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⁽¹⁾ Text with EEA relevance

I

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

REGULATIONS

COMMISSION REGULATION (EC) No 882/2007**of 26 July 2007****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 27 July 2007.

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

Done at Brussels, 26 July 2007.

For the Commission

Jean-Luc DEMARTY

*Director-General for Agriculture and
Rural Development*

⁽¹⁾ OJ L 337, 24.12.1994, p. 66. Regulation as last amended by Regulation (EC) No 756/2007 (OJ L 172, 30.6.2007, p. 41).

ANNEX

to Commission Regulation of 26 July 2007 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 | TR | 90,5 |
| | ZZ | 90,5 |
| 0707 00 05 | TR | 95,7 |
| | ZZ | 95,7 |
| 0709 90 70 | TR | 87,9 |
| | ZZ | 87,9 |
| 0805 50 10 | AR | 46,8 |
| | UY | 64,6 |
| | ZA | 61,3 |
| | ZZ | 57,6 |
| 0806 10 10 | BR | 161,0 |
| | EG | 143,6 |
| | MA | 207,0 |
| | TR | 180,9 |
| | ZZ | 173,1 |
| 0808 10 80 | AR | 83,0 |
| | BR | 98,6 |
| | CL | 80,8 |
| | CN | 78,6 |
| | NZ | 101,8 |
| | US | 111,8 |
| | UY | 36,3 |
| | ZA | 102,1 |
| | ZZ | 86,6 |
| 0808 20 50 | AR | 71,8 |
| | CL | 77,7 |
| | NZ | 80,2 |
| | TR | 139,7 |
| | ZA | 98,7 |
| | ZZ | 93,6 |
| 0809 10 00 | TR | 167,2 |
| | ZZ | 167,2 |
| 0809 20 95 | CA | 324,1 |
| | TR | 286,0 |
| | US | 288,0 |
| | ZZ | 299,4 |
| 0809 30 10, 0809 30 90 | TR | 157,0 |
| | ZZ | 157,0 |
| 0809 40 05 | IL | 73,8 |
| | ZZ | 73,8 |

⁽¹⁾ Country nomenclature as fixed by Commission Regulation (EC) No 1833/2006 (OJ L 354, 14.12.2006, p. 19). Code 'ZZ' stands for 'of other origin'.

COMMISSION REGULATION (EC) No 883/2007

of 26 July 2007

amending Regulation (EC) No 824/2000 establishing procedures for the taking-over of cereals by intervention agencies and laying down methods of analysis for determining the quality of cereals

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 6 thereof,

Whereas:

(1) Article 5(1) of Regulation (EC) No 1784/2003, as amended by Regulation (EC) No 735/2007, limits the quantities of maize which may be bought in by intervention agencies throughout the Community to a total of 1 500 000 tonnes in the 2007/08 marketing year, 700 000 tonnes in the 2008/09 marketing year and 0 tonnes from the 2009/10 marketing year onwards.

(2) To ensure the satisfactory management of the system for intervention buying-in of maize, and to give economic operators in all Member States access to the intervention system under equivalent conditions, detailed procedures should be laid down in Commission Regulation (EC) No 824/2000 ⁽²⁾ specific to the award of the quantities of maize eligible for intervention. To this end, a mechanism should be introduced for the award of those quantities, covering the periods of the marketing year in which operators may submit offers, giving them sufficient time to submit their offers and allowing a uniform award coefficient to be fixed for all offerers where the quantities offered exceed those available. Provision should therefore be made for the offers to be examined in two periods, and timetables should be laid down for the submission of offers for maize and for deliveries and the associated take-overs.

(3) Taking into account the periods for intervention buying-in laid down in Article 5(2) of Regulation (EC) No 1784/2003, and to ensure equivalent treatment of operators, provision should be made for a first period

for the submission of offers for maize running from 1 August in Greece, Spain, Italy and Portugal, from 1 December in Sweden and from 1 November in the other Member States, with 31 December as the last day for the submission of offers in all Member States. At the end of this first period the Commission will be obliged, where appropriate, to fix an award coefficient for the admissible offers submitted during this first period and to close the intervention for the remainder of the marketing year where the quantities offered exceed the quantity laid down in Article 5(1) of Regulation (EC) No 1784/2003. To avoid placing administrative and financial burdens on the intervention agencies and on operators by requiring securities to be lodged which could prove unnecessary in the absence of quantities to be awarded, provision should be made for a break in the submission of offers between 1 January and the date of publication in the *Official Journal of the European Union* of the quantity remaining available for intervention in the second period.

(4) Given the time needed to fix the award coefficient for the first period where necessary, the second period for the submission of offers should commence on the day following the date of publication in the *Official Journal of the European Union* of the quantity remaining available for intervention, this being the first day for the submission of offers in all Member States. In this second period, the acceptance of offers should take place once a week, starting the first Friday following the publication of that quantity, on the basis of offers submitted by operators by 12.00 (Brussels time) on the Friday at the latest. Each week, by Wednesday at the latest, the Commission should post on its Internet site information for operators as to the remaining quantity available for intervention. Where the quantity laid down in Article 5(1) of Regulation (EC) No 1784/2003 is exceeded, the Commission should fix and publish an award coefficient and close the intervention for the marketing year in question. In view of the intervention buying-in periods provided for in Article 5(2) of Regulation (EC) No 1784/2003, the second period for the submission of offers should in any case end at the latest by 30 April in Greece, Spain, Italy and Portugal, 30 June in Sweden and 31 May in the other Member States.

(5) To allow sound management of the award mechanism, it should be laid down that offers for maize may not be altered or withdrawn. Moreover, to ensure that offers are genuine, they should be subject to the lodging of a security, and the terms for checking that offers are genuine and for releasing the security should be laid down. To this end, this check should follow the same

⁽¹⁾ OJ L 270, 21.10.2003, p. 78. Regulation as last amended by Regulation (EC) No 735/2007 (OJ L 169, 29.6.2007, p. 6).

⁽²⁾ OJ L 100, 20.4.2000, p. 31. Regulation as last amended by Regulation (EC) No 1572/2006 (OJ L 290, 20.10.2006, p. 29).

rules and conditions as those applicable to checks on stocks in public storage under Commission Regulation (EC) No 884/2006 of 21 June 2006 laying down detailed rules for the application of Council Regulation (EC) No 1290/2005 as regards the financing by the European Agricultural Guarantee Fund (EAGF) of intervention measures in the form of public storage operations and the accounting of public storage operations by the paying agencies of the Member States⁽¹⁾. In addition, between the start of the submission of offers in the first period and 31 December, several months may elapse. To avoid placing a financial burden on operators submitting offers in this first period, it should be allowed for the security that has to be lodged on submission of the offers, when it is lodged in the form of a bank guarantee, not to be payable until the day following the final day for the submission of offers.

- (6) Under Article 5(4) and (5) of Regulation (EC) No 824/2000, cereals may be taken over in the store in which they are being held at the time of the offer. To improve the quality of storage conditions and provide a guarantee of this from the time the offers are submitted, the places where the cereals are stored at the time of the offer should be such as to guarantee the best possible conservation, in particular over a long period as regards maize. It is therefore necessary to limit the possibility of taking over the cereals in the offerer's store and to authorise this kind of take-over only where the cereals are kept by storers within the meaning of Article 2(2)(a) of Regulation (EC) No 884/2006. In such cases, the offerer should undertake to apply *mutatis mutandis* in his relations with the storer, as from submission of his offer, the same rules and conditions of storage and control as are applicable under Regulation (EC) No 884/2006.
- (7) Under Article 8(1) of Regulation (EC) No 824/2000, the price payable to the offerer is the intervention price referred to in Article 4(1) of Regulation (EC) No 1784/2003, valid on the date specified as the first day of delivery when notice was given of acceptance of the offer, for goods delivered at warehouse, before unloading, adjusted in accordance with the increases and reductions referred to in Article 9 of Regulation (EC) No 824/2000. Taking into account the new system for managing intervention buying-in of maize introduced by this Regulation, and in particular the fact that offers for maize may not be withdrawn or altered, it is necessary to derogate from that rule for offers of maize where the intervention price for the month of the offer is above the intervention price for the month in which the delivery takes place.
- (8) Article 11a(a) of Regulation (EC) No 824/2000 details the information that Member States must forward to the Commission so that a weekly statistical report can

be compiled on changes in the intervention stocks of cereals. Taking into account the new system for managing intervention buying-in of maize introduced by this Regulation, it is necessary to adjust these provisions, specifically those relating to the notification of offers by the intervention agencies to the Commission.

- (9) In the interests of sound management of the system, the information required by the Commission should be sent on the basis of models containing the information required to manage intervention, made available by the Commission to the Member States, and these models should apply once the Management Committee for Cereals has been informed and then, where applicable, adapted and updated by the Commission under the same conditions.
- (10) Regulation (EC) No 824/2000 should therefore be amended accordingly.
- (11) As the intervention period in Greece, Spain, Italy and Portugal starts on 1 August, the measures provided for in this Regulation should apply from that date.
- (12) 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

Regulation (EC) No 824/2000 is hereby amended as follows:

1. The following Article 3a is inserted:

'Article 3a

1. Without prejudice to Article 4 of this Regulation, the quantities of maize eligible for intervention in accordance with the second subparagraph of Article 5(1) of Regulation (EC) No 1784/2003, shall be awarded, for the 2007/08 and 2008/09 marketing years, in two periods, "period 1" and "period 2", in accordance with the terms and procedures laid down in paragraphs 2 to 5 of this Article.

Period 1 shall start on 1 August in Greece, Spain, Italy and Portugal, 1 December in Sweden and 1 November in the other Member States and shall run until 31 December, the final day for the submission of offers for all Member States for this period.

⁽¹⁾ OJ L 171, 23.6.2006, p. 35. Regulation as amended by Regulation (EC) No 721/2007 (OJ L 164, 26.6.2007, p. 4).

Period 2 shall start on the day following the publication in the *Official Journal of the European Union* of the quantity which remains available for intervention in that period, as referred to in the second subparagraph of paragraph 2. That day shall be the first day for the submission of offers in all the Member States and that period shall end not later than 30 April in Greece, Spain, Italy and Portugal, 30 June in Sweden and 31 May in the other Member States.

2. At the end of period 1, the Commission shall enter in the accounts the admissible offers for maize submitted by operators to the intervention agencies of the Member States by 12.00 (Brussels time) on 31 December, on the basis of the notifications made each week by the Member States in accordance with Article 11a(1)(a)(i).

If the total quantity offered exceeds the maximum quantities laid down in Article 5(1) of Regulation (EC) No 1784/2003, the Commission shall fix and publish, not later than 25 January, an award coefficient to six decimal places to be applied to the quantities. If there is no overrun, this award coefficient shall be 1 and the Commission shall publish the quantity which remains available for intervention in period 2.

Not later than 31 January, the intervention agency of the Member State shall notify the offerer that the offer has been accepted for a quantity equal to the quantity offered multiplied by the award coefficient.

3. From the first Wednesday in February, the Commission shall enter in the accounts each week the admissible offers for maize submitted by operators to the intervention agencies of the Member States by the Friday of the previous week at 12.00 (Brussels time), on the basis of the notifications made by the Member States in accordance with Article 11a(1)(a)(i).

Where there is an overrun of the quantity which remains available for intervention, the Commission shall fix and publish not later than the fourth working day following the deadline for the submission of offers, an award coefficient to six decimal places to be applied to the quantities. If there is no overrun, this award coefficient shall be 1, the quantities offered shall be deemed to have been accepted and each week, by Wednesday at the latest, the Commission shall post on its Internet site http://ec.europa.eu/agriculture/markets/crops/index_fr.htm information for operators as to the remaining quantity available for intervention in the week in question.

Not later than the ninth working day following the deadline for the submission of offers, the intervention agency of the Member State shall notify the offerer that the offer has been accepted for a quantity equal to the quantity offered multiplied by the award coefficient.

4. The offers referred to in paragraphs 2 and 3 shall be entered in the accounts by the competent intervention agency on the date of their receipt.

Once submitted, offers may not be altered or withdrawn.

5. To be admissible, the offers shall be accompanied by proof that the offerer has lodged a security of EUR 15 per tonne. This security shall be lodged on submission of the offer, but may be payable, if lodged during period 1 in the form of a bank guarantee, only from the day following the deadline for the submission of offers referred to in paragraph 2.

6. The security shall cover the quantities offered by the offerer in accordance with paragraphs 2 or 3.

Except in cases of *force majeure* or in exceptional circumstances, the security shall be fully forfeit to the Community budget where:

- (a) the quantities present in the place of storage, between the submission of the offer and the take-over of the maize, are below the quantities declared by the offerer in accordance with Article 4(1), without prejudice to a 5 % margin of tolerance;
- (b) the quantities awarded are not in fact supplied by the offerer for take-over by the intervention agency in accordance with Articles 2 and 5.

For the purposes of applying point (a) of the second subparagraph of this paragraph, the intervention agencies shall carry out checks on the quantities present in the places of storage by applying *mutatis mutandis* the rules and conditions laid down in Commission Regulation (EC) No 884/2006 (*), as regards checks on the physical presence of products stored under public storage operations, and more specifically those provided for under point B.III of Annex I to that Regulation. These controls shall be carried out on at least 5 % of the offers and 5 % of the quantities offered, on the basis of a risk analysis. These minimal control rates shall apply only during period 1.

The security shall be released in its entirety:

- (a) for quantities offered but not awarded; and
- (b) for quantities offered and awarded, from the moment that 95 % of the quantity awarded has actually been taken over by the intervention agency.

(*) OJ L 171, 23.6.2006, p. 35.

2. Article 4 is amended as follows:

(a) in paragraph 1, point (e) is replaced by the following:

‘(e) the intervention centre for which the offer is made and, where the second subparagraph of Article 5(1) of this Regulation is applied, the offerer’s undertaking to ensure, in his relations with the storer, that the rules and conditions of storage and control provided for under Article 2(2)(a) of Regulation (EC) No 884/2006 are applied *mutatis mutandis* to the place of storage referred to in point (c) of this paragraph.’;

(b) in paragraph 3, the third subparagraph is deleted;

(c) the following paragraph 4 is added:

‘4. In the case of cereals offered into intervention other than maize, the final delivery shall be made not later than the end of the fourth month following the month during which the offer was received, without, however, being later than 1 July in Spain, Greece, Italy and Portugal and 31 July in the other Member States.

For maize, the delivery shall be made between 1 February and 30 April in the case of offers made in period 1, and not later than the end of the third month following the month in which the offer was received in the case of offers made in period 2, without, however, being later than 1 July in Spain, Greece, Italy and Portugal and 31 July in the other Member States.’

3. Article 5 is amended as follows:

(a) in paragraph 1 the following second and third subparagraphs are added:

‘This take-over may take place in the store in which the cereals are being held at the time of the offer, provided that the storage is on the premises of a “storer” within the meaning of Article 2(2)(a) of Regulation (EC) No 884/2006 and that the same rules and conditions as applicable to those premises, after take-over of the cereals for intervention, apply as from submission of the offer.

For maize, the quantity taken over may not exceed the quantity awarded in accordance with Article 3a(2) and (3).’;

(b) paragraph 6 is replaced by the following:

‘6. The last take-over shall take place, in the case of cereals other than maize, at the latest at the end of the second month following the month of the final delivery referred to in the first subparagraph of Article 4(4) and, in the case of maize, not later than the end of the second month following each of the final deliveries referred to in the second subparagraph of Article 4(4), and in any event not later than 31 July in Spain, Greece, Italy and Portugal and 31 August in the other Member States.’

4. In Article 8(1) the second sentence of the second subparagraph is replaced by the following:

‘This provision shall not apply to sorghum offered in August and September.’

5. Article 11a is replaced by the following:

‘Article 11a

1. For every cereal listed in Article 5(1) of Regulation (EC) No 1784/2003, each Member State shall forward by electronic means the information required to manage intervention, and in particular:

(a) every Wednesday by 12.00 (Brussels time):

(i) the quantities of cereals offered into intervention submitted by operators not later than 12.00 (Brussels time) on the Friday of the previous week, in accordance with Articles 4 and 3a of this Regulation;

(ii) the quantities of cereals, other than maize, offered into intervention, for which the offer has been withdrawn by the offerer since the start of the intervention period;

(iii) the total quantities of cereals offered for intervention after the start of the intervention period, net of the quantities referred to in point (ii);

(iv) the total quantities of cereals taken over since the start of the intervention period, in accordance with Article 5 of this Regulation;

(b) on the Wednesday following the publication of the invitation to tender, the quantities of cereals put up for tender in accordance with Article 2(2) of Commission Regulation (EEC) No 2131/93 (*);

(c) on the Wednesday following the date on which the Member State defines the lots concerned, the quantities of cereals intended for distribution free of charge to the most deprived persons in the Community in accordance with Council Regulation (EEC) No 3730/87 (**);

(d) by the end of the month following the take-over deadline referred to in Article 5(6) of this Regulation, by region set out in Annex III to Council Regulation (EEC) No 837/90 (***), the average results of specific weight, moisture content, percentage of broken grains and protein content recorded for the lots of cereals taken over.

2. The notifications referred to in paragraph 1 shall be made even if no quantity has been offered. In the absence of any notification of the information referred to in paragraph 1(a)(i), the Commission shall consider that no offer has been submitted in the Member State concerned.

3. The form and content of the notifications referred to in paragraph 1 shall be defined on the basis of models made available by the Commission to the Member States. These models shall not apply until the Management Committee for Cereals has been informed.

They shall be adapted and updated by the Commission under the same conditions.

(*) OJ L 191, 31.7.1993, p. 76.

(**) OJ L 352, 15.12.1987, p. 1.

(***) OJ L 88, 3.4.1990, p. 1.

Article 2

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

It shall apply from 1 August 2007.

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

Done at Brussels, 26 July 2007.

For the Commission

Mariann FISCHER BOEL

Member of the Commission

COMMISSION REGULATION (EC) No 884/2007

of 26 July 2007

on emergency measures suspending the use of E 128 Red 2G as food colour

(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 178/2002 of the European Parliament and the Council of 28 January 2002 laying down the general principles and requirements of food law, establishing the European Food Safety Authority and laying down procedures in matters of food safety⁽¹⁾ and in particular Article 53(1) thereof,

Whereas:

- (1) Under Article 53(1) of Regulation (EC) No 178/2002 the Commission may suspend the placing on the market or use of a food that is likely to constitute a serious risk to human health, when such risk cannot be contained satisfactorily by means of measures taken by the Member States concerned.
- (2) European Parliament and Council Directive 94/36/EC of 30 June 1994 on colours for use in foodstuffs⁽²⁾ authorises in its Annex I the use of the colour E 128 Red 2G in foodstuffs. Pursuant to Annex IV of that Directive the colour E 128 Red 2G is permitted for use in breakfast sausages with a minimum cereal content of 6 % and burger meat with a minimum vegetable and/or cereal content of 4 %. In both foods a maximum level of 20 mg/kg is allowed.
- (3) The use of that colour has been permitted on the basis of the opinion of the Scientific Committee on Food expressed on 27 June 1975⁽³⁾. That Committee allocated an acceptable daily intake (ADI) of 0,1 mg/kg body weight for E 128 Red 2G.
- (4) Food additives must be kept under continuous observation and must be re-evaluated whenever necessary in the light of changing conditions of use and new scientific information. As the original assessments of many of food additives date back over a number of years, the European

Commission considered that there is a need for a systematic re-evaluation of all authorised food additives to verify whether the existing safety assessment remain valid. Therefore, the Commission requested the European Food Safety Authority (EFSA) to re-evaluate all currently permitted food additives in the EU.

- (5) In this context the EFSA Scientific Panel on food additives, flavourings, processing aids and materials in contact with food has re-evaluated the safety of the colour E 128 Red 2G and adopted an opinion⁽⁴⁾ on 5 July 2007.
- (6) EFSA based its evaluation on the conclusions of the European Union risk assessment report⁽⁵⁾ on aniline. That report concluded that aniline should be considered as a carcinogen for which a genotoxic mechanism cannot be excluded. Since the colour E 128 Red 2G is readily and extensively metabolised to aniline, EFSA concluded that it would be prudent to regard that substance as being of safety concern. Consequently, EFSA withdrew the ADI for the colour E 128 Red 2G. EFSA, however, considered that should the tumour inducing mechanism of aniline be further elucidated, shown to be thresholded and/or its relevance for man discounted, the colour E 128 Red 2G could be re-evaluated once again for use as a food additive.
- (7) Considering that a food additive may only be used when there is evidence that its use is not harmful to health, Directive 94/36/EC should be amended to prohibit the use of the colour E 128 Red 2G.
- (8) In the interim, since the colour E 128 Red 2G is likely to constitute a serious risk to human health, it is appropriate, in order to ensure the high level of health protection chosen in the Community, to suspend with immediate effect the use of the colour E 128 Red 2G in food and the placing on the market and import of food containing the colour E 128 Red 2G.
- (9) By virtue of Directive 94/36/EC, the colour E 128 Red 2G is legally authorised for use in all Member States. Therefore, a Community-wide measure is necessary.

⁽¹⁾ OJ L 31, 1.2.2002, p. 1. Regulation as last amended by Commission Regulation (EC) No 575/2006 (OJ L 100, 8.4.2006, p. 3).

⁽²⁾ OJ L 237, 10.9.1994, p. 13. Directive as amended by Regulation (EC) No 1882/2003 of the European Parliament and of the Council (OJ L 284, 31.10.2003, p. 1).

⁽³⁾ SCF (1975). Reports of the Scientific Committee for Food (First series), p. 17, 19, 24.

⁽⁴⁾ EFSA (2007). Opinion of the Scientific Panel on Food Additives, Flavourings, Processing aids and Materials in contact with Food (AFC) on re-evaluation of food colours Red 2G (E 128).

⁽⁵⁾ ECB, 2004, European Chemicals Bureau, Institute for Health and Consumer Protection. European Union Risk Assessment Report on Aniline. Volume 50.

- (10) The Commission will keep this Regulation under regular review taking into account new scientific information.
- (11) Having regard to the nature of the risk, this Regulation should enter into force immediately.
- (12) Taking account of technical and economic reasons, transitional periods should be laid down to cover breakfast sausages and burger meat containing the colour E 128 Red 2G, which have been placed on the market in accordance with Directive 94/36/EC as well as consignments which were dispatched from third countries for the Community before the date of application of this Regulation.
- (13) 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

1. The use of the colour E 128 Red 2G in food, as referred to in Annex IV to Directive 94/36/EC, is suspended.

2. The placing on the market of food containing the colour E 128 Red 2G is suspended.

3. The import of food containing the colour E 128 Red 2G is suspended.

Article 2

1. By derogation to Article 1(2), breakfast sausages and burger meat containing the colour E 128 Red 2G which have been placed on the market in accordance with Directive 94/36/EC before the date of entry into force of this Regulation may be marketed until their 'use by' date or their date of minimum durability.

2. Article 1 shall not apply to consignments of breakfast sausages and burger meat containing the colour E 128 Red 2G where the importer of such foodstuffs can demonstrate that they had been dispatched from the third country concerned and were en route to the Community before the date of entry into force of this Regulation.

Article 3

This Regulation shall enter into force 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, 26 July 2007.

For the Commission
Markos KYPRIANOU
Member of the Commission

COMMISSION REGULATION (EC) No 885/2007
of 26 July 2007
granting no export refund for butter in the framework of the standing invitation to tender provided
for in Regulation (EC) No 581/2004

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Council Regulation (EC) No 1255/1999 of 17 May 1999 on the common organisation of the market in milk and milk products ⁽¹⁾, and in particular the third subparagraph of Article 31(3) thereof,

Whereas:

(1) Commission Regulation (EC) No 581/2004 of 26 March 2004 opening a standing invitation to tender for export refunds concerning certain types of butter ⁽²⁾ provides for a permanent tender.

(2) Pursuant to Article 5 of Commission Regulation (EC) No 580/2004 of 26 March 2004 establishing a tender

procedure concerning export refunds for certain milk products ⁽³⁾ and following an examination of the tenders submitted in response to the invitation to tender, it is appropriate not to grant any refund for the tendering period ending on 24 July 2007.

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

HAS ADOPTED THIS REGULATION:

Article 1

For the permanent tender opened by Regulation (EC) No 581/2004, for the tendering period ending on 24 July 2007 no export refund shall be granted for the products and destinations referred to in Article 1(1) of that Regulation.

Article 2

This Regulation shall enter into force on 27 July 2007.

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

Done at Brussels, 26 July 2007.

For the Commission

Jean-Luc DEMARTY

*Director-General for Agriculture and
Rural Development*

⁽¹⁾ OJ L 160, 26.6.1999, p. 48. Regulation as last amended by Commission Regulation (EC) No 1913/2005 (OJ L 307, 25.11.2005, p. 2).

⁽²⁾ OJ L 90, 27.3.2004, p. 64. Regulation as last amended by Regulation (EC) No 276/2007 (OJ L 76, 16.3.2007, p. 16).

⁽³⁾ OJ L 90, 27.3.2004, p. 58. Regulation as last amended by Regulation (EC) No 128/2007 (OJ L 41, 13.2.2007, p. 6).

COMMISSION REGULATION (EC) No 886/2007**of 26 July 2007****on the issue of import licences for applications lodged for the period 1 July 2007 to 30 June 2008 under the tariff quota opened by Regulation (EC) No 996/97 for frozen thin skirt of bovine animals**

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Council Regulation (EC) No 1254/1999 of 17 May 1999 on the common organisation of the market in beef and veal ⁽¹⁾,

Having regard to Commission Regulation (EC) No 1301/2006 of 31 August 2006 laying down common rules for the administration of import tariff quotas for agricultural products managed by a system of import licences ⁽²⁾, and in particular Article 7(2) thereof,

Whereas:

- (1) Commission Regulation (EC) No 996/97 of 3 June 1997 on the opening and administration of an import tariff quota for frozen thin skirt of bovine animals falling within CN code 0206 29 91 ⁽³⁾ opens an import tariff quota for beef and veal products.

- (2) The applications for import licences lodged for the period 1 July 2007 to 30 June 2008 relate to quantities exceeding those available. The extent to which import licences may be issued should therefore be determined and an allocation coefficient laid down to be applied to the quantities applied for,

HAS ADOPTED THIS REGULATION:

Article 1

The quantities for which import licence applications covered by the quota with the serial number 09.4020 have been lodged for the period 1 July 2007 to 30 June 2008 under Regulation (EC) No 996/97 shall be multiplied by an allocation coefficient of 0,970873 %.

Article 2

This Regulation shall enter into force on 27 July 2007.

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

Done at Brussels, 26 July 2007.

For the Commission

Jean-Luc DEMARTY

*Director-General for Agriculture and
Rural Development*

⁽¹⁾ OJ L 160, 26.6.1999, p. 21. Regulation as last amended by Regulation (EC) No 1913/2005 (OJ L 307, 25.11.2005, p. 2).

⁽²⁾ OJ L 238, 1.9.2006, p. 13. Regulation as amended by Regulation (EC) No 289/2007 (OJ L 78, 17.3.2007, p. 17).

⁽³⁾ OJ L 144, 4.6.1997, p. 6. Regulation as last amended by Regulation (EC) No 568/2007 (OJ L 133, 25.5.2007, p. 15).

COMMISSION REGULATION (EC) No 887/2007

of 26 July 2007

fixing the rates of the refunds applicable to certain milk products 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 1255/1999 of 17 May 1999 on the common organisation of the market in milk and milk products⁽¹⁾, and in particular Article 31(3) thereof,

Whereas:

(1) Article 31(1) of Regulation (EC) No 1255/1999 provides that the difference between prices in international trade for the products listed in Article 1(a), (b), (c), (d), (e), and (g) of that Regulation and prices within the Community may be covered by an export refund.

(2) Commission Regulation (EC) No 1043/2005 of 30 June 2005 implementing Council Regulation (EC) No 3448/93 as regards 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⁾, specifies the products for which a rate of refund is to be fixed, to be applied where these products are exported in the form of goods listed in Annex II to Regulation (EC) No 1255/1999.

(3) In accordance with the first paragraph of Article 14 of Regulation (EC) No 1043/2005, the rate of the refund per 100 kilograms for each of the basic products in question is to be fixed each month.

(4) However, in the case of certain milk products exported in the form of goods not covered by Annex I to the Treaty, there is a danger that, if high refund rates are fixed in advance, the commitments entered into in relation to

those refunds may be jeopardised. In order to avert that danger, it is therefore necessary to take appropriate precautionary measures, but without precluding the conclusion of long-term contracts. The fixing of specific refund rates for the advance fixing of refunds in respect of those products should enable those two objectives to be met.

(5) Article 15(2) of Regulation (EC) No 1043/2005 provides that, when the rate of the refund is being fixed, account is to be taken, where appropriate, of production refunds, aids or other measures having equivalent effect applicable in all Member States in accordance with the Regulation on the common organisation of the market in the product in question to the basic products listed in Annex I to Regulation (EC) No 1043/2005 or to assimilated products.

(6) Article 12(1) of Regulation (EC) No 1255/1999 provides for the payment of aid for Community-produced skimmed milk processed into casein if such milk and the casein manufactured from it fulfil certain conditions.

(7) Commission Regulation (EC) No 1898/2005 of 9 November 2005 laying down detailed rules for implementing Council Regulation (EC) No 1255/1999 as regards measures for the disposal of cream, butter and concentrated butter⁽³⁾, lays down that butter and cream at reduced prices should be made available to industries which manufacture certain goods.

(8) The measures provided for in this Regulation are in accordance with the opinion of the Management Committee for Milk and Milk Products,

HAS ADOPTED THIS REGULATION:

Article 1

The rates of the refunds applicable to the basic products listed in Annex I to Regulation (EC) No 1043/2005 and in Article 1 of Regulation (EC) No 1255/1999, and exported in the form of goods listed in Annex II to Regulation (EC) No 1255/1999, shall be fixed as set out in the Annex to this Regulation.

⁽¹⁾ OJ L 160, 26.6.1999, p. 48. Regulation as amended by Commission Regulation (EC) No 1913/2005 (OJ L 307, 25.11.2005, p. 2).

⁽²⁾ OJ L 172, 5.7.2005, p. 24. Regulation as last amended by Regulation (EC) No 447/2007 (OJ L 106, 24.4.2007, p. 31).

⁽³⁾ OJ L 308, 25.11.2005, p. 1. Regulation as last amended by Regulation (EC) No 96/2007 (OJ L 25, 1.2.2007, p. 6).

Article 2

This Regulation shall enter into force on 27 July 2007.

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

Done at Brussels, 26 July 2007.

For the Commission

Heinz ZOUREK

Director-General Enterprise and Industry

ANNEX

Rates of the refunds applicable from 27 July 2007 to certain milk products exported in the form of goods not covered by Annex I to the Treaty ⁽¹⁾

(EUR/100 kg)

| CN code | Description | Rate of refund | |
|---------------|---|--------------------------------------|-------|
| | | In case of advance fixing of refunds | Other |
| ex 0402 10 19 | Powdered milk, in granules or other solid forms, not containing added sugar or other sweetening matter, with a fat content not exceeding 1,5 % by weight (PG 2): | | |
| | (a) on exportation of goods of CN code 3501 | — | — |
| | (b) on exportation of other goods | 0,00 | 0,00 |
| ex 0402 21 19 | Powdered milk, in granules or other solid forms, not containing added sugar or other sweetening matter, with a fat content of 26 % by weight (PG 3): | | |
| | (a) where goods incorporating, in the form of products assimilated to PG 3, reduced-price butter or cream obtained pursuant to Regulation (EC) No 1898/2005 are exported | 0,00 | 0,00 |
| | (b) on exportation of other goods | 0,00 | 0,00 |
| ex 0405 10 | Butter, with a fat content by weight of 82 % (PG 6): | | |
| | (a) where goods containing reduced-price butter or cream which have been manufactured in accordance with the conditions provided for in Regulation (EC) No 1898/2005 are exported | 0,00 | 0,00 |
| | (b) on exportation of goods of CN code 2106 90 98 containing 40 % or more by weight of milk fat | 0,00 | 0,00 |
| | (c) on exportation of other goods | 0,00 | 0,00 |

⁽¹⁾ The rates set out in this Annex are not applicable to exports to Andorra, Gibraltar, Ceuta, Melilla, Holy See (Vatican City State), Liechtenstein, the Communes of Livigno and Campione d'Italia, Heligoland, Greenland, the Faerøe Islands, the United States of America and the areas of the Republic of Cyprus in which the Government of the Republic of Cyprus does not exercise effective control and to the goods listed in Tables I and II of Protocol 2 to the Agreement between the European Community and the Swiss Confederation of 22 July 1972 exported to the Swiss Confederation.

COMMISSION REGULATION (EC) No 888/2007

of 26 July 2007

fixing the rates of the refunds applicable to certain cereal and rice products 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 1784/2003 of 29 September 2003 on the common organisation of the market in cereals ⁽¹⁾, and in particular Article 13(3) thereof,

Having regard to Council Regulation (EC) No 1785/2003 of 29 September 2003 on the common organisation of the market in rice ⁽²⁾, and in particular Article 14(3) thereof,

Whereas:

- (1) Article 13(1) of Regulation (EC) No 1784/2003 and Article 14(1) of Regulation (EC) No 1785/2003 provide that the difference between quotations or prices on the world market for the products listed in Article 1 of each of those Regulations and the prices within the Community may be covered by an export refund.
- (2) Commission Regulation (EC) No 1043/2005 of 30 June 2005 implementing Council Regulation (EC) No 3448/93 as regards 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 ⁽³⁾, specifies the products for which a rate of refund is to be fixed, to be applied where these products are exported in the form of goods listed in Annex III to Regulation (EC) No 1784/2003 or in Annex IV to Regulation (EC) No 1785/2003 as appropriate.
- (3) In accordance with the first paragraph of Article 14 of Regulation (EC) No 1043/2005, the rate of the refund per 100 kilograms for each of the basic products in question is to be fixed each month.
- (4) 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.

- (5) Taking into account the settlement between the European Community and the United States of America on Community exports of pasta products to the United States, approved by Council Decision 87/482/EEC ⁽⁴⁾, it is necessary to differentiate the refund on goods falling within CN codes 1902 11 00 and 1902 19 according to their destination.
- (6) Pursuant to Article 15(2) and (3) of Regulation (EC) No 1043/2005, a reduced rate of export refund has to be fixed, taking account of the amount of the production refund applicable, pursuant to Commission Regulation (EEC) No 1722/93 ⁽⁵⁾, for the basic product in question, used during the assumed period of manufacture of the goods.
- (7) Spirituous beverages are considered less sensitive to the price of the cereals used in their manufacture. However, Protocol 19 of the Act of Accession of the United Kingdom, Ireland and Denmark provides that the necessary measures must be decided to facilitate the use of Community cereals in the manufacture of spirituous beverages obtained from cereals. Accordingly, it is necessary to adapt the refund rate applying to cereals exported in the form of spirituous beverages.
- (8) The Management Committee for Cereals has not delivered an opinion within the time limit set by its chairman,

HAS ADOPTED THIS REGULATION:

Article 1

The rates of the refunds applicable to the basic products listed in Annex I to Regulation (EC) No 1043/2005 and in Article 1 of Regulation (EC) No 1784/2003 or in Article 1 of Regulation (EC) No 1785/2003, and exported in the form of goods listed in Annex III to Regulation (EC) No 1784/2003 or in Annex IV to Regulation (EC) No 1785/2003 respectively, shall be fixed as set out in the Annex to this Regulation.

Article 2

This Regulation shall enter into force on 27 July 2007.

⁽¹⁾ OJ L 270, 21.10.2003, p. 78. Regulation as amended by Commission Regulation (EC) No 1154/2005 (OJ L 187, 19.7.2005, p. 11).

⁽²⁾ OJ L 270, 21.10.2003, p. 96. Regulation as last amended by Commission Regulation (EC) No 797/2006 (OJ L 144, 31.5.2006, p. 1).

⁽³⁾ OJ L 172, 5.7.2005, p. 24. Regulation as last amended by Regulation (EC) No 447/2007 (OJ L 106, 24.4.2007, p. 31).

⁽⁴⁾ OJ L 275, 29.9.1987, p. 36.

⁽⁵⁾ OJ L 159, 1.7.1993, p. 112. Regulation as last amended by Regulation (EC) No 1584/2004 (OJ L 280, 31.8.2004, p. 11).

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

Done at Brussels, 26 July 2007.

For the Commission
Heinz ZOUREK
Director-General Enterprise and Industry

ANNEX

Rates of the refunds applicable from 27 July 2007 to certain cereals and rice products exported in the form of goods not covered by Annex I to the Treaty (*)

| CN code | Description of products (1) | Rate of refund per 100 kg of basic product (EUR/100 kg) | |
|------------|--|---|-------|
| | | In case of advance fixing of refunds | Other |
| 1001 10 00 | Durum wheat: | | |
| | – on exports of goods falling within CN codes 1902 11 and 1902 19 to the United States of America | — | — |
| | – in other cases | — | — |
| 1001 90 99 | Common wheat and meslin: | | |
| | – on exports of goods falling within CN codes 1902 11 and 1902 19 to the United States of America | — | — |
| | – in other cases: | | |
| | – – where Article 15(3) of Regulation (EC) No 1043/2005 applies (2) | — | — |
| | – – where goods falling within subheading 2208 (3) are exported | — | — |
| | – – in other cases | — | — |
| 1002 00 00 | Rye | — | — |
| 1003 00 90 | Barley | | |
| | – where goods falling within subheading 2208 (3) are exported | — | — |
| | – in other cases | — | — |
| 1004 00 00 | Oats | — | — |
| 1005 90 00 | Maize (corn) used in the form of: | | |
| | – starch: | | |
| | – – where Article 15(3) of Regulation (EC) No 1043/2005 applies (2) | 2,131 | 2,131 |
| | – – where goods falling within subheading 2208 (3) are exported | — | — |
| | – – in other cases | 2,131 | 2,131 |
| | – glucose, glucose syrup, maltodextrine, maltodextrine syrup of CN codes 1702 30 51, 1702 30 59, 1702 30 91, 1702 30 99, 1702 40 90, 1702 90 50, 1702 90 75, 1702 90 79, 2106 90 55 (4): | | |
| | – – where Article 15(3) of Regulation (EC) No 1043/2005 applies (2) | 1,598 | 1,598 |
| | – – where goods falling within subheading 2208 (3) are exported | — | — |
| | – – in other cases | 1,598 | 1,598 |
| | – – where goods falling within subheading 2208 (3) are exported | — | — |
| | – other (including unprocessed) | 2,131 | 2,131 |
| | Potato starch of CN code 1108 13 00 similar to a product obtained from processed maize: | | |
| | – where Article 15(3) of Regulation (EC) No 1043/2005 applies (2) | 2,131 | 2,131 |
| | – where goods falling within subheading 2208 (3) are exported | — | — |
| | – in other cases | 2,131 | 2,131 |

(*) The rates set out in this Annex are not applicable to the goods listed in Tables I and II to Protocol No 2 to the Agreement between the European Community and the Swiss Confederation of 22 July 1972 exported to the Swiss Confederation or to the Principality of Liechtenstein.

| CN code | Description of products ⁽¹⁾ | Rate of refund per 100 kg of basic product (EUR/100 kg) | |
|------------|---|--|-------|
| | | In case of advance fixing of refunds | Other |
| ex 1006 30 | Wholly milled rice: | | |
| | – round grain | — | — |
| | – medium grain | — | — |
| | – long grain | — | — |
| 1006 40 00 | Broken rice | — | — |
| 1007 00 90 | Grain sorghum, other than hybrid for sowing | — | — |

⁽¹⁾ As far as agricultural products obtained from the processing of a basic product or/and assimilated products are concerned, the coefficients set out in Annex V to Commission Regulation (EC) No 1043/2005 is applicable.

⁽²⁾ The goods concerned fall under CN code 3505 10 50.

⁽³⁾ Goods listed in Annex III to Regulation (EC) No 1784/2003 or referred to in Article 2 of Regulation (EEC) No 2825/93 (OJ L 258, 16.10.1993, p. 6).

⁽⁴⁾ For syrups of CN codes NC 1702 30 99, 1702 40 90 and 1702 60 90, obtained from mixing glucose and fructose syrup, the export refund relates only to the glucose syrup.

COMMISSION REGULATION (EC) No 889/2007

of 26 July 2007

fixing the export refunds on products processed from cereals and rice

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,

Having regard to Council Regulation (EC) No 1785/2003 of 29 September 2003 on the common organisation of the market in rice ⁽²⁾, and in particular Article 14(3) thereof,

Whereas:

(1) Article 13 of Regulation (EC) No 1784/2003 and Article 14 of Regulation (EC) No 1785/2003 provide that the difference between quotations or prices on the world market for the products listed in Article 1 of those Regulations and prices for those products within the Community may be covered by an export refund.

(2) Article 14 of Regulation (EC) No 1785/2003 provides that when refunds are being fixed account must be taken of the existing situation and the future trend with regard to prices and availabilities of cereals, rice and broken rice on the Community market on the one hand and prices for cereals, rice, broken rice and cereal products on the world market on the other. The same Articles provide that it is also important to ensure equilibrium and the natural development of prices and trade on the markets in cereals and rice and, furthermore, to take into account the economic aspect of the proposed exports, and the need to avoid disturbances on the Community market.

(3) Article 2 of Commission Regulation (EC) No 1518/95 ⁽³⁾ on the import and export system for products processed from cereals and from rice defines the specific criteria to be taken into account when the refund on these products is being calculated.

⁽¹⁾ OJ L 270, 21.10.2003, p. 78. Regulation as amended by Commission Regulation (EC) No 1154/2005 (OJ L 187, 19.7.2005, p. 11).

⁽²⁾ OJ L 270, 21.10.2003, p. 96. Regulation as last amended by Commission Regulation (EC) No 1549/2004 (OJ L 280, 31.8.2004, p. 13).

⁽³⁾ OJ L 147, 30.6.1995, p. 55. Regulation as last amended by Regulation (EC) No 2993/95 (OJ L 312, 23.12.1995, p. 25).

(4) The refund to be granted in respect of certain processed products should be graduated on the basis of the ash, crude fibre, tegument, protein, fat and starch content of the individual product concerned, this content being a particularly good indicator of the quantity of basic product actually incorporated in the processed product.

(5) There is no need at present to fix an export refund for manioc, other tropical roots and tubers or flours obtained therefrom, given the economic aspect of potential exports and in particular the nature and origin of these products. For certain products processed from cereals, the insignificance of Community participation in world trade makes it unnecessary to fix an export refund at the present time.

(6) The world market situation or the specific requirements of certain markets may make it necessary to vary the refund for certain products according to destination.

(7) The refund must be fixed once a month. It may be altered in the intervening period.

(8) Certain processed maize products may undergo a heat treatment following which a refund might be granted that does not correspond to the quality of the product; whereas it should therefore be specified that on these products, containing pregelatinised starch, no export refund is to be granted.

(9) The Management Committee for Cereals has not delivered an opinion within the time limit set by its chairman,

HAS ADOPTED THIS REGULATION:

Article 1

The export refunds on the products listed in Article 1 of Regulation (EC) No 1518/95 are hereby fixed as shown in the Annex to this Regulation.

Article 2

This Regulation shall enter into force on 27 July 2007.

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

Done at Brussels, 26 July 2007.

For the Commission
Jean-Luc DEMARTY
*Director-General for Agriculture and
Rural Development*

ANNEX

to Commission Regulation of 26 July 2007 fixing the export refunds on products processed from cereals and rice

| Product code | Destination | Unit of measurement | Refunds | Product code | Destination | Unit of measurement | Refunds |
|--------------------------------|-------------|---------------------|---------|--------------------------------|-------------|---------------------|---------|
| 1102 20 10 9200 ⁽¹⁾ | C10 | EUR/t | 29,83 | 1104 23 10 9300 | C10 | EUR/t | 24,51 |
| 1102 20 10 9400 ⁽¹⁾ | C10 | EUR/t | 25,57 | 1104 29 11 9000 | C10 | EUR/t | 0,00 |
| 1102 20 90 9200 ⁽¹⁾ | C10 | EUR/t | 25,57 | 1104 29 51 9000 | C10 | EUR/t | 0,00 |
| 1102 90 10 9100 | C10 | EUR/t | 0,00 | 1104 29 55 9000 | C10 | EUR/t | 0,00 |
| 1102 90 10 9900 | C10 | EUR/t | 0,00 | 1104 30 10 9000 | C10 | EUR/t | 0,00 |
| 1102 90 30 9100 | C10 | EUR/t | 0,00 | 1104 30 90 9000 | C10 | EUR/t | 5,33 |
| 1103 19 40 9100 | C10 | EUR/t | 0,00 | 1107 10 11 9000 | C10 | EUR/t | 0,00 |
| 1103 13 10 9100 ⁽¹⁾ | C10 | EUR/t | 38,36 | 1107 10 91 9000 | C10 | EUR/t | 0,00 |
| 1103 13 10 9300 ⁽¹⁾ | C10 | EUR/t | 29,83 | 1108 11 00 9200 | C10 | EUR/t | 0,00 |
| 1103 13 10 9500 ⁽¹⁾ | C10 | EUR/t | 25,57 | 1108 11 00 9300 | C10 | EUR/t | 0,00 |
| 1103 13 90 9100 ⁽¹⁾ | C10 | EUR/t | 25,57 | 1108 12 00 9200 | C10 | EUR/t | 34,10 |
| 1103 19 10 9000 | C10 | EUR/t | 0,00 | 1108 12 00 9300 | C10 | EUR/t | 34,10 |
| 1103 19 30 9100 | C10 | EUR/t | 0,00 | 1108 13 00 9200 | C10 | EUR/t | 34,10 |
| 1103 20 60 9000 | C10 | EUR/t | 0,00 | 1108 13 00 9300 | C10 | EUR/t | 34,10 |
| 1103 20 20 9000 | C10 | EUR/t | 0,00 | 1108 19 10 9200 | C10 | EUR/t | 0,00 |
| 1104 19 69 9100 | C10 | EUR/t | 0,00 | 1108 19 10 9300 | C10 | EUR/t | 0,00 |
| 1104 12 90 9100 | C10 | EUR/t | 0,00 | 1109 00 00 9100 | C10 | EUR/t | 0,00 |
| 1104 12 90 9300 | C10 | EUR/t | 0,00 | 1702 30 51 9000 ⁽²⁾ | C10 | EUR/t | 33,40 |
| 1104 19 10 9000 | C10 | EUR/t | 0,00 | 1702 30 59 9000 ⁽²⁾ | C10 | EUR/t | 25,57 |
| 1104 19 50 9110 | C10 | EUR/t | 34,10 | 1702 30 91 9000 | C10 | EUR/t | 33,40 |
| 1104 19 50 9130 | C10 | EUR/t | 27,70 | 1702 30 99 9000 | C10 | EUR/t | 25,57 |
| 1104 29 01 9100 | C10 | EUR/t | 0,00 | 1702 40 90 9000 | C10 | EUR/t | 25,57 |
| 1104 29 03 9100 | C10 | EUR/t | 0,00 | 1702 90 50 9100 | C10 | EUR/t | 33,40 |
| 1104 29 05 9100 | C10 | EUR/t | 0,00 | 1702 90 50 9900 | C10 | EUR/t | 25,57 |
| 1104 29 05 9300 | C10 | EUR/t | 0,00 | 1702 90 75 9000 | C10 | EUR/t | 35,00 |
| 1104 22 20 9100 | C10 | EUR/t | 0,00 | 1702 90 79 9000 | C10 | EUR/t | 24,29 |
| 1104 22 30 9100 | C10 | EUR/t | 0,00 | 2106 90 55 9000 | C14 | EUR/t | 25,57 |
| 1104 23 10 9100 | C10 | EUR/t | 31,97 | | | | |

⁽¹⁾ No refund shall be granted on products given a heat treatment resulting in pregelatinisation of the starch.

⁽²⁾ Refunds are granted in accordance with Council Regulation (EEC) No 2730/75 (OJ L 281, 1.11.1975, p. 20), as amended.

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) as amended.

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

The other destinations are as follows:

C10: All destinations

C14: All destinations except for Switzerland and Liechtenstein.

COMMISSION REGULATION (EC) No 890/2007
of 26 July 2007
fixing the export refunds on cereal-based compound feedingstuffs

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) Article 13 of Regulation (EC) No 1784/2003 provides that the difference between quotations or prices on the world market for the products listed in Article 1 of that Regulation and prices for those products within the Community may be covered by an export refund.
- (2) Commission Regulation (EC) No 1517/95 of 29 June 1995 laying down detailed rules for the application of Regulation (EC) No 1784/2003 as regards the arrangements for the export and import of compound feedingstuffs based on cereals and amending Regulation (EC) No 1162/95 laying down special detailed rules for the application of the system of import and export licences for cereals and rice ⁽²⁾ in Article 2 lays down general rules for fixing the amount of such refunds.
- (3) That calculation must also take account of the cereal products content. In the interest of simplification, the refund should be paid in respect of two categories of 'cereal products', namely for maize, the most commonly used cereal in exported compound feeds

and maize products, and for 'other cereals', these being eligible cereal products excluding maize and maize products. A refund should be granted in respect of the quantity of cereal products present in the compound feedingstuff.

- (4) Furthermore, the amount of the refund must also take into account the possibilities and conditions for the sale of those products on the world market, the need to avoid disturbances on the Community market and the economic aspect of the export.
- (5) The current situation on the cereals market and, in particular, the supply prospects mean that the export refunds should be abolished.
- (6) The Management Committee for Cereals has not delivered an opinion within the time limit set by its chairman,

HAS ADOPTED THIS REGULATION:

Article 1

The export refunds on the compound feedingstuffs covered by Regulation (EC) No 1784/2003 and subject to Regulation (EC) No 1517/95 are hereby fixed as shown in the Annex to this Regulation.

Article 2

This Regulation shall enter into force on 27 July 2007.

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

Done at Brussels, 26 July 2007.

For the Commission

Jean-Luc DEMARTY

*Director-General for Agriculture and
Rural Development*

⁽¹⁾ OJ L 270, 21.10.2003, p. 78. Regulation as amended by Commission Regulation (EC) No 1154/2005 (OJ L 187, 19.7.2005, p. 11).

⁽²⁾ OJ L 147, 30.6.1995, p. 51.

ANNEX

to the Commission Regulation of 26 July 2007 fixing the export refunds on cereal-based compound feedingstuffs

Product codes benefiting from export refund:

2309 10 11 9000, 2309 10 13 9000, 2309 10 31 9000,
2309 10 33 9000, 2309 10 51 9000, 2309 10 53 9000,
2309 90 31 9000, 2309 90 33 9000, 2309 90 41 9000,
2309 90 43 9000, 2309 90 51 9000, 2309 90 53 9000.

| Cereal products | Destination | Unit of measurement | Amount of refunds |
|---|-------------|---------------------|-------------------|
| Maize and maize products: CN codes 0709 90 60, 0712 90 19, 1005, 1102 20, 1103 13, 1103 29 40, 1104 19 50, 1104 23, 1904 10 10 | C10 | EUR/t | 0,00 |
| Cereal products excluding maize and maize products | C10 | EUR/t | 0,00 |

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) as amended.

C10: All destinations.

COMMISSION REGULATION (EC) No 891/2007
of 26 July 2007
fixing production refunds on cereals

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 8(2) thereof,

Whereas:

(1) Commission Regulation (EEC) No 1722/93 of 30 June 1993 laying down detailed rules for the application of Council Regulations (EEC) No 1766/92 and (EEC) No 1418/76 concerning production refunds in the cereals and rice sectors respectively ⁽²⁾ lays down the conditions for granting production refunds. The basis for calculating the refund is laid down in Article 3 of that Regulation. The refund thus calculated, differentiated where necessary for potato starch, must be fixed once a month and may be amended if the price of maize and/or wheat changes significantly.

(2) The production refunds fixed in this Regulation should be adjusted by the coefficients listed in the Annex II to Regulation (EEC) No 1722/93 to establish the exact amount to be paid.

(3) The Management Committee for Cereals has not delivered an opinion within the time limit set by its chairman,

HAS ADOPTED THIS REGULATION:

Article 1

The refund per tonne of starch referred to in Article 3(2) of Regulation (EEC) No 1722/93, is hereby fixed at:

- (a) EUR/tonne 0,00 for starch from maize, wheat, barley and oats;
- (b) EUR/tonne 0,00 for potato starch.

Article 2

This Regulation shall enter into force on 27 July 2007.

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

Done at Brussels, 26 July 2007.

For the Commission

Jean-Luc DEMARTY

*Director-General for Agriculture and
Rural Development*

⁽¹⁾ OJ L 270, 21.10.2003, p. 78. Regulation as amended by Commission Regulation (EC) No 1154/2005 (OJ L 187, 19.7.2005, p. 11).

⁽²⁾ OJ L 159, 1.7.1993, p. 112. Regulation as last amended by Regulation (EC) No 1950/2005 (OJ L 312, 29.11.2005, p. 18).

COMMISSION REGULATION (EC) No 892/2007**of 26 July 2007****on the issue of licences for importing rice under the tariff quotas opened for the July 2007 subperiod by Regulation (EC) No 327/98**

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Council Regulation (EC) No 1785/2003 of 29 September 2003 on the common organisation of the markets in rice ⁽¹⁾,

Having regard to Commission Regulation (EC) No 1301/2006 of 31 August 2006 laying down common rules for the administration of import tariff quotas for agricultural products managed by a system of import licences ⁽²⁾, and in particular Article 7(2) thereof,

Having regard to Commission Regulation (EC) No 327/98 of 10 February 1998 opening and providing for the administration of certain tariff quotas for imports of rice and broken rice ⁽³⁾, and in particular the first subparagraph of Article 5 thereof,

Whereas:

- (1) Regulation (EC) No 327/98 opened and provided for the administration of certain import tariff quotas for rice and broken rice, broken down by country of origin and split into several subperiods in accordance with Annex IX of the Regulation.
- (2) July is the third subperiod for the quota laid down in Article 1(1)(a) of Regulation (EC) No 327/98, and the second subperiod for the quotas laid down in Article 1(1)(b), (c) and (d).
- (3) The notifications presented under Article 8(a) of Regulation (EC) No 327/98 show that, for the quotas with

serial numbers 09.4154, 09.4116 and 09.4166, the applications lodged in the first 10 working days of July 2007 under Article 4(1) of the Regulation cover a quantity greater than that available. The extent to which import licences may be issued should therefore be determined by establishing the allocation coefficient to be applied to the quantities requested under the quotas in question.

- (4) It is also clear from the notifications that, for the quotas with serial numbers 09.4127, 09.4128, 09.4129, 09.4149, 09.4150, 09.4152 and 09.4153, the applications lodged in the first 10 working days of July 2007 under Article 4(1) of the Regulation cover a quantity less than that available.
- (5) The total quantities available for the following subperiod should therefore be fixed for the quotas with serial numbers 09.4127, 09.4128, 09.4129, 09.4130, 09.4148, 09.4112, 09.4116, 09.4117, 09.4118, 09.4119 and 09.4166, in accordance with the first subparagraph of Article 5 of Regulation (EC) No 327/98,

HAS ADOPTED THIS REGULATION:

Article 1

1. For import licence applications for rice under the quotas with serial numbers 09.4154, 09.4116 and 09.4166 as referred to in Regulation (EC) No 327/98 lodged in the first 10 working days of July 2007, licences shall be issued for the quantities requested, multiplied by the allocation coefficients set out in the Annex to this Regulation.

2. The total quantities available under the quotas with serial numbers 09.4127, 09.4128, 09.4129, 09.4130, 09.4148, 09.4112, 09.4116, 09.4117, 09.4118, 09.4119 and 09.4166 as referred to in Regulation (EC) No 327/98 for the following subperiod are set out in the Annex to this Regulation.

⁽¹⁾ OJ L 270, 21.10.2003, p. 96. Regulation as amended by Commission Regulation (EC) No 797/2006 (OJ L 144, 31.5.2006, p. 1).

⁽²⁾ OJ L 238, 1.9.2006, p. 13. Regulation as amended by Regulation (EC) No 289/2007 (OJ L 78, 17.3.2007, p. 17).

⁽³⁾ OJ L 37, 11.2.1998, p. 5. Regulation as last amended by Commission Regulation (EC) No 2019/2006 (OJ L 384, 29.12.2006, p. 48).

Article 2

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

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

Done at Brussels, 26 July 2007.

For the Commission
Jean-Luc DEMARTY
*Director-General for Agriculture and
Rural Development*

ANNEX

Quantities to be allocated for the July 2007 subperiod and quantities available for the following subperiod under Regulation (EC) No 327/98:

- (a) quota for wholly milled or semi-milled rice falling within CN code 1006 30 provided for in Article 1(1)(a) of Regulation (EC) No 327/98:

| Origin | Serial number | Allocation coefficient for July 2007 subperiod | Total quantities available for September 2007 subperiod (kg) |
|--------------------------|---------------|--|--|
| United States of America | 09.4127 | — ⁽²⁾ | 19 578 285 |
| Thailand | 09.4128 | — ⁽²⁾ | 1 233 332 |
| Australia | 09.4129 | — ⁽²⁾ | 305 500 |
| Other origins | 09.4130 | — ⁽³⁾ | 7 319 |

- (b) quota for husked rice falling within CN code 1006 20 provided for in Article 1(1)(b) of Regulation (EC) No 327/98:

| Origin | Serial number | Allocation coefficient for July 2007 subperiod | Total quantities available for October 2007 subperiod (kg) |
|---------------|---------------|--|--|
| All countries | 09.4148 | — ⁽³⁾ | 60 728 |

- (c) quota for broken rice falling within CN code 1006 40 provided for in Article 1(1)(c) of Regulation (EC) No 327/98:

| Origin | Serial number | Allocation coefficient for July 2007 subperiod |
|--------------------------|---------------|--|
| Thailand | 09.4149 | — ⁽²⁾ |
| Australia | 09.4150 | — ⁽¹⁾ |
| Guyana | 09.4152 | — ⁽¹⁾ |
| United States of America | 09.4153 | — ⁽²⁾ |
| Other origins | 09.4154 | 1,809392 % |

(d) quota for wholly milled or semi-milled rice falling within CN code 1006 30 provided for in Article 1(1)(d) of Regulation (EC) No 327/98:

| Origin | Serial number | Allocation coefficient for July 2007 subperiod | Total quantities available for September 2007 subperiod (kg) |
|--------------------------|---------------|--|--|
| Thailand | 09.4112 | — ⁽³⁾ | 7 344 |
| United States of America | 09.4116 | 3,329173 % | 0 |
| India | 09.4117 | — ⁽³⁾ | 36 522 |
| Pakistan | 09.4118 | — ⁽³⁾ | 4 521 |
| Other origins | 09.4119 | — ⁽³⁾ | 58 099 |
| All countries | 09.4166 | 1,218315 % | 0 |

⁽¹⁾ No application of the allocation coefficient for this subperiod: no licence applications were notified to the Commission.

⁽²⁾ No application of the allocation coefficient for this subperiod: applications cover quantities less than or equal to the quantities available.

⁽³⁾ No remaining quantity available for this subperiod.

DIRECTIVES

COMMISSION DIRECTIVE 2007/48/EC

of 26 July 2007

amending Directive 2003/90/EC setting out implementing measures for the purposes of Article 7 of Council Directive 2002/53/EC as regards the characteristics to be covered as a minimum by the examination and the minimum conditions for examining certain varieties of agricultural plant species

(Text with EEA relevance)

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

HAS ADOPTED THIS DIRECTIVE:

Having regard to the Treaty establishing the European Community,

Article 1

Annexes I and II to Directive 2003/90/EC are replaced by the text in the Annex to this Directive.

Having regard to Council Directive 2002/53/EC of 13 June 2002 on the common catalogue of varieties of agricultural plant species ⁽¹⁾, and in particular Article 7(2)(a) and (b) thereof,

Article 2

Whereas:

For examinations started before 1 November 2007 Member States may apply Directive 2003/90/EC in the version applying before its amendment by this Directive.

(1) Commission Directive 2003/90/EC ⁽²⁾ was adopted to ensure that the varieties the Member States include in their national catalogues comply with the guidelines established by the Community Plant Variety Office (CPVO) as regards the characteristics to be covered as a minimum by the examination and the minimum conditions for examining the varieties, as far as such guidelines had been established. For other varieties that Directive provides that the guidelines of the International Union for the Protection of new Varieties of Plants (UPOV) are to apply.

Article 3

Member States shall adopt and publish, by 31 October 2007 at the latest, the laws, regulations and administrative provisions necessary to comply with this Directive. They shall forthwith communicate to the Commission the text of those provisions and a correlation table between those provisions and this Directive.

(2) The CPVO and UPOV have since established further guidelines for a number of other species or have updated existing ones.

They shall apply those provisions from 1 November 2007.

(3) Directive 2003/90/EC should therefore be amended accordingly.

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

(4) The measures provided for in this Directive are in accordance with the opinion of the Standing Committee on Seeds and Propagating Material for Agriculture, Horticulture and Forestry,

Article 4

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

⁽¹⁾ OJ L 193, 20.7.2002, p. 1. Directive as last amended by Regulation (EC) No 1829/2003 of the European Parliament and of the Council (OJ L 268, 18.10.2003, p. 1).

⁽²⁾ OJ L 254, 8.10.2003, p. 7. Directive as amended by Directive 2005/91/EC (OJ L 331, 17.12.2005, p. 24).

Article 5

This Directive is addressed to the Member States.

Done at Brussels, 26 July 2007.

For the Commission
Markos KYPRIANOU
Member of the Commission

ANNEX

‘ANNEX I

List of species referred to in Article 1(2)(a) which are to comply with CPVO test protocols

| Species listed in the Common Catalogue | CPVO protocol |
|--|------------------------------------|
| Field pea | Pea, TP 7/1 of 6.11.2003 |
| Swede rape | Oilseed rape, TP 36/1 of 25.3.2004 |
| Sunflower | Sunflower, TP 81/1 of 31.10.2002 |
| Oats | Oats, TP 20/1 of 6.11.2003 |
| Barley | Barley, TP 19/2 of 6.11.2003 |
| Rice | Rice, TP 16/1 of 18.11.2004 |
| Rye | Rye, TP 58/1 of 31.10.2002 |
| Triticale | Triticale, TP 121/2 of 22.1.2007 |
| Wheat | Wheat, TP 3/3 of 6.11.2003 |
| Durum wheat | Durum wheat, TP 120/2 of 6.11.2003 |
| Maize | Maize, TP 2/2 of 15.11.2001 |
| Potato | Potato, TP 23/2 of 1.12.2005 |
| Flax/Linseed | Flax/Linseed, TP 57/1 of 21.3.2007 |

The text of these protocols can be found on the CPVO web site (www.cpvo.europa.eu).

ANNEX II

List of species referred to in Article 1(2)(b) which are to comply with UPOV test guidelines

| Species listed in the Common Catalogue | UPOV guidelines |
|--|--|
| Fodder beet | Fodder beet, guideline TG/150/3 of 4.11.1994 |
| Velvet bent | Bent, guideline TG/30/6 of 12.10.1990 |
| Red top | Bent, guideline TG/30/6 of 12.10.1990 |
| Creeping bent | Bent, guideline TG/30/6 of 12.10.1990 |
| Brown top | Bent, guideline TG/30/6 of 12.10.1990 |
| Rescue grass | Rescue grass, guideline TG/180/3 of 4.4.2001 |
| Alaska brome-grass | Alaska brome-grass, guideline TG/180/3 of 4.4.2001 |
| Cocksfoot | Cocksfoot, guideline TG/31/8 of 17.4.2002 |

| Species listed in the Common Catalogue | UPOV guidelines |
|--|---|
| Tall fescue | Tall fescue, guideline TG/39/8 of 17.4.2002 |
| Sheep's fescue | Sheep's fescue, guideline TG/67/5 of 5.4.2006 |
| Meadow fescue | Meadow fescue, guideline TG/39/8 of 17.4.2002 |
| Red fescue | Red fescue, guideline TG/67/5 of 5.4.2006 |
| Italian ryegrass | Ryegrass, guideline TG/4/8 of 5.4.2006 |
| Perennial ryegrass | Ryegrass, guideline TG/4/8 of 5.4.2006 |
| Hybrid ryegrass | Ryegrass, guideline TG/4/8 of 5.4.2006 |
| Timothy | Timothy, guideline TG/34/6 of 7.11.1984 |
| Smooth-stalked meadow grass | Kentucky bluegrass, guideline TG/33/6 of 12.10.1990 |
| White lupin | White lupin, guideline TG/66/4 of 31.3.2004 |
| Blue lupin | Blue lupin, guideline TG/66/4 of 31.3.2004 |
| Yellow lupin | Yellow lupin, guideline TG/66/4 of 31.3.2004 |
| Lucerne | Lucerne, guideline TG/6/5 of 6.4.2005 |
| Red clover | Red clover, guideline TG/5/7 of 4.4.2001 |
| White clover | White clover, guideline TG/38/7 of 9.4.2003 |
| Field bean | Field bean, guideline TG/8/6 of 17.4.2002 |
| Common vetch | Common vetch, guideline TG/32/6 of 21.10.1988 |
| Swede | Swede, guideline TG 89/6 of 4.4.2001 |
| Fodder radish | Fodder radish, guideline TG/178/3 of 4.4.2001 |
| Groundnut/Peanut | Groundnut, guideline TG/93/3 of 13.11.1985 |
| Turnip rape | Turnip rape, guideline TG/185/3 of 17.4.2002 |
| Safflower | Safflower, guideline TG/134/3 of 12.10.1990 |
| Cotton | Cotton, guideline TG/88/6 of 4.4.2001 |
| Opium poppy | Opium/Seed poppy, guideline TG/166/3 of 24.3.1999 |
| White mustard | White mustard, guideline TG/179/3 of 4.4.2001 |
| Soya bean | Soya bean, guideline TG/80/6 of 1.4.1998 |
| Sorghum | Sorghum, guideline TG/122/3 of 6.10.1989 |

The text of these guidelines can be found on the UPOV web site (www.upov.int).

COMMISSION DIRECTIVE 2007/49/EC

of 26 July 2007

amending Directive 2003/91/EC setting out implementing measures for the purposes of Article 7 of Council Directive 2002/55/EC as regards the characteristics to be covered as a minimum by the examination and the minimum conditions for examining certain varieties of vegetable species

(Text with EEA relevance)

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Council Directive 2002/55/EC of 13 June 2002 on the marketing of vegetable seed ⁽¹⁾, and in particular Article 7(2)(a) and (b) thereof,

Whereas:

- (1) Commission Directive 2003/91/EC ⁽²⁾ was adopted to ensure that the varieties the Member States include in their national catalogues comply with the guidelines established by the Community Plant Variety Office (CPVO) as regards the characteristics to be covered as a minimum by the examination and the minimum conditions for examining the varieties, as far as such guidelines had been established. For other varieties the Directive provides that guidelines of the International Union for Protection of new Varieties of Plants (UPOV) are to apply.
- (2) The CPVO and UPOV have since issued further guidelines for a number of other species, or have updated existing ones.
- (3) Directive 2003/91/EC should therefore be amended accordingly.
- (4) The measures provided for in this Directive are in accordance with the opinion of the Standing Committee on Seeds and Propagating Material for Agriculture, Horticulture and Forestry,

HAS ADOPTED THIS DIRECTIVE:

Article 1

Annexes I and II to Directive 2003/91/EC are replaced by the text in the Annex to this Directive.

Article 2

For examinations started before 1 November 2007, Member States may apply Directive 2003/91/EC in the version applying before its amendment by this Directive.

Article 3

Member States shall adopt and publish, by 31 October 2007 at the latest, the laws, regulations and administrative provisions necessary to comply with this Directive. They shall forthwith communicate to the Commission the text of those provisions and a correlation table between those provisions and this Directive.

They shall apply those provisions from 1 November 2007.

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

Article 4

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

Article 5

This Directive is addressed to the Member States.

Done at Brussels, 26 July 2007.

For the Commission

Markos KYPRIANOU

Member of the Commission

⁽¹⁾ OJ L 193, 20.7.2002, p. 33. Directive as last amended by Commission Directive 2006/124/EC (OJ L 339, 6.12.2006, p. 12).

⁽²⁾ OJ L 254, 8.10.2003, p. 11. Directive as amended by Directive 2006/127/EC (OJ L 343, 8.12.2006, p. 82).

ANNEX

'ANNEX I

List of species referred to in Article 1(2)(a) which are to comply with CPVO test protocols

| Scientific name | Common name | CPVO protocol |
|---|--|-----------------------|
| <i>Allium cepa</i> L. (Cepa group) | Onion and Echalion | TP 46/1 of 14.6.2005 |
| <i>Allium cepa</i> L. (Aggregatum group) | Shallot | TP 46/1 of 14.6.2005 |
| <i>Allium porrum</i> L. | Leek | TP 85/1 of 15.11.2001 |
| <i>Allium sativum</i> L. | Garlic | TP 162/1 of 25.3.2004 |
| <i>Asparagus officinalis</i> L. | Asparagus | TP 130/1 of 27.3.2002 |
| <i>Brassica oleracea</i> L. | Cauliflower | TP 45/1 of 15.11.2001 |
| <i>Brassica oleracea</i> L. | Sprouting Broccoli or Calabrese | TP 151/2 of 21.3.2007 |
| <i>Brassica oleracea</i> L. | Brussels sprouts | TP 54/2 of 1.12.2005 |
| <i>Brassica oleracea</i> L. | Kohlrabi | TP 65/1 of 25.3.2004 |
| <i>Brassica oleracea</i> L. | Savoy cabbage, White cabbage and Red cabbage | TP 48/2 of 1.12.2005 |
| <i>Capsicum annuum</i> L. | Chilli or Pepper | TP 76/2 of 21.3.2007 |
| <i>Cichorium endivia</i> L. | Curled-leaved endive and Plain-leaved endive | TP 118/2 of 1.12.2005 |
| <i>Cichorium intybus</i> L. | Industrial chicory | TP 172/2 of 1.12.2005 |
| <i>Cichorium intybus</i> L. | Witloof chicory | TP 173/1 of 25.3.2004 |
| <i>Citrullus lanatus</i> (Thunb.) Matsum. Et Nakai | Watermelon | TP 142/1 of 21.3.2007 |
| <i>Cucumis melo</i> L. | Melon | TP 104/2 of 21.3.2007 |
| <i>Cucumis sativus</i> L. | Cucumber and Gherkin | TP 61/1 of 27.3.2002 |
| <i>Cucurbita pepo</i> L. | Marrow or Courgette | TP 119/1 of 25.3.2004 |
| <i>Cynara cardunculus</i> L. | Globe artichoke and Cardoon | TP 184/1 of 25.3.2004 |
| <i>Daucus carota</i> L. | Carrot and Fodder carrot | TP 49/2 of 1.12.2005 |
| <i>Foeniculum vulgare</i> Mill. | Fennel | TP 183/1 of 25.3.2004 |
| <i>Lactuca sativa</i> L. | Lettuce | TP 13/3 of 21.3.2007 |
| <i>Lycopersicon esculentum</i> Mill. | Tomato | TP 44/3 of 21.3.2007 |
| <i>Petroselinum crispum</i> (Mill.) Nyman ex A. W. Hill | Parsley | TP 136/1 of 21.3.2007 |
| <i>Phaseolus coccineus</i> L. | Runner bean | TP 9/1 of 21.3.2007 |
| <i>Phaseolus vulgaris</i> L. | Dwarf French bean and Climbing French bean | TP 12/2 of 1.12.2005 |

| Scientific name | Common name | CPVO protocol |
|--|---------------------------------------|-----------------------------|
| <i>Pisum sativum</i> L. (partim) | Wrinkled pea, Round pea and Sugar pea | TP 7/1 of 6.11.2003 |
| <i>Raphanus sativus</i> L. | Radish | TP 64/1 of 27.3.2002 |
| <i>Spinacia oleracea</i> L. | Spinach | TP 55/1 of 27.3.2002 |
| <i>Valerianella locusta</i> (L.) Laterr. | Corn salad or Lamb's lettuce | TP 75/2 of 21.3.2007 |
| <i>Vicia faba</i> L. (partim) | Broad bean | TP Broadbean/1 of 25.3.2004 |
| <i>Zea mays</i> L. (partim) | Sweet corn and Popcorn | TP 2/2 of 15.11.2001 |

The text of these protocols can be found on the CPVO web site (www.cpvo.europa.eu).

ANNEX II

List of species referred to in Article 1(2)(b) which are to comply with UPOV test guidelines

| Scientific name | Common name | UPOV guideline |
|----------------------------------|---|---------------------------------------|
| <i>Allium fistulosum</i> L. | Japanese bunching onion or Welsh onion | TG/161/3 of 1.4.1998 |
| <i>Allium schoenoprasum</i> L. | Chives | TG/198/1 of 9.4.2003 |
| <i>Apium graveolens</i> L. | Celery | TG/82/4 of 17.4.2002 |
| <i>Apium graveolens</i> L. | Celeriac | TG/74/4 corr. of 17.4.2002 + 5.4.2006 |
| <i>Beta vulgaris</i> L. | Spinach beet or Chard | TG/106/4 of 31.3.2004 |
| <i>Beta vulgaris</i> L. | Beetroot including Cheltenham beet | TG/60/6 of 18.10.1996 |
| <i>Brassica oleracea</i> L. | Curly kale | TG/90/6 of 31.3.2004 |
| <i>Brassica rapa</i> L. | Chinese cabbage | TG/105/4 of 9.4.2003 |
| <i>Brassica rapa</i> L. | Turnip | TG/37/10 of 4.4.2001 |
| <i>Cichorium intybus</i> L. | Large-leaved chicory or Italian chicory | TG/154/3 of 18.10.1996 |
| <i>Cucurbita maxima</i> Duchesne | Gourd | TG/155/4 of 14.3.2007 |
| <i>Raphanus sativus</i> L. | Black radish | TG/63/6 of 24.3.1999 |
| <i>Rheum rhabarbarum</i> L. | Rhubarb | TG/62/6 of 24.3.1999 |
| <i>Scorzonera hispanica</i> L. | Scorzonera or Black salsify | TG/116/3 of 21.10.1988 |
| <i>Solanum melongena</i> L. | Aubergine or Eggplant | TG/117/4 of 17.4.2002 |

The text of these guidelines can be found on the UPOV web site (www.upov.int).

II

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

DECISIONS

COMMISSION

COMMISSION DECISION

of 21 March 2007

on State aid C 21/2006 (ex N 635/2005), to be implemented by the Slovak Republic for Slovenské lodenice Komárno

(notified under document number C(2007) 1182)

(Only the Slovak version is authentic)

(Text with EEA relevance)

(2007/529/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 called on interested parties to submit their comments pursuant to the provision cited above ⁽¹⁾ and having regard to their comments,

Whereas:

1. PROCEDURE

(1) By letter dated 9 December 2005, registered as received on 14 December 2005, the Slovak Republic notified the Commission of its intention to grant regional investment aid to the shipyard Slovenské lodenice Komárno. The Commission requested information by letters of 23 December 2005 and of 27 February 2006, to which the Slovak Republic replied by letters of 26 January 2006, registered as received on 31 January 2006, and of 23 March 2006, registered as received on 4 April 2006, respectively.

(2) By letter of 7 June 2006, the Commission informed the Slovak Republic that it had decided to initiate the procedure laid down in Article 88(2) of the EC Treaty in respect of the aid.

(3) The Commission decision to initiate proceedings under Article 88(2) EC Treaty was published in the *Official Journal of the European Union* ⁽²⁾. The Commission invited interested parties to submit their comments on the measure.

(4) By letter of 6 July 2006, registered as received on 12 July 2006, the Slovak Republic submitted the observations of the beneficiary of the aid, Slovenské lodenice Komárno. Since it was the Slovak Republic which forwarded these observations to the Commission, the Commission considers that the Member State had had the opportunity to react to the beneficiary's observations. The Slovak Republic did not submit any further observations. By letter of 30 October 2006, the Commission requested the Slovak Republic to confirm the Commission's understanding of the beneficiary's observations. The beneficiary provided further clarifications at a meeting held on 14 December 2006. The Slovak Republic responded to the Commission's request of 30 October 2006 by letter of 10 January 2007, registered as received that same day, also confirming the clarifications provided by the beneficiary at the above-mentioned meeting.

⁽¹⁾ OJ C 194, 18.8.2006, p. 30.

⁽²⁾ See footnote 1.

2. DETAILED DESCRIPTION OF THE AID

2.1. Relevant undertaking

- (5) The beneficiary is the Slovak shipbuilding company Slovenské lodenice Komárno (SLK), joint stock company, Bratislava, situated on the river Danube in a region eligible for regional aid under Article 87(3)a EC Treaty. The company was established in 2000. Its shareholders are Euram Bank AG Vienna (70 %) and the State (30 %). Euram Bank AG Vienna became the majority shareholder through two capital injections in 2003. SLK is a large company with a turnover of SKK 1,424 billion ⁽³⁾ (2004) and 910 employees (2005). After being partially privatised in 2003, the company tripled its output (in terms of annual CGT) and in 2004 it posted a profit of SKK 26 million. The company is not in financial difficulties.
- (6) SLK produces small sea-going container ships and bulk carriers with a maximum loading capacity of 6 000 dwt. According to the information provided by the Slovak Republic, the market leaders are the Damen shipyards in the Netherlands and Flensburg shipyards in Germany, producing ships between 4 000 and 20 000 dwt. The Stocznia Północna shipyard in Poland also specialises in building container ships of a similar size. SLK does not undertake repairs or conversions of sea-going vessels. SLK's entire production goes to European Union Member States.

2.2. The investment project

- (7) Between 2006 and 2008 SLK intends to implement an investment project entitled '*Modernisation of the technical base of SLK*'. The aim of the project is to modernise the company's production. The investment project comprises nine sub-projects (SP 01 to SP 09), which are described below; the descriptions take account of the observations submitted by the beneficiary after the formal investigation procedure was launched, as these were crucial for clarifying the nature of the investment.

- SP 01 — Extension of the production areas: construction of a new rail on the shipyard's premises, which will be fitted out to become a new section assembly facility; the shipyard will be buying a crane with a lifting capacity of 50 t. To date this part of the yard has been used not for production, but as a storage area. The costs of this investment come to SKK 39 825 658.
- SP 02 — Purchase and installation of a chamber jet for the 'automated steel pre-fabrication system'. The investment is designed to speed up the cleaning of steel plates. The new chamber jet has several

advantages over the current facility: higher processing speed, significantly lower abrasive and energy consumption and environmental improvements. The theoretical capacity of the automated steel pre-fabrication system would increase from 12 450 t to 15 700 t. The costs come to SKK 17 500 000.

- SP 03 — Installing energy distribution on rails 4 and 5: rails 4 and 5 are currently used for section building and assembly work; the yard will build six new energy connection points (for acetylene, oxygen and compressed air), which will upgrade this facility. The investment costs are SKK 6 500 000.
- SP 04 — Installing energy distribution on the quay, where the final stage of the production process takes place: new distribution channels and eight connection points will be built along the quay (for acetylene, oxygen, compressed air and electricity). The aim is to replace the current slow and costly system where acetylene, oxygen and compressed air are sourced out of bottles. The costs come to SKK 3 500 000.
- SP 05 — Horizontal boring tool: purchase of a W 100 type horizontal boring tool. To date SLK has been renting an older type of this tool (the W 75). The W 100 type is a more advanced tool, which, owing to its technical characteristics, can process a larger variety of parts, in a more efficient way (more revolutions per minute). The investment costs come to SKK 6 000 000.
- SP 06 — Material-cutting workshop: purchase of hydraulic table shears. To date, an alternative, less efficient technology has been used. The costs come to SKK 2 000 000.
- SP 07 — Improvement of quality control: control measurements of the hull during production; quality control of work after the individual interventions; purchase of a portable X-ray machine, a machine to measure paint and materials, an ultrasound machine to measure the width of steel plates and a probe. The costs come to SKK 2 000 000.
- SP 08 — Modernisation of moving equipment: platform truck, forklift truck, lead traction battery charger. The costs come to SKK 2 000 000.
- SP 09 — Aluminium and stainless steel welding workshops: electric locksmith workshop, tube-welding workshop. The two workshops are currently subcontracted. The costs come to SKK 1 000 000.

⁽³⁾ The central rate published by the National Bank of Slovakia (November 2005) is EUR 1 = SKK 38,4550.

- (8) The total costs come to SKK 80 325 658, corresponding to the eligible costs for the regional investment aid. The costs comprise expenditure for the purchase of machinery and equipment. The present value of the eligible investment costs is SKK 76 100 000 (discount rate 7,55 %). The costs are distributed over the different years as follows:

Table 1

The current value of the eligible costs

| Year | Eligible costs | Current value of eligible costs |
|-------|----------------|---------------------------------|
| 2006 | 31 164 000 | 31 164 000 |
| 2007 | 37 295 658 | 34 677 506 |
| 2008 | 11 866 000 | 10 258 494 |
| Total | 80 325 658 | 76 100 000 |

- (9) According to the Slovak Republic, sub-projects SP 02 - SP 09 are self-standing projects which SLK will implement even if sub-project SP 01 is not carried out.
- (10) The investment project will increase the shipyard's technical capacity from 24 000 CGT to 28 500 CGT in 2009, which corresponds to a production increase of up to two ships a year. Other effects of implementing the project will be a shortening of the production cycle, cost savings and quality improvements. The productivity of the yard will increase from the current 67 man-hours/CGT to 58 man-hours/CGT in 2009, taking into account the work subcontracted.
- (11) As a result of the investment, 140 jobs will be created in the yard itself (including 112 jobs directly linked to production, 20 ancillary jobs and 8 white-collar jobs) and 50 indirect jobs will be created in the region, which has an unemployment rate of 14 %. Following the implementation of sub-project SP 09, a large portion of the jobs directly linked to production will be created through in-sourcing. The annual input in terms of available man-hours will increase from 1 590 300 to 1 653 200 after the investment.
- (12) The beneficiary declared that it will maintain the results of the investment for a period of at least five years. SLK applied for aid by letter of 10 October 2005. The investment commenced in 2006.

2.3. Measure in question

- (13) The notified measure involves a write-off by the Social Security Agency of a penalty relating to SLK's late payment of its social security contributions between 31 October 2003 and 31 March 2004. The debt to be written off totals SKK 17 117 957. The Social Security Agency will not put the write-off into effect until it receives the approval of the Commission. The current value of the aid amounts to SKK 17 117 957, which is equal to an aid intensity of 22,49 % of the eligible costs.
- (14) The remaining sources of financing are SLK's own resources (SKK 19 025 000) and a loan from a private bank (SKK 39 957 043).

3. DECISION TO INITIATE PROCEEDINGS UNDER ARTICLE 88 (2) EC TREATY

- (15) The Commission initiated the formal investigation procedure on the following grounds. First, the Commission had doubts as to whether sub-projects SP 01, SP 05 and SP 09 were investments in modernising the existing yard aimed at increasing the productivity of the existing installations and whether, therefore, they qualified as eligible for regional aid.
- (16) The Commission had specific doubts as to whether sub-project SP 01, apparently intended to create new production capacity, was also designed to improve the productivity of installations already existing in the yard.
- (17) The Commission also suspected that sub-project SP 05 merely involved replacing the rented equipment with the company's own, since the investment would not obviously bring about any efficiency gains. The Commission had the same doubts with regard to sub-project SP 09.
- (18) Second, the Commission had doubts as to whether sub-projects SP 01, SP 02 and SP 03 were eligible for regional aid as they appeared to lead to an increase in the technical capacity of the beneficiary. The Commission concluded that it needed to analyse further the impact of the aided investment on the capacity of the yard.
- (19) Third, in connection with the doubts regarding the regional aid eligibility of the individual parts of the investment project, the Commission also had doubts as to whether the maximum permitted aid intensity was respected.

(20) Finally, the Commission's preliminary conclusion was that, on the basis of the information available to it at that stage, the remaining sub-projects fulfilled the eligibility criteria laid down in the Framework on State aid to shipbuilding (hereinafter referred to as the Framework) ⁽⁴⁾.

4. COMMENTS FROM THE BENEFICIARY

(21) In its submissions following the initiation of the formal investigation procedure, the beneficiary provided further explanations regarding the justification and impact of the investment project.

(22) It explained that the principal motivation of the investment project was the current unsuitable layout of the yard, which made it dependent on natural conditions, i.e. the water level of the Danube. Currently, hull sections are assembled both in covered production halls and in the open on rails 4 and 5. The problem with the current layout is that the size of the sections is limited, on the one hand, by the height of the production halls and, on the other, by the lifting capacity of the crane on tracks 4 and 5 (27 t). The consequences are two-fold. First, assembly of the larger sections has to be partially done on water. Second, often the sections do not reach the critical size to enable outfitting, in particular in the case of the piping. The latter is therefore carried out on water only after the hull is completed, which is inefficient.

(23) The fact that the assembly and outfitting have to be at least partially carried out on water renders the yard very sensitive to the water levels and natural conditions on the Danube. When the water level is low, production has to be halted, because it is technically impossible to continue assembly in the halls (limited height and space) or on the existing outside facilities (limited crange capacity).

(24) This is the problem addressed by sub-projects SP 01 and SP 03. The investment would create new assembly capacity, enabling the yard to produce larger sections. The outdoor assembly capacity will be extended by a new facility on rail 8, equipped with a 50 t crane, which corresponds to the crange capacity of the outfitting berth. In this way, the process is streamlined. In addition, the existing assembly capacity on rails 4 and 5 will be modernised.

(25) Consequently, part of the section building will be moved outside from the production halls. In the past, the

production halls have become congested when the Danube water level was too low to enable work on water, with the result that production had to be halted. The space freed up will be used for streamlining the production flow inside the assembly halls and will enable the yard to carry out work other than assembly work, such as painting, production of various smaller ship parts, etc.

(26) Implementation of sub-project SP 03 will shorten the distribution network, which will reduce energy losses.

(27) As regards sub-project SP 02, the beneficiary highlighted the efficiency gains resulting from the replacement of the existing chamber jet by a new one.

(28) In the case of sub-project SP 05, the beneficiary provided a comparison of the technical characteristics of the old boring tool with the new one, as described in paragraph 7 above.

(29) Finally, as regards sub-project SP 09, the beneficiary explained that subcontracting of aluminium and stainless steel welding becomes problematic when the technical specifications of the manufactured parts are modified during the production process. Such modifications appear to be common and the beneficiary was therefore often entirely dependent on the working schedule of its subcontractors. Owning the necessary equipment itself would give the beneficiary the necessary flexibility to react promptly to such modifications and lead to a considerable work-flow improvement (20 % cost reduction for the production of non-steel parts). This was all the more important, given that aluminium and stainless steel materials were increasingly being used instead of steel.

(30) In reply to the concern that sub-projects SP 01, SP 02 and SP 03 were intended to increase the technical capacity of the yard, the beneficiary argued that the increase in technical capacity was merely a consequence of the productivity improvements achieved through these investments. The beneficiary confirmed that the overall capacity would increase from 24 000 CGT to 28 500 CGT in 2009, corresponding to an increase of, on average, two ships a year, depending on the size and type of vessel. The theoretical steel-processing capacity would increase from 12 450 t to 15 700 t. However, actual steel-processing capacity would remain at 12 450 t due to bottlenecks in the previous stages of production, which could be eliminated only by very large-scale investments, for which the yard had no plans in the medium term.

⁽⁴⁾ OJ C 317, 30.12.2003, p. 11. The duration of the Framework was extended by the Commission communication concerning the prolongation of the Framework on State aid to shipbuilding (OJ C 260, 28.10.2006, p. 7).

(31) In response to the concerns that that sub-projects SP 01, SP 05 and SP 09 were not intended to improve the productivity of existing installations, the beneficiary provided the Commission with figures to prove the actual productivity increase. The beneficiary quantified the overall increase in productivity in terms of the following factors: shortening of the production cycle by 20, 12 or 8 days, depending on the ship type; reduction in the volume of work by about 12 000 man-hours per vessel; increase in productivity of the steel pre-fabrication installation in terms of processed steel (t) per production worker by 14 % (from 13,65 to 15,60) and in terms of man-hours per tonne of processed steel by 31 % (from 127 to 97).

5. COMMENTS FROM THE SLOVAK REPUBLIC

(32) The Slovak Republic sent the Commission the beneficiary's comments without adding any of its own, which meant that it endorsed what the beneficiary had stated.

6. ASSESSMENT

6.1. State aid within the meaning of Article 87(1) of the EC Treaty

(33) Article 87(1) of the EC Treaty states that any aid granted by a Member State or through state resources in any form whatsoever which distorts or threatens to distort competition by favouring certain undertakings or the production of certain goods shall, in so far as it affects trade between Member States, be incompatible with the common market. Pursuant to the established case law of the European Courts, the criterion of trade being affected is met if the recipient firm carries out an economic activity involving trade between Member States.

(34) In the present case, the debt write-off is provided by the Social Security Agency, which is the central authority managing the social insurance system. This means that the financial measure involves state resources and is imputable to the State. The Social Security Agency has the discretionary power to waive penalty payments in whole or in part 'in justified cases'. The selectivity criterion is therefore fulfilled. The measure confers a financial advantage on SLK that it would not have obtained on the market, as it would normally have to pay the penalty. SLK manufactures sea-going vessels. As these products are traded, the measure threatens to distort competition and affects trade between Member States. Although operating in a niche market of small ships up to 6 000 dwt, SLK is in potential competition at least with a small Polish shipyard, the Dutch Damen shipyard and the German Flensburg shipyard. Consequently, the financial measure constitutes State aid within the meaning of Article 87(1) of the EC Treaty and has to be assessed accordingly.

(35) The State aid totals SKK 17 117 957.

(36) As already stated in its decision to initiate the formal investigation procedure, the Commission decided not to assess whether the non-recovery of the social security contributions for the period between 31 October 2003 and 31 March 2004 constituted State aid within the meaning of Article 87(1) of the EC Treaty. This event occurred before Slovakia's accession to the European Union and did not apply thereafter. Therefore, the Commission does not have the power to assess the compatibility of the measure with the common market. The data show that SLK paid all the social security contributions accrued between 31 October 2003 and 31 March 2004, which is in fact a necessary condition for the write-off of the penalty payments.

6.2. Compatibility of aid: Derogation under Article 87(3) of the EC Treaty

(37) Article 87(2) and (3) of the EC Treaty provide for exemptions to the general incompatibility of State aid, as stated in paragraph (1) of the same Article.

(38) The Commission issued the Framework for the purpose of assessing aid to shipbuilding. According to the Framework, shipbuilding means the building, in the Community, of self-propelled seagoing commercial vessels. The activities of SLK fall under this definition and the aid to SLK, therefore, has to be assessed in the light of the Framework.

(39) Point 26 of the Framework stipulates that regional aid for shipbuilding, ship repairs or ship conversion may be deemed compatible with the common market only if the aid is granted for investment in upgrading or modernising existing yards that is not linked to a financial restructuring of the yard(s) concerned and has the objective of improving the productivity of existing installations.

(40) The aid intensity may not exceed 22,5 % in Article 87(3)(a) regions or the applicable regional aid ceiling, whichever is the lower. In the present case, the ceiling of 22,5 % is applicable. Furthermore, the aid must be limited to support eligible expenditure as defined in the applicable Community guidelines on regional aid (Regional Aid Guidelines)⁽⁵⁾.

The modernisation — Projects SP 01, SP 05 and SP 09

(41) The Commission's doubts as to whether these sub-projects constitute investment in modernisation of the existing yard with the aim of improving the productivity of existing installations have been allayed.

⁽⁵⁾ OJ C 54, 4.3.2006, p. 13.

- (42) The Commission considers that sub-project SP 01 does constitute a modernisation project, as it contributes to the streamlining of the production process and addresses fundamental problems with the current layout of the yard. First, it will enable the yard to produce larger sections on shore and thus liberate it from its dependency on the natural conditions on the river Danube. Second, the efficiency of the assembly process will be improved, as the yard will be able to construct larger sections. Third, the section outfitting will be done at an earlier stage in the production process, which will bring efficiency gains, compared to the current practice of carrying out the outfitting on completed hulls, particularly in the case of the piping. Finally, the existence of the new installation will enable better use of the production halls, which are currently congested with section building and will in the future be used for other activities at an earlier stage in the production process.
- (43) On the basis of these considerations, the Commission concludes that, despite the fact that it concerns a new installation, sub-project SP 01 does represent a modernisation of the yard as a whole (in particular of the section assembly process) and does improve the productivity of the existing installations, in particular the production halls.
- (44) As regards sub-project SP 05, the more modern and faster boring tool can, thanks to its technical characteristics, be used for handling a larger variety of parts, thereby increasing flexibility at the 'production and systems installation' stage. The investment represents a genuine modernisation and not a mere replacement of the rented machinery used by the yard to date. The sub-project improves the productivity of existing installations and, even if the rented tools are not deemed to be existing installations, the sub-project improves the productivity of the 'production and systems installation' stage.
- (45) Sub-project SP 09 makes for productivity improvements in the aluminium and stainless steel welding workshop in the form of clear cost savings and by enabling the yard to react operationally to the frequent changes in client specifications, thus eliminating the current work-flow interruptions. The investment leading to in-sourcing represents a genuine modernisation of the production process. The project improves the productivity of existing installations and even if the rented installation is not deemed to be an existing installation, the project improves the production process as a whole.
- (46) On the basis of these considerations, the Commission concludes that sub-projects SP 05 and SP 09 constitute modernisation of the existing yard and make for improvements in productivity when compared with the existing installations.
- The issue of capacity — Projects SP 01, SP 02 and SP 03*
- (47) In its decision to initiate the formal investigation procedure, the Commission was concerned that sub-projects SP 01, SP 02 and SP 03 would lead to an increase in the capacity of the yard and doubted whether such an increase would be in line with the Framework.
- (48) The Commission concluded that these three sub-projects all fulfilled the requirement that the investment must be in modernisation of the existing yard for the purpose of improving the productivity of existing installations. In the case of sub-project SP 01, this was demonstrated above in paragraph 42. As regards sub-project SP 02, the Commission observes that the new chamber jet represents a qualitative improvement in terms of increased speed, lower material and energy consumption and impact on the environment. The benefits of sub-project SP 03 are two-fold. First, the reduction of the length of the distribution network leads to savings in energy costs. Second, the improvement of the section assembly installation on rails 4 and 5 brings the same productivity improvements as sub-project SP 01 (ability to build larger sections, freeing-up of space in the production halls, non-reliance on weather conditions).
- (49) With regard to the issue of capacity, the Commission will first examine the effects of these sub-projects on the technical capacity of the yard (paragraphs 50 and 51 below) and then go on to determine whether, if there is any increase in capacity, it can be considered justified (paragraphs 52 and 53).
- (50) On the basis of the information provided by the beneficiary, the Commission observes that, although sub-project SP 02 does lead to an increase in the capacity of an existing installation (the automated steel pre-fabrication system), this increase is purely theoretical. The new capacity of 15 700 t of processed steel is the new maximum capacity of this particular installation. However, due to other bottlenecks in previous stages of production, the quantity of steel actually processed will remain unchanged at 12 450 t. The beneficiary confirmed that significant investments would be necessary to de-bottleneck the steel pre-fabrication, and that there were currently no plans for any such investments. The Commission therefore concludes that sub-project SP 02 does not lead to a capacity increase of the yard as a whole and the possibility for expansion up to the level of 15 700 t is purely theoretical.

(51) In the case of sub-projects SP 01 and SP 03, it was confirmed that they would jointly result in an increase in the capacity of the yard from 24 000 CGT to 28 500 CGT, which corresponds to an increase of up to two ships a year, depending on the size and type of the vessels produced. The Commission notes that since the steel processing capacity does not increase (see paragraph 50 above), the increased technical capacity of the yard could only be due to productivity improvements in the processes that follow the steel pre-fabrication. Sub-projects SP 01 and SP 03 do indeed lead to increased productivity in the case of the section assembling process, with significant gains in terms of construction time (the production cycle is shortened by on average 30 %, the assembly of one vessel taking on average approximately 36 days and the average reduction being 13 days per vessel; see paragraph 31). The capacity increase results from the fact that larger sections will be assembled, which will reduce the hull assembly time. Consequently, the level of completion in terms of CGT per calendar year increases.

(52) The Commission now needs to determine whether this capacity increase is proportionate to the productivity increase. For this purpose, the Commission notes that the investment project brings considerable production gains. The production cycle is shortened by on average 30 %. All productivity indicators show improvement: an increase in the overall productivity of the yard in terms of man-hours per CGT by 15 % (from 67 to 58), as well as an increase in the productivity of the steel pre-fabrication installation in terms of processed steel (t) per production worker by 14 % (from 13,65 to 15,60) and in terms of man-hours per tonne of processed steel by 31 % (from 127 to 97). The Commission also notes that whereas 140 new direct jobs will be created at the yard, which corresponds to a 15 % increase, the annual input in terms of available man-hours will increase by only 3,9 % (from 1 590 300 to 1 653 200). This means that the new direct jobs are to a large extent the consequence of the in-sourcing of the welding activity (SP 09). The increased capacity is therefore due not to the creation of additional jobs, but to the modernisation of the facilities and streamlining of the production flow.

(53) Since: (1) the investments fulfil the requirement of modernisation of an existing yard, the aim and effect of which is an improvement in the productivity of existing installations; (2) the increase in capacity is only the result of the modernisation of the yard and the adjustments to the production process this involves and (3) this productivity improvement is significant, the increase of capacity is not disproportionate to the productivity increase.

(54) The Commission therefore concludes that sub-projects SP 01, SP 02 and SP 03 are eligible for regional aid.

The remaining sub-projects

(55) The Commission confirms its preliminary conclusion from its decision to open the formal investigation procedure that the remaining sub-projects (SP 04, SP 06, SP 07 and SP 08) are eligible for regional aid.

The remaining conditions for eligibility

(56) The Commission likewise notes that all the notified sub-projects fulfil the eligibility criteria prescribed by the Regional Aid Guidelines (investment in fixed assets: i.e. equipment and machinery to be purchased on market terms and not constituting mere replacement of depreciated assets). The investment is not linked to financial restructuring.

Aid intensity

(57) Since its doubts concerning the eligibility of part of the investment project for regional aid have been allayed, the Commission concludes that the maximum aid intensity of 22,5 % of the eligible costs as prescribed by the Framework is complied with.

The remaining conditions for compatibility of regional aid

(58) As the present case is an *ad hoc* grant of State aid for a one-off project, the Commission also assessed its effects on regional development in line with the Regional Aid Guidelines. The Commission concludes that the project contributes to regional development by undertaking a crucial modernisation of the yard, thus improving its competitive position on the market and maintaining jobs in a region with an unemployment rate of 14 %. The investment will be maintained in place for at least 5 years.

(59) SLK applied for the State aid before work on the project started and it is contributing more than 25 % to the financing of the project, in line with the Regional Aid Guidelines.

7. CONCLUSION

(60) The Commission concludes that the planned regional aid to SLK amounting to 22,5 % of SKK 76 100 000, i.e. SKK 17 117 957, is in line with the conditions on regional aid as laid down in the Framework. The planned aid therefore fulfils the conditions to be considered compatible with the common market,

HAS ADOPTED THIS DECISION:

Article 2

This Decision is addressed to the Slovak Republic.

Article 1

The State aid which the Slovak Republic plans to implement for Slovenské lodenice Komárno in the form of debt write-off amounting to SKK 17 117 957 is compatible with the common market within the meaning of Article 87(3)(c) of the EC Treaty.

Done at Brussels, 21 March 2007.

Implementation of the aid amounting to SKK 17 117 957 is accordingly authorised.

For the Commission
Neelie KROES
Member of the Commission

COMMISSION DECISION**of 17 July 2007****on establishing the European High Level Group on Nuclear Safety and Waste Management****(Text with EEA relevance)**

(2007/530/Euratom)

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Atomic Energy Community, and in particular Article 135 thereof,

Whereas:

(1) The European Atomic Energy Community (Euratom) and its Member States are committed to maintaining and further improving the safety of nuclear installations and the safe management of spent fuel and radioactive waste, as reflected in particular in existing Community legislation adopted under articles 31 and 32 of the Euratom Treaty, as well as in the relevant resolutions and conclusions of the European Council, the European Parliament, the Council, and the European Economic and Social Committee.

(2) The European Council of 8/9 March 2007 endorsed the Commission proposal to set up an EU High Level Group on Nuclear Safety and Waste Management, with the mandate of progressively developing common understanding and, eventually, additional European rules in these fields.

(3) The work of the High Level Group should take into account the conclusions of the 2798th meeting of the Council of the European Union (Economic and Financial Affairs) of 8 May 2007 which sets out a list of possible actions, on the basis of the reports of the Working Party on Nuclear Safety, and build on the existing cooperation within current international contexts (such as Convention on Nuclear Safety, Joint Convention, International Atomic Energy Agency, Organisation for Economic Co-operation and Development/Nuclear Energy Agency, Western European Nuclear Regulators Association).

(4) The High Level Group should be composed of the heads of the national regulatory or safety authorities competent in the areas of the safety of nuclear installations and the safe management of spent fuel and radioactive waste. The Commission should designate a representative.

(5) The High Level Group should on a regular basis inform the European Nuclear Energy Forum, which constitutes a comprehensive discussion platform involving all relevant stakeholders in the nuclear field. It should contribute to a consistent application, in all Member States concerned, of the relevant existing provisions.

(6) The High Level Group should submit regular activity reports, including recommendations where appropriate, to the Commission, to be transmitted to the European Parliament and to the Council.

(7) The High Level Group therefore has to be set up and its terms of reference and structures detailed,

HAS ADOPTED THIS DECISION:

Article 1

The European High Level Group on Nuclear Safety and Waste Management (hereinafter referred to as the 'High Level Group') is hereby set up.

*Article 2***Tasks**

The High Level Group, at its own initiative or at the request of the Commission, shall advise and assist the Commission in progressively developing common understanding and eventually additional European rules in the fields of:

(a) the safety of nuclear installations, and

(b) the safety of the management of spent fuel and radioactive waste.

It shall facilitate consultations, coordination and cooperation of national regulatory authorities.

*Article 3***Composition**

1. The High Level Group shall be composed of 27 national representatives with competence in the fields referred to in Article 2 and a representative of the Commission. The group may decide by simple majority to enlarge the membership by inclusion of the deputy members.

Each Member State shall nominate one member and one deputy member. Members of the group shall remain in office until such time as they are replaced.

2. A high-level representative shall be designated by the Commission to attend the meetings and participate in the debates of the High Level Group. The Commission's representative is an equal member of the group and takes part in all its meetings.

3. Members who are no longer able to contribute effectively to the group's deliberations, who resign or who do not respect the conditions for membership may be replaced for the remaining period of their mandate.

4. Members appointed individually shall each year sign an undertaking to act in the public interest and a declaration indicating the absence or existence of any interest which may undermine their objectivity.

5. The names of members appointed individually are published on the Internet site of the DG Transport and Energy.

*Article 4***Organisation**

1. The High Level Group elects a chair from amongst its members by a simple majority.

2. The High Level Group may set up expert working groups or sub-groups to study specific subjects under the terms of reference established by the group. They shall be disbanded as soon as these tasks have been fulfilled.

3. The Commission may attend all meetings of such expert working groups.

4. The group and its sub-groups normally meet on Commission premises in accordance with the procedures and schedule established. The Commission provides secretarial services.

5. Experts from EEA States and States which are candidates for accession to the European Union may attend the meeting of the High Level Group as observers. The High Level Group and the Commission may invite other experts and observers to attend its meetings.

6. The High Level Group shall adopt its Rules of Procedure by consensus or, in the absence of consensus, by a two-thirds majority vote, one vote being expressed per Member State, subject to the approval of the Commission.

7. The Commission shall provide the secretariat of the High Level Group.

*Article 5***Meeting expenses**

Travel and subsistence expenses incurred by one representative per Member State, in connection with the activities of the High Level Group, shall be reimbursed by the Commission in accordance with the provisions in force within the Commission.

The members shall not be paid for their duties.

*Article 6***Reporting**

The High Level Group shall submit, at least two years after the entry into force of this Decision, and thereafter every two years, a report of its activities to the Commission.

The Commission shall transmit the reports to the European Parliament and to the Council, where appropriate with comments.

*Article 7***Transparency**

The High Level Group shall consult extensively with all stakeholders and the interested public in an open and transparent manner.

*Article 8***Confidentiality**

Where the Commission informs the High Level Group that the advice requested or the question raised is of a confidential nature, members of the Group as well as observers and any other person shall be under an obligation not to disclose information which has come to their knowledge through the work of the High Level Group or its working groups.

The Commission representative may request in such cases that only members of the High Level Group may be present at meetings.

Article 9

Entry into force

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

Done at Brussels, 17 July 2007.

For the Commission
Andris PIEBALGS
Member of the Commission

COMMISSION DECISION

of 26 July 2007

concerning a questionnaire for Member States reports on the implementation of Council Directive 1999/13/EC on the limitation of emissions of volatile organic compounds due to the use of organic solvents in certain activities and installations during the period 2008-2010

(notified under document number C(2007) 3547)

(2007/531/EC)

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

2005 to 31 December 2007 according to Commission Decision 2006/534/EC ⁽⁴⁾ by 30 September 2008 at the latest.

Having regard to the Treaty establishing the European Community,

(4) The third report should cover the period 1 January 2008 to 31 December 2010.

Having regard to Council Directive 1999/13/EC of 11 March 1999 ⁽¹⁾, on the limitation of emissions of volatile organic compounds due to the use of organic solvents in certain activities and installations, and in particular Article 11(1) thereof,

(5) The measures provided for in this Decision are in accordance with the opinion of the Committee in accordance with Article 6 of Directive 91/692/EEC,

Having regard to Council Directive 91/692/EEC of 23 December 1991 on standardising and rationalising reports on the implementation of certain Directives relating to the environment ⁽²⁾

HAS ADOPTED THIS DECISION:

Article 1

Whereas:

The Member States shall use the questionnaire set out in the Annex to this Decision for the purposes of drawing up the report, covering the period from 1 January 2008 to 31 December 2010, to be submitted to the Commission pursuant to Article 11(1) of Directive 1999/13/EC.

Article 2

(1) Pursuant to Article 11(1) of Directive 1999/13/EC, Member States are obliged to draw up reports on the implementation of that Directive on the basis of a questionnaire or outline drafted by the Commission in accordance with the procedure laid down in Article 6 of Directive 91/692/EEC.

This Decision is addressed to the Member States.

(2) Member States have drawn up reports on the implementation of that Directive for the period from 1 January 2003 to 31 December 2004 according to Commission Decision 2002/529/EC ⁽³⁾.

Done at Brussels, 26 July 2007.

(3) Member States are obliged to report on the implementation of that Directive for the period from 1 January

For the Commission

Stavros DIMAS

Member of the Commission

⁽¹⁾ OJ L 85, 29.3.1999, p. 1. Directive as last amended by Directive 2004/42/EC of the European Parliament and of the Council (OJ L 143, 30.4.2004, p. 87).

⁽²⁾ OJ L 377, 31.12.1991, p. 48. Directive as amended by Regulation (EC) No 1882/2003 of the European Parliament and of the Council (OJ L 284, 31.10.2003, p. 1).

⁽³⁾ OJ L 172, 2.7.2002, p. 57.

⁽⁴⁾ OJ L 213, 3.8.2006, p. 4.

ANNEX

Questionnaire on the implementation of Directive 1999/13/EC concerning the limitation of emissions of volatile organic compounds due to the use of organic solvents in certain activities and installations during the period 2008-2010**1. General description**

Please report relevant changes in national legislation during the reporting period concerning Directive 1999/13/EC.

2. Coverage of installations

2.1. For each of the 20 activities of Annex II A, please indicate for the first (1.1.2008) and the last day (31.12.2010) of the reporting period separately how many installations fall into the categories set out below:

- total number of installations ⁽¹⁾,
- total number of installations which are also covered by Directive 96/61/EC (IPPC Directive),
- total number of installations, which are registered/authorised according to Directive 1999/13/EC,
- total number of installations which are registered/authorised using the reduction scheme,
- total number of installations which have been granted derogation according to Article 5(3)(a) of Directive 1999/13/EC. Give a list in an annex to this questionnaire with the reasons for every derogation issued,
- total number of installations which have been granted derogation according to Article 5(3)(b) of Directive 1999/13/EC. Give a list in an annex to this questionnaire with the reasons for every derogation issued.

2.2. For each of the 20 activities of Annex II A, please indicate how many installations fall into the categories set out below during the reporting period:

- total number of new or substantially changed installations, which were registered/authorised according to Directive 1999/13/EC.

3. Substitution

For each of the 20 activities of Annex II A, please indicate for the end of the reporting period (31.12.2010) which substances or preparations, classified as carcinogens, mutagens, or toxic to reproduction (R45, R46, R49, R60, R61) under Council Directive 67/548/EEC ⁽²⁾, are still used and in which (estimated) amounts (tonnes per year).

4. Monitoring

For each of the 20 activities of Annex II A, please indicate the following figures during the reporting period:

- Number of installations who have reported 'once a year' or 'on request' according to Article 8(1) of the Directive;
- Number of installations which are monitored continuously for compliance according to Article 8(2) of the Directive;

5. Compliance

For each of the 20 activities of Annex II A, please indicate the following figures during the reporting period:

- Number of operators who have been found to have breached the requirements of this Directive
 - (a) related to non-compliance with 'once-a-year' or 'on request' reporting;
 - (b) related to non-compliance with other requirements of the Directive?
- For how many operators the competent authorities have suspended or withdrawn the authorisation in the case of non-compliance pursuant to Article 10(b) of the Directive?

⁽¹⁾ For the purpose of this questionnaire 'total number of installations' shall additionally include those installations, which do not fall under the scope of Directive 1999/13/EC, but are regulated by national law according to the provisions of the Directive. Installations for coating of road vehicles as defined in Directive 70/156/EEC, or part of them, carried out as part of vehicle repair, conservation or decoration outside of manufacturing installations, shall not be included.

⁽²⁾ OJ 196, 16.8.1967, p. 1.

6. Emissions

- 6.1. Please indicate for the total number of installations for the years 2008 and 2010 the estimated tonnes of VOCs emitted.
- 6.2. Please indicate for each of the 20 activities of Annex II A for the years 2008 and 2010 the estimated tonnes of VOCs emitted (optional).

7. Costs

- 7.1. Please estimate the total costs, e.g. the sum of costs for permitting, monitoring, inspections, etc., for all national authorities concerned in Euro per year or alternatively man-years for the implementation of Directive 1999/13/EC in 2010 (optional).
- 7.2. Please estimate the administrative costs for this reporting in man-months and in Euro (optional).

8. Publication of reports by Member States on this questionnaire

Please give information, e.g. the URL address of a website, where the public could directly access the reports by Member States on the answers to this questionnaire.

9. Improvements

Which aspects should be emphasised regarding

- The implementation/future revision of Directive 1999/13/EC;
- Future questionnaires?

10. Any other comments
