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II

(Non-legislative acts)

INTERNATIONAL AGREEMENTS

Information concerning the date of entry into force of the Agreement between the European Union and Australia on the processing and transfer of Passenger Name Record (PNR) data by air carriers to the Australian Customs and Border Protection Service

The Agreement between the European Union and Australia on the processing and transfer of Passenger Name Record (PNR) data by air carriers to the Australian Customs and Border Protection Service, signed in Brussels on 29 September 2011, entered into force on 1 June 2012, in accordance with Article 29(1) of the Agreement.

COUNCIL DECISION

of 22 September 2011

on the signing, on behalf of the Union, of the Agreement between the European Union and Australia on the processing and transfer of passenger name record (PNR) data by air carriers to the Australian Customs and Border Protection Service

(2012/380/EU)

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty on the Functioning of the European Union, and in particular Articles 82(1)(d) and 87(2)(a), in conjunction with Article 218(5) thereof,

Having regard to the proposal from the European Commission,

Whereas:

- (1) On 2 December 2010, the Council adopted a Decision authorising the Commission to open negotiations on behalf of the Union with Australia for the transfer and use of passenger name record (PNR) data to prevent and combat terrorism and other serious transnational crime.
- (2) The Agreement between the European Union and Australia on the processing and transfer of passenger name record (PNR) data by air carriers to the Australian Customs and Border Protection Service (the Agreement) has been negotiated. The negotiations were successfully concluded by the initialling of the Agreement.
- (3) The Agreement should be signed subject to its conclusion at a later date, and the Declaration attached to the Final Act of the Agreement should be approved.
- (4) The Agreement respects the fundamental rights and observes the principles recognised in particular by the Charter of Fundamental Rights of the European Union (the Charter), notably the right to respect for private and family life, recognised in Article 7 of the Charter, the right to the protection of personal data, recognised in Article 8 of the Charter and the right to effective remedy and fair trial recognised in Article 47 of the Charter. The Agreement should be applied in accordance with those rights and principles.

(5) In accordance with Article 3 of the Protocol on the position of the United Kingdom and Ireland in respect of the Area of Freedom, Security and Justice, annexed to the Treaty on European Union and to the Treaty on the Functioning of the European Union, those Member States have notified their wish to take part in the adoption and application of this Decision.

(6) In accordance with Articles 1 and 2 of the Protocol on the Position of Denmark, annexed to the Treaty on European Union and to the Treaty on the Functioning of the European Union, Denmark is not taking part in the adoption of this Decision and is not bound by the Agreement or subject to its application,

HAS ADOPTED THIS DECISION:

Article 1

The signing of the Agreement between the European Union and Australia on the processing and transfer of Passenger Name Record (PNR) data by air carriers to the Australian Customs and Border Protection Service (the Agreement) is hereby authorised on behalf of the Union, subject to the conclusion of the said Agreement ⁽¹⁾.

Article 2

The Declaration attached to the Final Act of the Agreement shall be approved on behalf of the Union.

Article 3

The President of the Council is hereby authorised to designate the persons empowered to sign the Agreement on behalf of the Union.

Article 4

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

Done at Brussels, 22 September 2011.

For the Council
The President
J. MILLER

⁽¹⁾ The text of the Agreement will be published together with the Decision on its conclusion.

COUNCIL DECISION

of 13 December 2011

on the conclusion of the Agreement between the European Union and Australia on the processing and transfer of Passenger Name Record (PNR) data by air carriers to the Australian Customs and Border Protection Service

(2012/381/EU)

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty on the Functioning of the European Union, and in particular Articles 82(1)(d) and 87(2)(a), in conjunction with Article 218(6)(a) thereof,

Having regard to the proposal from the European Commission,

Having regard to the consent of the European Parliament,

Whereas:

- (1) On 2 December 2010, the Council adopted a Decision authorising the Commission to open negotiations on behalf of the Union with Australia for the transfer and use of Passenger Name Record (PNR) data to prevent and combat terrorism and other serious transnational crime.
- (2) In accordance with Council Decision 2012/380/EU ⁽¹⁾, the Agreement between the European Union and Australia on the processing and transfer of Passenger Name Record (PNR) data by air carriers to the Australian Customs and Border Protection Service (the 'Agreement') has been signed, subject to its conclusion at a later date.
- (3) The Agreement should be concluded.
- (4) The Agreement respects the fundamental rights and observes the principles recognised in particular by the Charter of Fundamental Rights of the European Union (the 'Charter'), notably the right to respect for private and family life, recognised in Article 7 of the Charter, the right to the protection of personal data, recognised in Article 8 of the Charter and the right to effective remedy and fair trial recognised in Article 47 of the Charter. The Agreement should be applied in accordance with those rights and principles.
- (5) In accordance with Article 3 of the Protocol on the position of the United Kingdom and Ireland in respect of the Area of Freedom, Security and Justice annexed to the Treaty on European Union and the Treaty on the Functioning of the European Union, those Member

States have notified their wish to take part in the adoption and application of this Decision.

- (6) In accordance with Articles 1 and 2 of the Protocol on the Position of Denmark annexed to the Treaty on European Union and to the Treaty on the Functioning of the European Union, Denmark is not taking part in the adoption of this Decision and is not bound by the Agreement or subject to its application,

HAS ADOPTED THIS DECISION:

Article 1

The Agreement between the European Union and Australia on the processing and transfer of Passenger Name Record (PNR) data by air carriers to the Australian Customs and Border Protection Service (the 'Agreement') is hereby approved on behalf of the Union.

The text of the Agreement is attached to this Decision.

Article 2

The President of the Council shall designate the person empowered to proceed, on behalf of the Union, to the exchange of the instruments of approval provided for in Article 29 of the Agreement, in order to express the consent of the Union to be bound by the Agreement ⁽²⁾.

Article 3

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

Done at Brussels, 13 December 2011.

For the Council

The President

M. CICHOCKI

⁽¹⁾ See page 2 of this Official Journal.

⁽²⁾ The date of entry into force of the Agreement will be published in the *Official Journal of the European Union* by the General Secretariat of the Council.

AGREEMENT

between the European Union and Australia on the processing and transfer of Passenger Name Record (PNR) data by air carriers to the Australian Customs and Border Protection Service

THE EUROPEAN UNION, hereafter also referred to as the EU,

of the one part, and

AUSTRALIA,

of the other part,

Together hereinafter referred to as 'the Parties',

DESIRING to prevent and combat terrorism and serious transnational crime effectively as a means of protecting their respective democratic societies and common values;

SEEKING to enhance and encourage cooperation between the Parties in the spirit of the EU-Australian partnership;

RECOGNISING that information sharing is a fundamental component of the fight against terrorism and serious transnational crime, and that in this context the use of Passenger Name Record (PNR) data is an essential tool;

RECOGNISING the importance of preventing and combating terrorism and serious transnational crime, while respecting fundamental rights and freedoms, in particular, privacy and the protection of personal data;

MINDFUL of Article 6 of the Treaty on European Union on respect for fundamental rights, the right to privacy with regard to the processing of personal data as stipulated in Article 16 of the Treaty on the Functioning of the European Union, the principles of proportionality and necessity concerning the right to private and family life, the respect for privacy, and the protection of personal data under Article 8 of the European Convention on the Protection of Human Rights and Fundamental Freedoms, Council of Europe Convention No 108 for the Protection of Individuals with regard to Automatic Processing of Personal Data and its additional Protocol 181, Articles 7 and 8 of the Charter of Fundamental Rights of the European Union and Article 17 of the International Covenant on Civil and Political Rights on the right to privacy;

RECOGNISING that, in 2008, Australia and the EU signed the Agreement Between the European Union and Australia on the Processing and Transfer of European Union – Sourced Passenger Name Record (PNR) Data by Air Carriers to the Australian Customs Service which is applied provisionally from the time of signature but has not entered into force;

NOTING that the European Parliament decided on 5 May 2010 to postpone the vote on the request for consent to that Agreement and by its Resolution of 11 November 2010 welcomed the recommendation from the European Commission to the Council of the European Union to negotiate a new agreement;

RECOGNISING the relevant provisions of the Australian *Customs Act 1901* (Cth) (the Customs Act), and in particular section 64AF thereof whereby, if requested, all international passenger air service operators, flying to, from or through Australia, are required to provide the Australian Customs and Border Protection Service with PNR data, to the extent that they are collected and contained in the air carrier's reservations and departure control systems, in a particular manner and form;

RECOGNISING that the Australian *Customs Administration Act 1985* (Cth), *Migration Act 1958* (Cth), *Crimes Act 1914* (Cth), *Privacy Act 1988* (Cth), *Freedom of Information Act 1982* (Cth), *Auditor-General Act 1997* (Cth), *Ombudsman Act 1976* (Cth) and *Public Service Act 1999* (Cth) provide for data protection, rights of access and redress, rectification and annotation and remedies and sanctions for misuse of personal data;

NOTING the commitment of Australia that the Australian Customs and Border Protection Service processes PNR data strictly for the purpose of preventing, detecting, investigating and prosecuting terrorist offences and serious transnational crime in strict compliance with safeguards on privacy and the protection of personal data, as set out in this Agreement;

STRESSING the importance of sharing of analytical data obtained from PNR by Australia with police and judicial authorities of Member States of the European Union, and Europol or Eurojust, as a means to foster international police and judicial cooperation;

AFFIRMING that this Agreement does not constitute a precedent for any future arrangements between Australia and the European Union, or between either of the Parties and any State, regarding the processing and transfer of PNR data or any other form of data and noting that the necessity and feasibility of similar arrangements for sea passengers may be examined,

HAVE AGREED AS FOLLOWS:

CHAPTER I

GENERAL PROVISIONS

Article 1

Purpose of Agreement

To ensure the security and safety of the public this Agreement provides for the transfer of EU-sourced PNR data to the Australian Customs and Border Protection Service. This Agreement stipulates the conditions under which such data may be transferred and used, and the manner in which the data shall be protected.

Article 2

Definitions

For the purposes of this Agreement:

- (a) 'Agreement' shall mean this Agreement and its Annexes, and any amendments thereto;
- (b) 'personal data' shall mean any information relating to an identified or identifiable natural person: an identifiable person is one who can be identified, directly or indirectly, in particular by reference to an identification number or to one or more factors specific to his physical, physiological, mental, economic, cultural or social identity;
- (c) 'processing' shall mean any operation or set of operations which is performed upon PNR data, whether or not by automatic means, such as collection, recording, organisation, retention, adaptation or alteration, retrieval, consultation, use, disclosure by transmission or transfer, dissemination or otherwise making available, alignment or combination, blocking, erasure or destruction;
- (d) 'air carriers' shall mean air carriers that have reservation systems and/or PNR data processed in the territory of the European Union and operate passenger flights in international air transportation to, from or through Australia;
- (e) 'reservation systems' shall mean an air carrier's reservation system, departure control system or equivalent systems providing the same functionalities;
- (f) 'Passenger Name Record data' or 'PNR data' shall mean the information processed in the EU by air carriers on each

passenger's travel requirements as listed in Annex 1 which contains the information necessary for processing and control of reservations by the booking and participating air carriers;

- (g) 'passenger' shall mean passenger or crew member including the captain;
- (h) 'sensitive data' shall mean any personal data revealing racial or ethnic origin, political opinions, religious or philosophical beliefs, trade union membership, or health or sex life.

Article 3

Scope of application

1. Australia shall ensure that the Australian Customs and Border Protection Service processes PNR data received pursuant to this Agreement strictly for the purpose of preventing, detecting, investigating and prosecuting terrorist offences or serious transnational crime;
2. Terrorist offences shall include:
 - (a) acts of a person that involve violence, or are otherwise dangerous to human life or create a risk of damage to property or infrastructure, and which, given their nature and context, are reasonably believed to be committed with the aim of:
 - (i) intimidating or coercing a population;
 - (ii) intimidating, compelling, or coercing a government or international organisation to act or abstain from acting;
 - (iii) seriously destabilising or destroying the fundamental political, constitutional, economic, or social structures of a country or an international organisation;
 - (b) assisting, sponsoring or providing financial, material or technological support for, or financial or other services to or in support of, acts described in subparagraph (a);
 - (c) providing or collecting funds, by any means, directly or indirectly, with the intention that they should be used or in the knowledge that they are to be used, in full or in part, in order to carry out any of the acts described in subparagraphs (a) or (b); or

- (d) aiding, abetting, or attempting acts described in subparagraphs (a), (b) or (c).

3. Serious transnational crime shall mean any offence punishable in Australia by a custodial sentence or a detention order for a maximum period of at least four years or a more serious penalty and as it is defined by the Australian law, if the crime is transnational in nature. A crime is considered as transnational in nature in particular if:

- (a) it is committed in more than one country;
- (b) it is committed in one country but a substantial part of its preparation, planning, direction or control takes place in another country;
- (c) it is committed in one country but involves an organised criminal group that engages in criminal activities in more than one country; or
- (d) it is committed in one country but has substantial effects in another country.

4. In exceptional cases, PNR data may be processed by Australia where necessary for the protection of the vital interests of any individual, such as risk of death, serious injury or threat to health.

5. In addition, for the purpose of supervision and accountability of public administration and the facilitation of redress and sanctions for the misuse of data, PNR data may be processed on a case-by-case basis where such processing is specifically required by Australian law.

Article 4

Ensuring provision of PNR data

1. Air carriers shall provide PNR data contained in their reservation systems to the Australian Customs and Border Protection Service. They shall not be prevented by any provision of the law of either Party from complying with relevant Australian law which obliges them to so provide the data.

2. Australia shall not require air carriers to provide PNR data elements which are not already collected or held in their reservation systems.

3. Should PNR data transferred by air carriers include data beyond those listed in Annex 1, the Australian Customs and Border Protection Service shall delete it.

Article 5

Adequacy

Compliance with this Agreement by the Australian Customs and Border Protection Service shall, within the meaning of relevant EU data-protection law, constitute an adequate level of protection for PNR data transferred to the Australian Customs and Border Protection Service for the purpose of this Agreement.

Article 6

Police and judicial cooperation

1. The Australian Customs and Border Protection Service shall ensure the availability, as soon as practicable, of relevant and appropriate analytical information obtained from PNR data to police or judicial authorities of the Member State of the European Union concerned, or to Europol or Eurojust within the remit of their respective mandates, and in accordance with law enforcement or other information sharing agreements or arrangements between Australia and any Member State of the European Union, Europol or Eurojust, as applicable.

2. A police or judicial authority of a Member State of the European Union, or Europol or Eurojust within the remit of their respective mandates, may request access to PNR data or relevant and appropriate analytical information obtained from PNR data which is necessary in a specific case to prevent, detect, investigate, or prosecute within the European Union a terrorist offence or serious transnational crime. The Australian Customs and Border Protection Service shall, in accordance with the agreements or arrangements referred to in paragraph 1, make such information available.

CHAPTER II

SAFEGUARDS APPLICABLE TO THE PROCESSING OF PNR DATA

Article 7

Data protection and non-discrimination

1. PNR data shall be subject to the provisions of the Australian *Privacy Act 1988* (Cth) (Privacy Act) which governs the collection, use, storage and disclosure, security and access and alteration of personal information held by most Australian Government departments and agencies.

2. Australia shall ensure that the safeguards applicable to the processing of PNR data under this Agreement and relevant national laws apply to all passengers without discrimination, in particular on the basis of nationality or country of residence or physical presence in Australia.

Article 8

Sensitive data

Any processing by the Australian Customs and Border Protection Service of sensitive PNR data shall be prohibited. To the extent that the PNR data of a passenger which is transferred to the Australian Customs and Border Protection Service include sensitive data, the Australian Customs and Border Protection Service shall delete such sensitive data.

Article 9

Data security and integrity

1. To prevent accidental or unlawful destruction or accidental loss, alteration, unauthorised disclosure or access or any unlawful forms of processing:

- (a) PNR data-processing equipment shall be held in a secure physical environment, and maintained with high-level systems and physical intrusion controls;
 - (b) PNR data shall be stored separately from any other data. For the purpose of matching, data may flow to the PNR system, but not from the PNR system to other databases. Access to the PNR system shall be limited to a restricted number of officials within the Australian Customs and Border Protection Service who are specifically authorised by the Chief Executive Officer of the Australian Customs and Border Protection Service to process PNR data for the purpose of this Agreement. These officials shall access the PNR system in secure work locations that are inaccessible to unauthorised individuals;
 - (c) access to the PNR system, by the officials described in subparagraph (b) shall be controlled by security access systems such as layered logins using a user ID and password;
 - (d) access to the network of the Australian Customs and Border Protection Service and any data contained in the PNR system shall be audited. The audit record generated shall contain the user name, the work location of the user, the date and time of access, the content of the query and the number of records returned;
 - (e) all PNR data shall be transferred from the Australian Customs and Border Protection Service to other authorities in a secure manner;
 - (f) the PNR system shall ensure fault detection and reporting;
 - (g) PNR data shall be protected against any manipulation, alteration or addition or corruption by means of malfunctioning of the system;
 - (h) no copies of the PNR database shall be made, other than for disaster recovery back-up purposes.
2. Any breach of data security, in particular leading to accidental or unlawful destruction or accidental loss, alteration, unauthorised disclosure or access, or any unlawful forms of processing shall be subject to effective and dissuasive sanctions.
3. The Australian Customs and Border Protection Service shall report any breach of data security to the Office of the Australian Information Commissioner, and notify the European Commission that such a breach has been reported.

Article 10

Oversight and accountability

1. Compliance with data protection rules by the Australian government authorities processing PNR data shall be subject to the oversight by the Australian Information Commissioner who, under the provisions of the Privacy Act, has effective powers to

investigate compliance by agencies with the Privacy Act, and monitor and investigate the extent to which the Australian Customs and Border Protection Service complies with the Privacy Act.

2. The Australian Customs and Border Protection Service has arrangements in place under the Privacy Act for the Australian Information Commissioner to undertake regular formal audits of all aspects of Australian Customs and Border Protection Service's EU-sourced PNR data use, handling and access policies and procedures.

3. The Australian Information Commissioner will, in particular, hear claims lodged by an individual regardless of his or her nationality or country of residence, concerning the protection of his or her rights and freedoms with regard to the processing of personal data. The individual concerned will be informed of the outcome of the claim. The Australian Information Commissioner will further assist individuals concerned in the exercise of their rights under this Agreement, in particular rights of access, rectification and redress.

4. Individuals also have the right to lodge a complaint with the Commonwealth Ombudsman regarding their treatment by the Australian Customs and Border Protection Service.

Article 11

Transparency

1. Australia shall request air carriers to provide passengers with clear and meaningful information in relation to the collection, processing and purpose of the use of PNR data. Preferably this information will be provided at the time of booking.

2. Australia shall make available to the public, in particular on relevant government websites, information on the purpose of collection and use of PNR by the Australian Customs and Border Protection Service. This shall include information on how to request access, correction and redress.

Article 12

Right of access

1. Any individual shall have the right to access his or her PNR data, following a request made to the Australian Customs and Border Protection Service. Such access shall be provided without undue constraint or delay. This right is conferred by the Australian *Freedom of Information Act 1982* (Cth) (Freedom of Information Act) and the Privacy Act. The right of access shall further extend to the ability to request and to obtain documents held by the Australian Customs and Border Protection Service as to whether or not data relating to him or her have been transferred or made available and information on the recipients or categories of recipients to whom the data have been disclosed.

2. Disclosure of information pursuant to paragraph 1 may be subject to reasonable legal limitations applicable under Australian law to safeguard the prevention, detection, investigation, or prosecution of criminal offences, and to protect public or national security, with due regard for the legitimate interest of the individual concerned.

3. Any refusal or restriction of access shall be set out in writing to the individual within thirty (30) days or any statutory extension of time. At the same time, the factual or legal reasons on which the decision is based shall also be communicated to him or her. The latter communication may be omitted where a reason under paragraph 2 exists. In all of these cases, individuals shall be informed of their right to lodge a complaint against the decision of the Australian Customs and Border Protection Service. This complaint will be lodged with the Australian Information Commissioner. The individual shall be further informed of the means available under Australian law for seeking administrative and judicial redress.

4. Where an individual submits a complaint to the Australian Information Commissioner as referred to in paragraph 3, he or she shall be formally advised of the outcome of the investigation of the complaint. He or she shall at least receive a confirmation whether his or her data protection rights have been respected in compliance with this Agreement.

5. The Australian Customs and Border Protection Service shall not disclose PNR data to the public, except to the individuals whose PNR data have been processed or their representatives.

Article 13

Right of rectification and erasure

1. Any individual shall have the right to seek the rectification of his or her PNR data processed by the Australian Customs and Border Protection Service where the data is inaccurate. Rectification may require erasure.

2. Requests for the rectification of PNR data held by the Australian Customs and Border Protection Service may be made directly to the Australian Customs and Border Protection Service pursuant to the Freedom of Information Act or the Privacy Act.

3. The Australian Customs and Border Protection Service shall make all necessary verifications pursuant to the request and without undue delay inform the individual whether his or her PNR data have been rectified or erased. Such notification shall be set out to the individual in writing within thirty (30) days or any statutory extension of time and provide information on a possibility of a complaint against the decision of the Australian Customs and Border Protection Service to the Australian Information Commissioner and otherwise on the means available under Australian law for seeking administrative and judicial redress.

4. Where an individual lodges a complaint to the Australian Information Commissioner as referred to in paragraph 3, the individual shall be formally advised of the outcome of the investigation.

Article 14

Right of redress

1. Any individual shall have the right to effective administrative and judicial redress in case any of his or her rights referred to in this Agreement have been violated.

2. Any individual who has suffered damage as a result of an unlawful processing operation or of any act incompatible with rights referred to in this Agreement shall have the right to apply for effective remedies, which may include compensation from Australia.

3. The rights referred to in paragraphs 1 and 2 shall be afforded to individuals regardless of their nationality or country of origin, place of residence or physical presence in Australia.

Article 15

Automated processing of PNR data

1. The Australian Customs and Border Protection Service or other government authorities listed in Annex 2 shall not take any decision which significantly affects or produces an adverse legal effect on a passenger solely on the basis of the automated processing of PNR data.

2. The Australian Customs and Border Protection Service shall not carry out the automated processing of data on the basis of sensitive data.

Article 16

Retention of data

1. PNR data shall be retained not longer than five and a half years from the date of the initial receipt of PNR data by the Australian Customs and Border Protection Service. During this period PNR data shall be retained in the PNR system only for the purpose of preventing, detecting, investigating and prosecuting terrorist offences or serious transnational crime, and in the following manner:

(a) from the initial receipt to three years, all PNR data shall be accessible to a limited number of the Australian Customs and Border Protection Service's officials specifically authorised by the Chief Executive Officer of the Australian Customs and Border Protection Service to identify passengers who may be potential persons of interest;

(b) from three years after initial receipt to the end of the five and a half year period, PNR data shall be retained in the PNR system but all data elements which could serve to identify the passenger to whom PNR data relate shall be masked out. Such depersonalised PNR data shall be accessible only to a limited number of Australian Customs and Border Protection Service officials specifically authorised by the Chief Executive Officer of the Australian Customs

and Border Protection Service to carry out analyses related to terrorist offences or serious transnational crime. Full access to PNR data shall be permitted only by a member of the Senior Executive Service of the Australian Customs and Border Protection Service if it is necessary to carry out investigations for the purpose of preventing, detecting, investigating and prosecuting terrorist offences and serious transnational crimes.

2. To achieve depersonalisation, the following PNR elements shall be masked out:

- (a) name(s);
- (b) other names on PNR, including number of travellers on PNR;
- (c) all available contact information (including originator information);
- (d) general remarks including other supplementary information (OSI), special service information (SSI) and special service request (SSR) information, to the extent that it contains any information capable of identifying a natural person; and
- (e) any collected advance passenger processing (APP) or advance passenger information (API) data to the extent that it contains any information capable of identifying a natural person.

3. Notwithstanding paragraph 1, PNR data required for a specific investigation, prosecution or enforcement of penalties for terrorist offences or serious transnational crime may be processed for the purpose of that investigation, prosecution or enforcement of penalties. PNR data may be retained until the relevant investigation or prosecution is concluded or the penalty enforced.

4. Upon the expiry of the data retention period specified in paragraphs 1 and 3, PNR data shall be permanently deleted.

Article 17

Logging and documentation of PNR data

1. All processing, including accessing and consulting or transfer of PNR data as well as requests for PNR data by the authorities of Australia or third countries, even if refused, shall be logged or documented by the Australian Customs and Border Protection Service for the purpose of verification of lawfulness of the data processing, self-monitoring and ensuring appropriate data integrity and security of data processing.

2. Logs or documentation prepared under paragraph 1 shall be used only for oversight and auditing purposes including investigation and resolution of matters pertaining to unauthorised access.

3. Logs or documentation prepared under paragraph 1 shall be communicated on request to the Australian Information

Commissioner. The Australian Information Commissioner shall use this information only for the oversight of data protection and for ensuring proper data processing as well as data integrity and security.

Article 18

Sharing PNR data with other government authorities of Australia

1. Subject to the following safeguards, the Australian Customs and Border Protection Service may share PNR data only with those government authorities of Australia which are listed in Annex 2:

- (a) receiving government authorities shall afford to PNR data the safeguards as set out in this Agreement;
- (b) data shall be shared strictly for the purposes stated in Article 3;
- (c) data shall be shared only on a case-by-case basis unless the data has been depersonalised;
- (d) prior to the sharing, the Australian Customs and Border Protection Service shall carefully assess the relevance of data to be shared. Only those particular PNR data elements which are clearly demonstrated as necessary in particular circumstances shall be shared. In any case, the minimum amount of data possible shall be shared;
- (e) receiving government authorities shall ensure that the data is not further disclosed without the permission of the Australian Customs and Border Protection Service, which permission shall not be granted by the Australian Customs and Border Protection Service except for the purposes stated in Article 3 of the Agreement.

2. The list of authorities set forth in Annex 2 may be amended by exchange of diplomatic notes between the Parties, to include:

- (a) any successor departments or agencies of those which are listed in Annex 2; and
- (b) any new departments and agencies established after the entry into force of this Agreement whose functions are directly related to preventing, detecting, investigating or prosecuting terrorist offences or serious transnational crime; and
- (c) any existing departments and agencies whose functions become directly related to preventing, detecting, investigating or prosecuting terrorist offences or serious transnational crime.

3. When transferring analytical information containing PNR data obtained under this Agreement, the safeguards applying to PNR data in this Article shall be respected.

4. Nothing in this Article prevents the disclosure of PNR data where necessary for the purposes of Article 3(4) and (5) and Article 10.

Article 19

Transfers to authorities of third countries

1. Subject to the following safeguards, the Australian Customs and Border Protection Service may transfer PNR data only to specific third country authorities:

- (a) the Australian Customs and Border Protection Service is satisfied that the receiving third country authority has agreed to afford to the data transferred the same safeguards as set out in this Agreement;
- (b) only a third country authority whose functions are directly related to preventing, detecting, investigating and prosecuting terrorist offences or serious transnational crime may receive PNR data;
- (c) data shall be transferred for the exclusive purpose of preventing, detecting, investigating and prosecuting terrorist offences or serious transnational crime as defined in Article 3;
- (d) data shall be transferred only on a case-by-case basis;
- (e) prior to the transfer, the Australian Customs and Border Protection Service shall carefully assess the relevance of data to be transferred. Only those particular PNR data elements which are clearly demonstrated as necessary in particular circumstances shall be transferred. In any case, the minimum amount of data possible shall be transferred;
- (f) where the Australian Customs and Border Protection Service is aware that data of a national or a resident of a Member State is transferred, the competent authorities of the Member State concerned shall be informed of the matter at the earliest appropriate opportunity;
- (g) the Australian Customs and Border Protection Service is satisfied that the receiving third country authority has agreed to retain PNR data only until the relevant investigation or prosecution is concluded or the penalty enforced or are no longer required for the purposes set out in Article 3(4), and in any case no longer than necessary;
- (h) the Australian Customs and Border Protection Service is satisfied that the receiving third country authority has agreed not to further transfer PNR data;
- (i) the Australian Customs and Border Protection Service shall ensure, where appropriate, that the passenger is informed of a transfer of his or her PNR data.

2. When transferring analytical information containing PNR data obtained under this Agreement, the safeguards applying to PNR data in this Article shall be respected.

3. Nothing in this Article prevents the disclosure of PNR data where necessary for the purposes of Article 3(4).

CHAPTER III

MODALITIES OF TRANSFERS

Article 20

The method of transfer

For the purpose of this Agreement, the Parties shall ensure that air carriers transfer to the Australian Customs and Border Protection Service PNR data exclusively on the basis of the push method and in accordance with the following procedures:

- (a) Air carriers shall transfer PNR data by electronic means in compliance with technical requirements of the Australian Customs and Border Protection Service or, in case of technical failure, by any other appropriate means ensuring an appropriate level of data security.
- (b) Air carriers shall transfer PNR data using an agreed messaging format.
- (c) Air carriers shall transfer PNR data in a secure manner using common protocols required by the Australian Customs and Border Protection Service.

Article 21

The frequency of transfer

1. The Parties shall ensure that air carriers transfer to the Australian Customs and Border Protection Service all requested PNR data of passengers as described in Article 20 at a maximum of five scheduled points in time per flight, with the first point being up to 72 hours before scheduled departure. The Australian Customs and Border Protection Service shall communicate to air carriers the specified times for the transfers.

2. In specific cases where there is an indication that early access is necessary to respond to a specific threat related to terrorist offences or serious transnational crime, the Australian Customs and Border Protection Service may require an air carrier to provide PNR data prior to the first scheduled transfer. In exercising this discretion, the Australian Customs and Border Protection Service shall act judiciously and proportionately and use exclusively the push method.

3. In specific cases where there is an indication that access is necessary to respond to a specific threat related to terrorist offences or serious transnational crime, the Australian Customs and Border Protection Service may require an air carrier to transfer PNR data in between or after regular transfers referred to in paragraph 1. In exercising this discretion, the Australian Customs and Border Protection Service shall act judiciously and proportionately and use exclusively the push method.

CHAPTER IV

IMPLEMENTING AND FINAL PROVISIONS

Article 22

Non-derogation/Relationship to other instruments

1. This Agreement shall not create or confer any right or benefit on any person or entity, private or public. Each Party shall ensure that the provisions of this Agreement are properly implemented.

2. Nothing in this Agreement shall limit rights or safeguards contained in the laws of Australia.

3. Nothing in this Agreement shall derogate from existing obligations under any bilateral mutual legal assistance instruments between Australia and Member States of the European Union to assist with a request to obtain data for evidence in criminal proceedings concerning terrorism or serious transnational crime.

Article 23

Dispute resolution and suspension of the Agreement

1. Any dispute arising from the interpretation, application or implementation of this Agreement and any matters related thereto shall give rise to consultation between the Parties with a view to reaching a mutually agreeable resolution, including providing an opportunity for either Party to comply within a reasonable time.

2. In the event that consultations do not result in a resolution of the dispute, either Party may suspend the application of this Agreement by written notification through diplomatic channels, with any such suspension to take effect 120 days from the date of such notification, unless otherwise agreed.

3. Any suspension shall cease as soon as the dispute is resolved to the satisfaction of Australia and the EU.

4. Notwithstanding any suspension of this Agreement, all data obtained by the Australian Customs and Border Protection Service under the terms of this Agreement shall continue to be processed in accordance with the safeguards of this Agreement, including the provisions on retention and deletion of data.

Article 24

Consultation and review

1. The Parties shall notify each other, where appropriate before adoption, of any legislative or regulatory changes

which may materially affect the implementation of this Agreement. References in this Agreement to Australian legislation shall be deemed to include any successor legislation.

2. The Parties shall jointly review the implementation of this Agreement and any matters related thereto one year after the entry into force of this Agreement and regularly thereafter within the duration of this Agreement and additionally as requested by either Party. The Parties agree that the review should in particular look into the mechanism of masking out data according to Article 16(1)(b), any difficulties related to the operational efficiency or cost effectiveness of the mechanism, and experience acquired with similar mechanisms in other mature PNR schemes, including the EU scheme. In the event that an operationally efficient and cost effective mechanism is not available, access to the data will instead be restricted by archiving, and may be accessed only in the way that depersonalised data is accessed under Article 16.

3. The Parties shall agree in advance of the joint review its modalities and shall communicate to each other the composition of their respective teams. For the purpose of the joint review, the European Union shall be represented by the European Commission and Australia shall be represented by the Australian Customs and Border Protection Service. The teams may include experts on data protection and law enforcement. Subject to applicable laws, any participants to the joint review shall be required to respect confidentiality of the discussions and have appropriate security clearances. For the purpose of the joint review, the Australian Customs and Border Protection Service shall ensure access to relevant documentation, systems and personnel.

4. The Parties shall evaluate the Agreement, in particular its operational effectiveness no later than four years after its entry into force.

5. Following the joint review, the European Commission shall present a report to the European Parliament and to the Council of the European Union. Australia shall be given an opportunity to provide written comments which shall be attached to the report.

6. Since the establishment of an EU PNR system could change the context of this Agreement, if and when an EU PNR system is adopted, the Parties shall consult to determine whether this Agreement would need to be adjusted accordingly.

Article 25

Termination

1. Either Party may terminate this Agreement at any time by written notification through diplomatic channels. Termination shall take effect 120 days from the date of receipt of such notification, or as otherwise agreed.

2. Notwithstanding any termination of this Agreement, all data obtained by the Australian Customs and Border Protection Service under the terms of this Agreement shall continue to be processed in accordance with the safeguards of this Agreement, including the provisions on retention and deletion of data.

*Article 26***Duration**

1. Subject to Article 25, this Agreement shall remain in force for a period of seven years from the date of its entry into force.
2. Upon the expiry of the period set forth in paragraph 1, as well as any subsequent period of renewal under this paragraph, the Agreement shall be renewed for a subsequent period of seven years unless one of the Parties notifies the other in writing through diplomatic channels, at least 12 months in advance, of its intention not to renew the Agreement.
3. Notwithstanding the expiration of this Agreement, all data obtained by the Australian Customs and Border Protection Service under the terms of this Agreement shall continue to be processed in accordance with the safeguards of this Agreement, including the provisions on retention and deletion of data.

*Article 27***PNR data received prior to the entry into force of this Agreement**

Australia shall treat any PNR data held by the Australian Customs and Border Protection Service at the time of the entry into force of this Agreement in accordance with the provisions of this Agreement. However, no data shall be required to be masked out before 1 January 2015.

*Article 28***Territorial application**

1. Subject to paragraphs 2 to 4, this Agreement shall apply to the territory in which the Treaty on European Union and the

Treaty on the Functioning of the European Union are applicable and to the territory of Australia.

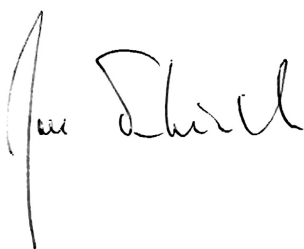
2. This Agreement will only apply to Denmark, the United Kingdom or Ireland, if the European Commission notifies Australia in writing that Denmark, the United Kingdom, or Ireland has chosen to be bound by this Agreement.
3. If the European Commission notifies Australia before the entry into force of this Agreement that it will apply to Denmark, the United Kingdom or Ireland, this Agreement shall apply to the territory of such State on the same day as for the other Member States of the European Union bound by this Agreement.
4. If the European Commission notifies Australia after the entry into force of this Agreement that it applies to Denmark, the United Kingdom, or Ireland, this Agreement shall apply to the territory of such State on the first day following receipt of the notification by Australia.

*Article 29***Final Provisions**

1. This Agreement shall enter into force on the first day of the month after the date on which the Parties have exchanged notifications indicating that they have completed their internal procedures for this purpose.
2. This Agreement replaces the Agreement between the European Union and Australia on the Processing and Transfer of European Union – Sourced Passenger Name Record (PNR) Data by Air Carriers to the Australian Customs Service done at Brussels on 30 June 2008, which will cease to apply upon the entry into force of this Agreement.

Done at Brussels, on 29 September 2011, in two originals, in the English language. This Agreement shall be also drawn up in the Bulgarian, Czech, Danish, Dutch, Estonian, Finnish, French, German, Greek, Hungarian, Italian, Latvian, Lithuanian, Maltese, Polish, Portuguese, Romanian, Slovak, Slovenian, Spanish and Swedish languages, each version being equally authentic. In case of divergence between the language versions, the English version shall prevail.

For the European Union



For Australia



ANNEX 1

PNR data elements referred to in Article 2(f) which air carriers are required to provide to the Australian Customs and Border Protection Service but only to the extent they already collect them:

1. PNR record locator code
 2. Date of reservation/issue of ticket
 3. Date(s) of intended travel
 4. Name(s)
 5. Available frequent flier and benefit information (i.e. free tickets, upgrades, etc.)
 6. Other names on PNR, including number of travellers on PNR
 7. All available contact information (including originator information)
 8. All available payment/billing information (not including other transaction details linked to a credit card or account and not connected to the travel transaction)
 9. Travel itinerary for specific PNR
 10. Travel agency/travel agent
 11. Code share information
 12. Split/divided information
 13. Travel status of passenger (including confirmations and check-in status)
 14. Ticketing information, including ticket number, one-way tickets and Automated Ticket Fare Quote
 15. All baggage information
 16. Seat information, including seat number
 17. General remarks including OSI, SSI and SSR information
 18. Any collected APIS information
 19. All historical changes to the PNR listed in numbers 1 to 18
-

ANNEX 2

List of other government authorities of Australia with whom the Australian Customs and Border Protection Service is authorised to share PNR data:

1. Australian Crime Commission;
 2. Australian Federal Police;
 3. Australian Security Intelligence Organisation;
 4. Commonwealth Director of Public Prosecutions;
 5. Department of Immigration and Citizenship;
 6. Office of Transport Security, Department of Infrastructure and Transport.
-

FINAL ACT

The representatives of:

THE EUROPEAN UNION,

of the one part, and

AUSTRALIA,

of the other part,

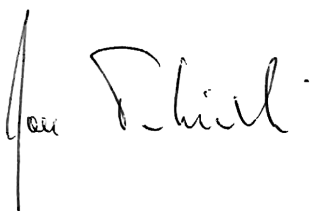
meeting at Brussels, on 29 September 2011, for the signature of the Agreement between the European Union and Australia on the processing and transfer of Passenger Name Record (PNR) data by air carriers to the Australian Customs and Border Protection Service, have at the time of signature of this Agreement:

— adopted the Joint Declaration attached to this Final Act.

IN WITNESS WHEREOF, the undersigned Plenipotentiaries have signed this Final Act.

Done at Brussels, on 29 September 2011.

For the European Union



For Australia



JOINT DECLARATION OF THE EUROPEAN UNION AND AUSTRALIA ON THE AGREEMENT ON THE PROCESSING AND TRANSFER OF PASSENGER NAME RECORD (PNR) DATA BY AIR CARRIERS TO THE AUSTRALIAN CUSTOMS AND BORDER PROTECTION SERVICE

When implementing the Agreement on the processing and transfer of Passenger Name Record (PNR) data by air carriers to the Australian Customs and Border Protection Service ('the Agreement'), the European Union and Australia have reached the following understandings in respect of their obligations under Articles 19 and 24 of the Agreement:

1. in the context of the joint consultation and review mechanism set out in Article 24 of the Agreement, Australia and the European Union will exchange information where appropriate, regarding the transfers of European Union citizens' and residents' PNR data to the authorities of third countries as laid down in Article 19 of the Agreement;
 2. provide that, in the context of the consultation and review mechanism set out in Article 24 of the Agreement, all appropriate information will be supplied on the conditions governing those transfers on a case-by-case basis in accordance with the provisions of Article 19;
 3. pay particular attention to providing all the safeguards for the implementation of the provisions of Article 19(1)(a), so as to be satisfied that third countries receiving such data have agreed to afford to the data the legal and practical safeguards provided by the Agreement;
 4. set up specific reporting mechanisms between the authorities of Member States and of Australia, where the data of a European Union citizen or resident is transferred under Article 19(1)(f).
-

REGULATIONS

COMMISSION IMPLEMENTING REGULATION (EU) No 635/2012

of 27 June 2012

entering a name in the register of protected designations of origin and protected geographical indications [Vadehavsstude (PGI)]

THE EUROPEAN COMMISSION,

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

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

Whereas:

- (1) Pursuant to the first subparagraph of Article 6(2) of Regulation (EC) No 510/2006, Denmark's application to register the name 'Vadehavsstude' was published in the *Official Journal of the European Union* ⁽²⁾.

- (2) As no statement of objection under Article 7 of Regulation (EC) No 510/2006 has been received by the Commission, that name should therefore be entered in the register,

HAS ADOPTED THIS REGULATION:

Article 1

The name contained in the Annex to this Regulation is hereby entered in the register.

Article 2

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

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

Done at Brussels, 27 June 2012.

*For the Commission,
On behalf of the President,
Dacian CIOLOŞ
Member of the Commission*

⁽¹⁾ OJ L 93, 31.3.2006, p. 12.

⁽²⁾ OJ C 289, 1.10.2011, p. 15.

ANNEX

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

Class 1.1. Fresh meat (and offal)

DENMARK

Vadehavsstude (PGI)

COMMISSION REGULATION (EU) No 636/2012**of 13 July 2012****extending for six months the application of Regulation (EU) No 161/2012 on emergency measures
for the protection of haddock stocks in waters to the west of Scotland**

THE EUROPEAN COMMISSION,

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

Having regard to Council Regulation (EC) No 2371/2002 ⁽¹⁾, and in particular Article 7 thereof,

Whereas:

- (1) Evidence of serious threats to the conservation of certain stocks of haddock in waters to the west of Scotland led the Commission to adopt Regulation (EU) No 161/2012 of 23 February 2012 on emergency measures for the protection of haddock stocks in waters to the west of Scotland ⁽²⁾, on the basis of the provisions laid down Article 7 of Regulation (EC) No 2371/2002.
- (2) Regulation (EC) No 2371/2002 states that the emergency measures are to last no more than six months and that the Commission may take a new decision to extend them for an additional period of no more than six months.
- (3) The rationale that underlies the adoption of the emergency measures in issue remains valid for the duration of the fishery this season. Otherwise the positive effects they have yielded until now could be

nullified. Since the relevant fisheries are indeed still ongoing, the lapse of the emergency measures would re-introduce the catch composition requirements, entailing increased discarding and thus considerable increase in fishing pressure on haddock and other stocks as fishermen seek to legitimately land their quotas.

- (4) Measures on permanent protection of the haddock stocks concerned by Commission Regulation (EU) No 161/2012 might not be in place before the expiry date of application of that Regulation. Meanwhile, the threats for the conservation of the haddock stocks persist.
- (5) It is therefore appropriate to extend for six months the emergency measures provided for in Regulation (EU) No 161/2012,

HAS ADOPTED THIS REGULATION:

Article 1

The application of Regulation (EU) No 161/2012 shall be extended until 25 February 2013.

Article 2

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

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

Done at Brussels, 13 July 2012.

For the Commission

The President

José Manuel BARROSO

⁽¹⁾ OJ L 358, 31.12.2002, p. 59.

⁽²⁾ OJ L 52, 24.2.2012, p. 6.

COMMISSION IMPLEMENTING REGULATION (EU) No 637/2012

of 13 July 2012

amending Implementing Regulation (EU) No 540/2011 as regards the conditions of approval of the active substances iron sulphate, repellents by smell of animal or plant origin/tall oil crude and repellents by smell of animal or plant origin/tall oil pitch

(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 1107/2009 of the European Parliament and of the Council of 21 October 2009 concerning the placing of plant protection products on the market and repealing Council Directives 79/117/EEC and 91/414/EEC ⁽¹⁾, and in particular Article 13(2)(c) thereof,

Whereas:

(1) The active substances iron sulphate, repellents by smell of animal or plant origin/tall oil crude and repellents by smell of animal or plant origin/tall oil pitch were included in Annex I to Council Directive 91/414/EEC ⁽²⁾ by Commission Directive 2008/127/EC ⁽³⁾ in accordance with the procedure provided for in Article 24b of Commission Regulation (EC) No 2229/2004 of 3 December 2004 laying down further detailed rules for the implementation of the fourth stage of the programme of work referred to in Article 8(2) of Council Directive 91/414/EEC ⁽⁴⁾. Since the replacement of Directive 91/414/EEC by Regulation (EC) No 1107/2009, these substances are deemed to have been approved under that Regulation and are listed in Part A of the Annex to Commission Implementing Regulation (EU) No 540/2011 of 25 May 2011 implementing Regulation (EC) No 1107/2009 of the European Parliament and of the Council as regards the list of approved active substances ⁽⁵⁾.

(2) In accordance with Article 25a of Regulation (EC) No 2229/2004, the European Food Safety Authority, hereinafter 'the Authority', presented to the Commission its views on the draft review reports for iron sulphate ⁽⁶⁾, repellents by smell of animal or plant origin/tall oil crude ⁽⁷⁾ and repellents by smell of animal or plant

origin/tall oil pitch ⁽⁸⁾ on 16 December 2011. The draft review reports and the views of the Authority were reviewed by the Member States and the Commission within the Standing Committee on the Food Chain and Animal Health and finalised on 1 June 2012 in the format of the Commission review reports for iron sulphate, repellents by smell of animal or plant origin/tall oil crude and repellents by smell of animal or plant origin/tall oil pitch.

(3) The Authority communicated its views on iron sulphate, repellents by smell of animal or plant origin/tall oil crude and repellents by smell of animal or plant origin/tall oil pitch to the notifiers, and the Commission invited them to submit comments on the review reports.

(4) It is confirmed that the active substances iron sulphate, repellents by smell of animal or plant origin/tall oil crude and repellents by smell of animal or plant origin/tall oil pitch are to be deemed to have been approved under Regulation (EC) No 1107/2009.

(5) In accordance with Article 13(2) of Regulation (EC) No 1107/2009 in conjunction with Article 6 thereof and in the light of current scientific and technical knowledge, it is necessary to amend the conditions of approval of iron sulphate, repellents by smell of animal or plant origin/tall oil crude and repellents by smell of animal or plant origin/tall oil pitch. It is, in particular, appropriate to require further confirmatory information as regards those active substances.

(6) The Annex to Regulation (EU) No 540/2011 should therefore be amended accordingly.

(7) A reasonable period of time should be allowed before the application of this Regulation in order to allow Member States, notifiers and holders of authorisations for plant protection products to meet the requirements resulting from amendment to the conditions of the approval.

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

⁽¹⁾ OJ L 309, 24.11.2009, p. 1.

⁽²⁾ OJ L 230, 19.8.1991, p. 1.

⁽³⁾ OJ L 344, 20.12.2008, p. 89.

⁽⁴⁾ OJ L 379, 24.12.2004, p.13.

⁽⁵⁾ OJ L 153, 11.6.2011, p. 1.

⁽⁶⁾ Conclusion on the peer review of the pesticide risk assessment of the active substance iron sulfate. EFSA Journal 2012;10(1):2521. Available online: www.efsa.europa.eu/efsajournal.htm

⁽⁷⁾ Conclusion on the peer review of the pesticide risk assessment of the active substance tall oil crude. EFSA Journal 2012;10(2):2543. Available online: www.efsa.europa.eu/efsajournal.htm

⁽⁸⁾ Conclusion on the peer review of the pesticide risk assessment of the active substance tall oil pitch. EFSA Journal 2012;10(2):2544. Available online: www.efsa.europa.eu/efsajournal.htm

HAS ADOPTED THIS REGULATION:

Article 1

Part A of the Annex to Implementing Regulation (EU) No 540/2011 is amended in accordance with the Annex to this Regulation.

Article 2

Member States shall in accordance with Regulation (EC) No 1107/2009, where necessary, amend or withdraw existing authorisations for plant protection products containing repellents by

smell of animal or plant origin/tall oil crude as active substances in order to comply with the Annex to this Regulation by 1 May 2013.

Article 3

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

It shall apply from 1 November 2012.

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

Done at Brussels, 13 July 2012.

For the Commission

The President

José Manuel BARROSO

ANNEX

Part A of the Annex to Implementing Regulation (EU) No 540/2011 is amended as follows:

(1) Row 235 on the active substance iron sulphate is replaced by the following:

Number	Common Name, Identification Numbers	IUPAC Name	Purity (*)	Date of approval	Expiration of approval	Specific provisions
'235	<i>Iron sulphate:</i> Iron(II)sulfate anhydrous: CAS No 7720-78-7 Iron(II)sulfate monohydrate: CAS No 17375-41-6 Iron(II)sulfate heptahydrate: CAS No 7782-63-0 CIPAC No 837	Iron(II)sulphate or iron(2+) sulfate	Iron(II)sulfate anhydrous: ≥ 350 g/kg total iron. Relevant impurities: arsenic, 18 mg/kg cadmium, 1,8 mg/kg chromium, 90 mg/kg lead, 36 mg/kg mercury, 1,8 mg/kg expressed on the basis of the anhydrous variant	1 September 2009	31 August 2019	PART A Only uses as herbicide may be authorised. PART B For the implementation of the uniform principles, as referred to in Article 29(6) of Regulation (EC) No 1107/2009, the conclusions of the amended review report on iron sulphate (SANCO/2616/2008) and in particular Appendices I and II thereof, as finalised in the Standing Committee on the Food Chain and Animal Health on 1 June 2012 shall be taken into account. In this overall assessment Member States shall pay particular attention to: — the risk for operator; — the risk to children/residents playing on treated turf; — the risk to surface waters and to aquatic organisms. Conditions of use shall include, where appropriate, risk mitigation measures and the application of adequate personal protective equipment. The notifier shall submit to the Member States, the Commission and the Authority, confirmatory information as regards the equivalence between the specifications of the technical material, as commercially manufactured, and those of the test material used in the toxicity dossiers. The Member States concerned shall ensure that the notifier submits to the Commission such information by 1 May 2013.'

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

(2) Row 250 on the active substance Repellents by smell of animal or plant origin/tall oil crude is replaced by the following:

Number	Common Name, Identification Numbers	IUPAC Name	Purity (*)	Date of approval	Expiration of approval	Specific provisions
'250	Repellents by smell of animal or plant origin/tall oil crude: CAS No 8002-26-4 CIPAC No 911	Not available	The qualitative parameters below comprise the specification of repellents by smell of animal or plant origin/tall oil crude: acid number: min. 125 mgKOH/g water content: max. 2 % rosin acid content: min. 35 % (proposed) ash content: max. 0,2 % pH: approx. min. 5,5 unsaponifiables: max. 12 % free mineral acids: max. 0,02 %	1 September 2009	31 August 2019	PART A Only uses as repellent applied by glove or brush may be authorised. PART B For the implementation of the uniform principles, as referred to in Article 29(6) of Regulation (EC) No 1107/2009, the conclusions of the amended review report on repellents by smell of animal or plant origin/tall oil crude (SANCO/2631/2008) and in particular Appendices I and II thereof, as finalised in the Standing Committee on the Food Chain and Animal Health on 1 June 2012 shall be taken into account. In assessing applications to authorise plant protection products containing Repellents by smell of animal or plant origin/tall oil crude for uses other than as a repellent in forestry, Member States shall pay particular attention to the criteria in Article 4(3) of Regulation (EC) No 1107/2009, and shall ensure that any necessary information is provided before such an authorisation is granted. In this overall assessment Member States shall pay particular attention to: — the protection of operator, worker and bystander; — the risk to non target species. Conditions of use shall include, where appropriate, risk mitigation measures. The Member States concerned shall request the submission of confirmatory information as regards: (a) the equivalence between the specifications of the technical material, as commercially manufactured, and those of the test material used in the toxicity dossiers; (b) the toxicological profile of repellents by smell of animal or plant origin/tall oil crude. The Member States concerned shall ensure that the notifier submits to the Commission the information set out in point (a) by 1 May 2013 and the information set out in point (b) by 31 May 2014.'

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

(3) Row 251 on the active substance Repellents by smell of animal or plant origin/tall oil pitch is replaced by the following:

Number	Common Name, Identification Numbers	IUPAC Name	Purity (*)	Date of approval	Expiration of approval	Specific provisions
'251	Repellents by smell of animal or plant origin/tall oil pitch: CAS No 8016-81-7 CIPAC No 912	Not available	Complex mixture of esters of fatty acids, rosin and small amounts of dimers and trimers of resin acids and fatty acids.	1 September 2009	31 August 2019	PART A Only uses as repellent may be authorised. PART B For the implementation of the uniform principles, as referred to in Article 29(6) of Regulation (EC) No 1107/2009, the conclusions of the amended review report on repellents by smell of animal or plant origin/tall oil pitch (SANCO/2632/2008) and in particular Appendices I and II thereof, as finalised in the Standing Committee on the Food Chain and Animal Health on 1 June 2012 shall be taken into account. In assessing applications to authorise plant protection products containing repellents by smell of animal or plant origin/tall oil pitch for uses other than as a repellent in forestry applied by glove or brush, Member States shall pay particular attention to the criteria in Article 4(3) of Regulation (EC) No 1107/2009, and shall ensure that any necessary information is provided before such an authorization is granted. In this overall assessment Member States shall pay particular attention to: — the protection of operator, worker and bystander; — the risk to non target species. Conditions of use shall include risk mitigation measures, where appropriate. The Member States concerned shall request the submission of confirmatory information as regards: (a) the equivalence between the specifications of the technical material, as commercially manufactured, and those of the test material used in the toxicity dossiers; (b) the toxicological profile of repellents by smell of animal or plant origin/tall oil pitch. The Member States concerned shall ensure that the notifier submits to the Commission the information set out in point (a) by 1 May 2013 and the information set out in point (b) by 31 May 2014.'

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

COMMISSION IMPLEMENTING REGULATION (EU) No 638/2012**of 13 July 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, 13 July 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	MK	41,0
	ZZ	41,0
0707 00 05	TR	95,4
	ZZ	95,4
0709 93 10	TR	99,0
	ZZ	99,0
0805 50 10	AR	81,5
	BO	90,5
	TR	53,0
	UY	97,0
	ZA	94,4
	ZZ	83,3
0808 10 80	AR	138,6
	BR	91,2
	CL	109,1
	CN	125,2
	NZ	121,1
	US	165,3
	ZA	111,8
	ZZ	123,2
0808 30 90	AR	123,2
	CL	125,7
	NZ	179,1
	ZA	117,6
	ZZ	136,4
0809 10 00	TR	183,6
	ZZ	183,6
0809 29 00	TR	359,6
	ZZ	359,6
0809 30	TR	179,1
	ZZ	179,1

⁽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 639/2012
of 13 July 2012
fixing the import duties in the cereals sector applicable from 16 July 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:

(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.

(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 16 July 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:

Article 1

From 16 July 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, 13 July 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 16 July 2012

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

29.6.2012-12.7.2012

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	282,44	220,47	—	—	—
Fob price USA	—	—	251,95	241,95	221,95
Gulf of Mexico premium	—	30,37	—	—	—
Great Lakes premium	35,33	—	—	—	—

⁽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: 17,32 EUR/t

Freight costs: Great Lakes-Rotterdam: 53,49 EUR/t

DECISIONS

POLITICAL AND SECURITY COMMITTEE DECISION EU BAM RAFAH/1/2012

of 3 July 2012

on the appointment of the Head of European Union Border Assistance Mission for the Rafah Crossing Point (EU BAM Rafah)

(2012/382/EU)

THE POLITICAL AND SECURITY COMMITTEE,

HAS ADOPTED THIS DECISION:

Having regard to the Treaty on European Union, and in particular the third paragraph of Article 38 thereof,

Having regard to Council Joint Action 2005/889/CFSP of 12 December 2005 on establishing a European Union Border Assistance Mission for the Rafah Crossing Point (EU BAM Rafah) ⁽¹⁾, and in particular Article 10(1) thereof,

Whereas:

- (1) Under Article 10(1) of Joint Action 2005/889/CFSP, the Political and Security Committee is authorised, in accordance with Article 38 of the Treaty, to take the relevant decisions for the purpose of exercising the political control and strategic direction of the EU BAM Rafah mission, including in particular the decision to appoint a Head of Mission.
- (2) The High Representative of the Union for Foreign Affairs and Security Policy has proposed the appointment of Mr Davide PALMIGIANI as Head of the EU BAM Rafah mission, *ad interim*, for the period from 1 July 2012 to 31 July 2012,

Article 1

Mr Davide PALMIGIANI is hereby appointed as Head of the European Union Border Assistance Mission for the Rafah Crossing Point (EU BAM Rafah), *ad interim*, for the period from 1 July 2012 to 31 July 2012.

Article 2

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

It shall apply from 1 July 2012.

Done at Brussels, 3 July 2012.

For the Political and Security Committee
The Chairperson
O. SKOOG

⁽¹⁾ OJ L 327, 14.12.2005, p. 28.

POLITICAL AND SECURITY COMMITTEE DECISION EUPOL COPPS/1/2012**of 3 July 2012****on the appointment of the Head of the European Union Police Mission for the Palestinian Territories (EUPOL COPPS)**

(2012/383/EU)

THE POLITICAL AND SECURITY COMMITTEE,

Having regard to the Treaty on European Union, and in particular the third paragraph of Article 38 thereof,

Having regard to Council Joint Action 2005/797/CFSP of 14 November 2005 on the European Union Police Mission for Palestinian Territories ⁽¹⁾ (EUPOL COPPS), and in particular Article 11(1) thereof,

Whereas:

- (1) Under Article 11(1) of Joint Action 2005/797/CFSP, the Political and Security Committee is authorised, in accordance with Article 38 of the Treaty, to take the relevant decisions for the purpose of exercising the political control and strategic direction of the EUPOL COPPS mission, including in particular the decision to appoint a Head of Mission.
- (2) The High Representative of the Union for Foreign Affairs and Security Policy has proposed the appointment of Mr

Kenneth DEANE as Head of the EUPOL COPPS mission for the period from 1 July 2012 to 30 June 2013,

HAS ADOPTED THIS DECISION:

Article 1

Mr Kenneth DEANE is hereby appointed as Head of the European Union Police Mission for the Palestinian Territories (EUPOL COPPS), for the period from 1 July 2012 to 30 June 2013.

*Article 2*This Decision shall enter into force on the date of its adoption.
It shall apply from 1 July 2012.

Done at Brussels, 3 July 2012.

*For the Political and Security Committee**The Chairperson*

O. SKOOG

⁽¹⁾ OJ L 300, 17.11.2005, p. 65.

COMMISSION IMPLEMENTING DECISION

of 12 July 2012

amending Decision 2009/11/EC authorising methods for grading pig carcasses in Spain

(notified under document C(2012) 4711)

(Only the Spanish text is authentic)

(2012/384/EU)

THE EUROPEAN COMMISSION,

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

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

Whereas:

- (1) By Commission Decision 2009/11/EC ⁽²⁾, the use of four methods for grading pig carcasses in Spain was authorised.
- (2) Spain has stated that due to new technological developments and the development of new versions of two devices authorised in Spain it is necessary to calibrate those new devices in order to obtain new formulas for their use in Spain.
- (3) In a significant group of slaughterhouses in Spain the number of slaughters does not exceed 500 pigs per week on yearly average basis. A method for pig carcass classification appropriate to their slaughter capacity is therefore needed.
- (4) Spain has requested the Commission to authorise three new methods for grading pig carcasses on its territory and has presented a detailed description of the dissection trial, indicating the principles on which those methods are based, the results of its dissection trial and the equations used for assessing the percentage of lean meat in the protocol provided for in Article 23(4) of Commission Regulation (EC) No 1249/2008 of 10 December 2008 laying down detailed rules on the implementation of the Community scales for the classification of beef, pig and sheep carcasses and the reporting of prices thereof ⁽³⁾.
- (5) Examination of that request has revealed that the conditions for authorising those grading methods are fulfilled. Those grading methods should therefore be authorised in Spain.
- (6) Decision 2009/11/EC should therefore be amended accordingly.

(7) Modifications of the apparatus or grading methods should not be allowed, unless they are explicitly authorised by Commission Implementing Decision.

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

HAS ADOPTED THIS DECISION:

Article 1

Decision 2009/11/EC is amended as follows:

(1) Article 1 is replaced by the following:

‘Article 1

The use of the following methods is authorised for grading pig carcasses pursuant to point 1 of Section B.IV of Annex V to Council Regulation (EC) No 1234/2007 (*) in Spain:

- (a) the “Fat-O-Meat’er (FOM)” apparatus and the assessment methods related thereto, details of which are given in Part 1 of the Annex;
- (b) the “Fully automatic ultrasonic carcase grading (Autofom)” apparatus and the assessment methods related thereto, details of which are given in Part 2 of the Annex;
- (c) the “Ultrafom 300” apparatus and the assessment methods related thereto, details of which are given in Part 3 of the Annex;
- (d) the “Automatic vision system (VCS2000)” apparatus and the assessment methods related thereto, details of which are given in Part 4 of the Annex;
- (e) the “Fat-O-Meat’er II (FOM II)” apparatus and the assessment methods related thereto, details of which are given in Part 5 of the Annex;
- (f) the “AutoFOM III” apparatus and the assessment methods related thereto, details of which are given in Part 6 of the Annex;
- (g) the “manual method (ZP)” with a ruler and the assessment methods related thereto, details of which are given in Part 7 of the Annex.

⁽¹⁾ OJ L 299, 16.11.2007, p. 1.

⁽²⁾ OJ L 6, 10.1.2009, p. 79.

⁽³⁾ OJ L 337, 16.12.2008, p. 3.

The manual method ZP with a ruler, referred to in point (g) of the first paragraph, shall only be authorised for abattoirs:

- (a) where the number of slaughters does not exceed 500 pigs per week on yearly average basis; and
- (b) having a slaughter line with a capacity to process no more than 40 pigs per hour.

(*) OJ L 299, 16.11.2007, p. 1.;

- (2) the Annex is amended in accordance with the Annex to this Decision.

Article 2

This Decision is addressed to the Kingdom of Spain.

Done at Brussels, 12 July 2012.

For the Commission

Dacian CIOLOȘ

Member of the Commission

ANNEX

In the Annex to Decision 2009/11/EC the following Parts 5, 6 and 7 are added:

Part 5

FAT-O-MEAT'ER (FOM II)

1. The rules provided for in this Part shall apply when the grading of pig carcasses is carried out by means of the apparatus known as "Fat-O-Meat'er (FOM II)".
2. The apparatus is a new version of the Fat-O-Meat'er measurement system. The FOM II consists of an optical probe with a knife, a depth measurement device having an operating distance of between 0 and 125 millimetres and a data acquisition and analysis board — Carometec Touch Panel i15 computer (Ingress Protection IP69K). The results of the measurements are converted into estimated lean meat content by the FOM II apparatus itself.
3. The lean meat content of a carcass shall be calculated according to the following formula:

$$\hat{Y} = 64,53 - 0,876 \times X_1 + 0,181 \times X_2$$

where:

$\hat{Y}$ = the estimated percentage of lean meat in a carcass,

X_1 = the thickness of back-fat (including rind) in millimetres, measured perpendicularly to the back of the carcass at 6 cm of the split line, between the third and fourth last ribs,

X_2 = the thickness of the dorsal muscle in millimetres, measured at the same time, in the same place and in the same way as X_1 .

This formula shall be valid for carcasses weighing between 60 and 120 kilograms (warm weight).

Part 6

AUTOFOM III

1. The rules provided for in this Part shall apply when the grading of pig carcasses is carried out by means of the apparatus known as "AutoFOM III".
2. The apparatus shall be equipped with sixteen 2 MHz ultrasonic transducers (Carometec A/S), with an operating distance between transducers of 25 mm. The ultrasonic data shall comprise measurements of back fat thickness, muscle thickness and related parameters. The results of the measurements are converted into estimates of the percentage of lean meat by using a computer.
3. The lean meat content of a carcass shall be calculated according to the following formula:

$$\hat{Y} = 68,44293415 - (0,35254288 \times R2P10) - (0,31514342 \times R2P15) - (0,19383319 \times R2P16) + (0,02067879 \times R3P3) + (0,03303812 \times R3P5) + (0,02479771 \times R3P6) + (0,02710736 \times R3P7) + (0,02310621 \times R3P9) - (0,07075210 \times R4P10)$$

where:

$\hat{Y}$ = the estimated percentage of lean meat in a carcass,

R2P10, R2P15, R2P16, R3P3, R3P5, R3P6, R3P7, R3P9 and R4P10 are the variables measured by AutoFOM III,

4. The measuring points are described in Part II of the protocol presented to the Commission by Spain in accordance with Article 23(4) of Commission Regulation (EC) No 1249/2008 (*).

This formula is valid for carcasses weighing between 60 and 120 kg (warm weight).

Part 7

MANUAL METHOD (ZP)

1. The rules provided for in this Part shall apply when the grading of pig carcasses is carried out by use of the "manual method (ZP)" measuring by ruler.
2. This method may be implemented using a ruler, with the grading determined on the basis of the prediction equation. It is based on the manual measurement on the midline of the split carcass of the thickness of the fat and of the thickness of the muscle.

3. The lean meat content of carcasses shall be calculated according to the following formula:

$$\hat{Y} = 59,89 - 0,821 \times F + 0,157 \times M$$

where:

$\hat{Y}$ = the estimated percentage of lean meat in the carcass,

F = the minimum thickness of visible fat (including rind), in millimetres, on the midline of the split carcass in millimetres, covering the *M. gluteus medius*,

M = the visible thickness of the lumbar muscle, in millimetres, on the midline of the split carcass, measured as the shortest connection between the front (cranial) end of the *M. gluteus medius* and the upper (dorsal) edge of the vertebral canal.

This formula shall valid for carcasses weighing between 60 and 120 kg (warm weight).

(*) OJ L 337, 16.12.2008, p. 3.'

COMMISSION IMPLEMENTING DECISION

of 12 July 2012

amending Decision 2009/12/EC authorising methods for grading pig carcasses in Denmark

(notified under document C(2012) 4712)

(Only the Danish text is authentic)

(2012/385/EU)

THE EUROPEAN COMMISSION,

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

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

Whereas:

- (1) By Commission Decision 2009/12/EC ⁽²⁾, the use of six methods for grading pig carcasses in Denmark was authorised.
- (2) Denmark has stated that the development of the automatic equipment, AutoFOM, in a version called 'version III' makes its use and calibration aimed at Danish slaughterhouses desirable. It is therefore necessary to obtain the formula for this new method.
- (3) Denmark has requested the Commission to authorise that new method for grading pig carcasses on its territory and has presented a detailed description of the dissection trial, indicating the principles on which this method is based, the results of its dissection trial and the equation used for assessing the percentage of lean meat in the protocol provided for in Article 23(4) of Commission Regulation (EC) No 1249/2008 of 10 December 2008 laying down detailed rules on the implementation of the Community scales for the classification of beef, pig and sheep carcasses and the reporting of prices thereof ⁽³⁾.
- (4) Examination of that request has revealed that the conditions for authorising that grading method are fulfilled. That grading method should therefore be authorised in Denmark.

- (5) Decision 2009/12/EC should therefore be amended accordingly.
- (6) Modifications of the apparatus or grading methods should not be allowed, unless they are explicitly authorised by Commission Implementing Decision.
- (7) The measures provided for in this Decision are in accordance with the opinion of the Management Committee for the Common Organisation of the Agricultural Markets,

HAS ADOPTED THIS DECISION:

Article 1

Decision 2009/12/EC is amended as follows:

- (1) in Article 1, the following point (g) is added:

'(g) the "Automatic ultrasound instrument (AutoFOM III)" apparatus and the assessment methods related thereto, details of which are given in Part 7 of the Annex.;

- (2) the Annex is amended in accordance with the Annex to this Decision.

Article 2

This Decision is addressed to the Kingdom of Denmark.

Done at Brussels, 12 July 2012.

For the Commission

Dacian CIOLOȘ

Member of the Commission

⁽¹⁾ OJ L 299, 16.11.2007, p. 1.

⁽²⁾ OJ L 6, 10.1.2009, p. 83.

⁽³⁾ OJ L 337, 16.12.2008, p. 3.

ANNEX

In the Annex to Decision 2009/12/EC the following Part 7 is added:

Part 7

AUTOMATIC ULTRASOUND INSTRUMENT (AutoFOM III)

1. The rules provided for in this Part shall apply when the grading of pig carcasses is carried out by means of the apparatus known as "AutoFOM III".
2. The apparatus shall be equipped with sixteen 2 MHz ultrasonic transducers (Carometec A/S), with an operating distance between transducers of 25 mm. The ultrasonic data shall comprise measurements of back fat thickness, muscle thickness and related parameters. The results of the measurements are converted into estimates of the percentage of lean meat by using a computer.
3. The lean meat content of a carcass shall be calculated according to the following formula:

$$\hat{Y} = 72,05017 - (1,31831 \times R2P5) - (0,37231 \times R2P10) - (0,36672 \times R2P11) + (0,03146 \times R3P3) + (0,05058 \times R3P5) - (0,02641 \times R4P8) - (0,06667 \times R4P10) - (0,27698 \times R4P11)$$

where:

$\hat{Y}$ = the estimated percentage of lean meat in a carcass,

R2P5, R2P10, R2P11, R3P3, R3P5, R4P8, R4P10 and R4P11 — are the variables measured by AutoFOM III.

4. The measuring points are described in Part II of the protocol presented to the Commission by Denmark in accordance with Article 23(4) of Commission Regulation (EC) No 1249/2008 (*).

This formula shall be valid for carcasses weighing between 50 and 110 kg.

(*) OJ L 337, 16.12.2008, p. 3.

DECISION OF THE EUROPEAN CENTRAL BANK

of 3 July 2012

amending Decision ECB/2011/25 on additional temporary measures relating to Eurosystem refinancing operations and eligibility of collateral

(ECB/2012/12)

(2012/386/EU)

THE GOVERNING COUNCIL OF THE EUROPEAN CENTRAL BANK,
Having regard to the Treaty on the Functioning of the European Union, and in particular the first indent of Article 127(2) thereof,

Having regard to the Statute of the European System of Central Banks and of the European Central Bank, and in particular the first indent of Article 3.1 and Article 18.2 thereof,

Whereas:

- (1) Pursuant to Article 18.1 of the Statute of the European System of Central Banks and of the European Central Bank, the European Central Bank (ECB) and the national central banks of Member States whose currency is the euro (hereinafter the 'NCBs') may conduct credit operations with credit institutions and other market participants, with lending being based on adequate collateral. The criteria determining the eligibility of collateral for the purposes of Eurosystem monetary policy operations are laid down in Annex I to Guideline ECB/2011/14 of 20 September 2011 on monetary policy instruments and procedures of the Eurosystem ⁽¹⁾.
- (2) The Governing Council of the ECB considers it necessary to review the exception from the close links prohibition set out in Section 6.2.3.2 of Annex I to Guideline ECB/2011/14 with respect to government-guaranteed bank bonds issued and own used as collateral by counterparties.
- (3) Counterparties participating in Eurosystem credit operations should be allowed to increase current levels of own-use of government-guaranteed bank bonds subject to the *ex ante* approval of the Governing Council in exceptional circumstances.
- (4) The requests submitted to the Governing Council for the *ex ante* approval need to be accompanied by a funding plan.

- (5) Therefore, Decision ECB/2011/25 of 14 December 2011 on additional temporary measures relating to Eurosystem refinancing operations and eligibility of collateral ⁽²⁾ should be amended accordingly,

HAS ADOPTED THIS DECISION:

*Article 1***Amendment**

The following Article 4b is inserted in Decision ECB/2011/25:

*'Article 4b***Acceptance of government-guaranteed bank bonds**

1. Counterparties that issue eligible bank bonds guaranteed by an EEA public sector entity with the right to impose taxes may not submit such bonds or similar bonds issued by closely linked entities as collateral for Eurosystem credit operations in excess of the nominal value of these bonds already submitted as collateral on the day this Decision enters into force.
2. In exceptional cases, the Governing Council may decide on derogations from the requirement laid down in paragraph 1. A request for a derogation shall be accompanied by a funding plan.'

*Article 2***Entry into force**

This Decision shall enter into force on its date of adoption.

Done at Frankfurt am Main, 3 July 2012.

The President of the ECB
Mario DRAGHI

⁽¹⁾ OJ L 331, 14.12.2011, p. 1.

⁽²⁾ OJ L 341, 22.12.2011, p. 65.

2012/385/EU:

★ **Commission Implementing Decision of 12 July 2012 amending Decision 2009/12/EC authorising methods for grading pig carcasses in Denmark** (*notified under document C(2012) 4712*) 36

2012/386/EU:

★ **Decision of the European Central Bank of 3 July 2012 amending Decision ECB/2011/25 on additional temporary measures relating to Eurosystem refinancing operations and eligibility of collateral (ECB/2012/12)** 38

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