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I

(Acts whose publication is obligatory)

**COUNCIL REGULATION (EC) No 2165/2005
of 20 December 2005
amending Regulation (EC) No 1493/1999 on the common organisation of the market in wine**

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty establishing the European Community, and in particular Article 37 thereof,

Having regard to the proposal from the Commission,

Having regard to the opinion of the European Parliament,

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

Whereas:

- (1) Article 27 of Regulation (EC) No 1493/1999 ⁽¹⁾ prohibits the overpressing of grapes and the pressing of wine lees to guard against poor quality wine, and to this end stipulates the obligation to distil marc and lees. Since the production and marketing facilities in the wine-growing areas of Slovenia and Slovakia enable the objectives of this provision to be met, the obligation for producers in these regions to distil by-products of wine-making should be replaced with the obligation to withdraw such by-products under supervision.
- (2) Under Article 1(3) of Regulation (EC) No 1493/1999, the decision would be taken upon accession whether to classify Poland in wine-growing region A in Annex III to the above Regulation which classifies the areas planted with vines in Member States into wine-growing zones. The Polish authorities have provided the Commission with information on the areas of vines planted in Poland and their geographical position, which shows that these wine-growing areas could be classed as zone A.
- (3) Following recent simplification of the division of the Czech Republic's wine-growing areas which are classified in zones A and B of the said Annex III, it is necessary to

adapt it as a consequence through the introduction of new descriptions of those wine-growing areas.

- (4) Annex IV to Regulation (EC) No 1493/1999 establishes a list of authorised oenological practices and processes for wine production. Several oenological practices and processes not contained in this Annex have been authorised on an experimental basis by some Member States under the conditions set out in Commission Regulation (EC) No 1622/2000 laying down certain detailed rules for implementing Regulation (EC) No 1493/1999 on the common organisation of the market in wine and establishing a Community code of oenological practices and processes ⁽²⁾. The results obtained suggest that these practices and processes were beneficial to improving the management of wine production and the conservation of these products, whilst posing no health risks to consumers. The International Organisation of Vine and Wine has already recognised and authorised these experimental practices carried out in Member States. Therefore such oenological practices and processes should be definitively authorised at Community level.
- (5) Annex VI.D.1 to Regulation (EC) No 1493/1999 provides that quality wines psr may be produced only from grapes of wine varieties which appear on the list of the Member State of production and are harvested within the specified region. However, point D.2 of that Annex provides that, until 31 August 2005 at the latest, in the case of a traditional practice governed by special provisions of the Member State of production, that Member State may permit on certain conditions, by means of express authorisations and subject to suitable controls, that a quality sparkling wine psr be obtained by adding to the basic product from which the wine is made one or more wine-sector products which do not originate in the specified region whose name the wine bears.
- (6) Italy has applied this derogation for the preparation of quality sparkling wines psr 'Conegliano-Valdobbiadene' and 'Montello e Colli Asolani'. In order to adapt the structural aspects of the traditional method of producing such wines, this derogation should be extended until 31 December 2007.

⁽¹⁾ OJ L 179, 14.7.1999, p. 1. Regulation as last amended by Commission Regulation (EC) No 1795/2003 (OJ L 262, 14.10.2003, p. 13).

⁽²⁾ OJ L 194, 31.7.2000, p. 1. Regulation as last amended by Commission Regulation (EC) No 1163/2005 (OJ L 188, 20.7.2005, p. 3).

- (7) By virtue of Annex III.1(c) to Regulation (EC) No 1493/1999, the wine-growing areas of Denmark and Sweden form part of wine-growing zone A. These two Member States are now able to produce table wine with a geographical indication. Accordingly, 'Lantvin' and 'Regional vin' should be added to Annex VII.A.2.
- (8) The derogations provided for in Annex VII.D.1 and Annex VIII.F(a), allowing the information on the label to be given in one or more of the official languages of the Community, should apply to Cyprus.
- (9) Regulation (EC) No 1493/1999 should therefore be amended accordingly,

HAS ADOPTED THIS REGULATION:

Article 1

Regulation (EC) No 1493/1999 is hereby amended as follows:

1. in Article 27, paragraph 7 is replaced by the following:

'7. Any natural or legal persons or groups of persons who process grapes harvested in wine-growing zone A or in the German part of wine-growing zone B, or on areas planted with vines in the Czech Republic, Malta, Austria, Slovenia or Slovakia shall be required to withdraw the by-products of such processing under supervision and subject to conditions to be determined.';

2. Annexes III, IV, VI, VII and VIII are amended as set out in the Annex.

Article 2

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

However, point 3 of the Annex shall apply from 1 September 2005.

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

Done at Brussels, 20 December 2005.

For the Council
The President
M. BECKETT

ANNEX

The Annexes to Regulation (EC) No 1493/1999 are amended as follows:

1. Annex III is amended as follows:

(a) point 1 is amended as follows:

— point (c) is replaced by:

‘(c) in Belgium, Denmark, Ireland, the Netherlands, Poland, Sweden and the United Kingdom: the wine-growing areas of these countries;’

— point (d) is replaced by:

‘(d) in the Czech Republic: the wine growing region of Čechy;’

(b) point 2(d) is replaced by:

‘(d) in the Czech Republic: the wine-growing region of Morava and the areas under vines not included in point 1(d);’

2. Annex IV is amended as follows:

(a) point 1 is amended as follows:

— point (i) is replaced by the following:

‘(i) treatment of must and new wine still in fermentation with charcoal for oenological use, within certain limits;’

— in point (j), the following indent is inserted after the first indent:

‘— plant proteins;’

— the following point is added:

‘(s) addition of L-ascorbic acid up to certain limits;’

(b) point 3 is amended as follows:

— in point (m), the following indent is inserted after the first indent:

‘— plant proteins;’

— the following points are added:

‘(zc) the addition of dimethyldicarbonate (DMDC) to wine for microbiological stabilisation, within certain limits and under conditions to be determined;

(zd) the addition of yeast mannoproteins to ensure the tartaric and protein stabilisation of wines;’

(c) in point 4, the following point is added:

‘(e) usage of pieces of oak wood in winemaking;’

3. in Annex VI point D.2, first indent, the date ‘31 August 2005’ is replaced by the date ‘31 December 2007’;

4. Annex VII is amended as follows:

(a) in point A.2b, the third indent is replaced by:

— one of the following wordings under conditions to be determined: “Vino de la tierra”, “οἶνος τοπικός”, “zemske víno”, “regional vin”, “Landwein”, “ονομασία κατά παράδοση”, “regional wine”, “vin de pays”, “indicazione geografica tipica”, “tájbor”, “inbid ta’ lokalità tradizzjonali”, “landwijn”, “vinho regional”, “deželno vino PGO”, “deželno vino s priznano geografsko oznako”, “geograafilise tähistusega lauavein”, “lantvin”. Where such a term is used, the words “table wine” is not required;’

(b) in point D.1, the third subparagraph is replaced by the following:

‘The information referred to in the second subparagraph may be repeated in one or more official languages of the Community for products originating in Greece and Cyprus;’

5. in Annex VIII point F, point (a) is replaced by:

‘(a) the following information shall be provided only in the official language of the Member State in whose territory production took place:

- in the case of quality sparkling wines psr, the name of the specified region as referred to in point B.4, second indent;
- for quality sparkling wines psr or for quality sparkling wines, the name of another geographical area as referred to in point E.1.

The names of the products specified in the first and second indents produced in Greece and in Cyprus may be repeated in one or more other official languages of the Community;’.

**COUNCIL REGULATION (EC) No 2166/2005
of 20 December 2005**

establishing measures for the recovery of the Southern hake and Norway lobster stocks in the Cantabrian Sea and Western Iberian peninsula and amending Regulation (EC) No 850/98 for the conservation of fishery resources through technical measures for the protection of juveniles of marine organisms

THE COUNCIL OF THE EUROPEAN UNION,

(STECF) to be within safe biological limits in the light of the most recent advice from ICES.

Having regard to the Treaty establishing the European Community, and in particular Article 37 thereof,

- (5) In order to achieve that objective, the levels of the fishing mortality rates should be controlled so that the rates may be reduced from year to year.

Having regard to the proposal from the Commission,

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

- (6) Such control of the fishing mortality rates can be achieved by establishing an appropriate method for the establishment of the level of Total Allowable Catches (TACs) of the stocks concerned, and a system including closed areas and limitations on kilowatt-days whereby fishing efforts on those stocks are restricted to levels at which the TACs may not be exceeded.

Whereas:

- (1) Recent scientific advice from the International Council for the Exploration of the Sea (ICES) has indicated that the Southern hake and Norway lobster stocks in ICES Divisions VIIIc and IXa have been subjected to levels of mortality by fishing which have eroded the quantities of mature individuals in the sea to the extent that these stocks may not be able to replenish themselves by reproduction, and as result are threatened with collapse.

- (7) Once recovery has been achieved, the Council should decide on a proposal from the Commission on follow-up measures in accordance with Article 6 of Regulation (EC) No 2371/2002.

- (2) Measures should be taken to establish multi-annual plans for the recovery of these stocks in conformity with Article 5 of Council Regulation (EC) No 2371/2002 of 20 December 2002 on the conservation and sustainable exploitation of fisheries resources under the Common Fisheries Policy ⁽²⁾.

- (8) Control measures in addition to those laid down in Council Regulation (EEC) No 2847/93 of 12 October 1993 establishing a control system applicable to the common fisheries policy ⁽³⁾ should be included in order to ensure compliance with the measures laid down in this Regulation.

- (3) The objective of the plans should be to rebuild these stocks to safe biological limits within 10 years.

- (9) The recovery of Norway lobster stocks requires certain areas of reproduction of the species to be protected from fishing. Therefore Regulation (EC) No 850/98 ⁽⁴⁾ should be amended accordingly,

- (4) The objective should be considered to be achieved when the stocks concerned are assessed by the Scientific, Technical and Economic Committee for Fisheries

⁽¹⁾ Opinion delivered on 14 April 2005 (Not yet published in the Official Journal).

⁽²⁾ OJ L 358, 31.12.2002, p. 59.

⁽³⁾ OJ L 261, 20.10.1993, p. 1. Regulation as last amended by Regulation (EC) No 768/2005 (OJ L 28, 21.5.2005, p. 1).

⁽⁴⁾ OJ L 125, 27.4.1998, p. 1. Regulation as last amended by Regulation (EC) No 1568/2005 (OJ L 252, 28.9.2005, p. 2).

HAS ADOPTED THIS REGULATION:

CHAPTER I

SUBJECT MATTER AND OBJECTIVE

Article 1

Subject matter

This Regulation establishes a recovery plan for the following stocks (hereinafter referred to as the stocks concerned):

- (a) the Southern hake stock which inhabits Divisions VIIIc and IXa, as delineated by the International Council for the Exploration of the Sea (ICES);
- (b) the Norway lobster stock which inhabits ICES Division VIIIc;
- (c) the Norway lobster stock which inhabits ICES Division IXa.

Article 2

Objective of the recovery plan

The recovery plan shall aim to rebuild the stocks concerned to within safe biological limits, in keeping with ICES information. This shall mean:

- (a) as regards the stock referred to in Article 1(a), reaching a spawning stock biomass of 35 000 tonnes during two consecutive years, according to the available scientific reports, or increasing the quantities of mature individuals within a period of 10 years so that values are reached equal to or higher than 35 000 tonnes. This figure shall be adjusted in the light of new scientific data from the STECF;
- (b) as regards the stocks referred to in Article 1(b) and (c), rebuilding the stocks to within safe biological limits within a period of 10 years.

Article 3

Evaluation of recovery measures

1. The Commission shall, on the basis of advice from ICES and STECF, evaluate the impact of the recovery measures on the stocks concerned and the fisheries on those stocks in the second year of application of this Regulation and in each of the following years.
2. Where the Commission finds, on the basis of the annual evaluation, that any of the stocks concerned have reached the objective set out in Article 2, the Council shall decide by qualified majority on a proposal from the Commission to replace, for that stock, the recovery plan provided for in this Regulation by a management plan in accordance with Article 6 of Regulation (EC) No 2371/2002.

3. Where the Commission finds, on the basis of the annual evaluation, that any of the stocks concerned do not show proper signs of recovery, the Council shall decide by qualified majority on a proposal from the Commission on additional and/or alternative measures in order to ensure recovery of the stock concerned.

CHAPTER II

TOTAL ALLOWABLE CATCHES

Article 4

Setting of TACs

1. Each year, the Council shall decide by qualified majority on the basis of a proposal from the Commission on a TAC for the following year for the stocks concerned.
2. The TAC for the stock referred to in Article 1(a) shall be set in accordance with Article 5.
3. The TACs for the stocks referred to in Article 1(b) and (c) shall be set in accordance with Article 6.

Article 5

Procedure for setting the TAC for the Southern hake stock

1. Where the fishing mortality rate for the stock referred to in Article 1(a) has been estimated by the STECF in the light of the most recent report of ICES to be above 0,3 per year, the TAC shall not exceed a level of catches which, according to a scientific evaluation carried out by the STECF in the light of the most recent report of ICES, will result in a reduction of 10 % in the fishing mortality rate in the year of its application as compared with the fishing mortality rate estimated for the preceding year.
2. Where the fishing mortality rate for the stock referred to in Article 1(a) has been estimated by the STECF in the light of the most recent report of ICES to be equal to or below 0,3 per year, the TAC shall be set at a level of catches which, according to a scientific evaluation carried out by the STECF in the light of the most recent report of ICES, will result in a fishing mortality rate of 0,27 per year in the year of its application.
3. Where STECF, in the light of the most recent report of ICES, is able to calculate a level of catches corresponding to the mortality rates specified in paragraphs 1 and 2 for only a part of ICES Divisions VIIIc and IXa, the TAC shall be set at a level that is compatible with both:
 - (a) the level of catch corresponding to the specified mortality rate in the area covered by the scientific advice, and

- (b) maintaining a constant ratio of catches between that area covered by the scientific advice and the totality of Divisions VIIIc and IXa. The ratio shall be calculated on the basis of catches in the three years preceding the year in which the decision is taken.

The method of calculation used shall be that provided in the Annex to this Regulation.

Article 6

Procedure for setting the TACs for the Norway lobster stocks

Based on the latest scientific evaluation of the STECF, the TACs for the stocks referred to in Article 1(b) and (c) shall be set at a level that will result in the same relative change in its fishing mortality rate as the change in fishing mortality rate achieved for the stock referred to in Article 1(a) when applying Article 5.

Article 7

Constraints on variation in TACs

As from the first year of application of this Regulation, the following rules shall apply:

- (a) where application of Article 5 or Article 6 would result in a TAC which exceeds the TAC of the preceding year by more than 15 %, the Council shall adopt a TAC which shall not be more than 15 % greater than the TAC of that year;
- (b) where application of Article 5 or Article 6 would result in a TAC which is more than 15 % less than the TAC of the preceding year, the Council shall adopt a TAC which is not more than 15 % less than the TAC of that year.

CHAPTER III

FISHING EFFORT LIMITATION

Article 8

Effort limitation

1. The TACs referred to in Chapter II shall be complemented by a system of fishing effort limitation based on the geographical areas and groupings of fishing gear, and the associated conditions for the use of these fishing opportunities specified in Annex IVb to Council Regulation (EC) No 27/2005 of 22 December 2004 fixing for 2005 the fishing opportunities and associated conditions for certain fish stocks and groups of fish stocks, applicable in Community waters and, for Community vessels, in waters where catch limitations are required ⁽¹⁾.

⁽¹⁾ OJ L 12, 14.1.2005, p. 1. Regulation as last amended by Regulation (EC) No 1936/2005 (OL L 311, 26.11.2005, p. 1).

2. Each year, the Council shall decide by qualified majority on the basis of a proposal from the Commission on an adjustment to the maximum number of fishing days available for vessels subject to the system of fishing effort limitation referred to in paragraph 1. The adjustment shall be in the same proportion as the annual adjustment in fishing mortality that is estimated by ICES and STECF as being consistent with the application of the fishing mortality rates established according to the method described in Article 5.

3. By way of derogation from paragraphs 1 and 2, each Member State concerned may implement a different method of effort management in that part of Area IXa lying east of longitude 7°23'48" W as measured according to the WGS84 standard. Such a method shall establish a reference level of fishing effort equal to the fishing effort deployed in the year 2005. For 2006 and subsequent years, the fishing effort shall be adjusted by an amount that shall be decided by qualified majority by the Council on the basis of a proposal by the Commission. This adjustment shall be proposed after considering the most recent advice from STECF in the light of the most recent report from ICES. In the absence of a decision by the Council, Member States concerned shall ensure that the fishing effort does not exceed the reference level.

4. Each Member State taking up the derogation in paragraph 3 may be requested by the Commission to provide a report on the implementation of any different method of effort management. The Commission will communicate this report to all other Member States.

5. For the purposes of paragraph 3, fishing effort shall be measured as the sum, in any calendar year, of the products across all relevant vessels of their installed engine power measured in kW and their number of days fishing in the area.

CHAPTER IV

MONITORING, INSPECTION AND SURVEILLANCE

Article 9

Margin of tolerance

1. By way of derogation from Article 5(2) of Commission Regulation (EEC) No 2807/83 of 22 September 1983 laying down detailed rules for recording information on Member States' catches of fish ⁽²⁾, the permitted margin of tolerance, in estimation of quantities of the stocks concerned, in kilograms retained on board of vessels shall be 8 % of the logbook figure. In the event that no conversion factor is laid down in Community legislation, the conversion factor adopted by the Member State whose flag the vessel is flying shall apply.

⁽²⁾ OJ L 276, 10.10.1983, p. 1. Regulation as last amended by Regulation (EC) No 1804/2005 (OL L 290, 4.11.2005, p. 10).

2. Paragraph 1 shall not apply if the quantity of the stocks concerned on board is less than 50 kg.

Article 10

Weighing of landings

The competent authorities of a Member State shall ensure that any quantity of the stock referred to in Article 1(a) exceeding 300 kg and/or 150 kg of the stocks referred to in Article 1(b) and/or (c) caught in any of the areas referred to in Article 1 shall be weighed using auction room scales before sale.

Article 11

Prior notification

The master of a Community fishing vessel that has been present in the areas referred to in Article 1 and who wishes to tranship any quantity of the stocks concerned that is retained on board, or to land any quantity of the stocks concerned in a port or a landing location of a third country, shall provide the competent authorities of the flag Member State with the following information at least 24 hours prior to transhipping or to landing in a third country:

- the name of the port or landing location,
- the estimated time of arrival at that port or landing location,
- the quantities in kilograms live weight of all species of which more than 50 kg is retained onboard.

This notification may also be made by a representative of the master of the fishing vessel.

Article 12

Separate stowage of Southern hake and Norway lobster

1. When quantities of the stock referred to in Article 1(a) greater than 50 kg are stowed on board a vessel, it shall be prohibited to retain on board a Community fishing vessel in a container any quantity of the stocks referred to in Article 1 mixed with any other species of marine organisms.

2. The masters of Community fishing vessels shall give Member States' inspectors such assistance as will enable the quantities declared in the logbook and the catches of the stocks concerned that are retained on board to be cross-checked.

Article 13

Transport of Southern hake and Norway lobster

1. The competent authorities of a Member State may require that any quantity of the stock referred to in Article 1(a) exceeding 300 kg or the stocks referred to in Article 1(b)

and/or (c) exceeding 150 kg caught in any of the geographical areas referred to in Article 1 and first landed in that Member State is weighed before being transported elsewhere from the port of first landing.

2. By way of derogation from Article 13 of Regulation (EEC) No 2847/93, quantities of the stock referred to in Article 1(a) exceeding 300 kg which are transported to a place other than that of landing or import shall be accompanied by a copy of one of the declarations provided for in Article 8(1) of Regulation (EEC) No 2847/93 pertaining to the quantities of these species transported. The exemption provided for in Article 13(4)(b) of Regulation (EEC) No 2847/93 shall not apply.

Article 14

Specific monitoring programme

By way of derogation from Article 34c(1) of Regulation (EEC) No 2847/93, the specific monitoring programme for the stocks concerned may last for more than two years from its date of entry into force.

CHAPTER V

AMENDMENTS TO REGULATION (EC) NO 850/98

Article 15

Restrictions on fishing for Norway lobster

The following Article shall be inserted in Regulation (EC) No 850/98:

'Article 29b

Restrictions on fishing for Norway lobster

1. During the periods set out below fishing with:
 - (i) bottom trawls or similar towed nets operating in contact with the bottom of the sea, and
 - (ii) creels shall be prohibited in the geographical areas bounded by rhumb lines joining the following positions as measured according to the WGS84 standard:
 - (a) from 1 June to 31 August:
 - latitude 42°23' N, longitude 08°57' W
 - latitude 42°00' N, longitude 08°57' W
 - latitude 42°00' N, longitude 09°14' W
 - latitude 42°04' N, longitude 09°14' W
 - latitude 42°09' N, longitude 09°09' W
 - latitude 42°12' N, longitude 09°09' W
 - latitude 42°23' N, longitude 09°15' W
 - latitude 42°23' N, longitude 08°57' W;

(b) from 1 May to 31 August:

latitude 37°45' N, longitude 09°00' W

latitude 38°10' N, longitude 09°00' W

latitude 38°10' N, longitude 09°15' W

latitude 37°45' N, longitude 09°20' W.

2. By way of derogation from the prohibition laid down in paragraph 1, fishing with bottom trawls or similar towed nets operating in contact with the bottom of the sea in the geographical areas and during the period set out in paragraph 1(b) shall be authorised provided that the by-catch of Norway lobster does not exceed 2 % of the total weight of the catch.

3. By way of derogation from the prohibition laid down in paragraph 1, fishing with creels that do not catch Norway lobster shall be authorised in the geographical areas and during the period set out in paragraph 1(b).

4. In the geographical areas and outside the periods referred to in paragraph 1, the by-catch of Norway lobster may not exceed 5 % of the total weight of the catch.

5. In the geographical areas and outside the periods set out in paragraph 1, Member States shall ensure that the fishing effort levels of vessels fishing with bottom trawls or similar towed nets operating in contact with the bottom of the sea do not exceed the levels of fishing effort carried out by the vessels of the Member State concerned during the same periods and in the same geographical areas in 2004.

6. Member States shall communicate to the Commission their measures to fulfil the obligation laid down in paragraph 5. If the Commission finds that the measures of a Member State do not fulfil that obligation, it may propose amendments to those measures. In the absence of agreement on measures between the Commission and the Member State concerned, the Commission may adopt measures in accordance with the procedure referred to in Article 30(2) of Regulation (EC) No 2371/2002 (*).

(*) OJ L 358, 31.12.2002, p. 59.'

Article 16

Report on the recovery plan

The Commission shall submit a report to the European Parliament and the Council setting out the conclusions relating to the application of the recovery plan for the stocks concerned, including available socioeconomic data linked to the plan. This report shall be submitted by 17 January 2010.

CHAPTER VI

FINAL PROVISIONS

Article 17

Entry into force

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

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

Done at Brussels, 20 December 2005.

For the Council

The President

M. BECKETT

ANNEX

Method for calculating a TAC for Divisions VIIIc and IXa for Southern Hake in the event that a scientific catch forecast is only available for part of the area

If scientific advice for catches from a subarea within Divisions VIIIc and IXa corresponding to the fishing mortality rate specified in Article 5 is x tonnes, the average catch from the same subarea in the three previous years is y tonnes, and the average catch from all of Divisions VIIIc and IXa in the previous three years is z tonnes, the TAC shall be calculated as zx/y tonnes.

COUNCIL REGULATION (EC) No 2167/2005

of 20 December 2005

amending Regulation (EC) No 1467/2004 imposing definitive anti-dumping duties on imports of polyethylene terephthalate ('PET') originating, *inter alia*, in the People's Republic of China

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty establishing the European Community,

Having regard to Council Regulation (EC) No 384/96 of 22 December 1995 on protection against dumped imports from countries not members of the European Community⁽¹⁾ ('the basic Regulation'), and in particular Article 11(4) thereof,

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

Whereas:

A. MEASURES IN FORCE

- (1) The measures currently in force on imports into the Community imports of polyethylene terephthalate ('PET') originating, *inter alia*, in the People's Republic of China ('PRC'), are definitive anti-dumping duties imposed by Council Regulation (EC) No 1467/2004⁽²⁾. Pursuant to the same Regulation, anti-dumping duties were also imposed on imports of PET originating in the Republic of Australia.

B. CURRENT INVESTIGATION**1. Request for a review**

- (2) After the imposition of definitive anti-dumping duties on imports of PET originating in the PRC, the Commission received a request to initiate a 'new exporter' review of Regulation (EC) No 1467/2004, pursuant to Article 11(4) of the basic Regulation, from Jiangyin Chengsheng New Packing Material Co., Ltd (the 'applicant'). The applicant claimed that it was not related to any of the exporting producers in the PRC subject to the anti-dumping measures in force with regard to PET. Furthermore, it claimed that it had not exported PET to the Community during the original investigation period ('the original IP', i.e. the period from 1 April 2002 to 31 March 2003), but had started to export PET to the Community thereafter.

2. Initiation of a 'new exporter' review

- (3) The Commission examined the evidence submitted by the applicant and considered it sufficient to justify the

initiation of a review in accordance with Article 11(4) of the basic Regulation. After consultation of the Advisory Committee and after the Community industry concerned had been given the opportunity to comment, the Commission initiated, by Regulation (EC) No 523/2005⁽³⁾, a review of Regulation (EC) No 1467/2004 with regard to the applicant and commenced its investigation.

- (4) Pursuant to the Commission Regulation initiating the review, the anti-dumping duty of EUR 184/t imposed by Regulation (EC) No 1467/2004 on imports of PET produced by the applicant was repealed. Simultaneously, pursuant to Article 14(5) of the basic Regulation, customs authorities were directed to take appropriate steps to register such imports.

3. Product concerned

- (5) The product concerned by the current review is the same as that in the investigation that led to the imposition of the measures in force on imports of PET originating in the PRC ('original investigation'), i.e. PET having a viscosity number of 78 ml/g or higher, according to the ISO Standard 1628-5, classified under CN Code 3907 60 20.

4. Parties concerned

- (6) The Commission officially advised the applicant and the representatives of the exporting country of the initiation of the review. Interested parties were given the opportunity to make their views known in writing and to be heard.
- (7) The Commission also sent a market economy treatment ('MET') claim form and a questionnaire to the applicant and received replies within the deadlines set for that purpose. The Commission sought and verified all the information it deemed necessary for the determination of dumping, including the MET claim, and a verification visit was carried out at the premises of the applicant.

5. Investigation period

- (8) The investigation of dumping covered the period from 1 October 2003 to 31 December 2004 ('the investigation period' or 'IP').

⁽¹⁾ OJ L 56, 6.3.1996, p. 1. Regulation as last amended by Regulation (EC) No 461/2004 (OJ L 77, 13.3.2004, p. 12).

⁽²⁾ OJ L 271, 19.8.2004, p. 1.

⁽³⁾ OJ L 84, 2.4.2005, p. 9.

C. RESULTS OF THE INVESTIGATION

1. 'New exporter' qualification

- (9) The investigation confirmed that the applicant had not exported the product concerned during the original IP and that it had begun exporting to the Community after this period.
- (10) Furthermore, the applicant was able to demonstrate that it was not related to any of the exporters or producers in the PRC which are subject to the anti-dumping measures in force on imports of PET originating in the PRC.
- (11) In this context, it is confirmed that the applicant should be considered a 'new exporter' in accordance with Article 11(4) of the basic Regulation.

2. Market economy treatment ('MET')

- (12) Pursuant to Article 2(7)(b) of the basic Regulation, in anti-dumping investigations concerning imports originating in the PRC, normal value shall be determined in accordance with paragraphs 1 to 6 of the said Article for those producers which were found to meet the criteria laid down in Article 2(7)(c) of the basic Regulation, i.e. where it is shown that market economy conditions prevail in respect of the manufacture and sale of the like product. These criteria are set out in a summarised form below:
- business decisions are made in response to market signals, without significant State interference, and costs reflect market values,
 - firms have one clear set of basic accounting records which are independently audited in line with international accounting standards ('IAS') and are applied for all purposes,
 - no distortions carried over from the non-market economy system,
 - bankruptcy and property laws guarantee stability and legal certainty,
 - exchange rate conversions are carried out at market rates.
- (13) The Commission sought all information deemed necessary and verified all information submitted in the MET application at the premises of the company in question.
- (14) The investigation showed that all five criteria laid down in Article 2(7)(c) of the basic Regulation were met by the applicant. It was therefore considered that MET should be granted to the applicant.

3. Dumping

Determination of normal value

- (15) As far as the determination of normal value is concerned, the Commission first established whether the total domestic sales of the product concerned made by the applicant were representative in comparison with its total export sales to the Community. In accordance with Article 2(2) of the basic Regulation, domestic sales were considered representative when the total domestic sales volume was at least 5 % of the total export sales volume to the Community. The Commission established that PET was sold domestically by the applicant in overall representative volumes.
- (16) No distinction of types was made for the product concerned. No additional examination therefore needed to be made whether domestic sales were sufficiently representative on a type-by-type basis for the purposes of Article 2(2) of the basic Regulation.
- (17) An examination was also made as to whether the sales of PET sold domestically in representative quantities could be regarded as having been made in the ordinary course of trade, by establishing the proportion of profitable sales of PET to independent customers. Since the profitable sales volume of PET represented more than 80 % of the total domestic sales volume of PET, normal value was based on the actual domestic price, calculated as a weighted average of the prices of all domestic sales of PET made during the IP, irrespective of whether these sales were profitable or not.
- (18) Consequently, in accordance with Article 2(1) of the basic Regulation, normal value was based on the prices, paid or payable, on the domestic market of the PRC.

Export price

- (19) The product concerned was exported directly to independent customers in the Community. Therefore, the export price was established in accordance with Article 2(8) of the basic Regulation, i.e. on the basis of export prices actually paid or payable.

Comparison

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

Dumping margin

- (21) As provided for under Article 2(11) of the basic Regulation, the weighted average normal value was compared with the weighted average export price of the product concerned.
- (22) The comparison showed the existence of dumping. This dumping margin expressed as a percentage of the net, free-at-Community-frontier price, duty unpaid, for Jiangyin Chengsheng New Packing Material Co., Ltd is 5,6 %.

D. AMENDMENT OF THE MEASURES BEING REVIEWED

- (23) In the light of the results of the investigation, it is considered that a definitive anti-dumping duty should be imposed for the applicant at the level of the dumping margin found.
- (24) Regarding the form of the measure, it was considered that the amended anti-dumping duty should take the same form as the duties imposed by Regulation (EC) No 1467/2004. It was established that PET prices can fluctuate in line with fluctuations in crude oil prices. Therefore it was considered appropriate to impose duties in the form of a specific amount per tonne. Subsequently, the anti-dumping duty, calculated on the basis of the dumping margin expressed as a percentage, to imports of PET from Jiangyin Chengsheng New Packing Material Co. Ltd is EUR 45 per tonne.
- (25) The dumping margin, established for the IP, of 5,6 % is below the country-wide injury elimination level of 27,3 %, which was established for the PRC in the original investigation. It is therefore proposed that a duty at the level of EUR 45 per tonne, which is based on the dumping margin of 5,6 %, shall be imposed and that Council Regulation (EC) No 1467/2004 be accordingly amended.

E. RETROACTIVE LEVYING OF THE ANTI-DUMPING DUTY

- (26) In the light of the above findings, the anti-dumping duty applicable to the applicant shall be levied retroactively on imports of the product concerned which have been made subject to registration pursuant to Article 3 of Commission Regulation (EC) No 523/2005.

F. DISCLOSURE

- (27) The parties concerned were informed of the essential facts and considerations on the basis of which it was intended to impose on imports of PET from the applicant an amended definitive anti-dumping duty and to levy this duty retroactively on imports made subject to registration. Their comments were considered and taken into account where appropriate.
- (28) This review does not affect the date on which the measures imposed by Council Regulation (EC) No 1467/2007 will expire pursuant to Article 11(2) of the basic Regulation,

HAS ADOPTED THIS REGULATION:

Article 1

1. The table in Article 1(2) of Council Regulation (EC) No 1467/2004 is hereby amended by adding the following:

'Country	Company	Rate of duty	TARIC additional code
The People's Republic of China	Jiangyin Chengsheng New Packing Material Co., Ltd	45 EUR/t	A510'

2. The duty hereby imposed shall also be levied retroactively on imports of the product concerned which have been registered pursuant to Article 3 of Commission Regulation (EC) No 523/2005.

The customs authorities are hereby directed to cease the registration of imports of the product concerned originating in the People's Republic of China produced by Jiangyin Chengsheng New Packing Material Co. Ltd.

3. Unless otherwise specified, the provisions in force concerning customs duties shall apply.

Article 2

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

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

Done at Brussels, 20 December 2005.

For the Council

The President

B. BRADSHAW

COMMISSION REGULATION (EC) No 2168/2005**of 23 December 2005****amending Regulation (EC) No 1831/94 concerning irregularities and the recovery of sums wrongly paid in connection with the financing of the Cohesion Fund and the organisation of an information system in this field**

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Council Regulation (EC) No 1164/94 of 16 May 1994 establishing the Cohesion Fund ⁽¹⁾, and in particular Article 12(4) thereof,

Whereas:

- (1) Commission Regulation (EC) No 1831/94 ⁽²⁾ applies to all eligible measures provided for in Article 3 of Regulation (EC) No 1164/94.
- (2) Regulation (EC) No 1831/94 should be updated in order to enhance the effectiveness of the system for reporting irregularities.
- (3) It is necessary to specify that the definition of 'irregularity' used for the purposes of Regulation (EC) No 1831/94 is taken from Article 1(2) of Council Regulation (EC, Euratom) No 2988/95 of 18 December 1995 on the protection of the European Communities' financial interests ⁽³⁾.
- (4) It is necessary to define the term 'suspected fraud', taking account of the definition of fraud contained in the Convention of 26 July 1995 on the protection of the European Communities' financial interests ⁽⁴⁾.
- (5) It is necessary to align the definition of 'first administrative or judicial finding of fact' to the one included in Commission Regulation (EC) No 1681/94 of 11 July 1994 concerning irregularities and the recovery of sums wrongly paid in connection with the financing of the structural policies and the organisation of an information system in this field ⁽⁵⁾.
- (6) It is also necessary to define the terms 'bankruptcy' and 'economic operator'.
- (7) In order to enhance the added value of the reporting system, the obligation to report cases of suspected fraud for the purposes of risk analysis should be more closely determined, and for this purpose the quality of the information supplied should be ensured.
- (8) It should be clearly stated that Regulation (EC) No 1831/94 will remain applicable to cases of irregularities of less than EUR 10 000 already reported.
- (9) It is necessary to specify the information needed for dealing with the cases for which an amount cannot be recovered or is not expected to be recovered.
- (10) In order to reduce the burden imposed by reporting on the Member States and to improve efficiency, it is necessary to increase the minimum threshold above which irregularities have to be reported by Member States and to determine those cases in which no reporting obligation arises.
- (11) Regulation (EC) No 1831/94 should apply without prejudice to Article 7 of Commission Regulation (EC) No 1386/2002 of 29 July 2002 laying down detailed rules for the implementation of Council Regulation (EC) No 1164/94 as regards the management and control systems for assistance granted from the Cohesion Fund and the procedure for making financial corrections ⁽⁶⁾.
- (12) Account must be taken of the obligations arising out of Regulation (EC) No 45/2001 of the European Parliament and of the Council of 18 December 2000 on the protection of individuals with regard to the processing of personal data by the Community institutions and bodies and on the free movement of such data ⁽⁷⁾ and Directive 95/46/EC of the European Parliament and of the Council of 24 October 1995 on the protection of individuals with regard to the processing of personal data and on the free movement of such data ⁽⁸⁾.

⁽¹⁾ OJ L 130, 25.5.1994, p. 1. Regulation as last amended by the 2003 Act of Accession.

⁽²⁾ OJ L 191, 27.7.2004, p. 9.

⁽³⁾ OJ L 312, 23.12.1995, p. 1.

⁽⁴⁾ OJ C 316, 27.11.1995, p. 49.

⁽⁵⁾ OJ L 178, 12.7.1994, p. 43. Regulation as amended by Regulation (EC) No 2035/2005 (OJ L 328, 15.12.2005, p. 8).

⁽⁶⁾ OJ L 201, 31.7.2002, p. 5.

⁽⁷⁾ OJ L 8, 12.1.2001, p. 1.

⁽⁸⁾ OJ L 281, 23.11.1995, p. 31. Directive as amended by Regulation (EC) No 1882/2003 (OJ L 284, 31.10.2003, p. 1).

(13) Conversion rates should be established for Member States outside the euro zone.

(14) Regulation (EC) No 1831/94 should be amended accordingly,

HAS ADOPTED THIS REGULATION:

Article 1

Regulation (EC) No 1831/94 is amended as follows:

1. the following Article 1a is inserted:

‘Article 1a

For the purposes of this Regulation the following definitions shall apply:

1. “irregularity” means any infringement of a provision of Community law resulting from an act or omission by an economic operator which has, or would have, the effect of prejudicing the general budget of the Communities by charging an unjustified item of expenditure to the Community budget;
2. “economic operator” means any natural or legal person or other entity taking part in the administration of assistance from the Funds, with the exception of Member States exercising their prerogatives as a public authority;
3. “primary administrative or judicial finding” means a first written assessment by a competent authority, either administrative or judicial, concluding on the basis of specific facts that an irregularity has been committed, without prejudice to the possibility that this conclusion may subsequently have to be revised or withdrawn as a result of developments in the course of the administrative or judicial procedure;
4. “suspected fraud” means an irregularity giving rise to the initiation of administrative and/or judicial proceedings at national level in order to establish the presence of intentional behaviour, in particular fraud, such as is referred to in Article 1(1), point (a), of the Convention on the protection of the European Communities’ financial interests;
5. “bankruptcy” means insolvency proceedings within the meaning of Article 2, point (a), of Council Regulation (EC) No 1346/2000 (*).

(*) OJ L 160, 30.6.2000, p. 1. Regulation as amended by the 2003 Act of Accession.;

2. Article 2 is deleted.

3. Article 3(1) is replaced by the following:

‘1. During the two months following the end of each quarter, beneficiary Member States shall report to the Commission any irregularities which have been the subject of a primary administrative and/or judicial finding. To this end Member States shall in all cases give details of:

- (a) the identification of the project or measure in question and the project or CCI (common identification code) number;
- (b) the provision which has been infringed;
- (c) the date and source of the first information leading to suspicion that an irregularity had been committed;
- (d) the practices employed in committing the irregularity;
- (e) where appropriate, whether the practice gives rise to a suspicion of fraud;
- (f) the manner in which the irregularity was discovered;
- (g) where appropriate, the Member States and third countries involved;
- (h) the period during which, or the moment at which, the irregularity was committed;
- (i) the national authorities or bodies which drew up the official report on the irregularity and the authorities responsible for administrative and/or judicial follow-up;
- (j) the date on which the primary administrative or judicial finding on the irregularity was established;
- (k) the identity of the natural and/or legal persons involved or of any other participating entities, except where this information is irrelevant for the purposes of combating irregularities, given the nature of the irregularity in question;
- (l) the total budget approved for the operation and the distribution of its co-financing between Community, national, private and other contributions;

- (m) the amount affected by the irregularity and its distribution between Community, national, private and other contributions; where no payment of the public contribution has been made to the persons and/or other entities identified under point (k), the amounts which would have been wrongly paid had the irregularity not been identified;
- (n) the suspension of payments, where applicable, and the possibilities of recovery;
- (o) the nature of the irregular expenditure.

By way of derogation from the first subparagraph, the following cases need not be reported:

- cases where the irregularity consists solely of the failure to partially or totally execute a measure co-financed by the Community budget owing to the bankruptcy of the bodies responsible for the implementation of the project or the final recipient. However, irregularities preceding a bankruptcy and cases of suspected fraud must be reported,
- cases brought to the attention of the administrative authority by the bodies responsible for the implementation of the project and/or the final recipient voluntarily or before detection by the relevant authority, whether before or after the granting of the public contribution,
- cases where the administrative authority finds a mistake regarding the eligibility of the financed project and corrects the mistake prior to payment of the public contribution.;

4. Article 5 is amended as follows:

- (a) the second subparagraph of Article 5(1) is replaced by the following:

‘Beneficiary Member States shall report to the Commission administrative or judicial decisions, or the main points thereof, concerning the termination of such procedures and shall state in particular whether or not the findings are such that fraud is suspected.’;

- (b) paragraph 2 is replaced by the following:

‘2. Where a beneficiary Member State considers that an amount cannot be recovered or is not expected to be recovered, it shall inform the Commission, in a special report, of the amount not recovered and the reasons why the amount should, in its view, be borne by the Community or by the beneficiary Member State.

This information must be sufficiently detailed to allow the Commission to decide as soon as possible, after consulting the authorities of the Member States concerned, on the apportionment of: the financial consequences referred to in the third indent of Article 12(1) of Regulation (EC) No 1164/94.

This information shall include at least the following:

- (a) the date of the last payment made to the bodies responsible for the implementation of projects and/or the final recipient;
- (b) a copy of the recovery order;
- (c) where applicable, a copy of the document attesting the insolvency of the bodies responsible for the implementation of projects or the final recipient;
- (d) an outline description of the measures taken by the Member State, with indication of their dates, to recover the relevant amount.’;

5. the following Article 6a is inserted:

‘Article 6a

The information required under Articles 3, 4 and 5(1) shall be sent, whenever it is possible to do so, by electronic means, using the module provided by the Commission for the purpose via a secure connection.’;

6. the following Article 8a is inserted:

‘Article 8a

The Commission may use any information of a general or operational nature communicated by Member States under this Regulation to perform risk analyses, using information technology support, and may, on the basis of the information obtained, produce reports and develop early-warning systems serving to identify risks more effectively.’;

7. Article 10(3) is replaced by the following:

‘3. The Commission and the Member States shall ensure, when processing personal data pursuant to this Regulation, that the Community and national provisions on the protection of personal data, in particular those laid down by Directive 95/46/EC and, where applicable, by Regulation (EC) No 45/2001, are complied with.’;

8. Article 12 is replaced by the following:

'Article 12

1. Where the irregularities relate to amounts of less than EUR 10 000 chargeable to the Community budget, Member States shall not send the Commission the information provided for in Articles 3 and 5 unless the latter expressly requests it.

2. Member States which have not adopted the euro as their currency by the date when the irregularity is established shall convert expenditure incurred in national currency into euro. The amount shall be converted into euro by using the Commission's monthly accounting rate for the month in which the expenditure was or would have been entered into the accounts of the paying authority responsible for

the operational programme in question. The Commission publishes this rate electronically once a month.;

Article 2

Article 5 of Regulation (EC) 1831/94, as it applied prior to the entry into force of this Regulation, shall continue to be applied for those cases involving an amount of less than EUR 10 000 which are notified before 28 February 2006.

Article 3

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

It shall apply from 1 January 2006.

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

Done at Brussels, 23 December 2005.

For the Commission

Siim KALLAS

Vice-President

COUNCIL DIRECTIVE 2005/92/EC**of 12 December 2005****amending Directive 77/388/EEC with regard to the length of time during which the minimum standard rate of VAT is to be applied**

THE COUNCIL OF THE EUROPEAN UNION,

(4) Directive 77/388/EEC should be amended accordingly,

Having regard to the Treaty establishing the European Community, and in particular Article 93 thereof,

HAS ADOPTED THIS DIRECTIVE:

Having regard to the proposal from the Commission,

Article 1

The first and second subparagraphs of Article 12(3)(a) of Directive 77/388/EEC shall be replaced by the following:

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

'The standard rate of value added tax shall be fixed by each Member State as a percentage of the taxable amount and shall be the same for the supply of goods and for the supply of services. From 1 January 2006 until 31 December 2010, the standard rate may not be less than 15 %.

Having regard to the opinion of the European Economic and Social Committee ⁽¹⁾,

Whereas:

'The Council shall decide, in accordance with Article 93 of the Treaty, on the level of the standard rate to be applied after 31 December 2010.'

(1) The second subparagraph of Article 12(3)(a) of the sixth Council Directive 77/388/EEC of 17 May 1977 on the harmonisation of the laws of the Member States relating to turnover taxes — Common system of value added tax: uniform basis of assessment ⁽²⁾, lays down that the Council shall decide on the level of the standard rate to be applied after 31 December 2005.

Article 2

1. Member States shall bring into force the laws, regulations and administrative provisions necessary to comply with this Directive with effect from 1 January 2006. They shall forthwith inform the Commission thereof.

(2) The standard rate of value added tax (VAT) currently in force in the various Member States, combined with the mechanisms of the transitional system, has ensured that this system has functioned to an acceptable degree. It is nonetheless important to prevent a growing divergence in the standard rates of VAT applied by the Member States from leading to structural imbalances within the Community and distortions of competition in some sectors of activity.

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

(3) It is therefore appropriate to maintain the minimum standard rate at 15 % for a further period long enough to cover the ongoing implementation of the strategy to simplify and modernise current Community legislation on VAT.

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

Article 3

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

⁽¹⁾ Not yet published in the Official Journal.

⁽²⁾ OJ L 145, 13.6.1977, p. 1. Directive as last amended by Directive 2004/66/EC (OJ L 168, 1.5.2004, p. 35).

Article 4

This Directive is addressed to the Member States.

Done at Brussels, 12 December 2005.

For the Council

The President

J. STRAW

II

(Acts whose publication is not obligatory)

COUNCIL

COUNCIL DECISION

of 20 December 2005

on the signing and the provisional application of the Agreement in the form of an exchange of letters between the European Community and the Republic of Belarus amending the Agreement between the European Union and the Republic of Belarus on trade in textile products

(2005/948/EC)

THE COUNCIL OF THE EUROPEAN UNION,

HAS DECIDED AS FOLLOWS:

Article 1

Having regard to the Treaty establishing the European Community, and in particular Article 133 in conjunction with Article 300, paragraph 2, first sentence thereof,

Subject to a possible conclusion at a later date, the President of the Council is hereby authorised to designate the persons empowered to sign on behalf of the European Community the Agreement in the form of an Exchange of Letters between the European Community and the Republic of Belarus amending the Agreement between the European Union and the Republic of Belarus on trade in textile products (the Agreement).

Having regard to the proposal from the Commission,

Article 2

Whereas:

The Agreement shall be applied on a provisional basis, pending its formal conclusion and subject to reciprocal provisional application of the Agreement by the Republic of Belarus, from 1 January 2006.

(1) The Commission has negotiated on behalf of the Community a bilateral agreement to extend for one year the existing bilateral agreement and protocols on trade in textile products with the Republic of Belarus, with a number of adjustments of the quantitative limits.

The text of the Agreement is annexed to this Decision.

Article 3

(2) Subject to its possible conclusion at a later date, the Agreement should be signed on behalf of the Community.

1. If Belarus fails to fulfil its obligations under paragraph 2(4) of the Agreement, the quota for 2006 will be reduced to the levels applicable in 2005.

(3) This bilateral agreement should be applied on a provisional basis as of 1 January 2006, pending the completion of procedures required for its conclusion, subject to the reciprocal provisional application by the Republic of Belarus,

2. The decision to implement paragraph 1 shall be taken in accordance with the procedures referred to in Article 17 of Council Regulation (EEC) No 3030/93 of 12 October 1993 on common rules for imports of certain textile products from third countries ⁽¹⁾.

⁽¹⁾ OJ L 275, 8.11.1993, p. 1. Regulation as last amended by Regulation (EC) No 1478/2005 (OJ L 236, 13.9.2005, p. 3).

Article 4

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

It shall enter into force the day following that of its publication.

Done at Brussels, 20 December 2005.

For the Council
The President
M. BECKETT

AGREEMENT IN THE FORM OF AN EXCHANGE OF LETTERS**between the European Community and the Republic of Belarus amending the agreement between the European Community and the Republic of Belarus on trade in textile products**

Letter from the European Community

Sir,

1. I have the honour to refer to the Agreement between the European Community and the Republic of Belarus on trade in textile products initialled on 1 April 1993, as last amended and extended by the Agreement in the form of an Exchange of Letters initialled on 29 November 2004 (hereafter referred to as the Agreement).
2. In view of the expiry of the Agreement on 31 December 2005 and in accordance with Article 19(1) of the Agreement, the European Community and the Republic of Belarus agree to extend the duration of the Agreement, for a further period of one year, subject to the following amendments and conditions:
 - 2.1. The text of Article 19(1), second and third sentences, of the Agreement shall be replaced by the following:

'It shall be applicable until 31 December 2006.'
 - 2.2. Annex II which sets out the quantitative restrictions for exports from the Republic of Belarus to the European Community is replaced by Appendix 1 to this letter.
 - 2.3. The Annex to Protocol C which sets out the quantitative restrictions for exports from the Republic of Belarus to the European Community after OPT operations in the Republic of Belarus is replaced for the period of 1 January 2006 to 31 December 2006 by Appendix 2 to this letter.
 - 2.4. Imports into Belarus of textile and clothing products of European Community origin shall be subject in 2006 to custom duties not exceeding those provided for 2003 in Appendix 4 of the Agreement in the form of an Exchange of Letters between the European Community and the Republic of Belarus initialled on 11 November 1999.

In the case of non-application of these rates the Community will have the right to reintroduce for the period of the agreement remaining unexpired on a pro rata basis the levels for quantitative restrictions applicable for 2005 as specified in the Exchange of Letters initialled on 29 November 2004.

3. Should the Republic of Belarus become a Member of the World Trade Organisation (WTO) before the date of the expiry of the Agreement, the Agreements and rules of the WTO shall be applied from the date of the Republic of Belarus' accession to the WTO.

4. I should be obliged if you could kindly confirm the acceptance of your Government of the foregoing. Should this be the case, this Agreement in the form of an Exchange of Letters shall enter into force on the first day of the month following the day on which the Parties have notified each other that the legal procedures necessary to this end have been completed. In the meantime, it shall be applied provisionally from 1 January 2006 on the condition of reciprocity.

Please accept, Sir, the assurance of my highest consideration.

For the European Community

Appendix 1

'ANNEX II

Belarus	Category	Unit	Quota as from 1 January 2006
Group IA	1	tonnes	1 585
	2	tonnes	6 000
	3	tonnes	242
Group IB	4	T pieces	1 672
	5	T pieces	1 105
	6	T pieces	1 550
	7	T pieces	1 252
	8	T pieces	1 160
Group IIA	9	tonnes	363
	20	tonnes	329
	22	tonnes	524
	23	tonnes	255
	39	tonnes	241
Group IIB	12	T pairs	5 959
	13	T pieces	2 651
	15	T pieces	1 569
	16	T pieces	186
	21	T pieces	930
	24	T pieces	844
	26/27	T pieces	1 117
	29	T pieces	468
	73	T pieces	329
	83	tonnes	184
Group IIIA	33	tonnes	387
	36	tonnes	1 309
	37	tonnes	463
	50	tonnes	207
Group IIIB	67	tonnes	356
	74	T pieces	377
	90	tonnes	208
Group IV	115	tonnes	95
	117	tonnes	2 100
	118	tonnes	471

T pieces: thousand of pieces'

Appendix 2

'ANNEX TO PROTOCOL C

Category	Unit	As from 1 January 2006
4	1 000 pieces	5 055
5	1 000 pieces	7 047
6	1 000 pieces	9 398
7	1 000 pieces	7 054
8	1 000 pieces	2 402
12	1 000 pieces	4 749
13	1 000 pieces	744
15	1 000 pieces	4 120
16	1 000 pieces	839
21	1 000 pieces	2 741
24	1 000 pieces	706
26/27	1 000 pieces	3 434
29	1 000 pieces	1 392
73	1 000 pieces	5 337
83	Tonnes	709
74	1 000 pieces	931'

Letter from the Government of the Republic of Belarus

Sir,

I have the honour to acknowledge receipt of your letter of ... which reads as follows:

- '1. I have the honour to refer to the Agreement between the European Community and the Republic of Belarus on trade in textile products initialled on 1 April 1993, as last amended and extended by the Agreement in the form of an Exchange of Letters initialled on 29 November 2004 (hereafter referred to as the Agreement).
2. In view of the expiry of the Agreement on 31 December 2005 and in accordance with Article 19(1) of the Agreement, the European Community and the Republic of Belarus agree to extend the duration of the Agreement, for a further period of one year, subject to the following amendments and conditions:
 - 2.1. The text of Article 19(1), second and third sentences, of the Agreement shall be replaced by the following:

“It shall be applicable until 31 December 2006.”
 - 2.2. Annex II which sets out the quantitative restrictions for exports from the Republic of Belarus to the European Community is replaced by Appendix 1 to this letter.
 - 2.3. The Annex to Protocol C which sets out the quantitative restrictions for exports from the Republic of Belarus to the European Community after OPT operations in the Republic of Belarus is replaced for the period of 1 January 2006 to 31 December 2006 by Appendix 2 to this letter.
 - 2.4. Imports into Belarus of textile and clothing products of European Community origin shall be subject in 2006 to custom duties not exceeding those provided for 2003 in Appendix 4 of the Agreement in the form of an Exchange of Letters between the European Community and the Republic of Belarus initialled on 11 November 1999.

In the case of non-application of these rates the Community will have the right to reintroduce for the period of the agreement remaining unexpired on a pro rata basis the levels for quantitative restrictions applicable for 2005 as specified in the Exchange of Letters initialled on 29 November 2004.

3. Should the Republic of Belarus become a Member of the World Trade Organisation (WTO) before the date of the expiry of the Agreement, the Agreements and rules of the WTO shall be applied from the date of the Republic of Belarus' accession to the WTO.
4. I should be obliged if you could kindly confirm the acceptance of your Government of the foregoing. Should this be the case, this Agreement in the form of an Exchange of Letters shall enter into force on the first day of the month following the day on which the Parties have notified each other that the legal procedures necessary to this end have been completed. In the meantime, it shall be applied provisionally from 1 January 2006 on the condition of reciprocity.'

I have the honour to confirm that my Government is in agreement with the content of your letter.

Please accept, Sir, the assurance of my highest consideration.

For the Government of the Republic of Belarus

COMMISSION

COMMISSION DECISION

of 23 December 2005

on the continuation in the year 2006 of Community comparative trials and tests on propagating and planting material of *Prunus domestica* and of *Prunus persica* (L.) Batsch, *Malus* Mill. and *Rubus idaeus* L. under Council Directive 92/34/EEC started in 2002, 2003 and 2004

(2005/949/EC)

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Directive 92/34/EEC as regards *Prunus domestica* from 2002 to 2006.

Having regard to the Treaty establishing the European Community,

(2) Tests and trials carried out in 2002 to 2005 should be continued in 2006.

Having regard to Council Directive 92/34/EEC of 28 April 1992 on the marketing of fruit plant propagating material and fruit plants intended for fruit production ⁽¹⁾,

(3) Decision 2002/745/EC sets out the arrangements for the comparative trials and tests to be carried out under Directive 92/34/EEC as regards *Prunus domestica* from 2003 to 2007.

Having regard to Commission Decision 2001/896/EC of 12 December 2001 setting out the arrangements for Community comparative trials and tests on propagating and planting material of fruit plants under Council Directive 92/34/EEC ⁽²⁾, and in particular Article 2 thereof,

(4) Tests and trials carried out in 2003 to 2005 should be continued in 2006.

Having regard to Commission Decision 2002/745/EC of 5 September 2002 setting out the arrangements for Community comparative trials and tests on propagating and planting material of fruit plants under Council Directive 92/34/EEC ⁽³⁾, and in particular Article 3 thereof,

(5) Decision 2003/894/EC sets out the arrangements for the comparative trials and tests to be carried out under Directive 92/34/EEC as regards *Prunus persica* (L.) Batsch, *Malus* Mill. and *Rubus idaeus* L. from 2004 to 2008.

Having regard to Commission Decision 2003/894/EC of 11 December 2003 setting out the arrangements for Community comparative trials and tests on propagating and planting material of *Prunus persica* (L.) Batsch, *Malus* Mill. and *Rubus idaeus* L. pursuant to Council Directive 92/34/EEC ⁽⁴⁾, and in particular Article 3 thereof,

(6) Tests and trials carried out in 2004 and 2005 should be continued in 2006,

Whereas:

HAS DECIDED AS FOLLOWS:

(1) Decision 2001/896/EC sets out the arrangements for the comparative trials and tests to be carried out under

Sole Article

⁽¹⁾ OJ L 157, 10.6.1992, p. 10. Directive as last amended by Commission Decision 2005/54/EC (OJ L 22, 26.1.2005, p. 16).

⁽²⁾ OJ L 331, 15.12.2001, p. 95.

⁽³⁾ OJ L 240, 7.9.2002, p. 65.

⁽⁴⁾ OJ L 333, 20.12.2003, p. 88.

Community comparative trials and tests which began in 2002 and 2003 on propagating and planting material of *Prunus domestica* shall be continued in 2006 in accordance with Decisions 2001/896/EC and 2002/745/EC respectively.

Community comparative trials and tests, which began in 2004 on propagating and planting material of *Prunus persica* (L.) Batsch, *Malus* Mill. and *Rubus idaeus* L., shall be continued in 2006 in accordance with Decision 2003/894/EC.

Done at Brussels, 23 December 2005.

For the Commission

Markos KYPRIANOU

Member of the Commission

COMMISSION DECISION

of 23 December 2005

amending Decision 2003/135/EC as regards the extension of the plans for the eradication of classical swine fever in feral pigs and the emergency vaccination of feral pigs against classical swine fever in certain areas of the Federal States of North Rhine-Westphalia and Rhineland-Palatinate (Germany)

(notified under document number C(2005) 5621)

(Only the German and French texts are authentic)

(2005/950/EC)

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Council Directive 2001/89/EC of 23 October 2001 on Community measures for the control of classical swine fever ⁽¹⁾, and in particular Articles 16(1) and 20(2) thereof,

Whereas:

(1) Commission Decision 2003/135/EC of 27 February 2003 on the approval of the plans for the eradication of classical swine fever and the emergency vaccination of feral pigs against classical swine fever in Germany, in the Federal States of Lower Saxony, North Rhine-Westphalia, Rhineland-Palatinate and Saarland ⁽²⁾ was adopted as one of a number of measures to combat classical swine fever.

(2) The disease was successfully eradicated in the federal state of North Rhine-Westphalia and the approved eradication plan adopted for certain areas of this Federal State was lifted by Commission Decision 2005/58/EC of 26 January 2005 amending Decision 2003/135/EC as regards the termination of the eradication and vaccination plans in the Federal States of Lower-Saxony and North Rhine-Westphalia and the eradication plan in the Federal States of Saarland (Germany) ⁽³⁾.

(3) The German authorities have informed the Commission on the re-occurrence during October 2005 of the disease in feral pigs in certain areas of North Rhine-Westphalia and have amended the plans for the eradication of classical swine fever and the emergency vaccination of feral pigs against classical swine fever accordingly and notified it to the Commission.

(4) In the light of the epidemiological information, the eradication plan in Germany should be extended to areas in the district of Euskirchen in North Rhine-Westphalia and the districts of Ahrweiler and Daun in Rhineland-Palatinate. In addition, the emergency vaccination plan for feral pigs against classical swine fever should be amended to cover those areas.

(5) Decision 2003/135/EC should therefore be amended accordingly.

(6) 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

The Annex to Decision 2003/135/EC is replaced by the text in the Annex to this Decision.

Article 2

This Decision is addressed to the Federal Republic of Germany and the French Republic.

Done at Brussels, 23 December 2005.

For the Commission

Markos KYPRIANOU

Member of the Commission

⁽¹⁾ OJ L 316, 1.12.2001, p. 5. Directive as amended by the 2003 Act of Accession.

⁽²⁾ OJ L 53, 28.2.2003, p. 47. Decision as last amended by Decision 2005/236/EC (OJ L 72, 18.3.2005, p. 44).

⁽³⁾ OJ L 24, 27.1.2005, p. 45.

ANNEX

'ANNEX

1. AREAS WHERE ERADICATION PLANS ARE IN PLACE:

A. Rhineland-Palatinate:

- (a) the Kreise: Bad Dürkheim, Donnersbergkreis and Südliche Weinstraße;
- (b) the cities of: Speyer, Landau, Neustadt an der Weinstraße, Pirmasens and Kaiserslautern;
- (c) in the Kreis Alzey-Worms: the localities Stein-Bockenheim, Wonsheim, Siefersheim, Wöllstein, Gumbsheim, Eckelsheim, Wendelsheim, Nieder-Wiesen, Nack, Erbes-Büdesheim, Flonheim, Bornheim, Lonsheim, Bernmersheim vor der Höhe, Albig, Bechenheim, Offenheim, Mauchenheim, Freimersheim, Wahlheim, Kettenheim, Esselborn, Dintesheim, Flornborn, Eppelsheim, Ober-Flörsheim, Hangen-Weisheim, Gundersheim, Bernmersheim, Gundheim, Framersheim, Gau-Heppenheim, Monsheim and Alzey;
- (d) in the Kreis Bad Kreuznach: the localities Becherbach, Reiffelbach, Schmittweiler, Callbach, Meisenheim, Breitenheim, Rehborn, Lettweiler, Abtweiler, Raumbach, Bad Sobernheim, Odernheim a. Glan, Staudernheim, Oberhausen a. d. Nahe, Duchroth, Hallgarten, Feilbingert, Hochstätten, Niederhausen, Norheim, Bad Münster a. Stein-Ebernburg, Altenbamberg, Traisen, Fürfeld, Tiefenthal, Neu-Bamberg, Frei-Laubersheim, Hackenheim, Volxheim, Pleitersheim, Pfaffen-Schwabenheim, Biebelsheim, Guldental, Bretzenheim, Langenlonsheim, Laubenheim, Dorsheim, Rummelsheim, Windesheim, Stromberg, Waldlaubersheim, Warmsroth, Schweppenhausen, Eckenroth, Roth, Boos, Hüffelsheim, Schloßböckelheim, Rüdesheim, Weinsheim, Oberstreit, Waldböckelheim, Mandel, Hargesheim, Roxheim, Gutenberg and Bad Kreuznach;
- (e) in the Kreis Germersheim: the municipalities Lingenfeld, Bellheim and Germersheim;
- (f) in the Kreis Kaiserslautern: the municipalities Weilerbach, Otterbach, Otterberg, Enkenbach-Alsenborn, Hochspeyer, Kaiserslautern-Süd, Landstuhl and Bruchmühlbach-Miesau the localities Ramstein-Miesenbach, Hütschenhausen, Steinwenden and Kottweiler-Schwanden;
- (g) in the Kreis Kusel: the localities Odenbach, Adenbach, Cronenberg, Ginsweiler, Hohenöllen, Lohnweiler, Heinenhausen, Nussbach, Reipoltskirchen, Hefersweiler, Relsberg, Einöllen, Oberweiler-Tiefenbach, Wolfstein, Kreimbach-Kaulbach, Rutsweiler a.d. Lauter, Rothselberg, Jettenbach and Bosenbach;
- (h) in the Rhein-Pfalz-Kreis: the municipalities Dudenhofen, Waldsee, Böhl-Iggelheim, Schifferstadt, Römerberg and Altrip;
- (i) in the Kreis Südwestpfalz: the municipalities Waldfischbach-Burgalben, Rodalben, Hauenstein, Dahn-Felsenland, Pirmasens-Land and Thaleischweiler-Fröschen, the localities Schmitshausen, Herschberg, Schauerberg, Weselberg, Obernheim-Kirchenarnbach, Hettenhausen, Saalstadt, Wallhalben and Knopp-Labach;
- (j) in the Kreis Ahrweiler: the municipalities Adenau und Ahrweiler;
- (k) in the Kreis Daun: the municipalities Nohn und Üxheim.

B. North Rhine-Westfalia:

- in the Kreis Euskirchen: the city Bad Münstereifel, the municipality Blankenheim (localities Lindweiler, Lommersdorf and Rohr), the city Euskirchen (localities Billig, Euenheim, Flamersheim, Kirchheim, Kreuzweingarten, Niederkastenholz, Rheder, Schweinheim, Stotzheim and Wißkirchen), the city Mechernich (localities Antweiler, Harzheim, Holzheim, Lessenich, Rissdorf, Wachendorf and Weiler am Berge), the municipality Nettersheim (localities Boudersath, Buir, Egelgau, Frohngau, Holzmühlheim, Pesch, Roderath and Tondorf).

2. AREAS WHERE THE EMERGENCY VACCINATION IS APPLIED:

A. **Rhineland-Palatinate:**

- (a) the Kreise: Bad Dürkheim, Donnersbergkreis and Südliche Weinstraße;
- (b) the cities: Speyer, Landau, Neustadt an der Weinstraße, Pirmasens and Kaiserslautern;
- (c) in the Kreis Alzey-Worms: the localities Stein-Bockenheim, Wonsheim, Siefersheim, Wöllstein, Gumbsheim, Eckelsheim, Wendelsheim, Nieder-Wiesen, Nack, Erbes-Büdesheim, Flonheim, Bornheim, Lonsheim, Bermersheim vor der Höhe, Albig, Bechenheim, Offenheim, Mauchenheim, Freimersheim, Wahlheim, Kettenheim, Esselborn, Dintesheim, Flomborn, Eppelsheim, Ober-Flörsheim, Hangen-Weisheim, Gundersheim, Bermersheim, Gundheim, Framersheim, Gau-Heppenheim, Monsheim and Alzey;
- (d) in the Kreis Bad Kreuznach: the localities Becherbach, Reiffelbach, Schmittweiler, Callbach, Meisenheim, Breitenheim, Rehborn, Lettweiler, Abtweiler, Raumbach, Bad Sobernheim, Odernheim a. Glan, Staudernheim, Oberhausen a. d. Nahe, Duchroth, Hallgarten, Feilbingert, Hochstätten, Niederhausen, Norheim, Bad Münster a. Stein-Ebernburg, Altenbamberg, Traisen, Fürfeld, Tiefenthal, Neu-Bamberg, Frei-Laubersheim, Hackenheim, Volxheim, Pleitersheim, Pfaffen-Schwabenheim, Biebelsheim, Guldental, Bretzenheim, Langenlonsheim, Laubenheim, Dorsheim, Rummelsheim, Windesheim, Stromberg, Waldlaubersheim, Warmsroth, Schweppenhäuser, Eckenroth, Roth, Boos, Hüffelsheim, Schloßböckelheim, Rüdesheim, Weinsheim, Oberstreit, Waldböckelheim, Mandel, Hargesheim, Roxheim, Gutenberg and Bad Kreuznach;
- (e) in the Kreis Germersheim: the municipalities Lingenfeld, Bellheim and Germersheim;
- (f) in the Kreis Kaiserslautern: the municipalities Weilerbach, Otterbach, Otterberg, Enkenbach-Alsenborn, Hochspeyer, Kaiserslautern-Süd, Landstuhl and Bruchmühlbach-Miesau, the localities Ramstein-Miesenbach, Hütschenhausen, Steinwenden and Kottweiler-Schwanden;
- (g) in the Kreis Kusel: the localities Odenbach, Adenbach, Cronenberg, Ginsweiler, Hohenöllen, Lohnweiler, Heinenhausen, Nussbach, Reipoltskirchen, Hefersweiler, Relsberg, Einöllen, Oberweiler-Tiefenbach, Wolfstein, Kreimbach-Kaulbach, Rutsweiler a.d. Lauter, Rothselberg, Jettenbach and Bosenbach;
- (h) in the Rhein-Pfalz-Kreis: the municipalities Dudenhofen, Waldsee, Böhl-Iggelheim, Schifferstadt, Römerberg and Altrip;
- (i) in the Kreis Südwestpfalz: the municipalities Waldfischbach-Burgalben, Rodalben, Hauenstein, Dahnert-Felsenland, Pirmasens-Land and Thaleischweiler-Fröschen, the localities Schmitshausen, Herschberg, Schauerberg, Weselberg, Obernheim-Kirchenarnbach, Hettenhausen, Saalstadt, Wallhalben and Knopp-Labach;
- (j) in the Kreis Ahrweiler: the municipalities Adenau and Ahrweiler;
- (k) in the Kreis Daun: the municipalities Nohn and Üxheim.

B. **North Rhine-Westfalia**

- in the Kreis Euskirchen: the city Bad Münstereifel, the municipality Blankenheim (localities Lindweiler, Lommersdorf and Rohr), the city Euskirchen (localities Billig, Euenheim, Flamersheim, Kirchheim, Kreuzweingarten, Niederkastenholz, Rheder, Schweinheim, Stotzheim and Wißkirchen), the city Mechernich (localities Antweiler, Harzheim, Holzheim, Lessenich, Rissdorf, Wachendorf and Weiler am Berge), the municipality Nettersheim (localities Boudersath, Buir, Egelgau, Frohngau, Holzmühlheim, Pesch, Roderath and Tondorf).'

EUROPEAN CENTRAL BANK

GUIDELINE OF THE EUROPEAN CENTRAL BANK

of 15 December 2005

amending Guideline ECB/2000/1 on the management of the foreign reserve assets of the European Central Bank by the national central banks and the legal documentation for operations involving the foreign reserve assets of the European Central Bank

(ECB/2005/15)

(2005/951/EC)

THE GOVERNING COUNCIL OF THE EUROPEAN CENTRAL BANK,

Having regard to the Treaty establishing the European Community, and in particular the third indent of Article 105(2) thereof,

Having regard to the Statute of the European System of Central Banks and of the European Central Bank, and in particular the third indent of Article 3.1 and Articles 12.1, 14.3 and 30.6 thereof,

Whereas:

(1) Guideline ECB/2000/1 of 3 February 2000 on the management of the foreign reserve assets of the European Central Bank by the national central banks and the legal documentation for operations involving the foreign reserve assets of the European Central Bank ⁽¹⁾ stipulates, *inter alia*, what legal documentation should be used for such operations.

(2) Guideline ECB/2000/1 was amended on 11 March 2005 to reflect the ECB's decision to use the Banking Federation of the European Union (*Fédération Bancaire Européenne*) (FBE) Master Agreement for Financial Transactions (Edition 2004) for collateralised and over-the-counter derivatives operations involving the ECB's foreign reserve assets with counterparties incorporated or organised under the laws of certain European jurisdictions.

(3) In respect of counterparties that are incorporated or organised under Swedish law, the ECB now considers that it would be appropriate to use the FBE Master Agreement for Financial Transactions (Edition 2004):

(i) for all over-the-counter derivatives operations involving the ECB's foreign reserve assets with such counterparties; and

(ii) to document deposits involving the ECB's foreign reserve assets with such counterparties provided that they are eligible for deposits as well as repo and/or FX transactions.

(4) Guideline ECB/2000/1 should therefore be amended to provide for the use of the FBE Master Agreement for Financial Transactions (Edition 2004) for over-the-counter derivatives operations and deposits with counterparties that are incorporated or organised under Swedish law and consequently to reflect the ECB's decision no longer to use the ECB Master Netting Agreement with such counterparties.

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

HAS ADOPTED THIS GUIDELINE:

Article 1

Guideline ECB/2000/1 is amended as follows:

1. Article 3(3) is replaced by the following:

‘There shall be in place with all counterparties a master netting agreement in one of the forms attached as Annex 2 to this Guideline, except with counterparties with which the ECB has signed an FBE Master Agreement for Financial Transactions (Edition 2004) and which are organised or incorporated under the laws of any of the following jurisdictions: Austria, Belgium, Denmark, Finland, France, Germany, Greece, Italy, Luxembourg, the Netherlands, Portugal, Spain, Sweden, the United Kingdom (England and Wales only) or Switzerland.’;

⁽¹⁾ OJ L 207, 17.8.2000, p. 24. Guideline as last amended by Guideline ECB/2005/6 (OJ L 109, 29.4.2005, p. 107).

2. the title of Annex 2a is replaced by the following:

'Master Netting Agreement governed by English law and drafted in the English language (for use with all counterparties except counterparties):

- (i) incorporated in the United States of America; or
- (ii) incorporated in France and Germany which are eligible only for deposits; or
- (iii) with which the ECB has signed an FBE Master Agreement for Financial Transactions (Edition 2004) and which are organised or incorporated under the laws of any of the following jurisdictions: Austria, Belgium, Denmark, Finland, France, Germany, Greece, Italy, Luxembourg, the Netherlands, Portugal, Spain, Sweden, the United Kingdom (England and Wales only) or Switzerland.;

3. paragraph 2(a) of Annex 3 is replaced by the following:

'The FBE Master Agreement for Financial Transactions (Edition 2004) for operations with counterparties organised or incorporated under the laws of any of the following jurisdictions: Austria, Belgium, Denmark, Finland, France, Germany, Greece, Ireland, Italy, Luxembourg, the Netherlands, Portugal, Spain, Sweden, the United Kingdom (England and Wales only) or Switzerland.;

4. paragraph 3 of Annex 3 is replaced by the following:

'All deposits involving the ECB's foreign reserve assets with counterparties which are eligible for collateralised operations as described in paragraph 1 and/or over-the-counter derivatives operations as described in paragraph 2 and which are organised or incorporated under the laws of any of the following jurisdictions must be documented using the FBE Master Agreement for Financial Transactions (Edition 2004), in such form as may be approved or amended by the ECB from time to time: Austria, Belgium, Denmark, Finland, France, Germany, Greece, Italy, Luxembourg, the Netherlands, Portugal, Spain, Sweden, the United Kingdom (England and Wales only) or Switzerland.'

Article 2

Entry into force

This Guideline shall enter into force on 15 March 2006.

Article 3

Addressees

This Guideline is addressed to the national central banks of the Member States that have adopted the euro in accordance with the Treaty.

Done at Frankfurt am Main, 15 December 2005.

For the Governing Council of the ECB
The President of the ECB
Jean-Claude TRICHET

CORRIGENDA

Corrigendum to Commission Regulation (EC, Euratom) No 2342/2002 of 23 December 2002 laying down detailed rules for the implementation of Council Regulation (EC, Euratom) No 1605/2002 on the Financial Regulation applicable to the general budget of the European Communities

(Official Journal of the European Communities L 357 of 31 December 2002)

On page 6, in recital 43:

for: 'The provisions of the Financial Regulation relating to European Offices should be supplemented by specific rules for the Office for Official Publications of the European Communities and by provisions authorising the Commission's accounting officer to delegate some of his tasks to staff in those Offices. Operational procedures should also be laid down for the bank accounts which the European Offices may be authorised to open in the Commission's name.'

read: 'The provisions of the Financial Regulation relating to European Offices should be supplemented by specific rules for the Office for Official Publications of the European Communities and by provisions authorising the Commission's accounting officer to delegate some of his tasks to staff in those Offices. Operating procedures should also be laid down for the bank accounts which the European Offices may be authorised to open in the Commission's name.'

On page 15, in Article 37(3):

for: 'The Commission's instrument of delegation shall contain the same provisions as are listed in Article 39(2).'

read: 'The Commission's instrument of delegation shall contain the same provisions as are listed in Article 41(2).'

On page 26, in Article 91(2):

for: 'The provisional budget commitment shall be implemented either by the conclusion of one or more legal commitments giving rise to an entitlement to subsequent payments or, in cases relating to expenditure on staff management or on communications activities engaged in by the institutions for the coverage of Community events on communication activities performed by the Institutions and aimed at covering community events, directly by payments.'

read: 'The provisional budget commitment shall be implemented either by the conclusion of one or more legal commitments giving rise to an entitlement to subsequent payments or, in cases relating to expenditure on staff management or on communications activities engaged in by the institutions for the coverage of Community events, directly by payments.'

On page 27, in the first sentence of Article 96:

for: 'Items regarded as routine administrative expenditure which may give rise to provisional commitments shall include the following':

read: 'Items regarded as routine administrative expenditure which may give rise to provisional commitments shall include in particular the following':

On page 27, in Article 97(3):

for: 'The validation decision shall be expressed by the signing of a "passed for payment" voucher by the authorising officer responsible or by an official or other servant technically competent, empowered by formal decision of the authorising officer.'

read: 'The validation decision shall be expressed by the signing of a "passed for payment" voucher by the authorising officer responsible or by an official or other servant technically competent, empowered by formal decision of the responsible authorising officer.'

On page 30, in the title of Article 110:

for: 'Operational resources',

read: 'Operating resources'.

On page 33, in the first sentence of Article 122(3):

for: 'In a negotiated procedure, the contracting authorities shall consult tenderers of their choice who satisfy the selection criteria laid down in Article 135, and negotiate the terms of the contract with one or more of them.'

read: 'In a negotiated procedure, the contracting authorities shall consult the candidates of their choice who satisfy the selection criteria laid down in Article 135, and negotiate the terms of the contract with one or more of them.'

On page 45, in the title of Article 159:

for: 'Evidence of access to contracts',

read: 'Evidence of access to the market'.

On page 45, in the first subparagraph of Article 160(1):

for: 'The procedure for the award of grants and the conclusion of agreements by the Commission with the bodies referred to in Article 54 of the Financial Regulation, in respect of the co-financing of their administrative expenditure and for the purposes of making available the operating appropriations which they are delegated to manage, and with the beneficiaries of financing agreements as referred to in Article 166 of that Regulation are not subject to the provisions of this Title.'

read: 'The procedure for the award of grants and the conclusion of agreements by the Commission with the bodies referred to in Article 54 of the Financial Regulation, in respect of the co-financing of their operating expenditure and for the purposes of making available the operational appropriations which they are delegated to manage, and with the beneficiaries of financing agreements as referred to in Article 166 of that Regulation are not subject to the provisions of this Title.'

On page 47, in Article 167(2):

for: 'Calls for proposals shall be published on the Internet site of the European institutions and by any other appropriate medium, including the *Official Journal of the European Communities*, in order to provide maximum publicity among potential beneficiaries.'

read: 'Calls for proposals shall be published on the Internet site of the European institutions and possibly by any other appropriate medium, including the *Official Journal of the European Communities*, in order to provide maximum publicity among potential beneficiaries.'

On page 52, in Article 186:

for: 'Where, in a specific case, the accounting officers consider that an exception should be made to the content of one of the accounting principles defined in Articles 187 to 1941, that exception shall be duly substantiated and reported in the annex to the financial statements referred to in Article 203.'

read: 'Where, in a specific case, the accounting officers consider that an exception should be made to the content of one of the accounting principles defined in Articles 187 to 194, that exception shall be duly substantiated and reported in the annex to the financial statements referred to in Article 203.'

On page 60, in the title of Article 232:

for: 'Financing agreement in centralised management',

read: 'Financing agreement in decentralised management'.

On page 60, in Article 235:

for: 'The only buildings contracts which may be financed from operating appropriations for external action shall be those relating to the renting of buildings already constructed at the time the lease is signed. These contracts shall be published as laid down in Article 119.',

read: 'The only buildings contracts which may be financed from operational appropriations for external action shall be those relating to the renting of buildings already constructed at the time the lease is signed. These contracts shall be published as laid down in Article 119.'

On page 62, in Article 241(1)(a):

for: 'for contracts with a value of EUR 200 000 or more: an international restricted invitation to tender within the meaning of point (b) of Article 122(2) and point (a) of Article 240(2);',

read: 'for contracts with a value of EUR 200 000 or more: an international restricted invitation to tender within the meaning of the second subparagraph of Article 122(2) and point (a) of Article 240(2);'.

On page 62, in the second subparagraph of Article 241(3):

for: 'Tenders shall be opened and evaluated by a selection board with the necessary technical and administrative expertise. The members of the selection board must sign a declaration of impartiality.',

read: 'Tenders shall be opened and evaluated by an evaluation committee with the necessary technical and administrative expertise. The members of the evaluation committee must sign a declaration of impartiality.'

On page 62, in the final subparagraph of Article 241(4):

for: 'If interviews were envisaged in the tender documents, the selection board may interview the principal members of the team of experts proposed in the technically acceptable bids, after establishing its written provisional conclusions and before definitively concluding the evaluation of the technical bids. In such cases the experts shall be interviewed by the selection board, preferably collectively if they form a team, and at intervals close enough to allow comparisons to be made. Interviews shall be conducted in accordance with a standard model agreed in advance by the selection board and applied to all the experts or teams called for interview. The date and time of the interview must be communicated to the tenderers at least 10 calendar days in advance. In cases of *force majeure*, preventing the tenderer from attending the interview, a new date and time must be sent to the tenderer.',

read: 'If interviews were envisaged in the tender documents, the evaluation committee may interview the principal members of the team of experts proposed in the technically acceptable bids, after establishing its written provisional conclusions and before definitively concluding the evaluation of the technical bids. In such cases the experts shall be interviewed by the evaluation committee, preferably collectively if they form a team, and at intervals close enough to allow comparisons to be made. Interviews shall be conducted in accordance with a standard model agreed in advance by the evaluation committee and applied to all the experts or teams called for interview. The date and time of the interview must be communicated to the tenderers at least 10 calendar days in advance. In cases of *force majeure*, preventing the tenderer from attending the interview, a new date and time must be sent to the tenderer.'

On page 63, in Article 242(2):

for: '(b) additional services consisting in the repetition of similar services entrusted to the contractor providing services under a first contract, provided that a contract notice was published for the supply of the first service and the possibility of using the negotiated procedure for new services for the project and the estimated cost were clearly indicated in the contract notice published for the first service.'

A single extension of the contract shall be possible for a value and duration equal to no more than the value and the duration of the initial contract.'

read: '(b) additional services consisting in the repetition of similar services entrusted to the contractor providing services under a first contract, provided that a contract notice was published for the supply of the first service and the possibility of using the negotiated procedure for new services for the project and the estimated cost were clearly indicated in the contract notice published for the first service. A single extension of the contract shall be possible for a value and duration equal to no more than the value and the duration of the initial contract.'

On page 63, in the second subparagraph of Article 243(2):

for: 'Tenders shall be opened and evaluated by a selection board with the necessary technical and administrative expertise. The members of the selection board must sign a declaration of impartiality.'

read: 'Tenders shall be opened and evaluated by an evaluation committee with the necessary technical and administrative expertise. The members of the evaluation committee must sign a declaration of impartiality.'

On page 64, in the second subparagraph of Article 245(2):

for: 'Tenders shall be opened and evaluated by a selection board with the necessary technical and administrative expertise. The members of the selection board must sign a declaration of impartiality.'

read: 'Tenders shall be opened and evaluated by an evaluation committee with the necessary technical and administrative expertise. The members of the evaluation committee must sign a declaration of impartiality.'

On page 66, in Article 249(3)(h)(ii):

for: 'payment of advances,'

read: 'payment of pre-financing.'

On page 66, in Article 249(4)(h)(ii):

for: 'payment of advances,'

read: 'payment of pre-financing.'
