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Legislation

Contents

I Acts whose publication is obligatory

- ★ **Regulation (EC) No 501/2004 of the European Parliament and of the Council of 10 March 2004 on quarterly financial accounts for general government ⁽¹⁾ 1**
- ★ **Council Regulation (EC) No 502/2004 of 11 March 2004 amending Regulation (EC) No 1177/2002 concerning a temporary defensive mechanism to shipbuilding 6**
- Commission Regulation (EC) No 503/2004 of 18 March 2004 establishing the standard import values for determining the entry price of certain fruit and vegetables 8
- Commission Regulation (EC) No 504/2004 of 18 March 2004 applying a reduction coefficient to refund certificates for goods not covered by Annex I to the Treaty, as provided for by Article 8(5) of Regulation (EC) No 1520/2000 10
- Commission Regulation (EC) No 505/2004 of 18 March 2004 fixing the rates of refunds applicable to certain products from the sugar sector exported in the form of goods not covered by Annex I to the Treaty 11
- Commission Regulation (EC) No 506/2004 of 18 March 2004 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 14
- Commission Regulation (EC) No 507/2004 of 18 March 2004 determining to what extent applications lodged in March 2004 for the right to import young male bovine animals for fattening can be met 18
- Commission Regulation (EC) No 508/2004 of 18 March 2004 fixing the export refunds on products processed from cereals and rice 19

Price: EUR 18

⁽¹⁾ Text with EEA relevance

(Continued overleaf)

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.

The titles of all other acts are printed in bold type and preceded by an asterisk.

Commission Regulation (EC) No 509/2004 of 18 March 2004 fixing the representative prices and the additional import duties for molasses in the sugar sector	22
Commission Regulation (EC) No 510/2004 of 18 March 2004 fixing the export refunds on white sugar and raw sugar exported in its unaltered state	24
Commission Regulation (EC) No 511/2004 of 18 March 2004 fixing the export refunds on syrups and certain other sugar products exported in the natural state	26
Commission Regulation (EC) No 512/2004 of 18 March 2004 fixing the maximum export refund for white sugar to certain third countries for the 23rd partial invitation to tender issued within the framework of the standing invitation to tender provided for in Regulation (EC) No 1290/2003	29
Commission Regulation (EC) No 513/2004 of 18 March 2004 on import licences in respect of beef and veal products originating in Botswana, Kenya, Madagascar, Swaziland, Zimbabwe and Namibia	30
Commission Regulation (EC) No 514/2004 of 18 March 2004 fixing the maximum reduction in the duty on sorghum imported in connection with the invitation to tender issued in Regulation (EC) No 699/2003	32
Commission Regulation (EC) No 515/2004 of 18 March 2004 concerning tenders notified in response to the invitation to tender for the import of maize issued in Regulation (EC) No 2315/2003	33
Commission Regulation (EC) No 516/2004 of 18 March 2004 concerning tenders notified in response to the invitation to tender for the export of oats issued in Regulation (EC) No 1814/2003	34

II Acts whose publication is not obligatory

Council

2004/259/EC:

- ★ **Council Decision of 19 February 2004 concerning the conclusion, on behalf of the European Community, of the Protocol to the 1979 Convention on Long Range Transboundary Air Pollution on Persistent Organic Pollutants** 35

Protocol to the 1979 Convention on Long Range Transboundary Air Pollution on Persistent Organic Pollutants 37

Commission

2004/260/EC:

- ★ **Commission Decision of 30 April 2003 on the aid scheme which Italy — Tuscany Region — is planning to implement for the reduction of the greenhouse gasses emissions ⁽¹⁾ (notified under document number C(2003) 1327)** 72

2004/261/EC:

- ★ **Commission Decision of 9 July 2003 on the State aid C 11/2002 (ex N 382/2001) which Italy is planning to implement in favour of certain heavy goods vehicles designed for the carriage of goods by road in order to divert heavy goods traffic from trunk road 33 (SS 33) from Lake Maggiore to the A26 motorway ⁽¹⁾ (notified under document number C(2003) 2154)** 80

2004/262/EC:

- ★ **Commission Decision of 17 March 2004 on certain protection measures with regard to registered horses coming from South Africa ⁽¹⁾ (notified under document number C(2004) 808)** 86

2004/263/EC:

- ★ **Commission Decision of 17 March 2004 amending Decision 2000/333/EC laying down special conditions for the import of bivalve molluscs, echinoderms, tunicates and marine gastropods originating in the Socialist Republic of Vietnam, as regards the designation of the competent authority ⁽¹⁾ (notified under document number C(2004) 824)** 88

2004/264/EC:

- ★ **Commission Decision of 18 March 2004 suspending the anti-dumping duty imposed by Decision No 2730/2000/ECSC on imports of coke of coal in pieces with a diameter of more than 80 mm originating in the People's Republic of China** 89

Corrigenda

- ★ **Corrigendum to Commission Directive 2004/4/EC of 15 January 2004 amending Directive 96/3/EC granting a derogation from certain provisions of Council Directive 93/43/EEC on the hygiene of foodstuffs as regards the transport of bulk liquid oils and fats by sea (OJ L 15 of 22.1.2004)** 92

I

(Acts whose publication is obligatory)

REGULATION (EC) No 501/2004 OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL
of 10 March 2004
on quarterly financial accounts for general government
(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 285 thereof,

Having regard to the proposal from the Commission,

Having regard to the opinion of the European Central Bank ⁽¹⁾,

Acting in accordance with the procedure laid down in Article 251 of the Treaty ⁽²⁾,

Whereas:

- (1) Council Regulation (EC) No 2223/96 of 25 June 1996 on the European system of national and regional accounts in the Community ⁽³⁾ contains the reference framework of common standards, definitions, classifications and accounting rules for drawing up the accounts of the Member States for the statistical requirements of the Community, in order to obtain comparable results between Member States.
- (2) The report by the Monetary Committee on information requirements, endorsed by the ECOFIN Council on 18 January 1999, underlined that, for the proper functioning of Economic and Monetary Union and the single market, effective surveillance and coordination of economic policies are of major importance and that this requires a comprehensive statistical information system providing policy-makers with the necessary data on which to base their decisions. That report also stated that high priority should be given to short-term public finance statistics for Member States, in particular those participating in Economic and Monetary Union, and that the objective was the compilation of quarterly government financial accounts following a step-by-step approach.

- (3) Quarterly national data of financial accounts (transactions and balance sheets) for the government sector make up a large proportion of all financial transactions and financial balance sheets in the euro area and provide important information to support the conduct of monetary policy. In this respect and for its own purpose the Governing Council of the European Central Bank has adopted regulations and guidelines to safeguard the transmission of infra-annual data on financial statistics and national financial accounts to the European Central Bank.

- (4) Counterpart sector information on government financial transactions and balance sheets is required to enable comprehensive analysis of government financing and financial investment by counterpart sector and by instrument.

- (5) Commission Regulation (EC) No 264/2000 of 3 February 2000 on the implementation of Council Regulation (EC) No 2223/96 with respect to short-term public finance statistics ⁽⁴⁾ and Regulation (EC) No 1221/2002 of the European Parliament and of the Council, of 10 June 2002 on quarterly non-financial accounts for general government ⁽⁵⁾ specify the non-financial quarterly data for general government that is to be transmitted to the Commission (Eurostat) by Member States.

- (6) Articles 2 and 3 of Regulation (EC) No 2223/96 lay down the conditions under which the Commission may adopt amendments to the methodology of the European System of Accounts in order to clarify and improve its contents. The compilation of government quarterly financial accounts will require additional resources in Member States, and cannot therefore be dealt with by a Commission Decision but should rather be adopted by a specific Regulation of the European Parliament and of the Council.

⁽¹⁾ OJ C 165, 16.7.2003, p. 6.

⁽²⁾ Opinion of the European Parliament of 21 October 2003 (not yet published in the Official Journal), Council Common Position of 22 December 2003 (not yet published in the Official Journal) and Position of the European Parliament of 10 February 2004 (not yet published in the Official Journal).

⁽³⁾ OJ L 310, 30.11.1996, p. 1. Regulation as last amended by Regulation (EC) No 1267/2003 of the European Parliament and of the Council (OJ L 180, 18.7.2003, p. 1).

⁽⁴⁾ OJ L 29, 4.2.2000, p. 4.

⁽⁵⁾ OJ L 179, 9.7.2002, p. 1.

(7) The Statistical Programme Committee (SPC) set up by Council Decision 89/382/EEC, Euratom ⁽¹⁾, and the Committee on Monetary, Financial and Balance of Payments Statistics (CMFB) set up by Council Decision 91/115/EEC, ⁽²⁾ declared themselves in favour of the draft of this Regulation,

HAVE ADOPTED THIS REGULATION:

Article 1

Purpose

The purpose of this Regulation is to list and define the main characteristics of the European System of Accounts (ESA 95) categories of financial transactions and of financial assets and liabilities for the general government sector and for each of the subsectors within general government, to be transmitted to the Commission (Eurostat) quarterly following a step-by-step approach.

Article 2

Compilation of quarterly data: sources and methods

1. With a view to achieving high-quality statistics, quarterly data for financial transactions and for financial assets and liabilities shall be based as far as possible on information directly available within general government. However, quarterly data on unquoted shares (AF.512) and other equity (AF.513), as defined and codified in ESA 95 and held by general government units, may be estimated by interpolating and extrapolating information on the respective annual data.

2. The compilation of quarterly data for financial transactions and for financial assets and liabilities shall comply with the ESA 95 rules, especially concerning the sectoral classification of institutional units, consolidation rules, the classification of financial transactions and financial assets and liabilities, the time of recording, and valuation rules.

3. The quarterly data and the corresponding annual data transmitted to the Commission in accordance with Regulation (EC) No 2223/96 shall be mutually consistent.

4. The quarterly data on financial assets and liabilities are the outstanding amounts of financial assets and liabilities at the end of each quarter.

Article 3

Transmission of quarterly data on financial transactions, financial assets and liabilities

1. Member States shall transmit to the Commission (Eurostat) quarterly data on financial transactions (F.) and on financial assets and liabilities (AF.) for the following list of instruments as defined and codified in ESA 95:

(a) monetary gold and special drawing rights (SDRs) (F.1 and AF.1);

- (b) currency and deposits (F.2 and AF.2);
- (c) short-term securities other than shares, excluding financial derivatives (F.331 and AF.331);
- (d) long-term securities other than shares, excluding financial derivatives (F.332 and AF.332);
- (e) financial derivatives (F.34 and AF.34);
- (f) short-term loans (F.41 and AF.41);
- (g) long-term loans (F.42 and AF.42);
- (h) shares and other equity (F.5 and AF.5);
- (i) net equity of households in life insurance reserves and in pension fund reserves (F.61 and AF.61);
- (j) prepayments of insurance premiums and reserves for outstanding claims (F.62 and AF.62);
- (k) other accounts receivable/payable (F.7 and AF.7).

2. Member States shall also transmit to the Commission (Eurostat) quarterly data for the central government subsector (S.1311) as referred to in Article 4 as follows:

- (a) quoted shares (F.511 and AF.511), in respect of financial asset transactions and financial assets;
- (b) currency (F.21 and AF.21), in respect of liability transactions and liabilities.

Article 4

Coverage of the general government sector and subsectors

Member States shall transmit quarterly data for the general government sector and its subsectors as defined and codified in ESA 95, as general government (S.13), comprising:

- central government (S.1311),
- State government (S.1312),
- local government (S.1313),
- social security funds (S.1314).

Article 5

Nature of the quarterly data covered by the transmission

1. Quarterly data as referred to in Article 3 shall be transmitted on a consolidated basis for the general government subsectors as referred to in Article 4.

⁽¹⁾ OJ L 181, 28.6.1989, p. 47.

⁽²⁾ OJ L 59, 6.3.1991, p. 19. Decision as amended by Decision 96/174/EC (OJ L 51, 1.3.1996, p. 48).

2. Quarterly data as referred to in Article 3 shall be transmitted on both a consolidated and a non-consolidated basis for the general government sector (S.13) as referred to in Article 4.

3. Quarterly data with breakdown by counterpart sector shall be provided for the subsectors central government (S.1311) and social security funds (S.1314) as referred to in Article 4 and described in the Annex to this Regulation.

Article 6

Timetable for the transmission of quarterly data

1. Quarterly data as referred to in Articles 3, 4 and 5 shall be transmitted to the Commission (Eurostat) at the latest by three months after the end of the quarter to which the data relate.

2. Any revision of quarterly data for previous quarters shall be transmitted at the same time.

3. The first transmission of quarterly data as referred to in Articles 3, with the exception of other accounts receivable/payable (F.7 and AF.7), 4 and 5 shall be made in accordance with the following timetable:

- (a) for the central government subsector (S.1311) and for the social security funds subsector (S.1314), no later than 30 June 2004; the Commission may grant a derogation, not exceeding 18 months, for the starting date of transmission of data with breakdown by counterpart sector and of some data on financial transactions and financial assets and liabilities, in so far as the national statistical systems require major adaptations;
- (b) for the State government (S.1312) and local government (S.1313) subsectors:
 - (i) no later than 30 June 2004 for the transactions in liabilities and liabilities as detailed under Article 3(1); the Commission may grant a derogation, not exceeding 18 months, for the starting date of transmission of those data, in so far as the national statistical systems require major adaptations;
 - (ii) no later than 30 June 2005 for the transactions in financial assets and assets as detailed under Article 3(1); the Commission may grant a derogation, not exceeding six months, for the starting date of transmission of those data, in so far as the national statistical systems require major adaptations;
- (c) for the general government sector (S.13), no later than 30 June 2005; the Commission may grant a derogation, not exceeding six months, for the starting date of transmission of those data, in so far as the national statistical systems require major adaptations.

4. The first transmission to the Commission (Eurostat) of quarterly data for other accounts receivable/payable (F.7 and AF.7) and for the general government sector (S.13) and its subsectors as referred to in Article 4 shall be no later than 30 June 2005. The Commission may grant a derogation, not exceeding six months, for the starting date of transmission of those data, in so far as the national statistical systems require major adaptations.

Article 7

Provisions relating to back data

1. Quarterly data as referred to in Article 6 shall cover back data for financial transactions from the first quarter of 1999 and financial balance sheets from the fourth quarter of 1998 in accordance with the timetable specified in Article 6(3) and (4) for the first transmission of data.

2. Where necessary, back data may be based on 'best estimates', respecting in particular the provisions of Article 2(2) and (3).

Article 8

Implementation

1. Member States shall provide the Commission (Eurostat) with a description of the sources and methods used to compile the quarterly data referred to in Article 3 (initial description), when they first start to transmit quarterly data in accordance with the timetable referred to in Article 6(3) and (4).

2. Member States shall inform the Commission (Eurostat) of any changes to this initial description when they communicate the revised data.

3. The Commission (Eurostat) shall keep the Statistical Programme Committee (SPC) and the Committee on Monetary, Financial and Balance of Payments Statistics (CMFB) informed of the sources and methods used by each Member State.

Article 9

Report

On the basis of the transmission of data referred to in Articles 3, 4, and 5, and after consulting the SPC and the CMFB, the Commission shall, by 31 December 2005 at the latest, submit to the European Parliament and the Council a report containing an assessment of the reliability of the quarterly data delivered by Member States.

*Article 10***Entry into force**

This Regulation shall enter into force on the twentieth day following that 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 Strasbourg, 10 March 2004.

For the European Parliament

The President

P. COX

For the Council

The President

D. ROCHE

ANNEX

BREAKDOWN BY COUNTERPART SECTOR ⁽¹⁾Central government (S.1311) and social security funds (S.1314) financial transactions and financial balance sheets ⁽²⁾

Counterpart sector/subsector Category/sub-category	Non-financial corporations (S.11)	Financial corporations (S.12)		Households including non-profit institutions serving households (S.14+S.15)	Rest of the world (S.2)
		Total	Insurance corporations and pension funds (S.125)		

Financial assets

Short-term securities other than shares, excluding financial derivatives (F.331 and AF.331)					
Long-term securities other than shares, excluding financial derivatives (F.332 and AF.332)					
Short-term loans (F.41 and AF.41)					
Long-term loans (F.42 and AF.42)					
Shares and other equity (F.5 and AF.5)					

Liabilities

Short-term loans (F.41 and AF.41)	
Long-term loans (F.42 and AF.42)	

⁽¹⁾ Framed boxes indicate the reporting requirements.⁽²⁾ The codes, taken from ESA 95, indicate: S: sectors/subsectors; F: financial transactions; and AF: financial balance sheet items.

**COUNCIL REGULATION (EC) No 502/2004
of 11 March 2004**

amending Regulation (EC) No 1177/2002 concerning a temporary defensive mechanism to shipbuilding

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty establishing the European Community, and in particular Articles 87(3)(e), 89 and 133 thereof,

Having regard to the proposal from the Commission,

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

Whereas:

(1) The European Commission and the Government of the Republic of Korea signed the Agreed Minutes relating to world shipbuilding on 22 June 2000, hereinafter 'the Agreed Minutes', with the aim of restoring fair and transparent competitive conditions. However, the commitments under the Agreed Minutes, notably the commitment of ensuring an effective price surveillance mechanism, have not been effectively implemented by the Korean side and therefore a satisfactory result has still not been obtained.

(2) As an exceptional and temporary measure, and in order to assist Community shipyards in those segments that have suffered adverse effects in the form of material injury and serious prejudice caused by unfair Korean competition, a temporary defensive mechanism to shipbuilding was established by Regulation (EC) No 1177/2002 ⁽²⁾ for limited market segments and for a short and limited period only. In particular, the temporary defensive mechanism was only authorised after the Community initiated dispute settlement proceedings against the Republic of Korea and could no longer be authorised if these dispute settlement proceedings were resolved or suspended.

(3) On 8 October 2002, as set out in Decision 2002/818/EC ⁽³⁾ the Community initiated dispute settlement proceedings against the Republic of Korea, by requesting

consultations, in accordance with the World Trade Organisation's Understanding on the rules and procedures for the settlement of disputes.

(4) The consultations which were held between the Republic of Korea and the Community, as envisaged in the WTO Agreement, did not reach any satisfactory solution. On 11 June 2003, the Community requested the WTO Dispute Settlement Body to set up a panel over the unfair Korean shipbuilding practices.

(5) Regulation (EC) No 1177/2002 expires on 31 March 2004. The Republic of Korea has still not effectively implemented its commitments under the agreed minutes and the WTO disputes settlement proceedings are not expected to have been resolved by that date. It is therefore needed to prolong the temporary defensive mechanism,

HAS ADOPTED THIS REGULATION:

Article 1

Article 5 of Regulation (EC) No 1177/2002 shall be replaced by the following:

'Article 5

This Regulation shall enter into force on the day following that of its publication in the *Official Journal of the European Union*. It shall expire on 31 March 2005.'

Article 2

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

⁽¹⁾ Opinion of 26 February 2003 (not yet published in the Official Journal).

⁽²⁾ OJ L 172, 2.7.2002, p. 1.

⁽³⁾ Commission Decision 2002/818/EC of 8 October 2002 under the provisions of Council Regulation (EC) No 3286/94 concerning trade practices maintained by Korea affecting trade in commercial vessels (OJ L 281, 19.10.2002, p. 15).

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

Done at Brussels, 11 March 2004.

For the Council

The President

M. HARNEY

COMMISSION REGULATION (EC) No 503/2004
of 18 March 2004
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 19 March 2004.

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

Done at Brussels, 18 March 2004.

For the Commission

J. M. SILVA RODRÍGUEZ

Agriculture Director-General

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

ANNEX

to the Commission Regulation of 18 March 2004 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	104,4
	204	75,8
	212	125,1
	999	101,8
0707 00 05	052	138,6
	068	141,1
	096	93,1
	204	16,8
	220	147,3
	999	107,4
0709 10 00	220	77,3
	999	77,3
0709 90 70	052	107,2
	204	49,0
	999	78,1
0805 10 10, 0805 10 30, 0805 10 50	052	61,5
	204	48,6
	212	55,9
	220	47,7
	400	65,3
	624	61,1
	999	56,7
0805 50 10	400	46,9
	600	51,3
	999	49,1
0808 10 20, 0808 10 50, 0808 10 90	060	45,0
	388	86,7
	400	108,0
	404	98,5
	508	75,9
	512	80,7
	524	66,2
	528	85,7
	720	91,3
	999	82,0
0808 20 50	388	77,3
	512	64,1
	528	68,2
	999	69,9

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

**COMMISSION REGULATION (EC) No 504/2004
of 18 March 2004**

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

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

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

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

Whereas:

- (1) Member States' notifications pursuant to Article 8(2) of Regulation (EC) No 1520/2000 indicate that the total amount of applications received reaches EUR 1 340 535 305 while the available amount for the

tranche of refund certificates for use from 1 April 2004 as referred to in Article 8(4) of Regulation (EC) No 1520/2000 is EUR 59 812 118.

- (2) A reduction coefficient shall be calculated on the basis of Article 8(3) and (4) of Regulation (EC) No 1520/2000. Such coefficient should therefore be applied to amounts requested in the form of refund certificates for use from 1 April 2004 as established in Article 8(6) of Regulation (EC) No 1520/2000,

HAS ADOPTED THIS REGULATION:

Article 1

The amounts for applications of refund certificates for use from 1 April 2004 are subject to a reduction coefficient of 0,956.

Article 2

This Regulation shall enter into force on 19 March 2004.

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

Done at Brussels, 18 March 2004.

For the Commission

Erkki LIIKANEN

Member of the Commission

⁽¹⁾ OJ L 318, 20.12.1993, p. 18. Regulation as last amended by Regulation (EC) No 2580/2000 (OJ L 298, 25.11.2000, p. 5).

⁽²⁾ OJ L 177, 15.7.2000, p. 1. Regulation as last amended by Regulation (EC) No 307/2004 (OJ L 52, 21.2.2004, p. 35).

**COMMISSION REGULATION (EC) No 505/2004
of 18 March 2004**

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

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

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

Whereas:

- (1) Article 27(1) and (2) of Regulation (EEC) No 1260/2001 provides that the differences between the prices in international trade for the products listed in Article 1(1)(a), (c), (d), (f), (g) and (h) of that Regulation and prices within the Community may be covered by an export refund where these products are exported in the form of goods listed in Annex V to that Regulation. Commission Regulation (EC) No 1520/2000 of 13 July 2000 laying down common implementing rules for granting export refunds on certain agricultural products exported in the form of goods not covered by Annex I to the Treaty and the criteria for fixing the amount of such refunds ⁽²⁾ specifies the products for which a rate of refund should be fixed, to be applied where these products are exported in the form of goods listed in Annex I to Regulation (EC) No 1260/2001.
- (2) In accordance with Article 4(1) of Regulation (EC) No 1520/2000, the rate of the refund per 100 kilograms for each of the basic products in question must be fixed for each month.
- (3) Article 27(3) of Regulation (EC) No 1260/2001 and Article 11 of the Agreement on Agriculture concluded under the Uruguay Round lay down that the export refund for a product contained in a good may not exceed the refund applicable to that product when exported without further processing.

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

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

- (6) In accordance with Council Regulation (EC) No 1039/2003 of 2 June 2003 adopting autonomous and transitional measures concerning the importation of certain processed agricultural products originating in Estonia and the exportation of certain agricultural products to Estonia ⁽³⁾, Council Regulation (EC) No 1086/2003 of 18 June 2003 adopting autonomous and transitional measures concerning the importation of certain processed agricultural products originating in Slovenia and the exportation of certain processed agricultural products to Slovenia ⁽⁴⁾, Council Regulation (EC) No 1087/2003 of 18 June 2003 adopting autonomous and transitional measures concerning the importation of certain processed agricultural products originating in Latvia and the exportation of certain processed agricultural products to Latvia ⁽⁵⁾, Council Regulation (EC) No 1088/2003 of 18 June 2003 adopting autonomous and transitional measures concerning the importation of certain processed agricultural products originating in Lithuania and the exportation of certain processed agricultural products to Lithuania ⁽⁶⁾, Council Regulation (EC) No 1089/2003 of 18 June 2003 adopting autonomous and transitional measures concerning the importation of certain processed agricultural products originating in the Slovak Republic and the exportation of certain processed agricultural products to the Slovak Republic ⁽⁷⁾ and Council Regulation (EC) No 1090/2003 of 18 June 2003 adopting autonomous and transitional measures concerning the importation of certain processed agricultural products originating in the Czech Republic and the exportation of certain processed agricultural products to the Czech Republic ⁽⁸⁾ with effect from 1 July 2003, processed agricultural products not listed in Annex I to the Treaty which are exported to Estonia, Slovenia, Latvia, Lithuania, Slovakia or the Czech Republic are not eligible for export refunds.

⁽³⁾ OJ L 151, 19.6.2003, p. 1.

⁽⁴⁾ OJ L 163, 1.7.2003, p. 1.

⁽⁵⁾ OJ L 163, 1.7.2003, p. 19.

⁽⁶⁾ OJ L 163, 1.7.2003, p. 38.

⁽⁷⁾ OJ L 163, 1.7.2003, p. 56.

⁽⁸⁾ OJ L 163, 1.7.2003, p. 73.

⁽¹⁾ OJ L 178, 30.6.2001, p. 1. Regulation as last amended by Commission Regulation (EC) No 2196/2003 (OJ L 328, 17.12.2003, p. 17).

⁽²⁾ OJ L 177, 15.7.2000, p. 1. Regulation as last amended by Regulation (EC) No 740/2003 (OJ L 106, 29.4.2003, p. 12).

- (7) In accordance with Council Regulation (EC) No 999/2003 of 2 June 2003 adopting autonomous and transitional measures concerning the import of certain processed agricultural products originating in Hungary and the export of certain processed agricultural products to Hungary ⁽¹⁾, with effect from 1 July 2003, the goods referred to in its Article 1(2) which are exported to Hungary shall not be eligible for export refunds.
- (8) In accordance with Council Regulation (EC) No 1890/2003 of 27 October 2003 adopting autonomous and transitional measures concerning the importation of certain processed agricultural products originating in Malta and the exportation of certain processed agricultural products to Malta ⁽²⁾ with effect from 1 November 2003, processed agricultural products not listed in Annex I to the Treaty which are exported to Malta, are not eligible for export refunds.
- (9) It is necessary to ensure continuity of strict management taking account of expenditure forecasts and funds available in the budget.

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

HAS ADOPTED THIS REGULATION:

Article 1

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

Article 2

This Regulation shall enter into force on 19 March 2004.

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

Done at Brussels, 18 March 2004.

For the Commission

Erkki LIIKANEN

Member of the Commission

⁽¹⁾ OJ L 146, 13.6.2003, p. 10.

⁽²⁾ OJ L 278, 29.10.2003, p. 1.

ANNEX

Rates of refunds applicable from 19 March 2004 to certain products from the sugar sector exported in the form of goods not covered by Annex I to the Treaty

CN code	Description	Rate of refund in EUR/100 kg ⁽¹⁾	
		In case of advance fixing of refunds	Other
1701 99 10	White sugar	47,42	47,42

⁽¹⁾ With effect from 1 July 2003 these rates are not applicable to goods not covered by Annex I to the Treaty when exported to Estonia, Slovenia, Latvia, Lithuania, the Czech Republic or Slovakia and to the goods referred to in Article 1(2) of Regulation (EC) No 999/2003 when exported to Hungary. With effect from 1 November 2003 these rates are not applicable to goods not covered by Annex I to the Treaty when exported to Malta.

**COMMISSION REGULATION (EC) No 506/2004
of 18 March 2004**

**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 (EEC) No 1766/92 of 30 June 1992 on the common organisation of the market in cereals ⁽¹⁾, and in particular Article 13(3) thereof,

Having regard to Council Regulation (EC) No 3072/95 of 22 December 1995 on the common organisation of the market in rice ⁽²⁾, and in particular Article 13(3) thereof,

Whereas:

- (1) Article 13(1) of Regulation (EEC) No 1766/92 and Article 13(1) of Regulation (EC) No 3072/95 provide that the difference between quotations of 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 1520/2000 of 13 July 2000 laying down common implementing rules for granting export refunds on certain agricultural products exported in the form of goods not covered by Annex I to the Treaty, and the criteria for fixing the amount of such refunds ⁽³⁾, specifies the products for which a rate of refund should be fixed, to be applied where these products are exported in the form of goods listed in Annex B to Regulation (EEC) No 1766/92 or in Annex B to Regulation (EC) No 3072/95 as appropriate.
- (3) In accordance with the first subparagraph of Article 4(1) of Regulation (EC) No 1520/2000, the rate of the refund per 100 kilograms for each of the basic products in question must be fixed for 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 4(3) and (5) of Regulation (EC) No 1520/2000, a reduced rate of export refund has to be fixed, taking account of the amount of the production refund applicable, pursuant to Council 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 to 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) In accordance with Council Regulation (EC) No 1039/2003 of 2 June 2003 adopting autonomous and transitional measures concerning the importation of certain processed agricultural products originating in Estonia and the exportation of certain agricultural products to Estonia ⁽⁶⁾, Council Regulation (EC) No 1086/2003 of 18 June 2003 adopting autonomous and transitional measures concerning the importation of certain processed agricultural products originating in Slovenia and the exportation of certain processed agricultural products to Slovenia ⁽⁷⁾, Council Regulation (EC) No 1087/2003 of 18 June 2003 adopting autonomous and transitional measures concerning the importation of certain processed agricultural products originating in Latvia and the exportation of certain processed agricultural products to Latvia ⁽⁸⁾, Council Regulation (EC) No 1088/2003 of 18 June 2003 adopting autonomous and transitional measures concerning the importation of certain processed agricultural products originating in Lithuania and the exportation of certain processed agricultural products to Lithuania ⁽⁹⁾, Council Regulation (EC) No 1089/2003 of 18 June 2003 adopting autonomous and transitional measures concerning the importation of certain processed agricultural products originating in the Slovak Republic and the exportation of certain processed agricultural products to the Slovak

⁽¹⁾ OJ L 181, 1.7.1992, p. 21. Regulation as last amended by Regulation (EC) No 1784/2003 (OJ L 270, 21.10.2003, p. 78).

⁽²⁾ OJ L 329, 30.12.1995, p. 18. Regulation as last amended by Commission Regulation (EC) No 411/2002 (OJ L 62, 5.3.2002, p. 27).

⁽³⁾ OJ L 117, 15.7.2000, p. 1. Regulation as last amended by Regulation (EC) No 740/2003 (OJ L 106, 29.4.2003, p. 12).

⁽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 1786/2001 (OJ L 242, 12.9.2001, p. 3).

⁽⁶⁾ OJ L 151, 19.6.2003, p. 1.

⁽⁷⁾ OJ L 163, 1.7.2003, p. 1.

⁽⁸⁾ OJ L 163, 1.7.2003, p. 19.

⁽⁹⁾ OJ L 163, 1.7.2003, p. 38.

Republic ⁽¹⁾ and Council Regulation (EC) No 1090/2003 of 18 June 2003 adopting autonomous and transitional measures concerning the importation of certain processed agricultural products originating in the Czech Republic and the exportation of certain processed agricultural products to the Czech Republic ⁽²⁾ with effect from 1 July 2003, processed agricultural products not listed in Annex I to the Treaty which are exported to Estonia, Slovenia, Latvia, Lithuania, Slovakia or the Czech Republic are not eligible for export refunds.

(9) In accordance with Council Regulation (EC) No 999/2003 of 2 June 2003 adopting autonomous and transitional measures concerning the import of certain processed agricultural products originating in Hungary and the export of certain processed agricultural products to Hungary ⁽³⁾, with effect from 1 July 2003, the goods referred to in its Article 1(2) which are exported to Hungary are not eligible for export refunds.

(10) In accordance with Council Regulation (EC) No 1890/2003 of 27 October 2003 adopting autonomous and transitional measures concerning the importation of certain processed agricultural products originating in Malta and the exportation of certain processed agricultural products to Malta ⁽⁴⁾, with effect from 1

November 2003, processed agricultural products not listed in Annex I to the Treaty which are exported to Malta, are not eligible for export refunds.

(11) It is necessary to ensure continuity of strict management taking account of expenditure forecasts and funds available in the budget.

(12) 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 A to Regulation (EC) No 1520/2000 and listed either in Article 1 of Regulation (EEC) No 1766/92 or in Article 1(1) of Regulation (EC) No 3072/95, exported in the form of goods listed in Annex B to Regulation (EEC) No 1766/92 or in Annex B to Regulation (EC) No 3072/95 respectively, are fixed as shown in the Annex to this Regulation.

Article 2

This Regulation shall enter into force on 19 March 2004.

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

Done at Brussels, 18 March 2004.

For the Commission

Erkki LIIKANEN

Member of the Commission

⁽¹⁾ OJ L 163, 1.7.2003, p. 56.

⁽²⁾ OJ L 163, 1.7.2003, p. 73.

⁽³⁾ OJ L 146, 13.6.2003, p. 10.

⁽⁴⁾ OJ L 278, 29.10.2003, p. 1.

ANNEX

Rates of the refunds applicable from 19 March 2004 to certain cereals and rice products exported in the form of goods not covered by Annex I to the Treaty

(EUR/100 kg)

CN code	Description of products ⁽¹⁾	Rate of refund per 100 kg of basic product ⁽²⁾	
		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 4(5) of Regulation (EC) No 1520/2000 applies ⁽³⁾	—	—
	– – where goods falling within subheading 2208 ⁽⁴⁾ are exported	—	—
	– – in other cases	—	—
1002 00 00	Rye	—	—
1003 00 90	Barley		
	– where goods falling within subheading 2208 ⁽⁴⁾ are exported	—	—
	– in other cases	—	—
1004 00 00	Oats	—	—
1005 90 00	Maize (corn) used in the form of:		
	– starch:		
	– – where Article 4(5) of Regulation (EC) No 1520/2000 applies ⁽³⁾	2,043	2,043
	– – where goods falling within subheading 2208 ⁽⁴⁾ are exported	—	—
	– – in other cases	2,043	2,043
	– 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 ⁽⁵⁾ :		
	– – where Article 4(5) of Regulation (EC) No 1520/2000 applies ⁽³⁾	1,532	1,532
	– – where goods falling within subheading 2208 ⁽⁴⁾ are exported	—	—
	– – in other cases	1,532	1,532
	– where goods falling within subheading 2208 ⁽⁴⁾ are exported	—	—
	– other (including unprocessed)	2,043	2,043
	Potato starch of CN code 1108 13 00 similar to a product obtained from processed maize:		
	– where Article 4(5) of Regulation (EC) No 1520/2000 applies ⁽³⁾	2,043	2,043
	– – where goods falling within subheading 2208 ⁽⁴⁾ are exported	—	—
	– in other cases	2,043	2,043

(EUR/100 kg)

CN code	Description of products ⁽¹⁾	Rate of refund per 100 kg of basic product ⁽²⁾	
		In case of advance fixing of refunds	Other
ex 1006 30	Wholly milled rice:		
	– round grain	9,100	9,100
	– medium grain	9,100	9,100
	– long grain	9,100	9,100
1006 40 00	Broken rice	2,400	2,400
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 shown in Annex E to Commission Regulation (EC) No 1520/2000 shall be applied (OJ L 177, 15.7.2000, p. 1).

⁽²⁾ With effect from 1 July 2003 these rates are not applicable to goods not covered by Annex I to the Treaty when exported to the Czech Republic, Estonia, Latvia, Lithuania, Slovakia or Slovenia, and to the goods referred to in Article 1(2) of Regulation (EC) No 999/2003 when exported to Hungary. With effect from 1 November 2003 these rates are not applicable to goods not covered by Annex I to the Treaty when exported to Malta.

⁽³⁾ The goods concerned fall under CN code 3505 10 50.

⁽⁴⁾ Goods listed in Annex B to Regulation (EEC) No 1766/92 or referred to in Article 2 of Regulation (EEC) No 2825/93.

⁽⁵⁾ 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 may be granted only for the glucose syrup.

**COMMISSION REGULATION (EC) No 507/2004
of 18 March 2004**

**determining to what extent applications lodged in March 2004 for the right to import young male
bovine animals for fattening can be met**

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 977/2003 of 6 June 2003 opening and providing for the administration of an import tariff quota for young male bovine animals for fattening (1 July 2003 to 30 June 2004) ⁽²⁾, and in particular the second subparagraph of Article 4(5) thereof,

Whereas:

- (1) Article 9(1) of Regulation (EC) No 977/2003 provides for a further allocation of quantities not covered by import licence applications at 6 February 2004.
- (2) Article 1 of Commission Regulation (EC) No 279/2004 ⁽³⁾ lays down the quantities of young male bovine animals for fattening that may be imported under special conditions before 30 June 2004.

- (3) The quantities for which import rights have been requested exceed the quantities available. The quantities applied for should therefore be reduced proportionately in accordance with Article 9(6) and the second subparagraph of Article 4(5) of Regulation (EC) No 977/2003,

HAS ADOPTED THIS REGULATION:

Article 1

Each application for the right to import lodged in accordance with Article 9 of Regulation (EC) No 977/2003 shall be granted for 0,5328 % of the quantity applied for.

Article 2

This Regulation shall enter into force on 19 March 2004.

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

Done at Brussels, 18 March 2004.

For the Commission

J. M. SILVA RODRÍGUEZ
Agriculture Director-General

⁽¹⁾ OJ L 160, 26.6.1999, p. 21. Regulation as last amended by Regulation (EC) No 1782/2003 (OJ L 270, 21.10.2003, p. 1).

⁽²⁾ OJ L 141, 7.6.2003, p. 5. Regulation as last amended by Regulation (EC) No 1361/2003 (OJ L 194, 1.8.2003, p. 38).

⁽³⁾ OJ L 47, 18.2.2004, p. 25. Regulation as amended by Regulation (EC) No 467/2004 (OJ L 77, 13.3.2004, p. 30).

COMMISSION REGULATION (EC) No 508/2004**of 18 March 2004****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 (EEC) No 1766/92 of 30 June 1992 on the common organization of the market in cereals ⁽¹⁾, and in particular Article 13(3) thereof,

Having regard to Council Regulation (EC) No 3072/95 of 22 December 1995 on the common organization of the market in rice ⁽²⁾, as last amended by Commission Regulation (EC) No 411/2002 ⁽³⁾, and in particular Article 13(3) thereof,

Whereas:

(1) Article 13 of Regulation (EEC) No 1766/92 and Article 13 of Regulation (EC) No 3072/95 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 13 of Regulation (EC) No 3072/95 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 4 of Commission Regulation (EC) No 1518/95 ⁽⁴⁾ 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.

(4) The refund to be granted in respect of certain processed products should be graduated on the basis of the ash, crude fibre, tégument, 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 pregelatinized 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(1)(d) of Regulation (EEC) No 1766/92 and in Article 1(1)(c) of Regulation (EC) No 3072/95 and subject to 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 19 March 2004.

⁽¹⁾ OJ L 181, 1.7.1992, p. 21. Regulation as last amended by Regulation (EC) No 1104/2003 (OJ L 158, 27.6.2003, p. 1).

⁽²⁾ OJ L 329, 30.12.1995, p. 18.

⁽³⁾ OJ L 62, 5.3.2002, p. 27.

⁽⁴⁾ 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).

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

Done at Brussels, 18 March 2004.

For the Commission

Franz FISCHLER

Member of the Commission

ANNEX

to the Commission Regulation of 18 March 2004 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	28,60	1104 23 10 9300	C10	EUR/t	23,49
1102 20 10 9400 ⁽¹⁾	C10	EUR/t	24,52	1104 29 11 9000	C10	EUR/t	0,00
1102 20 90 9200 ⁽¹⁾	C10	EUR/t	24,52	1104 29 51 9000	C10	EUR/t	0,00
1102 90 10 9100	C11	EUR/t	0,00	1104 29 55 9000	C10	EUR/t	0,00
1102 90 10 9900	C11	EUR/t	0,00	1104 30 10 9000	C10	EUR/t	0,00
1102 90 30 9100	C11	EUR/t	0,00	1104 30 90 9000	C10	EUR/t	5,11
1103 19 40 9100	C10	EUR/t	0,00	1107 10 11 9000	C13	EUR/t	0,00
1103 13 10 9100 ⁽¹⁾	C10	EUR/t	36,77	1107 10 91 9000	C13	EUR/t	0,00
1103 13 10 9300 ⁽¹⁾	C10	EUR/t	28,60	1108 11 00 9200	C10	EUR/t	0,00
1103 13 10 9500 ⁽¹⁾	C10	EUR/t	24,52	1108 11 00 9300	C10	EUR/t	0,00
1103 13 90 9100 ⁽¹⁾	C10	EUR/t	24,52	1108 12 00 9200	C10	EUR/t	32,69
1103 19 10 9000	C10	EUR/t	0,00	1108 12 00 9300	C10	EUR/t	32,69
1103 19 30 9100	C10	EUR/t	0,00	1108 13 00 9200	C10	EUR/t	32,69
1103 20 60 9000	C12	EUR/t	0,00	1108 13 00 9300	C10	EUR/t	32,69
1103 20 20 9000	C11	EUR/t	0,00	1108 19 10 9200	C10	EUR/t	36,48
1104 19 69 9100	C10	EUR/t	0,00	1108 19 10 9300	C10	EUR/t	36,48
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	32,02
1104 19 10 9000	C10	EUR/t	0,00	1702 30 59 9000 ⁽²⁾	C10	EUR/t	24,52
1104 19 50 9110	C10	EUR/t	32,69	1702 30 91 9000	C10	EUR/t	32,02
1104 19 50 9130	C10	EUR/t	26,56	1702 30 99 9000	C10	EUR/t	24,52
1104 29 01 9100	C10	EUR/t	0,00	1702 40 90 9000	C10	EUR/t	24,52
1104 29 03 9100	C10	EUR/t	0,00	1702 90 50 9100	C10	EUR/t	32,02
1104 29 05 9100	C10	EUR/t	0,00	1702 90 50 9900	C10	EUR/t	24,52
1104 29 05 9300	C10	EUR/t	0,00	1702 90 75 9000	C10	EUR/t	33,56
1104 22 20 9100	C10	EUR/t	0,00	1702 90 79 9000	C10	EUR/t	23,29
1104 22 30 9100	C10	EUR/t	0,00	2106 90 55 9000	C10	EUR/t	24,52
1104 23 10 9100	C10	EUR/t	30,65				

⁽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 except for Cyprus, the Czech Republic, Estonia, Hungary, Lithuania, Latvia, Malta, Poland, Slovenia and Slovakia.

C11 All destinations except for Bulgaria, Cyprus, the Czech Republic, Estonia, Hungary, Lithuania, Latvia, Malta, Poland, Slovenia and Slovakia.

C12 All destinations except for Cyprus, the Czech Republic, Estonia, Hungary, Lithuania, Latvia, Malta, Poland, Romania, Slovenia and Slovakia.

C13 All destinations except for Bulgaria, Cyprus, the Czech Republic, Estonia, Hungary, Lithuania, Latvia, Malta, Poland, Romania, Slovenia and Slovakia.

**COMMISSION REGULATION (EC) No 509/2004
of 18 March 2004**

fixing the representative prices and the additional import duties for molasses in the sugar sector

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Council Regulation (EC) No 1260/2001 of 19 June 2001 on the common organisation of the market in sugar ⁽¹⁾,

Having regard to Commission Regulation (EC) No 1422/95 of 23 June 1995 laying down detailed rules of application for imports of molasses in the sugar sector and amending Regulation (EEC) No 785/68 ⁽²⁾, and in particular Article 1(2) and Article 3(1) thereof,

Whereas:

- (1) Regulation (EC) No 1422/95 stipulates that the cif import price for molasses, hereinafter referred to as the 'representative price', should be set in accordance with Commission Regulation (EEC) No 785/68 ⁽³⁾. That price should be fixed for the standard quality defined in Article 1 of the above Regulation.
- (2) The representative price for molasses is calculated at the frontier crossing point into the Community, in this case Amsterdam; that price must be based on the most favourable purchasing opportunities on the world market established on the basis of the quotations or prices on that market adjusted for any deviations from the standard quality. The standard quality for molasses is defined in Regulation (EEC) No 785/68.
- (3) When the most favourable purchasing opportunities on the world market are being established, account must be taken of all available information on offers on the world market, on the prices recorded on important third-country markets and on sales concluded in international trade of which the Commission is aware, either directly or through the Member States. Under Article 7 of Regulation (EEC) No 785/68, the Commission may for this purpose take an average of several prices as a basis, provided that this average is representative of actual market trends.
- (4) The information must be disregarded if the goods concerned are not of sound and fair marketable quality or if the price quoted in the offer relates only to a small

quantity that is not representative of the market. Offer prices which can be regarded as not representative of actual market trends must also be disregarded.

- (5) If information on molasses of the standard quality is to be comparable, prices must, depending on the quality of the molasses offered, be increased or reduced in the light of the results achieved by applying Article 6 of Regulation (EEC) No 785/68.
- (6) A representative price may be left unchanged by way of exception for a limited period if the offer price which served as a basis for the previous calculation of the representative price is not available to the Commission and if the offer prices which are available and which appear not to be sufficiently representative of actual market trends would entail sudden and considerable changes in the representative price.
- (7) Where there is a difference between the trigger price for the product in question and the representative price, additional import duties should be fixed under the conditions set out in Article 3 of Regulation (EC) No 1422/95. Should the import duties be suspended pursuant to Article 5 of Regulation (EC) No 1422/95, specific amounts for these duties should be fixed.
- (8) Application of these provisions will have the effect of fixing the representative prices and the additional import duties for the products in question as set out in the Annex to this Regulation.
- (9) The measures provided for in this Regulation are in accordance with the opinion of the Management Committee for Sugar,

HAS ADOPTED THIS REGULATION:

Article 1

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

Article 2

This Regulation shall enter into force on 19 March 2004.

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

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

⁽³⁾ OJ L 145, 27.6.1968, p. 12.

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

Done at Brussels, 18 March 2004.

For the Commission
J. M. SILVA RODRÍGUEZ
Agriculture Director-General

ANNEX

to the Commission Regulation of 18 March 2004 fixing the representative prices and additional import duties to imports of molasses in the sugar sector

(in EUR)

CN code	Amount of the representative price in 100 kg net of the product in question	Amount of the additional duty in 100 kg net of the product in question	Amount of the duty to be applied to imports in 100 kg net of the product in question because of suspension as referred to in Article 5 of Regulation (EC) No 1422/95 ⁽²⁾
1703 10 00 ⁽¹⁾	6,37	0,22	—
1703 90 00 ⁽¹⁾	8,98	—	0

⁽¹⁾ For the standard quality as defined in Article 1 of amended Regulation (EEC) No 785/68.

⁽²⁾ This amount replaces, in accordance with Article 5 of Regulation (EC) No 1422/95, the rate of the Common Customs Tariff duty fixed for these products.

**COMMISSION REGULATION (EC) No 510/2004
of 18 March 2004**

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

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

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

Whereas:

- (1) Article 27 of Regulation (EC) No 1260/2001 provides that the difference between quotations or prices on the world market for the products listed in Article 1(1)(a) of that Regulation and prices for those products within the Community may be covered by an export refund.
- (2) Regulation (EC) No 1260/2001 provides that when refunds on white and raw sugar, undenatured and exported in its unaltered state, are being fixed account must be taken of the situation on the Community and world markets in sugar and in particular of the price and cost factors set out in Article 28 of that Regulation. The same Article provides that the economic aspect of the proposed exports should also be taken into account.
- (3) The refund on raw sugar must be fixed in respect of the standard quality. The latter is defined in Annex I, point II, to Regulation (EC) No 1260/2001. Furthermore, this refund should be fixed in accordance with Article 28(4) of that Regulation. Candy sugar is defined in Commission Regulation (EC) No 2135/95 of 7 September 1995 laying down detailed rules of application for the grant of export refunds in the sugar sector ⁽²⁾. The refund thus calculated for sugar containing added flavouring or colouring matter must apply to their sucrose content and, accordingly, be fixed per 1 % of the said content.
- (4) In special cases, the amount of the refund may be fixed by other legal instruments.
- (5) The refund must be fixed every two weeks. It may be altered in the intervening period.
- (6) The first subparagraph of Article 27(5) of Regulation (EC) No 1260/2001 provides that refunds on the products referred to in Article 1 of that Regulation may vary according to destination, where the world market situation or the specific requirements of certain markets make this necessary.
- (7) The significant and rapid increase in preferential imports of sugar from the western Balkan countries since the start of 2001 and in exports of sugar to those countries from the Community seems to be highly artificial.
- (8) To prevent any abuse through the re-import into the Community of sugar products in receipt of an export refund, no refund should be set for all the countries of the western Balkans for the products covered by this Regulation.
- (9) Import duties and export refunds still apply to certain sugar products traded between the Community, of the one part, and the Czech Republic, Estonia, Cyprus, Latvia, Lithuania, Hungary, Malta, Poland, Slovenia and Slovakia, hereinafter referred to as 'new Member States', of the other part, and the level of export refunds is appreciably greater than the level of import duties. In view of the accession of these countries to the Community on 1 May 2004, the appreciable gap between the level of import duties and the level of export refunds granted for the products in question may result in speculative trade flows.
- (10) To prevent any abuse through the re-import or re-introduction into the Community of sugar products in receipt of an export refund, no refund or levy should be set for all the new Member States for the products covered by this Regulation.
- (11) In view of the above and of the present situation on the market in sugar, and in particular of the quotations or prices for sugar within the Community and on the world market, refunds should be set at the appropriate amounts.
- (12) The measures provided for in this Regulation are in accordance with the opinion of the Management Committee for Sugar,

HAS ADOPTED THIS REGULATION:

Article 1

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

Article 2

This Regulation shall enter into force on 19 March 2004.

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

⁽²⁾ OJ L 214, 8.9.1995, p. 16.

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

Done at Brussels, 18 March 2004.

For the Commission

Franz FISCHLER

Member of the Commission

ANNEX

REFUNDS ON WHITE SUGAR AND RAW SUGAR EXPORTED WITHOUT FURTHER PROCESSING APPLICABLE FROM 19 MARCH 2004

Product code	Destination	Unit of measurement	Amount of refund
1701 11 90 9100	S00	EUR/100 kg	43,62 ⁽¹⁾
1701 11 90 9910	S00	EUR/100 kg	43,62 ⁽¹⁾
1701 12 90 9100	S00	EUR/100 kg	43,62 ⁽¹⁾
1701 12 90 9910	S00	EUR/100 kg	43,62 ⁽¹⁾
1701 91 00 9000	S00	EUR/1 % of sucrose × 100 kg product net	0,4742
1701 99 10 9100	S00	EUR/100 kg	47,42
1701 99 10 9910	S00	EUR/100 kg	47,42
1701 99 10 9950	S00	EUR/100 kg	47,42
1701 99 90 9100	S00	EUR/1 % of sucrose × 100 kg of net product	0,4742

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

The numeric destination codes are set out in Commission Regulation (EC) No 1779/2002 (OJ L 269, 5.10.2002, p. 6).

The other destinations are:

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

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

**COMMISSION REGULATION (EC) No 511/2004
of 18 March 2004**

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

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

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

Whereas:

- (1) Article 27 of Regulation (EC) No 1260/2001 provides that the difference between quotations or prices on the world market for the products listed in Article 1(1)(d) of that Regulation and prices for those products within the Community may be covered by an export refund.
- (2) Article 3 of Commission Regulation (EC) No 2135/95 of 7 September 1995 laying down detailed rules of application for the grant of export refunds in the sugar sector ⁽²⁾, provides that the export refund on 100 kilograms of the products listed in Article 1(1)(d) of Regulation (EC) No 1260/2001 is equal to the basic amount multiplied by the sucrose content, including, where appropriate, other sugars expressed as sucrose; the sucrose content of the product in question is determined in accordance with Article 3 of Commission Regulation (EC) No 2135/95.
- (3) Article 30(3) of Regulation (EC) No 1260/2001 provides that the basic amount of the refund on sorbose exported in the natural state must be equal to the basic amount of the refund less one hundredth of the production refund applicable, pursuant to Commission Regulation (EC) No 1265/2001 of 27 June 2001 laying down detailed rules for the application of Council Regulation (EC) No 1260/2001 as regards granting the production refund on certain sugar products used in the chemical industry ⁽³⁾ to the products listed in the Annex to the last mentioned Regulation;
- (4) According to the terms of Article 30(1) of Regulation (EC) No 1260/2001, the basic amount of the refund on the other products listed in Article 1(1)(d) of the said Regulation exported in the natural state must be equal to one-hundredth of an amount which takes account, on

the one hand, of the difference between the intervention price for white sugar for the Community areas without deficit for the month for which the basic amount is fixed and quotations or prices for white sugar on the world market and, on the other, of the need to establish a balance between the use of Community basic products in the manufacture of processed goods for export to third countries and the use of third country products brought in under inward-processing arrangements.

- (5) According to the terms of Article 30(4) of Regulation (EC) No 1260/2001, the application of the basic amount may be limited to some of the products listed in Article 1(1)(d) of the said Regulation.
- (6) Article 27 of Regulation (EC) No 1260/2001 makes provision for setting refunds for export in the natural state of products referred to in Article 1(1)(f) and (g) and (h) of that Regulation; the refund must be fixed per 100 kilograms of dry matter, taking account of the export refund for products falling within CN code 1702 30 91 and for products referred to in Article 1(1)(d) of Regulation (EC) No 1260/2001 and of the economic aspects of the intended exports; in the case of the products referred to in the said Article 1(1)(f) and (g), the refund is to be granted only for products complying with the conditions in Article 5 of Regulation (EC) No 2135/95; for the products referred to in Article 1(1)(h), the refund shall be granted only for products complying with the conditions in Article 6 of Regulation (EC) No 2135/95.
- (7) The abovementioned refunds must be fixed every month; they may be altered in the intervening period.
- (8) The first subparagraph of Article 27(5) of Regulation (EC) No 1260/2001 provides that refunds on the products referred to in Article 1 of that Regulation may vary according to destination, where the world market situation or the specific requirements of certain markets make this necessary.
- (9) The significant and rapid increase in preferential imports of sugar from the western Balkan countries since the start of 2001 and in exports of sugar to those countries from the Community seems to be highly artificial in nature.

⁽¹⁾ OJ L 178, 30.6.2001, p. 1. Regulation as amended by Commission Regulation (EC) No 2196/2003 (OJ L 328, 17.12.2003, p. 17).

⁽²⁾ OJ L 214, 8.9.1995, p. 16.

⁽³⁾ OJ L 178, 30.6.2001, p. 63.

- (10) In order to prevent any abuses associated with the reimportation into the Community of sugar sector products that have qualified for export refunds, refunds for the products covered by this Regulation should not be fixed for all the countries of the western Balkans.
- (11) Import duties and export refunds still apply to certain sugar products traded between the Community, on the one hand, and the Czech Republic, Estonia, Cyprus, Latvia, Lithuania, Hungary, Malta, Poland, Slovenia and Slovakia, hereafter known as the 'new Member States', on the other, and the level of export refunds is appreciably greater than the level of import duties. In view of the accession of those countries to the Community on 1 May 2004, the appreciable gap between the level of import duties and the level of export refunds granted on the products in question may result in speculative trade movements.
- (12) In order to prevent any abuse associated with the reimport or re-introduction into the Community of sugar sector products that have qualified for export refunds, levies and refunds for the products covered by this Regulation should not be set for all the new Member States.

- (13) In view of the above, refunds for the products in question should be fixed at the appropriate amounts.
- (14) The measures provided for in this Regulation are in accordance with the opinion of the Management Committee for Sugar,

HAS ADOPTED THIS REGULATION:

Article 1

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

Article 2

This Regulation shall enter into force on 19 March 2004.

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

Done at Brussels, 18 March 2004.

For the Commission
Franz FISCHLER
Member of the Commission

ANNEX

EXPORT REFUNDS ON SYRUPS AND CERTAIN OTHER SUGAR PRODUCTS EXPORTED WITHOUT FURTHER PROCESSING APPLICABLE FROM 19 MARCH 2004

Product code	Destination	Unit of measurement	Amount of refund
1702 40 10 9100	S00	EUR/100 kg dry matter	47,42 ⁽¹⁾
1702 60 10 9000	S00	EUR/100 kg dry matter	47,42 ⁽¹⁾
1702 60 80 9100	S00	EUR/100 kg dry matter	90,09 ⁽²⁾
1702 60 95 9000	S00	EUR/1 % sucrose × net 100 kg of product	0,4742 ⁽³⁾
1702 90 30 9000	S00	EUR/100 kg dry matter	47,42 ⁽¹⁾
1702 90 60 9000	S00	EUR/1 % sucrose × net 100 kg of product	0,4742 ⁽³⁾
1702 90 71 9000	S00	EUR/1 % sucrose × net 100 kg of product	0,4742 ⁽³⁾
1702 90 99 9900	S00	EUR/1 % sucrose × net 100 kg of product	0,4742 ⁽³⁾ ⁽⁴⁾
2106 90 30 9000	S00	EUR/100 kg dry matter	47,42 ⁽¹⁾
2106 90 59 9000	S00	EUR/1 % sucrose × net 100 kg of product	0,4742 ⁽³⁾

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

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

The other destinations are defined as follows:

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

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

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

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

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

**COMMISSION REGULATION (EC) No 512/2004
of 18 March 2004**

fixing the maximum export refund for white sugar to certain third countries for the 23rd partial invitation to tender issued within the framework of the standing invitation to tender provided for in Regulation (EC) No 1290/2003

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

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

Whereas:

- (1) Commission Regulation (EC) No 1290/2003 of 18 July 2003 on a standing invitation to tender to determine levies and/or refunds on exports of white sugar ⁽²⁾, for the 2003/2004 marketing year, requires partial invitations to tender to be issued for the export of this sugar to certain third countries.
- (2) Pursuant to Article 9(1) of Regulation (EC) No 1290/2003 a maximum export refund shall be fixed, as the case may be, account being taken in particular of the state and foreseeable development of the Community and world markets in sugar, for the partial invitation to tender in question.

(3) Following an examination of the tenders submitted in response to the 23rd partial invitation to tender, the provisions set out in Article 1 should be adopted.

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

HAS ADOPTED THIS REGULATION:

Article 1

For the 23rd partial invitation to tender for white sugar issued pursuant to Regulation (EC) No 1290/2003 the maximum amount of the export refund to certain third countries is fixed at 50,557 EUR/100 kg.

Article 2

This Regulation shall enter into force on 19 March 2004.

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

Done at Brussels, 18 March 2004.

For the Commission

Franz FISCHLER

Member of the Commission

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

⁽²⁾ OJ L 181, 19.7.2003, p. 7.

**COMMISSION REGULATION (EC) No 513/2004
of 18 March 2004**

**on import licences in respect of beef and veal products originating in Botswana, Kenya,
Madagascar, Swaziland, Zimbabwe and Namibia**

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

ovine and caprine animals and swine, fresh meat or meat products from third countries ⁽³⁾,

Having regard to the Treaty establishing the European Community,

HAS ADOPTED THIS REGULATION:

Having regard to Council Regulation (EC) No 2286/2002 of 10 December 2002 on the arrangements applicable to agricultural products and goods resulting from the processing of agricultural products originating in the African, Caribbean and Pacific States (ACP States) and repealing Regulation (EC) No 1706/98 ⁽¹⁾, and in particular Article 5 thereof,

Having regard to Commission Regulation (EC) No 2247/2003 of 19 December 2003 laying down detailed rules for the application in the beef and veal sector of Council Regulation (EC) No 2286/2002 on the arrangements applicable to agricultural products and certain goods resulting from the processing of agricultural products originating in the African, Caribbean and Pacific States (ACP States) ⁽²⁾, and in particular Article 4 thereof,

Whereas:

(1) Article 1 of Regulation (EC) No 2247/2003 provides for the possibility of issuing import licences for beef and veal products. However, imports must take place within the limits of the quantities specified for each of these exporting non-member countries.

(2) The applications for import licences submitted between 1 and 10 March 2004, expressed in terms of boned meat, in accordance with Regulation (EC) No 2247/2003, do not exceed, in respect of products originating from Botswana, Kenya, Madagascar, Swaziland, Zimbabwe and Namibia, the quantities available from those States. It is therefore possible to issue import licences in respect of the quantities applied for.

(3) The quantities in respect of which licences may be applied for from 1 April 2004 should be fixed within the scope of the total quantity of 52 100 tonnes.

(4) This Regulation is without prejudice to Council Directive 72/462/EEC of 12 December 1972 on health and veterinary inspection problems upon importation of bovine,

Article 1

The following Member States shall issue on 21 March 2004 import licences for beef and veal products, expressed as boned meat, originating in certain African, Caribbean and Pacific States, in respect of the following quantities and countries of origin:

United Kingdom:

- 20 tonnes originating in Swaziland,
- 600 tonnes originating in Namibia;

Germany:

- 300 tonnes originating in Botswana,
- 190 tonnes originating in Namibia.

Article 2

Licence applications may be submitted, pursuant to Article 3(2) of Regulation (EC) No 2247/2003, during the first 10 days of April 2004 for the following quantities of boned beef and veal:

Botswana:	17 606 tonnes,
Kenya:	142 tonnes,
Madagascar:	7 579 tonnes,
Swaziland:	3 299 tonnes,
Zimbabwe:	9 100 tonnes,
Namibia:	11 965 tonnes.

Article 3

This Regulation shall enter into force on 21 March 2004.

⁽¹⁾ OJ L 348, 21.12.2002, p. 5.

⁽²⁾ OJ L 333, 20.12.2003, p. 37.

⁽³⁾ OJ L 302, 31.12.1972, p. 28. Directive as last amended by Regulation (EC) No 807/2003 (OJ L 122, 16.5.2003, p. 36).

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

Done at Brussels, 18 March 2004.

For the Commission
J. M. SILVA RODRÍGUEZ
Agriculture Director-General

**COMMISSION REGULATION (EC) No 514/2004
of 18 March 2004**

**fixing the maximum reduction in the duty on sorghum imported in connection with the invitation
to tender issued in Regulation (EC) No 699/2003**

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Council Regulation (EEC) No 1766/92 of 30 June 1992 on the common organisation of the market in cereals ⁽¹⁾, and in particular Article 12(1) thereof,

Whereas:

- (1) An invitation to tender for the maximum reduction in the duty on sorghum imported into Spain was opened pursuant to Commission Regulation (EC) No 238/2004 ⁽²⁾.
- (2) Pursuant to Article 5 of Commission Regulation (EC) No 1839/95 ⁽³⁾, the Commission, acting under the procedure laid down in Article 23 of Regulation (EEC) No 1766/92, may decide to fix a maximum reduction in the import duty. In fixing this maximum the criteria provided for in Articles 6 and 7 of Regulation (EC) No 1839/95 must be taken into account. Whereas a contract is awarded to any tenderer whose tender is equal to or less than the maximum reduction in the duty.

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

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

HAS ADOPTED THIS REGULATION:

Article 1

For tenders notified from 12 to 18 March 2004, pursuant to the invitation to tender issued in Regulation (EC) No 238/2004, the maximum reduction in the duty on sorghum imported shall be 8,93 EUR/t and be valid for a total maximum quantity of 34 700 t.

Article 2

This Regulation shall enter into force on 19 March 2004.

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

Done at Brussels, 18 March 2004.

For the Commission

Franz FISCHLER

Member of the Commission

⁽¹⁾ OJ L 181, 1.7.1992, p. 21. Regulation as last amended by Regulation (EC) No 1104/2003 (OJ L 158, 27.6.2003, p. 1).

⁽²⁾ OJ L 40, 12.2.2004, p. 23.

⁽³⁾ OJ L 177, 28.7.1995, p. 4. Regulation as last amended by Regulation (EC) No 2235/2000 (OJ L 256, 10.10.2000, p. 13).

COMMISSION REGULATION (EC) No 515/2004
of 18 March 2004
concerning tenders notified in response to the invitation to tender for the import of maize issued
in Regulation (EC) No 2315/2003

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Council Regulation (EEC) No 1766/92 of 30 June 1992 on the common organisation of the market in cereals ⁽¹⁾, and in particular Article 12(1) thereof,

Whereas:

- (1) An invitation to tender for the maximum reduction in the duty on maize imported into Portugal from third countries was opened pursuant to Commission Regulation (EC) No 2315/2003 ⁽²⁾.
- (2) Article 5 of Commission Regulation (EC) No 1839/95 ⁽³⁾, allows the Commission to decide, in accordance with the procedure laid down in Article 23 of Regulation (EEC) No 1766/92 and on the basis of the tenders notified, to make no award.

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

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

HAS ADOPTED THIS REGULATION:

Article 1

No action shall be taken on the tenders notified from 12 to 18 March 2004 in response to the invitation to tender for the reduction in the duty on imported maize issued in Regulation (EC) No 2315/2003.

Article 2

This Regulation shall enter into force on 19 March 2004.

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

Done at Brussels, 18 March 2004.

For the Commission

Franz FISCHLER

Member of the Commission

⁽¹⁾ OJ L 181, 1.7.1992, p. 21. Regulation as last amended by Regulation (EC) No 1104/2003 (OJ L 158, 27.6.2003, p. 1).

⁽²⁾ OJ L 342, 30.12.2003, p. 34.

⁽³⁾ OJ L 177, 28.7.1995, p. 4. Regulation as last amended by Regulation (EC) No 2235/2000 (OJ L 256, 10.10.2000, p. 13).

**COMMISSION REGULATION (EC) No 516/2004
of 18 March 2004**

**concerning tenders notified in response to the invitation to tender for the export of oats issued in
Regulation (EC) No 1814/2003**

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Council Regulation (EEC) No 1766/92 of 30 June 1992 on the common organisation of the market in cereals ⁽¹⁾,

Having regard to Commission Regulation (EC) No 1501/95 of 29 June 1995 laying down certain detailed rules for the application of Council Regulation (EEC) No 1766/92 on the granting of export refunds on cereals and the measures to be taken in the event of disturbance on the market for cereals ⁽²⁾, and in particular Article 4 thereof,

Having regard to Commission Regulation (EC) No 1814/2003 of 15 October 2003 on a special intervention measure for cereals in Finland and Sweden for the marketing year 2003/04 ⁽³⁾, and in particular Article 9 thereof,

Whereas:

- (1) An invitation to tender for the refund for the export of oats produced in Finland and Sweden for export from Finland and Sweden to all third countries, with the exception of Bulgaria, Cyprus, Estonia, Hungary, Latvia, Lithuania, Malta, Poland, the Czech Republic, Romania, Slovakia and Slovenia was opened pursuant to Regulation (EC) No 1814/2003.

(2) According to Article 9 of Regulation (EC) No 1814/2003 the Commission may, on the basis of the tenders notified, in accordance with the procedure laid down in Article 23 of Regulation (EEC) No 1766/92, decide to make no award.

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

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

HAS ADOPTED THIS REGULATION:

Article 1

No action shall be taken on the tenders notified from 12 to 18 March 2004 in response to the invitation to tender for the refund for the export of oats issued in Regulation (EC) No 1814/2003.

Article 2

This Regulation shall enter into force on 19 March 2004.

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

Done at Brussels, 18 March 2004.

For the Commission

Franz FISCHLER

Member of the Commission

⁽¹⁾ OJ L 181, 1.7.1992, p. 21. Regulation as last amended by Regulation (EC) No 1104/2003 (OJ L 158, 27.6.2003, p. 1).

⁽²⁾ OJ L 147, 30.6.1995, p. 7. Regulation as last amended by Regulation (EC) No 1431/2003 (OJ L 203, 12.8.2003, p. 16).

⁽³⁾ OJ L 265, 16.10.2003, p. 25.

II

(Acts whose publication is not obligatory)

COUNCIL

COUNCIL DECISION

of 19 February 2004

concerning the conclusion, on behalf of the European Community, of the Protocol to the 1979 Convention on Long Range Transboundary Air Pollution on Persistent Organic Pollutants

(2004/259/EC)

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty establishing the European Community, and in particular Article 175(1) thereof, in conjunction with Article 300(2), first sentence of the first subparagraph and Article 300(3), first subparagraph thereof,

Having regard to the proposal from the Commission,

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

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

After consulting the Committee of the Regions,

Whereas:

- (1) The promotion of measures at international level to deal with regional or worldwide environmental problems is one of the objectives of the Community's policy on the environment, in accordance with Article 174 of the Treaty.
- (2) The Community signed in Aarhus on 24 June 1998 the Protocol to the 1979 Convention on Long Range Transboundary Air Pollution on Persistent Organic Pollutants (hereinafter referred to as the Protocol).
- (3) The Protocol aims at controlling, reducing or eliminating discharges, emissions and losses of persistent organic pollutants that cause significant adverse effects on human health or the environment as a result of their long-range transboundary atmospheric transport.

- (4) The Protocol stipulates, in principle, the elimination or reduction of production and use of thirteen substances regarded as persistent organic pollutants. In addition, Parties have to take effective measures to reduce or stabilise total annual emissions of certain substances.

- (5) The Protocol is open to ratification, acceptance, approval or accession by States and by regional economic integration organisations Parties to the Convention.

- (6) As most of the provisions of the Protocol concern environmental protection and the protection of human health, it is appropriate to choose Article 175(1) as the legal basis, in conjunction with Article 300.

- (7) The Protocol contributes to the achievement of the objectives of the environmental policy of the Community. It is therefore appropriate that the Community approves this Protocol as soon as possible.

- (8) The Community has already adopted instruments covering matters governed by the Protocol, including Council Directives 79/117/EEC of 21 December 1978 prohibiting the placing on the market and use of plant protection products containing certain active substances ⁽³⁾, and 96/59/EC of 16 September 1996 on the disposal of polychlorinated biphenyls and polychlorinated terphenyls (PCB/PCT) ⁽⁴⁾,

⁽¹⁾ Opinion delivered on 20 November 2003 (not yet published in the Official Journal).

⁽²⁾ Opinion delivered on 29 October 2003 (not yet published in the Official Journal).

⁽³⁾ OJ L 33, 8.2.1979, p. 36. Directive as last amended by Regulation (EC) No 807/2003 (OJ L 122, 16.5.2003, p. 36).

⁽⁴⁾ OJ L 243, 24.9.1996, p. 31.

HAS DECIDED AS FOLLOWS:

Article 1

The Protocol to the 1979 Convention on Long Range Transboundary Air Pollution on Persistent Organic Pollutants, is hereby approved on behalf of the Community.

The text of the Protocol is attached to this Decision.

Article 2

The President of the Council is hereby authorised to designate the person(s) empowered to deposit the instrument of approval on behalf of the Community with the Secretary-General of the United Nations, in accordance with Article 16 of the Protocol.

Done at Brussels, 19 February 2004.

For the Council

The President

M. McDOWELL

PROTOCOL
to the 1979 Convention on Long Range Transboundary Air Pollution on Persistent Organic Pollutants

THE PARTIES,

DETERMINED to implement the Convention on Long Range Transboundary Air Pollution,

RECOGNISING that emissions of many persistent organic pollutants are transported across international boundaries and are deposited in Europe, North America and the Arctic, far from their site of origin, and that the atmosphere is the dominant medium of transport,

AWARE that persistent organic pollutants resist degradation under natural conditions and have been associated with adverse effects on human health and the environment,

CONCERNED that persistent organic pollutants can biomagnify in upper trophic levels to concentrations which might affect the health of exposed wildlife and humans,

ACKNOWLEDGING that the Arctic ecosystems and especially its indigenous people, who subsist on Arctic fish and mammals, are particularly at risk because of the biomagnification of persistent organic pollutants,

MINDFUL that measures to control emissions of persistent organic pollutants would also contribute to the protection of the environment and human health in areas outside the United Nations Economic Commission for Europe's region, including the Arctic and international waters,

RESOLVED to take measures to anticipate, prevent or minimize emissions of persistent organic pollutants, taking into account the application of the precautionary approach, as set forth in principle 15 of the Rio Declaration on Environment and Development,

REAFFIRMING that States have, in accordance with the Charter of the United Nations and the principles of international law, the sovereign right to exploit their own resources pursuant to their own environmental and development policies, and the responsibility to ensure that activities within their jurisdiction or control do not cause damage to the environment of other States or of areas beyond the limits of national jurisdiction,

NOTING the need for global action on persistent organic pollutants and recalling the role envisaged in chapter 9 of Agenda 21 for regional agreements to reduce global transboundary air pollution and, in particular, for the United Nations Economic Commission for Europe to share its regional experience with other regions of the world,

RECOGNISING that there are subregional, regional and global regimes in place, including international instruments governing the management of hazardous wastes, their transboundary movement and disposal, in particular the Basel Convention on the Control of Transboundary Movements of Hazardous Wastes and their Disposal,

CONSIDERING that the predominant sources of air pollution contributing to the accumulation of persistent organic pollutants are the use of certain pesticides, the manufacture and use of certain chemicals, and the unintentional formation of certain substances in waste incineration, combustion, metal production and mobile sources,

AWARE that techniques and management practices are available to reduce emissions of persistent organic pollutants into the air,

CONSCIOUS of the need for a cost-effective regional approach to combating air pollution,

NOTING the important contribution of the private and non-governmental sectors to knowledge of the effects associated with persistent organic pollutants, available alternatives and abatement techniques, and their role in assisting in the reduction of emissions of persistent organic pollutants,

BEARING IN MIND that measures taken to reduce persistent organic pollutant emissions should not constitute a means of arbitrary or unjustifiable discrimination or a disguised restriction on international competition and trade,

TAKING INTO CONSIDERATION existing scientific and technical data on emissions, atmospheric processes and effects on human health and the environment of persistent organic pollutants, as well as on abatement costs, and acknowledging the need to continue scientific and technical cooperation to further the understanding of these issues,

RECOGNISING the measures on persistent organic pollutants already taken by some of the Parties on a national level and/or under other international conventions,

HAVE AGREED as follows:

Article 1

Definitions

For the purposes of the present Protocol,

1. 'Convention' means the Convention on Long Range Transboundary Air Pollution, adopted in Geneva on 13 November 1979;
2. 'EMEP' means the Cooperative Programme for Monitoring and Evaluation of the Long range Transmission of Air Pollutants in Europe;
3. 'Executive Body' means the Executive Body for the Convention constituted under Article 10(1) of the Convention;
4. 'Commission' means the United Nations Economic Commission for Europe;
5. 'Parties' means, unless the context otherwise requires, the Parties to the present Protocol;
6. 'Geographical scope of EMEP' means the area defined in Article 1(4) of the Protocol to the 1979 Convention on Long-range Transboundary Air Pollution on Long-term Financing of the Cooperative Programme for Monitoring and Evaluation of the Long Range Transmission of Air Pollutants in Europe (EMEP), adopted in Geneva on 28 September 1984;
7. 'Persistent organic pollutants' (POPs) are organic substances that: (i) possess toxic characteristics; (ii) are persistent; (iii) bioaccumulate; (iv) are prone to long-range transboundary atmospheric transport and deposition; and (v) are likely to cause significant adverse human health or environmental effects near to and distant from their sources;
8. 'Substance' means a single chemical species, or a number of chemical species which form a specific group by virtue of (a) having similar properties and being emitted together into the environment; or (b) forming a mixture normally marketed as a single article;
9. 'Emission' means the release of a substance from a point or diffuse source into the atmosphere;
10. 'Stationary source' means any fixed building, structure, facility, installation, or equipment that emits or may emit any persistent organic pollutant directly or indirectly into the atmosphere;
11. 'Major stationary source category' means any stationary source category listed in annex VIII;
12. 'New stationary source' means any stationary source of which the construction or substantial modification is commenced after the expiry of two years from the date of entry into force of: (i) this Protocol; or (ii) an amendment to Annex III or VIII, where the stationary source becomes subject to the provisions of this Protocol only by virtue of

that amendment. It shall be a matter for the competent national authorities to decide whether a modification is substantial or not, taking into account such factors as the environmental benefits of the modification.

Article 2

Objective

The objective of the present Protocol is to control, reduce or eliminate discharges, emissions and losses of persistent organic pollutants.

Article 3

Basic obligations

1. Except where specifically exempted in accordance with Article 4, each Party shall take effective measures:
 - (a) to eliminate the production and use of the substances listed in Annex I in accordance with the implementation requirements specified therein;
 - (b)
 - (i) to ensure that, when the substances listed in Annex I are destroyed or disposed of, such destruction or disposal is undertaken in an environmentally sound manner, taking into account relevant subregional, regional and global regimes governing the management of hazardous wastes and their disposal, in particular the Basel Convention on the Control of Transboundary Movements of Hazardous Wastes and their Disposal;
 - (ii) to endeavour to ensure that the disposal of substances listed in Annex I is carried out domestically, taking into account pertinent environmental considerations;
 - (iii) to ensure that the transboundary movement of the substances listed in annex I is conducted in an environmentally sound manner, taking into consideration applicable subregional, regional, and global regimes governing the transboundary movement of hazardous wastes, in particular the Basel Convention on the Control of Transboundary Movements of Hazardous Wastes and their Disposal;
 - (c) to restrict the substances listed in Annex II to the uses described, in accordance with the implementation requirements specified therein.
2. The requirements specified in paragraph 1(b) shall become effective for each substance upon the date that production or use of that substance is eliminated, whichever is later.
3. For substances listed in Annex I, II, or III, each Party should develop appropriate strategies for identifying articles still in use and wastes containing such substances, and shall take appropriate measures to ensure that such wastes and such articles, upon becoming wastes, are destroyed or disposed of in an environmentally sound manner.

4. For the purposes of paragraphs 1 to 3, the terms waste, disposal, and environmentally sound shall be interpreted in a manner consistent with the use of those terms under the Basel Convention on the Control of Transboundary Movements of Hazardous Wastes and their Disposal.

5. Each Party shall:

(a) reduce its total annual emissions of each of the substances listed in Annex III from the level of the emission in a reference year set in accordance with that annex by taking effective measures, appropriate in its particular circumstances;

(b) no later than the timescales specified in Annex VI, apply:

(i) the best available techniques, taking into consideration Annex V, to each new stationary source within a major stationary source category for which Annex V identifies best available techniques;

(ii) limit values at least as stringent as those specified in Annex IV to each new stationary source within a category mentioned in that annex, taking into consideration Annex V. A Party may, as an alternative, apply different emission reduction strategies that achieve equivalent overall emission levels;

(iii) the best available techniques, taking into consideration Annex V, to each existing stationary source within a major stationary source category for which Annex V identifies best available techniques, insofar as this is technically and economically feasible. A Party may, as an alternative, apply different emission reduction strategies that achieve equivalent overall emission reductions;

(iv) limit values at least as stringent as those specified in Annex IV to each existing stationary source within a category mentioned in that Annex, insofar as this is technically and economically feasible, taking into consideration Annex V. A Party may, as an alternative, apply different emission reduction strategies that achieve equivalent overall emission reductions;

(v) effective measures to control emissions from mobile sources, taking into consideration Annex VII.

6. In the case of residential combustion sources, the obligations set out in paragraph 5(b)(i) and (iii) shall refer to all stationary sources in that category taken together.

7. Where a Party, after the application of paragraph 5(b), cannot achieve the requirements of paragraph 5(a) for a substance specified in Annex III, it shall be exempted from its obligations in paragraph 5(a) for that substance.

8. Each Party shall develop and maintain emission inventories for the substances listed in Annex III, and shall collect available information relating to the production and sales of

the substances listed in Annexes I and II, for those Parties within the geographical scope of EMEP, using, as a minimum, the methodologies and the spatial and temporal resolution specified by the Steering Body of EMEP, and, for those Parties outside the geographical scope of EMEP, using as guidance the methodologies developed through the work plan of the Executive Body. It shall report this information in accordance with the reporting requirements set out in Article 9.

Article 4

Exemptions

1. Article 3(1) shall not apply to quantities of a substance to be used for laboratory-scale research or as a reference standard.

2. A Party may grant an exemption from Article 3(1)(a) and (c) in respect of a particular substance, provided that the exemption is not granted or used in a manner that would undermine the objectives of the present Protocol, and only for the following purposes and under the following conditions:

(a) for research other than that referred to in paragraph 1 if:

(i) no significant quantity of the substance is expected to reach the environment during the proposed use and subsequent disposal;

(ii) the objectives and parameters of such research are subject to assessment and authorization by the Party; and

(iii) in the event of a significant release of a substance into the environment, the exemption will terminate immediately, measures will be taken to mitigate the release as appropriate, and an assessment of the containment measures will be conducted before research may resume;

(b) to manage as necessary a public health emergency, if:

(i) no suitable alternative measures are available to the Party to address the situation;

(ii) the measures taken are proportional to the magnitude and severity of the emergency;

(iii) appropriate precautions are taken to protect human health and the environment and to ensure that the substance is not used outside the geographical area subject to the emergency;

(iv) the exemption is granted for a period of time that does not exceed the duration of the emergency; and

(v) upon termination of the emergency, any remaining stocks of the substance are subject to the provisions of Article 3(1)(b);

- (c) for a minor application judged to be essential by the Party, if:
 - (i) the exemption is granted for a maximum of five years;
 - (ii) the exemption has not previously been granted by it under this article;
 - (iii) no suitable alternatives exist for the proposed use;
 - (iv) the Party has estimated the emissions of the substance resulting from the exemption and their contribution to the total emissions of the substance from the Parties;
 - (v) adequate precautions are taken to ensure that the emissions to the environment are minimised; and
 - (vi) upon termination of the exemption, any remaining stocks of the substance are subject to the provisions of Article 3(1)(b).

3. Each Party shall, no later than 90 days after granting an exemption under paragraph 2, provide the secretariat with, as a minimum, the following information:

- (a) the chemical name of the substance subject to the exemption;
- (b) the purpose for which the exemption has been granted;
- (c) the conditions under which the exemption has been granted;
- (d) the length of time for which the exemption has been granted;
- (e) those to whom, or the organization to which, the exemption applies; and
- (f) for an exemption granted under paragraphs 2(a) and (c), the estimated emissions of the substance as a result of the exemption and an assessment of their contribution to the total emissions of the substance from the Parties.

4. The secretariat shall make available to all Parties the information received under paragraph 3.

Article 5

Exchange of information and technology

The Parties shall, in a manner consistent with their laws, regulations and practices, create favourable conditions to facilitate the exchange of information and technology designed to reduce the generation and emission of persistent organic pollutants and to develop cost-effective alternatives, by promoting, *inter alia*:

- (a) contacts and cooperation among appropriate organisations and individuals in the private and public sectors that are capable of providing technology, design and engineering services, equipment or finance;
- (b) the exchange of and access to information on the development and use of alternatives to persistent organic pollutants as well as on the evaluation of the risks that such alternatives pose to human health and the environment, and information on the economic and social costs of such alternatives;

- (c) the compilation and regular updating of lists of their designated authorities engaged in similar activities in other international forums;
- (d) the exchange of information on activities conducted in other international forums.

Article 6

Public awareness

The Parties shall, consistent with their laws, regulations and practices, promote the provision of information to the general public, including individuals who are direct users of persistent organic pollutants. This information may include, *inter alia*:

- (a) information, including labelling, on risk assessment and hazard;
- (b) information on risk reduction;
- (c) information to encourage the elimination of persistent organic pollutants or a reduction in their use, including, where appropriate, information on integrated pest management, integrated crop management and the economic and social impacts of this elimination or reduction; and
- (d) information on alternatives to persistent organic pollutants, as well as an evaluation of the risks that such alternatives pose to human health and the environment, and information on the economic and social impacts of such alternative.

Article 7

Strategies, policies, programmes, measures and information

1. Each Party shall, no later than six months after the date on which this Protocol enters into force for it, develop strategies, policies and programmes in order to discharge its obligations under the present Protocol.

2. Each Party shall:

- (a) encourage the use of economically feasible, environmentally sound management techniques, including best environmental practices, with respect to all aspects of the use, production, release, processing, distribution, handling, transport and reprocessing of substances subject to the present Protocol and manufactured articles, mixtures or solutions containing such substances;
- (b) encourage the implementation of other management programmes to reduce emissions of persistent organic pollutants, including voluntary programmes and the use of economic instruments;
- (c) consider the adoption of additional policies and measures as appropriate in its particular circumstances, which may include non-regulatory approaches;
- (d) make determined efforts that are economically feasible to reduce levels of substances subject to the present Protocol that are contained as contaminants in other substances, chemical products or manufactured articles, as soon as the relevance of the source has been established;

- (e) take into consideration in its programmes for evaluating substances, the characteristics specified in paragraph 1 of Executive Body Decision 1998/2 on information to be submitted and procedures for adding substances to Annex I, II or III, including any amendments thereto.

3. The Parties may take more stringent measures than those required by the present Protocol.

Article 8

Research, development and monitoring

The Parties shall encourage research, development, monitoring and cooperation related, but not limited, to:

- (a) emissions, long-range transport and deposition levels and their modelling, existing levels in the biotic and abiotic environment, the elaboration of procedures for harmonizing relevant methodologies;
- (b) pollutant pathways and inventories in representative ecosystems;
- (c) relevant effects on human health and the environment, including quantification of those effects;
- (d) best available techniques and practices, including agricultural practices, and emission control techniques and practices currently employed by the Parties or under development;
- (e) methodologies permitting consideration of socioeconomic factors in the evaluation of alternative control strategies;
- (f) an effects-based approach which integrates appropriate information, including information obtained under subparagraphs (a) to (e), on measured or modelled environmental levels, pathways, and effects on human health and the environment, for the purpose of formulating future control strategies which also take into account economic and technological factors;
- (g) methods for estimating national emissions and projecting future emissions of individual persistent organic pollutants and for evaluating how such estimates and projections can be used to structure future obligations;
- (h) levels of substances subject to the present Protocol that are contained as contaminants in other substances, chemical products or manufactured articles and the significance of these levels for long-range transport, as well as techniques to reduce levels of these contaminants, and, in addition, levels of persistent organic pollutants generated during the life cycle of timber treated with pentachlorophenol.

Priority should be given to research on substances considered to be the most likely to be submitted under the procedures specified in Article 14(6).

Article 9

Reporting

1. Subject to its laws governing the confidentiality of commercial information:

- (a) each Party shall report, through the Executive Secretary of the Commission, to the Executive Body, on a periodic basis as determined by the Parties meeting within the Executive Body, information on the measures that it has taken to implement the present Protocol;
- (b) each Party within the geographical scope of EMEP shall report, through the Executive Secretary of the Commission, to EMEP, on a periodic basis to be determined by the Steering Body of EMEP and approved by the Parties at a session of the Executive Body, information on the levels of emissions of persistent organic pollutants using, as a minimum, the methodologies and the temporal and spatial resolution specified by the Steering Body of EMEP. Parties in areas outside the geographical scope of EMEP shall make available similar information to the Executive Body if requested to do so. Each Party shall also provide information on the levels of emissions of the substances listed in Annex III for the reference year specified in that Annex.

2. The information to be reported in accordance with paragraph 1 (a) above shall be in conformity with a decision regarding format and content to be adopted by the Parties at a session of the Executive Body. The terms of this decision shall be reviewed as necessary to identify any additional elements regarding the format or the content of the information that is to be included in the reports.

3. In good time before each annual session of the Executive Body, EMEP shall provide information on the long-range transport and deposition of persistent organic pollutants.

Article 10

Reviews by the Parties at sessions of the Executive Body

1. The Parties shall, at sessions of the Executive Body, pursuant to Article 10(2)(a), of the Convention, review the information supplied by the Parties, EMEP and other subsidiary bodies, and the reports of the Implementation Committee referred to in Article 11 of the present Protocol.

2. The Parties shall, at sessions of the Executive Body, keep under review the progress made towards achieving the obligations set out in the present Protocol.

3. The Parties shall, at sessions of the Executive Body, review the sufficiency and effectiveness of the obligations set out in the present Protocol. Such reviews will take into account the best available scientific information on the effects of the deposition of persistent organic pollutants, assessments of technological developments, changing economic conditions and the fulfilment of the obligations on emission levels. The procedures, methods and timing for such reviews shall be specified by the Parties at a session of the Executive Body. The first such review shall be completed no later than three years after the present Protocol enters into force.

Article 11

Compliance

Compliance by each Party with its obligations under the present Protocol shall be reviewed regularly. The Implementation Committee established by Decision 1997/2 of the Executive Body at its 15th session shall carry out such reviews and report to the Parties meeting within the Executive Body in accordance with the terms of the Annex to that Decision, including any amendments thereto.

Article 12

Settlement of disputes

1. In the event of a dispute between any two or more Parties concerning the interpretation or application of the present Protocol, the Parties concerned shall seek a settlement of the dispute through negotiation or any other peaceful means of their own choice. The parties to the dispute shall inform the Executive Body of their dispute.

2. When ratifying, accepting, approving or acceding to the present Protocol, or at anytime thereafter, a Party which is not a regional economic integration organization may declare in a written instrument submitted to the Depositary that, in respect of any dispute concerning the interpretation or application of the Protocol, it recognizes one or both of the following means of dispute settlement as compulsory *ipso facto* and without special agreement, in relation to any Party accepting the same obligation:

- (a) submission of the dispute to the International Court of Justice;
- (b) arbitration in accordance with procedures to be adopted by the Parties at a session of the Executive Body, as soon as practicable, in an annex on arbitration.

A Party which is a regional economic integration organization may make a declaration with like effect in relation to arbitration in accordance with the procedures referred to in subparagraph (b).

3. A declaration made under paragraph 2 shall remain in force until it expires in accordance with its terms or until three months after written notice of its revocation has been deposited with the Depositary.

4. A new declaration, a notice of revocation or the expiry of a declaration shall not in any way affect proceedings pending before the International Court of Justice or the arbitral tribunal, unless the parties to the dispute agree otherwise.

5. Except in a case where the parties to a dispute have accepted the same means of dispute settlement under paragraph 2, if after 12 months following notification by one Party to another that a dispute exists between them, the Parties concerned have not been able to settle their dispute through the means mentioned in paragraph 1 above, the dispute shall be submitted, at the request of any of the parties to the dispute, to conciliation.

6. For the purpose of paragraph 5, a conciliation commission shall be created. The commission shall be composed of equal numbers of members appointed by each Party concerned or, where the Parties in conciliation share the same interest, by the group sharing that interest, and a chairperson chosen jointly by the members so appointed. The commission shall render a recommendatory award, which the Parties shall consider in good faith.

Article 13

Annexes

The annexes to the present Protocol shall form an integral part of the Protocol. Annexes V and VII are recommendatory in character.

Article 14

Amendments

1. Any Party may propose amendments to the present Protocol.

2. Proposed amendments shall be submitted in writing to the Executive Secretary of the Commission, who shall communicate them to all Parties. The Parties meeting within the Executive Body shall discuss the proposed amendments at its next session, provided that the proposals have been circulated by the Executive Secretary to the Parties at least 90 days in advance.

3. Amendments to the present Protocol and to Annexes I to IV, VI and VIII shall be adopted by consensus of the Parties present at a session of the Executive Body, and shall enter into force for the Parties which have accepted them on the 90th day after the date on which two thirds of the Parties have deposited with the Depositary their instruments of acceptance thereof. Amendments shall enter into force for any other Party on the 90th day after the date on which that Party has deposited its instrument of acceptance thereof.

4. Amendments to Annexes V and VII shall be adopted by consensus of the Parties present at a session of the Executive Body. On the expiry of 90 days from the date of its communication to all Parties by the Executive Secretary of the Commission, an amendment to any such Annex shall become effective for those Parties which have not submitted to the Depositary a notification in accordance with the provisions of paragraph 5 below, provided that at least 16 Parties have not submitted such a notification.

5. Any Party that is unable to approve an amendment to Annex V or VII shall so notify the Depositary in writing within 90 days from the date of the communication of its adoption. The Depositary shall without delay notify all Parties of any such notification received. A Party may at any time substitute an acceptance for its previous notification and, upon deposit of an instrument of acceptance with the Depositary, the amendment to such an Annex shall become effective for that Party.

6. In the case of a proposal to amend Annex I, II, or III by adding a substance to the present Protocol:

- (a) the proposer shall provide the Executive Body with the information specified in Executive Body decision 1998/2, including any amendments thereto; and
- (b) the Parties shall evaluate the proposal in accordance with the procedures set forth in Executive Body decision 1998/2, including any amendments thereto.

7. Any decision to amend Executive Body decision 1998/2 shall be taken by consensus of the Parties meeting within the Executive Body and shall take effect 60 days after the date of adoption.

Article 15

Signature

1. The present Protocol shall be open for signature at Aarhus, Denmark, from 24 to 25 June 1998, then at United Nations Headquarters in New York until 21 December 1998, by Members States of the Commission as well as States having consultative status with the Commission pursuant to paragraph 8 of Economic and Social Council resolution 36 (IV) of 28 March 1947, and by regional economic integration organizations, constituted by sovereign States members of the Commission, which have competence in respect of the negotiation, conclusion and application of international agreements in matters covered by the Protocol, provided that the States and organisations concerned are Parties to the Convention.

2. In matters within their competence, such regional economic integration organisations shall, on their own behalf, exercise the rights and fulfil the responsibilities which the present Protocol attributes to their Member States. In such cases, the Member States of these organisations shall not be entitled to exercise such rights individually.

Article 16

Ratification, acceptance, approval and accession

1. The present Protocol shall be subject to ratification, acceptance or approval by Signatories.

2. The present Protocol shall be open for accession as from 21 December 1998 by the States and organisations that meet the requirements of Article 15(1).

Article 17

Depositary

The instruments of ratification, acceptance, approval or accession shall be deposited with the Secretary-General of the United Nations, who will perform the functions of Depositary.

Article 18

Entry into force

1. The present Protocol shall enter into force on the 90th day following the date on which the 16th instrument of ratification, acceptance, approval or accession has been deposited with the Depositary.

2. For each State and organisation referred to in Article 15(1), which ratifies, accepts or approves the present Protocol or accedes thereto after the deposit of the sixteenth instrument of ratification, acceptance, approval or accession, the Protocol shall enter into force on the 90th day following the date of deposit by such Party of its instrument of ratification, acceptance, approval or accession.

Article 19

Withdrawal

At any time after five years from the date on which the present Protocol has come into force with respect to a Party, that Party may withdraw from it by giving written notification to the Depositary. Any such withdrawal shall take effect on the 90th day following the date of its receipt by the Depositary, or on such later date as may be specified in the notification of the withdrawal.

Article 20

Authentic texts

The original of the present Protocol, of which the English, French and Russian texts are equally authentic, shall be deposited with the Secretary-General of the United Nations.

IN WITNESS WHEREOF the undersigned, being duly authorised thereto, have signed the present Protocol.

Done at Aarhus, Denmark, this twenty-fourth day of June, one thousand nine hundred and ninety-eight.

ANNEX I

SUBSTANCES SCHEDULED FOR ELIMINATION

Unless otherwise specified in the present Protocol, this Annex shall not apply to the substances listed below when they occur: (i) as contaminants in products; or (ii) in articles manufactured or in use by the implementation date; or (iii) as site-limited chemical intermediates in the manufacture of one or more different substances and are thus chemically transformed. Unless otherwise specified, each obligation below is effective upon the date of entry into force of the Protocol.

Substance	Implementation requirements	
	Elimination of	Conditions
Aldrin CAS: 309-00-2	Production	None
	Use	None
Chlordane CAS: 57-74-9	Production	None
	Use	None
Chlordecone CAS: 143-50-0	Production	None
	Use	None
DDT CAS: 50-29-3	Production	1. Eliminate production within one year of consensus by the Parties that suitable alternatives to DDT are available for public health protection from diseases such as malaria and encephalitis. 2. With a view to eliminating the production of DDT at the earliest opportunity, the Parties shall, no later than one year after the date of entry into force of the present Protocol and periodically thereafter as necessary, and in consultation with the World Health Organisation, the Food and Agriculture Organisation of the United Nations and the United Nations Environment Programme, review the availability and feasibility of alternatives and, as appropriate, promote the commercialisation of safer and economically viable alternatives to DDT.
	Use	None, except as identified in Annex II.
Dieldrin CAS: 60-57-1	Production	None
	Use	None
Endrin CAS: 72-20-8	Production	None
	Use	None
Heptachlor CAS: 76-44-8	Production	None
	Use	None, except for use by certified personnel for the control of fire ants in closed industrial electrical junction boxes. Such use shall be re-evaluated under this Protocol no later than two years after the date of entry into force.
Hexabromobiphenyl CAS: 36355-01-8	Production	None
	Use	None
Hexachlorobenzene CAS: 118-74-1	Production	None, except for production for a limited purpose as specified in a statement deposited by a country with an economy in transition upon signature or accession.
	Use	None, except for a limited use as specified in a statement deposited by a country with an economy in transition upon signature or accession.

Substance	Implementation requirements	
	Elimination of	Conditions
Mirex CAS: 2385-85-5	Production	None
	Use	None
PCB (a)	Production	None, except for countries with economies in transition which shall eliminate production as soon as possible and no later than 31 December 2005 and which state in a declaration to be deposited together with their instrument of ratification, acceptance, approval or accession, their intention to do so.
	Use	None, except as identified in Annex II.
Toxaphene CAS: 8001-35-2	Production	None
	Use	None

(a):

The Parties agree to reassess under the Protocol by 31 December 2004 the production and use of polychlorinated terphenyls and 'ugilec'.

ANNEX II

SUBSTANCES SCHEDULED FOR RESTRICTIONS ON USE

Unless otherwise specified in the present Protocol, this annex shall not apply to the substances listed below when they occur: (i) as contaminants in products; or (ii) in articles manufactured or in use by the implementation date; or (iii) as site-limited chemical intermediates in the manufacture of one or more different substances and are thus chemically transformed. Unless otherwise specified, each obligation below is effective upon the date of entry into force of the Protocol.

Substance	Implementation requirements	
	Restricted to uses	Conditions
DDT CAS: 50-29-3	- For public health protection from diseases such as malaria and encephalitis. - As a chemical intermediate to produce Dicofol.	- Use allowed only as a component of an integrated pest management strategy and only to the extent necessary and only until one year after the date of the elimination of production in accordance with Annex I. - Such use shall be reassessed no later than two years after the date of entry into force of the present Protocol.
HCH CAS: 608-73-1	Technical HCH (i.e. HCH mixed isomers) is restricted to use as an intermediate in chemical manufacturing.	
	Products in which at least 99 % of the HCH isomer is in the gamma form (i.e. lindane, CAS: 58-89-9) are restricted to the following uses: - Seed treatment. - Soil applications directly followed by incorporation into the topsoil surface layer. - Professional remedial and industrial treatment of lumber, timber and logs. - Public health and veterinary topical insecticide. - Non-aerial application to tree seedlings, small-scale lawn use, and indoor and outdoor use for nursery stock and ornamentals. - Indoor industrial and residential applications.	All restricted uses of lindane shall be reassessed under the Protocol no later than two years after the date of entry into force.
PCB (a)	PCBs in use as of the date of entry into force or produced up to 31 December 2005 in accordance with the provisions of Annex I.	Parties shall make determined efforts designed to lead to: - The elimination of the use of identifiable PCBs in equipment (i.e. transformers, capacitors or other receptacles containing residual liquid stocks) containing PCBs in volumes greater than 5 dm³ and having a concentration of 0,05 % PCBs or greater, as soon as possible, but no later than 31 December 2010, or 31 December 2015 for countries with economies in transition; - The destruction or decontamination in an environmentally sound manner of all liquid PCBs referred to in subparagraph (a) and other liquid PCBs containing more than 0,005 % PCBs not in equipment, as soon as possible, but no later than 31 December 2015, or 31 December 2020 for countries with economies in transition; and

Substance	Implementation requirements	
	Restricted to uses	Conditions
		(c) The decontamination or disposal of equipment referred to in subparagraph (a) in an environmentally sound manner.

(a):

The Parties agree to reassess under the Protocol by 31 December 2004 the production and use of polychlorinated terphenyls and 'ugilec'.

ANNEX III

SUBSTANCES REFERRED TO IN ARTICLE 3(50)(a), AND THE REFERENCE YEAR FOR THE OBLIGATION

Substance	Reference year
PAHs (a)	1990; or an alternative year from 1985 to 1995 inclusive, specified by a Party upon ratification, acceptance, approval or accession.
Dioxins/furans (b)	1990; or an alternative year from 1985 to 1995 inclusive, specified by a Party upon ratification, acceptance, approval or accession.
Hexachlorobenzene	1990; or an alternative year from 1985 to 1995 inclusive, specified by a Party upon ratification, acceptance, approval or accession.

- (a) Polycyclic aromatic hydrocarbons (PAHs): For the purposes of emission inventories, the following four indicator compounds shall be used: benzo(a)pyrene, benzo(b)fluoranthene, benzo(k)fluoranthene, and indeno(1,2,3-cd)pyrene.
- (b) Dioxins and furans (PCDD/F): Polychlorinated dibenzo-p-dioxins (PCDD) and polychlorinated dibenzofurans (PCDF) are tricyclic, aromatic compounds formed by two benzene rings which are connected by two oxygen atoms in PCDD and by one oxygen atom in PCDF and the hydrogen atoms of which may be replaced by up to eight chlorine atoms.

ANNEX IV

LIMIT VALUES FOR PCDD/F FROM MAJOR STATIONARY SOURCES**I. Introduction**

1. A definition of dioxins and furans (PCDD/F) is provided in Annex III to the present Protocol.
2. Limit values are expressed as ng/m³ or mg/m³ under standard conditions (273,15 K, 101,3 kPa, and dry gas).
3. Limit values relate to the normal operating situation, including start-up and shutdown procedures, unless specific limit values have been defined for those situations.
4. Sampling and analysis of all pollutants shall be carried out according to the standards laid down by the Comité européen de normalisation (CEN), the International Organisation for Standardisation (ISO), or the corresponding United States or Canadian reference methods. While awaiting the development of CEN or ISO standards, national standards shall apply.
5. For verification purposes, the interpretation of measurement results in relation to the limit value must also take into account the inaccuracy of the measurement method. A limit value is considered to be met if the result of the measurement, from which the inaccuracy of the measurement method is subtracted, does not exceed it.
6. Emissions of different congeners of PCDD/F are given in toxicity equivalents (TE) in comparison to 2,3,7,8-TCDD using the system proposed by the NATO Committee on the Challenges of Modern Society (NATO-CCMS) in 1988.

II. Limit values for major stationary sources

7. The following limit values, which refer to 11 % O₂ concentration in flue gas, apply to the following incinerator types:
 - municipal solid waste (burning more than three tonnes per hour)
0,1 ng TE/m³
 - medical solid waste (burning more than one tonne per hour)
0,5 ng TE/m³
 - hazardous waste (burning more than one tonne per hour)
0,2 ng TE/m³
-

ANNEX V

BEST AVAILABLE TECHNIQUES TO CONTROL EMISSIONS OF PERSISTENT ORGANIC POLLUTANTS FROM MAJOR STATIONARY SOURCES**I. Introduction**

1. The purpose of this Annex is to provide the Parties to the Convention with guidance in identifying best available techniques to allow them to meet the obligations in Article 3(5) of the Protocol.

2. 'Best available techniques' (BAT) means the most effective and advanced stage in the development of activities and their methods of operation which indicate the practical suitability of particular techniques for providing in principle the basis for emission limit values designed to prevent and, where that is not practicable, generally to reduce emissions and their impact on the environment as a whole:

— 'techniques' includes both the technology used and the way in which the installation is designed, built, maintained, operated and decommissioned,

— 'available' techniques means those developed on a scale which allows implementation in the relevant industrial sector, under economically and technically viable conditions, taking into consideration the costs and advantages, whether or not the techniques are used or produced inside the territory of the Party in question, as long as they are reasonably accessible to the operator,

— 'best' means most effective in achieving a high general level of protection of the environment as a whole.

In determining the best available techniques, special consideration should be given, generally or in specific cases, to the factors below, bearing in mind the likely costs and benefits of a measure and the principles of precaution and prevention:

— the use of low-waste technology,

— the use of less hazardous substances,

— the furthering of recovery and recycling of substances generated and used in the process and of waste,

— comparable processes, facilities or methods of operation which have been tried with success on an industrial scale,

— technological advances and changes in scientific knowledge and understanding,

— the nature, effects and volume of the emissions concerned,

— the commissioning dates for new or existing installations,

— the time needed to introduce the best available technique,

— the consumption and nature of raw materials (including water) used in the process and its energy efficiency,

— the need to prevent or reduce to a minimum the overall impact of the emissions on the environment and the risks to it,

— the need to prevent accidents and to minimise their consequences for the environment.

The concept of best available techniques is not aimed at the prescription of any specific technique or technology, but at taking into account the technical characteristics of the installation concerned, its geographical location and the local environmental conditions.

3. Information regarding the effectiveness and costs of control measures is based on documents received and reviewed by the Task Force and the Preparatory Working Group on POPs. Unless otherwise indicated, the techniques listed are considered to be well established on the basis of operational experience.

4. Experience with new plants incorporating low-emission techniques, as well as with retrofitting of existing plants, is continuously growing. The regular elaboration and amendment of the Annex will therefore be necessary. Best available techniques (BAT) identified for new plants can usually be applied to existing plants provided there is an adequate transition period and they are adapted.

5. The Annex lists a number of control measures which span a range of costs and efficiencies. The choice of measures for any particular case will depend on a number of factors, including economic circumstances, technological infrastructure and capacity, and any existing air pollution control measures.

6. The most important POPs emitted from stationary sources are:

- (a) Polychlorinated dibenzo-p-dioxins/furans (PCDD/F);
- (b) Hexachlorobenzene (HCB);
- (c) Polycyclic aromatic hydrocarbons (PAHs).

Relevant definitions are provided in Annex III to the present Protocol.

II. Major stationary sources of POP emissions

7. PCDD/F are emitted from thermal processes involving organic matter and chlorine as a result of incomplete combustion or chemical reactions. Major stationary sources of PCDD/F may be as follows:

- (a) waste incineration, including co-incineration;
- (b) thermal metallurgical processes, e.g. production of aluminium and other non-ferrous metals, iron and steel;
- (c) combustion plants providing energy;
- (d) residential combustion; and
- (e) specific chemical production processes releasing intermediates and by-products.

8. Major stationary sources of PAH emissions may be as follows:

- (a) domestic wood and coal heating;
- (b) open fires such as refuse burning, forest fires and after-crop burning;
- (c) coke and anode production;
- (d) aluminium production (via Soederberg process); and
- (e) wood preservation installations, except for a Party for which this category does not make a significant contribution to its total emissions of PAH (as defined in Annex III).

9. Emissions of HCB result from the same type of thermal and chemical processes as those emitting PCDD/F, and HCB is formed by a similar mechanism. Major sources of HCB emissions may be as follows:

- (a) waste incineration plants, including co-incineration;
- (b) thermal sources of metallurgical industries; and
- (c) use of chlorinated fuels in furnace installations.

III. General approaches to controlling emissions of POPs

10. There are several approaches to the control or prevention of POP emissions from stationary sources. These include the replacement of relevant feed materials, process modifications (including maintenance and operational control) and retrofitting existing plants. The following list provides a general indication of available measures, which may be implemented either separately or in combination:

- (a) replacement of feed materials which are POPs or where there is a direct link between the materials and POP emissions from the source;
- (b) best environmental practices such as good housekeeping, preventive maintenance programmes, or process changes such as closed systems (for instance in cokeries or use of inert electrodes for electrolysis);
- (c) modification of process design to ensure complete combustion, thus preventing the formation of persistent organic pollutants, through the control of parameters such as incineration temperature or residence time;

- (d) methods for flue-gas cleaning such as thermal or catalytic incineration or oxidation, dust precipitation, adsorption;
 - (e) treatment of residuals, wastes and sewage sludge by, for example, thermal treatment or rendering them inert.
11. The emission levels given for different measures in tables 1, 2, 4, 5, 6, 8 and 9 are generally case-specific. The figures or ranges give the emission levels as a percentage of the emission limit values using conventional techniques.
12. Cost-efficient considerations may be based on total costs per year per unit of abatement (including capital and operational costs). POP emission reduction costs should also be considered within the framework of the overall process economics, e.g. the impact of control measures and costs of production. Given the many influencing factors, investment and operating cost figures are highly case-specific.

IV. Control techniques for the reduction of PCDD/F emissions

A. Waste incineration

13. Waste incineration includes municipal waste, hazardous waste, medical waste and sewage sludge incineration.
14. The main control measures for PCDD/F emissions from waste incineration facilities are:
- (a) Primary measures regarding incinerated wastes;
 - (b) Primary measures regarding process techniques;
 - (c) Measures to control physical parameters of the combustion process and waste gases (e.g. temperature stages, cooling rate, O₂ content, etc.);
 - (d) Cleaning of the flue gas; and
 - (e) Treatment of residuals from the cleaning process.
15. The primary measures regarding the incinerated wastes, involving the management of feed material by reducing halogenated substances and replacing them by non-halogenated alternatives, are not appropriate for municipal or hazardous waste incineration. It is more effective to modify the incineration process and install secondary measures for flue-gas cleaning. The management of feed material is a useful primary measure for waste reduction and has the possible added benefit of recycling. This may result in indirect PCDD/F reduction by decreasing the waste amounts to be incinerated.
16. The modification of process techniques to optimize combustion conditions is an important and effective measure for the reduction of PCDD/F emissions (usually 850 °C or higher, assessment of oxygen supply depending on the heating value and consistency of the wastes, sufficient residence time — 850 °C for approximately two seconds — and turbulence of the gas, avoidance of cold gas regions in the incinerator, etc.). Fluidized bed incinerators keep a lower temperature than 850 °C with adequate emission results. For existing incinerators this would normally involve redesigning and/or replacing a plant — an option which may not be economically viable in all countries. The carbon content in ashes should be minimized.
17. Flue gas measures. The following measures are possibilities for lowering reasonably effectively the PCDD/F content in the flue gas. The de novo synthesis takes place at about 250 to 450 °C. These measures are a prerequisite for further reductions to achieve the desired levels at the end of the pipe:
- (a) quenching the flue gases (very effective and relatively inexpensive);
 - (b) adding inhibitors such as triethanolamine or triethylamine (can reduce oxides of nitrogen as well), but side-reactions have to be considered for safety reasons;
 - (c) using dust collection systems for temperatures between 800 and 1 000 °C, e.g. ceramic filters and cyclones;
 - (d) using low-temperature electric discharge systems; and
 - (e) avoiding fly ash deposition in the flue gas exhaust system.

18. Methods for cleaning the flue gas are:

- (a) conventional dust precipitators for the reduction of particle-bound PCDD/F;
- (b) selective catalytic reduction (SCR) or selective non-catalytic reduction (SNCR);
- (c) adsorption with activated charcoal or coke in fixed or fluidised systems;
- (d) different types of adsorption methods and optimized scrubbing systems with mixtures of activated charcoal, open hearth coal, lime and limestone solutions in fixed bed, moving bed and fluidised bed reactors. The collection efficiency for gaseous PCDD/F can be improved with the use of a suitable pre-coat layer of activated coke on the surface of a bag filter;
- (e) H_2O_2 -oxidation; and
- (f) catalytic combustion methods using different types of catalysts (i.e. Pt/Al_2O_3 or copper-chromite catalysts with different promoters to stabilise the surface area and to reduce ageing of the catalysts).

19. The methods mentioned above are capable of reaching emission levels of 0,1 ng TE/m³ PCDD/F in the flue gas. However, in systems using activated charcoal or coke adsorbers/filters care must be taken to ensure that fugitive carbon dust does not increase PCDD/F emissions downstream. Also, it should be noted that adsorbers and dedusting installations prior to catalysts (SCR technique) yield PCDD/F-laden residues, which need to be reprocessed or require proper disposal.

20. A comparison between the different measures to reduce PCDD/F in flue gas is very complex. The resulting matrix includes a wide range of industrial plants with different capacities and configuration. Cost parameters include the reduction measures for minimizing other pollutants as well, such as heavy metals (particle-bound or not particle-bound). A direct relation for the reduction in PCDD/F emissions alone cannot, therefore, be isolated in most cases. A summary of the available data for the various control measures is given in table 1.

Table 1

Comparison of different flue-gas cleaning measures and process modifications in waste incineration plants to reduce PCDD/F emissions

Management options	Emission level (%) ^(a)	Estimated costs	Management risks
Primary measures by modification of feed materials:			
— elimination of precursors and chlorine-containing feed material, and	Resulting emission level not quantified; seems not to be linearly dependent on the amount of the feed material.		Pre-sorting of feed material not effective; only parts could be collected; other chlorine-containing material, for instance kitchen salt, paper, etc., cannot be avoided. For hazardous chemical waste this is not desirable.
— management of waste streams.	-"		Useful primary measure and feasible in special cases (for instance, waste oils, electrical components, etc.) with the possible added benefit of recycling of the materials.
Modification of process technology:			
— optimised combustion conditions,			Retrofitting of the whole process needed.
— avoidance of temperatures below 850 °C and cold regions in flue gas,			
— sufficient oxygen content; control of oxygen input depending on the heating value and consistency of feed material, and			
— sufficient residence time and turbulence.			

Management options	Emission level (%) ^(a)	Estimated costs	Management risks
Flue gas measures:			
Avoiding particle deposition by:			
— soot cleaners, mechanical rappers, sonic or steam soot blowers.			Steam soot blowing can increase PCDD/F formation rates.
Dust removal, generally in waste incinerators:	< 10	Medium	Removal of PCDD/F adsorbed onto particles. Removal methods of particles in hot flue gas streams used only in pilot plants.
— fabric filters,	1 – 0,1	Higher	Use at temperatures < 150 °C.
— ceramic filters,	Low efficiency	Medium	Use at temperatures of 800-1 000 °C.
— cyclones, and	Low efficiency		
— electrostatic precipitation.	Medium efficiency		Use at a temperature of 450 °C; promotion of the de novo synthesis of PCDD/F possible, higher NO _x emissions, reduction of heat recovery.
Catalytic oxidation.			Use at temperatures of 800-1 000 °C. Separate gas phase abatement necessary.
Gas quenching.			
High-performance adsorption unit with added activated charcoal particles (electrodynamic venturi).			
Selective catalytic reduction (SCR).		High investment and low operating costs	NO _x reduction if NH ₃ is added; high space demand, spent catalysts and residues of activated carbon (AC) or lignite coke (ALC) may be disposed of, catalysts can be reprocessed by manufacturers in most cases, AC and ALC can be combusted under strictly controlled conditions.
Different types of wet and dry adsorption methods with mixtures of activated charcoal, open-hearth coke, lime and limestone solutions in fixed bed, moving bed and fluidised bed reactors:			
— Fixed bed reactor, adsorption with activated charcoal or open-hearth coke; and	< 2 (0,1 ng TE/m ³)	High investment, medium operating costs	Removal of residuals; high demand of space.
— Entrained flow or circulating fluidised bed reactor with added activated coke/lime or limestone solutions and subsequent fabric filter.	< 10 (0,1 ng TE/m ³)	Low investment, medium operating costs	Removal of residuals.
Addition of H ₂ O ₂ .	2–5 (0,1 ng TE/m ³)	Low investment, low operating costs	

(a): Remaining emission compared to unreduced mode.

21. Medical waste incinerators may be a major source of PCDD/F in many countries. Specific medical wastes such as human anatomical parts, infected waste, needles, blood, plasma and cytostatica are treated as a special form of hazardous waste, while other medical wastes are frequently incinerated on-site in a batch operation. Incinerators operating with batch systems can meet the same requirements for PCDD/F reduction as other waste incinerators.
22. Parties may wish to consider adopting policies to encourage the incineration of municipal and medical waste in large regional facilities rather than in smaller ones. This approach may make the application of BAT more cost-effective.

23. The treatment of residuals from the flue-gas cleaning process. Unlike incinerator ashes, these residuals contain relatively high concentrations of heavy metals, organic pollutants (including PCDD/F), chlorides and sulphides. Their method of disposal, therefore, has to be well controlled. Wet scrubber systems in particular produce large quantities of acidic, contaminated liquid waste. Some special treatment methods exist. They include:

- (a) the catalytic treatment of fabric filter dusts under conditions of low temperatures and lack of oxygen;
- (b) the scrubbing of fabric filter dusts by the 3-R process (extraction of heavy metals by acids and combustion for destruction of organic matter);
- (c) the vitrification of fabric filter dusts;
- (d) further methods of immobilisation; and
- (e) the application of plasma technology.

B. Thermal processes in the metallurgical industry

24. Specific processes in the metallurgical industry may be important remaining sources of PCDD/F emissions. These are:

- (a) Primary iron and steel industry (e.g. blast furnaces, sinter plants, iron pelletising);
- (b) Secondary iron and steel industry; and
- (c) Primary and secondary non-ferrous metal industry (production of copper).

PCDD/F emission control measures for the metallurgical industries are summarized in table 2

Table 2

Emission reduction of PCDD/F in the metallurgical industry

Management options	Emission level (%) (a)	Estimated costs	Management risks
Sinter plants			
<i>Primary measures:</i>			
— Optimisation/encapsulation of sinter conveying belts;	40	Low	Not 100 % achievable
— Waste gas recirculation e.g. emission optimised sintering (EOS) reducing waste gas flow by approximately 35 % (reduced costs of further secondary measures by the reduced waste gas flow), cap. 1 million Nm ³ /h;		Low	
<i>Secondary measures:</i>			
— Electrostatic precipitation + molecular sieve;	Medium efficiency	Medium	0,1 ng TE/m ³ could be reached with higher energy demand; no existing installation.
— Addition of limestone/activated carbon mixtures;	High efficiency (0,1 ng TE/m ³)	Medium	
— High-performance scrubbers — existing installation: AIRFINE (Voest Alpine Stahl Linz) since 1993 for 600 000 Nm ³ /h; second installation planned in the Netherlands (Hoogoven) for 1998.	High efficiency emission reduction to (0,2-0,4 ng TE/m ³)	Medium	
Non-ferrous production (e.g. copper)			
<i>Primary measures:</i>			
— Pre-sorting of scrap, avoidance of feed material like plastics and PVC-contaminated scrap, stripping of coatings and use of chlorine-free insulating materials;		Low	

Management options	Emission level (%) (a)	Estimated costs	Management risks
<i>Secondary measures:</i>			
— Quenching the hot waste gases;	High efficiency	Low	
— Use of oxygen or of oxygen-enriched air in firing, oxygen injection in the shaft kiln (providing complete combustion and minimization of waste gas volume);	5 – 7 (1,5-2 TE/m³)	High	
— Fixed bed reactor or fluidised jet stream reactor by adsorption with activated charcoal or open-hearth coal dust;	(0,1 ng TE/m³)	High	
— Catalytic oxidation; and	(0,1 ng TE/m³)	High	
— Reduction of residence time in the critical region of temperature in the waste gas system.			
Iron and steel production			
<i>Primary measures:</i>			
— Cleaning of the scrap from oil prior to charging of production vessels;		Low	Cleaning solvents have to be used.
— Elimination of organic tramp materials such as oils, emulsions, greases, paint and plastics from feedstock cleaning;		Low	
— Lowering of the specific high waste gas volumes;		Medium	
— Separate collection and treatment of emissions from loading and discharging;		Low	
<i>Secondary measures:</i>			
— Separate collection and treatment of emissions from loading and discharging; and		Low	
— Fabric filter in combination with coke injection.	< 1	Medium	
Secondary aluminium production			
<i>Primary measures:</i>			
— Avoidance of halogenated material (hexachloroethane)		Low	
— Avoidance of chlorine-containing lubricants (for instance chlorinated paraffins); and		Low	
— Clean-up and sorting of dirty scrap charges, e.g. by swarf decoating and drying, swim-sink separation techniques and whirling stream deposition;			
<i>Secondary measures:</i>			
— Single- and multi-stage fabric filter with added activation of limestone/activated carbon in front of the filter;	< 1 (0,1 ng TE/m³)	Medium/high	

Management options	Emission level (%) (a)	Estimated costs	Management risks
— Minimisation and separate removal and purification of differently contaminated waste gas flows;		Medium/high	
— Avoidance of particulate deposition from the waste gas and promotion of rapid passing of the critical temperature range; and		Medium/high	
— Improved pretreatment of aluminium scrap shredders by using swim-sink separation techniques and grading through whirling stream deposition.		Medium/high	

(a): Remaining emission compared to unreduced mode.

25. Metal production and treatment plants with PCDD/F emissions can meet a maximum emission concentration of 0,1 ng TE/m³ (if waste gas volume flow > 5 000 m³/h) using control measures.

Sinter plants

26. Measurements at sinter plants in the iron and steel industry have generally shown PCDD/F emissions in the range of 0,4 to 4 ng TE/m³. A single measurement at one plant without any control measures showed an emission concentration of 43 ng TE/m³.
27. Halogenated compounds may result in the formation of PCDD/F if they enter sinter plants in the feed materials (coke breeze, salt content in the ore) and in added recycled material (e.g. millscale, blast furnace top gas dust, filter dusts and sludges from waste water treatment). However, similarly to waste incineration, there is no clear link between the chlorine content of the feed materials and emissions of PCDD/F. An appropriate measure may be the avoidance of contaminated residual material and de-oiling or degreasing of millscale prior to its introduction into the sinter plant.
28. The most effective PCDD/F emission reduction can be achieved using a combination of different secondary measures, as follows:
- (a) Recirculating waste gas significantly reduces PCDD/F emissions. Furthermore, the waste gas flow is reduced significantly, thereby reducing the cost of installing any additional end-of-pipe control systems;
 - (b) Installing fabric filters (in combination with electrostatic precipitators in some cases) or electrostatic precipitators with the injection of activated carbon/open-hearth coal/limestone mixtures into the waste gas;
 - (c) Scrubbing methods have been developed which include pre-quenching of the waste gas, leaching by high-performance scrubbing and separation by drip deposition. Emissions of 0,2 to 0,4 ng TE/m³ can be achieved. By adding suitable adsorption agents like lignite coal cokes/coal slack, an emission concentration of 0,1 ng TE/m³ can be reached.

Primary and secondary production of copper

29. Existing plants for the primary and secondary production of copper can achieve a PCDD/F emission level of a few picograms to 2 ng TE/m³ after flue-gas cleaning. A single copper shaft furnace emitted up to 29 ng TE/m³ PCDD/F before optimisation of the aggregates. Generally, there is a wide range of PCDD/F emission values from these plants because of the large differences in raw materials used in differing aggregates and processes.
30. Generally, the following measures are suitable for reducing PCDD/F emissions:
- (a) pre-sorting scrap;
 - (b) pretreating scrap, for example stripping of plastic or PVC coatings, pretreating cable scrap using only cold/mechanical methods;

- (c) quenching hot waste gases (providing utilisation of heat), to reduce residence time in the critical region of temperature in the waste gas system;
- (d) using oxygen or oxygen-enriched air in firing, or oxygen injection in the shaft kiln (providing complete combustion and minimisation of waste gas volume);
- (e) adsorption in a fixed bed reactor or fluidised jet stream reactor with activated charcoal or open-hearth coal dust; and
- (f) catalytic oxidation.

Production of steel

- 31. PCDD/F emissions from converter steelworks for steel production and from hot blast cupola furnaces, electric furnaces and electric arc furnaces for the melting of cast iron are significantly lower than 0,1 ng TE/m³. Cold-air furnaces and rotary tube furnaces (melting of cast iron) have higher PCDD/F emissions.
- 32. Electric arc furnaces used in secondary steel production can achieve an emission concentration value of 0,1 ng TE/m³ if the following measures are used:
 - (a) Separate collection of emissions from loading and discharging; and
 - (b) Use of a fabric filter or an electrostatic precipitator in combination with coke injection.
- 33. The feedstock to electric arc furnaces often contains oils, emulsions or greases. General primary measures for PCDD/F reduction can be sorting, de-oiling and de-coating of scraps, which may contain plastics, rubber, paints, pigments and vulcanizing additives.

Smelting plants in the secondary aluminium industry

- 34. PCDD/F emissions from smelting plants in the secondary aluminium industry are in the range of approximately 0,1 to 14 ng TE/m³. These levels depend on the type of smelting aggregates, materials used and waste gas purification techniques employed.
- 35. In summary, single- and multi-stage fabric filters with the addition of limestone/activated carbon/open-hearth coal in front of the filter meet the emission concentration of 0,1 ng TE/m³, with reduction efficiencies of 99 %.
- 36. The following measures can also be considered:
 - (a) minimising and separately removing and purifying differently contaminated waste gas flows;
 - (b) avoiding waste gas particle deposition;
 - (c) rapidly passing the critical temperature range;
 - (d) improving the pre-sorting of scrap aluminium from shredders by using swim-sink separation techniques and grading through whirling stream deposition; and
 - (e) improving the pre-cleaning of scrap aluminium by swarf decoating and swarf drying.
- 37. Options (d) and (e) are important because it is unlikely that modern fluxless smelting techniques (which avoid halide salt fluxes) will be able to handle the low-grade scrap that can be used in rotary kilns.
- 38. Discussions are continuing under the Convention for the Protection of the Marine Environment of the North-east Atlantic regarding the revision of an earlier recommendation to phase out the use of hexachloroethane in the aluminium industry.
- 39. The melt can be treated using state-of-the-art technology, for example with nitrogen/chlorine mixtures in the ratio of between 9:1 and 8:2, gas injection equipment for fine dispersion and nitrogen pre- and post-flushing and vacuum degreasing. For nitrogen/chlorine mixtures, a PCDD/F emission concentration of about 0,03 ng TE/m³ was measured (as compared to values of > 1 ng TE/m³ for treatment with chlorine only). Chlorine is required for the removal of magnesium and other undesired components.

C. *Combustion of fossil fuels in utility and industrial boilers*

40. In the combustion of fossil fuels in utility and industrial boilers (> 50 MW thermal capacity), improved energy efficiency and energy conservation will result in a decline in the emissions of all pollutants because of reduced fuel requirements. This will also result in a reduction in PCDD/F emissions. It would not be cost-effective to remove chlorine from coal or oil, but in any case the trend towards gas-fired stations will help to reduce PCDD/F emissions from this sector.
41. It should be noted that PCDD/F emissions could increase significantly if waste material (sewage sludge, waste oil, rubber wastes, etc.) is added to the fuel. The combustion of wastes for energy supply should be undertaken only in installations using waste gas purification systems with highly efficient PCDD/F reduction (described in section A above).
42. The application of techniques to reduce emissions of nitrogen oxides, sulphur dioxide and particulates from the flue gas can also remove PCDD/F emissions. When using these techniques, PCDD/F removal efficiencies will vary from plant to plant. Research is ongoing to develop PCDD/F removal techniques, but until such techniques are available on an industrial scale, no best available technique is identified for the specific purpose of PCDD/F removal.

D. *Residential combustion*

43. The contribution of residential combustion appliances to total emissions of PCDD/F is less significant when approved fuels are properly used. In addition, large regional differences in emissions can occur due to the type and quality of fuel, geographical appliance density and usage.
44. Domestic fireplaces have a worse burn-out rate for hydrocarbons in fuels and waste gases than large combustion installations. This is especially true if they use solid fuels such as wood and coal, with PCDD/F emission concentrations in the range of 0,1 to 0,7 ng TE/m³.
45. Burning packing material added to solid fuels increases PCDD/F emissions. Even though it is prohibited in some countries, the burning of rubbish and packing material may occur in private households. Due to increasing disposal charges, it must be recognised that household waste materials are being burned in domestic firing installations. The use of wood with the addition of waste packing material can lead to an increase in PCDD/F emissions from 0,06 ng TE/m³ (exclusively wood) to 8 ng TE/m³ (relative to 11 % O₂ by volume). These results have been confirmed by investigations in several countries in which up to 114 ng TE/m³ (with respect to 13 % oxygen by volume) was measured in waste gases from residential combustion appliances burning waste materials.
46. The emissions from residential combustion appliances can be reduced by restricting the input materials to good-quality fuel and avoiding the burning of waste, halogenated plastics and other materials. Public information programmes for the purchasers/operators of residential combustion appliances can be effective in achieving this goal.

E. *Firing installations for wood (<50 MW capacity)*

47. Measurement results for wood-firing installations indicate that PCDD/F emissions above 0,1 ng TE/m³ occur in waste gases especially during unfavourable burn-out conditions and/or when the substances burned have a higher content of chlorinated compounds than normal untreated wood. An indication of poor firing is the total carbon concentration in the waste gas. Correlations have been found between CO emissions, burn-out quality and PCDD/F emissions. Table 3 summarises some emission concentrations and factors for wood-firing installations.

Table 3

Quantity-related emission concentrations and factors for woodfiring installations

Fuel	Emission concentration (ng TE/m ³)	Emission factor (ng TE/kg)	Emission factor (ng/GJ)
Natural wood (beech tree)	0,02-0,10	0,23-1,3	12-70
Natural wood chips from forests	0,07-0,21	0,79-2,6	43-140
Chipboard	0,02-0,08	0,29-0,9	16-50

Fuel	Emission concentration (ng TE/m ³)	Emission factor (ng TE/kg)	Emission factor (ng/GJ)
Urban waste wood	2,7-14,4	26-173	1 400-9 400
Residential waste	114	3 230	
Charcoal	0,03		

48. The combustion of urban waste wood (demolition wood) in moving grates leads to relatively high PCDD/F emissions, compared to non-waste wood sources. A primary measure for emission reduction is to avoid the use of treated waste wood in wood-firing installations. Combustion of treated wood should be undertaken only in installations with the appropriate flue-gas cleaning to minimize PCDD/F emissions.

V. Control techniques for the reduction of PAH emissions

A. Coke production

49. During coke production, PAHs are released into the ambient air mainly:
- (a) when the oven is charged through the charging holes;
 - (b) by leakages from the oven door, the ascension pipes and the charging hole lids; and
 - (c) during coke pushing and coke cooling.
50. Benzo(a)pyrene (BaP) concentration varies substantially between the individual sources in a coke battery. The highest BaP concentrations are found on the top of the battery and in the immediate vicinity of the doors.
51. PAH from coke production can be reduced by technically improving existing integrated iron and steel plants. This might entail the closure and replacement of old coke batteries and the general reduction in coke production, for instance by injecting high-value coal in steel production.
52. A PAH reduction strategy for coke batteries should include the following technical measures:
- (a) charging the coke ovens:
 - particulate matter emission reduction when charging the coal from the bunker into the charging cars,
 - closed systems for coal transfer when coal pre-heating is used,
 - extraction of filling gases and subsequent treatment, either by passing the gases into the adjacent oven or by passing via a collecting main to an incinerator and a subsequent dedusting device. In some cases the extracted filling gases may be burned on the charging cars, but the environmental performance and safety of these charging-car-based systems is less satisfactory. Sufficient suction should be generated by steam or water injection in the ascension pipes;
 - (b) emissions at charging hole lids during coking operation should be avoided by:
 - using charging hole lids with highly efficient sealing,
 - luting the charging hole lids with clay (or equally effective material) after each charging operation,
 - cleaning the charging hole lids and frames before closing the charging hole,
 - keeping oven ceilings free from coal residuals;
 - (c) ascension pipe lids should be equipped with water seals to avoid gas and tar emissions, and the proper operation of the seals should be maintained by regular cleaning;
 - (d) coke oven machinery for operating the coke oven doors should be equipped with systems for cleaning the seals and surfaces on the oven door frames and oven doors;

- (e) coke oven doors:
 - highly effective seals should be used (e.g. spring-loaded membrane doors),
 - seals on the oven doors and door frames should be cleaned thoroughly at every handling operation,
 - doors should be designed in a manner that allows the installation of particulate matter extraction systems with connection to a dedusting device (via a collecting main) during pushing operations;
 - (f) the coke transfer machine should be equipped with an integrated hood, stationary duct and stationary gas cleaning system (preferably a fabric filter);
 - (g) low-emission procedures should be applied for coke cooling, e.g. dry coke cooling. The replacement of a wet quenching process by dry coke cooling should be preferred, so long as the generation of waste water is avoided by using a closed circulation system. The dusts generated when dry quenched coke is handled should be reduced.
53. A coke-making process referred to as 'non-recovery coke-making' emits significantly less PAH than the more conventional by-product recovery process. This is because the ovens operate under negative pressure, thereby eliminating leaks to the atmosphere from the coke oven doors. During coking, the raw coke oven gas is removed from the ovens by a natural draught, which maintains a negative pressure in the ovens. These ovens are not designed to recover the chemical by-products from raw coke oven gas. Instead, the offgases from the coking process (including PAH) are burned efficiently at high temperatures and with long residence times. The waste heat from this incineration is used to provide the energy for coking, and excess heat may be used to generate steam. The economics of this type of coking operation may require a cogeneration unit to produce electricity from the excess steam. Currently there is only one non-recovery coke plant operating in the United States, and one is in operation in Australia. The process is basically a horizontal sole-flue non-recovery coke oven with an incineration chamber adjoining two ovens. The process provides for alternate charging and coking schedules between the two ovens. Thus, one oven is always providing the incineration chamber with coke gases. The coke gas combustion in the incineration chamber provides the necessary heat source. The incineration chamber design provides the necessary dwell time (approximately one second) and high temperatures (minimum of 900 °C).
54. An effective monitoring programme for leakages from coke oven door seals, ascension pipes and charging hole lids should be operated. This implies the monitoring and recording of leakages and immediate repair or maintenance. A significant reduction of diffuse emissions can thus be achieved.
55. Retrofitting existing coke batteries to facilitate condensation of flue gases from all sources (with heat recovery) results in a PAH reduction of 86 % to more than 90 % in air (without regard to waste water treatment). Investment costs can be amortised in five years, taking into account recovered energy, heated water, gas for synthesis and saved cooling water.
56. Increasing coke oven volumes results in a decrease in the total number of ovens, oven door openings (amount of pushed ovens per day), number of seals in a coke battery and consequently PAH emissions. Productivity increases in the same way by decreasing operating and personnel costs.
57. Dry coke cooling systems require a higher investment cost than wet methods. Higher operating costs can be compensated for by heat recovery in a process of pre-heating the coke. The energy efficiency of a combined dry coke cooling/coal pre-heating system rises from 38 to 65 %. Coal pre-heating boosts productivity by 30 %. This can be raised to 40 % because the coking process is more homogeneous.
58. All tanks and installations for the storage and treatment of coal tar and coal tar products must be equipped with an efficient vapour recovery return and/or vapour destruction system. The operating costs of vapour destruction systems can be reduced in an autothermal after-burning mode if the concentration of the carbon compounds in the waste is high enough.
59. Table 4 summarises PAH emission reduction measures in coke production plants.

Table 4

PAH emission control for coke production

Management options	Emission level (%) (a)	Estimated costs	Management risks
Retrofitting of old plants with condensation of emitted flue gases from all sources includes the following measures:	Total < 10 (without waste water)	High	Emissions to waste water by wet quenching are very high. This method should be applied only if the water is reused in a closed cycle.
— evacuation and after-burning of the filling gases during charging of ovens or passing the gases into the adjacent oven as far as possible,	5	(Amortisation of investment costs, taking into account energy recovery, heated water, gas for synthesis and saved cooling water, may be five years.)	
— emissions at charging hole lids should be avoided as far as possible, e.g. by special hole lid construction and highly effective sealing methods. Coke oven doors with highly effective sealings should be used. Cleaning of charging hole lids and frames before closing the charging hole,	< 5		
— waste gases from pushing operations should be collected and fed to a dedusting device,	< 5		
— quenching during coke cooling by wet methods only if properly applied without waste water.			
Low emission procedures for coke cooling, e.g. dry coke cooling.	No emissions into water	Higher investment costs than for wet cooling (but lower costs by preheating of coke and use of waste heat.)	
Increasing the use of high-volume ovens to lower the number of openings and the surface of sealing areas.	Considerable	Investment about 10 % higher than conventional plants.	In most cases total retro-fitting or the installation of a new cokery is needed.

(a): Remaining emission compared to unreduced mode.

B. Anode production

60. PAH emissions from anode production have to be dealt with in a similar fashion as those from coke production.

61. The following secondary measures for emission reduction of PAH-contaminated dust are used:

- (a) electrostatic tar precipitation;
- (b) combination of a conventional electrostatic tar filter with a wet electrostatic filter as a more efficient technical measure;
- (c) thermal after-burning of the waste gases; and
- (d) dry scrubbing with limestone/petroleum coke or aluminum oxide (Al_2O_3).

62. The operating costs in thermal after-burning can be reduced in an autothermal after-burning mode if the concentration of carbon compounds in the waste gas is high enough. Table 5 summarises PAH emission control measures for anode production.

Table 5

PAH emission control for anode production

Management options	Emission level (%) (a)	Estimated costs	Management risks
Modernisation of old plants by reducing diffuse emissions with the following measures: — reduction of leakages, — installation of flexible sealants at the oven doors — evacuation of filling gases and subsequent treatment, either by passing the gases into the adjacent oven or by passing the gases via a collecting main to an incinerator and a subsequent dedusting device on the ground, — operating and coke oven cooling systems, and — evacuation and purification of particulate emissions from coke.	3-10	High	
Established technologies for anode production in the Netherlands: — new kiln with dry scrubber (with limestone/petroleum cokes or with aluminium), — effluent recycling in paste unit.	45-50		Implemented in the Netherlands in 1990. Scrubbing with limestone or petroleum cokes is effective for reducing PAH; with aluminium not known.
BAT: — electrostatic dust precipitation, and — thermal after-burning.	2-5 15	Lower operating costs in an auto-thermal mode	Regular cleaning of tar is needed Operating in autothermal mode only if the concentration of PAH in the waste gas is high.

(a): Remaining emission compared to unreduced mode.

C. Aluminium industry

63. Aluminium is produced from aluminium oxide (Al_2O_3) by electrolysis in pots (cells) electrically connected in series. Pots are classified as prebake or Soederberg pots, according to the type of the anode.
64. Prebake pots have anodes consisting of calcined (baked) carbon blocks, which are replaced after partial consumption. Soederberg anodes are baked in the cell, with a mixture of petroleum coke and coal tar pitch acting as a binder.
65. Very high PAH emissions are released from the Soederberg process. Primary abatement measures include modernization of existing plants and optimization of the processes, which could reduce PAH emissions by 70 to 90 %. An emission level of 0,015 kg B(a)P/tonne of Al could be reached. Replacing the existing Soederberg cells by prebaked ones would require major reconstruction of the existing process, but would nearly eliminate the PAH emissions. The capital costs of such replacements are very high.
66. Table 6 summarises PAH emission control measures for aluminium production.

Table 6

PAH emission control for aluminium production using the Soederberg process

Management options	Emission level (%) (a)	Estimated costs	Management risks
Replacement of Soederberg electrodes by:	3-30	Higher costs for electrodes about USD 800 million	Soederberg electrodes are cheaper than prebaked ones, because no anode baking plant is needed. Research is in progress, but expectations are low. Efficient operation and monitoring of emission are essential parts of emission control. Poor performance could cause significant diffuse emissions.
— prebaked electrodes (avoidance of pitch binders),			
— inert anodes.			
Closed prebake systems with point feeding of alumina and efficient process control, hoods covering the entire pot and allowing efficient collection of air pollutants.	1-5		
Soederberg pot with vertical contact bolts and waste gas collection systems.	> 10	Retrofit of Soederberg technology by encapsulation and modified feeding point: USD 50 000 to 10 000 per furnace	Diffuse emissions occur during feeding, crust breaking and lifting of iron contact bolts to a higher position.
Sumitomo technology(anode briquettes for VSS process):		Low to medium	
Gas cleaning:			
— electrostatic tar filters,	2-5	Low	High rate of sparking and electrical arcing; Wet gas-cleaning generates waste water.
— combination of conventional electrostatic tar filters with electrostatic wet gas cleaning;	> 1	Medium	
— thermal after-burning.			
Pitch use with higher melting point (HSS + VSS).	High	Low to medium	
Use of dry scrubbing in existing HSS + VSS plants.		Medium to high	

(a).: Remaining emission compared to unreduced mode.

D. Residential combustion

67. PAH emissions from residential combustion can be detected from stoves or open fireplaces especially when wood or coal is used. Households could be a significant source of PAH emissions. This is the result of the use of fireplaces and small firing installations burning solid fuels in households. In some countries the usual fuel for stoves is coal. Coal-burning stoves emit less PAH than wood-burning ones, because of their higher combustion temperatures and more consistent fuel quality.
68. Furthermore, combustion systems with optimised operation characteristics (e.g. burning rate) effectively control PAH emissions from residential combustion. Optimised combustion conditions include optimised combustion chamber design and optimised supply of air. There are several techniques which optimise combustion conditions and reduce emissions. There is a significant difference in emissions between different techniques. A modern wood-fired boiler with a water accumulation tank, representing BAT, reduces the emission by more than 90 % compared to an outdated boiler without a water accumulation tank. A modern boiler has three different zones: a fireplace for the gasification of wood, a gas combustion zone with ceramics or other material which allow temperatures of some 1 000 °C, and a convection zone. The convection part where the water absorbs the heat should be sufficiently long and effective so that the gas temperature can be reduced from 1 000 °C to 250 °C or less. There are also several techniques to supplement old and outdated boilers, for example with water accumulation tanks, ceramic inserts and pellet burners.

69. Optimised burning rates are accompanied by low emissions of carbon monoxide (CO), total hydrocarbons (THC) and PAHs. Setting limits (type approval regulations) on the emission of CO and THCs also affects the emission of PAHs. Low emission of CO and THCs results in low emission of PAHs. Since measuring PAH is far more expensive than measuring CO, it is more cost-effective to set a limit value for CO and THCs. Work is continuing on a proposal for a CEN standard for coal- and wood-fired boilers up to 300 kW (see table 7).

Table 7

Draft CEN standards in 1997

Class	Effect (kW)	3	2	1	3	2	1	3	2	1
		CO			THC			Particulates		
Manual	< 50	5 000	8 000	25 000	150	300	2 000	150/125	180/150	200/180
	> 50-150	2 500	5 000	12 500	100	200	1 500	150/125	180/150	200/180
	> 150-300	1 200	2 000	12 500	100	200	1 500	150/125	180/150	200/180
Automatic	< 50	3 000	5 000	15 000	100	200	1 750	150/125	180/150	200/180
	> 50-150	2 500	4 500	12 500	80	150	1 250	150/125	180/150	200/180
	> 150-300	1 200	2 000	12 500	80	150	1 250	150/125	180/150	200/180

Note: Emission levels in mg/m³ at 10 % O₂.

70. Emissions from residential wood combustion stoves can be reduced:

- For existing stoves, by public information and awareness programmes regarding proper stove operation, the use of untreated wood only, fuel preparation procedures and the correct seasoning of wood for moisture content; and
- For new stoves, by the application of product standards as described in the draft CEN standard (and equivalent product standards in the United States and Canada).

71. More general measures for PAH emission reduction are those related to the development of centralized systems for households and energy conservation such as improved thermal insulation to reduce energy consumption.

72. Information is summarised in table 8.

Table 8

PAH emission control for residential combustion

Management options	Emission level (%) (a)	Estimated costs	Management risks
Use of dried coal and wood (dried wood is wood stored for at least 18 to 24 months).	High effectiveness	Medium	Negotiations have to be held with stove manufacturers to introduce an approval scheme for stoves.
Use of dried coal	High effectiveness		
Design of heating systems for solid fuels to provide optimized complete burning conditions: — gasification zone, — combustion with ceramics, — effective convection zone.	55		
Water accumulation tank	30 to 40	Low	Might be achieved also by vigorous public education, combined with practical instructions and stove type regulation.
Technical instructions for efficient operation.			
Public information programme concerning the use of wood burning stoves.			

(a): Remaining emission compared to unreduced mode.

E. Wood preservation installations

73. Wood preservation with PAH-containing coal-tar products may be a major source of PAH emissions to the air. Emissions may occur during the impregnation process itself as well as during storage, handling and use of the impregnated wood in the open air.
74. The most widely used PAH-containing coal-tar products are carbolineum and creosote. Both are coal-tar distillates containing PAHs for the protection of timber (wood) against biological attack.
75. PAH emissions from wood preservation, installations and storage facilities may be reduced using several approaches, implemented either separately or in combination, such as:
- (a) requirements on storage conditions to prevent pollution of soil and surface water by leached PAH and contaminated rainwater (e.g. storage sites impermeable to rainwater, roof cover, reuse of contaminated water for the impregnation process, quality demands for the material produced);
 - (b) measures to reduce atmospheric emissions at impregnation plants (e.g. the hot wood should be cooled down from 90 °C to 30 °C at least before transport to storage sites. However, an alternative method using pressure steam under vacuum conditions to impregnate the wood with creosote should be highlighted as BAT);
 - (c) the optimum loading of wood preservative, which gives adequate protection to the treated wood product *in situ*, can be regarded as a BAT as this will reduce the demand for replacements, thereby reducing emissions from the wood preservation installations;
 - (d) using wood preservation products with a lower content of those PAHs that are POPs:
 - possibly using modified creosote which is taken to be a distillation fraction boiling between 270 °C and 355 °C, which reduces both the emissions of the more volatile PAHs and the heavier, more toxic PAHs;
 - discouraging the use of carbolineum would also reduce PAH emissions;
 - (e) Evaluating and then using, as appropriate, alternatives, such as those in table 9, that minimize reliance on PAH-based products.
76. Burning of impregnated wood gives rise to PAH emissions and other harmful substances. If burning does take place, it should be done in installations with adequate abatement techniques.

Table 9

Possible alternatives to wood preservation involving PAH-based products

Management options	Management risks
Use of alternative materials for application in construction: — sustainably produced hardwood (riverbanks, fences, gates), — plastics (horticulture posts), — concrete (railway sleepers), — replacement of artificial constructions by natural ones (such as riverbanks, fences, etc.), — use of untreated wood. There are several alternative wood preserving techniques in development which do not include impregnation with PAH based products.	Other environmental problems have to be evaluated such as: — availability of suitably produced wood, — emissions caused by the production and disposal of plastics, especially PVC.

ANNEX VI

**TIMESCALES FOR THE APPLICATION OF LIMIT VALUES AND BEST AVAILABLE TECHNIQUES TO NEW
AND EXISTING STATIONARY SOURCES**

The timescales for the application of limit values and best available techniques are:

- (a) for new stationary sources: two years after the date of entry into force of the present Protocol;
- (b) for existing stationary sources: eight years after the date of entry into force of the present Protocol. If necessary, this period may be extended for specific existing stationary sources in accordance with the amortisation period provided for by national legislation.

ANNEX VII

RECOMMENDED CONTROL MEASURES FOR REDUCING EMISSIONS OF PERSISTENT ORGANIC POLLUTANTS FROM MOBILE SOURCES

1. Relevant definitions are provided in Annex III to the present Protocol.

I. Achievable emission levels for new vehicles and fuel parameters*A. Achievable emission levels for new vehicles*

2. Diesel-fuelled passenger cars

Year	Reference mass	Limit values	
		Mass of hydrocarbons and NO _x	Mass of particulates
1.1.2000	All	0,56 g/km	0,05 g/km
1.1.2005 (indicative)	All	0,3 g/km	0,25 g/km

3. Heavy-duty vehicles

Year/test cycle	Limit values	
	Mass of hydrocarbons	Mass of particulates
1.1.2000/ESC cycle	0,66 g/kWh	0,1 g/kWh
1.1.2000/ETC cycle	0,85 g/kWh	0,16 g/kWh

4. Off-road engines

Step 1 (reference: Regulation (EEC) No 96 (*))

Net power (P) (kW)	Mass of hydrocarbons	Mass of particulates
$P \geq 130$	1,3 g/kWh	0,54 g/kWh
$75 \leq P < 130$	1,3 g/kWh	0,70 g/kWh
$37 \leq P < 75$	1,3 g/kWh	0,85 g/kWh

(*) 'Uniform provisions concerning the approval of compression ignition (CI) engines to be installed in agricultural and forestry tractors with regard to the emissions of pollutants by the engine.' The Regulation came into force on 15 December 1995 and its amendment came into force on 5 March 1997.

Step 2

Net power (P) (kW)	Mass of hydrocarbons	Mass of particulates
$0 \leq P < 18$		
$18 \leq P < 37$	1,5 g/kWh	0,8 g/kWh
$37 \leq P < 75$	1,3 g/kWh	0,4 g/kWh
$75 \leq P < 130$	1,0 g/kWh	0,3 g/kWh
$130 \leq P < 560$	1,0 g/kWh	0,2 g/kWh

B. Fuel parameters

5. Diesel fuel

Parameter	Unit	Limits		Test method
		Minimum value (2000/2005) (*)	Maximum value (2000/2005) (*)	
Cetane number	—	51/NS	—	ISO 5165
Density at 15 °C	kg/m ³	—	845/NS	ISO 3675
Evaporated 95 %	°C	—	360/NS	ISO 3405
PAH	mass %	—	11/NS	prIP 391
Sulphur	ppm	—	350/50 (**)	ISO 14956

NS: Not specified.

(*) 1 January of year specified.

(**) Indicative value.

II. Restriction of halogenated scavengers, additives in fuels and lubricants

6. In some countries, 1,2-dibromomethane in combination with 1,2-dichloromethane is used as a scavenger in leaded petrol. Moreover, PCDD/F are formed during the combustion process in the engine. The application of three-way catalytic converters for cars will require the use of unleaded fuel. The addition of scavengers and other halogenated compounds to petrol and other fuels and to lubricants should be avoided as far as possible.
7. Table 1 summarizes measures for PCDD/F emission control from the exhaust from road transport motor vehicles.

Table 1

PCDD/F emission control for the exhaust from road transport motor vehicles

Management options	Management risks
Avoiding adding halogenated compounds to fuels — 1,2-dichloromethane — 1,2-dichloromethane and corresponding bromo compounds as scavengers in leaded fuels for spark ignition engines (Bromo compounds may lead to the formation of brominated dioxins or furans) Avoiding halogenated additives in fuels and lubricants.	Halogenated scavengers will be phased out as the market for leaded petrol shrinks because of the increasing use of closed-loop three-way catalytic converters with spark ignition engines.

III. Control measures for emissions of POPs from mobile sources

A. POP emissions from motor vehicles

8. POP emissions from motor vehicles occur as particle-bound PAHs emitted from diesel-fuelled vehicles. To a minor extent PAHs are also emitted by petrol-fuelled vehicles.
9. Lubrication oil and fuels may contain halogenated compounds as a result of additives or the production process. These compounds may be transformed during combustion into PCDD/F and subsequently emitted with the exhaust gases.

B. Inspection and maintenance

10. For diesel-fuelled mobile sources, the effectiveness of the control of emissions of PAHs may be ensured through programmes to test the mobile sources periodically for particulate emissions, opacity during free acceleration, or equivalent methods.
11. For petrol-fuelled mobile sources, the effectiveness of the control of emissions of PAHs (in addition to other exhaust components) may be ensured through programmes to test periodically the fuel metering and the efficiency of the catalytic converter.

C. Techniques to control PAH emissions from diesel- and petrol-fuelled motor vehicles

1. General aspects of control technologies

12. It is important to ensure that vehicles are designed to meet emission standards while in service. This can be done by ensuring conformity of production, lifetime durability, warranty of emission-control components, and recall of defective vehicles. For vehicles in use, continued emission control performance can be ensured by an effective inspection and maintenance programme.

2. Technical measures for emission control

13. The following measures to control PAH emissions are important:

- (a) Fuel-quality specifications and engine modifications to control emissions before they are formed (primary measures); and
- (b) Addition of exhaust treatment systems, e.g. oxidising catalysts or particle traps (secondary measures).

(1) Diesel engines

14. Diesel-fuel modification can yield two benefits: a lower sulphur content reduces emissions of particles and increases the conversion efficiency of oxidising catalysts, and the reduction in di- and tri-aromatic compounds reduces the formation and emission of PAHs.
15. A primary measure to reduce emissions is to modify the engine to achieve more complete combustion. Many different modifications are in use. In general, vehicle exhaust composition is influenced by changes in combustion chamber design and by higher fuel injection pressures. At present, most diesel engines rely on mechanical engine control systems. Newer engines increasingly use computerised electronic control systems with greater potential flexibility in controlling emissions. Another technology to control emissions is the combined technology of turbocharging and intercooling. This system is successful in reducing NO_x as well as increasing fuel economy and power output. For heavy- and light-duty engines the use of intake manifold tuning is also a possibility.
16. Controlling the lubricating oil is important to reduce particulate matter (PM), as 10 to 50 % of particulate matter is formed from engine oil. Oil consumption can be reduced by improved engine manufacturing specifications and improved engine seals.
17. Secondary measures to control emissions are additions of exhaust treatment systems. In general, for diesel engines the use of an oxidising catalyst in combination with a particulate filter has been shown to be effective in reducing PAH emissions. A particle trap oxidizer is being evaluated. It is located in the exhaust system to trap PM and can provide some regeneration of the filter by burning the collected PM, through electrical heating of the system or some other means of regeneration. For proper regeneration of passive system traps during normal operation, a burner-assisted regeneration system or the use of additives is required.

(2) Petrol engines

18. PAH-reduction measures for petrol-fuelled engines are primarily based on the use of a closed-loop three-way catalytic converter, which reduces PAHs as part of the HC emission reductions.
19. Improved cold start behaviour reduces organic emissions in general and PAHs in particular (for instance start-up catalysts, improved fuel evaporation/atomization, heated catalysts).
20. Table 2 summarises measures for PAH emission control from the exhaust from road transport motor vehicles.

Table 2*PAH emission control for the exhaust from road transport motor vehicles*

Management options	Emission level (%)	Management risks
Spark ignition engines:	10 to 20	Availability of unleaded petrol.
— closed-loop three-way catalytic converter,	5 to 15	Commercially available in some countries.
— catalysts for reducing cold start emissions.		Availability of refinery capacity.
Fuel for spark ignition engines:		
— reduction of aromatics,		
— reduction of sulphur.		
Diesel engines:	20 to 70	Availability of refinery capacity.
— oxidizing catalyst,		
— trap oxidizer/particulate filter.		
Diesel fuel modification:		
— reduction of sulphur to reduce particulate emissions.		
Improvement of diesel engine specifications:		Existing technologies.
— electronic control system, injection rate adjustment and high-pressure fuel injection,		
— turbocharging and intercooling,		
— exhaust gas recirculation.		

ANNEX VIII

MAJOR STATIONARY SOURCE CATEGORIES

I. Introduction

Installations or parts of installations for research, development and the testing of new products are not covered by this list. A more complete description of the categories may be found in Annex V.

II. List of categories

Category	Description of the category
1	Incineration, including co-incineration, of municipal, hazardous or medical waste, or of sewage sludge.
2	Sinter plants.
3	Primary and secondary production of copper.
4	Production of steel.
5	Smelting plants in the secondary aluminium industry.
6	Combustion of fossil fuels in utility and industrial boilers with a thermal capacity above 50 MW _{th} .
7	Residential combustion.
8	Firing installations for wood with a thermal capacity below 50 MW _{th} .
9	Coke production.
10	Anode production.
11	Aluminium production using the Soederberg process.
12	Wood preservation installations, except for a Party for which this category does not make a significant contribution to its total emissions of PAH (as defined in Annex III).

COMMISSION

COMMISSION DECISION

of 30 April 2003

on the aid scheme which Italy — Tuscany Region — is planning to implement for the reduction of the greenhouse gasses emissions

(notified under document number C(2003) 1327)

(Only the Italian text is authentic)

(Text with EEA relevance)

(2004/260/EC)

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

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

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

Having regards to the Decision C(2002)3585 fin ⁽¹⁾, by which the Commission decided to initiate the procedure laid down in Article 88(2) of the Treaty, in respect of part of the aid C60/2002 (ex N747/2001),

Having called on interested parties to submit their comments pursuant to the provisions cited above,

Whereas:

(3) The Italian authorities, after a request for a prorogation, submitted information on 6 June 2002, by letter A/34113 (the legal basis was provided for the first time, annexed to the latter) and sent additional documents by letter A/34291 of 12 June 2002.

(4) By letter D/53543 of 6 July 2002, the Commission asked for further information, which the Italian authorities submitted by letter A/36074 of 8 August 2002. By the same letter the Italian authorities declared they considered the preliminary examination of the notification to be closed, following their reply.

(5) In that case, according to Article 5(3) of procedure Regulation No 659/1999 ⁽²⁾, the period of two months, referred to in Article 4(5) of the same regulation, begins on the day following receipt of the statement. As a consequence, within this time, the Commission has to take a decision on the notified aid.

1. PROCEDURE

(1) By letter dated 6 November 2001, registered by the Commission on 9 November 2001 (A/38755), the Italian authorities notified, pursuant to Article 88(3) of the EC Treaty, the abovementioned aid scheme.

(2) By letter D/55204 of 13 December 2001 the Commission requested additional information regarding the notified scheme. As the information provided by the Italian authorities by both letters A/30363 of 18 January 2002 and A/31888 of 12 March 2002, was incomplete, the Commission sent two reminders on 21 February (D/50737) and 25 April 2002 (D/51984), pursuant to Art.5(2)of Council Regulation 659/1999 ⁽³⁾.

(6) Accordingly, the Commission informed Italy, by letter dated 04.10.2002 (SG(2002)D/231959), that it had decided to initiate the procedure laid down in Article 88(2) of the EC Treaty in respect of part of the aid in hand.

(7) The Commission decision to initiate the procedure was published in the *Official Journal of the European Communities* ⁽⁴⁾. The Commission called on interested parties to submit their comments.

(8) The Commission received no comments from interested parties.

⁽¹⁾ OJ C 331, 31.12.2002, p. 50.

⁽²⁾ Council Regulation (EC) No 659/1999 of 22 March 1999 laying down detailed rules for the application of Article 93 of the EC Treaty (OJ L 83 of 27.3.1999, p. 1).

⁽³⁾ See footnote 2

⁽⁴⁾ See footnote 1

(9) The official response of Italy was submitted by letter of 13.12.2002 (A/39170).

(ii) 3 % of the global energy consumption derived from renewable sources,

(iii) energy saving equal to 25 000 tonnes of oil.

2. DETAILED DESCRIPTION OF THE AID SCHEME

2.1. Legal basis and object of the aid

(10) The legal basis is constituted by the Decision No 481 of the Regional Executive of the Tuscany Region of 20 May 2002. The scheme is intended to reduce the greenhouse gasses emissions through the promotion of renewable energy sources and energy saving programmes.

(11) The scheme involves two types of aid:

(a) Investment aid to promote the utilisation of renewable sources of energy to produce electrical power and heat, through the implementation of:

(i) new biomass installations, preferably integrated with district-heating networks,

(ii) new solar energy installations,

(iii) new photovoltaic plants,

(iv) new renewable energy installations (wind energy, solid biodegradable municipal waste and biogasses) serving the needs of minor islands;

(b) Energy saving measures,

(i) housing sector interventions,

(ii) promotion and spread of heating/conditioning systems and high efficiency electrical components in the housing sector, private and public office buildings,

(iii) implementation of high efficiency electrical components inside factories,

(iv) promotion of a wider utilisation of low environmental impact fuels or a more efficient use of fuel in the industrial sector.

(12) The expected overall environmental goals of the whole scheme, over the period 2002-2007, are:

(i) lower atmosphere pollution, engendered by greenhouse gasses, corresponding to 700 000 tonnes CO₂,

2.2. Form of the aid and investments concerned

(13) The aid is provided in the form of non-refundable grants.

(14) The investments concerned are as follows:

(a) land, which are strictly necessary in order to meet environmental objectives, up to a maximum percentage of 10 % of total eligible costs;

(b) buildings, plant and equipment intended to reduce or eliminate pollution and nuisances and investments to adapt production methods with a view to protecting the environment;

(c) directly linked expenditures for planning, work supervising and testing, if compulsory and on an account-rendering basis.

2.3. Aid intensity, recipients and eligible costs

(15) The intensity of aid is set as follows:

(a) In the case of investment aid promoting renewable sources of energy:

(i) 40 % gross of eligible investment costs for new biomass installations,

(ii) 30 % gross of the eligible investment costs for heat production plants from solar energy,

(iii) 75 % gross of the eligible costs relating to new photovoltaic installations;

(iv) 40 % gross of the eligible costs of new renewable sources installations serving the needs of minor islands, using wind, solid biodegradable municipal waste and biogasses sources.

(b) As it concerns energy saving investments:

40 % gross of the eligible costs for all kinds of intervention.

- (16) All undertakings (small, medium and large) are eligible. The scheme does not apply to activities linked to the production, processing or marketing of products listed in Annex I to the Treaty.

2.4. Budget and duration

- (17) The overall budget foreseen is EUR 29 million over the whole duration of the regime (i.e. 2002-2007).

2.5. Cumulation of aid

- (18) Aid in respect of eligible costs under this scheme may not be combined with any other aid in the sense of Article 87(1) of the Treaty, neither with other community subsidy.

3. GROUNDS FOR INITIATING THE PROCEDURE

- (19) The submeasures 'new biomass installations', 'new solar energy installations' and 'new renewable energy installations serving the needs of minor islands' of the measure (a) 'investment aid promoting renewable sources of energy' have been assessed by the Commission in the light of the Community guidelines for environmental protection ⁽⁵⁾, hereinafter also referred to as 'the guidelines'. They have been deemed in compliance with point 32 of the mentioned guidelines and have been consequently authorised, pursuant to Article 87(3)(c) of the Treaty, by means of the same decision C(2002) 3585fin, initiating the present proceedings.

3.1. Doubts with regard to the measure concerning 'new photovoltaic installations' promoting renewable sources of energy ⁽⁶⁾

- (20) In the course of the preliminary examination of the notification, the Commission pointed out that the proposed maximum aid intensity of 75 %, seemed not to be compatible, save on the basis of point 32, third subparagraph of the guidelines, and asked the Italian authorities to demonstrate the necessity of such a rate of aid, with reference to the basic rate of aid of 40 %, normally allowed for investments in support of these forms of energy.

- (21) As no data was provided, the Commission confirmed, in its decision to initiate the formal investigation procedure, it harboured doubts as to whether the conditions laid down at point 32, third subparagraph, of the guidelines were met, namely as it concerns the necessity to allow the rate of aid of 75 %, foreseen by the scheme in support of new photovoltaic installations.

3.2. Doubts with regard to the energy saving measures ⁽⁷⁾

- (22) It had been underlined by the Commission that the environmental guidelines state, at point 30, that investments in energy saving as defined in point 6, are deemed equivalent to investments to promote environmental protection, provided they are in accordance with the requirements laid down at point 36. Therefore, the Italian authorities had been asked to explain in a more detailed way what the single types of aid laid down in measure (b) of the notified scheme, consisted in.
- (23) According to the information provided, some eligible investments, envisaged by the planned scheme, concerning namely the intervention in the housing sector and the implementation of high efficiency electrical components, seemed only regard control and measurement of energy consumption, instead of reduction of energy consumption. As regards the aid aiming at a wider utilisation of low environmental impact fuels or a more efficient use of fuel in the industry sector, it seemed to be intended to contribute to the substitution of polluting fuels. Whereas collocated among the energy saving measures, the latter appeared to be aimed rather at reducing pollution.
- (24) Consequently the Commission expressed its doubts as to whether the above mentioned investments, aiming at the energy consumption control and measurement, could qualify as energy saving measures. The Commission found that they could eventually represent a part of an energy saving project, in connection with other measures, but could not be deemed to constitute energy saving investments on their own.
- (25) Moreover the Commission harboured doubts as to whether the substitution of polluting fuels by other kinds of fuels, supposed to be less polluting, could be eligible for environmental aid, as the measure was too broadly described and did not foresee explicitly any link between the aid and the expected pollution reduction, at the level of the single recipient. In addition, in the opinion of the Commission, even if such a measure were to be eligible as an aid aimed at reducing pollution, an intensity of 30 % would be acceptable, instead of 40 % as notified.

⁽⁵⁾ OJ C 37, 3.2.2001, p. 3.

⁽⁶⁾ See point 11(a)(iii).

⁽⁷⁾ See point 11(b).

4. COMMENTS FROM ITALY

4.1. Concerning the sub-measure related to new photovoltaic installations promoting renewable sources of energy ⁽⁸⁾

- (26) In their comments, the Italian authorities take the view that the granting of aid up to the maximum intensity of 75 % is absolutely necessary to make the photovoltaic installations spread over the territory of the region, as the investment costs, required by this renewable source of energy, are significantly higher, even if related to the more expensive among the other renewable sources of energy. In their opinion, the basic aid intensity of 40 %, envisaged at point 32, first sub-paragraph, of the guidelines in support to renewable sources of energy, will deter the potential investors, where photovoltaic installations are concerned.
- (27) To this purpose, a study has been joined, showing the non-profitability of 5 different options of photovoltaic installations, through the comparison of investment costs, effective production of energy, envisaged gross annual proceeds, deriving from the sale of energy on the basis of a price of 0,18 EUR/kWh, and pay-back time of the investments without any aid.
- (28) The outcome of this study is summarised in the following schedule:

Capacity	Investment cost (EUR)	Effective production (kWh/day)	Gross annual proceeds in EUR	PBT (pay back time) without aid (in years)
0,2 kW	1 370,00	5,12	42,00	32
0,2 kW	3 320,00	0,64	42,00	79
1,6 kW	17 800,00	0,64	336,00	53
5 kW	38 280,00	16,00	1 051,20	36
50 kW	347 050,00	160,00	10 512,00	33

- (29) The double hypothesis of installation with the same capacity (0,2 kW) is due to the different purposes pursued. The former aims at producing electricity for marginal purposes (i.e. a weather forecast local plant or the lighting of an isolated country cemetery); the latter is intended to work as a water lifting apparatus for agricultural purposes (the appreciable difference in cost is due to the necessity of a pump for the specific aim). Both imply the 'isle-technology' (installation not linked to the distribution network); likewise in the case of the 1,6 kw installation. On the contrary, in both the hypothesis of more powerful installations (5 and 50 kW), the connection to the distribution network is envisaged.

⁽⁸⁾ See point 11(a)(iii).

- (30) According to this study, the pay back time of such kind of investment, in the absence of any aid, would be 32 to 79 years. Therefore, given the average time life of this kind of installations, which is 25 to 30 years, nobody would undertake such an investment.
- (31) Moreover, the Italian authorities confirmed their commitment to respect point 37, first and fourth subparagraph, of the guidelines, concerning calculation of extra costs, namely for renewable energies, stating that eligible costs taken into account will be the extra costs borne by the firm compared with a conventional plant with the same capacity in terms of the effective production of energy. They had already undertaken, during the notification ⁽⁹⁾, to notify separately those cases where the eligible costs would be calculated in a different way.
- (32) A schedule has been furthermore submitted, comparing the investment costs for the production of green electricity, by photovoltaic installations (linked to the distribution network) to other renewable sources (wind, mini-hydro, biogas, geothermal, biomass) and to grey electricity produced by conventional plants. This data has been obtained from a technical report of ENEA (National Agency for Energy and Environment), and more precisely by its Sustainable Development Unit.

(EUR/Kw)

Energy sources	Investment costs
photovoltaic	7 746-8 263
wind	1 033-1 291
Minihydro (0-3MW)	1 807-2 324
Biogas	1 291-1 549
Geothermal	2 324
Biomass	2 324-2 582
Non renewable	413-464

4.2. As far as energy saving measures are concerned ⁽¹⁰⁾

- (33) Following the opening of the proceedings, the Italian authorities communicated they decided to modify some eligible investments of the measure at hands. The amended list of investments taken into account, which is intended to replace the previous one, laid down in the notification, is the following one:
- (a) High efficiency heat generators;
- (b) Heat insulation;

⁽⁹⁾ See letter No 9709 of 1 August 2002, registered on 9 August 2002 as A/36098

⁽¹⁰⁾ See point 11(b).

(c) High efficiency lighting;

(d) Reheaters.

In addition they confirmed the forecast intensity of 40 %, with respect to all the submeasures.

(34) A technical report has been also enclosed, pointing out the energy saving engendered by each sub-measure, as follows:

(a) *High efficiency boilers*

(35) The basic energy saving resulting from the implementation of a boiler with conversion efficiency higher than 0,92, compared to 0,75 of the existing boiler, in a climatic zone of kind 'D', which corresponds to an average effective thermal need of 6 200 Mcal/year per boiler, is 0,15 tep/year per UA (equivalent residential unit).

(36) According to the Italian authorities, 0,02 tep/year for the increased electric consumption has to be deducted from the above mentioned rough value, while 0,05 tep/year, for the consumption decrease due to the absence of pilot light, and 0,035 tep/year, engendered by consumption decrease for the production of hot water, have to be added up.

(37) The final energy saving resulting is 0,185 tep/year, corresponding to a saving lightly exceeding EUR 150 per year, on the basis of the energy cost, for residential purpose, of 800 EUR/tep.

(b) *Heat insulation*

(38) The minimal eligible thermal resistance of the insulating materials, referred to climatic zones of 'D' kind, is 1,1 m² °K/W, which corresponds to a polystyrene equivalent thickness of 4 to 6 cm.

(39) Given a thermal conductivity, before the intervention, between 1,4 and 1,7 W/m² °K, related to insulated surfaces of 100 m², the expected outcome is an energy saving between 0,28 and 0,36 tep/year for residential buildings and between 0,24 and 0,32 in the case of offices accommodation and commercial premises.

(c) *High efficiency lighting*

(40) Various kinds of lamps are foreseen in the present measure; namely compact and tubular fluorescent lamps, mercury and sodium-vapour lamps.

(41) The average energy saving has been calculated on the basis of glow-lamps being substituted by compact fluorescent lamps with incorporated feeder. On the basis of a conversion ratio between electricity consumption and primary energy of 0,22 10⁻³ tep/kWh, and given a wattage of the substituted glowlamp of 100 W and of

the adopted fluorescent lamp of 20 W, an average running time per year of 1 000 hours, the specific energy saving resulting is 17,6 10⁻³ tep/year per lamp.

(d) *Reheaters*

(42) Heat exchangers, heat pumps and heat retainers, sweat recycling and steam recompression plants are eligible under the present submeasure. It's a matter of recycling heat otherwise lost, hence saving the energy needed to produce the same quantity of heat.

(43) In particular in the case of steam recompression plants, the energy saving (ES) is obtained as follows: $ES = (Hv - E) / 0,39 / 4,187 \cdot 10^{-4}$. As E (energy consumption in order to compress 1 kg of steam) depends on the temperature and on the enthalpy gap, we will have a range of energy saving figures, according to the following schedule:

Temperature gap (°C)	E (kJ/kg)	ES (tep/kg)
< 10	75,35	0,0494
10-20	99,52	0,0479
> 20	146,44	0,0450

The resulting primary energy saving will be consequently between 45 and 50 tep per compressed steam tonne.

(44) The Italian authorities committed themselves once again to calculate the eligible costs net of the benefit accruing from any increase in capacity, cost savings engendered during the first five years of the life of the investment and additional ancillary production during that five-year period.

5. ASSESSMENT

5.1. Presence of aid in the meaning of Article 87(1) of the EC Treaty

(45) The Commission has assessed the notified scheme on the basis of Article 87(1) of the EC Treaty. Article 87(1) 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, insofar as it affects trade between Member States, be incompatible with the common market'.

(46) The measures laid down in the planned aid scheme are realised through grants of public funding, on a discretionary basis. These grants improve the financial situation of the undertakings in receipt of aid and have the potential to affect trade between Member States. Such measures are therefore subject to Article 87(1) of the Treaty.

5.2. Legality of the aid

- (47) The Italian authorities have fulfilled their obligation under Article 88(3) of the Treaty, by notifying the scheme to the Commission before it came to effect.

5.3. Compatibility of the aid

- (48) The Commission has examined the aid measures in the light of the Community guidelines on State aid for environmental protection (hereinafter also referred to as the guidelines) ⁽¹¹⁾.

(a) *As far as photovoltaic installations are concerned*

- (49) In order to assess the necessity of the aid intensity of 75 %, relative to new photovoltaic installations, proposed by the Italian authorities, the Commission calculated the investment cost per kW in the five examples of installation, supplied by Italy, as shown in the schedule below.

Capacity	Total investment cost (EUR)	Investment cost (EUR/kW)
0,2 kW	1 370,00	6 850,00
0,2 kW ⁽¹²⁾	1 420,00	7 100,00
1,6 kW	17 800,00	11 125,00
5 kW	38 280,00	7 656,00
50 kW	347 050,00	6 941,00
Average		7 934,40

⁽¹²⁾ The cost of the pump (EUR 1 900), needed for the specific purpose foreseen, has been deducted with respect to the investment costs, as in the opinion of the Commission, it cannot represent an eligible cost, as it would be anyway necessary, even in the case of a conventional installation.

- (50) Concerning the installations proposed by the Tuscany Region, the average investment cost resulting is 7 934,40 EUR/kW, which is in line with the ENEA data, submitted enclosed to the comments of the Italian authorities. According to the latter, the investment costs per kW, related to photovoltaic installations, have to be set in a range between 7 746 and 8 263 EUR, particularly when referring to the production of electricity, linked to the distribution network.

- (51) Later on, the Commission compared the average extra costs of the sole initial investment of photovoltaic installations to the other renewable energies (wind, minihydro power, biogases, geothermal, biomass) and to non-renewable (fossil sources), as follows:

(EUR/Kw)				
Energy sources	Average investment costs (EUR/Kw)	Average extra costs (EUR/kW)	Aid intensity	Aid amount
photovoltaic	8 004	7 566	75 %	5 674
wind	1 162	720	40 %	288
minihydro(0-3MW)	2 065	1 627	40 %	651
Biogas	1 420	982	40 %	393
Geothermal	2 324	1 886	40 %	746
Biomass	2 453	2 015	40 %	806
Non renewable	438	0	0 % =	0

- (52) Although the non assisted percentage of the extra costs is equal to 25 % for the photovoltaic installations, compared to 60 % for the other renewable energies, the average contribution of the beneficiary to the extra costs of the investment is supposed to amount to 25 % of 7 566 or 1 892 EUR/kW in the case of the photovoltaic energy, while it attains only 1 209 EUR/kW (60 % of 2 015) for the most expensive among the other renewable energies (biomass plants).

- (53) The average contribution, net of any aid, of the recipients to the total investment costs, in absolute terms per kW installed, is therefore EUR 2 330 (8 004-5 674) in the case of the photovoltaic installations, compared to EUR 1 647 (2 453-806) for biomass (the most expensive after photovoltaic), EUR 874 (1 162-288) for wind (the cheapest among the renewable sources), and finally EUR 438 for conventional plants, producing grey electricity.

- (54) As it concerns the average pay back time, the Commission notes that, on the basis of an effective production of 3,2 kWh/day per 1 kW of capacity installed, it should be 11 years in the case of photovoltaic, provided a rate of aid of 75 % of the extra costs is allowed.

- (55) The Italian authorities also undertook not to allow any further support to the installations concerned.

⁽¹¹⁾ See footnote 5.

(56) In the light of the above, the Commission considers therefore sufficiently proved the necessity of the rate of aid of 75 %, in the case of the submeasure 'new photovoltaic installations', pursuant to point 32, third subparagraph of the guidelines.

(57) Nevertheless, it takes the view that a yearly report on the execution of the scheme, allowing the monitoring of the gap between the investment costs of the photovoltaic technology and those of the other renewable sources, has to be submitted by the Italian authorities.

(58) Where a risk of overcompensation arise, in particular where the average contribution - net of any aid — of the recipients to the total investment costs, in absolute terms per kW installed become lower in the case of photovoltaic installations than in other renewable energies plants, a recommendation proposing appropriate measures might be issued by the Commission to Italy, pursuant to Article 18 of procedure Regulation (EC) No 659/1999.

(b) As regards measure (b) of the scheme 'energy savings'

(59) The submeasures of the present measure have been amended, following the view expressed by the Commission in its decision to open the formal investigation procedure.

(60) Accordingly, the Commission is of the opinion that the modified submeasures comply with the conditions set down at point 30 of the environmental guidelines, as they clearly consist in energy savings measures, as defined at point 6 of the same guidelines, stating that an efficient use of natural resources has to be encouraged and are consequently deemed equivalent to investments to promote environmental protection.

(61) Moreover, in the light of the technical data submitted, the new measures foreseen, are deemed to be able to reach the goal of reducing the amount of energy used by undertakings in their production cycle ⁽¹³⁾.

(62) Plants and equipment taken into consideration are defined in accordance with the requirements set down at point 36 of the guidelines. Investments in land and buildings are not concerned; neither is forecast investment in intangible assets.

(63) Beneficiaries of the aid provided under the measure at hand will be both SMEs and large enterprises, according to the guidelines.

(64) The aid intensity of 40 % gross is in line with the ceiling of aid laid down at point 30 of the guidelines. The measure does not foresee any increase in the intensity of aid, neither for firms located in assisted regions, nor for SMEs.

⁽¹³⁾ As regards, in particular, the submeasure A 'high efficiency heat generators', to the extent that hot-water boilers are concerned, Council Directive 92/42/EEC of 21 May 1992 (OJ L 167, 22.6.1992, p.17), on efficiency requirements for new hot-water boilers fired with liquid or gaseous fuels, will be observed.

(65) Aid in respect of the eligible costs under this measure may not be combined with any other aid in the sense of Article 87(1) of the Treaty, neither with other community subsidy.

5.4. Closing remarks

(66) The Commission has taken note that the intensity of aid, concerning the photovoltaic installations, has been applied, in the scenarios proposed in the annexe A to the answer of Italy, to the whole amount of the investment instead of the only extra costs, just in order to show that even in that case the investment in question needs quite a long depreciation time and consequently does not look so profitable, from the point of view of an operator in a competitive market.

(67) At the same time, it observes that the commitments concerning the respect of point 37, first and Fourth subparagraphs, have been confirmed by the Italian authorities, implying that the eligible costs taken into consideration will be strictly confined to the extra investment costs borne by the firm, compared with a conventional plant with the same capacity in terms of the effective production of energy.

(68) Likewise, savings deriving from the investment concerned, compared to conventional sources, i.e. the cost for the connection to the distribution network no more needed, have not been deducted, namely in the schedule 6bis of annex A, just to demonstrate that even in this case the pay back time of the specific installation would be eight years.

(69) The Commission recalls that the Italian authorities already committed themselves to calculate the eligible costs net of the benefits accruing from any increase in capacity, cost savings engendered during the first five years of the life of the investment and additional ancillary production during that five years period, as laid down at point 37, third subparagraph of the guidelines. This should in particular concern fuel savings of a photovoltaic installation compared with a conventional one.

5.5. Conclusion

(70) In the light of the above, the Commission takes the view that the submeasure 'New photovoltaic plants' of measure (a) 'promotion of renewable sources of energy' of the aid scheme notified as N747/2001, complies with the requirements set down in the Community guidelines on State for environmental protection ⁽¹⁴⁾, namely at point 32, third subparagraph and may consequently benefit of a derogation pursuant to Article 87(3)(c) of the EC Treaty.

⁽¹⁴⁾ See footnote 5.

(71) Likewise, the amended measure (b) 'energy saving measures' of the abovementioned notified aid scheme, fulfils all the conditions laid down at point 30 of the environmental guidelines and may be accordingly allowed an exemption under Article 87(3)(c) of the EC Treaty,

HAS ADOPTED THIS DECISION:

Article 1

The aid which Italy — Tuscany Region is planning to implement for the reduction of the greenhouse gasses emissions, pursuant to Decision No 481 of the Regional Executive of the Tuscany Region of 20 May 2002 is compatible with the common market, subject to the conditions set out in Article 2.

Article 2

1. The eligible costs taken into consideration in the implementation of the scheme will be strictly confined to the extra investment costs necessary to meet the environmental objectives, and in particular, as far as renewable energy is concerned, to the extra costs borne by the firm, compared with a conventional plant with the same capacity in terms of the effective production of energy.

2. Likewise, the eligible costs have to be calculated net of the benefits accruing from any increase in capacity, cost savings engendered during the first five years of the life of the investment and additional ancillary production during that five-year period.

Article 3

A yearly report on the execution of the scheme, allowing the monitoring of the gap between the investment costs of the photovoltaic technology and those of the other renewable sources, in order to allow the Commission to exclude any contingent risk of overcompensation in respect of the former, has to be submitted by the Italian authorities.

Article 4

Italy shall inform the Commission, within two months of notification of this Decision, of the measures taken to comply with Articles 2 and 3.

Article 5

This Decision is addressed to the Republic of Italy.

Done at Brussels, 30 April 2003.

For the Commission

Mario MONTI

Member of the Commission

COMMISSION DECISION

of 9 July 2003

on the State aid C 11/2002 (ex N 382/2001) which Italy is planning to implement in favour of certain heavy goods vehicles designed for the carriage of goods by road in order to divert heavy goods traffic from trunk road 33 (SS 33) from Lake Maggiore to the A26 motorway

(notified under document number C(2003) 2154)

(Only the Italian text is authentic)

(Text with EEA relevance)

(2004/261/EC)

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

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

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

Having called on Italy and the interested parties to submit their comments pursuant to the provisions cited above⁽¹⁾, and having regard to their comments,

Whereas:

1. PROCEDURE

- (1) By letter dated 12 June 2001, Italy notified the revised versions of draft regional laws Nos 14 and 87 on the 'diversion of heavy goods traffic from trunk road 33 (SS 33) in the Lake Maggiore area to the A26 motorway'.

It furnished the Commission with supplementary information by letters dated 4 September 2001 and 21 January 2002. In particular, in their letter dated 14 January 2002 (DG TREN/A/51067), the Italian authorities sent the Commission a draft Memorandum of Understanding between the Ministry of Infrastructure and Transport, the Piedmont Region, the road hauliers' associations and the motorway concessionary Autostrade SpA.

- (2) By letter dated 27 February 2002, the Commission informed Italy of its decision to initiate the procedure laid down in Article 88(2) of the EC Treaty in respect of this aid.
- (3) The Commission decision to initiate the procedure was published in the *Official Journal of the European Communities* ⁽²⁾. The Commission called on Italy and the interested parties to submit their comments.

- (4) Italy forwarded its comments to the Commission by letters dated 17 May 2002 (DG TREN/A/59000) and 17 January 2003 (SG(2003)A/1199). The Commission has received no comments from interested parties.

2. DETAILED DESCRIPTION OF THE AID

2.1. Brief description of the initial measures

- (5) For the purpose of maintaining the safety of the citizens concerned, protecting the environment and developing tourism in the area of Lake Maggiore, the Piedmont Region proposes to implement a seasonal traffic diversion system for all heavy goods vehicles over 7,5 tonnes from trunk road 33 in the area of Lake Maggiore to the A26 motorway.
- (6) To that end, the Piedmont Region proposes to pay up to 40 % of the tolls incurred by such vehicles for the use of the motorway. In accordance with national legislation on the temporary diversion of heavy goods traffic, the Italian authorities justify the measure with reference, *inter alia*, to the fact that in the case in point, the toll motorway is the only possible alternative to the main road.

2.2. Detailed description of the current measures

- (7) In accordance with the final versions of draft regional laws Nos 14/2000 and 87/2000, the Piedmont Region plans, on a temporary basis between 1 July and 30 September 2003, to divert certain categories of heavy goods traffic in the Lake Maggiore shore area from the trunk road to the A26 toll motorway; this concerns the sections between Gravello Toce and Castelletto Ticino and Gravello Toce and Borgomanero in both directions. This measure is designed to maintain the safety of citizens living near the shores of Lake Maggiore, an area endangered during the summer months, when the local roads are affected by a significant increase in traffic due to tourism. This measure is designed to protect the environment (with particular reference to reducing pollution) and to develop tourism in the area, while reducing journey times for road-based freight transport.

⁽¹⁾ OJ C 87, 11.4.2002, p. 2.

⁽²⁾ See footnote 1.

- (8) The vehicles concerned are motor vehicles over 7,5 tonnes for the carriage of goods by road and, in particular, buses, road tractors, trailers, articulated vehicles and vehicles used to carry materials for the building, road maintenance and mining sectors ⁽³⁾. These vehicles are identified directly by Autostrade SpA, the concessionary for the A26 motorway, by means of the Telepass electronic toll system and the payment receipts issued when vehicles pass through the motorway toll gates.
- (9) By letter dated 17 January 2003 (SG(2003)A/1199) Italy extended the scope of the measure to Italian and Community heavy goods vehicles over 7,5 tonnes paying the motorway tolls by systems other than Telepass, specifically those paying tolls using cash, Bancomat, credit card and Viacard ⁽⁴⁾.
- (10) As regards the application of the measure exclusively to vehicles over 7,5 tonnes, it should be emphasised that, in the Italian legal system, this is the category to which temporary diversions normally apply ⁽⁵⁾.
- (11) The conditions for the application of the measure have been defined in a draft Memorandum of Understanding concluded between the Ministry of Infrastructure and Transport, the Piedmont Region, Autostrade SpA and the road hauliers' associations. On the basis of this agreement, the Piedmont Region has undertaken to provide partial compensation for the tolls due as a result of the enforced use of the A26 motorway, specifically up to 40 %, within a maximum budget of approximately EUR 155 000. The road haulage associations, for their part, have undertaken to ensure that their members pay at least 40 % of the above tolls. In addition, Autostrade SpA is offering a 20 % reduction to this category of vehicles.
- (12) The reduction will either be shown on the invoices of road hauliers using the Telepass electronic toll payment system or will be available directly to road hauliers using cash, Bancomat, credit cards or Viacard when they pay tolls at Autostrade SpA toll gates. The Piedmont Region undertakes to reimburse Autostrade SpA for the toll reductions it has borne (up to 40 %).
- (13) The amount of toll to be paid varies, according to category of vehicle and the section of motorway involved, from EUR 0,77 to EUR 5,4 per vehicle per journey.
- (14) The measure is necessitated because the toll-charging A26 motorway is the only alternative to the Lake Maggiore trunk road, to which access will be limited. In the Italian legal system ⁽⁶⁾, whenever the local authorities decide to divert heavy goods traffic temporarily for reasons other than public safety, road safety or health protection, they must indicate one or more alternative routes, including at least one which does not require the mandatory use of toll motorways.
- (15) By letter dated 17 January 2003 (SG(2003)A/1199) the Italian authorities notified the Commission of the results of a study designed to measure the level of pollution caused by a vehicle with a maximum weight of 26 tonnes travelling on the following routes in both directions: between Castelletto Ticino and Gravellona Toce and between Borgomanero and Gravellona Toce, using either the A26 motorway or roads SS 33, SS 142 and SR 229 ⁽⁷⁾. This study shows that, even though the motorway route is 10 km longer than the routes via the national roads, using the A26 motorway nonetheless considerably reduces fuel consumption and hence the levels of polluting emissions. Based on the forecasted increase in the number of vehicles using the above motorway if the diversion of heavy goods vehicles in the Lake Maggiore area is applied, the Italian authorities also assessed the overall quantity of diesel which could be saved in the years 2003, 2004 and 2005. According to Italy, the reduction in fuel consumption would have the effect of reducing polluting emissions and would thus help improve environmental conditions in the area, particularly the level of atmospheric pollution ⁽⁸⁾.
- (16) At present, the measure seems to be experimental in nature and to be confined to the period 1 June to 30 September 2003. Until the results of the experiment are confirmed, the Piedmont Region plans to set up a working party made up of a representative of each body signing the draft agreement.

⁽³⁾ See Article 54(1) paragraphs (d), (e), (h), (i) and (n) of the Italian Highway Code, Legislative Decree No 285 of 30 April 1992 (Official Journal of the Republic of Italy No 114, 18.5.1992), as amended by Legislative Decree No 360 of 10 September 1993 (Official Journal of the Republic of Italy No 217, 15.9.1993). See also the Decree of the Minister for Infrastructure and Transport of 5 December 2001 and Article 7 of Presidential Decree No 495 of 16 December 1992.

⁽⁴⁾ See, in particular, paragraph 5 of the draft Memorandum of Understanding.

⁽⁵⁾ See also the Decree of the Minister for Infrastructure and Transport of 5 December 2001 and Article 7 of Presidential Decree No 495 of 16 December 1992.

⁽⁶⁾ See Ministerial Circular No 62 of 5 August 1993, Articles 6 and 7 of Legislative Decree No 285 of 30 April 1992 and Article 7 of Presidential Decree No 495 of 16 December 1992 (Official Journal of the Republic of Italy No 303, 28.12.1992) as amended by Presidential Decree No 610 of 16 September 1996 (Official Journal of the Republic of Italy No 284, 4.12.1996).

⁽⁷⁾ Test carried out on 23 October 2002 using an IVECO AS 440 S 45 tractor (240 horse power) linked to a semi-trailer, max. 40,5 tonnes.

⁽⁸⁾ See, in particular, the Regional Plan for redevelopment and air quality (*Piano regionale per il risanamento e la qualità dell'aria*, Official Journal of the Piedmont Region No 47, 21.11.2002) adopted by Decision of the Regional Executive on 21 November 2002 pursuant to Decree of the Minister for the Environment No 60/2002. Under this programme, eight municipalities in the area concerned are among those with atmospheric pollution levels above the upper limit and requiring action to be taken by the regional administration.

2.3. Reasons for initiating the procedure

- (17) In its decision to initiate the formal investigation procedure, the Commission noted that, in this instance, the measure planned by the Italian authorities seemed to be covered by Article 87(1) of the EC Treaty. In particular, it harnesses State resources, confers financial advantage exclusively upon the road sector, particularly the carriage of freight by heavy goods road vehicles over 7,5 tonnes using the Telepass electronic toll payment system, exempting them from costs they would normally incur. The Commission also observed that the measure applies to only a limited part of the national road network. It considered, moreover, that the measure may be regarded as operating aid which, in view of the extent to which the road freight transport sector is open to competition, distorts or risks distorting intra-Community trade.
- (18) The Commission has expressed doubts regarding the measure's compatibility with Article 87(2) or (3) and with Article 73 of the Treaty. In particular, the Commission felt there was a risk that the measure in question was not aimed at improving modal balance but seemed rather to have the effect of favouring road transport over other modes, particularly rail and short sea shipping.
- (19) Consequently, in its Decision of 27 February 2002, the Commission invited Italy to respond within one month of receiving the Decision and to provide answers to the supplementary questions and all useful information needed to assess the measure. The Commission also invited interested third parties to submit their comments.

3. COMMENTS BY ITALY

- (20) By letter dated 17 May 2002 (DG TREN/A/59000) Italy clarified the content of the measure further. Subsequently, by letter dated 17 January 2003 (SG(2003)A/1199) Italy informed the Commission of the amendments made to the aid scheme. The comments forwarded can be summarised as follows.
- (21) Initially, the Italian authorities had emphasised that the measure in question would apply to both Italian heavy goods vehicles and to those of other Member States in the same categories travelling on the designated section

of motorway and using the Telepass system. To justify the fact that only vehicles using the electronic Telepass toll payment system could benefit from the aid, the Italian authorities pointed out that the majority of vehicles from Italy or any other Member State already subscribed to the system for their operations. Italy subsequently decided to extend the scope of the measure to include Italian and Community heavy goods vehicles over 7,5 tonnes paying tolls by means other than the Telepass system.

- (22) Italy maintains that the aid measure is compatible with the guidelines on State aid for environmental protection⁽⁹⁾ and, in particular, paragraphs 50 and 51 thereof. According to the Italian authorities, the measure is necessary to contribute significantly to protection of the environment, safety and public health compromised by the congestion due to road traffic on the trunk road SS 30 at Lake Maggiore. In addition, the regional authority's action is set out in an agreement, the 'Memorandum of Understanding' signed by the regional administration and the road haulage associations, thus complying with paragraph 51 of the above guidelines.
- (23) In particular, in support of the fact that the measure contributes to environmental protection, the Italian authorities report the results of the study carried out on a maximum 26-tonne vehicle which travelled the following routes between Castelletto Ticino and Gravello Toce and between Borgomanero and Gravello Toce in both directions, both via the A26 motorway and via the SS 33 and SR 229 roads. The Italian authorities insist that using the A26 motorway would appreciably reduce fuel consumption and hence the level of polluting emissions. In fact, according to Italy, increasing the number of vehicles using the A26 motorway would reduce levels of fuel consumption and polluting emissions more generally, thus improving environmental conditions in the Lake Maggiore area. The Italian authorities submit that the traffic diversion would help improve environmental conditions, particularly in terms of reducing the level of atmospheric pollution in certain municipalities along the road route which, under Piedmont regional law No 43/2000⁽¹⁰⁾, belong to regional areas 1 and 2, characterised by pollution levels exceeding the air quality limits.
- (24) The regional authorities suggest, moreover, that the measure can be justified on the basis of Article 73 of the EC Treaty. In this respect, Italy notes that the protection of public safety is related to the concept of 'public service' cited in Article 73. As for the need for 'coordination of transport', the Italian authorities point out

⁽⁹⁾ OJ C 37, 3.2.2001, p. 3.

⁽¹⁰⁾ Regional law No 43 of 7 April 2000, provisions for environmental protection in terms of atmospheric pollution. Initial implementation of the Regional Plan for redevelopment and air quality.

that the area's topography, high value as a tourist destination and typical character would not at present allow freight movements to be favoured by increasing rail traffic or — even less — maritime traffic. The proposed scheme, on the other hand, would improve traffic management and restore some dignity and safety to the areas concerned.

- (25) Italy points out the strictly experimental nature of the measure for the period 1 June to 30 September 2002, stressing that, if the Commission does not complete the examination procedure in due time, the measure will be applied during the period concerned. The Italian authorities further specify that the action cannot in any way damage the general objectives pursued.
- (26) The Commission has not received officially any other comments from interested parties.

4. ASSESSMENT OF THE MEASURE: EXISTENCE OF AID

- (27) 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, insofar as it affects trade between Member States, be incompatible with the common market.

4.1. Transfer of State resources

- (28) In the case in point, it should be noted that the Piedmont Region contributes up to 40 % of the toll payment due from certain road hauliers using the A26 motorway by reimbursing Autostrade SpA for the reduction it offers the road hauliers. There is undeniably a transfer of State resources. As regards the 20 % reduction granted directly to the road hauliers by Autostrade SpA, however, it should be noted that, in consideration of the eminently private nature of this company, there is no transfer of State resources ⁽¹¹⁾.

4.2. Existence of financial benefits

- (29) The financial benefit for certain heavy goods vehicles is clear too from the fact that the regional action enables Autostrade SpA to apply toll reductions in their

favour. The undertakings benefiting from the aid would, as a result, be exempted from all or part of the costs they would normally have had to incur under their normal management or in the course of their normal operations using the motorway.

4.3. Selectivity of the measure

- (30) With regard to the selectivity of the measure, it has been ascertained that it applies only to the freight transport by road, in particular the specific category of heavy goods vehicles over 7,5 tonnes among all freight vehicles ⁽¹²⁾, for the use of a rather limited section of the national road network.

4.4. Effect on intra-Community competition and trade

- (31) It has been ascertained that the proposed measure, by exempting certain undertakings from the costs they would incur in the course of normal operations, should be defined as operating aid and as such likely, in principle, to distort competition ⁽¹³⁾ with regard to undertakings, whether Italian or from other Member States, which do not benefit from the measure concerned.
- (32) In fact, taking account of the extent to which the road-based freight transport sector is open to competition ⁽¹⁴⁾, it can be assumed that the vehicles benefiting from the compensation are operating in the same market as those that do not benefit from the reduction in toll payments and that the measure, by favouring the former, may thus distort normal competition in the road transport sector. Nor can it be excluded that competition between different modes of transport may be affected. In addition, the aid may have repercussions on Community trade.

⁽¹²⁾ See Council Directive 70/156/EEC of 6 February 1970 on the approximation of the laws of the Member States relating to the type-approval of motor vehicles and their trailers (OJ L 42, 23.2.1970, p. 1), as last amended by Directive 2004/3/EC of the European Parliament and of the Council (OJ L 49, 19.2.2004, p. 36). Motor vehicles intended for freight transport are all the vehicles registered as class N with at least four wheels, or three wheels and a maximum weight exceeding 1 tonne. In particular, class N1 includes vehicles with a maximum weight of 3,5 tonnes, class N2 those whose maximum weight is between 3,5 and 12 tonnes, and class N3 vehicles of more than 12 tonnes.

⁽¹³⁾ See, in particular, the Judgment of the Court of First Instance of 8 June 1995 in Case T-459/93, *Siemens v Commission*, ECR II-1678, paragraphs 48 and 77, and the Judgment of 30 April 1998 in case T-214/95, *Vlaams Gewest v Commission*, ECR II-717, paragraph 64 or 46.

⁽¹⁴⁾ See in particular Council Regulation (EEC) No 881/92 of 26 March 1992 (OJ L 95, 9.4.1992, p.1), which guarantees, as of 1 January 1993, the full opening of the international freight transport sector to competition in favour of any holder of the Community licence under this Regulation, as well as Council Regulation (EEC) No 3118/93 of 25 October 1993 (OJ L 279, 12.11.1993, p.1), thanks to which every quantitative restriction on cabotage was gradually abolished and the national freight transport market was fully opened to competition as of 1 July 1998.

⁽¹¹⁾ Following privatisation in December 1999, the bulk of Autostrade SpA's capital is now in the hands of private shareholders.

5. COMPATIBILITY OF THE AID

- (33) Although it may qualify as aid under Article 87(1) of the Treaty, the measure in question must also be examined in the light of the derogations or exceptions laid down in paragraphs 2 and 3 of Article 87. We should also examine its compatibility with Article 73 of the Treaty and with the Community guidelines on State aid for environmental protection ⁽¹⁵⁾.

5.1. Evaluation of the measure in the light of the exceptions provided for in Article 87

- (34) As regards compatibility with Article 87(2), the Italian measure cannot be deemed to be covered by these exceptions because it is not aid having a social character, granted to individual consumers, nor is it aid to make good the damage caused by natural disasters or exceptional occurrences, nor aid granted in order to compensate for the economic disadvantages caused by the division of Germany.
- (35) As for the possibility of derogation laid down in subparagraphs (a) and (b) of Article 87(3), it should be noted that the aid in question cannot be considered aid to promote the economic development of areas where the standard of living is abnormally low or where there is serious underemployment, nor can it be considered aid to promote the execution of an important project of common European interest or to remedy a serious disturbance in the economy of a Member State. In addition, considering the nature of the exceptions provided in subparagraphs (d) and (e) of Article 87(3), the latter are not applicable in the case in point.
- (36) As regards the exception indicated in subparagraph (c) of Article 87(3), the Commission takes the view that none of the Community guidelines which implement this exception can be invoked in the case in point. In particular, as regards the application of the exception in the environmental context, it should be noted that, regardless of the arguments put forward by the Italian authorities, the measure in question does not fulfil the conditions laid down by the Community rules on environmental aid, in particular in order to benefit from the exceptions laid down in paragraph E 3.2 of the Community guidelines on State aid for environmental protection.
- (37) In fact, in the first place, the measure does not make reference to a tax as mentioned in paragraph E 3.2 of the guidelines but instead to a toll payment, i.e. payment of a specific sum for the use of infrastructure based on the distance travelled and the category of motor vehicle ⁽¹⁶⁾. It follows that the measure in question cannot even be presented as a new tax introduced for

environmental reasons in line with paragraph 51.1 of the guidelines. Nor is the measure in line with the derogations indicated in paragraph 51.2 since it cannot be considered an 'existing tax' with an appreciable positive impact in terms of environmental protection, which might be justified for some undertakings if a significant change in economic conditions had placed them in a particularly difficult competitive situation.

- (38) Consequently, the derogation laid down by Article 87(3)(c), in particular in the environmental context, cannot be applied in the case in point.

5.2. Compatibility of the measure with Article 73 of the Treaty

- (39) It should be noted, firstly, that Italy has removed the preferential treatment given to users of the Telepass system, chiefly used by Italian road hauliers and to a lesser extent by those from other Member States. To achieve this, the Italian authorities have made provision for the scope of the measure to be extended to other means of payment (including cash) generally accessible to road hauliers from other countries. This overcomes the main doubt regarding the measure's potential discriminatory effects between operators from different Member States. The Commission therefore considers that this amendment is a decisive element in the examination of the measure.
- (40) The measure should be examined in terms of its compatibility with Article 73 of the Treaty and also with Council Regulation (EEC) No 1107/70 of 4 June 1970 on the granting of aids for transport by rail, road and inland waterway ⁽¹⁷⁾, in particular Article 3(1)(b) thereof.
- (41) In accordance with Article 73, aids shall be compatible with the Treaty if they meet the needs of coordination of transport or if they represent reimbursement for the discharge of certain obligations inherent in the concept of public service. Article 3(1)(b) of the above Regulation provides that Member States may adopt transport coordination measures 'until the entry into force of common rules on the allocation of infrastructure costs, where aid is granted to undertakings which have to bear expenditure relating to the infrastructure used by them, while other undertakings are not subject to a like burden. In determining the amount of aid thus granted account shall be taken of the infrastructure costs which competing modes of transport do not have to bear'.
- (42) In general, the concept of transport coordination is considered to be equivalent to government intervention in the market for reasons of transport policy.

⁽¹⁵⁾ OJ C 37, 3.2.2001, p. 3.

⁽¹⁶⁾ See, in particular, Article 2(b) of Directive 1999/62/EC of the European Parliament and of the Council of 17 June 1999 on the charging of heavy goods vehicles for the use of certain infrastructures (OJ L 187, 20.7.1999, p.42).

⁽¹⁷⁾ OJ L 130, 15.6.1970, p. 1.

- (43) In the case in point, it should be noted firstly that the regional government's intention, in diverting heavy goods traffic from roads near the lake shores to other roads, is to improve traffic management in the Lake Maggiore area. Traffic movement in the vicinity of the lake is made difficult by the topography of the area, aggravated in the summer season by an appreciable increase in the volume of traffic. The measure therefore fulfils a need for transport coordination inasmuch as it permits the local authorities to reduce the number of motor vehicles travelling on the roads near the lake and to improve road traffic management during the period concerned.
- (44) It should also be noted that there are no Community rules on the allocation of infrastructure costs in force at present. It should be noted, furthermore, that the motor vehicles affected by the measure (those over 7,5 tonnes) will have to incur expenditure corresponding to the infrastructure used, while other undertakings are not subject to it (since they can use the lake shore road). The amount of compensation is therefore deemed proportional.
- (45) Considering that the measure involves coordination of transport, which will be applied in the absence of Community rules on the allocation of infrastructure costs, and that the undertakings concerned are obliged to bear the costs for the infrastructure they use whereas other undertakings are not, the conditions referred to in Article 3(1)(b) of Regulation (EEC) 1107/70 are deemed to have been met, and Italy is therefore authorised to adopt a measure which will be applied for a very limited period, concerns specific infrastructure and involves a strictly local problem.
- (46) It should be noted, in addition, that the measure must be re-examined in the event that Community rules on the allocation of infrastructure costs are introduced, and that any other similar measure must in any case be evaluated in the light of its own particular characteristics.
- (47) The Commission considers that the harm to intra-Community trade is practically non-existent, considering the extremely limited nature of the aid. Considering also the brief period in which it will be applied, the measure has a very limited impact on competition and does not, in any case, entail distortions to competition counter to the general interest.

- (48) As regards the compatibility of the aid with European transport policy, the Commission notes that the measure in question, by improving public safety of local roads in the area, complies with the objectives of the common transport policy ⁽¹⁸⁾.

6. CONCLUSIONS

- (49) The Commission concludes that the measure in question is State aid pursuant to Article 87(1) of the Treaty.
- (50) Nevertheless, in accordance with Article 73 of the Treaty and with Article 3(1)(b) of Regulation (EEC) No 1107/70, the Commission considers the aid to be compatible with the Treaty,

HAS ADOPTED THIS DECISION:

Article 1

The State aid up to a maximum of EUR 155 000 which Italy plans to implement in order to divert heavy goods vehicles over 7,5 tonnes from trunk road SS 33 from Lake Maggiore to the A26 motorway in the period 1 June to 30 September 2003 is compatible with the common market pursuant to Regulation (EEC) No 1107/70 in application of Article 73 of the Treaty.

Implementation of the aid, up to a maximum of EUR 155 000, is accordingly authorised.

Article 2

This Decision is addressed to the Republic of Italy.

Done at Brussels, 9 July 2003.

For the Commission
Loyola DE PALACIO
Vice-President

⁽¹⁸⁾ See, in particular, the White Paper of 2002, 'European transport policy for 2010: time to decide', which recommends stepping up road safety, p. 16.

COMMISSION DECISION

of 17 March 2004

on certain protection measures with regard to registered horses coming from South Africa

(notified under document number C(2004) 808)

(Text with EEA relevance)

(2004/262/EC)

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Council Directive 91/496/EEC of 15 July 1991 laying down the principles governing the organisation of veterinary checks on animals entering the Community from third countries and amending Directives 89/662/EEC, 90/425/EEC and 90/675/EEC ⁽¹⁾, and in particular Article 18(1) thereof,

Whereas:

(1) Council Directive 90/426/EEC of 26 June 1990 on animal health conditions governing the movement and imports from third countries of equidae ⁽²⁾, lays down the measures to be taken in relation to African horse sickness.

(2) The animal health conditions for temporary admission and imports into the Community of registered horses from certain parts of South Africa have been established by Commission Decision 97/10/EC ⁽³⁾.

(3) An outbreak of African horse sickness has been declared in horses kept within the African horse sickness surveillance zone of the Western Cape Province and approximately 40 km from the African horse sickness free zone established in accordance with Decision 97/10/EC and which is the only area in South Africa from where horses are accepted for export to other countries.

(4) The competent veterinary authorities in South Africa have taken the necessary measures to control the disease, including vaccination of susceptible animals within the radius of 20 km around the outbreak.

(5) The presence of this disease in the surveillance zone of the Western Cape Province is liable to constitute a serious danger for Community equidae; whereas moreover the recourse to vaccination in an area close to the disease-free zone precludes from further regionalisation in accordance with Community legislation and internationally accepted health standards.

(6) Although the authorities have suspended any exports of registered horses from the disease-free zone to Member States, it is necessary to adopt protection measures at Community level with regard to temporary admission, transit and imports of registered horses from South Africa.

(7) The temporary admission, permanent imports and transits of registered horses from South Africa should be suspended. However, the situation should be reviewed in the light of the information supplied by the competent authorities and the effect of the measures taken to control the disease.

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

HAS ADOPTED THIS DECISION:

Article 1

Member States shall prohibit the temporary admission, transits and imports of registered horses coming from South Africa.

Article 2

Member States shall amend the measures they apply with regard to temporary admission, imports and transits of registered horses from South Africa to bring them into line with this Decision. They shall inform the Commission thereof.

⁽¹⁾ OJ L 268, 24.9.1991, p. 56. Directive as amended by Directive 96/43/EC (OJ L 162, 1.7.1996, p. 1).

⁽²⁾ OJ L 224, 18.8.1990, p. 42. Directive as last amended by Regulation (EC) No 806/2003 (OJ L 122, 16.5.2003, p. 1).

⁽³⁾ OJ L 3, 7.1.1997, p. 9. Decision as last amended by Decision 2004/117/EC (OJ L 36, 7.2.2004, p. 36).

Article 3

This Decision is addressed to the Member States.

Done at Brussels, 17 March 2004.

For the Commission

David BYRNE

Member of the Commission

COMMISSION DECISION

of 17 March 2004

amending Decision 2000/333/EC laying down special conditions for the import of bivalve molluscs, echinoderms, tunicates and marine gastropods originating in the Socialist Republic of Vietnam, as regards the designation of the competent authority

*(notified under document number C(2004) 824)***(Text with EEA relevance)**

(2004/263/EC)

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

HAS ADOPTED THIS DECISION:

Having regard to the Treaty establishing the European Community,

Having regard to Council Directive 91/492/EEC of 15 July 1991 laying down the health conditions for the production and the placing on the market of live bivalve molluscs ⁽¹⁾, and in particular Article 9(4) thereof,

Whereas:

- (1) Commission Decision 2000/333/EC of 25 April 2000 laying down special conditions for the import of bivalve molluscs, echinoderms, tunicates and marine gastropods originating in the Socialist Republic of Vietnam ⁽²⁾, states that the 'National Fisheries Inspection and Quality Assurance Centre (NAFIQACEN) of the Ministry of Fisheries' is to be the competent authority in Vietnam for verifying and certifying compliance of bivalve molluscs, echinoderms, tunicates and marine gastropods with the requirements of Directive 91/492/EEC.
- (2) Following a restructuring of the Vietnamese administration, the competent authority for verifying and certifying compliance of bivalve molluscs, echinoderms, tunicates and marine gastropods has changed to the 'National Fisheries Quality Assurance and Veterinary Directorate (NAFIQAVED)'. This new authority is capable of effectively verifying the application of the laws in force.
- (3) Decision 2000/333/EC should therefore be amended accordingly.
- (4) The measures provided for in this Decision are in accordance with the opinion of the Standing Committee on the Food Chain and Animal Health,

Article 1

In Decision 2000/333/EC Article 1 is replaced by the following:

'Article 1

The "National Fisheries Quality Assurance and Veterinary Directorate (NAFIQAVED)" shall be the competent authority in Vietnam for verifying and certifying compliance of bivalve molluscs, echinoderms, tunicates and marine gastropods with the requirements of Directive 91/492/EEC.'

Article 2

This Decision shall apply from 3 May 2004.

Article 3

This Decision is addressed to the Member States.

Done at Brussels, 17 March 2004.

For the Commission

David BYRNE

Member of the Commission

⁽¹⁾ OJ L 268, 24.9.1991, p. 1. Directive as last amended by Regulation (EC) No 806/2003 (OJ L 122, 16.5.2003, p. 1).

⁽²⁾ OJ L 114, 13.5.2000, p. 42.

COMMISSION DECISION

of 18 March 2004

suspending the anti-dumping duty imposed by Decision No 2730/2000/ECSC on imports of coke of coal in pieces with a diameter of more than 80 mm originating in the People's Republic of China

(2004/264/EC)

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Council Regulation (EC) No 384/96 of 22 December 1995 on protection against dumped imports from countries not members of the European Community⁽¹⁾ (the basic Regulation), as last amended by Regulation (EC) No 1972/2002⁽²⁾, and in particular Article 14(4) thereof,

After consulting the Advisory Committee,

Whereas:

(4) After the applicant had withdrawn the complaint, the Commission has proposed to the Council that the interim review should be terminated.

(5) However, during the investigation of the interim review concerning the period from 1 October 2001 to 30 September 2002 (the investigation period), information on a change of market conditions occurred after the investigation period (i.e. from 1 October 2002 to 30 September 2003) which might justify the suspension of the measures currently in force, in accordance with Article 14(4) of the basic Regulation, was provided to the Commission. Consequently, the Commission examined whether such suspension was warranted.

A. PROCEDURE

- (1) The Commission, by Decision No 2730/2000/ECSC⁽³⁾, imposed a definitive anti-dumping duty on imports of coke of coal in pieces with a diameter of more than 80 mm originating in the People's Republic of China (PRC), falling under CN code ex 2704 00 19 (the product concerned). The amount of the anti-dumping duty is equal to the fixed amount of EUR 32.6 per tonne of dry net weight.
- (2) In view of the expiry of the Treaty establishing the European Coal and Steel Community on 23 July 2002, the Council, by Regulation (EC) No 963/2002⁽⁴⁾, Regulation as last amended by Regulation (EC) No 1310/2002⁽⁵⁾, decided that anti-dumping proceedings initiated pursuant to Commission Decision No 2277/96/ECSC⁽⁶⁾, Decision as last amended by Decision No 435/2001/ECSC⁽⁷⁾, and still in force shall be continued and be governed by the provisions of the basic Regulation with effect from 24 July 2002. Likewise, any anti-dumping measures resulting from pending anti-dumping investigations shall be governed by the provisions of the basic Regulation from 24 July 2002.
- (3) In December 2002, the Commission initiated an interim review at the request of Eucoke-EEIG (the applicant), lodged on behalf of producers representing a major proportion of the total Community production of coke of coal in pieces with a diameter of more than 80 mm, in accordance with Article 11(3) of the basic Regulation.

B. GROUNDS

- (6) Article 14(4) of the basic Regulation provides that, in the Community interest, anti-dumping measures may be suspended on the grounds that market conditions have temporarily changed to an extent that injury would be unlikely to resume as a result of such suspension, provided that the Community industry has been given an opportunity to comment and these comments have been taken into account. Article 14(4) further specifies that the anti-dumping measures concerned may be reinstated at any time if the reason for suspension is no longer applicable.
- (7) During the interim review investigation, a number of interested parties have alleged that in the time since the investigation period, the market situation has changed dramatically. The allegations were based on a shortage of supply of the product concerned and the high level of prices charged by the traders on the Community market.
- (8) In view of the seriousness of these allegations, the Commission has carried out a further investigation to assess the recent evolution of volumes and prices of the product concerned for the period between 1 October 2002 and 30 September 2003. All parties concerned were given an opportunity to present their views. All interested parties cooperated with the new investigation, the users to a somewhat lesser extent.

⁽¹⁾ OJ L 56, 6.3.1996, p. 1.

⁽²⁾ OJ L 305, 7.11.2002, p. 1.

⁽³⁾ OJ L 316, 15.12.2000, p. 30.

⁽⁴⁾ OJ L 149, 7.6.2002, p. 3.

⁽⁵⁾ OJ L 192, 20.7.2002, p. 9.

⁽⁶⁾ OJ L 308, 29.11.1996, p. 11.

⁽⁷⁾ OJ L 63, 3.3.2001, p. 14.

- (9) With regard to the information provided by a cooperating importer and confirmed by the users, an increase ranging from 20 % to 50 % in the price of the product concerned imported from the PRC has been reported for the period examined. This price trend was also confirmed by the Community industry. The steel industry, which is not an interested party in this proceeding, also reported an increase of 76 % in prices of all types of coke.
- (10) Considering that the Community users do not buy the product concerned directly from the PRC but from traders which do not make an accurate distinction according to the origin of the product, the information on the volume of the product concerned was based on the findings of a specialised magazine called *The Coke Market Report*, recognised as a reliable source of information for the coke market. This publication reported a decrease of imports from PRC from 15,5 million tonnes for all types of coke in 2002 to 12 million tonnes in 2003, i.e. a decrease of 23 %. This decrease is mainly the result of a recent change in the policy of the Chinese authorities which have decided to direct the Chinese production to the domestic market in order to meet an increasing domestic demand, by reducing the number of export licences granted to the Chinese exporters. A further decrease in imports from PRC of 6,5 million tonnes is expected for the year 2004, although this information has not yet been confirmed as the Chinese authorities have still to issue the licenses. In view of the decreasing number of export licenses issued by the Chinese authorities, a further increase of 19 % in the price of the product concerned is expected in 2004. Since the significant change in supplies of the product concerned is the result of a change in the policy applied by the Chinese authorities, there is no information which would allow the Commission to assume that these changes are of a lasting nature.
- (11) With regard to the Community industry, it is to be noted that since the imposition of the measures in 2000, the situation of the Community industry has improved. The sales and production volumes decreased slightly as did the Community consumption, but sales prices increased significantly. Investments increased by a third and employment by 10 %. Only the market share remained stable (33 %) but this was due to the emergence of new exporting countries such as the Czech Republic and Poland, while the Chinese market share decreased by more than 10 percentage points and represented 9 % of the Community market in the investigation period. The profit situation also improved, although it has not yet achieved the 10,5 % profit targeted by Decision No 2730/2000/ECSC. The Community industry has, however, gained 17 percentage points since the year 2000 and became profitable during the investigation period. Furthermore, as to the situation after the investigation period (i.e. from 1 October 2002 to 30 September 2003), it is worth noting that, although the

Community producers have reported an increase in production and sales on the Community market of 20 % and 40 % respectively, bearing in mind that the Community producers only produce one third of the Community market demand for the product concerned, the imports from the PRC remain vital to supply the Community market.

C. CONCLUSION

- (12) In conclusion, given the temporary change in market conditions, and in particular the high level of prices of the product concerned practised on the Community market, which is far above the injurious level found in the original investigation, together with the alleged shortage of supply of the product concerned, it is considered that the injury linked to the imports of the product concerned originating in the PRC is unlikely to resume as a result of the suspension which would be in the interest of the Community. It is therefore proposed to suspend the measures in force for a period of nine months in accordance with Article 14(4) of the basic Regulation.
- (13) Pursuant to Article 14(4) of the basic Regulation, the Commission has informed the Community industry of its intention to suspend the anti-dumping measures in force. The Community industry has been given an opportunity to comment. The Community industry did not oppose the suspension of the anti-dumping measures in force.
- (14) The Commission therefore considers that all requirements for suspending the anti-dumping duty imposed on the product concerned are met, in accordance with Article 14(4) of the basic Regulation. Consequently, the anti-dumping duty imposed by Decision No 2730/2000/ECSC should be suspended for a period of nine months.
- (15) The Commission will continue to monitor the development of imports and the prices of the product concerned. Should a situation arise at any time in which increased volumes at dumped prices of the product concerned from the PRC resume and consequently cause injury to the Community industry, the Commission will reinstate the anti-dumping duty by repealing the present suspension,

HAS ADOPTED THIS DECISION:

Article 1

The definitive anti-dumping duty imposed by Decision No 2730/2000/ECSC on imports of coke of coal in pieces larger than 80 mm in maximum diameter, falling within CN code ex 2704 00 19 (TARIC code 2704 00 19 10), and originating in the People's Republic of China is hereby suspended for a period of nine months.

Article 2

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

Done at Brussels, 18 March 2004.

For the Commission

Pascal LAMY

Member of the Commission

CORRIGENDA

Corrigendum to Commission Directive 2004/4/EC of 15 January 2004 amending Directive 96/3/EC granting a derogation from certain provisions of Council Directive 93/43/EEC on the hygiene of foodstuffs as regards the transport of bulk liquid oils and fats by sea*(Official Journal of the European Union L 15 of 22 January 2004)*

On page 29, in the list of acceptable previous cargoes in the Annex:

1. *for:*

'Methyl oleate (methyl octadecenoate)	112-62-9
Glycols:'	

read:

'Methyl oleate (methyl octadecenoate)	112-62-9
Formic acid (methanoic acid; hydrogen carboxylic acid)	64-18-6
Glycerine (glycerol; glycerin)	56-81-5
Glycols:'	

2. *for:*

'iso-Octanol (isooctyl alcohol)	26952-21-6
Magnesium chloride solution	7786-30-3'

read:

'iso-Octanol (isooctyl alcohol)	26952-21-6
iso-Propanol (isopropyl alcohol; IPA)	67-63-0
Limonene (dipentene)	138-86-3
Magnesium chloride solution	7786-30-3'