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Acts whose titles are printed in light type are those relating to day-to-day management of agricultural matters, and are generally valid for a limited period.

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Commission

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[1] Text with EEA relevance

I

(Acts whose publication is obligatory)

COUNCIL REGULATION (EC) No 83/2005

of 18 January 2005

amending Regulation (EC) No 2604/2000 on imports of polyethylene terephthalate originating *inter alia* in the Republic of Korea and Taiwan

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty establishing the European Community,

Having regard to Council Regulation (EC) No 384/96 of 22 December 1995 on protection against dumped imports from countries not members of the European Community [1] (the 'basic Regulation'), and in particular Article 11(3) thereof,

Having regard to the proposal submitted by the Commission after consulting the Advisory Committee,

Whereas:

A. PROCEDURE

1. Measures in force

(1) The Council, by Regulation (EC) No 2604/2000 [2] (the 'definitive Regulation'), imposed definitive anti-dumping duties on imports of polyethylene terephthalate (PET) originating in India, Indonesia, Malaysia, the Republic of Korea, Taiwan and Thailand.

2. Present investigation

(2) On 22 May 2003, the Commission announced, by a notice published in the *Official Journal of the European Union* [3], the initiation of an interim review of the anti-dumping measures applicable to imports into the Community of PET originating in the Republic of Korea and Taiwan (the 'countries concerned').

(3) The interim review was initiated as a result of a request lodged in April 2003 by the Association of Plastic Manufacturers in Europe ('the applicant') on behalf of producers representing a major proportion, in this case more than 80 %, of the total Community production of PET. The request contained sufficient prima facie evidence that dumping and injury had recurred and that the existing measures were no longer sufficient to counteract the injurious dumping. The evidence provided was considered sufficient to justify the initiation of a full interim review of the existing measures, pursuant to Article 11(3) of the basic Regulation.

(4) On 30 June 2004, the applicant withdrew its request for the interim review.

(5) Nevertheless, it was considered that, in view of the evidence available and the preliminary findings already obtained in the course of the investigation, the continuation of the investigation *ex officio* on dumping only was warranted. With regard to all other aspects of the review investigation, it was found that the interim review should be terminated following the withdrawal of the request. This approach has been communicated to all interested parties, none of which made any comment.

3. Other proceedings

(6) On 22 May 2003, the Commission announced, by a notice published in the *Official Journal of the European Union* [4], the initiation of an anti-dumping proceeding with regard to imports into the Community of PET originating in Australia, the People's Republic of China ('PRC') and Pakistan.

(7) By Regulation (EC) No 306/2004 [5], the Commission imposed a provisional anti-dumping duty on imports of PET originating in Australia, the PRC and Pakistan. By Regulation (EC) No 1467/2004 [6], the Council imposed definitive anti-dumping duties on imports of PET originating in Australia and the PRC and terminated the proceeding on imports of PET originating in Pakistan.

4. Parties concerned by the investigation

(8) The Commission services officially advised the applicant, the Community producers included in the complaint, the other Community producers, the exporting producers, importers, suppliers and users as well as associations known to be concerned, and representatives of the Republic of Korea and Taiwan, of the opening of the investigation. Interested parties were given an opportunity to make their views known in writing and to request a hearing within the time limit set in the notice of initiation.

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[1] OJ L 56, 6.3.1996, p. 1. Regulation as last amended by Regulation (EC) No 461/2004 (OJ L 77, 13.3.2004, p. 12).
[2] OJ L 301, 30.11.2000, p. 21. Regulation as last amended by Regulation (EC) No 823/2004 (OJ L 127, 29.4.2004, p. 7).
[3] OJ C 120, 22.5.2003, p. 13.
[4] OJ C 120, 22.5.2003, p. 9.
[5] OJ L 52, 21.2.2004, p. 5.
[6] OJ L 271, 19.8.2004, p. 1.

(9) The Community producers represented by the applicant, other cooperating Community producers, exporting producers, importers, suppliers, users and user associations made their views known. All interested parties who so requested were granted a hearing.

(10) Questionnaires were sent to all parties known to be concerned and to all the other companies that made themselves known within the deadlines set out in the notice of initiation. Replies were received from the seven Community producers represented by the applicant; four other Community producers; three exporting producers in the Republic of Korea, including one company not currently subject to an individual duty rate; four exporting producers in Taiwan, including one company not currently subject to an individual duty rate; and two suppliers, two related importers, four unrelated importers and nine unrelated users in the Community.

(11) In the notice of initiation, it was indicated that sampling may be applied in this investigation. However, given that the number of exporting producers in the countries concerned which indicated their willingness to cooperate was lower than expected, it was decided that sampling was not required.

(12) The Commission services sought and verified all the information deemed necessary for determination of dumping and resulting injury and carried out verifications at the premises of the following companies:

(a) Community producers

— Aussapol SpA, San Giorgio Di Nogaro (UD), Italy

— Brilen SA, Zaragoza, Spain

— Catalana di Polimers, Barcelona, Spain

— Dupont Sabanci SA, Middlesbrough, United Kingdom

— INCA International, Milano, Italy

— KoSa, Frankfurt am Main, Germany

— M & G Finanziaria Industriale, Milano, Italy

— Tergal Fibres, Gauchy, France

— VPI SA, Athens, Greece

— Voridian, Rotterdam, Netherlands

— Wellman PET Resins, Arnhem, Netherlands

(b) Exporting producers/exporters in the Republic of Korea

— Daehan Synthetic Fiber Co. Ltd, Seoul

— SK Chemicals Co. Ltd, Seoul

— KP Chemical Corp., Seoul

(c) Exporting producers in Taiwan

— Far Eastern Textile Ltd, Taipei

— Shinkong Synthetic Fibers Corp., Taipei

— Hualon Corp., Taipei

(d) Related importers

— SK Networks, Seoul, Republic of Korea

— SK Global (Belgium) N.V., Antwerp, Belgium

(e) Unrelated importers

— Mitsubishi Chemicals, Düsseldorf, Germany

— Helm AG, Hamburg, Germany

— Global Services International, Milano, Italy

— SABIC Italia, Milano, Italy

(f) Community suppliers

— Interquisa SA, Madrid, Spain

— BP Chemicals, Sunbury-on-Thames, United Kingdom

(g) Community users

— Danone Waters Group, Paris, France

— Aqua Minerale San Benedetto, Scorze (VE), Italy

— RBC Cobelplast Mononate, Varese, Italy

— Nestlé Espana SA, Barcelona, Spain

5. **Investigation period**

(13) The investigation of dumping covered the period from 1 April 2002 to 31 March 2003 ('IP').

6. **Product concerned and like product**

6.1. *Product concerned*

(14) The product concerned is the same as in the original investigation, i.e. PET with a viscosity number of 78 ml/g or higher, according to the ISO Standard 1628-5, originating in the Republic of Korea and Taiwan, currently classifiable within CN code 3907 60 20.

6.2. *Like product*

(15) As in the original investigation it was found that PET produced and sold on the domestic market of the Republic of Korea and Taiwan and PET produced and exported to the Community have the same basic physical and chemical characteristics and uses. It is therefore concluded that all types of PET with a viscosity number of 78 ml/g or higher are alike within the meaning of Article 1(4) of the basic Regulation.

B. **DUMPING**

1. **General methodology**

(16) The general methodology set out below has been applied to all exporting producers in the Republic of Korea and Taiwan and is the same as that used in the original investigation. The presentation of the findings on dumping for each of the countries concerned therefore only describes what is specific for each exporting country.

1.1. *Normal value*

(17) For the determination of normal value, it was first established, for each exporting producer, whether its total domestic sales of the product concerned were representative in comparison with its total export sales to the Community. In accordance with Article 2(2) of the basic Regulation, domestic sales were considered representative when the total domestic sales volume of each exporting producer was at least 5 % of its total export sales volume to the Community.

(18) Subsequently, those types of PET sold domestically by the companies having overall representative domestic sales, and that were identical or directly comparable to the types sold for export to the Community, were identified.

(19) For each type sold by the exporting producers on their domestic markets and found to be directly comparable to the type of PET sold for export to the Community, it was established whether domestic sales were sufficiently representative for the purposes of Article 2(2) of the basic Regulation. Domestic sales of a particular type of PET were considered sufficiently representative when the total domestic sales volume of that type during the IP represented 5 % or more of the total sales volume of the comparable PET type exported to the Community.

(20) An examination was also made as to whether the domestic sales of each type of PET could be regarded as having been made in the ordinary course of trade, by establishing the proportion of profitable sales to independent customers of the PET type in question. In cases where the sales volume of a PET type, sold at a net sales price equal to or above the calculated cost of production, represented more than 80 % of the total sales volume of that type, and where the weighted average price of that type was equal to or above the cost of production, normal value was based on the actual domestic price, calculated as a weighted average of the prices of all domestic sales of that type made during the IP, irrespective of whether these sales were profitable or not. In cases where the volume of profitable sales of PET type represented 80 % or less of the total sales volume of that type, or where the weighted average price of that type was below the cost of production, normal value was based on the actual domestic price, calculated as a weighted average of profitable sales of that type only, provided that these sales represented 10 % or more of the total sales volume of that type.

(21) It was found that profitable sales of all types of PET represented 10 % or more of the total sales volume of that type.

1.2. *Export price*

(22) In all cases where the product concerned was exported to independent customers in the Community, the export price was established in accordance with Article 2(8) of the basic Regulation, namely on the basis of export prices actually paid or payable.

(23) In cases where sales were made via a related importer, the export price was constructed on the basis of the resale prices of that related importer to independent customers. Adjustments were made for all costs incurred between importation and resale by that importer, including sales, general and administrative expenses, and a reasonable profit margin, in accordance with Article 2(9) of the basic Regulation. The appropriate profit margin was established on the basis of information provided by unrelated cooperating traders/importers operating on the Community market.

1.3. *Comparison*

(24) The normal value and export prices were compared on an ex-works basis. For the purpose of ensuring a fair comparison between the normal value and the export price, due allowance in the form of adjustments was made for differences affecting price comparability in accordance with Article 2(10) of the basic Regulation. Appropriate adjustments were granted in all cases where they were found to be reasonable, accurate and supported by verified evidence.

1.4. *Dumping margin*

(25) In accordance with Article 2(11) of the basic Regulation, a dumping margin was calculated for each cooperating exporting producer, by comparing the weighted average normal value with the weighted average export price.

(26) For those countries where the level of cooperation was found to be high (above 80 %), and where there was no reason to believe that any exporting producer abstained from cooperating, the residual dumping margin was set at the level of the cooperating company with the highest dumping margin in order to ensure the effectiveness of the measures.

(27) For those countries where the level of cooperation was found to be low, the residual dumping margin was determined in accordance with Article 18 of the basic Regulation, i.e. on the basis of the facts available.

2. **Republic of Korea**

(28) Questionnaire replies were received from three exporting producers, one of which did not export PET to the Community during the IP, and two importers related to one of the exporting producers. It was established that the cooperating exporters represented 100 % of Korean exports of the product concerned during the IP.

2.1. *Normal value*

(29) For all types of PET exported by the Korean exporting producers, it was possible to establish normal value on the basis of the prices paid or payable in the ordinary course of trade by independent customers on the domestic market, in accordance with Article 2(1) of the basic Regulation.

2.2. *Export price*

(30) One of the Korean exporting producers made export sales to the Community both directly to independent customers and via related importers in Korea and the Community. Consequently, in the latter situation, a constructed export price has been established pursuant to Article 2(9) of the basic Regulation.

2.3. *Comparison*

(31) In order to ensure a fair comparison, account was taken, in accordance with Article 2(10) of the basic Regulation, of differences in factors which were claimed and demonstrated to affect prices and price comparability. On this basis, allowances for differences in transport, insurance, handling charges, commissions, credit, packing, customs duties and bank charges have been granted.

2.4. *Dumping margin*

(32) As provided by Article 2(11) of the basic Regulation, the weighted average normal values of each type of the product concerned exported to the Community were compared to the weighted average export price of each corresponding type of the product concerned.

(33) The comparison showed the existence of either no dumping or *de minimis* dumping in respect of the three cooperating exporting producers. The dumping margins expressed as a percentage of the CIF import price at the Community border, duty unpaid are as follows:

— Daehan Synthetic Fiber Co. Ltd: 1,2 %

— SK Chemicals Co. Ltd: 0,0 %

— KP Chemical Corp.: 0,1 %

(34) Two known Korean exporting producers of PET which are currently subject to an individual duty rate showed that they had not made any exports during the IP. No evidence was provided by these exporters to indicate that a re-assessment of their duty margins was warranted.

(35) In light of the high level of cooperation by Korean companies (see recital (28)), the residual duty was set at the level of the cooperating company with the highest dumping margin in accordance with the approach outlined in recital (26). The level is the same as that in the original investigation.

3. **Taiwan**

(36) Questionnaire replies were received from four exporting producers, one of which did not export PET to the Community during the IP. It was established that the cooperating exporters represented less than 60 % of Taiwanese exports of the product concerned during the IP.

3.1. *Normal value*

(37) For all types of PET exported by the Taiwanese exporting producers, normal value was established on the basis of the prices paid or payable in the ordinary course of trade by independent customers on the domestic market, in accordance with Article 2(1) of the basic Regulation.

3.2. *Export price*

(38) Export prices were established in accordance with Article 2(8) of the basic Regulation, namely on the basis of export prices actually paid or payable.

3.3. *Comparison*

(39) In order to ensure a fair comparison, account was taken of differences in factors which were claimed and demonstrated to affect prices and price comparability, in accordance with Article 2(10) of the basic Regulation. On this basis, allowances for differences in transport, insurance, handling charges, commissions, credit, packing, customs duties and bank charges have been granted.

3.4. *Dumping margin*

(40) As provided by Article 2(11) of the basic Regulation, the weighted average normal values of each type of the product concerned exported to the Community were compared to the weighted average export price of each corresponding type of the product concerned.

(41) The comparison showed the existence of dumping in respect of two of the cooperating exporting producers. The dumping margins expressed as a percentage of the CIF import price at the Community border, duty unpaid are as follows:

— Far Eastern Textile Ltd: 0,0 %

— Shinkong Synthetic Fibers Corp.: 3,1 %

— Hualon Corp.: 9,6 %

(42) One exporting producer, which is currently subject to an individual duty, cooperated in this proceeding even though it had made no export sales to the Community during the IP. On the basis of the information provided, it was deemed appropriate to leave its current dumping margin unchanged, because no information was submitted to indicate that a re-assessment of its duty margin was warranted.

(43) There is one known Taiwanese exporter of PET which is currently subject to an individual duty, but which did not cooperate in this proceeding. For this exporter, it was considered appropriate not to give it an individual duty so as not to reward non-cooperation. More importantly, no data were available which would have allowed the determination of an individual duty.

(44) In light of this fact and of the low level of cooperation by Taiwanese companies (see recital (36)), the residual dumping margin was determined in accordance with Article 18 of the basic Regulation, as outlined in recital (27).

(45) The residual dumping margin, which was calculated on the basis of data available from Eurostat and also from the cooperating exporting producers, expressed as a percentage of the CIF import price at the Community border, duty unpaid is as follows:

— Taiwan: 20,1 %

C. **LASTING NATURE OF THE CHANGED CIRCUMSTANCES**

(46) In accordance with Article 11(3) of the basic Regulation, it was also examined whether the changed circumstances with respect to the original investigation regarding dumping could reasonably be considered to be of a lasting nature.

1. **Republic of Korea**

(47) For those companies which exported during the IP and cooperated with the investigation, the current review showed that their dumping margin either remained at, or had fallen to, a *de minimis* level. The main reason for this was that whilst the normal values and domestic sales prices for these companies had risen as compared to the data from the original investigation, sales prices on the Community market had risen by a greater margin. Indeed, it was found that export prices to the Community were on average 53 % higher during the IP of this investigation when compared with the export prices found during the IP of the original investigation. No indications were found, suggesting that these changes would not be of a lasting nature. It should also be noted that these companies had a high capacity utilisation, in excess of 80 %, during the IP. Additionally these companies do not have any plans to increase existing capacity, thereby restricting the scope for any future changes in circumstances. It is therefore considered that this situation as far as export price and volume is concerned is not likely to change.

(48) One company which did not export to the Community during the original investigation cooperated and exported the product concerned to the Community during this investigation. The dumping margin for this company was also found to be *de minimis*. The normal value, as well as domestic and export prices of this company were found to be in the same range as those for the other two cooperating exporters.

(49) For the two cooperating exporting producers that did not export to the Community during the IP, no evidence to justify a change in their duty was found as outlined in recital (34). It should also be recalled that there was a wide range of dumping margins found in the original investigation (1,4 % to 55,8 %), which indicates that considerable differences in the dumping behaviour of Korean companies existed. For these reasons, it cannot be concluded that the findings of *de minimis* dumping margins for the producers which exported to the Community during the IP are representative for those exporters which did not. Accordingly, for these companies, there is no evidence to suggest that a revision of their current anti-dumping duties is warranted, nor is there any data available that would allow a revised individual margin to be calculated for them. These findings were disclosed to the parties concerned, none of which made any comments nor provided any additional information.

2. **Taiwan**

(50) Three of the four companies in Taiwan, currently subject to an individual duty, cooperated in the current investigation. For one of these companies, the current investigation showed that its dumping margin had fallen to a *de minimis* level. For the second company the dumping margin fell from 7,8 % in the original investigation to 4,6 % in the current investigation. In line with the situation in the Republic of Korea, the main reason for this was that whilst the normal values and domestic sales prices for these companies had risen when compared with data from the original investigation, sales prices to the Community market had risen by a greater margin. For Taiwan, it was found that export prices to the Community were on average 42 % higher during the IP of this investigation when compared with the export prices found during the IP of the original investigation. It was also found for these companies that their capacity utilisation was similar to that found for the companies in Korea. Nor did they have any plans to increase their installed capacity.

(51) The third cooperating company, currently subject to an individual duty, provided evidence that it did not export the product concerned to the Community during the IP of this investigation.

(52) In addition, one company in Taiwan which did not export to the Community during the original investigation also cooperated during this investigation. The dumping margin for this company is 10,7 %.

(53) For the three cooperating producers which exported to the Community during the IP of the current investigation, there are no reasons to believe that the nature of the changes between the current and the original investigations, particularly the increase in export prices to the Community, are not lasting in nature. Accordingly, it is considered that the dumping margins for these companies, calculated on the basis of the data provided in this investigation are reliable.

(54) For the producer which cooperated but which did not export to the Community during the IP of the current investigation, there is no evidence to suggest that a revision of its current anti-dumping duties is warranted. It is, therefore considered appropriate to leave its current margin unchanged. As with the situation for Korea, there are no data available that would allow a revised individual margin to be calculated for this company. Again, following disclosure, the party concerned made no comments nor provided any additional information.

D. **PROPOSAL FOR ANTI-DUMPING MEASURES**

(55) In view of the conclusions reached with regard to dumping and the lasting nature of changed circumstances, the present anti-dumping measures against imports of the product concerned originating in the Republic of Korea and Taiwan should be amended to reflect the new dumping margins found.

(56) The fact that PET prices can fluctuate in line with fluctuations in crude oil prices, should not entail a higher duty. It was therefore considered appropriate that the amended duties should be expressed in the form of a specific amount per tonne. This approach was followed in the original investigation.

(57) The individual company anti-dumping duty rates were established on the basis of the findings of the present review. They, therefore, reflect the situation found during this review with respect to these companies. These duty rates, as opposed to the duty applicable to 'all other companies', are thus exclusively applicable to imports of products originating in the country concerned and produced by the companies specifically mentioned in the operative part of this Regulation. Imported products produced by any other company not specifically mentioned in the operative part of the Regulation, including by entities related to those specifically mentioned, cannot benefit from these rates and will be subject to the duty rate applicable to 'all other companies'.

(58) The proposed anti-dumping duties for those companies which exported to the Community during the IP are as follows:

Country	Company	Dumping margin	Anti-dumping duty rate	Proposed duty (euro/t)
Republic of Korea	Daehan Synthetic Fiber Co. Ltd	1,2 %	0,0 %	0
	SK Chemicals Co. Ltd	0,0 %	0,0 %	0
	KP Chemical Corp.	0,1 %	0,0 %	0
Taiwan	Far Eastern Textile Ltd	0,0 %	0,0 %	0
	Shinkong Synthetic Fibers Corp.	3,1 %	3,1 %	24,5
	Hualon Corp.	9,6 %	9,6 %	81,9

(59) In line with the revised residual dumping margin outlined in recital (45), the residual anti-dumping duty for Taiwan should be increased to EUR 143,4/tonne.

E. **FINAL PROVISION**

(60) Interested parties were informed of all the facts and considerations on the basis of which it was intended to propose an amendment to the Regulation in force. No comments were received,

HAS ADOPTED THIS REGULATION:

Article 1

1. The table in Article 1(2) of Regulation (EC) No 2604/2000 shall be replaced by the following table:

'Country	Anti-dumping duty (EUR/tonne)	TARIC additional code
India	181,7	A999
Indonesia	187,7	A999
Malaysia	160,1	A999
Korea	148,3	A999
Taiwan	143,4	A999
Thailand	83,2	A999'

2. The table in Article 1(3) shall be replaced by the following table:

'Country	Company	Anti-dumping duty (EUR/tonne)	TARIC additional code
India	Pearl Engineering Polymers Ltd	130,8	A182
India	Reliance Industries Ltd	181,7	A181
India	Elque Polyesters Ltd	200,9	A183
India	Futura Polymers Ltd	161,2	A184
Indonesia	P.T. Bakrie Kasei Corp.	187,7	A191
Indonesia	P.T. Indorama Synthetics Tbk	92,1	A192
Indonesia	P.T. Polypet Karyapersada	178,9	A193
Malaysia	Hualon Corp. (M) Sdn. Bhd.	36,0	A186
Malaysia	MpI Polyester Industries Sdn. Bhd.	160,1	A185
Republic of Korea	Daehan Synthetic Fiber Co., Ltd	0	A194
Republic of Korea	Honam Petrochemical Corp.	101,4	A195
Republic of Korea	SK Chemicals Co., Ltd	0	A196
Republic of Korea	Tongkong Corp.	148,3	A197
Republic of Korea	KP Chemical Corp.	0	A577
Taiwan	Far Eastern Textile Ltd	0	A188
Taiwan	Tuntex Distinct Corp.	69,5	A198
Taiwan	Shingkong Synthetic Fibers Corp.	24,5	A189
Taiwan	Hualon Corp.	81,9	A578
Thailand	Thai Shingkong Industry Corp. Ltd	83,2	A190
Thailand	Indo Pet (Thailand) Ltd	83,2	A468'

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, 18 January 2005.

For the Council
The President
J.-C. JUNCKER

COUNCIL REGULATION (EC) No 84/2005

of 18 January 2005

amending the Annex to Regulation (EC) No 2042/2000 imposing a definitive anti-dumping duty on imports of television camera systems originating in Japan

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty establishing the European Community,

Having regard to Council Regulation (EC) No 384/96 of 22 December 1995 on protection against dumped imports from countries not members of the European Community [1] (the 'basic Regulation'),

Having regard to the proposal submitted by the Commission after consulting the Advisory Committee,

Whereas:

A. **PREVIOUS PROCEDURES**

(1) The Council, by Regulation (EC) No 1015/94 [2], imposed a definitive anti-dumping duty on imports of television camera systems ('TCS') originating in Japan.

(2) In Article 1(3)(e) of Regulation No 1015/94, the Council specifically excluded from the scope of the anti-dumping duty camera systems listed in the Annex to that Regulation ('the Annex'), representing high-end professional camera systems technically falling within the product definition under Article 1(2) of Regulation (EC) No 1015/94, but which cannot be regarded as television camera systems.

(3) In October 1995, the Council, by Regulation (EC) No 2474/95 [3], amended Regulation (EC) No 1015/94, in particular as regards the definition of the like product and certain models of professional camera systems which were explicitly exempted from the definitive anti-dumping duty.

(4) In October 1997, the Council, by Regulation (EC) No 1952/97 [4], amended the rates of the definitive anti-dumping duty for two companies concerned, namely for Sony Corporation and Ikegami Tsushinki Co. Ltd pursuant to Article 12 of the basic Regulation. Furthermore, the Council specifically excluded from the scope of the anti-dumping duty certain new models of professional camera systems by adding them to the Annex.

(5) In January 1999 and January 2000, the Council, by Regulations (EC) No 193/1999 [5] and (EC) No 176/2000 [6], amended Regulation (EC) No 1015/94 by adding certain successor models of professional camera systems to the Annex and thus excluding those from the application of the definitive anti-dumping duty. In October 2004, the Council, by Regulation (EC) 1754/2004 [7], amended Regulation (EC) No 176/2000.

(6) In September 2000, the Council, by Regulation (EC) No 2042/2000 [8], confirmed the definitive anti-dumping duties imposed by Regulation (EC) No 1015/94 pursuant to Article 11(2) of the basic Regulation.

(7) In January 2001 and in May 2001, the Council, by Regulations (EC) No 198/2001 [9] and (EC) No 951/2001 [10], amended Regulation (EC) No 2042/2000 by adding certain successor models of professional camera systems to the Annex to Regulation (EC) No 2042/2000 and thus excluding them from the application of the definitive anti-dumping duty.

(8) In September 2001, further to an interim review pursuant to Article 11(3) of the basic Regulation, the Council, by Regulation (EC) No 1900/2001 [11] confirmed the level of the definitive anti-dumping duty imposed by Regulation (EC) No 2042/2000 on imports of TCS from the exporting producer Hitachi Denshi Ltd.

[1] OJ L 56, 6.3.1996, p. 1. Regulation as last amended by Regulation (EC) No 461/2004 (OJ L 77, 13.3.2004, p. 12).
[2] OJ L 111, 30.4.1994, p. 106. Regulation as last amended by Regulation (EC) No 176/2000 (OJ L 22, 27.1.2000, p. 29).
[3] OJ L 255, 25.10.1995, p. 11.
[4] OJ L 276, 9.10.1997, p. 20.
[5] OJ L 22, 29.1.1999, p. 10.
[6] OJ L 22, 27.1.2000, p. 29.
[7] OJ L 313, 12.10.2004, p. 1.
[8] OJ L 244, 29.9.2000, p. 38. Regulation as last amended by Regulation (EC) No 825/2004 (OJ L 127, 29.4.2004, p. 12).
[9] OJ L 30, 1.2.2001, p. 1.
[10] OJ L 134, 17.5.2001, p. 18.
[11] OJ L 261, 29.9.2001, p. 3.

(9) In September 2002, the Council, by Regulation (EC) No 1696/2002 [1], amended Regulation (EC) No 2042/2000 by adding certain successor models of professional camera systems to the Annex to Regulation (EC) No 2042/2000 and thus excluding them from the application of the definitive anti-dumping duty.

(10) In April 2004, the Council, by Regulation (EC) No 825/2004, amended Regulation (EC) No 2042/2000 by adding certain successor models of professional camera systems to the Annex to Regulation (EC) No 2042/2000 and thus excluding them from the application of the definitive anti-dumping duty.

B. **INVESTIGATION CONCERNING NEW MODELS OF PROFESSIONAL CAMERA SYSTEMS**

1. **Procedure**

(11) Two Japanese exporting producers, namely Sony Corporation ('Sony') and Victor Company of Japan Limited ('JVC') informed the Commission that they intended to introduce new models of professional camera systems into the Community market and requested the Commission to add these new models of professional camera systems, including their accessories, to the Annex to Regulation (EC) No 2042/2000 and thus exempt them from the scope of the anti-dumping duties.

(12) The Commission informed the Community industry accordingly and commenced an investigation limited to the determination of whether the products under consideration fall within the scope of the anti-dumping duties and whether the operational part of Regulation (EC) No 2042/2000 should be amended accordingly.

2. **Models under investigation**

(13) The requests for exemption were received for the following models of camera systems, supplied with the relevant technical information:

(i) *Sony:*

— viewfinder HDVF-C30W

(ii) *JVC:*

— Camera head KY-F560E

The Sony viewfinder was presented as a model which can only be used with camcorders, cameras that are outside the scope of Regulation (EC) No 2042/2000. The JVC model was presented as a successor to a professional camera model already excluded from the anti-dumping measure in force.

3. **Findings**

(i) *Viewfinder HDVF-C30W*

(14) It was found that viewfinder HDVF-C30W falls under the product description of Article 1(2)(b) of Regulation (EC) No 2042/2000. However, it can only be used with camera heads that do not fall under the product description of Article 1(2)(a) of that Regulation. In particular, the signal-to-noise ratio of these camera heads is 54 dB, whereas the description in Regulation (EC) No 2042/2000 for the camera heads requires '55 dB or more at normal gain'. Therefore, it was concluded that this viewfinder should be regarded as a professional camera system falling within the definition of Article 1(3)(e) of Regulation (EC) No 2042/2000. As a result, this viewfinder should be excluded from the scope of the existing anti-dumping measures and added to the Annex to Regulation (EC) No 2042/2000.

(15) In accordance with the established Community Institutions' practice, this model should be exempted from the duty from the date of receipt by the Commission services of the relevant request for exemption. Therefore, all imports of Sony-Viewfinder HDVF-C30W imported on or after 1 April 2003 should be exempted from the duty from this date.

(ii) *Camera head KY-F560E*

(16) It was found that camera head KY-F560E, although falling within the product description of Article 1(2)(a) of Regulation (EC) No 2042/2000, is mainly used in technical and medical applications. It was therefore concluded that this model was to be regarded as a professional camera system falling within the definition of Article 1(3)(e) of Regulation (EC) No 2042/2000. It should therefore be excluded from the scope of the existing anti-dumping measures and added to the Annex to Regulation (EC) No 2042/2000.

(17) In accordance with the established Community Institutions' practice, this model should be exempted from the duty from the date of receipt by the Commission services of the relevant request for exemption. Therefore, all imports of JVC-Camera head KY-F560E imported on or after 15 April 2004 should be exempted from the duty from this date.

4. **Information of the interested parties and conclusions**

(18) The Commission informed the Community industry and the exporters of the TCS of its findings and provided them with an opportunity to present their views. None of the parties objected to the Commission's findings.

[1] OJ L 259, 27.9.2002, p. 1.

(19) On the basis of the foregoing, Regulation (EC) No 2042/2000 should be amended accordingly,

HAS ADOPTED THIS REGULATION:

Article 1

The Annex to Regulation (EC) No 2042/2000 shall be replaced by the text in the Annex hereto.

Article 2

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

2. This Regulation shall apply to imports of the following models produced and exported to the Community by the following exporting producers:

(a) Sony from 1 April 2003:

— Viewfinder HDVF-C30W;

(b) JVC from 15 April 2004:

— Camera head KY-F560E.

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

Done at Brussels, 18 January 2005.

For the Council
The President
J.-C. JUNCKER

ANNEX

'ANNEX

List of professional camera systems not qualified as television camera systems (broadcast camera systems) which are exempted from the measures

Company name	Camera heads	Viewfinder	Camera control unit	Operational control unit	Master control unit (*)	Camera adapters
Sony	DXC-M7PK DXC-M7P DXC-M7PH DXC-M7PK/1 DXC-M7P/1 DXC-M7PH/1 DXC-327PK DXC-327PL DXC-327PH DXC-327APK DXC-327APL DXC-327AH DXC-537PK DXC-537PL DXC-537PH DXC-537APK DXC-537APL DXC-537APH EVW-537PK EVW-327PK DXC-637P DXC-637PK DXC-637PL DXC-637PH PVW-637PK PVW-637PL DXC-D30PF DXC-D30PK DXC-D30PL DXC-D30PH DSR-130PF DSR-130PK DSR-130PL PVW-D30PF PVW-D30PK PVW-D30PL DXC-327BPF DXC-327BPK DXC-327BPL DXC-327BPH DXC-D30WSP (1) DXC-D35PH (1) DXC-D35PL (1) DXC-D35PK (1) DXC-D35WSPL (1) DSR-135PL (1)	DXF-3000CE DXF-325CE DXF-501CE DXF-M3CE DXF-M7CE DXF-40CE DXF-40ACE DXF-50CE DXF-601CE DXF-40BCE DXF-50BCE DXF-701CE DXF-WSCE (1) DXF-801CE (1) HDVF-C30W (1)	CCU-M3P CCU-M5P CCU-M7P CUU-M5AP (1)	RM-M7G RM-M7E (1)	——	CA-325P CA-325AP CA-325B CA-327P CA-537P CA-511 CA-512P CA-513 VCT-U14 (1)
Ikegami	HC-340 HC-300 HC-230 HC-240 HC-210 HC-390 LK-33 HDL-30MA HDL-37 HC-400 (1) HC-400W (1) HDL-37E HDL-10 HDL-40	VF15-21/22 VF-4523 VF15-39 VF15-46 (1) VF5040 (1) VF5040W (1)	MA-200/230 MA-200A (1) MA-400 (1) CCU-37 CCU-10	RCU-240 RCU-390 (1) RCU-400 (1) RCU-240A	—	CA-340 CA-300 CA-230 CA-390 CA-400 (1) CA-450 (1)

Company name	Camera heads	Viewfinder	Camera control unit	Operational control unit	Master control unit (*)	Camera adapters
Hitachi	HV-C10F Z-ONE (L) Z-ONE (H) Z-ONE Z-ONE A (L) Z-ONE A (H) Z-ONE A (F) Z-ONE A Z-ONE B (L)	GM-51 (1)	RC-C1 RC-C10 RU-C10 RU-Z1 (B) RU-Z1 (C) RU-Z1 RC-C11 RU-Z2 RC-Z1	—	—	CA-Z1HB CA-C10 CA-C10SP CA-C10SJA CA-C10M CA-C10B CA-Z1A (1) CA-Z31 (1) CA-Z32 (1) CA-ZD1 (1)
	Z-ONE B (H) Z-ONE B (F) Z-ONE B Z-ONE B (M) Z-ONE B (R) FP-C10 (B) FP-C10 (C) FP-C10 (D) FP-C10 (G) FP-C10 (L) FP-C10 (R) FP-C10 (S) FP-C10 (V) FP-C10 (F) FP-C10 FP-C10 A FP-C10 A (A) FP-C10 A (B) FP-C10 A (C) FP-C10 A (D) FP-C10 A (F) FP-C10 A (G) FP-C10 A (H) FP-C10 A (L) FP-C10 A (R) FP-C10 A (S) FP-C10 A (T) FP-C10 A (V) FP-C10 A (W) Z-ONE C (M) Z-ONE C (R) Z-ONE C (F) Z-ONE C HV-C20 HV-C20M Z-ONE-D Z-ONE-D (A) Z-ONE-D (B) Z-ONE-D (C) Z-ONE.DA (1) V-21 (1) V-21W (1)		RC-Z11 RC-Z2 RC-Z21 RC-Z2A (1) RC-Z21A (1) RU-Z3 (1) RC-Z3 (1)			
Matsushita	WV-F700 WV-F700A WV-F700SHE WV-F700ASHE WV-F700BHE WV-F700ABHE WV-F700MHE WV-F350	WV-VF65BE WV-VF40E WV-VF39E WV-VF65BE (*) WV-VF40E (*) WV-VF42E WV-VF65B AW-VF80	WV-RC700/B WV-RC700/G WV-RC700A/B WV-RC700A/G WV-RC36/B WV-RC36/G WV-RC37/B WV-RC37/G	—	—	WV-AD700SE WV-AD700ASE WV-AD700ME WV-AD250E WV-AD500E (*) AW-AD500AE AW-AD700BSE

Company name	Camera heads	Viewfinder	Camera control unit	Operational control unit	Master control unit (*)	Camera adapters
	WV-F350HE WV-F350E WV-F350AE WV-F350DE WV-F350ADE WV-F500HE (*) WV-F-565HE AW-F575HE AW-E600 AW-E800 AW-E800A AW-E650 AW-E655 AW-E750		WV-CB700E WV-CB700AE WV-CB700E (*) WV-CB700AE (*) WV-RC700/B (*) WV-RC700/G (*) WV-RC700A/B (*) WV-RC700A/G (*) WV-RC550/G WV-RC550/B WV-RC700A WV-CB700A WV-RC550 WV-CB550 AW-RP501 AW-RP505			
JVC	KY-35E KY-27ECH KY-19ECH KY-17FITECH KY-17BECH KY-F30FITE KY-F30BE KY-F560E KY-27CECH KH-100U KY-D29ECH KY-D29WECH (1)	VF-P315E VF-P550E VF-P10E VP-P115E VF-P400E VP-P550BE VF-P116 VF-P116WE (1) VF-P550WE (1)	RM-P350EG RM-P200EG RM-P300EG RM-LP80E RM-LP821E RM-LP35U RM-LP37U RM-P270EG RM-P210E	—	—	KA-35E KA-B35U KA-M35U KA-P35U KA-27E KA-20E KA-P27U KA-P20U KA-B27E KA-B20E KA-M20E KA-M27E
Olympus	MAJ-387N MAJ-387I		OTV-SX 2 OTV-S5 OTV-S6			
	Camera OTV-SX					

(*) Also called master set up unit (MSU) or master control panel (MCP).
(1) Models exempted under the condition that the corresponding triax system or triax-adapter is not sold on the Community market.'

COMMISSION REGULATION (EC) No 85/2005

of 20 January 2005

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

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Commission Regulation (EC) No 3223/94 of 21 December 1994 on detailed rules for the application of the import arrangements for fruit and vegetables [1], and in particular Article 4(1) thereof,

Whereas:

(1) Regulation (EC) No 3223/94 lays down, pursuant to the outcome of the Uruguay Round multilateral trade negotiations, the criteria whereby the Commission fixes the standard values for imports from third countries, in respect of the products and periods stipulated in the Annex thereto.

(2) In compliance with the above criteria, the standard import values must be fixed at the levels set out in the Annex to this Regulation,

HAS ADOPTED THIS REGULATION:

Article 1

The standard import values referred to in Article 4 of Regulation (EC) No 3223/94 shall be fixed as indicated in the Annex hereto.

Article 2

This Regulation shall enter into force on 21 January 2005.

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

Done at Brussels, 20 January 2005.

For the Commission

J. M. SILVA RODRÍGUEZ

Director-General for Agriculture and Rural Development

[1] OJ L 337, 24.12.1994, p. 66. Regulation as last amended by Regulation (EC) No 1947/2002 (OJ L 299, 1.11.2002, p. 17).

ANNEX

to Commission Regulation of 20 January 2005 establishing the standard import values for determining the entry price of certain fruit and vegetables

(EUR/100 kg)

CN code	Third country code (1)	Standard import value
0702 00 00	052	125,5
	204	91,6
	212	169,4
	248	157,0
	999	135,9
0707 00 05	052	137,0
	220	229,0
	999	183,0
0709 90 70	052	156,5
	204	158,2
	999	157,4
0805 10 20	052	54,8
	204	47,4
	212	51,1
	220	48,0
	448	35,9
	999	47,4
0805 20 10	204	64,5
	999	64,5
0805 20 30, 0805 20 50, 0805 20 70, 0805 20 90	052	66,6
	204	84,7
	400	77,7
	464	149,6
	624	76,6
	999	91,0
0805 50 10	052	54,1
	999	54,1
0808 10 80	400	104,1
	404	78,6
	720	61,3
	999	81,3
0808 20 50	388	100,7
	400	88,5
	720	59,5
	999	82,9

(1) Country nomenclature as fixed by Commission Regulation (EC) No 2081/2003 (OJ L 313, 28.11.2003, p. 11). Code '999' stands for 'of other origin'.

COMMISSION REGULATION (EC) No 86/2005

of 20 January 2005

fixing the representative prices and the additional import duties for molasses in the sugar sector applicable from 21 January 2005

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Council Regulation (EC) No 1260/2001 of 19 June 2001 on the common organisation of the market in sugar [1], and in particular Article 24(4) thereof,

Whereas:

(1) Commission Regulation (EC) No 1422/95 of 23 June 1995 laying down detailed rules of application for imports of molasses in the sugar sector and amending Regulation (EEC) No 785/68 [2], stipulates that the cif import price for molasses established in accordance with Commission Regulation (EEC) No 785/68 [3], is to be considered the representative price. That price is fixed for the standard quality defined in Article 1 of Regulation (EEC) No 785/68.

(2) For the purpose of fixing the representative prices, account must be taken of all the information provided for in Article 3 of Regulation (EEC) No 785/68, except in the cases provided for in Article 4 of that Regulation and those prices should be fixed, where appropriate, in accordance with the method provided for in Article 7 of that Regulation.

(3) Prices not referring to the standard quality should be adjusted upwards or downwards, according to the quality of the molasses offered, in accordance with Article 6 of Regulation (EEC) No 785/68.

(4) Where there is a difference between the trigger price for the product concerned and the representative price, additional import duties should be fixed under the terms laid down in Article 3 of Regulation (EC) No 1422/95. Should the import duties be suspended pursuant to Article 5 of Regulation (EC) No 1422/95, specific amounts for these duties should be fixed.

(5) The representative prices and additional import duties for the products concerned should be fixed in accordance with Articles 1(2) and 3(1) of Regulation (EC) No 1422/95.

(6) The measures provided for in this Regulation are in accordance with the opinion of the Management Committee for Sugar,

HAS ADOPTED THIS REGULATION:

Article 1

The representative prices and the additional duties applying to imports of the products referred to in Article 1 of Regulation (EC) No 1422/95 are fixed in the Annex hereto.

Article 2

This Regulation shall enter into force on 21 January 2005.

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

Done at Brussels, 20 January 2005.

For the Commission

J. M. SILVA RODRÍGUEZ

Director-General for Agriculture and Rural Development

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[1] OJ L 178, 30.6.2001, p. 1. Regulation as last amended by Commission Regulation (EC) No 39/2004 (OJ L 6, 10.1.2004, p. 16).

[2] OJ L 141, 24.6.1995, p. 12. Regulation as amended by Regulation (EC) No 79/2003 (OJ L 13, 18.1.2003, p. 4).

[3] OJ 145, 27.6.1968, p. 12. Regulation as amended by Regulation (EC) No 1422/95.

ANNEX

Representative prices and additional duties for imports of molasses in the sugar sector applicable from 21 January 2005

(EUR)

CN code	Amount of the representative price in 100 kg net of the product in question	Amount of the additional duty in 100 kg net of the product in question	Amount of the duty to be applied to imports in 100 kg net of the product in question because of suspension as referred to in Article 5 of Regulation (EC) No 1422/95 [1]
1703 10 00 [2]	10,32	—	0
1703 90 00 [2]	10,70	—	0

[1] This amount replaces, in accordance with Article 5 of Regulation (EC) No 1422/95, the rate of the Common Customs Tariff duty fixed for these products.
[2] For the standard quality as defined in Article 1 of amended Regulation (EEC) No 785/68.

COMMISSION REGULATION (EC) No 87/2005

of 20 January 2005

fixing the export refunds on white sugar and raw sugar exported in its unaltered state

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Council Regulation (EC) No 1260/2001 of 19 June 2001 on the common organisation of the markets in the sugar sector [1], and in particular the second subparagraph of Article 27(5) thereof,

Whereas:

(1) Article 27 of Regulation (EC) No 1260/2001 provides that the difference between quotations or prices on the world market for the products listed in Article 1(1)(a) of that Regulation and prices for those products within the Community may be covered by an export refund.

(2) Regulation (EC) No 1260/2001 provides that when refunds on white and raw sugar, undenatured and exported in its unaltered state, are being fixed account must be taken of the situation on the Community and world markets in sugar and in particular of the price and cost factors set out in Article 28 of that Regulation. The same Article provides that the economic aspect of the proposed exports should also be taken into account.

(3) The refund on raw sugar must be fixed in respect of the standard quality. The latter is defined in Annex I, point II, to Regulation (EC) No 1260/2001. Furthermore, this refund should be fixed in accordance with Article 28(4) of that Regulation. Candy sugar is defined in Commission Regulation (EC) No 2135/95 of 7 September 1995 laying down detailed rules of application for the grant of export refunds in the sugar sector [2]. The refund thus calculated for sugar containing added flavouring or colouring matter must apply to their sucrose content and, accordingly, be fixed per 1 % of the said content.

(4) In special cases, the amount of the refund may be fixed by other legal instruments.

(5) The refund must be fixed every two weeks. It may be altered in the intervening period.

(6) The first subparagraph of Article 27(5) of Regulation (EC) No 1260/2001 provides that refunds on the products referred to in Article 1 of that Regulation may vary according to destination, where the world market situation or the specific requirements of certain markets make this necessary.

(7) The significant and rapid increase in preferential imports of sugar from the western Balkan countries since the start of 2001 and in exports of sugar to those countries from the Community seems to be highly artificial.

(8) To prevent any abuse through the re-import into the Community of sugar products in receipt of an export refund, no refund should be set for all the countries of the western Balkans for the products covered by this Regulation.

(9) In view of the above and of the present situation on the market in sugar, and in particular of the quotations or prices for sugar within the Community and on the world market, refunds should be set at the appropriate amounts.

(10) The measures provided for in this Regulation are in accordance with the opinion of the Management Committee for Sugar,

HAS ADOPTED THIS REGULATION:

Article 1

The export refunds on the products listed in Article 1(1)(a) of Regulation (EC) No 1260/2001, undenatured and exported in the natural state, are hereby fixed to the amounts shown in the Annex hereto.

Article 2

This Regulation shall enter into force on 21 January 2005.

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

Done at Brussels, 20 January 2005.

For the Commission

Mariann FISCHER BOEL

Member of the Commission

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[1] OJ L 178, 30.6.2001, p. 1. Regulation as last amended by Commission Regulation (EC) No 39/2004 (OJ L 6, 10.1.2004, p. 16).

[2] OJ L 214, 8.9.1995, p. 16.

ANNEX

REFUNDS ON WHITE SUGAR AND RAW SUGAR EXPORTED WITHOUT FURTHER PROCESSING APPLICABLE FROM 21 JANUARY 2005

Product code	Destination	Unit of measurement	Amount of refund
1701 11 90 9100	S00	EUR/100 kg	36,57 (1)
1701 11 90 9910	S00	EUR/100 kg	36,57 (1)
1701 12 90 9100	S00	EUR/100 kg	36,57 (1)
1701 12 90 9910	S00	EUR/100 kg	36,57 (1)
1701 91 00 9000	S00	EUR/1 % of sucrose × 100 kg product net	0,3976
1701 99 10 9100	S00	EUR/100 kg	39,76
1701 99 10 9910	S00	EUR/100 kg	39,76
1701 99 10 9950	S00	EUR/100 kg	39,76
1701 99 90 9100	S00	EUR/1 % of sucrose × 100 kg of net product	0,3976

NB: The product codes and the 'A' series destination codes are set out in Commission Regulation (EEC) No 3846/87 (OJ L 366, 24.12.1987, p. 1).

The numeric destination codes are set out in Commission Regulation (EC) No 2081/2003 (OJ L 313, 28.11.2003, p. 11).

The other destinations are:

S00: all destinations (third countries, other territories, victualling and destinations treated as exports from the Community) with the exception of Albania, Croatia, Bosnia and Herzegovina, Serbia and Montenegro (including Kosovo, as defined in UN Security Council Resolution 1244 of 10 June 1999), the former Yugoslav Republic of Macedonia, save for sugar incorporated in the products referred to in Article 1(2)(b) of Council Regulation (EC) No 2201/96 (OJ L 297, 21.11.1996, p. 29).

(1) This amount is applicable to raw sugar with a yield of 92 %. Where the yield for exported raw sugar differs from 92 %, the refund amount applicable shall be calculated in accordance with Article 28(4) of Regulation (EC) No 1260/2001.

COMMISSION REGULATION (EC) No 88/2005

of 20 January 2005

fixing the export refunds on syrups and certain other sugar products exported in the natural state

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Council Regulation (EC) No 1260/2001 of 19 June 2001 on the common organisation of the markets in the sugar sector [1], and in particular the second subparagraph of Article 27(5) thereof,

Whereas:

(1) Article 27 of Regulation (EC) No 1260/2001 provides that the difference between quotations or prices on the world market for the products listed in Article 1(1)(d) of that Regulation and prices for those products within the Community may be covered by an export refund.

(2) Article 3 of Commission Regulation (EC) No 2135/95 of 7 September 1995 laying down detailed rules of application for the grant of export refunds in the sugar sector [2], provides that the export refund on 100 kilograms of the products listed in Article 1(1)(d) of Regulation (EC) No 1260/2001 is equal to the basic amount multiplied by the sucrose content, including, where appropriate, other sugars expressed as sucrose; the sucrose content of the product in question is determined in accordance with Article 3 of Commission Regulation (EC) No 2135/95.

(3) Article 30(3) of Regulation (EC) No 1260/2001 provides that the basic amount of the refund on sorbose exported in the natural state must be equal to the basic amount of the refund less one hundredth of the production refund applicable, pursuant to Commission Regulation (EC) No 1265/2001 of 27 June 2001 laying down detailed rules for the application of Council Regulation (EC) No 1260/2001 as regards granting the production refund on certain sugar products used in the chemical industry [3], to the products listed in the Annex to the last mentioned Regulation.

(4) According to the terms of Article 30(1) of Regulation (EC) No 1260/2001, the basic amount of the refund on the other products listed in Article 1(1)(d) of the said Regulation exported in the natural state must be equal to one-hundredth of an amount which takes account, on the one hand, of the difference between the intervention price for white sugar for the Community areas without deficit for the month for which the basic amount is fixed and quotations or prices for white sugar on the world market and, on the other, of the need to establish a balance between the use of Community basic products in the manufacture of processed goods for export to third countries and the use of third country products brought in under inward-processing arrangements.

(5) According to the terms of Article 30(4) of Regulation (EC) No 1260/2001, the application of the basic amount may be limited to some of the products listed in Article 1(1)(d) of the said Regulation.

(6) Article 27 of Regulation (EC) No 1260/2001 makes provision for setting refunds for export in the natural state of products referred to in Article 1(1)(f) and (g) and (h) of that Regulation; the refund must be fixed per 100 kilograms of dry matter, taking account of the export refund for products falling within CN code 1702 30 91 and for products referred to in Article 1(1)(d) of Regulation (EC) No 1260/2001 and of the economic aspects of the intended exports; in the case of the products referred to in the said Article (1)(f) and (g), the refund is to be granted only for products complying with the conditions in Article 5 of Regulation (EC) No 2135/95; for the products referred to in Article 1(1)(h), the refund shall be granted only for products complying with the conditions in Article 6 of Regulation (EC) No 2135/95.

(7) The abovementioned refunds must be fixed every month; they may be altered in the intervening period.

(8) The first subparagraph of Article 27(5) of Regulation (EC) No 1260/2001 provides that refunds on the products referred to in Article 1 of that Regulation may vary according to destination, where the world market situation or the specific requirements of certain markets make this necessary.

(9) The significant and rapid increase in preferential imports of sugar from the western Balkan countries since the start of 2001 and in exports of sugar to those countries from the Community seems to be highly artificial in nature.

[1] OJ L 178, 30.6.2001, p. 1. Regulation as last amended by Commission Regulation (EC) No 39/2004 (OJ L 6, 10.1.2004, p. 6).
[2] OJ L 214, 8.9.1995, p. 16.
[3] OJ L 178, 30.6.2001, p. 63.

(10) In order to prevent any abuses associated with the reimportation into the Community of sugar sector products that have qualified for export refunds, refunds for the products covered by this Regulation should not be fixed for all the countries of the western Balkans.

(11) In view of the above, refunds for the products in question should be fixed at the appropriate amounts.

(12) The measures provided for in this Regulation are in accordance with the opinion of the Management Committee for Sugar,

HAS ADOPTED THIS REGULATION:

Article 1

The export refunds on the products listed in Article 1(1)(d), (f), (g) and (h) of Regulation (EC) No 1260/2001, exported in the natural state, shall be set out in the Annex hereto to this Regulation.

Article 2

This Regulation shall enter into force on 21 January 2005.

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

Done at Brussels, 20 January 2005.

For the Commission
Mariann FISCHER BOEL
Member of the Commission

ANNEX

EXPORT REFUNDS ON SYRUPS AND CERTAIN OTHER SUGAR PRODUCTS EXPORTED WITHOUT FURTHER PROCESSING APPLICABLE FROM 21 JANUARY 2005

Product code	Destination	Unit of measurement	Amount of refund
1702 40 10 9100	S00	EUR/100 kg dry matter	39,76 (1)
1702 60 10 9000	S00	EUR/100 kg dry matter	39,76 (1)
1702 60 80 9100	S00	EUR/100 kg dry matter	75,54 (2)
1702 60 95 9000	S00	EUR/1 % sucrose × net 100 kg of product	0,3976 (3)
1702 90 30 9000	S00	EUR/100 kg dry matter	39,76 (1)
1702 90 60 9000	S00	EUR/1 % sucrose × net 100 kg of product	0,3976 (3)
1702 90 71 9000	S00	EUR/1 % sucrose × net 100 kg of product	0,3976 (3)
1702 90 99 9900	S00	EUR/1 % sucrose × net 100 kg of product	0,3976 (3) (4)
2106 90 30 9000	S00	EUR/100 kg dry matter	39,76 (1)
2106 90 59 9000	S00	EUR/1 % sucrose × net 100 kg of product	0,3976 (3)

NB: The product codes and the 'A' series destination codes are set out in Commission Regulation (EEC) No 3846/87 (OJ L 366, 24.12.1987, p. 1).

The numeric destination codes are set out in Commission Regulation (EC) No 2081/2003 (OJ L 313, 28.11.2003, p. 11).

The other destinations are defined as follows:

S00: all destinations (third countries, other territories, victualling and destinations treated as exports from the Community) with the exception of Albania, Croatia, Bosnia and Herzegovina, Serbia and Montenegro (including Kosovo as defined by the United Nations Security Council Resolution 1244 of 10 June 1999), the former Yugoslav Republic of Macedonia, except for sugar incorporated into the products referred to in Article 1(2)(b) of Council Regulation (EC) No 2201/96 (OJ L 297, 21.11.1996, p. 29).

(1) Applicable only to products referred to in Article 5 of Regulation (EC) No 2135/95.

(2) Applicable only to products referred to in Article 6 of Regulation (EC) No 2135/95.

(3) The basic amount is not applicable to syrups which are less than 85 % pure (Regulation (EC) No 2135/95). Sucrose content is determined in accordance with Article 3 of Regulation (EC) No 2135/95.

(4) The basic amount is not applicable to the product defined under point 2 of the Annex to Commission Regulation (EEC) No 3513/92 (OJ L 355, 5.12.1992, p. 12).

COMMISSION REGULATION (EC) No 89/2005

of 20 January 2005

fixing the maximum export refund for white sugar to certain third countries for the 17th partial invitation to tender issued within the framework of the standing invitation to tender provided for in Regulation (EC) No 1327/2004

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Council Regulation (EC) No 1260/2001 of 19 June 2001 on the common organisation of the markets in the sugar sector [1] and in particular the second indent of Article 27(5) thereof,

Whereas:

(1) Commission Regulation (EC) No 1327/2004 of 19 July 2004 on a standing invitation to tender to determine levies and/or refunds on exports of white sugar [2], for the 2004/2005 marketing year, requires partial invitations to tender to be issued for the export of this sugar to certain third countries.

(2) Pursuant to Article 9(1) of Regulation (EC) No 1327/2004 a maximum export refund shall be fixed, as the case may be, account being taken in particular of the state and foreseeable development of the Community and world markets in sugar, for the partial invitation to tender in question.

(3) The measures provided for in this Regulation are in accordance with the opinion of the Management Committee for Sugar,

HAS ADOPTED THIS REGULATION:

Article 1

For the 17th partial invitation to tender for white sugar issued pursuant to Regulation (EC) No 1327/2004 the maximum amount of the export refund shall be 42,899 EUR/100 kg.

Article 2

This Regulation shall enter into force on 21 January 2005.

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

Done at Brussels, 20 January 2005.

For the Commission
Mariann FISCHER BOEL
Member of the Commission

[1] OJ L 178, 30.6.2001, p. 1. Regulation as last amended by Commission Regulation (EC) No 39/2004 (OJ L 6, 10.1.2004, p. 16).
[2] OJ L 246, 20.7.2004, p. 23. Regulation as amended by Regulation (EC) No 1685/2004 (OJ L 303, 30.9.2004, p. 21).

COMMISSION REGULATION (EC) No 90/2005

of 20 January 2005

determining the world market price for unginned cotton

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Protocol 4 on cotton, annexed to the Act of Accession of Greece, as last amended by Council Regulation (EC) No 1050/2001 [1],

Having regard to Council Regulation (EC) No 1051/2001 of 22 May 2001 on production aid for cotton [2], and in particular Article 4 thereof,

Whereas:

(1) In accordance with Article 4 of Regulation (EC) No 1051/2001, a world market price for unginned cotton is to be determined periodically from the price for ginned cotton recorded on the world market and by reference to the historical relationship between the price recorded for ginned cotton and that calculated for unginned cotton. That historical relationship has been established in Article 2(2) of Commission Regulation (EC) No 1591/2001 of 2 August 2001 laying down detailed rules for applying the cotton aid scheme [3]. Where the world market price cannot be determined in this way, it is to be based on the most recent price determined.

(2) In accordance with Article 5 of Regulation (EC) No 1051/2001, the world market price for unginned cotton is to be determined in respect of a product of specific characteristics and by reference to the most favourable offers and quotations on the world market among those considered representative of the real market trend. To that end, an average is to be calculated of offers and quotations recorded on one or more European exchanges for a product delivered cif to a port in the Community and coming from the various supplier countries considered the most representative in terms of international trade. However, there is provision for adjusting the criteria for determining the world market price for ginned cotton to reflect differences justified by the quality of the product delivered and the offers and quotations concerned. Those adjustments are specified in Article 3(2) of Regulation (EC) No 1591/2001.

(3) The application of the above criteria gives the world market price for unginned cotton determined hereinafter,

HAS ADOPTED THIS REGULATION:

Article 1

The world price for unginned cotton as referred to in Article 4 of Regulation (EC) No 1051/2001 is hereby determined as equalling 18,242 EUR/100 kg.

Article 2

This Regulation shall enter into force on 21 January 2005.

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

Done at Brussels, 20 January 2005.

For the Commission

J. M. SILVA RODRÍGUEZ

Director-General for Agriculture and Rural Development

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[1] OJ L 148, 1.6.2001, p. 1.
[2] OJ L 148, 1.6.2001, p. 3.
[3] OJ L 210, 3.8.2001, p. 10. Regulation as amended by Regulation (EC) No 1486/2002 (OJ L 223, 20.8.2002, p. 3).

COMMISSION REGULATION (EC) No 91/2005

of 20 January 2005

applying a reduction coefficient to refund certificates for goods not covered by Annex I to the Treaty, as provided for by Article 8(5) of Regulation (EC) No 1520/2000

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Council Regulation (EC) No 3448/93 of 6 December 1993 laying down the trade arrangements applicable to certain goods resulting from the processing of agricultural products [1],

Having regard to Commission Regulation (EC) No 1520/2000 of 13 July 2000 laying down common detailed rules for the application of the system of granting export refunds on certain agricultural products exported in the form of goods not covered by Annex I to the Treaty and the criteria for fixing the amount of such refunds [2], and in particular Article 8(5) thereof,

Whereas:

(1) Member States' notifications pursuant to Article 8(2) of Regulation (EC) No 1520/2000 indicate that the total amount of applications received reaches EUR 220 145 448 while the available amount for the tranche of refund certificates as referred to in Article 8(4) of Regulation (EC) No 1520/2000 is EUR 71 047 745.

(2) A reduction coefficient shall be calculated on the basis of Article 8(3) and (4) of Regulation (EC) No 1520/2000. Such coefficient should therefore be applied to amounts requested in the form of refund certificates for use from 1 February 2005 as established in Article 8(6) of Regulation (EC) No 1520/2000,

HAS ADOPTED THIS REGULATION:

Article 1

The amounts for applications of refund certificates for use from 1 February 2005 are subject to a reduction coefficient of 0,678.

Article 2

This Regulation shall enter into force on 21 January 2005.

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

Done at Brussels, 20 January 2005.

For the Commission
Günter VERHEUGEN
Vice-President

[1] OJ L 318, 20.12.1993, p. 18. Regulation as last amended by Regulation (EC) No 2580/2000 (OJ L 298, 25.11.2000, p. 5).
[2] OJ L 177, 15.7.2000, p. 1. Regulation as last amended by Regulation (EC) No 886/2004 (OJ L 168, 1.5.2004, p. 14).

COMMISSION REGULATION (EC) No 92/2005

of 19 January 2005

implementing Regulation (EC) No 1774/2002 of the European Parliament and of the Council as regards means of disposal or uses of animal by-products and amending its Annex VI as regards biogas transformation and processing of rendered fats

(Text with EEA relevance)

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Regulation (EC) No 1774/2002 of the European Parliament and of the Council of 3 October 2002 laying down health rules concerning animal-by-products not intended for human consumption [1], and in particular Article 4(2)(e), Article 5(2)(g), Article 6(2)(i) and Article 32(1) thereof,

Whereas:

(1) Regulation (EC) No 1774/2002 provides for rules concerning the means of disposal and uses of animal by-products. It also provides for the possibility for additional means of disposal and uses of animal by-products to be approved following consultation of the appropriate scientific committee.

(2) The Scientific Steering Committee (SSC) issued an opinion on 10 and 11 April 2003 on six alternative processing methods for safe treatment and disposal of animal by-products. According to that opinion five processes are considered as safe for the disposal of and/or uses of Categories 2 and 3 material under certain conditions.

(3) The SSC issued a final opinion and report on 10 and 11 April 2003 on a treatment of animal waste by means of high temperature and high pressure alkaline hydrolysis, providing guidance on the possibilities to use alkaline hydrolysis and on its risks for the disposal of Categories 1, 2 and 3 material.

(4) The European Food Safety Authority (EFSA) issued an opinion on 26 and 27 November 2003 on the process of High Pressure Hydrolysis Biogas (HPHB) providing guidance on the possibilities to use this process and on its risks for the disposal of Category 1 material.

(5) Five processes may, therefore, be approved as alternative means for the disposal and/or uses of animal by-products in line with the SSC opinions, in addition to those processing methods already provided for by Regulation (EC) No 1774/2002. It is also appropriate to lay down the conditions for the use of those processes.

(6) The Commission has asked some of the applicants for approval of the processes to submit further information regarding the safety of their processes for the treatment and disposal of Category 1 material. That information is to be forwarded to the European Food Safety Authority for evaluation in due course.

(7) Pending that evaluation, and considering current SSC opinions that tallow is safe as regards TSE, especially if it is pressure-cooked and filtered to remove insoluble impurities, it is appropriate to approve one of the processes, which processes animal fat into biodiesel, also for treatment and disposal, under strict conditions, of most Category 1 material, except for the most risky. In that case, it should be made clear that the treatment and disposal may include the recovery of bioenergy.

(8) The approval and the operation of such alternative means should be without prejudice to other applicable EU legislation, in particular environmental legislation, and therefore the operating conditions established in this Regulation should, where applicable, be implemented according to Article 6 paragraph 4 of Directive 2000/76/EC of the European Parliament and of the Council of 4 December 2000 [2] on the incineration of waste.

(9) For processes approved for the treatment of Category 1 animal by-products, and as a surveillance measure complementary to the regular monitoring of processing parameters, the efficacy of the process, together with its safety with regard to animal and public health, should be demonstrated to the competent authorities by testing in a pilot plant during the first two years following the implementation of the process within each Member State concerned.

(10) It is appropriate to amend Annex VI, Chapters II and III of Regulation (EC) No 1774/2002 as a consequence of approving the transformation of Category 1 animal by-products.

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

[1] OJ L 273, 10.10.2002, p. 1. Regulation as last amended by Commission Regulation (EC) No 668/2004 (OJ L 112, 19.4.2004, p. 1).

[2] OJ L 332, 28.12.2000, p. 91.

HAS ADOPTED THIS REGULATION:

Article 1

Treatment and disposal of Category 1 material

1. The processes of alkaline hydrolysis as defined in Annex I and of high pressure hydrolysis biogas as defined in Annex III are approved and may be authorised by the competent authority for the treatment and disposal of Category 1 material.

2. The process of biodiesel production as defined in Annex IV is approved and may be authorised by the competent authority for the treatment and disposal of Category 1 material, except for material referred to in Article 4(1)(a)(i) and (ii) of Regulation (EC) No 1774/2002.

However, material derived from animals referred to in Article 4(1)(a)(ii) may be used for this process provided that:

(a) the animals were below 24 months of age at the time they were killed; or

(b) the animals were subjected to laboratory testing for the presence of a TSE pursuant to Regulation (EC) No 999/2001 of the European Parliament and of the Council [1] and the result of the testing was negative.

The competent authority may also authorise this process for the treatment and disposal of any Category 1 processed animal fat.

Article 2

Treatment and use or disposal of Categories 2 or 3 material

The processes of alkaline hydrolysis, high pressure high temperature hydrolysis, high pressure hydrolysis biogas, biodiesel production and Brookes gasification as defined in Annexes I to V respectively are approved and may be authorised by the competent authority for the treatment and use or disposal of Categories 2 or 3 material.

Article 3

Conditions for implementing the processes defined in Annexes I to V

The competent authority shall approve the plants which use one of the processes described in Annexes I to V once it has authorised the process, if the plant complies with the technical specifications and parameters in the relevant Annex, and with the conditions laid down in Regulation (EC) No 1774/2002, except for the technical specifications and parameters laid down in that Regulation for other processes. For this purpose the person responsible for the plant shall demonstrate to the competent authority that all technical specifications and parameters established in the relevant Annex are met.

Article 4

Marking and further disposal or use of resulting materials

1. Resulting materials shall be permanently marked, where technically possible with smell in accordance with Annex VI, Chapter I, point 8 of Regulation (EC) No 1774/2002.

However, in the case where the by-products being processed are exclusively Category 3 material, and where the resulting materials are not intended for disposal as waste, no such marking shall be required.

2. Materials resulting from the treatment of Category 1 material shall be disposed of as waste by:

(a) incineration or co-incineration in accordance with the provisions of Directive 2000/76/EC on the incineration of waste;

(b) burial in a landfill approved under Council Directive 1999/31/EC [2] on the landfill of waste; or

(c) further transformation in a biogas plant and disposal of the digestion residues as provided for in points (a) or (b).

3. Materials resulting from the treatment of Category 2 or 3 materials shall be:

(a) disposed of as waste as provided for in paragraph 2;

(b) further processed into fat derivatives for the uses mentioned in Article 5(2)(b)(ii) of Regulation (EC) No 1774/2002, without the prior use of processing methods 1 to 5; or

(c) used, transformed or disposed of directly as provided for in Article 5(2)(c)(i), (ii) and (iii) of Regulation (EC) No 1774/2002, without the prior use of processing method 1.

4. Any resulting waste, such as sludge, filter contents, ash and digestion residues, derived from the production process, shall be disposed of as provided for in paragraph 2, points (a) or (b).

[1] OJ L 147, 31.5.2001, p. 1.

[2] OJ L 182, 16.7.1999, p. 1.

Article 5

Additional surveillance on initial implementation

1. The following provisions shall apply for the first two years of implementation of the following processes in each Member State, for the treatment of animal by-products referred to in Article 4 of Regulation (EC) No 1774/2002:

(a) alkaline hydrolysis as defined in Annex I;

(b) high pressure hydrolysis biogas as defined in Annex III; and

(c) biodiesel production as defined in Annex IV.

2. The operator or supplier of the process shall designate a pilot plant in each Member State where, at least annually, tests shall be undertaken to reconfirm the efficacy of the process with regard to animal and public health.

3. The competent authority shall ensure that:

(a) suitable tests are applied in the pilot plant to the materials derived from the treatment steps, such as the liquid and solid residues, and any gas generated during the process; and

(b) the official control of the pilot plant include a monthly inspection of the plant and a verification of the processing parameters and conditions applied.

At the end of each of the two years the competent authority shall report to the Commission the results of the surveillance, and any practical operating difficulties encountered.

Article 6

Amendment of Annex VI of Regulation (EC) No 1774/2002

Chapters II and III of Annex VI of Regulation (EC) No 1774/2002 shall be amended as follows:

1. In Chapter II, point B, at the end of number 4, the following sentence is added:

   'However, resulting materials from the processing of Category 1 material may be transformed in a biogas plant, provided that the processing was done pursuant to an alternative method approved in accordance with Article 4(2)(e) and, except as otherwise specified, the biogas production is part of that alternative method and the resulting material is disposed of in accordance with the conditions laid down for the alternative method.'

2. At the end of Chapter III, the following sentence is added:

   'However, other processes may be used for further processing of animal fats derived from Category 1 material, provided these processes are approved as alternative method in accordance with Article 4(2)(e).'

Article 7

Entry into force and applicability

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

It shall apply no later than 1 January 2005.

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

Done at Brussels, 19 January 2005.

For the Commission
Markos KYPRIANOU
Member of the Commission

ANNEX I

ALKALINE HYDROLYSIS PROCESS

1. Alkaline hydrolysis means treatment of animal by-products under the following conditions:

   (a) Either a sodium hydroxide (NaOH) or potassium hydroxide (KOH) solution (or a combination thereof) is used in an amount that assures approximate molar equivalency to the weight, type and composition of the animal by-products to be digested.

   In the case of high fat in the animal by-products that neutralises the base, the added base is adjusted to the current fat content of the material.

   (b) The animal by-products and alkali mixture are heated to a core temperature of at least 150 °C and at a pressure (absolute) of at least 4 bars for at least:

   (i) three hours without interruption;

   (ii) six hours without interruption in case of treatment of animal by-products referred to in Article 4(1)(a)(i) and (ii) of Regulation (EC) No 1774/2002. However, material derived from animals referred to in Article 4(1)(a)(ii) may be processed in accordance with point 1(b)(i) provided that:

   — the animals were below 24 months of age at the time they were killed, or

   — the animals were subjected to laboratory testing for the presence of a TSE pursuant to Regulation (EC) No 999/2001 and the result of the testing was negative, or

   (iii) one hour without interruption in case of animal by-products consisting exclusively of fish or of poultry materials.

   (c) The process is carried out in a batch and the material in the vessel is constantly mixed; and

   (d) The animal by-products are treated in such a manner that the time-temperature-pressure requirements are achieved at the same time.

2. Animal by-products are placed in a steel alloy container. The measured amount of alkali is added either in solid form or as a solution as referred to in point 1(a). The vessel is closed and the content heated in accordance with point 1(b). The physical energy generated by a constant pumping action continually circulates the liquid material present in the vessel thereby aiding the digestion process until the tissues are dissolved and bones and teeth softened.

3. Following the treatment described above, resulting materials may be transformed in a biogas plant provided that:

   (a) Transformation in a biogas plant of material referred to in Article 4(1)(a) and (b) of Regulation (EC) No 1774/2002 and products derived therefrom takes place on the same site and in a closed system as the process described under points 1 and 2 above;

   (b) An appropriate gas clean-up system is in place to exclude contamination of the biogas with protein residues;

   (c) The biogas is combusted rapidly at a minimum of 900 °C, and followed by rapid chilling ('quenching').

ANNEX II

HIGH PRESSURE HIGH TEMPERATURE HYDROLYSIS PROCESS

1. High pressure high temperature hydrolysis process means treatment of animal by-products under the following conditions:

   (a) The animal by-products are heated to a core temperature of at least 180 °C for at least 40 minutes without interruption at a pressure (absolute) of at least 12 bar, heated by indirect steam application to the biolytic reactor;

   (b) The process is carried out in a batch and the material in the vessel is constantly mixed; and

   (c) The animal by-products are treated in such a manner that the time-temperature-pressure requirements are achieved at the same time.

2. The basis of the technology is a high pressure, high temperature steam reactor. At these elevated pressures and temperatures the phenomena of hydrolysis occurs which fractures long chain molecules of the organic material into smaller fragments.

   Animal by-products, including whole animal carcases are placed in a container ('biolytic reactor'). The vessel is closed and the content heated in accordance with point 1(a). In the dehydration cycle the steam water is condensed and may be used for other purposes or may be discarded. Each cycle for one reactor takes approximately four hours.

ANNEX III

HIGH PRESSURE HYDROLYSIS BIOGAS PROCESS

1. High pressure hydrolysis biogas process means treatment of animal by-products under the following conditions:

   (a) The animal by-products are first processed using processing method 1 in a processing plant approved in accordance with Regulation (EC) No 1774/2002;

   (b) Following the above process, the defatted materials are treated at a temperature of at least 220 °C for at least 20 minutes at a pressure (absolute) of at least 25 bar, heated in a two-step procedure, first by direct steam injection, secondly indirect in a coaxial heat exchanger;

   (c) The process is carried out in a batch or continuous system and the material is constantly mixed;

   (d) The animal by-products are treated in such a manner that the time-temperature-pressure requirements are achieved at the same time; and

   (e) The resulting material is then mixed with water and anaerobically fermented (biogas transformation) in a biogas reactor.

2. In case of treatment of Category 1 animal by-products:

   (a) The entire process takes place on the same site and in a closed system;

   (b) The biogas produced during the process is combusted rapidly in the same plant at a minimum of 900 °C followed by rapid chilling ('quenching'), and an appropriate gas clean-up system is in place to exclude contamination with protein residues of the biogas or the gases derived from its burning.

3. The process is designed to process material coming out of a conventional rendering plant using processing method 1. This material is treated in accordance with point (1) (b), subsequently mixed with water and submitted to biogas fermentation.

ANNEX IV

BIODIESEL PRODUCTION PROCESS

1. Biodiesel production means treatment of the fat fraction of animal by-products (animal fat) under the following conditions:

   (a) The fat fraction of animal by-products is first processed using:

      (i) processing method 1 as referred to in Annex V, Chapter III of Regulation (EC) No 1774/2002 in case of Category 1 or 2 materials; and

      (ii) any of the processing methods 1 to 5 or 7 or, in the case of material derived from fish, method 6 as referred to in Annex V, Chapter III of Regulation (EC) No 1774/2002 in case of Category 3 materials;

   (b) The processed fat is separated from the protein and insoluble impurities are removed to a level not exceeding 0,15 % in weight, and subsequently submitted to esterfication and transesterfication. However, esterfication is not required for Category 3 processed fat. For esterfication the pH is reduced to less than 1 by adding sulphuric acid (H_2SO_4; 1,2-2 molar) or an equivalent acid and the mixture is heated to 72 °C for 2 hours during which it is intensely mixed. Transesterfication shall be carried out by increasing the pH to about 14 with 15 % potassium hydroxide (KOH; 1-3 molar) or with an equivalent base at 35 °C to 50 °C for at least 15 to 30 minutes. Transesterfication shall be carried out twice under the conditions described above using a new base solution. This process is followed by refinement of the products including vacuum distillation at 150 °C, leading to biodiesel;

   (c) In case of biodiesel resulting from the treatment of Category 1 material an appropriate gas clean-up system shall be in place to exclude emission of possible non-combusted protein residues when the biodiesel is combusted.

2. Animal fat is processed for the production of biodiesel consisting of methyl esters of fatty acids. This is achieved by submitting the fat to esterfication and/or transesterfication. Subsequent refinement of the products including vacuum distillation leads to biodiesel, which is used as fuel for combustion.

ANNEX V

BROOKES GASIFICATION PROCESS

1. Brookes gasification process means treatment of animal by-products under the following conditions:

   (a) The afterburner chamber is warmed up using natural gas.

   (b) The animal by-products are loaded into the primary chamber of the gasificator and the door is closed. The primary chamber has no burners and is heated instead by the transfer of heat by conduction from the afterburner, which is underneath the primary chamber. The only air admitted to the primary chamber is via three inlet valves mounted on the main door to enhance the efficiency of the process.

   (c) The animal by-products are volatilised into complex hydrocarbons and the resultant gases pass from the primary chamber via a narrow opening at the top of the back wall to the mixing and cracking zones, where they are broken down into their constituent elements. Finally the gases pass into the afterburner chamber where they are burned in the flame of a natural gas fired burner in the presence of excess air.

   (d) Each process unit has two burners and two secondary air fans for back-up in case of burner or fan failure. The secondary chamber is designed to give a minimum residence time of two seconds at a temperature of at least 950 °C under all conditions of combustion.

   (e) On leaving the secondary chamber the exhaust gases pass through a barometric damper at the base of the stack, which cools and dilutes them with ambient air, maintaining a constant pressure in the primary and secondary chambers.

   (f) The process is carried out over a 24-hour cycle, which includes loading, processing, cool down and ash removal. At the end of the cycle the residual ash is removed from the primary chamber by a vacuum extraction system into enclosed bags, which are then sealed before being transported off-site for disposal.

2. The process employs high temperature combustion in excess oxygen to oxidise organic matter to CO_2, NO_2 and H_2O. A batch process is used with a prolonged residence time for the animal by-products of around 24hrs. The source of heat is a secondary chamber fired by natural gas, which is underneath the primary chamber (in which the tissue to be processed is placed). The gases produced as a result of the combustion process enter the secondary chamber where they are further oxidised. The gas stream has a minimum residence time of two seconds at a recommended temperature of 950 degrees centigrade. Subsequently the gases pass through a 'barometric damper' where they are mixed with ambient air.

3. The gasification of other material than animal by-products is not permitted.

COMMISSION REGULATION (EC) No 93/2005

of 19 January 2005

amending Regulation (EC) No 1774/2002 of the European Parliament and of the Council as regards processing of animal by-products of fish origin and commercial documents for the transportation of animal by-products

(Text with EEA relevance)

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Regulation (EC) No 1774/2002 of the European Parliament and of the Council of 3 October 2002 laying down health rules concerning animal by-products not intended for human consumption [1], and in particular Article 32(1) thereof,

Whereas:

(1) Annex V, Chapter III of Regulation (EC) No 1774/2002 sets out the processing methods for animal by-products. For animal by-products of fish origin processing method 6 is provided for in that Chapter but the processing parameters are not specified.

(2) The Scientific Steering Committee has issued a number of opinions addressing the safety of animal by-products including fish. According to those opinions the risk of transmissible spongiform encephalopathies (TSEs) arising from animal by-products of fish origin is negligible.

(3) The Scientific Committee on Animal Health and Animal Welfare adopted a report on the use of fish by-products in aquaculture at its meeting of 26 February 2003.

(4) It is appropriate to lay down the requirements for the processing of animal by-products of fish origin in line with those opinions and reports.

(5) It is appropriate to lay down different processing methods for materials likely to contain high or low numbers of pathogens, excluding bacterial spores.

(6) Annex II, Chapter III of Regulation (EC) No 1774/2002 provides for a commercial document to accompany animal by-products and processed products during transportation. It is appropriate to lay down a model for that commercial document.

(7) Regulation (EC) No 1774/2002 should therefore be amended accordingly.

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

HAS ADOPTED THIS REGULATION:

Article 1

Annexes V and II to Regulation (EC) No 1774/2002 are amended in accordance with the Annex to this Regulation.

Article 2

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 2005.

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

Done at Brussels, 19 January 2005.

For the Commission
Markos KYPRIANOU
Member of the Commission

[1] OJ L 273, 10.10.2002, p. 1. Regulation as last amended by Commission Regulation (EC) No 668/2004 (OJ L 112, 19.4.2004, p. 1).

ANNEX

Annexes V and II to Regulation (EC) No 1774/2002 are amended as follows:

(1) In Annex V, Chapter III, Method 6 is replaced by the following:

'Method 6

(For Category 3 animal by-products of fish origin only)

Reduction

1. The animal by-products must be reduced to at least:

   (a) 50 mm in case of heat treatment in accordance with paragraph 2(a); or

   (b) 30 mm in case of heat treatment in accordance with paragraph 2(b).

   They must then be mixed with formic acid to reduce and maintain the pH to 4,0 or lower. The mixture must be stored for at least 24 hours pending further treatment.

Time and temperature

2. Following reduction, the mixture must be heated to:

   (a) a core temperature of at least 90 °C for at least 60 minutes; or

   (b) a core temperature of at least 70 °C for at least 60 minutes.

   When using a continuous flow system, the progression of the product through the heat converter must be controlled by means of mechanical commands limiting its displacement in such a way that at the end of the heat treatment operation the product has undergone a cycle which is sufficient in both time and temperature.'

(2) In Annex II, the following Chapter is added as Chapter X:

'CHAPTER X

Commercial document

1. The following commercial document shall accompany animal by-products and processed products during transportation. However, Member States may decide to use a different commercial document for animal by-products and processed products transported within the same Member State.

2. Where more than one transporter is involved, each transporter shall fill in a declaration as referred to in point 7 of the commercial document, which shall be part of the document.

MODEL COMMERCIAL DOCUMENT FOR THE TRANSPORTATION WITHIN THE EUROPEAN COMMUNITY OF ANIMAL BY-PRODUCTS AND PROCESSED PRODUCTS

Notes:

(a) Commercial documents shall be produced, according to the layout of the model appearing in this Annex. It shall contain, in the numbered order that appears in the model, the attestations that are required for the transportation of animal by-products and processed products derived therefrom.

(b) It shall be drawn up in one of the official languages of the EU Member State of origin or the EU Member State of destination, as appropriate. However, it may also be drawn up in other EU languages, if accompanied by an official translation or if previously agreed by the competent authority of the Member State of destination.

(c) The commercial document must be produced at least in triplicate (one original and two copies). The original must accompany the consignment to its final destination. The receiver must retain it. The producer must retain one of the copies and the carrier the other.

(d) The original of each commercial document shall consist of a single page, both sides, or, where more text is required it shall be in such a form that all pages needed are part of an integrated whole and indivisible.

(e) If, for reasons of identification of the items of the consignment, additional pages are attached to the document, these pages shall also be considered as forming part of the original of the document by the application of the signature of the responsible person, in each of the pages.

(f) When the document, including additional pages referred to in (e), comprises more than one page, each page shall be numbered — (*page number*) of (*total number of pages*) — at the bottom and shall bear the code number of the document that has been designated by the responsible person at the top.

(g) The original of the document must be completed and signed by the responsible person. In doing so, the responsible person shall ensure that the principles of documentation as laid down in Annex II, Chapter III of Regulation (EC) No 1774/2002 are followed. The commercial document must specify:

— the date on which the material was taken from the premises,

— the description of the material, including the identification of the material, the animal species for Category 3 material and processed products derived therefrom destined for use as feed material and, if applicable, the ear-tag number,

— the quantity of the material,

— the place of origin of the material,

— the name and the address of the carrier,

— the name and the address of the receiver and, if applicable, its approval number, and

— if appropriate, the approval number of the plant of origin, and the nature and the methods of the treatment.

(h) The colour of the signature of the responsible person shall be different to that of the printing.

(i) The commercial document must be kept for a period of at least two years for presentation to the competent authority to verify the records referred to in Article 9 of Regulation (EC) No 1774/2002.

COMMERCIAL DOCUMENT

For the transportation within the European Community of animal by-products and processed products not intended for human consumption in accordance with Regulation (EC) No 1774/2002 [1]

Note for the transporters: This document must accompany the consignment [2] from the place of loading for dispatch until it reaches the point of destination.

1.	**Consignor** (sender's name and address in full and, if appropriate, approval number of the plant of origin of the material)		**Document reference number** [3] ..... **Total number of pages of this document:** ..... **Date (on which the material was taken from the premises):** ....
2.	**Consignee** (receiver's name and address in full and, if appropriate, approval number of the plant of destination of the material)	3.	**Place of loading for dispatch** (address in full if different from point 1 and if appropriate approval number of the plant of origin of the material) ....
4.	**Carrier, means of transport, quantity and identification of consignment**	4.5.	Nature of packaging .....
4.1.	Carrier (name and address in full):	4.6.	Number of packages per Category of animal by-products: ....
4.2.	Lorry, rail-wagon, ship or aircraft [4]	4.7.	Quantity [5]: .....
4.3.	Registration number(s), ship name or flight number:	4.8.	Container number if applicable ....
4.4.	Number of seal (if applicable):	4.9.	Lot/batch production reference number: ....

5.	**Description of the animal by-products and processed products derived therefrom**
5.1.	(a) Animal by-products (unprocessed) of Category [6]: .....
	(b) Processed products of Category [6]: .....
	(c) Animal species for Category 3 material and processed products derived therefrom destined for use as feed material
	(d) If applicable, the ear-tag number: .....
5.2.	In the case of Category 3 materials and processed products derived therefrom destined for use as feed:
	(a) In the case of animal by-products for use as raw petfood, describe the nature of the animal by-products [7]: .....
	(b) If appropriate, describe the nature and the methods of the treatment .....
5.3.	In the case of Category 2 or 3 materials and processed products derived therefrom destined for use under the derogation in Article 23, describe the nature of the animal by-products [6] .....
5.4.	Marker(s) used (if applicable): ....

6. **Declaration by the consignor**

I, the undersigned, declare that:

6.1. A label attached to the container/carton/other packaging material carries the following indication [4]:

(a) the Category of the animal by-products [6]: .....

.....

.....

(b) in the case of processed products, the Category of animal by-products from which the processed products were derived [6]: .....

.....

.....

(c) (i) in the case of Category 3 material, the words 'not for human consumption';

(ii) in the case of Category 2 material, other than manure and digestive tract content and processed products derived therefrom, the words 'not for animal consumption';

(iii) in the case of Category 2 material intended for feeding of animals referred to in point (c) of Article 23(2) under the conditions provided for in that Article of Regulation (EC) No 1774/2002, the words 'for feeding to…' completed with the name of the specific species of those animal(s) for the feeding of which the material is intended;

(iv) in the case of manure and digestive tract content, the word 'manure'; or

(v) in the case of Category 1 material and processed products derived therefrom, the words 'for disposal only'

6.2. In the case where the packaging is done by the consignor the animal by-products and/or processed products are:

either [4] [in sealed new packaging;]

or [4] [transported in bulk in covered leak-proof containers or vehicles or other means of transport that were thoroughly cleaned and disinfected before use]

6.3. The animal by-products and/or processed products were stored properly prior to loading and dispatch

6.4. All precautions have been taken to avoid contamination of the animal by-products or processed products with pathogenic agents and cross-contamination between various Categories

Signature

Done at ..... on .....
(place) *(date)*

.....
(signature of the responsible person/consignor) [8]

.....
(name, in capital letters)

7. **Declaration by the transporter**

I, the undersigned, declare that:

7.1. In the case where the packaging is done by the transporter, the animal by-products and/or processed products are:

either(4) [in sealed new packaging;]

or(4) [transported in bulk in covered leak-proof containers or vehicles or other means of transport that were thoroughly cleaned and disinfected before and after transportation of the given consignment]

7.2. All precautions have been taken:

— to avoid contamination of the animal by-products or processed products with pathogenic agents and cross-contamination between various Categories during transportation, and

— to ensure transportation under appropriate temperature to avoid risk to animal or public health

Signature

Done at ..... on .....
(place) *(date)*

.....
(signature of the responsible person/transporter)(8)

.....
(name, in capital letters)

Notes:

(1) OJ L 273, 10.10.2002, p. 1.

(2) 'Consignment' means 'a quantity of products of the same type, which may contain different Categories of animal by-products, coming from the same consignor and covered by the same commercial document conveyed by the same means of transport to the same recipient'.

(3) Reference number issued by the responsible person for purpose of traceability.

(4) Delete as appropriate.

(5) Where the consignment is made of more than one Category, please indicate the quantity and if applicable the number of containers per Category of materials.

(6) Describe the type of animal by-products and/or processed products (e.g. rendered fats, processed animal protein, etc) and enter 1, 2 or 3 to indicate whether they are Categories 1, 2 and/or 3 materials.

(7) In the case of animal by-products for use in raw petfood or in feed for farmed fur animals please specify whether the animal by-products derive from:

Article 6(1)(a): i.e. parts of slaughtered animals, which were fit for human consumption in accordance with Community legislation, but are not intended for human consumption for commercial reasons, or

Article 6(1)(b): i.e. parts of slaughtered animals, which are rejected as unfit for human consumption but are not affected by any signs of diseases communicable to humans or animals and derive from carcasses that are fit for human consumption in accordance with Community legislation.

(8) The signature must be in a different colour to that of the printing.'

COMMISSION REGULATION (EC) No 94/2005

of 20 January 2005

on the issue of import licences for rice originating in the ACP States and the overseas countries and territories against applications submitted in the first five working days of January 2005 pursuant to Regulation (EC) No 638/2003

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Council Regulation (EC) No 2286/2002 of 10 December 2002 on the arrangements applicable to agricultural products and goods resulting from the processing of agricultural products originating in the African, Caribbean and Pacific States (ACP States) and repealing Regulation (EC) No 1706/98 [1],

Having regard to Council Decision 2001/822/EC of 27 November 2001 on the association of the overseas countries and territories with the European Community (Overseas Association Decision) [2],

Having regard to Commission Regulation (EC) No 638/2003 of 9 April 2003 laying down detailed rules for applying Council Regulation (EC) No 2286/2002 and Council Decision 2001/822/EC as regards the arrangements applicable to imports of rice originating in the African, Caribbean and Pacific States (ACP States) and the overseas countries and territories (OCT) [3], and in particular Article 17(2) thereof,

Whereas:

Examination of the quantities for which applications have been submitted shows that licences for the January 2005 tranche should be issued for the quantities applied for reduced, where appropriate, by the percentages not covered and fixing the quantities carried over to the subsequent tranche,

HAS ADOPTED THIS REGULATION:

Article 1

1. Import licences for rice against applications submitted during the first five working days of January 2005 pursuant to Regulation (EC) No 638/2003 and notified to the Commission shall be issued for the quantities applied for reduced, where appropriate, by the percentages set out in the Annex hereto.

2. The available quantities carried over to the subsequent tranche are set out in the Annex hereto.

Article 2

This Regulation shall enter into force on 21 January 2005.

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

Done at Brussels, 20 January 2005.

For the Commission
J. M. SILVA RODRÍGUEZ
Director-General for Agriculture and Rural Development

[1] OJ L 348, 21.12.2002, p. 5.
[2] OJ L 314, 30.11.2001, p. 1.
[3] OJ L 93, 10.4.2003, p. 3.

ANNEX

Reduction percentages to be applied to quantities applied for under the tranche for January 2005 and quantities carried over to the subsequent tranche

Origin/product	Reduction percentage		Quantity carried over to the tranche for May 2005 (t)	
	Netherlands Antilles and Aruba	Least-developed OCTs	Netherlands Antilles and Aruba	Least-developed OCTs
OCT (Article 10(1)(a) and (b) of Regulation (EC) No 638/2003) — CN code 1006	0	0	3 327,727	3 334

Origin/product	Reduction percentage	Quantity carried over to the tranche for May 2005 (t)
ACP (Article 3(1) of Regulation (EC) No 638/2003) — CN codes 1006 10 21 to 1006 10 98, 1006 20 and 1006 30	71,4487	—
ACP (Article 5(1) of Regulation (EC) No 638/2003) — CN codes 1006 40 00	0	4 810

COMMISSION REGULATION (EC) No 95/2005

of 20 January 2005

fixing the rates of refunds applicable to certain products from the sugar sector exported in the form of goods not covered by Annex I to the Treaty

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Council Regulation (EC) No 1260/2001 of 19 June 2001 on the common organisation of the market in sugar [1], and in particular Article 27(5)(a) and (15),

Whereas:

(1) Article 27(1) and (2) of Regulation (EEC) No 1260/2001 provides that the differences between the prices in international trade for the products listed in Article 1(1)(a), (c), (d), (f), (g) and (h) of that Regulation and prices within the Community may be covered by an export refund where these products are exported in the form of goods listed in Annex V to that Regulation. Commission Regulation (EC) No 1520/2000 of 13 July 2000 laying down common implementing rules for granting export refunds on certain agricultural products exported in the form of goods not covered by Annex I to the Treaty and the criteria for fixing the amount of such refunds [2] specifies the products for which a rate of refund should be fixed, to be applied where these products are exported in the form of goods listed in Annex I to Regulation (EC) No 1260/2001.

(2) In accordance with Article 4(1) of Regulation (EC) No 1520/2000, the rate of the refund per 100 kg for each of the basic products in question must be fixed for each month.

(3) Article 27(3) of Regulation (EC) No 1260/2001 lays down that the export refund for a product contained in a good may not exceed the refund applicable to that product when exported without further processing.

(4) The refunds fixed under this Regulation may be fixed in advance as the market situation over the next few months cannot be established at the moment.

(5) The commitments entered into with regard to refunds which may be granted for the export of agricultural products contained in goods not covered by Annex I to the Treaty may be jeopardised by the fixing in advance of high refund rates. It is therefore necessary to take precautionary measures in such situations without, however, preventing the conclusion of long-term contracts. The fixing of a specific refund rate for the advance fixing of refunds is a measure which enables these various objectives to be met.

(6) In accordance with Council Regulation (EC) No 1676/2004 of 24 September 2004 adopting autonomous and transitional measures concerning the importation of certain processed agricultural products originating in Bulgaria and the exportation of certain processed agricultural products to Bulgaria [3] with effect from 1 October 2004, processed agricultural products not listed in Annex I to the Treaty which are exported to Bulgaria are not eligible for export refunds.

(7) The measures provided for in this Regulation are in accordance with the opinion of the Management Committee for Sugar,

HAS ADOPTED THIS REGULATION:

Article 1

The rates of the refunds applicable to the basic products listed in Annex A to Regulation (EC) No 1520/2000 and in Article 1(1) and (2) of Regulation (EC) No 1260/2001, and exported in the form of goods listed in Annex V to Regulation (EC) No 1260/2001, are fixed as set out in the Annex to this Regulation.

Article 2

By way of derogation from Article 1 and with effect from 1 October 2004, the rates set out in the Annex shall not be applicable to goods not covered by Annex I to the Treaty when exported to Bulgaria.

Article 3

This Regulation shall enter into force on 21 January 2005.

[1] OJ L 178, 30.6.2001, p. 1. Regulation as last amended by Commission Regulation (EC) No 39/2004 (OJ L 6, 10.1.2004, p. 16).

[2] OJ L 177, 15.7.2000, p. 1. Regulation as last amended by Regulation (EC) No 886/2004 (OJ L 168, 1.5.2004, p. 14).

[3] OJ L 301, 28.9.2004, p. 1.

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

Done at Brussels, 20 January 2005.

For the Commission
Günter VERHEUGEN
Vice-President

ANNEX

Rates of refunds applicable from 21 January 2005 to certain products from the sugar sector exported in the form of goods not covered by Annex I to the Treaty

CN code	Description	Rate of refund in EUR/100 kg	
		In case of advance fixing of refunds	Other
1701 99 10	white sugar	39,76	39,76

COMMISSION REGULATION (EC) No 96/2005

of 20 January 2005

fixing the maximum export refund on barley in connection with the invitation to tender issued in Regulation (EC) No 1757/2004

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Council Regulation (EC) No 1784/2003 of 29 September 2003 on the common organisation of the market in cereals [1], and in particular Article 13(3) thereof,

Whereas:

(1) An invitation to tender for the refund for the export of barley to certain third countries was opened pursuant to Commission Regulation (EC) No 1757/2004 [2].

(2) In accordance with Article 7 of Commission Regulation (EC) No 1501/95 of 29 June 1995 laying down certain detailed rules for the application of Council Regulation (EEC) No 1766/92 on the granting of export refunds on cereals and the measures to be taken in the event of disturbance on the market for cereals [3], the Commission may, on the basis of the tenders notified, decide to fix a maximum export refund taking account of the criteria referred to in Article 1 of Regulation (EC) No 1501/95. In that case a contract is awarded to any tenderer whose bid is equal to or lower than the maximum refund.

(3) The application of the abovementioned criteria to the current market situation for the cereal in question results in the maximum export refund being fixed.

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

HAS ADOPTED THIS REGULATION:

Article 1

For tenders notified on 14 to 20 January 2005, pursuant to the invitation to tender issued in Regulation (EC) No 1757/2004, the maximum refund on exportation of barley shall be 17,97 EUR/t.

Article 2

This Regulation shall enter into force on 21 January 2005.

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

Done at Brussels, 20 January 2005.

For the Commission
Mariann FISCHER BOEL
Member of the Commission

[1] OJ L 270, 21.10.2003, p. 78.
[2] OJ L 313, 12.10.2004, p. 10.
[3] OJ L 147, 30.6.1995, p. 7. Regulation as last amended by Regulation (EC) No 777/2004 (OJ L 123, 27.4.2004, p. 50).

COMMISSION REGULATION (EC) No 97/2005

of 20 January 2005

concerning tenders notified in response to the invitation to tender for the export of oats issued in Regulation (EC) No 1565/2004

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Council Regulation (EC) No 1784/2003 of 29 September 2003 on the common organisation of the market in cereals [1], and in particular Article 7 thereof,

Having regard to Commission Regulation (EC) No 1501/95 of 29 June 1995 laying down certain detailed rules for the application of Council Regulation (EEC) No 1766/92 on the granting of export refunds on cereals and the measures to be taken in the event of disturbance on the market for cereals [2], and in particular Article 7 thereof,

Having regard to Commission Regulation (EC) No 1565/2004 of 3 September 2004 on a special intervention measure for cereals in Finland and Sweden for the 2004/2005 marketing year [3],

Whereas:

(1) An invitation to tender for the refund for the export of oats produced in Finland and Sweden for export from Finland and Sweden to all third countries, with the exception of Bulgaria, Norway, Romania and Switzerland was opened pursuant to Regulation (EC) No 1565/2004.

(2) On the basis of the criteria laid down in Article 1 of Regulation (EC) No 1501/95, a maximum refund should not be fixed.

(3) The measures provided for in this Regulation are in accordance with the opinion of the Management Committee for Cereals,

HAS ADOPTED THIS REGULATION:

Article 1

No action shall be taken on the tenders notified from 14 to 20 January 2005 in response to the invitation to tender for the refund for the export of oats issued in Regulation (EC) No 1565/2004.

Article 2

This Regulation shall enter into force on 21 January 2005.

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

Done at Brussels, 20 January 2005.

For the Commission
Mariann FISCHER BOEL
Member of the Commission

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[1] OJ L 270, 21.10.2003, p. 78.
[2] OJ L 147, 30.6.1995, p. 7. Regulation as last amended by Regulation (EC) No 1431/2003 (OJ L 203, 12.8.2003, p. 16).
[3] OJ L 285, 4.9.2004, p. 3.

COMMISSION REGULATION (EC) No 98/2005

of 20 January 2005

concerning tenders notified in response to the invitation to tender for the import of sorghum issued in Regulation (EC) No 2275/2004

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Council Regulation (EC) No 1784/2003 of 29 September 2003, on the common organisation of the market in cereals [1], and in particular Article 12(1) thereof,

Whereas:

(1) An invitation to tender for the maximum reduction from third countries in the duty on sorghum imported into Spain was opened pursuant to Commission Regulation (EC) No 2275/2004 [2].

(2) Article 7 of Commission Regulation (EC) No 1839/95 [3], allows the Commission to decide, in accordance with the procedure laid down in Article 25 of Regulation (EC) No 1784/2003 and on the basis of the tenders notified to make no award.

(3) On the basis of the criteria laid down in Articles 6 and 7 of Regulation (EC) No 1839/95 a maximum reduction in the duty should not be fixed.

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

HAS ADOPTED THIS REGULATION:

Article 1

No action shall be taken on the tenders notified from 14 to 20 January 2005 in response to the invitation to tender for the reduction in the duty on imported sorghum issued in Regulation (EC) No 2275/2004.

Article 2

This Regulation shall enter into force on 21 January 2005.

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

Done at Brussels, 20 January 2005.

For the Commission
Mariann FISCHER BOEL
Member of the Commission

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[1] OJ L 270, 21.10.2003, p. 78.
[2] OJ L 396, 31.12.2004, p. 32.
[3] OJ L 177, 28.7.1995, p. 4. Regulation as last amended by Regulation (EC) No 777/2004 (OJ L 123, 27.4.2004, p. 50).

COMMISSION REGULATION (EC) No 99/2005

of 20 January 2005

fixing the maximum reduction in the duty on maize imported in connection with the invitation to tender issued in Regulation (EC) No 2277/2004

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Council Regulation (EC) No 1784/2003 of 29 September 2003 on the common organisation of the market in cereals [1], and in particular Article 12(1) thereof,

Whereas:

(1) An invitation to tender for the maximum reduction in the duty on maize imported into Spain from third countries was opened pursuant to Commission Regulation (EC) No 2277/2004 [2].

(2) Pursuant to Article 7 of Commission Regulation (EC) No 1839/95 [3] the Commission, acting under the procedure laid down in Article 25 of Regulation (EC) No 1784/2003, may decide to fix maximum reduction in the import duty. In fixing this maximum the criteria provided for in Articles 6 and 7 of Regulation (EC) No 1839/95 must be taken into account. A contract is awarded to any tenderer whose tender is equal to or less than the maximum reduction in the duty.

(3) The application of the abovementioned criteria to the current market situation for the cereal in question results in the maximum reduction in the import duty being fixed at the amount specified in Article 1.

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

HAS ADOPTED THIS REGULATION:

Article 1

For tenders notified from 14 to 20 January 2005, pursuant to the invitation to tender issued in Regulation (EC) No 2277/2004, the maximum reduction in the duty on maize imported shall be 32,80 EUR/t and be valid for a total maximum quantity of 83 100 t.

Article 2

This Regulation shall enter into force on 21 January 2005.

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

Done at Brussels, 20 January 2005.

For the Commission
Mariann FISCHER BOEL
Member of the Commission

[1] OJ L 270, 21.10.2003, p. 78.
[2] OJ L 396, 31.12.2004, p. 35.
[3] OJ L 177, 28.7.1995, p. 4. Regulation as last amended by Regulation (EC) No 777/2004 (OJ L 123, 27.4.2004, p. 50).

COMMISSION REGULATION (EC) No 100/2005

of 20 January 2005

fixing the maximum reduction in the duty on maize imported in connection with the invitation to tender issued in Regulation (EC) No 2276/2004

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Council Regulation (EC) No 1784/2003 of 29 September 2003 on the common organisation of the market in cereals [1], and in particular Article 12(1) thereof,

Whereas:

(1) An invitation to tender for the maximum reduction in the duty on maize imported into Portugal from third countries was opened pursuant to Commission Regulation (EC) No 2276/2004 [2].

(2) Pursuant to Article 7 of Commission Regulation (EC) No 1839/95 [3], the Commission, acting under the procedure laid down in Article 25 of Regulation (EC) No 1784/2003, may decide to fix maximum reduction in the import duty. In fixing this maximum the criteria provided for in Articles 6 and 7 of Regulation (EC) No 1839/95 must be taken into account. A contract is awarded to any tenderer whose tender is equal to or less than the maximum reduction in the duty.

(3) The application of the abovementioned criteria to the current market situation for the cereal in question results in the maximum reduction in the import duty being fixed at the amount specified in Article 1.

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

HAS ADOPTED THIS REGULATION:

Article 1

For tenders notified from 14 to 20 January 2005, pursuant to the invitation to tender issued in Regulation (EC) No 2276/2004, the maximum reduction in the duty on maize imported shall be 30,90 EUR/t and be valid for a total maximum quantity of 6 450 t.

Article 2

This Regulation shall enter into force on 21 January 2005.

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

Done at Brussels, 20 January 2005.

For the Commission
Mariann FISCHER BOEL
Member of the Commission

[1] OJ L 270, 21.10.2003, p. 78.
[2] OJ L 396, 31.12.2004, p. 34.
[3] OJ L 177, 28.7.1995, p. 4. Regulation as last amended by Regulation (EC) No 777/2004 (OJ L 123, 27.4.2004, p. 50).

COMMISSION DIRECTIVE 2005/4/EC

of 19 January 2005

amending Directive 2001/22/EC laying down the sampling methods and the methods of analysis for the official control of the levels of lead, cadmium, mercury and 3-MCPD in foodstuffs

(Text with EEA relevance)

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Council Directive 85/591/EEC of 20 December 1985 concerning the introduction of Community methods of sampling and analysis for the monitoring of foodstuffs intended for human consumption [1], and in particular Article 1 thereof,

Whereas:

(1) Commission Directive 2001/22/EC of 8 March 2001 lays down the sampling methods and the methods of analysis for the official control of the levels of lead, cadmium, mercury and 3-MCPD in foodstuffs [2].

(2) It is necessary to include updated standard information for contaminants in food, in particular to take into account the measurement uncertainty for analysis.

(3) It is of major importance that analytical results are reported and interpreted in a uniform way in order to ensure a harmonised enforcement approach across the European Union.

(4) Directive 2001/22/EC should therefore be amended accordingly.

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

HAS ADOPTED THIS DIRECTIVE:

Article 1

Annex I to Directive 2001/22/EC is amended as set out in Annex I to this Directive.

Annex II to Directive 2001/22/EC is amended as set out in Annex II to this Directive

Article 2

1. Member States shall bring into force the laws, regulations and administrative provisions necessary to comply with the provisions of this Directive within twelve months after entry into force at the latest. They shall forthwith communicate to the Commission the text of those provisions and a correlation table between those provisions and this Directive.

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

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

Article 3

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

This Directive is addressed to the Member States.

Done at Brussels, 19 January 2005.

For the Commission
Markos KYPRIANOU
Member of the Commission

[1] OJ L 372, 31.12.1985, p. 50.
[2] OJ L 77, 16.3.2001, p. 14.

ANNEX I

In Annex I to Directive 2001/22/EC, point 5 is replaced by the following:

'5. COMPLIANCE OF THE LOT OR SUBLOT WITH THE SPECIFICATION

The control laboratory shall analyse the laboratory sample for enforcement at least in two independent analyses, and calculate the mean of the results.

The lot is accepted if the mean does not exceed the respective maximum level as laid down in Regulation (EC) No 466/2001, taking into account the expanded measurement uncertainty and correction for recovery (1).

The lot is rejected if the mean exceeds the respective maximum level beyond reasonable doubt, taking into account the expanded measurement uncertainty and correction for recovery.

The present interpretation rules are of application for the analytical result obtained on the sample for official control. In case of analysis for defence or referee purposes, the national rules apply.'

ANNEX II

Annex II to Directive 2001/22/EC is amended as follows:

1. In point 3. 'Method of analysis to be used by the laboratory and laboratory control requirements', the following point 3.3.3. is inserted after Table 4:

'3.3.3. *Performance Criteria — Uncertainty Function Approach*

However, an uncertainty approach may also be used to assess the suitability of the method of analysis to be used by the laboratory. The laboratory may use a method which will produce results within a maximum standard uncertainty. The maximum standard uncertainty can be calculated using the following formula:

$$Uf = \sqrt{\left[\left(LOD/2\right)^2 + \left(\alpha C\right)^2\right]}$$

where:

Uf is the maximum standard uncertainty

LOD is the limit of detection of the method

C is the concentration of interest

α is a numeric factor to be used depending on the value of C. The values to be used are given in the table below:

C (µg/kg)	α
≤ 50	0,2
51-500	0,18
501-1 000	0,15
1 001-10 000	0,12
≥ 10 000	0,1

and U is the expanded uncertainty, using a coverage factor of 2 which gives a level of confidence of approximately 95 %.

If an analytical method provides results with uncertainty measurements less than the maximum standard uncertainty the method will be equally suitable to one which meets the performance characteristics given above.'

2. Point 3.4. is replaced by the following:

'3.4. **Estimation of the analytical trueness, recovery calculations and reporting of results**

Wherever possible the trueness of analysis shall be estimated by including suitable certified reference materials in the analysis.

The analytical result is to be reported corrected or uncorrected for recovery. The manner of reporting and the level of recovery must be reported.

The analyst should note the "European Commission Report on the relationship between analytical results, the measurement of uncertainty, recovery factors and the provisions in EU food legislation"(1).

The analytical result has to be reported as x +/– U whereby x is the analytical result and U is the measurement uncertainty.

REFERENCES

(1) European Commission Report on the relationship between analytical results, the measurement of uncertainty, recovery factors and the provisions in EU food legislation, 2004

(http://europa.eu.int/comm/food/food/chemicalsafety/contaminants/sampling_en.htm).'

II

(Acts whose publication is not obligatory)

COUNCIL

COUNCIL DECISION

of 7 December 2004

on the signing of the Agreement between the European Community and the Principality of Monaco providing for measures equivalent to those laid down in Council Directive 2003/48/EC on taxation of savings income in the form of interest payments and the approval and signing of the accompanying Memorandum of Understanding

(2005/35/EC)

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty establishing the European Community, and in particular Article 94 in conjunction with the first subparagraph of Article 300(2) thereof,

Having regard to the proposal from the Commission,

Whereas:

(1) On 16 October 2001, the Council authorised the Commission to negotiate with the Principality of Monaco an agreement for securing the adoption by that State of measures equivalent to those to be applied within the Community to ensure effective taxation of savings income in the form of interest payments.

(2) The text of the Agreement which is the result of the negotiations duly reflects the negotiating directives issued by the Council. It is accompanied by a Memorandum of Understanding between the European Community and the Principality of Monaco.

(3) Subject to the adoption at a later date of a Decision on the conclusion of the Agreement, it is desirable to sign the two documents that were initialled on 1 July 2004 and have confirmation of the Council approval of the Memorandum of Understanding,

HAS DECIDED AS FOLLOWS:

Article 1

Subject to the adoption at a later date of a Decision on the conclusion of the Agreement between the European Community and the Principality of Monaco providing for measures equivalent to those laid down in Council Directive 2003/48/EC [1] on taxation of savings income in the form of interest payments, the President of the Council is hereby authorised to designate the person(s) empowered to sign that Agreement and the accompanying Memorandum of Understanding as well as the Letters which have to be exchanged in accordance with Article 21(2) of the Agreement and the Memorandum of Understanding, in order to bind the Community.

The Memorandum of Understanding shall be approved by the Council.

The texts of the Agreement and of the Memorandum of Understanding are attached to this Decision.

[1] OJ L 157, 26.6.2003, p. 38.

Article 2

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

Done at Brussels, 7 December 2004.

For the Council
The President
G. ZALM

AGREEMENT

between the European Community and the Principality of Monaco providing for measures equivalent to those laid down in Council Directive 2003/48/EC

THE EUROPEAN COMMUNITY

and

THE PRINCIPALITY OF MONACO,

hereinafter referred to as 'Contracting Party' or 'Contracting Parties', where applicable,

with a view to introducing measures equivalent to those laid down in Council Directive 2003/48/EC of 3 June 2003 on taxation of savings income in the form of interest payments, hereinafter referred to as 'the Directive',

HAVE DECIDED TO CONCLUDE THIS AGREEMENT:

Article 1

Aim

1. To enable savings income in the form of interest payments made in territory of the Principality of Monaco to beneficial owners within the meaning of Article 2 who are individuals resident in a Member State of the European Community to be taken into account for being made subject to effective taxation in accordance with the laws of the latter Member State, a withholding tax shall be levied by paying agents established on the territory of the Principality of Monaco on the amount of such interest payments under the conditions laid down in Articles 7 and 8 of this Agreement, subject to the voluntary disclosure measures provided for in Article 9 of this Agreement.

2. The Principality of Monaco shall take the measures required to ensure that the tasks necessary for the implementation of this Agreement are carried out by paying agents established within its territory, irrespective of the place of establishment of the debtor of the debt-claim producing the interest.

Article 2

Definition of beneficial owner

1. For the purposes of this Agreement, 'beneficial owner' means any individual who receives an interest payment or any individual for whom an interest payment is secured, unless he provides evidence that it was not received or secured for his own benefit, that is to say that:

(a) he acts as a paying agent within the meaning of Article 4;

(b) he acts on behalf of a legal person, an entity which is taxed on its profits under Ordonnance Souveraine No 3162 of 19 March 1964, an undertaking for collective investment in transferable securities (UCITS) or a body equivalent to a UCITS established on the territory of the Principality of Monaco for the purpose of investing savings;

(c) he acts on behalf of another individual who is the beneficial owner and discloses to the paying agent the identity of that beneficial owner in accordance with Article 3(2).

2. Where a paying agent has information suggesting that the individual who receives an interest payment or for whom an interest payment is secured may not be the beneficial owner, and where neither paragraph 1(a) nor 1(b) applies to that individual, that paying agent shall take reasonable steps to establish the identity of the beneficial owner in accordance with Article 3(2). If the paying agent is unable to identify the beneficial owner, it shall treat the individual who receives the interest payment or for whom the interest payment is secured as the beneficial owner.

Article 3

Identity and place of residence of beneficial owners

1. The Principality of Monaco shall adopt and ensure the application of the procedures necessary to allow the paying agent to identify the beneficial owners and their residence for the purposes of this Agreement.

2. Such procedures shall include the following requirements:

(a) in the case of contractual relations established before 1 January 2004, the paying agent shall establish the identity of the beneficial owner within the meaning of Article 2 and his place of residence on the basis of the information available to it, as obtained from the official identity document or any other documentary proof of identity presented by the beneficial owner, namely an official document bearing a photograph of the beneficial owner;

(b) in the case of contractual relations established after 1 January 2004 or transactions conducted on a non-contractual basis, the identity of the beneficial owner within the meaning of Article 2 and his place of residence shall be established on the basis of the passport, the official identity card or any other documentary proof of identity presented by the beneficial owner. For individuals presenting a passport or official identity card issued by a Member State of the European Community who declare themselves to be resident in a State outside the European Community and the Principality of Monaco, residence shall be established by means of a tax residence certificate issued by the competent authority of the State in which the individual claims to be resident. Failing the presentation of such a certificate, the State of residence shall be considered to be the Member State of the European Community which issued the passport or other relevant official identity document.

Article 4

Definition of paying agent

For the purposes of this Agreement, 'paying agent' means any bank, individual, legal person, partnership or subsidiary of an international company in the Principality of Monaco which, in the course of its business, accepts, holds, invests or transfers assets belonging to third parties and, even occasionally, pays interest to, or secures the payment of, interest for the immediate benefit of the beneficial owner.

Article 5

Definition of competent authority

For the purposes of this Agreement, the Contracting Parties' 'competent authorities' are those listed in Annex 1.

For third States, the 'competent authority' is the authority competent to issue certificates of residence for tax purposes.

Article 6

Definition of interest payment

1. For the purposes of this Agreement, 'interest payment' means:

(a) interest paid or credited to an account, relating to debt claims or client deposits, whether or not secured by mortgage and whether or not carrying a right to participate in the debtor's profits, and, in particular, income from government securities and income from bonds or debentures, including premiums and prizes attaching to such securities, bonds or debentures. Penalty charges for late payment shall not be regarded as interest payments. Interest from loans between private individuals not acting in the course of their business shall, however, be excluded;

(b) interest accrued or capitalised at the sale, refund or redemption of the debt-claims referred to in (a);

(c) income deriving from interest payments either directly or through an entity referred to in Article 4(2) of the Directive established in a Member State of the European Community, distributed by:

(i) an undertaking for collective investment established in a Member State of the European Community or the Principality of Monaco;

(ii) entities established in a Member State of the European Community which avail themselves of the option under Article 4(3) of the Directive and notify the paying agent thereof, and

(iii) undertakings for collective investment established outside the territory referred to in Article 19;

(d) income realised upon the sale, refund or redemption of shares or units in the following undertakings and entities, if they invest directly or indirectly, via other undertakings for collective investment or entities referred to below, more than 40 % of their assets in debt claims as referred to in (a):

(i) an undertaking for collective investment established in a Member State of the European Community or the Principality of Monaco;

(ii) entities established in a Member State of the European Community which avail themselves of the option under Article 4(3) of the Directive and notify the paying agent thereof, and

(iii) undertakings for collective investment established outside the territory referred to in Article 19.

2. As regards paragraph 1(c), when a paying agent has no information concerning the proportion of the income deriving from interest payments, the total amount of the income shall be considered to be an interest payment.

3. As regards paragraph 1(d), when a paying agent has no information concerning the percentage of the assets invested in debt claims or in shares or units as defined in that paragraph, that percentage shall be considered to be above 40 %.

Where the paying agent cannot determine the amount of income realised by the beneficial owner, the income shall be deemed to correspond to the proceeds of the sale, refund or redemption of the shares or units.

4. Income from undertakings or entities that have invested no more than 15 % of their assets in the debt claims referred to in paragraph 1(a) shall not be considered an interest payment within the meaning of paragraph 1(c) and (d).

5. After 31 December 2010 the percentage referred to in paragraph 1(d) and paragraph 3 shall be 25 %.

6. The percentage referred to in paragraph 1(d) and in paragraph 5 shall be determined by reference to the investment policy laid down in the fund rules or instruments of incorporation of the undertakings or entities concerned or, failing that, by reference to the actual composition of the assets of the undertakings or entities concerned.

Article 7

Withholding tax

1. Where the beneficial owner is resident in a Member State of the European Community, the Principality of Monaco shall levy a withholding tax at a rate of 15 % for the first three years from the date specified in Article 17, subject to the application of Article 14(2), a rate of 20 % for the subsequent three years and a rate of 35 % thereafter.

2. The paying agent shall levy withholding tax as follows:

(a) in the case of an interest payment within the meaning of Article 6(1)(a): on the amount of interest paid or credited;

(b) in the case of an interest payment within the meaning of Article 6(1)(b) or (d): on the amount of interest or income referred to in those paragraphs or by a levy of equivalent effect to be borne by the beneficial owner on the full amount of the proceeds of the sale, redemption or refund;

(c) in the case of an interest payment within the meaning of Article 6(1)(c): on the amount of income referred to in that paragraph.

3. For the purposes of points (a), (b) and (c) of paragraph 2, withholding tax shall be levied pro rata for the period during which the beneficial owner held the debt claim, shares or units that generated the income. When the paying agent is unable to determine the period of holding on the basis of information in its possession, it shall treat the beneficial owner as having held the debt claim, shares or units throughout their period of existence unless the beneficial owner provides evidence of the date of acquisition.

4. Taxes and retentions levied on an interest payment, other than the withholding tax provided for under this Agreement, shall be deducted from the withholding tax calculated on that interest payment in accordance with this Article.

5. The levying of withholding tax by a paying agent established in the Principality of Monaco shall not preclude the Member State of the European Community where the beneficial owner is resident for tax purposes from taxing the income in accordance with its national law. Where a taxpayer declares income from interest paid by a paying agent established in the Principality of Monaco to the tax authorities of the Member State of the European Community where he resides, this income shall be taxed at the same rate and under the same general conditions as interest earned within that Member State.

Article 8

Sharing withholding tax

1. The Principality of Monaco shall retain 25 % of the revenue generated by the withholding tax levied in accordance with Article 7 and transfer 75 % to the Member State of the European Community in which the beneficial owner of the interest is resident in accordance with Article 3(2)(b).

2. Such transfers shall take place for each year in one instalment per Member State at the latest within six months of the end of the tax year of the Principality of Monaco.

3. The Principality of Monaco shall take the measures necessary to ensure the proper functioning of the revenue-sharing system.

To that end, the Principality of Monaco shall transfer revenue accruing to the Member State of the European Community concerned to the competent authority designated in Annex 1 to this Agreement.

Article 9

Voluntary disclosure

1. The Principality of Monaco shall lay down a procedure allowing a beneficial owner within the meaning of Article 2 to avoid the withholding tax provided for in Article 7 by expressly authorising his paying agent established in the Principality of Monaco to disclose interest payments to the competent authority of the Principality of Monaco. The authorisation shall cover all interest payments made to the beneficial owner by that paying agent.

2. The information to be disclosed by the paying agent in the event of express authorisation from the beneficial owner shall include at least:

(a) the identity and residence of the beneficial owner, established in accordance with Article 3;

(b) the name and address of the paying agent;

(c) the account number of the beneficial owner or the identification of the debt claim giving rise to the payment of interest;

(d) the amount of the interest payment, established in accordance with Article 6.

3. The competent authority of the Principality of Monaco shall forward the information referred to in paragraph 2 to the competent authority of the Member State of the European Community where the beneficial owner is resident. This information shall be provided at least once a year, within six months of the end of the tax year of the Principality of Monaco, in respect of all interest payments made in the year in question.

Article 10

Elimination of double taxation and/or repayment of withholding tax

1. The Member State of the European Community where the beneficial owner is resident for tax purposes shall ensure the elimination of any double taxation which might result from the levying of the withholding tax referred to in Article 7, in accordance with the provisions of paragraphs 2 and 3.

2. If a paying agent in the Principality of Monaco has levied the withholding tax referred to in Article 7 on interest received by a beneficial owner, the Member State of the European Community where the beneficial owner is resident for tax purposes shall grant him a tax credit equal to the amount of that withholding tax. Where this amount exceeds the amount of tax due in accordance with its national law on the total amount of interest subject to withholding tax, the Member State of the European Community in which the beneficial owner is resident for tax purposes shall, regardless of any of its standard tax-credit mechanisms or divergent administrative practices, repay the excess amount of tax withheld to the beneficial owner.

3. If, in addition to the withholding tax referred to in Article 7, interest payments received by a beneficial owner have been subject to any other type of withholding tax and the Member State of the European Community of residence for tax purposes grants or would grant a tax credit for such withholding tax in accordance with its national law or double taxation conventions, such other withholding tax shall be credited before the procedure in paragraph 2 is applied.

4. The Member State of the European Community where the beneficial owner is resident for tax purposes may replace the tax-credit mechanism referred to in paragraphs 2 and 3 by direct and full repayment of the withholding tax referred to in Article 7.

Article 11

Negotiable debt securities

1. From the date specified in Article 17, subject to Article 14(2) and for as long as the Principality of Monaco levies the withholding tax referred to in Article 7 and at least one Member State of the European Community applies similar provisions, until 31 December 2010 at the latest, domestic and international bonds and other negotiable debt securities first issued before 1 March 2001, or for which the original issuing prospectuses were approved before that date by the authorities competent to do so, shall not be considered debt claims within the meaning of Article 6(1)(a), provided no further issues of such negotiable debt securities are made on or after 1 March 2002.

However, as long as at least one of the Member States of the European Community also applies similar measures, the provisions of this Article shall continue to apply beyond 31 December 2010 in respect of such negotiable debt securities:

— which contain gross-up and early redemption clauses, and

— where the paying agent defined in Article 4 is established in the Principality of Monaco, and

— where the paying agent pays interest to, or secures the payment of interest for the immediate benefit of, a beneficial owner resident in a Member State of the European Community.

If and when all Member States of the European Community cease to apply provisions similar to those of Article 7, the provisions of this Article shall continue to apply solely in respect of negotiable debt securities:

— which contain gross-up and early redemption clauses, and

— where the paying agent of the issuer is established in the Principality of Monaco, and

— where that paying agent pays interest to, or secures the payment of interest for the immediate benefit of, a beneficial owner resident in a Member State of the European Community.

If a further issue is made on or after 1 March 2002 of an aforementioned negotiable debt security issued by a government or a related entity acting as a public authority or whose role is recognised by an international treaty, as defined in Annex 2, the entire issue of such security, consisting of the original issue and any further issue, shall be considered a debt claim within the meaning of Article 6(1)(a).

If a further issue is made on or after 1 March 2002 of an aforementioned negotiable debt security issued by any other issuer not covered by the previous subparagraph, such further issue shall be considered a debt claim within the meaning of Article 6(1)(a).

2. Nothing in this Article shall prevent Member States of the European Community from taxing the income from the negotiable debt securities referred to in paragraph 1 in accordance with their national law.

Article 12

Transmission of information on request

1. The competent authorities of the Principality of Monaco and the Member States of the European Community shall exchange information on acts which constitute, under the national laws of the requested State, an offence of tax fraud with regard to the taxation of savings income in the form of interest payments.

When the requested State is the Principality of Monaco, the following acts shall be considered as constituting tax fraud with regard to the taxation of savings income in the form of interest payments:

— the use of a false or falsified document or one which contains inaccurate information with the intention of avoiding or attempting to avoid payment of some or all of the tax due on savings income in the form of interest payments, punishable by the fine provided for in Article 26(4) of the Monaco Criminal Code, the amount of which may be up to four times the amount of tax evaded, and/or a period of imprisonment from eight days to two years,

— fraudulent obtention of a refund of some or all of the tax due on savings income, punishable by the fine provided for in Article 26(4) of the Monaco Criminal Code, the amount of which may be up to four times the amount of tax evaded, and/or a period of imprisonment from eight days to two months,

— the act by anyone bound to collect tax on savings income, deliberately failing to collect some or all of the tax due, punishable by a fine of the amount provided for in Article 26(4) of the Monaco Criminal Code,

— the act by anyone bound to collect tax on savings income, deliberately misappropriating the amounts collected for his own benefit or that of a third party, punishable by a fine of the amount provided for in Article 26(4) of the Monaco Criminal Code.

Once the conditions laid down in Article 13(3) have been effectively established, the principles for the exchange of information laid down in this Article shall apply to equivalent offences under the legislation of the requested State, comparable in gravity to the tax fraud defined above.

In response to a duly substantiated request in accordance with paragraph 3, the requested State shall provide information on cases in which the requesting State has initiated administrative, civil or criminal proceedings in respect of the above acts, confining that information to savings income taxable in the requesting State.

The information that may be forwarded is that referred to in Article 9(2).

2. In order to determine whether information may be provided in response to a request, the requested State shall use the provisions concerning time-barring under the law of the requesting State, not those of the requested State. No information whatsoever will be provided on offences committed before 1 July 2005.

3. For the purposes of establishing the relevance of the request, the competent authority of the requesting Contracting Party shall provide the following information, which must be drafted in the official language of the requested State:

(a) the name of the authority submitting the request;

(b) the identity of the individual concerned by the request for information, evidence of that person's status as a tax resident of the requesting State and any document, statement by the individual concerned or other substantiated proof underpinning the request;

(c) the grounds for believing that the information requested is held by the requested Contracting Party or is in the possession or control of a person within its jurisdiction;

(d) a statement that the request is in conformity with the law of the requesting Contracting Party, and in particular that it is not time barred;

(e) a statement that the requesting Contracting Party has pursued all means available in its own territory, and/or provided for by its legislation or regulations, to obtain the information, except those that would give rise to difficulties;

(f) a statement that the facts already known to the requesting Contracting Party constitute, under its law, consistent circumstantial evidence that tax fraud or an equivalent offence defined in paragraph 1 has been committed.

4. The requested Contracting Party may refuse to provide the information requested if the request does not comply with the provisions of this Agreement.

Any information exchanged in this way must be treated as confidential and may be revealed only to persons or competent authorities of the other Contracting Party which are responsible for the taxation of the interest payments referred to in Article 1. These persons or authorities may reveal the information received, in the requesting State only, in public hearings or judgments relating to such taxation.

Information may be communicated to another person or authority only with the prior written agreement of the competent authority of the Contracting Party providing the information.

Article 13

Consultation and review

1. In the event of disagreement between the competent authority of the Principality of Monaco and one or more competent authorities of the Member States of the European Community within the meaning of Article 5 on the interpretation or application of this Agreement, they shall endeavour to resolve their differences amicably. They shall immediately notify the European Commission and the competent authorities of the other Member States of the European Community of the results of their consultations.

The European Commission may take part in consultations on issues of interpretation at the request of any competent authority.

2. Notwithstanding the provisions of paragraph 1, the Contracting Parties shall consult each other at least once every three years or at the request of either Contracting Party with a view to examining and — if they consider it necessary — improving the technical functioning of the Agreement.

At any rate the Contracting Parties recognise the importance of international developments in the area covered by this Agreement and shall consult each other as necessary at the consultations provided for in this paragraph in order to examine whether changes to the Agreement are necessary in the light of international developments.

3. In view of the conclusion of bilateral agreements between the Member States and the third countries subject to the same obligations as the Principality of Monaco in the matter of the taxation of savings income in the form of interest payments, the Principality of Monaco will examine the scope and conditions for the implementation of the principles laid down in Article 12 in the event of equivalent offences comparable in gravity to the tax fraud defined in that Article. The Principality of Monaco will initiate consultations with the European Commission to that end.

4. Consultations shall be held within one month of the request or as soon as possible in urgent cases.

5. For the purposes of the consultations referred to above, the Contracting Parties shall inform each other of any developments which could affect the proper functioning of this Agreement. This shall also include any relevant agreement between one of the Contracting Parties and a third country.

Article 14

Application and suspension of application

1. Application of this Agreement is conditional on the adoption and implementation by the dependent or associated territories of the Member States listed in the Report of the Council (Economic and Financial Affairs) to the European Council of Santa Maria de Feira of 19 and 20 June 2000 and by the United States of America, Andorra, Liechtenstein, Switzerland and San Marino, respectively, of measures identical or equivalent to those contained in Council Directive 2003/48/EC or in this Agreement, and providing for the same application dates.

2. The Contracting Parties shall decide, by common accord, at least six months before the date referred to in Article 17, whether the conditions set out in paragraph 1 are met with regard to the dates of entry into force of the relevant measures in the Member States of the European Community, the third countries and dependent or associated territories concerned. If the Contracting Parties do not decide that the conditions are met, they shall, by common accord, adopt a new date for the purposes of Article 17. To that end, the European Community shall notify the Principality of Monaco of the implementation by the Member States of the European Community, the dependent or associated territories and the third countries concerned of identical or equivalent measures.

3. Notwithstanding its institutional arrangements and subject to the above provisions, the Principality of Monaco shall implement this Agreement on the date referred to in Article 17 and notify this measure to the European Community.

4. Implementation of this Agreement or parts thereof may be suspended by either Contracting Party with immediate effect by means of notification to the other Contracting Party where Council Directive 2003/48/EC or a corresponding part thereof ceases to be applicable either temporarily or permanently in accordance with European Community law, or where one of the Member States of the European Community suspends the application of its implementing legislation.

5. Either Contracting Party may also suspend implementation of this Agreement by notifying the other if one of the five third countries referred to above (United States of America, Monaco, Liechtenstein, Switzerland or San Marino) or one of the dependent or associated territories of the Member States of the European Union referred to in paragraph 2 subsequently ceases applying measures which are respectively equivalent or identical to those of Council Directive 2003/48/EC. Suspension of implementation shall not come into effect until two months after notification. Application of the Agreement shall resume as soon as the measures are reinstated.

Article 15

Other centres/Asian centres

During the transitional period provided for in Council Directive 2003/48/EC, the European Community shall initiate discussions with other major financial centres with a view to the adoption and application by the relevant jurisdictions of measures equivalent to those to be applied in the Community.

Article 16

Signing, entry into force and termination

1. This Agreement is concluded subject to its ratification or approval by the Contracting Parties in accordance with their internal procedures. The Contracting Parties shall notify each other of the completion of these procedures. The present Agreement shall enter into force on the first day of the second month following the last notification.

2. This Agreement shall remain in force until terminated by a Contracting Party.

3. Either Contracting Party may terminate this Agreement by giving notice to the other. In that event, the Agreement shall cease to have effect twelve months after the serving of notice.

Article 17

Implementing rules

Without prejudice to the provisions of Article 14, the Contracting Parties shall implement the laws, regulations and administrative provisions necessary to allow the application of this Agreement from 1 July 2005.

Article 18

Claims and final provisions

1. Termination or the total or partial suspension of this Agreement shall not affect claims by third parties in accordance with Article 10.

2. In such a case, the Principality of Monaco shall draw up a final account before this Agreement ceases to apply and make a final payment to each of the Member States of the European Community.

Article 19

Territorial application

This Agreement shall apply, on the one hand, to the territories in which the Treaty establishing the European Community applies and under the conditions laid down in that Treaty and, on the other hand, to the territory of the Principality of Monaco.

Article 20

Annexes

1. The two Annexes shall form part of this Agreement.

2. The list of the competent authorities in Annex 1 may be modified by a simple notification to the other Contracting Party by the Principality of Monaco as regards the authority mentioned in point (a) of the said Annex and by the European Community as regards the other authorities.

The list of entities in Annex 2 may be modified by common accord.

Article 21

Languages

1. This Agreement is drafted in duplicate in the following languages: Czech, Danish, Dutch, English, Estonian, Finnish, French, German, Greek, Hungarian, Italian, Latvian, Lithuanian, Polish, Portuguese, Slovak, Slovenian, Spanish and Swedish, the texts in each language being equally authentic.

2. The Maltese language version shall be authenticated by the Contracting Parties on the basis of an Exchange of Letters. It shall also be authentic, in the same way as for the languages referred to in paragraph 1.

EN FE DE LO CUAL, los plenipotenciarios abajo firmantes suscriben el presente Acuerdo.

NA DŮKAZ ČEHOŽ připojili níže podepsaní zplnomocnění zástupci k této smlouvě své podpisy.

TIL BEKRÆFTELSE HERAF har undertegnede befuldmægtigede underskrevet denne aftale.

ZU URKUND DESSEN haben die unterzeichneten Bevollmächtigten ihre Unterschriften unter dieses Abkommen gesetzt.

SELLE KINNITUSEKS on täievolilised esindajad käesolevale lepingule alla kirjutanud.

ΣΕ ΠΙΣΤΩΣΗ ΤΩΝ ΑΝΩΤΕΡΩ, οι υπογράφοντες πληρεξούσιοι έθεσαν την υπογραφή τους κάτω από την παρούσα συμφωνία.

IN WITNESS WHEREOF, the undersigned Plenipotentiaries have signed the present Agreement.

EN FOI DE QUOI, les plénipotentiaires soussignés ont apposé leurs signatures au bas du présent accord.

IN FEDE DI CHE, i plenipotenziari sottoscritti hanno apposto la propria firma in calce al presente accordo.

TO APLIECINOT, attiecīgi pilnvarotas personas ir parakstījušas šo nolīgumu.

TAI PALIUDYDAMI, šį Susitarimą pasirašė toliau nurodyti įgaliotieji atstovai.

A FENTIEK HITELÉÜL az alulírott meghatalmazottak e megállapodást alább kézjegyükkel látták el.

B'XIEHDA TA' DAN, il-Plenipotenzjari hawn taħt iffirmati ffirmaw dan il-Ftehim.

TEN BLIJKE WAARVAN de ondergetekende gevolmachtigden hun handtekening onder deze overeenkomst hebben geplaatst.

NA DOWÓD CZEGO niżej podpisani pełnomocnicy podpisali niniejszą Umowę.

EM FÉ DO QUE, os plenipotenciários abaixo assinados apuserem as suas assinaturas no final do presente Acordo.

NA DÔKAZ ČOHO dolupodpísaní splnomocnení zástupcovia podpísali túto dohodu.

V POTRDITEV TEGA so spodaj podpisani pooblaščenci podpisali ta sporazum.

TÄMÄN VAKUUDEKSI allamainitut täysivaltaiset edustajat ovat allekirjoittaneet tämän sopimuksen.

TILL BEVIS HÄRPÅ har undertecknade befullmäktigade undertecknat detta avtal.

Hecho en Bruselas, el siete de diciembre del dos mil cuatro.

V Bruselu dne sedmého prosince dva tisíce čtyři.

Udfærdiget i Bruxelles, den syvende december to tusind og fire.

Geschehen zu Brüssel am siebten Dezember zweitausendundvier.

Kahe tuhande neljanda aasta detsembrikuu seitsmendal päeval Brüsselis.

Έγινε στις Βρυξέλλες, στις εφτά Δεκεμβρίου δύο χιλιάδες τέσσερα.

Done at Brussels on the seventh day of December in the year two thousand and four.

Fait à Bruxelles, le sept décembre deux mille quatre.

Fatto a Bruxelles, addì sette dicembre duemilaquattro.

Briselē, divi tūkstoši ceturtā gada septītajā decembrī.

Pasirašyta du tūkstančiai ketvirtų metų gruodžio septintą dieną Briuselyje.

Kelt Brüsszelben, a kettőezer negyedik év december hetedik napján.

Magħmul fi Brussel fis-seba' jum ta' Diċembru tas-sena elfejn u erbgħa.

Gedaan te Brussel, de zevende december tweeduizendvier.

Sporządzono w Brukseli dnia siódmego grudnia roku dwutysięcznego czwartego.

Feito em Bruxelas, em sete de Dezembro de dois mil e quatro.

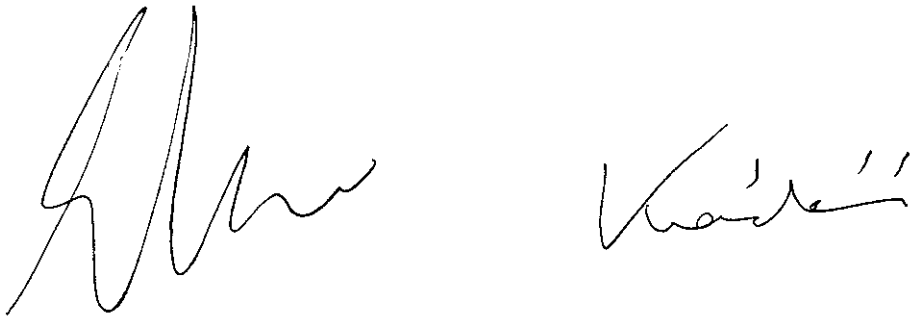
V Bruseli siedmeho decembra dvetisícštyri.

Podpisano v Bruslju, dne sedmega decembra leta dva tisoč štiri.

Tehty Brysselissä seitsemäntenä päivänä joulukuuta vuonna kaksituhattaneljä.

Som skedde i Bryssel den sjunde december tjugohundrafyra.

Por la Comunidad Europea
Za Evropské společenství
For Det Europæiske Fællesskab
Für die Europäische Gemeinschaft
Euroopa Ühenduse nimel
Για την Ευρωπαϊκή Κοινότητα
For the European Community
Pour la Communauté européenne
Per la Comunità europea
Eiropas Kopienas vārdā
Europos bendrijos vardu
az Európai Közösség részéről
Għall-Komunità Ewropea
Voor de Europese Gemeenschap
W imieniu Wspólnoty Europejskiej
Pela Comunidade Europeia
Za Európske spoločenstvo
za Evropsko skupnost
Euroopan yhteisön puolesta
På Europeiska gemenskapens vägnar



Pour la Principauté de Monaco

ANNEX I

LIST OF COMPETENT AUTHORITIES OF THE CONTRACTING PARTIES

The Contracting Parties' competent authorities for the purposes of this Agreement are:

(a) in the Principality of Monaco: le Conseiller de Gouvernement pour les Finances et l'Economie or an authorised representative,

(b) in the Kingdom of Belgium: De Minister van Financiën/Le Ministre des Finances or an authorised representative,

(c) in the Czech Republic: Ministr financí or an authorised representative,

(d) in the Kingdom of Denmark: Skatteministeren or an authorised representative,

(e) in the Federal Republic of Germany: Der Bundesminister der Finanzen or an authorised representative,

(f) in the Republic of Estonia: Rahandusminister or an authorised representative,

(g) in the Hellenic Republic: Ο Υπουργός Οικονομίας και Οικονομικών or an authorised representative,

(h) in the Kingdom of Spain: El Ministro de Economía y Hacienda or an authorised representative,

(i) in the French Republic: Le Ministre chargé du budget or an authorised representative,

(j) in Ireland: The Revenue Commissioners or their authorised representative,

(k) in the Italian Republic: Il Capo del Dipartimento per le Politiche Fiscali or an authorised representative,

(l) in the Republic of Cyprus: Υπουργός Οικονομικών or an authorised representative,

(m) in the Republic of Latvia: Finanšu ministrs or an authorised representative,

(n) in the Republic of Lithuania: Finansų ministras or an authorised representative,

(o) in the Grand Duchy of Luxembourg: Le Ministre des Finances or an authorised representative; however, for the purposes of Article 12, the competent authority shall be le Procureur Général d'Etat luxemburgeois,

(p) in the Republic of Hungary: A pénzügyminiszter or an authorised representative,

(q) in the Republic of Malta: Il-Ministru responsabbli għall-Finanzi or an authorised representative,

(r) in the Kingdom of the Netherlands: De Minister van Financiën or an authorised representative,

(s) in the Republic of Austria: Der Bundesminister für Finanzen or an authorised representative,

(t) in the Republic of Poland: Minister Finansów or an authorised representative,

(u) in the Portuguese Republic: O Ministro das Finanças or an authorised representative,

(v) in the Republic of Slovenia: Minister za financií or an authorised representative,

(w) in the Slovak Republic: Minister financií or an authorised representative,

(x) in the Republic of Finland: Valtiovarainministeriö/Finansministeriet or an authorised representative,

(y) in the Kingdom of Sweden: Chefen för Finansdepartementet or an authorised representative,

(z) in the United Kingdom of Great Britain and Northern Ireland and in the European territories for whose external relations the United Kingdom is responsible: the Commissioners of Inland Revenue or their authorised representative and the competent authority in Gibraltar, which the United Kingdom will designate in accordance with the Agreed Arrangements relating to Gibraltar authorities in the context of European Union and European Community instruments and related Treaties notified to the Member States and institutions of the European Union of 19 April 2000, a copy of which shall be notified to the Principality of Monaco by the Secretary-General of the Council of the European Union, and which shall apply to this Agreement.

ANNEX II

LIST OF RELATED ENTITIES

For the purposes of Article 11 of this Agreement, the following entities shall be considered to be 'a related entity acting as a public authority or whose role is recognised by an international treaty':

ENTITIES WITHIN THE EUROPEAN UNION:

Belgium

— Vlaams Gewest

— Région wallonne

— Région de Bruxelles-Capitale (Brussels Hoofdstedelijk Gewest)

— Communauté française

— Vlaamse Gemeenschap

— Deutschsprachige Gemeinschaft

Spain

— Xunta de Galicia

— Junta de Andalucía

— Junta de Extremadura

— Junta de Castilla-La Mancha

— Junta de Castilla y León

— Gobierno Foral de Navarra

— Govern de les Illes Balears

— Generalitat de Catalunya

— Generalitat de València

— Diputación General de Aragón

— Gobierno de las Islas Canarias

— Gobierno de Murcia

— Gobierno de Madrid

— Gobierno de la Comunidad Autónoma del País Vasco/Euzkadi

— Diputación Foral de Guipúzcoa

— Diputación Foral de Vizcaya/Bizkaia

— Diputación Foral de Alava

— Ayuntamiento de Madrid

— Ayuntamiento de Barcelona

— Cabildo Insular de Gran Canaria

— Cabildo Insular de Tenerife

— Instituto de Crédito Oficial

— Instituto Catalán de Finanzas

— Instituto Valenciano de Finanzas

Greece

— Οργανισμός Τηλεπικοινωνιών Ελλάδος (Greek Telecommunications Organisation)

— Οργανισμός Σιδηροδρόμων Ελλάδος (Greek Railways Organisation)

— Δημόσια Επιχείρηση Ηλεκτρισμού (Public Power Corporation)

France

— La Caisse d'amortissement de la dette sociale (CADES)

— L'Agence française de développement (AFD)

— Réseau Ferré de France (RFF)

— Caisse Nationale des Autoroutes (CNA)

— Assistance publique Hôpitaux de Paris (APHP)

— Charbonnages de France (CDF)

— Entreprise minière et chimique (EMC)

Italy

— Regions

— Provinces

— Municipalities

— Cassa Depositi e Prestiti

Latvia

— Pašvaldības (local governments)

Poland

— gminy (communes)

— powiaty (districts)

— województwa (provinces)

— związki gmin (associations of communes)

— związki powiatów (associations of districts)

— związki województw (associations of provinces)

— miasto stołeczne Warszawa (capital city of Warsaw)

— Agencja Restrukturyzacji i Modernizacji Rolnictwa (Agency for Restructuring and Modernisation of Agriculture)

— Agencja Nieruchomości Rolnych (Agricultural Property Agency)

Portugal

— Região Autónoma da Madeira (Autonomous Region of Madeira)

— Região Autónoma dos Açores (Autonomous Region of the Azores)

— Communes

Slovakia

— mestá a obce (municipalities)

— Železnice Slovenskej republiky (Slovak Railway Company)

— Štátny fond cestného hospodárstva (State Road Management Fund))

— Slovenské elektrárne (Slovak Power Plants)

— Vodohospodárska výstavba (Water Economy Building Company)

INTERNATIONAL ENTITIES AND UNDERTAKINGS:

— European Bank for Reconstruction and Development

— European Investment Bank

— Asian Development Bank

— African Development Bank

— World Bank/IBRD/IMF

— International Finance Corporation

— Interamerican Development Bank

— Council of Europe Social Development Fund

— Euratom

— European Community

— Andean Development Corporation (CAF)

— Eurofima

The provisions of Article 11 of the Agreement are without prejudice to any international obligations that the Contracting Parties may have entered into in respect of the abovementioned international entities.

THIRD-COUNTRY ENTITIES:

Entities satisfying the following criteria:

1. the entity is considered to be a public entity according to national criteria;

2. this public entity is a non-market producer which administers and finances a group of activities, principally providing non-market goods or services intended for the benefit of the community and which are effectively controlled by public administration;

3. this public entity is a large and regular issuer of debt securities;

4. the State concerned is able to guarantee that this public entity will not exercise early redemption in the event of gross-up clauses.

MEMORANDUM OF UNDERSTANDING

between the European Community and the Principality of Monaco

When an Agreement providing for measures equivalent to those laid down in Council Directive 2003/48/EC of 3 June 2003 on taxation of savings income in the form of interest payments, hereinafter referred to as 'the Directive', was concluded, the European Community and the Principality of Monaco signed this Memorandum of Understanding supplementing the Agreement.

If either Contracting Party finds that significant differences in the implementation of exchanges of information mean that the Agreement would not be applied in an evidently equitable manner, the Contracting Parties shall immediately hold consultations with a view to determining the arrangements necessary to establish equal treatment. The European Commission shall immediately report to the Council on these consultations and propose the measures necessary to restore equal treatment. In the interim, any new request for information under Article 12 of this Agreement which is of the same kind as that which gave rise to the application of this paragraph will be examined during the consultations.

Should a significant difference be detected between the scope of Council Directive 2003/48/EC and that of this Agreement, in particular with regard to Articles 4 and 6 of the Agreement, the Contracting Parties shall immediately consult each other in accordance with Article 13(1) of the Agreement with a view to ensuring that the measures laid down by the Agreement remain equivalent.

The signatories of this Memorandum of Understanding declare that they consider the Agreement referred to in the first paragraph and this Memorandum of Understanding to provide an acceptable and balanced arrangement that can be considered as safeguarding the interests of the Parties. They will therefore implement the agreed measures in good faith and will not act unilaterally in such a way as to undermine this arrangement without due cause.

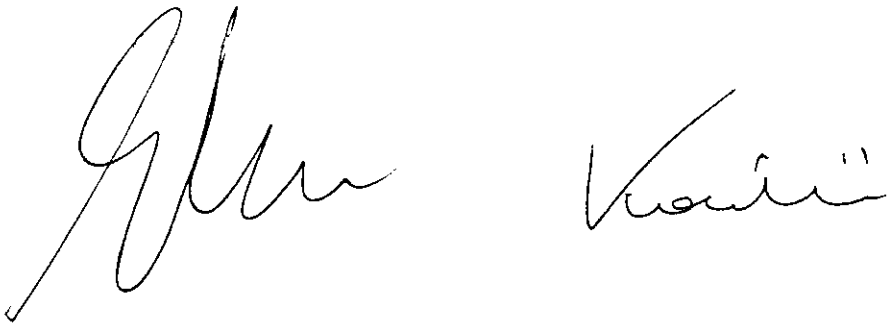
Once it has been established that the prudential rules and supervisory measures applicable to the Monegasque operators concerned are such as to guarantee the smooth operation of the Internal Market in the sectors in question, the European Community is prepared to examine with the Government of the Principality of Monaco conditions conducive to the development of trade between Monaco and the Community in certain financial instruments and insurance services. Thus, and in accordance with the foreign policy position adopted by the Community with regard to similar requests in the past, any possible agreement would have to be based on the adoption and application by the Principality of Monaco of the present and future Community acquis in the sectors concerned. It is also likely that other rules, both present and future, relevant to the smooth operation of the Internal Market in the sectors in question, for instance competition and tax rules, would have to be applied by the Principality of Monaco.

The signatories of this Memorandum of Understanding note that the definition of tax fraud, under the Agreement between the European Community and the Principality of Monaco providing for measures equivalent to those laid down in the Directive, is solely for the relevant purposes of taxation of savings.

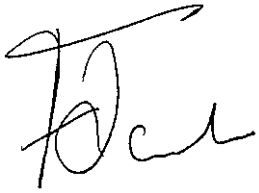
Drawn up at Brussels on 7 December 2004 in duplicate in the Czech, Danish, Dutch, English, Estonian, Finnish, French, German, Greek, Hungarian, Italian, Latvian, Lithuanian, Polish, Portuguese, Slovak, Slovenian, Spanish and Swedish languages, each of these languages being equally authentic.

The Maltese language version shall be authenticated by the signatories on the basis of an Exchange of Letters. It shall also be authentic, in the same way as for the languages referred to in the preceding paragraph.

Por la Comunidad Europea
Za Evropské společenství
For Det Europæiske Fællesskab
Für die Europäische Gemeinschaft
Euroopa Ühenduse nimel
Για την Ευρωπαϊκή Κοινότητα
For the European Community
Pour la Communauté européenne
Per la Comunità europea
Eiropas Kopienas vārdā
Europos bendrijos vardu
az Európai Közösség részéről
Għall-Komunità Ewropea
Voor de Europese Gemeenschap
W imieniu Wspólnoty Europejskiej
Pela Comunidade Europeia
Za Európske spoločenstvo
za Evropsko skupnost
Euroopan yhteisön puolesta
På Europeiska gemenskapens vägnar



Pour la Principauté de Monaco



COMMISSION

COMMISSION DECISION

of 8 September 2004

amending Decision 2004/166/EC on aid which France intends to grant for the restructuring of the Société Nationale Maritime Corse-Méditerranée (SNCM)

(notified under document number C(2004) 3359)

(Only the French text is authentic)

(Text with EEA relevance)

(2005/36/EC)

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community, and in particular the first subparagraph of Article 88(2) thereof,

Having regard to the Agreement on the European Economic Area, and in particular Article 62(1)(a) thereof,

Having regard to Commission Decision 2004/166/EC of 9 July 2003 [1], and in particular Article 2 thereof,

Whereas:

1. PROCEDURE

1.1. Procedural overview

(1) On 9 July 2003, the Commission adopted Decision 2004/166/EC on aid which France intends to grant for the restructuring of Société Nationale Maritime Corse-Méditerranée (SNCM) (hereinafter final decision), in which it declared part of the aid notified to be compatible with the single market provided that certain conditions were met. One of these conditions, which is stated in Article 2 of the final decision, is that until 31 December 2006 SNCM was to refrain from acquiring new ships and signing contracts for building, ordering or chartering new or renovated ships. SNCM could only operate the 11 ships which it already possessed at the date of the final decision, namely: the *Napoléon Bonaparte*, *Danielle Casanova*, *Île de Beauté*, *Corse*, *Liamone*, *Aliso*, *Méditerranée*, *Pascal Paoli*, *Paglia Orba*, *Monte Cinto* and *Monte d'Oro*. The last paragraph of this Article reads: 'If for reasons beyond its control SNCM has to replace one of its ships before 31 December 2006, the Commission may authorise such a replacement on the basis of a duly reasoned notice served by France'.

(2) In a letter dated 23 June 2004 [2], the French authorities requested permission from the Commission to replace the vessel Aliso with the Asco in the list of ships included in Article 2 of the final decision. Also, due to the difficulties encountered by SNCM in selling the Asco, the French authorities requested permission from the Commission to sell either the Aliso or the Asco, contrary to the provision made in the restructuring plan [3].

1.2. Name of the measure

(3) The name of the measure is 'Amendments to the Commission's final decision of 9 July 2003 on aid for the restructuring of SNCM'.

[1] OJ L 61, 27.2.2004, p. 13.

[2] Registered by the Commission under reference TREN(2004) A/26015.

[3] See recital 97 of the final decision.

1.3. **Beneficiary of the measure**

(4) The beneficiary of the aid for restructuring is SNCM, a shipping company operating services to Corsica and northern Africa from the French mainland. The beneficiary of the proposed amendments would therefore be SNCM.

1.4. **Objectives of the amendments**

(5) The main objective of the proposed amendments is to allow SNCM to use the Aliso rather than the Asco by amending the list of ships it is authorised to use under Article 2 of the final decision, and to facilitate the sale of the fourth ship provided for in the final decision by allowing potential purchasers to choose between the Aliso and the Asco, which are identical vessels.

2. **DETAILED DESCRIPTION OF THE PROPOSED MEASURES**

2.1. **The proposal to replace the Aliso with the Asco**

(6) In their letter of 23 June 2004, the French authorities proposed replacing the Aliso with the Asco in the list of ships that SNCM is authorised to use throughout the restructuring period. This list is explicitly included in the second paragraph of Article 2 of the final decision of 9 July 2003. The high-speed vessel Asco had not yet been sold at the date of the French authorities' request.

(7) The reason for the proposed change is that given SNCM's difficulties in disposing of the Asco, the French authorities wish to make it possible for the company to dispose of either of the two ships.

(8) The French authorities have also forwarded a certificate from the Marseilles port authorities testifying that the Aliso has been berthed since 2 November 2003.

2.2. **Proposal to allow SNCM to sell either the Asco or the Aliso**

(9) The French authorities have also requested permission for SNCM to sell either the Asco or the Aliso under the restructuring plan, depending on the requirements of the potential buyers.

3. **EVALUATION OF THE PROPOSED AMENDMENTS**

3.1. **Impact of the proposal to replace the Aliso with the Asco**

(10) The Commission notes that the Asco and the Aliso are 'sister ships', i.e. twin vessels built using the same plans and by the same shipyard. They have exactly the same size, shape and capacity.

(11) The Commission considers that replacing one ship with the other is not intended to increase SNCM's capacity and would therefore not affect the scope of the final decision, in particular with regard to the condition limiting the company's capacity as contained in Article 2 of that decision.

(12) The Commission also notes that the composition of SNCM's authorised fleet may only be modified for reasons beyond SNCM's control. In the case at hand, the Commission considers that the problems encountered by SNCM in selling the Asco are beyond the company's control and were not foreseeable at the time the final decision was adopted.

3.2. **Impact of the proposal to allow SNCM to sell either the Asco or the Aliso**

(13) The Commission considers that if SNCM were to find a buyer for the Aliso instead of the Asco, the sale of the Aliso would have the same effect on the Company's capacity as the sale of the Asco. It also considers that the French authorities would be in compliance with the restructuring plan in respect of the undertaking to sell the four vessels composing SNCM's operational fleet, since the Company has already sold three of the four ships whose disposal was envisaged in the restructuring plan.

(14) If SNCM sells the Aliso instead of the Asco, the Commission considers that the condition regarding the disposal of the four ships as provided for in the restructuring plan will be deemed to have been fulfilled.

4. **CONCLUSIONS**

(15) To conclude, the Commission considers that the amendments requested by the French authorities do not alter the scope of the provisions in the final decision and that aid to restructuring in the form of recapitalisation, subject to strict compliance with the conditions thus modified, is compatible with the single market.

(16) The Commission invites France:

— to notify the Commission as soon as possible, and at the latest within 15 working days from the date of receipt of this decision, which information it considers to be covered by the obligation of professional secrecy pursuant to Article 25 of Regulation (EC) No 659/1999 [1],

[1] OJ L 83, 27.3.1999, p. 1. Regulation as amended by the 2003 Act of Accession.

— to inform the beneficiary of the aid of this decision as soon as possible, concealing, as need be, the information it considers to be covered by the obligation of professional secrecy, communication of which to the beneficiary of the aid might be detrimental to some of the parties concerned, and to indicate in the version sent, if need be, any other information that it considers to be covered by the obligation of professional secrecy and has not concealed,

HAS ADOPTED THIS DECISION:

Article 1

1. In the second paragraph of Article 2 of Decision 2004/166/EC, the word 'Aliso' is replaced with 'Asco'.

2. Under the last indent in recital 97 of that Decision, the words 'high-speed ship Asco' are replaced with 'either the high-speed ship Asco or its sister ship, the high-speed ship Aliso'.

Article 2

This Decision is addressed to the French Republic.

Done at Brussels, 8 September 2004.

For the Commission
Loyola DE PALACIO
Vice-President

COMMISSION DECISION

of 29 October 2004

establishing the European Technical and Scientific Centre (ETSC) and providing for coordination of technical actions to protect euro coins against counterfeiting

(2005/37/EC)

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community, and in particular Article 211 thereof,

Having regard to Council Decision 2003/861/EC of 8 December 2003 concerning analysis and cooperation with regard to counterfeit euro coins [1] and Council Decision 2003/862/EC of 8 December 2003 extending the effects of Decision 2003/861/EC concerning analysis and cooperation with regard to counterfeit euro coins to those Member States which have not adopted the euro as their single currency [2],

Whereas:

(1) Council Regulation (EC) No 1338/2001 of 28 June 2001 laying down measures necessary for the protection of the euro against counterfeiting [3], and in particular Article 5 thereof, provides for the analysis and classification of counterfeit coins by the Coin National Analysis Centre (CNAC) in each of the EU Member States and by the European Technical and Scientific Centre (ETSC). Council Regulation (EC) No 1339/2001 [4] extends the effects of Articles 1 to 11 of Regulation (EC) No 1338/2001 to the Member States which have not adopted the euro as the single currency.

(2) Since October 2001, the ETSC has been carrying out its tasks on a temporary basis at the French Mint with administrative support and management provided by the Commission, in line with an exchange of letters between the President of the Council and the French Finance Minister of 28 February and 9 June 2000.

(3) The ETSC contributes to the fulfilment of the objectives of the 'Pericles' programme pursuant to Council Decision 2001/923/EC of 17 December 2001 establishing an exchange, assistance and training programme for the protection of the euro against counterfeiting [5] and Council Decision 2001/924/EC of 17 December 2001 extending the effects of the Decision establishing an exchange, assistance and training programme for the protection of the euro against counterfeiting (Pericles programme) to the Member States which have not adopted the euro as the single currency [6].

(4) Article 1 of Decision 2003/861/EC provides that the Commission shall establish the ETSC and ensure its functioning and the coordination of the activities of the competent technical authorities to protect euro coins against counterfeiting. Article 1 of Decision 2003/862/EC extends Decision 2003/861/EC to the Member States which have not adopted the euro as the single currency.

(5) The French authorities have taken the commitment, through a letter from the French Finance Minister, dated 6 September 2004, to maintain the current sharing of the relevant costs. An exchange of letters between the Member of the Commission responsible for the fight against fraud and the French Finance Minister, regarding the establishment of the ETSC on a permanent basis for the analysis and classification of counterfeit euro coins, will reiterate the principles that emerged from the ETSC's activities during the period it was temporarily hosted at the French Mint, based on the exchange of letters between the Council Presidency and the French Finance Minister on 28 February and 9 June 2000.

(6) The Economic and Financial Committee (EFC), the European Central Bank, Europol and the competent national authorities should be informed regularly of the activities of the ETSC and of the situation regarding euro coin counterfeiting.

(7) Therefore, the ETSC should be established within the Commission in Brussels, attached to the European Anti-Fraud Office (OLAF).

(8) The coordination by the Commission of the measures taken by the competent technical authorities to protect euro coins against counterfeiting includes methods for analysing counterfeit euro coins, the study of new cases of coin counterfeiting and assessment of the consequences, exchanges of information on the activities of the CNACs and the ETSC, external communication on counterfeit coins, the detection of such coins by coin processing equipment and the study of any technical problems relating to these coins.

[1] OJ L 325, 12.12.2003, p. 44.
[2] OJ L 325, 12.12.2003, p. 45.
[3] OJ L 181, 4.7.2001, p. 6.
[4] OJ L 181, 4.7.2001, p. 11.
[5] OJ L 339, 21.12.2001, p. 50.
[6] OJ L 339, 21.12.2001, p. 55.

(9) This coordination requires the continued efforts, within the Advisory Committee for Coordination of the Fight against Fraud [1], of the Counterfeit Coin Experts Group, comprising the experts in charge of the CNAC and ETSC, which the Commission manages and chairs, while providing periodic information to the EFC.

(10) In order to act on Decisions 2003/861/EC and 2003/862/EC,

DECIDES:

Article 1

The European Technical and Scientific Centre (ETSC) is established within the Commission in Brussels, attached to OLAF.

Article 2

The ETSC shall analyse and classify every new type of counterfeit euro coin in line with the provisions of Article 5 of Regulation (EC) 1338/2001. It contributes to the fulfilment of the objectives of the Pericles programme pursuant to Article 4 of Decision 2001/923/EC. It assists the Coin National Analysis Centres (CNAC) and the law-enforcement authorities and collaborates with the relevant authorities in the analysis of counterfeit euro coins and the strengthening of protection.

Article 3

The principles on which the organisation of the ETSC will be based are the following:

— The Commission may second members of its personnel to the French Mint in order to use its facilities for the analysis of coins.

— In accomplishing its functions, the ETSC will be able to use the personnel and equipment of the French Coin National Analysis Centre and the laboratory of the French Mint in Pessac. The French authorities will place the appropriate personnel and equipment at the disposal of the ETSC as a priority.

— Under the applicable financial regulations, the part of the expenses attributable to the work carried out by the ETSC will be charged to the general budget of the European Communities. Since France will provide the abovementioned personnel, premises and equipment and will be responsible for their maintenance, the Community budget will meet the salaries of the personnel recruited by the Commission, travelling expenses and sundry minor current expenditure.

OLAF shall define, in cooperation with the French Mint, the rules and administrative modalities applicable to the ETSC.

Article 4

The Commission shall coordinate the necessary actions to protect euro coins against counterfeiting through periodic meetings of counterfeit coin experts.

The Economic and Financial Committee, the European Central Bank, Europol and the competent national authorities shall be kept regularly informed of the ETSC's activities and of the situation as regards coin counterfeiting.

Done at Brussels, 29 October 2004.

For the Commission
Michaele SCHREYER
Member of the Commission

[1] Commission Decision 94/140/EC (OJ L 61, 4.3.1994, p. 27).

COMMISSION DECISION

of 27 December 2004

on the allocation of additional days absent from port to the Netherlands in accordance with Annex V to Council Regulation (EC) No 2287/2003

(notified under document number C(2004) 5269)

(Only the Dutch text is authentic)

(2005/38/EC)

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Council Regulation (EC) No 2287/2003 of 19 December 2003 fixing for 2004 the fishing opportunities and associated conditions for certain fish stocks and groups of fish stocks, applicable in Community waters and, for Community vessels, in waters where catch limitations are required [1], and in particular paragraph 6(c) of Annex V,

Whereas:

(1) Paragraph 6(a) of Annex V to Regulation (EC) No 2287/2003 specifies the number of days on which certain Community fishing vessels may be absent from port in the geographical areas defined in paragraph 2 of that Annex from 1 February 2004 to 31 December 2004.

(2) Paragraph 6(c) of that Annex enables the Commission to allocate an additional number of days on which a vessel may be absent from port while carrying on board any of the gears defined in paragraph 4 of that Annex on the basis of the achieved results of decommissioning programmes since 1 January 2002 for fishing vessels affected by the provisions of that Annex.

(3) The Netherlands have submitted data on the decommissioning in 2002 and 2003 of fishing vessels carrying on board beam trawls of mesh size equal to or greater than 80 mm.

(4) In the view of the data submitted, an additional number of days should be allocated to the Netherlands for fishing vessels carrying on board such fishing gears defined in paragraph 4(b) of Annex V to Regulation (EC) No 2287/2003,

HAS ADOPTED THIS DECISION:

Article 1

Two additional days, in relation to those set out in paragraph 6(a) of Annex V to Regulation (EC) No 2287/2003, shall be allocated to the Netherlands in each calendar month for vessels carrying on board beam trawls of mesh size equal to or greater than 80 mm.

Article 2

This Decision is addressed to the Kingdom of the Netherlands.

Done at Brussels, 27 December 2004.

For the Commission

Joe BORG

Member of the Commission

[1] OJ L 344, 31.12.2003, p. 1. Regulation as last amended by Regulation (EC) No 1928/2004 (OJ L 332, 6.11.2004, p. 5).

COMMISSION DECISION

of 30 December 2004

concerning the financing of an external evaluation of the Community Animal Health Policy and the financing of a study analysing the costs of, and conditions for, a livestock epidemics risk financing instrument in the EU

(2005/39/EC)

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Council Decision 90/424/EEC of 26 June 1990 on expenditure in the veterinary field [1], and in particular Article 20 thereof,

Having regard to Commission Decision SEC/2004/120 of 11 March 2004 on the Internal Rules on the implementation of the general budget of the European Communities, and in particular Article 15 thereof,

Whereas:

(1) Under Decision 90/424/EEC the Community is to undertake or assist the Member States in undertaking the technical and scientific measures necessary for the development of Community veterinary legislation and for the development of veterinary education or training.

(2) In view of the recommendations at the international conference on control and prevention of food-and-mouth disease (December 2001), new dilemmas concerning the control of highly contagious animal diseases, and the possible need for new financing schemes for the consequences of these outbreaks, there is a need for further review.

(3) In order to bring this review forward, the following two actions should be carried out in the context of a work programme.

(4) Firstly, an evaluation of the Community expenditure programmes, as a means of accounting for the management of allocated funds and as a way of promoting a lesson learning culture throughout the management, with an increased focus on results-based management should be carried out.

(5) This external and independent evaluation of the Community Animal Health Policy (CAHP) based on its financial aspects should assist the Commission services in defining adequate and impact based policy options for the future.

(6) Secondly, a study (pilot project in the sense of Article 49(2) of the Financial Regulation) should analyse the costs of, and the conditions for, a livestock epidemics risk financing instrument in the EU, following the European Parliament request. The goal of this study will be to examine the feasibility and to evaluate the cost of alternative risk financing instruments options with a view to determining potential impact on the national and EU budgets and sustainable levels of national support for direct losses.

(7) The results of this study could form a basis to consider on the one hand the harmonisation of EU financing schemes, with a view at least to put farmers in an equal position across the EU, and on the other hand to analyse the future of the veterinary fund in the enlarged Community.

(8) According to Article 15 of the Internal Rules of 2004 for the execution of the budget, an annual work programme may also be considered to be the financing decision provided that it constitutes a sufficiently detailed framework, and the evaluation, study and review foreseen in this decision constitute such a framework.

(9) Appropriations which may be used without a basic act, in accordance with Article 49(2)(a) of the Financial Regulation, must nevertheless be covered by a decision taken by the Commission offering an equivalent framework.

(10) Therefore, this decision should constitute a framework equivalent to a financing decision within the meaning of Article 75(2) of Council Regulation (EC, Euratom) No 1605/2002 of 25 June 2002 on the Financial Regulation applicable to the general budget of the European Communities [2].

(11) The measure provided for in this Decision is in accordance with the opinion of the Standing Committee on the Food Chain and Animal Health,

[1] OJ L 224, 18.8.1990, p. 19. Decision as last amended by Regulation (EC) No 806/2003 (OJ L 122, 16.5.2003, p. 1).

[2] OJ L 248, 16.9.2002, p. 1.

DECIDES:

Sole Article

The actions described in the Annex to this Decision are approved for the purpose of their financing.

Done at Brussels, 30 December 2004.

For the Commission
Markos KYPRIANOU
Member of the Commission

ANNEX

1. **External evaluation of the Community Animal Health Policy and adequate impact assessments to define adequate policy options for the future in this area**

Budget line: 17 04 02 — other measures

Basic act: Decision 90/424/EEC

Procedure and timing: This evaluation and impact assessments will be done by the way of a framework contract. A call for tender for this framework contract will be launched following an open procedure during the last quarter 2004.

Cost: maximum amount of EUR 530 000.

2. **A study on 'costs and conditions analysis for a risk financing instrument for livestock epidemics in the EU'**

Budget line: 17 01 04 04

Pilot project according to Article 49(2) of the Financial Regulation

Procedure and timing: A call for tender will be launched following an open procedure in the last quarter of the year.

Cost: maximum amount of EUR 500 000.