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Protocol to the Euro-Mediterranean Agreement between the European Communities and their Member States, of the one part, and the Arab Republic of Egypt, of the other part, to take account of the accession of the Czech Republic, the Republic of Estonia, the Republic of Cyprus, the Republic of Latvia, the Republic of Lithuania, the Republic of Hungary, the Republic of Malta, the Republic of Poland, the Republic of Slovenia and the Slovak Republic to the European Union

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I

(Acts whose publication is obligatory)

COMMISSION REGULATION (EC) No 185/2005
of 3 February 2005
establishing the standard import values for determining the entry price of certain fruit and vegetables

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

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

Whereas:

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

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

HAS ADOPTED THIS REGULATION:

Article 1

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

Article 2

This Regulation shall enter into force on 4 February 2005.

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

Done at Brussels, 3 February 2005.

For the Commission

J. M. SILVA RODRÍGUEZ

*Director-General for Agriculture and
Rural Development*

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

ANNEX

to Commission Regulation of 3 February 2005 establishing the standard import values for determining the entry price of certain fruit and vegetables

(EUR/100 kg)		
CN code	Third country code ⁽¹⁾	Standard import value
0702 00 00	052	115,4
	204	83,1
	212	152,0
	624	81,6
	999	108,0
0707 00 05	052	152,0
	204	84,0
	999	118,0
0709 10 00	220	65,9
	999	65,9
0709 90 70	052	220,6
	204	236,0
	624	56,7
	999	171,1
0805 10 20	052	44,3
	204	44,1
	212	51,7
	220	41,6
	448	35,7
	624	44,6
	999	43,7
0805 20 10	052	76,5
	204	61,3
	624	72,5
	999	70,1
0805 20 30, 0805 20 50, 0805 20 70, 0805 20 90	052	63,7
	204	85,5
	400	77,4
	464	131,4
	624	69,4
	662	36,0
	999	77,2
0805 50 10	052	57,4
	999	57,4
0808 10 80	052	104,3
	400	121,3
	404	103,9
	720	59,7
	999	97,3
0808 20 50	388	88,2
	400	90,0
	528	99,6
	720	41,5
	999	79,8

⁽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 186/2005**of 3 February 2005****determining to what extent import right applications submitted during the month of January 2005 for calves weighing not more than 80 kg as part of a tariff quota provided for in Regulation (EC) No 1201/2004 may be accepted**

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 1201/2004 of 29 June 2004 opening and providing for the administration of a tariff quota for calves weighing not more than 80 kilograms and originating in Bulgaria or Romania (1 July to 30 June 2005)⁽²⁾, and in particular Articles 1(4) and 4 thereof,

Whereas:

- (1) Article 1(3)(b) of Regulation (EC) No 1201/2004 fixes at 86 500 the number of head of live bovine animals of a weight not exceeding 80 kg falling within CN code 0102 90 05 and originating in Bulgaria or Romania which may be imported under special conditions in the period 1 January to 31 March 2005. The quantities

covered by import licence applications submitted are such that applications may be accepted in full.

- (2) The quantities in respect of which licences may be applied for from 1 April 2005 should be fixed within the scope of the total quantity of 178 000 animals, conforming to Article 1(4) of Regulation (EC) No 1201/2004,

HAS ADOPTED THIS REGULATION:

Article 1

1. All applications for import certificates lodged pursuant to Article 3(3) of Regulation (EC) No 1201/2004 shall be accepted in full.

2. The quantities referred to in Article 1(3)(b) of Regulation (EC) No 1201/2004 shall be 167 450 head.

Article 2

This Regulation shall enter into force on 4 February 2005.

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

Done at Brussels, 3 February 2005.

For the Commission

J. M. SILVA RODRÍGUEZ

*Director-General for Agriculture and
Rural Development*

⁽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 230, 30.6.2004, p. 12.

COMMISSION REGULATION (EC) No 187/2005**of 2 February 2005****amending for the 43rd time Council Regulation (EC) No 881/2002 imposing certain specific restrictive measures directed against certain persons and entities associated with Usama bin Laden, the Al-Qaida network and the Taliban, and repealing Council Regulation (EC) No 467/2001**

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Council Regulation (EC) No 881/2002 imposing certain specific restrictive measures directed against certain persons and entities associated with Usama bin Laden, the Al-Qaida network and the Taliban, and repealing Council Regulation (EC) No 467/2001 prohibiting the export of certain goods and services to Afghanistan, strengthening the flight ban and extending the freezing of funds and other financial resources in respect of the Taliban of Afghanistan⁽¹⁾, and in particular Article 7(1), first indent, thereof,

Whereas:

- (1) Annex I to Regulation (EC) No 881/2002 lists the persons, groups and entities covered by the freezing of funds and economic resources under that Regulation.

- (2) On 28 January 2005, the Sanctions Committee of the United Nations Security Council decided to amend the list of persons, groups and entities to whom the freezing of funds and economic resources should apply. Annex I should therefore be amended accordingly.

- (3) In order to ensure that the measures provided for in this Regulation are effective, this Regulation must enter into force immediately,

HAS ADOPTED THIS REGULATION:

Article 1

Annex I to Regulation (EC) No 881/2002 is amended as set out in the Annex to this Regulation.

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

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

Done at Brussels, 2 February 2005.

For the Commission

Benita FERRERO-WALDNER

Member of the Commission

⁽¹⁾ OJ L 139, 29.5.2002, p. 9. Regulation as last amended by Regulation (EC) No 14/2005 (OJ L 5, 7.1.2005, p. 10).

ANNEX

Annex I to Regulation (EC) No 881/2002 is amended as follows:

— the following entry shall be added under the heading 'Natural persons':

'Sulayman Khalid **Darwish** (*alias* Abu Al-Ghadiya). Date of birth: (a) 1976, (b) circa 1974. Place of birth: outside Damascus, Syria. Nationality: Syrian. Passport No: (a) 3936712, (b) 11012.'

COMMISSION REGULATION (EC) No 188/2005**of 3 February 2005****laying down detailed rules for the application of the aid scheme for the meat sector in the outermost regions**

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Council Regulation (EC) No 1452/2001 of 28 June 2001 introducing specific measures for certain agricultural products for the French overseas departments, amending Directive 72/462/EEC and repealing Regulations (EEC) No 525/77 and (EEC) No 3763/91 (Poseidom)⁽¹⁾, and in particular Article 9(3),

Having regard to Council Regulation (EC) No 1453/2001 of 28 June 2001 introducing specific measures for certain agricultural products for the Azores and Madeira and repealing Regulation (EEC) No 1600/92 (Poseima)⁽²⁾, and in particular Articles 13(3) and 22(4) and (10) thereof,

Having regard to Council Regulation (EC) No 1454/2001 of 28 June 2001 introducing specific measures for certain agricultural products for the Canary Islands and repealing Regulation (EEC) No 1601/92 (Poseican)⁽³⁾, and in particular Article 5(3) thereof,

Whereas:

- (1) Article 70(1)(b) of Council Regulation (EC) No 1782/2003 of 29 September 2003 establishing common rules for direct support schemes under the common agricultural policy and establishing certain support schemes for farmers⁽⁴⁾ lays down that Member States can decide to exclude, in particular, direct payments granted to farmers in the French overseas departments, the Azores and Madeira, and the Canary Islands from the single payment scheme during the reference period. Article 147 of the

abovementioned Regulation amends the direct support schemes under the common agricultural policy for farmers in the regions in question where Article 70 is applied. Detailed rules for the application of the support schemes in question should be laid down.

- (2) Spain, France and Portugal have informed the Commission of their decision to exclude direct payments granted to farmers established in the Canary Islands, the French overseas departments, and the Azores and Madeira respectively from the single payment scheme.
- (3) Article 9(1) of Regulation (EC) No 1452/2001, Articles 13(1) and 22(2) of Regulation (EC) No 1453/2001 and Article 5(1) of Regulation (EC) No 1454/2001 lay down that the Member States concerned are to present programmes to the Commission to assist traditional activities connected with beef and veal, sheepmeat and goatmeat production and measures to improve product quality, within the limits of the consumption needs of the outermost regions with the exception of the Azores. The key elements of these programmes should be specified.
- (4) The Community finances the programmes up to an annual amount set in accordance with Article 9(2) of Regulation (EC) No 1452/2001, Articles 13(2) and 22(3) of Regulation (EC) No 1453/2001 and Article 5(2) of Regulation (EC) No 1454/2001.
- (5) The said amount is equal to the sum of the premiums paid in 2003 under Articles 4, 6, 11, 13 and 14 of Council Regulation (EC) No 1254/1999 of 17 May 1999 on the common organisation of the market in beef and veal⁽⁵⁾, Articles 4, 5 and 11 of Council Regulation (EC) No 2529/2001 of 19 December 2001 on the common organisation of the market in sheepmeat and goatmeat⁽⁶⁾ and additional aid granted under Regulations (EC) No 1452/2001, 1453/2001 and 1454/2001. On this basis, the annual amounts applicable in each Member State for the 2005 calendar year should be set.

⁽¹⁾ OJ L 198, 21.7.2001, p. 11. Regulation as last amended by Regulation (EC) No 1690/2004 (OJ L 305, 1.10.2004, p. 1).

⁽²⁾ OJ L 198, 21.7.2001, p. 26. Regulation as last amended by Regulation (EC) No 1690/2004.

⁽³⁾ OJ L 198, 21.7.2001, p. 45. Regulation as last amended by Regulation (EC) No 1690/2004.

⁽⁴⁾ OJ L 270, 21.10.2003, p. 1. Regulation as last amended by Regulation (EC) No 2217/2004 (OJ L 375, 23.11.2004, p. 1).

⁽⁵⁾ OJ L 160, 26.6.1999, p. 21. Regulation as last amended by Regulation (EC) No 1899/2004 (OJ L 328, 30.10.2004, p. 67).

⁽⁶⁾ OJ L 341, 22.12.2001, p. 3. Regulation as last amended by Regulation (EC) No 1782/2003 (OJ L 270, 21.10.2003, p. 1).

(6) The indicators for measuring the development of local production as referred to in the second subparagraph of Article 9(2) of Regulation (EC) No 1452/2001, the second subparagraph of Article 13(2) and the second subparagraph of Article 22(3) of Regulation (EC) No 1453/2001 and the second subparagraph of Article 5(2) of Regulation (EC) No 1454/2001 respectively should be specified.

(7) Under Article 9(4) of Regulation (EC) No 1452/2001, Articles 13(4) and 22(5) of Regulation (EC) No 1453/2001 and Article 5(4) of Regulation (EC) No 1454/2001, the Member States concerned must submit a report to the Commission each year on the implementation of the programme. The key elements of such reports should be specified.

(8) From 1 January 2005 aid programmes replace the premium schemes currently in force for beef and veal, the detailed rules of application for which are laid down in Commission Regulation (EC) No 170/2002⁽¹⁾.

(9) Under Article 22(9) of Regulation (EC) No 1453/2001 aid is introduced for the disposal in other Community regions of young male bovine animals born in the Azores. Detailed rules for the application of this aid are also laid down in Regulation (EC) No 170/2002. For the sake of efficiency, the provisions concerning aid measures to assist the beef and veal sector in the outermost regions should be combined in a single text.

(10) Regulation (EC) No 170/2002 should accordingly be repealed.

(11) The system of aid programmes provided for in Regulations (EC) No 1452/2001, 1453/2001 and 1454/2001 being applicable from 1 January 2005, this Regulation should also apply from that date.

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

HAS ADOPTED THIS REGULATION:

CHAPTER I

SCOPE

Article 1

Scope

1. This Regulation lays down detailed rules for the application of the programmes referred to in Article 9(1) of Regulation (EC) No 1452/2001, Articles 13(1) and 22(2) of Regulation (EC) No 1453/2001 and Article 5(1) of Regulation (EC) No 1454/2001.

The programmes referred to in the first subparagraph concern aid for traditional activities connected with beef and veal, sheepmeat and goatmeat production and measures to improve product quality in the French overseas departments, the Azores and Madeira, and the Canary Islands, within the limits of the consumption needs of these regions, with the exception of the Azores.

2. This Regulation lays down detailed rules for the application of the disposal aid provided for in Article 22(9) of Regulation (EC) No 1453/2001.

CHAPTER II

AID PROGRAMMES

Article 2

Establishment of the aid programme

1. The Member State may decide to apply either:

(a) a single programme for all the regions concerned

or, as appropriate,

(b) a different programme for each region or group of regions concerned.

In the case referred to in point (b), the Member State shall ensure equal treatment between producers under one and the same programme.

2. Programmes shall contain, in particular:

(a) a description of the consumption needs in the region or group of regions concerned when the programme is drawn up;

⁽¹⁾ OJ L 30, 31.1.2002, p. 23.

(b) a detailed description of each measure planned and its objectives;

(c) the objectively measurable indicators, calculated at the beginning and end of the year of application of the programme, for evaluating the extent to which the objectives have been achieved and the impact of each measure;

(d) detailed rules for the implementation of each measure, in particular the category and estimated number of beneficiaries, the criteria for granting aid, the estimated amounts per head or per hectare, the conditions of eligibility, the categories of animal and the areas concerned, accompanied by a timetable for implementation;

(e) the financial details of each measure planned;

(f) the system of checks and penalties put in place to ensure that each measure planned is properly implemented and the corresponding expenditure properly executed, wherever possible in accordance with the relevant provisions of Commission Regulation (EC) No 796/2004⁽¹⁾ and with specific reference thereto.

3. Subject to the ceiling referred to in Article 4, the Member State may transfer from one programme measure to another a maximum of 20 % of the financial resources allocated to each of them.

Article 3

Forwarding the programme

The draft programme for 2005 shall be forwarded to the Commission for approval not later than 30 days after the entry into force of this Regulation.

Any amendment to the programme for subsequent years shall be forwarded to the Commission for approval not later than 15 September of the year preceding the calendar year from which it is to apply.

Article 4

Financing the programme

The Community shall finance the programme from the 2005 calendar year up to the following annual amounts (EUR million):

— Spain	7,00
— France	10,39
— Portugal	16,91.

⁽¹⁾ OJ L 141, 30.4.2004, p. 18.

Article 5

Development of local production

1. The development of local production shall be measured by reference to headage of cattle, sheep and goats in each region or group of regions concerned.

To that end, not later than 30 June of the current year, the Member States shall transmit to the Commission information about the headage of cattle, sheep and goats in each region or group of regions concerned at 31 December of the preceding year.

2. Within 10 days of the entry into force of this Regulation, the Member States shall notify the Commission of the livestock headage situation at 1 January 2003.

Article 6

Checks

The Member States shall take all appropriate measures to ensure that this Regulation and the programme referred to in Article 1 are properly implemented. They shall undertake the checks and impose the penalties provided for in the programme in accordance with Article 2(2)(f).

Article 7

Payment

After the checks under Article 2(2)(f) have been carried out, payments to beneficiaries under the programme shall be made in full, once a year during the period starting on 1 December and ending on 30 June of the following calendar year.

Article 8

Annual report

1. Each year, not later than 15 July, the Member States shall send the Commission a report for the previous calendar year containing in particular:

(a) an indication of the extent to which the objectives assigned to each of the measures contained in the programme have been achieved, measured using the indicators referred to in Article 2(2)(c);

(b) data on the annual supply balance of the region concerned in terms of, in particular, consumption, headage developments, production and trade;

- (c) data on the amounts actually granted for the implementation of programme measures on the basis of the criteria defined by the Member States, such as the number of eligible producers, the number of animals covered by the payment, the eligible area and the number of holdings concerned;
- (d) information about the financial execution of each measure under the programme;
- (e) statistics on the checks carried out by the competent authorities and any penalties applied;
- (f) the comments of the Member State concerned on the implementation of the programme.

2. For the year 2006 the report shall contain an evaluation of the programme's impact on livestock farming and the agricultural economy of the region concerned.

CHAPTER III

AID SCHEME SPECIFIC TO THE AZORES

Article 9

Aid for the disposal of young male bovines born in the Azores

1. Applications for the aid referred to in Article 22(9) of Regulation (EC) No 1453/2001 shall be submitted by the producer last responsible for keeping the animals during the mandatory period before shipment.

Such applications shall include in particular:

- (a) the animal's identification number,
- (b) a declaration by the consignor indicating the animal's destination.

2. Payment of the aid referred to in Article 22(9) of Regulation (EC) No 1453/2001 may be effected between 1 January and 31 December of the year concerned.

3. The Portuguese authorities shall notify the Commission not later than 31 July each year for the previous calendar year of the number of animals for which the aid was applied for and granted.

CHAPTER IV

REPEAL AND FINAL PROVISIONS

Article 10

Repeal

Regulation (EC) No 170/2002 is hereby repealed.

Article 11

Entry into force and application

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

It shall apply from 1 January 2005.

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

Done at Brussels, 3 February 2005.

For the Commission

Mariann FISCHER BOEL

Member of the Commission

COMMISSION REGULATION (EC) No 189/2005**of 3 February 2005****fixing the representative prices and the additional import duties for molasses in the sugar sector
applicable from 4 February 2005**

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

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

Whereas:

- (1) Commission Regulation (EC) No 1422/95 of 23 June 1995 laying down detailed rules of application for imports of molasses in the sugar sector and amending Regulation (EEC) No 785/68⁽²⁾, stipulates that the cif import price for molasses established in accordance with Commission Regulation (EEC) No 785/68⁽³⁾, is to be considered the representative price. That price is fixed for the standard quality defined in Article 1 of Regulation (EEC) No 785/68.
- (2) For the purpose of fixing the representative prices, account must be taken of all the information provided for in Article 3 of Regulation (EEC) No 785/68, except in the cases provided for in Article 4 of that Regulation and those prices should be fixed, where appropriate, in accordance with the method provided for in Article 7 of that Regulation.
- (3) Prices not referring to the standard quality should be adjusted upwards or downwards, according to the

quality of the molasses offered, in accordance with Article 6 of Regulation (EEC) No 785/68.

- (4) Where there is a difference between the trigger price for the product concerned and the representative price, additional import duties should be fixed under the terms laid down in Article 3 of Regulation (EC) No 1422/95. Should the import duties be suspended pursuant to Article 5 of Regulation (EC) No 1422/95, specific amounts for these duties should be fixed.
- (5) The representative prices and additional import duties for the products concerned should be fixed in accordance with Articles 1(2) and 3(1) of Regulation (EC) No 1422/95.
- (6) The measures provided for in this Regulation are in accordance with the opinion of the Management Committee for Sugar,

HAS ADOPTED THIS REGULATION:

Article 1

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

Article 2

This Regulation shall enter into force on 4 February 2005.

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

Done at Brussels, 3 February 2005.

For the Commission

J. M. SILVA RODRÍGUEZ

*Director-General for Agriculture and
Rural Development*

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

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

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

ANNEX

Representative prices and additional duties for imports of molasses in the sugar sector applicable from 4 February 2005

(EUR)

CN code	Amount of the representative price in 100 kg net of the product in question	Amount of the additional duty in 100 kg net of the product in question	Amount of the duty to be applied to imports in 100 kg net of the product in question because of suspension as referred to in Article 5 of Regulation (EC) No 1422/95 ⁽¹⁾
1703 10 00 ⁽²⁾	10,34	—	0
1703 90 00 ⁽²⁾	10,72	—	0

⁽¹⁾ This amount replaces, in accordance with Article 5 of Regulation (EC) No 1422/95, the rate of the Common Customs Tariff duty fixed for these products.

⁽²⁾ For the standard quality as defined in Article 1 of amended Regulation (EEC) No 785/68.

COMMISSION REGULATION (EC) No 190/2005**of 3 February 2005****fixing the export refunds on white sugar and raw sugar exported in its unaltered state**

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

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

Whereas:

- (1) Article 27 of Regulation (EC) No 1260/2001 provides that the difference between quotations or prices on the world market for the products listed in Article 1(1)(a) of that Regulation and prices for those products within the Community may be covered by an export refund.
- (2) Regulation (EC) No 1260/2001 provides that when refunds on white and raw sugar, undenatured and exported in its unaltered state, are being fixed account must be taken of the situation on the Community and world markets in sugar and in particular of the price and cost factors set out in Article 28 of that Regulation. The same Article provides that the economic aspect of the proposed exports should also be taken into account.
- (3) The refund on raw sugar must be fixed in respect of the standard quality. The latter is defined in Annex I, point II, to Regulation (EC) No 1260/2001. Furthermore, this refund should be fixed in accordance with Article 28(4) of that Regulation. Candy sugar is defined in Commission Regulation (EC) No 2135/95 of 7 September 1995 laying down detailed rules of application for the grant of export refunds in the sugar sector⁽²⁾. The refund thus calculated for sugar containing added flavouring or colouring matter must apply to their sucrose content and, accordingly, be fixed per 1 % of the said content.
- (4) In special cases, the amount of the refund may be fixed by other legal instruments.

- (5) The refund must be fixed every two weeks. It may be altered in the intervening period.
- (6) The first subparagraph of Article 27(5) of Regulation (EC) No 1260/2001 provides that refunds on the products referred to in Article 1 of that Regulation may vary according to destination, where the world market situation or the specific requirements of certain markets make this necessary.
- (7) The significant and rapid increase in preferential imports of sugar from the western Balkan countries since the start of 2001 and in exports of sugar to those countries from the Community seems to be highly artificial.
- (8) To prevent any abuse through the re-import into the Community of sugar products in receipt of an export refund, no refund should be set for all the countries of the western Balkans for the products covered by this Regulation.
- (9) In view of the above and of the present situation on the market in sugar, and in particular of the quotations or prices for sugar within the Community and on the world market, refunds should be set at the appropriate amounts.
- (10) The measures provided for in this Regulation are in accordance with the opinion of the Management Committee for Sugar,

HAS ADOPTED THIS REGULATION:

Article 1

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

Article 2

This Regulation shall enter into force on 4 February 2005.

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

Done at Brussels, 3 February 2005.

For the Commission

Mariann FISCHER BOEL

Member of the Commission

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

⁽²⁾ OJ L 214, 8.9.1995, p. 16.

ANNEX

**REFUNDS ON WHITE SUGAR AND RAW SUGAR EXPORTED WITHOUT FURTHER PROCESSING
APPLICABLE FROM 4 FEBRUARY 2005⁽¹⁾**

Product code	Destination	Unit of measurement	Amount of refund
1701 11 90 9100	S00	EUR/100 kg	34,72 ⁽²⁾
1701 11 90 9910	S00	EUR/100 kg	34,72 ⁽²⁾
1701 12 90 9100	S00	EUR/100 kg	34,72 ⁽²⁾
1701 12 90 9910	S00	EUR/100 kg	34,72 ⁽²⁾
1701 91 00 9000	S00	EUR/1 % of sucrose × 100 kg product net	0,3775
1701 99 10 9100	S00	EUR/100 kg	37,75
1701 99 10 9910	S00	EUR/100 kg	37,75
1701 99 10 9950	S00	EUR/100 kg	37,75
1701 99 90 9100	S00	EUR/1 % of sucrose × 100 kg of net product	0,3775

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

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

The other destinations are:

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

⁽¹⁾ The amounts set out in this Annex are not applicable with effect from 1 February 2005 pursuant to Council Decision 2005/45/EC of 22 December 2004 concerning the conclusion and the provisional application of the Agreement between the European Community and the Swiss Confederation amending the Agreement between the European Economic Community and the Swiss Confederation of 22 July 1972 as regards the provisions applicable to processed agricultural products (OJ L 23, 26.1.2005, p. 17).

⁽²⁾ 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 191/2005**of 3 February 2005****fixing the export refunds on syrups and certain other sugar products exported in the natural state**

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

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

Whereas:

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

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

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

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

⁽²⁾ OJ L 214, 8.9.1995, p. 16.

⁽³⁾ OJ L 178, 30.6.2001, p. 63.

- (10) In order to prevent any abuses associated with the reimportation into the Community of sugar sector products that have qualified for export refunds, refunds for the products covered by this Regulation should not be fixed for all the countries of the western Balkans.
- (11) In view of the above, refunds for the products in question should be fixed at the appropriate amounts.
- (12) The measures provided for in this Regulation are in accordance with the opinion of the Management Committee for Sugar,

HAS ADOPTED THIS REGULATION:

Article 1

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

Article 2

This Regulation shall enter into force on 4 February 2005.

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

Done at Brussels, 3 February 2005.

For the Commission

Mariann FISCHER BOEL

Member of the Commission

ANNEX

EXPORT REFUNDS ON SYRUPS AND CERTAIN OTHER SUGAR PRODUCTS EXPORTED WITHOUT FURTHER PROCESSING APPLICABLE FROM 4 FEBRUARY 2005⁽¹⁾

Product code	Destination	Unit of measurement	Amount of refund
1702 40 10 9100	S00	EUR/100 kg dry matter	37,75 ⁽²⁾
1702 60 10 9000	S00	EUR/100 kg dry matter	37,75 ⁽²⁾
1702 60 80 9100	S00	EUR/100 kg dry matter	71,72 ⁽³⁾
1702 60 95 9000	S00	EUR/1 % sucrose × net 100 kg of product	0,3775 ⁽⁴⁾
1702 90 30 9000	S00	EUR/100 kg dry matter	37,75 ⁽²⁾
1702 90 60 9000	S00	EUR/1 % sucrose × net 100 kg of product	0,3775 ⁽⁴⁾
1702 90 71 9000	S00	EUR/1 % sucrose × net 100 kg of product	0,3775 ⁽⁴⁾
1702 90 99 9900	S00	EUR/1 % sucrose × net 100 kg of product	0,3775 ⁽⁴⁾ ⁽⁵⁾
2106 90 30 9000	S00	EUR/100 kg dry matter	37,75 ⁽²⁾
2106 90 59 9000	S00	EUR/1 % sucrose × net 100 kg of product	0,3775 ⁽⁴⁾

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

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

The other destinations are defined as follows:

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

⁽¹⁾ The amounts set out in this Annex are not applicable with effect from 1 February 2005 pursuant to Council Decision 2005/45/EC of 22 December 2004 concerning the conclusion and the provisional application of the Agreement between the European Community and the Swiss Confederation amending the Agreement between the European Economic Community and the Swiss Confederation of 22 July 1972 as regards the provisions applicable to processed agricultural products (OJ L 23, 26.1.2005, p. 17).

⁽²⁾ Applicable only to products referred to in Article 5 of Regulation (EC) No 2135/95.

⁽³⁾ Applicable only to products referred to in Article 6 of Regulation (EC) No 2135/95.

⁽⁴⁾ 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.

⁽⁵⁾ 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 192/2005**of 3 February 2005****fixing the maximum export refund for white sugar to certain third countries for the 18th partial invitation to tender issued within the framework of the standing invitation to tender provided for in Regulation (EC) No 1327/2004**

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

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

Whereas:

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

(2) Pursuant to Article 9(1) of Regulation (EC) No 1327/2004 a maximum export refund shall be fixed,

as the case may be, account being taken in particular of the state and foreseeable development of the Community and world markets in sugar, for the partial invitation to tender in question.

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

HAS ADOPTED THIS REGULATION:

Article 1

For the 18th partial invitation to tender for white sugar issued pursuant to Regulation (EC) No 1327/2004 the maximum amount of the export refund shall be 40,889 EUR/100 kg.

Article 2

This Regulation shall enter into force on 4 February 2005.

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

Done at Brussels, 3 February 2005.

For the Commission

Mariann FISCHER BOEL

Member of the Commission

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

⁽²⁾ OJ L 246, 20.7.2004, p. 23. Regulation as amended by Regulation (EC) No 1685/2004 (OJ L 303, 30.9.2004, p. 21).

COMMISSION REGULATION (EC) No 193/2005**of 3 February 2005****amending 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 markets in the sugar sector⁽¹⁾, and in particular Article 27(5)(a) and (15) thereof,

Whereas:

- (1) The rates of the refunds applicable from 1 February 2005 to the products listed in the Annex, exported in the form of goods not covered by Annex I to the Treaty, were fixed by Commission Regulation (EC) No 167/2005⁽²⁾.

- (2) It follows from applying the rules and criteria contained in Regulation (EC) No 167/2005 to the information at present available to the Commission that the export refunds at present applicable should be altered as shown in the Annex hereto,

HAS ADOPTED THIS REGULATION:

Article 1

The rates of refund fixed by Regulation (EC) No 167/2005 are hereby altered as shown in the Annex hereto.

Article 2

This Regulation shall enter into force on 4 February 2005.

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

Done at Brussels, 3 February 2005.

For the Commission

Günter VERHEUGEN

Vice-President

⁽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 28, 1.2.2005, p. 22.

ANNEX

Rates of refunds applicable from 4 February 2005 to certain products from the sugar sector exported in the form of goods not covered by Annex I to the Treaty⁽¹⁾

CN code	Description	Rate of refund in EUR/100 kg	
		In case of advance fixing of refunds	Other
1701 99 10	white sugar	37,75	37,75

⁽¹⁾ The rates set out in this Annex are not applicable to exports to Bulgaria, with effect from 1 October 2004, and to the goods listed in Tables I and II to Protocol No 2 to the Agreement between the European Community and the Swiss Confederation of 22 July 1972 exported to the Swiss Confederation or to the Principality of Liechtenstein with effect from 1 February 2005.

COMMISSION REGULATION (EC) No 194/2005**of 3 February 2005****fixing the export refunds on cereals and on wheat or rye flour, groats and meal**

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

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

Whereas:

- (1) Article 13 of Regulation (EC) No 1784/2003 provides that the difference between quotations or prices on the world market for the products listed in Article 1 of that Regulation and prices for those products in the Community may be covered by an export refund.
- (2) The refunds must be fixed taking into account the factors referred to in Article 1 of Commission Regulation (EC) No 1501/95 of 29 June 1995 laying down certain detailed rules under 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⁾.
- (3) As far as wheat and rye flour, groats and meal are concerned, when the refund on these products is being calculated, account must be taken of the quantities of cereals required for their manufacture. These quantities were fixed in Regulation (EC) No 1501/95.

- (4) 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.
- (5) The refund must be fixed once a month. It may be altered in the intervening period.
- (6) It follows from applying the detailed rules set out above to the present situation on the market in cereals, and in particular to quotations or prices for these products within the Community and on the world market, that the refunds should be as set out in the Annex hereto.
- (7) 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

The export refunds on the products listed in Article 1(a), (b) and (c) of Regulation (EC) No 1784/2003, excluding malt, exported in the natural state, shall be as set out in the Annex hereto.

Article 2

This Regulation shall enter into force on 4 February 2005.

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

Done at Brussels, 3 February 2005.

For the Commission

Mariann FISCHER BOEL

Member of the Commission

⁽¹⁾ OJ L 270, 21.10.2003, p. 78.

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

ANNEX

**to the Commission Regulation of 3 February 2005 fixing the export refunds on cereals and on wheat or rye
flour, groats and meal**

Product code	Destination	Unit of measurement	Amount of refunds	Product code	Destination	Unit of measurement	Amount of refunds
1001 10 00 9200	—	EUR/t	—	1101 00 15 9130	A00	EUR/t	5,12
1001 10 00 9400	A00	EUR/t	0	1101 00 15 9150	A00	EUR/t	4,72
1001 90 91 9000	—	EUR/t	—	1101 00 15 9170	A00	EUR/t	4,36
1001 90 99 9000	A00	EUR/t	0	1101 00 15 9180	A00	EUR/t	4,08
1002 00 00 9000	A00	EUR/t	0	1101 00 15 9190	—	EUR/t	—
1003 00 10 9000	—	EUR/t	—	1101 00 90 9000	—	EUR/t	—
1003 00 90 9000	A00	EUR/t	0	1102 10 00 9500	A00	EUR/t	0
1004 00 00 9200	—	EUR/t	—	1102 10 00 9700	A00	EUR/t	0
1004 00 00 9400	A00	EUR/t	0	1102 10 00 9900	—	EUR/t	—
1005 10 90 9000	—	EUR/t	—	1103 11 10 9200	A00	EUR/t	0
1005 90 00 9000	A00	EUR/t	0	1103 11 10 9400	A00	EUR/t	0
1007 00 90 9000	—	EUR/t	—	1103 11 10 9900	—	EUR/t	—
1008 20 00 9000	—	EUR/t	—	1103 11 90 9200	A00	EUR/t	0
1101 00 11 9000	—	EUR/t	—	1103 11 90 9800	—	EUR/t	—
1101 00 15 9100	A00	EUR/t	5,48				

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

COMMISSION REGULATION (EC) No 195/2005**of 3 February 2005****fixing the corrective amount applicable to the refund on cereals**

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Council Regulation (EC) No 1784/2003 of 29 September 2003 on the common organisation of the market in cereals⁽¹⁾, and in particular Article 15(2) thereof,

Whereas:

- (1) Article 14(2) of Regulation (EC) No 1784/2003 provides that the export refund applicable to cereals on the day on which an application for an export licence is made must be applied on request to exports to be effected during the period of validity of the export licence. In this case, a corrective amount may be applied to the refund.
- (2) Commission Regulation (EC) No 1501/95 of 29 June 1995 laying down certain detailed rules under Council Regulation (EEC) No 1766/92 on the granting of export refunds on cereals and the cereals and the measures to be taken in the event of disturbance on the market for cereals⁽²⁾, allows for the fixing of a corrective amount for the products listed in Article 1(1)(c) of Regulation (EEC) No 1766/92⁽³⁾. That corrective amount must be calculated taking account of the factors referred to in Article 1 of Regulation (EC) No 1501/95.

- (3) The world market situation or the specific requirements of certain markets may make it necessary to vary the corrective amount according to destination.
- (4) The corrective amount must be fixed at the same time as the refund and according to the same procedure; it may be altered in the period between fixings.
- (5) It follows from applying the provisions set out above that the corrective amount must be as set out in the Annex hereto.
- (6) 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

The corrective amount referred to in Article 1(1)(a), (b) and (c) of Regulation (EC) No 1784/2003 which is applicable to export refunds fixed in advance except for malt shall be as set out in the Annex hereto.

Article 2

This Regulation shall enter into force on 4 February 2005.

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

Done at Brussels, 3 February 2005.

For the Commission

Mariann FISCHER BOEL

Member of the Commission

⁽¹⁾ OJ L 270, 21.10.2003, p. 78.

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

⁽³⁾ OJ L 181, 1.7.1992, p. 21. Regulation as last amended by Regulation (EC) No 1104/2003 (OJ L 158, 27.6.2003, p. 1).

ANNEX

to the Commission Regulation of 3 February 2005 fixing the corrective amount applicable to the refund on cereals

(EUR/t)

Product code	Destination	Current 2	1st period 3	2nd period 4	3rd period 5	4th period 6	5th period 7	6th period 8
1001 10 00 9200	—	—	—	—	—	—	—	—
1001 10 00 9400	A00	0	0	0	0	0	—	—
1001 90 91 9000	—	—	—	—	—	—	—	—
1001 90 99 9000	A00	0	-0,46	-0,92	-1,38	-1,84	—	—
1002 00 00 9000	A00	0	0	0	0	0	—	—
1003 00 10 9000	—	—	—	—	—	—	—	—
1003 00 90 9000	A00	0	-0,46	-0,92	-1,38	-1,84	—	—
1004 00 00 9200	—	—	—	—	—	—	—	—
1004 00 00 9400	A00	0	-0,46	-0,92	-1,38	-1,84	—	—
1005 10 90 9000	—	—	—	—	—	—	—	—
1005 90 00 9000	A00	0	0	0	0	0	—	—
1007 00 90 9000	—	—	—	—	—	—	—	—
1008 20 00 9000	—	—	—	—	—	—	—	—
1101 00 11 9000	—	—	—	—	—	—	—	—
1101 00 15 9100	A00	0	-0,63	-1,26	-1,89	-2,52	—	—
1101 00 15 9130	A00	0	-0,59	-1,18	-1,77	-2,36	—	—
1101 00 15 9150	A00	0	-0,54	-1,08	-1,62	-2,16	—	—
1101 00 15 9170	A00	0	-0,50	-1,00	-1,50	-2,00	—	—
1101 00 15 9180	A00	0	-0,47	-0,94	-1,41	-1,88	—	—
1101 00 15 9190	—	—	—	—	—	—	—	—
1101 00 90 9000	—	—	—	—	—	—	—	—
1102 10 00 9500	A00	0	0	0	0	0	—	—
1102 10 00 9700	A00	0	0	0	0	0	—	—
1102 10 00 9900	—	—	—	—	—	—	—	—
1103 11 10 9200	A00	0	0	0	0	0	—	—
1103 11 10 9400	A00	0	0	0	0	0	—	—
1103 11 10 9900	—	—	—	—	—	—	—	—
1103 11 90 9200	A00	0	0	0	0	0	—	—
1103 11 90 9800	—	—	—	—	—	—	—	—

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).

COMMISSION REGULATION (EC) No 196/2005
of 3 February 2005
fixing production refunds on cereals and rice

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Council Regulation (EC) No 1784/2003 of 29 September 2003, on the common organisation of the market in cereals⁽¹⁾, and in particular Article 8(2) 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 8(e) thereof,

Whereas:

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

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

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

HAS ADOPTED THIS REGULATION:

Article 1

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

- (a) EUR 0,00/tonne for starch from maize, wheat, barley, oats, rice or broken rice;
- (b) EUR 11,60/tonne for potato starch.

Article 2

This Regulation shall enter into force on 4 February 2005.

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

Done at Brussels, 3 February 2005.

For the Commission
Mariann FISCHER BOEL
Member of the Commission

⁽¹⁾ 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 159, 1.7.1993, p. 112. Regulation as last amended by Regulation (EC) No 216/2004 (OJ L 36, 7.2.2004, p. 13).

COMMISSION REGULATION (EC) No 197/2005**of 3 February 2005****fixing the maximum export refund on barley in connection with the invitation to tender issued in
Regulation (EC) No 1757/2004**

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

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

Whereas:

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

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

In that case a contract is awarded to any tenderer whose bid is equal to or lower than the maximum refund.

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

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

HAS ADOPTED THIS REGULATION:

Article 1

For tenders notified on 28 January to 3 February 2005, pursuant to the invitation to tender issued in Regulation (EC) No 1757/2004, the maximum refund on exportation of barley shall be 15,74 EUR/t.

Article 2

This Regulation shall enter into force on 4 February 2005.

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

Done at Brussels, 3 February 2005.

For the Commission

Mariann FISCHER BOEL

Member of the Commission

⁽¹⁾ OJ L 270, 21.10.2003, p. 78.

⁽²⁾ OJ L 313, 12.10.2004, p. 10.

⁽³⁾ OJ L 147, 30.6.1995, p. 7. Regulation as last amended by Regulation (EC) No 777/2004 (OJ L 123, 27.4.2004, p. 50).

COMMISSION REGULATION (EC) No 198/2005**of 3 February 2005****concerning tenders notified in response to the invitation to tender for the export of oats issued in Regulation (EC) No 1565/2004**

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

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

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

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

Whereas:

- (1) An invitation to tender for the refund for the export of oats produced in Finland and Sweden for export from

Finland and Sweden to all third countries, with the exception of Bulgaria, Norway, Romania and Switzerland was opened pursuant to Regulation (EC) No 1565/2004.

- (2) On the basis of the criteria laid down in Article 1 of Regulation (EC) No 1501/95, a maximum refund should not be fixed.
- (3) The measures provided for in this Regulation are in accordance with the opinion of the Management Committee for Cereals,

HAS ADOPTED THIS REGULATION:

Article 1

No action shall be taken on the tenders notified from 28 January to 3 February 2005 in response to the invitation to tender for the refund for the export of oats issued in Regulation (EC) No 1565/2004.

Article 2

This Regulation shall enter into force on 4 February 2005.

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

Done at Brussels, 3 February 2005.

For the Commission

Mariann FISCHER BOEL

Member of the Commission

⁽¹⁾ OJ L 270, 21.10.2003, p. 78.

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

⁽³⁾ OJ L 285, 4.9.2004, p. 3.

COMMISSION REGULATION (EC) No 199/2005**of 3 February 2005****fixing the maximum export refund on common wheat in connection with the invitation to tender issued in Regulation (EC) No 115/2005**

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

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

Whereas:

- (1) An invitation to tender for the refund for the export of common wheat to certain third countries was opened pursuant to Commission Regulation (EC) No 115/2005 ⁽²⁾.
- (2) In accordance with Article 7 of Commission Regulation (EC) No 1501/95 of 29 June 1995 laying down certain detailed rules for the application of Council Regulation (EEC) No 1766/92 on the granting of export refunds on cereals and the measures to be taken in the event of disturbance on the market for cereals ⁽³⁾, the Commission may, on the basis of the tenders notified, decide to fix a maximum export refund taking account of the criteria referred to in Article 1 of Regulation (EC) No 1501/95.

In that case a contract is awarded to any tenderer whose bid is equal to or lower than the maximum refund.

- (3) The application of the abovementioned criteria to the current market situation for the cereal in question results in the maximum export refund being fixed.
- (4) The measures provided for in this Regulation are in accordance with the opinion of the Management Committee for Cereals,

HAS ADOPTED THIS REGULATION:

Article 1

For tenders notified on 28 January to 3 February 2005, pursuant to the invitation to tender issued in Regulation (EC) No 115/2005, the maximum refund on exportation of common wheat shall be 4,00 EUR/t.

Article 2

This Regulation shall enter into force on 4 February 2005.

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

Done at Brussels, 3 February 2005.

For the Commission

Mariann FISCHER BOEL

Member of the Commission

⁽¹⁾ OJ L 270, 21.10.2003, p. 78.

⁽²⁾ OJ L 24, 27.1.2005, p. 3.

⁽³⁾ OJ L 147, 30.6.1995, p. 7. Regulation as last amended by Regulation (EC) No 777/2004 (OJ L 123, 27.4.2004, p. 50).

COMMISSION REGULATION (EC) No 200/2005**of 3 February 2005****fixing the maximum reduction in the duty on sorghum imported in connection with the invitation to tender issued in Regulation (EC) No 2275/2004**

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

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

Whereas:

- (1) An invitation to tender for the maximum reduction in the duty on sorghum imported into Spain from third countries was opened pursuant to Commission Regulation (EC) No 2275/2004⁽²⁾.
- (2) Pursuant to Article 7 of Commission Regulation (EC) No 1839/95⁽³⁾, the Commission, acting under the procedure laid down in Article 25 of Regulation (EC) No 1784/2003, may decide to fix 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 28 January to 3 February 2005, pursuant to the invitation to tender issued in Regulation (EC) No 2275/2004, the maximum reduction in the duty on sorghum imported shall be 26,65 EUR/t and be valid for a total maximum quantity of 46 000 t.

Article 2

This Regulation shall enter into force on 4 February 2005.

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

Done at Brussels, 3 February 2005.

For the Commission

Mariann FISCHER BOEL

Member of the Commission

⁽¹⁾ OJ L 270, 21.10.2003, p. 78.

⁽²⁾ OJ L 396, 31.12.2004, p. 32.

⁽³⁾ OJ L 177, 28.7.1995, p. 4. Regulation as last amended by Regulation (EC) No 777/2004 (OJ L 123, 27.4.2004, p. 50).

COMMISSION REGULATION (EC) No 201/2005**of 3 February 2005****fixing the maximum reduction in the duty on maize imported in connection with the invitation to tender issued in Regulation (EC) No 2277/2004**

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

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

Whereas:

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

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

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

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

HAS ADOPTED THIS REGULATION:

Article 1

For tenders notified from 28 January to 3 February 2005, pursuant to the invitation to tender issued in Regulation (EC) No 2277/2004, the maximum reduction in the duty on maize imported shall be 27,44 EUR/t and be valid for a total maximum quantity of 35 000 t.

Article 2

This Regulation shall enter into force on 4 February 2005.

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

Done at Brussels, 3 February 2005.

For the Commission

Mariann FISCHER BOEL

Member of the Commission

⁽¹⁾ OJ L 270, 21.10.2003, p. 78.

⁽²⁾ OJ L 396, 31.12.2004, p. 35.

⁽³⁾ OJ L 177, 28.7.1995, p. 4. Regulation as last amended by Regulation (EC) No 777/2004 (OJ L 123, 27.4.2004, p. 50).

II

(Acts whose publication is not obligatory)

COUNCIL

COUNCIL DECISION

of 24 September 2004

on the signature and provisional application of a Protocol to the Euro-Mediterranean Agreement between the European Communities and their Member States, of the one part, and the Arab Republic of Egypt, of the other part, to take account of the accession of the Czech Republic, the Republic of Estonia, the Republic of Cyprus, the Republic of Latvia, the Republic of Lithuania, the Republic of Hungary, the Republic of Malta, the Republic of Poland, the Republic of Slovenia, and the Slovak Republic to the European Union

(2005/89/EC)

THE COUNCIL OF THE EUROPEAN UNION,

HAS DECIDED AS FOLLOWS:

Having regard to the Treaty establishing the European Community, and in particular Article 310 in conjunction with the second sentence of Article 300(2) thereof,

Having regard to the 2003 Act of Accession⁽¹⁾, and in particular Article 6(2) thereof,

Having regard to the proposal from the Commission,

Whereas:

- (1) On 10 February 2004, the Council authorised the Commission, on behalf of the European Community and its Member States, to open negotiations with Egypt with a view to adjusting the Euro-Mediterranean Agreement between the European Communities and their Member States, of the one part, and the Arab Republic of Egypt, of the other part, to take account of the accession of the new Member States to the EU.
- (2) These negotiations have been concluded to the satisfaction of the Commission.
- (3) The text of the Protocol negotiated with the Arab Republic of Egypt provides, in Article 12(2), for the provisional application of the Protocol before its entry into force.
- (4) Subject to its possible conclusion at a later date, the Protocol should be signed on behalf of the Community and applied provisionally,

Article 1

The President of the Council is hereby authorised to designate the person(s) empowered to sign, on behalf of the European Community and its Member States, and subject to its conclusion, the Protocol to the Euro-Mediterranean Agreement between the European Communities and their Member States, of the one part, and the Arab Republic of Egypt, of the other part, to take account of the accession of the Czech Republic, the Republic of Estonia, the Republic of Cyprus, the Republic of Latvia, the Republic of Lithuania, the Republic of Hungary, the Republic of Malta, the Republic of Poland, the Republic of Slovenia, and the Slovak Republic to the European Union.

The text of the Protocol is attached to this Decision.

Article 2

The European Community and its Member States hereby agree to apply provisionally the terms of the Protocol, subject to its possible conclusion at a later date.

Done at Brussels, 24 September 2004.

For the Council
The President
L. J. BRINKHORST

⁽¹⁾ OJ L 236, 23.9.2003, p. 33.

PROTOCOL

to the Euro-Mediterranean Agreement between the European Communities and their Member States, of the one part, and the Arab Republic of Egypt, of the other part, to take account of the accession of the Czech Republic, the Republic of Estonia, the Republic of Cyprus, the Republic of Latvia, the Republic of Lithuania, the Republic of Hungary, the Republic of Malta, the Republic of Poland, the Republic of Slovenia and the Slovak Republic to the European Union

THE KINGDOM OF BELGIUM,

THE CZECH REPUBLIC,

THE KINGDOM OF DENMARK,

THE FEDERAL REPUBLIC OF GERMANY,

THE REPUBLIC OF ESTONIA,

THE HELLENIC REPUBLIC,

THE KINGDOM OF SPAIN,

THE FRENCH REPUBLIC,

IRELAND,

THE ITALIAN REPUBLIC,

THE REPUBLIC OF CYPRUS,

THE REPUBLIC OF LATVIA,

THE REPUBLIC OF LITHUANIA,

THE GRAND DUCHY OF LUXEMBOURG,

THE REPUBLIC OF HUNGARY,

THE REPUBLIC OF MALTA,

THE KINGDOM OF THE NETHERLANDS,

THE REPUBLIC OF AUSTRIA,

THE REPUBLIC OF POLAND,

THE PORTUGUESE REPUBLIC,

THE REPUBLIC OF SLOVENIA,

THE SLOVAK REPUBLIC,

THE REPUBLIC OF FINLAND,

THE KINGDOM OF SWEDEN,

THE UNITED KINGDOM OF GREAT BRITAIN AND NORTHERN IRELAND,

hereinafter referred to as 'EC Member States' represented by the Council of the European Union, and

THE EUROPEAN COMMUNITY, hereinafter referred to as 'the Community' represented by the Council of the European Union and the European Commission,

of the one part, and

THE ARAB REPUBLIC OF EGYPT, hereinafter referred to as 'Egypt',

of the other part,

WHEREAS the Euro-Mediterranean Agreement between the European Communities and their Member States, of the one part, and the Arab Republic of Egypt, of the other part, hereinafter referred to as 'the Euro-Mediterranean Agreement', was signed in Luxembourg on 25 June 2001 and entered into force on 1 June 2004;

WHEREAS the Treaty concerning the accession of the Czech Republic, the Republic of Estonia, the Republic of Cyprus, the Republic of Latvia, the Republic of Lithuania, the Republic of Hungary, the Republic of Malta, the Republic of Poland, the Republic of Slovenia and the Slovak Republic to the European Union and the Act thereto was signed in Athens on 16 April 2003 and entered into force on 1 May 2004;

WHEREAS an Agreement in the form of an Exchange of Letters providing for the provisional application of the trade and trade-related provisions of the Euro-Mediterranean Agreement entered into force on 1 January 2004;

WHEREAS, pursuant to Article 6(2) of the 2003 Act of Accession, the accession of the new Contracting Parties to the Euro-Mediterranean Agreement must be agreed by the conclusion of a Protocol to the Euro-Mediterranean Agreement;

WHEREAS consultations pursuant to Article 21 of the Euro-Mediterranean Agreement have taken place in order to ensure that account has been taken of the mutual interests of the Community and Egypt,

HAVE AGREED AS FOLLOWS:

Article 1

The Czech Republic, the Republic of Estonia, the Republic of Cyprus, the Republic of Latvia, the Republic of Lithuania, the Republic of Hungary, the Republic of Malta, the Republic of Poland, the Republic of Slovenia, and the Slovak Republic hereby become Contracting Parties to the Euro-Mediterranean Agreement between the European Communities and their Member States, of the one part, and the Arab Republic of Egypt, of the other part, and shall respectively adopt and take note, in the same manner as the other Member States of the Community, of the texts of the Agreement, as well as of the Joint Declarations, Declarations and Exchanges of Letters.

Article 2

To take account of recent institutional developments within the European Union, the Parties agree that following expiry of the Treaty establishing the European Coal and Steel Community, existing provisions in the Agreement referring to the European Coal and Steel Community shall be deemed to refer to the European Community, which has taken over all rights and obligations contracted by the European Coal and Steel Community.

CHAPTER I

AMENDMENTS TO THE TEXT OF THE EURO-MEDITERRANEAN AGREEMENT, INCLUDING ITS ANNEXES AND PROTOCOLS

Article 3

Agricultural products

Protocol 1 shall be replaced by the text in the Annex to this Protocol.

Article 4

Rules of Origin

Protocol 4 shall be amended as follows:

1. Article 18(4) shall be replaced by the following:

Movement certificates EUR.1 issued retrospectively must be endorsed with one of the following phrases:

ES: 'EXPEDIDO A POSTERIORI'

CS: 'VYSTAVENO DODATEČNĚ'

DA: 'UDSTEDT EFTERFØLGENDE'

DE: 'NACHTRÄGLICH AUSGESTELLT'
 ET: 'VÄLJA ANTUD TAGASIULATUVALT'
 EL: 'ΕΚΔΟΘΕΝ ΕΚ ΤΩΝ ΥΣΤΕΡΩΝ'
 EN: 'ISSUED RETROSPECTIVELY'
 FR: 'DÉLIVRÉ A POSTERIORI'
 IT: 'RILASCIATO A POSTERIORI'
 LV: 'IZSNIEGTS RETROSPEKTĪVI'
 LT: 'RETROSPEKTYVUSIS IŠDAVIMAS'
 HU: 'KIADVA VISSZAMENŐLEGES HATÁLLYAL'
 MT: 'MAHRUĠ RETROSPETTIVAMENT'
 NL: 'AFGEGEVEN A POSTERIORI'
 PL: 'WYSTAWIONE RETROSPEKTYWNIE'
 PT: 'EMITIDO A POSTERIORI'
 SL: 'IZDANO NAKNADNO'
 SK: 'VYDANÉ DODATOČNE'
 FI: 'ANNETTU JÄLKIKÄTEEN'
 SV: 'UTFÄRDAT I EFTERHAND'
 AR: الصائرة باثر رجعي

HU: 'MÁSODLAT'
 MT: 'DUPLIKAT'
 NL: 'DUPLICAAT'
 PL: 'DUPLIKAT'
 PT: 'SEGUNDA VIA'
 SL: 'DVOJNIK'
 SK: 'DUPLIKÁT'
 FI: 'KAKSOISKAPPALE'
 SV: 'DUPLIKAT'
 AR: نسخة

2. Article 19(2) shall be replaced by the following:

The duplicate issued in this way must be endorsed with one of the following words:

ES: 'DUPLICADO'
 CS: 'DUPLIKÁT'
 DA: 'DUPLIKAT'
 DE: 'DUPLIKAT'
 ET: 'DUPLIKAAT'
 EL: 'ΑΝΤΙΓΡΑΦΟ'
 EN: 'DUPLICATE'
 FR: 'DUPLICATA'
 IT: 'DUPLICATO'
 LV: 'DUBLIKĀTS'
 LT: 'DUBLIKATAS'

3. Annex V shall be replaced by the following:

Spanish version

El exportador de los productos incluidos en el presente documento [autorización aduanera n° ...⁽¹⁾] declara que, salvo indicación en sentido contrario, estos productos gozan de un origen preferencial ...⁽²⁾.

Czech version

Vývozce výrobků uvedených v tomto dokumentu (číslo povolení ...⁽¹⁾) prohlašuje, že kromě zřetelně označených, mají tyto výrobky preferenční původ v ...⁽²⁾.

Danish version

Eksportøren af varer, der er omfattet af nærværende dokument, (toldmyndighedernes tilladelse nr. ...⁽¹⁾), erklærer, at varerne, medmindre andet tydeligt er angivet, har præferenceoprindelse i ...⁽²⁾.

German version

Der Ausführer (Ermächtigter Ausführer; Bewilligungs-Nr. ...⁽¹⁾) der Waren, auf die sich dieses Handelspapier bezieht, erklärt, dass diese Waren, soweit nicht anders angegeben, präferenzbegünstigte ...⁽²⁾ Ursprungswaren sind.

Estonian version

Käesoleva dokumendiga hõlmatud toodete eksportija (tolliameti kinnitus nr. ...⁽¹⁾) deklareerib, et need tooted on ...⁽²⁾ sooduspäritoluga, välja arvatud juhul kui on selgelt näidatud teisiti.

Greek version

Ο εξαγωγέας των προϊόντων που καλύπτονται από το παρόν έγγραφο [άδεια τελωνείου υπ' αριθ. ...⁽¹⁾] δηλώνει ότι, εκτός εάν δηλώνεται σαφώς άλλως, τα προϊόντα αυτά είναι προτιμυσιακής καταγωγής ...⁽²⁾.

English version

The exporter of the products covered by this document (customs authorisation No ...⁽¹⁾) declares that, except where otherwise clearly indicated, these products are of ...⁽²⁾ preferential origin.

French version

L'exportateur des produits couverts par le présent document [autorisation douanière n° ...⁽¹⁾] déclare que, sauf indication claire du contraire, ces produits ont l'origine préférentielle ...⁽²⁾.

Italian version

L'esportatore delle merci contemplate nel presente documento [autorizzazione doganale n. ...⁽¹⁾] dichiara che, salvo indicazione contraria, le merci sono di origine preferenziale ...⁽²⁾.

Latvian version

Eksportētājs produktiem, kuri ietverti šajā dokumentā [muitas pilnvara Nr. ...⁽¹⁾], deklarē, ka, izņemot tur, kur ir citādi skaidri noteikts, šiem produktiem ir priekšrocību izcelsme no ...⁽²⁾.

Lithuanian version

Šiame dokumente išvardintų prekių eksportuotojas (muitinės liudijimo Nr. ...⁽¹⁾) deklaruoja, kad, jeigu kitaip nenurodyta, tai yra ...⁽²⁾ preferencinės kilmės prekės.

Hungarian version

A jelen okmányban szereplő áruk exportőre (vámfelhatalmazási szám: ...⁽¹⁾) kijelentem, hogy eltérő jelzés hiányában az áruk kedvezményes ...⁽²⁾ származásúak.

Maltese version

L-esportatur tal-prodotti koperti b'dan id-dokument (awtorizzazzjoni tad-dwana nru. ...⁽¹⁾) jiddikjara li, hlief fejn indikat b'mod ċar li mhux hekk, dawn il-prodotti huma ta' oriġini preferenzjali ...⁽²⁾.

Dutch version

De exporteur van de goederen waarop dit document van toepassing is (douanevergunning nr. ...⁽¹⁾), verklaart dat,

behoudens uitdrukkelijke andersluidende vermelding, deze goederen van preferentiële ... oorsprong zijn ⁽²⁾.

Polish version

Eksporter produktów objętych tym dokumentem (upoważnienie władz celnych nr ...⁽¹⁾) deklaruje, że z wyjątkiem gdzie jest to wyraźnie określone, produkty te mają ...⁽²⁾ preferencyjne pochodzenie.

Portuguese version

O exportador dos produtos cobertos pelo presente documento [autorização aduaneira n.º ...⁽¹⁾], declara que, salvo expressamente indicado em contrário, estes produtos são de origem preferencial ...⁽²⁾.

Slovenian version

Izvoznik blaga, zajetega s tem dokumentom (pooblastilo carinskih organov št ...⁽¹⁾) izjavlja, da, razen če ni drugače jasno navedeno, ima to blago preferencialno ...⁽²⁾ poreklo.

Slovak version

Vývozca výrobkov uvedených v tomto dokumente (číslo povolenia ...⁽¹⁾) vyhlasuje, že okrem zreteľne označených, majú tieto výrobky preferenčný pôvod v ...⁽²⁾.

Finnish version

Tässä asiakirjassa mainittujen tuotteiden viejä (tullin lupa N:o ...⁽¹⁾) ilmoittaa, että nämä tuotteet ovat, ellei toisin ole selvästi merkitty, etuuskohteluun oikeutettuja ... alkuperäituotteita ⁽²⁾.

Swedish version

Exportören av de varor som omfattas av detta dokument (tullmyndighetens tillstånd nr. ...⁽¹⁾) försäkrar att dessa varor, om inte annat tydligt markerats, har förmånsberättigande ... ursprung ⁽²⁾.

Arabic version

بصرح مصدر المنتجات التي تشملها هذه الوثيقة (التصريح الجمركي رقم⁽¹⁾) باستثناء ما ينص بوضوح على خلاف ذلك، بأن هذه المنتجات من منشأ تفضيلي من⁽²⁾.

*Article 5***Presidency of the Association Committee**

Article 78(3) shall be replaced by the following:

'The Association Committee shall be chaired in turn by a representative of the the Commission of the European Communities and by a representative of the Government of the Arab Republic of Egypt.'

CHAPTER II

TRANSITIONAL PROVISIONS

Article 6

Proofs of origin and administrative cooperation

1. Proofs of origin properly issued by either Egypt or a new Member State under preferential agreements or autonomous arrangements applied between them shall be accepted in the respective countries under this Protocol, provided that:

- (a) the acquisition of such origin confers preferential tariff treatment on the basis of either the preferential tariff measures contained in the EU-Egypt Agreement or in the Community System of Generalised Preferences;
- (b) the proof of origin and the transport documents were issued no later than the day before the date of accession;
- (c) the proof of origin is submitted to the customs authorities within a period of four months from the date of accession.

Where goods were declared for importation in either Egypt or a new Member State, prior to the date of accession, under preferential agreements or autonomous arrangements applied between Egypt and that new Member State at that time, proof of origin issued retrospectively under those agreements or arrangements may also be accepted provided that it is submitted to the customs authorities within a period of four months from the date of accession.

2. Egypt and the new Member States are authorised to retain the authorisations with which the status of 'approved exporters' has been granted under preferential agreements or autonomous arrangements applied between them, provided that:

- (a) such a provision is also provided for in the agreement concluded prior to the date of accession between Egypt and the Community; and
- (b) the approved exporter applies the rules of origin in force under that agreement.

These authorisations shall be replaced, no later than one year after the date of accession, by new authorisations issued under the conditions of the Agreement.

3. Requests for subsequent verification of proof of origin issued under the preferential agreements or autonomous arrangements referred to in paragraphs 1 and 2 shall be accepted by the competent customs authorities of either Egypt or the new Member States for a period of three years after the

issue of the proof of origin concerned and may be made by those authorities for a period of three years after acceptance of the proof of origin submitted to those authorities in support of an import declaration.

Article 7

Goods in transit

1. The provisions of the Agreement may be applied to goods exported from either Egypt to one of the new Member States or from one of the new Member States to Egypt, which comply with the provisions of Protocol 4 and which on the date of accession are either en route or in temporary storage, in a customs warehouse or in a free zone in Egypt or in that new Member State.

2. Preferential treatment may be granted in such cases, subject to the submission to the customs authorities of the importing country, within four months of the date of accession, of proof of origin issued retrospectively by the customs authorities of the exporting country.

GENERAL AND FINAL PROVISIONS

Article 8

The Arab Republic of Egypt undertakes that it shall neither make any claim, request or referral nor modify or withdraw any concession pursuant to GATT 1994 Articles XXIV.6 and XXVIII in relation to this enlargement of the Community.

Article 9

For the year 2004, the volumes of the new tariff quotas and the increases in the volumes of existing tariff quotas shall be calculated as a pro rata of the basic volumes, taking into account the part of the period elapsed before the date of application of this protocol.

Article 10

This Protocol shall form an integral part of the Euro-Mediterranean Agreement. The Annexes and declaration to this Protocol shall form an integral part thereof.

Article 11

1. This Protocol shall be approved by the Communities, by the Council of the European Union on behalf of the Member States, and by the Arab Republic of Egypt in accordance with their own procedures.

2. The Parties shall notify each other of the accomplishment of the corresponding procedures referred to in paragraph 1. The instruments of approval shall be deposited with the General Secretariat of the Council of the European Union.

Article 13

This Protocol is drawn up in duplicate in each of the official languages of the Contracting Parties, each of these texts being equally authentic.

Article 12

1. This Protocol shall enter into force on the first day of the first month following the date of deposit of the last instrument of approval.

2. This Protocol shall apply provisionally as from 1 May 2004.

Article 14

The text of the Euro-Mediterranean Agreement, including the Annexes and Protocols forming an integral part thereof, and the Final Act together with the declarations annexed thereto shall be drawn up in the Czech, Estonian, Hungarian, Latvian, Lithuanian, Maltese, Polish, Slovak and Slovenian languages and these texts shall be authentic in the same way as the original texts. The Association Council shall approve these texts.

Hecho en Bruselas, el veinte de diciembre de dos mil cuatro.

V Bruselu dne dvacátého prosince dva tisíce čtyři.

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

Geschehen zu Brüssel am zwanzigsten Dezember zweitausendundvier.

Kahe tuhande neljanda aasta detsembrikuu kahekümnendal päeval Brüsselis.

Έγινε στις Βρυξέλλες, στις είκοσι Δεκεμβρίου δύο χιλιάδες τέσσερα.

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

Fait à Bruxelles, le vingt décembre deux mille quatre.

Fatto a Bruxelles, addì venti dicembre duemilaquattro.

Briselē, divi tūkstoši ceturtdā gada divdesmitajā decembrī.

Priimta du tūkstančiai ketvirtą metų gruodžio dvidešimtą dieną Briuselyje.

Kelt Brüsszelben, a kettőezer negyedik év december huszadik napján.

Magħmula fi Brussel fl-ghoxrin ġurnata ta' Diċembru tas-sena elfejn u erbgha.

Gedaan te Brussel, de twintigste december tweeduizendvier.

Sporządzono w Brukseli dnia dwudziestego grudnia roku dwutysięcznego czwartego.

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

V Bruseli dvadsiateho decembra dvetisícčtyri.

V Bruslju, dvajsetega decembra leta dva tisoč štiri.

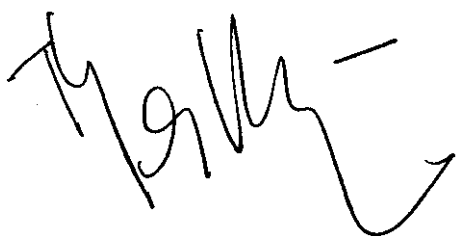
Tehty Brysselissä kahdentenakymmenentenä päivänä joulukuuta vuonna kaksituhattaneljä.

Som skedde i Bryssel den tjugonde december tjugohundrafyra.

وقع في بروكسل في اليوم العشرين من شهر ديسمبر عام ألفين وأربعة ميلادية.

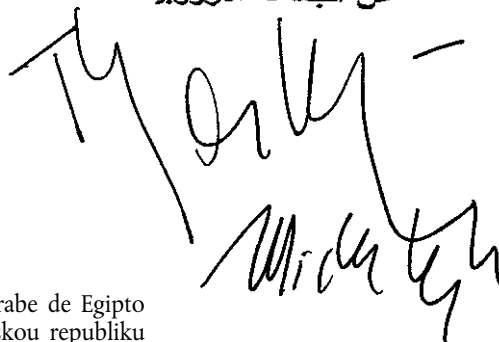
Por los Estados miembros
 Za členské státy
 For medlemsstaterne
 Für die Mitgliedstaaten
 Liikmesriikide nimel
 Για τα κράτη μέλη
 For the Member States
 Pour les États membres
 Per gli Stati membri
 Dalībvalstu vārdā
 Valstybių narių vardu
 A tagállamok részéről
 Ghall-Istati Membri
 Voor de lidstaten
 W imieniu Państw Członkowskich
 Pelos Estados-Membros
 Za členské štáty
 Za države članice
 Jäsenvaltioiden puolesta
 På medlemsstaternas vägnar

عن الدول أعضاء الاتحاد الأوروبي :



Por las Comunidades Europeas
 Za Evropská společenství
 For De Europæiske Fællesskaber
 Für die Europäische Gemeinschaften
 Euroopa ühenduste nimel
 Για τις Ευρωπαϊκές Κοινότητες
 For the European Communities
 Pour les Communautés européennes
 Per le Comunità europee
 Eiropas Kopienų vārdā
 Europos Bendrijų vardu
 Az Európai Közösségek részéről
 Ghall-Komunitajiet Ewropej
 Voor de Europese Gemeenschappen
 W imieniu Wspólnot Europejskich
 Pelas Comunidades Europeias
 Za Európske spoločenstvá
 Za Evropske skupnosti
 Euroopan yhteisöjen puolesta
 På europeiska gemenskapernas vägnar

عن الجماعة الأوروبية :



Por la República Árabe de Egipto
 Za Egyptskou arabskou republiku
 For Den Arabiske Republik Egypten
 Für die Arabische Republik Ägypten
 Egiptuse Araabia Vabariigi nimel
 Για την Αραβική Δημοκρατία της Αιγύπτου
 For the Arab Republik of Egypt
 Pour la République arabe d'Égypte
 Per la Repubblica araba di Egitto
 Eġiptes Arābu Republikas vārdā
 Egipto Arabų Respublikos vardu
 Az Egyiptomi Arab Köztársaság részéről
 Ghar-Repubblika Gharbija ta' l-Eġittu
 Voor de Arabische Republiek Egypte
 W imieniu Arabskiej Republiki Egiptu
 Pela República Árabe do Egipto
 Za Egyptskú arabskú republiku
 Za Arabsko republiko Egipt
 Egyptin arabitasavallan puolesta
 På Arabrepublikens vägnar

عن جمهورية مصر العربية :



ANNEX

PROTOCOL 1

concerning the arrangements applicable to imports into the Community of agricultural products originating in Egypt

1. The products listed in the Annex, originating in Egypt, shall be admitted for importation into the Community, pursuant to the conditions set out below and in the Annex.

2. (a) Customs duties shall be either eliminated or reduced as indicated in column 'A'.

(b) For certain products, for which the Common Customs Tariff provides for the application of an *ad valorem* duty and a specific duty, the rates of reduction, indicated in columns 'A' and 'C', shall apply only to the *ad valorem* duty.

However, for the products falling under the codes 0703 20 00, 0709 90 39, 0709 90 60, 0711 20 90, 0712 90 19, 0714 20 90, 1006, 1212 91, 1212 99 20, 1703 and 2302, the concession granted should also apply to specific duties.

3. For certain products, customs duties shall be eliminated within the limit of the tariff quotas listed in column 'B'.

These tariff quotas shall apply on an annual basis from 1 January to 31 December, unless otherwise specified.

For the quantities imported in excess of the quotas, the common customs duties shall, according to the product concerned, be applied in full or reduced, as indicated in column 'C'.

For the first year 2004, the volumes of the tariff quotas and the increases of the volumes of existing tariff quotas shall be calculated as a pro rata of the basic volumes specified in the Protocol, taking into account the part of the period elapsed before 1 May 2004.

4. For the products for which the specific provisions in column 'D' refer to this paragraph, the tariff quota volumes listed in column 'B' shall be increased annually by 3 % of the volume of the previous year; the first increase taking place one year after the entry into force of this agreement.

5. For sweet oranges, fresh, falling within CN codes 0805 10 10, 0805 10 30 and 0805 10 50, within the limit of the tariff quota of 34 000 tonnes applicable for the concession on the *ad valorem* customs duties, the agreed entry price between the European Community and Egypt, from which the specific duty provided in the Community's list of concessions to the WTO is reduced to zero, is:

EUR 264/tonne, for every period from 1 December to 31 May.

If the entry price for a consignment is 2, 4, 6 or 8 % lower than the agreed entry price, the specific customs quota duty shall be equal respectively to 2, 4, 6 or 8 % of this agreed entry price. If the entry price of a consignment is less than 92 % of the agreed entry price, the specific customs duty bound within the WTO shall apply.

Annex to Protocol No 1

CN code (*)	Description (**)	a	b	c	d
		Reduction of the MFN customs duty (!) %	Tariff quota (tonnes net weight)	Reduction of the customs duty beyond the tariff quota (!) %	Specific provisions
0601	Bulbs, tubers, tuberous roots, corms, crowns and rhizomes, dormant, in growth or in flower; chicory plants and roots other than roots of heading No 1212	100	500	—	Subject to specific provisions in Protocol 1(4)
0602	Other live plants (including their roots), cuttings and slips; mushroom spawn	100	2 000	—	Subject to specific provisions in Protocol 1(4)
0603 10	Fresh cut flowers and flower buds, of a kind suitable for bouquets or for ornamental purposes, from 1 October to 15 April	100	3 000 of which	—	Subject to compliance with the conditions agreed upon by Exchange of Letters
0603 10 80	Other fresh cut flowers and flower buds, of a kind suitable for bouquets or for ornamental purposes, from 1 October to 15 April	100	1 000		
0604 99	Foliage, branches and other parts of plants, without flowers or flower buds, and grasses, dried, dyed, bleached, impregnated or otherwise prepared	100	500	—	Subject to specific provisions in Protocol 1(4)
ex 0701 90 50	New potatoes, fresh or chilled, from 1 January to 31 March	100	year 1: 130 000; year 2: 190 000; year 3 and following years: 250 000	60	
	New potatoes, fresh or chilled, from 1 April to 30 June	100	1 750	60	
0702 00 00	Tomatoes, fresh or chilled, from 1 November to 31 March	100	—	—	
0703 10	Onions and shallots, fresh or chilled, from 1 January to 15 June	100	16 150	60	Subject to specific provisions in Protocol 1 (4)
0703 20 00	Garlic, fresh or chilled, from 1 February to 15 June	100	3 000	50	Subject to specific provisions in Protocol 1(4)
0704	Cabbages, cauliflowers, kohlrabi, kale and similar edible brassicas, fresh or chilled, from 1 November to 15 April	100	1 500	—	Subject to specific provisions in Protocol 1(4)
0705 11 00	Cabbage lettuce (head lettuce), fresh or chilled, from 1 November to 31 March	100	500	—	Subject to specific provisions in Protocol 1(4)

CN code (*)	Description (**)	a	b	c	d
		Reduction of the MFN customs duty (%) ⁽¹⁾	Tariff quota (tonnes net weight)	Reduction of the customs duty beyond the tariff quota (%) ⁽¹⁾	Specific provisions
0706 10 00	Carrots and turnips, fresh or chilled, from 1 January to 30 April	100	500	—	Subject to specific provisions in Protocol 1(4)
0707 00	Cucumbers and gherkins, fresh or chilled, from 1 January to end February	100	500	—	Subject to specific provisions in Protocol 1(4)
0708	Leguminous vegetables, shelled or unshelled, fresh or chilled, from 1 November to 30 April	100	year 1: 15 000; year 2: 17 500; after year 2: 20 000	—	
0709	Other vegetables, fresh or chilled: — asparagus from 1 October to end February, — sweet peppers from 1 November to 30 April, — other vegetables from 1 November to end February	100	—	—	
ex 0710 ex 0711	Frozen and provisionally preserved vegetables, excluding sweet corn of subheadings 0710 40 00 and 0711 90 30 and excluding mushrooms of the genus <i>Agaricus</i> of subheadings 0710 80 61 and 0711 51 00	100	year 1: 1 000; year 2: 2 000; year 3 and following: 3 000	—	
0712	Dried vegetables, whole, cut, sliced, broken or in powder, but not further prepared	100	16 550	—	Subject to specific provisions in Protocol 1(4)
ex 0713	Dried leguminous vegetables, shelled, whether or not skinned or split, excluding products for sowing of subheadings 0713 10 10, 0713 33 10 and 0713 90 00	100	—	—	
0714 20	Sweet potatoes, fresh, chilled, frozen or dried	100	3 000	—	Subject to specific provisions in Protocol 1(4)
0804 10 00	Dates, fresh or dried	100	—	—	
0804 50 00	Guavas, mangoes and mangosteens, fresh or dried	100	—	—	

CN code (*)	Description (**)	a	b	c	d
		Reduction of the MFN customs duty ⁽¹⁾ %	Tariff quota (tonnes net weight)	Reduction of the customs duty beyond the tariff quota ⁽¹⁾ %	Specific provisions
0805 10	Oranges, fresh or dried	100	year 1: 58 020 ⁽²⁾ ; year 2: 63 020 ⁽²⁾ ; year 3 and following years: 68 020 ⁽²⁾	60	Subject to specific provisions in Protocol 1(5)
0805 20	Mandarins (including tangerines and satsumas), clementines, wilkings and similar citrus hybrids, fresh or dried	100	—	—	
0805 50	Lemons (<i>Citrus limon</i> , <i>Citrus limonum</i>) and limes (<i>Citrus aurantifolia</i> , <i>Citrus latifolia</i>), fresh or dried	100	—	—	
0805 40 00	Grapefruit, fresh or dried	100	—	—	
0806 10	Grapes, fresh, from 1 February to 14 July	100	—	—	
0807 11 00	Watermelons, fresh, from 1 February to 15 June	100	—	—	
0807 19 00	Other melons, fresh, from 15 October to 31 May	100	1 175	—	Subject to specific provisions in Protocol 1(4)
0808 20	Pears and quinces, fresh	100	500	—	Subject to specific provisions in Protocol 1(4)
0809 30	Peaches, including nectarines, fresh, from 15 March to 31 May	100	500	—	Subject to specific provisions in Protocol 1(4)
0809 40	Plums and sloes, fresh, from 15 April to 31 May	100	500	—	Subject to specific provisions in Protocol 1(4)
0810 10 00	Strawberries, fresh, from 1 October to 31 March	100	year 1: 500; year 2: 1 205; year 3 and following years: 1 705	—	
0810 90 95	Other fruit, fresh	100	—	—	

CN code (*)	Description (**)	a	b	c	d
		Reduction of the MFN customs duty (1) %	Tariff quota (tonnes net weight)	Reduction of the customs duty beyond the tariff quota (1) %	Specific provisions
0811 0812	Fruit and nuts, uncooked or cooked by steaming or boiling in water, frozen, whether or not containing added sugar or other sweetening matter, or provisionally preserved, but unsuitable in that state for immediate consumption	100	year 1: 1 000; year 2: 2 000; year 3 and following years: 3 000	—	
0904	Pepper of the genus <i>Piper</i> ; dried or crushed or ground fruits of the genus <i>Capsicum</i> or of the genus <i>Pimenta</i>	100	—	—	
0909	Seeds of anise, badian, fennel, coriander, cumin or caraway; juniper berries	100	—	—	
0910	Ginger, saffron, turmeric (curcuma), thyme, bay leaves, curry and other spices	100	—	—	
1006	Rice	25	32 000	—	
		100	5 605	—	
1202	Ground nuts	100	—	—	
ex 1209	Seeds, fruit and spores, of a kind used for sowing, excluding beet seeds of subheadings 1209 10 00 and 1209 29 60	100	—	—	
1211	Plants and parts of plants (including seeds and fruits), of a kind used primarily in perfumery, in pharmacy or for insecticidal, fungicidal or similar purposes	100	—	—	
1212	Locust beans, seaweeds and other algae, sugar beet and sugar cane; fruit stones and kernels and other vegetable products of a kind used primarily for human consumption, not elsewhere specified or included	100	—	—	
1515 50 11	Sesame oil, crude, for technical or industrial uses other than the manufacture of foodstuffs for human consumption (3)	100	1 000	—	Subject to specific provisions in Protocol 1(4)

CN code (*)	Description (**)	a	b	c	d
		Reduction of the MFN customs duty ⁽¹⁾ %	Tariff quota (tonnes net weight)	Reduction of the customs duty beyond the tariff quota ⁽¹⁾ %	Specific provisions
1515 90	Other fixed vegetable fats and oils and their fractions, whether or not refined, but not chemically modified, other than linseed, maize (corn), castor, tung and sesame oil and its fractions	100	500	—	Subject to specific provisions in Protocol 1(4)
1703	Molasses resulting from the extraction or refining of sugar	100	350 000	—	Subject to specific provisions in Protocol 1(4)
2001 90 10	Mango chutney	100	—	—	
2007	Jams, fruit jellies, marmalades, fruit or nut purée and fruit or nut pastes, obtained by cooking, whether or not containing added sugar or other sweetening matter	100	1 000	—	Subject to specific provisions in Protocol 1(4)
2008 11	Ground nuts	100	3 000	—	Subject to specific provisions in Protocol 1(4)
2009	Fruit juices (including grape must) and vegetable juices, unfermented and not containing added spirit, whether or not containing added sugar or other sweetening matter	100	1 050	—	Subject to specific provisions in Protocol 1(4)
2302	Bran, sharps and other residues derived from the sifting, milling or other working of cereals or of leguminous plants	60	—	—	
5301	Flax	100	—	—	

(*) Combined nomenclature (CN) codes corresponding to Regulation (EC) No 1789/2003 (OJ L 281, 30.10.2003).

(**) Notwithstanding the rules for the interpretation of the CN, the wording for the description of the products is to be considered as having no more than an indicative value, the preferential scheme being determined, within the context of this Annex, by the coverage of the CN codes. Where 'ex' CN codes are indicated, the preferential scheme is to be determined by the application of the CN codes and corresponding description taken together.

⁽¹⁾ Duty reduction only applies to *ad valorem* customs duties. However for the products falling under the codes 0703 20 00, 0709 90 39, 0709 90 60, 0711 20 90, 0712 90 19, 0714 20 90, 1006, 1212 91, 1212 99 20, 1703 and 2302, the concession granted should also apply to specific duties.

⁽²⁾ Tariff quota applicable from 1 July to 30 June. Of this volume 34 000 tonnes for sweet oranges, fresh, falling within CN codes 0805 10 10, 0805 10 30 and 0805 10 50, during the period from 1 December to 31 May.

⁽³⁾ Entry under this subheading is subject to conditions laid down in the relevant Community provisions (see Articles 291 to 300 of Commission Regulation (EEC) No 2454/93 (OJ L 253, 11.10.1993, p. 1) and subsequent amendments).

COMMISSION

COMMISSION DECISION

of 20 April 2004

on the measure implemented by France for Société de Réparation Navale et Industrielle SA (SORENI)

(notified under document number C(2004) 1362)

(Only the French version is authentic)

(Text with EEA relevance)

(2005/90/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 called on interested parties to submit their comments pursuant to the provisions cited above⁽¹⁾ and having regard to their comments,

Whereas:

I. PROCEDURE

- (1) Following information in the press that France had adopted financial measures to assist ship-repair activities in Le Havre, the Commission, by letter of 21 December 2001, asked France for clarification. By letter of 15 March 2002, registered as received on 19 March, France informed the Commission that the public authorities had supported financially a ship-repair firm, Société de Réparation Navale et Industrielle (SORENI). The measure was registered as unnotified aid (NN 53/02) since it already had been granted by the time the information was provided and since, in addition, an amount of EUR 1 720 000 had been paid out in December 2001.
- (2) By letter of 4 April 2002, the Commission asked France for further information. France replied by letter of 3 June 2002, registered as received on 4 June.
- (3) By letter of 12 August 2002, the Commission informed France that it had decided to initiate the procedure laid down in Article 88(2) of the EC Treaty in respect of the measure. The case was registered as C 55/2002. The Commission decision to initiate the procedure was published in the *Official Journal of the European Communities*⁽²⁾ and interested parties were invited to submit comments.
- (4) France submitted its comments by letter of 1 October 2002, registered as received on 2 October. Comments from the United Kingdom were received by letter of 16 October 2002, registered on 24 October. These were forwarded to France, which was given the opportunity to react.

⁽¹⁾ OJ C 222, 18.9.2002, p. 21.

⁽²⁾ See footnote 1.

- (5) The Commission asked France additional questions by letter of 4 November 2002. France presented its answers and comments by letter of 14 January 2003, registered as received the same day. It submitted additional information by letter of 2 October 2003, registered on 3 October 2003, and by letter of 10 October 2003, registered as received the following day. The Commission addressed further questions to France by letter of 21 November 2003, to which France replied by letter of 29 December, registered as received on 8 January 2004, and by letter of 29 January 2004, registered as received the same day.

II. DETAILED DESCRIPTION

A. The undertaking concerned

- (6) The recipient of the financial support is SORENI, a ship-repair firm located in Le Havre, i.e. in an area eligible for aid within the meaning of Article 87(3)(c) of the EC Treaty. SORENI was set up on 1 November 2001 to take over the assets of three ship-repair firms, as explained below.
- (7) The shipyard *Ateliers et chantiers du Havre — Construction navale* (ACH-CN) in Le Havre closed down in 2000 following its bankruptcy. ACH-CN received closure aid that was approved by Commission decision 2002/132/EC⁽³⁾. Three subsidiaries of ACH-CN active in ship repair (SIREN, TMTM and MECA HELIX, hereinafter 'the three subsidiaries') survived but, before long, they experienced economic problems related to the loss of subcontracting from ACH-CN and of shipowners' confidence.
- (8) In 2001 twelve local subcontractors to the three subsidiaries decided jointly to set up a new firm, SORENI, to take over the ship-repair activities from the three subsidiaries.
- (9) The bid was presented on 24 August 2001 by the twelve local subcontractors. SORENI was set up on 1 November and acquired the assets of the three subsidiaries on 9 November for EUR 1 001 (i.e. EUR 1 000 for the stocks and one symbolic euro for the assets). According to France, SORENI's bid was the only one after the failure of negotiations with a foreign investor earlier in the year.
- (10) Initially, France indicated to the Commission that the three subsidiaries were under judicial reorganisation at the time of the takeover. It corrected this information in the letter of 29 December 2003, stating that the assets were taken over outside of the judicial reorganisation and that, as at December 2003, the three subsidiaries existed only as empty shells for the purpose of litigation and debt recovery and did not exercise any economic activity.
- (11) Under the French social legislation relative to the cessation of business activities (Article L 122-12, second subparagraph, of the Labour Code), SORENI was obliged to take over from the three subsidiaries all the work contracts, the conditions of which were to remain unchanged as to qualifications, remuneration and seniority. As a result, according to France, SORENI took over 127 employees from the three subsidiaries. Likewise, it had to assume wage obligations totalling EUR 318 164 incurred before the takeover in connection with the early retirement of workers who had been exposed to asbestos.

⁽³⁾ OJ L 47, 19.2.2002, p. 37.

- (12) The Commission notes that by 14 January 2003 the workforce had been reduced to 117 employees 99 of whom were engaged in production. France indicated that, in the six years preceding the takeover, the number of production workers had fallen by 47 %, from 188 in total for the three subsidiaries in 1997 to 99 at SORENI in 2002.

B. The business plan of the new firm

- (13) The business plan was established in 2001. The viability of SORENI was to be guaranteed by a five-year business plan. France identified the problems of SORENI as being due in the first place to the difficulties encountered by its shareholders, which, as subcontractors, previously depended on the three subsidiaries. Secondly, SORENI is said to have inherited a number of charges and difficulties linked to the assets taken over, i.e. responsibility for all the work contracts, financing of the asbestos-related early retirements, and the need to adapt production tools and to rationalise activities. As SORENI took over the ship-repair activities, it was in all probability going to face similar problems to those encountered by the three subsidiaries: difficulty in subcontracting for a shipbuilding firm in Le Havre (such as ACH-CN), loss of markets in general and loss of credibility of ship-repairing in Le Havre in general.
- (14) According to France, the five-year business plan, which it describes as a restructuring plan, is designed to tackle these problems by adopting three sets of measures. The first set of measures consists in adapting the production tools by investing in the renewal of buildings, in transport and in portable tooling (quantified in Part 1 of Table 1). The second set of measures set out to reorganise the firm's commercial policy. According to France, the policy will be targeted both at local ship-owners and at national and international markets, the general aim being to restore the confidence of the clients who dealt with the three subsidiaries in the past. SORENI plans to achieve this by recruiting new managers and by acquiring new technologies allowing it to diversify its activities and hence to respond to a wider range of demands. The costs of this second set of measures are itemised in Part 2 of Table 1. The third set of measures focus on reorganising the production at two levels: management of materials, inventory and orders (rationalisation and computerisation) and training of staff. The costs of this third set of measures are itemised in Part 3 of Table 1 below.
- (15) France also considers as restructuring costs charges taken over from the three subsidiaries in connection with the early retirement of workers who had been exposed to asbestos, on the one hand, and salaries for the first three months following the takeover, on the other. According to France, these three months correspond to the period necessary to obtain the first contracts. These costs are itemised in Part 4 of Table 1 below.

TABLE 1

Alleged costs of restructuring SORENI

(EUR)

Item	Amount
Part 1: Investments and renewals	
Renewal of plant (2002)	[...] (*)
Renewal of offices/buildings (2002)	[...]
Cleaning of courtyard/plant	[...]
Movable investments 2002:	
Vehicles	[...]
IT	[...]
Tools	[...]
Movable investments 2002-04:	
Installation of shot blasting/steel plate processing facility	[...]
Lorry	[...]
Miscellaneous portable mechanical tools	[...]
Subtotal 1	[...]
Part 2: Commercial reorganisation	
Recruitment 2002-04	
2 managers	
1 assistant manager	
3 engineers	
4 production managers	
Total salaries and charges	[...]
Marketing costs — until end-2002	
Brochures/logo, mailing shots, agent network, visits to clients	[...]
Costs 2003-05	
Acquisition of new licences	[...]
Training of staff at SORENI's licensors	[...]
Visit by commercial and international agents	[...]
Revision and extension of agent contracts to 3 years	[...]
Subtotal 2	[...]
Part 3: Reorganisation of production	
Organisation and computerisation 2002-03	[...]
Acquisition of software specific to ship-repair 2003-04	[...]
Training: 37 450 training hours/3 years	[...]
Subtotal 3	[...]
Part 4: Salaries and other charges	
Salaries corresponding to existing contracts for 3 months after the takeover	[...]
Costs of asbestos-related redundancies incurred before the takeover	[...]
Subtotal 4	[...]
TOTAL (Subtotals 1+2+3+4)	6 495 164
(*) Confidential information.	

- (16) Accordingly, the costs allegedly needed to launch SORENI total EUR 6 495 164.
- (17) According to France, this plan is based on realistic hypotheses of turnover reflecting the existing and potential demand for ship-repair activities in Le Havre. France points out that the three subsidiaries possessed recognised ship-repair skills and that their employees, now with SORENI, possessed valuable know-how for SORENI. It also notes that the business plan of SORENI and that of the potential foreign investor were similar, which is the sign of a realistic estimation. The personal contacts of the president of SORENI should help in the search for clients. According to France, the ship-repair activities of SORENI are to be viewed in the context of the development of the port of Le Havre.

C. The financial measures

- (18) According to France, the amount of EUR 6 495 164 needed by SORENI is to be financed by grants and loans provided from the public and private sources specified in *Table 2* below. France took a preliminary decision to grant public support to SORENI on 28 September 2001, i.e. after the bid for the assets of the three subsidiaries was made but before SORENI was established and before its establishment became effective. A legally binding decision on the grant of support was adopted on 29 November 2001.
- (19) The French Government provided SORENI with a grant of EUR 3 430 000. Of this amount, two payments, one of EUR 1 720 000 and one of EUR 730 000, had already been made to SORENI in September 2003.
- (20) The Haute-Normandie Regional Council, the Seine-Maritime General Council and the City of Le Havre will each provide SORENI with EUR 380 000 in the form of grants. Of the total amount of EUR 1 140 000, EUR 1 070 997 has already been paid in September 2003.
- (21) The private contributions are described as capital contributions by SORENI shareholders (EUR 462 000) and bank loans (EUR 1 300 000) secured by assignment of the working capital.

TABLE 2

Financial measures related to the restructuring of SORENI

		(EUR)
Source	Amount	
1. Public		
French State	3 430 000	
Haute-Normandie Regional Council	380 000	
Seine-Maritime General Council	380 000	
City of Le Havre	380 000	
Subtotal 1	4 570 000	
2. Private		
SORENI shareholders		
— capital	462 000	
— bank loans (BNP Paribas)	1 300 000	
Subtotal 2	1 762 000	
TOTAL (Subtotals 1+2)	6 332 000	

D. Market information

- (22) According to France, development of the port of Le Havre necessitates the presence of ship-repair activities, which would guarantee it a stable level of activity. France argues that the measures in question will have a limited impact on competition thanks to three factors. First, the restructuring plan is said to comprise workforce reductions. Second, France identifies ARNO in Dunkirk and SOBRENA in Brest as the main competitors of SORENI on the domestic and international markets. However, these two firms do not, it is claimed, compete with SORENI as far as local clients are concerned. In this connection, France States that local clients generate between 40 % and 45 % of SORENI's turnover. As a result, SORENI's interference with its main customers (*) is said to be reduced. Third, SORENI is an SME within the meaning of Article 2(b) of Commission Regulation (EC) No 70/2001 of 12 January 2001 on the application of Articles 87 and 88 of the EC Treaty to State aid to small and medium-sized enterprises (4).

E. The decision to initiate the procedure under Article 88(2) of the EC Treaty

- (23) In the decision to initiate the formal investigation procedure (hereinafter the decision to initiate the procedure), the measures in question were assessed in the light of Council Regulation (EC) No 1540/98 establishing new rules on aid to shipbuilding (5) (hereinafter the Shipbuilding Regulation) as well as of the Community guidelines on State aid for rescuing and restructuring firms in difficulty (6) (hereinafter the Restructuring Guidelines).
- (24) In the decision to initiate the procedure, the Commission expressed doubts as to whether the financial measures in question could be authorised as restructuring aid, on the one hand, since SORENI seemed to be a newly created firm emerging from the liquidation of the three subsidiaries and, on the other, in the light of point 7 of the Restructuring Guidelines, according to which a newly created firm is not eligible for rescue or restructuring aid even if its initial financial position is insecure.
- (25) The Commission also had doubts whether the business plan for SORENI would be such as to deliver long-term viability within a reasonable timescale and whether it was based on realistic assumptions, as required by the Restructuring Guidelines. It considered in particular that the plan submitted to it by France lacked a market survey as well as sales and cost estimates for the years ahead.
- (26) The Commission moreover noted that the foreign investor mentioned in paragraph 9, basing himself on a similar plan, had declined to take over the ship-repair activities. Lastly, it wondered whether the financial contribution from public sources was limited to the minimum needed to enable the business plan to be undertaken and in particular whether the contribution of the beneficiary was significant, as required by the Restructuring Guidelines.

III. COMMENTS FROM INTERESTED PARTIES

- (27) The United Kingdom submitted the following comments. Firstly, it had difficulty in understanding how the proposed package could be considered as restructuring aid when the shipyard will carry on the same activity as its predecessors, apparently without any significant reductions in either capacity or the workforce. Secondly, it is of the opinion that certain investments and costs are not eligible for restructuring aid. Thirdly, it notes that SORENI is a direct competitor for the UK ship-repair industry.

(*) Substantive error: instead of 'customers', read 'competitors'.

(4) OJ L 10, 13.1.2001, p. 33. (Regulation amended by Regulation (EC) No 364/2004: OJ L 63, 28.2.2004, p. 22).

(5) OJ L 202, 18.7.1998, p. 1.

(6) OJ C 288, 9.10.1999, p. 2.

IV. COMMENTS FROM FRANCE

- (28) In response to the decision to initiate the procedure, France submitted the following additional information and comments.
- (29) As to the question of whether SORENI is a firm eligible for restructuring aid, France argues that SORENI, although being a new legal entity, constitutes in fact a continuation of the previous ship-repair activities and should therefore be eligible for restructuring aid. To support this view, it argues that the takeover of the assets, of the type of activity and of the goodwill of the three subsidiaries as well as of their material and human resources, and in particular of the charges resulting from social security legislation (i.e. the asbestos-related early retirements), makes it possible to liken SORENI to the three subsidiaries, i.e. to an existing firm.
- (30) Furthermore, France claims that, even if SORENI were to be viewed as a new firm, it still remained a firm in difficulty within the meaning of the Restructuring Guidelines owing to the charges (work contracts, asbestos-related early retirements) and difficulties (need to adapt production tools and need for rationalisation) associated with the assets.
- (31) As to the doubts surrounding the viability of the business plan, and specifically the lack of market information, France describes the market in which SORENI operates as comprising the following activities: repair works for minor damages, preventive maintenance works and major repair works. The main competitors of SORENI, ARNO in Dunkirk and SOBRENA in Brest, are said to compete with SORENI for national and international clients, but not for local clients, which account for between 40 % and 45 % of SORENI's turnover. France also argues that the existence of a ship-repair activity in a port the size of Le Havre is an indispensable element for the proper functioning of the port as a whole. Since SORENI is the only ship repairer in Le Havre, its existence is, according to France, vital to the port.
- (32) To illustrate the viability of the business plan, France provided an estimation of turnover and costs for the five years during which the restructuring plan is to be implemented. These data are given in Table 3 below.

TABLE 3

Estimates of SORENI's turnover and costs of SORENI

Year	Turnover (EUR m)	Annual increase (%)	Costs (EUR m)	Annual increase (%)
2001	[...]			
2002	[...]	[...]	[...]	
2003	[...]	[...]	[...]	[...]
2004	[...]	[...]	[...]	[...]
2005	[...]	[...]	[...]	[...]
2006			[...]	[...]

- (33) France further States that the reasons for which the foreign investor declined to take over the activities of the three subsidiaries were independent of the quality of the business plan. They stemmed from the difficulty of concluding agreements with the workforce and the port authorities, as well as from the financial difficulties of the investor himself.

- (34) As to the proportionality of the measures in question, France claims that the amount corresponds to the minimum necessary for relaunching ship-repair activities in Le Havre. It points out that the contribution of SORENI's shareholders has to be assessed in light of the fact that they themselves are in a difficult financial situation.
- (35) Furthermore, France asked the Commission to consider the compatibility of the financial measures in question with the common market directly on the basis of Article 87(3)(c) of the EC Treaty if the aid were not compatible under the Restructuring Guidelines. It argues that ship-repair activity is essential for the proper functioning of the port of Le Havre, i.e. it is necessary in order to ensure the admission of ships, the maintenance of ships indispensable for the port's activity, services related to maritime safety and services related to tourism (repair of pleasure craft). France goes on to argue that the continuation of ship-repair in Le Havre is of Community interest since it is in line with the common transport policy, which promotes maritime transport. Finally, It stresses historical and strategic reasons for safeguarding ship repair in the port of Le Havre.

V. ASSESSMENT

A. State aid

- (36) According to Article 87(1) of the EC Treaty, any aid granted by a Member State or through State resources in any form whatsoever which distorts or threatens to distort competition by favouring certain undertakings or the production of certain goods shall, in so far as it affects trade between Member States, be incompatible with the common market.
- (37) Firstly, the grant of EUR 3 430 000 to SORENI from the French Government constitutes a financial advantage granted through State resources. Moreover, the criterion of State resources also applies to economic advantages granted by regional or local bodies in the Member States. Accordingly, the first criterion determining the applicability of Article 87(1) of the EC Treaty is met as regards the grants received by SORENI from the Region of Haute-Normandie, the Department of Seine-Maritime and the City of Le Havre (each amounting to EUR 380 000).
- (38) Secondly, since the grants in question were intended for one firm in particular, SORENI, the selectivity criterion determining the applicability of Article 87(1) is met.
- (39) Thirdly, the financial measures in question confer on SORENI an economic benefit which it would not have received from the private sector. Hence, by their very nature, such measures are such as to distort competition.
- (40) Fourthly, the criterion of trade being affected is met if the beneficiary carries out an economic activity involving trade between Member States. This is indeed the case of ship-repair carried out by SORENI. This point is not contradicted by France, which argues simply that the 'main' competitors of SORENI are French. It is also clearly confirmed by the United Kingdom, which notes that SORENI is a direct competitor for the domestic ship-repair industry.
- (41) The Commission thus concludes that the grants to SORENI, as described in Section II, constitute State aid within the meaning of Article 87(1).
- (42) The Commission also notes that France failed to comply with its obligation under Article 88(3) of the EC Treaty to inform the Commission, in sufficient time to enable it to submit its comments, of its plans to grant the aid. The aid therefore is considered to be unlawful.

B. Derogation under the Treaty

- (43) Since SORENI is active in ship-repair, aid granted to support its activities falls within the scope of the special rules on State aid applicable to shipbuilding. Since 1 January 2004 these rules have been enshrined in the Framework on State aid to shipbuilding⁽⁷⁾, which replaced the Shipbuilding Regulation. Nevertheless, in accordance with the Commission notice on the determination of the applicable rules for the assessment of unlawful State aid⁽⁸⁾, unlawful State aid, i.e. aid put into effect in contravention of Article 88(3) of the EC Treaty, is assessed in accordance with the texts in force at the time when the aid was granted. The Shipbuilding Regulation is, therefore, applicable. For the sake of completeness, irrespective of whether the Commission applies the Shipbuilding Regulation or the Framework on State aid to shipbuilding, which replaced it, it must be pointed out that this does not affect the conclusions reached in the assessment of compatibility since the substantive criteria for assessing rescue and restructuring aid, regional aid and training aid are identical⁽⁹⁾.
- (44) Article 2 of the Shipbuilding Regulation stipulates that aid granted for ship-repair may be considered compatible with the common market only if it complies with the provisions of that Regulation.

1. Restructuring aid

- (45) According to France, the purpose of the aid in question is to restructure the activities of SORENI. Aid for the restructuring of firms active in the ship-repair sector may be considered compatible with the common market provided that it complies with Article 5 of the Shipbuilding Regulation, which not only refers to the Restructuring Guidelines but also lays down specific conditions applicable to the shipbuilding sector.
- (46) The Commission examined therefore whether the criteria laid down in the Restructuring Guidelines were met.

1.1. Eligibility of the firm

- (47) According to the Restructuring Guidelines, in order to be eligible for restructuring aid, the firm must qualify as a firm in difficulty within the meaning of the Guidelines. Despite the fact that a Community definition does not exist, the Commission regards a firm as being in difficulty where it is unable, whether through its own resources or with the funds it is able to obtain from its owner/shareholders or creditors, to stem losses which, without outside intervention by the public authorities, will almost certainly condemn it to go out of business in the short or medium term (point 4 of the Restructuring Guidelines). These difficulties are manifested, for instance, by increasing losses, diminishing turnover, growing stock inventories, excess capacity, declining cash flow, mounting debt, rising interest charges and falling or nil net asset value.
- (48) However, point 7 of the Restructuring Guidelines stipulates that a newly created firm is not eligible for restructuring aid, even if its initial financial position is insecure. This is the case, for instance, where a new firm emerges from the liquidation of a previous firm or merely takes over such firm's assets.
- (49) The rationale for excluding newly created firms from the eligibility for restructuring aid derives from the principle that the creation of a firm should be a market-situation-driven decision. Therefore, a firm should be created only if it has a chance to operate on the market concerned, in other words if it is capitalised and viable *ab initio*.

⁽⁷⁾ OJ C 317, 30.12.2003, p. 11.

⁽⁸⁾ OJ C 119, 22.5.2002, p. 22.

⁽⁹⁾ See points 12(b), 12(f) and 26 of the Framework on State aid to shipbuilding.

- (50) A new firm is not eligible for restructuring aid because, although it might well face start-up difficulties, it could not encounter such difficulties as those described in the Restructuring Guidelines. These difficulties (specified in recital 47) are linked to the history of a firm, i.e. they stem from its operation. A new firm could not, by its very nature, encounter this type of difficulties.
- (51) A new firm can, on the other hand, face start-up losses as it has to finance investments and operating costs that initially may not be covered by the revenues from its activity. These costs are, however, associated with the start of a business activity and not with its restructuring. They cannot therefore be addressed by restructuring aid without depriving the latter of its specific purpose and limited scope.
- (52) This limitation of the scope of the Restructuring Guidelines applies to new companies that emerge out of bankruptcy proceedings involving other companies or that take over only their assets. The new firm in such cases does not, in principle, take over the debts of its predecessors, i.e. it does not encounter the difficulties described in the Restructuring Guidelines.
- (53) In the decision to initiate the procedure, the Commission raised doubts as to whether SORENI was a new firm.
- (54) In this connection, the Commission notes, and France admits, that SORENI represents a new legal entity with a legal personality distinct from that of the three subsidiaries. France nevertheless claims that SORENI, although being a legal entity distinct from its predecessors, constitutes an economic continuation of the three subsidiaries, since the activity, the assets and the goodwill of the three subsidiaries, and in particular some liabilities related to social security legislation, have been passed on to SORENI, which cannot therefore be considered to be a new firm. France further argues that, even if SORENI is to be viewed as a new firm, it remains a firm in difficulty because it exercises the same type of activity as the three subsidiaries and because it is bound by the financial liabilities stemming from social security legislation.
- (55) The Commission does not agree with France that SORENI is an economic continuation of the three subsidiaries. It should be noted that, even though SORENI took over the activities, assets and goodwill of the three subsidiaries as well as their workforces and some liabilities stemming from social security legislation (early retirement of workers who had been exposed to asbestos), the takeover marked a discontinuity between the old and the new activity. This is illustrated by the fact that the creditors of the three subsidiaries are paid out of the revenues from the sale and do not have any recourse against SORENI as buyers of the assets.
- (56) As to the claim by France that the work contracts taken over and the related social security charges (asbestos-related early retirements) represent liabilities that allow SORENI to be likened to the three subsidiaries, the Commission considers that these social charges are simply a legal consequence of French social legislation (comparable in this respect to that in many other countries), which was known to the investor and was quantifiable. Any cost associated with the acquired assets should therefore have been taken into account when setting the purchase price.
- (57) As to France's argument that, even if SORENI were to be viewed as a new firm, it would still be a firm in difficulty, the Commission notes that SORENI does not display the signs of a firm in difficulty within the meaning of the Restructuring Guidelines, as described in recital 47. It simply faces normal set-up costs and normal start-up losses attributable to the embryonic nature of the investment project.

- (58) The costs of launching a commercial activity are inevitable and are not related to the history of a firm. SORENI would have had to face the same type of costs had its shareholders decided to create a firm entirely independent of the previous ship-repair activities. This hypothesis would inevitably involve start-up costs, such as the purchase of machinery, hiring and training of staff, etc.
- (59) In this respect, the Commission is of the opinion that the charges related to the asbestos-related early retirements, being the only liabilities taken over from the three subsidiaries, are not such as to lead SORENI into difficulties within the meaning of the Restructuring Guidelines.
- (60) Finally, the workers taken over by SORENI represent a source of know-how which, according to France, is one of the prerequisites for the viability of SORENI's business plan. It can therefore be considered as part of the assets taken over by SORENI and not as a liability. In fact, the takeover should ease SORENI's entry into market since it relieves the firm of the need to incur further costs of recruiting and training new staff.
- (61) To sum up, the Commission notes that no financial liabilities were taken over by SORENI from the three subsidiaries that would represent a continuation of the former ship-repair activity. SORENI is a newly created firm that, moreover, does not encounter difficulties within the meaning of the Restructuring Guidelines.
- (62) According to the Commission's practice after the entry into force of the Restructuring Guidelines in 1999, a firm is considered as 'new' for the first two years after its creation. The Commission notes that SORENI was created as a new firm on 1 November 2001. Therefore, it was not eligible for restructuring aid within the first two years after its creation, i.e. until 1 November 2003. As the legally binding decision to grant the aid to SORENI was taken on 29 November 2001, this condition is met.
- (63) The Commission concludes that SORENI is not eligible for restructuring aid.
- (64) The Commission considers below whether its other doubts expressed in the decision to initiate the procedure as to whether the other conditions for restructuring aid were fulfilled could be allayed by the information submitted by France.

1.2. Restoration of viability

- (65) According to the Restructuring Guidelines, the grant of the aid is conditional on implementation of a restructuring plan able to restore the long-term viability of the firm within a reasonable timescale and on the basis of realistic assumptions as to future operating conditions, enabling the firm to stand on its own feet. This has to be achieved primarily by internal measures involving in particular the abandonment of activities which would remain structurally loss-making even after restructuring.
- (66) The Commission's doubts on this point arose because of the fact that the foreign investor had declined to take over the ship-repair activities in question and especially because of the Commission's lack of information concerning the market survey and the turnover and cost estimates for the years covered by SORENI's business plan.
- (67) France explained that the foreign investor had withdrawn its bid on account of difficulties related not to the nature of the restructuring plan but to the financial problems it itself faced.

- (68) More importantly, France has provided the Commission with detailed information on estimated operating conditions, such as turnover and costs during the period concerned.
- (69) On the basis of this information, the Commission's doubts as to the viability of the business plan were allayed.

1.3. Aid limited to the minimum

- (70) Pursuant to the Restructuring Guidelines, the amount and intensity of the aid must be limited to the strict minimum needed to enable restructuring to be undertaken in the light of the existing financial resources of the firm. Aid beneficiaries are expected to make a significant contribution to the restructuring plan from their own resources or from external financing at market conditions.
- (71) According to France, the restructuring costs amount to EUR 6 495 164, of which EUR [...] is for investments and renewals, commercial reorganisation and reorganisation of production, EUR [...] is for salaries for the first three months of operation of SORENI and EUR [...] is for asbestos-related early retirements.
- (72) The Commission considers that the costs of salaries for the first three months of SORENI's operation and of compensation for workers who had been exposed to asbestos before the takeover cannot be regarded as restructuring costs. They are operating costs that a firm has to meet from its own resources.
- (73) The Commission therefore regards as restructuring costs only the costs related to the restructuring plan proper, i.e. EUR 3 900 000.
- (74) SORENI was granted EUR 4 570 000 from different public sources.
- (75) The Commission takes the view that the proportionality requirement was not met since the amount of aid is higher than the costs eligible for restructuring aid. Consequently, even if SORENI were eligible for restructuring aid, the aid would not have been compatible with the Restructuring Guidelines.

1.4. 1994 restructuring guidelines

- (76) In the decision to initiate the procedure, the Commission examined the measures in the light of the Restructuring Guidelines (adopted in 1999). This was not disputed by France in its response to the decision. It should be noted that the Shipbuilding Regulation refers in Article 5 to the 1994 Community guidelines on State aid for rescuing and restructuring firms in difficulty⁽¹⁰⁾ (hereinafter the '1994 Restructuring Guidelines'), which were replaced in 1999 by the Restructuring Guidelines. The Commission, however, concludes that, even if the 1994 Restructuring Guidelines were applied, the above reasoning would be unaffected. Firstly, a new firm cannot, by its very nature, be a firm in difficulty. Even though less explicit, the 1994 Restructuring Guidelines are, particularly as regards their definition of a firm in difficulty, clearly designed to rescue and restructure existing firms and not newly created firms. Secondly, the criterion of 'aid limited to the minimum' already existed in the 1994 Restructuring Guidelines⁽¹¹⁾ and is not met in the present case.
- (77) The aid would not, therefore, be compatible under the 1994 Restructuring Guidelines.

⁽¹⁰⁾ OJ C 368, 23.12.1994, p. 12.

⁽¹¹⁾ See point 3.2.2. (C).

2. Regional investment aid

- (78) In the decision to initiate the procedure, the Commission suggested that the measures in question could be regarded as regional investment aid.
- (79) The conditions governing compatibility of regional investment aid with the common market are laid down in Article 7 of the Shipbuilding Regulation. First, the measures must concern a region referred to in Article 87(3)(a) or (c) of the EC Treaty. Second, the intensity of the aid must not exceed the ceiling determined by the Shipbuilding Regulation. Third, the measures are designed to support investment in upgrading or modernising existing yards with the objective of improving the productivity of existing installations. Fourth, the aid cannot be linked to financial restructuring of the yard. Fifth, the aid is limited to supporting expenditure eligible under the guidelines on national regional aid⁽¹²⁾.
- (80) The region of Le Havre is an assisted area under Article 87(3)(c). According to the Shipbuilding Regulation and pursuant to the regional map approved by the Commission, the aid intensity for this region cannot exceed 12,5 % net⁽¹³⁾.
- (81) In accordance with point 4.5 of the guidelines on national regional aid, eligible expenditure is defined as a uniform set of items of expenditure: land, buildings and plant/machinery. In accordance with point 4.6, eligible expenditure may also include certain categories of intangible investment.
- (82) The total presented by SORENI as restructuring costs are specified in *Table 1* above. The Commission reconsidered these costs in the light of their eligibility for regional investment aid and concluded that only the expenditure shown in *Table 4* fulfils the criteria described in recital 81.

TABLE 4
Expenditure eligible for regional investment aid

(EUR)	
Item	Amount
Buildings:	
1. Renewal of plant (2002)	[...]
2. Renewal of offices/buildings (2002)	[...]
Machinery:	
2002:	
3. Vehicles	[...]
4. IT	[...]
5. Tools	[...]
2002-04:	
6. Installation of shot blasting/steel plate processing facility	[...]
7. Lorry	[...]
8. Miscellaneous portable mechanical tools	[...]
Intangible investment:	
9. Acquisition of new licences (2003-2005)	[...]
10. Acquisition of software specific to ship-repair (2003-2004)	[...]
TOTAL	1 550 000

⁽¹²⁾ OJ C 74, 10.3.1998, p. 9.

⁽¹³⁾ Net grant equivalent (nge).

- (83) The Commission accepts that these investments contribute to the attainment of the goals of SORENI's business plan as described in point 14 and hence to the upgrading and modernisation of the yard with the objective of improving productivity. These investments moreover correspond to the uniform set of investments: investment in buildings (items 1 and 2 of *Table 4*) and investment in plant/machinery (items 3 to 8 of *Table 4*). The items 9 and 10 of *Table 4* constitute intangible investment (acquisition of patents and software).
- (84) The Commission observes that the remaining investment items specified in *Table 1* are not eligible for regional investment aid because they are simply operating expenditure or expenditure on training. As to the item Organisation and computerisation (EUR [...]; see *Table 1*), the Commission cannot conclude from the information provided by France that it satisfies the criterion of eligibility for regional investment aid.
- (85) To conclude, the total expenditure eligible for regional investment aid amounts to EUR 1 550 000 (EUR 1 412 560 at present value, base year 2001, discount rate of 6,33 %).
- (86) The maximum allowable aid intensity is 12,5 % net (corresponding in this case to 18,9 % gross⁽¹⁴⁾). Admissible aid thus amounts to EUR 266 691.
- (87) The Commission concludes that the aid for SORENI can be partially approved as regional investment aid to the extent of EUR 266 691.

3. Training aid

- (88) The Commission noted that some of the expenditure listed in SORENI's business plan relates to training. The aid was granted after the entry into force of Commission Regulation (EC) No 68/2001 of 12 January 2001 on the application of Articles 87 and 88 of the EC Treaty to training aid⁽¹⁵⁾ (hereinafter the 'Training Aid Regulation').
- (89) The Training Aid Regulation was adopted by the Commission pursuant to Council Regulation (EC) No 994/98 of 7 May 1998 on the application of Articles 92 and 93 of the Treaty establishing the European Community to certain categories of horizontal State aid⁽¹⁶⁾. As *lex posteriori*, it amends the Shipbuilding Regulation, which itself does not provide for the possibility of granting training aid to shipbuilding. It stipulates in Article 1 that it applies to training aid granted in all sectors, shipbuilding thus being included.
- (90) Pursuant to the Training Aid Regulation, individual aid is compatible with the common market if it fulfils all the conditions laid down in the Regulation, i.e. it does not exceed the relevant maximum allowable aid intensity and covers costs eligible under Article 4(7) of the Regulation.
- (91) The training costs eligible for aid are given in *Table 5* below and amount to EUR 700 000. They fulfil the conditions laid down in Article 4(7) of the Training Aid Regulation.

⁽¹⁴⁾ Gross grant equivalent (gge).

⁽¹⁵⁾ OJ L 10, 13.1.2001, p. 20. Regulation amended by Regulation (EC) No 363/2004 (OJ L 63, 28.2.2004, p. 20).

⁽¹⁶⁾ OJ L 142, 14.5.1998, p. 1.

TABLE 5

Expenditure eligible for training aid

(EUR)

Item	Amount
Training: 37 450 training hours/3 years	600 000
Training of staff at SORENI's licensors	100 000
TOTAL	700 000

(92) In accordance with Article 4 of the Training Aid Regulation, aid intensity cannot, in the case of small and medium-sized enterprises in areas qualifying for regional aid under Article 87(3)(c) of the Treaty, exceed 40 % for projects involving specific training. In the present case, the French authorities have not specified which part of the training could be considered as 'general' within the meaning of Article 2(e) of the Training Aid Regulation.

(93) As a result, the total amount of training aid is EUR 280 000.

(94) The Commission concludes that the aid for SORENI can be partially approved as training aid to the extent of EUR 280 000.

4. Direct application of Article 87(3) (c) of the Treaty

(95) France asked the Commission to examine the compatibility of the financial measures in question with the common market directly on the basis of Article 87(3)(c) of the Treaty, arguing that ship-repair is an activity essential for the proper functioning of a port the size of Le Havre.

(96) The Commission firstly notes that, in so far as the repair services offered by SORENI would indeed be essential for the functioning of the port, these activities should, in principle, be secured by the own resources of the port, without the need for recourse to State aid. In addition, it approves part of the aid as regional investment aid and thereby takes into account the regional problems involved.

(97) Moreover, the Shipbuilding Regulation constitutes a specific and exhaustive set of rules applicable to the sector, i.e. ship-repair, which ranks as *lex specialis* in relation to the Treaty. Authorisation of the aid by way of direct application of the Treaty would circumvent the objectives pursued by laying down specific and restrictive rules applicable to the sector.

(98) The Commission cannot, therefore, assess the aid in question directly on the basis of the Treaty.

VI. CONCLUSION

(99) The Commission finds that France has unlawfully implemented aid amounting to EUR 4 570 000 in breach of Article 88(3) of the Treaty. On the basis of the assessment of this aid, it concludes that, as restructuring aid for SORENI, it is incompatible with the common market since it does not meet the conditions set out in the Shipbuilding Regulation and the Restructuring Guidelines. However, the Commission considers that the aid is partly compatible with the common market as regional investment aid within the meaning of Article 7 of the Shipbuilding Regulation and as training aid within the meaning of the Training Aid Regulation. The difference between the amount already disbursed (EUR 3 520 997) and the compatible amount (EUR 266 691 + EUR 280 000 = EUR 546 691) has to be recovered (EUR 2 974 306). The difference between the incompatible amount granted (EUR 4 023 309) and the amount to be recovered (EUR 2 974 306) cannot be disbursed (EUR 1 049 003),

HAS ADOPTED THIS DECISION:

Article 1

Of the aid totalling EUR 4 570 000 granted by France to Société de réparation navale et industrielle (SORENI):

- (a) EUR 266 691 is compatible with the common market as regional investment aid under Article 87(3)(e) of the Treaty;
- (b) EUR 280 000 is compatible with the common market as training aid under Article 87(3)(e) of the Treaty;
- (c) EUR 4 023 309 is incompatible with the common market, of which EUR 1 049 003 has not been disbursed and EUR 2 974 306 has been made available.

Article 2

- 1. France shall take all necessary measures to recover from the beneficiary the aid referred to in Article 1 and unlawfully made available to the beneficiary. This amounts to EUR 2 974 306.
- 2. Recovery shall be put into effect without delay and in accordance with the procedures of national law provided that they allow the immediate and effective execution of the decision.
- 3. The aid to be recovered shall include interest from the date on which it was at the disposal of the beneficiary until the date of its recovery.
- 4. Interest shall be calculated on the basis of the reference rate used for calculating the grant equivalent of regional aid.
- 5. This reference rate shall be applied on a composite basis throughout the period referred to in paragraph 3.

Article 3

France shall inform the Commission, within two months of notification of this Decision, of the measures planned and taken to comply with it. It shall provide the information using the information sheet annexed hereto.

Article 4

This Decision is addressed to the French Republic.

Done at Brussels, 20 April 2004.

For the Commission
Mario MONTI
Member of the Commission

ANNEX

Information regarding the implementation of the Commission Decision of 20 April 2004**1. Calculation of the amount to be recovered**

- 1.1. Please provide the following details on the amount of unlawful State aid that has been put at the disposal of the beneficiary:

Date(s) (*)	Amount of aid (**)	Currency

(*) Date(s) on which (individual instalments of) the aid has been put at the disposal of the beneficiary.

(**) Amount of aid put at the disposal of the beneficiary (in gross aid equivalents).

Comments:

- 1.2. Please explain in detail how the interests to be paid on the amount of aid to be recovered will be calculated?

2. Measures planned and already taken to recover the aid

- 2.1. Please describe in detail what measures are planned and what measures have already been taken to effect an immediate and effective recovery of the aid. Please also indicate where relevant the legal basis for the measures taken/planned.
- 2.2. What is the timetable for the recovery process? When will the recovery of the aid be completed?

3. Recovery already effected

- 3.1. Please provide the following details on the amounts of aid that have been recovered from the beneficiary:

Date(s) (*)	Amount of aids repaid	Currency

(*) Date(s) on which the aid has been repaid.

- 3.2. Please attach proof of the repayment of the aid amounts specified in the table under point 3.1 above.

COMMISSION DECISION**of 2 February 2005****establishing the period after which the anti-rabies vaccination is considered as valid***(notified under document number C(2005) 190)***(Text with EEA relevance)****(2005/91/EC)**

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

HAS ADOPTED THIS DECISION:

Having regard to the Treaty establishing the European Community,

Article 1

Having regard to Regulation (EC) No 998/2003 of the European Parliament and of the Council of 26 May 2003 on the animal health requirements applicable to the non-commercial movement of pet animals and amending Council Directive 92/65/EEC⁽¹⁾, and in particular Article 20 thereof,

Without prejudice to the requirements laid down in Articles 6 and 8 of Regulation (EC) No 998/2003, for the purpose of Article 5(1)(b) of that Regulation, an anti-rabies vaccination shall be considered as valid 21 days from the date of completion of the vaccination protocol required by the manufacturer for the primary vaccination in the country in which the vaccination is administered.

Whereas:

- (1) Regulation (EC) No 998/2003 lays down the animal health requirements applicable to the non-commercial movements of dogs, cats and ferrets and the rules applicable to checks on such movements.
- (2) That Regulation provides that the pet animal must be accompanied by a passport certifying that it has undergone a valid anti-rabies vaccination, or revaccination (booster) if applicable, in accordance with the recommendations of the manufacturing laboratory.
- (3) The recommendations of the producer of the vaccination state clearly the end of the immunity period and the date before which the revaccination (booster) has to be carried out.
- (4) Regulation (EC) No 998/2003 does not lay down the period necessary for the establishment of the immunity against rabies. In the interests of clarity of Community legislation, it is appropriate to provide for a time period after which the anti-rabies vaccination or revaccination (booster) should be considered as valid.
- (5) The measures provided for in this Decision are in accordance with the opinion of the Standing Committee on the Food Chain and Animal Health,

However, the anti-rabies vaccination shall be considered as valid from the date of revaccination (booster) where the vaccine is administered within the period of validity indicated by the manufacturer of a previous vaccination in the country in which the previous vaccination was administered. The vaccination shall be considered as a primary vaccination in the absence of veterinary certification attesting the previous vaccination.

Article 2

This Decision shall apply from 7 February 2005.

Article 3

This Decision is addressed to the Member States.

Done at Brussels, 2 February 2005.

For the Commission

Markos KYPRIANOU

Member of the Commission

⁽¹⁾ OJ L 146, 13.6.2003, p. 1. Regulation as last amended by Commission Regulation (EC) No 2054/2004 (OJ L 355, 1.12.2004, p. 14).

COMMISSION DECISION

of 2 February 2005

as regards animal health conditions, certification and transitional provisions concerning the introduction and storage period for consignments of certain products of animal origin in free zones, free warehouses and premises of operators supplying cross border means of sea transport in the Community

(notified under document number C(2005) 191)

(Text with EEA relevance)

(2005/92/EC)

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Council Directive 97/78/EC of 18 December 1997 laying down the principles governing the organisation of veterinary checks on products entering the Community from third countries⁽¹⁾, and in particular Articles 12(12) and 13(6) thereof,

Whereas:

(1) Directive 97/78/EC lays down requirements for veterinary checks on consignments of certain products of animal origin coming from a third country and provides, *inter alia*, for the storage in free zones, free warehouses or premises of operators supplying cross-border means of sea transport for the products which do not comply with Community animal health import conditions.

(2) Council Directive 2002/99/EC of 16 December 2002 laying down the animal health rules governing the production, processing, distribution and introduction of products of animal origin for human consumption⁽²⁾, provides that Member States are to take measures to ensure that from 1 January 2005 products of animal origin intended for human consumption are introduced from third countries only if they comply with the rules laid down in that Directive.

(3) Directive 2002/99/EC also provides for the establishment of animal health rules and certificates for products in transit immediately or after storage. Accordingly, such rules and certificates for consignments of meat, including game and poultry, and meat products, meat preparations and milk and milk products for human

consumption either destined for a third country or to supply cross border means of sea transport whether by transit immediately or after storage are laid down in Council Decision 79/542/EEC⁽³⁾ and Commission Decisions 94/984/EC⁽⁴⁾, 97/221/EC⁽⁵⁾, 2000/572/EC⁽⁶⁾, 2000/585/EC⁽⁷⁾, 2000/609/EC⁽⁸⁾, 2003/779/EC⁽⁹⁾ and 2004/438/EC⁽¹⁰⁾ (the relevant Community acts).

(4) Accordingly, from 1 January 2005, consignments of products of animal origin falling within the scope of the relevant Community acts, are to comply with the rules and are to be accompanied by the appropriate animal health certificate laid down in the relevant Community acts, when presented for introduction into free zones, free warehouses or premises of operators supplying cross border means of sea transport, thereby ensuring that animal health requirements are met.

(5) Therefore, those consignments introduced into the Community for storage in free zones, free warehouses or premises of operators supplying cross-border means of sea transport before 1 January 2005 and which do not comply with the relevant Community acts should be dealt with in a harmonised and transparent way in order to avoid unnecessary problems for the businesses involved, whilst ensuring that there is a final fixed end date for such product to be retained in the Community.

(6) For that reason, a transitional period of 12 months should be laid down for businesses to dispose of those products introduced into free zones, free warehouses or premises of operators supplying cross-border means of sea transport before 1 January 2005.

⁽³⁾ OJ L 146, 14.6.1979, p. 15. Decision as last amended by Commission Decision 2004/882/EC (OJ L 373, 21.12.2004, p. 52).

⁽⁴⁾ OJ L 378, 31.12.1994, p. 11. Decision as last amended by Decision 2004/118/EC (OJ L 36, 7.2.2004, p. 34).

⁽⁵⁾ OJ L 89, 4.4.1997, p. 32. Decision as last amended by Decision 2004/427/EC (OJ L 154, 30.4.2004, p. 8).

⁽⁶⁾ OJ L 240, 23.9.2000, p. 19. Decision as last amended by Decision 2004/437/EC (OJ L 154, 30.4.2004, p. 66).

⁽⁷⁾ OJ L 251, 6.10.2000, p. 1. Decision as last amended by Decision 2004/413/EC (OJ L 151, 30.4.2004, p. 57).

⁽⁸⁾ OJ L 258, 12.10.2000, p. 49. Decision as last amended by Decision 2004/415/EC (OJ L 151, 30.4.2004, p. 73).

⁽⁹⁾ OJ L 285, 1.11.2003, p. 38. Decision as last amended by Decision 2004/414/EC (OJ L 151, 30.4.2004, p. 65).

⁽¹⁰⁾ OJ L 154, 30.4.2004, p. 73.

⁽¹⁾ OJ L 24, 30.1.1998, p. 9. Directive as last amended by Regulation (EC) No 882/2004 of the European Parliament and of the Council (OJ L 165, 30.4.2004, p. 1).

⁽²⁾ OJ L 18, 23.1.2003, p. 11.

- (7) It is appropriate to ensure that from 1 January 2006 any such products still stored in free zones, free warehouses or premises of operators supplying cross border means of sea transport in the Community territory that do not comply with the relevant Community acts should be destroyed under control of the competent authority. All costs of such procedure should be chargeable to the owner of the consignment.
- (8) For animal health reasons, it is necessary for this Decision to apply from 1 January 2005.
- (9) 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

From 1 January 2005, consignments of products falling within the scope of Decisions 79/542/EEC, 94/984/EC, 97/221/EC, 2000/572/EC, 2000/585/EC, 2000/609/EC, 2003/779/EC and 2004/438/EC shall be accompanied by the appropriate animal health certificate laid down in those acts, when presented for introduction into free zones, free warehouses or premises of operators supplying cross-border means of sea transport, approved in accordance with Article 12(4)(b) and Article 13(1) of Directive 97/78/EC, thereby ensuring that the Community animal health requirements are met.

Article 2

Until 31 December 2005, consignments of products referred to in Article 1 which were introduced into free zones, free warehouses or premises of operators supplying cross-border means of sea transport before 1 January 2005, shall be allowed to leave those zones, warehouses or premises where they are stored, to be delivered either in whole or in part to their destinations, as provided for in Article 12(8) or Article 13(2)(a) of Directive 97/78/EC, without being accompanied by the appropriate animal health certificate as provided for in the relevant Community acts.

Article 3

From 1 January 2006, any consignments of products referred to in Article 2 remaining in storage shall be destroyed under the control of the competent authority.

All costs of such destruction shall be chargeable to the owner of the consignment.

Article 4

This Decision shall apply from the date of notification.

Article 5

This Decision is addressed to the Member States.

Done at Brussels, 2 February 2005.

For the Commission

Markos KYPRIANOU

Member of the Commission

COMMISSION DECISION

of 2 February 2005

as regards transitional provisions concerning the introduction and the storage period for consignments of certain products of animal origin in customs warehouses in the Community

(notified under document number C(2005) 192)

(Text with EEA relevance)

(2005/93/EC)

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Council Decision 79/542/EEC⁽³⁾ and Commission Decisions 94/984/EC⁽⁴⁾, 97/221/EC⁽⁵⁾, 2000/572/EC⁽⁶⁾, 2000/585/EC⁽⁷⁾, 2000/609/EC⁽⁸⁾, 2003/779/EC⁽⁹⁾, and 2004/438/EC⁽¹⁰⁾ (the relevant Community acts).

Having regard to the Treaty establishing the European Community,

Having regard to Council Directive 2002/99/EC of 16 December 2002 laying down the animal health rules governing the production, processing, distribution and introduction of products of animal origin for human consumption⁽¹⁾, and in particular Article 13(3) thereof,

Whereas:

(1) Directive 2002/99/EC provides that Member States are to take measures to ensure that as from 1 January 2005, products of animal origin intended for human consumption, are introduced from third countries only if they comply with the rules laid down in that Directive.

(2) Council Directive 97/78/EC of 18 December 1997 laying down the principles governing the organisation of veterinary checks on products entering the Community from third countries⁽²⁾, lays down requirements for veterinary checks on consignments of certain products of animal origin coming from a third country and provides, *inter alia*, for the storage in customs warehouses of products which do not comply with Community animal health import conditions.

(3) Directive 2002/99/EC also provides for the establishment of animal health rules and certificates for products in transit immediately or after storage. Accordingly, such rules and certificates for consignments of meat, including game and poultry, and meat products, meat preparations and milk and milk products for human consumption either destined for a third country or to supply cross border means of sea transport whether by transit immediately or after storage are laid down in

(4) Therefore, consignments of products of animal origin introduced into the Community for storage in customs warehouses before 1 January 2005 and which do not comply with the relevant Community acts should be dealt with in a harmonised and transparent way in order to avoid unnecessary problems for the businesses involved whilst ensuring that there is a final fixed end date for such products to be retained in the Community.

(5) For that reason, a transitional period of 12 months should be laid down for businesses to dispose of those products introduced into customs warehouses before 1 January 2005.

(6) It is appropriate to ensure that from 1 January 2006, any such products still stored in customs warehouses in the Community that do not comply with the relevant Community acts should be destroyed under the control of the competent authority. All costs of such procedure should be chargeable to the owner of the consignment.

(7) For animal health reasons, it is necessary for this Decision to apply from 1 January 2005.

(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,

⁽³⁾ OJ L 146, 14.6.1979, p. 15. Decision as last amended by Commission Decision 2004/882/EC (OJ L 373, 21.12.2004, p. 52).

⁽⁴⁾ OJ L 378, 31.12.1994, p. 11. Decision as last amended by Decision 2004/118/EC (OJ L 36, 7.2.2004, p. 34).

⁽⁵⁾ OJ L 89, 4.4.1997, p. 32. Decision as last amended by Decision 2004/427/EC (OJ L 154, 30.4.2004, p. 8).

⁽⁶⁾ OJ L 240, 23.9.2000, p. 19. Decision as last amended by Decision 2004/437/EC (OJ L 154, 30.4.2004, p. 66).

⁽⁷⁾ OJ L 251, 6.10.2000, p. 1. Decision as last amended by Decision 2004/413/EC (OJ L 151, 30.4.2004, p. 57).

⁽⁸⁾ OJ L 258, 12.10.2000, p. 49. Decision as last amended by Decision 2004/415/EC (OJ L 151, 30.4.2004, p. 73).

⁽⁹⁾ OJ L 285, 1.11.2003, p. 38. Decision as last amended by Decision 2004/414/EC (OJ L 151, 30.4.2004, p. 65).

⁽¹⁰⁾ OJ L 154, 30.4.2004, p. 73.

⁽¹⁾ OJ L 18, 23.1.2003, p. 11.

⁽²⁾ OJ L 24, 30.1.1998, p. 9. Directive as last amended by Regulation (EC) No 882/2004 of the European Parliament and of the Council (OJ L 165, 30.4.2004, p. 1).

HAS ADOPTED THIS DECISION:

Article 1

Until 31 December 2005, consignments of products falling within the scope of Decisions 79/542/EEC, 94/984/EC, 97/221/EC, 2000/572/EC, 2000/585/EC, 2000/609/EC, 2003/779/EC and 2004/438/EC and which were introduced before 1 January 2005 into customs warehouses, approved in accordance with Article 12(4)(b) of Directive 97/78/EC, shall be allowed to leave the warehouses where they are stored to be delivered either in whole or in part to their destination as provided for in Article 12(8) or Article 13(2)(a) of Directive 97/78/EC, without being accompanied by the appropriate animal health certificate as provided for in the relevant Community acts.

Article 2

From 1 January 2006, any such consignments, as referred to in Article 1, remaining in storage shall be destroyed under the control of the competent authority.

All costs of such destruction shall be chargeable to the owner of the consignment.

Article 3

This Decision shall apply from the date of notification.

Article 4

This Decision is addressed to the Member States.

Done at Brussels, 2 February 2005.

For the Commission

Markos KYPRIANOU

Member of the Commission

COMMISSION DECISION
of 3 February 2005
amending Decision 2001/844/EC, ECSC, Euratom
(2005/94/EC, Euratom)

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community, and in particular Article 218(2) thereof,

Having regard to the Treaty establishing the European Atomic Energy Community, and in particular Article 131 thereof,

Having regard to the Treaty on European Union, and in particular Article 28(1) and Article 41(1) thereof,

Whereas:

(1) The Commission's security system is based on the principles set out in Council Decision 2001/264/EC of 19 March 2001 adopting the Council's security regulations⁽¹⁾ with a view to ensuring a smooth functioning of the decision-making process of the Union.

(2) The Commission's provisions on security are contained in the Annex to Commission Decision 2001/844/EC, ECSC, Euratom of 29 November 2001 amending its internal Rules of Procedure⁽²⁾.

(3) Appendix 1 to the Rules on security annexed to those provisions contains a table of equivalence including national security classifications.

(4) On 16 April 2003, the Czech Republic, Estonia, Cyprus, Latvia, Lithuania, Hungary, Malta, Poland, Slovenia and Slovakia signed the Treaty concerning their accession to the European Union⁽³⁾. Appendix 1 to the Rules on security should be amended in order to take account of those States.

(5) On 14 March 2003 the European Union signed an agreement⁽⁴⁾ with NATO on the security of information. It is therefore also necessary to establish correspondence with NATO classification levels in Appendix 1 to the Rules on security.

(6) France and the Netherlands have changed their legislation on classification.

(7) In the interests of clarity, Appendix 1 to the Rules on security should be replaced.

(8) At the same time, the Annex to Decision 2001/844/EC, ECSC, Euratom should be corrected in order to ensure that the four classification terms are used homogeneously in all language versions,

HAS DECIDED AS FOLLOWS:

Article 1

Appendix 1 to the Rules on security contained in the Annex to Decision 2001/844/EC, ECSC, Euratom is replaced by the Annex to this Decision.

Article 2

The Annex to Decision 2001/844/EC, ECSC, Euratom is corrected by replacing in all linguistic versions the four classification terms, as appropriate, by the following terms which shall always be written in capital letters:

— 'RESTREINT UE',

— 'CONFIDENTIEL UE',

— 'SECRET UE',

— 'TRES SECRET UE/EU TOP SECRET'.

⁽¹⁾ OJ L 101, 11.4.2001, p. 1. Decision amended by Decision 2004/194/EC (OJ L 63, 28.2.2004, p. 48).

⁽²⁾ OJ L 317, 3.12.2001, p. 1.

⁽³⁾ OJ L 236, 23.9.2003, p. 17.

⁽⁴⁾ OJ L 80, 27.3.2003, p. 36.

Article 3

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

Done at Brussels, 3 February 2005.

For the Commission

Siim KALLAS

Vice-President

ANNEX

‘Appendix 1

COMPARISON OF NATIONAL SECURITY CLASSIFICATIONS

EU classification	TRES SECRET UE/ EU TOP SECRET	SECRET UE	CONFIDENTIEL UE	RESTREINT UE
WEU classification	FOCAL TOP SECRET	WEU SECRET	WEU CONFIDENTIAL	WEU RESTRICTED
Euratom classification	EURATOP SECRET	EURATOP SECRET	EURATOP CONFIDENTIAL	EURATOP RESTRICTED
NATO classification	COSMIC TOP SECRET	NATO SECRET	NATO CONFIDENTIAL	NATO RESTRICTED
Belgium	Très Secret Zeer Geheim	Secret Geheim	Confidentiel Vertrouwelijk	Diffusion restreinte Beperkte Verspreiding
Czech Republic	Prísne tajné	Tajné	Důvěrné	Vyhrazené
Denmark	Yderst hemmeligt	Hemmeligt	Fortroligt	Til tjenestebrug
Germany	Streng geheim	Geheim	VS ⁽¹⁾ — Vertraulich	VS — Nur für den Dienstgebrauch
Estonia	Täiesti salajane	Salajane	Konfidentsiaalne	Piiratud
Greece	Άκρως Απόρρητο Abr: ΑΑΠ	Απόρρητο Abr: (ΑΠ)	Εμπιστευτικό Abr: (ΕΜ)	Περιορισμένης Χρήσης Abr: (ΠΧ)
Spain	Secreto	Reservado	Confidencial	Difusión Limitada
France	Très Secret Défense ⁽²⁾	Secret Défense	Confidentiel Défense	
Ireland	Top Secret	Secret	Confidential	Restricted
Italy	Segretissimo	Segreto	Riservatissimo	Riservato
Cyprus	Άκρως Απόρρητο	Απόρρητο	Εμπιστευτικό	Περιορισμένης Χρήσης
Latvia	Sevišķi slepeni	Slepeni	Konfidenciāli	Dienesta vajadzībām
Lithuania	Visiškai slaptai	Slaptai	Konfidencialiai	Riboto naudojimo
Luxembourg	Très Secret	Secret	Confidentiel	Diffusion restreinte
Hungary	Szigorúan titkos !	Titkos !	Bizalmas !	Korlátozott terjesztésű !
Malta	L-Għola Segretezza	Sigriet	Kunfidenzjali	Ristrett
Netherlands	Stg ⁽³⁾ . Zeer Geheim	Stg. Geheim	Stg. Confidentieel	Departementaalvertrouwelijk
Austria	Streng Geheim	Geheim	Vertraulich	Eingeschränkt
Poland	Ścisłe Tajne	Tajne	Poufne	Zastrzeżone
Portugal	Muito Secreto	Secreto	Confidencial	Reservado
Slovenia	Strogo tajno	Tajno	Zaupno	SVN Interno
Slovakia	Prísne tajné	Tajné	Dôverné	Vyhrazené
Finland	Erittäin salainen	Erittäin salainen	Salainen	Luottamuksellinen
Sweden	Kvalificerat hemlig	Hemlig	Hemlig	Hemlig
United Kingdom	Top Secret	Secret	Confidential	Restricted

⁽¹⁾ VS = Verschlusssache.⁽²⁾ The classification Très secret défense, which covers governmental priority issues, may only be changed with the Prime Minister's authorisation.⁽³⁾ Stg = staatsgeheim.

(Acts adopted under Title V of the Treaty on European Union)

COUNCIL JOINT ACTION 2005/95/CFSP
of 2 February 2005
extending the mandate of the Special Representative of the European Union for Afghanistan

THE COUNCIL OF THE EUROPEAN UNION,

Article 2

Having regard to the Treaty on European Union, and in particular Articles 14, 18(5) and 23(2) thereof,

Article 5(1) of Joint Action 2003/871/CFSP shall be replaced by the following:

Whereas:

‘1. The financial reference amount intended to cover the expenditure related to the mandate of the EUSR shall be EUR 635 000.’

(1) On 8 December 2003 the Council adopted Joint Action 2003/871/CFSP ⁽¹⁾ extending and amending the mandate of the Special Representative of the European Union (‘EUSR’) in Afghanistan.

Article 3

(2) On 28 June 2004 the Council adopted Joint Action 2004/533/CFSP ⁽²⁾ amending and extending until 28 February 2005 Joint Action 2003/871/CFSP.

This Joint Action shall enter into force on the day of its adoption.

(3) On the basis of a review of Joint Action 2003/871/CFSP, the mandate of the EUSR should be extended for a further six months,

Article 4

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

HAS ADOPTED THIS JOINT ACTION:

Done at Brussels, 2 February 2005.

Article 1

The mandate of Mr Francesc VENDRELL as the EUSR for Afghanistan is hereby extended until 31 August 2005.

For the Council

The President

J. ASSELBORN

⁽¹⁾ OJ L 326, 13.12.2003, p. 41.

⁽²⁾ OJ L 234, 3.7.2004, p. 17.

COUNCIL JOINT ACTION 2005/96/CFSP**of 2 February 2005****amending and extending the mandate of the Special Representative of the European Union for the African Great Lakes Region**

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty on European Union, and in particular Articles 14, 18(5) and 23(2) thereof,

Whereas:

- (1) On 8 December 2003 the Council adopted Joint Action 2003/869/CFSP⁽¹⁾ amending and extending the mandate of the Special Representative of the European Union ('EUSR') for the African Great Lakes Region.
- (2) On 28 June 2004 the Council adopted Joint Action 2004/530/CFSP⁽²⁾ amending and extending until 28 February 2005 Joint Action 2003/869/CFSP.
- (3) On the basis of a review of Joint Action 2003/869/CFSP, the mandate of the EUSR should be extended for a further six months.
- (4) On 9 December 2004 the Council adopted Joint Action 2004/847/CFSP⁽³⁾ on the European Union Police Mission in Kinshasa (DRC) regarding the Integrated Police Unit (EUPOL 'Kinshasa'), which designates a specific role for the EUSR. His mandate should be modified accordingly,

HAS ADOPTED THIS JOINT ACTION:

Article 1

The mandate of Mr Aldo AJELLO as the EUSR for the African Great Lakes Region is hereby extended until 31 August 2005.

Article 2

Joint Action 2003/869/CFSP is hereby amended as follows:

1. The following subparagraph shall be added to Article 3:

'(j) give local political guidance to the Head of Mission/Police Commissioner of the European Union Police Mission in Kinshasa (DRC) ("EUPOL Kinshasa").';

2. Article 5(1) shall be replaced by the following:

'1. The financial reference amount intended to cover the expenditure related to the mandate of the EUSR shall be EUR 440 000.'

Article 3

This Joint Action shall enter into force on the day of its adoption.

Article 4

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

Done at Brussels, 2 February 2005.

For the Council
The President
J. ASSELBORN

⁽¹⁾ OJ L 326, 13.12.2003, p. 37.

⁽²⁾ OJ L 234, 3.7.2004, p. 13.

⁽³⁾ OJ L 367, 14.12.2004, p. 30.

COUNCIL JOINT ACTION 2005/97/CFSP**of 2 February 2005****extending the mandate of the Special Representative of the European Union in Bosnia and Herzegovina**

THE COUNCIL OF THE EUROPEAN UNION,

HAS ADOPTED THIS JOINT ACTION:

Article 1

Having regard to the Treaty on European Union, and in particular Articles 14, 18(5) and 23(2) thereof,

The mandate of Lord ASHDOWN as the European Union Special Representative (EUSR) in Bosnia and Herzegovina, as set out in Joint Action 2004/569/CFSP, is hereby extended until 31 August 2005.

Article 2

Whereas:

This Joint Action shall enter into force on the day of its adoption.

Article 3

- (1) On 12 July 2004 the Council adopted Joint Action 2004/569/CFSP⁽¹⁾ on the mandate of the Special Representative of the European Union in Bosnia and Herzegovina and repealing Council Joint Action 2002/211/CFSP.

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

Done at Brussels, 2 February 2005.

- (2) On the basis of a review of Joint Action 2004/569/CFSP the mandate of the Special Representative should be extended for a further 6 months,

For the Council
The President
J. ASSELBORN

⁽¹⁾ OJ L 252, 28.7.2004, p. 7.

COUNCIL JOINT ACTION 2005/98/CFSP**of 2 February 2005****extending the mandate of the Special Representative of the European Union in the former Yugoslav Republic of Macedonia**

THE COUNCIL OF THE EUROPEAN UNION,

Article 2

Having regard to the Treaty on European Union, and in particular Articles 14, 18(5) and 23(2) thereof,

Article 5(1) of Joint Action 2003/870/CFSP shall be replaced by the following:

Whereas:

‘1. The financial reference amount intended to cover the expenditure related to the mandate of the EUSR shall be EUR 500 000’.

(1) On 8 December 2003 the Council adopted Joint Action 2003/870/CFSP⁽¹⁾ amending and extending the mandate of the Special Representative of the European Union in the former Yugoslav Republic of Macedonia.

Article 3

(2) On 26 July 2004 the Council adopted Joint Action 2004/565/CFSP⁽²⁾, appointing Mr Michael Sahlin as the European Union Special Representative in the former Yugoslav Republic of Macedonia.

This Joint Action shall enter into force on the day of its adoption.

(3) On the basis of a review of Joint Action 2003/870/CFSP, the mandate of the Special Representative should be extended for a further 6 months,

Article 4

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

HAS ADOPTED THIS JOINT ACTION:

Done at Brussels, 2 February 2005.

Article 1

The mandate of Mr Michael SAHLIN as the European Union Special Representative (EUSR) in the former Yugoslav Republic of Macedonia, as set out in Joint Action 2003/870/CFSP, is hereby extended until 31 August 2005.

For the Council
The President
J. ASSELBORN

⁽¹⁾ OJ L 326, 13.12.2003, p. 39.

⁽²⁾ OJ L 251, 27.7.2004, p. 18.

COUNCIL JOINT ACTION 2005/99/CFSP**of 2 February 2005****extending the mandate of the Special Representative of the European Union for the Middle East peace process**

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty on European Union, and in particular Articles 14, 18(5) and 23(2) thereof,

Whereas:

- (1) On 8 December 2003 the Council adopted Joint Action 2003/873/CFSP ⁽¹⁾ extending and amending the mandate of the Special Representative of the European Union for the Middle East peace process.
- (2) On 28 June 2004 the Council adopted Joint Action 2004/534/CFSP ⁽²⁾, extending until 28 February 2005 Joint Action 2003/873/CFSP.
- (3) On the basis of a review of Joint Action 2003/873/CFSP, as amended by Joint Action 2004/534/CFSP, the mandate of the Special Representative should be extended for a further six months,

HAS ADOPTED THIS JOINT ACTION:

Article 1

The mandate of Mr Marc OTTE as the European Union Special Representative (EUSR) for the Middle East peace process, as set

out in Joint Action 2003/873/CFSP and as amended by Joint Action 2004/534/CFSP, is hereby extended until 31 August 2005.

Article 2

Article 5(1) of Joint Action 2003/873/CFSP is hereby replaced by the following:

'1. The financial reference amount intended to cover the expenditure related to the mandate of the EUSR shall be EUR 560 000'.

Article 3

This Joint Action shall enter into force on the day of its adoption.

Article 4

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

Done at Brussels, 2 February 2005.

For the Council

The President

J. ASSELBORN

⁽¹⁾ OJ L 326, 13.12.2003, p. 46.

⁽²⁾ OJ L 234, 3.7.2004, p. 18.

COUNCIL JOINT ACTION 2005/100/CFSP**of 2 February 2005****extending the mandate of the Special Representative of the European Union for the South Caucasus**

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty on European Union, and in particular Articles 14, 18(5) and 23(2) thereof,

Whereas:

- (1) On 8 December 2003 the Council adopted Joint Action 2003/872/CFSP⁽¹⁾ extending and amending the mandate of the Special Representative of the European Union for the South Caucasus.
- (2) On 28 June 2004 the Council adopted Joint Action 2004/532/CFSP⁽²⁾, extending until 28 February 2005 Joint Action 2003/872/CFSP.
- (3) On the basis of a review of Joint Action 2003/872/CFSP, as amended by Joint Action 2004/532/CFSP, the mandate of the Special Representative should be extended for a further six months,

HAS ADOPTED THIS JOINT ACTION:

Article 1

The mandate of Mr Heikki TALVITIE as the European Union Special Representative (EUSR) for the South Caucasus, as set

out in Joint Action 2003/872/CFSP and as amended by Joint Action 2004/532/CFSP, is hereby extended until 31 August 2005.

Article 2

Article 5(1) of Joint Action 2003/872/CFSP is hereby replaced by the following:

‘1. The financial reference amount intended to cover the expenditure related to the mandate of the EUSR shall be EUR 370 000.’

Article 3

This Joint Action shall enter into force on the day of its adoption.

Article 4

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

Done at Brussels, 2 February 2005.

For the Council

The President

J. ASSELBORN

⁽¹⁾ OJ L 326, 13.12.2003, p. 44.

⁽²⁾ OJ L 234, 3.7.2004, p. 16.

CORRIGENDA

Corrigendum to Commission Decision 2005/87/EC of 2 February 2005 authorising Sweden to make use of the system established by Title I of Regulation (EC) No 1760/2000 of the European Parliament and of the Council to replace surveys of bovine livestock

(Official Journal of the European Union L 30 of 3 February 2005)

The publication of Decision 2005/87/EC should be considered null and void.
