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I

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

REGULATIONS

COMMISSION REGULATION (EC) No 1080/2009

of 11 November 2009

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 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⁾,

Having regard to Commission Regulation (EC) No 1580/2007 of 21 December 2007 laying down implementing rules for Council Regulations (EC) No 2200/96, (EC) No 2201/96 and (EC) No 1182/2007 in the fruit and vegetable sector ⁽²⁾, and in particular Article 138(1) thereof,

Whereas:

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 Annex XV, Part A thereto,

HAS ADOPTED THIS REGULATION:

Article 1

The standard import values referred to in Article 138 of Regulation (EC) No 1580/2007 are fixed in the Annex hereto.

Article 2

This Regulation shall enter into force on 12 November 2009.

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

Done at Brussels, 11 November 2009.

For the Commission

Jean-Luc DEMARTY

*Director-General for Agriculture and
Rural Development*

⁽¹⁾ OJ L 299, 16.11.2007, p. 1.

⁽²⁾ OJ L 350, 31.12.2007, p. 1.

ANNEX

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	MA	62,1
	MK	25,5
	TR	57,4
	ZZ	48,3
0707 00 05	EG	171,8
	JO	161,3
	MA	69,5
	TR	75,0
	ZZ	119,4
0709 90 70	MA	80,8
	TR	94,4
	ZZ	87,6
0805 20 10	MA	83,7
	ZZ	83,7
0805 20 30, 0805 20 50, 0805 20 70, 0805 20 90	AR	49,8
	CN	53,5
	HR	60,4
	TR	81,8
	UY	49,8
	ZZ	59,1
0805 50 10	AR	68,9
	TR	73,2
	ZA	59,6
	ZZ	67,2
0806 10 10	AR	196,3
	BR	238,2
	LB	223,8
	TR	126,1
	US	259,3
	ZZ	208,7
0808 10 80	CA	71,4
	MK	20,3
	NZ	91,9
	US	102,5
	ZA	89,4
	ZZ	75,1
0808 20 50	CN	68,6
	ZZ	68,6

⁽¹⁾ Nomenclature of countries laid down 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 1081/2009**of 11 November 2009****entering a name in the register of protected designations of origin and protected geographical indications (Limone Interdonato Messina (PGI))**

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Council Regulation (EC) No 510/2006 of 20 March 2006 on the protection of geographical indications and designations of origin for agricultural products and foodstuffs ⁽¹⁾, and in particular the first subparagraph of Article 7(4) thereof,

Whereas:

(1) Pursuant to the first subparagraph of Article 6(2) of Regulation (EC) No 510/2006, Italy's application to register the name 'Limone Interdonato Messina' was published in the *Official Journal of the European Union* ⁽²⁾.

(2) As no statement of objection under Article 7 of Regulation (EC) No 510/2006 has been received by the Commission, this name should be entered in the register,

HAS ADOPTED THIS REGULATION:

Article 1

The name contained in the Annex to this Regulation is hereby entered in the register.

Article 2

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

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

Done at Brussels, 11 November 2009.

For the Commission

Mariann FISCHER BOEL

Member of the Commission

⁽¹⁾ OJ L 93, 31.3.2006, p. 12.

⁽²⁾ OJ C 74, 28.3.2009, p. 70.

ANNEX

Agricultural products intended for human consumption listed in Annex I to the Treaty

Class 1.6. Fruit, vegetables and cereals

ITALY

Limone Interdonato Messina (PGI)

COMMISSION REGULATION (EC) No 1082/2009**of 11 November 2009****approving non-minor amendments to the specification for a name entered in the register of protected designations of origin and protected geographical indications (Prosciutto di Norcia (PGI))**

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Council Regulation (EC) No 510/2006 of 20 March 2006 on the protection of geographical indications and designations of origin for agricultural products and foodstuffs ⁽¹⁾, and in particular the first subparagraph of Article 7(4) thereof,

Whereas:

- (1) In accordance with the first subparagraph of Article 9(1) of Regulation (EC) No 510/2006, the Commission has examined Italy's application for the approval of amendments to the specification of the protected geographical indication 'Prosciutto di Norcia' registered on the basis of Commission Regulation (EC) No 1107/96 ⁽²⁾, as amended by Regulation (EC) No 1065/97 ⁽³⁾.

- (2) Since the amendments in question are not minor within the meaning of Article 9 of Regulation (EC) No 510/2006, the Commission published the amendment application in the *Official Journal of the European Union*, as required by the first subparagraph of Article 6(2) of that Regulation ⁽⁴⁾. As no statement of objection within the meaning of Article 7 of Regulation (EC) No 510/2006 has been sent to the Commission, the amendments should be approved,

HAS ADOPTED THIS REGULATION:

Article 1

The amendments to the specification published in the *Official Journal of the European Union* regarding the name in the Annex to this Regulation are hereby approved.

Article 2

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

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

Done at Brussels, 11 November 2009.

For the Commission

Mariann FISCHER BOEL

Member of the Commission

⁽¹⁾ OJ L 93, 31.3.2006, p. 12.

⁽²⁾ OJ L 148, 21.6.1996, p. 1.

⁽³⁾ OJ L 156, 13.6.1997, p. 5.

⁽⁴⁾ OJ C 71, 25.3.2009, p. 21.

ANNEX

Agricultural products intended for human consumption listed in Annex I to the Treaty:

Class 1.2 Meat products (cooked, salted, smoked, etc.)

ITALY

Prosciutto di Norcia (PGI)

COMMISSION REGULATION (EC) No 1083/2009**of 11 November 2009****entering a name in the register of protected designations of origin and protected geographical indications (Sobao Pasiego (PGI))**

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Council Regulation (EC) No 510/2006 of 20 March 2006 on the protection of geographical indications and designations of origin for agricultural products and foodstuffs ⁽¹⁾, and in particular the first subparagraph of Article 7(4) thereof,

Whereas:

- (1) Pursuant to the first subparagraph of Article 6(2) and in accordance with Article 17(2) of Regulation (EC) No 510/2006, Spain's application to register the name 'Sobao Pasiego' was published in the *Official Journal of the European Union* ⁽²⁾.

- (2) As no statement of objection under Article 7 of Regulation (EC) No 510/2006 has been received by the Commission, this name should be entered in the register,

HAS ADOPTED THIS REGULATION:

Article 1

The name contained in the Annex to this Regulation is hereby entered in the register.

Article 2

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

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

Done at Brussels, 11 November 2009.

For the Commission

Mariann FISCHER BOEL

Member of the Commission

⁽¹⁾ OJ L 93, 31.3.2006, p. 12.

⁽²⁾ OJ C 75, 31.3.2009, p. 41.

ANNEX

Foodstuffs listed in Annex I to the Regulation (EC) No 510/2006:

Class 2.4. Bread, pastry, cakes, confectionery, biscuits and other baker's wares

SPAIN

Sobao Pasiego (PGI)

COMMISSION REGULATION (EC) No 1084/2009**of 11 November 2009****amending the representative prices and additional import duties for certain products in the sugar sector fixed by Regulation (EC) No 877/2009 for the 2009/10 marketing year**

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

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⁾,

Having regard to Commission Regulation (EC) No 951/2006 of 30 June 2006 laying down detailed rules for the implementation of Council Regulation (EC) No 318/2006 as regards trade with third countries in the sugar sector ⁽²⁾, and in particular Article 36(2), second subparagraph, second sentence thereof,

Whereas:

- (1) The representative prices and additional duties applicable to imports of white sugar, raw sugar and certain syrups

for the 2009/10 marketing year are fixed by Commission Regulation (EC) No 877/2009 ⁽³⁾. These prices and duties have been last amended by Commission Regulation (EC) No 1075/2009 ⁽⁴⁾.

- (2) The data currently available to the Commission indicate that those amounts should be amended in accordance with the rules and procedures laid down in Regulation (EC) No 951/2006,

HAS ADOPTED THIS REGULATION:

Article 1

The representative prices and additional duties applicable to imports of the products referred to in Article 36 of Regulation (EC) No 951/2006, as fixed by Regulation (EC) No 877/2009 for the 2009/10, marketing year, are hereby amended as set out in the Annex hereto.

Article 2

This Regulation shall enter into force on 12 November 2009.

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

Done at Brussels, 11 November 2009.

For the Commission

Jean-Luc DEMARTY

*Director-General for Agriculture and
Rural Development*

⁽¹⁾ OJ L 299, 16.11.2007, p. 1.

⁽²⁾ OJ L 178, 1.7.2006, p. 24.

⁽³⁾ OJ L 253, 25.9.2009, p. 3.

⁽⁴⁾ OJ L 292, 10.11.2009, p. 3.

ANNEX

Amended representative prices and additional import duties applicable to white sugar, raw sugar and products covered by CN code 1702 90 95 from 12 November 2009

(EUR)

CN code	Representative price per 100 kg net of the product concerned	Additional duty per 100 kg net of the product concerned
1701 11 10 ⁽¹⁾	34,27	1,01
1701 11 90 ⁽¹⁾	34,27	4,62
1701 12 10 ⁽¹⁾	34,27	0,87
1701 12 90 ⁽¹⁾	34,27	4,33
1701 91 00 ⁽²⁾	39,15	5,72
1701 99 10 ⁽²⁾	39,15	2,59
1701 99 90 ⁽²⁾	39,15	2,59
1702 90 95 ⁽³⁾	0,39	0,29

⁽¹⁾ For the standard quality defined in point III of Annex IV to Regulation (EC) No 1234/2007.⁽²⁾ For the standard quality defined in point II of Annex IV to Regulation (EC) No 1234/2007.⁽³⁾ Per 1 % sucrose content.

II

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

DECISIONS

COMMISSION

COMMISSION DECISION

of 11 November 2009

amending the Annex to Decision 2007/453/EC as regards the BSE status of Chile, Colombia and Japan

(notified under document C(2009) 8590)

(Text with EEA relevance)

(2009/830/EC)

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Regulation (EC) No 999/2001 of the European Parliament and of the Council of 22 May 2001 laying down rules for the prevention, control and eradication of certain transmissible spongiform encephalopathies ⁽¹⁾, and in particular the third subparagraph of Article 5(2) thereof,

Whereas:

(1) Regulation (EC) No 999/2001 lays down rules for the prevention, control and eradication of transmissible spongiform encephalopathies (TSEs) in animals. For that purpose, the bovine spongiform encephalopathy (BSE) status of Member States or third countries or regions thereof (countries or regions) is to be determined by classification into one of three categories depending on the BSE risk involved, namely a negligible BSE risk, a controlled BSE risk and an undetermined BSE risk.

(2) The Annex to Commission Decision 2007/453/EC of 29 June 2007 establishing the BSE status of Member States or third countries or regions thereof according to their BSE risk ⁽²⁾ lists countries or regions according to their BSE risk status.

(3) The World Organisation for Animal Health (OIE) plays a leading role in the categorisation of countries or regions according to their BSE risk. The list in the Annex to Decision 2007/453/EC takes account of Resolution No XXI — Recognition of the Bovine Spongiform Encephalopathy Status of Members — adopted by the OIE in May 2008 regarding the BSE status of Member States and third countries.

(4) Decision 2007/453/EC currently lists Finland and Sweden as having a negligible BSE risk and all other Member States as having a controlled BSE risk. It also lists the BSE status of third countries. In May 2009, the OIE adopted Resolution No XXII — Recognition of the Bovine Spongiform Encephalopathy Risk Status of Members. That Resolution recognised Chile as having a negligible BSE risk and Colombia and Japan as having a controlled BSE risk. The list in Decision 2007/453/EC should therefore be amended to be brought into line with that Resolution as regards those three third countries. However, pending a final conclusion of the OIE on the BSE risk status of all Member States and taking into account the harmonised stringent BSE protective measures applied within the Community, no changes should at present be made as regards the recognised BSE status of the Member States.

(5) Decision 2007/453/EC should therefore be amended accordingly.

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

⁽¹⁾ OJ L 147, 31.5.2001, p. 1.

⁽²⁾ OJ L 172, 30.6.2007, p. 84.

HAS ADOPTED THIS DECISION:

Article 1

The Annex to Decision 2007/453/EC is replaced by the text in the Annex to this Decision.

Article 2

This Decision is addressed to the Member States.

Done at Brussels, 11 November 2009.

For the Commission
Androulla VASSILIOU
Member of the Commission

ANNEX

LIST OF COUNTRIES OR REGIONS

A. Countries or regions with a negligible BSE risk*Member States*

- Finland,
- Sweden,

EFTA countries

- Iceland,
- Norway,

Third countries

- Argentina,
- Australia,
- Chile,
- New Zealand,
- Paraguay,
- Singapore,
- Uruguay,

B. Countries or regions with a controlled BSE risk*Member States*

- Belgium, Bulgaria, the Czech Republic, Denmark, Germany, Estonia, Ireland, Greece, Spain, France, Italy, Cyprus, Latvia, Lithuania, Luxembourg, Hungary, Malta, Netherlands, Austria, Poland, Portugal, Romania, Slovenia, Slovakia, United Kingdom,

EFTA countries

- Liechtenstein,
- Switzerland,

Third countries

- Brazil,
- Canada,
- Colombia,
- Japan,
- Mexico,
- Taiwan,
- United States,

C. Countries or regions with an undetermined BSE risk

- Countries or regions not listed in points A or B of this Annex.'
-

IV

(Other acts)

EUROPEAN ECONOMIC AREA

EFTA SURVEILLANCE AUTHORITY

EFTA SURVEILLANCE AUTHORITY DECISION

No 356/08/COL

of 11 June 2008

on the tax refund scheme for seafarers aboard passenger vessels in the Norwegian Ordinary Shipping Register (NOR) (Norway)

THE EFTA SURVEILLANCE AUTHORITY ⁽¹⁾,Having regard to Decisions No 280/06/COL ⁽⁶⁾ and No 412/06/COL ⁽⁷⁾,

Having regard to the Agreement on the European Economic Area ⁽²⁾, in particular to Articles 61 to 63 and Protocol 26 thereof,

Whereas:

Having regard to the Agreement between the EFTA States on the Establishment of a Surveillance Authority and a Court of Justice ⁽³⁾, in particular to Article 24 thereof,

Having regard to Article 1(3) of Part I and Article 4(3) of Part II of Protocol 3 to the Surveillance and Court Agreement,

Having regard to the Authority's Guidelines ⁽⁴⁾ on the application and interpretation of Articles 61 and 62 EEA, and in particular the Chapter on aid to maritime transport,

Having regard to Decision No 195/04/COL of 14 July 2004 on the implementing provisions referred to under Article 27 of Part II of Protocol 3 to the Surveillance and Court Agreement ⁽⁵⁾,

I. FACTS

1. Procedure

By letter of 23 February 2007 (Event No 411169), the Norwegian authorities notified, pursuant to Article 1(3) of Part I of Protocol 3 of the Surveillance and Court Agreement, an amendment to the tax refund scheme for seafarers aboard passenger vessels in the Norwegian Ordinary Shipping Register (NOR).

By letter dated 7 March 2007 (Event No 412343), the Authority requested additional information. The Norwegian authorities replied to the information request by letter dated 22 April 2008 (Event No 474517).

⁽¹⁾ Hereinafter referred to as 'the Authority'.

⁽²⁾ Hereinafter referred to as 'the EEA Agreement'.

⁽³⁾ Hereinafter referred to as 'the Surveillance and Court Agreement'.

⁽⁴⁾ Guidelines on the application and interpretation of Articles 61 and 62 EEA and Article 1 of Protocol 3 to the Surveillance and Court Agreement, adopted and issued by the EFTA Surveillance Authority on 19 January 1994, published in OJ L 231, 3.9.1994, p. 1 and EEA Supplement No 32, 3.9.1994, p. 1. The Guidelines were last amended on 19 December 2007. Hereinafter referred to as 'the State Aid Guidelines'.

⁽⁵⁾ OJ L 139, 25.5.2006, p. 37.

⁽⁶⁾ EFTA Surveillance Authority Decision No 280/06/COL of 4 October 2006 on the alterations to the tax refund schemes to shipowners for seafarers aboard vessels in the Norwegian Ordinary Shipping Register (NOR) and the Norwegian International Shipping Register (NIS), published in OJ C 143, 28.6.2007, p. 5, and EEA Supplement No 30, 28.6.2007, p. 6. The full text of the decision can be found on the Authority's webpage: <http://www.eftasurv.int/fieldsOfWork/fieldstateaid/stateaidregistry/>

⁽⁷⁾ EFTA Surveillance Authority Decision No 412/06/COL of 19 December 2006 on the alterations to the tax refund schemes for seafarers aboard vessels in the Norwegian Ordinary Shipping Register (NOR), published in OJ C 111, 17.5.2007, p. 20, and EEA Supplement No 23, 17.5.2007, p. 2. The full text of the decision can be found on the Authority's webpage: <http://www.eftasurv.int/fieldsOfWork/fieldstateaid/stateaidregistry/>

2. Description of the proposed measures

2.1. Title of the aid scheme

The current notification amends the scope of application of the scheme entitled 'Tax refund scheme for seafarers employed aboard vessels in the Norwegian Ordinary Shipping Register (NOR) and the Norwegian International Shipping Register (NIS)' ⁽⁸⁾ as originally authorised by the Authority in Decision No 280/06/COL and amended by Decision No 412/06/COL ⁽⁹⁾.

2.2. Objective of the aid scheme

According to the Norwegian authorities, the main aims of the tax refund scheme for seafarers are to safeguard and increase employment of Norwegian and EEA seafarers, to secure recruitment and qualified training of seafarers and to improve the competitive position of companies employing such seafarers. At the same time, the scheme has a wider strategic objective of preserving and developing know-how and improving safety in the maritime industries in general.

The tax refund scheme for seafarers involves the income tax and social security contributions due by the employer on behalf of the seafarer being reimbursed (a so-called 'net wage' scheme). The Norwegian authorities propose to extend the scheme to passenger ships covering the distance Bergen-Kirkenes exposed to competition and registered in the Norwegian Ordinary Shipping Register (NOR).

The Norwegian authorities have calculated that the alteration to the tax refund scheme for seafarers aboard vessels in the Norwegian Ordinary Shipping Register (NOR) will affect approximately 750 seafarers.

2.3. National legal basis for the aid measure

The legal basis for the amended scheme is the fiscal budget *Budsjett-innst.S.nr. 8 (2006-2007)* and budgetary Decision No 197 taken by the Norwegian Parliament on 12 December 2006, *Budsjett-innst. S. nr. 13 (2006-2007)*, jf *St.prp.nr. 1 (2006-2007) Bevilgninger på statsbudsjettet 2007*.

The budgetary Decision No 197 is implemented by Regulation of 21 December 2005, number 1720 (*Forskrift om forvaltning av tilskudd til sysselsetting av sjøfolk*), which will be amended accordingly. The Norwegian authorities have indicated that the implementing guidelines for the scheme will be amended in line with the proposed alterations to the scheme.

⁽⁸⁾ Hereinafter referred to as 'the tax refund scheme for seafarers'.

⁽⁹⁾ See notes 6 and 7.

2.4. Eligibility

The tax refund scheme for seafarers applies to the safety crew on board ships registered in the Norwegian Ordinary Shipping Register (NOR) of at least 100 GT which are used for maritime transportation. The notified alteration to the approved scheme extends its coverage to the safety crew on board passenger ships covering the distance Bergen-Kirkenes. The Norwegian authorities have stated that this, in effect, means the so-called 'Hurtigrute ships'.

The Norwegian authorities have not notified any other amendments to the tax refund scheme as approved by the Authority in Decisions No 280/06/COL and No 412/06/COL. Therefore, ship-owners of qualifying ships will receive grants in respect of seafarers who are:

- (a) tax resident in Norway or another EEA State or citizens of an EEA State;
- (b) tax liable to Norway for income earned aboard; and
- (c) eligible for the seafarers tax deduction according to section 6-61 of the Tax Act; and
- (d) whose wages are reported to the National Pension Insurance for Seafarers Scheme or documented separately.

2.5. Budget and duration

The amendment to the tax refund scheme was notified as taking effect from 1 July 2007 ⁽¹⁰⁾. The tax refund scheme is subject to the annual budgetary decision of the Norwegian Parliament. The scheme is therefore limited to the fiscal year. Its continuation is conditional on the next fiscal year's budget appropriation. The Norwegian authorities have indicated that the scheme is in principle not fixed for a specific time period but if still in operation it will be re-notified in ten years.

The budget appropriation for the fiscal year 2007 corresponding to the notified amendment amounts to NOK 30 million (approximately EUR 3,6 million) ⁽¹¹⁾. The annual effect of the scheme for 2007 is estimated at NOK 90 million (approximately EUR 10,94 million).

⁽¹⁰⁾ Companies eligible under the scheme have to submit an application every second month for the preceding two months period. Reimbursement will normally be made within two months.

⁽¹¹⁾ Exchange rate NOK/EUR is 8,2224 for 2007, as published on the Authority's website.

3. Comments by the Norwegian authorities, including amendments to the notification

In their letter dated 22 April 2008, the Norwegian authorities stated their view that the commercial contract with the company Hurtigruten ASA regarding the purchase of transport capacity on the distance Bergen-Kirkenes does not include any element of State aid. The Norwegian authorities are therefore of the opinion that aid granted under the tax refund scheme for seafarers does not cumulate with aid received from other local, regional, national or Community schemes to cover the same costs and there is no overcompensation.

II. ASSESSMENT

1. The presence of State aid

Article 61(1) EEA reads as follows:

‘Save as otherwise provided in this Agreement, any aid granted by EC Member States, EFTA States 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 Contracting Parties, be incompatible with the functioning of this Agreement.’

In Decision No 280/06/COL, the Authority assessed the tax refund scheme for seafarers, which, at the time, covered ferries engaged in foreign trade, offshore vessels and shuttle tankers. In that Decision, the Authority considered that the scheme constituted State aid which was compatible with the functioning of the EEA Agreement on the basis of the provisions of the Authority's State Aid Guidelines on Aid to Maritime Transport⁽¹²⁾. The Authority also assessed two amendments to the notified scheme in Decision No 412/06/COL and concluded that the scheme as amended constituted compatible State aid, again on the basis of the Maritime Guidelines.

In the following, the Authority will assess whether the amendment proposed in the current notification alters the previous conclusion that the scheme constitutes State aid within the meaning of Article 61(1) EEA.

1.1. Presence of state resources

The aid measure must be granted by the State or through state resources. As the refund of the income tax and the social security contributions will still be financed by budgetary allocations, this criterion is fulfilled.

1.2. Favouring certain undertakings or the production of certain goods

The refund of the tax and social security contributions compensates the ship owners for charges which are normally

borne from their budget and therefore constitutes an advantage to those able to benefit from the scheme. The support also constitutes a selective measure as it is only addressed to the maritime sector and ship owners of certain vessels within this sector. The notified amendment does not alter this situation; indeed, it simply extends the application of the tax refund scheme to one more type of vessel, and currently only affects one extra company, Hurtigruten ASA.

1.3. Distortion of competition and effect on trade between Contracting Parties

The ship owners benefiting from the scheme, including the company to which the scheme is extended as a result of the current notification, carry out an economic activity in competition with ship owners/companies from other countries of the EEA and the support under the scheme strengthens their position on the market. The support therefore distorts or threatens to distort competition and affects trade between the Contracting Parties.

1.4. Conclusion

Based on the above findings, the Authority concludes that the tax refund scheme for seafarers, and in particular the notified amendment thereto, constitutes State aid within the meaning of Article 61(1) EEA.

2. Procedural requirements

Pursuant to Article 1(3) of Part I of Protocol 3 to the Surveillance and Court Agreement, ‘the EFTA Surveillance Authority shall be informed, in sufficient time to enable it to submit its comments, of any plans to grant or alter aid (...). The State concerned shall not put its proposed measures into effect until the procedure has resulted in a final decision’.

The Norwegian authorities notified the extension of the tax refund scheme for seafarers as applicable from 1 July 2007. Nonetheless, the Norwegian authorities stated that no payments would be made until the Authority had taken a decision on the case. It would appear that no payments have been made. Therefore, the Authority considers that the Norwegian authorities have complied with the above notification requirement and the standstill obligation.

3. Compatibility of the aid

Article 61(3)(c) EEA provides that aid may be considered to be compatible with the functioning of the EEA Agreement if its purpose is to facilitate the development of certain economic activities, provided such aid does not adversely affect trading conditions between the Contracting Parties to an extent contrary to the common interest. Aid in favour of the maritime sector must be examined in particular in the light of the Maritime Guidelines.

⁽¹²⁾ Hereinafter referred to as ‘the Maritime Guidelines’.

In the following the Authority will assess whether the notified extension of the tax refund scheme for seafarers to cover the safety crew on board passenger ships covering the distance Bergen-Kirkenes is such as to amend the compatibility assessment carried out by the Authority in Decisions No 280/06/COL and No 412/06/COL.

3.1. Application to maritime transport activities

The provisions of the Maritime Guidelines are applicable to 'maritime transport' activities. The definition of maritime transport activities for the purposes of these guidelines corresponds to the one given in Regulation (EEC) No 4055/86⁽¹³⁾, incorporated into the EEA Agreement as point 53 in Annex XIII to the EEA Agreement and in Regulation (EEC) No 3577/92⁽¹⁴⁾, incorporated as point 53a in Annex XIII to the EEA Agreement⁽¹⁵⁾. Thus, maritime transport refers to the 'transport of goods and persons by sea'.

The amendment of the scheme extends it to the safety crew on board passenger ships covering the distance Bergen-Kirkenes registered in the Norwegian Ordinary Shipping Register (NOR) and exposed to competition. As long as these vessels carry out maritime transport activities within the meaning of the Maritime Guidelines, they are eligible for aid under the amended tax refund scheme.

3.2. Compliance with the objectives of the maritime guidelines

The Maritime Guidelines set out that aid schemes can be introduced to support the EEA maritime interest in the pursuit of general objectives such as:

- improving safe, efficient, secure and environmentally friendly maritime transport,
- encouraging the flagging or reflagging to EEA States registers,
- contributing to the consolidation of the maritime cluster established in the EEA States while maintaining an overall competitive fleet on world markets,
- maintaining and improving maritime know-how and protecting and promoting employment for European seafarers, and

- contributing to the promotion of new services in the field of short sea shipping.

As noted in the previous Decisions relating to the tax refund scheme for seafarers, an expressed objective for the Norwegian authorities is to preserve its position as a leading maritime nation. This objective is based, among other things, on the vital importance of this industry to many coastal communities.

In this context the creation of conditions allowing fairer competition with flags of convenience (and other EEA States) seems to be the best way forward in the opinion of the Norwegian authorities. The tax refund scheme for seafarers seeks to promote the Norwegian maritime interest, with the aim of improving safe, efficient, secure and environmentally friendly maritime transport, encouraging the flagging or reflagging to the Norwegian Ship Register (NOR), contributing to the consolidation of the Norwegian maritime cluster while maintaining an overall competitive fleet on world markets and maintaining and improving maritime know-how and protecting and promoting employment for EEA seafarers. The Norwegian authorities state that the extension of the net wage scheme to the ships covering the distance Bergen-Kirkenes furthers these objectives. Approximately 750 seafarers will be affected by this expansion.

The Authority considers that the Norwegian authorities have provided sufficient justification regarding the compliance of the proposed alteration to the tax refund scheme for seafarers with the general objectives of the Maritime Guidelines.

3.3. Aid granted in the form of reduced labour-related costs

The Maritime Guidelines provide that aid in the form of the alleviation of the burden of labour-related costs in respect of EEA seafarers should be allowed, provided that those seafarers are employed on board ships registered in an EEA State. The Maritime Guidelines allow such aid up to a maximum ceiling of 100 % relief from contributions. Such measures should seek to safeguard EEA employment, both on board and onshore, preserve and develop maritime know-how in the EEA and improve safety. With regard to labour costs, section 3.2(2) of the Guidelines provides that the following action on employment costs should be allowed for EEA shipping:

- reduced rates of contributions for the social protection of EEA seafarers employed on board ships registered in an EEA State,
- reduced rates of income tax for EEA seafarers on board ships registered in an EEA State.

⁽¹³⁾ Council Regulation (EEC) No 4055/86 of 22 December 1986 applying the principle of freedom to services to maritime transport between Member States and between Member States and third countries (OJ L 378, 31.12.1986, p. 1).

⁽¹⁴⁾ Council Regulation (EEC) No 3577/92 of 7 December 1992 applying the principle of freedom to provide services to maritime transport within Member States (maritime cabotage) (OJ L 364, 12.12.1992, p. 7).

⁽¹⁵⁾ Point inserted by EEA Joint Committee Decision No 70/97 (OJ L 30, 5.2.1998, p. 42 and EEA Supplement No 5, 5.2.1998, p. 175), with entry into force 1.8.1998.

For the purposes of the above, 'EEA seafarers' are defined as:

- citizens of the EEA States in the case of seafarers working on board vessels (including ro-ro ferries) providing scheduled passenger services between ports of the EEA;
- all seafarers liable to taxation and/or social security contributions in an EEA State, in all other cases.

The tax refund scheme for seafarers concerns the reimbursement of income tax and social security contributions paid by an employer on behalf of seafarers. Under the scheme as approved by Decisions No 280/06/COL and No 412/06/COL, ship owners of qualifying ships will receive grants in respect of seafarers who are tax resident in Norway or another EEA State or citizens of an EEA State, tax liable to Norway for income earned aboard, and eligible for the seafarers tax deduction according to section 6-61 of the Tax Act, and whose wages are reported to the National Pension Insurance for Seafarers Scheme or documented separately. No amendment has been notified in this sense. Thus, the Authority considers that the seafarers covered by the amendment will fall within the categories provided for in the Guidelines.

3.4. *Ceiling*

Section 3.2 of the Maritime Guidelines allows for the reduction of contributions for the social protection of EEA seafarers and a reduced rate of income tax. According to section 11 of the Maritime Guidelines, a reduction might be granted up to a ceiling of 100 %, i.e. a reduction to zero of taxation and social charges. According to the original notification of the scheme, refund payments can never exceed the amount of income tax and social security contributions actually paid. Since no amendments have been notified in this respect, the Authority considers that the tax and social security contributions to be reimbursed as a result of the notified amendment will continue to be in line with the Maritime Guidelines.

3.5. *Cumulating aid*

In accordance with Section 11 of the Maritime Guidelines, a reduction to zero of taxation and social charges is the maximum level of aid which may be permitted. Other systems of aid may not provide any greater benefit than this. The Norwegian authorities have stated that aid under the tax refund scheme for seafarers cannot be cumulated with aid received from other local, regional, national or Community schemes to cover the same eligible costs.

3.6. *Conclusion*

On the basis of the foregoing assessment, the Authority considers that the notified alteration to the tax refund scheme for seafarers, extending the reimbursement of seafarers income tax and social security contributions paid by the employer to safety crew on board passenger ships covering the distance

Bergen-Kirkenes exposed to competition and registered in the Norwegian Ordinary Shipping Register, is compatible with the functioning of the EEA Agreement within the meaning of Article 61(3)(c) EEA read together with the Maritime Guidelines. Accordingly, the Authority does not raise any objections to the notified amendment.

The Norwegian authorities are reminded of the obligation resulting from Article 21 of Part II of Protocol 3 to the Surveillance and Court Agreement in conjunction with Article 6 of Decision No 195/04/COL to provide annual reports on the implementation of the scheme. The Norwegian authorities are required to present to the Authority as soon as possible all legislative and administrative texts implementing the above alterations to the aid schemes, where this has not already been done.

Following the requirements of Section 12 of the Maritime Guidelines, the Norwegian authorities are reminded that for all aid schemes falling within the scope of the Maritime Guidelines, EFTA States are to communicate to the Authority an assessment of their effects during their sixth year of implementation.

The Norwegian authorities are also reminded that any plans to modify this scheme must be notified to the Authority.

The tax refund scheme for seafarers as approved by Decisions No 280/06/COL and No 412/06/COL was notified until 1 January 2016. The current notification indicates that the tax refund scheme is in principle not fixed for a specific time period but if still in operation it will be re-notified in ten years. The Norwegian authorities have not justified why the notified amendment should outlive the scheme as originally notified and therefore the Authority concludes that it is appropriate that the latest alteration to the scheme expires on that same date. The Authority draws the Norwegian authorities' attention to the fact that the Maritime Guidelines, under which the tax refund scheme has been approved, will be reviewed in 2011. In case the rules of the Maritime Guidelines change, this may have an effect on all existing aid schemes falling under the Guidelines, including the alteration to the scheme authorised by this decision,

HAS ADOPTED THIS DECISION:

Article 1

The EFTA Surveillance Authority has decided not to raise objections to the notified alteration to the tax refund scheme for seafarers aboard vessels in the Norwegian Ordinary Shipping Registers (NOR), extending the reimbursement of seafarers' income tax and social security contributions paid by the employer to safety crew on board passenger ships covering the distance Bergen-Kirkenes exposed to competition and registered in the Norwegian Ordinary Shipping Register.

The amended scheme is compatible with Article 61(3)(c) EEA.

Article 2

This Decision is addressed to the Kingdom of Norway.

Article 3

Only the English text is authentic.

Done at Brussels, 11 June 2008.

For the EFTA Surveillance Authority

Kurt JAEGER
College Member

Kristján A. STEFÁNSSON
College Member

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