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II

(Non-legislative acts)

REGULATIONS

COMMISSION IMPLEMENTING REGULATION (EU) No 893/2011

of 22 August 2011

approving non-minor amendments to the specification for a name entered in the register of protected designations of origin and protected geographical indications (Bresaola della Valtellina (PGI))

THE EUROPEAN COMMISSION,

Having regard to the Treaty on the Functioning of the European Union,

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), and in application of Article 17(2) 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 'Bresaola della Valtellina' registered under Commission Regulation (EC) No 1107/96 ⁽²⁾, as amended by Regulation (EC) No 1263/96 ⁽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* ⁽⁴⁾, as required by the first subparagraph of Article 6(2) of that Regulation. 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, 22 August 2011.

*For the Commission,
On behalf of the President,
Cecilia MALMSTRÖM
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 163, 2.7.1996, p. 19.

⁽⁴⁾ OJ C 321, 26.11.2010, p. 23.

ANNEX

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

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

ITALY

Bresaola della Valtellina (PGI)

COMMISSION IMPLEMENTING REGULATION (EU) No 894/2011**of 22 August 2011****approving non-minor amendments to the specification for a name entered in the register of protected designations of origin and protected geographical indications (Coppa Piacentina (PDO))**

THE EUROPEAN COMMISSION,

Having regard to the Treaty on the Functioning of the European Union,

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 9(1) of Regulation (EC) No 510/2006 and in accordance with Article 17(2) thereof, the Commission has examined Italy's application for the approval of amendments to the specification for the protected designation of origin 'Coppa Piacentina' registered under Commission Regulation (EC) No 1107/96 ⁽²⁾, as amended by Regulation (EC) No 1263/96 ⁽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* ⁽⁴⁾, as required by the first subparagraph of Article 6(2) of that Regulation. 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, 22 August 2011.

For the Commission,
On behalf of the President,
Cecilia MALMSTRÖM
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 163, 2.7.1996, p. 19.

⁽⁴⁾ OJ C 311, 16.11.2010, p. 24.

ANNEX

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

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

ITALY

Coppa Piacentina (PDO)

COMMISSION IMPLEMENTING REGULATION (EU) No 895/2011**of 22 August 2011****approving non-minor amendments to the specification for a name entered in the register of protected designations of origin and protected geographical indications (Pimiento Asado del Bierzo (PGI))**

THE EUROPEAN COMMISSION,

Having regard to the Treaty on the Functioning of the European Union,

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 Spain's application for the approval of amendments to the specification for the protected geographical indication 'Pimiento Asado del Bierzo' registered under Commission Regulation (EC) No 2400/96 ⁽²⁾, as amended by Regulation (EC) No 417/2006 ⁽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* ⁽⁴⁾, as required by the first subparagraph of Article 6(2) of that Regulation. 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, 22 August 2011.

*For the Commission,
On behalf of the President,
Cecilia MALMSTRÖM
Member of the Commission*

⁽¹⁾ OJ L 93, 31.3.2006, p. 12.

⁽²⁾ OJ L 327, 18.12.1996, p. 11.

⁽³⁾ OJ L 72, 11.3.2006, p. 8.

⁽⁴⁾ OJ C 321, 26.11.2010, p. 18.

ANNEX

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

Class 1.6. Fruit, vegetables and cereals, fresh or processed

SPAIN

Pimiento Asado del Bierzo (PGI)

COMMISSION IMPLEMENTING REGULATION (EU) No 896/2011
of 2 September 2011
concerning the classification of certain goods in the Combined Nomenclature

THE EUROPEAN COMMISSION,

Having regard to the Treaty on the Functioning of the European Union,

Having regard to Council Regulation (EEC) No 2658/87 of 23 July 1987 on the tariff and statistical nomenclature and on the Common Customs Tariff⁽¹⁾, and in particular Article 9(1)(a) thereof,

Whereas:

- (1) In order to ensure uniform application of the Combined Nomenclature annexed to Regulation (EEC) No 2658/87, it is necessary to adopt measures concerning the classification of the goods referred to in the Annex to this Regulation.
- (2) Regulation (EEC) No 2658/87 has laid down the general rules for the interpretation of the Combined Nomenclature. Those rules apply also to any other nomenclature which is wholly or partly based on it or which adds any additional subdivision to it and which is established by specific provisions of the Union, with a view to the application of tariff and other measures relating to trade in goods.
- (3) Pursuant to those general rules, the goods described in column (1) of the table set out in the Annex should be classified under the CN code indicated in column (2), by virtue of the reasons set out in column (3) of that table.

(4) It is appropriate to provide that binding tariff information which has been issued by the customs authorities of Member States in respect of the classification of goods in the Combined Nomenclature but which is not in accordance with this Regulation can, for a period of three months, continue to be invoked by the holder, under Article 12(6) of Council Regulation (EEC) No 2913/92 of 12 October 1992 establishing the Community Customs Code⁽²⁾.

(5) The measures provided for in this Regulation are in accordance with the opinion of the Customs Code Committee,

HAS ADOPTED THIS REGULATION:

Article 1

The goods described in column (1) of the table set out in the Annex shall be classified within the Combined Nomenclature under the CN code indicated in column (2) of that table.

Article 2

Binding tariff information issued by the customs authorities of Member States, which is not in accordance with this Regulation, can continue to be invoked for a period of three months under Article 12(6) of Regulation (EEC) No 2913/92.

Article 3

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

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

Done at Brussels, 2 September 2011.

*For the Commission,
On behalf of the President,
Algirdas ŠEMETA
Member of the Commission*

⁽¹⁾ OJ L 256, 7.9.1987, p. 1.

⁽²⁾ OJ L 302, 19.10.1992, p. 1.

ANNEX

Description of the goods	Classification (CN code)	Reasons
(1)	(2)	(3)
Retro-reflective tapes intended for application to safety clothing and uniforms by means of a heat activated adhesive. The product has a thickness of 140-155 µm (protective paper liner not included) and is composed of the following layers: — 60-70 µm of micro glass balls with a metallic mirror on one side, bound with an elastomer of poly(butadiene-co-acrylonitrile) (the thickness of that elastomer is 15-20 µm), — 80-85 µm of a heat activated polyester adhesive, and — a protective paper liner to be removed before use. The product is presented in individual strips or in rolls.	4008 21 90	Classification is determined by General Rules 1, 3 (b) and 6 for the interpretation of the Combined Nomenclature, Notes 1 and 9 to Chapter 40 and the wording of CN codes 4008, 4008 21 and 4008 21 90. The product is made up of different layers of components and has therefore to be classified according to the constituent materials which give the product its essential character. The role of the micro glass balls is important in the retro-reflective process, but a classification under heading 7018 as glass microspheres is excluded because the role of the elastomer, maintaining the micro glass balls in position, is predominant. Although the polyester layer is the thickest layer, a classification under heading 3920 as a sheet of thermoplastic polymer is excluded because the elastomer, in which the micro glass balls are embedded, is the most essential component for the cohesion of the micro glass balls and accordingly, for the conferral of its retro-reflective properties on the product. As the elastomer gives the product its essential character it is therefore to be classified, in accordance with General Rule 3 (b), under heading 4008 as plate, sheets, strip of vulcanised rubber other than hard rubber.

COMMISSION IMPLEMENTING REGULATION (EU) No 897/2011
of 2 September 2011
concerning the classification of certain goods in the Combined Nomenclature

THE EUROPEAN COMMISSION,

Having regard to the Treaty on the Functioning of the European Union,

Having regard to Council Regulation (EEC) No 2658/87 of 23 July 1987 on the tariff and statistical nomenclature and on the Common Customs Tariff⁽¹⁾, and in particular Article 9(1)(a) thereof,

Whereas:

- (1) In order to ensure uniform application of the Combined Nomenclature annexed to Regulation (EEC) No 2658/87, it is necessary to adopt measures concerning the classification of the goods referred to in the Annex to this Regulation.
- (2) Regulation (EEC) No 2658/87 has laid down the general rules for the interpretation of the Combined Nomenclature. Those rules apply also to any other nomenclature which is wholly or partly based on it or which adds any additional subdivision to it and which is established by specific provisions of the Union, with a view to the application of tariff and other measures relating to trade in goods.
- (3) Pursuant to those general rules, the goods described in column (1) of the table set out in the Annex should be classified under the CN code indicated in column (2), by virtue of the reasons set out in column (3) of that table.

(4) It is appropriate to provide that binding tariff information which has been issued by the customs authorities of Member States in respect of the classification of goods in the Combined Nomenclature but which is not in accordance with this Regulation can, for a period of three months, continue to be invoked by the holder, under Article 12(6) of Council Regulation (EEC) No 2913/92 of 12 October 1992 establishing the Community Customs Code⁽²⁾.

(5) The Customs Code Committee has not issued an opinion within the time limit set by its Chairman,

HAS ADOPTED THIS REGULATION:

Article 1

The goods described in column (1) of the table set out in the Annex shall be classified within the Combined Nomenclature under the CN code indicated in column (2) of that table.

Article 2

Binding tariff information issued by the customs authorities of Member States, which is not in accordance with this Regulation, can continue to be invoked for a period of three months under Article 12(6) of Regulation (EEC) No 2913/92.

Article 3

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

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

Done at Brussels, 2 September 2011.

*For the Commission,
On behalf of the President,
Algirdas ŠEMETA
Member of the Commission*

⁽¹⁾ OJ L 256, 7.9.1987, p. 1.

⁽²⁾ OJ L 302, 19.10.1992, p. 1.

ANNEX

Description of goods	Classification (CN code)	Reasons
(1)	(2)	(3)
Product put up for retail sale in a bottle of 500 ml, containing (% by weight): — water 45,9 — fructose 33,3 — oligofructose 7,6 — apple juice concentrate 3,6 — blackcurrant juice concentrate 2,3 — vegetable oligopeptides 2,3 — citric acid 3,6 — maté concentrate 0,7 — food yeast 0,5 — L-carnitine 0,1 — potassium sorbate 0,1 The product is a reddish brown, cloudy, slightly viscose liquid with a density of 1,1812 g/cm³ and a Brix value of 40. According to the packaging the product is based on water enriched with nutrients, which is destined to be integrated into the diet. Instructions for use: 50 ml of the product diluted with 100 ml of water or juice.	2106 90 92	Classification is determined by General Rules 1 and 6 for the interpretation of the Combined Nomenclature, and the wording of CN codes 2106, 2106 90 and 2106 90 92. Due to the content of sugars and some other ingredients like potassium sorbate and citric acid, the product requires dilution before consumption and therefore it cannot be regarded as a beverage of heading 2202 (see also Combined Nomenclature Explanatory Notes to Chapter 22, General, second paragraph). The product is therefore to be classified as a food preparation not elsewhere specified or included of heading 2106 (see also Harmonized System Explanatory Notes to heading 2106, second paragraph, point 7).

COMMISSION IMPLEMENTING REGULATION (EU) No 898/2011**of 7 September 2011****amending Implementing Regulation (EU) No 543/2011 as regards the trigger levels for additional duties on tomatoes**

THE EUROPEAN COMMISSION,

Having regard to the Treaty on the Functioning of the European Union,

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 143(b), in conjunction with Article 4 thereof,

Whereas:

- (1) Commission Implementing Regulation (EU) No 543/2011 of 7 June 2011 laying down detailed rules for the application of Council Regulation (EC) No 1234/2007 in respect of the fruit and vegetables and processed fruit and vegetables sectors ⁽²⁾ provides for the surveillance of the imports of the products listed in Annex XVIII thereto. That surveillance is to be carried out in accordance with the rules laid down in Article 308d of Commission Regulation (EEC) No 2454/93 of 2 July 1993 laying down provisions for the implementation of Council Regulation (EEC) No 2913/92 establishing the Community Customs Code ⁽³⁾.

- (2) For the purposes of applying Article 5(4) of the Agreement on Agriculture ⁽⁴⁾ concluded as part of the Uruguay Round of multilateral trade negotiations and in the light of the latest data available for 2008, 2009 and 2010, the trigger levels for additional duties on tomatoes should be amended.

- (3) Implementing Regulation (EU) No 543/2011 should therefore be amended accordingly.

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

HAS ADOPTED THIS REGULATION:

Article 1

Annex XVIII to Regulation (EC) No 543/2011 is replaced by the text set out in the Annex to this Regulation.

Article 2

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

It shall apply from 1 October 2011.

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

Done at Brussels, 7 September 2011.

For the Commission

The President

José Manuel BARROSO

⁽¹⁾ OJ L 299, 16.11.2007, p. 1.

⁽²⁾ OJ L 157, 15.6.2011, p. 1.

⁽³⁾ OJ L 253, 11.10.1993, p. 1.

⁽⁴⁾ OJ L 336, 23.12.1994, p. 22.

ANNEX

‘ANNEX XVIII

ADDITIONAL IMPORT DUTIES: TITLE IV, CHAPTER I, SECTION 2

Without prejudice to the rules governing the interpretation of the Combined Nomenclature, the description of the products is deemed to be indicative only. The scope of the additional duties for the purposes of this Annex is determined by the scope of the CN codes as they stand at the time of the adoption of this Regulation.

Order number	CN code	Description	Trigger period	Trigger level (tonnes)
78.0015	0702 00 00	Tomatoes	1 October to 31 May	481 762
78.0020			1 June to 30 September	44 251
78.0065	0707 00 05	Cucumbers	From 1 May to 31 October	31 289
78.0075			From 1 November to 30 April	26 583
78.0085	0709 90 80	Artichokes	From 1 November to 30 June	17 258
78.0100	0709 90 70	Courgettes	1 January to 31 December	57 955
78.0110	0805 10 20	Oranges	1 December to 31 May	368 535
78.0120	0805 20 10	Clementines	From 1 November to end of February	175 110
78.0130	0805 20 30 0805 20 50 0805 20 70 0805 20 90	Mandarins (including tangerines and satsumas); wilkings and similar citrus hybrids	From 1 November to end of February	115 625
78.0155	0805 50 10	Lemons	From 1 June to 31 December	346 366
78.0160			From 1 January to 31 May	88 090
78.0170	0806 10 10	Table grapes	From 21 July to 20 November	80 588
78.0175	0808 10 80	Apples	From 1 January to 31 August	700 556
78.0180			1 September to 31 December	65 039
78.0220	0808 20 50	Pears	1 January to 30 April	229 646
78.0235			1 July to 31 December	35 541
78.0250	0809 10 00	Apricots	From 1 June to 31 July	5 794
78.0265	0809 20 95	Cherries, other than sour cherries	From 21 May to 10 August	30 783
78.0270	0809 30	Peaches, including nectarines	From 11 June to 30 September	5 613
78.0280	0809 40 05	Plums	From 11 June to 30 September	10 293'

COMMISSION IMPLEMENTING REGULATION (EU) No 899/2011**of 7 September 2011****fixing the coefficients applicable to cereals exported in the form of Irish whiskey for the period 2011/12**

THE EUROPEAN COMMISSION,

Having regard to the Treaty on the Functioning of the European Union,

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 1670/2006 of 10 November 2006 laying down certain detailed rules for the application of Council Regulation (EC) No 1784/2003 as regards the fixing and granting of adjusted refunds in respect of cereals exported in the form of certain spirit drinks ⁽²⁾, and in particular Article 5 thereof,

Whereas:

- (1) Article 4(1) of Regulation (EC) No 1670/2006 lays down that the quantities of cereals eligible for the refund are to be the quantities placed under control and distilled, weighted by a coefficient to be fixed annually for each Member State concerned. The coefficient is to express the average ratio between the total quantities exported and the total quantities marketed of the spirit drink concerned, on the basis of the trend noted in those quantities during the number of years corresponding to the average ageing period of the spirit drink in question.
- (2) According to the information provided by Ireland in respect of the period 1 January to 31 December 2010, the average ageing period for Irish whiskey in 2010 was 5 years.

(3) The coefficients for the period 1 October 2011 to 30 September 2012 should therefore be fixed accordingly.

(4) Article 10 of Protocol 3 to the Agreement on the European Economic Area excludes the grant of refunds in respect of exports to Liechtenstein, Iceland and Norway. Moreover, the Union has concluded agreements abolishing export refunds with certain third countries. Under the terms of Article 7(2) of Regulation (EC) No 1670/2006, that should be taken into account in calculating the coefficients for 2011/12.

(5) Commission Regulation (EU) No 1116/2010 of 2 December 2010 fixing the coefficients applicable to cereals exported in the form of Irish whiskey for the period 2010/11 ⁽³⁾ has exhausted its effects, as it concerns the coefficients applicable for the year 2010/11. For reasons of legal security and clarity, that Regulation should be repealed,

HAS ADOPTED THIS REGULATION:

Article 1

For the period 1 October 2011 to 30 September 2012, the coefficients provided for in Article 4 of Regulation (EC) No 1670/2006 applying to cereals used in Ireland for manufacturing Irish whiskey shall be as set out in the Annex to this Regulation.

Article 2

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

It shall apply from 1 October 2011 to 30 September 2012.

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

Done at Brussels, 7 September 2011.

For the Commission

The President

José Manuel BARROSO

⁽¹⁾ OJ L 299, 16.11.2007, p. 1.

⁽²⁾ OJ L 312, 11.11.2006, p. 33.

⁽³⁾ OJ L 317, 3.12.2010, p. 1.

ANNEX

Coefficients applicable in Ireland		
Period of application	Coefficient applicable	
	to barley used in the production of Irish whiskey, category B ⁽¹⁾	to cereals used in the production of Irish whiskey, category A
From 1 October 2011 to 30 September 2012	0,173	0,147

⁽¹⁾ Including malted barley.

COMMISSION IMPLEMENTING REGULATION (EU) No 900/2011

of 7 September 2011

concerning the authorisation of lasalocid A sodium as a feed additive for pheasants, guinea fowl, quails and partridges other than laying birds (holder of authorisation Alpharma (Belgium) BVBA)

(Text with EEA relevance)

THE EUROPEAN COMMISSION,

Having regard to the Treaty on the Functioning of the European Union,

Having regard to Regulation (EC) No 1831/2003 of the European Parliament and of the Council of 22 September 2003 on additives for use in animal nutrition⁽¹⁾, and in particular Article 9(2) thereof,

Whereas:

- (1) Regulation (EC) No 1831/2003 provides for the authorisation of additives for use in animal nutrition and for the grounds and procedures for granting such authorisation.
- (2) In accordance with Article 7 of Regulation (EC) No 1831/2003, an application was submitted for the authorisation of lasalocid A sodium, CAS number 25999-20-6. The application was accompanied by the particulars and documents required pursuant to Article 7(3) of Regulation (EC) No 1831/2003.
- (3) The application concerns the authorisation of lasalocid A sodium, CAS number 25999-20-6, as a feed additive for pheasants, guinea fowl, quails and partridges other than laying birds, to be classified in the additive category 'coccidiostats and histomonostats'.
- (4) The use of that preparation was authorised for 10 years for chickens for fattening and for chickens reared for laying up to 16 weeks by Commission Regulation (EC) No 1455/2004⁽²⁾, and for turkeys up to 16 weeks by Commission Regulation (EU) No 874/2010⁽³⁾.
- (5) New data were submitted in support of the application for authorisation of lasalocid A sodium, CAS number 25999-20-6, for pheasants, guinea fowl, quails and

partridges other than laying birds. The European Food Safety Authority ('the Authority') concluded in its opinion of 16 March 2011⁽⁴⁾ that, under the proposed conditions of use, lasalocid A sodium, CAS number 25999-20-6, does not have an adverse effect on animal health, human health or the environment and that it is efficacious to control coccidiosis in the target species. It considers that there is a need for specific requirements of a post-market monitoring program on the resistance to bacteria and *Eimeria* spp. It also verified the report on the method of analysis of the feed additive in feed submitted by the Community Reference Laboratory set up by Regulation (EC) No 1831/2003.

- (6) The assessment of lasalocid A sodium, CAS number 25999-20-6, shows that the conditions for authorisation, as provided for in Article 5 of Regulation (EC) No 1831/2003, are satisfied. Accordingly, the use of this preparation should be authorised as specified in the Annex to this Regulation.
- (7) The measures provided for in this Regulation are in accordance with the opinion of the Standing Committee on the Food Chain and Animal Health,

HAS ADOPTED THIS REGULATION:

Article 1

The preparation specified in the Annex, belonging to the additive category 'coccidiostats and histomonostats' is authorised as an additive in animal nutrition, subject to the conditions laid down in that Annex.

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, 7 September 2011.

For the Commission

The President

José Manuel BARROSO

⁽¹⁾ OJ L 268, 18.10.2003, p. 29.

⁽²⁾ OJ L 269, 17.8.2004, p. 14.

⁽³⁾ OJ L 263, 6.10.2010, p. 1.

⁽⁴⁾ *The EFSA Journal* 2011; 9(4):2116.

ANNEX

Identification number of the additive	Name of the holder of authorisation	Additive	Composition, chemical formula, description, analytical method	Species or category of animal	Maximum age	Minimum content	Maximum content	Other provisions	End of period of authorisation	Maximum Residue Limits (MRLs) in the relevant foodstuffs of animal origin
						mg/kg of complete feedingstuff with a moisture content of 12 %				
Category of coccidiostats and histomonostats										
5 1 763	Alpharma (Belgium) BVBA	Lasalocid A sodium 15 g/100 g (Avatec 150 G)	<i>Additive composition:</i> Lasalocid A sodium: 15 g/100 g Calcium sulphate dihydrate: 80,9 g/100 g Calcium lignosulphonate: 4 g/100 g Ferric oxide: 0,1 g/100 g <i>Active substance:</i> Lasalocid A sodium, C₃₄H₅₃NaO₈, CAS number: 25999-20-6, sodium salt of 6-[(3R, 4S, 5S, 7R)-7-[(2S, 3S, 5S)-5-ethyl-5-[(2R, 5R, 6S)-5-ethyl—5-hydroxy-6-methyltetrahydro-2H-pyran2-yl]-tetrahydro-3-methyl-2-furyl]-4-hydroxy-3,5-dimethyl-6-oxononyl]-2 hydroxy-3-methyl benzoate, produced by <i>Streptomyces lasaliensis</i> subsp. <i>Lasaliensis</i> (ATCC 31180) Related impurities: Lasalocid sodium B-E: ≤ 10 % <i>Analytical methods</i> ⁽¹⁾: Reversed-phase high performance liquid chromatography (HPLC) with spectrofluorometric detector (Commission Regulation (EC) No 152/2009) ⁽²⁾	Pheasants, guinea fowl, quails and partridges except laying birds thereof.	—	75	125	1. Use prohibited at least 5 days before slaughter. 2. Indicate in the instructions for use: 'Dangerous for equine species' 'This feedingstuff contains an ionophore: simultaneous use with certain medicinal substances can be contraindicated'. 3. A post-market monitoring program on the resistance to bacteria and <i>Eimeria</i> spp. shall be planned and executed by the holder of authorisation. 4. The additive shall be incorporated in compound feed in the form of a premixture. 5. Lasalocid A sodium shall not be mixed with other coccidiostats.	28 September 2021	Commission Regulation (EU) No 37/2010 ⁽³⁾

⁽¹⁾ Details of the analytical methods are available at the following address of the Community Reference Laboratory: http://irmm.jrc.ec.europa.eu/EURLs/EURL_feed_additives/Pages/index.aspx

⁽²⁾ OJ L 54, 26.2.2009, p. 1.

⁽³⁾ OJ L 15, 20.1.2010, p. 1.

COMMISSION IMPLEMENTING REGULATION (EU) No 901/2011**of 7 September 2011****establishing the standard import values for determining the entry price of certain fruit and vegetables**

THE EUROPEAN COMMISSION,

Having regard to the Treaty on the Functioning of the European Union,

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 Implementing Regulation (EU) No 543/2011 of 7 June 2011 laying down detailed rules for the application of Council Regulation (EC) No 1234/2007 in respect of the fruit and vegetables and processed fruit and vegetables sectors ⁽²⁾, and in particular Article 136(1) thereof,

Whereas:

Implementing Regulation (EU) No 543/2011 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 XVI, Part A thereto,

HAS ADOPTED THIS REGULATION:

Article 1

The standard import values referred to in Article 136 of Implementing Regulation (EU) No 543/2011 are fixed in the Annex hereto.

Article 2

This Regulation shall enter into force on 8 September 2011.

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

Done at Brussels, 7 September 2011.

*For the Commission,
On behalf of the President,
José Manuel SILVA RODRÍGUEZ
Director-General for Agriculture and
Rural Development*

⁽¹⁾ OJ L 299, 16.11.2007, p. 1.

⁽²⁾ OJ L 157, 15.6.2011, 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	AR	33,3
	EC	32,6
	MK	49,0
	ZZ	38,3
0707 00 05	AR	24,2
	TR	123,3
	ZZ	73,8
0709 90 70	AR	40,2
	EC	39,5
	TR	122,6
	ZZ	67,4
0805 50 10	AR	70,6
	CL	76,8
	MX	39,8
	PY	33,5
	TR	66,0
	UY	37,4
	ZA	73,4
	ZZ	56,8
0806 10 10	EG	156,9
	MA	175,2
	TR	114,6
	ZA	59,8
	ZZ	126,6
0808 10 80	CL	63,1
	CN	78,7
	NZ	102,6
	US	82,4
	ZA	84,3
	ZZ	82,2
0808 20 50	CN	74,4
	TR	118,4
	ZA	72,6
	ZZ	88,5
0809 30	TR	143,9
	ZZ	143,9
0809 40 05	BA	41,6
	KE	58,0
	ZZ	49,8

⁽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 IMPLEMENTING REGULATION (EU) No 902/2011**of 7 September 2011****amending the representative prices and additional import duties for certain products in the sugar sector fixed by Regulation (EU) No 867/2010 for the 2010/11 marketing year**

THE EUROPEAN COMMISSION,

Having regard to the Treaty on the Functioning of the European Union,

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 2010/11 marketing year are fixed by Commission Regulation (EU) No 867/2010 ⁽³⁾. These prices and duties have been last amended by Commission Implementing Regulation (EU) No 890/2011 ⁽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 (EU) No 867/2010 for the 2010/11 marketing year, are hereby amended as set out in the Annex hereto.

Article 2

This Regulation shall enter into force on 8 September 2011.

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

Done at Brussels, 7 September 2011.

*For the Commission,
On behalf of the President,
José Manuel SILVA RODRÍGUEZ
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 259, 1.10.2010, p. 3.

⁽⁴⁾ OJ L 229, 6.9.2011, p. 14.

ANNEX

Amended representative prices and additional import duties applicable to white sugar, raw sugar and products covered by CN code 1702 90 95 from 8 September 2011

(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⁾	47,34	0,00
1701 11 90 ⁽¹⁾	47,34	0,70
1701 12 10 ⁽¹⁾	47,34	0,00
1701 12 90 ⁽¹⁾	47,34	0,40
1701 91 00 ⁽²⁾	52,94	1,59
1701 99 10 ⁽²⁾	52,94	0,00
1701 99 90 ⁽²⁾	52,94	0,00
1702 90 95 ⁽³⁾	0,53	0,20

⁽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.

COMMISSION IMPLEMENTING REGULATION (EU) No 903/2011
of 7 September 2011
fixing the import duties applicable to certain husked rice from 8 September 2011

THE EUROPEAN COMMISSION,

Having regard to the Treaty on the Functioning of the European Union,

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 137 thereof,

Whereas:

- (1) Based on the information provided by the competent authorities, the Commission notes that import licences for husked rice falling within CN code 1006 20, other than import licences for basmati rice, were issued in respect of 438 104 tonnes for the period from 1 September 2010 to 31 August 2011. The import

duty for husked rice falling within CN code 1006 20 other than basmati rice should therefore be adjusted.

- (2) The applicable duty must be fixed within 10 days of the end of the period mentioned above. This Regulation should therefore come into force immediately,

HAS ADOPTED THIS REGULATION:

Article 1

The import duty for husked rice falling within CN code 1006 20 shall be EUR 42,5 per tonne.

Article 2

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

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

Done at Brussels, 7 September 2011.

For the Commission,
On behalf of the President,
José Manuel SILVA RODRÍGUEZ
Director-General for Agriculture and
Rural Development

⁽¹⁾ OJ L 299, 16.11.2007, p. 1.

COMMISSION IMPLEMENTING REGULATION (EU) No 904/2011

of 7 September 2011

fixing the allocation coefficient to be applied to applications for import licences lodged from 26 August 2011 to 2 September 2011 in the context of the tariff quota opened by Regulation (EC) No 2305/2003 for barley

THE EUROPEAN COMMISSION,

Having regard to the Treaty on the Functioning of the European Union,

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 1301/2006 of 31 August 2006 laying down common rules for the administration of import tariff quotas for agricultural products managed by a system of import licences ⁽²⁾, and in particular Article 7(2) thereof,

Whereas:

- (1) Commission Regulation (EC) No 2305/2003 ⁽³⁾ opens an annual tariff quota for the import of 306 215 tonnes of barley (order number 09.4126).
- (2) The notification made under Article 3(3) of Regulation (EC) No 2305/2003 shows that the applications lodged between 26 August 2011 at 13.00 and 2 September 2011 at 13.00 (Brussels time), in accordance with Article 3(1) of that Regulation, exceed the quantities available. The extent to which import licences may be

issued should therefore be determined and the allocation coefficient to be applied to the quantities applied for should be fixed.

- (3) No further import licences should be issued under Regulation (EC) No 2305/2003 for the current quota period.
- (4) In order to ensure sound management of the procedure of issuing import licences, this Regulation should enter into force immediately after its publication,

HAS ADOPTED THIS REGULATION:

Article 1

1. Each application for an import licence for barley under the quota referred to in Regulation (EC) No 2305/2003 lodged between 26 August 2011 at 13.00 and 2 September 2011 at 13.00 (Brussels time) shall give rise to the issue of a licence for the quantities applied for, multiplied by an allocation coefficient of 77,115913 %.

2. The issue of licences for quantities applied for from 13.00 (Brussels time) on 2 September 2011 is hereby suspended for the current quota period.

Article 2

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

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

Done at Brussels, 7 September 2011.

*For the Commission,
On behalf of the President,
José Manuel SILVA RODRÍGUEZ
Director-General for Agriculture and
Rural Development*

⁽¹⁾ OJ L 299, 16.11.2007, p. 1.

⁽²⁾ OJ L 238, 1.9.2006, p. 13.

⁽³⁾ OJ L 342, 30.12.2003, p. 7.

IV

(Acts adopted before 1 December 2009 under the EC Treaty, the EU Treaty and the Euratom Treaty)

EFTA SURVEILLANCE AUTHORITY DECISION

No 471/09/COL

of 25 November 2009

amending, for the seventy-fourth time, the procedural and substantive rules in the field of State aid by introducing a new chapter on criteria for the analysis of the compatibility of State aid for training subject to individual notification

THE EFTA SURVEILLANCE AUTHORITY ⁽¹⁾,

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

HAVING REGARD to the Agreement between the EFTA States on the Establishment of a Surveillance Authority and a Court of Justice ⁽³⁾, in particular to Article 24 and Article 5(2)(b) thereof,

WHEREAS pursuant to Article 24 of the Surveillance and Court Agreement, the Authority shall give effect to the provisions of the EEA Agreement concerning State aid,

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

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

WHEREAS, on 11 August 2009, the Commission of the European Communities (hereinafter 'the Commission') published a Communication on criteria for the analysis of the compatibility of State aid for training subject to individual notification ⁽⁵⁾,

WHEREAS this Communication is also of relevance for the European Economic Area,

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

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

HAVING consulted the Commission,

RECALLING that the Authority has consulted the EFTA States by way of letter on the subject dated 2 October 2009 (Event Nos 532318, 532294 and 532322),

HAS ADOPTED THIS DECISION:

⁽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 of the EEA Agreement and Article 1 of Protocol 3 to the Surveillance and Court Agreement, adopted and issued by the Authority on 19 January 1994, published in the *Official Journal of the European Union* L 231, 3.9.1994, p. 1, and EEA Supplement No 32, 3.9.1994, p. 1 (hereinafter referred to as 'the State Aid Guidelines'). The updated version of the State Aid Guidelines is published on the Authority's website: <http://www.eftasurv.int/state-aid/legal-framework/state-aid-guidelines/>

Article 1

The State Aid Guidelines shall be amended by introducing a new chapter on criteria for the analysis of the compatibility of State aid for training subject to individual notification. The new chapter is contained in the Annex to this Decision.

⁽⁵⁾ Published in OJ C 188, 11.8.2009, p. 1.

Article 2

Only the English version is authentic.

Done at Brussels, 25 November 2009.

For the EFTA Surveillance Authority

Per SANDERUD
President

Kurt JÄGER
College Member

ANNEX

CRITERIA FOR THE ANALYSIS OF THE COMPATIBILITY OF STATE AID FOR TRAINING SUBJECT TO INDIVIDUAL NOTIFICATION ⁽¹⁾**1. Introduction**

1. Training usually has positive external effects for society as a whole since it increases the pool of skilled workers from which undertakings can draw and it improves the competitiveness of the economy and promotes a knowledge society capable of embracing a more innovative development path.
2. Undertakings may, however, provide less than a socially optimal level of training if employees are free to change employers and other undertakings can benefit from recruiting employees trained by them. This is particularly true of training targeted at skills that are transferable between undertakings. State aid may help to create additional incentives for employers to provide training at a level that is socially desirable.
3. This Chapter sets out guidance as to the criteria the EFTA Surveillance Authority (hereinafter 'the Authority') will apply for the assessment of training aid measures. This guidance is intended to make the Authority's reasoning transparent and to create predictability and legal certainty. Pursuant to Article 6(1)(g) of the Act referred to at point 1j of Annex XV to the EEA Agreement (Commission Regulation (EC) No 800/2008 of 6 August 2008 declaring certain categories of aid compatible with the common market in application of Articles 87 and 88 of the Treaty (General block exemption Regulation) ⁽²⁾), as adapted to the EEA Agreement by Protocol 1 thereto ⁽³⁾ (hereinafter referred to as 'the General Block Exemption Regulation'), any individual training aid, whether granted ad hoc or on the basis of a scheme, will be subject to this guidance when its grant equivalent exceeds EUR 2 million per training project.
4. The criteria set out in this guidance will not be applied mechanically. The level of the Authority's assessment and the kind of information it may require will be proportional to the risk of distortion of competition. The scope of the analysis will depend on the nature of the case.

2. Positive effects of the aid*2.1. Existence of market failures*

5. Skilled workers contribute to increasing the productivity and competitiveness of undertakings. Nevertheless, employers and employees may underinvest in training for a number of reasons. Employees may limit their investment in training if they are risk averse, suffer from financial constraints or have difficulties signalling the level of their acquired knowledge to future employers.
6. Undertakings may refrain from training their workforce at the level that would be optimal for society as a whole. This is due to the market failure linked with the positive externalities of training and to difficulties in appropriating the rents if employees are free to change employers. Undertakings may invest less into training, if they are concerned that once trained, an employee will leave before the undertaking has recouped its investment. Undertakings may be reluctant to provide sufficient training to their workers unless training pays off quickly or is rather specific to the needs of the undertaking concerned, or unless contractual clauses can prevent the trained employee from leaving the undertaking before the training cost have been amortised or (part of) the training expenses have been reimbursed.
7. Underinvestment in training may even occur if the undertaking can fully recoup its investment but its private benefits are smaller than the benefits for society as a whole. Such positive externalities of training may arise in particular if training improves transferable skills; that is to say, skills that can be used in more than one undertaking. In contrast, specific training only yields productivity gains in a specific undertaking and can be easily appropriated by undertakings ⁽⁴⁾. Thus the scope for positive externalities of specific training is less pronounced than the scope for such externalities of general training.

⁽¹⁾ This Chapter corresponds to the Communication from the Commission of the European Communities – Criteria for the analysis of the compatibility of State aid for training subject to individual notification 2009/C 188/01 (OJ C 188, 11.8.2009, p. 1).

⁽²⁾ OJ L 214, 9.8.2008, p. 3. For ad hoc training aid to a large undertaking below the threshold of EUR 2 million, the Authority will *mutatis mutandis* apply the principles as outlined in this Chapter, though in a less detailed manner.

⁽³⁾ Decision of the EEA Joint Committee No 120/2008 of 7.11.2008 (OJ L 339, 18.12.2008, p. 111, and EEA Supplement No 79, 18.12.2008), entered into force on 8.11.2008.

⁽⁴⁾ However, externalities of general training can also be appropriated by the undertakings through special clauses in contracts requiring the trained employee to remain in the undertaking for a defined period of time after he had received such training.

8. Where undertakings are faced with higher costs and uncertain benefits for training disadvantaged or disabled workers ⁽¹⁾ there may be an incentive to provide less training to those groups. However, training disadvantaged or disabled workers can usually be expected to produce positive externalities for society as a whole ⁽²⁾.
9. EFTA States should demonstrate that there is a market failure justifying the aid. In its analysis, the Authority will, among other things, consider the following elements:
 - (1) the nature of the training – whether it is specific or general within the meaning of Article 38 of the General Block Exemption Regulation; a single training project can comprise both general and specific elements; general training will produce more positive externalities;
 - (2) the transferability of the skills acquired during the training; the more transferable the skills the higher the likelihood of positive externalities training will be considered to provide transferable skills if, for example:
 - (a) training is jointly organised by several independent undertakings, or if employees of different undertakings may benefit from the training;
 - (b) training is certified, leads to a recognised diploma or is validated by public authorities or institutions;
 - (c) training targets the categories of employees that are characterised by a high turnover in the undertaking and in the sector concerned;
 - (d) training could be valuable for the employee beyond his current job (future occupations in another undertaking, social life, well-being, etc.);
 - (3) the participants in the training: the inclusion of disabled or disadvantaged workers may increase the positive externalities of the training.

2.2. State aid as an appropriate policy instrument

10. State aid is not the only policy instrument available to EFTA States to encourage training. Most training is provided through education systems (for example, universities, schools, or vocational training carried out or sponsored by state authorities). Training can also be undertaken by the individuals themselves, with or without the support of their employers.
11. Where the EFTA State has considered other policy options, and the advantages of using a selective instrument such as State aid for a specific undertaking are established, the measures concerned are considered to constitute an appropriate instrument. The Authority will in particular take account of any impact assessment of the proposed measure the EFTA State may have made.

2.3. Incentive effect and necessity of the aid

12. State aid for training must result in the aid beneficiary changing its behaviour so that it provides more and/or better training than would have been the case without the aid. If such an increase in the quantity or quality of planned training activities does not take place, the aid is considered not to have an incentive effect.
13. The incentive effect is identified by counterfactual analysis, comparing the levels of intended training with aid and without aid. Most employers find it necessary to train their workforce in order to ensure the proper functioning of their undertakings. It cannot be presumed that State aid for training, especially for specific training, is always needed.
14. EFTA States should demonstrate to the Authority the existence of the incentive effect and the necessity of the aid. First, the beneficiary must have submitted an application for the aid to the EFTA State concerned before it started the training project. Second, the EFTA State must demonstrate that the State aid leads to an increase, by comparison to the situation without aid, in the size, quality, scope or targeted participants of the training project. The additional amount of training offered with aid can be shown, for example by higher number of training hours or courses, higher numbers of participants, shifting from undertaking-specific to general training, or increasing the participation of certain categories of disadvantaged or disabled workers.

⁽¹⁾ Disabled and disadvantaged workers are defined in Article 2 of the General Block Exemption Regulation.

⁽²⁾ For example, society will attach more value to training received by young and low-skilled workers than an undertaking will do due to a perceived or real lower productivity.

15. In its analysis, the Authority will consider, among other things, the following elements:

- (a) internal documents of the aid beneficiary on training costs, budgets, participants, content and scheduling for two scenarios: training with aid and training without aid;
- (b) the existence of a legal obligation for employers to provide a certain type of training (for example, safety): if such an obligation exists, the Authority will normally conclude that there is no incentive effect;
- (c) the credibility of the project submitted, for example by referring to and comparing it with training budgets for previous years;
- (d) the relationship between the training programme and the business activities of the aid beneficiary: the closer the relationship, the less likely the incentive effect. For example, training on the introduction of a new technology in a specific sector is unlikely to have an incentive effect since undertakings have no choice but to train their workforce on the newly introduced technology.

2.4. Proportionality of the aid

16. The EFTA State must demonstrate that the aid is necessary and the amount is kept to the minimum in order to achieve the objective of the aid.

Eligible costs must be calculated in accordance with Article 39 of the General Block Exemption Regulation and be limited to the costs arising from training activities which would not be undertaken without aid.

EFTA States should provide evidence that the aid amount does not exceed the part of the eligible costs that cannot be appropriated by the undertaking ⁽¹⁾. In any case, aid intensities must never exceed those laid down in Article 39 of the General Block Exemption Regulation and will be applied to the eligible costs ⁽²⁾.

3. Negative effects of the aid

17. If the aid is proportionate to achieve the objective of the aid the negative effects of the aid are likely to be limited and an analysis of the negative effects may not be necessary ⁽³⁾. However, in some cases, even where aid is necessary and proportionate for a specific undertaking to increase the amount of training provided, the aid may result in a change in the behaviour of the beneficiary which significantly distorts competition. In those cases the Authority will conduct a thorough analysis of the distortion of competition. The extent of the distortion of competition caused by the aid can vary depending on the characteristics of the aid and of the markets affected ⁽⁴⁾.

18. The aid characteristics that may affect the likelihood and the extent of the distortion are:

- (a) selectivity;
- (b) the size of the aid;
- (c) the repetition and duration of the aid;
- (d) the effect of the aid on the undertaking's costs.

19. For example, a training scheme used to encourage undertakings in general in an EFTA State to undertake more training is likely to have a different effect on the market than a large amount of aid given to a single undertaking to enable it to increase its training. The latter is likely to distort competition more significantly as the aid beneficiary's competitors become less able to compete ⁽⁵⁾. The distortion will be even greater if the training costs in the beneficiary's business represent a high share of the total costs.

⁽¹⁾ This equals the part of the extra costs of the training that the undertaking cannot recover by benefiting directly from the skills acquired by its employees during the training.

⁽²⁾ See also current case practice, for example C 35/2007 training aid to Volvo Cars in Gent, Commission Decision 2008/948/EC of 23 July 2008 on measures by Germany to assist DHL and Leipzig Halle airport (OJ L 346, 23.12.2008, p. 1), and Commission Decision 2007/612/EC of 4 April 2007 on State aid C 14/06 which Belgium is planning to implement for General Motors Belgium in Antwerp (OJ L 243, 18.9.2007, p. 71).

⁽³⁾ In addition, if the labour market functioned perfectly, employees could always extract a larger salary for their better skills due to the training received and internalise positive externalities of the training.

⁽⁴⁾ A number of markets can be affected by the aid, because the impact of the aid may not be restricted to the markets where the aid beneficiary is active but it can extend to other markets, for example input markets.

⁽⁵⁾ It should be noted however, that training aid given to a whole sector in one EFTA State may lead to a distortion on trade between Contracting Parties.

20. In assessing the market characteristics, which can give a much more accurate picture of the likely impact of an aid, the Authority will among other things consider:
- (a) the structure of the market; and
 - (b) the characteristics of the sector or industry.
21. The structure of the market will be assessed through the concentration of the market, the size of undertakings ⁽¹⁾, importance of product differentiation ⁽²⁾ and barriers to entry and exit. Market shares and concentration ratios will be calculated once the relevant market has been defined. In general, the fewer undertakings there are, the larger their share of the market and the less competition one would expect to observe ⁽³⁾. If the affected market is concentrated with high barriers to entry ⁽⁴⁾ and the aid beneficiary is a major player on it then it is more likely that competitors will have to alter their behaviour in response to the aid.
22. While examining the characteristics of the sector the Authority will look among other things at the importance of the trained workforce for the business, the existence of overcapacity, whether the markets in the industry are growing, mature or declining, financing strategies of competitors for training (State aid, employees, and employers). For example, training aid in a declining industry may increase the risk of a distortion of competition by keeping an inefficient undertaking afloat.
23. Training aid may, in particular cases, lead to distortions of competition in respect of market entry and exit, effect on trade flows and crowding out of training investment.

Market entry and exit

24. In a competitive market undertakings sell products that generate profits. By altering costs, State aid alters profitability, and can therefore affect the undertaking's decision to offer a product or not. For example, State aid that would reduce the ongoing costs of production such as training for staff would make entry more appealing and enable undertakings with otherwise poor commercial prospects to enter a market or introduce new products to the detriment of more efficient competitors.
25. The availability of State aid may also affect an undertaking's decision to leave a market where it is already operating. State aid for training could reduce the size of losses and enable an undertaking to stay in the market for longer – which may mean that other, more efficient undertakings that do not get aid are forced to exit instead.

Effect on trade flows

26. State aid for training may result in some territories benefiting from more favourable production conditions than others. This may result in the displacement of trade flows in favour of the regions where such aid is given.

Crowding out of training investment

27. To survive in the marketplace and maximise profits, undertakings have incentives to invest in training of staff. The amount of investment in training which each undertaking is willing to make also depends on how much its competitors invest. Undertakings which are subsidised by the state may reduce their own investment. Alternatively, if the aid induces the aid beneficiary to invest more, competitors may react by reducing their own expenditure in training. If, to achieve the same objective, aid beneficiaries or their competitors spend less in the presence of the aid than in its absence, their private investment in training of staff is crowded out by the aid.

4. Balancing and decision

28. The last step in the analysis is to evaluate the extent to which the positive effects of the aid outweigh its negative effects. This will be done on a case-by-case basis. In order to balance the positive and the negative effects, the Authority will assess them and make an overall assessment of their impact on producers and consumers in each of the markets affected. Unless quantitative information is readily available the Authority will use qualitative information for the purposes of the assessment.
29. The Authority is likely to take a more positive stance, and therefore accept a higher degree of distortion of competition, if the aid is necessary, well-targeted and proportionate for a specific undertaking to increase its training activities, and if society benefits from the extra training provided more than the aid beneficiary.

⁽¹⁾ Size of the undertaking can be expressed in the terms of market shares as well as turnover and/or employment.

⁽²⁾ The lower the degree of product differentiation, the greater the effect of the aid on competitors' profits will be.

⁽³⁾ It is important to note, however, that some markets are competitive despite there being few undertakings present.

⁽⁴⁾ It should be noted, however, that sometimes granting of an aid helps to overcome entry barriers and allows new undertakings to enter a market.

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