragraphs 1 to 3 of this Article shall apply.

*Article XV***Consultation and arbitration**

1. At the request of either Party, representatives of the Parties shall meet when necessary to consult with each other on matters arising out of the application of this Agreement, to supervise its operation and to discuss arrangements for cooperation additional to those provided in this Agreement. Such consultations may also take the form of an exchange of correspondence. Specifically, the Parties shall consult before the commencement of new enrichment or reprocessing projects relevant to nuclear material subject to this Agreement.

2. Any dispute arising out of the interpretation or application of this Agreement which is not settled by negotiation or as may otherwise be resolved between the Parties shall, on the request of either Party, be submitted to an arbitral tribunal which shall be composed of three arbitrators. Each Party shall designate one arbitrator and the two arbitrators so designated shall elect a third, not a national of either Party, who shall be the Chairman. If within thirty days of the request for arbitration either Party has not designated an arbitrator, the other Party to the dispute may request the President of the International Court of Justice to appoint an arbitrator to the Party which has not designated an arbitrator. If within thirty days of the designation or appointment of arbitrators for both the Parties the third

arbitrator has not been elected, either Party may request the President of the International Court of Justice to appoint the third arbitrator. A majority of the members of the arbitral tribunal shall constitute a quorum, and all decisions shall be made by majority vote of all the members of the arbitral tribunal. The arbitral procedure shall be fixed by the tribunal. The decisions of the tribunal shall be binding on both Parties and implemented by them. The remuneration of the arbitrators shall be determined on the same basis as that for ad hoc judges of the International Court of Justice.

3. For dispute resolution purposes, the English text of this Agreement shall be used.

*Article XVI***Complementary provisions**

The provisions of any bilateral nuclear cooperation agreements in force between Australia and Member States of the Community shall be regarded as complementary to this Agreement and shall, where appropriate, be superseded by the provisions of this Agreement.

*Article XVII***Amendments**

1. The Parties may consult, at the request of either Party, on possible amendments to this Agreement, particularly to take account of international developments in the field of nuclear safeguards.

2. This Agreement may be amended if the Parties so agree.

3. Any amendment shall enter into force on the date specified by the Parties, by an exchange of diplomatic notes between the Parties that their respective internal procedures necessary for its entry into force have been completed.

The Annex to this Agreement forms an integral part of this Agreement and may be amended in accordance with this Article.

*Article XVIII***Entry into force and duration**

1. This Agreement shall enter into force on the date of the latter written notification that internal procedures necessary for its entry into force have been completed by the Parties.

2. This Agreement shall remain in force for an initial period of thirty years. Thereafter this Agreement shall be automatically renewed for additional periods of ten years, unless, at least six months before the expiration of any such additional period, a Party notifies the other Party by an exchange of diplomatic notes of its intention to terminate the Agreement.

3. Notwithstanding the suspension, termination or expiration of this Agreement or any cooperation hereunder for any reason, the obligations in Articles III, IV, V, VI, VII, VIII, IX, X, XI, XII and XIII shall continue in effect so long as any nuclear material, non-nuclear material or equipment subject to these Articles remains in the territory of the other Party or under its jurisdiction or control anywhere or until it is mutually determined by the Parties in accordance with the provisions of Article IV that such nuclear material is no longer usable, or is practicably irrecoverable for processing into a form in which it is usable, for any nuclear activity relevant from the point of view of safeguards.

4. This Agreement replaces:

- (a) Agreement between the Government of Australia and the European Atomic Energy Community concerning Transfers of Nuclear Material from Australia to the European Atomic Energy Community, done at Brussels on 21 September 1981;
- (b) Exchange of Notes constituting an Implementing Arrangement, concerning International Obligation Exchanges, to the Agreement between the Government of

Australia and the European Atomic Energy Community (Euratom) concerning Transfers of Nuclear Material of 21 September 1981, done at Brussels on 8 September 1993;

- (c) Exchange of Notes constituting an Implementing Arrangement, concerning Plutonium Transfers, to the Agreement between the Government of Australia and the European Atomic Energy Community (Euratom) concerning Transfers of Nuclear Material of 21 September 1981, done at Brussels on 8 September 1993; and
- (d) Exchange of Notes constituting an Implementing Arrangement between the Government of Australia and the European Atomic Energy Community (Euratom) concerning Plutonium Transfers under the Agreement between the Government of Australia and Euratom concerning Transfers of Nuclear Material from Australia to Euratom, and accompanying Side Letter No 2, of 21 September 1981, and the Implementing Arrangement concerning Plutonium Transfers of 8 September 1993.

Done in duplicate at Canberra on 5 September 2011 in the Bulgarian, Czech, Danish, Dutch, English, Estonian, Finnish, French, German, Greek, Hungarian, Italian, Latvian, Lithuanian, Maltese, Polish, Portuguese, Romanian, Slovak, Slovenian, Spanish and Swedish languages, each text being equally authentic.

IN WITNESS WHEREOF, the undersigned, being duly authorised thereto have signed the present Agreement.

For the European Atomic Energy Community
J. M. BARROSO

For the Government of Australia
J. GILLARD

ANNEX A

REPROCESSING

Whereas Article VIII of the Agreement provides that nuclear material subject to this Agreement (hereinafter referred to as NMSA) shall be reprocessed only according to conditions set out in this Annex.

The Parties to this Agreement,

Acknowledging that the separation, storage, transportation and use of plutonium require particular measures to reduce the risk of nuclear proliferation;

Recognising the role of reprocessing in connection with efficient energy use, management of materials contained in spent fuel or other peaceful non-explosive uses including research;

Desiring predictable and practical implementation of the agreed conditions set out in this Annex, taking into account both their determination to ensure the furtherance of the objective of non-proliferation and the long-term needs of the nuclear fuel cycle programmes of the Parties;

Determined to continue to support the development of international safeguards and other measures relevant to reprocessing and plutonium, including measures to promote proliferation resistance and effective physical protection;

HAVE AGREED AS FOLLOWS:

Article 1

NMSA may be reprocessed subject to the following conditions:

- (a) reprocessing shall take place for the purpose of energy use or management of materials contained in spent fuel, in accordance with the nuclear fuel cycle programme mutually determined through consultation between the competent authorities;
- (b) a description of any proposed nuclear fuel cycle programme, including details on the policy, legal and regulatory framework relevant to reprocessing and plutonium storage, use and transportation shall be provided by the Party envisaging such activities;
- (c) the recovered plutonium shall be stored and used in accordance with the nuclear fuel cycle programme referred to in paragraph (a) above; and
- (d) reprocessing and use of the recovered plutonium for other non-explosive peaceful purposes including research shall take place only under conditions mutually determined in writing between the Parties following consultations pursuant to Article 2 of this Annex.

Article 2

Consultations shall be held between the Parties within forty days of the receipt of a request from either Party:

- (a) to review the operation of the provisions of this Annex;
 - (b) to consider amendments to the nuclear fuel cycle programme referred to in Article 1 of this Annex;
 - (c) to consider improvements in international safeguards and other control techniques including the establishment of new and generally accepted international mechanisms relevant to reprocessing and plutonium; or
 - (d) to consider proposals for reprocessing, use, storage and transportation of the recovered plutonium for other peaceful non-explosive purposes including research.
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REGULATIONS

COMMISSION IMPLEMENTING REGULATION (EU) No 79/2012

of 31 January 2012

laying down detailed rules for implementing certain provisions of Council Regulation (EU) No 904/2010 concerning administrative cooperation and combating fraud in the field of value added tax
(recast)

THE EUROPEAN COMMISSION,

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

Having regard to Council Regulation (EU) No 904/2010 of 7 October 2010 on administrative cooperation and combating fraud in the field of value added tax⁽¹⁾ and, in particular Articles 14, 32, 48 and 49 and Article 51(1) thereof,

Whereas:

- (1) To improve and supplement the instruments to combat fraud, Council Regulation (EC) No 1798/2003 of 7 October 2003 on administrative cooperation in the field of value added tax and repealing Regulation (EEC) No 218/92⁽²⁾ has been recast and repealed by Regulation (EU) No 904/2010. The rules as they can be found in Regulation (EU) No 904/2010 should be reflected at the level of the acts implementing Regulation (EU) No 904/2010.
- (2) Commission Regulation (EC) No 1925/2004 of 29 October 2004 laying down detailed rules for implementing certain provisions of Council Regulation (EC) No 1798/2003 concerning administrative cooperation in the field of value-added tax⁽³⁾ has been substantially amended. Since further amendments are to be made following the adoption of Regulation (EU) No 904/2010 and in order to have a single set of rules on the exchange of information it should be recast in the interests of clarity together with Commission Regulation (EC) No 1174/2009 of 30 November 2009 laying down rules for the implementation of Articles 34a and 37 of Council Regulation (EC) No 1798/2003 as regards refunds of value added tax under Council Directive 2008/9/EC⁽⁴⁾.
- (3) In order to facilitate the exchange of information between Member States it is necessary to specify the exact categories of information to be exchanged without prior request, as well as the frequency with

which those exchanges are to be made, and the relevant practical arrangements. To the extent that Member States intend to abstain from such exchange, they should notify it to the Commission in accordance with Article 14(1) of Regulation (EU) No 904/2010.

- (4) Pursuant to Article 51 of Regulation (EU) No 904/2010 information shall be communicated between tax authorities as far as possible by electronic means. Consequently, the practical arrangements and technical details should be laid down.
- (5) Practical arrangements should be determined for the provision of information relating to invoicing rules, value added tax (VAT) rates applicable in the context of the special schemes applicable to non-established taxable persons and the additional electronic coded information referred to in Article 9(2) of Council Directive 2008/9/EC of 12 February 2008 laying down detailed rules for the refund of value added tax, provided for in Directive 2006/112/EC, to taxable persons not established in the Member State of refund but established in another Member State⁽⁵⁾.
- (6) In order to ensure that Member States are able to effectively make use of the possibilities to require the information foreseen by certain provisions of Directive 2008/9/EC, it is necessary to specify the relevant harmonised codes to be applied when exchanging the relevant information, including the means through which such exchange should take place, in accordance with Regulation (EU) No 904/2010.
- (7) Article 9(2) of Directive 2008/9/EC provides that the Member State of refund may require the applicant to provide additional electronic coded information supplementing the codes set out in Article 9(1) of Directive 2008/9/EC, to the extent that such information is necessary due to any restrictions on the right of deduction under Council Directive 2006/112/EC of 28 November 2006 on the common system of value added tax⁽⁶⁾, or for the implementation of a derogation received by the Member State of refund under Article 395 or 396 of that Directive.

⁽¹⁾ OJ L 268, 12.10.2010, p. 1.

⁽²⁾ OJ L 264, 15.10.2003, p. 1.

⁽³⁾ OJ L 331, 5.11.2004, p. 13.

⁽⁴⁾ OJ L 314, 1.12.2009, p. 50.

⁽⁵⁾ OJ L 44, 20.2.2008, p. 23.

⁽⁶⁾ OJ L 347, 11.12.2006, p. 1.

- (8) Pursuant to Article 48(2) of Regulation (EU) No 904/2010, the competent authorities of the Member State of refund are to notify by electronic means the competent authorities of the other Member States of any information required by them under Article 9(2) of Directive 2008/9/EC.
- (9) For that purpose, the technical details for the transmission of the additional information required by Member States under Article 9(2) of Directive 2008/9/EC should be determined. In particular, the codes to be used for the transmission of this information should be specified. The codes set out in Annex III to this Regulation have been developed by the Standing Committee on Administrative Cooperation (SCAC) on the basis of the information required by Member States for the purposes of applying Article 9(2) of Directive 2008/9/EC.
- (10) Applicants may be required according to Article 11 of Directive 2008/9/EC to provide a description of their business activity using harmonised codes. For that purpose, the commonly used codes provided for in Article 2(1)(d) of Regulation (EC) No 1893/2006 of the European Parliament and of the Council of 20 December 2006 establishing the statistical classification of economic activities NACE Revision 2 and amending Council Regulation (EEC) No 3037/90 as well as certain EC Regulations on specific statistical domains ⁽¹⁾ should be employed.
- (11) Article 25 of Regulation (EU) No 904/2010 states that the requested authority shall, at the request of the requesting authority, notify the addressee of all instruments and decisions emanating from the administrative authorities and concerning the application of VAT legislation in the Member State in which the requesting authority is established.
- (12) Where a Member State of refund requests the Member State of establishment to notify the applicant of its decisions and instruments for the purposes of the application of Directive 2008/9/EC, for reasons of data protection, it should be possible that such notification be made via the common communication network/common system interface (CCN/CSI) as defined in Article 2(1)(q) of Regulation (EU) No 904/2010.
- (13) Rules should be laid down implementing, inter alia, Article 48 of Regulation (EU) No 904/2010 as regards the introduction of administrative cooperation and the exchange of information concerning the rules relating to the place of supply of services, the special schemes and the refund procedure for value added tax.
- (14) Finally, it is necessary to establish a list of the statistical data needed for the evaluation of Regulation (EU) No 904/2010.
- (15) The measures provided for in this Regulation are in accordance with the opinion of the Standing Committee on Administrative Cooperation,

HAS ADOPTED THIS REGULATION:

Article 1

Subject matter

This Regulation lays down detailed rules for implementing Articles 14, 32, 48 and 49 and Article 51(1) of Regulation (EU) No 904/2010.

Article 2

Categories of information to be exchanged without prior request

The categories of information subject to automatic exchange, in accordance with Article 13 of Regulation (EU) No 904/2010, shall be the following:

- (1) information on non-established traders;
- (2) information on new means of transport.

Article 3

Subcategories of information to be exchanged without prior request

1. In respect of non-established traders the information subject to automatic exchange shall be the following:
 - (a) information on the allocation of VAT identification numbers to taxable persons established in another Member State;
 - (b) information on VAT refunds to taxable persons not established in the Member State of refund but established in another Member State pursuant to Council Directive 2008/9/EC.
2. In respect of new means of transport, the information subject to automatic exchange shall be the following:
 - (a) information on supplies exempted in accordance with Article 138(2)(a) of Directive 2006/112/EC, of new means of transport as defined in Article 2(2), (a) and (b) of that Directive, by persons regarded as taxable persons pursuant to Article 9(2) of that Directive who are identified for VAT purposes;
 - (b) information on supplies exempted in accordance with Article 138(2)(a) of Directive 2006/112/EC, of new vessels and aircraft as defined in Article 2(2), (a) and (b) of that Directive, by taxable persons identified for VAT purposes, other than those referred to in point (a), to persons not identified for VAT purposes;
 - (c) information on supplies exempted in accordance with Article 138(2)(a) of Directive 2006/112/EC, of new motorised land vehicles as defined in Article 2(2), (a) and (b) of that Directive, by taxable persons identified for VAT purposes, other than those referred to in point (a), to persons not identified for VAT purposes.

⁽¹⁾ OJ L 393, 30.12.2006, p. 1.

*Article 4***Notification of abstention from participation in the exchange of information without prior request**

By 20 May 2012 each Member State shall notify the Commission in writing of its decision, taken in accordance with the second subparagraph of Article 14(1) of Regulation (EU) No 904/2010, as to whether it is going to abstain from taking part in the automatic exchange of one or more categories or subcategories of information referred to in Articles 2 and 3 of this Regulation. The Commission shall inform the other Member States accordingly of the categories for which a Member State has abstained.

*Article 5***Frequency of the transmission of the information**

In cases where the automatic exchange system is being used, information concerning the categories and subcategories referred to respectively in Articles 2 and 3 shall be provided as soon as it becomes available, and in any event within 3 months of the end of the calendar quarter during which that information has become available.

*Article 6***Transmission of communications**

1. Information communicated pursuant to Regulation (EU) No 904/2010 shall, as far as possible, be transmitted only by electronic means via the CCN/CSI network, with the exception of the following:

- (a) the request for notification referred to in Article 25 of Regulation (EU) No 904/2010 and the instrument or decision of which notification is requested;
- (b) original documents provided pursuant to Article 9 of Regulation (EU) No 904/2010.

2. The competent authorities of the Member States may agree to communicate the information referred to in points (a) and (b) of paragraph 1 by electronic means.

*Article 7***Information to taxable persons**

1. Member States shall provide the details on invoicing listed in Annex I to this Regulation in accordance with Article 32 of Regulation (EU) No 904/2010 via the web portal established by the Commission.

2. The Commission shall make the web portal referred to in paragraph 1 available for those Member States choosing to publish the following additional information:

- (a) the information on storage of invoices listed in Annex II;
- (b) the additional electronic coded information required by Member States pursuant to Article 9(2) of Directive 2008/9/EC;

(c) until 31 December 2014 the standard tax rate referred to in the second paragraph of Article 42 of Regulation (EU) No 904/2010;

(d) as from 1 January 2015 the tax rate applicable for supplies of telecommunication services, broadcasting services and electronically supplied services referred to in the second paragraph of Article 47 of Regulation (EU) No 904/2010.

*Article 8***Information exchanged in the framework of VAT refund**

Where a Member State of refund notifies other Member States that it requires additional electronic coded information as provided for in Article 9(2) of Directive 2008/9/EC, the codes specified in Annex III to this Regulation shall be used for the purposes of transmitting this information.

*Article 9***Description relating to the business activity exchanged in the framework of VAT refund**

Where a Member State of refund requires a description of the applicants business activity as provided for in Article 11 of Directive 2008/9/EC, such information shall be given at the fourth level of the NACE Rev. 2 codes, as provided for in Article 2(1)(d) of Regulation (EC) No 1893/2006.

*Article 10***Notification of instruments and decisions relating to a VAT refund**

Where a Member State of refund requests a Member State of establishment of an addressee to notify instruments and decisions relating to a refund under Directive 2008/9/EC to the addressee, that notification request may be transmitted via the CCN/CSI network as defined in Article 2(1)(q) of Regulation (EU) No 904/2010.

*Article 11***Statistical data**

The list of statistical data referred to in Article 49(3) of Regulation (EU) No 904/2010 is set out in Annex IV.

Each Member State shall, before 30 April each year by electronic means, communicate to the Commission the statistical data referred to in the first paragraph, using the model set out in Annex IV.

*Article 12***Communication of national measures**

Member States shall communicate to the Commission the text of any laws, regulations or administrative provisions which they apply in the field covered by this Regulation.

The Commission shall communicate those measures to the other Member States.

*Article 13***Repeal**

Regulations (EC) No 1925/2004 and (EC) No 1174/2009 are repealed.

References to the repealed Regulations shall be construed as references to this Regulation and shall be read in accordance with the correlation table in Annex VI.

*Article 14***Entry into force**

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, 31 January 2012.

For the Commission

The President

José Manuel BARROSO

ANNEX I

The details on invoicing in accordance with by Article 32 of Regulation (EU) No 904/2010**1. Issuance of invoices**

Article 221(1) of Directive 2006/112/EC — option to require invoices to be issued

Q1. In what other circumstances are invoices required?

Q2. If required, are the invoices simplified invoices or full invoices?

Article 221(2) of Directive 2006/112/EC — option for invoices for exempt financial and insurance services

Q3. Is an invoice required for exempted financial and insurance services?

Q4. If yes, is a simplified or full invoice required?

Article 221(3) of Directive 2006/112/EC — option not to require an invoice for exempt supplies

Q5. For which, if any, exempt supplies is an invoice not required?

2. Time of issue of an invoice

Article 222 of Directive 2006/112/EC — option to impose time limits on when invoices are issued.

Q6. Is there a time limit for issuing invoices other than that for intra-Community supplies or cross-border supplies of services subject to the reverse charge?

Q7. If yes, by when must an invoice be issued?

3. Summary invoices

Article 223 of Directive 2006/112/EC — time period for issuing summary invoices

Q8. Can summary invoices be issued for supplies becoming chargeable to tax during a period of more than 1 calendar month? This excludes intra-Community supplies and cross-border supplies of services subject to the reverse charge.

Q9. If yes, what is the time period?

4. Self-billed invoices

Article 224 of Directive 2006/112/EC — option for self-billed invoices to be issued in the name and on behalf of the taxable person

Q10. Is there a requirement for self-billed invoices to be issued in the name of and behalf of the taxable person making the supply?

5. Outsourcing of invoices to non-EU third parties

Article 225 of Directive 2006/112/EC — option to impose conditions on non-EU third parties issuing invoices on behalf of EU suppliers

Q11. Are any conditions imposed on outsourcing of invoices to third parties established outside the EU?

Q12. If yes, what conditions are imposed?

6. Content of invoices

Article 227 of Directive 2006/112/EC — requirement to mention the customer's VAT identification number

Q13. Other than for intra-Community supplies of goods or reverse charge supplies is the customer's VAT identification number required on the invoice?

Q14. If yes, in what circumstances is the customer's VAT identification number required on an invoice?

Article 230 of Directive 2006/112/EC — currency on the VAT invoice

Q15. Where the VAT amount is converted to the national currency using the exchange rate from the European Central Bank, is notification required?

Article 239 of Directive 2006/112/EC — use of a tax reference number

Q16. Is a VAT identification number issued if the supplier or customer does not make intra-Community acquisitions, distance sales or intra-Community supplies?

Article 240 of Directive 2006/112/EC — use of a VAT identification number and a tax reference number

Q17. Where both a VAT identification number and a tax reference number are issued, in what circumstance is one or both required to be mentioned on the invoice?

7. **Paper and electronic invoices**

Article 235 of Directive 2006/112/EC — electronic invoices issued from outside of the EU

Q18. Are there any conditions for electronic invoices issued from a third country?

Q19. If yes, what are those conditions?

8. **Simplified invoices**

Article 238 of Directive 2006/112/EC — use of simplified invoices

Q20. In what circumstances are simplified invoices allowed?

Article 226b of Directive 2006/112/EC — details required on a simplified invoice

Q21. What details are required for simplified invoices?

ANNEX II

The information on storage of invoices that Member States may provide via the web portal

Article 245 of Council Directive 2006/112/EC — place of storage

Q1. If the place of storage is outside the Member State, is the notification of the place of storage required?

Q2. If yes, how is this notification to be done?

Q3. Can paper invoices be stored outside the Member State?

Article 247(1) of Council Directive 2006/112/EC — storage period

Q4. What are the periods of storage for invoices?

Article 247(2) of Council Directive 2006/112/EC — form of storage

Q5. Can paper invoices be stored electronically?

Q6. Can electronic invoices be stored in paper form?

Q7. Must the data guaranteeing the authenticity of the origin and integrity of the content of invoices stored electronically be kept in the case when e-signatures or EDI are used?

Article 247(3) of Council Directive 2006/112/EC — storage in a third country

Q8. Can invoices be stored in a third country?

Q9. If yes, are there any conditions?

ANNEX III

Codes for use in the transmission of information under Article 48(2) of Regulation (EU) No 904/2010

Code 1. Fuel	
1.1. Fuel for means of transport with a mass greater than 3 500 kg, other than means of transport for paying passengers	1.1.1. Petrol 1.1.2. Diesel 1.1.3. LPG 1.1.4. Natural Gas 1.1.5. Bio fuel
1.2. Fuel for means of transport with a mass less than or equal to 3 500 kg other than means of transport for paying passengers	1.2.1. Petrol 1.2.2. Diesel 1.2.3. LPG 1.2.4. Natural Gas 1.2.5. Bio fuel 1.2.6. PKW 1.2.7. LKW
1.3. Fuel for means of transport for paying passengers	1.3.1. Petrol 1.3.2. Diesel 1.3.3. LPG 1.3.4. Natural Gas 1.3.5. Bio fuel
1.4. Fuel used specifically for test vehicles	
1.5. Petroleum products used for lubrication of means of transport or engines	
1.6. Fuel purchased for resale	
1.7. Fuel for means of goods transport	
1.8. Fuel for passenger and multipurpose cars	1.8.1. Used exclusively for business purposes 1.8.2. Used partly for commercial passenger transport, driving instruction or rental purposes 1.8.3. Used partly for other than 1.8.2 purposes
1.9. Fuel for motorcycles, caravans and vessels for recreational or sports purposes, and aircraft with a mass less than 1 550 kg	1.9.1. Used for commercial passenger transport, driving instruction or rental purposes 1.9.2. Used for business purposes
1.10. Fuel for machines and agriculture tractors	1.10.1. Petrol 1.10.2. Diesel 1.10.3. LPG 1.10.4. Natural Gas 1.10.5. Bio fuel

1.11. Fuel for means of passenger transport with less than 9 spaces or a rental car	1.11.1. Petrol 1.11.2. Diesel 1.11.3. LPG 1.11.4. Natural Gas 1.11.5. Bio fuel
1.12. Fuel for means of passenger transport other than 1.8 and 1.9	
1.13. Fuel for means of transport for which there exists no restriction on the right to deduct	
1.14. Fuel for means of transport for which there exists a restriction on the right to deduct.	

Code 2. Hiring of means of transport

2.1. Hiring of means of transport with a mass greater than 3 500 kg other than means of transport for paying passengers	
2.2. Hiring of means of transport with a mass less than or equal to 3 500 kg other than means of transport for paying passengers	2.2.1. For a continuous period exceeding 6 months 2.2.2. For a continuous period equal to or not exceeding 6 months 2.2.3. PKW 2.2.4. LKW
2.3. Hiring of means of transport for paying passengers	2.3.1. For a continuous period exceeding 6 months 2.3.2. For a continuous period equal to or not exceeding 6 months
2.4. Hiring of means of goods transport	
2.5. Hiring of passenger and multipurpose cars	2.5.1. Used exclusively for business purposes 2.5.2. Used partly for commercial passenger transport or driving instruction 2.5.3. Used partly for other than 2.5.2 purposes
2.6. Hiring of motorcycles, caravans and vessels for recreational or sports purposes, and aircraft with a mass less than 1 550 kg	2.6.1. Used for commercial passenger transport or driving instruction 2.6.2. Used for other business purposes
2.7. Hiring of passenger cars of the M1 category	
2.8. Hiring of means of passenger transport with more than 9 spaces	
2.9. Hiring of means of passenger transport with less than 9 spaces	2.9.1. Used for commercial operations 2.9.2. Used for other than commercial operations
2.10. Hiring of means of transport for which there exists no restriction on the right to deduct	

2.11.	Hiring of a means of transport for which there exists a restriction on the right to deduct.	
2.12.	Hiring of means of transport other than 2.5 and 2.6	

Code 3. Expenditure relating to means of transport (other than goods and services referred to under codes 1 and 2)

3.1.	Expenditure relating to means of transport with a mass greater than 3 500 kg other than means of transport for paying passengers	3.1.1. Purchase of means of transport with a mass greater than 3 500 kg other than means of transport for paying passengers 3.1.2. Maintenance of a means of transport with a mass greater than 3 500 kg other than means of transport for paying passengers 3.1.3. Purchase and installation of accessories for a means of transport with a mass greater than 3 500 kg other than means of transport for paying passengers 3.1.4. Garaging or parking of a means of transport with a mass greater than 3 500 kg other than means of transport for paying passengers 3.1.5. Other expenditure relating to a means of transport with a mass greater than 3 500 kg other than means of transport for paying passengers
3.2.	Expenditure relating to means of transport with a mass less than or equal to 3 500 kg other than means of transport for paying passengers	3.2.1. Purchase of means of transport with a mass less than or equal to 3 500 kg other than means of transport for paying passengers 3.2.2. Maintenance of a means of transport with a mass less than or equal to 3 500 kg other than means of transport for paying passengers 3.2.3. Purchase and installation of accessories for a means of transport with a mass less than or equal to 3 500 kg other than means of transport for paying passengers 3.2.4. Garaging or parking of a means of transport with a mass less than or equal to 3 500 kg other than means of transport for paying passengers 3.2.5. Other expenditure relating to a means of transport with a mass less than or equal to 3 500 kg other than means of transport for paying passengers 3.2.6. PKW 3.2.7. LKW
3.3.	Expenditure relating to means of transport for paying passengers	3.3.1. Purchase of a means of transport for paying passengers 3.3.2. Maintenance of a means of transport for paying passengers 3.3.3. Purchase and installation of accessories for a means of transport for paying passengers 3.3.4. Garaging or parking of a means of transport for paying passengers 3.3.5. Other expenditure relating to a means of transport for paying passengers
3.4.	Expenditure relating to means of goods transport	3.4.1. Purchase of a means of goods transport 3.4.2. Maintenance of a means of goods transport 3.4.3. Garaging or parking of a means of goods transport 3.4.4. Expenditure relating to means of goods transport other than 3.4.1, 3.4.2 and 3.4.3

3.5. Maintenance of passenger and multi-purpose cars	3.5.1. Used exclusively for business purposes 3.5.2. Used partly for commercial passenger transport, driving instruction, or rental purposes 3.5.3. Used partly for business purposes other than 3.5.2
3.6. Maintenance, of motorcycles, caravans and vessels for recreational and sports purposes, and aircrafts with a mass greater than 1 550 kg	3.6.1. Used for commercial passenger transport, driving instruction, rental purposes 3.6.2. Used for other business purposes
3.7. Expenditure, other than maintenance, garaging and parking relating to passenger and multipurpose cars	3.7.1. Used exclusively for business purposes 3.7.2. Used partly for commercial passenger transport, driving instruction or rental purposes 3.7.3. Used partly for purposes other than 3.7.2
3.8. Expenditure, other than maintenance, garaging and parking relating to motorcycles, caravans and vessels for recreational and sports purposes, and aircrafts with a mass greater than 1 550 kg.	3.8.1. Used for commercial passenger transport, driving instruction, rental purposes or resale 3.8.2. Used for other business purposes
3.9. Purchase of passenger car of M1 category	
3.10. Purchase of accessories for passenger cars of M1 category, including their assembly and installation	
3.11. Expenditure relating to means of passenger transport with more than 9 places, or to means of goods transport	
3.12. Expenditure relating to means of passenger transport with less than 9 places used for commercial operations	
3.13. Expenditure relating to means of transport for which there exists no restriction on the right to deduct	
3.14. Expenditure relating to means of transport for which there exists a restriction on the right to deduct	
3.15. Maintenance of means of passenger transport other than passenger and multipurpose cars, motorcycles, caravans and vessels for recreational and sports purposes, and aircraft with a mass greater than 1 550 kg.	
3.16. Garaging or parking of a means of passenger transport	
3.17. Expenditure, other than maintenance, garaging or parking relating to means of transport other than passenger and multipurpose cars, motorcycles, caravans and vessels for recreational and sports purposes, and aircraft with a mass greater than 1 550 kg	

Code 4. Road tolls and road user charge

4.1.	Road tolls for means of transport with a mass greater than 3 500 kg other than means of transport for paying passengers	
4.2.	Road tolls for vehicles with a mass less than or equal to 3 500 kg other than means of transport for paying passengers	4.2.1. PKW 4.2.2. LKW
4.3.	Road tolls for means of transport for paying passengers	
4.4.	Road tolls for any means of transport across the Great Belt Bridge	
4.5.	Road tolls for any means of transport across the Öresund Bridge	
4.6.	Road tolls for means of transport for paying passengers with more than 9 places	
4.7.	Road tolls for means of transport for paying passengers with less than 9 places	
4.8.	Road tolls for vehicles used in the context of a conference, fair, exhibition or congress	4.8.1. For the organiser of the event 4.8.2. For a participant in the event, where the expenditure is directly charged by the organiser

Code 5. Travel expenses, such as taxi fares, public transport fares

5.1.	For the taxable person or an employee of the taxable person	
5.2.	For someone other than the taxable person, or an employee of the taxable person	
5.3.	For the taxable person or an employee of the taxable person in the context of a conference, fair, exhibition or congress	5.3.1. For the organiser of the event 5.3.2. For a participant in the event, where the expenditure is directly charged by the organiser

Code 6. Accommodation

6.1.	Expenditure on lodging and accommodation for the taxable person, or an employee of the taxable person	
6.2.	Expenditure on lodging and accommodation for someone other than the taxable person or an employee of the taxable person	
6.3.	Expenditure on lodging and accommodation for the taxable person or an employee of the taxable person attending qualifying conferences	

6.4.	Expenditure on lodging and accommodation for the taxable person or an employee of the taxable person in the context of a conference, fair, exhibition or congress	6.4.1.	For the organiser of the event
		6.4.2.	For a participant in the event, where the expenditure is directly charged by the organiser
6.5.	Expenditure on lodging and accommodation for an employee of the taxable person effecting supplies of goods or services		
6.6.	Expenditure on lodging and accommodation for onward supply		
6.7.	Expenditure on lodging other than 6.5 or 6.6		

Code 7. Food, drink and restaurant services

7.1.	Food and drink provided by hotels, bars, restaurants and boarding houses, including breakfast	7.1.1.	For the taxable person or an employee of the taxable person
		7.1.2.	For someone other than the taxable person or an employee of the taxable person
7.2.	Food and drink provided in the context of a conference, fair, exhibition or congress	7.2.1.	For the organiser of the event
		7.2.2.	For a participant in the event, where the expenditure is directly charged by the organiser
7.3.	Food and drink for an employee of the taxable person effecting supplies of goods or services		
7.4.	Restaurant services purchased for onward supply		
7.5.	Purchase of food, drink or restaurant services other than 7.2, 7.3 and 7.4		

Code 8. Admissions to fairs and exhibitions

8.1.	For the taxable person or an employee of the taxable person		
8.2.	For someone other than the taxable person or an employee of the taxable person		

Code 9. Expenditure on luxuries, amusements and entertainment

9.1.	Purchase of alcohol		
9.2.	Purchase of manufactured tobacco		
9.3.	Expenditure on receptions and entertainment.	9.3.1.	For publicity purposes
		9.3.2.	Not for publicity purposes
9.4.	Expenditure on maintenance of pleasure craft		
9.5.	Expenditure on works of art, collectors items and antiques		

9.6.	Expenditure on luxuries, amusements and entertainment for advertising	
9.7.	Expenditure on luxuries, amusements and entertainment other than 9.1, 9.2 and 9.3	
Code 10. Other		
10.1.	Tools	
10.2.	Repairs within a warranty period	
10.3.	Services connected with education	
10.4.	Work on property	10.4.1. Work on immoveable property 10.4.2. Work on immoveable property used as a dwelling 10.4.3. Work on moveable property other than code 3
10.5.	Purchase or hiring of property	10.5.1. Purchase or hiring of immoveable property 10.5.2. Purchase or hiring of immoveable property used as a dwelling, or for recreational or leisure use. 10.5.3. Purchase or hiring of moveable property connected with or used in immoveable property used as a dwelling, or for recreational or leisure use. 10.5.4. Purchase or hiring of moveable property other than code 2
10.6.	Provision of water, gas or electricity through a distribution network	
10.7.	Gifts of a small value	
10.8.	Office expenses	
10.9.	Participation in fairs and seminars, education or training	10.9.1. Fairs 10.9.2. Seminars 10.9.3. Education 10.9.4. Training
10.10.	Flat rate additions on livestock and agricultural produce	
10.11.	Expenditure on postage of mail to countries outside the EU	
10.12.	Expenditure on fax and phone in connection with accommodation	
10.13.	Goods and services acquired by a travel organiser for the direct benefit of the traveller	
10.14.	Goods purchased for resale other than 1.6	
10.15.	services purchased for resale other than 6.6 and 7.4	

10.16. Work on property	10.16.1. Work on immovable property used as a residence, recreational or leisure facility 10.16.2. Work on immovable property other than 10.16.1 10.16.3. Work on moveable property connected with or use of an immovable property in 10.16.1 10.16.4. Work on moveable property other than 10.16.3
10.17. Expenditure on property	10.17.1. Expenditure on immovable property used as a dwelling, or for recreational or leisure use. 10.17.2. Expenditure on immovable property other than 10.17.1

Model for the communication from the Member States to the Commission referred to in Article 49(3) of Regulation (EU) No 904/2010

Member State:

Year:

Part A: Statistics per Member State:

Box	Articles 7-12					Article 15		Article 16				Article 25	
	1	2	3	4	5	6	7	8	9	10	11	12	13
	Requests for information received	Requests for information sent	Late + outstanding replies	Replies received within 1 month	Notifications under Article 12 received	Spontaneous information received	Spontaneous information sent	Incoming requests for feedback	Feedback sent	Outgoing requests for feedback	Feedback received	Request for administrative notification received	Request for administrative notification sent
AT													
BE													
BG													
CY													
CZ													
DE													
DK													
EE													
EL													
ES													
FI													
FR													
GB													
HU													
IE													

	Articles 7-12					Article 15		Article 16				Article 25	
Box	1	2	3	4	5	6	7	8	9	10	11	12	13
	Requests for information received	Requests for information sent	Late + outstanding replies	Replies received within 1 month	Notifications under Article 12 received	Spontaneous information received	Spontaneous information sent	Incoming requests for feedback	Feedback sent	Outgoing requests for feedback	Feedback received	Request for administrative notification received	Request for administrative notification sent
IT													
LT													
LU													
LV													
MT													
NL													
PL													
PT													
RO													
SE													
SI													
SK													
Total													

Part B: Other global statistics:**Statistics on traders**

14	Number of traders that have declared intra-Community acquisitions during the calendar year	
15	Number of traders that have declared intra-Community sales of goods and/or services during the calendar year	

Statistics on controls and enquiries

16	Number of times Article 28 of Regulation (EU) No 904/2010 (Presence in administrative offices and participation in administrative enquiries in other Member States) has been used	
17	Number of simultaneous controls which the Member State has initiated (Articles 29 and 30 of Regulation (EU) No 904/2010)	

18	Number of simultaneous controls in which the Member State has participated (Articles 29 and 30 of Regulation (EU) No 904/2010)	
Statistics on automatic exchange of information without request (recast Commission Regulation (EU) No 79/2012)		
19	Quantity of VAT identification numbers allocated to taxable persons who are not established in your Member State (Article 3(1)a of Regulation (EU) No 79/2012)	
20	Volumes of information on new means of transport (Article 3(2) of Regulation (EU) No 79/2012) forwarded to other Member States	
Optional boxes (free text)		
21	Any other (automatic) exchange of information not covered in previous boxes.	
22	Benefits and/or results of administrative cooperation.	

ANNEX V

Repealed Regulations

Commission Regulation (EC) No 1925/2004
(OJ L 331, 5.11.2004, p. 13)

Commission Regulation (EC) No 1792/2006
(OJ L 362, 20.12.2006, p. 1)

Commission Regulation (EC) No 1174/2009
(OJ L 314, 1.12.2009, p. 50)

ANNEX VI

Correlation Table

Regulation (EC) No 1925/2004	Regulation (EC) No 1174/2009	This Regulation
Article 1		Article 1
Article 2		—
Points (1) and (2) of Article 3		Article 2(1) and (2)
Points (3), (4) and (5) of Article 3		—
Article 4(1) and (2)		Article 3(1) and (2)
Article 4(3), (4) and (5)		—
The first paragraph of Article 5		Article 4
The second paragraph of Article 5		—
Article 6		Articles 5
Article 7		Article 6
Article 8		—
Article 9		Article 11
Article 10		Article 12
Article 11		Article 14
Annex		Annex IV
	Article 1	Article 8
	Article 2	Article 9
	Article 3	Article 10
	Annex	Annex III

COMMISSION IMPLEMENTING REGULATION (EU) No 80/2012**of 31 January 2012****establishing the list of biological or chemical substances provided for in Article 53(1)(b) of Council Regulation (EC) No 1186/2009 setting up a Community system of reliefs from customs duty****(codification)**

THE EUROPEAN COMMISSION,

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

Having regard to Council Regulation (EC) No 1186/2009 of 16 November 2009 setting up a Community system of reliefs from customs duty ⁽¹⁾,

Whereas:

(1) Commission Regulation (EEC) No 2288/83 of 29 July 1983 establishing the list of biological or chemical substances provided for in Article 60(1)(b) of Council Regulation (EEC) No 918/83 setting up a Community system of reliefs from customs duty ⁽²⁾ has been substantially amended several times ⁽³⁾. In the interests of clarity and rationality the said Regulation should be codified.

(2) Article 53(1)(b) and (2) of Regulation (EC) No 1186/2009 provides for admission with relief from import duties for biological or chemical substances imported exclusively for non-commercial purposes by public establishments, or those departments of public establishments, or by officially authorised private establishments, whose principal activity is education or scientific research. Such admission with relief from import duties is limited, however, to biological or chemical substances for which there is no equivalent production in the customs territory of the Union and which are included in a list drawn up in accordance with the procedure referred to in Article 247a of

Council Regulation (EEC) No 2913/92 of 12 October 1992 establishing the Community Customs Code ⁽⁴⁾.

(3) According to information obtained from the Member States there is no equivalent production in the customs territory of the Union of the biological or chemical substances listed in Annex I to this Regulation.

(4) The measures provided for in this Regulation are in accordance with the opinion of the Customs Code Committee,

HAS ADOPTED THIS REGULATION:

Article 1

The list of biological or chemical substances eligible for admission with relief from import duty provided for in Article 53(1)(b) of Regulation (EC) No 1186/2009 is set out in Annex I to this Regulation.

Article 2

Regulation (EEC) No 2288/83 is repealed.

References to the repealed Regulation shall be construed as references to this Regulation and shall be read in accordance with the correlation table in Annex III.

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, 31 January 2012.

*For the Commission**The President*

José Manuel BARROSO

⁽¹⁾ OJ L 324, 10.12.2009, p. 23.

⁽²⁾ OJ L 220, 11.8.1983, p. 13.

⁽³⁾ See Annex II.

⁽⁴⁾ OJ L 302, 19.10.1992, p. 1.

ANNEX I

CUS number	CN code ⁽¹⁾	Description
	ex 2845 90 90	Helium-3
	ex 2845 90 90	(Oxygen-18) Water
0020273-3	ex 2901 29 00	3-Methylpent-1-ene
0020274-4	ex 2901 29 00	4-Methylpent-1-ene
0020275-5	ex 2901 29 00	2-Methylpent-2-ene
0020276-6	ex 2901 29 00	3-Methylpent-2-ene
0020277-7	ex 2901 29 00	4-Methylpent-2-ene
0025634-8	ex 2902 19 00	P-Mentha-1 (7), 2-diene beta- Phellandrene
0014769-3	ex 2903 99 90	4,4'-Dibromobiphenyl
0017305-7	ex 2904 10 00	Ethyl methanesulphonate
0014364-6	ex 2923 90 00	Decamethonium bromide (INN)
0020641-7	ex 2926 90 95	1-Naphtonitrile
0020642-8	ex 2926 90 95	2-Naphtonitrile
0022830-8	ex 2936 21 00	Retinyl acetate
0045091-9	ex 3204 12 00	Sulphorhodamine G (C.I. Acid Red 50)
0021887-1	ex 3507 90 90	Phosphoglucomutase

⁽¹⁾ Where 'ex' CN codes are indicated, the preferential scheme is to be determined by application of the CN code and corresponding description taken together.

ANNEX II

Repealed Regulation with list of its successive amendments

Commission Regulation (EEC) No 2288/83
(OJ L 220, 11.8.1983, p. 13).

Commission Regulation (EEC) No 1798/84
(OJ L 168, 28.6.1984, p. 22).

Commission Regulation (EEC) No 2340/86
(OJ L 203, 26.7.1986, p. 15).

Commission Regulation (EEC) No 3692/87
(OJ L 347, 11.12.1987, p. 16).

Commission Regulation (EEC) No 213/89
(OJ L 25, 28.1.1989, p. 70).

ANNEX III

CORRELATION TABLE

Regulation (EEC) No 2288/83	This Regulation
Article 1	Article 1
—	Article 2
Article 2	Article 3
Annex	Annex I
—	Annex II
—	Annex III

COMMISSION IMPLEMENTING REGULATION (EU) No 81/2012

of 31 January 2012

concerning the denial of authorisation of *Lactobacillus pentosus* (DSM 14025) as a feed additive

(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 or denying such authorisation. Article 10(7) of Regulation (EC) No 1831/2003 provides for the evaluation of substances, micro-organisms and preparations used in the Union as silage additives at the date that Regulation became applicable. Silage additives were not subject to evaluation or authorisation under previous Union legislation.

(2) In accordance with Article 10(1)(b) and Article 10(7) of Regulation (EC) No 1831/2003, the preparation *Lactobacillus pentosus* (DSM 14025) was entered in the Register of feed additives as a silage additive for all animal species.

(3) In accordance with Article 10(2) in conjunction with Article 7 of Regulation (EC) No 1831/2003, an application was submitted for the authorisation of *Lactobacillus pentosus* (DSM 14025) as a feed additive for all animal species, with the request to classify it in the category 'technological additives' and in the functional group 'silage additives'. That application was accompanied by the particulars and documents required under Article 7(3) of Regulation (EC) No 1831/2003.

(4) The European Food Safety Authority (the Authority) concluded in its opinion of 16 November 2011⁽²⁾ that *Lactobacillus pentosus* (DSM 14025) is resistant to three antibiotics used in human and veterinary medicine.

(5) The information available does not permit the risk to be excluded that *Lactobacillus pentosus* (DSM 14025) may spread resistance to those antibiotics to micro-organisms. Consequently, it has not been established that *Lactobacillus pentosus* (DSM 14025) does not have an adverse effect on animal health, human health and the environment, when used under the proposed conditions.

(6) The conditions for authorisation, as provided for in Article 5 of Regulation (EC) No 1831/2003, are therefore not satisfied. Accordingly, the authorisation of *Lactobacillus pentosus* (DSM 14025) as a feed additive should be denied.

(7) Since further use of *Lactobacillus pentosus* (DSM 14025) as a feed additive may cause a risk to human and animal health, respective products should be withdrawn from the market as soon as possible.

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

HAS ADOPTED THIS REGULATION:

Article 1

Authorisation of *Lactobacillus pentosus* (DSM 14025) as an additive in animal nutrition is denied.

Article 2

Existing stocks of *Lactobacillus pentosus* (DSM 14025) and premixtures containing it shall be withdrawn from the market as soon as possible and at the latest by 22 April 2012. Silage produced with *Lactobacillus pentosus* (DSM 14025) before the date of entry into force of this Regulation may be used up until stocks are exhausted.

Article 3

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

⁽¹⁾ OJ L 268, 18.10.2003, p. 29.

⁽²⁾ EFSA Journal 2011; 9(11):2449.

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

Done at Brussels, 31 January 2012.

For the Commission
The President
José Manuel BARROSO

COMMISSION IMPLEMENTING REGULATION (EU) No 82/2012**of 31 January 2012****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 Implementing Regulation (EU) No 543/2011 of 7 June 2011 laying down detailed rules for the application of Council Regulation (EC) No 1234/2007 in respect of the fruit and vegetables and processed fruit and vegetables sectors ⁽²⁾, and in particular Article 136(1) thereof,

Whereas:

- (1) Implementing Regulation (EU) No 543/2011 lays down, pursuant to the outcome of the Uruguay Round multi-lateral 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 XVI, Part A thereto.

- (2) The standard import value is calculated each working day, in accordance with Article 136(1) of Implementing Regulation (EU) No 543/2011, taking into account variable daily data. Therefore this Regulation should enter into force on the day of its publication in the *Official Journal of the European Union*,

HAS ADOPTED THIS REGULATION:

Article 1

The standard import values referred to in Article 136 of Implementing Regulation (EU) No 543/2011 are fixed in the Annex to this Regulation.

Article 2

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

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

Done at Brussels, 31 January 2012.

*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 157, 15.6.2011, 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	138,3
	MA	51,9
	TN	91,3
	TR	123,6
	ZZ	101,3
0707 00 05	EG	217,9
	JO	241,9
	MA	148,6
	TR	175,4
	ZZ	196,0
0709 91 00	EG	143,2
	ZZ	143,2
0709 93 10	MA	107,2
	TR	182,4
	ZZ	144,8
0805 10 20	EG	52,6
	MA	53,2
	TN	58,6
	TR	64,0
	ZZ	57,1
0805 20 10	IL	185,7
	MA	87,2
	ZZ	136,5
0805 20 30, 0805 20 50, 0805 20 70, 0805 20 90	CN	61,2
	EG	88,5
	IL	101,9
	JM	118,0
	KR	91,7
	MA	124,1
	PK	50,1
	TR	87,8
	ZZ	90,4
0805 50 10	EG	69,0
	TR	53,5
	ZZ	61,3
0808 10 80	CA	118,4
	CL	98,4
	CN	74,5
	US	141,9
	ZZ	108,3
0808 30 90	CN	53,7
	TR	95,1
	US	118,8
	ZA	92,8
	ZZ	90,1

⁽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 IMPLEMENTING REGULATION (EU) No 83/2012
of 31 January 2012
fixing the import duties in the cereals sector applicable from 1 February 2012

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 (EU) No 642/2010 of 20 July 2010 laying down detailed rules for the application of Council Regulation (EC) No 1234/2007 in respect of import duties in the cereals sector ⁽²⁾, and in particular Article 2(1) thereof,

Whereas:

(2) Article 136(2) of Regulation (EC) No 1234/2007 lays down that, in order to calculate the import duty referred to in paragraph 1 of that Article, representative cif import prices are to be established on a regular basis for the products in question.

(3) Under Article 2(2) of Regulation (EU) No 642/2010, the price to be used for the calculation of the import duty on products covered by CN codes 1001 19 00, 1001 11 00, ex 1001 91 20 (common wheat seed), ex 1001 99 00 (high quality common wheat other than for sowing), 1002 10 00, 1002 90 00, 1005 10 90, 1005 90 00, 1007 10 90 and 1007 90 00 is the daily cif representative import price determined as specified in Article 5 of that Regulation.

(4) Import duties should be fixed for the period from 1 February 2012 and should apply until new import duties are fixed and enter into force.

(5) Given the need to ensure that this measure applies as soon as possible after the updated data have been made available, this Regulation should enter into force on the day of its publication,

HAS ADOPTED THIS REGULATION:

(1) Article 136(1) of Regulation (EC) No 1234/2007 states that the import duty on products covered by CN codes 1001 19 00, 1001 11 00, ex 1001 91 20 (common wheat seed), ex 1001 99 00 (high quality common wheat other than for sowing), 1002 10 00, 1002 90 00, 1005 10 90, 1005 90 00, 1007 10 90 and 1007 90 00 is to be equal to the intervention price valid for such products on importation and increased by 55 %, minus the cif import price applicable to the consignment in question. However, that duty may not exceed the rate of duty in the Common Customs Tariff.

Article 1

From 1 February 2012, the import duties in the cereals sector referred to in Article 136(1) of Regulation (EC) No 1234/2007 shall be those fixed in Annex I to this Regulation on the basis of the information contained in Annex II.

Article 2

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

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

Done at Brussels, 31 January 2012.

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 187, 21.7.2010, p. 5.

ANNEX I

Import duties on the products referred to in Article 136(1) of Regulation (EC) No 1234/2007 applicable from 1 February 2012

CN code	Description	Import duties ⁽¹⁾ (EUR/t)
1001 19 00 1001 11 00	Durum wheat, high quality	0,00
	medium quality	0,00
	low quality	0,00
ex 1001 91 20	Common wheat seed	0,00
ex 1001 99 00	High quality common wheat other than for sowing	0,00
1002 10 00 1002 90 00	Rye	0,00
1005 10 90	Maize seed other than hybrid	0,00
1005 90 00	Maize other than seed ⁽²⁾	0,00
1007 10 90 1007 90 00	Grain sorghum other than hybrids for sowing	0,00

⁽¹⁾ The importer may benefit, under Article 2(4) of Regulation (EU) No 642/2010, from a reduction in the duty of:

- EUR 3/t, where the port of unloading is located on the Mediterranean Sea (beyond the Strait of Gibraltar) or on the Black Sea, for goods arriving in the Union via the Atlantic Ocean or the Suez Canal,
- EUR 2/t, where the port of unloading is located in Denmark, Estonia, Ireland, Latvia, Lithuania, Poland, Finland, Sweden, the United Kingdom or on the Atlantic coast of the Iberian Peninsula, for goods arriving in the Union via the Atlantic Ocean.

⁽²⁾ The importer may benefit from a flat-rate reduction of EUR 24/t where the conditions laid down in Article 3 of Regulation (EU) No 642/2010 are met.

ANNEX II

Factors for calculating the duties laid down in Annex I

17.1.2012-30.1.2012

1. Averages over the reference period referred to in Article 2(2) of Regulation (EU) No 642/2010:

(EUR/tonne)

	Common wheat ⁽¹⁾	Maize	Durum wheat, high quality	Durum wheat, medium quality ⁽²⁾	Durum wheat, low quality ⁽³⁾
Exchange	Minneapolis	Chicago	—	—	—
Quotation	243,28	188,27	—	—	—
Fob price USA	—	—	330,76	320,76	300,76
Gulf of Mexico premium	88,08	17,87	—	—	—
Great Lakes premium	—	—	—	—	—

⁽¹⁾ Premium of EUR 14/t incorporated (Article 5(3) of Regulation (EU) No 642/2010).⁽²⁾ Discount of EUR 10/t (Article 5(3) of Regulation (EU) No 642/2010).⁽³⁾ Discount of EUR 30/t (Article 5(3) of Regulation (EU) No 642/2010).

2. Averages over the reference period referred to in Article 2(2) of Regulation (EU) No 642/2010:

Freight costs: Gulf of Mexico-Rotterdam: 17,88 EUR/t

Freight costs: Great Lakes-Rotterdam: — EUR/t

DECISIONS

COMMISSION DECISION

of 31 January 2012

adjusting the thresholds referred to in Articles 157(b) and 158(1) of Regulation (EC, Euratom) No 2342/2002 laying down detailed rules for the implementation of the Financial Regulation

(2012/56/EU)

THE EUROPEAN COMMISSION,

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

Having regard to Commission Regulation (EC, Euratom) No 2342/2002 of 23 December 2002 laying down detailed rules for the implementation of Council Regulation (EC, Euratom) No 1605/2002 on the Financial Regulation applicable to the general budget of the European Communities ⁽¹⁾, and in particular Article 271 thereof,

Whereas:

- (1) Commission Regulation (EU) No 1251/2011 ⁽²⁾ adjusted the thresholds applicable to public procurement contracts pursuant to 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 ⁽³⁾.
- (2) For reasons of consistency, it is therefore necessary to establish the thresholds referred to in Articles 157(b) and 158(1) of Regulation (EC, Euratom) No 2342/2002.
- (3) Since the thresholds adjusted by Regulation (EU) No 1251/2011 are applicable from 1 January 2012, this Decision should also apply from 1 January 2012. This Decision should therefore enter into force on the date following its publication in the *Official Journal of the European Union*.
- (4) Commission Decision 2010/78/EU of 9 February 2010 adjusting the thresholds referred to in Article 157(b) and Article 158(1) of Regulation (EC, Euratom) No

2342/2002 laying down detailed rules for the implementation of the Financial Regulation ⁽⁴⁾ has lapsed and should therefore be repealed,

HAS ADOPTED THIS DECISION:

Article 1

The euro equivalents of the thresholds applicable to public procurement contracts shall be established as follows:

- EUR 5 000 000 in Article 157(b),
- EUR 130 000 in Article 158(1)(a),
- EUR 200 000 in Article 158(1)(b),
- EUR 5 000 000 in Article 158(1)(c).

Article 2

Decision 2010/78/EU is repealed.

Article 3

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

It shall apply from 1 January 2012.

Done at Brussels, 31 January 2012.

*For the Commission**The President*

José Manuel BARROSO

⁽¹⁾ OJ L 357, 31.12.2002, p. 1.

⁽²⁾ OJ L 319, 2.12.2011, p. 43.

⁽³⁾ OJ L 134, 30.4.2004, p. 114.

⁽⁴⁾ OJ L 37, 10.2.2010, p. 73.

ACTS ADOPTED BY BODIES CREATED BY INTERNATIONAL AGREEMENTS

DECISION No 1/2012 OF THE EU-ANDORRA JOINT COMMITTEE of 25 January 2012

establishing the list of customs security provisions provided for by Article 12b(1) of the Agreement in the form of an Exchange of Letters between the European Economic Community and the Principality of Andorra

(2012/57/EU)

THE JOINT COMMITTEE,

Having regard to the Agreement in the form of an Exchange of Letters between the European Economic Community and the Principality of Andorra, signed in Luxembourg on 28 June 1990 (the Agreement), and in particular Article 12b(1) thereof,

Whereas Article 12b(1) states that the Principality of Andorra shall adopt the customs security measures applied by the Union and that a detailed list of the provisions of the Community *acquis* in question shall be drawn up by the Joint Committee set up under Article 17 of the Agreement,

HAS ADOPTED THIS DECISION:

Article 1

The list of the provisions of the Community *acquis* to be adopted by the Principality of Andorra under Article 12b(1) of the Agreement shall be established as follows:

Category of customs security measures	Provisions of Community Customs Code — Council Regulation (EEC) No 2913/92 ⁽¹⁾	Community Customs Code implementing provisions — Commission Regulation (EEC) No 2454/93 ⁽²⁾
Declarations prior to the entry and exit of goods	Entry: Articles 36a to 36c	Entry: Articles 181b to 184c
	Exit: Articles 182a to 182d	Exit: — Articles 592a to 592d and 592f (customs export declaration) — Articles 842a to 842f (exit summary declaration)
Authorised economic operator	Article 5a	Articles 14a to 14d, 14f to 14k and 14q to 14x
Customs security checks and security-related risk management	Article 13	General: Articles 4f to 4j
		Entry: Articles 184d to 184e
		Exit: — Articles 592e and 592g (customs export declaration) — Article 842d(2) (exit summary declaration)

⁽¹⁾ Council Regulation (EEC) No 2913/92 of 12 October 1992 establishing the Community Customs Code (OJ L 302, 19.10.1992, p. 1).

⁽²⁾ Commission Regulation (EEC) No 2454/93 of 2 July 1993 laying down provisions for the implementation of Council Regulation (EEC) No 2913/92 establishing the Community Customs Code (OJ L 253, 11.10.1993, p. 1).

Article 2

This Decision shall enter into force on the day of its adoption.

It shall apply from 1 January 2011.

Done at Brussels, 25 January 2012.

For the Joint Committee

The President

Gianluca GRIPPA

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