

This **draft working document** has been prepared solely for information and consultation purposes, in the framework of the development of a system of electronic certification for imports of organic products from recognised third countries and from recognised control bodies and control authorities in third countries, pursuant to Regulation (EC) No 834/2007 and (EC) No 1235/2008 and to the Commission Action Plan for the future of organic production in the European Union<sup>1</sup>.

By its very nature, it is not intended to produce legally binding effects and does not prejudice any measures taken by the European Commission or by Member States within the implementation prerogatives under European Union legislation nor any case law developed with regard to such legislation.

It has not been adopted nor in any way approved by the European Commission and should not be regarded as represent the views of Commission services either.

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## COMMISSION IMPLEMENTING REGULATION (EU) .../...

of XXX

**amending Regulation (EC) No 889/2008 as regards the transmission of information to the Commission and Regulation (EC) No 1235/2008 as regards the electronic certificate of inspection**

(Text with EEA relevance)

THE EUROPEAN COMMISSION,

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

Having regard to Council Regulation (EC) No 834/2007 of 28 June 2007 on organic production and labelling of organic products and repealing Regulation (EEC) No 2092/91<sup>2</sup>, and in particular Article 33(2) and (3) and Article 38(d) thereof,

Whereas:

<sup>1</sup> Communication from the Commission and the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions, COM(2014)179 final, <http://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:52014DC0179&rid=1>, Action No 12.

<sup>2</sup> OJ L 189, 20.7.2007, p. 1.

...

HAS ADOPTED THIS REGULATION:

*Article 1*

*Amendment of Regulation (EC) No 889/2008*

In Article 94, paragraph 1 is amended as follows:

Point (a) is replaced by the following:

- ‘(a) before 1 January 2009, the information referred to in Article 35(a) of Regulation (EC) No 834/2007, including e-mail and Internet addresses, and afterwards each modification when that appears;’

Point (b) is replaced by the following:

- ‘(b) by [31 March 2016], the information referred to in Article 35(b) of Regulation (EC) No 834/2007 including address, e-mail and Internet addresses, and afterwards each modification when that appears;’

A new point (e) is added:

- ‘(e) before [1 June 2016], the name, address, e-mail and Internet addresses of the relevant Member State's competent authorities as referred to in Article 2 point 6 of Regulation (EC) No 1235/2008 and afterwards each modification when that appears.’

*Article 2*

*Amendment of Regulation (EC) No 1235/2008*

Article 2 is amended as follows:

Point 5 is replaced by the following:

- ‘5. ‘verification of the consignment’: means the verification carried out by the relevant Member State's competent authority, in the framework of the official controls as referred to in Regulation (EC) No 882/2004, of compliance with the requirements of Regulation (EC) No 834/2007, of Regulation (EC) No 889/2008 and of this Regulation through documentary checks, identity checks and physical checks as appropriate, prior to the release of the consignment for free circulation into the Union as set out under Article 13 of this Regulation;’

Point 6 is replaced by the following:

- ‘6. ‘relevant Member States' competent authorities: means the customs authorities, food safety authorities or other authorities designated by the Member States pursuant to Article 27(1) of Regulation (EC) No 834/2007 responsible for the verification of the consignments and the endorsement of the certificates of inspection;’

A new point (8) is added:

- ‘8. the definition of ‘aquaculture and aquaculture products’ is that given in Regulation (EU) No 1380/2013 of the European Parliament and of the Council of 11 December 2013 on the Common Fisheries Policy<sup>3</sup>;’

A new point (9) is added:

- ‘9. the definition of ‘unprocessed and processed products’ is that given in Regulation (EC) No 852/2004 of the European Parliament and of the Council of 29 April 2004 on the hygiene of foodstuffs<sup>4</sup>.’

In article 7, paragraph 2 is amended as follows:

Point (e) is replaced by the following:

- ‘(e) the name, address, e-mail, Internet address and code number of the control authority or authorities or the control body or bodies recognised by the competent authority referred to in point (d) to carry out controls;’

Point (f) is replaced by the following:

- ‘(f) the name, address, e-mail, Internet address and code number of the authority or authorities or the control body or bodies responsible in the third country for issuing certificates with a view to importing into the Union;’

Article 13 is amended as follows:

Paragraph 1 is amended as follows:

- (i) Point (a) is replaced by the following:
- ‘(a) mentioning the number of the issued certificate of inspection in the customs declaration for release for free circulation; and’
- (ii) Point (b) is replaced by the following:
- ‘(b) on the submission of the issued certificate of inspection as intended by Article 13(2) of this Regulation to the relevant Member State’s competent authority; and’
- (iii) A new point (c) is added:
- ‘(c) on the verification of the consignment by the relevant Member State’s competent authority and the endorsement of the certificate of inspection in accordance with paragraph 8 of this Article.’

Paragraph 2 is replaced by the following:

- ‘2. The certificate of inspection shall be issued by the electronic system Trade Control and Expert System (TRACES), established by Decision 2003/24/EC, in accordance with paragraphs 3 to 7 of this Article and on the basis of the model and the notes set out in Annex V.

The original certificate of inspection is intended as a printed and hand-signed copy of the completed electronic certificate in TRACES or,

<sup>3</sup> OJ L 354, 28.12.2013, p. 22

<sup>4</sup> OJ L 139, 30.4.2004, p. 1

alternatively, as a printed copy of the digitally signed certificate in TRACES pursuant to Article 13(10).

At each stage of issuing, verification, endorsement and reception of the certificate of inspection, the operators, control bodies, control authorities and competent authorities concerned shall verify that the certificate has been issued from TRACES.'

Paragraph 3 is replaced by the following:

- '3. To be accepted, the certificate of inspection must have been issued by the control body or control authority of the operator performing the last preparation operation as defined in Article 2(i) of Regulation (EC) No 834/2007.

This control body or control authority has to be:

- (a) accepted for issuing the certificate of inspection, as referred to in Article 7(2), from a third country recognised under Article 8(4), or
- (b) listed for the third country concerned recognised under Article 11(5).'

Paragraph 4 is replaced by the following:

- '4. The authority or body issuing the certificate of inspection shall only issue the certificate of inspection and endorse the declaration in box 21 of the certificate, after:
- (a) it has carried out a documentary check on the basis of all relevant inspection documents, including in particular the production plan for the product concerned, transport documents and commercial documents and, as appropriate, it has carried out a physical check of the consignment; and
  - (b) in case of a processed product, it has verified that all organic ingredients of the product have been certified by a control body or control authority recognised by the concerned recognised third country in accordance with Article 33(2) of Regulation (EC) No 834/2007 or, for control bodies recognised in accordance with Article 33(3) of that Regulation, all organic ingredients of such products have been certified by a control body or control authority recognised by the concerned recognised third country according to Article 33(2) of Regulation (EC) No 834/2007 or by a control authority or control body recognised for the concerned country in accordance with Article 33(3) of that Regulation or have been produced and certified in the Union in accordance with that Regulation; and
  - (c) in case the operator performing the last preparation operation is different from the producer or processor of the product, the control body or authority recognised in accordance with Article 33(3) of Regulation (EC) No 834/2007 has carried out a documentary check on the basis of all relevant inspection documents, including transport documents and commercial documents, it has verified that

the production or the processing of the concerned product has been certified by a control body or control authority recognised for the concerned country in accordance with Article 33(3) of Regulation (EC) No 834/2007 and, as appropriate, it has made a physical check of the consignment.

The authority or body issuing the certificate of inspection under the conditions set out in points b) and c) of this paragraph shall make available without delay the list of all operators in the organic production chain and the control authorities or control bodies under whose control those operators have placed their operations.

Paragraph 5 is deleted.

Paragraph 7 is deleted.

Paragraph 8 is replaced by the following:

- ‘8. At the verification of a consignment, the relevant Member State’s competent authority shall indicate the relevant customs declaration reference number and endorse the original certificate of inspection in box 21 and shall return it to the person who submitted the certificate.’

In paragraph 9, first subparagraph is replaced by the following:

- ‘9. The first consignee shall, at the reception of the consignment, complete box 23 of the certificate of inspection, to certify that the reception of the consignment has been carried out in accordance with Article 34 of Regulation (EC) No 889/2008.

Paragraph 10 is replaced by the following:

- ‘10. The competent authorities of the Member States may require that the electronic certificate of inspection is accompanied by an advanced electronic signature within the meaning of Article 2(2) of Directive 1999/93/EC of the European Parliament and of the Council<sup>5</sup> or by an electronic signature offering equivalent assurances with regard to the functionalities attributed to a signature by applying the same rules and conditions as these defined in the Commission’s provisions on electronic and digitised documents, set out by Commission Decision 2004/563/EC, Euratom.’

A new paragraph 11 is added:

- ‘11. In cases of force majeure or exceptional circumstances, and in particular of malfunctioning of the computerised system or a lack of a lasting connection, the issuing of paper certificates of inspection on the basis of the model and the notes set out in Annex V shall be allowed. The control bodies, control authorities, competent authorities and operators shall inform the Commission without delay and shall insert in TRACES all the necessary details within thirty calendar days following the re-establishment of the system.’

A new Article 13a is added:

<sup>5</sup> OJ L 13, 19.1.2000, p. 12.

*‘Article 13a*

**Access rights**

The competent authorities as referred in Article 2(n) of Regulation (EC) No 834/2007 shall be responsible for granting and updating access rights and verifying the identity of operators and control bodies and authorities in the Union authorised to access TRACES.

The Commission shall be responsible for granting and updating access rights and verifying the identity of control bodies and authorities in third countries authorised to access TRACES.

After access rights have been validated, they shall be activated by the Commission in TRACES.

A new Article 13b is added:

*‘Article 13b*

**Integrity and legibility over time**

TRACES shall protect the integrity of the information encoded.

In particular, it shall offer the following guarantees:

it shall allow each user to be unequivocally identified and shall incorporate effective control measures of access rights in order to protect against illegal, malicious or unauthorised access, deletion, alteration or movement of the information, files and metadata;

it shall be equipped with physical protection systems against intrusions and environmental incidents and software protection against cyber-attacks;

it shall prevent, by various means, any unauthorised changes and incorporate integrity mechanisms to check if the information has been altered over time;

it shall keep an audit trail for each essential stage of the procedure;

it shall safeguard stored data in an environment which is secure in both physical and software terms, in accordance with point (b);

it shall provide reliable format conversion and migration procedures in order to guarantee that the information is legible and accessible throughout the entire storage period required;

it shall have sufficiently detailed and up-to-date functional and technical documentation on the operation and characteristics of the system, that documentation being accessible at all times to the organisational entities responsible for the functional and/or technical specifications.

A new Article 13c is added:

*‘Article 13c*

**Protection of personal data**

The provisions of this Regulation shall apply without prejudice to Regulations (EC) No 45/2001 and (EC) No 1049/2001, Directives 95/46/EC and 2002/58/EC and the provisions adopted pursuant to them.

A new Article 13d is added:

*‘Article 13d*

**Importer**

The importer as referred to in Article 2(c) of Regulation (EC) No 889/2008 shall indicate its Economic Operators Registration and Identification number (EORI) as set out in Article 9 of Regulation (EU) No 952/2013<sup>6</sup> in box 12 of the certificate of inspection.’

Article 14 is amended as follows:

Paragraph 1 is replaced by the following:

- ‘1. Where a consignment coming from a third country is assigned to customs warehousing in the form of a system of suspension as provided for in Council Regulation (EEC) No 2913/92, and subject to one or more preparations as referred to in the second subparagraph, before the first preparation is carried out, the relevant Member State's competent authority shall carry out the verification of the consignment. The reference number regarding the customs warehousing procedure shall be indicated in box 21 of the certificate of inspection.

The preparation shall be limited to the following types of operations:

- (a) packaging or repackaging; or
- (b) labelling concerning the presentation of the organic production method.

After this preparation, the consignment shall be subject, before the release for free circulation, to the measures referred to in Article 13(1) of this Regulation. The reference number regarding the release for free circulation procedure shall be indicated in box 22 of the certificate of inspection.

After this procedure, the original of the certificate of inspection shall, where relevant, be returned to the importer of the consignment, referred to in box 11 of the certificate to fulfil the requirement laid down in the second subparagraph of Article 33(1) of Regulation (EC) No 834/2007.’

Paragraph 2 is amended as follows:

- (i) The second subparagraph is replaced by the following:

‘For each of the batches which results from the splitting, an extract of the certificate of inspection shall be submitted to the relevant Member State's competent authorities, in accordance with the model and the notes set out in Annex VI. The extract from the certificate of inspection shall

<sup>6</sup>

OJ L 269, 10.10.2013, p. 1.

be endorsed by the relevant Member State's competent authority or authorities in box 16.'

(ii) Forth subparagraph is replaced by the following:

'After the splitting, the endorsed original of each extract of the certificate of inspection shall accompany the batch concerned, and shall be presented to the relevant Member State's competent authorities, which shall verify the batch concerned for the purpose of its release for free circulation.'

Article 15 is amended as follows:

In paragraph 1, a new second and third subparagraph is added:

'When the verification of a consignment by a relevant Member State's competent authority leads to the detection of an infringement or a irregularity prior to the endorsement of the certificate and the release for free circulation of products, the competent authority shall without delay notify this infringement or irregularity to the other Member States and to the Commission through TRACES.

Relevant Member State's competent authorities shall also notify the other Member States and the Commission of findings of

consignments of products referred to in Article 1(2) of Regulation (EC) No 834/2007 bearing terms referring to the organic production method, but not declared as intended to be imported in accordance with Regulation (EC) No 834/2007.'

A new paragraph 5 is added:

'5. The importer, the first consignee and the control authority or control body of a Member State shall send the information on infringements or irregularities as regards imported products to the competent authorities of the Member States concerned through the computer system referred to in Article 94(1) of Regulation (EC) No 889/2008 using the dedicated link foreseen in the certificate of inspection as referred to in Article 13(2).'

A new Article 19a is added:

#### **'Transitional rules on the use of paper certificates of inspection**

The issue of paper certificates of inspection on the basis of the model and notes set out in Annex V shall be allowed until [3 months after the application of this Regulation]

*Transitional rules to allow the use in parallel of paper and electronic certificates of inspection shall be further developed*

From that date, certificates of inspection shall be issued only in electronic form except in the cases referred to in Article 13(11).

Annex III is amended as follows:

In the entries relating to Argentina, Australia, Costa-Rica, India, Israel, Japan, Switzerland, Tunisia and New Zealand, the footnote '(<sup>1</sup>) Seaweed not included' is deleted;

In the entry relating to Argentina, in point 1, the limitations on product categories B and D are deleted;



In the entry relating to Costa-Rica, the limitation 'Processed crop products only' is replaced by 'Processed plant products only'

In the entry relating to Israel, point 2 is replaced by the following:

- '2. **Origin:** products of category A and F that have been grown in Israel and organically grown ingredients in products of category D that have been produced in Israel or that have been imported into Israel:
- either from the Union,
- or from a third country in the framework of a regime which is recognised as equivalent in accordance with the provisions of Article 33(2) of Regulation (EC) No 834/2007.'

In the entry relating to Japan, point 2 is replaced by the following:

- '2. **Origin:** products of categories A and F that have been grown in Japan and organically grown ingredients in products of category D that have been grown in Japan or that have been imported into Japan:
- either from the Union,
- or from a third country for which Japan has recognised that the products have been produced and controlled in that third country in accordance with rules equivalent to those laid down in the Japanese legislation.'

The entry relating to Switzerland is amended as follows:

In point 1, the limitation on product category B is deleted;

Point 2 is replaced by the following:

- '2. **Origin:** products of categories A and F that have been grown in Switzerland and organically produced ingredients in products of category D and E that have been produced in Switzerland or that have been imported into Switzerland:
- either from the Union,
- or from a third country for which Switzerland has recognised that the products have been produced and controlled in that third country in accordance with rules equivalent to those laid down in the Swiss legislation.'

In the entry relating to United States, in point 1, the limitations on product categories A and D are deleted;

The entry relating to New Zealand is amended as follows:

In point 1, the limitations on product categories B and D are deleted;

Point 2 is replaced by the following:

- '2. **Origin:** products of category A, B and F that have been grown in New Zealand and organically grown ingredients in products of category D that have been produced in New Zealand or that have been imported into New Zealand:
- either from the Union,

or from a third country in the framework of a regime which is recognised as equivalent in accordance with the provisions of Article 33(2) of Regulation (EC) No 834/2007,

or from a third country whose rules of production and inspection have been recognised as equivalent to the MAF Official Organic Assurance Programme on the basis of assurances and information provided by this country's competent authority in accordance with the provisions established by MAF and provided that only organically produced ingredients intended to be incorporated, up to a maximum of 5 % of products of agricultural origin, in products of category D prepared in New Zealand are imported.'

In Annex IV, in the list of product categories, 'C: Aquaculture products and seaweeds' is replaced by 'C: Unprocessed aquaculture products and algae'

Annex V is replaced by the following:

*'ANNEX V*

**CERTIFICATE OF INSPECTION  
FOR IMPORT OF PRODUCTS FROM ORGANIC PRODUCTION INTO THE EUROPEAN UNION**

1. Issuing control body or authority (name, address and code)		2. Council Regulation (EC) No 834/2007: - Article 33(2) <input type="checkbox"/> or - Article 33(3) <input type="checkbox"/>	
3. Serial number of the certificate of inspection		4. Exporter (name and address)	
5. Producer or processor of the product (name and address)		6. Control body or control authority (name, address and code)	
7. Country of origin		8. Country of export	
9. Country of clearance		10. Country of destination	
11. Importer (name, address and EORI number)		12. First consignee in the Union (name and address)	
13. Description of products		14. CN codes	15. Number of packages
16. Container number	17. Lot number	18. Seal number	19. Net weight

20. Declaration of control body or authority issuing the certificate referred to in box 1.

This is to certify that this certificate has been issued on the basis of the checks required under Article 13(4) of Regulation (EC) No 1235/2008 and that the products designated above have been obtained in accordance with rules of production and inspection of the organic production method which are considered equivalent in accordance with the provisions of Regulation (EC) No 834/2007.

Date

Name and signature of authorised person

Stamp of issuing authority or body

21. Customs warehousing ☐

Name and address of operator:

Control body or control authority (name, address and code):

Customs Declaration Reference Number for Customs Warehousing:

22. Verification of the consignment by the relevant Member State's competent authority.

Authority and Member State:

Customs Declaration Reference Number for release for free circulation:

Date:

Name and signature of authorised person

Stamp

23. Declaration of the first consignee

This is to certify that the reception of the products has been carried out in accordance with the provisions of Article 34 of Regulation (EC) No 889/2008.

Name of the company:

Date:

Name and signature of the authorised person

#### Notes

Box 1: Name, address and code of control body or authority as referred to in Article 13(3) of Regulation (EC) No 1235/2008. This body also completes boxes 4 and 20.

Box 2: This box indicates the provisions of Regulation (EC) No 834/2007 which are relevant for the issue and use of this certificate; indicate the relevant provision.

Box 3: Serial number of the certificate automatically assigned by TRACES.

Box 4: Name and address of the operator exporting the products from the country mentioned in box 8. The exporter is the operator performing at least one of the preparation operations as defined in Article 2(i) of

Regulation (EC) No 834/2007 on the products mentioned in box 13 and sealing the products in appropriate packaging or containers, pursuant to Article 34 of Regulation (EC) No 889/2008.

- Box 5: Operator who produced or processed the products in the third country mentioned in box 7. This shall not be indicated in case the issuing Control body or Authority is recognised under Article 33(2) of Regulation (EC) No 834/2007.
- Box 6: Control body or authority for monitoring compliance of the production or processing of the products with the rules of the organic production in the country mentioned in box 7. This shall not be indicated in case the issuing Control body or Authority is recognised under Article 33(2) of Regulation (EC) No 834/2007.
- Box 7: Country of origin means the country where the product has been produced/grown or processed. This shall not be indicated in case the issuing Control body or Authority is recognised under Article 33(2) of Regulation (EC) No 834/2007.
- Box 8: Country of export means the country where the product has been subject to the last preparation as defined in Article 2(i) of Regulation (EC) No 834/2007 and sealed in appropriate packaging or containers.
- Box 9: Country of clearance means the country in which the consignment is released for free circulation into the European Union.
- Box 10: Country of destination means the country of the first consignee in the European Union.
- Box 11: Name, address and EORI number of the importer. The importer shall mean the natural or legal person within the European Union who presents the consignment for release for free circulation into the Union, either on its own, or through a representative.
- Box 12: Name and address of the first consignee of the consignment in the European Union. The first consignee shall mean the natural or legal person where the consignment is delivered and where it will be handled for further preparation and/or marketing. The first consignee shall also complete box xx.
- Box 13: Trade name of the products
- Box 14: Combined Nomenclature codes for the products concerned (8-digit level where possible).
- Box 15: Number of boxes, cartons, bags, buckets, etc.
- Box 19: Net weight expressed in appropriate units (kg of net mass, litre, etc).
- Box 20: Declaration of control body or authority issuing the certificate. The signature and the stamp must be in a colour different to that of the printing.
- Box 22: Shall be completed by the relevant Member State's competent authority, if appropriate, before the preparation or splitting operation in the circumstances referred to in Article 14 of Regulation (EC) No 1235/2008 and at the verification of the consignment in accordance with Article 13(1)..
- Box 23: Shall be filled in by the first consignee at the reception of the products, when he has carried out the checks provided for in Article 34 of Regulation (EC) No 889/2008.'

Annex VI is replaced by the following:

*‘ANNEX VI*

**EXTRACT No.....OF THE CERTIFICATE OF INSPECTION FOR IMPORT OF PRODUCTS FROM  
ORGANIC PRODUCTION INTO THE EUROPEAN UNION**

1. Control body or authority having issued the underlying certificate of inspection (name, address and code)		2. Council Regulation (EC) No 834/2007: - Article 33(2) <input type="checkbox"/> or - Article 33(3) <input type="checkbox"/>	
3. Serial number of the underlying certificate of inspection		4. Operator having split the original consignment into batches (name and address)	
5. Control body or control authority (name, address and code)		6. Importer (name, address and EORI number)	
7. Country of origin		8. Country of export	
9. Country of clearance		10. Country of destination	
11. Consignee of the batch obtained from splitting (name and address)			
12. Description of products		13. CN codes	
14. Number of packages		15. Net weight of the batch and net weight of the original consignment	
<p>16. Declaration of the relevant Member State's competent authority endorsing the extract of the certificate.</p> <p>This extract corresponds to the batch described above and obtained by the splitting of a consignment which is covered by an original certificate of inspection with the serial number mentioned in box 3</p> <p>Authority and Member State: .....</p> <p>Customs Declaration Reference Number for release for free circulation:</p> <p>Date: .....</p>			
Name and signature of authorised person		Stamp	

17. Declaration of the consignee of the batch

This is to certify that the reception of the batch has been carried out in accordance with Article 33 of Regulation (EC) No 889/2008.

Name of the company

Date:

Name and signature of the authorised person

*Notes*

Extract No ....: The extract number corresponds to the number of the batch obtained from the splitting of the original consignment.

Box 1: Name, address and code of control body or authority in the third country having issued the underlying certificate of inspection.

Box 2: This box indicates the provisions of Regulation (EC) No 834/2007 which are relevant for the issue and use of this extract; indicate the relevant provision under which the underlying consignment was imported, see box 2 of the underlying certificate of inspection.

Box 3: Serial number of the underlying certificate automatically assigned by TRACES.

Box 5: Control body or authority in charge of controlling the operator having split the consignment.

Boxes 6, 7 and 8: See relevant information on the underlying certificate of inspection.

Box 11: Consignee of the batch (obtained from the splitting) in the European Union.

Box 13: Combined Nomenclature codes for the batch of the products concerned (8-digit level where possible).

Box 14: Number of boxes, cartons, bags, buckets, etc.

Box 15: Net weight expressed in appropriate units (kg of net mass, litre, etc) and the net weight indicated in box 20 of the underlying certificate of inspection.

Box 16: Shall be completed by the relevant Member State's competent authority for each of the batches resulting from the splitting operation referred to in Article 14(2) of Regulation (EC) No 1235/2008.

Box 17: Shall be filled up at the reception of the batch, when the consignee has carried out the checks provided for in Article 33 of Regulation (EC) No 889/2008.

*Article [...]*

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

It shall apply from [a date to be inserted which corresponds to 6 months following the date of publication of the Regulation]. However, point (13) of Article 2 shall apply from [1 February 2017].

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

Done at Brussels,

*For the Commission*  
*The President*  
*[...]*

DRAFT WORKING DOCUMENT