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⁽¹⁾ Text with EEA relevance

I

(Acts whose publication is obligatory)

COMMISSION REGULATION (EC) No 1108/2006
of 19 July 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 20 July 2006.

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

Done at Brussels, 19 July 2006.

For the Commission

Jean-Luc 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 19 July 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	096	42,0
	999	42,0
0707 00 05	052	115,6
	999	115,6
0709 90 70	052	85,2
	999	85,2
0805 50 10	052	61,1
	388	60,0
	524	53,9
	528	54,8
	999	57,5
0808 10 80	388	89,0
	400	100,3
	404	83,4
	508	90,8
	512	86,8
	524	45,3
	528	72,4
	720	103,6
	804	107,1
0808 20 50	999	86,5
	388	95,5
	512	92,8
	528	84,6
	720	37,7
	804	120,7
0809 10 00	999	86,3
	052	118,8
0809 20 95	999	118,8
	052	296,1
	400	457,9
	404	426,8
0809 30 10, 0809 30 90	999	393,6
	052	167,7
	999	167,7
0809 40 05	052	60,3
	624	135,5
	999	97,9

⁽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 1109/2006**of 19 July 2006****derogating for the 2005/06 marketing year from Regulation (EC) No 1623/2000 as regards the final dates for delivering wine to distilleries and its distillation**

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Council Regulation (EC) No 1493/1999 of 17 May 1999 on the common organisation of the market in wine ⁽¹⁾, and in particular Article 33 thereof,

Whereas:

- (1) In the context of the distillation of wine into potable alcohol as provided for by Article 29 of Regulation (EC) No 1493/1999 and opened each wine year under Chapter II of Commission Regulation (EC) No 1623/2000 of 25 July 2000 laying down detailed rules for implementing Regulation (EC) No 1493/1999 on the common organisation of the market in wine with regard to market mechanisms ⁽²⁾, producers are required to deliver their wine to a distillery and the distillers must in turn distil that wine before specific dates.
- (2) Because of the opening of several crisis distillations towards the end of the 2004/05 wine year and the significant volumes of wine covered by contracts for the distillation of potable alcohol, the distilleries in some Member States do not have enough capacity to accept the wine involved and distil it by the deadlines laid down in Regulation (EC) No 1623/2000.

- (3) To resolve the problem, the date by which wine must be delivered for distillation and the date by which wine must be distilled should be put back by two weeks.

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

HAS ADOPTED THIS REGULATION:

Article 1

Notwithstanding the first subparagraph of Article 63a(8) of Regulation (EC) No 1623/2000, for the 2005/06 wine year the volumes of wine covered by contract may be delivered to distilleries up to 31 July of that wine year.

Notwithstanding the first subparagraph of Article 63a(10) of Regulation (EC) No 1623/2000, for the 2005/06 wine year the wine delivered to a distillery must be distilled no later than 15 October of the following wine year.

Article 2

This Regulation shall enter into force on the third 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, 19 July 2006.

For the Commission

Mariann FISCHER BOEL

Member of the Commission

⁽¹⁾ OJ L 179, 14.7.1999, p. 1. Regulation as last amended by Commission Regulation (EC) No 2165/2005 (OJ L 345, 28.12.2005, p. 1).

⁽²⁾ OJ L 194, 31.7.2000, p. 45. Regulation as last amended by Commission Regulation (EC) No 1820/2005 (OJ L 293, 9.11.2005, p. 8).

COMMISSION REGULATION (EC) No 1110/2006**of 19 July 2006****on import licences in respect of beef and veal products originating in Botswana, Kenya, Madagascar, Swaziland, Zimbabwe and Namibia**

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Council Regulation (EC) No 1254/1999 of 17 May 1999 on the common organisation of the market in beef and veal ⁽¹⁾,

Having regard to Council Regulation (EC) No 2286/2002 of 10 December 2002 on the arrangements applicable to agricultural products and goods resulting from the processing of agricultural products originating in the African, Caribbean and Pacific States (ACP States) and repealing Regulation (EC) No 1706/98 ⁽²⁾,

Having regard to Commission Regulation (EC) No 2247/2003 of 19 December 2003 laying down detailed rules for the application in the beef and veal sector of Council Regulation (EC) No 2286/2002 on the arrangements applicable to agricultural products and certain goods resulting from the processing of agricultural products originating in the African, Caribbean and Pacific States (ACP States) ⁽³⁾, and in particular Article 5 thereof,

Whereas:

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

(2) The applications for import licences submitted between 1 to 10 July 2006, expressed in terms of boned meat, in accordance with Regulation (EC) No 2247/2003, do not exceed, in respect of products originating from Botswana, Kenya, Madagascar, Swaziland, Zimbabwe and Namibia, the quantities available from those States. It is therefore possible to issue import licences in respect of the quantities applied for.

(3) The quantities in respect of which licences may be applied for from 1 August 2006 should be fixed within the scope of the total quantity of 52 100 t.

(4) This Regulation is without prejudice to Council Directive 72/462/EEC of 12 December 1972 on health and veterinary inspection problems upon importation of bovine, ovine and caprine animals and swine, fresh meat or meat products from third countries ⁽⁴⁾,

HAS ADOPTED THIS REGULATION:

Article 1

The following Member States shall issue on 21 July 2006 import licences for beef and veal products, expressed as boned meat, originating in certain African, Caribbean and Pacific States, in respect of the following quantities and countries of origin:

Germany:

— 450 t originating in Botswana,

— 435 t originating in Namibia;

United Kingdom:

— 400 t originating in Botswana,

— 570 t originating in Namibia.

Article 2

Licence applications may be submitted, pursuant to Article 4(2) of Regulation (EC) No 2247/2003, during the first 10 days of August 2006 for the following quantities of boned beef and veal:

Botswana:	16 759 t,
Kenya:	142 t,
Madagascar:	7 579 t,
Swaziland:	3 363 t,
Zimbabwe:	9 100 t,
Namibia:	8 802 t.

Article 3

This Regulation shall enter into force on 20 July 2006.

⁽¹⁾ OJ L 160, 26.6.1999, p. 21. Regulation as last amended by Commission Regulation (EC) No 1899/2004 (OJ L 328, 30.10.2004, p. 67).

⁽²⁾ OJ L 348, 21.12.2002, p. 5.

⁽³⁾ OJ L 333, 20.12.2003, p. 37. Regulation as last amended by Regulation (EC) No 1118/2004 (OJ L 217, 17.6.2004, p. 10).

⁽⁴⁾ OJ L 302, 31.12.1972, p. 28. Directive as last amended by Regulation (EC) No 807/2003 (OJ L 122, 16.5.2003, p. 36).

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

Done at Brussels, 19 July 2006.

For the Commission
Jean-Luc DEMARTY
*Director-General for Agriculture and
Rural Development*

COMMISSION REGULATION (EC) No 1111/2006**of 19 July 2006****setting the allocation coefficient for issuing licences to import sugar products under 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 318/2006 of 20 February 2006 on the common organisation of the markets in the sugar sector ⁽¹⁾,

Having regard to Commission Regulation (EC) No 950/2006 of 28 June 2006 laying down detailed rules for the 2006/07, 2007/08 and 2008/09 marketing years for importing and refining of sugar products under certain tariff quotas and preferential agreements ⁽²⁾, and in particular Article 5(3) thereof,

Having regard to Council Decision 2005/914/EC of 21 November 2005 on the conclusion of a Protocol amending the Stabilisation and Association Agreement between the European Communities and their Member States, of the one part, and the former Yugoslav Republic of Macedonia, of the other part, on a tariff quota for the imports of sugar and sugar products originating in the former Yugoslav Republic of Macedonia into the Community ⁽³⁾,

Having regard to Commission Regulation (EC) No 2151/2005 of 23 December 2005 laying down detailed rules for the opening and administration of the tariff quota for sugar products originating in the former Yugoslav Republic of Macedonia, as provided for in the Stabilisation and Association Agreement between the European Communities and their

Member States, of the one part, and the former Yugoslav Republic of Macedonia, of the other part ⁽⁴⁾, in particular Article 6(3) thereof,

Whereas:

- (1) Applications for import licences were submitted to the competent authority during the week of 10 to 14 July 2006, in accordance with Regulation (EC) No 950/2006, for a total quantity equal to or exceeding the quantity available for serial numbers 09.4341 (2005-2006); 09.4317; 09.4319.
- (2) In these circumstances, the Commission must set an allocation coefficient in order to issue licences in proportion to the quantity available and to inform the Member States, where necessary, when the set limit has been reached,

HAS ADOPTED THIS REGULATION:

Article 1

Licences shall be issued within the quantitative limits set in the Annex to this Regulation in respect of applications for import licences submitted from 10 to 14 July 2006, in accordance with Article 4(2) of Regulation (EC) No 950/2006.

Article 2

This Regulation shall enter into force on 20 July 2006.

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

Done at Brussels, 19 July 2006.

For the Commission

Jean-Luc DEMARTY

*Director-General for Agriculture and
Rural Development*

⁽¹⁾ OJ L 58, 28.2.2006, p. 1.

⁽²⁾ OJ L 178, 1.7.2006, p. 1.

⁽³⁾ OJ L 333, 20.12.2005, p. 44.

⁽⁴⁾ OJ L 342, 24.12.2005, p. 26.

ANNEX

ACP-INDIA preferential sugar
Title IV of Regulation (EC) No 950/2006
2005/06 marketing year

Serial No	Country	Week of 10 to 14 July 2006 % of requested quantity to be granted	Limit
09.4331	Barbados	100	Reached
09.4332	Belize	0	
09.4333	Côte d'Ivoire	100	
09.4334	Republic of the Congo	100	
09.4335	Fiji	0	Reached
09.4336	Guyana	0	Reached
09.4337	India	0	Reached
09.4338	Jamaica	0	Reached
09.4339	Kenya	0	Reached
09.4340	Madagascar	100	Reached
09.4341	Malawi	100	
09.4342	Mauritius	0	
09.4343	Mozambique	0	
09.4344	Saint Kitts and Nevis	0	Reached
09.4345	Suriname	—	Reached
09.4346	Swaziland	0	
09.4347	Tanzania	100	
09.4348	Trinidad and Tobago	100	
09.4349	Uganda	—	Reached
09.4350	Zambia	0	
09.4351	Zimbabwe	0	

ACP-INDIA preferential sugar
Title IV of Regulation (EC) No 950/2006
2006/07 marketing year

Serial No	Country	Week of 10 to 14 July 2006 % of requested quantity to be granted	Limit
09.4331	Barbados	100	
09.4332	Belize	100	
09.4333	Côte d'Ivoire	100	
09.4334	Republic of the Congo	100	
09.4335	Fiji	100	
09.4336	Guyana	100	
09.4337	India	100	
09.4338	Jamaica	100	
09.4339	Kenya	100	
09.4340	Madagascar	100	
09.4341	Malawi	100	
09.4342	Mauritius	100	
09.4343	Mozambique	100	

Serial No	Country	Week of 10 to 14 July 2006 % of requested quantity to be granted	Limit
09.4344	Saint Kitts and Nevis	100	
09.4345	Suriname	100	
09.4346	Swaziland	100	
09.4347	Tanzania	100	
09.4348	Trinidad and Tobago	100	
09.4349	Uganda	100	
09.4350	Zambia	100	
09.4351	Zimbabwe	100	

CXL concessions sugar**Title VI of Regulation (EC) No 950/2006****2006/07 marketing year**

Serial No	Country	Week of 10 to 14 July 2006 % of requested quantity to be granted	Limit
09.4317	Australia	50	Reached
09.4318	Brazil	0	Reached
09.4319	Cuba	50	Reached
09.4320	Other third countries	0	Reached

Balkans sugar**Title VII of Regulation (EC) No 950/2006****2006/07 marketing year**

Serial No	Country	Week of 10 to 14 July 2006 % of requested quantity to be granted	Limit
09.4324	Albania	100	
09.4325	Bosnia and Herzegovina	0	Reached
09.4326	Serbia, Montenegro and Kosovo	100	

Marketing year 2006

Serial No	Country	Week of 10 to 14 July 2006 % of requested quantity to be granted	Limit
09.4327	Former Yugoslav Republic of Macedonia	100	

COMMISSION REGULATION (EC) No 1112/2006**of 19 July 2006****on the issue of licences for the import of garlic in the quarter from 1 September to 30 November 2006**

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Council Regulation (EC) No 2200/96 of 28 October 1996 on the common organisation of the market in fruit and vegetables ⁽¹⁾,

Having regard to Commission Regulation (EC) No 1870/2005 of 16 November 2005 opening and providing for the administration of tariff quotas and introducing a system of import licences and certificates of origin for garlic imported from third countries ⁽²⁾, and in particular Article 10(2) thereof,

Whereas:

- (1) The quantities for which licence applications have been lodged by traditional importers and by new importers during the first five working days of July 2006, pursuant to Article 8(3) of Regulation (EC) No 1870/2005 exceed the quantities available for products originating in China and all third countries other than China and Argentina.
- (2) It is now necessary to establish the extent to which the licence applications sent to the Commission by

17 July 2006 can be met and to fix, for each category of importer and product origin, the dates until which the issue of certificates should be suspended,

HAS ADOPTED THIS REGULATION:

Article 1

Applications for import licences lodged pursuant to Article 4(1) of Regulation (EC) No 1870/2005, during the first five working days of July 2006 and sent to the Commission by 17 July 2006, shall be met at a percentage rate of the quantities applied for as set out in Annex I to this Regulation.

Article 2

For each category of importer and the origin involved, applications for import licences pursuant to Article 4(1) of Regulation (EC) No 1870/2005 relating to the quarter from 1 September to 30 November 2006 and lodged after the first five working days of July 2006 but before the date in Annex II to this Regulation, shall be rejected.

Article 3

This Regulation shall enter into force on 20 July 2006.

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

Done at Brussels, 19 July 2006.

For the Commission

Jean-Luc DEMARTY

*Director-General for Agriculture and
Rural Development*

⁽¹⁾ OJ L 297, 21.11.1996, p. 1. Regulation as last amended by Commission Regulation (EC) No 47/2003 (OJ L 7, 11.1.2003, p. 64).

⁽²⁾ OJ L 300, 17.11.2005, p. 19.

ANNEX I

Origin of the products	Percentage allocations		
	China	Third countries other than China or Argentina	Argentina
— traditional importers (Article 3(1) and (3)(a) of Regulation (EC) No 1870/2005)	16,457 %	100 %	X
— new importers (Article 3(2) and (3)(b) of Regulation (EC) No 1870/2005)	0,948 %	75,203 %	X

'X': No quota for this origin for the quarter in question.

'—': No application for a licence has been sent to the Commission.

ANNEX II

Origin of the products	Dates		
	China	Third countries other than China or Argentina	Argentina
— traditional importers (Article 3(a) of Regulation (EC) No 1870/2005)	30.11.2006	30.11.2006	—
— new importers (Article 3(2) and (3)(b) of Regu- lation (EC) No 1870/2005)	30.11.2006	30.11.2006	—

COMMISSION DIRECTIVE 2006/65/EC**of 19 July 2006****amending Council Directive 76/768/EEC, concerning cosmetic products, for the purpose of adapting Annexes II and III thereto to technical progress****(Text with EEA relevance)**

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Council Directive 76/768/EEC of 27 July 1976 on the approximation of the laws of the Member States relating to cosmetic products ⁽¹⁾, and in particular Article 8(2) thereof,

After consulting the Scientific Committee on Cosmetic Products and Non-Food Products intended for Consumers,

Whereas:

(1) Following the publication of a scientific study in 2001, entitled 'Use of permanent hair dyes and bladder cancer risk', the Scientific Committee on Cosmetic Products and Non-Food Products intended for Consumers (the SCCNFP) concluded that the potential risks were of concern. It recommended that the Commission take further steps to control the use of hair dye chemicals.

(2) The SCCNFP recommended in addition an overall safety assessment strategy for hair dyes including the requirements for testing hair dye cosmetic ingredients for their potential genotoxicity/mutagenicity.

(3) Following the opinions of the SCCNFP, the Commission together with Member States and stakeholders agreed on an overall strategy to regulate hair dyes according to which the industry was required to submit the files with scientific data on hair dyes to be evaluated by the SCCNFP.

(4) As a first step in the implementation of the strategy it was decided to give priority to permanent hair dye substances for which no explicit interest was expressed during the public consultation in defence of their use in hair dyes. Those substances should therefore be banned.

(5) According to the opinion of the SCCNFP, certain azo dyes pose a risk to the health of the consumer. They were therefore deleted from the positive list of colouring agents allowed for use in cosmetic products in Annex IV to Directive 76/768/EEC. For the same reason they should also be banned for use in hair dyes.

(6) For hair dye substances provisionally allowed in part 2 of Annex III to Directive 76/768/EEC the provisional period should be extended.

(7) Annexes II and III to Directive 76/768/EEC should therefore be amended accordingly.

(8) The measures provided for in this Directive are in accordance with the opinion of the Standing Committee on Cosmetic Products,

HAS ADOPTED THIS DIRECTIVE:

Article 1

Annexes II and III to Directive 76/768/EEC are amended in accordance with the Annex to this Directive.

Article 2

Member States shall take all necessary measures to ensure that from 1 December 2006 at the latest no cosmetic products which fail to comply with this Directive are placed on the market by Community manufacturers or by importers established within the Community, nor sold or disposed of to the final consumer.

⁽¹⁾ OJ L 262, 27.9.1976, p. 169. Directive as last amended by Commission Directive 2005/80/EC (OJ L 303, 22.11.2005, p. 32).

Article 3

1. Member States shall bring into force the laws, regulations and administrative provisions necessary to comply with this Directive by 1 September 2006 at the latest. They shall forthwith communicate to the Commission the text of those provisions and a correlation between those provisions and this Directive.

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, 19 July 2006.

For the Commission
Günter VERHEUGEN
Vice-President

ANNEX

Directive 76/768/EEC is amended as follows:

(1) In Annex II the following reference numbers 1212 to 1233 are added:

Ref. No	Chemical name	CAS No
1212	6-Methoxy-2,3-Pyridinediamine and its HCl salt, when used as a substance in hair dye products	94166-62-8
1213	2,3-Naphthalenediol, when used as a substance in hair dye products	92-44-4
1214	2,4-Diaminodiphenylamine, when used as a substance in hair dye products	136-17-4
1215	2,6-Bis(2-Hydroxyethoxy)-3,5-Pyridinediamine and its HCl salt, when used as a substance in hair dye products	117907-42-3
1216	2-Methoxymethyl- <i>p</i> -Aminophenol and its HCl salt, when used as a substance in hair dye products	29785-47-5
1217	4,5-Diamino-1-Methylpyrazole and its HCl salt, when used as a substance in hair dye products	20055-01-0
1218	4,5-Diamino-1-((4-Chlorophenyl)methyl)-1H-Pyrazole Sulfate, when used as a substance in hair dye products	163183-00-4
1219	4-Chloro-2-Aminophenol, when used as a substance in hair dye products	95-85-2
1220	4-Hydroxyindole, when used as a substance in hair dye products	2380-94-1
1221	4-Methoxytoluene-2,5-Diamine and its HCl salt, when used as a substance in hair dye products	56496-88-9
1222	5-Amino-4-Fluoro-2-Methylphenol Sulfate, when used as a substance in hair dye products	163183-01-5
1223	N,N-Diethyl- <i>m</i> -Aminophenol, when used as a substance in hair dye products	91-68-9
1224	N,N-Dimethyl-2,6-Pyridinediamine and its HCl salt, when used as a substance in hair dye products	
1225	N-Cyclopentyl- <i>m</i> -Aminophenol, when used as a substance in hair dye products	104903-49-3
1226	N-(2-Methoxyethyl)- <i>p</i> -phenylenediamine and its HCl salt, when used as a substance in hair dye products	72584-59-9
1227	2,4-Diamino-5-methylphenetol and its HCl salt, when used as a substance in hair dye products	113715-25-6
1228	1,7-Naphthalenediol, when used as a substance in hair dye products	575-38-2
1229	3,4-Diaminobenzoic acid, when used as a substance in hair dye products	619-05-6

Ref. No	Chemical name	CAS No
1230	2-Aminomethyl- <i>p</i> -aminophenol and its HCl salt, when used as a substance in hair dye products	79352-72-0
1231	Solvent Red 1 (CI 12150), when used as a substance in hair dye products	1229-55-6
1232	Acid Orange 24 (CI 20170), when used as a substance in hair dye products	1320-07-6
1233	Acid Red 73 (CI 27290), when used as a substance in hair dye products	5413-75-2'

(2) Column g in Part 2 of Annex III is amended as follows:

- (a) the reference numbers 17, 23, 40, 42 are deleted;
 - (b) in reference numbers 1, 2, 8, 13, 15, 30, 34, 41, 43, 45, 46, 51, 52, 53, 54, 57, 59, 60 the date '31.8.2006' is replaced by '31.12.2007';
 - (c) in reference numbers 3, 4, 5, 6, 7, 9, 10, 11, 12, 14, 16, 18, 19, 20, 21, 22, 24, 25, 26, 27, 28, 29, 31, 32, 33, 35, 36, 37, 38, 39, 44, 47, 48, 49, 50, 55, 56 and 58 the date '31.12.2006' is replaced by '31.12.2007'.
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II

(Acts whose publication is not obligatory)

COUNCIL

COUNCIL DECISION

of 29 May 2006

on the conclusion by the European Community of the Energy Community Treaty

(2006/500/EC)

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty establishing the European Community and in particular Articles 47(2), 55, 83, 89, 95, 133 and 175, in conjunction with the first sentence of the first subparagraph of Article 300(2) and the second subparagraph of Article 300(3) thereof,

Having regard to the proposal from the Commission,

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

Whereas:

(1) In accordance with the Council Decision of 17 May 2004, the Commission has negotiated the Treaty establishing the Energy Community, hereinafter referred to as 'the Energy Community Treaty', with the Republic of Albania, the Republic of Bulgaria, Bosnia and Herzegovina, the Republic of Croatia, the former Yugoslav Republic of Macedonia, the Republic of Montenegro, Romania, the Republic of Serbia and the United Nations Interim Administration Mission in Kosovo (pursuant to United Nations Security Council Resolution 1244) with the view to establishing an Integrated Energy Market Organisation in South-East Europe.

(2) On 25 October 2005, in accordance with the Council Decision of 17 October 2005, the Energy Community Treaty was signed on behalf of the Community.

(3) The Energy Community Treaty provides for the creation of an integrated market in natural gas and electricity in South-East Europe which will create a stable regulatory and market framework capable of attracting investment in gas networks, power generation and transmission networks, so that all Parties have access to the stable and continuous gas and electricity supply that is essential for economic development and social stability. It enables a regulatory framework to be set up, permitting the efficient operation of energy markets in the region, including issues such as congestion management, cross-border flows, power exchanges and others. It therefore aims at promoting high levels of gas and electricity supply to all citizens based on public service obligations, and achieving economic and social progress and a high level of employment.

(4) 'The Thessaloniki Agenda for the Western Balkans: moving towards European integration', endorsed by the European Council in June 2003 aims at further strengthening the privileged relations between the European Union and the Western Balkans. By creating favourable economic conditions and imposing the implementation of the relevant *acquis communautaire*, the Energy Community Treaty contributes to the economic integration of the other parties to that Treaty.

(5) The Energy Community Treaty enhances the security of supply of the parties to that Treaty by connecting Greece to the continental European Union gas and electricity markets, and providing incentives to connect the Balkans to the Caspian, North African and Middle East gas reserves.

(6) The Energy Community Treaty makes possible the development of energy market competition in a broader scale and the exploitation of economies of scale.

⁽¹⁾ Opinion delivered on 18 May 2005 (Not yet published in the Official Journal).

- (7) The Energy Community Treaty improves the environmental situation in relation to gas and electricity, and promotes energy efficiency and renewable energy sources.
- (8) In special circumstances such as the event of disruption of network energy, security of supply needs to be ensured in the Energy Community. The mutual assistance mechanism of the Energy Community Treaty can help to mitigate the consequences of the disruption, in particular in the territories of the Contracting Parties within the meaning of that Treaty.
- (9) The Energy Community Treaty enables interested adjoining States such as Moldova to become observers to the Energy Community.
- (10) The Energy Community Treaty should therefore be approved.
- (11) The Energy Community has autonomous decision-making powers. The European Community is represented by two representatives in the Ministerial Council and the Permanent High-Level Group set up under the Energy Community Treaty. Appropriate rules and procedures must therefore be provided for organising, within the institutions of the Energy Community, the representation of the European Community, and the determination and expression of the European Community's position.
- (12) For decisions of the Energy Community having legal effects, the Council shall determine the position of the European Community in accordance with the second subparagraph of Article 300(2) of the Treaty establishing the European Community.
- (13) The Member States directly affected by Title III of the Energy Community Treaty have to play a crucial role in the implementation of the objectives of the Energy Community. It is therefore necessary, without prejudice to the relevant procedures of the Treaty establishing the European Community, to acquire the active participation of such Member States in the decision-making process and their full support for the implementing measures that will be adopted under that Title.
- (14) It is appropriate to lay down rules for cases in which a Council or Commission representative is to express positions of the European Community.
- (15) It is appropriate to lay down a specific procedure for the application of the internal revision clause provided for in Article 100(i), (iii) and (iv) of the Energy Community Treaty,

HAS DECIDED AS FOLLOWS:

Article 1

1. The Energy Community Treaty is hereby approved on behalf of the European Community.
2. The text of the Energy Community Treaty is attached to this Decision.

Article 2

The President of the Council is hereby authorised to designate the person empowered to notify on behalf of the European Community, the act of approval provided for in Article 1(1) to the Secretary-General of the Council acting as depositary for the Energy Community Treaty pursuant to Article 105 thereof, in order to express the consent of the Community to be bound.

Article 3

1. The European Community shall be represented in the Ministerial Council and the Permanent High Level Group set up under the Energy Community Treaty by:
 - (a) a Council representative designated by the Member State holding the Presidency of the Council; when this Member State designates as the Council representative a representative of one of the Member States directly affected by Title III of the Energy Community Treaty, it shall do so on the basis of a rotation between those Member States; and
 - (b) a Commission representative.
2. A Commission representative shall act as Vice President of the Ministerial Council and the Permanent High-Level Group.
3. A Commission representative shall represent the European Community in the Regulatory Board and the Forum set up under the Energy Community Treaty.

Article 4

1. The position to be taken by the European Community within the Ministerial Council, the Permanent High-Level Group and the Regulatory Board for decisions as referred to in Article 76 of the Energy Community Treaty pursuant to Articles 82, 84, 91, 92, 96, and 100 thereof, having legal effect, shall be adopted by the Council acting in accordance with the relevant provisions of the Treaty establishing the European Community.

2. For decisions of the Energy Community falling under Title III of the Energy Community Treaty, and applicable to the territory of one or more Member States, positions adopted under paragraph 1 shall not go beyond the *acquis communautaire*.

3. For decisions of the Energy Community falling under Title IV of the Energy Community Treaty, and applicable to the territories to which the Treaty establishing the European Community applies under the conditions laid down therein, positions adopted under paragraph 1 shall not go beyond the *acquis communautaire*. However, positions adopted under paragraph 1 may go beyond the *acquis communautaire* with respect to Chapter IV of that Title in the event of special circumstances.

4. Without prejudice to the relevant procedures of the Treaty establishing the European Community, before the Commission tables a proposal for a measure under Title III of the Energy Community Treaty, it shall duly consult the Member States directly affected by the proposal.

5. The European Parliament shall be immediately and fully informed of any decision of the Council under paragraph 1 concerning the establishment of the Community position within the Ministerial Council, the Permanent High-Level Group and the Regulatory Board.

6. The positions of the European Community to be taken within the institutions of the Energy Community shall ensure that the Energy Community does not take any measure having legal effect that

- conflicts with any part of the *acquis communautaire*,
- creates any discrimination between Member States, or
- affects the competence and rights of an EU Member State as regards the determination of the conditions for exploiting its energy resources, the choice between energy resources and the general structure of its energy supply.

7. The positions of the European Community to be taken within the Regulatory Board shall be determined after the European Regulators Group for Electricity and Gas (EREG) has been consulted in accordance with Commission Decision 2003/796/EC of 11 November 2003 on establishing the European Regulators Group for Electricity and Gas ⁽¹⁾.

Article 5

1. The procedure set out in paragraph 2 shall apply before a position can be taken by the European Community pursuant to Article 4(1) for decisions adopted by the Energy Community pursuant to Article 100(i), (iii) and (iv) of the Energy Community Treaty.

2. Upon recommendation by the Commission, the Council, acting in accordance with the relevant provisions of the Treaty establishing the European Community, shall authorise the Commission to deliberate within the institutions of the Energy Community. The Commission shall conduct these deliberations in consultation with a special committee appointed by the Council to assist it in this task and within the framework of such directives as the Council may issue to it.

Article 6

1. Without prejudice to paragraph 2, the position of the European Community shall be expressed by the representative of the Commission within the institutions of the Energy Community.

2. Within the Ministerial Council, the position of the European Community shall be expressed by the representative of the Council for decisions taken under Article 92 of the Energy Community Treaty.

Article 7

Three years after the entry into force of this Decision, the Commission shall submit to the European Parliament and to the Council a report on the experiences gained from the implementation of this Decision, accompanied, if appropriate, by a proposal for further measures.

Article 8

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

Done at Brussels, 29 May 2006.

For the Council
The President
M. BARTENSTEIN

⁽¹⁾ OJ L 296, 14.11.2003, p. 34.

THE ENERGY COMMUNITY TREATY

The Parties, being:

The EUROPEAN COMMUNITY on the one hand,

And

The following CONTRACTING PARTIES on the other hand

— The Republic of Albania, the Republic of Bulgaria, Bosnia and Herzegovina, the Republic of Croatia, the former Yugoslav Republic of Macedonia, the Republic of Montenegro, Romania, the Republic of Serbia (hereafter referred to as the Adhering Parties),

and

— The United Nations Interim Administration Mission in Kosovo pursuant to the United Nations Security Council Resolution 1244,

CONSOLIDATING on the Athens Process and the 2002 and 2003 Athens Memoranda of Understanding,

NOTING that the Republic of Bulgaria, Romania and the Republic of Croatia are Candidate Countries for accession to the European Union, and that the former Yugoslav Republic of Macedonia has also applied for membership,

NOTING that the European Council in Copenhagen in December 2002 confirmed the European perspective of the Republic of Albania, Bosnia and Herzegovina, and Serbia and Montenegro, as potential candidates for accession of the European Union, and underlined the determination to support their efforts to move closer to the European Union,

RECALLING that the European Council in Thessaloniki in June 2003 endorsed 'The Thessaloniki Agenda for the Western Balkans: moving towards European integration', which aims to further strengthen the privileged relations between the European Union and the Western Balkans and in which the European Union encouraged the countries of the region to adopt a legally binding South-East Europe energy market agreement,

RECALLING the Euro-Mediterranean Partnership Process and the European Neighbourhood Policy,

RECALLING the contribution of the Stability Pact for South-East Europe that has as its core the need to strengthen cooperation amongst the states and nations of South-East Europe and to foster the conditions for peace, stability and economic growth,

RESOLVED to establish among the Parties an integrated market in natural gas and electricity, based on common interest and solidarity,

CONSIDERING that this integrated market may involve at a later stage other energy products and carriers, such as liquefied natural gas, petrol, hydrogen, or other essential network infrastructures.

DETERMINED to create a stable regulatory and market framework capable of attracting investment in gas networks, power generation and transmission networks, so that all Parties have access to the stable and continuous gas and electricity supply that is essential for economic development and social stability,

DETERMINED to create a single regulatory space for trade in gas and electricity that is necessary to match the geographic extent of the concerned product markets,

RECOGNISING that the territories of the Republic of Austria, of the Hellenic Republic, of the Republic of Hungary, of the Italian Republic, and of the Republic of Slovenia are naturally integrated or directly affected by the functioning of the gas and electricity markets of the Contracting Parties,

DETERMINED to promote High-Levels of gas and electricity provision to all citizens based on public service obligations, and to achieve economic and social progress and a High-Level of employment as well as a balanced and sustainable development through the creation of an area without internal frontiers for gas and electricity,

DESIRING to enhance the security of supply of the single regulatory space by providing the stable regulatory framework necessary for the region in which connections to Caspian, North African and Middle East gas reserves can be developed and indigenous reserves of natural gas, coal and hydropower can be exploited,

COMMITTED to improving the environmental situation in relation to gas and electricity, related energy efficiency and renewable energy sources,

DETERMINED to develop gas and electricity market competition on a broader scale and exploit economies of scale,

CONSIDERING that, to achieve these aims, a broad ranging and integrated market regulatory structure needs to be put in place supported by strong institutions and effective supervision, and with the adequate involvement of the private sector,

CONSIDERING that in order to reduce stress on the state-level gas and electricity systems and contribute to resolving local gas and electricity shortages, specific rules should be put in place to facilitate gas and electricity trade; and that such rules are needed to create a single regulatory space for the geographic extent of the concerned product markets,

HAVE DECIDED TO CREATE AN ENERGY COMMUNITY.

TITLE I

PRINCIPLES

Article 1

1. By this Treaty, the Parties establish among themselves an Energy Community.

2. Member States of the European Community may become Participants in the Energy Community pursuant to Article 95 of this Treaty.

Article 2

1. The task of the Energy Community shall be to organise the relations between the Parties and create a legal and economic framework in relation to Network Energy, as defined in paragraph 2, in order to:

(a) create a stable regulatory and market framework capable of attracting investment in gas networks, power generation, and transmission and distribution networks, so that all Parties have access to the stable and continuous energy supply that is essential for economic development and social stability,

(b) create a single regulatory space for trade in Network Energy that is necessary to match the geographic extent of the concerned product markets,

(c) enhance the security of supply of the single regulatory space by providing a stable investment climate in which connections to Caspian, North African and Middle East gas reserves can be developed, and indigenous sources of energy such as natural gas, coal and hydropower can be exploited,

(d) improve the environmental situation in relation to Network Energy and related energy efficiency, foster the use of renewable energy, and set out the conditions for energy trade in the single regulatory space,

(e) develop Network Energy market competition on a broader geographic scale and exploit economies of scale.

2. 'Network Energy' shall include the electricity and gas sectors falling within the scope of the European Community Directives 2003/54/EC and 2003/55/EC ⁽¹⁾.

⁽¹⁾ Directive 2003/54/EC of the European Parliament and of the Council of 26 June 2003 concerning common rules for the internal market in electricity, *Official Journal of the European Union* L 176, 15 July 2003, p. 37-56; and Directive 2003/55/EC of the European Parliament and of the Council of 26 June 2003 concerning common rules for the internal market in natural gas, *Official Journal of the European Union* L 176, 15 July 2003, p. 57-78.

Article 3

For the purposes of Article 2, the activities of the Energy Community shall include:

- (a) the implementation by the Contracting Parties of the *acquis communautaire* on energy, environment, competition and renewables, as described in Title II below, adapted to both the institutional framework of the Energy Community and the specific situation of each of the Contracting Parties (hereinafter referred to as 'the extension of the *acquis communautaire*'), as further described in Title II;
- (b) the setting up of a specific regulatory framework permitting the efficient operation of Network Energy markets across the territories of the Contracting Parties and part of the territory of the European Community, and including the creation of a single mechanism for the cross-border transmission and/or transportation of Network Energy, and the supervision of unilateral safeguard measures (hereinafter referred to as 'the mechanism for operation of Network Energy markets'), as further described in Title III;
- (c) the creation for the Parties of a market in Network Energy without internal frontiers, including the coordination of mutual assistance in case of serious disturbance to the energy networks or external disruptions, and which may include the achievement of a common external energy trade policy (hereinafter referred to as 'the creation of a single energy market'), as further described in Title IV.

Article 4

The Commission of the European Communities (hereinafter referred to as 'the European Commission') shall act as coordinator of the three activities described in Article 3.

Article 5

The Energy Community shall follow the *acquis communautaire* described in Title II, adapted to both the institutional framework of this Treaty and the specific situation of each of the Contracting Parties, with a view to ensuring High-Levels of investment security and optimal investments.

Article 6

The Parties shall take all appropriate measures, whether general or particular, to ensure fulfilment of the obligations arising out of this Treaty. The Parties shall facilitate the achievement of the Energy Community's tasks. The Parties shall abstain from any measure which could jeopardise the attainment of the objectives of this Treaty.

Article 7

Any discrimination within the scope of this Treaty shall be prohibited.

Article 8

Nothing in this Treaty shall affect the rights of a Party to determine the conditions for exploiting its energy resources, its choice between different energy sources and the general structure of its energy supply.

TITLE II

THE EXTENSION OF THE ACQUIS COMMUNAUTAIRE

CHAPTER I

*Geographic Scope**Article 9*

The provisions of and the measures taken under this Title shall apply to the territories of the Adhering Parties, and to the territory under the jurisdiction of the United Nations Interim Administration Mission in Kosovo.

CHAPTER II

*The Acquis on Energy**Article 10*

Each Contracting Party shall implement the *acquis communautaire* on energy in compliance with the timetable for the implementation of those measures set out in Annex I.

Article 11

The '*acquis communautaire* on energy', for the purpose of this Treaty, shall mean (i) the Directive 2003/54/EC of the European Parliament and of the Council of 26 June 2003 concerning common rules for the internal market in electricity, (ii) the Directive 2003/55/EC of the European Parliament and of the Council of 26 June 2003 concerning common rules for the internal market in natural gas, and (iii) the Regulation 1228/2003/EC of the European Parliament and of the Council of 26 June 2003 on conditions for access to the network for cross-border exchanges in electricity ⁽¹⁾.

CHAPTER III

*The Acquis on Environment**Article 12*

Each Contracting Party shall implement the *acquis communautaire* on Environment in compliance with the timetable for the implementation of those measures set out in Annex II.

Article 13

The Parties recognise the importance of the Kyoto Protocol. Each Contracting Party shall endeavour to accede to it.

⁽¹⁾ Official Journal of the European Union L 176, 15 July 2003, p. 1-10.

Article 14

The Parties recognise the importance of the rules set out in Council Directive 96/61/EC of 24 September 1996 concerning integrated pollution prevention and control. Each Contracting Party shall endeavour to implement that Directive.

Article 15

After the entry into force of this Treaty, the construction and operation of new generating plants shall comply with the *acquis communautaire* on environment.

Article 16

The '*acquis communautaire* on environment', for the purpose of this Treaty, shall mean (i) Council Directive 85/337/EEC of 27 June 1985 on the assessment of the effects of certain public and private projects on the environment, as amended by Council Directive 97/11/EC of 3 March 1997 and Directive 2003/35/EC of the European Parliament and of the Council of 26 May 2003, (ii) Council Directive 1999/32/EC of 26 April 1999 relating to a reduction in the sulphur content of certain liquid fuels and amending Directive 93/12/EEC, (iii) Directive 2001/80/EC of the European Parliament and of the Council of 23 October 2001 on the limitation of emissions of certain pollutants into the air from large combustion plants, and (iv) Article 4(2) of Directive 79/409/EEC of the Council of 2 April 1979 on the conservation of wild birds.

Article 17

The provisions of and the measures taken under this Chapter shall only apply to Network Energy.

CHAPTER IV

The Acquis on Competition*Article 18*

1. The following shall be incompatible with the proper functioning of the Treaty, insofar as they may affect trade of Network Energy between the Contracting Parties:

- (a) all agreements between undertakings, decisions by associations of undertakings and concerted practices which have as their object or effect the prevention, restriction or distortion of competition,
- (b) abuse by one or more undertakings of a dominant position in the market between the Contracting Parties as a whole or in a substantial part thereof,
- (c) any public aid which distorts or threatens to distort competition by favouring certain undertakings or certain energy resources.

2. Any practices contrary to this Article shall be assessed on the basis of criteria arising from the application of the rules of Articles 81, 82 and 87 of the Treaty establishing the European Community (attached in Annex III).

Article 19

With regard to public undertakings and undertakings to which special or exclusive rights have been granted, each Contracting Party shall ensure that as from six months following the date of entry into force of this Treaty, the principles of the Treaty establishing the European Community, in particular Article 86 (1) and (2) thereof (attached in Annex III), are upheld.

CHAPTER V

The Acquis for Renewables*Article 20*

Each Contracting Party shall provide to the European Commission within one year of the date of entry into force of this Treaty a plan to implement Directive 2001/77/EC of the European Parliament and of the Council of 27 September 2001 on the promotion of electricity produced from renewable energy sources in the internal electricity market and Directive 2003/30/EC of the European Parliament and of the Council of 8 May 2003 on the promotion of the use of biofuels or other renewable fuels for transport. The European Commission shall present the plan of each Contracting Party to the Ministerial Council for adoption.

CHAPTER VI

Compliance with Generally Applicable Standards of the European Community*Article 21*

Within one year of the date of entry into force of this Treaty, the Secretariat shall draw up a list of the Generally Applicable Standards of the European Community, to be submitted to the Ministerial Council for adoption.

Article 22

The Contracting Parties shall, within one year of the adoption of the list, adopt development plans to bring their Network Energy sectors into line with these Generally Applicable Standards of the European Community.

Article 23

'Generally Applicable Standards of the European Community' shall refer to any technical system standard that is applied within the European Community, and is necessary for operating network systems safely and efficiently, including aspects of transmission, cross-border connections, modulation and general technical system security standards issued where applicable via the European Committee for Standardization (CEN), the European Committee for Electrotechnical Standardization (Cenelec) and similar normation bodies or as issued by the Union for the Coordination of Transmission of Electricity (UCTE) and the European Association for the Streamlining of Energy Exchanges (Easeegas) for common rule setting and business practices.

CHAPTER VII

The Adaptation and Evolution of the Acquis

Article 24

For the implementation of this Title, the Energy Community shall adopt Measures adapting the *acquis communautaire* described in this Title, taking into account both the institutional framework of this Treaty and the specific situation of each of the Contracting Parties.

Article 25

The Energy Community may take measures to implement amendments to the *acquis communautaire* described in this Title, in line with the evolution of European Community law.

TITLE III

MECHANISM FOR OPERATION OF NETWORK ENERGY MARKETS

CHAPTER I

Geographic Scope

Article 26

The provisions of and the measures taken under this Title shall apply to the territories of the Adhering Parties, to the territory under the jurisdiction of the United Nations Interim Administration Mission in Kosovo, and to the territories of the European Community referred to in Article 27.

Article 27

As regards the European Community, the provisions of and the measures taken under this Title shall apply to the territories of the Republic of Austria, of the Hellenic Republic, of the Republic of Hungary, of the Italian Republic, and of the Republic of Slovenia. Upon accession to the European Union of an Adhering Party, the provisions of and the measures taken under this Title shall, without any further formalities, also apply to the territory of that new Member State.

CHAPTER II

Mechanism for Long-Distance Transportation of Network Energy

Article 28

The Energy Community shall take additional measures establishing a single mechanism for the cross-border transmission and/or transportation of Network Energy.

CHAPTER III

Security of Supply

Article 29

The Parties shall, within one year of the date of entry into force of this Treaty, adopt security of supply statements describing in particular diversity of supply, technological security, and geographic origin of imported fuels. The statements shall be communicated to the Secretariat, and shall be available to any Party to this Treaty. They shall be updated every two years. The Secretariat shall give guidance and assistance with respect to such statements.

Article 30

Article 29 does not imply a necessity to change energy policies or purchasing practices.

CHAPTER IV

Provision of Energy to Citizens

Article 31

The Energy Community shall promote High-Levels of provision of Network Energy to all its citizens within the limits of the public service obligations contained in the relevant *acquis communautaire* on energy.

Article 32

For this purpose, the Energy Community may take Measures to:

- (a) allow for the universal provision of electricity;
- (b) foster effective demand management policies;
- (c) ensure fair competition.

Article 33

The Energy Community may also make recommendations to support effective reform of the Network Energy sectors of the Parties, including *inter alia* to increase the level of payment for energy by all customers, and to foster the affordability of Network Energy prices to consumers.

CHAPTER V

Harmonisation

Article 34

The Energy Community may take measures concerning compatibility of market designs for the operation of Network Energy markets, as well as mutual recognition of licenses and measures fostering free establishment of Network Energy companies.

CHAPTER VI

Renewable Energy Sources and Energy Efficiency

Article 35

The Energy Community may adopt Measures to foster development in the areas of renewable energy sources and energy efficiency, taking account of their advantages for security of supply, environment protection, social cohesion and regional development.

CHAPTER VII

Safeguard Measures

Article 36

In the event of a sudden crisis on the Network Energy market in the territory of an Adhering Party, the territory under the jurisdiction of the United Nations Interim Administration Mission in Kosovo, or a territory of the European Community referred to in Article 27, where the physical safety or security of persons, or Network Energy apparatus or installations or system integrity is threatened in this territory, the concerned Party may temporarily take necessary safeguard measures.

Article 37

Such safeguard measures shall cause the least possible disturbance in the functioning of the Network Energy market of the Parties, and not be wider in scope than is strictly necessary to remedy the sudden difficulties which have arisen. They shall not distort competition or adversely affect trade in a manner which is at variance with the common interest.

Article 38

The Party concerned shall without delay notify these safeguard measures to the Secretariat, which shall immediately inform the other Parties.

Article 39

The Energy Community may decide that the safeguard measures taken by the Party concerned do not comply with the provisions of this Chapter, and request that Party to put an end to, or modify, those safeguard measures.

TITLE IV

THE CREATION OF A SINGLE ENERGY MARKET

CHAPTER I

Geographic Scope

Article 40

The provisions of and the measures taken under this Title shall apply to the territories to which the Treaty establishing the European Community applies under the conditions laid down in that Treaty, to the territories of the Adhering Parties and to

the territory under the jurisdiction of the United Nations Interim Mission in Kosovo.

CHAPTER II

Internal Energy Market

Article 41

1. Customs duties and quantitative restrictions on the import and export of Network Energy and all measures having equivalent effect, shall be prohibited between the Parties. This prohibition shall also apply to customs duties of a fiscal nature.

2. Paragraph 1 shall not preclude quantitative restrictions or measures having equivalent effect, justified on grounds of public policy or public security; the protection of health and life of humans, animals or plants, or the protection of industrial and commercial property. Such restrictions or measures shall not, however, constitute a means of arbitrary discrimination or a disguised restriction on trade between the Parties.

Article 42

1. The Energy Community may take Measures with the aim of creating a single market without internal frontiers for Network Energy.

2. Paragraph 1 shall not apply to fiscal measures, to those relating to the free movement of persons nor to those relating to the rights and interests of employed persons.

CHAPTER III

External Energy Trade Policy

Article 43

The Energy Community may take Measures necessary for the regulation of imports and exports of Network Energy to and from third countries with a view to ensuring equivalent access to and from third country markets in respect of basic environmental standards or to ensure the safe operation of the internal energy market.

CHAPTER IV

Mutual Assistance in the Event of Disruption

Article 44

In the event of disruption of Network Energy supply affecting a Party and involving another Party or a third country, the Parties shall seek an expeditious resolution in accordance with the provisions of this Chapter.

Article 45

Upon request of the Party directly affected by the disruption, the Ministerial Council shall meet. The Ministerial Council may take the necessary measures in response to the disruption.

Article 46

Within one year of the date of entry into force of this Treaty, the Ministerial Council shall adopt a Procedural Act for the operation of the mutual assistance obligation under this Chapter, which may include the conferral of powers to take interim Measures to the Permanent High-Level Group.

TITLE V

INSTITUTIONS OF THE ENERGY COMMUNITY

CHAPTER I

The Ministerial Council*Article 47*

The Ministerial Council shall ensure that the objectives set out in this Treaty are attained. It shall:

- (a) provide general policy guidelines;
- (b) take Measures;
- (c) adopt Procedural Acts, which may include the conferral, under precise conditions, of specific tasks, powers and obligations to carry out the policy of the Energy Community on the Permanent High-Level Group, the Regulatory Board or the Secretariat.

Article 48

The Ministerial Council shall consist of one representative of each Contracting Party and two representatives of the European Community. One non-voting representative of each Participant may participate in its meetings.

Article 49

The Ministerial Council shall adopt its internal rules of procedure by Procedural Act.

Article 50

The Presidency shall be held in turn by each Contracting Party for a term of six months in the order decided by a Procedural Act of the Ministerial Council. The Presidency shall convene the Ministerial Council in a place decided upon by the Presidency. The Ministerial Council shall meet at least once every six months. The meetings shall be prepared by the Secretariat.

Article 51

The Presidency shall chair the Ministerial Council and be assisted by one representative of the European Community and one representative of the incoming Presidency as Vice-

Presidents. The Presidency and the Vice-Presidents shall prepare the draft Agenda.

Article 52

The Ministerial Council shall submit an annual report on the activities of the Energy Community to the European Parliament and to the Parliaments of the Adhering Parties and of the Participants.

CHAPTER II

The Permanent High-Level Group*Article 53*

The Permanent High-Level Group shall:

- (a) prepare the work of the Ministerial Council;
- (b) give assent to technical assistance requests made by international donor organisations, international financial institutions and bilateral donors;
- (c) report to the Ministerial Council on progress made toward achievement of the objectives of this Treaty;
- (d) take Measures, if so empowered by the Ministerial Council;
- (e) adopt Procedural Acts, not involving the conferral of tasks, powers or obligations on other institutions of the Energy Community;
- (f) discuss the development of the *acquis communautaire* described in Title II on the basis of a report that the European Commission shall submit on a regular basis.

Article 54

The Permanent High-Level Group shall consist of one representative of each Contracting Party and two representatives of the European Community. One non-voting representative of each Participant may participate in its meetings.

Article 55

The Permanent High-Level Group shall adopt its internal rules of procedure as a Procedural Act.

Article 56

The Presidency shall convene the Permanent High-Level Group at a place to be determined by the Presidency. The meetings shall be prepared by the Secretariat.

Article 57

The Presidency shall chair the Permanent High-Level Group and be assisted by one representative of the European Community and one representative of the incoming Presidency as Vice-Presidents. The Presidency and the Vice-Presidents shall prepare the draft Agenda.

*CHAPTER III****The Regulatory Board****Article 58*

The Regulatory Board shall:

- (a) advise the Ministerial Council or the Permanent High-Level Group on the details of statutory, technical and regulatory rules;
- (b) issue Recommendations on cross-border disputes involving two or more Regulators, upon request of any of them;
- (c) take Measures, if so empowered by the Ministerial Council;
- (d) adopt Procedural Acts.

Article 59

The Regulatory Board shall be composed of one representative of the energy regulator of each Contracting Party, pursuant to the relevant parts of the *acquis communautaire* on energy. The European Community shall be represented by the European Commission, assisted by one regulator of each Participant, and one representative of the European Regulators Group for Electricity and Gas (EREGG). If a Contracting Party or a Participant has one regulator for gas and one regulator for electricity, the Contracting Party or the Participant shall determine which regulator shall attend a meeting of the Regulatory Board, taking account of its agenda.

Article 60

The Regulatory Board shall adopt its internal rules of procedure by Procedural Act.

Article 61

The Regulatory Board shall elect a President for a term determined by the Regulatory Board. The European Commission shall act as Vice-President. The President and the Vice-President shall prepare the draft Agenda.

Article 62

The Regulatory Board shall meet in Athens.

*CHAPTER IV****The Fora****Article 63*

Two Fora, composed of representatives of all interested stakeholders, including industry, regulators, industry representative groups and consumers, shall advise the Energy Community.

Article 64

The Fora shall be chaired by a representative of the European Community.

Article 65

The conclusions of the Fora shall be adopted by consensus. They shall be forwarded to the Permanent High-Level Group.

Article 66

The Electricity Forum shall meet in Athens. The Gas Forum shall meet at a place to be determined by a Procedural Act of the Ministerial Council.

*CHAPTER V****The Secretariat****Article 67*

The Secretariat shall:

- (a) provide administrative support to the Ministerial Council, the Permanent High-Level Group, the Regulatory Board and the Fora;
- (b) review the proper implementation by the Parties of their obligations under this Treaty, and submit yearly progress reports to the Ministerial Council;
- (c) review and assist in the coordination by the European Commission of the donors' activity in the territories of the Adhering Parties and the territory under the jurisdiction of the United Nations Interim Administration Mission in Kosovo, and provide administrative support to the donors;
- (d) carry out other tasks conferred on it under this Treaty or by a Procedural Act of the Ministerial Council, excluding the power to take Measures; and
- (e) adopt Procedural Acts.

Article 68

The Secretariat shall comprise a Director and such staff as the Energy Community may require.

Article 69

The Director of the Secretariat shall be appointed by a Procedural Act of the Ministerial Council. The Ministerial Council shall lay down, by Procedural Act, rules for the recruitment, working conditions and geographic equilibrium of the Secretariat's staff. The Director shall select and appoint the staff.

Article 70

In the performance of their duties the Director and the staff shall not seek or receive instructions from any Party to this Treaty. They shall act impartially and promote the interests of the Energy Community.

Article 71

The Director of the Secretariat or a nominated alternate shall assist at the Ministerial Council, the Permanent High-Level Group, the Regulatory Board and the Fora.

Article 72

The seat of the Secretariat shall be in Vienna.

CHAPTER VI

Budget*Article 73*

Each Party shall contribute to the budget of the Energy Community as set out in Annex IV. The level of contributions may be reviewed every five years, on request of any Party, by a Procedural Act of the Ministerial Council.

Article 74

The Ministerial Council shall adopt the budget of the Energy Community by Procedural Act every two years. The budget shall cover the operational expenses of the Energy Community necessary for the functioning of its institutions. The expenditure of each institution shall be set out in a different part of the budget. The Ministerial Council shall adopt a Procedural Act specifying the procedure for the implementation of the budget, and for presenting and auditing accounts and inspection.

Article 75

The Director of the Secretariat shall implement the budget in accordance with the Procedural Act adopted pursuant to Article 74, and shall report annually to the Ministerial Council on the execution of the budget. The Ministerial Council may decide by Procedural Act, if appropriate, to entrust independent auditors with verifying the proper execution of the budget.

TITLE VI

DECISION MAKING PROCESS

CHAPTER I

General Provisions*Article 76*

Measures may take the form of a Decision or a Recommendation.

A Decision is legally binding in its entirety upon those to whom it is addressed.

A Recommendation has no binding force. Parties shall use their best endeavours to carry out Recommendations.

Article 77

Save as provided in Article 80, each Party shall have one vote.

Article 78

The Ministerial Council, the Permanent High-Level Group or the Regulatory Board may act only if two third of the Parties are represented. Abstentions in a vote from Parties present shall not count as votes cast.

CHAPTER II

Measures under Title II*Article 79*

The Ministerial Council, the Permanent High-Level Group or the Regulatory Board shall take Measures under Title II on a proposal from the European Commission. The European Commission may alter or withdraw its proposal at any time during the procedure leading to adoption of the Measures.

Article 80

Each Contracting Party shall have one vote.

Article 81

The Ministerial Council, the Permanent High-Level Group or the Regulatory Board shall act by a majority of the votes cast.

CHAPTER III

Measures under Title III*Article 82*

The Ministerial Council, the Permanent High-Level Group or the Regulatory Board shall take Measures under Title III on a proposal from a Party or the Secretariat.

Article 83

The Ministerial Council, the Permanent High-Level Group or the Regulatory Board shall act by a two third majority of the votes cast, including a positive vote of the European Community.

CHAPTER IV

Measures under Title IV*Article 84*

The Ministerial Council, the Permanent High-Level Group or the Regulatory Board shall take Measures under Title IV on a proposal from a Party.

Article 85

The Ministerial Council, the Permanent High-Level Group or the Regulatory Board shall take Measures by unanimity.

CHAPTER V

Procedural Acts*Article 86*

A Procedural Act shall regulate organizational, budgetary and transparency issues of the Energy Community, including the delegation of power from the Ministerial Council to the Permanent High-Level Group, the Regulatory Board or the Secretariat, and shall have binding force on the institutions of the Energy Community, and, if the Procedural Act so provides, on the Parties.

Article 87

Save as provided in Article 88, Procedural Acts shall be adopted in compliance with the Decision Making Process set out in Chapter III of this Title.

Article 88

The Procedural Act appointing the Director of the Secretariat provided for in Article 69 shall be adopted by simple majority on a proposal from the European Commission. The Procedural Acts on budgetary matters provided for in Articles 73 and 74 shall be adopted by unanimity on a proposal from the European Commission. The Procedural Acts conferring powers on the Regulatory Board provided for in Article 47(c) shall be taken by unanimity on a proposal from a Party or the Secretariat.

TITLE VII

IMPLEMENTATION OF DECISIONS AND DISPUTE SETTLEMENT*Article 89*

The Parties shall implement Decisions addressed to them in their domestic legal system within the period specified in the Decision.

Article 90

1. Failure by a Party to comply with a Treaty obligation or to implement a Decision addressed to it within the required period may be brought to the attention of the Ministerial Council by a reasoned request of any Party, the Secretariat or the Regulatory Board. Private bodies may approach the Secretariat with complaints.

2. The Party concerned may make observations in response to the request or complaint.

Article 91

1. The Ministerial Council may determine the existence of a breach by a Party of its obligations. The Ministerial Council shall decide:

(a) by a simple majority, if the breach relates to Title II;

(b) by a two-thirds majority, if the breach relates to Title III;

(c) by unanimity, if the breach relates to Title IV.

2. The Ministerial Council may subsequently decide by simple majority to revoke any decisions adopted under this Article.

Article 92

1. At the request of a Party, the Secretariat or the Regulatory Board, the Ministerial Council, acting by unanimity, may determine the existence of a serious and persistent breach by a Party of its obligations under this Treaty and may suspend certain of the rights deriving from application of this Treaty to the Party concerned, including the suspension of voting rights and exclusion from meetings or mechanisms provided for in this Treaty.

2. The Ministerial Council may subsequently decide by simple majority to revoke any decisions taken under this Article.

Article 93

When adopting the decisions referred to in Articles 91 and 92, the Ministerial Council shall act without taking into account the vote of the representative of the Party concerned.

TITLE VIII

INTERPRETATION*Article 94*

The institutions shall interpret any term or other concept used in this Treaty that is derived from European Community law in conformity with the case law of the Court of Justice or the Court of First Instance of the European Communities. Where no interpretation from those Courts is available, the Ministerial Council shall give guidance in interpreting this Treaty. It may delegate that task to the Permanent High-Level Group. Such guidance shall not prejudice any interpretation of the *acquis communautaire* by the Court of Justice or the Court of First Instance at a later stage.

TITLE IX

PARTICIPANTS AND OBSERVERS*Article 95*

Upon a request to the Ministerial Council, any Member State of the European Community may be represented in the Ministerial Council, the Permanent High-Level Group and the Regulatory Board under the conditions laid down in Articles 48, 54 and 59 as a Participant, and shall be permitted to participate in the discussions of the Ministerial Council, the Permanent High-Level Group, the Regulatory Board and the Fora.

Article 96

1. Upon a reasoned request of a neighbouring third country, the Ministerial Council may, by unanimity, accept that country as an Observer. Upon a request presented to the Ministerial Council within six months of the date of entry into force of this Treaty, Moldova shall be accepted as an Observer.

2. Observers may attend the meetings of the Ministerial Council, the Permanent High-Level Group, the Regulatory Board and the Fora, without participating in the discussions.

TITLE X

DURATION*Article 97*

This Treaty is concluded for a period of 10 years from the date of entry into force. The Ministerial Council, acting by unanimity, may decide to extend its duration. If no such decision is taken, the Treaty may continue to apply between those Parties who voted in favour of extension, provided that their number amounted to at least two thirds of the Parties to the Energy Community.

Article 98

Any party may withdraw from this Treaty by giving six months notice, addressed to the Secretariat.

Article 99

Upon accession to the European Community of an Adhering Party, that party shall become a Participant as provided for in Article 95.

TITLE XI

REVISION AND ACCESSION*Article 100*

The Ministerial Council may, by unanimity of its Members:

- (i) amend the provisions of Title I to VII;
- (ii) decide to implement other parts of the *acquis communautaire* related to Network Energy;
- (iii) extend this Treaty to other energy products and carriers or other essential network infrastructures;
- (iv) agree on the accession to the Energy Community of a new Party.

TITLE XII

FINAL AND TRANSITIONAL PROVISIONS*Article 101*

Without prejudice to Articles 102 and 103, the rights and obligations arising from agreements concluded by a Contracting Party before the signature of this Treaty shall not be affected by the provisions of this Treaty. To the extent that such agreements are not compatible with this Treaty, the Contracting Party concerned shall take all appropriate measures to eliminate the incompatibilities established, no later than one year after the date of entry into force of this Treaty.

Article 102

All obligations under this Treaty are without prejudice to existing legal obligations of the Parties under the Treaty establishing the World Trade Organisation.

Article 103

Any obligations under an agreement between the European Community and its Member States on the one hand, and a Contracting Party on the other hand shall not be affected by this Treaty. Any commitment taken in the context of negotiations for accession to the European Union shall not be affected by this Treaty.

Article 104

Until the adoption of the Procedural Act referred to in Article 50, the 2003 Athens Memorandum of Understanding ⁽¹⁾ shall define the order for holding the Presidency.

Article 105

This Treaty shall be approved by the Parties in accordance with their internal procedures.

This Treaty shall enter into force on the first day of the month following the date on which the European Community and six Contracting Parties have notified the completion of the procedures necessary for this purpose.

Notification shall be sent to the Secretary-General of the Council of the European Union who shall be the depositary for this Treaty.

IN WITNESS THEREOF the duly authorised representatives have signed this Treaty.

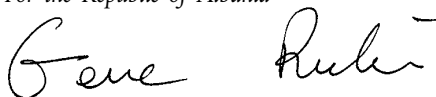
Done at Athens, on the twenty-fifth day of October in the year two thousand and five.

⁽¹⁾ Memorandum of Understanding on the Regional Energy Market in South East Europe and its Integration into the European Community Internal Energy Market, signed in Athens on 8 December 2003.

For the European Community



For the Republic of Albania



For the Republic of Bulgaria



For Bosnia and Herzegovina

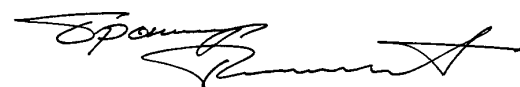


For the Republic of Croatia

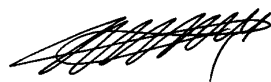


For the former Yugoslav Republic of Macedonia

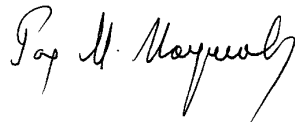
For the Republic of Montenegro



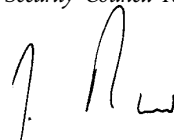
For Romania



For the Republic of Serbia



For the United Nations Interim Administration Mission in Kosovo pursuant to the United Nations Security Council Resolution 1244



**COUNCIL OF
THE EUROPEAN UNION****The Presidency**

Athens, 25 October 2005

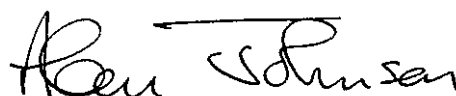
Mr. Minčo Jordanov,
Vice-President of the Government
of the former Yugoslav Republic of Macedonia.

Sir,

The European Community takes note of your letter of today's date and confirms that your letter and this reply shall together take the place of the signature of the Treaty establishing the Energy Community by the former Yugoslav Republic of Macedonia. However, this cannot be construed as acceptance or recognition by the European Community, in whatever form or content of a denomination other than 'former Yugoslav Republic of Macedonia'.

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

On behalf of the European Community

A handwritten signature in black ink, appearing to read 'Ben Johnson', with a long horizontal stroke extending from the top of the 'J'.

Republic of Macedonia
— Office of the Deputy Prime Minister —
Minčo Jordanov

Athens, 25 October 2005

Your Excellency,

Hereby I declare that the text of the Treaty establishing the Energy Community is acceptable for the Government of the Republic of Macedonia.

With this letter, the Government of the Republic of Macedonia considers itself as signatory of the Treaty establishing the Energy Community.

However, I declare that the Republic of Macedonia does not accept the denomination used for my country in the above-mentioned documents having in view that the constitutional name of my country is the Republic of Macedonia.

Please accept, Your Excellency, the assurances of my highest consideration.

Minčo Jordanov



ANNEX I

Timetable for the Implementation of the EC Directives No 2003/54 and 2003/55, and the Regulation (EC) No 1228/2003, of 26 June 2003

1. Subject to paragraph 2 below and Article 24 of this Treaty, each Contracting Party shall implement within twelve months of the entry into force of this Treaty:
 - (i) the European Community Directive 2003/54/EC of the European Parliament and of the Council of 26 June 2003 concerning common rules for the internal market in electricity;
 - (ii) the European Community Directive 2003/55/EC of the European Parliament and of the Council of 26 June 2003 concerning common rules for the internal market in natural gas;
 - (iii) the European Community Regulation (EC) No 1228/2003 of the European Parliament and of the Council of 26 June 2003 on conditions for access to the network for cross-border exchanges in electricity.
 2. Each Contracting Party must ensure that the eligible customers within the meaning of the European Community Directives 2003/54/EC and 2003/55/EC are:
 - (i) from 1 January 2008, all non-household customers; and
 - (ii) from 1 January 2015, all customers.
-

ANNEX II

Timetable for the Implementation of the Acquis on Environment

1. Each Contracting Party shall implement Council Directive 85/337/EEC of 27 June 1985 on the assessment of the effects of certain public and private projects on the environment, as amended by Council Directives 97/11/EC of 3 March 1997 and Directive 2003/35/EC of the European Parliament and of the Council of 26 May 2003, on the entry into force of this Treaty.
 2. Each Contracting Party shall implement Council Directive 1999/32/EC of 26 April 1999 relating to a reduction in the sulphur content of certain liquid fuels and amending Directive 93/12/EEC by 31 December 2011.
 3. Each Contracting Party shall implement Directive 2001/80/EC of the European Parliament and of the Council of 23 October 2001 on the limitation of emissions of certain pollutants into the air from large combustion plants by 31 December 2017.
 4. Each Contracting Party shall implement Article 4(2) of Directive 79/409/EEC of the Council of 2 April 1979 on the conservation of wild birds on the entry into force of this treaty.
-

ANNEX III

Article 81 of the EC Treaty

1. The following shall be prohibited as incompatible with the common market: all agreements between undertakings, decisions by associations of undertakings and concerted practices which may affect trade between Member States and which have as their object or effect the prevention, restriction or distortion of competition within the common market, and in particular those which:
 - (a) directly or indirectly fix purchase or selling prices or any other trading conditions;
 - (b) limit or control production, markets, technical development, or investment;
 - (c) share markets or sources of supply;
 - (d) apply dissimilar conditions to equivalent transactions with other trading parties, thereby placing them at a competitive disadvantage;
 - (e) make the conclusion of contracts subject to acceptance by the other parties of supplementary obligations which, by their nature or according to commercial usage, have no connection with the subject of such contracts.
2. Any agreements or decisions prohibited pursuant to this article shall be automatically void.
3. The provisions of paragraph 1 may, however, be declared inapplicable in the case of:
 - any agreement or category of agreements between undertakings,
 - any decision or category of decisions by associations of undertakings,
 - any concerted practice or category of concerted practices,

which contributes to improving the production or distribution of goods or to promoting technical or economic progress, while allowing consumers a fair share of the resulting benefit, and which does not:

- (a) impose on the undertakings concerned restrictions which are not indispensable to the attainment of these objectives;
- (b) afford such undertakings the possibility of eliminating competition in respect of a substantial part of the products in question.

Article 82 of the EC Treaty

Any abuse by one or more undertakings of a dominant position within the common market or in a substantial part of it shall be prohibited as incompatible with the common market in so far as it may affect trade between Member States.

Such abuse may, in particular, consist in:

- (a) directly or indirectly imposing unfair purchase or selling prices or other unfair trading conditions;
- (b) limiting production, markets or technical development to the prejudice of consumers;

- (c) applying dissimilar conditions to equivalent transactions with other trading parties, thereby placing them at a competitive disadvantage;
- (d) making the conclusion of contracts subject to acceptance by the other parties of supplementary obligations which, by their nature or according to commercial usage, have no connection with the subject of such contracts.

Article 86(1) and (2) of the EC Treaty

1. In the case of public undertakings and undertakings to which Member States grant special or exclusive rights, Member States shall neither enact nor maintain in force any measure contrary to the rules contained in this Treaty, in particular to those rules provided for in Article 12 and Articles 81 to 89.
2. Undertakings entrusted with the operation of services of general economic interest or having the character of a revenue-producing monopoly shall be subject to the rules contained in this Treaty, in particular to the rules on competition, in so far as the application of such rules does not obstruct the performance, in law or in fact, of the particular tasks assigned to them. The development of trade must not be affected to such an extent as would be contrary to the interests of the Community.

Article 87 of the EC Treaty

1. Save as otherwise provided in this Treaty, any aid granted by a Member State or through State resources in any form whatsoever which distorts or threatens to distort competition by favouring certain undertakings or the production of certain goods shall, in so far as it affects trade between Member States, be incompatible with the common market.
 2. The following shall be compatible with the common market:
 - (a) aid having a social character, granted to individual consumers, provided that such aid is granted without discrimination related to the origin of the products concerned;
 - (b) aid to make good the damage caused by natural disasters or exceptional occurrences;
 - (c) aid granted to the economy of certain areas of the Federal Republic of Germany affected by the division of Germany, in so far as such aid is required in order to compensate for the economic disadvantages caused by that division.
 3. The following may be considered to be compatible with the common market:
 - (a) aid to promote the economic development of areas where the standard of living is abnormally low or where there is serious underemployment;
 - (b) aid to promote the execution of an important project of common European interest or to remedy a serious disturbance in the economy of a Member State;
 - (c) aid to facilitate the development of certain economic activities or of certain economic areas, where such aid does not adversely affect trading conditions to an extent contrary to the common interest;
 - (d) aid to promote culture and heritage conservation where such aid does not affect trading conditions and competition in the Community to an extent that is contrary to the common interest;
 - (e) such other categories of aid as may be specified by decision of the Council acting by a qualified majority on a proposal from the Commission.
-

ANNEX IV

Contribution to the Budget

Parties	Contribution in percentage
European Community	94,9 %
Republic of Albania	0,1 %
Republic of Bulgaria	1 %
Bosnia and Herzegovina	0,3 %
Republic of Croatia	0,5 %
former Yugoslav Republic of Macedonia	0,1 %
Republic of Montenegro	0,1 %
Romania	2,2 %
Republic of Serbia	0,7 %
United Nations Interim Administration Mission in Kosovo	0,1 %

COMMISSION

COMMISSION DECISION

of 14 July 2006

amending Decision 2006/264/EC concerning protection measures in relation to Newcastle disease in Romania

(notified under document number C(2006) 3167)

(Text with EEA relevance)

(2006/501/EC)

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Council Directive 91/496/EEC of 15 July 1991 laying down the principles governing the organisation of veterinary checks on animals entering the Community from third countries and amending Directives 89/662/EEC, 90/425/EEC and 90/675/EEC ⁽¹⁾, and in particular Article 18(7) thereof,

Having regard to Council Directive 97/78/EC of 18 December 1997 laying down the principles governing the organisation of veterinary checks on products entering the Community from third countries ⁽²⁾, and in particular Article 22(6) thereof,

Whereas:

(1) Newcastle disease is a highly contagious viral disease in poultry and birds and there is a risk that the disease agent might be introduced via international trade in live poultry and poultry products.

(2) Commission Decision 2006/264/EC of 27 March 2006 concerning protection measures in relation to Newcastle disease in Romania ⁽³⁾ was adopted following outbreaks of Newcastle disease in Romania. Pursuant to that

Decision, Member States are to suspend imports of live poultry, ratites, farmed and wild feathered game and hatching eggs, fresh meat and meat preparations and meat products from these species from certain parts of Romania.

(3) Romania has notified to the Commission another outbreak of Newcastle disease in the county of Sălaj, a part of the territory of Romania from which imports into the Community have not been suspended. That county should therefore be added to the list of counties set out in the Annex to Decision 2006/264/EC.

(4) Taking account of the current epidemiology situation in Romania in relation to Newcastle disease the measures laid down in Decision 2006/264/EC should be prolonged.

(5) Decision 2006/264/EC should therefore be amended accordingly.

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

HAS ADOPTED THIS DECISION:

⁽¹⁾ OJ L 268, 24.9.1991, p. 56. Directive as last amended by the 2003 Act of Accession.

⁽²⁾ OJ L 24, 30.1.1998, p. 9. Directive as last amended by Regulation (EC) No 882/2004 of the European Parliament and of the Council (OJ L 165, 30.4.2004, p. 1, corrected by OJ L 191, 28.5.2004, p. 1).

⁽³⁾ OJ L 95, 4.4.2006, p. 6.

Article 1

Decision 2006/264/EC is amended as follows:

1. In Article 5, the date '31 July 2006' is replaced by '31 December 2006'.

2. The Annex is replaced by the text in the Annex to this Decision.

Article 2

Member States shall immediately take the necessary measures to comply with this Decision and publish those measures. They shall immediately inform the Commission thereof.

Article 3

This Decision is addressed to the Member States.

Done at Brussels, 14 July 2006.

For the Commission

Markos KYPRIANOU

Member of the Commission

ANNEX

‘ANNEX

Parts of the territory of Romania referred to in Articles 1 and 2:

Arges county

Brasov county

Bucharest county

Braila county

Buzau county

Caras-Severin county

Calarasi county

Constanta county

Dambovita county

Giurgiu county

Gorj county

Ialomita county

Ilfov county

Mehedinti county

Mures county

Olt county

Prahova county

Sălaj county

Tulcea county

Vaslui county

Valcea county

Vrancea county’.

COMMISSION DECISION

of 11 May 2006

requiring Member States to take measures to ensure that only lighters which are child-resistant are placed on the market and to prohibit the placing on the market of novelty lighters*(notified under documents number C(2006) 1887 and number C(2006) 1887 COR)***(Text with EEA relevance)***(This text annuls and replaces the text published in Official Journal L 197 of 19 July 2006, p. 9)**(2006/502/EC)*

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Directive 2001/95/EC of the European Parliament and of the Council of 3 December 2001 on general product safety ⁽¹⁾, and in particular Article 13 thereof,

Whereas:

(1) Pursuant to Directive 2001/95, producers are obliged to place only safe products on the market.

(2) According to Article 13 of Directive 2001/95/EC, if the Commission becomes aware that certain products present a serious risk to the health and safety of consumers, it may, under certain conditions, adopt a Decision requiring Member States to take temporary measures aimed in particular to restrict or make subject to particular conditions the placing on the market of such products, to ban their marketing and introduce the accompanying measures required to ensure that the ban is complied with, or to require their withdrawal or recall from the market.

(3) Such a Decision is contingent upon the facts that Member States differ significantly on the approach

adopted or to be adopted to deal with the risk concerned; that the risk cannot, in view of the nature of the safety issue, be dealt with in a manner compatible with the degree of urgency of the case under other procedures laid down by the specific Community legislation applicable to the products concerned; and that the risk can be eliminated effectively only by adopting appropriate measures applicable at Community level, in order to ensure a consistent and high level of protection of the health and safety of consumers and the proper functioning of the internal market.

(4) Lighters are products which are inherently hazardous since they produce a flame or heat and since they contain a flammable fuel. They pose a serious risk when being misused by children, which may result in fires, injuries or even deaths. Taking account of the inherently hazardous nature of lighters, the very high number of items placed on the market and the foreseeable conditions of use, the seriousness of the risk posed by lighters to children's safety should be dealt with in relation to their possible use in play by children.

(5) The serious risk posed by lighters is confirmed by the available data and information on fires in the EU related to children playing with lighters. A report published by the United Kingdom Department of Trade and Industry in February 1997 entitled 'European research — accidents caused by children under five playing with cigarette lighters and matches' estimated a total of about 1 200 fires, 260 injuries and 20 deaths per year in the EU for 1997. More recent information confirms that a significant number of serious accidents, including deaths, are still caused in the EU by children playing with non-resistant lighters.

⁽¹⁾ OJ L 11, 15.1.2002, p. 4.

- (6) Legislation establishing child-resistance requirements for lighters equivalent to those set out in this Decision exist in Australia, Canada, New Zealand and the United States of America (US). Before setting up the legislation, a survey was launched in the US. The US Consumer Product Safety Commission's 1993 proposal for a Regulation for lighters estimated that, per year, lighters used by children caused more than 5 000 fires, 1 150 injuries and 170 deaths in the US.
- (7) The US child-resistance requirement was introduced in 1994. In 2002 a US study on the effectiveness of the requirement reported a 60 % reduction in fires, injuries and deaths.
- (8) Consultation of the Member States in the Committee established by Article 15 of Directive 2001/95/EC has established that Member States differ significantly on the approach to deal with the risk posed by non-child-resistant lighters.
- (9) Two technical standards relate to the safety of lighters: the European and International Standard EN ISO 9994:2002 'Lighters — Safety Specification', which establishes specifications on quality, reliability and safety of the lighters combined with appropriate manufacturing test procedures, but which does not include child-resistance specifications, and the European standard EN 13869:2002 'Lighters — Child-resistance for lighters — Safety requirements and test methods', which establishes child-resistance specifications.
- (10) The references of EN ISO 9994:2002 were published by the Commission in the *Official Journal of the European Union* ⁽¹⁾ in accordance with the procedure laid down in Article 4 of Directive 2001/95/EC giving presumption of conformity with the general safety requirement of Directive 2001/95/EC for the risks covered by this standard. In order to deal with child-resistance, some Member States considered that the Commission should publish in the Official Journal also the references of EN 13869:2002. However, other Member States considered that EN 13869:2002 should first be substantially revised.
- (11) In the absence of Community measures on child-resistance of lighters and on the prohibition of novelty lighters some Member States may adopt divergent national measures. The introduction of such measures would inevitably result in an uneven level of protection and in intra-Community barriers to trade in lighters.
- (12) There is no specific Community legislation applicable to lighters. The risk cannot be dealt with effectively under other procedures laid down in specific rules of Community law, taking into account the nature of the safety problem concerned, and in a manner compatible with the degree of urgency of the case. It is therefore necessary to resort to a Decision according to Article 13 of Directive 2001/95/EC.
- (13) In view of the serious risk from lighters and in order to ensure a consistent high level of consumer health and safety protection throughout the EU as well as to avoid barriers to trade, a temporary Decision in accordance with Article 13 of Directive 2001/95/EC should be adopted. Such Decision should rapidly make the placing on the market of lighters subject to the condition that they be child-resistant. Such Decision should prevent further damages and deaths, pending a permanent solution which should be based on an international consensus.
- (14) The child-resistance requirement of this Decision should cover disposable lighters, because such lighters pose a particularly high degree of risk of child misuse. A US study of 1987, 'Harwood's study', demonstrated that on average 96 % of the accidents caused by children playing with lighters were due to disposable lighters. Very few accidents involved lighters other than disposable ones, namely the so-called luxury and semi-luxury lighters which are designed, manufactured and placed on the market such as to ensure a continual expected safe use over a long period of time, and which are covered by a written guarantee and benefit from an after-sales service for replacement or repair of their parts over their life time, and which are characterised by a sophisticated design using expensive material, a luxury image and a low degree of substitutability with other lighters, and a distribution in outlets in accordance with the prestige and luxury image of the brand. These results are consistent with the fact that people are likely to pay more attention to higher value lighters intended to be used for a long time period.
- (15) All lighters that resemble by any means to another object commonly recognised as appealing to or intended for use by children should be banned. This includes, but is not limited to, lighters the shape of which resembles cartoon characters, toys, guns, watches, telephones, musical instruments, vehicles, human body or parts of the human body, animals, food or beverages, or that play musical notes, or have flashing lights or moving objects or other entertaining features, usually called 'novelty lighters', which pose a high risk of misuse by children.

⁽¹⁾ OJ C 100, 24.4.2004, p. 20.

- (16) In order to facilitate the application of the child-resistance requirement by producers of lighters, it is appropriate to make reference to the relevant specifications of the European standard EN 13869:2002, so that lighters complying with the corresponding specifications of the national standards which transpose that European standard are presumed to conform to the child-resistance requirement of this Decision. With the same aim, lighters complying with the relevant rules of the non-EU countries where child-resistance requirements equivalent to those established by this Decision are in force should also be presumed to conform to the child-resistance requirement of this Decision.
- (17) The consistent and effective enforcement of the child-resistance requirement established by this Decision requires the submission by producers to the competent authorities at their request of test reports on child-resistance delivered by testing bodies accredited by the accreditation bodies which are members of international accreditation organisations or otherwise recognised by the authorities to that end or delivered by testing bodies recognised for executing this type of test by the authorities of the countries where safety requirements equivalent to those established by this Decision are applied. Lighter producers should provide on request without delay to the competent authorities established under Article 6 of the Directive 2001/95/EC all the documents needed. If the producer is unable to provide such documentation within the delay established by the competent authority, the lighters should be withdrawn from the market.
- (18) According to Article 5(2) of Directive 2001/95/EC distributors should help to ensure compliance of the lighters they supply with the child-resistance requirement established by this Decision. In particular they should cooperate with the competent authorities by providing them on request the documentation needed to trace the origin of the lighters.
- (19) The shortest possible transition periods should be allowed for the application by producers of the measures established by this Decision, consistent with the need to prevent further accidents while taking into account technical constraints and ensuring proportionality. Transitional periods are also required for the Member States to ensure that the measures are efficiently applied, given the high volume of lighters marketed annually in the EU and the multiple distribution channels used for such marketing. Therefore, the obligation for producers to place only child-resistant lighters on the market should apply 10 months from the date of notification of this Decision while the obligation to supply only child-resistant lighters to consumers should apply one year after the entry into force of the ban on placing on the market of such lighters. Therefore, the latter obligation will be established when revising this Decision, one year after its adoption.
- (20) Article 13(3) of Directive 2001/95/EC prohibits the export from the Community of the dangerous products which have been the subject of a Decision. However, taking into account the structure of the market for lighters as regards the number of producers worldwide, the volume of exports and imports and the globalisation of markets, an export ban would not improve the safety of consumers located in Third Countries which do not apply child-resistance requirements, since the exports from the EU would be replaced by non-child resistant lighters from non-EU countries. The application of article 13(3) should therefore be suspended until an international standard on child resistance is adopted. This should be without prejudice to the application of measures in third countries where child-resistance requirements are in force.
- (21) The measures provided for in this Decision are in accordance with the opinion of the Committee established by Article 15 of Directive 2001/95/EC,
- HAS ADOPTED THIS DECISION:
- Article 1*
- For the purposes of this Decision:
1. 'lighter' shall mean a manually operated flame-producing device employing a fuel, normally used for deliberately igniting in particular cigarettes, cigars and pipes, and which may foreseeably be used to ignite materials such as paper, wicks, candles and lanterns, manufactured with an integral supply of fuel, whether intended to be refuelled or not.
- Without prejudice to the prohibition of the placing on the market of novelty lighters established in Article 2(2) of this Decision, this definition shall not apply to refillable lighters for which producers provide on request to the competent authorities the necessary documentation substantiating that the lighters are designed, manufactured and placed on the market such as to ensure a continual expected safe use over a lifetime of at least five years, subject to repair, and which fulfill in particular all of the following requirements:
- a written guarantee from the producer of at least two years for each lighter, in accordance with Directive 1999/44/EC of the European Parliament and of the Council ⁽¹⁾,
 - the practical possibility to be repaired and safely refilled over the entire lifetime, including in particular a repairable ignition mechanism,
- ⁽¹⁾ OJ L 171, 7.7.1999, p. 12.

- Parts that are not consumable, but are likely to wear out or fail in continual use after the guarantee period, are accessible for replacement or repair by an authorised or specialised after-sales service centre based in the European Union;
2. 'novelty lighter' shall mean any lighter as defined in specification 3.2 of European Standard EN 13869:2002;
3. 'child-resistant lighter' shall mean a lighter designed and manufactured in such a way that it cannot, under normal or reasonably foreseeable conditions of use, be operated by children younger than 51 months of age because of, for instance, the force needed to operate it or because of its design or the protection of its ignition mechanism, or the complexity or sequence of operations needed for the ignition.
- Shall be presumed to be child-resistant:
- (a) lighters which conform to national standards transposing European Standard EN 13869:2002, as far as the specifications other than those in paragraphs 3.1, 3.4 and 5.2.3 of the Standard are concerned;
- (b) lighters which conform to the relevant rules of the non-EU countries where child-resistance requirements equivalent to those established by this Decision are in force.
4. 'model of lighter' shall mean lighters from the same producer that do not differ in design or other characteristics in any manner that may affect child-resistance;
5. 'child-resistance test' shall mean a systematic test of child-resistance of a given model of lighter, on a sample of the lighters considered, in particular tests made in accordance with national standards transposing European Standard EN 13869:2002, as far as the specifications other than those in paragraphs 3.1, 3.4 and 5.2.3 of the Standard are concerned, or in accordance with the testing requirements of the relevant rules of non-EU countries where child-resistance requirements equivalent to those established by this Decision are in force;
6. 'producer' shall have the meaning as defined in Article 2(e) of Directive 2001/95/EC;
7. 'distributor' shall have the meaning as defined in Article 2(f) of Directive 2001/95/EC.

Article 2

1. Member States shall ensure that only lighters which are child-resistant are placed on the market as of 10 months from the date of notification of this Decision.
2. As of the same date referred to in paragraph 1 above, Member States shall prohibit the placing on the market of novelty lighters.

Article 3

1. As of 10 months from the date of notification of this Decision, Member States shall require the following from producers, as a condition for placing lighters on the market:
- (a) to keep and provide on request without delay to the competent authorities established under Article 6 of the Directive 2001/95/EC, a report of a child-resistance test for each model of lighters with samples of the lighters of the tested model, certifying the child-resistance of the model of lighters placed on the market;
- (b) to attest on request to the competent authorities that all lighters in each of the batches placed on the market conform to the model tested and provide on request to the authorities the documentation on the testing and control programme supporting such an attestation;
- (c) to continuously monitor conformity of the lighters produced with the technical solutions adopted to ensure child-resistance, using appropriate testing methods and to maintain at the disposal of the competent authorities the production records necessary to show that all lighters produced conform to the model tested;
- (d) to keep and provide on request without delay to the competent authorities a new report of a child-resistance test if any changes are made to a model of lighter that may adversely affect the ability of the model to meet the requirements of this Decision.
2. As of 10 months from the date of notification of this Decision, Member States shall require distributors to keep and provide without delay to the competent authorities on request the documentation necessary to identify any person from whom they have been supplied with the lighters they place on the market, in order to ensure traceability of the producer of the lighters throughout the supply chain.
3. Lighters for which producers and distributors do not provide the documentation mentioned in paragraphs 1 and 2 above within the deadline fixed by the competent authorities, shall be withdrawn from the market.

Article 4

1. Reports of a child-resistance test referred to in Article 3 shall include in particular:

- (a) the name, address and principal place of business of the manufacturer wherever he is located, and of the importer if the lighters are imported;
- (b) a complete description of the lighter, including size, shape, weight, fuel, fuel capacity, ignition mechanism, and child-resistance devices, design, technical solutions and other features that make the lighter child-resistant in accordance with the definitions and requirements of this Decision. In particular this will include a detailed description of all dimensions, force requirements, or other features that could affect the child-resistance of the lighter, including the manufacturer's tolerances for each such feature;
- (c) a detailed description of the tests and of the results obtained, the dates of the tests, the location where the tests have been performed, the identity of the organisation that conducted the tests and details of the qualification and competence of such organisation to conduct the tests concerned;
- (d) the identification of the place where the lighters are or have been manufactured;
- (e) the location where the documentation required by this Decision is kept;
- (f) references of the accreditation or recognition of the testing body.

2. Reports of a child-resistance test referred to in Article 3 shall be established by either:

- (a) testing bodies accredited as fulfilling the requirements established by EN ISO/IEC 17025:2005 'General requirements for the competence of testing and calibration laboratories', by a member of the International Laboratory Accreditation Cooperation (ILAC) for executing child-resistance tests on lighters or otherwise recognised to that end by the competent authority of a Member State;
- (b) testing bodies whose reports of a child-resistance test are accepted by one of the countries where child-resistance requirements equivalent to those established by this Decision are applied.

For information purposes, a list of the bodies referred to in paragraphs (a) and (b) above will be published and updated as necessary by the Commission.

Article 5

The prohibition referred to in Article 13(3) of Directive 2001/95/EC shall not apply.

Article 6

1. Member States shall take the necessary measures to comply with this Decision within four months from the date of notification of this Decision and publish those measures. They shall forthwith inform the Commission thereof.

2. This Decision shall be applicable until 12 months from the date of notification of this Decision.

3. On the basis of the experience acquired and progress made in view of a permanent measure, the Commission shall decide whether to prolong for additional periods the validity of this Decision, whether the Decision, in particular Articles 1(1), 1(3) and 4, should be amended and whether the suspension in Article 5 should be lifted. In particular, for Article 1(3), the Commission shall decide whether other international standards or national rules or standards or other technical specifications, in particular specifications concerning alternative methods or criteria to establish child-resistance of lighters, may be recognised as being equivalent to the child-resistance requirement established by this Decision. The decisions referred to in this paragraph shall be taken in accordance with Article 15(2) of Directive 2001/95/EC.

4. Within the framework of activities referred to in Article 10 of Directive 2001/95/EC on general product safety the Commission will, in advance of the deadline for the implementation of this Decision by the Member States, establish guidelines with the aim of facilitating the practical application of the Decision.

Article 7

This Decision is addressed to the Member States.

Done at Brussels, 11 May 2006.

For the Commission
Markos KYPRIANOU
Member of the Commission