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⁽¹⁾ Text with EEA relevance

EN

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

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I

(Acts whose publication is obligatory)

COMMISSION REGULATION (EC) No 1780/2002
of 7 October 2002
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⁾, as last amended by Regulation (EC) No 1498/98 ⁽²⁾, 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 8 October 2002.

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

Done at Brussels, 7 October 2002.

For the Commission

J. M. SILVA RODRÍGUEZ
Agriculture Director-General

⁽¹⁾ OJ L 337, 24.12.1994, p. 66.

⁽²⁾ OJ L 198, 15.7.1998, p. 4.

ANNEX

to the Commission Regulation of 7 October 2002 establishing the standard import values for determining the entry price of certain fruit and vegetables

(EUR/100 kg)

CN code	Third country code ⁽¹⁾	Standard import value
0702 00 00	052	43,1
	060	93,0
	096	38,8
	999	58,3
0707 00 05	052	103,8
	999	103,8
0709 90 70	052	84,9
	999	84,9
0805 50 10	052	71,9
	388	67,6
	524	60,0
	528	53,8
	999	63,3
0806 10 10	052	110,2
	064	124,7
	400	203,8
	999	146,2
0808 10 20, 0808 10 50, 0808 10 90	096	41,3
	388	73,0
	400	116,2
	512	85,1
	804	70,3
0808 20 50	999	77,2
	052	97,0
	388	70,5
	999	83,8

⁽¹⁾ Country nomenclature as fixed by Commission Regulation (EC) No 2020/2001 (OJ L 273, 16.10.2001, p. 6). Code '999' stands for 'of other origin'.

COMMISSION REGULATION (EC) No 1781/2002**of 7 October 2002****correcting Regulation (EC) No 936/97 opening and providing for the administration of tariff quotas for high-quality fresh, chilled and frozen beef and for frozen buffalo meat**

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⁾, as last amended by Commission Regulation (EC) No 2345/2001 ⁽²⁾, in particular Article 32(1) thereof,

Whereas:

- (1) There is an error in the second subparagraph of Article 2(g) of the German, Dutch and Danish versions of Commission Regulation (EC) No 936/97 of 27 May 1997 opening and providing for the administration of tariff quotas for high-quality fresh, chilled and frozen beef and for frozen buffalo meat ⁽³⁾, as last amended by Regulation (EC) No 1524/2002 ⁽⁴⁾. The necessary correction should therefore be made to the German, Dutch and Danish versions of that subparagraph.

- (2) The measures provided for in this Regulation are in accordance with the opinion of the Management Committee for Beef and Veal,

HAS ADOPTED THIS REGULATION:

Article 1

The word 'steers' in the second subparagraph of Article 2(g) of Regulation (EC) No 936/97 shall be translated as follows:

(concerns only the German, Dutch and Danish language versions).

*Article 2*This Regulation shall enter into force on the third day following its publication in the *Official Journal of the European Communities*.

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

Done at Brussels, 7 October 2002.

For the Commission

Franz FISCHLER

Member of the Commission⁽¹⁾ OJ L 160, 26.6.1999, p. 21.⁽²⁾ OJ L 315, 1.12.2001, p. 29.⁽³⁾ OJ L 137, 28.5.1997, p. 10.⁽⁴⁾ OJ L 229, 27.8.2002, p. 7.

COMMISSION REGULATION (EC) No 1782/2002**of 7 October 2002****amending Regulation (EC) No 884/2001 laying down detailed rules of application concerning the documents accompanying the carriage of wine products and the records to be kept in the wine sector**

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Council Regulation (EC) No 1493/1999 of 17 May 1999 on the common organisation of the market in wine ⁽¹⁾, as last amended by Regulation (EC) No 2585/2001 ⁽²⁾, and in particular Article 70(3) thereof,

Whereas:

- (1) Commission Regulation (EC) No 884/2001 ⁽³⁾ lays down the detailed rules of application concerning the documents accompanying the carriage of wine products.
- (2) Article 18(1) of that Regulation allows the Member States to introduce additional or specific rules for products being transported on their territory.
- (3) Article 18(1)(d) provides that for a transitional period expiring on 31 July 2002 the details of the density of the grape must may be replaced by details of the density expressed by the alcoholic strength in degrees Oechsle.
- (4) That unit is traditionally used by wine producers and operators in the sector in some Member States for the purpose of monitoring vinification processes. It replaces details of the density of the grape must in the documents accompanying carriage beginning and ending on the territory of those Member States.

- (5) In view of the technical problems encountered by small-scale producers in adjusting to a new unit of measurement the derogation should be extended by allowing the Member States concerned to express must density in degrees Oechsle in accompanying documents concerning the carriage of grape must beginning and ending on their territory without passing through the territory of another Member State or of a third country.

- (6) The measure provided for in this Regulation is in accordance with the opinion of the Management Committee for Wine,

HAS ADOPTED THIS REGULATION:

Article 1

In Article 18(1)(d) of Regulation (EC) No 884/2001, the date '31 July 2002' is replaced by '31 July 2010'.

Article 2

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

It shall apply from 1 August 2002.

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

Done at Brussels, 7 October 2002.

For the Commission

Franz FISCHLER

Member of the Commission

⁽¹⁾ OJ L 179, 14.7.1999, p. 1.

⁽²⁾ OJ L 345, 29.12.2001, p. 10.

⁽³⁾ OJ L 128, 10.5.2001, p. 32.

COMMISSION REGULATION (EC) No 1783/2002**of 7 October 2002****fixing the coefficients applicable to cereals exported in the form of Irish whiskey for the period 2002/2003**

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Commission Regulation (EEC) No 2825/93 of 15 October 1993 laying down certain detailed rules for the application of Council Regulation (EEC) No 1766/92 as regards the fixing and granting of adjusted refunds in respect of cereals exported in the form of certain spirit drinks ⁽¹⁾, as last amended by Regulation (EC) No 1633/2000 ⁽²⁾, and in particular Article 5 thereof,

Whereas:

- (1) Article 4(1) of Regulation (EEC) No 2825/93 provides that the quantities of cereals eligible for the refund are to be the quantities placed under control and distilled, weighted by a coefficient to be fixed annually for each Member State concerned. That coefficient expresses the ratio between the total quantities exported and the total quantities marketed of the spirituous beverage concerned on the basis of the trend noted in those quantities during the number of years corresponding to the average ageing period of the spirituous beverage in question. In view of the information provided by Ireland on the period 1 January to 31 December 2001, the average ageing period in 2001 was five years for Irish whiskey. The coefficients for the period 1 October 2002 to 30 September 2003 should be fixed.

- (2) Article 10 of Protocol 3 to the Agreement on the European Economic Area ⁽³⁾ precludes the grant of refunds for exports to Liechtenstein, Iceland and Norway. Therefore, pursuant to Article 7(2) of Regulation (EEC) No 2825/93, account should be taken of this in the calculation of the coefficient for 2002/2003.

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

HAS ADOPTED THIS REGULATION:

Article 1

For the period 1 October 2002 to 30 September 2003 the coefficients provided for in Article 4 of Regulation (EEC) No 2825/93 applying to cereals used in Ireland for manufacturing Irish whiskey shall be as set out in the Annex.

Article 2

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

It shall apply from 1 October 2002.

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

Done at Brussels, 7 October 2002.

For the Commission

Franz FISCHLER

Member of the Commission

⁽¹⁾ OJ L 258, 16.10.1993, p. 6.

⁽²⁾ OJ L 187, 26.7.2000, p. 29.

⁽³⁾ OJ L 1, 3.1.1994, p. 1.

ANNEX

COEFFICIENTS APPLICABLE IN IRELAND

Period of application	Coefficient applicable	
	to barley used for the manufacture of Irish whiskey, category B ⁽¹⁾	to cereals used for the manufacture of Irish whiskey, category A
1 October 2002 to 30 September 2003	0,296	0,454

⁽¹⁾ Including barley processed into malt.

COMMISSION REGULATION (EC) No 1784/2002**of 7 October 2002****fixing the coefficients applicable to cereals exported in the form of Scotch whisky for the period 2002/2003**

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Commission Regulation (EEC) No 2825/93 of 15 October 1993 laying down certain detailed rules for the application of Council Regulation (EEC) No 1766/92 as regards the fixing and granting of adjusted refunds in respect of cereals exported in the form of certain spirit drinks ⁽¹⁾, as last amended by Regulation (EC) No 1633/2000 ⁽²⁾, and in particular Article 5 thereof,

Whereas:

- (1) Article 4(1) of Regulation (EEC) No 2825/93 provides that the quantities of cereals eligible for the refund are to be the quantities placed under control and distilled, weighted by a coefficient to be fixed annually for each Member State concerned. That coefficient expresses the ratio between the total quantities exported and the total quantities marketed of the spirituous beverage concerned on the basis of the trend noted in those quantities during the number of years corresponding to the average ageing period of the spirituous beverage in question. In view of the information provided by the United Kingdom on the period 1 January to 31 December 2001, the average ageing period in 2001 was seven years for Scotch whisky. The coefficients for the period 1 October 2002 to 30 September 2003 should be fixed.

- (2) Article 10 of Protocol 3 to the Agreement on the European Economic Area ⁽³⁾ precludes the grant of refunds for exports to Liechtenstein, Iceland and Norway. Therefore, pursuant to Article 7(2) of Regulation (EEC) No 2825/93, account should be taken of this in the calculation of the coefficient for 2002/2003.

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

HAS ADOPTED THIS REGULATION:

Article 1

For the period 1 October 2002 to 30 September 2003 the coefficients provided for in Article 4 of Regulation (EEC) No 2825/93 applying to cereals used in the United Kingdom for manufacturing Scotch whisky shall be as set out in the Annex.

Article 2

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

It shall apply from 1 October 2002.

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

Done at Brussels, 7 October 2002.

For the Commission

Franz FISCHLER

Member of the Commission

⁽¹⁾ OJ L 258, 16.10.1993, p. 6.

⁽²⁾ OJ L 187, 26.7.2000, p. 29.

⁽³⁾ OJ L 1, 3.1.1994, p. 1.

ANNEX

COEFFICIENTS APPLICABLE IN THE UNITED KINGDOM

Period of application	Coefficient applicable	
	to barley processed into malt used in the manufacture of malt whisky	to cereals used in the manufacture of grain whisky
1 October 2002 to 30 September 2003	0,649	0,525

**COMMISSION REGULATION (EC) No 1785/2002
of 7 October 2002
determining the world market price for unginned cotton**

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

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

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

Whereas:

- (1) In accordance with Article 4 of Regulation (EC) No 1051/2001, a world market price for unginned cotton is to be determined periodically from the price for ginned cotton recorded on the world market and by reference to the historical relationship between the price recorded for ginned cotton and that calculated for unginned cotton. That historical relationship has been established in Article 2(2) of Commission Regulation (EC) No 1591/2001 of 2 August 2001 ⁽³⁾, as amended by Regulation (EC) No 1486/2002 ⁽⁴⁾. Where the world market price cannot be determined in this way, it is to be based on the most recent price determined.
- (2) In accordance with Article 5 of Regulation (EC) No 1051/2001, the world market price for unginned cotton is to be determined in respect of a product of specific characteristics and by reference to the most favourable

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

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

HAS ADOPTED THIS REGULATION:

Article 1

The world price for unginned cotton as referred to in Article 4 of Regulation (EC) No 1051/2001 is hereby determined as equalling EUR 22,374/100 kg.

Article 2

This Regulation shall enter into force on 8 October 2002.

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

Done at Brussels, 7 October 2002.

For the Commission

J. M. SILVA RODRÍGUEZ

Agriculture Director-General

⁽¹⁾ OJ L 148, 1.6.2001, p. 1.

⁽²⁾ OJ L 148, 1.6.2001, p. 3.

⁽³⁾ OJ L 210, 3.8.2001, p. 10.

⁽⁴⁾ OJ L 223, 20.8.2002, p. 3.

DIRECTIVE 2002/74/EC OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL
of 23 September 2002
amending Council Directive 80/987/EEC on the approximation of the laws of the Member States
relating to the protection of employees in the event of the insolvency of their employer
(Text with EEA relevance)

THE EUROPEAN PARLIAMENT AND THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty establishing the European Community, and in particular Article 137(2) thereof,

Having regard to the proposal from the Commission ⁽¹⁾,

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

Having consulted the Committee of the Regions,

Acting in accordance with the procedure laid down in Article 251 of the Treaty ⁽³⁾,

Whereas:

- (1) The Community Charter of Fundamental Social Rights for Workers adopted on 9 December 1989 states, in point 7, that the completion of the internal market must lead to an improvement in the living and working conditions of workers in the European Community and that this improvement must cover, where necessary, the development of certain aspects of employment regulations such as procedures for collective redundancies and those regarding bankruptcies.
- (2) Directive 80/987/EEC ⁽⁴⁾ aims to provide a minimum degree of protection for employees in the event of the insolvency of their employer. To this end, it obliges the Member States to establish a body which guarantees payment of the outstanding claims of the employees concerned.
- (3) Changes in insolvency law in the Member States and the development of the internal market mean that certain provisions of that Directive must be adapted.
- (4) Legal certainty and transparency also require clarification with regard to the scope and certain definitions of Directive 80/987/EEC. In particular the possible exclusions granted to the Member States should be indicated in the enacting provisions of the Directive and consequently the Annex thereto should be deleted.
- (5) In order to ensure equitable protection for the employees concerned, the definition of the state of insolvency should be adapted to new legislative trends in the Member States and should also include within this concept insolvency proceedings other than liquidation. In this context, Member States should, in order to determine the liability of the guarantee institution, be able to lay down that where an insolvency situation results in several insolvency proceedings, the situation be treated as a single insolvency procedure.
- (6) It should be ensured that the employees referred to in Directive 97/81/EC of 15 December 1997 concerning the Framework Agreement on part-time work concluded by UNICE, CEEP and the ETUC ⁽⁵⁾, Council Directive 1999/70/EC of 28 June 1999 concerning the framework agreement on fixed-term work concluded by the ETUC, UNICE and CEEP ⁽⁶⁾ and Council Directive 91/383/EEC of 25 June 1991 supplementing the measures to encourage improvements in the safety and health at work of workers with a fixed-duration employment relationship or a temporary employment relationship ⁽⁷⁾ are not excluded from the scope of this Directive.
- (7) In order to ensure legal certainty for employees in the event of insolvency of undertakings pursuing their activities in a number of Member States, and to strengthen workers' rights in line with the established case law of the Court of Justice, provisions should be introduced which expressly state which institution is responsible for meeting pay claims in these cases and establishes as the aim of cooperation between the competent administrative authorities of the Member States the early settlement of employees' outstanding claims. Furthermore it is necessary to ensure that the relevant arrangements are properly implemented by making provision for collaboration between the competent administrative authorities in the Member States.
- (8) Member States may set limitations on the responsibility of the guarantee institutions which should be compatible with the social objective of the Directive and may take into account the different levels of claims.

⁽¹⁾ OJ C 154 E, 29.5.2001, p. 109.

⁽²⁾ OJ C 221, 7.8.2001, p. 110.

⁽³⁾ Opinion of the European Parliament of 29 November 2001 (not yet published in the Official Journal), Council Common Position of 18 February 2002 (OJ C 119 E, 22.5.2002, p. 1) (not yet published in the Official Journal) and European Parliament Decision of 14 May 2002 (not yet published in the Official Journal). Council Decision of 27 June 2002.

⁽⁴⁾ OJ L 283, 28.10.1980, p. 23. Directive as last amended by the 1994 Act of Accession.

⁽⁵⁾ OJ L 14, 20.1.1998, p. 9. Directive as last amended by Directive 98/23/EC (OJ L 131, 5.5.1998, p. 10).

⁽⁶⁾ OJ L 175, 10.7.1999, p. 43.

⁽⁷⁾ OJ L 206, 29.7.1991, p. 19.

- (9) In order to make it easier to identify insolvency proceedings in particular in situations with a cross-border dimension, provision should be made for the Member States to notify the Commission and the other Member States about the types of insolvency proceedings which give rise to intervention by the guarantee institution.
- (10) Directive 80/987/EEC should be amended accordingly.
- (11) Since the objectives of the proposed action, namely the amendment of certain provisions of Directive 80/987/EEC to take account of changes in the activities of undertakings in the Community, cannot be sufficiently achieved by the Member States and can therefore be better achieved at Community level, the Community may adopt measures, in accordance with the principle of subsidiarity as set out in Article 5 of the Treaty. In accordance with the principle of proportionality, as set out in that Article, this Directive does not go beyond what is necessary in order to achieve that objective.
- (12) The Commission should submit to the European Parliament and the Council a report on the implementation and application of this Directive in particular as regards the new forms of employment emerging in the Member States,

HAVE ADOPTED THIS DIRECTIVE:

Article 1

Directive 80/987/EEC is hereby amended as follows:

- 1. the title shall be replaced by the following:

‘Council Directive 80/987/EEC of 20 October 1980 on the protection of employees in the event of the insolvency of their employer’;

- 2. Section I shall be replaced by the following:

‘SECTION I

Scope and definitions

Article 1

1. This Directive shall apply to employees' claims arising from contracts of employment or employment relationships and existing against employers who are in a state of insolvency within the meaning of Article 2(1).

2. Member States may, by way of exception, exclude claims by certain categories of employee from the scope of this Directive, by virtue of the existence of other forms of guarantee if it is established that these offer the persons concerned a degree of protection equivalent to that resulting from this Directive.

3. Where such provision already applies in their national legislation, Member States may continue to exclude from the scope of this Directive:

- (a) domestic servants employed by a natural person;

- (b) share-fishermen.

Article 2

1. For the purposes of this Directive, an employer shall be deemed to be in a state of insolvency where a request has been made for the opening of collective proceedings based on insolvency of the employer, as provided for under the laws, regulations and administrative provisions of a Member State, and involving the partial or total divestment of the employer's assets and the appointment of a liquidator or a person performing a similar task, and the authority which is competent pursuant to the said provisions has:

- (a) either decided to open the proceedings, or
- (b) established that the employer's undertaking or business has been definitively closed down and that the available assets are insufficient to warrant the opening of the proceedings.

2. This Directive is without prejudice to national law as regards the definition of the terms “employee”, “employer”, “pay”, “right conferring immediate entitlement” and “right conferring prospective entitlement”.

However, the Member States may not exclude from the scope of this Directive:

- (a) part-time employees within the meaning of Directive 97/81/EC;
- (b) workers with a fixed-term contract within the meaning of Directive 1999/70/EC;
- (c) workers with a temporary employment relationship within the meaning of Article 1(2) of Directive 91/383/EEC.

3. Member States may not set a minimum duration for the contract of employment or the employment relationship in order for workers to qualify for claims under this Directive.

4. This Directive does not prevent Member States from extending workers' protection to other situations of insolvency, for example where payments have been de facto stopped on a permanent basis, established by proceedings different from those mentioned in paragraph 1 as provided for under national law.

Such procedures shall not however create a guarantee obligation for the institutions of the other Member States in the cases referred to in Section IIIa.;

- 3. Articles 3 and 4 shall be replaced by the following:

‘Article 3

Member States shall take the measures necessary to ensure that guarantee institutions guarantee, subject to Article 4, payment of employees' outstanding claims resulting from contracts of employment or employment relationships, including, where provided for by national law, severance pay on termination of employment relationships.

The claims taken over by the guarantee institution shall be the outstanding pay claims relating to a period prior to and/or, as applicable, after a given date determined by the Member States.

Article 4

1. Member States shall have the option to limit the liability of the guarantee institutions referred to in Article 3.

2. When Member States exercise the option referred to in paragraph 1, they shall specify the length of the period for which outstanding claims are to be met by the guarantee institution. However, this may not be shorter than a period covering the remuneration of the last three months of the employment relationship prior to and/or after the date referred to in Article 3. Member States may include this minimum period of three months in a reference period with a duration of not less than six months.

Member States having a reference period of not less than 18 months may limit the period for which outstanding claims are met by the guarantee institution to eight weeks. In this case, those periods which are most favourable to the employee are used for the calculation of the minimum period.

3. Furthermore, Member States may set ceilings on the payments made by the guarantee institution. These ceilings must not fall below a level which is socially compatible with the social objective of this Directive.

When Member States exercise this option, they shall inform the Commission of the methods used to set the ceiling;

4. the following Section shall be inserted:

'SECTION IIIa

Provisions concerning transnational situations

Article 8a

1. When an undertaking with activities in the territories of at least two Member States is in a state of insolvency within the meaning of Article 2(l), the institution responsible for meeting employees' outstanding claims shall be that in the Member State in whose territory they work or habitually work.

2. The extent of employees' rights shall be determined by the law governing the competent guarantee institution.

3. Member States shall take the measures necessary to ensure that, in the cases referred to in paragraph 1, decisions taken in the context of insolvency proceedings referred to in Article 2(1), which have been requested in another Member

State, are taken into account when determining the employer's state of insolvency within the meaning of this Directive.

Article 8b

1. For the purposes of implementing Article 8a, Member States shall make provision for the sharing of relevant information between their competent administrative authorities and/or the guarantee institutions mentioned in Article 3, making it possible in particular to inform the guarantee institution responsible for meeting the employees' outstanding claims.

2. Member States shall notify the Commission and the other Member States of the contact details of their competent administrative authorities and/or guarantee institutions. The Commission shall make these communications publicly accessible;

5. in Article 9 the following paragraph shall be added:

'Implementation of this Directive shall not under any circumstances be sufficient grounds for a regression in relation to the current situation in the Member States and in relation to the general level of protection of workers in the area covered by it;'

6. in Article 10 the following point shall be added:

'(c) to refuse or reduce the liability referred to in Article 3 or the guarantee obligation referred to in Article 7 in cases where the employee, on his or her own or together with his or her close relatives, was the owner of an essential part of the employer's undertaking or business and had a considerable influence on its activities;'

7. the following Article shall be inserted:

'Article 10a

Member States shall notify the Commission and the other Member States of the types of national insolvency proceedings falling within the scope of this Directive, and of any amendments relating thereto. The Commission shall publish these communications in the *Official Journal of the European Communities*;

8. the Annex shall be deleted.

Article 2

1. Member States shall bring into force the laws, regulations and administrative provisions necessary to comply with this Directive before 8 October 2005. They shall forthwith inform the Commission thereof.

They shall apply the provisions referred to in the first subparagraph to any state of insolvency of an employer occurring after the date of entry into force of those provisions.

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

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

Article 5

This Directive is addressed to the Member States.

Article 3

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

Article 4

By 8 October 2010 at the latest, the Commission shall submit to the European Parliament and the Council a report on the implementation and application of this Directive in the Member States.

Done at Brussels, 23 September 2002.

For the European Parliament

The President

P. COX

For the Council

The President

M. FISCHER BOEL

II

(Acts whose publication is not obligatory)

EUROPEAN CENTRAL BANK

GUIDELINE OF THE EUROPEAN CENTRAL BANK

of 26 September 2002

on minimum standards for the European Central Bank and national central banks when conducting monetary policy operations, foreign exchange operations with the ECB's foreign reserves and managing the ECB's foreign reserve assets

(ECB/2002/6)

(2002/777/EC)

THE GOVERNING COUNCIL OF THE EUROPEAN CENTRAL BANK,

Having regard to the Treaty establishing the European Community, and in particular to the first, second and third indents of Article 105(2),

Having regard to Article 12.1 and Article 14.3 of the Statute of the European System of Central Banks and of the European Central Bank, in conjunction with the first, second and third indents of Article 3.1, Article 18.2 and Article 30.6,

Whereas:

(1) In accordance with the first, second and third indents of Article 105(2) of the Treaty, amongst the basic tasks to be carried out by the ESCB are the definition and implementation of the monetary policy of the Community, the conduct of foreign exchange operations consistent with the provisions of Article 111 of the Treaty and the holding and management of the official foreign reserves of the Member States.

(2) The European Central Bank (ECB) considers it necessary for the ECB and each national central bank of a participating Member State (NCB) to apply minimum standards when: (i) conducting monetary policy operations; (ii) conducting foreign exchange operations with the ECB's foreign reserves, and (iii) managing the ECB's foreign reserve assets to the extent that NCBs are acting as an agent for the ECB pursuant to Guideline ECB/2000/1 of 3 February 2000 on the management of the foreign reserve assets of the European Central Bank by the national central banks and the legal documentation for operations involving the foreign reserve assets of the European Central Bank ⁽¹⁾, as last amended by Guideline ECB/2001/12 ⁽²⁾.

(3) Article 38.1 of the Statute provides that members of the governing bodies and the staff of the ECB and the NCBs shall be required, even after their duties have ceased, not to disclose information of the kind covered by the obligation of professional secrecy.

(4) The members of the Governing Council of the ECB have agreed on a Memorandum of Understanding on similar matters in the Governing Council meeting of 16 May 2002 ⁽³⁾.

(5) In accordance with Article 12.1 and Article 14.3 of the Statute, ECB guidelines form an integral part of Community law,

HAS ADOPTED THIS GUIDELINE:

Article 1

Minimum standards for the ECB and NCBs when conducting monetary policy operations, foreign exchange operations with the ECB's foreign reserves and managing the ECB's foreign reserve assets

When conducting activities or operations related to monetary policy operations, foreign exchange operations with the ECB's foreign reserves and when managing the ECB's foreign reserve assets, the ECB and each NCB shall ensure that its internal rules related to such operations or to such management, whether they are codes of conduct, personnel regulations or any other type of internal rules comply with the following minimum standards, in the framework of applicable national laws and labour market practices.

⁽¹⁾ OJ L 207, 17.8.2000, p. 24.

⁽²⁾ OJ L 310, 28.11.2001, p. 31.

⁽³⁾ OJ C 123, 24.5.2002, p. 9.

1. SCOPE

The internal rules of the ECB and of the NCBs should contain binding provisions ensuring compliance with these minimum standards of all the ECB's and NCBs' activities or operations related to monetary policy, foreign exchange operations with the ECB's foreign reserves and when managing the ECB's foreign reserve assets.

The rules contained herein should be applicable to:

- the members of the Executive Board of the ECB when not exercising their functions as members of the Governing Council,
- the members of the NCBs' decision making bodies, other than those who are members of the Governing Council of the ECB (and their alternates appointed in accordance with Article 4.4 of the Rules of Procedure of the European Central Bank) exercising their functions as members of the Governing Council,
- all ECB's employees involved in activities or operations related to monetary policy operations, foreign exchange operations with the ECB's foreign reserves and the management of the ECB's foreign reserve assets, and
- all NCB employees involved in activities or operations related to monetary policy operations, foreign exchange operations with the ECB's foreign reserves and the management of the ECB's foreign reserve assets

(such members of the Executive Board of the ECB and the NCBs' decision-making bodies are hereinafter collectively referred to as 'decision-making bodies' and such ECB and NCB employees are hereinafter collectively referred to as 'employees').

These minimum standards are not intended to exclude or prejudice the operation of any other more stringent provisions laid down in the ECB's and NCBs' internal rules that apply to employees as well as to the decision making bodies, and these minimum standards shall also be without prejudice to the operation of Article 38.1 of the Statute of the European System of Central Banks and of the European Central Bank.

2. MANAGEMENT SUPERVISION OF OPERATIONS WITH MARKET COUNTERPARTIES

Control of the activities of the employees engaged in operations with market counterparties is the responsibility of the respective management. The authorisations and responsibilities according to which market operators and support staff should discharge their duties should be clearly set out in writing.

3. AVOIDANCE OF POTENTIAL CONFLICTS OF INTEREST

Decision-making bodies and employees are required to abstain from being a party to any economic or financial transactions that may hinder their independence and impartiality.

Decision-making bodies and employees should avoid any situation liable to give rise to a conflict of interest.

4. PROHIBITION OF INSIDER TRADING

The ECB and the NCBs should not allow the decision-making bodies and employees to conduct insider trading, nor to pass

non-public confidential information obtained at the workplace on to third parties. Moreover, decision-making bodies and employees may not use non-public ESCB related knowledge obtained at the workplace whenever they conduct private financial transactions.

Insider trading is defined as the activity of any person who, by virtue of his or her employment, profession or duties, has access to certain information of a precise nature that could be relevant to monetary policy operations, foreign exchange operations with the ECB's foreign reserves and the management of the ECB's foreign reserve assets before it becomes public and takes advantage of that information with full knowledge of the facts by acquiring or disposing of, either for his or her own account or for the account of a third party, either directly or indirectly, assets (including transferable securities) or rights (including rights under derivatives contracts) to which that information is closely related.

The ECB and the NCBs should have appropriate arrangements in place to check that financial transactions entered into by the decision-making bodies and employees conform with this rule. Moreover, these arrangements should be strictly limited to compliance checks regarding those kinds of transactions that could be relevant to monetary policy operations, foreign exchange operations with the ECB's foreign reserves and the management of the ECB's foreign reserve assets. Such compliance checks should only be carried out where there are compelling reasons for doing so.

5. ENTERTAINMENT AND GIFTS

Decision-making bodies and employees may not solicit gifts and entertainment from third parties in the course of conducting monetary policy operations, foreign exchange operations with the ECB's foreign reserves and the management of the ECB's foreign reserve assets, nor may decision-making bodies and employees accept gifts and entertainment in excess of a customary or negligible amount, whether financial or non-financial, that may hinder their independence and impartiality.

Employees should be required to inform their management about any attempt by a counterparty to offer them such gifts or entertainment.

*Article 2***Amendments to Guideline ECB/2000/1**

Article 3a of and Annex 4 to Guideline ECB/2000/1 shall be repealed.

*Article 3***Verification**

The NCBs shall forward details of the texts and means by which they intend to comply with this Guideline to the ECB by 15 October 2002 at the latest to the extent they have not yet done so in the context of the implementation of Guideline ECB/2001/5 ⁽¹⁾.

⁽¹⁾ OJ L 190, 12.7.2001, p. 26.

*Article 4***Final provisions**

1. This Guideline is addressed to the NCBs of the Member States that have adopted the single currency in accordance with the Treaty.
2. This Guideline shall enter into force on 30 November 2002.
3. This Guideline shall be published in the *Official Journal of the European Communities*.

Done at Frankfurt am Main, 26 September 2002.

*On behalf of the Governing Council of the
ECB*

The President

Willem F. DUISENBERG
