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## I

(Acts whose publication is obligatory)

**COMMISSION REGULATION (EC) No 238/2005**  
**of 11 February 2005**  
**establishing the standard import values for determining the entry price of certain fruit and vegetables**

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

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

Whereas:

- (1) Regulation (EC) No 3223/94 lays down, pursuant to the outcome of the Uruguay Round multilateral trade negotiations, the criteria whereby the Commission fixes the standard values for imports from third countries, in respect of the products and periods stipulated in the Annex thereto.

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

HAS ADOPTED THIS REGULATION:

*Article 1*

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

*Article 2*

This Regulation shall enter into force on 12 February 2005.

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

Done at Brussels, 11 February 2005.

*For the Commission*

J. M. SILVA RODRÍGUEZ

*Director-General for Agriculture and  
Rural Development*

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<sup>(1)</sup> OJ L 337, 24.12.1994, p. 66. Regulation as last amended by Regulation (EC) No 1947/2002 (OJ L 299, 1.11.2002, p. 17).

## ANNEX

**to Commission Regulation of 11 February 2005 establishing the standard import values for determining the entry price of certain fruit and vegetables**

(EUR/100 kg)		
CN code	Third country code <sup>(1)</sup>	Standard import value
0702 00 00	052	118,4
	204	88,9
	212	157,6
	624	176,8
	999	135,4
0707 00 05	052	165,8
	068	111,6
	204	82,0
	999	119,8
0709 10 00	220	39,4
	999	39,4
0709 90 70	052	184,6
	204	247,6
	999	216,1
0805 10 20	052	44,4
	204	40,8
	212	48,9
	220	37,4
	400	45,0
	448	34,8
	624	65,9
	999	45,3
0805 20 10	204	88,4
	624	72,5
	999	80,5
0805 20 30, 0805 20 50, 0805 20 70, 0805 20 90	052	61,1
	204	96,6
	400	79,0
	464	42,4
	624	74,8
	662	36,0
	999	65,0
0805 50 10	052	62,3
	220	27,0
	999	44,7
0808 10 80	400	100,9
	404	89,2
	528	96,4
	720	65,4
	999	88,0
0808 20 50	388	87,5
	400	94,8
	512	70,8
	528	58,0
	720	55,6
	999	73,3

<sup>(1)</sup> Country nomenclature as fixed by Commission Regulation (EC) No 2081/2003 (OJ L 313, 28.11.2003, p. 11). Code '999' stands for 'of other origin'.

**COMMISSION REGULATION (EC) No 239/2005****of 11 February 2005**

**amending and correcting Regulation (EC) No 796/2004 laying down detailed rules for the implementation of cross-compliance, modulation and the integrated administration and control system provided for in Council Regulation (EC) No 1782/2003 establishing common rules for direct support schemes under the common agricultural policy and establishing certain support schemes for farmers**

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Council Regulation (EC) No 1782/2003 of 29 September 2003 establishing common rules for direct support schemes under the common agricultural policy and establishing certain support schemes for farmers and amending Regulations (EEC) No 2019/93, (EC) No 1452/2001, (EC) No 1453/2001, (EC) No 1454/2001, (EC) No 1868/94, (EC) No 1251/1999, (EC) No 1254/1999, (EC) No 1673/2000, (EEC) No 2358/71 and (EC) No 2529/2001<sup>(1)</sup>, and in particular Article 7(1), Article 34(2), and points (c), (d), (k) and (n) of Article 145 thereof,

Whereas:

- (1) Article 2 of Commission Regulation (EC) No 796/2004<sup>(2)</sup> contains several definitions that need to be clarified. In particular, the definition of 'permanent pasture' in point 2 of that Article needs to be clarified and it is also necessary to introduce a definition for the term 'grasses or other herbaceous forage'. However, in that context it has to be considered that the Member States need to have a certain flexibility to be able to take account of local agronomic conditions.
- (2) Following the introduction of a payment for hops to producer groups in the second paragraph of Article 68a of Regulation (EC) No 1782/2003 and Article 171 of Commission Regulation (EC) No 1973/2004 of 29 October 2004 laying down detailed rules for the application of Council Regulation (EC) No 1782/2003 as regards the support schemes provided for in Titles IV and IVa of that Regulation and the use of land set aside for the production of raw materials<sup>(3)</sup>, Regulation (EC) No 796/2004 needs to be amended in several respects and it is also appropriate to introduce particular provisions with regard to the application procedure and controls for that aid scheme.
- (3) Regulation (EC) No 1782/2003 provides for certain specific obligations for the Czech Republic, Estonia, Cyprus, Latvia, Lithuania, Hungary, Malta, Poland, Slovenia and Slovakia (the new Member States) as

regards the maintenance of permanent pasture, as part of the cross-compliance conditions. Accordingly, it is necessary to lay down rules for the determination of the proportion of permanent pasture in relation to arable land that has to be maintained in the new Member States. It is also necessary to provide for the individual obligations at the level of farmers to be respected where it is established that that proportion is decreasing to the detriment of land under permanent pasture.

- (4) Article 4(1) of Regulation (EC) No 796/2004 provides, with regard to certain situations, for the obligation of farmers not to convert land under permanent pasture without prior authorisation. That authorisation may also include the permission to convert land under permanent pasture subject to the condition that an equivalent amount of area is being established as land under permanent pasture to compensate for the conversion. For those cases, it should be provided that by way of derogation from the definition of 'permanent pasture' contained in Article 2(2) of Regulation (EC) No 796/2004, land thus established should be considered as land under permanent pasture from the moment of its establishment.
- (5) Under the second subparagraph of Article 4(2) of Regulation (EC) No 796/2004 a farmer may be obliged to re-convert into land under permanent pasture, land which used to be permanent pasture in the past and which was converted into land for other uses within a certain period of time. That period should be extended in order to share more equally amongst farmers the burden to maintain permanent pasture.
- (6) Article 11(2) of Regulation (EC) No 796/2004 provides that single applications are to be submitted by a date to be fixed by the Member States which must not be later than 15 May in a given year. However, due to the particular climatic conditions in Finland and Sweden, those two Member States may fix a later date which must not be later than 15 June. Following the accession of the new Member States, the same exception should now be provided for with regard to Estonia, Latvia and Lithuania. The date of 15 June should also apply with regard to notifications from farmers to the competent authority of subsequent amendments to the single application, as provided for in Article 15(2) of Regulation (EC) No 796/2004.

<sup>(1)</sup> OJ L 270, 21.10.2003, p. 1. Regulation last amended by Regulation (EC) No 2217/2004 (OJ L 375, 23.12.2004, p. 1).

<sup>(2)</sup> OJ L 141, 30.4.2004, p. 18.

<sup>(3)</sup> OJ L 345, 20.11.2004, p. 1.

- (7) In order to enable Member States to carry out controls effectively, in particular controls on the respect of cross-compliance obligations, Article 14(1) of Regulation (EC) No 796/2004 obliges farmers to declare all the areas at their disposal whether or not they claim aid for such areas. It is necessary to provide for a mechanism to ensure that farmers comply with that obligation.
- (8) Article 20 of Regulation (EC) No 796/2004 contains special rules to provide for the situation where the latest date for the submission of an aid application is a public holiday, a Saturday or a Sunday. The same rule should apply to the submission of applications to the Single Payment Scheme in accordance with Article 34(2) of Regulation (EC) No 1782/2003.
- (9) In the first year of the application of the Single Payment Scheme farmers have to lodge an application if they want to participate in that scheme in accordance with Article 34(2) of Regulation (EC) No 1782/2003. Those applications will then serve as the basis for the allocation of payment entitlements. The punctual submission of the information included in those applications is essential for the Member States to establish the payment entitlements within the time-limits provided for in that Regulation and in order to guarantee a good start to the new scheme. Farmers have been made aware of the time-limits which they have to respect. Moreover, Member States have to provide the farmers with the appropriate pre-printed application forms long in advance of the submission of the application. Late submissions of those applications should therefore only be permitted within the same additional time-limit, as provided for in Article 21 of Regulation (EC) No 796/2004, for the late submission of any aid applications. A dissuasive reduction-rate should also be applied unless the delay is due to cases of *force majeure* or exceptional circumstances.
- (10) It is necessary to provide for a time period during which hemp grown for fibre may not be harvested after flowering in order to enable the control obligations provided for in respect of these crops to be carried out effectively.
- (11) It is necessary to clarify that areas declared under the Single Area Payment scheme in accordance with Article 143b of Regulation (EC) No 1782/2003, are to be regarded as one crop group within the meaning of Article 49(1) of Regulation (EC) No 796/2004. The same clarification should also be made with regard to areas declared by producer groups to support their aid applications for hops payments in accordance with the second paragraph of Article 68a of Regulation (EC) No 1782/2003.
- (12) In Article 50(6) of Regulation (EC) No 796/2004, the reduction level for payments to arable crop producers should be clarified.
- (13) Moreover, certain clarifications need to be introduced in respect of the sanctioning system applicable in the case of the non-compliance with such obligations.
- (14) Commission Regulation (EC) No 1655/2004 of 22 September 2004 laying down rules for the transition from the optional modulation system established by Article 4 of Council Regulation (EC) No 1259/1999 to the mandatory modulation system established by Council Regulation (EC) No 1782/2003<sup>(1)</sup> has an impact on the kinds of reductions to be applied in respect of direct payments to be granted in accordance with Regulation (EC) No 796/2004. Those reductions, as well as the introduction of further kinds of reductions by this Regulation, need to be taken into account in the framework of Article 71 of Regulation (EC) No 796/2004.
- (15) Rules need to be established to cover the eventuality where a farmer has received unduly a number of payment entitlements or that the value of each of the payment entitlements was fixed at an incorrect level according to the different models under the Single Payment Scheme. Moreover, provision has to be made for the case where such payment entitlements have been transferred and for the case where transfers of payment entitlements have occurred without respecting Article 46(2) of Regulation (EC) No 1782/2003.
- (16) In several language versions of Regulation (EC) No 796/2004, the latest date which Member States may fix for the submission of the copies of supporting documents in relation to applications for seed aid referred to in point (d) of Article 13(8) of that Regulation is set at 31 May, instead of 15 June of the year following the harvest.
- (17) In several language versions of Regulation (EC) No 796/2004 an error needs to be rectified in the second subparagraph of Article 21(2), where reference is made to Article 14(2) of that Regulation, instead of Article 15(2).
- (18) With regard to the liability in the case of the non-respect of cross compliance obligations provided for in Article 65(2) of Regulation (EC) No 796/2004, various language versions create ambiguity as regards the possibility to hold the farmer concerned liable under the applicable national rules, notably in case where the farmer did not act himself in the strict sense. It is therefore appropriate to harmonise that Article in all language versions.
- (19) It is therefore necessary to amend and correct Regulation (EC) No 796/2004 accordingly.
- (20) The measures provided for in this Regulation are in accordance with the opinion of the Management Committee for Direct Payments,

<sup>(1)</sup> OJ L 298, 23.9.2004, p. 3.

HAS ADOPTED THIS REGULATION:

*Article 1*

Regulation (EC) No 796/2004 is amended as follows:

1. Article 2 is amended as follows:

(a) points 1 and 2 are replaced by the following:

1. "Arable land": shall mean land cultivated for crop production and land under set-aside, or maintained in good agricultural and environmental condition in accordance with Article 5 of Regulation (EC) No 1782/2003, irrespective of whether or not that land is under greenhouses or under fixed or mobile cover;
2. "Permanent pasture": shall mean land used to grow grasses or other herbaceous forage naturally (self-seeded) or through cultivation (sown) and that has not been included in the crop rotation of the holding for five years or longer, excluding land under set-aside schemes pursuant to Article 6 of Council Regulation (EC) No 1251/1999 (\*), land under set aside schemes pursuant to Article 54(2) and Article 107 of Regulation (EC) No 1782/2003, areas set aside in accordance with Council Regulation (EEC) No 2078/92 (\*\*) and areas set aside in accordance with Articles 22, 23 and 24 of Council Regulation (EC) No 1257/1999 (\*\*);

(\*) OJ L 160, 26.6.1999, p. 1.  
 (\*\*) OJ L 215, 30.7.1992, p. 85.  
 (\*\*\*) OJ L 160, 26.6.1999, p. 80.

(b) the following point is inserted after the point (2):

- (2a) 'grasses or other herbaceous forage': shall mean all herbaceous plants traditionally found in natural pastures or normally included in mixtures of seeds for pastures or meadows in the Member State (whether or not used for grazing animals). Member States may include crops listed in Annex IX to Regulation (EC) No 1782/2003;

(c) points 11 and 12 are replaced by the following:

11. "Single application": shall mean the application for direct payments in respect of the single payment scheme and other area-related aid schemes with the exception of an application for hops payment by a recognised producer group pursuant to the second paragraph of Article 68a of Regulation (EC) No 1782/2003;
12. "Area-related aid schemes": shall mean the single payment scheme, the hops payment to recognised producer groups referred to in the second paragraph of Article 68a of Regulation (EC) No 1782/2003 and all aid schemes established under

Title IV of Regulation (EC) No 1782/2003, except those established under Chapters 7, 11 and 12 of that Title;

(d) point 36 is replaced by the following:

36. "Specialised control bodies": shall mean the national competent control authorities, as referred to in Article 42 of this Regulation, responsible, in accordance with the first subparagraph of Article 25(2) of Regulation (EC) No 1782/2003, for ensuring compliance with the statutory management requirements and good agricultural and environmental condition;

(e) the following paragraph is added:

'For the purposes of this Regulation, "new Member States" shall mean the Czech Republic, Estonia, Cyprus, Latvia, Lithuania, Hungary, Malta, Poland, Slovenia and Slovakia.';

2. Article 3 is amended as follows:

(a) paragraph 2 is replaced by the following:

2. For the purpose of applying the second subparagraph of Article 5(2) of Regulation (EC) No 1782/2003, the Member States shall ensure that the ratio referred to in paragraph 1 of this Article shall not decrease to the detriment of land under permanent pasture by more than 10 % relatively to the ratio for the relevant reference year referred to in the first subparagraph of Article 5(2) of that Regulation (hereinafter referred to as the reference ratio).;

(b) the introductory sentence of paragraph 4 is replaced by the following:

'For the Member States, other than the new Member States, the reference ratio shall be established as follows:';

(c) the following paragraphs are added:

5. For the new Member States that have not applied in respect of the year 2004 the single area payment scheme referred to in Article 143b of Regulation (EC) No 1782/2003, the reference ratio shall be established as follows:

- (a) the land under permanent pasture shall be the land under permanent pasture declared by the farmers in 2004, plus the land under permanent pasture declared in 2005 in accordance with Article 14(1) of this Regulation and that has not been declared for any use other than grassland in 2004, unless the farmer can demonstrate that such land was not under permanent pasture in 2004.

Areas declared in 2005 as land under permanent pasture and that in 2004 were eligible for the arable crops area payment in accordance with Article 1(3) of Regulation (EC) No 1251/1999 shall be discounted.

Land yet to be afforested in accordance with the third subparagraph of Article 5(2) of Regulation (EC) No 1782/2003 shall be discounted.

- (b) the total agricultural area shall be the total agricultural area declared by the farmers in 2005.

6. For the new Member States that have applied in respect of the year 2004 the single area payment scheme referred to in Article 143b of Regulation (EC) No 1782/2003, the reference ratio shall be established as follows:

- (a) the land under permanent pasture shall be the land under permanent pasture declared by the farmers in 2005 in accordance with Article 14(1) of this Regulation;

- (b) the total agricultural area shall be the total agricultural area declared by the farmers in 2005.;

3. Article 4 is amended as follows:

- (a) in paragraph 1, the following subparagraph is added:

'If the authorisation referred to in the first subparagraph is subject to the condition that an area of land shall be established as permanent pasture, such land shall, as of the first day of conversion, be considered as permanent pasture by way of derogation from the definition laid down in Article 2(2). Those areas shall be used to grow grasses or other herbaceous forage for the five consecutive years following the date of conversion.;

- (b) paragraph 2 is amended as follows:

- (i) the second subparagraph is replaced by the following:

'This obligation shall, in 2005, apply with regard to land converted into land for other uses since the relevant date under the first subparagraph of Article 5(2) of Regulation (EC) No 1782/2003. From 1 January 2006, that obligation shall apply with regard to land thus converted since the date of the start of the 24-month period preceding the last date at which the single applications had to be submitted at the latest in accordance with Article 11(2) of this Regulation in the Member State concerned.;

- (ii) the following sentence is added to the fifth subparagraph:

'Those areas shall be used to grow grasses or other herbaceous forage for the five consecutive years following the date of their conversion.;

4. the first subparagraph of Article 11(2) is replaced by the following:

'The single application shall be submitted by a date to be fixed by the Member States which shall not be later than 15 May. However, Estonia, Latvia, Lithuania, Finland and Sweden may fix a later date which shall not be later than 15 June.;

5. in Article 13, the following paragraph is added:

'9. In the case of an application for the additional hops aid provided for in Article 68a of Regulation (EC) No 1782/2003, the single application shall contain an indication of the respective areas.;

6. Article 14 is amended as follows:

- (a) in Paragraph 1, the following subparagraph is inserted after the first subparagraph:

'Moreover, in the case where a Member State makes use of the option under Article 68a of Regulation (EC) No 1782/2003 to make a payment to recognised producer groups referred to in the second paragraph of that Article the farmer shall declare his agricultural parcels used for the cultivation of hops also under a separate heading in the single application form. In that case the farmer shall also indicate in the single application form his membership in the producer group concerned.;

- (b) the following paragraph is inserted after paragraph 1:

'1a If, for a given year, a farmer does not declare all the areas referred to in paragraph 1 and the difference between the overall area declared in the single application on the one hand and the area declared plus the overall area of the parcels not declared, on the other, is more than 3 % of the area declared, the overall amount of direct payments payable to that farmer for that year shall be reduced by up to 3 % depending on the severity of the omission.;

7. Article 15(2) is replaced by the following:

'2. Without prejudice to the dates fixed by Estonia, Latvia, Lithuania, Finland or Sweden for the submission of the single application in accordance with the first subparagraph of Article 11(2), amendments made in accordance with paragraph 1 of this Article shall be notified to the competent authority in writing by 31 May of the calendar year concerned at the latest, except in the case of Estonia, Latvia, Lithuania, Finland and Sweden where they shall be notified by 15 June of the calendar year concerned at the latest.;



8. the following Chapter is inserted after Article 15:

‘CHAPTER Ia

**AID APPLICATIONS FOR HOPS PAYMENTS BY  
RECOGNISED PRODUCER GROUPS**

Article 15a

**Aid application**

An aid application of producer groups applying for aid in accordance with Article 171 of Commission Regulation (EC) No 1973/2004 (\*) shall contain all information necessary to establish eligibility for the aid, and in particular:

- (a) the identity of the producer group;
- (b) particulars permitting identification of the agricultural parcels concerned;
- (c) a statement by the producer group that it is aware of the conditions pertaining to the aid in question.

The producer group may only declare agricultural parcels used for the cultivation of hops and which were declared, in the same calendar year, by the members of the producer group in accordance with the second subparagraph of Article 14(1) of this Regulation.

The Member States may simplify the application procedure by sending to the producer group a pre-printed application form listing all the parcels declared for that purpose by their respective members in accordance with the second subparagraph of Article 14(1) of this Regulation.

(\*) OJ L 345, 20.11.2004, p. 1.;

9. in Article 20, the following paragraph is added:

‘The first paragraph shall also apply with regard to applications by farmers to the single payment scheme in accordance with Article 34(2) of Regulation (EC) No 1782/2003.’;

10. the following Article is inserted after Article 21:

‘Article 21a

**Late submission of an application to the single  
payment scheme**

1. Without prejudice to cases of *force majeure* and exceptional circumstances referred to in the first subparagraph of Article 34(3) of Regulation (EC) No 1782/2003 and by way of derogation from Article 21 of this Regulation, in the first year of the application of the single payment scheme in accordance with Title III of Regulation (EC) No

1782/2003, where, in the Member State concerned, an application for the allocation of entitlements in accordance with Article 34(3) of that Regulation and the single application for that year have to be submitted together by the farmer and where the farmer submits those applications after the relevant time limit, a 4 % reduction per working day shall be applied to the amounts to be paid in that year in respect of the payment entitlements to be allocated to the farmer.

If such delay exceeds 25 calendar days, the application shall be considered inadmissible and no payment entitlements shall be allocated to the farmer.

2. Where, in the Member State concerned, the application to the single payment scheme and the single application have to be submitted independently from each other, Article 21 shall apply with regard to the submission of the single application.

In that case, without prejudice to cases of *force majeure* and exceptional circumstances referred to in the first subparagraph of Article 34(3) of Regulation (EC) No 1782/2003, the submission of an application to the single payment scheme in accordance with that Article after the relevant time limit shall lead to a 3 % reduction per working day in the amounts to be paid in the first year of the application of the single payment scheme in respect of the payment entitlements to be allocated to the farmer.

If the delay exceeds 25 calendar days, the application shall be considered inadmissible and no payment entitlements shall be allocated to the farmer.’;

11. the following point is added to Article 24(1):

‘(h) between the agricultural parcels declared by producer groups in accordance with Article 15a, the corresponding parcels declared by the members of the producer group in accordance with the second subparagraph of Article 14(1), and the reference parcels as contained in the identification system for agricultural parcels to verify the eligibility for the aid.’;

12. the following point is added to Article 26(2):

‘(e) 5 % of all farmers whose agricultural parcels are being declared by a producer group applying for hops payments in accordance with Article 15a.’;

13. in Article 33 the following paragraph is added:

‘5. Crops of hemp grown for fibre must continue to be cultivated under normal growing conditions in accordance with local practice for at least 10 days from the date of the end of flowering so that the checks provided for in paragraphs 1, 2 and 3 can be made.

However, the Member States may authorise hemp grown for fibre to be harvested after flowering has begun but before the end of the 10-day period after the end of flowering, provided the inspectors indicate which representative parts of each plot concerned must continue to be cultivated for at least 10 days following the end of flowering for inspection purposes, in accordance with the method laid down in Annex I.;

14. after Article 33, the following subsection is inserted:

‘SUB-SECTION IIA

**ON-THE-SPOT CHECKS OF AID APPLICATIONS FOR HOPS PAYMENTS BY RECOGNISED PRODUCER GROUPS**

*Article 33a*

**Elements of the on-the-spot-checks**

The on-the-spot checks referred to in Article 26(2)(e) shall be carried out by way of application of the provisions of Article 29, Article 30(1), the first and second subparagraphs of Article 30(2), Article 30(4) and Article 32 *mutatis mutandis*.

Those on-the-spot checks shall verify whether the conditions, as provided for in Article 171 of Regulation (EC) No 1973/2004, are respected.;

15. in Article 49(1), the following points are added:

‘(g) areas for the purposes of the Single Area Payment scheme in accordance with Article 143b of Regulation (EC) No 1782/2003;

(h) areas declared by producer groups in accordance with Article 15a of this Regulation.;

16. Article 50(6) is replaced by the following:

‘6. The calculation of the maximum eligible area for the payments to farmers applying for the arable crop area payment in accordance with Chapter 10 of Title IV of Regulation (EC) No 1782/2003 shall be made on the basis of the area of set-aside land determined and on a *pro rata* basis for each crop concerned. However, payments to arable crop producers shall, in relation to the area of set-aside land determined, only be reduced to the level corresponding to the area which would be needed to produce 92 tonnes of cereal, in accordance with Article 107(7) of Regulation (EC) No 1782/2003.;

17. Article 66 is amended as follows:

(a) paragraph 3 is replaced by the following:

‘3. Where more than one non-compliance with regard to different areas of cross-compliance have been determined, the procedure for the fixing of the

reduction as set out in paragraph 1 shall be applied individually to each non-compliance.

However, a non-compliance with a standard which also constitutes a requirement shall be considered to be one non-compliance.

The resulting percentages of reductions shall be added together. However, the maximum reduction shall not exceed 5 % of the overall amount referred to in paragraph 1.;

- (b) the third subparagraph of paragraph 4 is replaced by the following:

‘Once the maximum percentage of 15 % has been reached, the Paying Agency shall inform the farmer concerned that if the same non-compliance is determined again, it shall be considered that he has acted intentionally within the meaning of Article 67. Where a further non-compliance is determined thereafter, the percentage reduction to be applied shall be fixed by multiplying the result of the previous multiplication, where applicable, before the limitation to 15 % as provided for in the last sentence of the second subparagraph has been applied, by a factor of three.;

- (c) the following paragraph is added:

‘5. In the case where a repeated non-compliance is determined together with another non-compliance or another repeated non-compliance, the resulting percentage reductions shall be added together. Without prejudice to the third subparagraph of paragraph 4, the maximum reduction shall, however, not exceed 15 % of the overall amount referred to in paragraph 1.;

18. Article 71(2) is amended as follows:

- (a) Point (a) is replaced by the following:

‘(a) firstly, any reductions due to modulation in accordance with Article 10 of Regulation (EC) No 1782/2003 and, as the case may be, in accordance with Commission Regulation (EC) No 1655/2004 (\*) shall be applied;

(\*) OJ L 298, 23.9.2004, p. 3.;

- (b) points (c) and (d) are replaced by the following:

‘(c) thirdly, the resulting amount shall serve as the basis for the calculation of any reductions to be applied because of late submissions on the basis of Articles 21 and 21a of this Regulation;

- (d) fourthly, the resulting amount shall serve as the basis to calculate the reduction to be applied in accordance with Article 14(1a) of this Regulation;
- (e) fifthly, the resulting amount shall be reduced by any reductions provided for in Chapter II of Title IV of this Regulation.;

19. The following Article is inserted after Article 73:

*'Article 73a*

**Recovery of undue entitlements**

1. Where, after payment entitlements have been allocated to farmers in accordance with Regulation (EC) No 795/2004, it is established that certain payment entitlements have been allocated unduly, the farmer concerned shall give up the unduly allocated entitlements to the national reserve referred to in Article 42 of Regulation (EC) No 1782/2003.

In the case that the farmer concerned, meanwhile, transferred payment entitlements to other farmers, the transferees shall also be bound by the obligation provided for in the first subparagraph in proportion to the number of payment entitlements which have been transferred to them if the farmer to whom the payment entitlements had initially been allocated does not have a sufficient number of payment entitlements at his disposal.

The entitlements allocated unduly shall be deemed not to have been allocated *ab initio*.

2. Where, after payment entitlements have been allocated to farmers in accordance with Regulation (EC) No 795/2004, it is established that the value of the payment entitlements is too high, that value shall be adjusted accordingly. That adjustment shall also be carried out in respect of payment entitlements which have, meanwhile, been transferred to other farmers. The value of the reduction shall be allocated to the national reserve referred to in Article 42 of Regulation (EC) No 1782/2003.

The payment entitlements shall be deemed as having been allocated *ab initio* at the value resulting from the adjustment.

3. Where a farmer has transferred any payment entitlements without respecting the second subparagraph of Article 46(2) of Regulation (EC) No 1782/2003, the situation shall be established as if the transfer had not taken place.

4. Undue amounts paid shall be recovered in accordance with Article 73.;

*Article 2*

Regulation (EC) No 796/2004 is corrected as follows:

- 1. in Article 13(8), point (d), the date '31 May' is replaced by '15 June';
- 2. in the second sentence of the second subparagraph of Article 21(2), the terms 'Article 14(2)' are replaced by 'Article 15(2)';
- 3. Article 65(2) is replaced by the following:

'2. For the purposes of applying Article 6(1) of Regulation (EC) No 1782/2003, an action or omission shall be directly attributable to the individual farmer who committed the non-compliance and who, at the time of the determination of the non-compliance in question, is in charge of the holding, the area, the production unit or the animal concerned. Where the holding, the area, the production unit or the animal concerned was transferred to a farmer after the non-compliance had started to occur, the transferee shall equally be held liable where he maintained the non-compliance, provided he could have reasonably detected and terminated that non-compliance.'

*Article 3*

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 January 2005.

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

Done at Brussels, 11 February 2005.

*For the Commission*

Mariann FISCHER BOEL

*Member of the Commission*

**COMMISSION REGULATION (EC) No 240/2005****of 11 February 2005****repealing Regulations (EC) No 2294/2000 and (EC) No 1369/2002 in the milk and milk products sector**

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Council Regulation (EC) No 1255/1999 of 17 May 1999 on the common organisation of the market in milk and milk products<sup>(1)</sup>, and in particular the third indent of Article 31(10) and Article 31(14) thereof,

Whereas:

- (1) The third indent of Article 31(10) of Regulation (EC) No 1255/1999 stipulates that in the case of differentiated refunds the refund is to be paid on presentation of proof that the products have reached the destination indicated on the licence or another destination for which a refund was fixed. Exceptions to that rule are possible provided that conditions are laid down offering equivalent guarantees.
- (2) Such exceptions were provided for by Commission Regulation (EC) No 2294/2000 of 16 October 2000 derogating from Article 31(10) of Council Regulation (EC) No 1255/1999 on the common organisation of the market in milk and milk products as regards proof of arrival at destination in the case of differentiated refunds and laying down detailed rules for the application of the lowest export refund rate for certain milk products<sup>(2)</sup> and by Commission Regulation (EC) No 1369/2002 of 26 July 2002 derogating from Article 31(10) of Council Regulation (EC) No 1255/1999 as regards proof of arrival at destination in the case of differentiated refunds and laying down detailed rules for the application of the lowest export refund rate for certain milk products<sup>(3)</sup>.

- (3) Commission Regulation (EC) No 351/2004 of 26 February 2004 fixing the export refunds on milk and milk products<sup>(4)</sup> introduced differentiated refunds according to the destination for all milk products from 27 February 2004. As from the same date Commission Regulation (EC) No 519/2004 of 19 March 2004 derogating from Regulation (EC) No 800/1999 as regards exports of milk and milk products<sup>(5)</sup> laid down provisions relating to the proof that customs formalities for importation have been completed in a third country.

- (4) Commission Regulations (EC) No 2294/2000 and (EC) No 1369/2002 are no more relevant and should therefore be repealed.

- (5) The measures provided for in this Regulation are in accordance with the opinion of the Management Committee for Milk and Milk Products,

HAS ADOPTED THIS REGULATION:

*Article 1*

Regulations (EC) No 2294/2000 and (EC) No 1369/2002 are hereby repealed.

*Article 2*

This Regulation shall enter into force on the third 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, 11 February 2005.

*For the Commission*

Mariann FISCHER BOEL

*Member of the Commission*

<sup>(1)</sup> OJ L 160, 26.6.1999, p. 48. Regulation last amended by Commission Regulation (EC) No 186/2004 (OJ L 29, 3.2.2004, p. 6).

<sup>(2)</sup> OJ L 262, 17.10.2000, p. 14.

<sup>(3)</sup> OJ L 198, 27.7.2002, p. 37.

<sup>(4)</sup> OJ L 60, 27.2.2004, p. 46.

<sup>(5)</sup> OJ L 83, 20.3.2004, p. 4.

**COMMISSION REGULATION (EC) No 241/2005****of 11 February 2005****amending Council Regulation (EC) No 747/2001 as regards Community tariff quotas for certain products originating in Israel**

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

should be calculated as a *pro rata* of the basic volumes specified in the Protocol, taking into account the part of the period elapsed before 1 May 2004.

Having regard to the Treaty establishing the European Community,

Having regard to Council Regulation (EC) No 747/2001 of 9 April 2001 providing for the management of Community tariff quotas and of reference quantities for products eligible for preferences by virtue of agreements with certain Mediterranean countries and repealing Regulations (EC) No 1981/94 and (EC) No 934/95 <sup>(1)</sup>, and in particular Article 5(1)(b) thereof,

(5) In order to facilitate the management of certain existing tariff quotas provided for in Regulation (EC) No 747/2001, the quantities imported within the framework of those quotas should be taken into account for charging on the tariff quotas opened in accordance with Regulation (EC) No 747/2001, as amended by this Regulation.

Whereas:

(6) Since the Protocol to the EU-Israel Euro-Mediterranean Agreement applies on a provisional basis from 1 May 2004, this Regulation should apply from the same date and should enter into force as soon as possible.

(1) By its Decision of 31 January 2005 <sup>(2)</sup>, the Council has given authorisation for the signing and has provided for the provisional application from 1 May 2004 of a Protocol to the Euro-Mediterranean Agreement between the European Communities and their Member States, of the one part, and the State of Israel, of the other part, to take account of the accession of the Czech Republic, the Republic of Estonia, the Republic of Cyprus, the Republic of Hungary, the Republic of Latvia, the Republic of Lithuania, the Republic of Malta, the Republic of Poland, the Republic of Slovenia, and the Slovak Republic to the European Union.

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

HAS ADOPTED THIS REGULATION:

(2) This Protocol provides for new tariff quotas and for changes to the existing tariff quotas laid down in Regulation (EC) No 747/2001.

*Article 1*

Annex VII to Regulation (EC) No 747/2001 is amended as set out in the Annex to this Regulation.

(3) To implement the new tariff quotas and the changes to the existing tariff quotas, it is necessary to amend Regulation (EC) No 747/2001.

*Article 2*

(4) For the year 2004 the volumes of the new tariff quotas and the increases of the volumes of existing tariff quotas

The quantities which, pursuant to Annex VII to Regulation (EC) No 747/2001, have been put into free circulation in the Community within the tariff quotas with order numbers 09.1303, 09.1306, 09.1310, 09.1318, 09.1329, 09.1352 and 09.1360, shall be charged against the respective tariff quotas opened pursuant to Annex VII to Regulation (EC) No 747/2001, as amended by this Regulation.

<sup>(1)</sup> OJ L 109, 19.4.2001, p. 2. Regulation as last amended by Commission Regulation (EC) No 2279/2004 (OJ L 396, 31.12.2004, p. 38).

<sup>(2)</sup> Not yet published in the Official Journal.

*Article 3*

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 May 2004.

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

Done at Brussels, 11 February 2005.

*For the Commission*

Günter VERHEUGEN

*Vice-President*

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## ANNEX

In Annex VII to Regulation (EC) No 747/2001, the table set out in Part A is amended as follows:

1. the following new rows are inserted:

Order No	CN code	TARIC subdivision	Description of goods	Quota period	Quota volume (in tonnes)	Quota duty
09.1361	0105 12 00		Live turkeys, weighing not more than 185 g	from 1.5. to 31.12.2004	79 653 pieces	Exemption
				from 1.1. to 31.12.2005	122 960 pieces	
				from 1.1. to 31.12.2006	126 440 pieces	
				from 1.1. to 31.12.2007 and for each period thereafter from 1.1. to 31.12.	129 920 pieces	
09.1362	0407 00		Birds' eggs, in shell, fresh, preserved or cooked	from 1.5. to 31.12.2004	357 067 pieces	Exemption
				from 1.1. to 31.12.2005	551 200 pieces	
				from 1.1. to 31.12.2006	566 800 pieces	
				from 1.1. to 31.12.2007 and for each period thereafter from 1.1. to 31.12.	582 400 pieces	
09.1363	0604 99 90		Dyed, bleached, impregnated or otherwise prepared foliage, branches and other parts of plants, without flowers or flower buds, grasses, for bouquets or for ornamental purposes	from 1.5. to 31.12.2004	6,87	Exemption
				from 1.1. to 31.12.2005	10,6	
				from 1.1. to 31.12.2006	10,9	
				from 1.1. to 31.12.2007 and for each period thereafter from 1.1. to 31.12.	11,2	
09.1364	0701 90 50		New potatoes, fresh or chilled	from 1.5. to 30.6.2004	103	Exemption
				from 1.1. to 30.6.2005	318	
				from 1.1. to 30.6.2006	327	
				from 1.1. to 30.6.2007 and for each period thereafter from 1.1. to 30.6.	336	

Order No	CN code	TARIC subdivision	Description of goods	Quota period	Quota volume (in tonnes)	Quota duty
09.1365	ex 2004 90 98	12 19 <sup>(i)</sup> 30 80	Other vegetables and mixtures of vegetables, prepared or preserved otherwise than by vinegar or acetic acid, frozen, other than products of heading 2006, other than celeriac or carrots	from 1.5. to 31.12.2004	103	Exemption
				from 1.1. to 31.12.2005	159	
				from 1.1. to 31.12.2006	163,5	
				from 1.1. to 31.12.2007 and for each period thereafter from 1.1. to 31.12.	168	
09.1366	2009 80 89		Other juice of any other single fruit or vegetable, of a Brix value not exceeding 67, of a value not exceeding EUR 30 per 100 kg net weight, with an added sugar content not exceeding 30 % by weight, other than pear juice or juices of tropical fruit	from 1.5. to 31.12.2004	240,33	Exemption
				from 1.1. to 31.12.2005	371	
				from 1.1. to 31.12.2006	381,5	
				from 1.1. to 31.12.2007 and for each period thereafter from 1.1. to 31.12.	392	

<sup>(i)</sup> From 1 January 2005 the TARIC subdivisions 12 and 19 will be replaced by 10.'

2. the rows for the tariff quotas with order numbers 09.1306, 09.1303, 09.1310, 09.1318, 09.1329, 09.1360 and 09.1352 are replaced, respectively, by the following rows:

Order No	CN code	TARIC subdivision	Description of goods	Quota period	Quota volume (in tonnes)	Quota duty
'09.1306	0603 10		Fresh cut flowers and flower buds of a kind suitable for bouquets or for ornamental purposes	from 1.1. to 31.12.2004	20 085 + 206 tonnes net weight increase from 1.5. to 31.12.2004	Exemption
				from 1.1. to 31.12.2005	20 988	
				from 1.1. to 31.12.2006	21 582	
				from 1.1. to 31.12.2007 and for each period thereafter from 1.1. to 31.12.	22 176	



Order No	CN code	TARIC subdivision	Description of goods	Quota period	Quota volume (in tonnes)	Quota duty
09.1303	0709 60 10		Sweet peppers, fresh or chilled	from 1.1. to 31.12.2004	15 450 + 274,67 tonnes net weight increase from 1.5. to 31.12.2004	Exemption
				from 1.1. to 31.12.2005	16 324	
				from 1.1. to 31.12.2006	16 786	
				from 1.1. to 31.12.2007 and for each period thereafter from 1.1. to 31.12.	17 248	
09.1310	0709 90 60		Sweet corn, fresh or chilled	from 1.1. to 31.12.	1 500 <sup>(1)</sup>	Exemption
09.1318	0712 90 50		Dried carrots, whole, cut, sliced, broken or in powder, but not further prepared	from 1.1. to 31.12.2004	103 + 54,93 tonnes net weight increase from 1.5. to 31.12.2004	Exemption
	0712 90 90		Other dried vegetables and mixtures of vegetables, whole, cut, sliced, broken or in powder, but not further prepared	from 1.1. to 31.12.2005	190,8	
	0910 40 19		Crushed or ground thyme	from 1.1. to 31.12.2006	196,2	
	0910 40 90		Bay leaves	from 1.1. to 31.12.2007 and for each period thereafter from 1.1. to 31.12.	201,6	
	0910 91 90		Crushed or ground mixtures of different types of spices			
	0910 99 99		Other crushed or ground spices			
09.1329	0807 19 00		Other melons, fresh	from 1.11.2003 to 31.5.2004	11 400 + 14,29 tonnes net weight increase from 1.5. to 31.5.2004	Exemption
				from 15.9.2004 to 31.5.2005	11 845	
				from 15.9.2005 to 31.5.2006	12 190	
				from 15.9.2006 to 31.5.2007	12 535	
				from 15.9.2007 to 31.5.2008 and for each period thereafter from 15.9 to 31.5.	12 880	

Order No	CN code	TARIC subdivision	Description of goods	Quota period	Quota volume (in tonnes)	Quota duty
09.1360	ex 2009 90 59	30	Mixtures of citrus fruit juices with tropical juices and mixtures of citrus fruit juices, of a Brix value not exceeding 67, of a value exceeding EUR 30 per 100 kg net weight, not containing added sugar	from 1.1. to 31.12.2004  from 1.1. to 31.12.2005  from 1.1. to 31.12.2006  from 1.1. to 31.12.2007 and for each period thereafter from 1.1. to 31.12.	1 545 + 892,67 tonnes net weight increase from 1.5. to 31.12.2004  2 968  3 052  3 136	Exemption
09.1352	2204 21 10		Wine of fresh grapes including fortified wines in containers holding 2 liters or less	from 1.1. to 31.12.2004	3 718,3 hl + 103 hl increase from 1.5. to 31.12.2004	Exemption
	ex 2204 21 79	79, 80		from 1.1. to 31.12.2005	3 985,6 hl	
	ex 2204 21 80	79, 80		from 1.1. to 31.12.2006	4 098,4 hl	
	ex 2204 21 83 <sup>(ii)</sup>	10, 79, 80		from 1.1. to 31.12.2007 and for each period thereafter from 1.1. to 31.12.	4 211,2 hl	
	ex 2204 21 84 <sup>(iii)</sup>	10, 79, 80				
	ex 2204 21 94	10, 30 <sup>(iv)</sup>				
	ex 2204 21 98	10, 30 <sup>(iv)</sup>				
	ex 2204 21 99	10				

<sup>(ii)</sup> From 1 January 2005 the CN code ex 2204 21 83 will change to ex 2204 21 84 and the TARIC subdivisions 10, 79 and 80 will change to 59 and 70.

<sup>(iii)</sup> From 1 January 2005 the CN code ex 2204 21 84 will change to ex 2204 21 85 and the TARIC subdivisions 10, 79 and 80 will change to 79 and 80.

<sup>(iv)</sup> From 1 January 2005 the TARIC subdivisions 10 and 30 will be replaced by 20.

**COMMISSION REGULATION (EC) No 242/2005****of 11 February 2005****fixing the maximum aid for cream, butter and concentrated butter for the 157th individual invitation to tender under the standing invitation to tender provided for in Regulation (EC) No 2571/97**

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Council Regulation (EC) No 1255/1999 of 17 May 1999 on the common organisation of the market in milk and milk products<sup>(1)</sup>, and in particular Article 10 thereof,

Whereas:

- (1) The intervention agencies are, pursuant to Commission Regulation (EC) No 2571/97 of 15 December 1997 on the sale of butter at reduced prices and the granting of aid for cream, butter and concentrated butter for use in the manufacture of pastry products, ice cream and other foodstuffs<sup>(2)</sup>, to sell by invitation to tender certain quantities of butter of intervention stocks that they hold and to grant aid for cream, butter and concentrated butter. Article 18 of that Regulation stipulates that in the light of the tenders received in response to each individual invitation to tender a minimum selling price shall be fixed for butter and maximum aid shall be fixed for cream, butter and concentrated butter. It is further

stipulated that the price or aid may vary according to the intended use of the butter, its fat content and the incorporation procedure, and that a decision may also be taken to make no award in response to the tenders submitted. The amount(s) of the processing securities must be fixed accordingly.

- (2) The Management Committee for Milk and Milk Products has not delivered an opinion within the time limit set by its chairman,

HAS ADOPTED THIS REGULATION:

*Article 1*

The maximum aid and processing securities applying for the 157th individual invitation to tender, under the standing invitation to tender provided for in Regulation (EC) No 2571/97, shall be fixed as indicated in the Annex hereto.

*Article 2*

This Regulation shall enter into force on 12 February 2005.

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

Done at Brussels, 11 February 2005.

*For the Commission*

Mariann FISCHER BOEL

*Member of the Commission*

<sup>(1)</sup> OJ L 160, 26.6.1999, p. 48. Regulation as last amended by Commission Regulation (EC) No 186/2004 (OJ L 29, 3.2.2004, p. 6).

<sup>(2)</sup> OJ L 350, 20.12.1997, p. 3. Regulation as last amended by Regulation (EC) No 2250/2004 (OJ L 381, 28.12.2004, p. 25).

## ANNEX

**to the Commission Regulation of 11 February 2005 fixing the maximum aid for cream, butter and concentrated butter for the 157th individual invitation to tender under the standing invitation to tender provided for in Regulation (EC) No 2571/97**

(EUR/100 kg)

Formula		A		B	
Incorporation procedure		With tracers	Without tracers	With tracers	Without tracers
Maximum aid	Butter $\geq$ 82 %	56	52	—	52
	Butter < 82 %	54,5	50,8	—	—
	Concentrated butter	67,5	63,5	67,5	63,5
	Cream			26	22
Processing security	Butter	62	—	—	—
	Concentrated butter	74	—	74	—
	Cream	—	—	29	—

**COMMISSION REGULATION (EC) No 243/2005****of 11 February 2005****fixing the minimum selling prices for butter for the 157th individual invitation to tender under the standing invitation to tender provided for in Regulation (EC) No 2571/97**

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Council Regulation (EC) No 1255/1999 of 17 May 1999 on the common organisation of the market in milk and milk products<sup>(1)</sup>, and in particular Article 10 thereof,

Whereas:

- (1) The intervention agencies are, pursuant to Commission Regulation (EC) No 2571/97 of 15 December 1997 on the sale of butter at reduced prices and the granting of aid for cream, butter and concentrated butter for use in the manufacture of pastry products, ice-cream and other foodstuffs<sup>(2)</sup>, to sell by invitation to tender certain quantities of butter from intervention stocks that they hold and to grant aid for cream, butter and concentrated butter. Article 18 of that Regulation stipulates that in the light of the tenders received in response to each individual invitation to tender a minimum selling price shall be fixed for butter and maximum aid shall be fixed for cream, butter and concentrated butter. It is further stipulated that the price or aid may vary according to the

intended use of the butter, its fat content and the incorporation procedure, and that a decision may also be taken to make no award in response to the tenders submitted. The amount(s) of the processing securities must be fixed accordingly.

- (2) The measures provided for in this Regulation are in accordance with the opinion of the Management Committee for Milk and Milk Products,

HAS ADOPTED THIS REGULATION:

*Article 1*

The minimum selling prices of butter from intervention stocks and processing securities applying for the 157th individual invitation to tender, under the standing invitation to tender provided for in Regulation (EC) No 2571/97, shall be fixed as indicated in the Annex hereto.

*Article 2*

This Regulation shall enter into force on 12 February 2005.

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

Done at Brussels, 11 February 2005.

*For the Commission*

Mariann FISCHER BOEL

*Member of the Commission*

<sup>(1)</sup> OJ L 160, 26.6.1999, p. 48. Regulation as last amended by Commission Regulation (EC) No 186/2004 (OJ L 29, 3.2.2004, p. 6).

<sup>(2)</sup> OJ L 350, 20.12.1997, p. 3. Regulation as last amended by Regulation (EC) No 2250/2004 (OJ L 381, 28.12.2004, p. 25).

## ANNEX

**to the Commission Regulation of 11 February 2005 fixing the minimum selling prices for butter for the 157th individual invitation to tender under the standing invitation to tender provided for in Regulation (EC) No 2571/97**

(EUR/100 kg)

Formula			A		B	
Incorporation procedure			With tracers	Without tracers	With tracers	Without tracers
Minimum selling price	Butter ≥ 82 %	Unaltered	—	210	—	210
		Concentrated	—	—	—	—
Processing security		Unaltered	—	73	—	73
		Concentrated	—	—	—	—

**COMMISSION REGULATION (EC) No 244/2005****of 11 February 2005****fixing the maximum aid for concentrated butter for the 329th special invitation to tender opened under the standing invitation to tender provided for in Regulation (EEC) No 429/90**

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Council Regulation (EC) No 1255/1999 of 17 May 1999 on the common organisation of the market in milk and milk products <sup>(1)</sup>, and in particular Article 10 thereof,

Whereas:

- (1) In accordance with Commission Regulation (EEC) No 429/90 of 20 February 1990 on the granting by invitation to tender of an aid for concentrated butter intended for direct consumption in the Community <sup>(2)</sup>, the intervention agencies are opening a standing invitation to tender for the granting of aid for concentrated butter. Article 6 of that Regulation provides that in the light of the tenders received in response to each special invitation to tender, a maximum amount of aid is to be fixed for concentrated butter with a minimum fat content of 96 % or a decision is to be taken to make no award; the end-use security must be fixed accordingly.

- (2) In the light of the tenders received, the maximum aid should be fixed at the level specified below and the end-use security determined accordingly.

- (3) The Management Committee for Milk and Milk Products has not delivered an opinion within the time limit set by its chairman,

HAS ADOPTED THIS REGULATION:

*Article 1*

For the 329th tender under the standing invitation to tender opened by Regulation (EEC) No 429/90 the maximum aid and the end-use security are fixed as follows:

- |                     |                  |
|---------------------|------------------|
| — maximum aid:      | 66,6 EUR/100 kg, |
| — end-use security: | 74 EUR/100 kg.   |

*Article 2*

This Regulation shall enter into force on 12 February 2005.

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

Done at Brussels, 11 February 2005.

*For the Commission*

Mariann FISCHER BOEL

*Member of the Commission*

<sup>(1)</sup> OJ L 160, 26.6.1999, p. 48. Regulation as last amended by Commission Regulation (EC) No 186/2004 (OJ L 29, 3.2.2004, p. 6).

<sup>(2)</sup> OJ L 45, 21.2.1990, p. 8. Regulation as last amended by Commission Regulation (EC) No 2250/2004 (OJ L 381, 28.12.2004, p. 25).

**COMMISSION REGULATION (EC) No 245/2005****of 11 February 2005****concerning the 76th special invitation to tender issued under the standing invitation to tender referred to in Regulation (EC) No 2799/1999**

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Council Regulation (EC) No 1255/1999 of 17 May 1999 on the common organisation of the market in milk and milk products <sup>(1)</sup>, and in particular Article 10 thereof,

Whereas:

(1) Pursuant to Article 26 of Commission Regulation (EC) No 2799/1999 of 17 December 1999 laying down detailed rules for applying Council Regulation (EC) No 1255/1999 as regards the grant of aid for skimmed-milk and skimmed-milk powder intended for animal feed and the sale of such skimmed-milk powder <sup>(2)</sup>, intervention agencies have put up for sale by standing invitation to tender certain quantities of skimmed-milk powder held by them.

(2) According to Article 30 of Regulation (EC) No 2799/1999, in the light of the tenders received in

response to each individual invitation to tender a minimum selling price shall be fixed or a decision shall be taken to make no award.

(3) On the basis of the examination of the offers received, the tendering procedure should not be proceeded with.

(4) The measures provided for in this Regulation are in accordance with the opinion of the Management Committee for Milk and Milk Products,

HAS ADOPTED THIS REGULATION:

*Article 1*

For the 76th individual invitation to tender pursuant to Regulation (EC) No 2799/1999, in respect of which the time limit for the submission of tenders expired on 8 February 2005, no award shall be made.

*Article 2*

This Regulation shall enter into force on 12 February 2005.

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

Done at Brussels, 11 February 2005.

*For the Commission*

Mariann FISCHER BOEL

*Member of the Commission*

<sup>(1)</sup> OJ L 160, 26.6.1999, p. 48. Regulation as amended by Commission Regulation (EC) No 186/2004 (OJ L 29, 3.2.2004, p. 6).

<sup>(2)</sup> OJ L 340, 31.12.1999, p. 3. Regulation as last amended by Regulation (EC) No 2250/2004 (OJ L 381, 28.12.2004, p. 25).



**COMMISSION REGULATION (EC) No 246/2005****of 11 February 2005****concerning the 13th individual invitation to tender effected under the standing invitation to tender referred to in Regulation (EC) No 2771/1999**

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Council Regulation (EC) No 1255/1999 of 17 May 1999 on the common organisation of the market in milk and milk products<sup>(1)</sup>, and in particular Article 10(c) thereof,

Whereas:

- (1) Pursuant to Article 21 of Commission Regulation (EC) No 2771/1999 of 16 December 1999 laying down detailed rules for the application of Council Regulation (EC) No 1255/1999 as regards intervention on the market in butter and cream<sup>(2)</sup>, intervention agencies have put up for sale by standing invitation to tender certain quantities of butter held by them.
- (2) In the light of the tenders received in response to each individual invitation to tender a minimum selling price shall be fixed or a decision shall be taken to make no

award, in accordance with Article 24a of Regulation (EC) No 2771/1999.

- (3) On the basis of the examination of the offers received, the tendering procedure should not be proceeded with.
- (4) The measures provided for in this Regulation are in accordance with the opinion of the Management Committee for Milk and Milk Products,

HAS ADOPTED THIS REGULATION:

*Article 1*

For the 13th individual invitation to tender pursuant to Regulation (EC) No 2771/1999, in respect of which the time limit for the submission of tenders expired on 8 February 2005, no award shall be made.

*Article 2*

This Regulation shall enter into force on 12 February 2005.

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

Done at Brussels, 11 February 2005.

*For the Commission*

Mariann FISCHER BOEL

*Member of the Commission*

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<sup>(1)</sup> OJ L 160, 26.6.1999, p. 48. Regulation as last amended by Commission Regulation (EC) No 186/2004 (OJ L 29, 3.2.2004, p. 6).

<sup>(2)</sup> OJ L 333, 24.12.1999, p. 11. Regulation as last amended by Regulation (EC) No 2250/2004 (OJ L 381, 28.12.2004, p. 25).

**COMMISSION REGULATION (EC) No 247/2005****of 11 February 2005****fixing the maximum export refund on wholly milled and parboiled long grain B rice to certain third countries in connection with the invitation to tender issued in Regulation (EC) No 2032/2005**

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Council Regulation (EC) No 1785/2003 of 29 September 2003 on the common organisation of the market in rice<sup>(1)</sup>, and in particular Article 14(3) thereof,

Whereas:

(1) An invitation to tender for the export refund on rice was issued pursuant to Commission Regulation (EC) No 2032/2005<sup>(2)</sup>.

(2) Article 5 of Commission Regulation (EEC) No 584/75<sup>(3)</sup> allows the Commission to fix, in accordance with the procedure laid down in Article 26(2) of Regulation (EC) No 1785/2003 and on the basis of the tenders submitted, a maximum export refund. In fixing this maximum, the criteria provided for in Article 14(4) of Regulation (EC) No 1785/2003 must be taken into account. A contract is awarded to any tenderer whose tender is equal to or less than the maximum export refund.

(3) The application of the abovementioned criteria to the current market situation for the rice in question results in the maximum export refund being fixed at the amount specified in Article 1.

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

HAS ADOPTED THIS REGULATION:

*Article 1*

The maximum export refund on wholly milled and parboiled long grain B rice to be exported to certain third countries pursuant to the invitation to tender issued in Regulation (EC) No 2032/2005 is hereby fixed on the basis of the tenders submitted from 7 to 10 February 2005 at 60,00 EUR/t.

*Article 2*

This Regulation shall enter into force on 12 February 2005.

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

Done at Brussels, 11 February 2005.

*For the Commission*

Mariann FISCHER BOEL

*Member of the Commission*

<sup>(1)</sup> OJ L 270, 21.10.2003, p. 96.

<sup>(2)</sup> OJ L 353, 27.11.2004, p. 6.

<sup>(3)</sup> OJ L 61, 7.3.1975, p. 25. Regulation as last amended by Regulation (EC) No 1948/2002 (OJ L 299, 1.11.2002, p. 18).

**COMMISSION REGULATION (EC) No 248/2005****of 11 February 2005****concerning tenders submitted under tendering procedure for the refund on consignment of husked long grain B rice to the island of Réunion referred to in Regulation (EC) No 2033/2004**

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Council Regulation (EC) No 1785/2003 of 29 September 2003 on the common organisation of the market in rice <sup>(1)</sup>, and in particular Article 5(3) thereof,

Having regard to Commission Regulation (EEC) No 2692/89 of 6 September 1989 laying down detailed rules for exports of rice to Réunion <sup>(2)</sup>, and in particular Article 9(1) thereof,

Whereas:

- (1) Commission Regulation (EC) No 2033/2004 <sup>(3)</sup> opens an invitation to tender for the subsidy on rice exported to Réunion.
- (2) Article 9 of Regulation (EEC) No 2692/89 allows the Commission to decide, in accordance with the procedure laid down in Article 2b(2) of Regulation (EC) No 1785/2003 and on the basis of the tenders submitted, to make no award.

- (3) On the basis of the criteria laid down in Articles 2 and 3 of Regulation (EEC) No 2692/89, a maximum subsidy should not be fixed.

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

HAS ADOPTED THIS REGULATION:

*Article 1*

No action shall be taken on the tenders submitted from 7 to 10 February 2005 in response to the invitation to tender referred to in Regulation (EC) No 2033/2004 for the subsidy on exports to Réunion of husked long grain B rice falling within CN code 1006 20 98.

*Article 2*

This Regulation shall enter into force on 12 February 2005.

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

Done at Brussels, 11 February 2005.

*For the Commission*

Mariann FISCHER BOEL

*Member of the Commission*

<sup>(1)</sup> OJ L 270, 21.10.2003, p. 96.

<sup>(2)</sup> OJ L 261, 7.9.1989, p. 8. Regulation as last amended by Regulation (EC) No 1275/2004 (OJ L 241, 13.7.2004, p. 8).

<sup>(3)</sup> OJ L 353, 27.11.2004, p. 9.

**COMMISSION REGULATION (EC) No 249/2005****of 11 February 2005****concerning tenders submitted in response to the invitation to tender for the export to certain third countries of wholly milled and medium and long grain A rice issued in Regulation (EC) No 2031/2004**

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Council Regulation (EC) No 1785/2003 of 29 September 2003 on the common organisation of the market in rice <sup>(1)</sup>, and in particular Article 14(3) thereof,

Whereas:

- (1) An invitation to tender for the export refund on rice was issued pursuant to Commission Regulation (EC) No 2031/2004 <sup>(2)</sup>.
- (2) Article 5 of Commission Regulation (EEC) No 584/75 <sup>(3)</sup>, allows the Commission to decide, in accordance with the procedure laid down in Article 26(2) of Regulation (EC) No 1785/2003 and on the basis of the tenders submitted, to make no award.

- (3) On the basis of the criteria laid down in Article 14(4) of Regulation (EC) No 1785/2003, a maximum refund should not be fixed.

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

HAS ADOPTED THIS REGULATION:

*Article 1*

No action shall be taken on the tenders submitted from 7 to 10 February 2005 in response to the invitation to tender for the export refund on wholly milled and medium and long grain A rice to certain third European countries issued in Regulation (EC) No 2031/2004.

*Article 2*

This Regulation shall enter into force on 12 February 2005.

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

Done at Brussels, 11 February 2005.

*For the Commission*

Mariann FISCHER BOEL

*Member of the Commission*

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<sup>(1)</sup> OJ L 270, 21.10.2003, p. 96.

<sup>(2)</sup> OJ L 353, 27.11.2004, p. 3.

<sup>(3)</sup> OJ L 61, 7.3.1975, p. 25. Regulation as last amended by Regulation (EC) No 1948/2002 (OJ L 299, 1.11.2002, p. 18).

**COMMISSION REGULATION (EC) No 250/2005****of 11 February 2005****amending the representative prices and additional duties for the import of certain products in the sugar sector fixed by Regulation (EC) No 1210/2004 for the 2004/2005 marketing year**

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

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

Having regard to Commission Regulation (EC) No 1423/95 of 23 June 1995 laying down detailed implementing rules for the import of products in the sugar sector other than molasses<sup>(2)</sup>, and in particular the second sentence of the second subparagraph of Article 1(2), and Article 3(1) thereof,

Whereas:

- (1) The representative prices and additional duties applicable to imports of white sugar, raw sugar and certain syrups for the 2004/2005 marketing year are fixed by

Commission Regulation (EC) No 1210/2004<sup>(3)</sup>. These prices and duties have last been amended by Commission Regulation (EC) No 132/2005<sup>(4)</sup>.

- (2) The data currently available to the Commission indicate that the said amounts should be changed in accordance with the rules and procedures laid down in Regulation (EC) No 1423/95,

HAS ADOPTED THIS REGULATION:

*Article 1*

The representative prices and additional duties on imports of the products referred to in Article 1 of Regulation (EC) No 1423/95, as fixed by Regulation (EC) No 1210/2004 for the 2004/2005 marketing year are hereby amended as set out in the Annex to this Regulation.

*Article 2*

This Regulation shall enter into force on 12 February 2005.

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

Done at Brussels, 11 February 2005.

*For the Commission*

J. M. SILVA RODRÍGUEZ

*Director-General for Agriculture and  
Rural Development*

<sup>(1)</sup> OJ L 178, 30.6.2001, p. 1. Regulation as last amended by Commission Regulation (EC) No 39/2004 (OJ L 6, 10.1.2004, p. 16).

<sup>(2)</sup> OJ L 141, 24.6.1995, p. 16. Regulation as last amended by Regulation (EC) No 624/98 (OJ L 85, 20.3.1998, p. 5).

<sup>(3)</sup> OJ L 232, 1.7.2004, p. 11.

<sup>(4)</sup> OJ L 25, 28.1.2005, p. 48.

## ANNEX

**Amended representative prices and additional duties applicable to imports of white sugar, raw sugar and products covered by CN code 1702 90 99 applicable from 12 February 2005**

(EUR)

CN code	Representative price per 100 kg of the product concerned	Additional duty per 100 kg of the product concerned
1701 11 10 <sup>(1)</sup>	21,23	5,69
1701 11 90 <sup>(1)</sup>	21,23	11,09
1701 12 10 <sup>(1)</sup>	21,23	5,50
1701 12 90 <sup>(1)</sup>	21,23	10,57
1701 91 00 <sup>(2)</sup>	21,79	15,15
1701 99 10 <sup>(2)</sup>	21,79	9,82
1701 99 90 <sup>(2)</sup>	21,79	9,82
1702 90 99 <sup>(3)</sup>	0,22	0,42

<sup>(1)</sup> Fixed for the standard quality defined in Annex I.II to Council Regulation (EC) No 1260/2001 (OJ L 178, 30.6.2001, p. 1).<sup>(2)</sup> Fixed for the standard quality defined in Annex I.I to Regulation (EC) No 1260/2001.<sup>(3)</sup> Fixed per 1 % sucrose content.

## II

(Acts whose publication is not obligatory)

## COMMISSION

## COMMISSION DECISION

of 11 February 2005

**on the continuation in the year 2005 of Community comparative trials and tests on propagating and planting material of *Prunus domestica* under Council Directive 92/34/EEC started in 2002**

(2005/125/EC)

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Council Directive 92/34/EEC of 28 April 1992 on the marketing of fruit plant propagating material and fruit plants, intended for fruit production<sup>(1)</sup>,

Having regard to Commission Decision 2001/896/EC of 12 December 2001 setting out the arrangements for Community comparative trials and tests on propagating and planting material of fruit plants under Council Directive 92/34/EEC<sup>(2)</sup>, and in particular Article 2 thereof,

Whereas:

- (1) Decision 2001/896/EC sets out the arrangements for the comparative trials and tests to be carried out under Directive 92/34/EEC as regards *Prunus domestica* from 2002 to 2006.

- (2) Tests and trials carried out in 2002 to 2004 should be continued in 2005,

HAS DECIDED AS FOLLOWS:

*Sole Article*

Community comparative trials and tests which began in 2002 on propagating and planting material of *Prunus domestica* shall be continued in 2005 in accordance with Decision 2001/896/EC.

Done at Brussels, 11 February 2005.

*For the Commission*

Markos KYPRIANOU

*Member of the Commission*

<sup>(1)</sup> OJ L 157, 10.6.1992, p. 10. Directive as last amended by Directive 2003/111/EC (OJ L 311, 27.11.2003, p. 12).

<sup>(2)</sup> OJ L 331, 15.12.2001, p. 95.

## COMMISSION DECISION

of 11 February 2005

**on the continuation in the year 2005 of Community comparative trials and tests on propagating material of ornamental plants of certain species under Council Directive 98/56/EC started in 2003**

(2005/126/EC)

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Council Directive 98/56/EC of 20 July 1998 on the marketing of propagating material of ornamental plants<sup>(1)</sup>,Having regard to Commission Decision 2002/744/EC of 5 September 2002 setting out the arrangements for Community comparative trials and tests on propagating material of ornamental plants under Council Directive 98/56/EC<sup>(2)</sup>, and in particular Article 3 thereof,

Whereas:

- (1) Decision 2002/744/EC sets out the arrangements for the comparative trials and tests to be carried out under Directive 98/56/EC as regards *Chamaecyparis*, *Ligustrum vulgare* and *Euphorbia fulgens* from 2003 to 2005.

- (2) Tests and trials carried out in 2003 and 2004 should be continued in 2005,

HAS DECIDED AS FOLLOWS:

*Sole Article*

Community comparative trials and tests which began in 2003 on propagating material of *Chamaecyparis*, *Ligustrum vulgare* and *Euphorbia fulgens* shall be continued in 2005 in accordance with Decision 2002/744/EC.

Done at Brussels, 11 February 2005.

*For the Commission*

Markos KYPRIANOU

*Member of the Commission*

<sup>(1)</sup> OJ L 226, 13.8.1998, p. 16. Directive as last amended by Directive 2003/61/EC (OJ L 165, 3.7.2003, p. 23).

<sup>(2)</sup> OJ L 240, 7.9.2002, p. 63.