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I

(Acts whose publication is obligatory)

COUNCIL REGULATION (EC) No 838/2006**of 20 March 2006**

concerning the implementation of the Agreement in the form of an Exchange of Letters between the European Community and the People's Republic of China pursuant to Article XXIV:6 and Article XXVIII of the General Agreement on Tariffs and Trade (GATT) 1994 relating to the modification of concessions in the schedules of the Czech Republic, the Republic of Estonia, the Republic of Cyprus, the Republic of Latvia, the Republic of Lithuania, the Republic of Hungary, the Republic of Malta, the Republic of Poland, the Republic of Slovenia and the Slovak Republic in the course of their accession to the European Union, amending and supplementing Annex I to Regulation (EEC) No 2658/87 on the tariff and statistical nomenclature and on the Common Customs Tariff

THE COUNCIL OF THE EUROPEAN UNION,

(3) Regulation (EEC) No 2658/87 should therefore be amended and supplemented accordingly,

Having regard to the Treaty establishing the European Community, and in particular Article 133 thereof,

HAS ADOPTED THIS REGULATION:

Having regard to the proposal from the Commission,

Article 1

Whereas:

Annex I to Regulation (EEC) No 2658/87 shall be amended as follows:

(1) Council Regulation (EEC) No 2658/87 ⁽¹⁾ established a goods nomenclature, hereinafter referred to as the 'Combined Nomenclature', and set out the conventional duty rates of the Common Customs Tariff.

(a) in Part two, Schedule of customs duties, the duty rates shall be amended as shown in point (a) of the Annex to this Regulation;

(2) By Decision 2006/398/EC of 20 March 2006 on the conclusion of an Agreement in the form of an Exchange of Letters between the European Community and the People's Republic of China pursuant to Article XXIV:6 and Article XXVIII of the General Agreement on Tariffs and Trade (GATT) 1994 relating to the modification of concessions in the schedules of the Czech Republic, the Republic of Estonia, the Republic of Cyprus, the Republic of Latvia, the Republic of Lithuania, the Republic of Hungary, the Republic of Malta, the Republic of Poland, the Republic of Slovenia and the Slovak Republic in the course of their accession to the European Union ⁽²⁾, the Council approved the said Agreement on behalf of the Community, with a view to closing negotiations initiated pursuant to Article XXIV:6 of GATT 1994.

(b) Annex 7 of Section III of Part three, WTO Tariff Quotas to be opened by the competent Community authorities, shall be amended with the duties and supplemented with the volumes following the terms and conditions shown in point (b) of the Annex to this Regulation.

Article 2

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

⁽¹⁾ OJ L 256, 7.9.1987, p. 1. Regulation as last amended by Regulation (EC) No 486/2006 (OJ L 88, 25.3.2006, p. 1).

⁽²⁾ See page 22 of this Official Journal.

Article 1, point (b) shall apply six weeks from the date of the publication of this Regulation.

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

Done at Brussels, 20 March 2006.

For the Council
The President
U. PLASSNIK

ANNEX

Notwithstanding the rules for the interpretation of the Combined Nomenclature, the wording for the description of the products is to be considered as having no more than an indicative value, the concessions being determined, within the context of this Annex, by the coverage of the CN codes as they exist at the time of adoption of the current regulation. Where ex CN codes are indicated, the concessions are to be determined by application of the CN code and corresponding description taken together.

(a) In Annex I to Regulation (EEC) No 2658/87, Part two, Schedule of customs duties, the duty rates are the following:

CN code	Description	Duty rate
Tariff item number 0304 20 85	Frozen fillets of Alaska pollack (Theragra chalcogramma)	bound duty of 13,7 %
Tariff item number 6402 19 00	Other footwear with outer soles and uppers of rubber or plastics	bound duty of 16,9 %
Tariff item number 6402 91 00	Other footwear covering the ankle with outer soles and uppers of rubber or plastics	bound duty of 16,9 %
Tariff item number 6402 99	Other footwear with outer soles and uppers of rubber or plastics	bound duty of 16,8 %
Tariff item number 6404 11 00	Sports footwear; tennis shoes, basketball shoes, gym shoes, training shoes and the like	bound duty of 16,9 %
Tariff item number 6404 19 10	Slippers and other indoor footwear	bound duty of 16,9 %
Tariff item number 8482 91 90	Other balls, needles and rollers	bound duty of 7,7 %
Tariff item number 8521 90 00	Other video recording or reproducing apparatus, whether or not incorporating a video tuner	bound duty of 13,9 %
Tariff item number 8712 00 30	Bicycles not motorised	bound duty of 14 %

(b) Annex 7, WTO Tariff Quotas to be opened by the competent Community authorities, Part three, Section III of Annex I to Regulation (EEC) No 2658/87, the other terms and conditions are the following:

CN code	Description	Other terms and conditions
Tariff item number 0703 20 00	Garlic, fresh or chilled	Add 20 500 tonnes to the allocation for China under the EC tariff rate quota
Tariff item number 1006 10	Paddy rice	Implemented through Council Regulation (EC) No 683/2006 ⁽¹⁾
Tariff item number 1006 20	Husked rice	Implemented through Council Regulation (EC) No 683/2006
Tariff item number 1006 30	Milled and semi-milled rice	Implemented through Council Regulation (EC) No 683/2006
Tariff item number 1006 40	Broken rice	Implemented through Council Regulation (EC) No 683/2006

⁽¹⁾ OJ L 120, 5.5.2006, p. 1.

CN code	Description	Other terms and conditions
Tariff item number 2003 10 30	Mushroom of species agaricus, prepared or preserved otherwise than by vinegar	Add 5 200 tonnes (drained net weight) in EC tariff rate quota, allocated to China
Tariff item number 2003 10 20	Mushroom of species agaricus, provisionally preserved or preserved otherwise than by vinegar	
Tariff item number 0711 51 00		
Tariff item numbers ⁽¹⁾	Preserved pineapples, citrus fruit, pears, apricots, cherries, peaches and strawberries	Open a tariff rate quota of 2 838 tonnes (<i>erga omnes</i>), in quota rate 20 %. The existing out of quota rates of the EC shall apply

⁽¹⁾ 2008 20 11: EUR 25,6 + 2,5 100 kg/net
2008 20 39: 25,6
2008 30 19: EUR 25,6 + 4,2 100 kg/net
2008 30 79: 20,8
2008 40 21: 24
2008 40 39: 25,6
2008 50 31: 24
2008 50 59: 25,6
2008 60 19: EUR 25,6 + 4,2 100 kg/net
2008 60 60: 20,8
2008 70 31: 24
2008 70 59: 25,6
2008 80 31: 24

2008 20 19: 25,6
2008 20 71: 20,8
2008 30 31: 24
2008 40 11: 25,6
2008 40 29: 25,6
2008 50 11: 25,6
2008 50 39: 25,6
2008 50 71: 20,8
2008 60 31: 24
2008 70 11: 25,6
2008 70 39: 25,6
2008 80 11: 25,6
2008 80 39: 25,6

2008 20 31: EUR 25,6 + 2,5 100 kg/net
2008 30 11: 25,6
2008 30 39: 25,6
2008 40 19: EUR 25,6 + 4,2 100 kg/net
2008 40 31: EUR 25,6 + 4,2 100 kg/net
2008 50 19: EUR 25,6 + 4,2 100 kg/net
2008 50 51: EUR 25,6 + 4,2 100 kg/net
2008 60 11: 25,6
2008 60 39: 25,6
2008 79 19: EUR 25,6 + 4,2 100 kg/net
2008 70 51: EUR 25,6 + 4,2 100 kg/net
2008 80 19: EUR 25,6 + 4,2 100 kg/net
2008 80 70: 20,8

COMMISSION REGULATION (EC) No 839/2006**of 7 June 2006****establishing the standard import values for determining the entry price of certain fruit and vegetables**

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

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

Whereas:

- (1) Regulation (EC) No 3223/94 lays down, pursuant to the outcome of the Uruguay Round multilateral trade negotiations, the criteria whereby the Commission fixes the

standard values for imports from third countries, in respect of the products and periods stipulated in the Annex thereto.

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

HAS ADOPTED THIS REGULATION:

Article 1

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

Article 2

This Regulation shall enter into force on 8 June 2006.

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

Done at Brussels, 7 June 2006.

For the Commission

J. L. DEMARTY

*Director-General for Agriculture and
Rural Development*

⁽¹⁾ OJ L 337, 24.12.1994, p. 66. Regulation as last amended by Regulation (EC) No 386/2005 (OJ L 62, 9.3.2005, p. 3).

ANNEX

to Commission Regulation of 7 June 2006 establishing the standard import values for determining the entry price of certain fruit and vegetables

(EUR/100 kg)		
CN code	Third country code ⁽¹⁾	Standard import value
0702 00 00	052	75,8
	204	35,9
	999	55,9
0707 00 05	052	77,7
	999	77,7
0709 90 70	052	97,8
	999	97,8
0805 50 10	388	58,4
	508	56,7
	528	51,6
	999	55,6
0808 10 80	388	84,0
	400	107,6
	404	100,5
	508	75,2
	512	82,7
	524	35,7
	528	109,6
	720	82,5
	804	99,1
	999	86,3
0809 10 00	052	227,1
	999	227,1
0809 20 95	052	325,1
	068	95,0
	999	210,1

⁽¹⁾ Country nomenclature as fixed by Commission Regulation (EC) No 750/2005 (OJ L 126, 19.5.2005, p. 12). Code '999' stands for 'of other origin'.

COMMISSION REGULATION (EC) No 840/2006**of 7 June 2006****fixing the aid for peaches for processing under Council Regulation (EC) No 2201/96 for the 2006/07 marketing year**

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Council Regulation (EC) No 2201/96 of 28 October 1996 on the common organisation of the markets in processed fruit and vegetable products ⁽¹⁾, and in particular Article 6(1) thereof,

Whereas:

(1) Article 3(3) of Commission Regulation (EC) No 1535/2003 of 29 August 2003 laying down detailed rules for applying Council Regulation (EC) No 2201/96 as regards the aid scheme for products processed from fruit and vegetables ⁽²⁾ stipulates that the Commission is to publish the amount of the aid for peaches after verifying compliance with the thresholds fixed in Annex III to Regulation (EC) No 2201/96.

(2) The average quantity of peaches processed under the aid scheme over the previous three marketing years is below

the Community threshold. The aid to be applied for the 2006/07 marketing year in each Member State concerned must therefore be the amount set in Article 4(2) of Regulation (EC) No 2201/96.

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

HAS ADOPTED THIS REGULATION:

Article 1

For the 2006/07 marketing year the aid provided for in Article 2 of Regulation (EC) No 2201/96 for peaches shall be EUR 47,70 per tonne.

Article 2

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

It shall apply for the 2006/07 marketing year.

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

Done at Brussels, 7 June 2006.

For the Commission

Mariann FISCHER BOEL

Member of the Commission

⁽¹⁾ OJ L 297, 21.11.1996, p. 29. Regulation last amended by Commission Regulation (EC) No 386/2004 (OJ L 64, 2.3.2004, p. 25).

⁽²⁾ OJ L 218, 30.8.2003, p. 14. Regulation last amended by Regulation (EC) No 1663/2005 (OJ L 267, 12.10.2005, p. 22).

COMMISSION REGULATION (EC) No 841/2006**of 7 June 2006****on granting of import licences for cane sugar for the purposes of certain tariff quotas and preferential agreements**

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

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

Having regard to Council Regulation (EC) No 1095/96 of 18 June 1996 on the implementation of the concessions set out in Schedule CXL drawn up in the wake of the conclusion of the GATT XXIV.6 negotiations ⁽²⁾,

Having regard to Commission Regulation (EC) No 1159/2003 of 30 June 2003 laying down detailed rules of application for the 2003/04, 2004/05 and 2005/06 marketing years for the import of cane sugar under certain tariff quotas and preferential agreements and amending Regulations (EC) No 1464/95 and (EC) No 779/96 ⁽³⁾, and in particular Article 5(3) thereof,

Whereas:

- (1) Article 9 of Regulation (EC) No 1159/2003 stipulates how the delivery obligations at zero duty of products of CN code 1701, expressed in white sugar equivalent, are to be determined for imports originating in signatory countries to the ACP Protocol and the Agreement with India.
- (2) Article 16 of Regulation (EC) No 1159/2003 stipulates how the zero duty tariff quotas for products of CN code 1701 11 10, expressed in white sugar equivalent, are to be determined for imports originating in signatory

countries to the ACP Protocol and the Agreement with India.

- (3) Article 22 of Regulation (EC) No 1159/2003 opens tariff quotas at a duty of EUR 98 per tonne for products of CN code 1701 11 10 for imports originating in Brazil, Cuba and other third countries.
- (4) In the week of 29 May to 2 June 2006 applications were presented to the competent authorities in line with Article 5(1) of Regulation (EC) No 1159/2003 for import licences for a total quantity exceeding a country's delivery obligation quantity of ACP-India preferential sugar determined pursuant to Article 9 of that Regulation.
- (5) In these circumstances the Commission must set reduction coefficients to be used so that licences are issued for quantities scaled down in proportion to the total available and must indicate that the limit in question has been reached,

HAS ADOPTED THIS REGULATION:

Article 1

In the case of import licence applications presented from 29 May to 2 June 2006 in line with Article 5(1) of Regulation (EC) No 1159/2003 licences shall be issued for the quantities indicated in the Annex to this Regulation.

Article 2

This Regulation shall enter into force on 8 June 2006.

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

Done at Brussels, 7 June 2006.

For the Commission

J. L. DEMARTY

*Director-General for Agriculture and
Rural Development*

⁽¹⁾ OJ L 178, 30.6.2001, p. 1. Regulation as last amended by Commission Regulation (EC) No 987/2005 (OJ L 167, 29.6.2005, p. 12).

⁽²⁾ OJ L 146, 20.6.1996, p. 1.

⁽³⁾ OJ L 162, 1.7.2003, p. 25. Regulation as last amended by Regulation (EC) No 568/2005 (OJ L 97, 15.4.2005, p. 9).

ANNEX

ACP-INDIA preferential sugar

Title II of Regulation (EC) No 1159/2003

2005/06 marketing year

Country	Week of 29.5.2006-2.6.2006: percentage of requested quantity to be granted	Limit
Barbados	100	
Belize	0	reached
Congo	100	
Fiji	0	reached
Guyana	100	
India	0	reached
Côte d'Ivoire	100	
Jamaica	100	
Kenya	16,4086	reached
Madagascar	100	
Malawi	0	reached
Mauritius	0	reached
Mozambique	100	
Saint Kitts and Nevis	100	
Swaziland	0	reached
Tanzania	100	
Trinidad and Tobago	100	
Zambia	100	
Zimbabwe	100	

2006/07 marketing year

Country	Week of 29.5.2006-2.6.2006: percentage of requested quantity to be granted	Limit
Barbados	—	
Belize	100	
Congo	—	
Fiji	100	
Guyana	—	
India	100	
Côte d'Ivoire	—	
Jamaica	—	
Kenya	—	
Madagascar	—	
Malawi	100	
Mauritius	100	
Mozambique	—	
Saint Kitts and Nevis	—	
Swaziland	100	
Tanzania	—	
Trinidad and Tobago	—	
Zambia	—	
Zimbabwe	—	

Special preferential sugar**Title III of Regulation (EC) No 1159/2003****2005/06 marketing year**

Country	Week of 29.5.2006-2.6.2006: percentage of requested quantity to be granted	Limit
India	0	reached
ACP	100	

CXL concessions sugar**Title IV of Regulation (EC) No 1159/2003****2005/06 marketing year**

Country	Week of 29.5.2006-2.6.2006: percentage of requested quantity to be granted	Limit
Brazil	0	reached
Cuba	100	
Other third countries	0	reached

COMMISSION DIRECTIVE 2006/53/EC

of 7 June 2006

amending Council Directive 90/642/EEC as regards the maximum residue levels of fenbutatin-oxide, fenhexamid, cyazofamid, linuron, triadimephon/triadimenol, pymetrozine, and pyraclostrobin

(Text with EEA relevance)

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

fenbutatin oxide, fenhexamid, cyazofamid, linuron, triadimephon/triadimenol, pymetrozine, and pyraclostrobin.

Having regard to the Treaty establishing the European Community,

Having regard to Council Directive 90/642/EEC of 27 November 1990 on the fixing of maximum levels for pesticide residues in and on certain products of plant origin including fruit and vegetables ⁽¹⁾, and in particular Article 7 thereof,Having regard to Council Directive 91/414/EEC of 15 July 1991 concerning the placing of plant protection products on the market ⁽²⁾, and in particular Article 4(1)(f) thereof,

Whereas:

- (1) In accordance with Directive 91/414/EEC, authorisations of plant protection products for use on specific crops are the responsibility of the Member States. Such authorisations have to be based on the evaluation of effects on human and animal health and influence on the environment. Elements to be taken into account in such evaluations include operator and bystander exposure and impact on the terrestrial, aquatic and aerial environments, as well as impact on humans and animals through consumption of residues on treated crops.
- (2) Maximum residue levels (MRLs) reflect the use of minimum quantities of pesticides to achieve effective protection of plants, applied in such a manner that the amount of residue is the smallest practicable and is toxicologically acceptable, in particular in terms of estimated dietary intake.
- (3) Maximum residue levels (MRLs) for pesticides covered by Directive 90/642/EEC are to be kept under review and may be modified to take account of new or changed uses. Information about new or changed uses has been communicated to the Commission with respect to

- (4) The lifetime exposure of consumers to these pesticides via food products that may contain residues of these pesticides has been assessed and evaluated in accordance with the procedures and practices used within the Community, taking account of guidelines published by the World Health Organisation ⁽³⁾. Based on those assessment and evaluations, the MRLs for those pesticides should be set so as to ensure that the acceptable daily intake is not exceeded.
- (5) In the case of pymetrozine, linuron, triadimenol, pyraclostrobin and fenbutatin oxide for which an acute reference dose (ARfD) exists, the acute exposure of consumers via each of the food products that may contain residues of these pesticides has been assessed and evaluated in accordance with the procedures and practices currently used within the Community, taking account of guidelines published by the World Health Organisation. The opinions of the Scientific Committee on Plants, in particular advice and recommendations concerning the protection of consumers of food products treated with pesticides ⁽⁴⁾, have been taken into account. Based on the intake assessment of pymetrozine, linuron, triadimenol, pyraclostrobin and fenbutatin oxide, the MRLs for those five pesticides should be fixed so as to ensure that the ARfD will not be exceeded. In the case of the other substances, an assessment of the available information has shown that no ARfD is required and that therefore a short term assessment is not needed.
- (6) Where authorised uses of plant protection products do not result in detectable levels of pesticide residues in or on the food product, or where there are no authorised uses, or where uses which have been authorised by Member States have not been supported by the necessary data, or where uses in third countries resulting in residues in or on food products which may enter into circulation in the Community market have not been supported with such necessary data, MRLs should be fixed at the lower limit of analytical determination.

⁽¹⁾ OJ L 350, 14.12.1990, p. 71. Directive as last amended by Commission Directive 2006/30/EC (OJ L 75, 14.3.2006, p. 7).

⁽²⁾ OJ L 230, 19.8.1991, p. 1. Directive as last amended by Commission Directive 2006/45/EC (OJ L 130, 18.5.2006, p. 27).

⁽³⁾ Guidelines for predicting dietary intake of pesticide residues (revised), prepared by the GEMS/Food Programme in collaboration with the Codex Committee on Pesticide Residues, published by the World Health Organisation 1997 (WHO/FSF/FOS/97.7).

⁽⁴⁾ Opinion regarding questions relating to amending the annexes to Council Directives 86/362/EEC, 86/363/EEC and 90/642/EEC (Opinion expressed by the SCP, 14 July 1998); opinion regarding variable pesticide residues in fruit and vegetables (opinion expressed by SCP on 14 July 1998)
http://europa.eu.int/comm/food/fs/sc/scp/outcome_ppp_en.html

- (7) Therefore it is appropriate to fix new MRLs for those pesticides.
- (8) The setting or modification at Community level of provisional MRLs does not prevent the Member States from establishing provisional MRLs for fenhexamid, cyazofamid, linuron, pymetrozine, and pyraclostrobin in accordance with Article 4(1)(f) of Directive 91/414/EEC and Annex VI thereto. It is considered that a period of four years is sufficient to permit further uses of these substances. The provisional Community MRL should then become definitive.
- (9) Directive 90/642/EEC should therefore be amended accordingly.
- (10) The measures provided for in this Directive are in accordance with the opinion of the Standing Committee on the Food Chain and Animal Health,

HAS ADOPTED THIS DIRECTIVE:

Article 1

In Annex I to Directive 90/642/EEC in the category '2. Vegetables, fresh or uncooked, frozen or dry, (v) Leaf vegetables and fresh herbs, (a) Lettuce and similar', the entries 'leaves and stems of brassica' and 'rucola' are added between the entries 'Scarole' and 'others'.

Article 2

Part A of Annex II to Directive 90/642/EEC is amended in accordance with the Annex to this Directive.

Article 3

1. Member States shall adopt and publish, by 8 December 2006 at the latest, the laws, regulations and administrative

provisions necessary to comply with this Directive. They shall forthwith communicate to the Commission the text of those provisions and a correlation table between those provisions and this Directive.

They shall apply those provisions from 9 December 2006 except for pyraclostrobin where they shall apply the provisions from 21 April 2007.

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

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

Article 4

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

Article 5

This Directive is addressed to the Member States.

Done at Brussels, 7 June 2006.

For the Commission

Markos KYPRIANOU

Member of the Commission

ANNEX

In part A of Annex II to Directive 90/642/EEC, the columns for fenbutatin oxide, fenhexamid, cyazofamid, linuron, triadimefon/triadimenol pymetrozine, and pyraclostrobin are replaced by the following:

Groups and examples of individual products to which the MRLs would apply	Pesticide residue and maximum residue level (mg/kg)						
	Fenbutatin oxide	Fenhexamid	Cyazofamid	Linuron	Triadimefon and triadimenol (sum of triadimefon and triadimenol)	Pymetrozine	Pyraclostrobin
1. Fruit, fresh, dried or uncooked, preserved by freezing, not containing added sugar; nuts				0,05 (*) (p)			
(i) CITRUS FRUIT	5	0,05 (*) (p)	0,01 (*) (p)		0,1 (*)	0,3 (p)	1 (p)
Grapefruit							
Lemons							
Limes							
Mandarins (including clementines and other hybrids)							
Oranges							
Pomelos							
Others							
(ii) TREE NUTS (shelled or unshelled)	0,05 (*)	0,05 (*) (p)	0,01 (*) (p)		0,2 (*)	0,02 (*) (p)	
Almonds							
Brazil nuts							
Cashew nuts							
Chestnuts							
Coconuts							
Hazelnuts							
Macadamia							
Pecans							
Pine nuts							
Pistachios							1 (p)
Walnuts							
Others							0,02 (*) (p)
(iii) POME FRUIT	2	0,05 (*) (p)	0,01 (*) (p)			0,02 (*) (p)	0,3 (p)
Apples					0,2		
Pears							
Quinces							
Others					0,1 (*)		

Groups and examples of individual products to which the MRLs would apply	Pesticide residue and maximum residue level (mg/kg)						
	Fenbutatin oxide	Fenhexamid	Cyazofamid	Linuron	Triadimefon and triadimenol (sum of triadimefon and triadimenol)	Pymetrozine	Pyraclostrobine
(iv) STONE FRUIT	0,05 (*)		0,01 (*) (p)		0,1 (*)		
Apricots		5 (p)				0,05 (p)	0,2 (p)
Cherries		5 (p)					0,2 (p)
Peaches (including nectarines and similar hybrids)		5 (p)				0,05 (p)	0,2 (p)
Plums		1 (p)					0,1 (p)
Others		0,05 (*) (p)				0,02 (*) (p)	0,02 (*) (p)
(v) BERRIES AND SMALL FRUIT						0,02 (*) (p)	
(a) Table and wine grapes	2	5 (p)	0,5 (p)		2		
Table grapes							1 (p)
Wine grapes							2 (p)
(b) Strawberries (other than wild)	1	5 (p)	0,01 (*) (p)		0,5		0,5 (p)
(c) Cane fruit (other than wild)		10 (p)	0,01 (*) (p)		0,1 (*)		0,02 (*) (p)
Blackberries	5						
Dewberries							
Loganberries							
Raspberries	5						
Others	0,05 (*)						
(d) Other small fruit and berries (other than wild)	0,05 (*)	5 (p)	0,01 (*) (p)		1		0,02 (*) (p)
Bilberries							
Cranberries							
Currants (red, black and white)							
Gooseberries							
Others							
(e) Wild berries and wild fruit	0,05 (*)	0,05 (*) (p)	0,01 (*) (p)		0,1 (*)		0,02 (*) (p)
(vi) MISCELLANEOUS			0,01 (*) (p)			0,02 (*) (p)	
Avocados							
Bananas	3				0,2		
Dates							
Figs							
Kiwi		10 (p)					

Groups and examples of individual products to which the MRLs would apply	Pesticide residue and maximum residue level (mg/kg)						
	Fenbutatin oxide	Fenhexamid	Cyazofamid	Linuron	Triadimefon and triadimenol (sum of triadimefon and triadimenol)	Pymetrozine	Pyraclostrobin
Kumquats							
Litchis							
Mangoes							0,05 (p)
Olives							
Papaya							0,05 (p)
Passion fruit							
Pineapples					3		
Pomegranate							
Others	0,05 (*)	0,05 (*) (p)			0,1 (*)		0,02 (*) (p)
2. Vegetables, fresh or uncooked, frozen or dry							
(i) ROOT AND TUBER VEGETABLES	0,05 (*)	0,05 (*) (p)	0,01 (*) (p)		0,1 (*)	0,02 (*) (p)	
Beetroot							
Carrots				0,2 (p)			0,1 (p)
Cassava							
Celeriac				0,5 (p)			
Horseradish							0,3 (p)
Jerusalem artichokes							
Parsnips				0,2 (p)			0,3 (p)
Parsley root				0,2 (p)			
Radishes							
Salsify							
Sweet potatoes							
Swedes							
Turnips							
Yam							
Others				0,05 (*) (p)			0,02 (*) (p)
(ii) BULB VEGETABLES	0,05 (*)	0,05 (*) (p)	0,01 (*) (p)	0,05 (*) (p)		0,02 (*) (p)	
Garlic							0,2 (p)
Onions					0,5		0,2 (p)
Shallots							0,2 (p)
Spring onions					1		
Others					0,1 (*)		0,02 (*) (p)

Groups and examples of individual products to which the MRLs would apply	Pesticide residue and maximum residue level (mg/kg)						
	Fenbutatin oxide	Fenhexamid	Cyazofamid	Linuron	Triadimefon and triadimenol (sum of triadimefon and triadimenol)	Pymetrozine	Pyraclostrobin
(iii) FRUITING VEGETABLES				0,05 (*) (p)			
(a) Solanacea	1						
Tomatoes		1 (p)	0,2 (p)		0,3	0,5 (p)	0,2 (p)
Peppers		2 (p)			0,5	1 (p)	0,5 (p)
Aubergines		1 (p)				0,5 (p)	0,2 (p)
Others		0,05 (*) (p)	0,01 (*) (p)		0,1 (*)	0,02 (*) (p)	0,02 (*) (p)
(b) Cucurbits — edible peel		1 (p)	0,1 (p)		0,1 (*)	0,5 (p)	0,02 (*) (p)
Cucumbers	0,5						
Gherkins							
Courgettes	0,5						
Others	0,05 (*)						
(c) Cucurbits — inedible peel	0,05 (*)	0,05 (*) (p)	0,1 (p)		0,1 (*)	0,2 (p)	0,02 (*) (p)
Melons							
Squashes							
Watermelons							
Others							
(d) Sweet corn	0,05 (*)	0,05 (*) (p)	0,01 (*) (p)		0,1 (*)	0,02 (*) (p)	0,02 (*) (p)
(iv) BRASSICA VEGETABLES	0,05 (*)	0,05 (*) (p)	0,01 (*) (p)	0,05 (*) (p)	0,1 (*)		
(a) Flowering brassica						0,02 (*) (p)	0,1 (p)
Broccoli (including Calabrese)							
Cauliflower							
Others							
(b) Head brassica							
Brussels sprouts							0,2 (p)
Head cabbage						0,05 (p)	0,2 (p)
Others						0,02 (*) (p)	0,02 (*) (p)
(c) Leafy brassica						0,2 (p)	0,02 (*) (p)
Chinese cabbage							
Kale							
Others							
(d) Kohlrabi						0,02 (*) (p)	0,02 (*) (p)

Groups and examples of individual products to which the MRLs would apply	Pesticide residue and maximum residue level (mg/kg)						
	Fenbutatin oxide	Fenhexamid	Cyazofamid	Linuron	Triadimefon and triadimenol (sum of triadimefon and triadimenol)	Pymetrozine	Pyraclostrobin
(v) LEAF VEGETABLES AND FRESH HERBS	0,05 (*)		0,01 (*) (p)		0,1 (*)		
(a) Lettuce and similar		30 (p)		0,05 (*) (p)		2 (p)	2 (p)
Cress							
Lamb's lettuce							
Lettuce							
Scarole (broad-leaf endive)							
Ruccola							
Leaves and stems of brassica							
Others							
(b) Spinach and similar		0,05 (*) (p)		0,05 (*) (p)		0,02 (*) (p)	0,02 (*) (p)
Spinach							
Beet leaves (chard)							
Others							
(c) Water cress		0,05 (*) (p)		0,05 (*) (p)		0,02 (*) (p)	0,02 (*) (p)
(d) Witloof		0,05 (*) (p)		0,05 (*) (p)		0,02 (*) (p)	0,02 (*) (p)
(e) Herbs		30 (p)		1 (p)		1 (p)	2 (p)
Chervil							
Chives							
Parsley							
Celery leaves							
Others							
(vi) LEGUME VEGETABLES (fresh)	0,05 (*)	0,05 (*) (p)	0,01 (*) (p)		0,1 (*)	1 (p)	0,02 (*) (p)
Beans (with pods)							
Beans (without pods)				0,1 (p)			
Peas (with pods)							
Peas (without pods)				0,1 (p)			
Others				0,05 (*) (p)			
(vii) STEM VEGETABLES (fresh)	0,05 (*)	0,05 (*) (p)	0,01 (*) (p)			0,02 (*) (p)	
Asparagus							

	Pesticide residue and maximum residue level (mg/kg)						
Groups and examples of individual products to which the MRLs would apply	Fenbutatin oxide	Fenhexamid	Cyazofamid	Linuron	Triadimefon and triadimenol (sum of triadimefon and triadimenol)	Pymetrozine	Pyraclostrobin
Cardoons							
Celery				0,1 (p)			
Fennel							
Globe artichokes					1		
Leek							0,5 (p)
Rhubarb							
Others				0,05 (*) (p)	0,1 (*)		0,02 (*) (p)
(viii) FUNGI	0,05 (*)	0,05 (*) (p)	0,01 (*) (p)	0,05 (*) (p)	0,1 (*)	0,02 (*) (p)	0,02 (*) (p)
(a) Cultivated mushrooms							
(b) Wild mushrooms							
3. Pulses	0,05 (*)	0,05 (*) (p)	0,01 (*) (p)	0,05 (*) (p)	0,1 (*)	0,02 (*) (p)	0,3 (p)
Beans							
Lentils							
Peas							
Others							
4. Oilseeds	0,05 (*)	0,1 (*) (p)	0,02 (*) (p)	0,1 (*) (p)	0,2 (*)		0,02 (*) (p)
Linseed							
Peanuts							
Poppy seed							
Sesame seed							
Sunflower seed							
Rape seed							
Soya bean							
Mustard seed							
Cotton seed						0,05 (p)	
Others						0,02 (*) (p)	
5. Potatoes	0,05 (*)	0,05 (*) (p)	0,01 (*) (p)	0,05 (*) (p)	0,1 (*)	0,02 (*) (p)	0,02 (*) (p)
Early potatoes							
Ware potatoes							
6. Tea (dried leaves and stalks, fermented or other-wise, <i>Camellia sinensis</i>)	0,1 (*)	0,1 (*) (p)	0,02 (*) (p)	0,1 (*) (p)	0,2 (*)	0,1 (*) (p)	0,05 (*) (p)

Groups and examples of individual products to which the MRLs would apply	Pesticide residue and maximum residue level (mg/kg)						
	Fenbutatin oxide	Fenhexamid	Cyazofamid	Linuron	Triadimefon and triadimenol (sum of triadimefon and triadimenol)	Pymetrozine	Pyraclostrobine
7. Hops (dried), including hop pellets and unconcentrated powder	0,1 (*)	0,1 (*) (P)	0,02 (*) (P)	0,1 (P) (*)	10	15 (P)	10 (P)

(*) Indicates lower limit of analytical determination.

(P) Indicates that the maximum residue level has been established provisionally in accordance with Article 4(1)(f) of Directive 91/414/EEC.'

II

(Acts whose publication is not obligatory)

EUROPEAN PARLIAMENT AND COUNCIL

DECISION OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL

of 27 April 2006

on the mobilisation of the EU Solidarity Fund according to point 3 of the Interinstitutional Agreement of 7 November 2002 between the European Parliament, the Council and the Commission on the financing of the European Union Solidarity Fund supplementing the Interinstitutional Agreement of 6 May 1999 on budgetary discipline and improvement of the budgetary procedure

(2006/397/EC)

THE EUROPEAN PARLIAMENT AND THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Interinstitutional Agreement of 7 November 2002 between the European Parliament, the Council and the Commission on the financing of the European Union Solidarity Fund supplementing the Interinstitutional Agreement of 6 May 1999 on budgetary discipline and improvement of the budgetary procedure ⁽¹⁾, and in particular point 3 thereof,

Having regard to Council Regulation (EC) No 2012/2002 of 11 November 2002 establishing the European Union Solidarity Fund ⁽²⁾,

Having regard to the proposal from the Commission,

Whereas:

- (1) The European Union has created a European Union Solidarity Fund (the Fund) to show solidarity with the population of regions struck by disasters.
- (2) The Interinstitutional Agreement of 7 November 2002 allows the mobilisation of the Fund within the annual ceiling of EUR 1 billion.
- (3) Regulation (EC) No 2012/2002 contains the provisions whereby the Fund may be mobilised.
- (4) Bulgaria, Romania and Austria submitted applications to mobilise the Fund, concerning five disasters caused by flooding.

⁽¹⁾ OJ C 283, 20.11.2002, p. 1.

⁽²⁾ OJ L 311, 14.11.2002, p. 3.

HAVE DECIDED AS FOLLOWS:

Article 1

For the general budget of the European Union for the financial year 2006, the European Union Solidarity Fund shall be mobilised to provide the sum of EUR 106 357 627 in commitment and payment appropriations.

Article 2

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

Done at Brussels, 27 April 2006.

For the European Parliament

The President

J. BORRELL FONTELLES

For the Council

The President

H. WINKLER

COUNCIL

COUNCIL DECISION

of 20 March 2006

on the conclusion of an Agreement in the form of an Exchange of Letters between the European Community and the People's Republic of China pursuant to Article XXIV:6 and Article XXVIII of the General Agreement on Tariffs and Trade (GATT) 1994 relating to the modification of concessions in the schedules of the Czech Republic, the Republic of Estonia, the Republic of Cyprus, the Republic of Latvia, the Republic of Lithuania, the Republic of Hungary, the Republic of Malta, the Republic of Poland, the Republic of Slovenia and the Slovak Republic in the course of their accession to the European Union

(2006/398/EC)

THE COUNCIL OF THE EUROPEAN UNION,

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

- (4) The measures necessary for the implementation of this Decision should be adopted in accordance with Council Decision 1999/468/EC of 28 June 1999 laying down the procedures for the exercise of implementing powers conferred on the Commission ⁽¹⁾,

HAS DECIDED AS FOLLOWS:

Having regard to the proposal from the Commission,

Whereas:

- (1) On 22 March 2004 the Council authorised the Commission to open negotiations with certain other Members of the World Trade Organisation (WTO) under Article XXIV:6 of the General Agreement on Tariffs and Trade (GATT) 1994, in the course of the accessions to the European Union of the Czech Republic, the Republic of Estonia, the Republic of Cyprus, the Republic of Latvia, the Republic of Lithuania, the Republic of Hungary, the Republic of Malta, the Republic of Poland, the Republic of Slovenia and the Slovak Republic.
- (2) Negotiations have been conducted by the Commission in consultation with the Committee established by Article 133 of the Treaty and within the framework of the negotiating directives issued by the Council.
- (3) The Commission has finalised negotiations for an Agreement in the form of an Exchange of Letters between the European Community and the People's Republic of China. The said Agreement should therefore be approved.

Article 1

The Agreement in the form of an Exchange of Letters between the European Community and the People's Republic of China pursuant to Article XXIV:6 and Article XXVIII of the General Agreement on Tariffs and Trade (GATT) 1994 relating to the modification of concessions in the schedules of the Czech Republic, the Republic of Estonia, the Republic of Cyprus, the Republic of Latvia, the Republic of Lithuania, the Republic of Hungary, the Republic of Malta, the Republic of Poland, the Republic of Slovenia and the Slovak Republic in the course of their accession to the European Union, is hereby approved on behalf of the Community.

The text of the Agreement in the form of an Exchange of Letters is attached to this Decision.

Article 2

The Commission shall adopt the detailed rules for implementing the Agreement in the form of an Exchange of Letters in accordance with the procedure laid down in Article 3(2) of this Decision.

⁽¹⁾ OJ L 184, 17.7.1999, p. 23.

Article 3

1. The Commission shall be assisted by the Management Committee for Cereals instituted by Article 25 of Council Regulation (EC) No 1784/2003 of 29 September 2003 on the common organisation of the market in cereals ⁽¹⁾ or the relevant committee instituted by the corresponding Article of the Regulation for the common market organisation for the product concerned.

2. Where reference is made to this paragraph, Articles 4 and 7 of Decision 1999/468/EC shall apply.

The period laid down in Article 4(3) of Decision 1999/468/EC shall be set at one month.

3. The Committee shall adopt its Rules of Procedure.

Article 4

The President of the Council is hereby authorised to designate the person(s) empowered to sign the Agreement in order to bind the Community ⁽²⁾.

Done at Brussels, 20 March 2006.

For the Council
The President
U. PLASSNIK

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

⁽²⁾ The date of entry into force of the Agreement will be published in the *Official Journal of the European Union*.

AGREEMENT IN THE FORM OF AN EXCHANGE OF LETTERS

between the European Community and the People's Republic of China pursuant to Article XXIV:6 and Article XXVIII of the General Agreement on Tariffs and Trade (GATT) 1994 relating to the modification of concessions in the schedules of the Czech Republic, the Republic of Estonia, the Republic of Cyprus, the Republic of Latvia, the Republic of Lithuania, the Republic of Hungary, the Republic of Malta, the Republic of Poland, the Republic of Slovenia and the Slovak Republic in the course of their accession to the European Union

A. Letter from the European Community

Brussels, 03 -04- 2006

Sir,

Following the initiation of negotiations between the European Communities (EC) and the People's Republic of China under Article XXIV:6 and Article XXVIII of GATT 1994 for the modification of concessions in the schedules of Czech Republic, the Republic of Estonia, the Republic of Cyprus, the Republic of Latvia, the Republic of Lithuania, the Republic of Hungary, the Republic of Malta, the Republic of Poland, the Republic of Slovenia and the Slovak Republic in the course of their accession to the EU, the following is agreed between the EC and the People's Republic of China in order to close the negotiations opened following the EC's notification of 19 January 2004 to the WTO pursuant to Article XXIV:6 of GATT 1994.

The EC agrees to incorporate in its schedule for the customs territory of EC 25 the concessions that were included in its previous schedule.

The EC agrees that it will incorporate in its schedule for the EC 25 the concessions contained in the annex to this agreement.

This Agreement shall enter into force on the date on which the EC receives from the People's Republic of China a duly executed letter of agreement, following consideration by the parties in accordance with their own procedures. The EC undertakes to use its best endeavours to ensure that the appropriate implementing measures enter into force no later than 1 January 2006 and under no circumstances later than 1 July 2006.

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

On behalf of the European Community



ANNEX

0304 20 85 (frozen fillets of Alaska Pollack): a lowering of the current bound EC duty of 15 % to 13,7 %.

Add 20 500 tonnes to the allocation for China under the EC tariff rate quota for garlic, fresh or chilled, tariff item number 0703 20 00, in quota rate 9,6 %, out of quota rate 9,6 + EUR 120/100 kg/net.

Add 5 200 tonnes (drained net weight) in EC tariff rate quota for mushroom of species agaricus, prepared or preserved otherwise than by vinegar (tariff item number 2003 10 30, out of quota rate 18,4 + EUR 222/100 kg/net eda) and mushroom of species agaricus, provisionally preserved or preserved otherwise than by vinegar (tariff item number 2003 10 20, out of quota rate 18,4 + EUR 191/100 kg/net eda), in quota rate 23 %; inclusion of tariff line 0711 90 40 (out of quota rate 9,6 + EUR 191/100 kg/net eda) in the quota.

6402 19 00 (sports footwear): a lowering of the current bound EC duty of 17 % to 16,9 %.

6402 91 00 (footwear covering the ankle): a lowering of the current bound EC duty of 17 % to 16,9 %.

6404 11 00 (sports footwear): a lowering of the current bound EC duty of 17 % to 16,9 %.

6404 19 10 (slippers and other indoor footwear): a lowering of the current bound EC duty of 17 % to 16,9 %.

6402 99 (the category: footwear other): a lowering of the current bound EC duty of 17 % to 16,8 %.

8482 91 90 (balls, needles and rollers): a lowering of the current bound EC duty of 8 % to 7,7 %.

8521 90 00 (video recording apparatus, other): a lowering of the current bound EC duty of 14 % to 13,9 %.

8712 00 30 (bicycles not motorised): a lowering of the current bound EC duty of 15 % to 14 %.

Open a tariff rate quota of 7 tonnes (erga omnes) for paddy rice (tariff item number 1006 10), in quota rate 15 %, out of quota rate EUR 211/tonne.

Open a tariff rate quota of 1 634 tonnes (erga omnes) for husked rice (tariff item number 1006 20), in quota rate 15 %, out of quota rate EUR 65/tonne.

Add 25 516 tonnes (erga omnes) in EC tariff rate quota for milled and semi-milled rice (tariff item number 1006 30), in quota rate 0 %, out of quota rate EUR 175/tonne.

Add 31 788 tonnes (erga omnes) in EC tariff rate quota for broken rice (tariff item number 1006 40), in quota rate 0 %, out of quota rate EUR 128/tonne.

Open a tariff rate quota of 2 838 tonnes (erga omnes) for preserved pineapples, citrus fruit, pears, apricots, cherries, peaches and strawberries, in quota rate 20 %. Tariff item numbers and out of quota rates as follows:

2008 20 11: 25,6 + 2,5 EUR/100 kg/net	2008 20 19: 25,6	2008 20 31: 25,6 + 2,5 EUR/100 kg/net
2008 20 39: 25,6	2008 20 71: 20,8	2008 30 11: 25,6
2008 30 19: 25,6 + 4,2 EUR/100 kg net	2008 30 31: 24	2008 30 39: 25,6
2008 30 79: 20,8	2008 40 11: 25,6	2008 40 19: 25,6 + 4,2 EUR/100 kg/net
2008 40 21: 24	2008 40 29: 25,6	2008 40 31: 25,6 + 4,2 EUR/100 kg/net
2008 40 39: 25,6	2008 50 11: 25,6	2008 50 19: 25,6 + 4,2 EUR/100 kg/net
2008 50 31: 24	2008 50 39: 25,6	2008 50 51: 25,6 + 4,2 EUR/100 kg/net
2008 50 59: 25,6	2008 50 71: 20,8	2008 60 11: 25,6
2008 60 19: 25,6 + 4,2 EUR/100 kg/net	2008 60 31: 24	2008 60 39: 25,6
2008 60 60: 20,8	2008 70 11: 25,6	2008 79 19: 25,6 + 4,2 EUR/100 kg/net
2008 70 31: 24	2008 70 39: 25,6	2008 70 51: 25,6 + 4,2 EUR/100 kg/net
2008 70 59: 25,6	2008 80 11: 25,6	2008 80 19: 25,6 + 4,2 EUR/100 kg/net
2008 80 31: 24	2008 80 39: 25,6	2008 80 70: 20,8

The exact tariff description of the EC 15 shall apply to all tariff lines above.

B. Letter from the People's Republic of China

Beijing, 13-04-2006

Sir,

Reference is made to your letter stating:

'Following the initiation of negotiations between the European Communities (EC) and the People's Republic of China under Article XXIV:6 and Article XXVIII of GATT 1994 for the modification of concessions in the schedules of Czech Republic, the Republic of Estonia, the Republic of Cyprus, the Republic of Latvia, the Republic of Lithuania, the Republic of Hungary, the Republic of Malta, the Republic of Poland, the Republic of Slovenia and the Slovak Republic in the course of their accession to the EU, the following is agreed between the EC and the People's Republic of China in order to close the negotiations opened following the EC's notification of 19 January 2004 to the WTO pursuant to Article XXIV:6 of GATT 1994.

The EC agrees to incorporate in its schedule for the customs territory of EC 25, the concessions that were included in its previous schedule.

The EC agrees that it will incorporate in its schedule for the EC 25 the concessions contained in the annex to this agreement.

This Agreement shall enter into force on the date on which the EC receives from the People's Republic of China a duly executed letter of agreement, following consideration by the parties in accordance with their own procedures. The EC undertakes to use its best endeavours to ensure that the appropriate implementing measures enter into force no later than 1 January 2006 and under no circumstances later than 1 July 2006.'

I hereby have the honour to express my Government's agreement.

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

On behalf of the People's Republic of China



EUROPEAN ECONOMIC AREA
EFTA SURVEILLANCE AUTHORITY

EFTA SURVEILLANCE AUTHORITY DECISION

No 15/04/COL

of 18 February 2004

**amending for the forty-first time the Procedural and Substantive Rules in the Field of State Aid by
introducing a new chapter 9C: Professional secrecy in State aid decisions**

THE EFTA SURVEILLANCE AUTHORITY,

Having regard to the Agreement on the European Economic Area ⁽¹⁾, in particular to Articles 61 to 63 and Protocol 26 thereof,

Having regard to the Agreement between the EFTA States on the establishment of a Surveillance Authority and a Court of Justice ⁽²⁾, in particular to Article 24, Article 5(2)(b) and Article 1 in Part I of Protocol 3 thereof ⁽³⁾,

Whereas under Article 24 of the Surveillance and Court Agreement, the EFTA Surveillance Authority shall give effect to the provisions of the EEA Agreement concerning State aid,

Whereas under Article 5(2)(b) of the Surveillance and Court Agreement, the EFTA Surveillance Authority shall issue notices or guidelines on matters dealt with in the EEA Agreement, if that Agreement or the Surveillance and Court Agreement expressly so provides or if the EFTA Surveillance Authority considers it necessary,

Recalling the Procedural and Substantive Rules in the Field of State Aid ⁽⁴⁾ adopted on 19 January 1994 by the EFTA Surveillance Authority,

Whereas the European Commission issued a new communication C(2003) 4582 on professional secrecy in State aid decisions on 1 December 2003 ⁽⁵⁾,

Whereas this communication is also of relevance for the European Economic Area,

Whereas a uniform application of the EEA State aid rules is to be ensured throughout the European Economic Area,

Whereas, according to point II under the heading 'GENERAL' at the end of Annex XV to the EEA Agreement, the EFTA Surveillance Authority is to adopt, after consultation with the Commission, acts corresponding to those adopted by the European Commission,

Having consulted the European Commission,

Recalling that the EFTA Surveillance Authority has consulted the EFTA States in a multilateral meeting on 3 February 2004 on the subject,

HAS ADOPTED THIS DECISION:

1. The State Aid Guidelines shall be amended by adding a new Chapter 9C with the title 'Professional secrecy in State aid decisions'.
2. The new Chapter 9C to the State Aid Guidelines can be found in the Annex to this Decision.

⁽¹⁾ Hereinafter referred to as the EEA Agreement.

⁽²⁾ Hereinafter referred to as the Surveillance and Court Agreement.

⁽³⁾ It has to be noted that the amendments to Protocol 3 to the Surveillance and Court Agreement, following an agreement between EFTA States of 10.12.2001, amending Protocol 3 to the Agreement between the EFTA States on the Establishment of a Surveillance Authority and a Court of Justice, entered into force on 28.8.2003. These amendments incorporated 'Council Regulation (EC) No 659/1999 of 22.3.1999, laying down detailed rules for the application of [ex] Article 93 of the EC Treaty' into Protocol 3.

⁽⁴⁾ Guidelines on the application and interpretation of Articles 61 and 62 of the EEA Agreement and Article 1 of Protocol 3 to the Surveillance and Court Agreement, adopted and issued by the EFTA Surveillance Authority on 19.1.1994, OJ No L 231 of 3.9.1994, EEA Supplement No 32, last amended by the Authority's Decision No 198/03/COL of 5.11.2003, not yet published. Hereinafter referred to as the State Aid Guidelines.

⁽⁵⁾ Commission communication C(2003) 4582 of 1 December 2003 on professional secrecy in State aid decisions, published in OJ No C 297 of 9 December 2003, page 6.

3. The EFTA States shall be informed by means of a letter, including a copy of this Decision and including the Annex.
4. The European Commission shall be informed, in accordance with point (d) of Protocol 27 of the EEA Agreement, by means of a copy of this Decision, including the Annex.
5. The Decision, including the Annex, shall be published in the EEA Section of and in the EEA Supplement to the *Official Journal of the European Union*.

6. The Decision shall be authentic in the English language.

Done at Brussels, 18 February 2004.

For the EFTA Surveillance Authority

Hannes HAFSTEIN
President

Bernd HAMMERMAN
College Member

ANNEX

9C. PROFESSIONAL SECRECY IN STATE AID DECISIONS**9C.1. Introduction**

1. This Communication sets out how the EFTA Surveillance Authority intends to deal with requests by EFTA States, as addressees of State Aid decisions, to consider parts of such decisions as covered by the obligation of professional secrecy and thus not to be disclosed when the decision is published.
2. This involves two aspects, namely:
 - (a) the identification of the information which might be covered by the obligation of professional secrecy; and
 - (b) the procedure to be followed for dealing with such requests.

9C.2. Legal framework

1. Article 122 of the EEA Agreement, which corresponds in the wording to Article 287 of the EC Treaty, states that: 'The representatives, delegates and experts of the Contracting Parties, as well as officials and other servants acting under this Agreement shall be required, even after their duties have ceased, not to disclose information of the kind covered by the obligation on professional secrecy, in particular information about undertakings, their business relations or their cost components'.
2. This is also reflected in Articles 24 and 25 of Part II to Protocol 3 to the Surveillance and Court Agreement on the Functions and Powers of the EFTA Surveillance Authority in the field of State Aid ⁽¹⁾.
3. Article 16 of the Surveillance and Court Agreement states: 'Decisions of the EFTA Surveillance Authority shall state the reasons on which they are based'.
4. Article 6(1), first sentence of Protocol 3 to the Surveillance and Court Agreement further stipulates with regard to decisions to initiate the formal investigation procedures: 'The decision to initiate the formal investigation procedure shall summarise the relevant issues of fact and law, shall include a preliminary assessment of the EFTA Surveillance Authority as to the aid character of the proposed measure and shall set out the doubts as to its compatibility with the common market [...]'

9C.3. Identification of information which can be covered by professional secrecy

1. The EC Court of Justice has established that although Article 287 of the EC Treaty primarily refers to information gathered from undertakings, the expression 'in particular' shows that the principle in question is a general one which applies also to other confidential information ⁽²⁾.
2. It follows that professional secrecy covers both business secrets and other confidential information.
3. There is no reason why the notions of business secret and other confidential information should be interpreted differently from the meaning given to these terms in the context of antitrust and merger procedures. The fact that in antitrust and merger procedures the addressees of the Authority decision are undertakings, while in State Aid procedures the addressees are EFTA States, does not constitute an obstacle to a uniform approach as to the identification of what can constitute business secrets or other confidential information.

⁽¹⁾ It has to be noted that the amendments to Protocol 3 to the Surveillance and Court Agreement, following an agreement between EFTA States of 10.12.2001, amending Protocol 3 to the Agreement between the EFTA States on the Establishment of a Surveillance Authority and a Court of Justice, entered into force on 28.8.2003. These amendments incorporated 'Council Regulation (EC) No 659/1999 of 22.3.1999, laying down detailed rules for the application of [ex] Article 93 of the EC Treaty' into Protocol 3.

⁽²⁾ Case 145/83 *Adams v Commission* [1985] ECR 3539, para. 34, and Case T-353/94 *Postbank v Commission* [1996] ECR II-921, para. 86.

9C.3.1. *Business secrets*

1. Business secrets can only concern information relating to a business which has actual or potential economic value, the disclosure or use of which could result in economic benefits for other companies. Typical examples are methods of assessing manufacturing and distribution costs, production secrets (that is to say, a secret, commercially valuable plan, formula, process or device that is used for the making, preparing, compounding, or processing of trade commodities and that can be said to be the end product of either innovation or substantial effort) and processes, supply sources, quantities produced and sold, market shares, customer and distributor lists, marketing plans, cost price structure, sales policy, and information on the internal organisation of the undertaking.
2. It would appear that in principle business secrets can only relate to the beneficiary of the aid (or other third party) and can only concern information submitted by the EFTA State (or third party). Hence, statements from the Authority itself (for example, expressing doubts about feasibility of a restructuring plan) cannot be covered by the obligation of professional secrecy.
3. The simple fact that disclosure of information might cause harm to the company is not of itself sufficient grounds to consider that such information should be considered as business secret. For example, a decision of the Authority to initiate the formal investigation procedure in the case of a restructuring aid may cast doubt on certain aspects of the restructuring plan in the light of information the Authority has received. Such a decision could (further) affect the credit-position of that company. However, that would not necessarily lead to the conclusion that the information on which that decision was based must be considered as business secrets.
4. In general, the Authority will apply the following non-exhaustive list of criteria to determine whether information can be deemed to constitute business secrets:
 - (a) the extent to which the information is known outside the company;
 - (b) the extent to which measures have been taken to protect the information within the company, for example, through non-compete clauses or non-disclosure agreements imposed on employees or agents, etc;
 - (c) the value of the information for the company and its competitors;
 - (d) the effort or investment which the undertaking had to undertake to acquire the information;
 - (e) the effort which others would need to undertake to acquire or copy the information;
 - (f) the degree of protection offered to such information under the legislation of the EFTA State concerned.
5. In principle, the Authority considers that the following information would not normally be covered by the obligation of professional secrecy:
 - (a) information which is publicly available, including information available only upon payment through specialised information services or information which is common knowledge among specialists in the field (for example common knowledge among engineers or medical doctors). Likewise, turnover is not normally considered as a business secret, as it is a figure published in the annual accounts or otherwise known to the market. Reasons must be given for requests for confidentiality concerning turnover figures which are not in the public domain and the requests must be evaluated on a case-by-case basis. The fact that information is not publicly available does not necessarily mean that the information can be regarded as a business secret;
 - (b) historical information, in particular information at least five years old;
 - (c) statistical or aggregate information;
 - (d) names of aid recipients, sector of activity, purpose and amount of the aid, etc.
6. Detailed reasons must be given for any request to derogate from these principles in exceptional cases.

9C.3.2. *Other confidential information*

1. In antitrust and merger cases, confidential information includes certain types of information communicated to the Authority on condition that confidentiality is observed (for example a market study commissioned by an undertaking which is party to the procedure and forming part of its property). It seems that a similar approach could be retained for State Aid decisions.
2. In the field of State Aid, there may, however, be some forms of confidential information, which would not necessarily be present in antitrust and merger procedures, referring specifically to secrets of the State or other confidential information relating to its organisational activity. Generally, in view of the Authority's obligation to state the reasons for its decisions and the transparency requirement, such information can only in very exceptional circumstances be covered by the obligation of professional secrecy. For example, information regarding the organisation and costs of public services will not normally be considered 'other confidential information' (although it may constitute a business secret, if the criteria laid down in section 9C. 3.1 are met).

9C.4. **Applicable procedure**

9C.4.1. *General principles*

1. The Authority's main task is to reconcile two opposing obligations, namely the requirement to state the reasons for its decisions under Article 16 of the Surveillance and Court Agreement and therefore ensure that its decisions contain all the essential elements on which they are based, and that of safeguarding the obligation of professional secrecy.
2. Besides the basic obligation to state the reasons for its decisions, the Authority has to take into account the need for effective application of the State Aid rules (*inter alia*, by giving EFTA States, beneficiaries and interested parties the possibility to comment on or challenge its decisions) and for transparency of its policy. There is therefore an overriding interest in making public the full substance of its decisions. As a general principle, requests for confidential treatment can only be granted where strictly necessary to protect business secrets or other confidential information meriting similar protection.
3. Business secrets and other confidential information do not enjoy an absolute protection: this means for example that they could be divulged when they are essential for the Authority's statement of the reasons for its decisions. This means that information necessary for the identification of an aid measure and its beneficiary cannot normally be covered by the obligation of professional secrecy. Similarly, information necessary to demonstrate that the conditions of Article 61 of the EEA Agreement are met, cannot normally be covered by the obligation of professional secrecy. However, the Authority will have to consider carefully whether the need for publication is more important, given the specific circumstances of a case, than the prejudice that might be generated for that EFTA State or undertaking involved.
4. The public version of a Authority decision can only feature deletions from the adopted version for reasons of professional secrecy. Paragraphs cannot be moved, and no sentence can be added or altered. Where the Authority considers that certain information cannot be disclosed, a footnote may be added, paraphrasing the non-disclosed information or indicating a range of magnitude or size, if useful to assure the comprehensibility and coherence of the decision.
5. Requests not to disclose the full text of a decision or substantial parts of it which would undermine the understanding of the Authority's statement of reasons cannot be accepted.
6. If there is a complainant involved, the Authority will take into account the complainant's interest in ascertaining the reasons why the Authority adopted a certain decision, without the need to have recourse to Court proceedings⁽³⁾. Hence, requests by EFTA States for parts of the decision which address concerns of complainants to be covered by the obligation of professional secrecy will need to be particularly well reasoned and persuasive. On the other hand, the Authority will not normally be inclined to disclose information alleged to be of the kind covered by the obligation of professional secrecy where there is a suspicion that the complaint has been lodged primarily to obtain access to the information.

⁽³⁾ Case C-367/95 P *Commission v Sytraval* [ECR] 1998, I-1719, para. 64.

7. EFTA States cannot invoke professional secrecy to refuse to provide information to the Authority which the Authority considers necessary for the examination of aid measures. In this respect, reference is made to the procedure set out in Protocol 3 to the Surveillance and Court Agreement (in particular Articles 2(2), 5, 10 and 16 in Part II of Protocol 3).

9C.4.2. Procedure

1. The Authority currently notifies its decisions to the EFTA State concerned without delay and gives the latter the opportunity to indicate, normally within a time period of 15 working days, which information it considers to be covered by the obligation of professional secrecy. This time period may be extended by agreement between the Authority and the EFTA State concerned.
2. Where the EFTA State concerned does not indicate which information it considers to be covered by the obligation of professional secrecy within the period prescribed by the Authority, the decision will normally be disclosed in full.
3. Where the EFTA State concerned wishes certain information to be covered by the obligation of professional secrecy, it must indicate the parts it considers to be covered and provide a justification in respect of each part for which non-disclosure is requested.
4. The Authority will then examine the request from the EFTA State without delay. If the Authority does not accept that certain parts of the decision are covered by the obligation of professional secrecy, it will state the reasons why in its view those parts cannot be left out of the public version of the decision. In the absence of an acceptable justification by the EFTA State for its request (i.e. reasoning which is not manifestly irrelevant or manifestly wrong), the Authority need not further specify the reasons why those parts cannot be left out of the public version of the decision other than by referring to the absence of justification.
5. If the Authority decides to accept that certain parts are covered by the obligation of professional secrecy without agreeing in full with the EFTA State's request, it will notify its decision with a new draft to the EFTA State indicating the parts which have been omitted. If the Authority accepts that the parts indicated by the EFTA State are covered by the obligation of professional secrecy, the text of the decision will be published pursuant to Article 26 in Part II of Protocol 3 to the Surveillance and Court Agreement, with the omission of the parts covered by the obligation of professional secrecy. Such omissions will be indicated in the text ⁽⁴⁾.
6. The EFTA State will have 15 working days following receipt of the Authority's decision stating the reasons for its refusal to accept the non-disclosure of certain parts, to react and provide additional elements to justify its request.
7. If the EFTA State concerned does not react further within the period prescribed by the Authority, the Authority will normally publish the decision as indicated in its reply to the original request made by the EFTA State.
8. If the EFTA State concerned does submit any additional elements within the prescribed period, those elements will be examined by the Authority without delay. If the Authority accepts that the parts indicated by the EFTA State are covered by the obligation of professional secrecy, the text of the decision will be published as set out above.
9. In the event that it is not possible to reach agreement, the Authority will proceed with the publication of its decision to initiate the formal investigation procedure forthwith. Such decisions must summarise the relevant issues of fact and law, include a preliminary assessment of the aid character of the proposed measure and set out the doubts as to its compatibility with the common market. Clearly certain essential information must be included in order to enable third parties and the other EFTA States to comment usefully. The duty of the Authority to provide such essential information will normally prevail over any claim to the protection of business secrets or other confidential information. Furthermore, it is in the interest of the beneficiary as well as interested parties to have access to such a decision as quickly as possible. Permitting any delay in this respect would jeopardise the process of State Aid control.

⁽⁴⁾ Using square brackets [...] and indicating in a footnote 'covered by the obligation of professional secrecy'.

10. In the event that it is not possible to reach agreement on requests for certain information in decisions not to raise objections and decisions to close the formal investigation procedure to be covered by the obligation of professional secrecy, the Authority will notify its final decision to the EFTA State together with the text it intends to publish, giving the EFTA State another 15 working days to react. In the absence of an answer which the Authority considers pertinent, the Authority will normally proceed with the publication of the text.
11. The Authority is currently reviewing its State Aid notification forms. In order to avoid unnecessary correspondence with EFTA States and delay in the publication of decisions, it intends, in the future, to include in the form a question asking whether the notification contains information which should not be published, and the reasons for non-publication. Only if that question is answered in the affirmative will the Authority enter into correspondence with the EFTA State in respect of specific cases. Similarly, if additional information is required by the Authority, the EFTA State will have to indicate at the moment it provides the information requested whether such information should not be published, and the reasons for non-publication. If the Authority uses the information thus identified by the EFTA State in its decision, it will communicate the adopted decision to the EFTA State, stating the reasons why in its view these parts cannot be left out from the public version of the decision as laid down above.
12. Once the Authority has decided what text it will publish and notified the EFTA State of its final decision, it is for the EFTA State to decide whether or not to make use of any judicial procedures available to it, including any interim measures, within the time-limits provided for in Article 36 of the Surveillance and Court Agreement.

9C.4.3. *Third parties*

1. Where third parties other than the EFTA State concerned (for example, complainants, other EFTA States or the beneficiary) submit information in the context of State Aid procedures, these guidelines will be applied *mutatis mutandis*.

9C.4.4. *Application in time*

1. These guidelines cannot establish binding legal rules and do not purport to do so. They merely set out in advance, in the interests of sound administration, the manner in which the Authority intends to address the issue of confidentiality in State Aid procedures. As a rule, if agreement cannot be reached, the Authority's decision to publish may be the subject of specific judicial review proceedings. As these guidelines merely pertain to procedural matters (and to a large extent set out existing practice), they will be applied with immediate effect, including for decisions not to raise objections ⁽⁵⁾ adopted before the entry into force of the amendments ⁽⁶⁾ to Protocol 3 to the Surveillance and Court Agreement to which third parties seek access.

⁽⁵⁾ Decisions to initiate the formal investigation procedure and final decisions adopted before that date were already published in the *Official Journal of the European Communities* (from the entry into force of the Nice Treaty renamed as *Official Journal of the European Union*), EEA Section. Prior to publication, EFTA States could indicate whether any information was covered by the obligation of professional secrecy.

⁽⁶⁾ See footnote 1.