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I

(Legislative acts)

REGULATIONS

COUNCIL REGULATION (EU) No 1386/2011

of 19 December 2011

temporarily suspending autonomous Common Customs Tariff duties on imports of certain industrial products into the Canary Islands

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty on the Functioning of the European Union, and in particular Article 349 thereof,

Having regard to the proposal from the European Commission,

After transmission of the draft legislative act to the national Parliaments,

Having regard to the opinion of the European Parliament ⁽¹⁾,Having regard to the opinion of the European Economic and Social Committee ⁽²⁾,

After consulting the Committee of the Regions,

Acting in accordance with a special legislative procedure,

Whereas:

(1) According to Council Regulation (EC) No 704/2002 of 25 March 2002 temporarily suspending autonomous Common Customs Tariff duties on imports of certain industrial products and opening and providing for the administration of autonomous Community tariff quotas on imports of certain fishery products into the Canary Islands ⁽³⁾, the Common Customs Tariff duty suspension for certain capital goods for commercial or industrial use is to expire on 31 December 2011.

(2) In September 2010, the government of Spain requested on behalf of the government of the Canary Islands, the prolongation of the suspension of the autonomous

Common Customs Tariff duties for a number of products in accordance with Article 349 of the Treaty. The justification of their request was that in view of the remoteness of those islands, the economic operators suffer severe economic and commercial disadvantages which have negative effects on demographic trends, employment and social and economic developments.

(3) The Canary Islands industrial sector, together with construction, has been severely affected by the recent economic crisis. The slump in building depressed all the auxiliary industry that depends on it. Unfavourable financial conditions had a serious impact on many areas of business. In addition, the sharp rise in unemployment in Spain aggravated the slump in domestic demand, including demand for industrial products.

(4) Unemployment in the Canary Islands has been consistently exceeding the national average for Spain for the last 10 years and, since 2009, the Canary Islands have recorded the highest level throughout the country (Eurostat: Regional statistics — Unemployment rate, by NUTS 2 regions, 1999-2009). Moreover, more than half of the industrial production of the Canary Islands is consumed there, which is particularly serious since demand there has been hit harder.

(5) Therefore, with the aim of giving a long-term perspective to investors and enabling economic operators to reach a level of industrial and commercial activities which stabilises the economic and social environment on the Canary Islands, it is appropriate to prolong in full the suspension of the Common Customs Tariff duties for certain goods as detailed in Annex II and Annex III to Regulation (EC) No 704/2002 for a period of 10 years.

(6) In addition, in the same context the Spanish authorities have requested the suspension of the Common Customs Tariff duties for three new products falling within CN codes 3902 10, 3903 11 and 3906 10. This request was accepted as these suspensions would strengthen the economy of the Canary Islands.

⁽¹⁾ Opinion of 15 November 2011 (not yet published in the Official Journal).

⁽²⁾ Opinion of 22 September 2011 (not yet published in the Official Journal).

⁽³⁾ OJ L 111, 26.4.2002, p. 1.

- (7) In order to ensure that only economic operators located on the territory of the Canary Islands benefit from those tariff measures, the suspensions should be made conditional on the end-use of the products, in accordance with Council Regulation (EEC) No 2913/92 of 12 October 1992 establishing the Community Customs Code ⁽¹⁾ and Commission Regulation (EEC) No 2454/93 of 2 July 1993 laying down provisions for the implementation of Council Regulation (EEC) No 2913/92 establishing the Community Customs Code ⁽²⁾.
- (8) In case of a deflection of trade and in order to ensure uniform conditions for the implementation of this Regulation, implementing powers should be conferred on the Commission allowing the Commission to temporarily withdraw the suspension. Those powers should be exercised in accordance with Regulation (EU) No 182/2011 of the European Parliament and of the Council of 16 February 2011 laying down the rules and general principles concerning mechanisms for control by Member States of the Commission's exercise of implementing powers ⁽³⁾.
- (9) Amendments to the Combined Nomenclature may not give rise to any substantive changes to the nature of the suspension of duties. The power to adopt acts in accordance with Article 290 of the Treaty should therefore be delegated to the Commission for the purpose of making necessary amendments and technical adaptations to the list of goods for which a suspension applies. The Commission, when preparing and drawing up delegated acts, should ensure a timely and appropriate transmission of relevant documents to the Council.
- (10) In order to ensure continuity with the measures set out in Regulation (EC) No 704/2002, it is necessary to apply the measures provided in this Regulation from 1 January 2012,

HAS ADOPTED THIS REGULATION:

Article 1

From 1 January 2012 to 31 December 2021, the Common Customs Tariff duties applicable to imports into the Canary Islands of capital goods for commercial or industrial use falling under the CN codes listed in Annex I shall be suspended in full.

Those goods shall be used in accordance with the relevant provisions of Regulation (EEC) No 2913/92 and of Regulation (EEC) No 2454/93 for a period of at least 24 months after the release into free circulation by economic operators located in the Canary Islands.

⁽¹⁾ OJ L 302, 19.10.1992, p. 1.

⁽²⁾ OJ L 253, 11.10.1993, p. 1.

⁽³⁾ OJ L 55, 28.2.2011, p. 13.

Article 2

From 1 January 2012 to 31 December 2021, the Common Customs Tariff duties applicable to imports into the Canary Islands of raw materials, parts and components falling under the CN codes listed in Annex II and used for industrial transformation or maintenance in the Canary Islands, shall be suspended in full.

Article 3

The suspension of duties referred to in Articles 1 and 2 shall be subject to end-use in accordance with Articles 21 and 82 of Regulation (EEC) No 2913/92 and to the controls provided for in Articles 291 to 300 of Regulation (EEC) No 2454/93.

Article 4

1. Where the Commission has reasons to believe that the suspensions laid down in this Regulation have led to a deflection of trade for a specific product, it may adopt implementing acts, temporarily withdrawing the suspension for a period not longer than 12 months. Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 8.

Import duties for products for which the suspension has been temporarily withdrawn shall be secured by a guarantee, and the release of the products concerned for free circulation in the Canary Islands shall be conditional upon the provision of such guarantee.

2. When the Council decides, in accordance with the procedure laid down in the Treaty, within a 12-month period, that the suspension should definitively be withdrawn, the amounts of duties secured by guarantees shall be collected definitively.

3. If no definitive decision has been adopted within the 12-month period in accordance with paragraph 2, the securities shall be released.

Article 5

The Commission shall be empowered to adopt delegated acts in accordance with Article 6 concerning amendments and technical adaptations to Annexes I and II as are required as a consequence of amendments to the Combined Nomenclature.

Article 6

1. The power to adopt the delegated acts is conferred on the Commission subject to the conditions laid down in this Article.

2. The power to adopt the delegated acts referred to in Article 5 shall be conferred on the Commission for an indeterminate period of time as from 1 January 2012.

3. The delegation of power referred to in Article 5 may be revoked at any time by the Council. A decision to revoke shall put an end to the delegation of the power specified in that decision. It shall take effect the day following the publication of the decision in the *Official Journal of the European Union* or at a later date specified therein. It shall not affect the validity of any delegated acts already in force.

4. As soon as it adopts a delegated act, the Commission shall notify it to the Council.

5. A delegated act adopted pursuant to Article 5 shall enter into force only if no objection has been expressed by the Council within a period of two months of notification of that act to the Council or if, before the expiry of that period, the Council has informed the Commission that it will not object.

Article 7

The European Parliament shall be informed of the adoption of delegated acts by the Commission, of any objection formulated to them, or of the revocation of the delegation of powers by the Council.

Article 8

1. The Commission shall be assisted by the Customs Code Committee, established by Article 247a(1) of Regulation (EEC) No 2913/92. That committee shall be a committee within the meaning of Regulation (EU) No 182/2011.

2. Where reference is made to this paragraph, Article 5 of Regulation (EU) No 182/2011 shall apply.

Article 9

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

It shall apply from 1 January 2012.

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

Done at Brussels, 19 December 2011.

For the Council
The President
M. KOROŁEC

ANNEX I

Capital goods for commercial or industrial use falling within CN codes ⁽¹⁾

4011 20	8450 20	8522 90 80	9006 53 80
4011 30	8450 90	8523 21	9006 59
4011 61	8469 00 91		9007 10
4011 62	8472	8523 29 39	9007 20
4011 63		8523 29 90	9008 50
4011 69		8523 49 99	
4011 92		8523 51 99	
4011 93	8473	8523 59 99	
4011 94		8523 80 99	
4011 99	8501	8525 50	9010 10
5608		8525 80 11	9010 50
6403 40		8525 80 19	9011
6403 51 05		8526	
6403 59 05			
6403 91 05			
6403 99 05			9012
8415			
			9030 10
		8701	
			9030 31
			9030 33
		8702	9106
		8704 21 31	9107
8418 30 80		8704 21 39	9207
8418 40 80		8704 21 91	
8418 50		8704 21 99	9506 91 90
8418 61		8704 22	9507 10
8418 69		8704 23	9507 20 90
8418 91		8704 31 31	9507 30
8418 99		8704 31 39	
8427		8704 31 91	

⁽¹⁾ As defined in Commission Implementing Regulation (EU) No 1006/2011 of 27 September 2011 amending Annex I to Council Regulation (EEC) No 2658/87 on the tariff and statistical nomenclature and on the Common Customs Tariff (OJ L 282, 28.10.2011, p. 1).

8431 20		8704 31 99	
8443 31			
		8704 32	
8443 32	8518 40 30	8704 90	
8443 39 10			
8443 39 39	8518 90	8705	
	8519 20	9006 10	
8450 11 90	8519 81 51		
8450 12	8521 10 95	9006 30	
8450 19	8522 90 49	9006 52	

ANNEX II

Raw materials, parts and components used for agricultural purposes, industrial transformation or maintenance falling within CN codes ⁽¹⁾

3901		5501	
3902 10		5502	
3903 11		5503	8706
3904 10		5504	8707
3906 10		5505	8708
4407 21			8714
		5506	
4407 22		5507	
	5108	5508 10 10	
4407 25	5110	5508 20 10	
	5111	5509	
		5510	
4407 26		5512	
		5513	
		5514	9002 90
4407 29		5515	9006 91
		5516	9007 91
		6001	9007 92
		6002	9008 90
	5112		9010 90
		6217 90	9104
4407 99		6305	9108
4410			9109
4412			
	5205		
	5208		9110
	5209		
	5210		
	5212	6309	
	5401 10 12	6406	
	5401 10 14	7601	9111
	5401 20 10		9112

⁽¹⁾ As defined in Commission Implementing Regulation (EU) No 1006/2011 of 27 September 2011 amending Annex I to Council Regulation (EEC) No 2658/87 on the tariff and statistical nomenclature and on the Common Customs Tariff (OJ L 282, 28.10.2011, p. 1).

	5402	8529 10 80	9114
	5403	8529 10 95	
	5404 11	8529 90	
	5404 90		
	5407		
	5408		

DIRECTIVES

COUNCIL DIRECTIVE 2011/96/EU

of 30 November 2011

on the common system of taxation applicable in the case of parent companies and subsidiaries of different Member States

(recast)

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty on the Functioning of the European Union, and in particular Article 115 thereof,

Having regard to the proposal from the European Commission,

After transmission of the draft legislative act to the national parliaments,

Having regard to the opinion of the European Parliament ⁽¹⁾,

Having regard to the opinion of the European Economic and Social Committee ⁽²⁾,

Acting in accordance with a special legislative procedure,

Whereas:

therein are adopted by the Council acting in accordance with the procedure provided for in the Treaty. It is furthermore appropriate to update the Annexes to that Directive.

(3) The objective of this Directive is to exempt dividends and other profit distributions paid by subsidiary companies to their parent companies from withholding taxes and to eliminate double taxation of such income at the level of the parent company.

(4) The grouping together of companies of different Member States may be necessary in order to create within the Union conditions analogous to those of an internal market and in order thus to ensure the effective functioning of such an internal market. Such operations should not to be hampered by restrictions, disadvantages or distortions arising in particular from the tax provisions of the Member States. It is therefore necessary, with respect to such grouping together of companies of different Member States, to provide for tax rules which are neutral from the point of view of competition, in order to allow enterprises to adapt to the requirements of the internal market, to increase their productivity and to improve their competitive strength at the international level.

(1) Council Directive 90/435/EEC of 23 July 1990 on the common system of taxation applicable in the case of parent companies and subsidiaries of different Member States ⁽³⁾ has been substantially amended several times ⁽⁴⁾. Since further amendments are to be made, it should be recast in the interests of clarity.

(5) Such grouping together may result in the formation of groups of parent companies and subsidiaries.

(2) In the light of the judgment of the Court of Justice of 6 May 2008 in Case C-133/06 ⁽⁵⁾, it is considered necessary to redraft the wording of the second subparagraph of Article 4(3) of Directive 90/435/EEC, for the purpose of clarifying that the rules referred to

(6) Before the entry into force of Directive 90/435/EEC, the tax provisions governing the relations between parent companies and subsidiaries of different Member States varied appreciably from one Member State to another and were generally less advantageous than those applicable to parent companies and subsidiaries of the same Member State. Cooperation between companies of different Member States was thereby disadvantaged in comparison with cooperation between companies of the same Member State. It was necessary to eliminate that disadvantage by the introduction of a common system in order to facilitate the grouping together of companies at Union level.

⁽¹⁾ Opinion delivered on 4 May 2011 (not yet published in the Official Journal).

⁽²⁾ OJ C 107, 6.4.2011, p. 73.

⁽³⁾ OJ L 225, 20.8.1990, p. 6.

⁽⁴⁾ See Annex II, Part A.

⁽⁵⁾ [2008] ECR I-03189.

- (7) Where a parent company by virtue of its association with its subsidiary receives distributed profits, the Member State of the parent company must either refrain from taxing such profits, or tax such profits while authorising the parent company to deduct from the amount of tax due that fraction of the corporation tax paid by the subsidiary which relates to those profits.
- (8) It is furthermore necessary, in order to ensure fiscal neutrality, that the profits which a subsidiary distributes to its parent company be exempt from withholding tax.
- (9) The payment of profit distributions to, and their receipt by, a permanent establishment of a parent company should give rise to the same treatment as that applying between a subsidiary and its parent. This should include the situation where a parent company and its subsidiary are in the same Member State and the permanent establishment is in another Member State. On the other hand, it appears that situations where the permanent establishment and the subsidiary are situated in the same Member State can, without prejudice to the application of the Treaty principles, be dealt with on the basis of national legislation by the Member State concerned.
- (10) In relation to the treatment of permanent establishments Member States may need to determine the conditions and legal instruments in order to protect the national tax revenue and fend off circumvention of national laws, in accordance with the Treaty principles and taking into account internationally accepted tax rules.
- (11) When corporate groups are organised in chains of companies and profits are distributed through the chain of subsidiaries to the parent company, double taxation should be eliminated either by exemption or tax credit. In the case of tax credit the parent company should be able to deduct any tax paid by any of the subsidiaries in the chain provided that the requirements set out in this Directive are met.
- (12) 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 Part B of Annex II,
- (b) to distributions of profits by companies of that Member State to companies of other Member States of which they are subsidiaries;
- (c) to distributions of profits received by permanent establishments situated in that Member State of companies of other Member States which come from their subsidiaries of a Member State other than that where the permanent establishment is situated;
- (d) to distributions of profits by companies of that Member State to permanent establishments situated in another Member State of companies of the same Member State of which they are subsidiaries.
2. This Directive shall not preclude the application of domestic or agreement-based provisions required for the prevention of fraud or abuse.

Article 2

For the purposes of this Directive the following definitions shall apply:

- (a) 'company of a Member State' means any company which:
- (i) takes one of the forms listed in Annex I, Part A;
 - (ii) according to the tax laws of a Member State is considered to be resident in that Member State for tax purposes and, under the terms of a double taxation agreement concluded with a third State, is not considered to be resident for tax purposes outside the Union;
 - (iii) moreover, is subject to one of the taxes listed in Annex I, Part B, without the possibility of an option or of being exempt, or to any other tax which may be substituted for any of those taxes;

HAS ADOPTED THIS DIRECTIVE:

Article 1

1. Each Member State shall apply this Directive:

- (a) to distributions of profits received by companies of that Member State which come from their subsidiaries of other Member States;
- (b) 'permanent establishment' means a fixed place of business situated in a Member State through which the business of a company of another Member State is wholly or partly carried on in so far as the profits of that place of business are subject to tax in the Member State in which it is situated by virtue of the relevant bilateral tax treaty or, in the absence of such a treaty, by virtue of national law.

Article 3

1. For the purposes of applying this Directive:

(a) the status of parent company shall be attributed:

(i) at least to a company of a Member State which fulfils the conditions set out in Article 2 and has a minimum holding of 10 % in the capital of a company of another Member State fulfilling the same conditions;

(ii) under the same conditions, to a company of a Member State which has a minimum holding of 10 % in the capital of a company of the same Member State, held in whole or in part by a permanent establishment of the former company situated in another Member State;

(b) 'subsidiary' means that company the capital of which includes the holding referred to in point (a).

2. By way of derogation from paragraph 1, Member States shall have the option of:

(a) replacing, by means of bilateral agreement, the criterion of a holding in the capital by that of a holding of voting rights;

(b) not applying this Directive to companies of that Member State, which do not maintain for an uninterrupted period of at least 2 years holdings qualifying them as parent companies, or to those of their companies in which a company of another Member State does not maintain such a holding for an uninterrupted period of at least 2 years.

Article 4

1. Where a parent company or its permanent establishment, by virtue of the association of the parent company with its subsidiary, receives distributed profits, the Member State of the parent company and the Member State of its permanent establishment shall, except when the subsidiary is liquidated, either:

(a) refrain from taxing such profits; or

(b) tax such profits while authorising the parent company and the permanent establishment to deduct from the amount of tax due that fraction of the corporation tax related to those profits and paid by the subsidiary and any lower-tier

subsidiary, subject to the condition that at each tier a company and its lower-tier subsidiary fall within the definitions laid down in Article 2 and meet the requirements provided for in Article 3, up to the limit of the amount of the corresponding tax due.

2. Nothing in this Directive shall prevent the Member State of the parent company from considering a subsidiary to be fiscally transparent on the basis of that Member State's assessment of the legal characteristics of that subsidiary arising from the law under which it is constituted and therefore from taxing the parent company on its share of the profits of its subsidiary as and when those profits arise. In this case the Member State of the parent company shall refrain from taxing the distributed profits of the subsidiary.

When assessing the parent company's share of the profits of its subsidiary as they arise the Member State of the parent company shall either exempt those profits or authorise the parent company to deduct from the amount of tax due that fraction of the corporation tax related to the parent company's share of profits and paid by its subsidiary and any lower-tier subsidiary, subject to the condition that at each tier a company and its lower-tier subsidiary fall within the definitions laid down in Article 2 and meet the requirements provided for in Article 3, up to the limit of the amount of the corresponding tax due.

3. Each Member State shall retain the option of providing that any charges relating to the holding and any losses resulting from the distribution of the profits of the subsidiary may not be deducted from the taxable profits of the parent company.

Where the management costs relating to the holding in such a case are fixed as a flat rate, the fixed amount may not exceed 5 % of the profits distributed by the subsidiary.

4. Paragraphs 1 and 2 shall apply until the date of effective entry into force of a common system of company taxation.

5. The Council, acting unanimously in accordance with a special legislative procedure and after consulting the European Parliament and the Economic and Social Committee, shall, at the appropriate time, adopt the rules to apply as from the date of effective entry into force of a common system of company taxation.

Article 5

Profits which a subsidiary distributes to its parent company shall be exempt from withholding tax.

Article 6

The Member State of a parent company may not charge withholding tax on the profits which such a company receives from a subsidiary.

Article 7

1. The term 'withholding tax' as used in this Directive shall not cover an advance payment or prepayment (*précompte*) of corporation tax to the Member State of the subsidiary which is made in connection with a distribution of profits to its parent company.

2. This Directive shall not affect the application of domestic or agreement-based provisions designed to eliminate or lessen economic double taxation of dividends, in particular provisions relating to the payment of tax credits to the recipients of dividends.

Article 8

1. Member States shall bring into force the laws, regulations, and administrative provisions necessary to comply with this Directive as from 18 January 2012. They shall forthwith inform the Commission thereof.

When Member States adopt these measures, they shall contain a reference to this Directive or shall be accompanied by such reference on the occasion of their official publication. The methods of making such reference shall be laid down by Member States.

2. 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 together with a correlation table between them and this Directive.

Article 9

Directive 90/435/EEC, as amended by the acts listed in Annex II, 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 II, 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 III.

Article 10

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

Article 11

This Directive is addressed to the Member States.

Done at Brussels, 30 November 2011.

For the Council

The President

J. VINCENT-ROSTOWSKI

ANNEX I

PART A

List of companies referred to in Article 2(a)(i)

- (a) companies incorporated under Council Regulation (EC) No 2157/2001 of 8 October 2001 on the Statute for a European company (SE) ⁽¹⁾ and Council Directive 2001/86/EC of 8 October 2001 supplementing the Statute for a European company with regard to the involvement of employees ⁽²⁾ and cooperative societies incorporated under Council Regulation (EC) No 1435/2003 of 22 July 2003 on the Statute for a European Cooperative Society (SCE) ⁽³⁾ and Council Directive 2003/72/EC of 22 July 2003 supplementing the Statute for a European Cooperative Society with regard to the involvement of employees ⁽⁴⁾;
- (b) companies under Belgian law known as 'société anonyme'/'naamloze vennootschap', 'société en commandite par actions'/'commanditaire vennootschap op aandelen', 'société privée à responsabilité limitée'/'besloten vennootschap met beperkte aansprakelijkheid', 'société coopérative à responsabilité limitée'/'coöperatieve vennootschap met beperkte aansprakelijkheid', 'société coopérative à responsabilité illimitée'/'coöperatieve vennootschap met onbeperkte aansprakelijkheid', 'société en nom collectif'/'vennootschap onder firma', 'société en commandite simple'/'gewone commanditaire vennootschap', public undertakings which have adopted one of the abovementioned legal forms, and other companies constituted under Belgian law subject to Belgian corporate tax;
- (c) companies under Bulgarian law known as: 'събирателно дружество', 'командитно дружество', 'дружество с ограничена отговорност', 'акционерно дружество', 'командитно дружество с акции', 'неперсонифицирано дружество', 'кооперации', 'кооперативни съюзи', 'държавни предприятия' constituted under Bulgarian law and carrying on commercial activities;
- (d) companies under Czech law known as: 'akciová společnost', 'společnost s ručením omezeným';
- (e) companies under Danish law known as 'aktieselskab' and 'anpartsselskab'. Other companies subject to tax under the Corporation Tax Act, in so far as their taxable income is calculated and taxed in accordance with the general tax legislation rules applicable to 'aktieselskaber';
- (f) companies under German law known as 'Aktiengesellschaft', 'Kommanditgesellschaft auf Aktien', 'Gesellschaft mit beschränkter Haftung', 'Versicherungsverein auf Gegenseitigkeit', 'Erwerbs- und Wirtschaftsgenossenschaft', 'Betriebe gewerblicher Art von juristischen Personen des öffentlichen Rechts', and other companies constituted under German law subject to German corporate tax;
- (g) companies under Estonian law known as: 'täisühing', 'usaldusühing', 'osaühing', 'aktsiaselts', 'tulundusühistu';
- (h) companies incorporated or existing under Irish law, bodies registered under the Industrial and Provident Societies Act, building societies incorporated under the Building Societies Acts and trustee savings banks within the meaning of the Trustee Savings Banks Act, 1989;
- (i) companies under Greek law known as 'ανώνυμη εταιρεία', 'εταιρεία περιορισμένης ευθύνης (Ε.Π.Ε.)' and other companies constituted under Greek law subject to Greek corporate tax;
- (j) companies under Spanish law known as: 'sociedad anónima', 'sociedad comanditaria por acciones', 'sociedad de responsabilidad limitada', public law bodies which operate under private law. Other entities constituted under Spanish law subject to Spanish corporate tax ('Impuesto sobre Sociedades');
- (k) companies under French law known as 'société anonyme', 'société en commandite par actions', 'société à responsabilité limitée', 'sociétés par actions simplifiées', 'sociétés d'assurances mutuelles', 'caisses d'épargne et de prévoyance', 'sociétés civiles' which are automatically subject to corporation tax, 'coopératives', 'unions de coopératives', industrial and commercial public establishments and undertakings, and other companies constituted under French law subject to French corporate tax;
- (l) companies under Italian law known as 'società per azioni', 'società in accomandita per azioni', 'società a responsabilità limitata', 'società cooperativa', 'società di mutua assicurazione', and private and public entities whose activity is wholly or principally commercial;

⁽¹⁾ OJ L 294, 10.11.2001, p. 1.

⁽²⁾ OJ L 294, 10.11.2001, p. 22.

⁽³⁾ OJ L 207, 18.8.2003, p. 1.

⁽⁴⁾ OJ L 207, 18.8.2003, p. 25.

- (m) under Cypriot law: 'εταιρείες' as defined in the Income Tax laws;
- (n) companies under Latvian law known as: 'akciju sabiedrība', 'sabiedrība ar ierobežotu atbildību';
- (o) companies incorporated under the law of Lithuania;
- (p) companies under Luxembourgish law known as 'société anonyme', 'société en commandite par actions', 'société à responsabilité limitée', 'société coopérative', 'société coopérative organisée comme une société anonyme', 'association d'assurances mutuelles', 'association d'épargne-pension', 'entreprise de nature commerciale, industrielle ou minière de l'Etat, des communes, des syndicats de communes, des établissements publics et des autres personnes morales de droit public', and other companies constituted under Luxembourg law subject to Luxembourg corporate tax;
- (q) companies under Hungarian law known as: 'közkereseti társaság', 'betéti társaság', 'közös vállalat', 'korlátolt felelősségű társaság', 'részvénytársaság', 'egyesülés', 'szövetkezet';
- (r) companies under Maltese law known as: 'Kumpaniji ta' Responsabilita' Limitata', 'Soċjetajiet en commandite li l-kapital taghhom maqsum f'azzjonijiet';
- (s) companies under Dutch law known as 'naamloze vennootschap', 'besloten vennootschap met beperkte aansprakelijkheid', 'open commanditaire vennootschap', 'coöperatie', 'onderlinge waarborgmaatschappij', 'fonds voor gemene rekening', 'vereniging op coöperatieve grondslag', 'vereniging welke op onderlinge grondslag als verzekeraar of kredietinstelling optreedt', and other companies constituted under Dutch law subject to Dutch corporate tax;
- (t) companies under Austrian law known as 'Aktiengesellschaft', 'Gesellschaft mit beschränkter Haftung', 'Versicherungsvereine auf Gegenseitigkeit', 'Erwerbs- und Wirtschaftsgenossenschaften', 'Betriebe gewerblicher Art von Körperschaften des öffentlichen Rechts', 'Sparkassen', and other companies constituted under Austrian law subject to Austrian corporate tax;
- (u) companies under Polish law known as: 'spółka akcyjna', 'spółka z ograniczoną odpowiedzialnością';
- (v) commercial companies or civil law companies having a commercial form and cooperatives and public undertakings incorporated in accordance with Portuguese law;
- (w) companies under Romanian law known as: 'societăți pe acțiuni', 'societăți în comandită pe acțiuni', 'societăți cu răspundere limitată';
- (x) companies under Slovenian law known as: 'delniška družba', 'komanditna družba', 'družba z omejeno odgovornostjo';
- (y) companies under Slovak law known as: 'akciová spoločnosť', 'spoločnosť s ručením obmedzeným', 'komanditná spoločnosť';
- (z) companies under Finnish law known as 'osakeyhtiö'/ 'aktiebolag', 'osuuskunta'/ 'andelslag', 'säästöpankki'/ 'sparbank' and 'vakuutusyhtiö'/ 'försäkringsbolag';
- (aa) companies under Swedish law known as 'aktiebolag', 'försäkringsaktiebolag', 'ekonomiska föreningar', 'sparbanker', 'ömsesidiga försäkringsbolag', 'försäkringsföreningar';
- (ab) companies incorporated under the law of the United Kingdom.

PART B

List of taxes referred to in Article 2(a)(iii)

- impôt des sociétés/vennootschapsbelasting in Belgium,
- корпоративен данък in Bulgaria,
- daň z příjmů právnických osob in the Czech Republic,
- selskabsskat in Denmark,

- Körperschaftssteuer in Germany,
 - tulumaks in Estonia,
 - corporation tax in Ireland,
 - φόρος εισοδήματος νομικών προσώπων κερδοσκοπικού χαρακτήρα in Greece,
 - impuesto sobre sociedades in Spain,
 - impôt sur les sociétés in France,
 - imposta sul reddito delle società in Italy,
 - φόρος εισοδήματος in Cyprus,
 - uzņēmumu ienākuma nodoklis in Latvia,
 - pelno mokestis in Lithuania,
 - impôt sur le revenu des collectivités in Luxembourg,
 - társasági adó, osztalékadó in Hungary,
 - taxxa fuq l-income in Malta,
 - vennootschapsbelasting in the Netherlands,
 - Körperschaftssteuer in Austria,
 - podatek dochodowy od osób prawnych in Poland,
 - imposto sobre o rendimento das pessoas colectivas in Portugal,
 - impozit pe profit in Romania,
 - davek od dobička pravnih oseb in Slovenia,
 - daň z príjmov právnických osôb in Slovakia,
 - yhteisöjen tulovero/inkomstskatten för samfund in Finland,
 - statlig inkomstskatt in Sweden,
 - corporation tax in the United Kingdom.
-

ANNEX II

PART A

Repealed Directive with list of its successive amendments

(referred to in Article 9)

Council Directive 90/435/EEC
(OJ L 225, 20.8.1990, p. 6).

Point XI.B.I.3 of Annex I to the 1994 Act of Accession
(OJ C 241, 29.8.1994, p. 196).

Council Directive 2003/123/EC
(OJ L 7, 13.1.2004, p. 41).

Point 9.8 of Annex II to the 2003 Act of Accession
(OJ L 236, 23.9.2003, p. 555).

Council Directive 2006/98/EC
(OJ L 363, 20.12.2006, p. 129).

Annex, point 7 only

PART B

List of time limits for transposition into national law

(referred to in Article 9)

Directive	Time limit for transposition
90/435/EEC	31 December 1991
2003/123/EC	1 January 2005
2006/98/EC	1 January 2007

ANNEX III

Correlation Table

Directive 90/435/EEC	This Directive
Article 1(1) first to fourth indents	Article 1(1)(a) to (d)
Article 1(2)	Article 1(2)
Article 2(1) first part of the introductory phrase	Article 2 introductory phrase
Article 2(1) second part of the introductory phrase	Article 2(a), introductory phrase
Article 2(1)(a)	Article 2(a)(i)
Article 2(1)(b)	Article 2(a)(ii)
Article 2(1)(c) introductory phrase of the first subparagraph and second subparagraph	Article 2(a)(iii)
Article 2(1)(c), first subparagraph, first to twenty-seventh indents	Annex I, Part B, first to twenty-seventh indents
Article 2(2)	Article 2(b)
Article 3(1) introductory phrase	Article 3(1), introductory phrase
Article 3(1)(a) first subparagraph, initial words	Article 3(1)(a), introductory phrase
Article 3(1)(a) first subparagraph, final words	Article 3(1)(a)(i)
Article 3(1)(a) second subparagraph	Article 3(1)(a)(ii)
Article 3(1)(a) third subparagraph	—
Article 3(1)(a) fourth subparagraph	—
Article 3(1)(b)	Article 3(1)(b)
Article 3(2) first and second indents	Article 3(2)(a) and (b)
Article 4(1) first and second indents	Article 4(1)(a) and (b)
Article 4(1a)	Article 4(2)
Article 4(2) first sentence	Article 4(3) first subparagraph
Article 4(2) second sentence	Article 4(3) second subparagraph
Article 4(3) first subparagraph	Article 4(4)
Article 4(3) second subparagraph	Article 4(5)
Articles 5, 6 and 7	Articles 5, 6 and 7
Article 8(1)	—
Article 8(2)	Article 8
—	Article 9
—	Article 10
Article 9	Article 11
Annex	Annex I, Part A
—	Annex II
—	Annex III

DECISIONS

COUNCIL DECISION No 895/2011/EU

of 19 December 2011

amending Decision 2002/546/EC as regards its period of application

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty on the Functioning of the European Union, and in particular Article 349 thereof,

Having regard to the proposal from the European Commission,

After transmission of the draft legislative act to the national parliaments,

Having regard to the opinion of the European Parliament ⁽¹⁾,

Acting in accordance with a special legislative procedure,

Whereas:

(1) Council Decision 2002/546/EC ⁽²⁾ authorises Spain, up to 31 December 2011, to apply exemptions from or reductions in the tax known as 'Arbitrio sobre las Importaciones y Entregas de Mercancías en las islas Canarias' (hereinafter 'the AIEM tax') to certain products produced locally in the Canary Islands. The Annex to that Decision contains a list of products to which exemptions and reductions from the AIEM tax may be applied. The difference between the taxation of locally produced products and the taxation of other products may not exceed 5, 15 or 25 %, depending on the product.

(2) It is justified to extend the period of application of Decision 2002/546/EC for two years, since the basic elements justifying the authorisation provided under that Decision have remained unchanged. In this regard, the report from the Commission to the Council of 28 August 2008 on the application of the special

arrangements concerning the AIEM tax applicable in the Canary Islands confirmed that the AIEM tax was functioning in a satisfactory manner and without the need for any amendments to Decision 2002/546/EC.

(3) Moreover, the report received by the Commission from the Spanish authorities confirms that the handicaps that justified the authorisation of total exemptions and partial reductions of the AIEM tax to a list of products produced locally in the Canary Islands are still valid.

(4) Decision 2002/546/EC should be amended accordingly,

HAS ADOPTED THIS DECISION:

Article 1

In the first sentence of Article 1(1) of Decision 2002/546/EC, the date '31 December 2011' is replaced by that of '31 December 2013'.

Article 2

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

Article 3

This Decision is addressed to the Kingdom of Spain.

Done at Brussels, 19 December 2011.

For the Council
The President
M. KOROLEC

⁽¹⁾ Opinion of 1 December 2011 (not yet published in the Official Journal).

⁽²⁾ OJ L 179, 9.7.2002, p. 22.

COUNCIL DECISION No 896/2011/EU**of 19 December 2011****amending Decision 2007/659/EC as regards its period of application and the annual quota benefiting from a reduced rate of excise duty**

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty on the Functioning of the European Union, and in particular Article 349 thereof,

Having regard to the proposal from the European Commission,

After transmission of the draft legislative act to the national parliaments,

Having regard to the opinion of the European Parliament ⁽¹⁾,

Acting in accordance with a special legislative procedure,

Whereas:

(1) Council Decision 2007/659/EC of 9 October 2007 authorising France to apply a reduced rate of excise duty on 'traditional' rum produced in its overseas departments ⁽²⁾ authorises France to apply to 'traditional' rum produced in its overseas departments and sold on the French mainland a reduced rate of excise duty which may be lower than the minimum rate of excise duty on alcohol set by Council Directive 92/84/EEC of 19 October 1992 on the approximation of the rates of excise duty on alcohol and alcoholic beverages ⁽³⁾ but not more than 50 % lower than the standard national excise duty on alcohol. The 'traditional' rum to which the reduced rate of excise duty applies is now defined in point 1(f) of Annex II to Regulation (EC) No 110/2008 of the European Parliament and of the Council of 15 January 2008 on the definition, description, presentation, labelling and the protection of geographical indications of spirit drinks ⁽⁴⁾. The reduction in excise duty is confined to an annual quota of 108 000 hectolitres of pure alcohol. The derogation expires on 31 December 2012.

(2) In order to adapt the terms of Decision 2007/659/EC to Article 349 of the Treaty on the Functioning of the European Union and bearing in mind that 'traditional' rum is produced only in Guadeloupe, French Guiana,

Martinique and Réunion, therefore, a reference should be made in this amending Decision exclusively to those four outermost regions.

(3) On 29 June 2010, the French authorities sent the Commission the report provided for in Article 4 of Decision 2007/659/EC. The report contains two requests. First, the French authorities ask that the annual quota be increased from 108 000 hectolitres to 125 000 hectolitres of pure alcohol to reflect trends on the market for rum in the Union. Secondly, they request an extension by 1 year, i.e. to 31 December 2013, of the period of application of Decision 2007/659/EC so as to bring it into line with that of a State aid decision on the same issue adopted by the Commission on 27 June 2007 ⁽⁵⁾ (hereinafter: 'the State aid Decision').

(4) The information provided by the French authorities shows that quantities of 'traditional' rum coming onto the market at the reduced rate of excise duty have grown since the adoption of Decision 2007/659/EC, from 96 100 hectolitres of pure alcohol in 2007 to 105 700 hectolitres in 2010, i.e. an annual increase of 3,2 %. Provided that this trend continues, the quantities of 'traditional' rum coming onto the market should be around 109 100 hectolitres of pure alcohol in 2011, 112 600 hectolitres in 2012 and 116 200 hectolitres in 2013, thus exceeding the 108 000 hectolitre quota provided for by Decision 2007/659/EC.

(5) Recital 9 of Decision 2007/659/EC underlines that since the competitiveness of 'traditional' rum from the overseas departments needs to be supported on the market in mainland France in order to safeguard the activity of their sugar-cane rum sector, the quantities of traditional rum originating in the overseas departments eligible for a reduced rate of excise duty when released for consumption on that market should be reviewed. The 108 000 hectolitre annual quota established by Decision 2007/659/EC should be, therefore, increased to 120 000 hectolitres, including the quota for 2011 in order to ensure continuity, taking into account the increase forecasted for that year. This increase would cover annual growth of 4,3 %, i.e. a little more than the 3,2 % increase witnessed in 2007-10.

(6) It is also necessary to extend the period of application of Decision 2007/659/EC by 1 year so that it expires at the same time as that of the State aid Decision.

(7) Decision 2007/659/EC should be amended accordingly,

⁽¹⁾ Opinion of 1 December 2011 (not yet published in the Official Journal).

⁽²⁾ OJ L 270, 13.10.2007, p. 12.

⁽³⁾ OJ L 316, 31.10.1992, p. 29.

⁽⁴⁾ OJ L 39, 13.2.2008, p. 16.

⁽⁵⁾ OJ C 15, 22.1.2008, p. 1.

HAS ADOPTED THIS DECISION:

Article 1

Decision 2007/659/EC is amended as follows:

(1) the title is replaced by the following:

‘Council Decision of 9 October 2007 authorising France to apply a reduced rate of excise duty on ‘traditional’ rum produced in Guadeloupe, French Guiana, Martinique and Réunion’;

(2) Article 1 is replaced by the following:

‘Article 1

By way of derogation from Article 110 of the Treaty on the Functioning of the European Union, France is authorised to extend the application on the French mainland, to ‘traditional’ rum produced in Guadeloupe, French Guiana, Martinique and Réunion, of a rate of excise duty lower than the full rate for alcohol set by Article 3 of Directive 92/84/EEC.’;

(3) Article 2 is replaced by the following:

‘Article 2

The derogation referred to in Article 1 shall be confined to rum as defined in point 1(f) of Annex II to Regulation (EC) No 110/2008 of the European Parliament and of the Council of 15 January 2008 on the definition, description, presentation, labelling and the protection of geographical indications of spirit drinks (*) produced in Guadeloupe, French Guiana, Martinique and Réunion from sugar cane harvested in the place of manufacture, having a content

of volatile substances other than ethyl and methyl alcohol equal to or exceeding 225 grams per hectolitre of pure alcohol and an alcoholic strength by volume of 40 % or more.

(*) OJ L 39, 13.2.2008, p. 16.’;

(4) Article 3(1) is replaced by the following:

‘1. The reduced rate of excise duty applicable to the product referred to in Article 2 shall be confined to an annual quota of 108 000 hectolitres of pure alcohol for the period up to 31 December 2010. For the period between 1 January 2011 and 31 December 2013, it shall be confined to an annual quota of 120 000 hectolitres.’;

(5) in Article 5, the date 31 December 2012 is replaced by that of 31 December 2013.

Article 2

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

Article 3

This Decision is addressed to the French Republic.

Done at Brussels, 19 December 2011.

For the Council
The President
M. KOROLEC

II

(Non-legislative acts)

REGULATIONS

COMMISSION IMPLEMENTING REGULATION (EU) No 1387/2011

of 14 December 2011

correcting the Finnish, French, Hungarian, Italian, Polish, Portuguese, Slovak and Spanish versions of Regulation (EC) No 951/2006 laying down detailed rules for the implementation of Council Regulation (EC) No 318/2006 as regards trade with third countries in the sugar sector

THE EUROPEAN COMMISSION,

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

Having regard to Council Regulation (EC) No 1234/2007 of 22 October 2007 establishing a common organisation of agricultural markets and on specific provisions for certain agricultural products (Single CMO Regulation) ⁽¹⁾ and in particular Article 85 and Article 161(3), in conjunction with Article 4 thereof,

Whereas:

- (1) Following the amendment of Commission Regulation (EC) No 951/2006 ⁽²⁾, by Commission Regulation (EC) No 1055/2009 ⁽³⁾, it was noted that the Finnish, French, Hungarian, Italian, Polish, Portuguese, Slovak and Spanish versions of Regulation (EC) No 951/2006 contain an error in Article 7b(3), as regards the starting date for submitting applications for export licences.

- (2) Regulation (EC) No 951/2006 should therefore be corrected accordingly.

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

HAS ADOPTED THIS REGULATION:

Article 1

Concerns only the Finnish, French, Hungarian, Italian, Polish, Portuguese, Slovak and Spanish versions.

Article 2

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, 14 December 2011.

*For the Commission**The President*

José Manuel BARROSO

⁽¹⁾ OJ L 299, 16.11.2007, p. 1.

⁽²⁾ OJ L 178, 1.7.2006, p. 24.

⁽³⁾ OJ L 290, 6.11.2009, p. 64.

DECISIONS

EUROPEAN COUNCIL DECISION

of 19 December 2011

appointing a member of the Executive Board of the European Central Bank

(2011/897/EU)

THE EUROPEAN COUNCIL,

Having regard to the Treaty on the Functioning of the European Union, and in particular Article 283(2) thereof,

Having regard to the Protocol on the Statute of the European System of Central Banks and of the European Central Bank, and in particular Article 11.2 thereof,

Having regard to the recommendation of the Council of the European Union ⁽¹⁾,

Having regard to the opinion of the European Parliament ⁽²⁾,

Having regard to the opinion of the Governing Council of the European Central Bank ⁽³⁾,

Whereas:

- (1) By letter dated 10 November 2011, the President of the European Central Bank, Mr Mario DRAGHI announced the decision of Mr Lorenzo BINI SMAGHI to resign from his position on the Executive Board with effect from the end of 31 December 2011. It is therefore necessary to appoint a new member of the Executive Board of the European Central Bank.

- (2) The European Council wishes to appoint Mr Benoît COEURÉ who, in its view, fulfils all the requirements set out in Article 283(2) of the Treaty,

HAS ADOPTED THIS DECISION:

Article 1

Mr Benoît COEURÉ is hereby appointed a member of the Executive Board of the European Central Bank for a term of office of eight years as from 1 January 2012.

Article 2

This Decision shall be published in the *Official Journal of the European Union*.

Article 3

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

Done at Brussels, 19 December 2011.

For the European Council
The President
H. VAN ROMPUY

⁽¹⁾ Not yet published in the Official Journal.

⁽²⁾ Opinion delivered on 14 December 2011 (not yet published in the Official Journal).

⁽³⁾ Opinion delivered on 8 December 2011 (not yet published in the Official Journal).

COMMISSION IMPLEMENTING DECISION

of 21 December 2011

amending Decision 2009/852/EC on transitional measures under Regulations (EC) No 852/2004 and (EC) No 853/2004 of the European Parliament and of the Council as regard the processing of non-compliant raw milk in certain milk-processing establishments in Romania and the structural requirements of such establishments

*(notified under document C(2011) 9562)***(Text with EEA relevance)**

(2011/898/EU)

THE EUROPEAN COMMISSION,

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

Having regard to Regulation (EC) No 852/2004 of the European Parliament and of the Council of 29 April 2004 on the hygiene of foodstuffs ⁽¹⁾ and in particular the second subparagraph of Article 12 thereof,

Having regard to Regulation (EC) No 853/2004 of the European Parliament and of the Council of 29 April 2004 laying down specific hygiene rules for food of animal origin ⁽²⁾ and in particular Article 9 thereof,

Whereas:

(1) Regulation (EC) No 852/2004 lays down general rules for food business operators on the hygiene of foodstuffs based amongst others on the principles of hazard analysis and critical control points. It provides that food business operators are to comply with certain procedures based on those principles.

(2) Regulation (EC) No 853/2004 lays down specific rules on the hygiene of food of animal origin for food business operators and supplements the rules laid down in Regulation (EC) No 852/2004. The rules laid down in Regulation (EC) No 852/2004 include structural requirements for milk-processing establishments and the rules laid down in Regulation (EC) No 853/2004 include structural requirements for such establishments as well as hygiene requirements concerning raw milk and dairy products.

(3) Article 2 of Commission Decision 2009/852/EC ⁽³⁾ provides that certain structural requirements laid down in Regulation (EC) No 852/2004 and in Regulation (EC) No 853/2004 are not to apply, until 31 December 2011, to the milk-processing establishments in Romania listed in Annex I to that Decision.

(4) Decision 2009/852/EC also provides that, by way of derogation from the requirements of Regulation (EC) No 853/2004, the milk-processing establishments listed in Annex II thereto may process, until 31 December 2011, compliant and non-compliant milk, provided that such processing is carried out on separate production lines.

(5) In addition, Decision 2009/852/EC provides that the milk-processing establishments listed in Annex III thereto may process, until 31 December 2011, compliant and non-compliant milk without separate production lines.

(6) In September 2011 Romania has informed the Commission that, starting from January 2012, all the milk-processing establishments which are currently listed in Annex I to Decision 2009/852/EC will be in compliance with the structural requirements laid down in Regulations (EC) No 852/2004 and (EC) No 853/2004. Consequently Article 2 of Decision 2009/852/EC should be deleted.

(7) Annexes II and III to Decision 2009/852/EC should therefore be amended accordingly.

(8) In addition, Romania has informed the Commission that, since the entry into force of Decision 2009/852/EC, the proportion of raw milk that complies with the requirements of Regulation (EC) No 853/2004, delivered to milk-processing establishments in that Member State, has considerably increased. Romania has also established an action plan aimed at covering the entire production chain of milk in that Member State ensuring compliance with the EU rules.

(9) However, according with the report submitted by Romania on the basis of Article 6 of Decision 2009/852/EC and on the information provided by Romanian authorities during the Standing Committee of Food Chain and Animal Health of 17 October 2011, the situation of the milk sector in Romania is still not in conformity with the requirements laid down in Regulation (EC) No 853/2004.

⁽¹⁾ OJ L 139, 30.4.2004, p. 1.

⁽²⁾ OJ L 139, 30.4.2004, p. 55.

⁽³⁾ OJ L 312, 27.11.2009, p. 59.

- (10) Taking into account the current situation, and in order to avoid frustrating the efforts made by the Romanian authorities, it is appropriate to extend the application of the measures provided for in Decision 2009/852/EC.
- (11) Romania should continue the process of bringing the raw milk processed by the establishments listed in Annexes II and III to Decision 2009/852/EC in compliance with the requirements laid down in Regulation (EC) No 853/2004.
- (12) In particular, Romania should continue to monitor the situation and submit to the Commission regular reports on progress towards full compliance with those requirements. Based on the conclusions of those reports, appropriate measures should be taken.
- (13) Decision 2009/852/EC should therefore be amended accordingly.
- (14) The measures provided for in this Decision are in accordance with the opinion of the Standing Committee on the Food Chain and Animal Health,

HAS ADOPTED THIS DECISION:

Article 1

Decision 2009/852/EC is amended as follows:

1. Article 2 is deleted;
2. in Article 3, the date '31 December 2011' is replaced by '31 December 2013';
3. in Article 4, the date '31 December 2011' is replaced by '31 December 2013';
4. Article 6 is replaced by the following:

'Article 6

1. Romania shall submit annual reports to the Commission on progress made in bringing the following in compliance with Regulation (EC) No 853/2004:

- (a) production holdings producing non-compliant milk;
- (b) the system for collecting and transporting non-compliant milk.

The first annual report shall be submitted to the Commission by 31 December 2012, at the latest, and the second annual report by 31 October 2013, at the latest.

The reports shall be submitted in the form set out in Annex IV.

2. The Commission shall closely monitor the progress in bringing the raw milk processed by the establishments listed in Annexes II and III in compliance with the requirements laid down in Regulation (EC) No 853/2004.

If, on the basis of the reports submitted by Romania, the Commission considers that compliance is not likely to be achieved by 31 December 2013, it shall propose appropriate measures in order to remedy the situation.;

5. in Article 7, the date '31 December 2011' is replaced by '31 December 2013';
6. Annexes I, II and III are amended in accordance with the Annex to this Decision.

Article 2

This Decision is addressed to the Member States.

Done at Brussels, 21 December 2011.

For the Commission

John DALLI

Member of the Commission

ANNEX

Annexes I, II and III to Decision 2009/852/EC are amended as follows:

1. Annex I is deleted;
2. Annexes II and III are replaced by the following:

‘ANNEX II

LIST OF ESTABLISHMENTS AS REFERRED TO IN ARTICLE 3

No	Veterinary approval number	Name of establishment	Address (town/village/county)
1	L35	SC DANONE PDPA ROMANIA SRL	Bucureşti, 032451
2	MM 1795	SC CALITATEA SRL	Tăuţii Măgherauş, judeţul Maramureş, 437349

ANNEX III

LIST OF ESTABLISHMENTS AS REFERRED TO IN ARTICLE 4

No	Veterinary approval number	Name of establishment	Address (town/village/county)
1	AB 641	SC BIOMILK SRL	Lopadea Nouă, judeţul Alba, 517395
2	AB 3386	SC LACTATE C.H. SRL	Sânmiclăuş, judeţul Alba, 517761
3	BH 4020	SC MOISI SERV COM SRL	Borşa, nr. 8, judeţul Bihor, 417431
4	L 136	SC CAMPAEI PREST SRL	Hidişeu de Sus, judeţul Bihor, 417277
5	L72	SC LACTOMUNTEAN SRL	Teaca, judeţul Bistriţa-Năsăud, 427345
6	L78	SC ROMFULDA PROD SRL	Beclean, judeţul Bistriţa-Năsăud, 425100
7	L107	SC BENDEAR CRIS PROD COM SRL	Şieu Măgheruş, judeţul Bistriţa-Năsăud, 427295
8	L110	SC LECH LACTO SRL	Lechinţa, judeţul Bistriţa-Năsăud, 427105
9	BN 2399	SC CARMO-LACT PROD SRL	Monor, judeţul Bistriţa-Năsăud, 427175
10	BN 2120	SC ELIEZER SRL	Lunca Ilvei, judeţul Bistriţa-Năsăud, 427125
11	L3	SC ABY IMPEX SRL	Şendriceni, judeţul Botoşani, 717380
12	L116	SC RAM SRL	Ibăneşti, judeţul Botoşani, 717215
13	L140	S.C. CARMOLACT SRL	Ucea, judeţul Braşov, 507235
14	L154	S.C. CAS SRL	Braila, judeţul Braila, 810224
15	L148	S.C. LACTAS SRL	Ianca, judeţul Braila, 815200
16	CL 0044	SC IANIS DIM SRL	Lehliu Gară, judeţul Călăraşi, 915300

No	Veterinary approval number	Name of establishment	Address (town/village/county)
17	L129	SC BONAS IMPORT EXPORT SRL	Dezmir, județul Cluj, 407039
18	L84	SC PICOLACT PRODCOM SRL	Iclod, județul Cluj, 407335
19	L149	S.C. COMLACT SRL	Corusu, județul Cluj, 407056
20	L43	SC LACTOCORV SRL	Ion Corvin, județul Constanța, 907150
21	L40	SC BETINA IMPEX SRL	Ovidiu, județul Constanța, 905900
22	L41	SC ELDA MEC SRL	Topraisar, județul Constanța, 907210
23	L87	SC NICULESCU PROD SRL	Cumpăna, județul Constanța, 907105
24	L118	SC ASSLA KAR SRL	Medgidia, județul Constanța, 905600
25	L130	SC MUNTINA PROD SRL	Constanța, județul Constanța, 900735
26	CT 225	SC MIH PROD SRL	Cobadin, județul Constanța, 907065
27	CT 256	SC IAN PROD SRL	Târgușor, județul Constanța, 90727
28	CT 258	SC BINCO LACT SRL	Săcele, județul Constanța, 907260
29	CT 30	SC EASTERN EUROPEAN FOODS SRL	Mihail Kogălniceanu, județul Constanța, 907195
30	CT 15	SC NIC COSTI TRADE SRL	Dorobanțu, județul Constanța, 907211
31	CT 12203	SC LACTO GENIMICO SRL	Hârșova, județul Constanța, 905400
32	L82	SC TOTALLACT GROUP SA	Dragodana, județul Dâmbovița, 137200
33	DJ 80	SC DUVADI PROD COM SRL	Breasta, județul Dolj, 207115
34	DJ 730	SC LACTIDO SA	Craiova, județul Dolj, 200378
35	L91	SC COSMILACT SRL	Schela, județul Galați, 807265
36	GR 5610	SC LACTA SA	Giurgiu, județul Giurgiu, 080556
37	GJ 231	SC SEKAM PROD SRL	Novaci, județul Gorj, 215300
38	L49	SC ARTEGO SA	Tg. Jiu, Gorj, 210257
39	L65	SC KARPATEN MILK	Suseni, județul Harghita, 537305
40	L124	SC PRIMULACT SRL	Miercurea Ciuc, județul Harghita, 530242
41	HR 119	SC BOMILACT SRL	Mădăraș, județul Harghita, 537071
42	HR 625	SC LACTIS SRL	Odorheiu Secuiesc, județul Harghita, 535600
43	HR 213	SC PAULACT SA	Mărtiniș, județul Harghita, 537175
44	L99	SC VALIZVI PROD COM SRL	Gârbovi, județul Ialomița, 927120
45	IS 1540	SC PROMILCH SRL	Podu Iloaiei, județul Iași, 707365

No	Veterinary approval number	Name of establishment	Address (town/village/county)
46	L18	S.C. EUROCHEESE SRL	Jilava, județul Ilfov, 077120
47	L47	SC OBLAZA SRL	Bârsana, județul Maramureș, 437035
48	L85	SC AVI-SEB IMPEX SRL	Copalnic Mănăstur, județul Maramureș, 437103
49	L86	SC ZEA SRL	Boiu Mare, județul Maramureș, 437060
50	L16	SC ROXAR PROD COM SRL	Cernești, județul Maramureș, 437085
51	L135	SC MULTILACT SRL	Baia Mare, județul Maramureș, 430015
52	MM 793	SC WROMSAL SRL	Satulung, județul Maramureș, 437270
53	MM 6325	SC ONY SRL	Larga, județul Maramureș, 437317
54	L54	SC RODLACTA SRL	Fărăgău, județul Mureș, 547225
55	L108	SC LACTEX REGHIN SRL	Solovăstru, județul Mureș, 547571
56	L121	SC MIRDATOD PROD SRL	Ibănești, județul Mureș, 547325
57	MS 483	SC HELIANTUS PROD	Reghin, județul Mureș, 545300
58	MS 5554	SC GLOBIVET PHARM SRL	Batoș, județul Mureș, 547085
59	NT 900	SC COMPLEX AGROALIMENTAR SRL	Bicaz, județul Neamț, 615100
60	L96	SC PROD A.B.C. COMPANY SRL	Grumăzești, județul Neamț, 617235
61	L101	SC 1 DECEMBRIE SRL	Târgu Neamț, județul Neamț, 615235
62	L106	SC RAPANU SR. COM SRL	Petricani, județul Neamț, 617315
63	L6	SC LACTA HAN PROD SRL	Urecheni, județul Neamț, 617490
64	L123	SC PROCOM PASCAL SRL	Păstrăveni, județul Neamț, 617300
65	L100	SC ALTO IMPEX SRL	Provița de Jos, județul Prahova, 107477
66	L88	SC AGROMECCRASNA SA	Crasna, județul Sălaj, 457085
67	L89	SC OVINEX SRL	Sărmășag, județul Sălaj, 457330
68	L71	SC LACTO SIBIANA SA	Șura Mică, județul Sibiu, 557270
69	SM 4189	SC PRIMALACT SRL	Satu Mare, județul Satu Mare, 440089
70	L5	SC NIRO SERV COM SRL	Gura Humorului, județul Suceava, 725300
71	L36	SC PROLACT PROD COM SRL	Vicovu de Sus, județul Suceava, 727610
72	L81	SC RARAU SA	Câmpulung Moldovenesc, județul Suceava, 727100
73	SV 1085	SC BUCOVINA SA FALTICENI	Fălticeni, județul Suceava, 725200
74	SV 1562	SC BUCOVINA SA SUCEAVA	Suceava, județul Suceava, 720290

No	Veterinary approval number	Name of establishment	Address (town/village/county)
75	SV 1888	SC TOCAR PROD SRL	Frătăuții Vechi, județul Suceava, 727255
76	SV 4909	SC ZADA PROD SRL	Horodnic de Jos, județul Suceava, 727301
77	SV 6159	SC ECOLACT SRL	Milișăuți, județul Suceava, 727360
78	TR 27	SC VIOLACT SRL	Putineiu, județul Teleorman, 147285
79	TR 81	SC BIG FAMILY SRL	Videle, județul Teleorman, 145300
80	TR 239	SC COMALACT SRL	Nanov, județul Teleorman, 147215
81	L80	SC INDUSTRIAL MARIAN SRL	Drănceni, județul Vaslui, 737220
82	VN 231	SC VRANLACT SA	Focșani, județul Vrancea, 620122'

COMMISSION IMPLEMENTING DECISION

of 21 December 2011

amending Decision 2009/861/EC on transitional measures under Regulation (EC) No 853/2004 of the European Parliament and of the Council as regard the processing of non-compliant raw milk in certain milk-processing establishments in Bulgaria

*(notified under document C(2011) 9568)***(Text with EEA relevance)**

(2011/899/EU)

THE EUROPEAN COMMISSION,

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

Having regard to Regulation (EC) No 853/2004 of the European Parliament and of the Council of 29 April 2004 laying down specific hygiene rules for food of animal origin ⁽¹⁾ and in particular Article 9 thereof,

Whereas:

(1) Regulation (EC) No 853/2004 lays down specific rules on the hygiene of food of animal origin for food business operators. Those rules include hygiene requirements for raw milk and dairy products.

(2) Commission Decision 2009/861/EC ⁽²⁾ provides for certain derogations from the requirements set out in subchapters II and III of Chapter I of Section IX of Annex III to Regulation (EC) No 853/2004 for the milk-processing establishments in Bulgaria listed in that Decision. That Decision applies until 31 December 2011.

(3) Accordingly, certain milk-processing establishments listed in Annex I to Decision 2009/861/EC may, by way of derogation from the relevant provisions of Regulation (EC) No 853/2004, process compliant and non-compliant milk provided that the processing of compliant and non-compliant milk is carried out on separate production lines. In addition, certain milk-processing establishments listed in Annex II to that Decision may process non-compliant milk without separate production lines.

(4) Bulgaria has informed the Commission that, since the entry into force of Decision 2009/861/EC, the proportion of raw milk that complies with the requirements of Regulation (EC) No 853/2004, delivered to milk-processing establishments in that Member State, has considerably increased. Bulgaria has also established an action plan aimed at covering the entire production chain of milk in that Member State ensuring compliance with the EU rules.

(5) However, according with the report submitted by Bulgaria on the basis of Article 5 of Decision 2009/861/EC and on the information provided by Bulgarian authorities during the Standing Committee of Food Chain and Animal Health of 17 October 2011, the situation of the milk sector in Bulgaria is still not in conformity with the requirements laid down in Regulation (EC) No 853/2004.

(6) Taking into account the current situation, and in order to avoid frustrating the efforts made by the Bulgarian authorities, it is appropriate to extend the application of the measures provided for in Decision 2009/861/EC.

(7) Bulgaria should continue the process of bringing the raw milk processed by the establishments listed in the Annexes to Decision 2009/861/EC, in compliance with the requirements laid down in Regulation (EC) No 853/2004.

(8) In particular, Bulgaria should continue to monitor the situation and submit to the Commission regular reports on progress towards full compliance with those requirements. Based on the conclusions of those reports, appropriate measures should be taken.

(9) Decision 2009/861/EC should therefore be amended accordingly.

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

HAS ADOPTED THIS DECISION:

Article 1

Decision 2009/861/EC is amended as follows:

1. in Article 2, the date '31 December 2011' is replaced by '31 December 2013';
2. in Article 3, the date '31 December 2011' is replaced by '31 December 2013';

⁽¹⁾ OJ L 139, 30.4.2004, p. 55.

⁽²⁾ OJ L 314, 1.12.2009, p. 83.

3. Article 5 is replaced by the following:

'Article 5

1. Bulgaria shall submit annual reports to the Commission on progress made in bringing the following in compliance with Regulation (EC) No 853/2004:

- (a) production holdings producing non-compliant milk;
- (b) the system for collecting and transporting non-compliant milk.

The first annual report shall be submitted to the Commission by 31 December 2012, at the latest, and the second annual report by 31 October 2013, at the latest.

The reports shall be submitted in the form set out in Annex III.

2. The Commission shall closely monitor the progress in bringing the raw milk processed by the establishments listed in Annexes I and II in compliance with the requirements laid down in Regulation (EC) No 853/2004.

If, on the basis of the reports submitted by Bulgaria, the Commission considers that compliance is not likely to be achieved by 31 December 2013, it shall propose appropriate measures to remedy the situation.;

4. in Article 6, the date '31 December 2011' is replaced by '31 December 2013';

5. Annexes I and II are replaced by the text in the Annex to this Decision.

Article 2

This Decision is addressed to the Member States.

Done at Brussels, 21 December 2011.

For the Commission

John DALLI

Member of the Commission

ANNEX

‘ANNEX I

List of milk establishments permitted to process compliant and non-compliant milk as referred to in Article 2

No	Veterinary No	Name of establishment	Town/street or village/region
1	BG 0412010	“Bi Si Si Handel” OOD	gr. Elena ul. “Treti mart” 19
2	BG 0612027	“Mlechen ray – 2” EOOD	gr. Vratsa kv. “Bistrets”
3	BG 0612043	ET “Zorov- 91 -Dimitar Zorov”	gr. Vratsa Mestnost “Parshevitsa”
4	BG 2012020	“Yotovi” OOD	gr. Sliven kv. “Rechitsa”
5	BG 2512020	“Mizia-Milk” OOD	gr. Targovishte Industrialna zona
6	BG 2112001	“Rodopeya – Belev” EOOD	gr. Smolyan, Ul. “Trakya” 20
7	BG 1212001	“S i S – 7” EOOD	gr. Montana “Vrachansko shose” 1
8	BG 2812003	“Balgarski yogurt” OOD	s. Veselinovo, obl. Yambolska

ANNEX II

List of milk-processing establishments permitted to process non-compliant milk as referred to as referred to in Article 3

No	Veterinary No	Name establishment	Town/street or village/region
1	BG 2412037	"Stelimeks" EOOD	s. Asen
2	0912015	"Anmar" OOD	s. Padina obsht. Ardino
3	0912016	OOD "Persenski"	s. Zhaltusha obsht. Ardino
4	1012014	ET "Georgi Gushterov DR"	s. Yahinovo
5	1012018	"Evro miyt end milk" EOOD	gr. Kocherinovo obsht. Kocherinovo
6	1112004	"Matev-Mlekoproduct" OOD	s. Goran
7	1112017	ET "Rima-Rumen Borisov"	s. Vrabevo
8	1312023	"Inter-D" OOD	s. Kozarsko
9	1612049	"Alpina -Milk" EOOD	s. Zhelyazno
10	1612064	OOD "Ikay"	s. Zhitnitsa obsht. Kaloyanovo
11	2112008	MK "Rodopa milk"	s. Smilyan obsht. Smolyan
12	2412039	"Penchev" EOOD	gr. Chirpan ul. "Septemvriytsi" 58
13	2512021	"Keya-Komers-03" EOOD	s. Svetlen
14	0112014	ET "Veles-Kostadin Veleu"	gr. Razlog ul. "Golak" 14
15	2312041	"Danim-D.Stoyanov" EOOD	gr. Elin Pelin m-st Mansarovo
16	2712010	"Kamadzhiev-milk" EOOD	s. Kriva reka obsht. N.Kozlevo
17	0712001	"Ben Invest" OOD	s. Kostenkovtsi obsht. Gabrovo
18	1512012	ET "Ahmed Tatarla"	s. Dragash voyvoda, obsht. Nikopol
19	2212027	"Ekobalkan" OOD	gr. Sofia bul "Evropa" 138
20	2312030	ET "Favorit- D.Grigorov"	s. Aldomirovtsi
21	2312031	ET "Belite kamani"	s. Dragotintsi
22	BG 1512033	ET "Voynov-Ventsislav Hristakiev"	s. Milkovitsa obsht. Gulyantsi
23	BG 1512029	"Lavena" OOD	s. Dolni Dēbnik obl. Pleven

No	Veterinary No	Name establishment	Town/street or village/region
24	BG 1612028	ET "Slavka Todorova"	s. Trud obsht. Maritsa
25	BG 1612051	ET "Radev-Radko Radev"	s. Kurtovo Konare obl. Plovdiv
26	BG 1612066	"Lakti ko" OOD	s. Bogdanitza
27	BG 2112029	ET "Karamfil Kasakliev"	gr. Dospat
28	BG 0912004	"Rodopchanka" OOD	s. Byal izvor obsht. Ardino
29	0112003	ET "Vekir"	s. Godlevo
30	0112013	ET "Ivan Kondev"	gr. Razlog Stopanski dvor
31	0212037	"Megakomers" OOD	s. Lyulyakovo obsht. Ruen
32	0512003	SD "LAF-Velizarov i sie"	s. Dabravka obsht. Belogradchik
33	0612035	OOD "Nivego"	s. Chiren
34	0612041	ET "Ekoprodukt-Megiya- Bogorodka Dobrilova"	gr. Vratsa ul. "Ilinden" 3
35	0612042	ET "Mlechen puls – 95 – Tsvetelina Tomova"	gr. Krivodol ul. "Vasil Levski"
36	1012008	"Kentavar" OOD	s. Konyavo obsht. Kyustendil
37	1212022	"Milkkomm" EOOD	gr. Lom ul. "Al.Stamboliyski" 149
38	1212031	"ADL" OOD	s. Vladimirovo obsht. Boychinovtsi
39	1512006	"Mandra" OOD	s. Obnova obsht. Levski
40	1512008	ET "Petar Tonovski-Viola"	gr. Koynare ul. "Hr.Botev" 14
41	1512010	ET "Militsa Lazarova-90"	gr. Slavyanovo, ul. "Asen Zlatarev" 2
42	1612024	SD "Kostovi – EMK"	gr. Saedinenie ul. "L.Karavelov" 5
43	1612043	ET "Dimitar Bikov"	s. Karnare obsht. "Sopot"
44	1712046	ET "Stem-Tezdzhan Ali"	gr. Razgrad ul. "Knyaz Boris" 23
45	2012012	ET "Olimp-P.Gurtsov"	gr. Sliven m-t "Matsulka"
46	2112003	"Milk- inzhenering" OOD	gr. Smolyan ul. "Chervena skala" 21
47	2112027	"Keri" OOD	s. Borino, obsht. Borino

No	Veterinary No	Name establishment	Town/street or village/region
48	2312023	"Mogila" OOD	gr. Godech, ul. "Ruse" 4
49	2512018	"Biomak" EOOD	gr. Omurtag ul. "Rodopi" 2
50	2712013	"Ekselans" OOD	s. Osmar, obsht. V. Preslav
51	2812018	ET "Bulmilk-Nikolay Nikolov"	s. General Inzovo, obl. Yambolska
52	2812010	ET "Mladost-2-Yanko Yanev"	gr. Yambol, ul. "Yambolen" 13
53	BG 1012020	ET "Petar Mitov-Universal"	s. Gorna Grashtitsa obsht. Kyustendil
54	BG 1112016	Mandra "IPZHZ"	gr. Troyan ul. "V. Levski" 281
55	BG 1712042	ET "Madar"	s. Terter
56	BG 2612042	"Bulmilk" OOD	s. Konush obl. Haskovska
57	BG 0912011	ET "Alada-Mohamed Banashak"	s. Byal izvor obsht. Ardino
58	1112026	"Ablamilk" EOOD	gr. Lukovit ul. "Yordan Yovkov" 13
59	1312005	"Ravnogor" OOD	s. Ravnogor
60	1712010	"Bulagrotreyd-chastna kompaniya" EOOD	s. Yuper Industrialen kvartal
61	1712013	ET "Deniz"	s. Ezerche
62	2012011	ET "Ivan Gardev 52"	gr. Kermen ul. "Hadzhi Dimitar" 2
63	2012024	ET "Denyo Kalchev 53"	gr. Sliven ul. "Samuilovsko shose" 17
64	2112015	OOD "Rozhen Milk"	s. Davidkovo, obsht. Banite
65	2112026	ET "Vladimir Karamitev"	s. Varbina obsht. Madan
66	2312007	ET "Agropromilk"	gr. Ihtiman ul. "P.Slaveikov" 19
67	BG 1812008	"Vesi" OOD	s. Novo selo
68	BG 2512003	"Si Vi Es" OOD	gr. Omurtag Promishlena zona
69	BG 2612034	ET "Elikir-Petko Petev"	s. Gorski izvor
70	BG 1812003	"Sirma Prista" AD	gr. Ruse bul. "3-ti mart" 51
71	BG 2512001	"Mladost -2002" OOD	gr. Targovishte bul. "29-ti yanuari" 7

No	Veterinary No	Name establishment	Town/street or village/region
72	0812030	"FAMA" AD	gr. Dobrich bul. "Dobrudzha" 2
73	0912003	"Koveg-mlechni produkti" OOD	gr. Kardzhali Promishlena zona
74	1412015	ET "Boycho Videnov – Elbokada 2000"	s. Stefanovo obsht. Radomir
75	1712017	"Diva 02" OOD	gr. Ispereh ul. "An.Kanchev"
76	1712037	ET "Ali Islamov"	s. Yasenovets
77	1712043	"Maxima milk" OOD	s. Samuil
78	1812005	"DAV – Viktor Simonov" EOOD	gr. Vetovo ul. "Han Kubrat" 52
79	2012010	"Saray" OOD	s. Mokren
80	2012032	"Kiveks" OOD	s.Kovachite
81	2012036	"Minchevi" OOD	s. Korten
82	2212009	"Serdika -94" OOD	gr. Sofia kv. Zheleznitza
83	2312028	ET "Sisi Lyubomir Semkov"	s. Anton
84	2312033	"Balkan spetsial" OOD	s. Gorna Malina
85	2312039	EOOD "Laktoni"	s. Ravno pole, obl. Sofiyska
86	2412040	"Inikom" OOD	gr. Galabovo ul. "G.S.Rakovski" 11
87	2512011	ET "Sevi 2000- Sevie Ibryamova"	s. Krepcha obsht. Opaka
88	2612015	ET "Detelina 39"	s. Brod
89	2812002	"Arachievi" OOD	s. Kirilovo, obl. "Yambolska"
90	BG 1612021	ET "Deni-Denislov Dimitrov-Ilias Islamov"	s. Briagovo obsht. Gulyantsi
91	BG 2012019	"Hemus-Milk komers" OOD	gr. Sliven Promishlena zona Zapad
92	2012008	"Raftis" EOOD	s. Byala
93	2112023	ET "Iliyan Isakov"	s. Trigrad obsht. Devin
94	2312020	"MAH 2003" EOOD	gr. Etropole bul. "Al. Stamboliyski" 21
95	2712005	"Nadezhda" OOD	s. Kliment'

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