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⁽¹⁾ Text with EEA relevance

I

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

REGULATIONS

COMMISSION REGULATION (EC) No 354/2009**of 29 April 2009****establishing the standard import values for determining the entry price of certain fruit and vegetables**

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

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

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

Whereas:

Regulation (EC) No 1580/2007 lays down, pursuant to the outcome of the Uruguay Round multilateral trade negotiations, the criteria whereby the Commission fixes the standard values for imports from third countries, in respect of the products and periods stipulated in Annex XV, Part A thereto,

HAS ADOPTED THIS REGULATION:

Article 1

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

Article 2

This Regulation shall enter into force on 30 April 2009.

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

Done at Brussels, 29 April 2009.

For the Commission

Jean-Luc DEMARTY

*Director-General for Agriculture and
Rural Development*

⁽¹⁾ OJ L 299, 16.11.2007, p. 1.

⁽²⁾ OJ L 350, 31.12.2007, p. 1.

ANNEX

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

(EUR/100 kg)

| CN code | Third country code ⁽¹⁾ | Standard import value |
|------------|-----------------------------------|-----------------------|
| 0702 00 00 | JO | 88,9 |
| | MA | 78,2 |
| | TN | 139,0 |
| | TR | 114,1 |
| | ZZ | 105,1 |
| 0707 00 05 | JO | 155,5 |
| | MA | 37,3 |
| | TR | 141,5 |
| | ZZ | 111,4 |
| 0709 90 70 | JO | 216,7 |
| | TR | 92,4 |
| | ZZ | 154,6 |
| 0805 10 20 | EG | 44,5 |
| | IL | 58,0 |
| | MA | 46,7 |
| | TN | 64,9 |
| | TR | 69,2 |
| | US | 51,9 |
| 0805 50 10 | ZZ | 55,9 |
| | TR | 49,3 |
| | ZA | 56,7 |
| 0808 10 80 | ZZ | 53,0 |
| | AR | 83,6 |
| | BR | 70,7 |
| | CA | 113,8 |
| | CL | 84,8 |
| | CN | 112,7 |
| | MK | 33,9 |
| | NZ | 114,7 |
| | US | 128,2 |
| | UY | 63,7 |
| ZA | 78,3 | |
| 0808 20 50 | ZZ | 88,4 |
| | AR | 76,9 |
| | CL | 81,4 |
| | CN | 36,6 |
| | NZ | 141,0 |
| ZA | 84,4 | |
| ZZ | 84,1 | |

⁽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 REGULATION (EC) No 355/2009

of 31 March 2009

amending Regulation (EC) No 2869/95 on the fees payable to the Office for Harmonization in the Internal Market (Trade Marks and Designs) and Regulation (EC) No 2868/95 implementing Council Regulation (EC) No 40/94 on the Community trade mark

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Council Regulation (EC) No 40/94 of 20 December 1993 on the Community trade mark ⁽¹⁾ and in particular Articles 139 and 157 thereof,

Whereas:

- (1) Article 139(2) of Regulation (EC) No 40/94 lays down that the amounts of the fees payable to the Office for Harmonization in the Internal Market, hereinafter 'the Office', are to be fixed at such a level as to ensure that the revenue in respect thereof is sufficient to ensure that its budget is balanced.
- (2) The Office is generating substantial cash reserves. A further increase in the revenue of the Office and, as a consequence, budgetary surplus of the Office is expected. This is in particular the result of the payment of application and registration fees for Community trade marks.
- (3) A reduction in fees would therefore be one of the measures for ensuring that the budget is balanced, while fostering access to the Community trade mark system for users.
- (4) In order to reduce the administrative burden on both the users and the Office the fee structure should be simplified by fixing the amount of the registration fee for a Community trade mark at zero. Hence, only the payment of the application fee will be required and the processing time for the registration can be considerably reduced if no registration fee has to be paid before registering a Community trade mark.
- (5) In relation to international registrations designating the European Community the fixing of the amount of the registration fee for a Community trade mark at zero implies that the amount of the fee to be refunded pursuant to Article 149(4) or Article 151(4) of Regulation (EC) No 40/94 has to be set to zero as well.
- (6) The reduction in fees should ensure a proper balance between the Community and national trade mark systems, taking into account the future development of the relations between the Office and industrial property offices of Member States, including the remuneration for services rendered by the offices of Member States.
- (7) Commission Regulation (EC) No 2869/95 of 13 December 1995 on the fees payable to the Office for Harmonization in the Internal Market (Trade Marks and Designs) ⁽²⁾ and Commission Regulation (EC) No 2868/95 of 13 December 1995 implementing Council Regulation (EC) No 40/94 on the Community trade mark ⁽³⁾ should therefore be amended accordingly.
- (8) A transitional provision is required to ensure legal certainty while providing maximum benefit to both the users and the Office.
- (9) The measures provided for in this Regulation are in accordance with the opinion of the Committee on Fees, Implementation Rules and the Procedure of the Boards of Appeal of the Office for Harmonization in the Internal Market (Trade Marks and Designs),

HAS ADOPTED THIS REGULATION:

Article 1

Regulation (EC) No 2869/95 is hereby amended as follows:

1. The table in Article 2 is amended as follows:

(a) point 1 is replaced by the following:

| | |
|---|--------|
| '1. Basic fee for the application for an individual mark (Article 26(2), Rule 4(a)) | 1 050' |
|---|--------|

(b) point 1b is replaced by the following:

| | |
|--|------|
| '1b. Basic fee for the application for an individual mark by electronic means (Article 26(2), Rule 4(a)) | 900' |
|--|------|

⁽¹⁾ OJ L 11, 14.1.1994, p. 1.

⁽²⁾ OJ L 303, 15.12.1995, p. 33.

⁽³⁾ OJ L 303, 15.12.1995, p. 1.

(c) point 3 is replaced by the following:

'3. Basic fee for the application for a collective mark (Article 26(2) and Article 64(3), Rule 4(a) and Rule 42) 1 800'

amount corresponding to the fee mentioned in point 8 of that table for each class of goods and services contained in the international registration exceeding three;

(d) points 7 to 11 are replaced by the following:

'7. Basic fee for the registration of an individual mark (Article 45) 0

(b) for a collective mark: an amount corresponding to the fee mentioned in point 9 of the table in Article 2 plus an amount corresponding to the fee mentioned in point 10 of that table for each class of goods and services contained in the international registration exceeding three.

8. Fee for each class of goods and services exceeding three for an individual mark (Article 45) 0

9. Basic fee for the registration of a collective mark (Article 45 and Article 64(3)) 0

2. The refund shall be made once the communication to the International Bureau pursuant to Rule 113(2)(b) and (c) or Rule 115(5)(b), (c) and (6) of Regulation (EC) No 2868/95 has been issued.

10. Fee for each class of goods and services exceeding three for a collective mark (Article 45 and Article 64(3)) 0

3. The refund shall be made to the holder of the international registration or his representative.'

11. Additional fee for the late payment of the registration fee (point 2 of Article 157(2)) 0'

Article 2

Article 1 of Regulation (EC) No 2868/95 is amended as follows:

2. In Article 11(3), points (a) and (b) are replaced by the following:

'(a) for an individual mark: EUR 870 plus, where applicable, EUR 150 for each class of goods and services exceeding three;

1. In Rule 13a(3) point (c) is deleted.

2. Rule 23 is replaced by the following:

'Rule 23

Registration of the trade mark

1. Where no opposition has been entered or where any opposition entered has been finally disposed of by withdrawal, rejection or other disposition, the trade mark applied for and the particulars referred to in Rule 84(2) shall be recorded in the Register of Community trade marks.

(b) for a collective mark as referred to in Rule 121(1) of Regulation (EC) No 2868/95: EUR 1 620 plus, where applicable, EUR 300 for each class of goods or services exceeding three.'

2. The registration shall be published in the Community Trade Marks Bulletin.'

3. Article 13 is replaced by the following:

'Article 13

Refund of fees following refusal of protection

1. Where the refusal is either for all or only part of the goods and services contained in the designation of the European Community, the amount of the fee to be refunded pursuant to Article 149(4) or Article 151(4) of the Council Regulation (EC) No 40/94 shall be:

Article 3

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

(a) for an individual mark: an amount corresponding to the fee mentioned in point 7 of the table in Article 2 plus an

A Community trade mark application in respect of which a notification described in Rule 23(2) of Regulation (EC) No 2868/95 in its version in force before the date of entry into force of this Regulation has been sent before that date shall continue to be subject to Regulation (EC) No 2868/95 and Regulation (EC) No 2869/95 in their versions in force before the date of entry into force of this Regulation.

An international application or a request for territorial extension designating the European Community which has been filed before the day on which the amounts mentioned in Article 11(3), points (a) and (b) of Regulation (EC) No 2869/95 in its version as amended by this Regulation take effect according to Article 8(7)(b) of the Madrid Protocol shall continue to be subject to Article 13 of Regulation (EC) No 2869/95 in its version in force before the date of entry into force of this Regulation.

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

Done at Brussels, 31 March 2009.

For the Commission
Charlie McCREEVY
Member of the Commission

COMMISSION REGULATION (EC) No 356/2009

of 29 April 2009

initiating a 'new exporter' review of Council Regulation (EC) No 452/2007 imposing a definitive anti-dumping duty on imports of ironing boards originating, inter alia, in the People's Republic of China, repealing the duty with regard to imports from one exporter in this country and making these imports subject to registration

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

D. GROUNDS FOR THE REVIEW

Having regard to the Treaty establishing the European Community,

Having regard to Council Regulation (EC) No 384/96 of 22 December 1995 on protection against dumped imports from countries not members of the European Community⁽¹⁾ (the basic Regulation) and in particular Article 11(4).

Whereas:

A. REQUEST FOR A REVIEW

- (1) The Commission has received an application for a 'new exporter' review pursuant to Article 11(4) of the basic Regulation. The application was lodged by Greenwood Houseware (Zuhai) Ltd (the applicant), an exporting producer in the People's Republic of China (the country concerned).

B. PRODUCT

- (2) The product under review is ironing boards, whether or not free-standing, with or without a steam soaking and/or heating top and/or blowing top, including sleeve boards, and essential parts thereof, i.e. the legs, the top and the iron rest originating in the People's Republic of China (the product concerned), currently classifiable within CN codes ex 3924 90 90, ex 4421 90 98, ex 7323 93 90, ex 7323 99 91, ex 7323 99 99, ex 8516 79 70 and ex 8516 90 00.

C. EXISTING MEASURES

- (3) The measures currently in force are a definitive anti-dumping duty imposed by Council Regulation (EC) No 452/2007⁽²⁾, under which imports into the Community of the product concerned originating in the People's Republic of China, including the product concerned produced by the applicant, are subject to a definitive antidumping duty of 38,1% with the exception of several companies expressly mentioned which are subject to individual duty rates.

- (4) The applicant alleges that it operates under market economy conditions as defined in Article 2(7)(c) of the basic Regulation or alternatively claims individual treatment in conformity with Article 9(5) of the basic Regulation. It further alleges that it did not export the product concerned to the Community during the period of investigation on which the anti-dumping measures were based, i.e., the period from 1 January 2005 to 31 December 2005 (the original investigation period) and that it is not related to any of the exporting producers of the product which are subject to the above-mentioned anti-dumping measures.

- (5) The applicant further alleges that it began exporting the product concerned to the Community after the end of the original investigation period.

E. PROCEDURE

- (6) Community producers known to be concerned have been informed of the above application and have been given and opportunity to comment. No comments have been received.

- (7) Having examined the evidence available, the Commission concludes that there is sufficient evidence to justify the initiation of a 'new exporter' review, pursuant to Article 11(4) of the basic Regulation. Upon receipt of the claim mentioned below under 8(c), it will be determined whether the applicant operates under market economy conditions as defined in Article 2(7)(c) of the basic Regulation or alternatively whether the applicant fulfils the requirements to have an individual duty established in accordance with Article 9(5) of the basic Regulation. If so, the applicant's individual margin of dumping shall be calculated and, should dumping be found, the level of the duty to which its imports of the product concerned into the Community should be subject shall be determined.

- (8) If it is determined that the applicant fulfils the requirements to have an individual duty established, it may be necessary to amend the rate of duty currently applicable to imports of the product concerned from companies not individually mentioned in Article 1(2) of Regulation (EC) No 452/2007.

⁽¹⁾ OJ L 56, 6.3.1996, p. 1.

⁽²⁾ OJ L 109, 26.4.2007, p. 12.

(a) Questionnaires

In order to obtain the information it deems necessary for its investigation, the Commission will send a questionnaire to the applicant.

(b) Collection of information and holding of hearings

All interested parties are hereby invited to make their views known in writing and to provide supporting evidence.

Furthermore, the Commission may hear interested parties, provided that they make a request in writing showing that there are particular reasons why they should be heard.

Attention is drawn to the fact that the exercise of most procedural rights set out in the basic Regulation depends on the parties making themselves known within the period provided for by the present Regulation.

(c) Market economy treatment/individual treatment

In the event that the applicant provides sufficient evidence that it operates under market economy conditions, i.e. that it meets the criteria laid down in Article 2(7)(c) of the basic Regulation, normal value will be determined in accordance with Article 2(7)(b) of the basic Regulation. For this purpose, duly substantiated claims must be submitted within the specific time limit set in Article 4(3) of this Regulation. The Commission will send claim forms to the applicant, as well as to the authorities of the People's Republic of China. This claim form may also be used by the applicant to claim individual treatment, i.e. that it meets the criteria laid down in Article 9(5) of the basic Regulation.

Selection of the market economy country

In the event that the applicant is not granted market economy treatment but fulfils the requirements to have an individual duty established in accordance with Article 9(5) of the basic Regulation, an appropriate market economy country will be used for the purpose of establishing normal value in respect of the People's Republic of China in accordance with Article 2(7)(a) of the basic Regulation. The Commission envisages using Turkey again for this purpose as was done in the investigation which led to the imposition of measures on imports of the product concerned from the People's Republic of China. Interested parties are hereby invited

to comment on the appropriateness of this choice within the specific time limit set in Article 4(2) of this Regulation.

Furthermore, in the event that the applicant is granted market economy treatment, the Commission may, if necessary, also use findings concerning the normal value established in an appropriate market economy country, e.g. for the purpose of replacing any unreliable cost or price elements in the People's Republic of China which are needed in establishing the normal value, if reliable required data are not available in the People's Republic of China. The Commission envisages using Turkey also for this purpose.

F. REPEAL OF THE DUTY IN FORCE AND REGISTRATION OF IMPORTS

- (9) Pursuant to Article 11(4) of the basic Regulation, the anti-dumping duty in force should be repealed with regard to imports of the product concerned which are produced and sold for export to the Community by the applicant. At the same time, such imports should be made subject to registration in accordance with Article 14(5) of the basic Regulation, in order to ensure that, should the review result in a finding of dumping in respect of the applicant, anti-dumping duties can be levied retroactively from the date of the initiation of this review. The amount of the applicant's possible future liabilities cannot be estimated at this stage of the proceeding.

G. TIME LIMITS

- (10) In the interest of sound administration, time limits should be stated within which:
- (a) interested parties may make themselves known to the Commission, present their views in writing and submit the replies to the questionnaire mentioned in recital 8(a) of this Regulation or provide any other information to be taken into account during the investigation;
 - (b) interested parties may make a written request to be heard by the Commission.

H. NON-COOPERATION

- (11) In cases in which any interested party refuses access to or does not provide the necessary information within the time limits or significantly impedes the investigation, findings, affirmative or negative, may be made in accordance with Article 18 of the basic Regulation, on the basis of the facts available.

- (12) Where it is found that any interested party has supplied false or misleading information, the information shall be disregarded and use may be made, in accordance with Article 18 of the basic Regulation, of the facts available. If an interested party does not cooperate or cooperates only partially, and findings are therefore based on the facts available in accordance with Article 18 of the basic Regulation, the result may be less favourable to that party than if it had cooperated.

I. PROCESSING OF PERSONAL DATA

- (13) It is noted that any personal data collected in this investigation will be treated in accordance with Regulation (EC) No 45/2001 of the European Parliament and the Council of 18 December 2000 on the protection of individuals with regard to the processing of personal data by the Community institutions and bodies and on the free movement of such data ⁽¹⁾.

J. HEARING OFFICER

- (14) It is also noted that if interested parties consider that they are encountering difficulties in the exercise of their rights of defence, they may request the intervention of the Hearing Officer of DG Trade. He acts as an interface between the interested parties and the Commission services, offering, where necessary, mediation on procedural matters affecting the protection of their interests in this investigation, in particular with regard to issues concerning access to the file, confidentiality, extension of time limits and the treatment of written and/or oral submission of views. For further information and contact details, interested parties may consult the Hearing Officer's web pages on the website of DG Trade (<http://ec.europa.eu/trade>),

HAS ADOPTED THIS REGULATION:

Article 1

A review of Regulation (EC) No 452/2007 is hereby initiated pursuant to Article 11(4) of Regulation (EC) No 384/96 in order to determine if and to what extent the imports of ironing boards, whether or not free-standing, with or without a steam soaking and/or heating top and/or blowing top, including sleeve boards, and essential parts thereof, i.e. the legs, the top and the iron rest, falling within CN codes ex 3924 90 90, ex 4421 90 98, ex 7323 93 90, ex 7323 99 91, ex 7323 99 99, ex 8516 79 70 and ex 8516 90 00 (TARIC codes 3924 90 90 10, 4421 90 98 10, 7323 93 90 10, 7323 99 91 10, 7323 99 99 10, 8516 79 70 10 and 8516 90 00 51), originating in the People's Republic of China, produced and sold for export to the Community by Greenwood Houseware (Zuhai) Ltd (TARIC additional code A953) should be subject to the anti-dumping duty imposed by Regulation (EC) No 452/2007.

⁽¹⁾ OJ L 8, 12.1.2001, p. 1.

Article 2

The anti-dumping duty imposed by Regulation (EC) No 452/2007 is hereby repealed with regard to the imports identified in Article 1.

Article 3

The customs authorities are hereby directed, pursuant to Article 14(5) of Regulation (EC) No 384/96, to take the appropriate steps to register the imports identified in Article 1. Registration shall expire nine months following the date of entry into force of this Regulation.

Article 4

1. Interested parties, if their representations are to be taken into account during the investigation, must make themselves known to the Commission, present their views in writing and submit the replies to the questionnaire mentioned in recital 8(a) of this Regulation or any other information, unless otherwise specified, within 40 days of the entry into force of this Regulation. Interested parties may also apply in writing to be heard by the Commission within the same 40-day time limit.

2. Parties to the investigation wanting to comment on the appropriateness of Turkey, which is envisaged as a market economy third country for the purpose of establishing normal value in respect of the People's Republic of China, must submit their comments within 10 days of the date of entry into force of this Regulation.

3. A duly substantiated claim for market economy treatment and/or individual treatment must reach the Commission within 21 days of the date of the entry into force of this Regulation.

4. All submissions and requests made by interested parties must be made in writing (not in electronic format, unless otherwise specified) and must indicate the name, address, e-mail address, telephone and fax numbers of the interested party. All written submissions, including the information requested in this Regulation, questionnaire replies and correspondence provided by interested parties on a confidential basis shall be labelled '*Limited*' ⁽²⁾ and, in accordance with Article 19(2) of Regulation (EC) No 384/96, shall be accompanied by a non-confidential version, which will be labelled '*For inspection by interested parties*'.

⁽²⁾ This means that the document is for internal use only. It is protected pursuant to Article 4 of Regulation (EC) No 1049/2001 of the European Parliament and of the Council (OJ L 145, 31.5.2001, p. 43). It is a confidential document pursuant to Article 19 of Council Regulation (EC) No 384/96 (OJ L 56, 6.3.1996, p. 1) and Article 6 of the WTO Agreement on Implementation of Article VI of the GATT 1994 (Anti-dumping Agreement).

Any information relating to the matter and/or any request for a hearing should be sent to the following address:

European Commission
Directorate-General for Trade
Directorate H
Office: N105 4/92
1049 Brussels
BELGIUM
Fax + 32 2 295 65 05

Article 5

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

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

Done at Brussels, 29 April 2009.

For the Commission
Catherine ASHTON
Member of the Commission

DIRECTIVES

DIRECTIVE 2009/35/EC OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL

of 23 April 2009

on the colouring matters which may be added to medicinal products

(recast)

(Text with EEA relevance)

THE EUROPEAN PARLIAMENT AND THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty establishing the European Community, and in particular Article 95 thereof,

Having regard to the proposal from the Commission,

Having regard to the opinion of the European Economic and Social Committee ⁽¹⁾,

Acting in accordance with the procedure laid down in Article 251 of the Treaty ⁽²⁾,

Whereas:

(1) Council Directive 78/25/EEC of 12 December 1977 on the approximation of the laws of the Member States relating to the colouring matters which may be added to medicinal products ⁽³⁾ has been substantially amended several times ⁽⁴⁾. Since further amendments are to be made, it should be recast in the interests of clarity.

(2) The primary purpose of any laws concerning medicinal products must be to safeguard public health. However, this objective must be attained by means which will not hinder the development of the pharmaceutical industry or trade in medicinal products within the Community.

(3) Directive 94/36/EC of the European Parliament and of the Council of 30 June 1994 on colours for use in foodstuffs ⁽⁵⁾ established a single list of colouring matters authorised for use in foodstuffs, but disparities between the laws of Member States concerning the colouring of medicinal products still exist.

(4) Those disparities tend to hinder trade in medicinal products within the Community and trade in colouring matters which may be added to those products. Such disparities therefore directly affect the functioning of the internal market.

(5) Experience has shown that there is no reason, on health grounds, why the colouring matters authorised for use in foodstuffs should not also be authorised for use in medicinal products. Consequently, Annex I to Directive 94/36/EC as well as the Annex to Commission Directive 95/45/EC of 26 July 1995 laying down specific purity criteria concerning colours for use in foodstuffs ⁽⁶⁾ should also apply for medicinal products.

(6) However, when the use of a colouring matter in foodstuffs and medicinal products is prohibited in order to safeguard public health, technological and economic disturbances should be avoided as far as is possible. To this end a procedure should be provided for which establishes close cooperation between the Member States and the Commission within a committee for the adjustment to technical progress of the Directives on the elimination of technical barriers to trade in the sector of colouring matters which may be added to medicinal products.

(7) The measures necessary for the implementation of this Directive should be adopted in accordance with Council Decision 1999/468/EC of 28 June 1999 laying down the procedures for the exercise of implementing powers conferred on the Commission ⁽⁷⁾.

⁽¹⁾ OJ C 162, 25.6.2008, p. 41.

⁽²⁾ Opinion of the European Parliament of 23 September 2008 (not yet published in the Official Journal) and Council Decision of 23 March 2009.

⁽³⁾ OJ L 11, 14.1.1978, p. 18.

⁽⁴⁾ See Annex I, Part A.

⁽⁵⁾ OJ L 237, 10.9.1994, p. 13. Directive repealed prospectively by Regulation (EC) No 1333/2008 of the European Parliament and of the Council of 16 December 2008 on food additives (OJ L 354, 31.12.2008, p. 16.).

⁽⁶⁾ OJ L 226, 22.9.1995, p. 1. Directive repealed prospectively by Regulation (EC) No 1333/2008.

⁽⁷⁾ OJ L 184, 17.7.1999, p. 23.

- (8) In particular, the Commission should be empowered to amend the limited period of use of medicinal products. Since those measures are of general scope and are designed to amend non-essential elements of this Directive, by supplementing it with new non-essential elements, they must be adopted in accordance with the regulatory procedure with scrutiny provided for in Article 5a of Decision 1999/468/EC.
- (9) The new elements introduced into this Directive only concern the committee procedures. They therefore do not need to be transposed by the Member States.
- (10) This Directive should be without prejudice to the obligations of the Member States relating to the time-limits for transposition into national law of the Directives set out in Annex I, Part B,

HAVE ADOPTED THIS DIRECTIVE:

Article 1

Member States shall not authorise, for the colouring of medicinal products for human and veterinary use as defined in Article 1 of Directive 2001/82/EC of the European Parliament and of the Council of 6 November 2001 on the Community code relating to veterinary medicinal products⁽¹⁾ and in Article 1 of Directive 2001/83/EC of the European Parliament and of the Council of 6 November 2001 on the Community code relating to medicinal products for human use⁽²⁾, any colouring matters other than those covered by Annex I to Directive 94/36/EC.

Article 2

Member States shall take all measures necessary to ensure that the colouring matters covered by Annex I to Directive 94/36/EC satisfy the general specifications for aluminium lakes of colours and the specific criteria of purity laid down in the Annex to Directive 95/45/EC.

Article 3

The methods of analysis needed to verify that the general and specific criteria of purity adopted pursuant to the First Commission Directive 81/712/EEC of 28 July 1981 laying down Community methods of analysis for verifying that certain additives used in foodstuffs satisfy criteria of purity⁽³⁾ are satisfied shall also apply for the purpose of this Directive.

Article 4

Where a colouring matter is deleted from Annex I to Directive 94/36/EC but the marketing of foodstuffs containing this

colouring matter is permitted to continue for a limited period, this provision shall also apply to medicinal products.

This limited period of use may however be amended by the Commission as regards medicinal products.

Those measures designed to amend non-essential elements of this Directive, by supplementing it shall be adopted in accordance with the regulatory procedure with scrutiny referred to in Article 5(2).

Article 5

1. The Commission shall be assisted by a committee.
2. Where reference is made to this paragraph, Articles 5a(1) to (4) and Article 7 of Decision 1999/468/EC shall apply, having regard to the provisions of Article 8 thereof.

Article 6

Member States shall communicate to the Commission the text of the main provisions of national law which they adopt in the field covered by this Directive.

Article 7

Directive 78/25/EEC, as amended by the acts listed in Annex I, Part A is repealed, without prejudice to the obligations of the Member States relating to the time-limits for transposition into national law of the Directives set out in Annex I, Part B.

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

Article 8

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

Article 9

This Directive is addressed to the Member States.

Done at Strasbourg, 23 April 2009.

For the European Parliament
The President
H.-G. PÖTTERING

For the Council
The President
P. NEČAS

⁽¹⁾ OJ L 311, 28.11.2001, p. 1.

⁽²⁾ OJ L 311, 28.11.2001, p. 67.

⁽³⁾ OJ L 257, 10.9.1981, p. 1. Directive repealed prospectively by Regulation (EC) No 1333/2008.

ANNEX I

PART A

**Repealed Directive with list of its successive amendments
(referred to in Article 7)**

Council Directive 78/25/EEC
(OJ L 11, 14.1.1978, p. 18)

1979 Act of Accession, Annex I, Section X, point D
(OJ L 291, 19.11.1979, p. 108)

Council Directive 81/464/EEC
(OJ L 183, 4.7.1981, p. 33)

1985 Act of Accession, Annex I, Section IX, point C
(OJ L 302, 15.11.1985, p. 217)

Council Regulation (EC) No 807/2003
(OJ L 122, 16.5.2003, p. 36)

Annex III, point 25 only

PART B

**List of time-limits for transposition into national law
(referred to in Article 7)**

| Directive | Time-limit for transposition |
|------------|------------------------------|
| 78/25/EEC | 15 June 1979 ⁽¹⁾ |
| 81/464/EEC | 30 September 1981 |

⁽¹⁾ Pursuant to Article 7(2) of Directive 78/25/EEC: '2. However, any Member State may permit, on its own territory, until the end of a period of four years from the notification of this Directive, the marketing of medicinal products containing colouring matters which do not comply with the requirements of this Directive so long as these colouring matters were authorised in that Member State before the adoption of the Directive.'

ANNEX II

Correlation table

| Directive 78/25/EEC | This Directive |
|---|-----------------------------|
| Article 1, first paragraph | Article 1 |
| Article 1, second paragraph | — |
| Articles 2 and 3 | Articles 2 and 3 |
| Article 4, first sentence | Article 4, first paragraph |
| Article 4, second sentence, first part | Article 4, second paragraph |
| Article 4, second sentence, second part | Article 4, third paragraph |
| Articles 5(1) and 6(1) and (2) | Article 5 |
| Article 6(3) | — |
| Article 7(1), (2) and (3) | — |
| Article 7(4) | Article 6 |
| — | Article 7 |
| — | Article 8 |
| Article 8 | Article 9 |
| — | Annex I |
| — | Annex II |

COMMISSION DIRECTIVE 2009/46/EC
of 24 April 2009
amending Directive 2006/87/EC of the European Parliament and of the Council laying down
technical requirements for inland waterway vessels

(Text with EEA relevance)

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Directive 2006/87/EC of the European Parliament and of the Council of 12 December 2006 laying down technical requirements for inland waterway vessels and repealing Council Directive 82/714/EEC ⁽¹⁾, and in particular the first sentence of Article 20, paragraph 1, thereof,

Whereas:

- (1) Since the adoption of Directive 2006/87/EC in December 2006 amendments to the Rhine Vessel Inspection Regulation have been agreed pursuant to Article 22 of the Revised Convention for Rhine Navigation. It is therefore necessary to amend Directive 2006/87/EC accordingly.
- (2) It should be ensured that the Community vessel certificate and the vessel certificate delivered in accordance with the Rhine Vessel Inspection Regulation are issued on the basis of technical requirements which guarantee an equivalent level of safety.
- (3) Equivalent provisions to those in the Rhine Vessel Inspection Regulation for the installation and in-use control for engines falling within the scope of Directive 97/68/EC of the European Parliament and of the Council of 16 December 1997 on the approximation of the laws of the Member States relating to measures against the emission of gaseous and particulate pollutants from internal combustion engines to be installed in non-road mobile machinery ⁽²⁾ should be incorporated.
- (4) In order to avoid distortions of competition as well as different levels of safety, the amendments to Directive 2006/87/EC should be implemented as quickly as possible.

- (5) The measures provided for in this Directive are in accordance with the opinion of the Committee referred to in Article 7 of Council Directive 91/672/EEC of 16 December 1991 on the reciprocal recognition of national boatmasters' certificates for the carriage of goods and passengers by inland waterway ⁽³⁾,

HAS ADOPTED THIS DIRECTIVE:

Article 1

In Annex I to Directive 2006/87/EC, the entry in Chapter 3 regarding the Italian Republic is replaced by the following:

'Italian Republic

All navigable national waterways.'

Article 2

Annex II to Directive 2006/87/EC is amended as set out in Annex I to this Directive.

Article 3

Annex V to Directive 2006/87/EC is amended as set out in Annex II to this Directive.

Article 4

Member States which have inland waterways as referred to in Article 1(1) of Directive 2006/87/EC shall bring into force the laws, regulations and administrative provisions necessary to comply with this Directive at the latest on 30 June 2009. They shall forthwith inform the Commission thereof.

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

⁽¹⁾ OJ L 389, 30.12.2006, p. 1.

⁽²⁾ OJ L 59, 27.2.1998, p. 1.

⁽³⁾ OJ L 373, 31.12.1991, p. 29.

Article 5

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

Article 6

This Directive is addressed to the Member States which have inland waterways as referred to in Article 1(1) of Directive 2006/87/EC.

Done at Brussels, 24 April 2009.

For the Commission

Antonio TAJANI

Vice-President

ANNEX I

1. The table of contents is amended as follows:

(a) the title of Chapter 8a reads as follows:

'EMISSIONS OF GASEOUS AND PARTICULATE POLLUTANTS FROM DIESEL ENGINES'

(b) the following Articles relating to Chapter 8a are inserted after the title of Chapter 8a:

'Article 8a.01 — Definitions

Article 8a.02 — General provisions

Article 8a.03 — Recognised type-approvals

Article 8a.04 — Installation test and intermediate and special test

Article 8a.05 — Technical services'

(c) The title of Article 10.03a is replaced by:

'Permanently installed firefighting systems for protecting accommodation spaces, wheelhouses and passenger spaces'

(d) The title of Article 10.03b is replaced by:

'Permanently installed firefighting systems for protecting engine rooms, boiler rooms and pump rooms'

(e) The following title is inserted after Article 24.07:

'Article 24.08 — Transitional provision to Article 2.18'

(f) The following title is inserted after Article 24a.04:

'Article 24a.05 — Transitional provision to Article 2.18'

(g) After Appendix II the following Appendices are added:

'APPENDIX III — MODEL OF THE UNIQUE EUROPEAN VESSEL IDENTIFICATION NUMBER

APPENDIX IV — DATA FOR THE IDENTIFICATION OF A VESSEL

APPENDIX V — ENGINE PARAMETER PROTOCOL'

2. Article 1.01 is amended as follows:

(a) Point 52 is replaced by the following:

'52. "muster areas": areas of the vessel which are specially protected and in which persons muster in the event of danger.'

(b) Point 76 is replaced by the following:

'76. "draught (T)": the vertical distance in m between the lowest point of the hull without taking into account the keel or other fixed attachments and the maximum draught line.'

(c) Point 76a is inserted after Point 76:

'76a. "draught overall (T_{OA})": the vertical distance in m between the lowest point of the hull including the keel or other fixed attachments and the maximum draught line.'

(d) Point 97a and 97b are inserted after Point 97:

'97a. "navigation lights": light appearances of navigation lights for the identification of craft.'

'97b. "light signals": light appearances to accompany visual or sound signals.'

3. Article 2.07(1) is replaced by the following:

'1. The owner of a craft, or his representative, shall bring to the notice of the competent authority any change in the name or ownership of a craft, any re-measurement, and any change in the registration or home port, and shall send the Community certificate to that authority for amendment.'

4. Article 7.04 is amended as follows:

(a) Paragraph 3 is replaced by the following:

'3. The direction of the propulsion thrust imparted to the vessel and the rotational speed of the propeller or main engines shall be displayed.'

(b) The second phrase of paragraph 9 is replaced by the following:

'The requirements set out in paragraphs 1 to 8 shall apply, *mutatis mutandis*, in view of the specific characteristics and arrangements selected for the abovementioned active steering and propulsion units. In analogy to paragraph 2, each unit shall be controlled by a lever which moves in the form of an arc within a vertical plane that is approximately parallel to the direction of the thrust of the unit. From the position of the lever the direction of the thrust acting on the vessel shall be clear.'

If rudder propeller or cycloidal-propeller systems are not controlled by means of levers, the inspection body may allow derogations from paragraph 2. These derogations shall be mentioned in the Community certificate in box 52.'

5. The following Chapter 8a is inserted after Chapter 8:

CHAPTER 8a

EMISSION OF GASEOUS AND PARTICULATE POLLUTANTS FROM DIESEL ENGINES

Article 8a.01

Definitions

In this Chapter:

1. "engine" means an engine which works on the compression-ignition principle (diesel engine);
- 1a. "propulsion engine" means an engine for the propulsion of an inland waterway vessel, as defined in Article 2 of Directive 97/68/EC ⁽¹⁾;
- 1b. "auxiliary engine" means an engine for use in applications other than the propulsion of a craft;
- 1c. "exchange engine" means a used, overhauled engine which is intended to replace a currently operational engine and which is of the same design (in-line engine, V-engine) as the engine to be replaced, which has the same number of cylinders and whose power output and speed do not differ by more than 10 % from the power output and speed of the engine to be replaced;

2. "type-approval" means the procedure as defined in Article 2, second indent of Directive 97/68/EC, as amended, whereby a Member State certifies that an engine type or an engine family with regard to the level of emission of gaseous and particulate pollutants by the engine(s) satisfies the relevant technical requirements;
3. "installation test" means the procedure whereby the competent authority makes sure that, even where an engine fitted to a craft has undergone, since the issuing of the type-approval, any modifications or adaptations with regard to the level of emission of gaseous and particulate pollutants, that engine still complies with the technical requirements of this Chapter;
4. "intermediate test" means the procedure whereby the competent authority makes sure that, even where a craft's engine has undergone, since the installation test, any modifications or adaptations with regard to the level of emission of gaseous and particulate pollutants, that engine still complies with the technical requirements of this Chapter;
5. "special test" means the procedure whereby the competent authority makes sure that, after each significant modification to a craft's engine with regard to the level of emission of gaseous and particulate pollutants, that engine still complies with the technical requirements of this Chapter;
6. (left void);
7. "engine family" means a manufacturer's grouping of engines which through their design, are expected to have similar exhaust emission characteristics of gaseous and particulate pollutants as defined in Article 2, fourth indent of Directive 97/68/EC, as amended, and which comply with the requirements of the rules in accordance with Article 8a.03;
8. (left void);
9. (left void);
10. (left void);
11. "manufacturer" as defined in Article 2 of Directive 97/68/EC, as amended, means the person or body who is responsible to the approval authority for all aspects of the type-approval process and for ensuring conformity of production. It is not essential that the person or body is directly involved in all stages of the construction of the engine;
12. (left void);
13. (left void);
14. (left void);
15. (left void);
16. "engine parameter protocol" means the document pursuant to Appendix V, in which all the parameters, together with changes, and including components and engine settings which affect the level of emission of gaseous and particulate pollutants from the engine are duly recorded;
17. "engine manufacturer's instructions on monitoring the components and engine parameters of relevance in an exhaust gas context" means the document produced for the purpose of implementing the installation test and the intermediate or special tests.

Article 8a.02

General provisions

1. Without prejudice to the requirements of Directive 97/68/EC, the provisions of this Chapter shall apply to all engines with a rated power output more than 19 kW installed in inland waterway vessels or in machinery on board such vessel.

2. The engines shall comply with the requirements of Directive 97/68/EC.
3. Compliance with the exhaust gas emission limit values of the applicable stage shall be determined on the basis of a type-approval pursuant to Article 8a.03.
4. Installation tests
 - (a) After the installation of the engine on board, but before it is brought into service, an installation test shall be carried out. This test, which forms part of the initial inspection of the craft, or of a special inspection by virtue of the relevant engine having been installed, shall result either in the registration of the engine in the Community certificate to be issued for the first time or in the modification of the existing Community certificate.
 - (b) The inspection body may dispense with an installation test pursuant to (a), if an engine having a rated power output P_N of less than 130 kW is replaced by an engine covered by the same type-approval. As a precondition, the vessel's owner or his authorised representative shall be required to notify the inspection body of the engine's replacement and to submit a copy of the type-approval document and details of the identification number of the newly installed engine. The inspection body shall make the appropriate amendments to the Community certificate (see box 52).
5. Intermediate tests on the engine shall be carried out in the context of the periodical inspection pursuant to Article 2.09.
6. After each significant modification to an engine, where such modifications have the potential to affect the emission of gaseous and particulate pollutants from the engine, a special test must invariably be carried out.
 - 6a. The results of the tests pursuant to Article 8a.02(4) to (6) shall be registered in the engine parameter protocol.
7. The inspection body shall indicate in the Community certificate, in box 52, the type-approval numbers and identification numbers of all the engines that are installed on board the vessel and that are subject to the requirements of this Chapter. For engines covered by Article 9(4)(a) of Directive 97/68/EC the identification number shall suffice.
8. For the purpose of discharging tasks pursuant to this Chapter, the competent authority may employ a technical service.

Article 8a.03

Recognised type-approvals

1. The following type-approvals shall be recognised, provided that the engine application is covered by the appropriate type approval:
 - (a) type-approvals pursuant to Directive 97/68/EC;
 - (b) type-approvals which, pursuant to Directive 97/68/EC ⁽²⁾ are recognised as equivalent.
2. For each type-approved engine, the following documents or copies of them shall be kept available on board:
 - (a) the type-approval document;
 - (b) the engine manufacturer's instructions on monitoring the components and engine parameters of relevance in an exhaust gas context;
 - (c) the engine parameter protocol.

*Article 8a.04***Installation test and intermediate and special test**

1. At the time of the installation test pursuant to Article 8a.02(4) and in the event of intermediate tests pursuant to Article 8a.02(5) and special tests pursuant to Article 8a.02(6), the competent authority will inspect the current state of the engine with reference to the components, adjustments and parameters specified in the instructions pursuant to Article 8a.01(17).

If the authority finds that the engine does not comply with the approved engine type or the approved engine family, it may:

- (a) require that
 - (aa) steps are taken to re-establish engine conformity;
 - (bb) require appropriate modifications to the type-approval document; or
- (b) order the actual emissions to be measured.

Failing the re-establishment of engine conformity or in the absence of appropriate modifications to the type-approval document or in the event that the measurements indicate non-compliance with the emission limit values, the competent authority shall refuse to issue a Community certificate or shall revoke any Community certificate that has already been issued.

2. In the case of engines with exhaust gas after treatment systems, checks shall be carried out to establish that these systems are functioning properly in the context of the installation test and the intermediate or special tests.
3. The tests according to paragraph 1 are made on the basis of the engine manufacturer's instruction on monitoring the components and engine parameters of relevance in an exhaust gas emission context. The instruction, to be drawn up by the manufacturer and to be approved by a competent authority, shall specify the exhaust relevant components as well as adjustments and parameters, whereby continuous compliance with the exhaust gas emission limit values can be assumed. The instruction contains at least the following details:
 - (a) type of engine and, where appropriate, engine family with an indication of the rated output and rated speed;
 - (b) list of the components and engine parameters of relevance in an exhaust gas emission context;
 - (c) unambiguous features to identify the permitted components of relevance in an exhaust gas emission context (e.g. part numbers appearing on the components);
 - (d) engine parameters of relevance in an exhaust gas emission context such as setting ranges for the injection timing, permitted cooling water temperature, maximum exhaust gas backpressure, etc.

In the case of engines fitted with exhaust gas after treatment systems, the instruction shall also include procedures to check that the exhaust gas after treatment installation is operating efficiently.

4. The installation of engines in craft shall comply with the restrictions set out in the scope of the type approval. In addition, the intake under pressure and the exhaust gas back pressure shall not exceed the values indicated for the approved engine.
5. If the engines being installed on board belong to an engine family, no readjustments or modifications which could adversely affect exhaust gas and particulate emissions or which lie outside the proposed adjustment range may be carried out.

6. If, after type-approval, readjustments or modifications to the engine need to be made, these should be accurately entered in the engine parameter protocol.
7. If the installation and intermediate tests show that, in relation to their parameters, components and adjustable features, the engines installed on board comply with the specifications set out in the instructions pursuant to Article 8a.01(17), then it may be assumed that the exhaust gas and particulate emissions from the engines likewise comply with the basic limit values.
8. Where an engine has obtained type-approval, the competent authority may, at its own discretion, reduce the installation test or intermediate test pursuant to these provisions. However, the full test shall be carried out in respect of at least one cylinder or one engine of an engine family and may only be reduced if there is reason to believe that all other cylinders or engines behave similarly to the cylinder or engine under investigation.

Article 8a.05

Technical services

1. The technical services shall comply with the European standard on general requirements for the competence of testing and calibration laboratories (EN ISO/IEC 17025:2000), having due regard to the following conditions:
 - (a) Engine manufacturers cannot be recognised as technical services.
 - (b) For the purposes of this chapter, a technical service may, with permission of the competent authority, use facilities outside its own test laboratory.
 - (c) If requested to do so by the competent authority, technical services shall demonstrate that they are recognised to perform the type of activities described in this paragraph within the European Union.
 - (d) Third country services may only be notified as a recognised technical service in the framework of a bilateral or multilateral agreement between the European Union and the third country in question.
2. Member States shall inform the Commission about the names and addresses of the technical services which, together with their national competent authority are responsible for the application of this chapter. The Commission shall make this information available to the Member States.

⁽¹⁾ OJ L 59, 27.2.1998, p. 1.

⁽²⁾ Alternative type-approvals recognised pursuant to Directive 97/68/EC are listed in Annex XII, §.2 of Directive 97/68/EC.

6. The title of Article 10.03a is replaced by the following:

'Permanently installed firefighting systems for protecting accommodation spaces, wheelhouses and passenger spaces'

7. The title of Article 10.03b is replaced by the following:

'Permanently installed firefighting systems for protecting engine rooms, boiler rooms and pump rooms'

8. Article 15.06(5)(a) is replaced by the following:

'(a) they shall have a clear width of at least 0,80 m. If they lead to rooms used by more than 80 passengers, they shall comply with the provisions mentioned in (3)(d) and (e) regarding the width of the exits leading to connecting corridors.'

9. Article 15.06(8) is amended as follows:

(a) Letter e is replaced by the following:

'(e) if fixed seats or benches are located in a room in which muster areas are defined the corresponding number of persons need not be taken into account when calculating the total area of muster areas according to (a). However, the number of persons for whom fixed seats or benches in a certain room are taken into account must not exceed the number of persons for whom muster areas are available in this room;'

(b) Letter f is replaced by the following:

'(f) lifesaving appliances shall be easily accessible from the evacuation areas;'

(c) Letter g is replaced by the following:

'(g) it shall be possible to evacuate people safely from these evacuation areas, using either side of the vessel;'

(d) Letter h is replaced by the following:

'(h) the muster areas shall lie above the margin line;'

(e) Letter i is replaced by the following:

'(i) the muster and evacuation areas are to be shown as such in the safety plan and signposted on board the vessel;'

(f) Letter j is replaced by the following:

'(j) the provisions of (d) and (e) shall also apply to free decks on which muster areas are defined;'

(g) Letter l is replaced by the following:

'(l) however, in all cases where reductions according to (e), (j) and (k) are applied, the total area according to (a) shall be sufficient for at least 50 % of the maximum permitted number of passengers.'

10. Article 15.08(6) is replaced by the following:

'6. A bilge pumping system with permanently installed pipe work shall be available.'

11. The table to Article 24.02(2) is amended as follows:

(a) The entry relating to Article 7.02, paragraph 5 becomes the entry relating to Article 7.02 paragraph 6.

(b) The following entries are inserted after the entry relating to Article 7.04, paragraph 2:

| | | |
|-----------------------------|--|---|
| 'paragraph 3 | Display | If there is no wheelhouse designed for radar navigation by one person: NRC, at the latest on issue or renewal of the Community certificate after 1.1.2010 |
| paragraph 9, third sentence | Control by a lever | NRC, at the latest on issue or renewal of the Community certificate after 1.1.2010 |
| fourth sentence | Clearly show the direction of the thrust | NRC, at the latest on issue or renewal of the Community certificate after 1.1.2010' |

(c) The entry relating to Article 8.02, paragraph 4 is replaced by the following:

| | | |
|--------------|-------------------------------|---|
| 'paragraph 4 | Screening of pipe connections | NRC, at the latest on issue or renewal of the Community certificate after 1.1.2025' |
|--------------|-------------------------------|---|

(d) The following entries are inserted after the entry relating to Article 8.02, paragraph 4:

| | | |
|--------------|----------------------------|--|
| 'paragraph 5 | Jacketed piping system | NRC, at the latest on issue or renewal of the Community certificate after 1.1.2025 |
| paragraph 6 | Insulation of engine parts | NRC, at the latest on issue or renewal of the Community certificate' |

(e) The entry relating to Article 8.05, paragraph 9 first sentence becomes the entry to Article 8.05, paragraph 9 second sentence.

(f) The following entries are inserted after the entry relating to Article 8.05, paragraph 13:

| | | |
|-------|---|---|
| '8.06 | Tanks for lubricating oil, pipes and accessories | NRC, at the latest on issue or renewal of the Community certificate after 1.1.2045 |
| 8.07 | Tanks for oils in power transmission systems, control and activating systems and heating systems, pipes and accessories | NRC, at the latest on issue or renewal of the Community certificate after 1.1.2045' |

(g) The entry relating to Chapter 8a is replaced by the following:

| | | |
|------------------|--|---|
| | 'CHAPTER 8a | |
| 8a.02(2) and (3) | Compliance with the requirements/exhaust gas emission limit values | <p>The regulations do not apply:</p> <p>(a) for engines, which were installed before 1.1.2003; and</p> <p>(b) for exchange engines, which up to 31.12.2011 are installed on board craft which were in operation on 1.1.2002.</p> <p>For engines which were installed:</p> <p>(a) in craft between 1.1.2003 and 1.7.2007 the exhaust gas limit values as referred to in Annex XIV of Directive 97/68 apply;</p> <p>(b) in craft or in on-board machinery after 30.6.2007 the exhaust gas limit values as referred to in Annex XV of Directive 97/68 apply.</p> <p>The requirements for the categories:</p> <p>(aa) V for propulsion engines and for auxiliary engines above 560 kW; and</p> <p>(bb) D, E, F, G, H, I, J, K for auxiliary engines of Directive 97/68/EC apply as equivalent.'</p> |

(h) The entry relating to Article 9.15, paragraph 9 becomes the entry to Article 9.15, paragraph 10.

(i) The following entry is inserted after the title 'Chapter 15':

| | | |
|--------------|---|---|
| '15.01(1)(c) | Non-application of Article 8.08(2), second sentence | NRC, at the latest on issue or renewal of the Community certificate after 1.1.2007' |
|--------------|---|---|

(j) The entry relating to Article 15.01, paragraph 1(d) is replaced by the following:

| | | |
|------|---|---|
| '(d) | Non-application of Article 9.14 Paragraph 3 second sentence for rated voltages of over 50 V | NRC, at the latest on issue or renewal of the Community certificate after 1.1.2010' |
|------|---|---|

12. The table to Article 24.06(5) is amended as follows:

(a) The following entries are inserted after the entry related to Article 7.02(2):

| | | | |
|-----------------------------|--|---|-----------|
| '7.04(3) | Display | If there is no wheelhouse designed for radar navigation by one person: NRC, at the latest on issue or renewal of the Community certificate after 1.1.2010 | 1.4.2007 |
| paragraph 9, third sentence | Control by a lever | NRC, at the latest on issue or renewal of the Community certificate after 1.1.2010 | 1.4.2007 |
| fourth sentence | Prohibition of indicating the direction of the jet | NRC, at the latest on issue or renewal of the Community certificate after 1.1.2010 | 1.4.2007' |

(b) The entry relating to Article 8.02(4) is replaced by the following:

| | | | |
|----------|-------------------------------|--|-----------|
| '8.02(4) | Screening of pipe connections | NRC, at the latest on issue or renewal of the Community certificate after 2025 | 1.4.2007' |
|----------|-------------------------------|--|-----------|

(c) The following entries are inserted after the entry relating to Article 8.02(4):

| | | | |
|--------------|----------------------------|--|-----------|
| 'paragraph 5 | Jacketed piping system | NRC, at the latest on issue or renewal of the Community certificate after 1.1.2025 | 1.4.2007 |
| paragraph 6 | Insulation of engine parts | NRC, at the latest on issue or renewal of the Community certificate after 1.1.2025 | 1.4.2003' |

(d) The entry relating to Article 8.05(9) first sentence becomes the entry relating to Article 8.05(9) second sentence.

(e) The following entries are inserted after the entry relating to Article 8.05, paragraph 13:

| | | | |
|-------|---|--|-----------|
| '8.06 | Tanks for lubricating oil, pipes and accessories | NRC, at the latest on issue or renewal of the Community certificate after 1.1.2045 | 1.4.2007 |
| 8.07 | Tanks for oils in power transmission systems, control and activating systems and heating systems, pipes and accessories | NRC, at the latest on issue or renewal of the Community certificate after 1.1.2045 | 1.4.2007' |

(f) The entry relating to Chapter 8a is replaced by the following:

| | | | |
|------------------|--|---|---------------------------------|
| | 'CHAPTER 8a | | |
| 8a.02(2) and (3) | Compliance with the requirements/exhaust gas emission limit values | <p>The regulations do not apply:</p> <p>(a) for engines, which were installed before 1.1.2003; and</p> <p>(b) for exchange engines, which up to 31.12.2011 are installed on board craft which were in operation on 1.1.2002.</p> <p>For engines which were installed:</p> <p>(a) in craft between 1.1.2003 and 1.7.2007 the exhaust gas limit values as referred to in Annex XIV of Directive 97/68 apply;</p> <p>(b) in craft or in on-board machinery after 30.6.2007 the exhaust gas limit values as referred to in Annex XV of Directive 97/68 apply.</p> <p>The requirements for the categories:</p> <p>(aa) V for propulsion engines and for auxiliary engines above 560 kW; and</p> <p>(bb) D, E, F, G, H, I, J, K for auxiliary engines of Directive 97/68/EC;</p> <p>apply as equivalent.'</p> | <p>1.1.2002</p> <p>1.7.2007</p> |

(g) The entry relating to Article 15.01(1)(c) is replaced by the following:

| | | | |
|--------------|---|---|-----------|
| '15.01(1)(c) | Non-application of Article 8.08(2), second sentence | NRC, at the latest on issue or renewal of the Community certificate | 1.1.2006' |
|--------------|---|---|-----------|

13. The following article is added after Article 24.07:

'Article 24.08

Transitional provision to Article 2.18

When issuing a Community certificate to craft which after 31 March 2007 carried a valid vessel certificate according to the Rhine Vessel Inspection Regulation, the already assigned Unique European Vessel Identification Number shall be used, and where appropriate completed by ranking first the figure "0".'

14. The table to Article 24a.02(2) is amended as follows:

(a) The entry relating to Article 7.02, paragraph 5 is the entry relating to Article 7.02, paragraph 6.

(b) The following entries are inserted after the entry relating to Article 7.04(2):

| | | |
|-----------------------------|--|---|
| ' paragraph 3 | Display | If there is no wheelhouse designed for radar navigation by one person: NRC, at the latest on issue or renewal of the Community certificate after 30.12.2024 |
| paragraph 9, third sentence | Control by a lever | NRC, at the latest on issue or renewal of the Community certificate after 30.12.2024 |
| fourth sentence | Prohibition of indicating the direction of the jet | NRC, at the latest on issue or renewal of the Community certificate after 30.12.2024' |

(c) After the entry relating to Article 8.02(1) the entry

| | | |
|--------------|-------------------------------|--|
| 'paragraph 4 | Protection of machinery parts | NRC, at the latest on issue or renewal of the Community certificate' |
|--------------|-------------------------------|--|

is replaced by the following entries:

| | | |
|-------------|-------------------------------|--|
| '4. | Screening of pipe connections | NRC, at the latest on issue or renewal of the Community certificate after 30.12.2024 |
| paragraph 5 | Jacketed piping system | NRC, at the latest on issue or renewal of the Community certificate after 30.12.2024 |
| paragraph 6 | Insulation of engine parts | NRC, at the latest on issue or renewal of the Community certificate' |

(d) The entry relating to Article 8.05(7) is replaced by the following:

| | | |
|----------------------------------|---|---|
| 'paragraph 7, first subparagraph | Quick-closing valve on the tank operated from deck, even when the rooms in question are closed. | NRC, at the latest on issue or renewal of the Community certificate after 1.1.2029' |
|----------------------------------|---|---|

(e) The entry to relating to Article 8.05(9), first sentence is the entry to Article 8.05(9), second sentence.

(f) The following entry relating to Chapter 8a is inserted after the entry relating to Article 8.10(3):

| | CHAPTER 8a | |
|--|------------|---|
| | | <p>The regulations do not apply to:</p> <p>(a) propulsion engines and auxiliary engines with a rated power output of more than 560 kW of the following categories according to appendix I section 4.1.2.4 of Directive 97/68/EC:</p> <p>(aa) V1:1 to V1:3, which until 31 December 2006;</p> <p>(bb) V1:4 and V2:1 to V2:5, which until 31 December 2008;</p> <p>are installed in craft or in on-board machinery;</p> <p>(b) auxiliary engines with a rated power up to 560 kW and variable speed, of the following categories according to Article 9.4a of Directive 97/68/EC:</p> <p>(aa) H which until 31 December 2005;</p> <p>(bb) I and K which until 31 December 2006;</p> <p>(cc) J which until 31 December 2007;</p> <p>are installed in craft or in on-board machinery;</p> <p>(c) auxiliary engines with a rated power up to 560 kW and constant speed, of the following categories according to Article 9.4a of Directive 97/68/EC:</p> <p>(aa) D, E, F and G which until 31 December 2006 (*);</p> <p>(bb) H, I and K which until 31 December 2010;</p> <p>(cc) J which until 31 December 2011;</p> <p>are installed in craft or in on-board machinery.</p> <p>(d) engines, which meet the limit values as referred to in Annex XIV of Directive 97/68/EC and which until 30 June 2007, are installed in craft or in on-board machinery;</p> <p>(e) exchange engines, which until 31 December 2011 are installed in craft or in on-board machinery to replace an engine to which in accordance with points a) to d) above, the regulations do not apply.</p> <p>The dates mentioned in paragraphs (a), (b), (c) and (d) shall be postponed by two years in respect of engines with a production date prior to the mentioned dates.</p> |

(* In accordance with Annex I, section 1A(ii) of Directive 2004/26/EC, amending Directive 97/68/EC, the limits for these auxiliary constant-speed engines only apply from this date.'

15. The following article is added after Article 24a.04:

'Article 24a.05

Transitional provision to Article 2.18

Article 24.08 shall apply *mutatis mutandis*.'

16. In Appendix II, Administrative instruction No 23 is replaced by the following:

'Administrative instruction No 23

Engine application covered by the appropriate type approval

(Article 8a.03(1) of Annex II)

1. Introduction

According to Article 8a.03(1), type-approvals pursuant to Directive 97/68/EC and type-approvals, which pursuant to Directive 97/68/EC are recognised as equivalent, are recognised, provided that the engine application is covered by the appropriate type-approval.

In addition, it is possible that engines on board of inland waterway vessels have to serve more than one application.

Section 2 of this administrative instruction explains when engine applications can be considered to be covered by the appropriate type-approval. In Section 3 clarification is given with respect to the question how to treat engines which in the course of on-board operations need to be allocated to more than one engine application.

2. Appropriate type-approval

Engine applications are considered to be covered by the appropriate type-approval if the engine has been allocated to the type-approval on the basis of the following table. The engine categories, limit value stages and test cycles are indicated in accordance with the type-approval number designations.

| Engine application | | Legal basis | Engine category | Limit value stage | Test | | |
|--|----------------------------------|--------------------|--------------------|----------------------|------------------|----------------|-----|
| | | | | | requirement | cycle ISO 8178 | |
| Propulsion engines with propeller characteristics | I | Directive 97/68/EC | V | IIIA | C ⁽¹⁾ | E3 | |
| | | RVIR | — | I, II ⁽²⁾ | — | E3 | |
| Main propulsion engines with constant speed (including installations with diesel electric propulsion and variable pitch propeller) | II | Directive 97/68/EC | V | IIIA | C ⁽¹⁾ | E2 | |
| | | RVIR | — | I, II ⁽²⁾ | — | E2 | |
| Auxiliary engines with | Constant speed | Directive 97/68/EC | D, E, F,G | II | B | D2 | |
| | | | H, I, J, K | IIIA | | | |
| | | | V ⁽³⁾ | | | | |
| | Variable speed and variable load | IV | Directive 97/68/EC | D,E,F,G | II | A | C 1 |
| | | | | H, I, J, K | IIIA | | |
| | | | | V ⁽³⁾ | | | |
| L, M, N, P | | | | IIIB | | | |
| | | Q, R | IV | | | | |
| | | RVIR | — | I, II ⁽²⁾ | — | C1 | |

⁽¹⁾ The application "craft propulsion with propeller characteristics" or "craft propulsion at constant speed" should be specified in the type-approval document.

⁽²⁾ The stage II limit values laid down in the RVIR apply with effect from 1 July 2007.

⁽³⁾ Applies only for engines with rated power output more than 560 kW.

3. Special engine applications

3.1. Engines which in the course of on-board operations need to be allocated to more than one engine application shall be treated as follows:

- (a) auxiliary engines which drive units or machinery which, pursuant to the table in Section 2, have to be allocated to applications III or IV need to have obtained type-approval for each of the respective applications provided for in this table;
- (b) main propulsion engines which drive additional units or machinery need only to have obtained the type-approval necessary for the relevant type of main propulsion pursuant to the table in Section 2, in so far as the engine's main application is craft propulsion. If the time taken up by the sole auxiliary application exceeds 30 %, the engine will need to have obtained, in addition to type-approval for the main propulsion application, further type-approval in respect of the auxiliary application.

3.2. Engines driving bow thrusters, whether directly or by means of a generator at:

- (a) variable engine speed and load may be allocated to applications I or IV pursuant to the table in Section 2;
- (b) constant engine speed may be allocated to applications II or III pursuant to the table in Section 2.

3.3. The engines shall be installed with the power output as authorised under the type-approval and indicated on the engine by means of identification of type. If such engines have to drive units or machinery of lower power consumption, power may be reduced only by measures external to the engine, in order to achieve the power level needed for the application.'

17. The following Appendix V is added:

Appendix V

Engine parameter protocol

0. General

0.1 Engine information

0.1.1 Make:

0.1.2 Manufacturer's description:

0.1.3 Type-approval number:

0.1.4 Engine identification number:

.....

0.2 Documentation

The engine parameters should be tested and the test results documented. The documentation should consist of separate sheets, individually numbered, signed by the controller and attached to this protocol.

0.3 Test

The test should be carried out on the basis of the Engine manufacturer's instructions on monitoring the components and engine parameters of relevance in an exhaust gas context. In duly motivated cases controllers may, at their own discretion, dispense with checks on certain engine parameters.

0.4 This engine parameter protocol, including the accompanying chart readings, comes to a total of ... (*) pages.

1. Engine parameters

This is to certify that the engine under test does not deviate excessively from the prescribed parameters.

1.1 Installation inspection

Name and address of the test facility:

.....

.....

Name of the controller:

Place and date:

Signature:

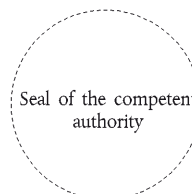
Test recognised by competent authority:

.....

.....

Place and date:

Signature:



(*) To be filled in by the controller.

1.2 Intermediate test Special test

Name and address of the test facility:

.....

.....

Name of the controller:

Place and date:

Signature:

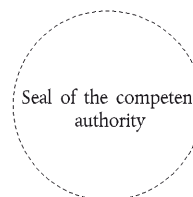
Test recognised by competent authority:

.....

.....

Place and date:

Signature:



1.2 Intermediate test Special test

Name and address of the test facility:

.....

.....

Name of the controller:

Place and date:

Signature:

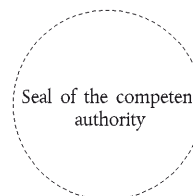
Test recognised by competent authority:

.....

.....

Place and date:

Signature:



1.2 Intermediate test Special test

Name and address of the test facility:

.....

.....

Name of the controller:

Place and date:

Signature:

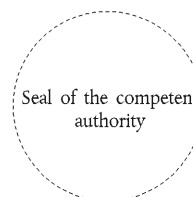
Test recognised by competent authority:

.....

.....

Place and date:

Signature:



ANNEX TO THE ENGINE PARAMETER PROTOCOL

Craft name: _____ European Vessel Identification Number: _____

Installation inspection Intermediate test Special test

Manufacturer: Engine type:
 (Trade name/trade mark/trade name of the manufacturer) (Engine family/manufacturer's description)

Rated power (kW) Rated speed [1/min]: Number of cylinders

Use for which the engine is intended
 (Craft main propulsion/generator propulsion/forward beam propulsion/auxiliary engine, etc.)

Type approval number Year of engine construction

Engine identification number Place of installation
 (Serial number/unique identification number)

The engine and engine components of relevance in an exhaust gas context have been identified on the basis of the data plate details.

The test has been carried out on the basis of the engine manufacturer's instructions on monitoring the components and engine parameters of relevance in an exhaust gas context.

A. COMPONENT TEST

Additional components of relevance in an exhaust gas context and listed in the *Engine manufacturer's instructions on monitoring the components and engine parameters of relevance in an exhaust gas context* should be included in the table.

| Component | Component number recorded | Conformity |
|--------------------------|---------------------------|---|
| Camshaft/piston | | <input type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> N/A |
| Injection valve | | <input type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> N/A |
| Data set/software number | | <input type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> N/A |
| Injection pump | | <input type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> N/A |
| cylinder head | | <input type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> N/A |
| Exhaust-gas turbocharger | | <input type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> N/A |
| Charge air cooler | | <input type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> N/A |
| | | <input type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> N/A |
| | | <input type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> N/A |
| | | <input type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> N/A |

ANNEX II

Annex V Part 1 is amended as follows:

1. The third paragraph of the remark on page 1 is replaced by the following:

'The owner of the craft, or his representative, shall bring to the notice of the competent authority any change in the name or ownership of the craft, any re-measurement, and any change in the registration number or home port, and shall send the Community certificate to that authority for amendment.'

2. In box 12 of the model the introductory phrase is replaced by the following:

'The certificate number (1), unique European vessel identification number (2), registration number (3) and measurement number (4) are affixed with the corresponding signs at the following locations on the craft'

3. In box 15 of the model item 2 is replaced by the following:

| | |
|--|--|
| '2. Couplings: | |
| Type of coupling: | Number of couplings per side: |
| Number of coupling cables: | Length of each coupling cable: m |
| Tensile strength per longitudinal coupling: kN | Tensile strength per cable: kN |
| Number of cable windings:' | |

4. Box 19 of the model is replaced by the following:

| | | | | |
|---------|-----|----------------------|----|-----|
| (.) (.) | (.) | '19. Draught overall | m | (.) |
| (.) (.) | (.) | 19b Draught T | m' | |

5. Box 35 of the model is replaced by the following:

| | |
|---------------------------------------|--------------------------------|
| '35. Bilge and drainage system | |
| Number of bilge pumps | of which power driven |
| Minimum pumping capacity | first bilge pump l/min |
| | second bilge pump l/min' |

6. Box 42 of the model is replaced by the following:

| '42. Other equipment | | |
|---|--|--|
| heaving line | | Voice communi- — alternative two-way (*) |
| gangway | in accordance w. Article 10(2)(d) (*) | cation system — simultaneous two-way/telephone (*) |
| | in accordance w. Article 15.06(12) (*) | — internal radio-telephone link (*) |
| | Length m | |
| gaff hook | | Radio-telephone — vessel-to-vessel service |
| first-aid kit | | installation — nautical information service |
| pair of binoculars | | — vessel-port authority service |
| notice concerning rescue of persons overboard | | |
| fire-resistant receptacles | Cranes | — in accordance with Article 11.12(9) (*) |
| | | — other cranes with a useful load not exceeding 2 000 kg (*) |
| embarkation stairway/ladder (*) | | |

7. Box 43 of the model is replaced by the following:

| '43. Firefighting appliances | | |
|--|------------------|----------------|
| Number portable fire extinguishers | fire pumps | hydrants |
| Permanently installed firefighting systems in accommodation etc. | No/Number | (*) |
| Permanently installed firefighting systems in engine rooms etc. | No/Number | (*) |
| The power-driven bilge pump replaces a fire pump | Yes/No | (*) |

8. Box 44 of the model is replaced by the following:

| '44. Life saving appliances | | |
|--|---------------------------|-----------------|
| Number of lifebuoys | of which with light | with line |
| One lifejacket for every person who is regularly on board/in accordance with EN 395:1998, EN 396:1998, EN ISO 12402-3:2006 or EN ISO 12402-4:2006 (*) | | |
| A ship's boat with a set of oars, one mooring line and a baler/in accordance with EN 1914:1997 (*) | | |
| Platform or an installation in accordance with Article 15.15(5) or (6) (*) | | |
| Number, type and site(s) of installation of the equipment to enable persons to be transferred safely to shallow water, to the bank or to another craft in accordance with Article 15.09(3) | | |
| | | |
| | | |
| Number of individual life saving appliances for shipboard personnel | | |
| of which in accordance with Article 10.05(2) | | |
| (*) | | |
| Number of individual life saving appliances for passengers | | |
| (*) | | |
| Collective life saving appliances, with respect to the number, equivalent to individual life saving appliances (*) | | |
| Two breathing apparatus sets, two sets in accordance with Article 15.12(10)(b), number of smoke hoods (*) | | |
| Safety rota and safety plan displayed at: | | |
| | | |
| | | |
| | | |

9. In box 52 of the model, the last row is replaced by the following:

| |
|---|
| 'Continued on page (*) End of Community certificate (*)' |
|---|

DECISIONS ADOPTED JOINTLY BY THE EUROPEAN PARLIAMENT AND THE
COUNCIL

DECISION No 357/2009/EC OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL

of 22 April 2009

**on a procedure for prior examination and consultation in respect of certain laws, regulations and
administrative provisions concerning transport proposed in Member States**

(Codified version)

THE EUROPEAN PARLIAMENT AND THE COUNCIL OF THE
EUROPEAN UNION,

Having regard to the Treaty establishing the European
Community, and in particular Article 71(1) thereof,

Having regard to the proposal from the Commission,

Having regard to the opinion of the European Economic and
Social Committee ⁽¹⁾,

Having consulted the Committee of Regions,

Acting in accordance with the procedure laid down in
Article 251 of the Treaty ⁽²⁾,

Whereas:

- (1) The Council Decision of 21 March 1962 instituting a procedure for prior examination and consultation in respect of certain laws, regulations and administrative provisions concerning transport proposed in Member States ⁽³⁾ has been substantially amended ⁽⁴⁾. In the interests of clarity and rationality the said Decision should be codified.
- (2) The attainment of the objectives of the Treaty within the framework of a common transport policy requires that a procedure for prior examination and consultation be maintained in respect of certain measures concerning transport proposed in Member States.
- (3) Such a procedure will help to promote close cooperation between Member States and the Commission in the attainment of the objectives of the Treaty and will help to prevent the transport policies of Member States from diverging.

⁽¹⁾ OJ C 324, 30.12.2006, p. 36.

⁽²⁾ Opinion of the European Parliament of 14 December 2006 (OJ C 317 E, 23.12.2006, p. 598) and Council Decision of 23 March 2009.

⁽³⁾ OJ 23, 3.4.1962, p. 720/62.

⁽⁴⁾ See Annex I.

- (4) Such a procedure also serves to facilitate the progressive implementation of the common transport policy,

HAVE ADOPTED THIS DECISION:

Article 1

Any Member State proposing to adopt any laws, regulations or administrative provisions concerning transport by rail, road or inland waterway liable to interfere substantially with the implementation of the common transport policy shall, in good time and in writing, notify the Commission of such measures and at the same time inform the other Member States.

Article 2

1. Within two months of receipt of the notification referred to in Article 1, the Commission shall address an opinion or a recommendation to the Member State concerned; it shall at the same time inform the other Member States thereof.

2. Any Member State may submit to the Commission its observations on the measures in question; it shall at the same time communicate them to the other Member States.

3. If a Member State so requests, or if the Commission considers it appropriate, the Commission shall consult all the Member States on the measures in question. In the case specified in paragraph 4 such consultation may take place after the event within two months.

4. The Commission may, at the request of the Member State, shorten the period laid down in paragraph 1, or, if that State so agrees, extend it. The period shall be reduced to 15 days if the Member State declares that the measures it proposes to take are of an urgent nature. The Commission shall inform the Member States of any such reduction or extension of the period.

5. The Member State shall not bring the measures in question into force until after expiry of the period provided for either in paragraph 1 or in paragraph 4, or after the Commission has formulated its opinion or recommendation, except in a case of extreme urgency, requiring immediate action by the Member State. In such case, the Member State shall at once inform the Commission and the procedure laid down in this Article shall be followed after the event within two months of receipt of such information.

Article 3

The Council Decision of 21 March 1962 instituting a procedure for prior examination and consultation in respect of certain laws, regulations and administrative provisions concerning transport proposed in Member States, as amended by the act referred to in Annex I, is repealed.

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

Article 4

This Decision is addressed to the Member States.

Done at Strasbourg, 22 April 2009.

For the European Parliament

The President

H.-G. PÖTTERING

For the Council

The President

P. NEČAS

ANNEX I

Repealed Decision with its amendment

(referred to in Article 3)

Council Decision of 21 March 1962 instituting a procedure for prior examination and consultation in respect of certain laws, regulations and administrative provisions concerning transport proposed in Member States (OJ 23, 3.4.1962, p. 720/62)

Decision 73/402/EEC (OJ L 347, 17.12.1973, p. 48)

ANNEX II

Correlation table

| | |
|---|------------------|
| Council Decision of 21 March 1962 instituting a procedure for prior examination and consultation in respect of certain laws, regulations and administrative provisions concerning transport proposed in Member States | This Decision |
| Articles 1 and 2 | Articles 1 and 2 |
| — | Article 3 |
| Article 3 | Article 4 |
| — | Annex I |
| — | Annex II |

II

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

DECISIONS

COUNCIL

COUNCIL DECISION

of 23 April 2009

appointing one German member of the Committee of the Regions

(2009/352/EC)

THE COUNCIL OF THE EUROPEAN UNION,

HAS DECIDED AS FOLLOWS:

Having regard to the Treaty establishing the European Community, and in particular Article 263 thereof,

Having regard to the proposal of the German Government,

Whereas:

- (1) On 24 January 2006, the Council adopted Decision 2006/116/EC appointing the members and alternate members of the Committee of the Regions for the period from 26 January 2006 to 25 January 2010 ⁽¹⁾.
- (2) A member's seat on the Committee of the Regions has become vacant following the expiry of the mandate of Mr Volker HOFF,

Article 1

The following is hereby appointed to the Committee of the Regions as a member for the remainder of the current term of office, which runs until 25 January 2010:

Ms Nicola BEER, Staatssekretärin für Europa, Hessisches Ministerium der Justiz, für Integration und Europa.

Article 2

This Decision shall take effect on the day of its adoption.

Done at Luxembourg, 23 April 2009.

For the Council
The President
P. GANDALOVIČ

⁽¹⁾ OJ L 56, 25.2.2006, p. 75.

COUNCIL DECISION**of 27 April 2009****establishing the position to be adopted on behalf of the Community within the Food Aid Committee as regards the extension of the Food Aid Convention 1999**

(2009/353/EC)

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty establishing the European Community, and in particular Article 181, in conjunction with the second subparagraph of Article 300(2) thereof,

Having regard to the proposal from the Commission,

Whereas:

- (1) The Food Aid Convention 1999 (hereinafter referred to as the 'Convention') was concluded on behalf of the European Community by Council Decision 2000/421/EC ⁽¹⁾ and extended by decisions of the Food Aid Committee in June 2003, June 2005, June 2007 and June 2008 so as to remain in force until 30 June 2009.
- (2) A further extension for a period of one year of the Convention is in the interest of both the Community and its Member States. Pursuant to Article XXV(b) of the Convention, that extension is conditional upon the remaining in force, for the same period, of the Grains Trade Convention 1995 ⁽²⁾. The Grains Trade Convention 1995 remains in force until 30 June 2009,

and a further extension of it will be decided at the International Grains Council meeting in June 2009. The Commission, which represents the Community in the Food Aid Committee, should therefore be authorised to vote in favour of such extension,

HAS DECIDED AS FOLLOWS:

Sole Article

The Community's position within the Food Aid Committee shall be to vote in favour of the extension of the Food Aid Convention 1999 for a period of one year, subject to the condition that the Grains Trade Convention 1995 remains in force during the same period, i.e. until 30 June 2010.

The Commission is hereby authorised to express this position within the Food Aid Committee.

Done at Luxembourg, 27 April 2009.

For the Council
The President
A. VONDRA

⁽¹⁾ OJ L 163, 4.7.2000, p. 37.

⁽²⁾ OJ L 21, 27.1.1996, p. 49.

COMMISSION

COMMISSION DECISION

of 30 March 2009

extending the limited Community recognition of the Hellenic Register of Shipping (HRS)

(notified under document number C(2009) 2130)

(Only the Greek text is authentic)

(2009/354/EC)

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Council Directive 94/57/EC of 22 November 1994 on common rules and standards for ship inspection and survey organizations and for the relevant activities of maritime administrations ⁽¹⁾, and in particular Article 4(3) thereof,

Having regard to the letter of 6 June 2008 from the Greek authorities, requesting the extension of the limited recognition of the Hellenic Register of Shipping (HRS) pursuant to Article 4(3) of Directive 94/57/EC,

Having regard to the letters of 28 January and 12 February 2009 from the Greek authorities, confirming their abovementioned request,

Whereas:

(1) Limited recognition under Article 4(2) of Directive 94/57/EC is a recognition granted to organisations known as classification societies, which fulfil all criteria other than those set out under paragraphs 2 and 3 of the 'General' section A of the Annex thereto, but limited in time and scope in order for the organisation concerned to gain further experience.

(2) In accordance with Article 4(3) of Directive 94/57/EC, a decision on the extension of such recognition shall not take into account the criteria set out under paragraphs 2 and 3 of section A of the Annex but shall take into account the safety and pollution prevention performance records of the organisation, referred to in Article 9(2) of the said Directive. Any decision on the extension of the limited recognition shall specify under which conditions, if any, such extension is granted.

(3) At the request of the Greek authorities, the Commission granted the Hellenic Register of Shipping a limited recog-

niton for a period of three years by Decision 98/295/EC ⁽²⁾ of 22 April 1998; the effects of this recognition were limited to Greece. Upon expiry of the recognition, a new limited recognition was granted by Commission Decision 2001/890/EC ⁽³⁾, for a second period of three years and again with effects limited to Greece, at the request of the Greek authorities. The organisation's recognition was extended by Commission Decision 2005/623/EC ⁽⁴⁾ of 3 August 2005 for a third period of three years with effects limited to Greece and Cyprus, at the request of the Greek and Cypriot authorities. At the request of the Maltese authorities, the recognition was subsequently extended to Malta in 2006 by Commission Decision 2006/382/EC ⁽⁵⁾ of 22 May 2006 with the same expiry date.

(4) The limited recognition of the Hellenic Register of Shipping expired on 3 August 2008.

(5) The Commission assessed the Hellenic Register of Shipping in accordance with Article 11(3) of Directive 94/57/EC. The assessment was based on the results of four fact-finding inspections performed in 2006 and 2007 by experts of the European Maritime Safety Agency (hereinafter EMSA) in accordance with Article 2(b)(iii) of Regulation (EC) No 1406/2002 of the European Parliament and of the Council ⁽⁶⁾. The Cypriot, Greek and Maltese administrations were invited to take part in the assessment; as a result, these administrations took part in the inspection of the organisation's head office in September 2006.

(6) After having taken into account the organisation's observations, the assessment confirmed a significant number of items of non-conformity with the criteria laid down in Directive 94/57/EC which seriously affected the organisation's main systems and control mechanisms. These conclusions were communicated to the three administrations concerned, who formulated no observations from their side, and to the organisation.

⁽¹⁾ OJ L 319, 12.12.1994, p. 20.

⁽²⁾ OJ L 131, 5.5.1998, p. 34.

⁽³⁾ OJ L 329, 14.12.2001, p. 72.

⁽⁴⁾ OJ L 219, 24.8.2005, p. 43.

⁽⁵⁾ OJ L 151, 6.6.2006, p. 31.

⁽⁶⁾ OJ L 208, 5.8.2002, p. 1.

- (7) Following communication of these conclusions, the Hellenic Register of Shipping put in place a corrective action plan.
- (8) At the request of the Greek authorities, a new assessment of the organisation has been carried out on the basis of two fact-finding inspections carried out by EMSA between 12 and 20 November 2008.
- (9) While this reassessment of the organisation has shown limited improvement, it has only been possible for the Commission to lift one item of non-conformity among those previously identified. Serious shortcomings thus remain as regards, inter alia, the quality and maintenance of the organisation's rules, the organisation's systems for the training and monitoring of surveyors, the respect for both statutory requirements and the requirements in the organisation's own rules and procedures, the acceptance of new ships onto the organisation's register, the use of non-exclusive surveyors; and the measures taken following the detention of ships by the port State control authorities for reasons connected with the certificates delivered to those ships by the organisation. The reassessment of the Hellenic Register of Shipping has not allowed the Commission to establish that the organisation has until now identified and addressed the fundamental causes of the shortcomings found in the previous assessment, including their recurrence; and evaluated and addressed the safety risk incurred by its registered fleet as a result of these shortcomings.
- (10) In the absence of Community recognition, the Member States are prevented from delegating ship survey and certification tasks under the international conventions to the Hellenic Register of Shipping in accordance with Article 3(2) of Directive 94/57/EC, while classification of a ship by the Hellenic Register of Shipping no longer fulfils the requirements of Article 14(1) of that Directive. The Member States are also prevented from authorising the Hellenic Register of Shipping to perform surveys in accordance with Article 10(5) of Council Directive 98/18/EC of 17 March 1998 on safety rules and standards for passenger ships⁽¹⁾, while classification of a ship by HRS no longer fulfils the requirements of Article 6(1)(a) of the said Directive.
- (11) The Greek authorities have shown that the public domestic passenger transport service by sea in Greece is largely dependent upon ships bearing class certificates delivered by the Hellenic Register of Shipping, and that this organisation has until now surveyed these ships on behalf of the Greek administration. Loss of recognition by the Hellenic Register of Shipping would therefore force the fleet concerned, as the certificates previously delivered by the Hellenic Register of Shipping come to their expiry date, to seek classification with other recognised organisations while, at the same time, their survey under Directive 98/18/EC should be transferred to either these organisations or the Greek administration itself. The Greek authorities have shown that, given its extreme complexity and the high number of ships potentially concerned, this process could only be completed over a significant length of time, spanning several months, during which the ships concerned might remain uninspected and eventually be forced to suspend their trade. This situation would entail the risk of a collapse of a vital public service and constitute an immediate and serious threat to both the safety and the economic viability of the fleet concerned.
- (12) In order to prevent such a situation from occurring, it is necessary to reinstate the recognition of the Hellenic Register of Shipping under prudent structural and operational conditions, so as to ensure that the organisation can continue to provide classification and survey services to the fleet serving domestic passenger transport services in Greece safely and in full compliance with the requirements of Directive 94/57/EC. This recognition should be granted for a limited period of time, so that the fleet concerned and the Greek authorities can make the necessary preparatory arrangements in case the organisation's recognition could no longer be extended at the end of this period.
- (13) It is necessary to ensure that the risks incurred as a result of the shortcomings are identified and appropriately addressed including, as necessary, re-inspection of the ships concerned. Attention should be paid to ships under Greek flag engaged in international trade, which, in accordance with Article 3 of Directive 94/57/EC, may benefit from the extension of the organisation's recognition.
- (14) The Greek authorities have committed to intensifying unscheduled inspections and audits of vessels flying the Greek flag and engaged in domestic voyages in Greece, classed and certified by the Hellenic Register of Shipping, and to conduct these inspections rigorously. These inspections shall take place at least once every three months for all ships concerned, excluding idle periods.
- (15) Based on the data last published by the Paris Memorandum of Understanding on Port State Control, which concern the inspections carried out by the signatory parties in 2007, the rate of detention of ships for reasons relating to the certificates delivered to them by the Hellenic Register of Shipping remained at 1,88 % of the total number of inspections, while the average rate for recognised organisations was 0,35 %.
- (16) The measures provided for in this Decision are in accordance with the opinion of the COSS Committee set up by Article 7 of Directive 94/57/EC,

⁽¹⁾ OJ L 144, 15.5.1998, p. 1.

HAS ADOPTED THIS DECISION:

Article 3

This Decision is addressed to the Hellenic Republic.

Article 1

The Community recognition of the Hellenic Register of Shipping is extended for a period of 17 months as from the date of adoption of this Decision, subject to the conditions set out in the Annex.

Done at Brussels, 30 March 2009.

Article 2

The effects of this Decision are limited to Greece.

For the Commission

Antonio TAJANI

Vice-President

ANNEX

The limited recognition of the Hellenic Register of Shipping is subject to the following conditions:

1. The organisation shall implement corrective and preventive action as necessary in order to address all shortcomings identified in the Commission's assessments.
2. The organisation shall carry out, with the assistance of appropriately qualified external experts, an investigation covering the five years immediately preceding the taking effect of this decision and encompassing the entire organisation, in order to:
 - (a) determine the fundamental causes and extent of the shortcomings identified in the Commission's assessments;
 - (b) assess the risks incurred as a result of the said shortcomings and in particular the extent to which the safety of the ships concerned may have been compromised;
 - (c) implement, by 1 October 2009 and in addition to the corrective action referred to in point 1, a specific action plan to address the risks referred to in point 2(b), including re-inspection of ships as necessary.
3. The organisation shall be assisted by appropriately qualified external experts, in order to bring the organisation's rules and procedures fully into line with the requirements laid down in Article 15(2) and (5) of Directive 94/57/EC as well as in criteria A.4, B.6(a) and B.7(a) of the Annex to that Directive.
4. The organisation shall be assisted by appropriately qualified external experts in the training of surveyors. By 1 July 2009, qualifications shall be granted to surveyors based solely on certificates delivered by these external experts attesting to the surveyor concerned having successfully completed the necessary training.
5. The organisation's top management personnel shall undergo, by 1 August 2009, a specific quality management training programme provided by appropriately qualified external experts.
6. The experts referred to in points 2 to 5 shall be subject to prior explicit agreement of the Greek administration for the purpose after consultation with the Commission, assisted by EMSA.
7. All surveyors from offices outside Greece shall be retrained and their qualifications re-certified in accordance with point 4 of this Annex. Until re-certified in accordance with this point, surveyors outside Greece shall not carry out any class or statutory surveys unless these are carried out jointly with a surveyor from an office in Greece or with an exclusive surveyor from another recognised organisation.
8. Without prejudice to point 9 of this Annex, the organisation shall not accept new ships for classification during the period referred to in Article 1 of this Decision.
9. By 1 October 2009, the maximum period for which ships are allowed to trade with provisional certificates shall be reduced to three months.
10. The organisation's checklists for statutory tasks shall be either approved by the Greek administration or provided by another recognised organisation.
11. By 1 July 2009, the organisation's checklists for class surveys shall be replaced by new checklists produced and kept up to date with the assistance of the experts referred to in point 3.

-
12. By 1 May 2009, the Management Information System newly developed by the organisation shall become operational with the following capabilities:
 - (a) providing accurate and fully up-to-date information concerning the training and qualification of surveyors before job assignment;
 - (b) providing accurate and fully up-to-date ship survey status information;
 - (c) verification of all survey reports before entering the relevant data into the system; and
 - (d) providing the organisation's management with warnings in case of excessive delays in the production of survey records.
 13. Following the taking effect of this Decision the organisation shall submit to the Greek authorities and to the Commission, at two-monthly intervals, a report on the progress in the fulfilment of the conditions laid down in points 1 to 5 and in points 7 to 12.
 14. The organisation shall take the necessary measures to improve its performance significantly.
 15. The Commission, assisted by EMSA, shall assess on a continuous basis the fulfilment of the conditions in points 1 to 14 of this Annex and in particular respect of the deadlines set out therein. Non-fulfilment of these conditions or non-respect of the relevant deadlines may, at any time during the period referred to in Article 1 of this Decision, be considered by the Commission as grounds for withdrawal of recognition in accordance with Article 9 of Directive 94/57/EC.
-

COMMISSION DECISION

of 28 April 2009

authorising the placing on the market of lycopene oleoresin from tomatoes as novel food ingredient under Regulation (EC) No 258/97 of the European Parliament and of the Council*(notified under document number C(2009) 3036)***(Only the English text is authentic)**

(2009/355/EC)

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

consumption of lycopene by the average user will stay below the Acceptable Daily Intake (ADI), but that some users of lycopene may exceed the ADI.

Having regard to the Treaty establishing the European Community,

Having regard to Regulation (EC) No 258/97 of the European Parliament and of the Council of 27 January 1997 concerning novel foods and novel food ingredients⁽¹⁾, and in particular Article 7 thereof,

(5) Meanwhile, following other requests for other uses of lycopene as novel food ingredient, EFSA came to the same conclusion; therefore, it appears appropriate to establish a list of foods acceptable for the addition of lycopene.

Whereas:

(1) On 7 September 2004 the company Ottaway & Associates Ltd. on behalf of the company LycoRed made a request to the competent authorities of the United Kingdom to place lycopene oleoresin from tomatoes on the market as a novel food ingredient; on 30 June 2005 the competent food assessment body of the United Kingdom issued its initial assessment report, in which it came to the conclusion that lycopene oleoresin from tomatoes is acceptable to be used in the proposed range of foodstuffs.

(6) Therefore, it appears appropriate to collect intake data for a number of years following the authorisation in order to review this authorisation in the light of any further information on the safety of lycopene and its consumption. Particular attention should be given to the collection of data regarding the levels of lycopene in breakfast cereals. However, this requirement under the present Decision, applies to the use of lycopene as a novel food ingredient and not to the use of lycopene as a food colour, that falls within the scope of Council Directive 89/107/EEC of 21 December 1988 on the approximation of laws of the Member States concerning food additives authorised for use in foodstuffs intended for human consumption⁽²⁾.

(2) The Commission forwarded the initial assessment report to all Member States on 9 August 2005.

(3) Within the 60-day period laid down in Article 6(4) of Regulation (EC) No 258/97 reasoned objections to the marketing of the product were raised in accordance with that provision; therefore the European Food Safety Authority (EFSA) was consulted on 13 September 2006 and issued its opinion on 24 April 2008.

(7) On the basis of the scientific assessment, it is established that lycopene oleoresin from tomatoes complies with the criteria laid down in Article 3(1) of Regulation (EC) No 258/97.

(4) In that opinion, EFSA came to the conclusion that lycopene may be safely used as a food ingredient for the proposed use; however, EFSA concluded that the

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

⁽¹⁾ OJ L 43, 14.2.1997, p. 1.

⁽²⁾ OJ L 40, 11.2.1989, p. 27.

HAS ADOPTED THIS DECISION:

Article 1

Lycopene oleoresin from tomatoes, hereinafter called the product, as specified in Annex I, may be placed on the market in the Community as a novel food ingredient to be used in the foods listed in Annex II.

Article 2

The designation of the novel food ingredient authorised by this Decision on the labelling of the foodstuff containing it shall be 'lycopene oleoresin from tomatoes'.

Article 3

The company LycoRed shall establish a monitoring programme accompanying the marketing of the product. This programme shall encompass information about use levels of lycopene in foods as specified in Annex III.

The data collected shall be made available to the Commission and Member States in accordance with the periodicity established in Annex III.

In the light of new information and a report of EFSA, at the latest in the year 2014 the use of lycopene oleoresin from tomatoes as an ingredient to foods shall be reviewed.

Article 4

This Decision is addressed to LycoRed Ltd, Hebron Rd, Industrial Zone, Beer Sheva 84102, Israel.

Done at Brussels, 28 April 2009.

For the Commission
Androulla VASSILIOU
Member of the Commission

ANNEX I

Specifications of lycopene oleoresin from tomatoes

DESCRIPTION

Lycopene oleoresin from tomatoes is obtained by solvent extraction of ripe tomatoes (*Lycopersicon esculentum*) with subsequent removal of the solvent. It is a red to dark brown viscous, clear liquid.

COMPOSITION

| | |
|--|---|
| Total lycopene | 5 to 15 % |
| Thereof trans-lycopene | 90 – 95 % |
| Total carotenoids (calculated as lycopene) | 6,5 – 16,5 % |
| Other carotenoids | 1,75 % |
| (Phytoene/phytofluene/ β -carotene) | (0,5 to 0,75/0,4 to 0,65/0,2 to 0,35 %) |
| Total tocopherols | 1,5 to 3,0 % |
| Unsataponifiable matter | 13 to 20 % |
| Total fatty acids | 60 to 75 % |
| Water (Karl Fischer) | Not more than 0,5 % |

ANNEX II

List of foods to which 'lycopene oleoresin from tomatoes' may be added

| Food category | Maximum content of lycopene |
|---|--|
| Fruit/vegetable juice-based drinks (including concentrates) | 2,5 mg/100 g |
| Drinks intended to meet the expenditure of intense muscular effort especially for sportsmen | 2,5 mg/100 g |
| Foods intended for use in energy-restricted diets for weight reduction | 8 mg/meal replacement |
| Breakfast cereals | 5 mg/100 g |
| Fats & dressings | 10 mg/100 g |
| Soups other than tomato soups | 1 mg/100 g |
| Bread (including crispy breads) | 3 mg/100 g |
| Dietary foods for special medical purposes | In accordance with the particular nutritional requirements |

ANNEX III

Post launch monitoring of lycopene oleoresin from tomatoes

INFORMATION TO BE COLLECTED

Quantities of lycopene oleoresin from tomatoes expressed as lycopene provided by LycoRed to their customers for the production of final food products to be placed on the market in the European Union.

Results of data base searches on product launches of foods with added lycopene, including fortification levels and portion sizes per launched food by Member State.

REPORTING OF THE INFORMATION

The information above shall be reported to the European Commission annually for the years 2009 to 2012. For the first time on 31 October 2010 for the reporting period 1 July 2009 to 30 June 2010; and then with the same yearly reporting period for the following two years.

ADDITIONAL INFORMATION

Where appropriate and available to LycoRed also the same information on intakes of lycopene used as food colour or ingredient to food supplements should be reported.

Where available, LycoRed shall provide new scientific information for a reconsideration of the maximum safe intake levels of lycopene.

ASSESSMENT OF INTAKE LEVELS OF LYCOPENE

Based on the collected and reported information above, LycoRed shall carry out an updated intake assessment.

REVIEW

The Commission shall consult EFSA in 2013 to review the information provided by industry.

III

(Acts adopted under the EU Treaty)

ACTS ADOPTED UNDER TITLE V OF THE EU TREATY

POLITICAL AND SECURITY COMMITTEE DECISION ATALANTA/2/2009

of 21 April 2009

on the acceptance of third States' contributions to the European Union military operation to contribute to the deterrence, prevention and repression of acts of piracy and armed robbery off the Somali coast (Atalanta)

(2009/356/CFSP)

THE POLITICAL AND SECURITY COMMITTEE,

Having regard to the Treaty on European Union, and in particular the third subparagraph of Article 25 thereof,

Having regard to Council Joint Action 2008/851/CFSP of 10 November 2008 on a European Union military operation to contribute to the deterrence, prevention and repression of acts of piracy and armed robbery off the Somali coast ⁽¹⁾ (Atalanta), and in particular Article 10(2) thereof on the participation by third States,

Whereas:

- (1) The EU Operation Commander held Force Generation and Manning Conferences on 17 November 2008, 16 December 2008 and 19 March 2009.
- (2) Following recommendations on a contribution from Norway by the EU Operation Commander and the EU Military Committee (EUMC), the contribution from Norway should be accepted.
- (3) In accordance with Article 6 of the Protocol on the position of Denmark annexed to the Treaty on European Union and to the Treaty establishing the European Community, Denmark does not participate in

the elaboration and implementation of decisions and actions of the European Union which have defence implications,

HAS DECIDED AS FOLLOWS:

Article 1

Third States' contributions

Following the Force Generation and Manning Conferences, the contribution from Norway shall be accepted for the EU military operation to contribute to the deterrence, prevention and repression of acts of piracy and armed robbery off the Somali coast (Atalanta).

Article 2

Entry into force

This Decision shall take effect on the day of its adoption.

Done at Brussels, 21 April 2009.

For the Political and Security Committee

The Chairperson

I. ŠRÁMEK

⁽¹⁾ OJ L 301, 12.11.2008, p. 33.

III *Acts adopted under the EU Treaty*

ACTS ADOPTED UNDER TITLE V OF THE EU TREATY

2009/356/CFSP:

- ★ **Political and Security Committee Decision Atalanta/2/2009 of 21 April 2009 on the acceptance of third States' contributions to the European Union military operation to contribute to the deterrence, prevention and repression of acts of piracy and armed robbery off the Somali coast (Atalanta)** 52

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