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I

(Acts adopted under the EC Treaty/Euratom Treaty whose publication is obligatory)

REGULATIONS

COUNCIL REGULATION (EC) No 221/2008

of 10 March 2008

imposing a definitive anti-dumping duty and collecting definitively the provisional duty imposed on imports of certain manganese dioxides originating in South Africa

THE COUNCIL OF THE EUROPEAN UNION,

B. SUBSEQUENT PROCEDURE

Having regard to the Treaty establishing the European Community,

Having regard to Council Regulation (EC) No 384/96 of 22 December 1995 on protection against dumped imports from countries not members of the European Community⁽¹⁾ (the basic Regulation), and in particular Article 9 thereof,

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

Whereas:

A. PROVISIONAL MEASURES

- (1) The Commission, by Regulation (EC) No 1066/2007⁽²⁾ (the provisional Regulation) imposed a provisional anti-dumping duty on imports of electrolytic manganese dioxides (EMD) (i.e. manganese dioxides produced through an electrolytic process) not heat-treated after the electrolytic process, falling within CN code ex 2820 10 00 (TARIC code 2820 10 00 10) and originating in South Africa.
- (2) It is recalled, as set out in recital 8 of the provisional Regulation, that the investigation of dumping and injury covered the period from 1 October 2005 to 30 September 2006 (investigation period or IP). The examination of the trends relevant for the assessment of injury covered the period from 1 January 2002 to the end of the investigation period (period considered).

- (3) Following the imposition of a provisional anti-dumping duty on imports of electrolytic manganese dioxides originating in South Africa, all interested parties received disclosure of the facts and considerations on which the provisional measures were based. They were also granted an opportunity to be heard. Some interested parties submitted comments in writing and one party which asked to be heard was granted a hearing.
- (4) The Commission continued to seek and verify all information it deemed necessary for its definitive findings. After the imposition of provisional measures, an on-spot verification visit was carried out at the premises of Delta EMD Australia Pty Ltd. in order to verify their profits on the domestic market.
- (5) The oral and written comments submitted by the parties were considered and, where appropriate, the findings were modified accordingly.

C. PRODUCT CONCERNED AND LIKE PRODUCT

1. Product concerned

- (6) One user argued that because carbon zinc EMD cannot be used in alkaline batteries, alkaline and carbon zinc EMD are not interchangeable and therefore not a single product. It should be recalled that, unlike natural manganese dioxides, chemical manganese dioxides or heat-treated electrolytic manganese dioxides, the carbon zinc grade EMD and alkaline grade EMD share the same basic physical, chemical and technical characteristics. Though they are not interchangeable for alkaline battery production, they are both used for essentially the same purposes, i.e. in dry cell battery manufacture. Therefore, the above argument had to be rejected.

⁽¹⁾ OJ L 56, 6.3.1996, p. 1. Regulation as last amended by Regulation (EC) No 2117/2005 (OJ L 340, 23.12.2005, p. 17).

⁽²⁾ OJ L 243, 18.9.2007, p. 7.

- (7) In the absence of any other comments and evidence, recitals 9 to 13 of the provisional Regulation are hereby confirmed.

2. Like product

- (8) In the absence of any comments concerning the like product, recitals 14 and 15 of the provisional Regulation are hereby confirmed.

D. DUMPING

1. Normal value

- (9) In the absence of any comments concerning the methodology used to determine the normal value, recitals 16 to 26 of the provisional Regulation are hereby confirmed.

- (10) Following comments received with regard to the establishment of profit as described in recitals 27 and 28 and further on-spot verification, the methodology has been revised. In particular, it was found that the profit achieved by the related company Delta EMD Australia Pty Ltd could not be used, since it did not relate to the product concerned. With regard to the USA, it was considered that the profit margin might be affected by other factors. In these circumstances, it has been considered more appropriate to base the profit margin on data relating to the country under investigation, and in particular the long-term lending commercial interest rate of 10,75 % applied in South Africa during the IP. In the absence of any other reliable data relating to the profit margin achievable for the product concerned this method was considered conservative, reasonable and the most appropriate within the meaning of Article 2(6)(c) of the basic Regulation. Furthermore, it is in the same range as the profit found in India for the like product.

- (11) Following the provisional disclosure, the exporting producer claimed a number of adjustments related to the costs included in the normal value, in particular waste treatment, the purchase price of raw materials and some allocation in the SG&A reported for the group expenses. None of these claims were considered justified, since they were either unverifiable or in contradiction with the accounting.

- (12) The company also claimed a reduction in the SG&A expenses used to construct normal value to remove a provision for a compensation claim made on a sale prior to the IP. This claim was verified based on evidence provided and the SG&A expenses were adjusted as claimed.

2. Export prices

- (13) In the absence of any comments concerning the export prices, the export prices as set out in recitals 29 and 30 of the provisional Regulation are confirmed.

3. Comparison

- (14) In the absence of any comments concerning the comparison, the comparison as set out in recital 31 of the provisional Regulation is confirmed.

4. Dumping margin

- (15) In the light of the above, the definitive weighted average dumping margin expressed as a percentage of the cif Community frontier price, duty unpaid, is:

Company	Dumping margin
Delta E.M.D. (Pty) Ltd.	17,1 %

- (16) In the absence of any comments concerning the countrywide dumping margin applicable to all other exporters in South Africa, the methodology for the determination of the countrywide dumping margin as set out in recital 34 of the provisional Regulation is confirmed.

E. INJURY

1. Community production and Community industry

- (17) In the absence of any comments concerning the Community production and Community industry, recitals 35 to 38 of the provisional Regulation are confirmed.

2. Community consumption

- (18) In the absence of any comments concerning the Community consumption, recitals 39 and 40 of the provisional Regulation are confirmed.

3. Imports into the Community from the country concerned

- (19) In the absence of any comments concerning the imports into the Community from the country concerned, recitals 41 to 46 of the provisional Regulation are hereby confirmed.

4. Situation of the Community industry

- (20) In the absence of any comments concerning the situation of the Community industry, recitals 47 to 65 of the provisional Regulation are hereby confirmed.

5. Conclusion on injury

- (21) In the absence of any comments concerning this aspect, recitals 66 to 72 of the provisional Regulation are hereby confirmed.

F. CAUSATION

1. Effect of the imports from South Africa

- (22) In the absence of new information or arguments in this respect, recitals 73 to 78 of the provisional Regulation are hereby confirmed.

2. Effect of other factors

Imports from other third countries

- (23) Several parties argued that although the volume of EMD imports from the People's Republic of China (PRC) during the IP were negligible, their mere presence as a source of cheap EMD and the global oversupply of EMD in the world has put prices under pressure in the Community market and worldwide.
- (24) It should be noted that the investigation also showed, as stated by some other parties in their submissions, that EMD imports from the PRC are currently not an alternative for users, especially in the small cell battery sector. Indeed, switching from one EMD source to another (qualification) is time- and finance-intensive. This prevents the users from being flexible in their choice of EMD source.

- (25) It should be noted that this conclusion is confirmed by the low level of EMD imports from the PRC, which shows that this source of imports, despite prices much below the average import prices, has not been considered by users as an alternative during the IP and could not have contributed to the injury suffered by the Community industry. Therefore, the argument is rejected and the findings in recitals 79 to 81 are hereby confirmed.

Export performance of the Community industry

- (26) It was argued by some parties that the decrease in domestic sales during the IP by the Community industry was due to the fact that the Community industry concentrated on the export market. This argument had to be rejected, since it was found that even though the export volume of the Community industry increased by 9 % during the whole period considered (2002 to IP), the export performance could in no way have contributed to the injury suffered by the Community industry, as explained below.
- (27) Firstly, as established provisionally, the export sales of the Community industry were profitable throughout the

period considered. Furthermore, the volume of exports decreased during the IP by 18 percentage points (compared to 2005), while the ratio of exports in the production volume of the Community industry remained constant throughout the period considered.

- (28) In the absence of new information or other arguments in this respect, recitals 82 and 83 of the provisional Regulation are hereby confirmed.

Other Community producers

- (29) After the provisional disclosure Delta argued that the non-cooperation of the other Community producer CEGASA was an indication that it was not injured. This argument was rejected as it is a pure allegation. Firstly, the aforementioned Community producer is primarily a captive user of EMD for its own battery production, hence the sales of EMD are not its primary business. Secondly, as this Community producer did not cooperate, no conclusions on the injury factors or motives for non-cooperation can be drawn. Moreover, from the user questionnaire replies, it could be established at the provisional stage that the sales of other Community producers decreased in parallel with the increased volume of dumped imports from South Africa.
- (30) In the absence of new information in this respect, recitals 84 to 86 of the provisional Regulation are hereby confirmed.

Contraction in demand

- (31) It was argued by some parties that the loss in sales volumes by the Community industry was caused by the offshoring of parts of production by one of the users that purchased from the Community industry. Thus the contraction in demand would have caused the loss in sales volumes.
- (32) Although one of the main users did indeed relocate some parts of its production to the PRC in 2005 and 2006 and in parallel the Community industry's sales volumes to this user decreased in the IP, this loss accounted for a small part of the total loss in volume during the IP. Moreover, the volume sold by the Community industry to this user during the IP remained at the same level as two years before — in 2004 — and then increased in 2005, when offshoring started, while the total EC sales of the Community industry decreased dramatically by 61 percentage points from 2004 to the IP (39 percentage points in 2005 and 22 in the IP). Therefore the argument was rejected.
- (33) In the absence of new information or other arguments in this respect, recital 87 of the provisional Regulation is hereby confirmed.

Increase in raw material prices

- (34) It was argued by the exporting producer that due to its competitive advantage of being located close to the manganese ore mines and advantageous contractual conditions with the supplier, a related company, it did not have any difficulty absorbing the increase in the price of raw materials.

- (35) This argument was rejected as irrelevant to the causality examination, as it has been established that despite its alleged competitive advantages, the exporting producer practiced dumped pricing.

- (36) In the absence of new information or other arguments in this respect, recitals 88 to 90 of the provisional Regulation are hereby confirmed.

Global oversupply of EMD

- (37) In the absence of new information or other arguments in this respect and taking into account the findings under recitals 23, 24 and 25 above, the recitals 91 to 92 of the provisional Regulation are hereby confirmed.

Increasing competition among battery producers

- (38) After the provisional disclosure Delta contested the finding that the EMD producers had significant power to negotiate prices with the battery producers because of the limited uses of EMD, i.e. only in battery production. Thus it was alleged that due to competition pressure channelled through the negotiating power the battery producers imposed low prices on EMD producers.

- (39) Though it cannot be denied that the limited use of EMD could to some extent restrict the price-setting power of the EMD producers, it is far from offsetting the power of EMD producers deriving from the EMD users' limited flexibility in switching the supply sources and the availability of high purity EMD (see recitals 23, 24 and 25 above). The only considerable power in negotiations for battery producers with regard to the price could come from the relative transparency of the EMD market, as they engage in annual supply negotiations with various EMD producers simultaneously. However, the benefits of transparency were again outweighed by the limited choice of EMD producers whose EMD was already qualified by battery producers — Delta and Tosoh. Therefore, the argument was rejected.

- (40) Several users have argued that the prices Delta charged them were not dumped and that they did not exert pressure on the Community industry. In this regard it should be noted that the injury to the Community industry is assessed as a whole; particular companies

cannot be singled out as their situation is outweighed by the others.

- (41) In the absence of other arguments in this respect, recitals 93 and 94 of the provisional Regulation are hereby confirmed.

Self-inflicted injury

- (42) It has been argued by Delta that the injury to the Community industry has been self-inflicted because of Tosoh's restructuring decisions and investments which led to a decrease in employment and profitability.

- (43) It was established in the provisional Regulation that the decrease in employment was mainly due to Tosoh's restructuring. However, the allegation that profitability decreased because of investment has to be rejected. Firstly, most of Tosoh's restructuring and investment took place in 2004, a year which was accompanied by positive profitability and a good return on investment. As a result of these investments Tosoh considerably reduced its unit cost of production. However, despite these efforts Tosoh was unable to benefit from its investments in the following years. Due to increasing volume of dumped imports from South Africa made at prices below the cost of production Tosoh's profitability, return on investment and cash flow decreased, reaching strongly negative levels as established in the provisional Regulation.

- (44) Delta has further argued that the injury to profit was self-inflicted because of the management decisions by the Community industry involving 'unusually long payment deferrals to the customers' and 'excessively high commissions to its agent'. These arguments were rejected on the following basis.

- (45) It was not found that payment deferrals had a substantial impact on the liquidity or cash flow of the Community industry. Moreover, the extended payment deferrals were granted in an attempt to obtain slightly higher prices and therefore mitigate the impact of dumped imports on prices. Therefore, extended payment deadlines cannot be considered as causing self-inflicted injury.

- (46) Furthermore, apart from the fact that the commission paid to the agent was not found to be unusual for the sector, this argument is not relevant since the cost of production and profitability of the Community industry was calculated on the basis of costs incurred by both Tosoh and its related companies receiving a commission. The commission itself is an intra-company payment and therefore its level has no impact on the consolidated profit which was used in the injury calculation.

3. Conclusion on causation

- (47) In the absence of new information or other arguments in this respect, recitals 95 to 97 of the provisional Regulation are hereby confirmed.

G. COMMUNITY INTEREST

1. Interest of the Community industry

- (48) In the absence of new information or other arguments in this particular respect, recitals 100 to 104 of the provisional Regulation are hereby confirmed.

2. Interest of users

- (49) It has been argued by some parties that the disappearance of Tosoh will not harm the battery industry given Delta's existence as an alternative source and hence that the maintenance of a Community producer is not in the Community interest. This argument was rejected on the following grounds.

- (50) Firstly, the low prices practiced by Delta cannot be regarded as sustainable, as they are below the cost of production. Secondly, taking into account the limited flexibility of the users to switch from one source of EMD to another as they have to test (qualify) the suitability of the 'new' EMD for their battery production, they have only a limited negotiating power against the EMD producers, which will be weakened even more should Tosoh disappear.

- (51) It was established in the provisional Regulation that the cost of EMD constitutes 10 to 15 % of the total cost of battery production. Two out of three cooperating users contested this finding but no evidence was provided to support their claim. As the user who did not contest this figure was the only one whose data could be verified in this proceeding, the provisional findings in recital 107 of the provisional Regulation are hereby confirmed.

- (52) The users of EMD have argued repeatedly that they will not be able to absorb the anti-dumping duty as an increase in the cost of EMD. They are under pressure because of increases in the costs of other important raw materials and claim they cannot afford further pressure from an increase in the cost of EMD.

- (53) However, notwithstanding the findings in recital 107 of the provisional Regulation, the level of the anti-dumping duty does not seem to be even comparable to the cost increase in the other materials used in battery production which took place between January 2006 and January 2007 (the price of copper rose by 119,73 %, nickel 252,89 % and zinc 181,10 %). Therefore, it can be

confirmed definitively that the measures will have little impact on the competitiveness of this industry.

- (54) It was also argued that the financial situation of the Community users varies significantly. In this regard it should be noted that the situation of users in the Community interest test is assessed as a whole.

- (55) Several users submitted that the battery producers employ far more people than the Community industry and that due to the anti-dumping measures they may be forced to lay off workforce and even to relocate the production plants. While it has been confirmed that the number of employees of battery producers is much larger than that of the Community industry, no evidence has been submitted that the imposition of duties would result in loss of employment. Therefore, against the background of findings under recital 52 and the provisional Regulation, that the duties will not have a significant impact on the users, the argument was rejected.

- (56) It was argued by several parties that the Community industry could not meet the Community demand. This argument was rejected. Given the level of the duty proposed, imports from South Africa will continue to be able to enter the Community market, albeit at non-dumped prices.

- (57) In the absence of other arguments in this particular respect, recitals 105 to 109 of the provisional Regulation are hereby confirmed.

3. Interest of unrelated importers/traders in the Community

- (58) The importer Traxys France (agent of Delta) argued that the measures will force its supplier Delta out of business which will result in the loss of 5 to 25 % of profits and jobs. This argument was rejected on the grounds that, given the limited impact on the players (battery producers) the measures will not force Delta out of business but simply counteract the unfair competition, preserve Tosoh on the Community market and create a level playing field to the benefit of all EMD suppliers and the battery producers.

- (59) In the absence of new information or evidence in this respect, recitals 110 and 111 of the provisional Regulation are hereby confirmed.

4. Conclusion on Community interest

- (60) In the absence of new information or other arguments in this respect, recitals 112 to 114 of the provisional Regulation are hereby confirmed.

H. DEFINITIVE ANTI-DUMPING MEASURES

1. Injury elimination level

(61) In view of the conclusions reached with regard to dumping, resulting injury, causation and Community interest, definitive measures should be imposed in order to prevent further injury being caused to the Community industry by the dumped imports.

(62) In the absence of new information or other arguments in this respect, recitals 115 to 117 of the provisional Regulation are hereby confirmed. The injury margin was significantly higher than the dumping margin found.

2. Definitive measures

(63) In the light of the foregoing, it is considered that, in accordance with Article 9 of the basic Regulation, a definitive anti-dumping duty should be imposed at the level of the dumping margin since it is lower than the injury margin calculated above.

(64) In view of the magnitude of the dumping margin and in the light of the injury to the Community industry, it is considered necessary that the amounts secured by way of the provisional anti-dumping duty imposed by the provisional Regulation should be definitively collected.

(65) On the basis of the above, the proposed definitive duty rates are:

Delta E.M.D (Pty) Ltd.	17,1 %
All other companies	17,1 %

3. Undertaking

(66) Following the disclosure of essential facts and considerations on the basis of which it was intended to recommend the imposition of definitive anti-dumping duties, the exporting producer in South Africa offered a price undertaking in accordance with Article 8(1) of the basic Regulation. The Community industry was informed about this offer and submitted its comments.

(67) The offer was examined and it has been decided to reject it on the following grounds.

(68) It is noted that there are only a limited number of suppliers in the Community EMD market and that the South African exporter holds a significant market share (60 to 70 %). This grew by 81 % during the period considered for injury assessment and was achieved by the aggressive pricing of exports at levels below the exporter's costs of production during the IP.

(69) Additionally, despite the volatility of the prices of the main inputs, such as manganese ore and energy, the prices of the product concerned and the like product were relatively stable. It is considered that due to the dumping practices, the volatility in the costs of production was not reflected in the prices of the product concerned.

(70) Therefore, measures based on a fixed minimum price may not be effective in addressing changes in the price of EMD that might result from changes in the prices of the main raw materials once the pressure exerted on prices by the dumped products is initially remedied by the measure itself. Moreover, as there is only a limited number of EMD buyers in the Community market, there is a risk that any measure based on a minimum price could become a reference price on the market and thereby reduce competition, which would not be in the Community interest,

HAS ADOPTED THIS REGULATION:

Article 1

1. A definitive anti-dumping duty is hereby imposed on imports of electrolytic manganese dioxides (i.e. manganese dioxides produced through an electrolytic process) not heat-treated after the electrolytic process, falling within CN code ex 2820 10 00 (TARIC code 2820 10 00 10) and originating in South Africa.

2. The rate of the definitive anti-dumping duty applicable to the net, free at Community frontier price, before duty, of the products manufactured by the companies below shall be:

Company	Anti-Dumping Duty	TARIC Additional Code
Delta E.M.D. (Pty) Ltd.	17,1 %	A828
All other companies	17,1 %	A999

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

Article 2

Amounts secured by way of provisional anti-dumping duties pursuant to Commission Regulation (EC) No 1066/2007 on imports of electrolytic manganese dioxides (i.e. manganese dioxides produced through an electrolytic process) not heat-treated after the electrolytic process, falling within CN code ex 2820 10 00 (TARIC code 2820 10 00 10) and originating in South Africa shall be definitively collected.

This Regulation shall enter into force on the next 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, 10 March 2008.

For the Council
The President
D. RUPEL

COMMISSION REGULATION (EC) No 222/2008**of 12 March 2008****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 1580/2007 of 21 December 2007 laying down implementing rules of Council Regulations (EC) No 2200/96, (EC) No 2201/96 and (EC) No 1182/2007 in the fruit and vegetable sector ⁽¹⁾, and in particular Article 138(1) thereof,

Whereas:

- (1) Regulation (EC) No 1580/2007 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 138 of Regulation (EC) No 1580/2007 shall be fixed as indicated in the Annex hereto.

Article 2

This Regulation shall enter into force on 13 March 2008.

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

Done at Brussels, 12 March 2008.

For the Commission

Jean-Luc DEMARTY

*Director-General for Agriculture and
Rural Development*

⁽¹⁾ OJ L 350, 31.12.2007, p. 1.

ANNEX

to Commission Regulation of 12 March 2008 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	JO	79,4
	MA	70,0
	TN	120,5
	TR	96,9
	ZZ	91,7
0707 00 05	EG	178,8
	JO	178,8
	MA	118,0
	TR	143,7
	ZZ	154,8
0709 90 70	MA	112,3
	TR	122,2
	ZZ	117,3
0709 90 80	EG	238,6
	ZZ	238,6
0805 10 20	EG	47,3
	IL	55,9
	MA	60,0
	TN	55,3
	TR	100,7
	ZZ	63,8
0805 50 10	EG	107,9
	IL	104,7
	SY	105,3
	TR	124,0
	ZZ	110,5
0808 10 80	AR	93,0
	BR	95,0
	CL	107,4
	CN	88,2
	MK	46,8
	US	105,3
	UY	90,0
	ZZ	89,4
0808 20 50	AR	80,1
	CL	70,3
	CN	60,1
	ZA	91,9
	ZZ	75,6

⁽¹⁾ Country nomenclature as fixed by Commission Regulation (EC) No 1833/2006 (OJ L 354, 14.12.2006, p. 19). Code 'ZZ' stands for 'of other origin'.

COMMISSION REGULATION (EC) No 223/2008**of 12 March 2008****laying down conditions and procedures for the recognition of producer organisations of silkworm rearers**

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

product, promoting the rationalisation and mechanisation of production.

Having regard to the Treaty establishing the European Community,

Having regard to Council Regulation (EC) No 1234/2007 of 22 October 2007 establishing a common organisation of agricultural markets and on specific provisions for certain agricultural products (Single CMO Regulation) ⁽¹⁾, and in particular Article 127 in conjunction with Article 4 thereof,

(7) To avoid any discrimination between producers and ensure the unity and effectiveness of any action undertaken, conditions and procedures for the recognition of producer organisations in the silkworm sector should be laid down, applicable throughout the Community; producer organisations should comply with those conditions and procedures to qualify for recognition by the Member States.

Whereas:

(1) Council Regulation (EEC) No 707/76 of 25 March 1976 on the recognition of producer groups of silkworm rearers ⁽²⁾ is to be repealed from 1 April 2008 under Article 201(1)(b) of Regulation (EC) No 1234/2007.

(8) The recognition of producer organisations should be linked to the evidence of economic activity on an adequate scale related to the production and marketing in the silkworm sector, while derogations should be made possible in regions with low production. However, since the number of silkworm producers has considerably decreased in the last few years, the threshold of the minimum number of producers required to form a recognised producer organisation, fixed in Regulation (EEC) No 822/76, should be significantly reduced.

(2) Certain conditions and obligations laid down in Regulation (EEC) No 707/76 have not been incorporated in Regulation (EC) No 1234/2007.

(9) The provisions relating to the procedure for the granting and withdrawal of recognition should be amplified by specifying the information to be supplied when the application is lodged.

(3) In order to enable the silkworm sector to continue to function properly and in the interest of clarity and rationalisation a new Regulation should be adopted laying down those conditions and obligations as well as the current implementing rules laid down in Commission Regulation (EEC) No 822/76 of 7 April 1976 on the conditions and the procedures for the recognition of producer groups of silkworm rearers ⁽³⁾.

(10) For the information of Member States and parties concerned, a list should be published at the beginning of each year, of the groups which were recognized during the previous year and of those from whom recognition was withdrawn during the same period.

(4) Regulation (EEC) No 822/76 should therefore be repealed.

(11) The measures provided for in this Regulation are in accordance with the opinion of the Management Committee for the Common Organisation of Agricultural Markets,

(5) The new Regulation should apply from the date of repeal of Regulation (EEC) No 707/76.

HAS ADOPTED THIS REGULATION:

(6) Article 122 of Regulation (EC) No 1234/2007 provides for the recognition in the silkworm sector of producer organisations which pursue a specific aim, which may in particular relate to concentrating supply and marketing the produce of the members, adapting production jointly to the requirements of the market and improving the

Article 1

1. Member States shall recognise producer organisations of silkworm rearers which:

⁽¹⁾ OJ L 299, 16.11.2007, p. 1.

⁽²⁾ OJ L 84, 31.3.1976, p. 1.

⁽³⁾ OJ L 94, 9.4.1976, p. 19.

(a) request recognition;

(b) fulfil the general conditions laid down in Article 122 of Regulation (EC) No 1234/2007;

(c) fulfil the specific conditions laid down in Article 2 of this Regulation.

2. The competent authority for the recognition of a producer organisation shall be the authority of the Member State within whose territory the producer organisation has its registered office.

Article 2

1. In order to obtain recognition, producer organisations must:

(a) include in their activities the production and marketing of silkworm cocoons;

(b) include at least 50 producers who use or undertake to use at least 2 500 boxes during the marketing year in which recognition is granted;

(c) exclude, throughout their field of activity, any discrimination whatsoever between Community silkworm rearers in respect of *inter alia* their nationality or place of establishment;

(d) have legal personality or sufficient legal capacity to enjoy rights and be subject to obligations in accordance with national law;

(e) have no members other than silkworm rearers;

(f) include in their rules the following obligations for members:

(i) to market, that is sell to the wholesale trade or to the user industries, all their production through the producer organisation, subject to the possibility of a derogation in respect of certain quantities;

(ii) to apply, in respect of production and marketing, the rules adopted by the organisation designed to adapt the volume of supply and the quality of the product to market requirements;

(iii) not to leave the organisation until after having been a member for at least three years since the organisation was recognised and after giving at least one year's notice, without prejudice to any provisions of national law designed to protect the organisation or its creditors, in specified cases, against any financial consequences which might result from the withdrawal

of a member or to preclude a member from withdrawing from membership in the course of the financial year;

(g) keep separate accounts for the activities in respect of which they have been recognised.

2. In accordance with the procedure referred to in Article 195(2) of Regulation (EC) No 1234/2007, a Member State may be authorized, on request, to recognise in a region of low production an organisation which does not satisfy the condition set out in paragraph 1(b) of this Article.

Article 3

Producer organisations shall submit with their applications for recognition the following documents and information:

(a) the statute of the organisation;

(b) the names of persons authorized to act in the name of and on behalf of the organisation;

(c) a list of the activities justifying the application for recognition;

(d) proof that the provisions of Article 2(1)(b) or Article 2(2) have been complied with;

(e) the rules adopted pursuant to Article 2(1)(f)(ii) and in particular those relating to the drying of cocoons.

Article 4

1. Member States shall decide on applications for recognition within two months of their receipt.

2. Member States shall inform the Commission of their decisions within two months and indicate reasons if they refuse applications.

Article 5

1. Member States shall exercise continuous supervision to ensure that recognised organisations satisfy the conditions for recognition.

2. Member States shall withdraw recognition of an organisation if the conditions laid down for recognition are no longer satisfied or if recognition was based on incorrect information. They shall withdraw with retroactive effect recognition obtained or enjoyed fraudulently.

3. Where a Member State withdraws recognition of an organisation it shall inform the Commission thereof within two months and indicate its reasons therefore.

Article 6

At the beginning of each year the Commission shall publish in the *Official Journal of the European Union* C series the list of organisations which were recognised during the previous year and the list of organisations from which recognition was withdrawn during the previous year.

Article 7

Regulation (EEC) No 822/76 is repealed.

Article 8

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

It shall apply from 1 April 2008.

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

Done at Brussels, 12 March 2008.

For the Commission

Mariann FISCHER BOEL

Member of the Commission

RULES OF PROCEDURE

PRACTICE DIRECTIONS TO PARTIES ON JUDICIAL PROCEEDINGS BEFORE THE EUROPEAN UNION CIVIL SERVICE TRIBUNAL

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THE EUROPEAN UNION CIVIL SERVICE TRIBUNAL,

Proceedings before the Civil Service Tribunal are subject to language arrangements appropriate to a multilingual Community;

Having regard to Article 120 of its Rules of Procedure;

Whereas:

It is in the interests of the parties to proceedings before the Civil Service Tribunal that the Tribunal provide concise responses to matters on which the parties' representatives wish to be better informed, and provide guidance to enable them to draft their pleadings appropriately;

It is in the interests of the efficient conduct of proceedings before the Civil Service Tribunal and the expeditious processing of cases that practice directions should be issued to the lawyers and agents of parties, dealing with the manner in which pleadings and other procedural documents relating to the written procedure are to be submitted so as to ensure the efficient conduct of the hearing;

There are certain inherent constraints in the electronic management of procedural documents within the Civil Service Tribunal;

Compliance with these directions reduces the number of requests for regularisation and the risk of inadmissibility as a result of failure to comply with the rules as to form;

It is in the interests of the efficient conduct of proceedings before the Civil Service Tribunal that practice directions should be given to persons concerned regarding the submission of applications for legal aid and the conduct of the oral procedure;

HEREBY DECIDES TO ADOPT THE FOLLOWING PRACTICE DIRECTIONS:

I. WRITTEN PROCEDURE

A. Application

1. Lodging the application

1. Every application shall be addressed to the Registry of the Tribunal. It must comply with the provisions of Article 34 of the Rules of Procedure.
2. The information to be included in the application and the documents required to be annexed to it are listed in Article 35(1), (2), (3) and (5) of the Rules of Procedure.
3. Article 35(5) and the third subparagraph of Article 39(1) of the Rules of Procedure concern the certificate required to be lodged at the Registry by the applicant's lawyer and by any lawyer who may be assisting the defendant's agent. It should be noted that the principle of compulsory representation before the Tribunal is laid down by Article 19 of the Statute of the Court of Justice. With the exception of the Member States, other States which are parties to the EEA Agreement (Norway, Iceland and Liechtenstein) and the Community institutions which are represented by their agents, the parties must therefore be represented by a lawyer authorised to practise before a court of a Member State or of another State party to the EEA Agreement. However, the obligation to be represented by a lawyer does not apply to the procedure for obtaining legal aid (see, in that regard, Title I, Chapter E).
4. In addition, although no written instructions from the applicant to the lawyer representing him are required on lodging the application, any change in the number or identity of lawyer(s) (e.g. replacement of one lawyer by another, presence of an additional lawyer, withdrawal of instructions from one of the lawyers who made the application) must be notified to the Registry in writing without delay.
5. The applicant's lawyer should state clearly on the first page of the application his address, telephone and fax numbers and email address. In the case of an address for service in Luxembourg pursuant to Article 35(3) of the Rules of Procedure, the applicant's own address cannot be accepted as an address for service.
6. The handwritten signature of the lawyer should be legible and appear at the end of the application. The absence of a signature cannot be rectified. A copy, such as a stamp, facsimile signature, photocopy, etc. will not be accepted.

In the case of more than one representative, the signature of one of them will be sufficient. The signature by proxy of a person other than the applicant's representative(s) will not be accepted, even where that signatory is a member of the same chambers or practice as the representative(s).

2. Mandatory information and rules on presentation of the application

7. The language of the case shall be the language chosen for the drafting of the application, in accordance with Article 29 of the Rules of Procedure which, in relation to language arrangements, refers to Article 35 of the Rules of Procedure of the Court of First Instance.
8. In the interests both of the parties themselves and of the proper administration of justice, pleadings should be as concise as possible having regard to the nature of the facts and complexity of the issues raised. An application should not therefore, in principle, exceed 10 to 30 pages, depending on the circumstances of the case.
9. The form of order sought must be precisely worded and set out at the beginning or end of the application, and its heads of claim must be numbered.
10. In the case of 10 or more applicants, a list of all their names and addresses should be attached to the application and sent to the Registry by email to tfp.greffe@curia.europa.eu at the same time as the application, indicating clearly the case to which the list relates.
11. An application must be accompanied by a summary of the dispute, designed to facilitate the drafting of the notice prescribed by Article 37(2) of the Rules of Procedure, which will be prepared by the Registry. That summary, which should not be more than two pages long, should also be sent by email to tfp.greffe@curia.europa.eu, indicating clearly the case to which it relates. In principle, the summary will be available in its entirety on a special page on the website www.curia.europa.eu, to enable any person concerned to make enquiries. Accordingly, the summary of the case must satisfy certain requirements as to style which will be indicated on the relevant page of that website.
12. An application made pursuant to Article 44(4) of the Rules of Procedure for the name of the applicant or of other persons, or certain information, to be omitted from the publications relating to a case (anonymity), must give reasons and be clearly indicated in a letter accompanying the application.

13. If the application is lodged after the submission of an application for legal aid (see Title I, Chapter E), the effect of which, under Article 97(4) of the Rules of Procedure, is to suspend the period prescribed for the bringing of an action, this must be pointed out at the beginning of the application. If the application is lodged after notification of the order making a decision on an application for legal aid, reference must equally be made in the application to the date on which the order was served on the applicant.
14. An application must be submitted in such a way as to enable it to be processed electronically by the Tribunal, in particular by means of document scanning and character recognition. Accordingly, the following requirements must be complied with:
- (a) the text must be easily legible and appear on one side of the page only ('recto', not 'recto verso');
 - (b) the paragraphs of the text must be numbered consecutively;
 - (c) documents must not be bound together or fixed to each other by any other means (e.g. glued or stapled);
 - (d) the text must appear in characters of a current type with sufficient line spacing and margins to ensure that a scanned version will be legible.
15. The pages of the application and annexes must in addition be numbered consecutively in the top right-hand corner, including any annexes and page dividers. This is intended to ensure that all pages of documents scanned by the Tribunal have been duly scanned.
16. In accordance with the second subparagraph of Article 34(1) of the Rules of Procedure, the application and any annexes must, like other pleadings, be lodged together with five paper copies for the Tribunal and a copy for every other party to the proceedings (thus normally seven paper copies). The first page of each set of copies must be endorsed by the lawyer to the effect that the copies are certified true copies of the original, and bear his signature or initials. Without prejudice to point 34 of these directions, electronic files of pleadings and/or their annexes will not therefore be accepted.
17. As regards the annexes, the Tribunal requests the parties to be rigorous in their selection of documents relevant for the purpose of the proceedings; this is desirable in view of the material and linguistic constraints on the Tribunal and the parties. In particular, information to which the Tribunal has access (e.g. case-law of the Community Courts cited in pleadings) is not to be produced. The following formal requirements must be complied with:
- (a) annexes must be numbered and contain a reference to the pleading to which they are attached (e.g. Annex A.1, A.2 etc. in an application; Annex B.1, B.2 etc. in a defence; Annex C.1, C.2 etc. in a reply; Annex D.1, D.2 etc. in a rejoinder). In the case of more than three annexes, they should preferably be lodged with page dividers;
 - (b) annexes must be readily legible. An annex will not be accepted if the print quality is inadequate;
 - (c) annexes must be drawn up in the language of the case or be accompanied by a translation. Annexes which do not satisfy those requirements cannot in principle be accepted (see Article 29 of the Rules of Procedure which, in relation to language arrangements, refers to Article 35(3) of the Rules of Procedure of the Court of First Instance); under Article 8(5) of the Instructions to the Registrar, a derogation from that rule is possible only where it is duly justified;
 - (d) annexes must be preceded by a schedule of annexes containing, in respect of each document annexed, the number (e.g. A.1), an indication of the nature of the document (e.g. 'letter of ... from X to Z'), the page reference or paragraph number in the application where the document is mentioned (e.g. 'p. 7, para. 17'), the number of pages of the document, and the page reference (within the consecutively numbered set of documents) for the first page of the particular document annexed. An example of a schedule of annexes is included in the 'model application' available on the website www.curia.europa.eu
- 3. Putting the application in order*
18. In order to give parties the opportunity to make good any formal irregularities in an application, it is necessary, in certain circumstances, to put the application in order. Thus, in accordance with Article 36 of the Rules of Procedure and Article 8(1) of the Instructions to the Registrar, the Registrar will require an application to be put in order where the following information has not been provided, which could lead to the rejection of the application as being inadmissible:

— the name and address of the applicant (Article 35(1)(a) of the Rules of Procedure);

— the description and address of the lawyer representing the applicant (Article 35(1)(b) of the Rules of Procedure);

— designation of the party against whom the application is made (Article 35(1)(c) of the Rules of Procedure);

— production of the act of which annulment is sought, the complaint for the purposes of Article 90(2) of the Staff Regulations of Officials of the European Communities (the Staff Regulations) and the decision responding to the complaint, together with the dates on which the complaint was submitted and the decision notified (Article 35(2) of the Rules of Procedure). The applicant is required to provide a clear explanation of the reasons for any failure to produce those documents (e.g. the fact that the administration did not reply to the complaint within the period prescribed by the Staff Regulations);

— production of a certificate of the lawyer's authority to practise (Article 35(5) of the Rules of Procedure).

19. Under Article 8(1) of the Instructions to the Registrar, a request for an application to be put in order may also be made, depending on the circumstances of the case, where an application is not in conformity with these practice directions.

20. The Registrar shall prescribe a period within which the applicant is to put the application in order, in accordance with Article 36 of the Rules of Procedure.

21. In the cases referred to in point 18 above, service of the application on the defendant will be delayed. Where the application is put in order within the prescribed period, the procedure will take its normal course. If the applicant fails to put the application in order, the Tribunal shall decide whether the application is inadmissible.

22. In the cases referred to in point 19 above, the Registrar shall decide whether or not service should be delayed. If the applicant fails to put the application in order or challenges the request for regularisation, the Registrar shall refer the matter to the President for a decision, in accordance with Article 8(7) of the Instructions to the Registrar.

4. Interim measures

23. An application to suspend the operation of the contested measure and other interim measures must be made in accordance with the provisions of Article 102 of the Rules of Procedure.

B. Defence and other pleadings and documents relating to the written procedure

24. The guidance notes provided in Title I, Chapter A in relation to applications shall apply *mutatis mutandis* to other pleadings and documents sent to the Tribunal under the written procedure.

25. The information required to be included in the defence is set out in Article 39(1) of the Rules of Procedure. The authority given by the defendant institution/agency to its agent(s) and/or to a lawyer in accordance with the first paragraph of Article 19 of the Statute of the Court of Justice must be produced together with the defence, but separately from any annexes.

26. The number of pages of a defence is subject to the same limit as an application, namely 10 to 30 pages, depending on the circumstances of the case. Other pleadings must, as a rule, be less than 15 pages.

27. The institutions and agencies are requested to attach systematically to the defence any measures of general application referred to in their observations which are not published in the *Official Journal*.

28. In addition, the following information must appear on the first page of any pleading:

(a) the category of pleading (defence, reply, rejoinder, application for leave to intervene, statement in intervention, plea of inadmissibility, observations on ..., replies to questions, etc.);

(b) the case number in the list (F- .../...) where this has already been communicated by the Registry.

29. The rules, referred to in Chapter A of this title, governing the circumstances in which a request is or may be made to put an application in order shall apply *mutatis mutandis* to the defence and to other pleadings and documents relating to the written procedure.

C. Use of technical means of communication

30. All pleadings and procedural documents, and more generally any correspondence sent to the Tribunal, including applications for extensions of time, must be lodged at the Registry in original form.

31. Where, in order to comply with procedural time-limits, a copy of a document is sent to the Tribunal electronically before the original document is lodged (as allowed under Article 34(6) of the Rules of Procedure), it may be sent either:

— by fax to the Registry (fax number: (+352) 4303 4453),
or

— by email (email address: tfp.greffe@curia.europa.eu).

The first page of each procedural document lodged following its electronic transmission must be marked 'Previously sent by fax/email on ...' so that corresponding documents can be readily identified.

32. Under the abovementioned Article 34(6) of the Rules of Procedure, where a procedural document includes annexes, the copy sent to the Tribunal by fax or by email may comprise only the document itself and the schedule of annexes.

33. In the case of transmission by email, only a scanned copy of the signed original will be accepted. A document despatched in the form of an ordinary electronic file or one which bears an electronic signature or a facsimile signature generated by computer will not be treated as complying with Article 34(6) of the Rules of Procedure.

34. The lodging of a pleading or a procedural document by fax or email will be treated as complying with the relevant procedural time-limit only if the signed original of that document reaches the Registry no more than 10 days after such lodging, as specified in Article 34(6) of the Rules of Procedure. It should be borne in mind that the extension on account of distance of 10 days provided for under Article 100(3) of the Rules of Procedure does not apply to that time-limit. However, according to Article 100(2) of the Rules of Procedure, if the period of 10 days provided for under Article 34(6) of the Rules of Procedure would otherwise end on a Saturday, Sunday or

official holiday (a list of which is annexed to the Rules of Procedure of the Court of Justice), it will be extended until the end of the first following working day.

35. The signed original of any procedural document must be sent without delay, immediately after the earlier electronic despatch, without any corrections or amendments, even of a minor nature, being made to it, except for the correction of clerical errors which must however be listed on a separate sheet and sent with the original. Subject to that exception, in the event of any discrepancy between the signed original and the copy previously lodged, only the date on which the signed original was lodged will be taken into consideration for the purposes of compliance with procedural time-limits.

D. Applications for confidential treatment

36. Without prejudice to the provisions of Article 44(2) and (3) of the Rules of Procedure, the Tribunal shall take into consideration only those documents which have been made available to the parties' representatives and on which they have been given an opportunity of expressing their views (Article 44(1) of the Rules of Procedure).

37. Nevertheless, a party may apply for any part of the contents of the case-file which are secret or confidential:

— not to be made available to a party in a joined case (Article 46(3) of the Rules of Procedure);

— to be omitted from the documents served on an intervener (Article 110(2) of the Rules of Procedure).

38. Any application for confidential treatment made pursuant to Article 46(3) or Article 110(2) of the Rules of Procedure must be made by separate document.

39. Such an application must be specific and limited to what is strictly necessary. It may not in any event cover the entirety of a pleading and may only exceptionally extend to the entirety of an annexed document.

40. An application for confidential treatment must accurately identify the particulars or passages concerned and briefly state the reasons for which each of those particulars or passages is regarded as secret or confidential.

41. The application must be accompanied by a non-confidential version of each pleading or document concerned, with the confidential material deleted.

E. Applications for legal aid

42. The use of the form annexed to these practice directions is compulsory in making an application for legal aid. Any request for legal aid submitted otherwise than by using the application form will not be taken into consideration and will give rise to a reply from the Registrar reiterating that the use of the form is compulsory and attaching a copy of the form.
43. The form can be downloaded from the website www.curia.europa.eu. It can also be requested from the Registry of the Tribunal by email, post or telephone (see details below).
44. The duly completed and signed form, together with supporting documents, should be sent to the following address: Registry of the Civil Service Tribunal, L-2925 Luxembourg (telephone number: (+352) 4303-1; fax number: (+352) 4303 4453; email address: tfp.greffe@curia.europa.eu).

II. ORAL PROCEDURE

A. Location

45. The public hearings of the Civil Service Tribunal take place,

- where the language of the case is French, in the 'Allegro' courtroom at the seat of the Tribunal, at 35A Avenue J.F. Kennedy, Luxembourg, 1st floor;
- where the language of the case is a language other than French, in the 'Dalsgaard' courtroom in the Erasmus building of the Court of Justice of the European Communities, rue du Fort Niedergrünwald, Luxembourg.

46. The notice to attend the hearing always states the place where it will be held. Whereas the 'Dalsgaard' room has technical equipment for simultaneous interpretation into all the official languages of the European Communities, the 'Allegro' room does not, and hearings there are held only in French. Nevertheless, if, in the latter case, the presence of interpreters for the whole hearing or for some purposes is

regarded as essential for specific reasons (for example, if the Tribunal has summoned a party to give evidence, who cannot express himself in French), a reasoned request to that effect must be sent to the Tribunal as soon as the notice to attend the hearing is received, so that any change of room or the presence of interpreters can be organised as quickly as possible.

47. There is a map of the buildings on the website of the Court of Justice of the European Communities www.curia.europa.eu. There is ample parking around both buildings, although it is metered; the 'Erasmus' building also has an underground car park which visitors may use.
48. As a security measure, access to the buildings is controlled. Parties and their representatives are requested to produce their identity card, passport, professional card or some other form of identification.

B. Preparation for the hearing

49. The representatives of the parties are given notice to attend the hearing by the Registry a few weeks before it takes place. Requests to postpone the date of a hearing are granted only in very exceptional circumstances. Such requests must be duly reasoned, accompanied by appropriate supporting documents, and submitted to the Tribunal without delay.
50. With the notice to attend the hearing, the parties receive the preparatory report for the hearing, drawn up by the judge-rapporteur. That report normally describes the subject-matter of the proceedings, the forms of order sought, the aspects on which the parties are requested to concentrate in their oral arguments, the issues of fact and of law which need to be explored in greater depth etc., and indicates the time allowed for the opening arguments of the parties' representatives. The Tribunal may also indicate its intention to examine the possibilities of an amicable settlement of the dispute at the hearing.
51. If the representative of a party intends not to be present at the hearing, he is requested to notify the Tribunal of this without delay. In those circumstances, the hearing will take place in his absence. This will also apply should the Tribunal find that a party is absent from the hearing without due notification.

52. If the representative of a party wishes to be replaced by a qualified person not initially instructed by his client, he is also requested to notify the Tribunal of this without delay and to ensure that the appropriate authorisation for that person and, where appropriate, certification of the rights of audience held by the lawyer or adviser standing in for him have been submitted prior to the hearing.

C. Conduct of the hearing

53. The parties' representatives are required to appear before the Tribunal in their robes. The Tribunal always has some plain robes available should they be needed; the court usher at the hearing should be asked about this.

54. A few minutes before the start of the hearing, the parties' representatives are escorted by the court usher to the judges' deliberation room behind the courtroom to meet the judges hearing the case in order to settle arrangements for the conduct of the hearing.

55. Everyone present must stand when the members of the Tribunal enter the room. The hearing then begins by the Registrar calling the case.

56. As the judges have perused the written observations, the parties' representatives are requested not to repeat in their oral arguments the content of the written statements exchanged, but to concentrate on the issues referred to in the preparatory report for the hearing and to answer the judges' questions. The same applies, where appropriate, to the parties themselves, if they have been asked to address the Tribunal. As the aim of the hearing is to clarify the issues of fact and of law required to give judgment on the case, the conduct of the hearing must facilitate a dialogue between the judges and the parties and their representatives.

57. In any event, the parties' representatives have the opportunity to put forward an opening argument, for which the preparatory report for the hearing gives guidance as to the time allowed (normally between 15 minutes for each party in cases heard by a Chamber composed of three judges or a single judge, and 30 minutes in cases heard by the Chamber composed of five judges or where the Tribunal is sitting as a full Court). That period does not include the time used to answer the questions put by the judges or to reply to the other party's oral submissions.

58. As the courtrooms are equipped with an automatic amplification system, each person addressing the Tribunal is requested to press the button on the microphone before starting to speak. The parties' representatives are likewise requested, when citing a court judgment, to give its full reference, including the names of the parties, and to specify, where appropriate, the page of the publication on which the passage in question appears.

59. It must be borne in mind that documents must be lodged before the Tribunal during the written procedure. The Tribunal can accept documents submitted at the hearing only in very exceptional circumstances. The same rule applies to any evidence offered in support at the hearing.

D. Specific features of simultaneous interpretation

60. In cases in which simultaneous interpretation is required, parties' representatives are reminded that it is generally preferable to speak freely on the basis of notes rather than to read out a text. Likewise, a series of short sentences is preferable to a long, complicated construction.

61. If, however, oral submissions are prepared in writing, it is advisable when drafting the text to take account of the fact that it must be presented orally and should therefore resemble an oral address as closely as possible. In that situation, in order to facilitate interpretation, the parties' representatives are requested to send any written text or reference documents for their oral submissions to the interpreting department in advance, so that the interpreters may include it in their preparatory study of the file (Interpreting Directorate, fax number: (+352) 4303 3697; email address: interpret@curia.europa.eu). That text will not, of course, be forwarded to the other parties or to members of the bench.

E. Amicable settlement

62. At the request of the parties' representatives or on its own initiative, the Tribunal can decide to suspend the hearing for a short time where the parties' representatives wish to discuss a proposal for amicable settlement with their clients or with the other party's representative, if necessary before one or more judges. Should a discussion *in camera* be desired, a separate room can be made available. Any requests to this effect should be addressed to the Registrar or the court usher.

F. End of the hearing

63. The presiding member of the bench announces the end of the hearing. The parties subsequently receive brief minutes of the hearing and are subsequently notified in writing of the next steps to be taken in the proceedings, in particular of the date of delivery of the judgment.

the European Union. They shall enter into force on the first day of the second month following their publication.

65. For the assistance of the parties, the Registry of the Tribunal will make various checklists and models available on the website www.curia.europa.eu

III. ENTRY INTO FORCE OF THESE DIRECTIONS

64. These practice directions revoke the 'Notes for the guidance of parties and their representatives for the hearing of oral argument before the European Union Civil Service Tribunal'. They shall be published in the *Official Journal of*

Done at Luxembourg, 25 January 2008.

Registrar

W. HAKENBERG

President

P.J. MAHONEY

ANNEX

GUIDE FOR LEGAL AID APPLICANTS AND COMPULSORY FORM

EUROPEAN UNION
CIVIL SERVICE TRIBUNAL



APPLICATION FOR LEGAL AID GUIDE FOR APPLICANTS AND COMPULSORY FORM

I. GUIDE FOR LEGAL AID APPLICANTS ⁽¹⁾

A. Legal background

1. Jurisdiction of the Tribunal

Admissibility of actions before the Tribunal

Legal aid applicants should note the following provisions:

- Article 236 of the EC Treaty and Article 152 of the EAEC Treaty, and Article 1 of Annex I to the Statute of the Court of Justice, concerning the jurisdiction of the Tribunal;
- Articles 90 and 91 of the Staff Regulations, which specify a number of requirements as to the admissibility of actions before the Tribunal.

2. Legal background in relation to legal aid

The rules concerning legal aid are contained in the Rules of Procedure.

In particular, they provide as follows:

a. Requirements for the grant of legal aid

- Any natural person who, because of his financial situation, is wholly or partly unable to meet the costs involved in legal assistance and representation by a lawyer in proceedings before the Tribunal is to be entitled to legal aid (first subparagraph of Article 95(2) of the Rules of Procedure).
- The financial situation is to be assessed, taking into account objective factors such as income, capital and the family situation (second subparagraph of Article 95(2) of the Rules of Procedure).
- The application for legal aid must be accompanied by all information and supporting documents making it possible to assess the applicant's financial situation, such as a certificate issued by the competent national authority attesting to his financial situation (first subparagraph of Article 96(2) of the Rules of Procedure).
- An application for legal aid may be made before or after the action has been brought. The application need not be made through a lawyer (Article 96(1) of the Rules of Procedure).
- If the application is made before the action has been brought, the applicant must briefly state the subject matter of the proposed action, the facts of the case and the arguments in support of the action. The application must be accompanied by supporting documents in that regard (second subparagraph of Article 96(2) of the Rules of Procedure).
- Legal aid is to be refused if the action in respect of which the application is made appears to be manifestly inadmissible or manifestly unfounded (Article 95(3) of the Rules of Procedure).

⁽¹⁾ This guide is an integral part of the legal aid application form. The information which it contains is taken from the Rules of Procedure of the Civil Service Tribunal and the Practice Directions to parties.

- If the circumstances which led to the grant of legal aid should alter during the proceedings, the President may at any time, on his own motion or on application, withdraw legal aid, having heard the person concerned (Article 97(5) of the Rules of Procedure).
- The Tribunal may provide, in accordance with Article 120 of the Rules of Procedure, for the compulsory use of a form in making an application for legal aid (Article 96(3) of the Rules of Procedure). The Tribunal has taken the opportunity to do so in the Practice Directions to parties.

b. Procedure

- If the person concerned has not indicated his choice of lawyer or if his choice is unacceptable, the Registrar is to send a copy of the order granting legal aid and a copy of the application to the competent authority of the Member State concerned mentioned in Annex II to the Rules supplementing the Rules of Procedure of the Court of Justice. The lawyer instructed to represent the applicant is to be designated having regard to the suggestions made by that authority (second subparagraph of Article 97(3) of the Rules of Procedure).
- The introduction of an application for legal aid is to suspend the period prescribed for the bringing of the action until the date of notification of the order making a decision on that application or, where that order does not designate a lawyer to represent the person concerned, until the date of notification of the order designating a lawyer to represent the applicant (Article 97(4) of the Rules of Procedure).

c. Partial legal aid

An order granting legal aid may specify an amount to be paid to the lawyer instructed to represent the person concerned or fix a limit which the lawyer's disbursements and fees may not, in principle, exceed. It may provide for a contribution to be made by the person concerned to the costs referred to in Article 95(1) of the Rules of Procedure, having regard to his financial situation (third subparagraph of Article 97(3) of the Rules of Procedure).

d. Responsibility for costs

- Where, by virtue of the decision closing the proceedings, the recipient of legal aid has to bear his own costs, the President shall fix the lawyer's disbursements and fees which are to be paid by the cashier of the Tribunal by way of a reasoned order from which no appeal shall lie (Article 98(2) of the Rules of Procedure).
- Where, in the decision closing the proceedings, the Tribunal has ordered another party to pay the costs of the recipient of legal aid, that other party shall be required to refund to the cashier of the Tribunal any sums advanced by way of aid (Article 98(3) of the Rules of Procedure).
- Where the recipient of the aid is unsuccessful, the Tribunal may, in ruling as to costs in the decision closing the proceedings, if equity so requires, order that one or more parties should bear their own costs or that those costs should be borne, in whole or in part, by the cashier of the Tribunal by way of legal aid (Article 98(4) of the Rules of Procedure).

B. Procedure for submission of an application for legal aid

In accordance with point 42 of the Practice Directions to parties, every application for legal aid must be submitted using the form below. Any request for legal aid submitted otherwise than by using the application form will not be taken into consideration.

The application for legal aid may be lodged by fax or by email. An application lodged by either means will, however, be taken into consideration only upon receipt of the original at the Tribunal.

In the event of transmission by email, only a scanned copy of the signed original will be accepted.

The original of the application for legal aid must be signed by the applicant himself or by his lawyer, failing which the application will not be taken into consideration and the document will be returned.

If the application for legal aid is submitted by the applicant's lawyer before the application initiating proceedings is lodged, the legal aid application must be accompanied by documents certifying that the lawyer is authorised to practice before a court of a Member State or of another State party to the EEA Agreement.

C. Effect of proper lodging of an application for legal aid before the action has been brought

Where an application for legal aid is properly lodged before the action has been brought, the period prescribed for the bringing of the action will be suspended until the date of notification of the order making a decision on that application or of the order designating a lawyer to represent the applicant for legal aid. Time for bringing an action will not run, therefore, while the application for legal aid is being considered by the Tribunal.

If the original of the application for legal aid is received at the Registry of the Tribunal within a period of 10 days after the lodgement of that application by fax or email, the date of the lodgement by fax or email will be taken into account in the suspension of the time limit for bringing an action.

If the original application for legal aid is received at the Tribunal more than 10 days after lodgement by fax or email, the date of such lodgement by fax or email will not be taken into consideration; it is the date of lodgement of the original application for legal aid that will be taken into account.

D. Contents of the application for legal aid and supporting documents

1. Applicant's financial situation

The application must be accompanied by all information and supporting documents making it possible to assess the applicant's financial situation, such as a certificate issued by the competent national authority attesting to his financial situation.

Documents may include, for example:

- certificates issued by social security or unemployment benefit authorities;
- declarations of income or tax notices;
- salary slips;
- bank statements.

Sworn statements made and signed by the applicant himself are not sufficient proof that he is wholly or partly unable to meet the costs of the proceedings.

The information given on the form concerning the applicant's financial situation and the documents lodged in support of the information provided should give a complete picture of his financial situation.

Applicants should note that they should not confine themselves to providing the Tribunal with details of their resources; they should also provide the Tribunal with information which will enable the Tribunal to assess the capital held.

An application which does not establish to the requisite legal standard the applicant's inability to meet the costs of the proceedings will be rejected.

The applicant is required to notify the Tribunal at the earliest possible opportunity of any change in his financial situation which might justify the application of Article 97(5) of the Rules of Procedure, according to which, if the circumstances which led to the grant of legal aid should alter during the proceedings, the President may at any time, on his own motion or on application, withdraw legal aid, having heard the person concerned.

2. *Subject matter of the proposed action, facts of the case and arguments in support of the action*

If the application for legal aid is made before the action has been brought, the applicant must briefly state the subject matter of the proposed action, the facts of the case and the arguments which he intends to put forward in support of his action. The form includes a section for that purpose.

A copy of any supporting document that is relevant for the purposes of assessing whether the proposed action is admissible and well founded must be annexed to the form; for example:

- if applicable, the measure which the applicant seeks to have annulled;
- if applicable, the complaint within the meaning of Article 90(2) of the Staff Regulations and the decision responding to the complaint, together with the dates on which the complaint was submitted and the decision notified;
- if applicable, the request within the meaning of Article 90(1) of the Staff Regulations and the decision responding to the request, together with the dates on which the request was submitted and the decision notified;
- correspondence with the prospective defendant.

3. *Other useful information*

No original documents will be returned. The applicant is therefore advised to supply photocopies of supporting documents.

An application may not be supplemented by the subsequent lodging of addenda. Such addenda will be returned, unless they have been lodged at the request of the Tribunal. It is essential, therefore, to supply all necessary information on the form and to attach copies of any documentary proof of the information supplied. In exceptional cases, documents intended to establish that the legal aid applicant is wholly or partly unable to meet the costs of the proceedings may nevertheless be accepted subsequently, subject to the delay in their production being justified.

If the space available in any section of the form is insufficient, that section may be completed on a separate page attached to the application.

E. Address

The form may be downloaded at www.curia.europa.eu. It may also be requested from the Registry of the Civil Service Tribunal by email, post or telephone (see details below).

The duly completed and signed form, together with supporting documents, should be sent to the following address:

Registry of the Civil Service Tribunal
L-2925 Luxembourg
Tel.: (+ 352) 4303-1
Fax: (+ 352) 4303 4453
Email: tfp.greffe@curia.europa.eu

II. LEGAL AID APPLICATION FORM

APPLICATION FOR LEGAL AID
EUROPEAN UNION CIVIL SERVICE TRIBUNAL

APPLICANT

Ms ☐	Mr ☐	
Surname (at birth):		
Married name, if applicable:		
First name(s):		
Date of birth (dd/mm/yyyy):/...../.....		
Place of birth:		
Address:		
Postcode:		Town/City:
Country:		
Telephone (optional):		
Fax (optional):		
Email (optional):		
Occupation or current position:		

PROPOSED ACTION

If this application for legal aid is made before an action has been brought, state the name of the party against whom you propose to bring the action:

--

Describe the subject matter of the action which you wish to bring, the facts of the case and the arguments in support of the action:

APPLICANT'S FINANCIAL SITUATION**A. FINANCIAL RESOURCES**

- The resources which will be taken into account are those which you have declared to the national authorities in respect of the period from 1 January to 31 December of last year (or the period in respect of which you are legally obliged to declare your resources) (Table 1).
- If there has been a significant change in your financial situation since last year, you are also required to specify your resources for the period from 1 January of this year (or from the beginning of the current financial period) until the date of your application (Table 2).

1. Table 1: Resources in the reference period

		Your resources	Resources of your spouse or cohabitee	Resources of any other person who normally lives with you (child or other dependant). Specify:
a.	No income	☐ ***	☐	☐
b.	Taxable net salary/wage (as shown on your pay slips)			
c.	Non-salaried income (agricultural, industrial, commercial or non-commercial income)			
d.	Family allowances			
e.	Unemployment benefits			
f.	Daily allowances (sickness benefit, maternity benefit, occupational sickness benefits, industrial accident)			
g.	Pensions, retirement allowances, annuities and early retirement pensions			
h.	Maintenance allowances (amount actually paid to you)			
i.	Other resources (e.g. rent received, income from capital, income from securities, stocks and shares, etc.)			

*** If this box is marked, please provide details of means of support below:

--

2. Table 2: Resources in the current financial period

	Your resources	Resources of your spouse or cohabitee	Resources of any other person who normally lives with you (child or other dependant). Specify:
a. No income	☐ ***	☐	☐
b. Taxable net salary/wage (as shown on your pay slips)			
c. Non-salaried income (agricultural, industrial, commercial or non-commercial income)			
d. Family allowances			
e. Unemployment benefits			
f. Daily allowances (sickness benefit, maternity benefit, occupational sickness benefits, industrial accident)			
g. Pensions, retirement allowances, annuities and early retirement pensions			
h. Maintenance allowances (amount actually paid to you)			
i. Other resources (e.g. rent received, income from capital, income from securities, stocks and shares, etc.)			

*** If this box is marked, please provide details of means of support below:

--

B. CAPITAL

State the nature and value of any movable property (shares, liabilities, capital, etc.) and the address and value of any immovable property (buildings, land, etc.), including non-income-producing property, which you own:

--

C. OUTGOINGS

Complete the following table with details of persons who are dependent on you or who normally live with you (e.g. children):

[illegible]

State the amount(s) of any maintenance payments which you make to third parties:

--

State the amount of rent payable on your main residence or the amount of any repayments which you make to banks or other banking institutions under the terms of any loan incurred for the purpose of acquiring your main residence:

--

D. MISCELLANEOUS

In the following section you may include any additional information about your circumstances – resources or outgoings (e.g. repayments of loans other than those incurred for the purpose of acquiring your main residence, etc.):

PROPOSED LEGAL REPRESENTATION

You may indicate to the Tribunal the name of a lawyer who will represent you, by completing the following section.

If you do not complete the following section, the Tribunal will invoke the second subparagraph of Article 97(3) of its Rules of Procedure, which provides that the lawyer instructed to represent the applicant is to be designated having regard to the suggestions made by the competent authority of the Member State concerned mentioned in Annex II to the Rules supplementing the Rules of Procedure of the Court of Justice.

Title (e.g. Maître) and name:	
Address:	
Postcode:	Town/City:
Country:	
Telephone:	
Fax (optional):	
Email (optional):	

SOLEMN DECLARATION

I, the undersigned, hereby declare that the information given in this application for legal aid is correct and complete:

Date:/...../.....	Signature of the applicant/applicant's lawyer:
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LIST OF SUPPORTING DOCUMENTS

Supporting documents to enable your financial situation to be assessed:

[illegible]

If the action has not yet been brought, supporting documents relevant for the purposes of assessing whether the proposed action is admissible and well founded:

This image shows a full page of primary-ruled paper. It features multiple sets of horizontal lines designed to guide handwriting. Each set consists of three lines: a solid top line, a dashed middle line, and a solid bottom line. These sets are repeated vertically down the entire page, providing a template for practicing letter formation and alignment. The paper is otherwise blank, with no margins or additional markings.

II

(Acts adopted under the EC Treaty/Euratom Treaty whose publication is not obligatory)

DECISIONS

COMMISSION

DECISION No 1/2008 OF THE EC-SWITZERLAND JOINT COMMITTEE

of 22 February 2008

replacing Tables III and IV(b) of Protocol No 2

(2008/219/EC)

THE JOINT COMMITTEE,

Having regard to the Agreement between the European Economic Community, of the one part, and the Swiss Confederation, of the other part, signed in Brussels on 22 July 1972, hereinafter referred to as 'the Agreement', as amended by the Agreement between the European Community and the Swiss Confederation amending the Agreement as regards the provisions applicable to processed agricultural products signed in Luxembourg on 26 October 2004, and its Protocol No 2, and in particular Article 7 thereof,

Whereas:

- (1) For the implementation of Protocol No 2 to the Agreement, internal reference prices are fixed for the Contracting Parties by the Joint Committee.
- (2) Actual prices have changed on the domestic markets of the Contracting Parties as regards raw materials for which price compensation measures are applied.
- (3) It is therefore necessary to update the reference prices and amounts listed in Tables III and IV(b) to Protocol No 2 accordingly.
- (4) The current market situation has changed significantly compared to previous years with a new development

being the introduction of price compensatory measures on the European border, given that domestic prices of certain basic products in Switzerland have proved to be lower than the domestic prices for those products.

- (5) As the volatility of the market is expected to continue, the partners will exchange information on a bimonthly basis and if substantial differences are signaled a modification of this decision could follow,

HAS ADOPTED THIS DECISION:

Article 1

Table III and IV(b) of Protocol No 2 are replaced by the tables in Annex I and Annex II to this Decision.

Article 2

This Decision shall apply as of 1 February 2008.

Done at Brussels, 22 February 2008.

For the Joint Committee

The Chairman

Jacques DE WATTEVILLE

ANNEX I

TABLE III
EC and Swiss domestic reference prices

Agricultural raw material	Swiss domestic reference price (CHF/100 kg net)	EC domestic reference price (CHF/100 kg net)	Article 4(1) Applied on Swiss side Difference Swiss/EC reference price (CHF/100 kg net)	Article 3(3) Applied on EU side Difference Swiss EC reference price (EUR/100 kg net)
Common wheat	59,71	44,14	15,55	0,00
Durum wheat	71,05	68,55	2,50	0,00
Rye	59,15	40,61	18,54	0,00
Barley	52,65	52,65	0,00	0,00
Maize	37,94	37,94	0,00	0,00
Common wheat flour	104,00	68,55	35,45	0,00
Whole-milk powder	582,00	651,20	0,00	35,32
Skimmed-milk powder	447,10	610,44	0,00	83,20
Butter	922,00	690,12	231,90	0,00
White sugar	—	—	—	—
Eggs ⁽¹⁾	255,00	205,50	49,50	0,00
Fresh potatoes	42,00	23,80	18,20	0,00
Vegetable fat ⁽²⁾	390,00	160,00	230,00	0,00

⁽¹⁾ Derived from the prices for liquid birds' eggs, not in shell multiplied with factor 0,85.

⁽²⁾ Prices for vegetable fats (for the baking and food industry) with 100 % fat content.'

ANNEX II

TABLE IV

- (b) The basic amounts for agricultural raw materials taken into account for the calculation of the agricultural components:

Agricultural raw material	Applied on the Swiss side Article 3(2) Applied basic amount CHF/100 kg net	Applied on the EC side Article 4(2) Applied basic amount EUR/100 kg net
Common wheat	13,20	0,00
Durum wheat	2,00	0,00
Rye	15,60	0,00
Barley	0,00	0,00
Maize	0,00	0,00
Common wheat flour	30,00	0,00
Whole-milk powder	0,00	41,42 ⁽¹⁾
Skimmed-milk powder	0,00	97,78 ⁽¹⁾
Butter	197,00	0,00
White sugar	0,00	0,00
Eggs	34,00	0,00
Fresh potatoes	15,00	0,00
Vegetable fat	196,00	0,00

⁽¹⁾ The export support in the form of price compensation is subject to Article 11 of the WTO Agreement.'

CORRIGENDA**Corrigendum to the Rules of Procedure of the European Union Civil Service Tribunal of 25 July 2007**

(Official Journal of the European Union L 225 of 29 August 2007)

On page 18, in Article 97(1):

for: 'Before giving its decision on an application for legal aid, the Tribunal shall invite the other party to submit its written observations unless it is already apparent from the information produced that the conditions laid down in Article 95(2) have not been satisfied or that those laid down in Article 94(3) have been satisfied.'

read: 'Before giving its decision on an application for legal aid, the Tribunal shall invite the other party to submit its written observations unless it is already apparent from the information produced that the conditions laid down in Article 95(2) have not been satisfied or that those laid down in Article 95(3) have been satisfied.'
