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Legislation

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I

(Acts whose publication is obligatory)

COMMISSION REGULATION (EC) No 198/2004
of 5 February 2004
establishing the standard import values for determining the entry price of certain fruit and vegetables

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Commission Regulation (EC) No 3223/94 of 21 December 1994 on detailed rules for the application of the import arrangements for fruit and vegetables ⁽¹⁾, as last amended by Regulation (EC) No 1947/2002 ⁽²⁾, 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 6 February 2004.

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

Done at Brussels, 5 February 2004.

For the Commission
J. M. SILVA RODRÍGUEZ
Agriculture Director-General

⁽¹⁾ OJ L 337, 24.12.1994, p. 66.

⁽²⁾ OJ L 299, 1.11.2002, p. 17.

ANNEX

to the Commission Regulation of 5 February 2004 establishing the standard import values for determining the entry price of certain fruit and vegetables

(EUR/100 kg)

CN code	Third country code ⁽¹⁾	Standard import value
0702 00 00	052	115,6
	204	55,4
	212	129,8
	999	100,3
0707 00 05	052	129,4
	204	37,1
	220	204,2
	999	123,6
0709 10 00	220	13,5
	999	13,5
0709 90 70	052	113,3
	204	49,9
	999	81,6
0805 10 10, 0805 10 30, 0805 10 50	052	51,2
	204	45,0
	212	46,5
	220	34,7
	400	44,5
	624	54,8
	999	46,1
0805 20 10	052	71,8
	204	99,4
	999	85,6
0805 20 30, 0805 20 50, 0805 20 70, 0805 20 90	052	76,6
	204	134,7
	220	76,9
	464	71,3
	600	74,0
	624	75,4
	999	84,8
0805 50 10	052	73,5
	600	58,3
	999	65,9
0808 10 20, 0808 10 50, 0808 10 90	052	65,0
	060	53,0
	400	82,4
	404	94,4
	512	73,4
	528	93,2
	720	61,5
	999	74,7
0808 20 50	060	59,0
	388	92,0
	400	86,1
	528	81,9
	720	34,5
	999	70,7

⁽¹⁾ Country nomenclature as fixed by Commission Regulation (EC) No 2020/2001 (OJ L 273, 16.10.2001, p. 6). Code '999' stands for 'of other origin'.

COMMISSION REGULATION (EC) No 199/2004**of 5 February 2004****fixing the representative prices and the additional import duties for molasses in the sugar sector**

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 market in sugar ⁽¹⁾,

Having regard to Commission Regulation (EC) No 1422/95 of 23 June 1995 laying down detailed rules of application for imports of molasses in the sugar sector and amending Regulation (EEC) No 785/68 ⁽²⁾, and in particular Article 1(2) and Article 3(1) thereof,

Whereas:

- (1) Regulation (EC) No 1422/95 stipulates that the cif import price for molasses, hereinafter referred to as the 'representative price', should be set in accordance with Commission Regulation (EEC) No 785/68 ⁽³⁾. That price should be fixed for the standard quality defined in Article 1 of the above Regulation.
- (2) The representative price for molasses is calculated at the frontier crossing point into the Community, in this case Amsterdam; that price must be based on the most favourable purchasing opportunities on the world market established on the basis of the quotations or prices on that market adjusted for any deviations from the standard quality. The standard quality for molasses is defined in Regulation (EEC) No 785/68.
- (3) When the most favourable purchasing opportunities on the world market are being established, account must be taken of all available information on offers on the world market, on the prices recorded on important third-country markets and on sales concluded in international trade of which the Commission is aware, either directly or through the Member States. Under Article 7 of Regulation (EEC) No 785/68, the Commission may for this purpose take an average of several prices as a basis, provided that this average is representative of actual market trends.
- (4) The information must be disregarded if the goods concerned are not of sound and fair marketable quality or if the price quoted in the offer relates only to a small

quantity that is not representative of the market. Offer prices which can be regarded as not representative of actual market trends must also be disregarded.

- (5) If information on molasses of the standard quality is to be comparable, prices must, depending on the quality of the molasses offered, be increased or reduced in the light of the results achieved by applying Article 6 of Regulation (EEC) No 785/68.
- (6) A representative price may be left unchanged by way of exception for a limited period if the offer price which served as a basis for the previous calculation of the representative price is not available to the Commission and if the offer prices which are available and which appear not to be sufficiently representative of actual market trends would entail sudden and considerable changes in the representative price.
- (7) Where there is a difference between the trigger price for the product in question and the representative price, additional import duties should be fixed under the conditions set out in Article 3 of Regulation (EC) No 1422/95. Should the import duties be suspended pursuant to Article 5 of Regulation (EC) No 1422/95, specific amounts for these duties should be fixed.
- (8) Application of these provisions will have the effect of fixing the representative prices and the additional import duties for the products in question as set out in the Annex to this Regulation.
- (9) The measures provided for in this Regulation are in accordance with the opinion of the Management Committee for Sugar,

HAS ADOPTED THIS REGULATION:

Article 1

The representative prices and the additional duties applying to imports of the products referred to in Article 1 of Regulation (EC) No 1422/95 are fixed in the Annex hereto.

Article 2

This Regulation shall enter into force on 6 February 2004.

⁽¹⁾ 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).

⁽²⁾ OJ L 141, 24.6.1995 p. 12. Regulation as amended by Commission Regulation (EC) No 79/2003 (OJ L 13, 18.1.2003, p. 4).

⁽³⁾ OJ L 145, 27.6.1968, p. 12.

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

Done at Brussels, 5 February 2004.

For the Commission

J. M. SILVA RODRÍGUEZ

Agriculture Director-General

ANNEX

to the Commission Regulation of 5 February 2004 fixing the representative prices and additional import duties to imports of molasses in the sugar sector

(in EUR)

CN code	Amount of the representative price in 100 kg net of the product in question	Amount of the additional duty in 100 kg net of the product in question	Amount of the duty to be applied to imports in 100 kg net of the product in question because of suspension as referred to in Article 5 of Regulation (EC) No 1422/95 ⁽²⁾
1703 10 00 ⁽¹⁾	5,83	0,38	—
1703 90 00 ⁽¹⁾	8,78	—	0

⁽¹⁾ For the standard quality as defined in Article 1 of amended Regulation (EEC) No 785/68.

⁽²⁾ This amount replaces, in accordance with Article 5 of Regulation (EC) No 1422/95, the rate of the Common Customs Tariff duty fixed for these products.

COMMISSION REGULATION (EC) No 200/2004

of 5 February 2004

fixing the export refunds on white sugar and raw sugar exported in its unaltered state

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 ⁽¹⁾, and in particular the second subparagraph of Article 27(5) thereof,

Whereas:

- (1) Article 27 of Regulation (EC) No 1260/2001 provides that the difference between quotations or prices on the world market for the products listed in Article 1(1)(a) of that Regulation and prices for those products within the Community may be covered by an export refund.
- (2) Regulation (EC) No 1260/2001 provides that when refunds on white and raw sugar, undenatured and exported in its unaltered state, are being fixed account must be taken of the situation on the Community and world markets in sugar and in particular of the price and cost factors set out in Article 28 of that Regulation. The same Article provides that the economic aspect of the proposed exports should also be taken into account.
- (3) The refund on raw sugar must be fixed in respect of the standard quality. The latter is defined in Annex I, point II, to Regulation (EC) No 1260/2001. Furthermore, this refund should be fixed in accordance with Article 28(4) of that Regulation. Candy sugar is defined in Commission Regulation (EC) No 2135/95 of 7 September 1995 laying down detailed rules of application for the grant of export refunds in the sugar sector ⁽²⁾. The refund thus calculated for sugar containing added flavouring or colouring matter must apply to their sucrose content and, accordingly, be fixed per 1 % of the said content.
- (4) In special cases, the amount of the refund may be fixed by other legal instruments.
- (5) The refund must be fixed every two weeks. It may be altered in the intervening period.
- (6) The first subparagraph of Article 27(5) of Regulation (EC) No 1260/2001 provides that refunds on the products referred to in Article 1 of that Regulation may vary according to destination, where the world market situation or the specific requirements of certain markets make this necessary.
- (7) The significant and rapid increase in preferential imports of sugar from the western Balkan countries since the start of 2001 and in exports of sugar to those countries from the Community seems to be highly artificial.
- (8) To prevent any abuse through the re-import into the Community of sugar products in receipt of an export refund, no refund should be set for all the countries of the western Balkans for the products covered by this Regulation.
- (9) Import duties and export refunds still apply to certain sugar products traded between the Community, of the one part, and the Czech Republic, Estonia, Cyprus, Latvia, Lithuania, Hungary, Malta, Poland, Slovenia and Slovakia, hereinafter referred to as 'new Member States', of the other part, and the level of export refunds is appreciably greater than the level of import duties. In view of the accession of these countries to the Community on 1 May 2004, the appreciable gap between the level of import duties and the level of export refunds granted for the products in question may result in speculative trade flows.
- (10) To prevent any abuse through the re-import or re-introduction into the Community of sugar products in receipt of an export refund, no refund or levy should be set for all the new Member States for the products covered by this Regulation.
- (11) In view of the above and of the present situation on the market in sugar, and in particular of the quotations or prices for sugar within the Community and on the world market, refunds should be set at the appropriate amounts.
- (12) The measures provided for in this Regulation are in accordance with the opinion of the Management Committee for Sugar,

HAS ADOPTED THIS REGULATION:

Article 1

The export refunds on the products listed in Article 1(1)(a) of Regulation (EC) No 1260/2001, undenatured and exported in the natural state, are hereby fixed to the amounts shown in the Annex hereto.

Article 2

This Regulation shall enter into force on 6 February 2004.

⁽¹⁾ 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).

⁽²⁾ OJ L 214, 8.9.1995, p. 16.

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

Done at Brussels, 5 February 2004.

For the Commission

Franz FISCHLER

Member of the Commission

ANNEX

REFUNDS ON WHITE SUGAR AND RAW SUGAR EXPORTED WITHOUT FURTHER PROCESSING APPLICABLE FROM 6 FEBRUARY 2004

Product code	Destination	Unit of measurement	Amount of refund
1701 11 90 9100	S00	EUR/100 kg	45,95 ⁽¹⁾
1701 11 90 9910	S00	EUR/100 kg	45,83 ⁽¹⁾
1701 12 90 9100	S00	EUR/100 kg	45,95 ⁽¹⁾
1701 12 90 9910	S00	EUR/100 kg	45,83 ⁽¹⁾
1701 91 00 9000	S00	EUR/1 % of sucrose × 100 kg product net	0,4995
1701 99 10 9100	S00	EUR/100 kg	49,95
1701 99 10 9910	S00	EUR/100 kg	49,82
1701 99 10 9950	S00	EUR/100 kg	49,82
1701 99 90 9100	S00	EUR/1 % of sucrose × 100 kg of net product	0,4995

NB: The product codes and the 'A' series destination codes are set out in Commission Regulation (EEC) No 3846/87 (OJ L 366, 24.12.1987, p. 1).

The numeric destination codes are set out in Commission Regulation (EC) No 1779/2002 (OJ L 269, 5.10.2002, p. 6).

The other destinations are:

S00: all destinations (third countries, other territories, victualling and destinations treated as exports from the Community) with the exception of Albania, Croatia, Bosnia and Herzegovina, Serbia and Montenegro (including Kosovo, as defined in UN Security Council Resolution 1244 of 10 June 1999), the former Yugoslav Republic of Macedonia, the Czech Republic, Estonia, Cyprus, Latvia, Lithuania, Hungary, Malta, Poland, Slovenia and Slovakia, save for sugar incorporated in the products referred to in Article 1(2)(b) of Council Regulation (EC) No 2201/96 (OJ L 297, 21.11.1996, p. 29).

⁽¹⁾ This amount is applicable to raw sugar with a yield of 92 %. Where the yield for exported raw sugar differs from 92 %, the refund amount applicable shall be calculated in accordance with Article 28(4) of Regulation (EC) No 1260/2001.

COMMISSION REGULATION (EC) No 201/2004**of 5 February 2004****fixing the maximum export refund for white sugar to certain third countries for the 20th partial invitation to tender issued within the framework of the standing invitation to tender provided for in Regulation (EC) No 1290/2003**

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 ⁽¹⁾, and in particular Article 27(5) thereof,

Whereas:

- (1) Commission Regulation (EC) No 1290/2003 of 18 July 2003 on a standing invitation to tender to determine levies and/or refunds on exports of white sugar ⁽²⁾, for the 2003/2004 marketing year, requires partial invitations to tender to be issued for the export of this sugar to certain third countries.
- (2) Pursuant to Article 9(1) of Regulation (EC) No 1290/2003 a maximum export refund shall be fixed, as the case may be, account being taken in particular of the state and foreseeable development of the Community and world markets in sugar, for the partial invitation to tender in question.

(3) Following an examination of the tenders submitted in response to the 20th partial invitation to tender, the provisions set out in Article 1 should be adopted.

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

HAS ADOPTED THIS REGULATION:

Article 1

For the 20th partial invitation to tender for white sugar issued pursuant to Regulation (EC) No 1290/2003 the maximum amount of the export refund to certain third countries is fixed at 52,877 EUR/100 kg.

Article 2

This Regulation shall enter into force on 6 February 2004.

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

Done at Brussels, 5 February 2004.

For the Commission

Franz FISCHLER

Member of the Commission

⁽¹⁾ 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).

⁽²⁾ OJ L 181, 19.7.2003, p. 7.

COMMISSION REGULATION (EC) No 202/2004**of 5 February 2004****opening a standing invitation to tender for the resale on the Community market of rice from the 1999 harvest held by the Spanish intervention agency**

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Council Regulation (EC) No 3072/95 of 22 December 1995 on the common organisation of the market in rice ⁽¹⁾, and in particular Article 8(b) thereof,

Whereas:

(1) Commission Regulation (EEC) No 75/91 of 11 January 1991 laying down the procedures and conditions for the disposal of paddy rice held by intervention agencies ⁽²⁾ provides among other things that rice held by intervention agencies is to be sold by tendering procedure at prices avoiding market disturbance.

(2) Spain still has intervention stocks of paddy rice from the 1999 harvest, the quality of which is in danger of deteriorating if kept in prolonged storage.

(3) In the present production situation and in view of the concessions for rice imports granted under international agreements and the restrictions on subsidised exports, disposing of this rice on traditional markets inside the Community would inevitably result in the placing of an equivalent quantity in intervention, which should be avoided.

(4) This rice can be disposed of by processing it into either broken rice or products derived therefrom, or into some other form suitable for use in animal feed, on certain conditions.

(5) In order to ensure that the rice really is processed, the procedure should be specially monitored and the successful tenderer should provide a security, to be released on conditions to be laid down.

(6) The undertakings given by tenderers must be regarded as primary requirements within the meaning of Commission Regulation (EEC) No 2220/85 of 22 July 1985 laying down common detailed rules for the application of the system of securities for agricultural products ⁽³⁾.

(7) Commission Regulation (EEC) No 3002/92 ⁽⁴⁾ lays down common detailed rules for verifying the use of products from intervention. Procedures should also be laid down to ensure the traceability of the products used for animal feed.

(8) So that the quantities awarded can be managed accurately, an allocation coefficient should be fixed for tenders offering the minimum selling price, while allowing tenderers to specify a minimum quantity awarded below which they do not wish their tender to stand.

(9) When the Spanish intervention agency notifies the Commission, the tenderers should remain anonymous.

(10) While respecting the tenderers' anonymity, they should be identified by numbers so that it is evident which have submitted several tenders and what prices they have offered.

(11) For control purposes, tenders must be traceable by their reference numbers, while safeguarding anonymity.

(12) With a view to modernising management, the information required by the Commission should be sent by electronic mail.

(13) 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 Spanish intervention agency shall launch a standing invitation to tender for the sale on the internal market of the Community of quantities of rice from the 1999 harvest held by it and previously notified to the Commission under Regulation (EEC) No 75/91, as set out in Annex I hereto, with a view to its processing into either broken rice within the meaning of Annex A.3 to Regulation (EC) No 3072/95 or products derived therefrom, or into some other form suitable for use in animal feed (CN code 2309).

⁽¹⁾ OJ L 329, 30.12.1995, p. 18. Regulation as last amended by Commission Regulation (EC) No 411/2002 (OJ L 62, 5.3.2002, p. 27).

⁽²⁾ OJ L 9, 12.1.1991, p. 15.

⁽³⁾ OJ L 205, 3.8.1985, p. 5. Regulation as last amended by Regulation (EC) No 1932/1999 (OJ L 240, 10.9.1999, p. 11).

⁽⁴⁾ OJ L 301, 17.10.1992, p. 17. Regulation as last amended by Regulation (EC) No 770/96 (OJ L 104, 27.4.1996, p. 13).

Article 2

1. The sale provided for in Article 1 shall take place in accordance with Regulation (EEC) No 75/91.

However, notwithstanding Article 5 of that Regulation:

- (a) tenders shall be drawn up on the basis of the actual quality of the lot to which they apply;
- (b) the minimum sale price shall be set at a level which does not disturb the cereals or rice market.

2. Tenderers shall give the following undertakings:

- (a) where the rice is to be processed into broken rice or products derived therefrom:
 - (i) that they will carry out the treatment provided for in Annex II within three months of the date of the notice of award of contract referred to in the second paragraph of Article 8, under the supervision of the competent authorities and at a place determined in agreement with them;
 - (ii) that they will use the awarded products solely in the form of broken rice or products derived therefrom either without further processing or by incorporating them into another product or by processing them, within six months of the date of the notice of award of contract referred to in the second paragraph of Article 8, except in cases of *force majeure* or on the specific instructions of the intervention agency authorising a change in the deadline on account of exceptional circumstances;
 - (iii) if they sell the products on, that they will have the purchaser give the above undertaking;
- (b) where the rice is to be processed into a form suitable for use in animal feed,
 - (i) where they are feed manufacturers:
 - that they will carry out the treatments described in Annex III or IV within three months of the date of the notice of award of contract referred to in the second paragraph of Article 8, under the supervision of the competent authorities and at a place determined in agreement with them, with a view to verifying the use made of the rice and ensuring the traceability of the products;
 - that they will ensure that this product is incorporated in feed within four months of the date of the notice of award of contract referred to in the second paragraph of Article 8, except in cases of *force majeure* or on the specific instructions of the intervention agency authorising a change in the deadline on account of exceptional circumstances;
 - (ii) where they are rice mills:
 - that they will carry out the treatments described in Annex IV within no more than three months of the date of the notice of award of contract referred to in the second paragraph of Article 8, under the supervision of the competent authorities and at a place determined in agreement with them, with a view to verifying the use made of the rice and ensuring the traceability of the products;

- that they will ensure that this product is incorporated in feed within four months of the date of the notice of award of contract referred to in the second paragraph of Article 8, except in cases of *force majeure* or on the specific instructions of the intervention agency authorising a change in the deadline on account of exceptional circumstances;

- (c) that they will bear the costs of the processing and treatment of the products;
- (d) that they will keep stock records demonstrating that they have respected their undertakings.

Article 3

1. The Spanish intervention agency shall publish a notice of invitation to tender at least eight days before the final day of the first period for the submission of tenders.

The notice, and any changes to it, shall be forwarded to the Commission before publication.

2. The notice of invitation to tender shall contain:

- (a) the additional clauses and conditions of sale compatible with this Regulation;
- (b) the places of storage and the name and address of the storer;
- (c) the main physical and technological characteristics of the various lots established upon buying in by the intervention agency or during checks carried out subsequently;
- (d) the number of each lot;
- (e) particulars of the competent authorities responsible for monitoring the operation.

3. The Spanish intervention agency shall take all additional steps necessary to enable the parties concerned to assess the quality of the rice put up for sale before submitting their tenders.

Article 4

1. Tenders shall indicate whether they relate to processing into broken rice or products derived therefrom or into a form suitable for animal feed.

Tenders shall be valid only if they are accompanied by:

- (a) evidence that the tenderer has lodged a security of EUR 15 per tonne;
- (b) evidence that the tenderer is an animal feed manufacturer or a rice mill;
- (c) a written undertaking by the tenderer to lodge a security, not later than two working days after the date of receipt of the notice of award of contract, for an amount equivalent to the difference between the intervention price for paddy rice applicable on the tender date plus EUR 15 and the price tendered per tonne of rice.

2. Once submitted, a tender may not be altered or withdrawn.

3. In case the Commission is required to fix an award coefficient for the quantities offered for sale as provided for in the second paragraph of Article 7, tenderers should indicate any minimum awarded quantity below which they do not wish their tender to stand.

Article 5

1. The period for the submission of tenders for the first partial invitation to tender shall commence on 11 February 2004 and end on 17 February at 12.00 (Brussels time).

2. The time limit for submission of tenders under subsequent partial invitations to tender shall be 12.00 (Brussels time) each Tuesday thereafter: 2 March 2004, 16 March 2004, 30 March 2004 and 13 April 2004. The period for the submission of tenders shall commence on the Wednesday before the closing date in each case.

3. The period for the submission of tenders for the last partial invitation to tender shall commence on 21 April 2004 and end on 27 April 2004 at 12.00 (Brussels time).

Tenders must be lodged with the Spanish intervention agency:

Fondo Español de Garantía Agraria (FEGA)
Beneficencia 8
E-28004 Madrid
Telex: 23427 FEGA E
Fax: (34) 915 21 98 32, (34) 915 22 43 87

Article 6

1. Not later than 09.00 (Brussels time) on the Thursday following the closing date for the submission of tenders, the Spanish intervention agency shall notify the Commission of the information provided for in Annex V hereto, broken down by type of processing.

2. For each type of processing and for each partial tendering procedure, the Spanish intervention agency shall identify the tenderers by an individual number, starting at 1.

To ensure anonymity, the numbers shall be allocated randomly and separately for each type of processing and each partial tendering procedure.

The Spanish intervention agency shall give each tender a reference number in such a way as to ensure that the tenderers remain anonymous. For the entire standing tendering procedure, each tender shall be identified by its own reference number.

3. The notification referred to in paragraph 1 shall be made by electronic mail to the address given in Annex V using the form provided to the Spanish intervention agency by the Commission for that purpose.

The notification must be made even if no tenders are submitted. In that case, it must state that no tenders have been received within the deadline laid down.

4. The Spanish intervention agency shall also notify the Commission of the information specified in Annex V for rejected tenders, stating why they were rejected.

Article 7

For each type of processing, the Commission shall set the minimum sale price or decide not to award any quantities. In the event that tenders are submitted for the same lot and for a quantity larger than that available, the Commission may fix this price separately for each lot.

Where tenders are offering the minimum sale price, the Commission may fix an award coefficient for the quantities offered at the same time as it fixes the minimum sale price.

This decision shall be taken in accordance with the procedure laid down in Article 22 of Regulation (EC) No 3072/95.

Article 8

The intervention agency shall immediately notify all tenderers of the outcome of their participation in the tendering procedure.

Within three working days of the notification referred to in the first paragraph, it shall send notices of award of contract to successful tenderers by registered letter or written telecommunication.

Article 9

Successful tenderers shall pay for the rice before it is removed, and at the latest within one month of the date of the notice of award of contract referred to in the second paragraph of Article 8. The risks and costs of storing rice that is not removed within the payment period shall be borne by the successful tenderers.

Following the expiry of the payment period, rice for which a contract is awarded and which is not removed shall be regarded for all purposes as having been removed from storage.

Where a successful tenderer fails to pay for the rice within the period referred to in the first paragraph, the contract shall be terminated by the intervention agency, where appropriate in respect of the quantity not paid for.

Article 10

1. The security referred to in Article 4(1)(a) shall be released
 - (a) in full for the quantities for which:
 - (i) no award is made;
 - (ii) the tender does not stand, in accordance with Article 4(3);
 - (iii) the sale price is paid within the period set and the security referred to in Article 4(1)(c) has been lodged;
 - (b) proportionately to the quantity not awarded where an award coefficient is set for the quantities offered in accordance with the second paragraph of Article 7.

2. The security referred to in Article 4(1)(c) shall be released in proportion to the quantities used only if the intervention agency has carried out all the checks necessary to ensure that the product is processed in accordance with this Regulation.

However, the security shall be released in full:

- (a) on presentation of proof that the treatment referred to in Annex II has been carried out and that the undertakings provided for in Article 2(2)(a)(ii) and (iii) have been made;
- (b) on presentation of proof that the treatment referred to in Annex III has been carried out, provided that not less than 95 % of the fine broken grains and/or fragments obtained has been used in compound feed;
- (c) on presentation of proof that the treatment referred to in Annex IV has been carried out, provided that not less than 95 % of the milled rice obtained has been used in compound feed.

3. Proof that the rice has been incorporated in animal feed as referred to in this Regulation shall be provided in accordance with Regulation (EEC) No 3002/92.

Article 11

The obligation set out in Article 2(2) shall be regarded as a primary requirement within the meaning of Article 20 of Regulation (EEC) No 2220/85.

Article 12

In addition to the particulars provided for in Regulation (EEC) No 3002/92, box 104 of the control copy T5 shall contain the following entries.

- (a) Where processing takes place in a Member State other than Spain, in accordance with Annex II to this Regulation, one or more of the following entries supplemented by reference to the undertaking provided for in Article 2(2)(a)(ii) and (iii):
 - Destínados a la transformación prevista en el anexo II del Reglamento (CE) n.º 202/2004 y a la utilización de conformidad con el compromiso previsto en los incisos ii) y iii) de la letra a) del apartado 2 del artículo 2 de dicho Reglamento
 - Til forarbejdning som fastsat i bilag II til forordning (EF) nr. 202/2004 og til anvendelse ifølge forpligtelsen i artikel 2, stk. 2, litra a), nr. ii) og iii), i nævnte forordning
 - Zur Verarbeitung gemäß Anhang II der Verordnung (EG) Nr. 202/2004 und zur Verwendung gemäß Artikel 2 Absatz 2 Buchstabe a) Ziffern ii) und iii) der genannten Verordnung bestimmt
 - Προορίζονται για τη μεταποίηση που προβλέπεται στο παράρτημα II του κανονισμού (ΕΚ) αριθ. 202/2004 και για χρήση σύμφωνα με τη δέσμευση που προβλέπεται στο άρθρο 2 παράγραφος 2 στοιχείο α) σημεία ii) και iii) του ίδιου κανονισμού
 - Intended for processing as provided for in Annex II to Regulation (EC) No 202/2004 and use in accordance with the undertaking provided for in Article 2(2)(a)(ii) and (iii) of that Regulation

- Destinés à la transformation prévue à l'annexe II du règlement (CE) n.º 202/2004 et à l'utilisation conformément à l'engagement prévu à l'article 2, paragraphe 2, points a) ii) et iii), dudit règlement
- Destinati alla trasformazione prevista all'allegato II del regolamento (CE) n. 202/2004 e all'utilizzazione conformemente all'impegno di cui all'articolo 2, paragrafo 2, lettera a), punti ii) e iii), del suddetto regolamento
- Bestemd om te worden verwerkt overeenkomstig bijlage II bij Verordening (EG) nr. 202/2004 en om te worden gebruikt met inachtneming van de in artikel 2, lid 2, onder a), ii) en iii), van die verordening vastgestelde verbintenissen
- Para a transformação prevista no anexo II do Regulamento (CE) n.º 202/2004 e para utilização em conformidade com o compromisso previsto no n.º 2, subalíneas ii) e iii) da alínea a), do artigo 2.º do referido regulamento
- Tarkoitettu asetuksen (EY) N:o 202/2004 liitteessä II tarkoitettuun jalostukseen ja kyseisen asetuksen 2 artiklan 2 kohdan a alakohdan ii ja iii alakohdassa säädetyn sitoumuksen mukaiseen käyttöön
- Avsedda för bearbetning i enlighet med bilaga II till förordning (EG) nr 202/2004 och för användning i enlighet med det åtagande som föreskrivs i samma förordning i artikel 2.2 a ii och iii

(b) Where the rice is to be used as broken rice or derived products in a Member State other than that of processing, after processing in accordance with Annex II, one or more of the following entries:

- Arroz transformado en partidos de arroz o productos derivados de conformidad con las disposiciones del anexo II del Reglamento (CE) n.º 202/2004, destinado a ser utilizado exclusivamente en forma de partidos de arroz o productos derivados, de conformidad con el compromiso previsto en los incisos ii) y iii) de la letra a) del apartado 2 del artículo 2 del mismo Reglamento
- Ris forarbejdet til brudris eller afledte produkter efter bestemmelserne i bilag II i forordning (EF) nr. 202/2004, udelukkende bestemt til anvendelse i form af brudris eller afledte produkter ifølge forpligtelsen i artikel 2, stk. 2, litra a), nr. ii) og iii), i samme forordning
- Gemäß Anhang II der Verordnung (EG) Nr. 202/2004 zu Bruchreis oder Nebenerzeugnissen von Bruchreis verarbeiteter Reis, nach der Verpflichtung gemäß Artikel 2 Absatz 2 Buchstabe a) Ziffern ii) und iii) der genannten Verordnung ausschließlich zur Verwendung in Form von Bruchreis oder Nebenerzeugnissen von Bruchreis bestimmt
- Ρύζι που έχει μεταποιηθεί σε θραύσματα ή παράγωγα προϊόντα σύμφωνα με τις διατάξεις του παραρτήματος II του κανονισμού (ΕΚ) αριθ. 202/2004 και προορίζεται να χρησιμοποιηθεί αποκλειστικά με τη μορφή θραυσμάτων ή παραγώγων προϊόντων σύμφωνα με τη δέσμευση που προβλέπεται στο άρθρο 2 παράγραφος 2 στοιχείο α) σημεία ii) και iii) του ίδιου κανονισμού

- Rice processed into broken rice or derived products in accordance with Annex II to Regulation (EC) No 202/2004 for use solely in the form of broken rice or derived products in accordance with the undertaking provided for in Article 2(2)(a)(ii) and (iii) of that Regulation
 - Riz transformé en brisures ou produits dérivés conformément aux dispositions de l'annexe II du règlement (CE) n° 202/2004, destiné à être utilisé exclusivement sous forme de brisures ou produits dérivés, conformément à l'engagement prévu à l'article 2, paragraphe 2, points a) ii) et iii), dudit règlement
 - Riso trasformato in rotture di riso o prodotti derivati conformemente alle disposizioni dell'allegato II del regolamento (CE) n. 202/2004, destinato ad essere utilizzato esclusivamente sotto forma di rotture di riso o prodotti derivati, conformemente all'impegno di cui all'articolo 2, paragrafo 2, lettera a), punti ii) e iii), del suddetto regolamento
 - Overeenkomstig bijlage II van Verordening (EG) nr. 202/2004 tot breukrijst of van breukrijst afgeleide producten verwerkt rijst, bestemd om uitsluitend als breukrijst of van breukrijst afgeleide producten te worden gebruikt met inachtneming van de in artikel 2, lid 2, onder a), ii) en iii), van die verordening vastgestelde verbintenissen
 - Arroz transformado em trincas ou produtos derivados de acordo com as disposições do anexo II do Regulamento (CE) n.º 202/2004, destinado exclusivamente a utilização sob a forma de trincas ou de produtos derivados, em conformidade com o compromisso previsto no n.º 2, subalíneas ii) e iii) da alínea a), do artigo 2.º desse mesmo regulamento
 - Asetuksen (EY) N:o 202/2004 liitteen II säännösten mukaisesti rikkoutuneiksi riisinjyviksi tai niistä johdettuiksi tuotteiksi jalostettu riisi, joka on tarkoitettu käytettäväksi yksinomaan rikkoutuneina riisinjyvänä tai niistä johdettuina tuotteina saman asetuksen 2 artiklan 2 kohdan a alakohdan ii ja iii alakohdassa säädetyntiloumuksen mukaisesti
 - Ris bearbetat till brutet ris eller härledda produkter i enlighet med bestämmelserna i bilaga II till förordning (EG) nr 202/2004 och avsett att uteslutande användas i form av brutet ris eller härledda produkter därav i enlighet med det åtagande som föreskrivs i samma förordning i artikel 2.2 a ii och iii
- (c) Where processing takes place in a Member State other than Spain, in accordance with Annex III or IV to this Regulation, one or more of the following entries, together with the number of the Annex to this Regulation corresponding to the treatment required:
- Destinados a la transformación prevista en el anexo ... del Reglamento (CE) n° 202/2004
 - Til forarbejdning som fastsat i bilag ... til forordning (EF) nr. 202/2004
 - Zur Verarbeitung gemäß Anhang ... der Verordnung (EG) Nr. 202/2004 bestimmt
 - Προορίζονται για μεταποίηση που προβλέπεται στο παράρτημα ... του κανονισμού (ΕΚ) αριθ. 202/2004
 - For processing provided for in Annex ... to Regulation (EC) No 202/2004
 - Destinés à la transformation prévue à l'annexe ... du règlement (CE) n° 202/2004
 - Destinati alla trasformazione prevista all'allegato ... del regolamento (CE) n. 202/2004
 - Bestemd om te worden verwerkt overeenkomstig bijlage ... bij Verordening (EG) nr. 202/2004
 - Para a transformação prevista no anexo ... do Regulamento (CE) n.º 202/2004
 - Tarkoitettu asetuksen (EY) N:o 202/2004 liitteessä ... tarkoitettuun jalostukseen
 - För bearbetning enligt bilaga ... till förordning (EG) nr 202/2004.

Article 13

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

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

Done at Brussels, 5 February 2004.

For the Commission

Franz FISCHLER

Member of the Commission

ANNEX I

(in tonnes)

1	2	3
Place of storage (address)	Place of storage (identification code) ⁽¹⁾	Available quantities
Silo FEGA – 06920 Azuaga (Badajoz)	ES06010	2 586,560
Silo FEGA – 41749 El Cuervo (Sevilla)	ES11011	7 413,440
Total		10 000,000

⁽¹⁾ The national identification code shall be preceded by the ISO code for Spain.

ANNEX II

Treatment provided for in Article 2(2)(a)(i)

At the time of being taken over, the rice must undergo the following treatment:

1. the awarded paddy rice must be milled to give the overall minimum yield and whole grain yield previously determined by the laboratory on a sample removed when the rice for which the contract is awarded was taken over, with a tolerance of plus or minus 1 % applicable to the overall minimum yield and whole grain yield;
2. all the wholly milled rice obtained must be broken in such a way as to produce at least 95 % broken rice within the meaning of Annex A to Regulation (EC) No 3072/95. It may also be processed directly into products derived from broken rice.

ANNEX III

Treatment provided for in the first indent of Article 2(2)(b)(i)

At the time of being taken over, the rice must undergo the following treatment:

1. the awarded paddy rice must be husked and broken in such a way as to produce not less than 77 %, by weight of paddy rice, of fine broken grains and/or fragments of husked rice as defined in point C of the Annex to Regulation (EC) No 3073/95;
2. the product obtained after processing (not including the husk) must be marked using the colorant E131 patent blue V or E142 acid brilliant green BS (lissamine green) to enable it to be identified.

ANNEX IV

Treatment indicated in the first indent of Article 2(2)(b)(i) and in the first indent of Article 2(2)(b)(ii)

1. The awarded paddy rice must be milled to give the overall minimum yield and whole grain yield previously determined by the laboratory on a sample removed when the rice for which the contract is awarded was taken over, with a tolerance of plus or minus 1 % applicable to the overall minimum yield and whole grain yield.
2. The product obtained after processing must be marked using the colorant E131 patent blue V or E142 acid brilliant green BS (lissamine green) to enable it to be identified.

ANNEX V

Information referred to in Article 6

1	2	3	4	5	6	7	8
Type of processing	Tender's identification number	Tender price (EUR/t)	Quantity (t)	Minimum quantity (t)	Place of storage	Lot No	Reference number
(A) broken rice or products derived therefrom							
(B) form suitable for use in animal feed							

Address for electronic transmission of information in accordance with Article 6: AGRI-C2-RICE-STOCKS@CEC.EU.INT

Explanatory Notes

- Column 1: type of processing: (A): processing into broken rice within the meaning of Annex A to Regulation (EC) No 3072/95 or product derived therefrom or (B): processing into a form suitable for use in preparations of a kind used in animal feeding (CN code 2309).
- Column 2: tenderers shall be assigned an individual number, starting at 1. To ensure anonymity, the numbers shall be allocated randomly and separately for each type of processing and each partial tendering procedure.
- Column 3: purchase price offered, expressed in EUR per tonne.
- Column 4: quantity, expressed in tonnes.
- Column 5: minimum awarded quantity as referred to in Article 4(3), below which the tenderer does not wish the tender to stand.
- Column 6: place of storage, identified by the 'identification code' indicated in Annex I.
- Column 7: lot number at the place of storage indicated in column 6.
- Column 8: reference number of the tender, unique to each tender for the entire standing tendering procedure.

COMMISSION REGULATION (EC) No 203/2004**of 5 February 2004****opening a standing invitation to tender for the resale on the Community market of rice from the 1999 harvest held by the French intervention agency**

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Council Regulation (EC) No 3072/95 of 22 December 1995 on the common organisation of the market in rice ⁽¹⁾, and in particular Article 8(b) thereof,

Whereas:

(1) Commission Regulation (EEC) No 75/91 of 11 January 1991 laying down the procedures and conditions for the disposal of paddy rice held by intervention agencies ⁽²⁾ provides, among other things, that rice held by intervention agencies is to be sold by tendering procedure at prices avoiding market disturbance.

(2) France still has intervention stocks of paddy rice from the 1999 harvest, the quality of which is in danger of deteriorating if kept in prolonged storage.

(3) In the present production situation and in view of the concessions for rice imports granted under international agreements and the restrictions on subsidised exports, disposing of this rice on traditional markets inside the Community would inevitably result in the placing of an equivalent quantity in intervention, which should be avoided.

(4) This rice can be disposed of by processing it into either broken rice or products derived therefrom, or into some other form suitable for use in animal feed, on certain conditions.

(5) In order to ensure that the rice really is processed, the procedure should be specially monitored and the successful tenderer should provide a security, to be released on conditions to be laid down.

(6) The undertakings given by tenderers must be regarded as primary requirements within the meaning of Commission Regulation (EEC) No 2220/85 of 22 July 1985 laying down common detailed rules for the application of the system of securities for agricultural products ⁽³⁾.

(7) Commission Regulation (EEC) No 3002/92 ⁽⁴⁾ lays down common detailed rules for verifying the use of products from intervention. Procedures should also be laid down to ensure the traceability of the products used for animal feed.

(8) So that the quantities awarded can be managed accurately, an allocation coefficient should be fixed for tenders offering the minimum selling price, while allowing tenderers to specify a minimum quantity awarded below which they do not wish their tender to stand.

(9) When the French intervention agency notifies the Commission, the tenderers should remain anonymous.

(10) While respecting the tenderers' anonymity, they should be identified by numbers so that it is evident which have submitted several tenders and what prices they have offered.

(11) For control purposes, tenders must be traceable by their reference numbers, while safeguarding anonymity.

(12) With a view to modernising management, the information required by the Commission should be sent by electronic mail.

(13) 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 French intervention agency shall launch a standing invitation to tender, for the sale on the internal market of the Community, of quantities of rice from the 1999 harvest held by it and previously notified to the Commission under Regulation (EEC) No 75/91, as set out in Annex I hereto, with a view to its processing into either broken rice within the meaning of Annex A3 to Regulation (EC) No 3072/95 or products derived therefrom, or into some other form suitable for use in animal feed (CN code 2309).

⁽¹⁾ OJ L 329, 30.12.1995, p. 18. Regulation as last amended by Commission Regulation (EC) No 411/2002 (OJ L 62, 5.3.2002, p. 27).

⁽²⁾ OJ L 9, 12.1.1991, p. 15.

⁽³⁾ OJ L 205, 3.8.1985, p. 5. Regulation as last amended by Regulation (EC) No 1932/1999 (OJ L 240, 10.9.1999, p. 11).

⁽⁴⁾ OJ L 301, 17.10.1992, p. 17. Regulation as last amended by Regulation (EC) No 770/96 (OJ L 104, 27.4.1996, p. 13).

Article 2

1. The sale provided for in Article 1 shall take place in accordance with Regulation (EEC) No 75/91.

However, notwithstanding Article 5 of that Regulation:

- (a) tenders shall be drawn up on the basis of the actual quality of the lot to which they apply;
- (b) the minimum sale price shall be set at a level which does not disturb the cereals or rice market.

2. Tenderers shall give the following undertakings:

- (a) where the rice is to be processed into broken rice or products derived therefrom:
 - (i) that they will carry out the treatment provided for in Annex II within three months of the date of the notice of award of contract referred to in the second paragraph of Article 8, under the supervision of the competent authorities and at a place determined in agreement with them;
 - (ii) that they will use the awarded products solely in the form of broken rice or products derived therefrom either without further processing or by incorporating them into another product or by processing them, within six months of the date of the notice of award of contract referred to in the second paragraph of Article 8, except in cases of *force majeure* or on the specific instructions of the intervention agency authorising a change in the deadline on account of exceptional circumstances;
 - (iii) if they sell the products on, that they will have the purchaser give the above undertaking;
- (b) where the rice is to be processed into a form suitable for use in animal feed,
 - (i) where they are feed manufacturers:
 - that they will carry out the treatments described in Annex III or IV within three months of the date of the notice of award of contract referred to in the second paragraph of Article 8, under the supervision of the competent authorities and at a place determined in agreement with them, with a view to verifying the use made of the rice and ensuring the traceability of the products,
 - that they will ensure that this product is incorporated in feed within four months of the date of the notice of award of contract referred to in the second paragraph of Article 8, except in cases of *force majeure* or on the specific instructions of the intervention agency authorising a change in the deadline on account of exceptional circumstances;
 - (ii) where they are rice mills:
 - that they will carry out the treatments described in Annex IV within no more than three months of the date of the notice of award of contract referred to

in the second paragraph of Article 8, under the supervision of the competent authorities and at a place determined in agreement with them, with a view to verifying the use made of the rice and ensuring the traceability of the products,

- that they will ensure that this product is incorporated in feed within four months of the date of the notice of award of contract referred to in the second paragraph of Article 8, except in cases of *force majeure* or on the specific instructions of the intervention agency authorising a change in the deadline on account of exceptional circumstances;

- (c) that they will bear the costs of the processing and treatment of the products;
- (d) that they will keep stock records demonstrating that they have respected their undertakings.

Article 3

1. The French intervention agency shall publish a notice of invitation to tender at least eight days before the final day of the first period for the submission of tenders.

The notice, and any changes to it, shall be forwarded to the Commission before publication.

2. The notice of invitation to tender shall contain:

- (a) the additional clauses and conditions of sale compatible with this Regulation;
- (b) the places of storage and the name and address of the storer;
- (c) the main physical and technological characteristics of the various lots established upon buying in by the intervention agency or during checks carried out subsequently;
- (d) the number of each lot;
- (e) particulars of the competent authorities responsible for monitoring the operation.

3. The French intervention agency shall take all additional steps necessary to enable the parties concerned to assess the quality of the rice put up for sale before submitting their tenders.

Article 4

1. Tenders shall indicate whether they relate to processing into broken rice or products derived therefrom or into a form suitable for animal feed.

Tenders shall be valid only if they are accompanied by:

- (a) evidence that the tenderer has lodged a security of EUR 15 per tonne;
- (b) evidence that the tenderer is an animal feed manufacturer or a rice mill;

(c) a written undertaking by the tenderer to lodge a security, not later than two working days after the date of receipt of the notice of award of contract, for an amount equivalent to the difference between the intervention price for paddy rice applicable on the tender date plus EUR 15 and the price tendered per tonne of rice.

2. Once submitted, a tender may not be altered or withdrawn.

3. In case the Commission is required to fix an award coefficient for the quantities offered for sale as provided for in the second paragraph of Article 7, tenderers should indicate any minimum awarded quantity below which they do not wish their tender to stand.

Article 5

1. The period for the submission of tenders for the first partial invitation to tender shall commence on 11 February 2004 and end on 17 February at 12.00 (Brussels time).

2. The time limit for submission of tenders under subsequent partial invitations to tender shall be 12.00 (Brussels time) each Tuesday thereafter: 2 March 2004, 16 March 2004, 30 March 2004 and 13 April 2004. The period for the submission of tenders shall commence on the Wednesday before the closing date in each case.

3. The period for the submission of tenders for the last partial invitation to tender shall commence on 21 April 2004 and end on 27 April 2004 at 12.00 (Brussels time).

Tenders must be lodged with the French intervention agency:

Office national interprofessionnel des céréales (ONIC)
Service Intervention
21, avenue Bosquet
F-75341 Paris Cedex 07
Fax: (33-1) 44 18 20 80

Article 6

1. Not later than 09.00 (Brussels time) on the Thursday following the closing date for the submission of tenders, the French intervention agency shall notify the Commission of the information provided for in Annex V hereto, broken down by type of processing.

2. For each type of processing and for each partial tendering procedure, the French intervention agency shall identify the tenderers by an individual number, starting at 1.

To ensure anonymity, the numbers shall be allocated randomly and separately for each type of processing and each partial tendering procedure.

The French intervention agency shall give each tender a reference number in such a way as to ensure that the tenderers remain anonymous. For the entire standing tendering procedure, each tender shall be identified by its own reference number.

3. The notification referred to in paragraph 1 shall be made by electronic mail to the address given in Annex V using the form provided to the French intervention agency by the Commission for that purpose.

The notification must be made even if no tenders are submitted. In that case, it must state that no tenders have been received within the deadline laid down.

4. The French intervention agency shall also notify the Commission of the information specified in Annex V for rejected tenders, stating why they were rejected.

Article 7

For each type of processing, the Commission shall set the minimum sale price or decide not to award any quantities. In the event that tenders are submitted for the same lot and for a quantity larger than that available, the Commission may fix this price separately for each lot.

Where tenders are offering the minimum sale price, the Commission may fix an award coefficient for the quantities offered at the same time as it fixes the minimum sale price.

This decision shall be taken in accordance with the procedure laid down in Article 22 of Regulation (EC) No 3072/95.

Article 8

The intervention agency shall immediately notify all tenderers of the outcome of their participation in the tendering procedure.

Within three working days of the notification referred to in the first paragraph, it shall send notices of award of contract to successful tenderers by registered letter or written telecommunication.

Article 9

Successful tenderers shall pay for the rice before it is removed, and at the latest within one month of the date of the notice of award of contract referred to in the second paragraph of Article 8. The risks and costs of storing rice that is not removed within the payment period shall be borne by the successful tenderers.

Following the expiry of the payment period, rice for which a contract is awarded and which is not removed shall be regarded for all purposes as having been removed from storage.

Where a successful tenderer fails to pay for the rice within the period referred to in the first paragraph, the contract shall be terminated by the intervention agency, where appropriate in respect of the quantity not paid for.

Article 10

1. The security referred to in Article 4(1)(a) shall be released:

(a) in full for the quantities for which:

- (i) no award is made;
- (ii) the tender does not stand, in accordance with Article 4(3);
- (iii) the sale price is paid within the period set and the security referred to in Article 4(1)(c) has been lodged;

(b) proportionately to the quantity not awarded where an award coefficient is set for the quantities offered in accordance with the second paragraph of Article 7.

2. The security referred to in Article 4(1)(c) shall be released in proportion to the quantities used only if the intervention agency has carried out all the checks necessary to ensure that the product is processed in accordance with this Regulation.

However, the security shall be released in full:

- (a) on presentation of proof that the treatment referred to in Annex II has been carried out and that the undertakings provided for in Article 2(2)(a)(ii) and (iii) have been made;
- (b) on presentation of proof that the treatment referred to in Annex III has been carried out, provided that not less than 95 % of the fine broken grains and/or fragments obtained has been used in compound feed;
- (c) on presentation of proof that the treatment referred to in Annex IV has been carried out, provided that not less than 95 % of the milled rice obtained has been used in compound feed.

3. Proof that the rice has been incorporated in animal feed as referred to in this Regulation shall be provided in accordance with Regulation (EEC) No 3002/92.

Article 11

The obligation set out in Article 2(2) shall be regarded as a primary requirement within the meaning of Article 20 of Regulation (EEC) No 2220/85.

Article 12

In addition to the particulars provided for in Regulation (EEC) No 3002/92, box 104 of the control copy T5 shall contain the following entries.

(a) Where processing takes place in a Member State other than France, in accordance with Annex II to this Regulation, one or more of the following entries supplemented by reference to the undertaking provided for in Article 2(2)(a)(ii) and (iii):

- Destnados a la transformación prevista en el anexo II del Reglamento (CE) n.º 203/2004 y a la utilización de conformidad con el compromiso previsto en los incisos ii) y iii) de la letra a) del apartado 2 del artículo 2 de dicho Reglamento
- Til forarbejdning som fastsat i bilag II til forordning (EF) nr. 203/2004 og til anvendelse ifølge forpligtelsen i artikel 2, stk. 2, litra a), nr. ii) og iii), i nævnte forordning
- Zur Verarbeitung gemäß Anhang II der Verordnung (EG) Nr. 203/2004 und zur Verwendung gemäß Artikel 2 Absatz 2 Buchstabe a) Ziffern ii) und iii) der genannten Verordnung bestimmt
- Προορίζονται για τη μεταποίηση που προβλέπεται στο παράρτημα II του κανονισμού (ΕΚ) αριθ. 203/2004 και για χρήση σύμφωνα με τη δέσμευση που προβλέπεται στο άρθρο 2 παράγραφος 2 στοιχείο α) σημεία ii) και iii) του ίδιου κανονισμού
- Intended for processing as provided for in Annex II to Regulation (EC) No 203/2004 and use in accordance with the undertaking provided for in Article 2(2)(a)(ii) and (iii) of that Regulation
- Destinés à la transformation prévue à l'annexe II du règlement (CE) n.º 203/2004 et à l'utilisation conformément à l'engagement prévu à l'article 2, paragraphe 2, points a) ii) et iii), dudit règlement
- Destinati alla trasformazione prevista all'allegato II del regolamento (CE) n. 203/2004 e all'utilizzazione conformemente all'impegno di cui all'articolo 2, paragrafo 2, lettera a), punti ii) e iii), del suddetto regolamento
- Bestemd om te worden verwerkt overeenkomstig bijlage II bij Verordening (EG) nr. 203/2004 en om te worden gebruikt met inachtneming van de in artikel 2, lid 2, onder a), ii) en iii), van die verordening vastgestelde verbintenissen
- Para a transformação prevista no anexo II do Regulamento (CE) n.º 203/2004 e para utilização em conformidade com o compromisso previsto no n.º 2, subalíneas ii) e iii) da alínea a), do artigo 2.º do referido regulamento
- Tarkoitettu asetuksen (EY) N:o 203/2004 liitteessä II tarkoitettuun jalostukseen ja kyseisen asetuksen 2 artiklan 2 kohdan a alakohdan ii ja iii alakohdassa säädetyn sitoumuksen mukaiseen käyttöön
- Avsedda för bearbetning i enlighet med bilaga II till förordning (EG) nr 203/2004 och för användning i enlighet med det åtagande som föreskrivs i samma förordning i artikel 2.2 a ii och iii

(b) Where the rice is to be used as broken rice or derived products in a Member State other than that of processing, after processing in accordance with Annex II, one or more of the following entries:

— Arroz transformado en partidos de arroz o productos derivados de conformidad con las disposiciones del anexo II del Reglamento (CE) n.º 203/2004, destinado a ser utilizado exclusivamente en forma de partidos de arroz o productos derivados, de conformidad con el compromiso previsto en los incisos ii) y iii) de la letra a) del apartado 2 del artículo 2 del mismo Reglamento

— Ris forarbejdet til brudris eller afledte produkter efter bestemmelserne i bilag II i forordning (EF) nr. 203/2004, udelukkende bestemt til anvendelse i form af brudris eller afledte produkter ifølge forpligtelsen i artikel 2, stk. 2, litra a), nr. ii) og iii), i samme forordning

— Gemäß Anhang II der Verordnung (EG) Nr. 203/2004 zu Bruchreis oder Nebenerzeugnissen von Bruchreis verarbeiteter Reis, nach der Verpflichtung gemäß Artikel 2 Absatz 2 Buchstabe a) Ziffern ii) und iii) der genannten Verordnung ausschließlich zur Verwendung in Form von Bruchreis oder Nebenerzeugnissen von Bruchreis bestimmt

— Ρύζι που έχει μεταποιηθεί σε θραύσματα ή παράγωγα προϊόντα σύμφωνα με τις διατάξεις του παραρτήματος II του κανονισμού (ΕΚ) αριθ. 203/2004 και προορίζεται να χρησιμοποιηθεί αποκλειστικά με τη μορφή θραυσμάτων ή παράγωγων προϊόντων σύμφωνα με τη δέσμευση που προβλέπεται στο άρθρο 2 παράγραφος 2 στοιχείο α) σημεία ii) και iii) του ίδιου κανονισμού

— Rice processed into broken rice or derived products in accordance with Annex II to Regulation (EC) No 203/2004 for use solely in the form of broken rice or derived products in accordance with the undertaking provided for in Article 2(2)(a)(ii) and (iii) of that Regulation

— Riz transformé en brisures ou produits dérivés conformément aux dispositions de l'annexe II du règlement (CE) n.º 203/2004, destiné à être utilisé exclusivement sous forme de brisures ou produits dérivés, conformément à l'engagement prévu à l'article 2, paragraphe 2, points a) ii) et iii), dudit règlement

— Riso trasformato in rotture di riso o prodotti derivati conformemente alle disposizioni dell'allegato II del regolamento (CE) n. 203/2004, destinato ad essere utilizzato esclusivamente sotto forma di rotture di riso o prodotti derivati, conformemente all'impegno di cui all'articolo 2, paragrafo 2, lettera a), punti ii) e iii), del suddetto regolamento

— Overeenkomstig bijlage II van Verordening (EG) nr. 203/2004 tot breukrijst of van breukrijst afgeleide producten verwerkte rijst, bestemd om uitsluitend als breukrijst of van breukrijst afgeleide producten te worden gebruikt met inachtneming van de in artikel 2, lid 2, onder a), ii) en iii), van die verordening vastgestelde verbintenissen

— Arroz transformado em trincas ou produtos derivados de acordo com as disposições do anexo II do Regulamento (CE) n.º 203/2004, destinado exclusivamente a utilização sob a forma de trincas ou de produtos derivados, em conformidade com o compromisso previsto no n.º 2, subalíneas ii) e iii) da alínea a), do artigo 2.º desse mesmo regulamento

— Asetuksen (EY) N:o 203/2004 liitteen II säännösten mukaisesti rikkoutuneiksi riisinjyviksi tai niistä johdetuiksi tuotteiksi jalostettu riisi, joka on tarkoitettu käytettäväksi yksinomaan rikkoutuneina riisinjyvinä tai niistä johdettuina tuotteina saman asetuksen 2 artiklan 2 kohdan a alakohdan ii ja iii alakohdassa säädetyn sitoumuksen mukaisesti

— Ris bearbetat till brutet ris eller härledda produkter i enlighet med bestämmelserna i bilaga II till förordning (EG) nr 203/2004 och avsett att uteslutande användas i form av brutet ris eller härledda produkter därav i enlighet med det åtagande som föreskrivs i samma förordning i artikel 2.2 a ii och iii

(c) Where processing takes place in a Member State other than France, in accordance with Annex III or IV to this Regulation, one or more of the following entries, together with the number of the Annex to this Regulation corresponding to the treatment required:

— Destinados a la transformación prevista en el anexo ... del Reglamento (CE) n.º 203/2004

— Til forarbejdning som fastsat i bilag ... til forordning (EF) nr. 203/2004

— Zur Verarbeitung gemäß Anhang ... der Verordnung (EG) Nr. 203/2004 bestimmt

— Προορίζονται για μεταποίηση που προβλέπεται στο παράρτημα ... του κανονισμού (ΕΚ) αριθ. 203/2004

— For processing provided for in Annex ... to Regulation (EC) No 203/2004

— Destinés à la transformation prévue à l'annexe ... du règlement (CE) n.º 203/2004

— Destinati alla trasformazione prevista all'allegato ... del regolamento (CE) n. 203/2004

— Bestemd om te worden verwerkt overeenkomstig bijlage ... bij Verordening (EG) nr. 203/2004

— Para a transformação prevista no anexo ... do Regulamento (CE) n.º 203/2004

— Tarkoitettu asetuksen (EY) N:o 203/2004 liitteessä ... tarkoitettuun jalostukseen

— För bearbetning enligt bilaga ... till förordning (EG) nr 203/2004.

Article 13

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

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

Done at Brussels, 5 February 2004.

For the Commission
Franz FISCHLER
Member of the Commission

ANNEX I

(in tonnes)		
1	2	3
Place of storage (address)	Place of storage (identification code) ⁽¹⁾	Available quantities
Chemin d'Espeyran — 30800 Saint-Gilles	FRE30014	853,780
Les Grands Clos — 04290 Aubignosc	FRP04003	300,000
Les Grands Clos — 04290 Aubignosc	FRP04003	480,000
Les Grands Clos — 04290 Aubignosc	FRP04003	551,480
Intercoop Drôme Ardèche, ZI — 07250 Le Pouzin	FRP07003	552,900
Silo du Pouzin, ZI — 07250 Le Pouzin	FRP07005	7 158,010
Total		9 896,170

⁽¹⁾ The national identification code shall be preceded by the ISO code for France.

ANNEX II

Treatment provided for in Article 2(2)(a)(i)

At the time of being taken over, the rice must undergo the following treatment:

1. the awarded paddy rice must be milled to give the overall minimum yield and whole grain yield previously determined by the laboratory on a sample removed when the rice for which the contract is awarded was taken over, with a tolerance of plus or minus 1 % applicable to the overall minimum yield and whole grain yield;
2. all the wholly milled rice obtained must be broken in such a way as to produce at least 95 % broken rice within the meaning of Annex A to Regulation (EC) No 3072/95. It may also be processed directly into products derived from broken rice.

ANNEX III

Treatment provided for in the first indent of Article 2(2)(b)(i)

At the time of being taken over, the rice must undergo the following treatment:

1. the awarded paddy rice must be husked and broken in such a way as to produce not less than 77 %, by weight of paddy rice, of fine broken grains and/or fragments of husked rice as defined in point C of the Annex to Regulation (EC) No 3073/95;
2. the product obtained after processing (not including the husk) must be marked using the colorant E 131 patent blue V or E 142 acid brilliant green BS (lissamine green) to enable it to be identified.

ANNEX IV

Treatment indicated in the first indent of Article 2(2)(b)(i) and in the first indent of Article 2(2)(b)(ii)

- 1) The awarded paddy rice must be milled to give the overall minimum yield and whole grain yield previously determined by the laboratory on a sample removed when the rice for which the contract is awarded was taken over, with a tolerance of plus or minus 1 % applicable to the overall minimum yield and whole grain yield.
- 2) The product obtained after processing must be marked using the colorant E 131 patent blue V or E 142 acid brilliant green BS (lissamine green) to enable it to be identified.

ANNEX V

Information referred to in Article 6

1	2	3	4	5	6	7	8
Type of processing	Tender's identification number	Tender price (EUR/t)	Quantity (t)	Minimum quantity (t)	Place of storage	Lot No	Reference number
(A) broken rice or products derived therefrom							
(B) form suitable for use in animal feed							

Address for electronic transmission of information in accordance with Article 6: AGRI-C2-RICE-STOCKS@CEC.EU.INT

Explanatory Notes

- Column 1: type of processing: (A): processing into broken rice within the meaning of Annex A to Regulation (EC) No 3072/95 or product derived therefrom or (B): processing into a form suitable for use in preparations of a kind used in animal feeding (CN code 2309).
- Column 2: tenderers shall be assigned an individual number, starting at 1. To ensure anonymity, the numbers shall be allocated randomly and separately for each type of processing and each partial tendering procedure.
- Column 3: purchase price offered, expressed in EUR per tonne.
- Column 4: quantity, expressed in tonnes.
- Column 5: minimum awarded quantity as referred to in Article 4(3), below which the tenderer does not wish the tender to stand.
- Column 6: place of storage, identified by the 'identification code' indicated in Annex I.
- Column 7: lot number at the place of storage indicated in column 6.
- Column 8: reference number of the tender, unique to each tender for the entire standing tendering procedure.

COMMISSION REGULATION (EC) No 204/2004**of 5 February 2004****opening a standing invitation to tender for the resale on the Community market of rice from the 1998 and 1999 harvests held by the Italian intervention agency**

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Council Regulation (EC) No 3072/95 of 22 December 1995 on the common organisation of the market in rice ⁽¹⁾, and in particular Article 8(b) thereof,

Whereas:

(1) Commission Regulation (EEC) No 75/91 of 11 January 1991 laying down the procedures and conditions for the disposal of paddy rice held by intervention agencies ⁽²⁾ provides among other things that rice held by intervention agencies is to be sold by tendering procedure at prices avoiding market disturbance.

(2) Italy still has intervention stocks of paddy rice from the 1998 and 1999 harvests, the quality of which is in danger of deteriorating if kept in prolonged storage.

(3) In the present production situation and in view of the concessions for rice imports granted under international agreements and the restrictions on subsidised exports, disposing of this rice on traditional markets inside the Community would inevitably result in the placing of an equivalent quantity in intervention, which should be avoided.

(4) This rice can be disposed of by processing it into either broken rice or products derived therefrom, or into some other form suitable for use in animal feed, on certain conditions.

(5) In order to ensure that the rice really is processed, the procedure should be specially monitored and the successful tenderer should provide a security, to be released on conditions to be laid down.

(6) The undertakings given by tenderers must be regarded as primary requirements within the meaning of Commission Regulation (EEC) No 2220/85 of 22 July 1985 laying down common detailed rules for the application of the system of securities for agricultural products ⁽³⁾.

(7) Commission Regulation (EEC) No 3002/92 ⁽⁴⁾ lays down common detailed rules for verifying the use of products from intervention. Procedures should also be laid down to ensure the traceability of the products used for animal feed.

(8) So that the quantities awarded can be managed accurately, an allocation coefficient should be fixed for tenders offering the minimum selling price, while allowing tenderers to specify a minimum quantity awarded below which they do not wish their tender to stand.

(9) When the Italian intervention agency notifies the Commission, the tenderers should remain anonymous.

(10) While respecting the tenderers' anonymity, they should be identified by numbers so that it is evident which have submitted several tenders and what prices they have offered.

(11) For control purposes, tenders must be traceable by their reference numbers, while safeguarding anonymity.

(12) With a view to modernising management, the information required by the Commission should be sent by electronic mail.

(13) 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 Italian intervention agency shall launch a standing invitation to tender for the sale on the internal market of the Community of quantities of rice from the 1998 and 1999 harvests held by it and previously notified to the Commission under Regulation (EEC) No 75/91, as set out in Annex I hereto, with a view to its processing into either broken rice within the meaning of Annex A.3 to Regulation (EC) No 3072/95 or products derived therefrom, or into some other form suitable for use in animal feed (CN code 2309).

⁽¹⁾ OJ L 329, 30.12.1995, p. 18. Regulation as last amended by Commission Regulation (EC) No 411/2002, OJ L 62, 5.3.2002, p. 27).

⁽²⁾ OJ L 9, 12.1.1991, p. 15.

⁽³⁾ OJ L 205, 3.8.1985, p. 5. Regulation as last amended by Regulation (EC) No 1932/1999, OJ L 240, 10.9.1999, p. 11).

⁽⁴⁾ OJ L 301, 17.10.1992, p. 17. Regulation as last amended by Regulation (EC) No 770/96, OJ L 104, 27.4.1996, p. 13).

Article 2

1. The sale provided for in Article 1 shall take place in accordance with Regulation (EEC) No 75/91.

However, notwithstanding Article 5 of that Regulation:

- (a) tenders shall be drawn up on the basis of the actual quality of the lot to which they apply;
- (b) the minimum sale price shall be set at a level which does not disturb the cereals or rice market.

2. Tenderers shall give the following undertakings:

- (a) where the rice is to be processed into broken rice or products derived therefrom:
 - (i) that they will carry out the treatment provided for in Annex II within three months of the date of the notice of award of contract referred to in the second paragraph of Article 8, under the supervision of the competent authorities and at a place determined in agreement with them;
 - (ii) that they will use the awarded products solely in the form of broken rice or products derived therefrom either without further processing or by incorporating them into another product or by processing them, within six months of the date of the notice of award of contract referred to in the second paragraph of Article 8, except in cases of *force majeure* or on the specific instructions of the intervention agency authorising a change in the deadline on account of exceptional circumstances;
 - (iii) if they sell the products on, that they will have the purchaser give the above undertaking;
- (b) where the rice is to be processed into a form suitable for use in animal feed,
 - (i) where they are feed manufacturers:
 - that they will carry out the treatments described in Annex III or IV within three months of the date of the notice of award of contract referred to in the second paragraph of Article 8, under the supervision of the competent authorities and at a place determined in agreement with them, with a view to verifying the use made of the rice and ensuring the traceability of the products;
 - that they will ensure that this product is incorporated in feed within four months of the date of the notice of award of contract referred to in the second paragraph of Article 8, except in cases of *force majeure* or on the specific instructions of the intervention agency authorising a change in the deadline on account of exceptional circumstances;
 - (ii) where they are rice mills:
 - that they will carry out the treatments described in Annex IV within no more than three months of the date of the notice of award of contract referred to in the second paragraph of Article 8, under the supervision of the competent authorities and at a

place determined in agreement with them, with a view to verifying the use made of the rice and ensuring the traceability of the products;

- that they will ensure that this product is incorporated in feed within four months of the date of the notice of award of contract referred to in the second paragraph of Article 8, except in cases of *force majeure* or on the specific instructions of the intervention agency authorising a change in the deadline on account of exceptional circumstances;

- (c) that they will bear the costs of the processing and treatment of the products;
- (d) that they will keep stock records demonstrating that they have respected their undertakings.

Article 3

1. The Italian intervention agency shall publish a notice of invitation to tender at least eight days before the final day of the first period for the submission of tenders.

The notice, and any changes to it, shall be forwarded to the Commission before publication.

2. The notice of invitation to tender shall contain:

- (a) the additional clauses and conditions of sale compatible with this Regulation;
- (b) the places of storage and the name and address of the storer;
- (c) the main physical and technological characteristics of the various lots established upon buying in by the intervention agency or during checks carried out subsequently;
- (d) the number of each lot;
- (e) particulars of the competent authorities responsible for monitoring the operation.

3. The Italian intervention agency shall take all additional steps necessary to enable the parties concerned to assess the quality of the rice put up for sale before submitting their tenders.

Article 4

1. Tenders shall indicate whether they relate to processing into broken rice or products derived therefrom or into a form suitable for animal feed. Tenders shall be valid only if they are accompanied by:

- (a) evidence that the tenderer has lodged a security of EUR 15 per tonne;
- (b) evidence that the tenderer is an animal feed manufacturer or a rice mill;
- (c) a written undertaking by the tenderer to lodge a security, not later than two working days after the date of receipt of the notice of award of contract, for an amount equivalent to the difference between the intervention price for paddy rice applicable on the tender date plus EUR 15 and the price tendered per tonne of rice.

2. Once submitted, a tender may not be altered or withdrawn.

3. In case the Commission is required to fix an award coefficient for the quantities offered for sale as provided for in the second paragraph of Article 7, tenderers should indicate any minimum awarded quantity below which they do not wish their tender to stand.

Article 5

1. The period for the submission of tenders for the first partial invitation to tender shall commence on 11 February 2004 and end on 17 February at 12.00 (Brussels time).

2. The time limit for submission of tenders under subsequent partial invitations to tender shall be 12.00 (Brussels time) each Tuesday thereafter: 2 March 2004, 16 March 2004, 30 March 2004, 13 April 2004, 27 April 2004, 11 May 2004 and 25 May 2004. The period for the submission of tenders shall commence on the Wednesday before the closing date in each case.

3. The period for the submission of tenders for the last partial invitation to tender shall commence on 2 June 2004 and end on 8 June 2004 at 12.00 (Brussels time).

Tenders must be lodged with the Italian intervention agency:

Ente Nazionale Risi (ENR)
Piazza Pio XI, 1
I-20123 Milano
Tel.: (39-02) 885 51 11
Fax: (39-02) 86 13 72

Article 6

1. Not later than 09.00 (Brussels time) on the Thursday following the closing date for the submission of tenders, the Italian intervention agency shall notify the Commission of the information provided for in Annex V hereto, broken down by type of processing.

2. For each type of processing and for each partial tendering procedure, the Italian intervention agency shall identify the tenderers by an individual number, starting at 1.

To ensure anonymity, the numbers shall be allocated randomly and separately for each type of processing and each partial tendering procedure.

The Italian intervention agency shall give each tender a reference number in such a way as to ensure that the tenderers remain anonymous. For the entire standing tendering procedure, each tender shall be identified by its own reference number.

3. The notification referred to in paragraph 1 shall be made by electronic mail to the address given in Annex V using the form provided to the Italian intervention agency by the Commission for that purpose.

The notification must be made even if no tenders are submitted. In that case, it must state that no tenders have been received within the deadline laid down.

4. The Italian intervention agency shall also notify the Commission of the information specified in Annex V for rejected tenders, stating why they were rejected.

Article 7

For each type of processing, the Commission shall set the minimum sale price or decide not to award any quantities. In the event that tenders are submitted for the same lot and for a quantity larger than that available, the Commission may fix this price separately for each lot.

Where tenders are offering the minimum sale price, the Commission may fix an award coefficient for the quantities offered at the same time as it fixes the minimum sale price.

This decision shall be taken in accordance with the procedure laid down in Article 22 of Regulation (EC) No 3072/95.

Article 8

The intervention agency shall immediately notify all tenderers of the outcome of their participation in the tendering procedure.

Within three working days of the notification referred to in the first paragraph, it shall send notices of award of contract to successful tenderers by registered letter or written telecommunication.

Article 9

Successful tenderers shall pay for the rice before it is removed, and at the latest within one month of the date of the notice of award of contract referred to in the second paragraph of Article 8. The risks and costs of storing rice that is not removed within the payment period shall be borne by the successful tenderers.

Following the expiry of the payment period, rice for which a contract is awarded and which is not removed shall be regarded for all purposes as having been removed from storage.

Where a successful tenderer fails to pay for the rice within the period referred to in the first paragraph, the contract shall be terminated by the intervention agency, where appropriate in respect of the quantity not paid for.

Article 10

1. The security referred to in Article 4(1)(a) shall be released

(a) in full for the quantities for which:

- (i) no award is made;
- (ii) the tender does not stand, in accordance with Article 4(3);
- (iii) the sale price is paid within the period set and the security referred to in Article 4(1)(c) has been lodged;

(b) proportionately to the quantity not awarded where an award coefficient is set for the quantities offered in accordance with the second paragraph of Article 7.

2. The security referred to in Article 4(1)(c) shall be released in proportion to the quantities used only if the intervention agency has carried out all the checks necessary to ensure that the product is processed in accordance with this Regulation.

However, the security shall be released in full:

- (a) on presentation of proof that the treatment referred to in Annex II has been carried out and that the undertakings provided for in Article 2(2)(a)(ii) and (iii) have been made;
- (b) on presentation of proof that the treatment referred to in Annex III has been carried out, provided that not less than 95 % of the fine broken grains and/or fragments obtained has been used in compound feed;
- (c) on presentation of proof that the treatment referred to in Annex IV has been carried out, provided that not less than 95 % of the milled rice obtained has been used in compound feed.

3. Proof that the rice has been incorporated in animal feed as referred to in this Regulation shall be provided in accordance with Regulation (EEC) No 3002/92.

Article 11

The obligation set out in Article 2(2) shall be regarded as a primary requirement within the meaning of Article 20 of Regulation (EEC) No 2220/85.

Article 12

In addition to the particulars provided for in Regulation (EEC) No 3002/92, box 104 of the control copy T5 shall contain the following entries.

- (a) Where processing takes place in a Member State other than Italy, in accordance with Annex II to this Regulation, one or more of the following entries supplemented by reference to the undertaking provided for in Article 2(2)(a)(ii) and (iii):
 - Destínados a la transformación prevista en el anexo II del Reglamento (CE) n.º 204/2004 y a la utilización de conformidad con el compromiso previsto en los incisos ii) y iii) de la letra a) del apartado 2 del artículo 2 de dicho Reglamento
 - Til forarbejdning som fastsat i bilag II til forordning (EF) nr. 204/2004 og til anvendelse ifølge forpligtelsen i artikel 2, stk. 2, litra a), nr. ii) og iii), i nævnte forordning
 - Zur Verarbeitung gemäß Anhang II der Verordnung (EG) Nr. 204/2004 und zur Verwendung gemäß Artikel 2 Absatz 2 Buchstabe a) Ziffern ii) und iii) der genannten Verordnung bestimmt
 - Προορίζονται για τη μεταποίηση που προβλέπεται στο παράρτημα II του κανονισμού (ΕΚ) αριθ. 204/2004 και για χρήση σύμφωνα με τη δέσμευση που προβλέπεται στο άρθρο 2 παράγραφος 2 στοιχείο α) σημεία ii) και iii) του ίδιου κανονισμού
 - Intended for processing as provided for in Annex II to Regulation (EC) No 204/2004 and use in accordance with the undertaking provided for in Article 2(2)(a)(ii) and (iii) of that Regulation

— Destinés à la transformation prévue à l'annexe II du règlement (CE) n.º 204/2004 et à l'utilisation conformément à l'engagement prévu à l'article 2, paragraphe 2, points a) ii) et iii), dudit règlement

— Destinati alla trasformazione prevista all'allegato II del regolamento (CE) n. 204/2004 e all'utilizzazione conformemente all'impegno di cui all'articolo 2, paragrafo 2, lettera a), punti ii) e iii), del suddetto regolamento

— Bestemd om te worden verwerkt overeenkomstig bijlage II bij Verordening (EG) nr. 204/2004 en om te worden gebruikt met inachtneming van de in artikel 2, lid 2, onder a), ii) en iii), van die verordening vastgestelde verbintenissen

— Para a transformação prevista no anexo II do Regulamento (CE) n.º 204/2004 e para utilização em conformidade com o compromisso previsto no n.º 2, subálíneas ii) e iii) da alínea a), do artigo 2.º do referido regulamento

— Tarkoitettu asetuksen (EY) N:o 204/2004 liitteessä II tarkoitettuun jalostukseen ja kyseisen asetuksen 2 artiklan 2 kohdan a alakohdan ii ja iii alakohdassa säädetyn sitoumuksen mukaiseen käyttöön

— Avsedda för bearbetning i enlighet med bilaga II till förordning (EG) nr 204/2004 och för användning i enlighet med det åtagande som föreskrivs i samma förordning i artikel 2.2 a ii och iii

- (b) Where the rice is to be used as broken rice or derived products in a Member State other than that of processing, after processing in accordance with Annex II, one or more of the following entries:

— Arroz transformado en partidos de arroz o productos derivados de conformidad con las disposiciones del anexo II del Reglamento (CE) n.º 204/2004, destinado a ser utilizado exclusivamente en forma de partidos de arroz o productos derivados, de conformidad con el compromiso previsto en los incisos ii) y iii) de la letra a) del apartado 2 del artículo 2 del mismo Reglamento

— Ris forarbejdet til brudris eller afledte produkter efter bestemmelserne i bilag II i forordning (EF) nr. 204/2004, udelukkende bestemt til anvendelse i form af brudris eller afledte produkter ifølge forpligtelsen i artikel 2, stk. 2, litra a), nr. ii) og iii), i samme forordning

— Gemäß Anhang II der Verordnung (EG) Nr. 204/2004 zu Bruchreis oder Nebenerzeugnissen von Bruchreis verarbeiteter Reis, nach der Verpflichtung gemäß Artikel 2 Absatz 2 Buchstabe a) Ziffern ii) und iii) der genannten Verordnung ausschließlich zur Verwendung in Form von Bruchreis oder Nebenerzeugnissen von Bruchreis bestimmt

— Ρύζι που έχει μεταποιηθεί σε θραύσματα ή παράγωγα προϊόντα σύμφωνα με τις διατάξεις του παραρτήματος II του κανονισμού (ΕΚ) αριθ. 204/2004 και προορίζεται να χρησιμοποιηθεί αποκλειστικά με τη μορφή θραυσμάτων ή παραγώγων προϊόντων σύμφωνα με τη δέσμευση που προβλέπεται στο άρθρο 2 παράγραφος 2 στοιχείο α) σημεία ii) και iii) του ίδιου κανονισμού

- Rice processed into broken rice or derived products in accordance with Annex II to Regulation (EC) No 204/2004 for use solely in the form of broken rice or derived products in accordance with the undertaking provided for in Article 2(2)(a)(ii) and (iii) of that Regulation
 - Riz transformé en brisures ou produits dérivés conformément aux dispositions de l'annexe II du règlement (CE) n° 204/2004, destiné à être utilisé exclusivement sous forme de brisures ou produits dérivés, conformément à l'engagement prévu à l'article 2, paragraphe 2, points a) ii) et iii), dudit règlement
 - Riso trasformato in rotture di riso o prodotti derivati conformemente alle disposizioni dell'allegato II del regolamento (CE) n. 204/2004, destinato ad essere utilizzato esclusivamente sotto forma di rotture di riso o prodotti derivati, conformemente all'impegno di cui all'articolo 2, paragrafo 2, lettera a), punti ii) e iii), del suddetto regolamento
 - Overeenkomstig bijlage II van Verordening (EG) nr. 204/2004 tot breukrijst of van breukrijst afgeleide producten verwerkt rijst, bestemd om uitsluitend als breukrijst of van breukrijst afgeleide producten te worden gebruikt met inachtneming van de in artikel 2, lid 2, onder a), ii) en iii), van die verordening vastgestelde verbintenissen
 - Arroz transformado em trincas ou produtos derivados de acordo com as disposições do anexo II do Regulamento (CE) n.º 204/2004, destinado exclusivamente a utilização sob a forma de trincas ou de produtos derivados, em conformidade com o compromisso previsto no n.º 2, subalíneas ii) e iii) da alínea a), do artigo 2.º desse mesmo regulamento
 - Asetuksen (EY) N:o 204/2004 liitteen II säännösten mukaisesti rikkoutuneiksi riisinjyviksi tai niistä johdettuiksi tuotteiksi jalostettu riisi, joka on tarkoitettu käytettäväksi yksinomaan rikkoutuneina riisinjyvänä tai niistä johdettuina tuotteina saman asetuksen 2 artiklan 2 kohdan a alakohdan ii ja iii alakohdassa säädetyn sitoumuksen mukaisesti
 - Ris bearbetat till brutet ris eller härledda produkter i enlighet med bestämmelserna i bilaga II till förordning (EG) nr 204/2004 och avsett att uteslutande användas i form av brutet ris eller härledda produkter därav i enlighet med det åtagande som föreskrivs i samma förordning i artikel 2.2 a ii och iii
- (c) Where processing takes place in a Member State other than Italy, in accordance with Annex III or IV to this Regulation, one or more of the following entries, together with the number of the Annex to this Regulation corresponding to the treatment required:
- Destinados a la transformación prevista en el anexo ... del Reglamento (CE) n° 204/2004
 - Til forarbejdning som fastsat i bilag ... til forordning (EF) nr. 204/2004
 - Zur Verarbeitung gemäß Anhang ... der Verordnung (EG) Nr. 204/2004 bestimmt
 - Προορίζονται για μεταποίηση που προβλέπεται στο παράρτημα ... του κανονισμού (ΕΚ) αριθ. 204/2004
 - For processing provided for in Annex ... to Regulation (EC) No 204/2004
 - Destinés à la transformation prévue à l'annexe ... du règlement (CE) n° 204/2004
 - Destinati alla trasformazione prevista all'allegato ... del regolamento (CE) n. 204/2004
 - Bestemd om te worden verwerkt overeenkomstig bijlage ... bij Verordening (EG) nr. 204/2004
 - Para a transformação prevista no anexo ... do Regulamento (CE) n.º 204/2004
 - Tarkoitettu asetuksen (EY) N:o 204/2004 liitteessä ... tarkoitettuun jalostukseen
 - För bearbetning enligt bilaga ... till förordning (EG) nr 204/2004.

Article 13

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

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

Done at Brussels, 5 February 2004.

For the Commission

Franz FISCHLER

Member of the Commission

ANNEX I

(in tonnes)

1	2	3
Place of storage (address)	Place of storage (identification code) ⁽¹⁾	Available quantities (t)
Via Madonna di G. 39 — Lugo fraz. Cotignola (RA)	IT 0I 1400	4 509,600
Via S. Daniele — Camisano V.no (VI)	IT 0I 1600	17 680,945
Via Roma 128 — Casalvolone (NO)	IT 0I 2100	195,990
Via S. Giuliano 163 — Castelceriolo (AL)	IT 0I 2300	3 407,075
Via Traversagno — Mizzana (FE)	IT 0I 2700	2 914,280
Via Rognone 4 — Mede (PV)	IT 0I 3700	1 460,140
Via Elvo 64 — Salussola (VC)	IT 0I 4600	2 123,960
Via Repubblica 40 — Stroppiana (VC)	IT 0I 4700	1 432,500
Via Brede 3 — S. Martino dell'Argine (MN)	IT 0I 5000	6 316,360
Via Tasso — Polesella (RO)	IT 0I 5700	3 358,580
Total		43 399,430

⁽¹⁾ The national identification code shall be preceded by the ISO code for Italy.

ANNEX II

Treatment provided for in Article 2(2)(a)(i)

At the time of being taken over, the rice must undergo the following treatment:

1. the awarded paddy rice must be milled to give the overall minimum yield and whole grain yield previously determined by the laboratory on a sample removed when the rice for which the contract is awarded was taken over, with a tolerance of plus or minus 1 % applicable to the overall minimum yield and whole grain yield;
2. all the wholly milled rice obtained must be broken in such a way as to produce at least 95 % broken rice within the meaning of Annex A to Regulation (EC) No 3072/95. It may also be processed directly into products derived from broken rice.

ANNEX III

Treatment provided for in the first indent of Article 2(2)(b)(i)

At the time of being taken over, the rice must undergo the following treatment:

1. the awarded paddy rice must be husked and broken in such a way as to produce not less than 77 %, by weight of paddy rice, of fine broken grains and/or fragments of husked rice as defined in point C of the Annex to Regulation (EC) No 3073/95;
2. the product obtained after processing (not including the husk) must be marked using the colorant E131 patent blue V or E142 acid brilliant green BS (lissamine green) to enable it to be identified.

ANNEX IV

Treatment indicated in the first indent of Article 2(2)(b)(i) and in the first indent of Article 2(2)(b)(ii)

1. The awarded paddy rice must be milled to give the overall minimum yield and whole grain yield previously determined by the laboratory on a sample removed when the rice for which the contract is awarded was taken over, with a tolerance of plus or minus 1 % applicable to the overall minimum yield and whole grain yield.
2. The product obtained after processing must be marked using the colorant E131 patent blue V or E142 acid brilliant green BS (lissamine green) to enable it to be identified.

ANNEX V

Information referred to in Article 6

1	2	3	4	5	6	7	8
Type of processing	Tender's identification number	Tender price (EUR/t)	Quantity (t)	Minimum quantity (t)	Place of storage	Lot No	Reference number
(A) broken rice or products derived therefrom							
(B) form suitable for use in animal feed							

Address for electronic transmission of information in accordance with Article 6: AGRI-C2-RICE-STOCKS@CEC.EU.INT

Explanatory Notes

- Column 1: Type of processing: (A): processing into broken rice within the meaning of Annex A to Regulation (EC) No 3072/95 or product derived therefrom or (B): processing into a form suitable for use in preparations of a kind used in animal feeding (CN code 2309).
- Column 2: tenderers shall be assigned an individual number, starting at 1. To ensure anonymity, the numbers shall be allocated randomly and separately for each type of processing and each partial tendering procedure.
- Column 3: purchase price offered, expressed in EUR per tonne.
- Column 4: quantity, expressed in tonnes.
- Column 5: minimum awarded quantity as referred to in Article 4(3), below which the tenderer does not wish the tender to stand.
- Column 6: place of storage, identified by the 'identification code' indicated in Annex I.
- Column 7: lot number at the place of storage indicated in column 6.
- Column 8: reference number of the tender, unique to each tender for the entire standing tendering procedure.

COMMISSION REGULATION (EC) No 205/2004**of 5 February 2004****amending Regulation (EC) No 3175/94 laying down detailed rules of application for the specific arrangements for the supply of cereal products to the smaller Aegean islands and establishing the forecast supply balance**

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Council Regulation (EEC) No 2019/93 of 19 July 1993 introducing specific measures for the smaller Aegean islands concerning certain agricultural products ⁽¹⁾, and in particular Article 3a(2) thereof,

Whereas:

(1) Commission Regulation (EEC) No 2958/93 ⁽²⁾ laid down common detailed rules for implementing Regulation (EEC) No 2019/93 as regards the specific arrangements for the supply of certain agricultural products to the smaller Aegean islands and, pursuant to Article 3 of Regulation (EEC) No 2019/93, the amount of aid for this supply.

(2) Pursuant to Article 2 of Regulation (EEC) No 2019/93, Commission Regulation (EC) No 3175/94 ⁽³⁾ establishes the forecast supply balance for cereal products.

(3) Commission Regulation (EC) No 2782/98 ⁽⁴⁾ established the supply balance for 1999 for cereal products and also for dried fodder. The supply balances for the following years were also established for cereal products and dried fodder.

(4) In the interests of clarity, Regulation (EC) No 3175/94 should be adapted in certain respects.

(5) The forecast supply balances should also be established for 2004.

(6) Regulation (EC) No 3175/94 should be amended accordingly.

(7) The measures provided for in this Regulation are in accordance with the opinion of the Joint Committee of the relevant management committees,

HAS ADOPTED THIS REGULATION:

Article 1

Regulation (EC) No 3175/94 is amended as follows:

1. the title is replaced by the following:

‘Commission Regulation (EC) No 3175/94 of 21 December 1994 laying down detailed rules of application for the specific arrangements for the supply of cereal products and dried fodder to the smaller Aegean islands and establishing the forecast supply balance.’;

2. the following Article 1 is added:

‘Article 1

Pursuant to Article 2 of Regulation (EEC) No 2019/93, the forecast supply balance for cereal products and dried fodder originating in the Community for the smaller Aegean islands shall be as set out in the Annex hereto.’;

3. the Annex is replaced by 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 January 2004.

⁽¹⁾ OJ L 184, 27.7.1993, p. 1. Regulation as last amended by Regulation (EC) No 1782/2003 (OJ L 270, 21.10.2003, p. 1).

⁽²⁾ OJ L 267, 28.10.1993, p. 4. Regulation as last amended by Regulation (EC) No 1820/2002 (OJ L 276, 12.10.2002, p. 22).

⁽³⁾ OJ L 335, 23.12.1994, p. 54. Regulation as last amended by Regulation (EC) No 217/2003 (OJ L 29, 5.2.2003, p. 3).

⁽⁴⁾ OJ L 347, 23.12.1998, p. 15.

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

Done at Brussels, 5 February 2004.

For the Commission

Franz FISCHLER

Member of the Commission

ANNEX

'ANNEX

Forecast supply balance for the smaller Aegean islands for cereal products and dried fodder for 2004

(in tonnes)

Quantity		2004	
Cereal products and dried fodder originating in the European Community	CN codes	Islands belonging to group A	Islands belonging to group B
Grain cereals	1001, 1002, 1003, 1004 and 1005	9 000	70 000
Barley originating on Limnos	1003	3 000	
Wheat flour	1101 and 1102	11 000	38 000
Food industry residues and waste	2302 to 2308	9 000	53 000
Preparations of a kind used in animal feeding	2309 20	2 000	17 000
Lucerne and dehydrated fodder for artificial drying, by heat or other means	1214 10 00 1214 90 91 1214 90 99	2 000	7 000
Cotton seed	1207 20 90	1 000	3 000
Group total		33 000	189 000
Total		225 000	

Groups A and B are defined in Annexes I and II to Regulation (EEC) No 2958/93.'

COMMISSION REGULATION (EC) No 206/2004

of 5 February 2004

amending Regulation (EC) No 2316/1999 laying down detailed rules for the application of Council Regulation (EC) No 1251/1999 establishing a support system for producers of certain arable crops

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

(5) Regulation (EC) No 2316/1999 should be amended accordingly.

Having regard to the Treaty establishing the European Community,

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

Having regard to Council Regulation (EC) No 1251/1999 of 17 May 1999 establishing a support system for producers of certain arable crops ⁽¹⁾, and in particular Article 9 thereof,

Whereas:

HAS ADOPTED THIS REGULATION:

(1) Commission Regulation (EC) No 2316/1999 ⁽²⁾ lays down detailed rules for the application of Regulation (EC) No 1251/1999 concerning the conditions for the grant of area payments for certain arable crops and determines the conditions for set-aside, in particular the minimum areas set-aside must cover.

Article 1

Regulation (EC) No 2316/1999 is hereby amended as follows:

(2) Areas left fallow have a positive impact on the environment. This could be enhanced by taking account of smaller parcels. Member States should therefore be permitted to accept smaller areas for set-aside.

1. in Article 19(1), the following subparagraph is added:

'For the 2004/05 marketing year, Member States may also accept:

(a) areas at least 10 m wide and covering 0,1 ha;

(3) Under Council Regulation (EC) No 1017/94 of 26 April 1994 concerning the conversion of land currently under arable crops to extensive livestock farming in Portugal ⁽³⁾, applications for conversion have been submitted equivalent to 35 585 ha. The base area should consequently be adjusted.

(b) for properly justified environmental reasons, areas at least 5 m wide and covering 0,05 ha.'

2. In Annex VI, the information shown under the heading 'Portugal' is replaced by that in Annex I to this Regulation.

(4) The Member States have notified the results of the tests to determine the tetrahydrocannabinol levels in the hemp varieties sown in 2003. Those results should be taken into account when drawing up the list of hemp varieties qualifying for area payments in the coming marketing years and the list of varieties temporarily accepted for 2004/2005, which will require further testing during that marketing year.

3. Annex XII is replaced by the content of Annex II 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 15 January 2004.

⁽¹⁾ OJ L 160, 26.6.1999, p. 1. Regulation as last amended by Regulation (EC) No 1782/2003 (OJ L 270, 21.10.2003, p. 1).

⁽²⁾ OJ L 280, 30.10.1999, p. 43. Regulation as last amended by Regulation (EC) No 1035/2003 (OJ L 150, 18.6.2003, p. 24).

⁽³⁾ OJ L 112, 3.5.1994, p. 2. Regulation as last amended by Regulation (EC) No 2582/2001 (OJ L 345, 29.12.2001, p. 5).

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

Done at Brussels, 5 February 2004.

For the Commission
 Franz FISCHLER
 Member of the Commission

ANNEX I

(1 000 ha)		
Region	All crops	of which maize
PORTUGAL		
Azores	9,7	
Madeira		
— Regadio	0,31	0,29
— Other	0,30	
Continental		
— Regadio	293,4	221,4
— Other	622,7	

ANNEX II

'ANNEX XII

(Article 7a(1))

Varieties of flax and hemp grown for fibre eligible for the support system**1. Varieties of flax grown for fibre**

Adélie
 Agatha
 Alba
 Alizée
 Angelin
 Argos
 Ariane
 Artemida
 Aurore
 Belinka
 Bonet
 Caesar Augustus
 Diane
 Diva
 Drakkar
 Electra
 Elise
 Escalina
 Evelin
 Exel
 Hermes
 Ilona
 Jitka
 Jordan
 Kastyciai
 Laura
 Liflax
 Liviola
 Loréa
 Luna
 Marina
 Marylin
 Melina
 Merkur

Modran
 Nike
 Opaline
 Rosalin
 Selena
 Super
 Tabor
 Texa
 Venica
 Venus
 Veralin
 Viking
 Viola

2a. Varieties of hemp grown for fibre

Carmagnola
 Beniko
 Chamaeleon
 Cs
 Delta-Llosa
 Delta 405
 Dioica 88
 Epsilon 68
 Fedora 17
 Felina 32
 Ferimon-Férimon
 Fibranova
 Fibrimon 24
 Futura 75
 Juso 14
 Red Petiole
 Santhica 23
 Santhica 27
 Uso 31

2b. Varieties of hemp grown for fibre authorised in the 2004/05 marketing year

Bialobrzeskie

Cannacomp ⁽¹⁾

Fasamo

Felina 34 — Félina 34

Fibriko TC

Finola

Lipko ⁽¹⁾Silesia ⁽²⁾Tiborszallasi ⁽¹⁾

UNIKO-B'

⁽¹⁾ Limited to Hungary.

⁽²⁾ Limited to Poland.

COMMISSION REGULATION (EC) No 207/2004
of 5 February 2004
determining the world market price for unginned cotton

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Protocol 4 on cotton, annexed to the Act of Accession of Greece, as last amended by Council Regulation (EC) No 1050/2001 ⁽¹⁾,

Having regard to Council Regulation (EC) No 1051/2001 of 22 May 2001 on production aid for cotton ⁽²⁾, and in particular Article 4 thereof,

Whereas:

- (1) In accordance with Article 4 of Regulation (EC) No 1051/2001, a world market price for unginned cotton is to be determined periodically from the price for ginned cotton recorded on the world market and by reference to the historical relationship between the price recorded for ginned cotton and that calculated for unginned cotton. That historical relationship has been established in Article 2(2) of Commission Regulation (EC) No 1591/2001 of 2 August 2001 ⁽³⁾, as amended by Regulation (EC) No 1486/2002 ⁽⁴⁾. Where the world market price cannot be determined in this way, it is to be based on the most recent price determined.
- (2) In accordance with Article 5 of Regulation (EC) No 1051/2001, the world market price for unginned cotton is to be determined in respect of a product of specific characteristics and by reference to the most favourable

offers and quotations on the world market among those considered representative of the real market trend. To that end, an average is to be calculated of offers and quotations recorded on one or more European exchanges for a product delivered cif to a port in the Community and coming from the various supplier countries considered the most representative in terms of international trade. However, there is provision for adjusting the criteria for determining the world market price for ginned cotton to reflect differences justified by the quality of the product delivered and the offers and quotations concerned. Those adjustments are specified in Article 3(2) of Regulation (EC) No 1591/2001.

- (3) The application of the above criteria gives the world market price for unginned cotton determined hereinafter,

HAS ADOPTED THIS REGULATION:

Article 1

The world price for unginned cotton as referred to in Article 4 of Regulation (EC) No 1051/2001 is hereby determined as equalling EUR 31,935/100 kg.

Article 2

This Regulation shall enter into force on 6 February 2004.

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

Done at Brussels, 5 February 2004.

For the Commission

J. M. SILVA RODRÍGUEZ

Agriculture Director-General

⁽¹⁾ OJ L 148, 1.6.2001, p. 1.

⁽²⁾ OJ L 148, 1.6.2001, p. 3.

⁽³⁾ OJ L 210, 3.8.2001, p. 10.

⁽⁴⁾ OJ L 223, 20.8.2002, p. 3.

COMMISSION REGULATION (EC) No 208/2004
of 5 February 2004
concerning tenders notified in response to the invitation to tender for the export of oats issued in
Regulation (EC) No 1814/2003

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Council Regulation (EEC) No 1766/92 of 30 June 1992 on the common organisation of the market in cereals ⁽¹⁾, as last amended by Regulation (EC) No 1104/2003 ⁽²⁾,

Having regard to Commission Regulation (EC) No 1501/95 of 29 June 1995 laying down certain detailed rules for the application of Council Regulation (EEC) No 1766/92 on the granting of export refunds on cereals and the measures to be taken in the event of disturbance on the market for cereals ⁽³⁾, as last amended by Regulation (EC) No 1431/2003 ⁽⁴⁾, and in particular Article 4 thereof,

Having regard to Commission Regulation (EC) No 1814/2003 of 15 October 2003 on a special intervention measure for cereals in Finland and Sweden for the marketing year 2003/04 ⁽⁵⁾, and in particular Article 9 thereof,

Whereas:

- (1) An invitation to tender for the refund for the export of oats produced in Finland and Sweden for export from Finland and Sweden to all third countries, with the exception of Bulgaria, Cyprus, Estonia, Hungary, Latvia, Lithuania, Malta, Poland, the Czech Republic, Romania, Slovakia and Slovenia was opened pursuant to Regulation (EC) No 1814/2003.

- (2) According to Article 9 of Regulation (EC) No 1814/2003 the Commission may, on the basis of the tenders notified, in accordance with the procedure laid down in Article 23 of Regulation (EEC) No 1766/92, decide to make no award.
- (3) On the basis of the criteria laid down in Article 1 of Regulation (EC) No 1501/95, 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 notified from 30 January to 5 February 2004 in response to the invitation to tender for the refund for the export of oats issued in Regulation (EC) No 1814/2003.

Article 2

This Regulation shall enter into force on 6 February 2004.

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

Done at Brussels, 5 February 2004.

For the Commission

Franz FISCHLER

Member of the Commission

⁽¹⁾ OJ L 181, 1.7.1992, p. 21.

⁽²⁾ OJ L 158, 27.6.2003, p. 1.

⁽³⁾ OJ L 147, 30.6.1995, p. 7.

⁽⁴⁾ OJ L 203, 12.8.2003, p. 16.

⁽⁵⁾ OJ L 265, 16.10.2003, p. 25.

COMMISSION REGULATION (EC) No 209/2004
of 5 February 2004
concerning tenders notified in response to the invitation to tender for the import of maize issued
in Regulation (EC) No 2315/2003

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Council Regulation (EEC) No 1766/92 of 30 June 1992 on the common organisation of the market in cereals ⁽¹⁾, as last amended by Regulation (EC) No 1666/2000 ⁽²⁾, and in particular Article 12(1) thereof,

Whereas:

- (1) An invitation to tender for the maximum reduction in the duty on maize imported into Portugal from third countries was opened pursuant to Commission Regulation (EC) No 2315/2003 ⁽³⁾.
- (2) Article 5 of Commission Regulation (EC) No 1839/95 ⁽⁴⁾, as last amended by Regulation (EC) No 2235/2000 ⁽⁵⁾, allows the Commission to decide, in accordance with the procedure laid down in Article 23 of Regulation (EEC) No 1766/92 and on the basis of the tenders notified, to make no award.

(3) On the basis of the criteria laid down in Articles 6 and 7 of Regulation (EC) No 1839/95 a maximum reduction in the duty 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 notified from 30 January to 5 February 2004 in response to the invitation to tender for the reduction in the duty on imported maize issued in Regulation (EC) No 2315/2003.

Article 2

This Regulation shall enter into force on 6 February 2004.

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

Done at Brussels, 5 February 2004.

For the Commission

Franz FISCHLER

Member of the Commission

⁽¹⁾ OJ L 181, 1.7.1992, p. 21.

⁽²⁾ OJ L 193, 29.7.2000, p. 1.

⁽³⁾ OJ L 342, 30.12.2003, p. 34.

⁽⁴⁾ OJ L 177, 28.7.1995, p. 4.

⁽⁵⁾ OJ L 256, 10.10.2000, p. 13.

II

(Acts whose publication is not obligatory)

COUNCIL

COUNCIL DECISION

of 20 January 2004

on the conclusion of the Agreement between the European Community and Malta on conformity assessment and acceptance of industrial products (ACAA)

(2004/113/EC)

THE COUNCIL OF THE EUROPEAN UNION,

Article 2

Having regard to the Treaty establishing the European Community, and in particular Article 133 thereof, in conjunction with the first sentence of the first subparagraph of Article 300(2), the first sentence of the first subparagraph of Article 300(3) and Article 300(4) thereof,

The President of the Council is hereby authorised to designate the person(s) empowered to transmit, on behalf of the Community, the diplomatic note provided for in Article 17 of the Agreement.

Having regard to the proposal from the Commission,

Whereas:

Article 3

- (1) The Agreement between the European Community and Malta on conformity assessment and acceptance of industrial products (ACAA) was signed in Brussels on 19 December 2003 on behalf of the Community, and should be approved.
- (2) Appropriate internal procedures should be established to ensure the proper functioning of the Agreement.
- (3) It is necessary to empower the Commission to make certain technical amendments to the Agreement and to take certain decisions for its implementation,

1. The Commission, after consultation with the special committee appointed by the Council, shall:

- (a) put into effect the notifications, acknowledgements, suspensions and withdrawals of bodies, and appointment of a joint team or teams of experts, in accordance with Article 10, Article 11 and Article 14(3)(c) of the Agreement;
- (b) bring about the consultations, exchanges of information and requests for verifications and for participation in verifications, in accordance with Article 3, Article 12 and Article 14(d) and (e), and Sections III and IV of the Annexes to the Agreement concerning electrical safety, electromagnetic compatibility (EMC), machinery, lifts, personal protective equipment (PPE), equipment and protective systems intended for use in potentially explosive atmospheres (ATEX), safety of toys and radio communication and telecommunication terminal equipment (RTTE);
- (c) if necessary, reply to requests in accordance with Article 11, Sections III and IV of the Annexes to the Agreement concerning electrical safety, electromagnetic compatibility (EMC), machinery, lifts, personal protective equipment (PPE), equipment and protective systems intended for use in potentially explosive atmospheres (ATEX), safety of toys and radio communication and telecommunication terminal equipment (RTTE);

HAS DECIDED AS FOLLOWS:

Article 1

The Agreement between the European Community and Malta on conformity assessment and acceptance of industrial products (ACAA) (hereinafter referred to as 'the Agreement'), together with the declarations attached thereto, are hereby approved on behalf of the European Community.

The text of the Agreement and the declarations is attached hereto.

2. Following consultation of the special committee referred to in paragraph 1 of this Article, the Commission shall determine the position to be taken by the Community in the Joint Committee with regard to:

- (a) amendments to the Annexes in accordance with Article 14(3)(a) of the Agreement;
- (b) additions of new Annexes in accordance with Article 14(3)(b) of the Agreement;
- (c) any decisions regarding disagreements over the results of the verifications and the suspensions, in part or totally, of any notified body in accordance with the second and third subparagraphs of Article 11 of the Agreement;
- (d) any measures taken in the application of the safeguard clauses in Section IV of the Annexes to the Agreement concerning electrical safety, electromagnetic compatibility (EMC), machinery, lifts, personal protective equipment

(PPE), equipment and protective systems intended for use in potentially explosive atmospheres (ATEX), safety of toys and radio communication and telecommunication terminal equipment (RTTE);

- (e) any measures concerning the verification, suspension or withdrawal of industrial products as having mutual acceptance pursuant to Article 4 of the Agreement.

Done at Brussels, 20 January 2004.

For the Council

The President

C. McCREEVY

AGREEMENT**between the European Community and Malta on conformity assessment and acceptance of industrial products (ACAA)**

THE EUROPEAN COMMUNITY (hereinafter 'the Community'),

of the one part, and

MALTA,

of the other part,

hereinafter referred to as 'the Parties',

WHEREAS Malta has applied for membership of the European Union and such membership implies the effective implementation of the *acquis* of the Community,

RECOGNISING that the progressive adoption and implementation of Community law by Malta provides the opportunity to extend certain benefits of the internal market and to ensure its effective operation in certain sectors before accession,

CONSIDERING that, in the sectors covered by this Agreement, Maltese national law substantially takes over Community law,

CONSIDERING their shared commitment to the principles of free movement of goods and to promoting product quality, so as to ensure the health and safety of their citizens and the protection of the environment, including through technical assistance and other forms of cooperation between them,

CONSIDERING the Agreement of 5 December 1970 creating an association between the European Economic Community and Malta ⁽¹⁾,

DESIRING to conclude an Agreement on conformity assessment and acceptance of industrial products (hereinafter 'this Agreement') providing for the application of the mutual acceptance of industrial products which fulfil the requirements for being lawfully placed on the market in one of the Parties and of the mutual recognition of the results of conformity assessment of industrial products which are subject to Community or national law,

NOTING the close relationship between the Community and Iceland, Liechtenstein and Norway through the Agreement on the European Economic Area, which makes it appropriate to consider the conclusion of a parallel European Conformity Assessment Agreement between Malta and these countries equivalent to this Agreement,

BEARING IN MIND the Parties' status as contracting parties to the Agreement establishing the World Trade Organisation, and conscious in particular of the Parties' obligations under the World Trade Organisation Agreement on Technical Barriers to Trade,

HAVE AGREED AS FOLLOWS:

*Article 1***Purpose**

1. The purpose of this Agreement is to facilitate the elimination by the Parties of technical barriers to trade in respect of industrial products. The means to this end is the progressive adoption and implementation by Malta of national law which is equivalent to Community law.

2. This Agreement provides for:

- (a) the mutual acceptance of industrial products, listed in the Annexes on 'Mutual acceptance of industrial products', which fulfil the requirements for being lawfully placed on the market in one of the Parties;
- (b) the mutual recognition of the results of conformity assessment of industrial products subject to Community law and to the equivalent Maltese national law, both listed in the Annexes on 'Mutual recognition of results of conformity assessment'.

*Article 2***Definitions**

For the purpose of this Agreement:

- (a) 'industrial products' means the products listed in Chapters 25 to 97 of the Combined Nomenclature;
- (b) 'Community law' means any legal act and implementing practice of the Community applicable to a particular situation, risk or category of industrial products, as interpreted by the Court of Justice of the European Communities;
- (c) 'national law' means any legal act and implementing practice by which Malta takes over the Community law applicable to a particular situation, risk or category of industrial products.

The terms used in this Agreement shall have the meaning given in Community law and national law.

⁽¹⁾ OJ L 61, 14.3.1971, p. 2.

*Article 3***Alignment of legislation**

For the purpose of this Agreement, Malta agrees to take appropriate measures, in consultation with the Commission of the European Communities, to maintain or complete the takeover of Community law, in particular in the fields of standardisation, metrology, accreditation, conformity assessment, market surveillance, general safety of products and producer's liability.

*Article 4***Mutual acceptance of industrial products**

The Parties agree that, for the purpose of mutual acceptance, industrial products listed in the Annexes on 'Mutual acceptance of industrial products', which fulfil the requirements for being lawfully placed on the market in one of the Parties, may be placed on the market of the other Party, without further restriction.

*Article 5***Mutual recognition of the results of conformity assessment procedures**

The Parties agree to recognise the results of conformity assessment procedures carried out in accordance with the Community or national law listed in the Annexes on 'Mutual recognition of the results of conformity assessment'. The Parties shall not require procedures to be repeated, nor shall they impose additional requirements, for the purposes of accepting that conformity.

*Article 6***Safeguard clause**

Where a Party finds that an industrial product placed on its territory by virtue of this Agreement and used in accordance with its intended use may compromise the safety or health of users or other persons, or any other legitimate concern protected by legislation identified in the Annexes, it may take appropriate measures to withdraw such a product from the market, to prohibit its placing on the market and putting into service or use or to restrict its free movement. The Annexes shall set out the procedure to be applied in such cases.

*Article 7***Extension of coverage**

As Malta adopts and implements further national law taking over Community law, the Parties may amend the Annexes or conclude new ones, in accordance with the procedure laid down in Article 14.

*Article 8***Origin**

This Agreement shall apply to industrial products irrespective of their origin.

*Article 9***Obligation of Parties as regards their authorities and bodies**

The Parties shall ensure that authorities under their jurisdiction which are responsible for the effective implementation of Community and national law shall continuously apply it. Furthermore, they shall ensure that these authorities are able, where appropriate, to notify, suspend, remove suspension and withdraw notification of bodies, to ensure the conformity of industrial products with Community or national law or to require their withdrawal from the market.

The Parties shall ensure that bodies, notified under their respective jurisdictions to assess conformity in relation to the requirements of Community or national law specified in the Annexes, continuously comply with the requirements of Community or national law. Furthermore, they shall take all necessary steps to ensure that these bodies maintain the necessary competence to carry out the tasks for which they are notified.

*Article 10***Notified bodies**

Before the entry into force of this Agreement, Malta and the Community will agree on the lists of the bodies notified for the purpose of this Agreement.

After the entry into force of this Agreement, the following procedure shall apply for the notification of bodies to assess conformity in relation to the requirements of Community or national law specified in the Annexes:

- (a) a Party shall forward its notification to the other Party in writing;
- (b) on the acknowledgement of the other Party, given in writing, the body will be considered as notified and as competent to assess conformity in relation to the requirements specified in the Annexes from that date.

If a Party decides to withdraw a notified body under its jurisdiction, it shall inform the other Party in writing. The body will cease to assess conformity in relation to the requirements specified in the Annexes from the date of its withdrawal at the latest. Nevertheless, conformity assessment carried out before that date shall remain valid, unless otherwise decided by the Joint Committee set up by Article 14 (hereinafter 'the Joint Committee').

*Article 11***Verification of notified bodies**

Each Party may request the other Party to verify the technical competence and compliance of a notified body under its jurisdiction. Such request will be justified in order to allow the Party responsible for the notification to carry out the requested verification and report speedily to the other Party. The Parties may also jointly examine the body, with the participation of the relevant authorities. To this end, the Parties shall ensure the full cooperation of bodies under their jurisdiction. The Parties shall take all appropriate steps, and use whatever available means may be necessary, with a view to resolving any problems which are detected.

If the problems cannot be resolved to the satisfaction of both Parties, they may notify the chairman of the Joint Committee of their dissent, giving their reasons. The Joint Committee may decide on appropriate action.

Unless and until decided otherwise by the Joint Committee, the notification of the body and the recognition of its competence to assess conformity in relation to the requirements of Community or national law specified in the Annexes shall be suspended in part or totally from the date on which the disagreement of the Parties has been notified to the chairman of the Joint Committee.

*Article 12***Exchange of information and cooperation**

In order to ensure a correct and uniform application and interpretation of this Agreement, the Parties, their authorities and their notified bodies shall:

- (a) exchange all relevant information concerning implementation of law and practice including, in particular, the procedure to ensure compliance of notified bodies;
- (b) take part, as appropriate, in the relevant mechanisms of information, coordination and other related activities of the Parties;
- (c) encourage their bodies to cooperate with a view to establishing mutual recognition arrangements in the voluntary sphere.

*Article 13***Confidentiality**

Representatives, experts and other agents of the Parties shall be required, even after their duties have ceased, not to disclose information acquired under this Agreement which is of the

kind covered by the obligation of professional secrecy. This information may not be used for purposes other than those envisaged by this Agreement.

*Article 14***Management of the Agreement**

1. A Joint Committee consisting of representatives of the Parties shall be established. The Joint Committee will be responsible for the effective functioning of this Agreement.

2. The Joint Committee shall take decisions and adopt recommendations by consensus. It shall meet at the request of either Party under the co-chairmanship of both Parties. It shall determine its own Rules of Procedure.

3. The Joint Committee may consider any matter related to the operation of this Agreement. In particular, it shall have the power to take decisions regarding:

- (a) amending the Annexes;
- (b) adding new Annexes;
- (c) appointing a joint team or teams of experts to verify the technical competence of a notified body and its compliance with the requirements;
- (d) exchanging information on proposed and actual modifications of the Community and national law referred to in the Annexes;
- (e) considering new or additional conformity assessment procedures affecting a sector covered by an Annex;
- (f) resolving any questions relating to the application of this Agreement.

*Article 15***Technical cooperation and assistance**

The Community may provide technical cooperation and assistance to Malta where necessary, in order to support the effective implementation and application of this Agreement.

*Article 16***Agreements with other countries**

Agreements on conformity assessment concluded by either Party with a country which is not a Party to this Agreement shall not entail an obligation upon the other Party to accept the results of conformity assessment procedures carried out in that third country, unless there is an explicit agreement between the Parties in the Joint Committee.

*Article 17***Entry into force, modification and duration**

1. This Agreement shall enter into force on the first day of the second month following the date on which the Parties have exchanged diplomatic notes confirming the completion of their respective procedures for entry into force of this Agreement.
2. This Agreement may be amended by the written agreement of the Parties. Amendments to or additions of Annexes will be made through the Joint Committee.

3. Either Party may terminate this Agreement by giving the other Party six months' notice in writing.

*Article 18***Final provisions**

This Agreement is drawn up in two originals in the Danish, Dutch, English, Finnish, French, German, Greek, Italian, Portuguese, Spanish, Swedish and Maltese languages, each text being equally authentic.

Hecho en Bruselas, el diecinueve de diciembre de dos mil tres.

Udfærdiget i Bruxelles den nittende december to tusind og tre.

Geschehen zu Brüssel am neunzehnten Dezember zweitausenddrei.

Έγινε στις Βρυξέλλες, στις δεκαεννέα Δεκεμβρίου δύο χιλιάδες τρία.

Done at Brussels on the nineteenth day of December in the year two thousand and three.

Fait à Bruxelles, le dix-neuf décembre deux mille trois.

Fatto a Bruxelles, addì diciannove dicembre duemilatre.

Gedaan te Brussel, de negentiende december tweeduizenddrie.

Feito em Bruxelas, em dezanove de Dezembro de dois mil e três.

Tehty Brysselissä yhdeksäntenätoista päivänä joulukuuta vuonna kaksituhattakolme.

Som skedde i Bryssel den nittonde december tjugohundratre.

Magħmul fi Brussel fid-dsatax-il jum ta' Diċembru tas-sena elfejn u tlieta.

Por la Comunidad Europea
For Det Europæiske Fællesskab
Für die Europäische Gemeinschaft
Για την Ευρωπαϊκή Κοινότητα
For the European Community
Pour la Communauté européenne
Per la Comunità europea
Voor de Europese Gemeenschap
Pela Comunidade Europeia
Euroopan yhteisön puolesta
På Europeiska gemenskapens vägnar

Le. Valtari

Għal Malta

Sei.

ANNEXES

ON MUTUAL ACCEPTANCE OF INDUSTRIAL PRODUCTS

(For the record)

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ANNEXES

ON MUTUAL RECOGNITION OF RESULTS OF CONFORMITY ASSESSMENT

CONTENTS

1. Electrical safety
2. Electromagnetic compatibility (EMC)
3. Machinery
4. Lifts
5. Personal protective equipment (PPE)
6. Equipment and protective systems intended for use in potentially explosive atmospheres (ATEX)
7. Safety of toys
8. Radio communication and telecommunication terminal equipment (RTTE)

ELECTRICAL SAFETY

SECTION I

Community and national law

- Community law: Council Directive 73/23/EEC of 19 February 1973 on the approximation of the laws of the Member States relating to electrical equipment designed for use within certain voltage limits (OJ L 77, 26.3.1973, p. 29), as last amended by Directive 93/68/EEC (OJ L 220, 30.8.1993, p. 1)
- National law: L.N. 367 of 2002: Low Voltage Electrical Equipment Regulations, 2002

SECTION II

Notifying authorities

European Community:

- | | |
|-----------------|---|
| Belgium: | Service Public Fédéral Economie, P.M.E., Classes Moyennes & Energie/Federale Overheidsdienst Economie, K.M.O., Middenstand & Energie |
| Denmark: | Økonomi- og Erhvervsministeriet, Elektricitetsrådet |
| France: | Ministère de l'économie, des finances et de l'industrie. Direction générale de l'industrie, des technologies de l'information et des postes (DiGITIP) — SQUALPI |
| Germany: | Bundesministerium für Wirtschaft und Arbeit |
| Greece: | Υπουργείο Ανάπτυξης. Γενική Γραμματεία Βιομηχανίας (Ministry of Development. General Secretariat of Industry) |
| Spain: | Ministerio de Ciencia y Tecnología |
| Ireland: | Department of Enterprise and Employment |
| Italy: | Ministero delle Attività Produttive |
| Luxembourg: | Ministère de l'économie — Service de l'énergie de l'Etat.
Ministère du travail (Inspection du travail et des mines) |
| Netherlands: | Minister van Volksgezondheid, Welzijn en Sport (consumer goods)
Minister van Sociale Zaken en Werkgelegenheid (others) |
| Austria: | Bundesministerium für Wirtschaft und Arbeit |
| Portugal: | Under the authority of the Government of Portugal:
Instituto Português da Qualidade |
| Finland: | Kauppa- ja teollisuusministeriö/Handels- och industriministeriet |
| Sweden: | Under the authority of the Government of Sweden:
Styrelsen för ackreditering och teknisk kontrol (SWEDAC) |
| United Kingdom: | Department of Trade and Industry |
| Malta: | Under the authority of the Government of Malta:
Consumer and Industrial Goods Directorate of the Malta Standards Authority |

SECTION III

Notified bodies

European Community

Bodies which have been notified by the Member States of the Community in accordance with the Community law referred to in Section I and notified to Malta in accordance with Article 10 of this Agreement.

Malta

Bodies which have been authorised by Malta in accordance with the Maltese national law referred to in Section I and notified to the Community in accordance with Article 10 of this Agreement.

SECTION IV

Specific arrangements

Safeguard clauses

A. Safeguard clause relating to industrial products

1. Where a Party has taken a measure to deny free access to its market for industrial products bearing the CE marking, subject to this Annex, it shall immediately inform the other Party, indicating the reasons for its decision and how non-compliance has been assessed.
2. The Parties shall consider the matter and the evidence brought to their knowledge and shall report to each other the results of their investigations.
3. In case of agreement, the Parties shall take appropriate measures to ensure that such products are not placed on the market.
4. In case of disagreement on the outcome of such investigations, the matter shall be forwarded to the Joint Committee, who may decide to have an evaluation carried out.
5. Where the Joint Committee finds that the measure is:
 - (a) unjustified, the national authority of the Party who has taken the measure shall withdraw it;
 - (b) justified, the Parties shall take appropriate measures to ensure that such products are not placed on the market.

B. Safeguard clause relating to harmonised standards

1. Where Malta considers that a harmonised standard referred to in the legislation listed in Section I of this Annex does not meet the essential requirements of such legislation, it shall inform the Joint Committee, giving the reasons therefor.
2. The Joint Committee shall consider the matter and may request the Community to proceed in accordance with the procedure provided for in the Community legislation listed in Section I of this Annex.
3. The Community shall keep the Joint Committee and the other Party informed of the proceedings.
4. The outcome of the procedure shall be notified to the other Party.

ELECTROMAGNETIC COMPATIBILITY

SECTION I

Community and national law

Community law: Council Directive 89/336/EEC of 3 May 1989 on the approximation of the laws of the Member States relating to electromagnetic compatibility (OJ L 139, 23.5.1989, p. 19), as last amended by Council Directive 93/68/EEC of 22 July 1993 (OJ L 220, 30.8.1993, p. 1).

National law: L.N. 368 of 2002: Electromagnetic Compatibility Regulations, 2002

SECTION II

Notifying authorities

European Community:

Belgium:	Service Public Fédéral Economie, P.M.E., Classes Moyennes & Energie/Federale Overheidsdienst Economie, K.M.O., Middenstand & Energie
Denmark:	IT- og Telestyrelsen
France:	Ministère de l'économie, des finances et de l'industrie. Direction générale de l'industrie, des technologies de l'information et des postes (DiGITIP) — SQUALPI
Germany:	Bundesministerium für Wirtschaft und Arbeit
Greece:	Υπουργείο Ανάπτυξης. Γενική Γραμματεία Βιομηχανίας (Ministry of Development. General Secretariat of Industry)
Spain:	Ministerio de Ciencia y Tecnología
Ireland:	Department of Enterprise and Employment
Italy:	Ministero delle Attività Produttive
Luxembourg:	Ministère de l'Economie — Service de l'Energie de l'Etat
Netherlands:	Minister van Verkeer en Waterstaat
Austria:	Bundesministerium für Wirtschaft und Arbeit
Portugal:	Under the authority of the Government of Portugal: Instituto Português da Qualidade ICP — Autoridade Nacional de Comunicações (ANACOM)
Finland:	Kauppa- ja teollisuusministeriö/Handels- och industriministeriet. For EMC aspects of telecommunications and radio equipment: Liikenne-javiestintäministeriö/Kommunikationsministeriet
Sweden:	Under the authority of the Government of Sweden: Styrelsen för ackreditering och teknisk kontrol (SWEDAC)
United Kingdom:	Department of Trade and Industry
Malta:	Under the authority of the Government of Malta: Consumer and Industrial Goods Directorate of the Malta Standards Authority

SECTION III

Notified and competent bodies

European Community

Bodies which have been notified by the Member States of the Community in accordance with the Community law referred to in Section I and notified to Malta in accordance with Article 10 of this Agreement.

Malta

Bodies which have been authorised by Malta in accordance with the Maltese national law referred to in Section I and notified to the Community in accordance with Article 10 of this Agreement.

SECTION IV

Specific arrangements

Safeguard clauses

A. Safeguard clause relating to industrial products

1. Where a Party has taken a measure to deny free access to its market for industrial products bearing the CE marking, subject to this Annex, it shall immediately inform the other Party, indicating the reasons for its decision and how non-compliance has been assessed.
2. The Parties shall consider the matter and the evidence brought to their knowledge, and shall report to each other the results of their investigations.

3. In case of agreement, the Parties shall take appropriate measures to ensure that such products are not placed on the market.
4. In case of disagreement on the outcome of such investigations, the matter shall be forwarded to the Joint Committee, who may decide to have an evaluation carried out.
5. Where the Joint Committee finds that the measure is:
 - (a) unjustified, the national authority of the Party who has taken the measure shall withdraw it;
 - (b) justified, the Parties shall take appropriate measures to ensure that such products are not placed on the market.

B. Safeguard clause relating to harmonised standards

1. Where Malta considers that a harmonised standard referred to in the legislation listed in Section I of this Annex does not meet the essential requirements of such legislation, it shall inform the Joint Committee, giving the reasons therefor.
2. The Joint Committee shall consider the matter and may request the Community to proceed in accordance with the procedure provided for in the Community legislation listed in Section I of this Annex.
3. The Community shall keep the Joint Committee and the other Party informed of the proceedings.
4. The outcome of the procedure shall be notified to the other Party.

MACHINERY

SECTION I

Community and national law

Community law: Directive 98/37/EC of the European Parliament and of the Council of 22 June 1998 on the approximation of the laws of the Member States relating to machinery (OJ L 207, 23.7.1998, p. 1), as amended by Directive 98/79/EC (OJ L 331, 7.12.1998, p. 1)

National law: L.N. 369 of 2002: Machinery Regulations, 2002

SECTION II

Notifying authorities

European Community:

Belgium:	Service Public Fédéral Emploi, Travail et Concertation Sociale/Federale Overheidsdienst Werkgelegenheid, Arbeid en Sociaal Overleg
Denmark:	Beskæftigelsesministeriet, Arbejdstilsynet
France:	Ministère de l'emploi et de la solidarité, direction des relations du travail, Bureau CT 5
Germany:	Bundesministerium für Wirtschaft und Arbeit
Greece:	Υπουργείο Ανάπτυξης. Γενική Γραμματεία Βιομηχανίας Ministry of Development. General Secretariat of Industry
Spain:	Ministerio de Ciencia y Tecnología
Ireland:	Department of Enterprise and Employment
Italy:	Ministero delle Attività Produttive
Luxembourg:	Ministère du travail (Inspection du travail et des mines)
Netherlands:	Minister van Sociale Zaken en Werkgelegenheid
Austria:	Bundesministerium für Wirtschaft und Arbeit
Portugal:	Under the authority of the Government of Portugal: Instituto Português da Qualidade
Finland:	Sosiaali- ja terveystieteiden ministeriö/Social- och hälsovårdsministeriet
Sweden:	Under the authority of the Government of Sweden: Styrelsen för ackreditering och teknisk kontroll (SWEDAC)
United Kingdom:	Department of Trade and Industry
Malta:	Under the authority of the Government of Malta: Consumer and Industrial Goods Directorate of the Malta Standards Authority

SECTION III

Notified bodies

European Community

Bodies which have been notified by the Member States of the Community in accordance with the Community law referred to in Section I and notified to Malta in accordance with Article 10 of this Agreement.

Malta

Bodies which have been designated by Malta in accordance with the Maltese national law referred to in Section I and notified to the Community in accordance with Article 10 of this Agreement.

SECTION IV

Specific arrangements

Safeguard clauses

A. Safeguard clause relating to industrial products

1. Where a Party has taken a measure to deny free access to its market for industrial products bearing the CE marking, subject to this Annex, it shall immediately inform the other Party, indicating the reasons for its decision and how non-compliance has been assessed.
2. The Parties shall consider the matter and the evidence brought to their knowledge, and shall report to each other the results of their investigations.
3. In case of agreement, the Parties shall take appropriate measures to ensure that such products are not placed on the market.
4. In case of disagreement on the outcome of such investigations, the matter shall be forwarded to the Joint Committee, who may decide to have an evaluation carried out.
5. Where the Joint Committee finds that the measure is:
 - (a) unjustified, the national authority of the Party who has taken the measure shall withdraw it;
 - (b) justified, the Parties shall take appropriate measures to ensure that such products are not placed on the market.

B. Safeguard clause relating to harmonised standards

1. Where Malta considers that a harmonised standard referred to in the legislation listed in Section I of this Annex does not meet the essential requirements of such legislation, it shall inform the Joint Committee, giving the reasons therefor.
2. The Joint Committee shall consider the matter and may request the Community to proceed in accordance with the procedure provided for in the Community legislation listed in Section I of this Annex.
3. The Community shall keep the Joint Committee and the other Party informed of the proceedings.
4. The outcome of the procedure shall be notified to the other Party.

LIFTS

SECTION I

Community and national law

Community law: Directive 95/16/EC of the European Parliament and of the Council of 29 June 1995 on the approximation of the laws of the Member States relating to lifts (OJ L 213, 7.9.1995, p. 1)

National law: L. N. 370 of 2002: Lifts Regulations, 2002

SECTION II

Notifying authorities

European Community:

Belgium:	Service Public Fédéral Economie, P.M.E., Classes Moyennes & Energie/Federale Overheidsdienst Economie, K.M.O., Middenstand & Energie
Denmark:	Arbejdstilsynet
France:	Ministère de l'équipement, des transports et du logement. Direction Générale de l'urbanisme, de l'habitat et de la construction
Germany:	Bundesministerium für Wirtschaft und Arbeit
Greece:	Υπουργείο Ανάπτυξης. Γενική Γραμματεία Βιομηχανίας (Ministry of Development. General Secretariat of Industry)
Spain:	Ministerio de Ciencia y Tecnología
Ireland:	Department of Enterprise and Employment
Italy:	Ministero delle Attività Produttive
Luxembourg:	Ministère du travail (Inspection du travail et des mines)
Netherlands:	Minister van Sociale Zaken en Werkgelegenheid
Austria:	Bundesministerium für Wirtschaft und Arbeit
Portugal:	Under the authority of the Government of Portugal: Instituto Português da Qualidade
Finland:	Kauppa- ja teollisuusministeriö/Handels- och industriministeriet
Sweden:	Under the authority of the Government of Sweden: Styrelsen för ackreditering och teknisk kontrol (SWEDAC)
United Kingdom:	Department of Trade and Industry
Malta:	Under the authority of the Government of Malta: Consumer and Industrial Goods Directorate of the Malta Standards Authority

SECTION III

Notified bodies

European Community

Bodies which have been notified by the Member States of the Community in accordance with the Community law referred to in Section I and notified to Malta in accordance with Article 10 of this Agreement.

Malta

Bodies which have been designated by Malta in accordance with the Maltese national law referred to in Section I and notified to the Community in accordance with Article 10 of this Agreement.

SECTION IV

Specific arrangements

Safeguard clauses

A. Safeguard clause relating to industrial products

1. Where a Party has taken a measure to deny free access to its market for industrial products bearing the CE marking, subject to this Annex, it shall immediately inform the other Party, indicating the reasons for its decision and how non-compliance has been assessed.
2. The Parties shall consider the matter and the evidence brought to their knowledge, and shall report to each other the results of its investigations.
3. In case of agreement, the Parties shall take appropriate measures to ensure that such products are not placed on the market.

4. In case of disagreement on the outcome of such investigations, the matter shall be forwarded to the Joint Committee who may decide to have an evaluation carried out.
5. Where the Joint Committee finds that the measure is:
 - (a) unjustified, the national authority of the Party who has taken the measure shall withdraw it;
 - (b) justified, the Parties shall take appropriate measures to ensure that such products are not placed on the market.

B. Safeguard clause relating to harmonised standards

1. Where Malta considers that a harmonised standard referred to in the legislation listed in Section I of this Annex does not meet the essential requirements of such legislation, it shall inform the Joint Committee, giving the reasons therefor.
2. The Joint Committee shall consider the matter and may request the Community to proceed in accordance with the procedure provided for in the Community legislation listed in Section I of this Annex.
3. The Community shall keep the Joint Committee and the other Party informed of the proceedings.
4. The outcome of the procedure shall be notified to the other Party.

PERSONAL PROTECTIVE EQUIPMENT

SECTION I

Community and national law

- Community law: Council Directive 89/686/EEC of 21 December 1989 on the approximation of the laws of the Member States relating to personal protective equipment (OJ L 399, 30.12.1989, p. 18), as last amended by Directive 96/58/EC of the European Parliament and of the Council (OJ L 236, 18.9.1996, p. 44)
- National law: L.N. 371 of 2002: Personal Protective Equipment Regulations, 2002

SECTION II

Notifying authorities

European Community:

- | | |
|-----------------|---|
| Belgium: | Service Public Fédéral Emploi, Travail et Concertation Sociale/Federale Overheidsdienst Werkgelegenheid, Arbeid en Sociaal Overleg |
| Denmark: | Beskæftigelsesministeriet, Arbejdstilsynet |
| France: | Ministère de l'emploi et de la solidarité, Direction des relations du travail, Bureau CT 5
Ministère de l'économie, des finances et de l'industrie, Direction générale de l'industrie, des technologies de l'information et des postes (DiGITIP) — SQUALPI |
| Germany: | Bundesministerium für Wirtschaft und Arbeit |
| Greece: | Υπουργείο Ανάπτυξης, Γενική Γραμματεία Βιομηχανίας Ministry of Development. General Secretariat of Industry |
| Spain: | Ministerio de Ciencia y Tecnología |
| Ireland: | Department of Enterprise, Trade and Employment |
| Italy: | Ministero delle attività produttive |
| Luxembourg: | Ministère du travail (Inspection du travail et des mines) |
| Netherlands: | Minister van Volksgezondheid, Welzijn en Sport |
| Austria: | Bundesministerium für Wirtschaft und Arbeit |
| Portugal: | Under the authority of the Government of Portugal:
Instituto Português da Qualidade |
| Finland: | Sosiaali- ja terveysministeriö/Social- och hälsovårdsministeriet |
| Sweden: | Under the authority of the Government of Sweden: Styrelsen för ackreditering och teknisk kontroll (SWEDAC) |
| United Kingdom: | Department of Trade and Industry |
| Malta: | Under the authority of the Government of Malta:
Consumer and Industrial Goods Directorate of the Malta Standards Authority |

SECTION III

Notified bodies

European Community

Bodies which have been notified by the Member States of the Community in accordance with the Community law referred to in Section I and notified to Malta in accordance with Article 10 of this Agreement.

Malta

Bodies which have been authorised by Malta in accordance with the Maltese national law referred to in Section I and notified to the Community in accordance with Article 10 of this Agreement.

SECTION IV

Specific arrangements

Safeguard clauses

A. Safeguard clause relating to industrial products

1. Where a Party has taken a measure to deny free access to its market for industrial products bearing the CE marking, subject to this Annex, it shall immediately inform the other Party, indicating the reasons for its decision and how non-compliance has been assessed.
2. The Parties shall consider the matter and the evidence brought to their knowledge, and shall report to each other the results of their investigations.
3. In case of agreement, the Parties shall take appropriate measures to ensure that such products are not placed on the market.
4. In case of disagreement on the outcome of such investigations, the matter shall be forwarded to the Joint Committee, who may decide to have an evaluation carried out.
5. Where the Joint Committee finds that the measure is:
 - (a) unjustified, the national authority of the Party who has taken the measure shall withdraw it;
 - (b) justified, the Parties shall take appropriate measures to ensure that such products are not placed on the market.

B. Safeguard clause relating to harmonised standards

1. Where Malta considers that a harmonised standard referred to in the legislation listed in Section I of this Annex does not meet the essential requirements of such legislation, it shall inform the Joint Committee, giving the reasons therefor.
2. The Joint Committee shall consider the matter and may request the Community to proceed in accordance with the procedure provided for in the Community legislation listed in Section I of this Annex.
3. The Community shall keep the Joint Committee and the other Party informed of the proceedings.
4. The outcome of the procedure shall be notified to the other Party.

EQUIPMENT AND PROTECTIVE SYSTEMS INTENDED FOR USE IN POTENTIALLY EXPLOSIVE ATMOSPHERES

SECTION I

Community and national law

- Community law: Directive 94/9/EC of the European Parliament and of the Council of 23 March 1994 on the approximation of the laws of the Member States relating to equipment and protective systems intended for use in potentially explosive atmospheres (OJ L 100, 19.4.1994, p. 1)
- National law: L.N. 372 of 2002: Equipment and Protective Systems intended for use in Potentially Explosive Atmospheres Regulations, 2002

SECTION II

Notifying authorities

European Community:

Belgium:	Service Public Fédéral Economie, P.M.E., Classes Moyennes & Energie/Federale Overheidsdienst Economie, K.M.O., Middenstand & Energie
Denmark:	For electrical aspects: Økonomi- og Erhvervsministeriet, Elektricitetsrådet For mechanical aspects: Beskæftigelsesministeriet, Arbejdstilsynet
France:	Ministère de l'économie, des finances et de l'industrie, Direction de l'action régionale et de la petite et moyenne industrie (DARPMI), Sous-direction de la sécurité industrielle
Germany:	Bundesministerium für Wirtschaft und Arbeit
Greece:	Υπουργείο Ανάπτυξης, Γενική Γραμματεία Βιομηχανίας (Ministry of Development, General Secretariat of Industry)
Spain:	Ministerio de Ciencia y Tecnología
Ireland:	Department of Enterprise and Employment
Italy:	Ministero delle Attività Produttive
Luxembourg:	Ministère de l'économie — Service de l'Energie de l'Etat
Netherlands:	Minister van Sociale Zaken en Werkgelegenheid
Austria:	Bundesministerium für Wirtschaft und Arbeit
Portugal:	Under the authority of the Government of Portugal: Instituto Português da Qualidade
Finland:	Kauppa- ja teollisuusministeriö/Handels- och industriministeriet
Sweden:	Under the authority of the Government of Sweden: Styrelsen för ackreditering och teknisk kontrol (SWEDAC)
United Kingdom:	Department of Trade and Industry
Malta:	Under the authority of the Government of Malta: Consumer and Industrial Goods Directorate of the Malta Standards Authority

SECTION III

Notified bodies

European Community

Bodies which have been notified by the Member States of the Community in accordance with the Community law referred to in Section I and notified to Malta in accordance with Article 10 of this Agreement.

Malta

Bodies which have been authorised by Malta in accordance with the Maltese national law referred to in Section I and notified to the Community in accordance with Article 10 of this Agreement.

SECTION IV

Specific arrangements

1. Transitional arrangements

The certificates issued in the Community Member States in conformity with Directives 76/117/EEC, 79/196/EEC and 82/130/EEC will be recognised as a proof of conformity assessment under the Maltese Act. Based on these certificates, the importer of these products in Malta will issue a declaration of conformity of the relevant product to the applicable requirements referred to in this paragraph.

2. Safeguard clauses

A. *Safeguard clause relating to industrial products*

- Where a Party has taken a measure to deny free access to its market for industrial products bearing the CE marking, subject to this Annex, it shall immediately inform the other Party, indicating the reasons for its decision and how non-compliance has been assessed.

2. The Parties shall consider the matter and the evidence brought to their knowledge, and shall report to each other the results of their investigations.
3. In case of agreement, the Parties shall take appropriate measures to ensure that such products are not placed on the market.
4. In case of disagreement on the outcome of such investigations, the matter shall be forwarded to the Joint Committee, who may decide to have an evaluation carried out.
5. Where the Joint Committee finds that the measure is:
 - (a) unjustified, the national authority of the Party who has taken the measure shall withdraw it;
 - (b) justified, the Parties shall take appropriate measures to ensure that such products are not placed on the market.

B. Safeguard clause relating to harmonised standards

1. Where Malta considers that a harmonised standard referred to in the legislation listed in Section I of this Annex does not meet the essential requirements of such legislation, it shall inform the Joint Committee, giving the reasons therefor.
2. The Joint Committee shall consider the matter and may request the Community to proceed in accordance with the procedure provided for in the Community legislation listed in Section I of this Annex.
3. The Community shall keep the Joint Committee and the other Party informed of the proceedings.
4. The outcome of the procedure shall be notified to the other Party.

SAFETY OF TOYS

SECTION I

Community and national law

- Community law: Council Directive 88/378/EEC of 3 May 1988 on the approximation of the laws of the Member States concerning the safety of toys (OJ L 187, 16.7.1988, p. 1), as amended by Directive 93/68/EEC of 22 July 1993 (OJ L 220, 30.8.1993, p. 1)
- National law: L.N. 373 of 2002: Safety of Toys Regulations, 2002

SECTION II

Notifying authorities

European Community:

- | | |
|-----------------|---|
| Belgium: | Service Public Fédéral Economie, P.M.E., Classes Moyennes & Energie/Federale Overheidsdienst Economie, K.M.O., Middenstand & Energie |
| Denmark: | Økonomi- og Erhvervsministeriet, Forbrugerstyrelsen |
| France: | Ministère de l'économie, des finances et de l'industrie, Direction générale de l'industrie, des technologies de l'information et des postes (DiGITIP) — SQUALPI |
| Germany: | Bundesministerium für Wirtschaft und Arbeit |
| Greece: | Υπουργείο Ανάπτυξης, Γενική Γραμματεία Βιομηχανίας (Ministry of Development, General Secretariat of Industry) |
| Spain: | Ministerio de Ciencia y Tecnología
Instituto Nacional del Consumo |
| Ireland: | Department of Enterprise and Employment |
| Italy: | Ministero delle Attività Produttive |
| Luxembourg: | Ministère du travail et de l'emploi |
| Netherlands: | Minister van Volksgezondheid, Welzijn en Sport, Inspectie voor de Gezondheidszorg (IGZ) |
| Austria: | Bundesministerium für Wirtschaft und Arbeit |
| Portugal: | Divisão de Estudos de Produtos do Instituto do Consumidor |
| Finland: | Kauppa- ja teollisuusministeriö/Handels- och industriministeriet |
| Sweden: | Under the authority of the Government of Sweden:
Styrelsen för ackreditering och teknisk kontrol (SWEDAC) |
| United Kingdom: | Department of Trade and Industry |
| Malta: | Under the authority of the Government of Malta:
Consumer and Industrial Goods Directorate of the Malta Standards Authority |

SECTION III

Notified bodies

European Community

Bodies which have been notified by the Member States of the Community in accordance with the Community law referred to in Section I and notified to Malta in accordance with Article 10 of this Agreement.

Malta

Bodies which have been authorised by Malta in accordance with the Maltese national law referred to in Section I and notified to the Community in accordance with Article 10 of this Agreement.

SECTION IV

Specific arrangements

1. Information concerning the certificate and the technical file

In accordance with Article 10(4) of Directive 88/378/EEC, the notifying authorities listed in Section II may obtain on request a copy of the certificate and, on reasoned request, a copy of the technical file and the reports on the examinations and tests carried out.

2. Notification of grounds for refusal by approved bodies

In accordance with Article 10(5) of Directive 88/378/EEC, Maltese bodies shall inform the notifying authority when refusing to issue a certificate. The notifying authority shall likewise notify the Commission thereof.

3. Safeguard clauses

A. *Safeguard clause relating to products*

1. Where a Party has taken a measure to deny free access to its market for products bearing the CE marking, subject to this Annex, it shall immediately inform the other Party, indicating the reasons for its decision and how non-compliance has been assessed.
2. The Parties shall consider the matter and the evidence brought to their knowledge, and shall report to each other the results of their investigations.
3. In case of agreement, the Parties shall take appropriate measures to ensure that such products are not placed on the market.
4. In case of disagreement on the outcome of such investigations, the matter shall be forwarded to the Joint Committee, who may decide to have an evaluation carried out.
5. Where the Joint Committee finds that the measure is:
 - (a) unjustified, the national authority of the Party who has taken the measure shall withdraw it;
 - (b) justified, the Parties shall take appropriate measures to ensure that such products are not placed on the market.

B. *Safeguard clause relating to harmonised standards*

1. Where Malta considers that a harmonised standard referred to in the legislation listed in Section I of this Annex does not meet the essential requirements of such legislation, it shall inform the Joint Committee, giving the reasons therefor.
2. The Joint Committee shall consider the matter and may request the Community to proceed in accordance with the procedure provided for in the Community legislation listed in Section I of this Annex.
3. The Community shall keep the Joint Committee and the other Party informed of the proceedings.
4. The outcome of the procedure shall be notified to the other Party.

RADIO COMMUNICATION AND TELECOMMUNICATION TERMINAL EQUIPMENT

SECTION I

Community and national law

- Community law: Directive 1999/5/EC of the European Parliament and of the Council of 9 March 1999 on the approximation of the laws of the Member States relating to radio communication and telecommunication terminal equipment and the mutual recognition of their conformity (OJ L 91, 7.4.1999, p. 10)
- National law: L.N. 374 of 2002: Radio Equipment and Telecommunications Terminal Equipment and mutual recognition of their conformity Regulations, 2002

SECTION II

Notifying authorities

European Community:

- | | |
|-----------------|--|
| Belgium: | Service Public Fédéral Economie, P.M.E., Classes Moyennes & Energie/Federale Overheidsdienst Economie, K.M.O., Middenstand & Energie |
| Denmark: | IT- og Telestyrelsen |
| France: | Ministère de l'économie, des finances et de l'industrie — Direction générale de l'industrie, des technologies de l'information et des postes (DiGITIP) — SQUALPI |
| Germany: | Bundesministerium für Wirtschaft und Arbeit |
| Greece: | Υπουργείο Ανάπτυξης. Ministry of Development |
| Spain: | Ministerio de Ciencia y Tecnología |
| Ireland: | Department of Public Enterprise, Communication Division |
| Italy: | Ministero delle Comunicazioni |
| Luxembourg: | Ministère des transports |
| Netherlands: | Minister van Economische Zaken, Agentschap Telecom |
| Austria: | Bundesministerium für Verkehr, Innovation und Technologie |
| Portugal: | Under the authority of the Government of Portugal:
Instituto Português da Qualidade

For EMC aspects of telecommunications and radio equipment:
ICP — Autoridade Nacional de Comunicações (ANACOM) |
| Finland: | Kauppa- ja teollisuusministeriö/Handels- och industriministeriet |
| Sweden: | Under the authority of the Government of Sweden:
Styrelsen för ackreditering och teknisk kontrol (SWEDAC) |
| United Kingdom: | Department of Trade and Industry |
| Malta: | Under the authority of the Government of Malta:
Consumer and Industrial Goods Directorate of the Malta Standards Authority |

SECTION III

Notified bodies

European Community

Bodies which have been notified by the Member States of the Community in accordance with the Community law referred to in Section I and notified to Malta in accordance with Article 10 of this Agreement.

Malta

Bodies which have been authorised by Malta in accordance with the Maltese national law referred to in Section I and notified to the European Community in accordance with Article 10 of this Agreement.

SECTION IV

Specific arrangements**1. Market surveillance authorities**

In accordance with the general provisions of this Agreement, each Party shall notify to the other Party the authorities established within its territory which are to carry out the surveillance tasks related to the operation of the respective legislation listed in Section I.

2. Notification of interface regulations

Each Party shall notify to the other Party the interfaces which they have regulated in their respective territory. When classifying equipment the Community shall take due account of the interfaces regulated in Malta.

3. Application of essential requirements

Where the Commission considers adopting a decision to apply a requirement contained in Article 3(3) of Directive 1999/5/EC Malta shall give its opinion on the issue in its capacity as observer in the TCAM before the formal opinion of the Committee is requested.

4. Notification of apparatus causing damage

Where a Party considers that apparatus declared to be compliant with the respective legislation causes serious damage to a network or harmful radio interference or harm to the network or its functioning and has granted the operator the right to refuse its connection, to disconnect it or to withdraw it from service, the Party shall notify such authorisation to the other Party.

5. Safeguard clauses*A. Safeguard clause relating to industrial products*

1. Where a Party has taken a measure to deny free access to its market for industrial products bearing the CE marking, subject to this Annex, it shall immediately inform the other Party, indicating the reasons for its decision and how non-compliance has been assessed.
2. The Parties shall consider the matter and the evidence brought to their knowledge, and shall report to each other the results of their investigations.
3. In case of agreement, the Parties shall take appropriate measures to ensure that such products are not placed on the market.
4. In case of disagreement on the outcome of such investigations, the matter shall be forwarded to the Joint Committee, who may decide to have an evaluation carried out.
5. Where the Joint Committee finds that the measure is:
 - (a) unjustified, the national authority of the Party who has taken the measure shall withdraw it;
 - (b) justified, the Parties shall take appropriate measures to ensure that such products are not placed on the market.

B. Safeguard clause relating to harmonised standards

1. Where Malta considers that a harmonised standard referred to in the legislation defined in this Annex does not meet the essential requirements of such legislation, it shall inform the Joint Committee, giving the reasons therefor.
2. The Joint Committee shall consider the matter and may request the European Community to proceed in accordance with the procedure provided for in the Community legislation listed in Section I of this Annex.
3. The Community shall keep the Joint Committee and the other Party informed of the proceedings.
4. The outcome of the procedure shall be notified to the other Party.

C. *Safeguard clause relating to compliant radio products not intended for use in a spectrum of one of the Parties*

1. Where a Member State or Malta takes a measure to adopt any appropriate measures with a view to prohibiting or restricting the placing on its market, and/or requiring the withdrawal from its market, of radio equipment, including types of radio equipment, which has caused, or which it reasonably considers will cause, harmful interference, including interference with existing or planned services on nationally allocated frequency bands, the Party shall inform the other Party, giving the reasons therefor.
 2. Where, after such information, the other Party considers that the measure may be unjustified, and when the problems cannot be resolved to the satisfaction of both Parties, they may consult the Joint Committee on the measure, giving their reasons.
 3. Where, after such consultation, the Joint Committee finds that the measure is:
 - (a) justified, it shall immediately inform the Party who took the initiative and the other Party;
 - (b) unjustified, it shall immediately inform the Party who took the measure and request it to withdraw it.
-

**DECLARATION BY THE COMMUNITY ON THE ATTENDANCE OF MALTESE REPRESENTATIVES AT
COMMITTEE MEETINGS**

In order to ensure a better understanding of the practical aspects of the application of the *acquis* of the Community, the Community declares that Malta is invited, under the following conditions, to the meetings of the committees established or referred to under the Community law on electrical safety, electromagnetic compatibility, machinery, lifts, ATEX, toys, PPE and RTTE.

This participation shall be limited to meetings or parts thereof during which the application of the *acquis* is discussed; it shall not entail attendance at meetings intended to prepare and issue opinions on implementation or management powers delegated to the Commission by the Council.

This invitation may be extended, on a case-by-case basis, to groups of experts convened by the Commission.

**DECLARATION BY MALTA ON THE PLACING ON THE MARKET OF PRODUCTS SUBJECT TO MALTESE
LEGISLATION TRANSPOSING COMMUNITY LEGISLATION**

1. Malta will specifically define, through legal notices, for all those sectors covered by the Agreement on conformity assessment and acceptance of industrial products (ACAA) in Maltese national legislation transposing Community legislation relating to the placing on the market of products, that reference to placing on the market is intended to cover also the placing of products on the market anywhere on the territory of the Community or that of Malta.
 2. The legal notices shall be effective from the date of the coming into force of the ACAA.
-

COMMISSION

COMMISSION DECISION

of 29 October 2003

on measures in favour of non-profit harbours for recreational crafts, the Netherlands

(notified under document number C(2003) 3890)

(Only the Dutch text is authentic)

(Text with EEA relevance)

(2004/114/EC)

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community, and in particular the first subparagraph of Article 88(2) thereof,

Having regard to the Agreement on the European Economic Area, and in particular Article 62(1)(a) thereof,

Having called on interested parties to submit their comments pursuant to the provisions cited above ⁽¹⁾ and having regard to their comments,

Whereas:

I. PROCEDURE

- (1) By letter dated 1 March 2001, a complaint was filed with the Commission on the possible distortion of competition between marinas in the Netherlands. Dutch marinas are operated by both non-profit making organisations (usually sailing clubs) and private undertakings. According to the complainant several non-profit making marinas had received State aid to build or maintain their moorings. This enables these marinas, for instance, to offer a lower rental price of the moorings for tourists who are passing by with their recreational craft.
- (2) At first the complaint was focused on a single project in Enkhuizen called Gependam-project, where, according to the complainant, the local sailing club had received substantial aid in the form of an excessively low purchase price for an aquatic area. The Commission asked the Dutch authorities questions by letter dated 11 April 2001 (D/51551) and the Dutch authorities replied by letter dated 24 May 2001.

- (3) After being informed of this correspondence, the complainant sent additional information on this case and six other cases by various letters during the course of 2001. By letter dated 11 February 2002 (D/50569), the Commission asked the Dutch authorities for detailed information on all seven cases.

- (4) At the request of the Dutch authorities, a bilateral meeting between the services of the Commission and the Dutch authorities took place on 3 May 2002. The Dutch authorities sent answers to the questions and additional information (reports) by letters dated 10 July 2002 and 2 August 2002.

- (5) On the basis of the information received, the Commission drafted an overview of the seven cases, which was sent to the complainant by letter dated 8 August 2002. This overview distinguished three cases for which it could not be excluded whether State aid within the meaning of Article 87(1) was at stake, and four cases for which the Commission's preliminary opinion was that no State aid within the meaning of Article 87(1) was at stake. By letter dated 3 September 2002 the complainant agreed on this overview and provided additional information on the three remaining cases.

- (6) By letter dated 5 February 2003, the Commission informed the Netherlands of its decision to initiate the procedure laid down in Article 88(2) of the EC Treaty in respect of these three remaining cases. By letter dated 22 April 2003, the Dutch authorities submitted their comments together with further information.

- (7) The Commission decision to initiate the procedure was published in the *Official Journal of the European Union* on 22 March 2003 ⁽²⁾. The Commission called on interested parties to submit their comments.

⁽¹⁾ OJ C 69, 22.3.2003, p. 4.

⁽²⁾ OJ C 69, 22.3.2003, p. 4.

- (8) The Commission received a reaction from the complainant by letter dated 16 April 2003, with no new information or relevant additional facts. The Commission did not receive any reaction from third parties on the opening of the formal investigation procedure.

II. DETAILED DESCRIPTION OF THE ALLEGED AID MEASURES

- (9) Three marinas, Enkhuizen, Nijkerk and Wieringermeer, were subject to further investigation by the Commission.

A. Enkhuizen

- (10) The Enkhuizen municipality decided, in 1998, to build a new harbour for large riverboats and tourist vessels. Because of the construction of this new harbour, the existing entrance of the sailing club KNZ&RV to the river was to be closed. In order to compensate for the closure of the entrance to the river the municipality took three measures:

- (a) the municipality provided a new opening to the river for KNZ&RV at a nearby location;
- (b) according to the municipality, the new opening forced passing boats to make a detour in order to reach the existing marina of KNZ&RV. According to an independent report (ordered by the municipality), the detour will lead to a 10 % decrease in the number of daily passing boats in the next 13 years. The total loss of revenue is calculated at EUR 80 700. To compensate for this loss, the municipality dredged part of the water close to the existing marina, in order to enable the club to create 105 moorings at its own expense at a later stage. The Dutch authorities have provided an independent report in which the costs of the dredging of the future marina was compared to the costs for compensation of the loss of revenue due to the detour for passing boats. The total cost of the dredging was EUR 96 655, which is approximately a similar sum of money as that of the loss of revenue due to the detour;
- (c) finally, the sailing club KNZ&RV was offered the opportunity to purchase the dredged area of water (26 000 m²) from the municipality at the same price per m² as the municipality had paid for the same area of water in 1998 to the national authorities. This price per m² was determined by an independent appraisal report dated 30 March 1998, in which the appraiser concluded that this area of water (including a large part of the lake) had no economic value.

According to the Dutch authorities, in that case, Dutch appraisers commonly use a basic value per m², i.e. EUR 0,45 per m². The total area of water acquired by the sailing club was 26 000 m², the total purchase price was thus EUR 11 700 (26 000 × 0,45).

- (11) According to the complainant, when an area of water in this locality is destined to become a 'marina', the average purchase price of this type of aquatic area is approximately EUR 15 per m². As the area of water was deliberately sold to the sailing club in order to create future moorings, the owner of the water (the municipality) was aware of its future destination, hence the municipality should have been aware of its economic value. According to the complainant this area of water has a value of EUR 390 000 (26 000 × 15).

B. Nijkerk

- (12) The Nijkerk municipality was the owner of a local marina, which was built in 1966. The marina was privatised in 2000 and sold to the tenant, the local sailing club De Zuidwal. In 1998 the marina was independently appraised at EUR 417 477. This was the appraisal price for an unpolluted marina, with maintenance in good order and, when rented out, the marina without a tenant was appraised at EUR 521 847.
- (13) In practice however, the marina was polluted and suffered from a considerable lack of maintenance. In the purchase agreement between the municipality and the club dated 27 March 2000, the sailing club agreed on taking on board all costs for purification of the water and outstanding maintenance of the harbour facilities. The municipality estimated the costs for outstanding maintenance in 2000 at EUR 272 268 and that of purification at EUR 145 201. These estimations were carried out by employees of the municipality, based on their practical experience. The municipality deducted these costs from the appraised value of the marina, resulting in a purchase price of EUR 0,45 (one guilder) for the whole marina.
- (14) After the Commission had asked questions on this matter (by letter dated 11 February 2002), the Dutch authorities gave instructions for a new independent appraisal report on the costs for outstanding maintenance and purification. In the report dated 22 July 2002, the costs for outstanding maintenance were appraised at EUR 200 000 and those of purification were appraised at EUR 600 000.

C. Wieringermeer

- (15) The Wieringermeer municipality sold an area of water and land in 2000 to the company Jachtwerf Jongert. By letter dated 10 July 2002 the Dutch authorities gave the following overview of the appraised value of the land and water concerned and actual purchase price:

Appraised value land: EUR 5 719 854 (84 028 m² at EUR 64,07/m²)

Appraised value water: + EUR 105 211 (69 031 m² at 1,51/m²)

Total appraised value: EUR 5 825 065

Total purchase price: EUR 7 636 147

Difference purchase price/appraisal: EUR 1 811 082

III. GROUNDS FOR INITIATING THE PROCEDURE

- (16) The Commission considers marina activities as a regular economic activity in the tourism sector. In Commission decision of 7 January 2000 (N 582/99 — Italy, 'Marina di Stabia SpA' ⁽¹⁾), the Commission concluded that in the circumstances of that case, the public aid to that marina strengthens its position compared with other marinas competing in other Member States.
- (17) The alleged financial support to marinas at hand is funded by State resources. Thus, two out of four criteria for State aid are already met, i.e. State resources and selectivity.
- (18) As regards the notion of advantage, the Commission stated as follows in its decision to initiate the procedure.

A. Enkhuizen

- (19) The Commission argued that the construction of the new opening is a matter of compensation of infrastructure by the municipality because of the closure of the previous entrance. This measure does not constitute State aid within the meaning of Article 87(1) of the EC Treaty. Also, the Commission considered the dredging as a compensating measure for the calculated loss of revenue, which was caused by the closure of the previous entrance, carried out by the local authorities. Therefore, neither does this measure constitute State aid within the meaning of Article 87(1) of the EC Treaty.
- (20) Nevertheless, in its decision to initiate the procedure the Commission expressed doubts on the State aid element in the sale of this area of water by the municipality to the sailing club. On the basis of the information provided by the Dutch authorities and the complainant, the Commission was not able to exclude a possible State

aid element, considering the price paid (EUR 11 700) and the alleged value of the area (EUR 390 000). The difference between these prices is EUR 378 300, which is above the threshold laid down in Commission Regulation (EC) No 69/2001 of 12 January 2001 on the application of Articles 87 and 88 of the EC Treaty to *de minimis* aid ⁽²⁾. The benefit for the sailing club KNZ&RV was therefore estimated at EUR 378 300.

B. Nijkerk

- (21) As regards the outstanding maintenance, the Commission agreed with the independent appraisal report and the discount of EUR 200 000 on the appraised value of the marina of 1998.
- (22) As regards the costs for purification, the Dutch authorities divided these costs to clean up the nearby river (Arkervaat) and the marina. According to the Dutch authorities the marina is connected to the river and this river has many different sources of pollution which have no relationship with the marina. Hence, the Dutch authorities decided that the sailing club is not liable for any of the pollution, not even that of the marina. Moreover, as the purification turned out to be very expensive, in the course of 2002 the municipality decided to take 25 % of these costs on its account. Thus, the sailing club will pay EUR 450 000 of the purification costs. Therefore, according to the Dutch authorities the sailing club has even lost on the purchase agreement (i.e. 200 000 + 450 000 — 417 477 = EUR 232 522).
- (23) As regards the purification costs, the Commission, in its decision to initiate the procedure, expressed doubts as to whether the purchase deal was carried out under the correct application of the 'polluter pays' principle. In principle the sailing club De Zuidwal was responsible (and liable) for the pollution of its marina. Following this principle, the marina should have been sold for (417 477 — 200 000 =) EUR 217 477. In its decision to initiate the procedure, the Commission calculated the estimated benefit for the sailing club De Zuidwal therefore at EUR 217 477.

C. Wieringermeer

- (24) In its preliminary assessment the Commission concluded that the price of the land seemed to be in order, as there were various references to similar prices of land in the appraisal report. The appraised value of the water (69 731 m² in total) at EUR 1,51/m² seemed, however, below market prices. There are no references or further explanations about this appraised value in the appraisal report.

⁽¹⁾ OJ C 40, 12.2.2000, p. 2.

⁽²⁾ OJ L 10, 13.1.2001, p. 30.

(25) Nevertheless, in order for there to be a problem of overcompensation, the value of the area of water should exceed ⁽¹⁾ EUR 29,21/m². This threshold is rather high, thus overcompensation is not expected based on the present figures. The Commission therefore informed the complainant by letter dated 8 August 2002 that there is no evidence found of illegal State aid.

(26) By letter dated 3 September 2002, the complainant informed the Commission that the municipality artificially created the land in the lake, which is a very expensive technique. The costs of reclaiming the land were EUR 9 892 409. As the land was reclaimed less than three years before it was sold, the behaviour of the municipality does not seem to be in line with point II(2)(d) of the Commission Communication on State aid elements in sales of land and buildings by public authorities ⁽²⁾.

(27) As regards the effects on trade between Member States (fourth criteria for State aid within the meaning of Art 87(1) of the EC Treaty), the Commission admitted that the activities of the marinas at hand could be rather marginal.

(28) Nevertheless, in its decision to initiate the procedure the Commission could not rule out the exclusion of effects on trade per se, be this only due to the mobility, by nature, of the pleasure craft.

(29) Therefore, the Commission was required to initiate the formal investigation procedure as its initial examination did not enable it to resolve all the difficulties raised by the question as to whether the measure under consideration constitutes State aid within the meaning of Article 87(1) of the EC Treaty. In this context, the Commission asked for specific information on each of the marinas and globally for the Dutch marine sector, whose share of annual turnover is generated by permanent or temporary mooring of boats from Member States other than the Netherlands.

(30) Furthermore, as regards the compatibility of this aid, the Commission argued that no derogation provided by the EC Treaty seemed applicable. The derogations of Article 87(2) and (3)(b) or (d) of the EC Treaty are manifestly irrelevant. The Dutch authorities did not argue, and the Commission did not find that the aid could have a regional development purpose according to Article 87(3)(c) of the EC Treaty ⁽³⁾. The aid does not seem to promote any horizontal Community objective according to Article 87(3)(c) of the EC Treaty such as research and development, employment, training, environment, small and medium sized enterprises or rescue and restruc-

turing within the meaning of the relevant guidelines and frameworks. Finally, the Commission does not find appropriate to favour the development of the marina sector within the meaning of Article 87(3)(c) of the EC Treaty.

IV. COMMENTS FROM INTERESTED PARTIES

(31) The Commission received a letter dated 16 April 2003 from the complainant with no new information or relevant additional facts as regards the three marinas at stake. The Commission did not receive any reaction from third parties.

V. COMMENTS FROM THE NETHERLANDS

(32) The Dutch authorities reacted by letter dated 22 April 2003. The Dutch authorities take a twofold approach in their answer to the opening of the procedure.

(33) First of all the Dutch authorities are of the opinion that no advantage is at hand, as the financial public support (if any) would be minimal and fall under the *de minimis* threshold. The Dutch authorities have provided additional information to support their view.

(34) Secondly, the Dutch authorities are of the opinion that even if the public support were to be higher than the *de minimis* threshold, there would still be no effect on trade, hence no State aid within the meaning of Article 87(1) of the EC Treaty. Hereto, the Dutch authorities have provided statistical information on the Dutch and European marina markets.

(35) As regards Enkhuizen, the Dutch authorities remain of the opinion that the alleged value of the aquatic area was EUR 0,45 per m², based on the independent appraisal report dated 30 March 1998 (in which the appraiser concluded that this aquatic area had no economic value, hence a standard price of one guilder per m²). The Dutch authorities did not contest the other economic indicators.

(36) Next the Dutch authorities have provided some additional statistical information on the Enkhuizen marina. These are all figures from 2002:

Total number of moorings:	235
Annual turnover fixed moorings:	EUR 257 500
Share of foreign users fixed moorings:	10 %
Annual turnover daily moorings:	EUR 58 164
Share of foreign users daily moorings:	30 %.

⁽¹⁾ EUR 7 636 147 – EUR 5 719 854 (appraised land) = EUR 1 916 293 + EUR 100 000 (*de minimis*) = EUR 2 016 293.
EUR 2 016 293/69 031 m² = EUR 29,21/m².

⁽²⁾ OJ C 209, 10.7.1997, p. 3.

⁽³⁾ There is no area in the Netherlands covered by Article 87(3)(a).

(37) Furthermore, the Dutch authorities remain of the opinion that the sailing club is not liable for any of the pollution, not even that of the marina. The sludge found in the marina is of the same substance as the sludge found in the nearby River Arkervaat, hence there can be no proof of any pollution by the users of the marina.

(38) Also, the Dutch authorities are of the opinion that a marina sold to the existing tenant should be sold at the market price taking into account the rental of the property. The Dutch authorities are of the opinion to reason from the viewpoint of the municipality: there would not be any difference in selling the marina to the tenant or to a new owner who would also acquire the tenant. In both cases the municipality would get the same price, hence it would be unfair to ask the sailing club for a higher price.

(39) Next the Dutch authorities have provided additional statistical information on the Nijkerk marina. These are all figures from 2002:

Annual turnover fixed moorings: EUR 117 000

Share of foreign users fixed moorings: 0 %

Annual turnover daily moorings: EUR 3 000

Share of foreign users daily moorings: 10 %.

(40) Finally on Wieringermeer the Dutch authorities agreed that the construction costs to create the land artificially in the lake were EUR 9 892 409. However, the Dutch authorities indicated that these costs do not only include the costs of creating the future marina, but also the cost of financing public works, such as wetlands, sewerage, a junction road etc. The total costs of the public works are EUR 4 559 248. Hence, the net construction costs for the marina were EUR 5 333 161. The total purchase price was well above these construction costs, hence the Dutch authorities concluded that there is no advantage to the alleged beneficiary. The Dutch authorities did not provide statistical information on the marina at hand, since it has not yet been built.

VI. ASSESSMENT OF THE MEASURES

(41) In order for a measure to be considered as State aid within the meaning of Article 87(1) of the EC Treaty, four criteria have to be simultaneously satisfied. It must favour undertakings (or productions); it must be selective; it must be funded through State resources; and it

must affect trade between Member States. In the present case, the measures are clearly financed by local authorities through their budgets and concern three specific marinas. The criteria of State resources and selectivity are therefore clearly met.

(42) As regards the notion of advantage, the findings of the Commission are as follows.

A. Enkhuizen

(43) The Commission remains of the opinion that it is not likely that the low value of the water area indicated by the Dutch authorities is appropriate. If locally the aquatic area is destined to become a marina, this area will have some market value and cannot be considered 'worthless'. According to the letter of the Dutch authorities dated 22 April 2003, the Dutch marina market is highly competitive and there is a great demand for moorings in this area of the Netherlands. Thus, the purchase price of the aquatic area remains disputable. The difference of opinion concerns EUR 378 300, which is the majority of the alleged State aid. The Commission cannot therefore exclude the granting of an advantage to the Enkhuizen marina through the measure.

B. Nijkerk

(44) There are no clear appraisal reports on the pollution in the Nijkerk marina and it is not clear to what extent the sailing club is or could be held responsible for (part of) the pollution. It seems rather doubtful that the sailing club is not at all liable.

(45) The Commission does not agree with the Dutch authorities that the marina was sold to the tenant itself for a purchase price including a tenant. After all, due to the purchase, the De Zuidwal obtained full free use of the marina. The sailing club could have sold the harbour immediately and made a profit of EUR 95 370 (i.e. the difference between the two appraisal prices, with and without tenant).

(46) Therefore, the Commission remains in doubt as to the liability and the value of the purchase price of the marina. The difference of opinion concerns EUR 312 847, which is all of the alleged State aid. The Commission cannot therefore exclude the granting of an advantage to the Nijkerk marina through the measure.

C. Wieringermeer

- (47) As regards the Wieringermeer marina, the Dutch authorities have provided sufficient additional information in order to conclude that no advantage is at stake. The construction costs of the marina cumulated with the price of the aquatic area are much smaller than the purchase price. In order for the aid to be greater than EUR 100 000, the value of the water should exceed EUR 34,81/m², which is clearly too high⁽¹⁾. As no advantage is granted, the sale of this marina does not constitute State aid within the meaning of Article 87(1) of the EC Treaty.
- (48) As regards the two remaining marinas (Enkhuizen and Nijkerk) the Commission has examined the effect on trade criterion. A reference case in this respect is the Commission decision concerning the Dorsten Swimming Pool⁽²⁾. In this case the Commission concluded that this amenity was used by the inhabitants of the town and the surrounding area. Moreover, the Commission distinguished a clear difference between this kind of support and aid to promote major theme parks targeted at the national or even international market and advertised far beyond the area where they are located. The Commission concluded that, by its very nature, aid in favour of facilities aimed at attracting international visitors is likely to affect trade between Member States. For the swimming pool in Dorsten the Commission took the view that there was practically no likelihood of intra-Community trade being affected. Therefore, the annual subsidy for the private operator of the pool in Dorsten did not constitute State aid within the meaning of Article 87(1) of the EC Treaty.
- (49) In the Netherlands there are about 203 000 moorings in about 1 200 marinas. The total number of pleasure boats in the Netherlands is estimated at 375 000. The total number of pleasure boats in the European Union is at least 5 million; there are more than 10 000 marinas in the EU, providing more than 1,5 million moorings (not all moorings are in marinas)⁽³⁾. Thus, most pleasure boats are not located at a mooring, but either beached on shore or at moorings on open water.
- (50) The Nijkerk marina has 200 moorings, of which, on average only 0,25 % are used by foreign tourists, which is insignificant to the national mooring market. Therefore, the Commission concludes that the Nijkerk marina is used by the inhabitants of the town and the

surrounding area and it is not aimed at attracting international visitors. The aid does not deter Nijkerk's inhabitants from using marinas outside the Netherlands. Even if this were the case, the effect on trade would be insignificant given the number of inhabitants in Nijkerk (less than 40 000). Finally, it should be noted that the annual turnover of the Nijkerk marina is EUR 120 000. Thus, the support to the Nijkerk marina (if any) does not have an effect on trade and is therefore not State aid within the meaning of Article 87(1) of the EC Treaty.

- (51) In the Enkhuizen marina, on average 14 % of the moorings are used by international tourists⁽⁴⁾. Nevertheless, the 235 Enkhuizen moorings represent only 0,15 % of the Dutch mooring market and 0,016 % of the EU mooring market. Therefore, the impact of the Enkhuizen harbour on the marina market is very limited.
- (52) Moreover, it is important to make a distinction between fixed moorings and daily moorings. It is likely that an effect on trade of the support (if any) would primarily be related to the fixed moorings (permanent location of a boat).
- (a) It is mainly for fixed moorings that the user has a real choice between the Enkhuizen marina or a foreign one, as the (international) owner or long term tenant of the boat decides, before or at the start of the season, where to dock. In this context, it should be noted that the share of fixed moorings by international users is only 10 % at Enkhuizen. In addition, the average annual turnover per fixed mooring (less than EUR 1 000) is rather low compared with the costs of maintenance, transport, financing and depreciation of pleasure boats and the additional costs of a marine holiday.
- (b) The effect on trade of any support to daily moorings is by nature very limited. An (international) boat owner or tenant uses the marina which corresponds to the place where he is at a certain date and time and which appears to be appropriate given the size and depth of the boat's hull. His choice is often very limited. In the present case, the turnover generated by the Enkhuizen marina for all daily moorings only represents 18 % of its total turnover, of which only 30 % originates from international tourists.

- (53) Finally, it should be noted that the annual turnover of the marina in Enkhuizen is EUR 316 000.

⁽¹⁾ EUR 7 636 147 – EUR 5 333 161 (construction costs) = EUR 2 302 986 + EUR 100 000 (*de minimis*) = EUR 2 402 986; EUR 2 402 986/69 031 m² = EUR 34,81/m².

⁽²⁾ Commission decision of 21.12.2000, N 258/2000 — Germany (Leisure Pool Dorsten), OJ C 171, 16.6.2001, p. 16.

⁽³⁾ These figures are from ICOMIA (International Council of Marine Industry Organisations, see also <http://www.icomia.com>) and the report 'La Nautica in cifre' of UCINA (Unione Nazionale Cantieri e Industrie Nautiche ed Affini, see also <http://www.ucina.it>). As there are no clear statistics available, these are rough estimates.

⁽⁴⁾ Weighted average between fixed and daily moorings.

- (54) It follows from the above that the support to the Enkhuizen marina (if any) does not have an effect on trade and is therefore not State aid within the meaning of Article 87(1) of the EC Treaty.
- (55) Therefore, the Commission can conclude that, even if some distortion of (local) competition is not excluded, the support (if any) has no effect on trade within the meaning of Article 87(1) of the EC Treaty. In particular, in these cases, also due to the geographical location of the marinas, their relatively small size, and the relatively small amounts of public support involved (in comparison with the number of moorings offered in the marinas), it can not reasonably be expected that this support will lead ship owners from other Member States to use the marinas concerned for mooring (be it fixed or daily) rather than a marina in another Member State.
- (56) This does not contradict the current case-law of the EU Courts on the effect on trade. In *Tubemeuse* ⁽¹⁾ the Court of Justice held that '(...) the relatively small size of the undertaking which receives (the aid) does not as such exclude the possibility that intra-Community trade might be affected'. This does not mean that the insignificant size of a company taken together with other features of the case cannot lead to the conclusion that State aid granted to this company does not affect intra-Community trade.
- (57) Similarly, in *Vlaamse Gewest* ⁽²⁾, the Court of First Instance states that 'the prohibition in Article 92(1) of the Treaty applies to any aid which distorts or threatens to distort competition, irrespective of the amount insofar ⁽³⁾ as it affects trade between Member States'.
- (58) Finally, the findings of the Commission are not in contradiction with its own practice as regards marinas. In this respect, it should be emphasised that the aforementioned Commission decision of 7 January 2001 relates to a marina which was of much greater size than

Nijkerk and Enkhuizen and which had been the subject of a notification under the multisectoral framework on regional aid for large investment projects ⁽⁴⁾.

- (59) The Commission is of the opinion that it is sufficiently proven that trade is not affected in the present case. In addition, the Dutch marinas sector seems to currently encounter some problems due to some over-capacity, but that is not the case at all at EU level, where the market is growing.

VII. CONCLUSION

- (60) The Commission can conclude for the specific Dutch marinas at hand that no State aid within the meaning of Article 87(1) of the EC Treaty is at stake. For one marina (Wieringermeer) no advantage is at stake. For the others (Enkhuizen and Nijkerk), the measure does not affect trade between Member States,

HAS ADOPTED THIS DECISION:

Article 1

The measures in favour of non-profit making harbours for recreational crafts in Enkhuizen, Nijkerk and Wieringermeer do not constitute State aid within the meaning of Article 87(1) of the EC Treaty.

Article 2

This Decision is addressed to the Netherlands.

Done at Brussels, 29 October 2003.

For the Commission

Mario MONTI

Member of the Commission

⁽¹⁾ See Judgment of the Court of 21 March 1990 in Case C-142/97 *Belgium v Commission* [1990] ECR I-959. See also Judgment of 14 September 1994 in Joined Cases C-278/92 to C-280/92 *Spain v Commission* [1994] ECR I-4103.

⁽²⁾ Judgment of the Court of First Instance of 30 April 1998 in Case T-214/95 *Het Vlaamse Gewest v Commission*, points 46, 49 and 50

⁽³⁾ Emphasis added.

⁽⁴⁾ OJ C 107, 7.4.1998, p. 7.

COMMISSION DECISION
of 10 December 2003
on the aid scheme for the Thüringer Industriebeteiligungsfonds

(notified under document number C(2003) 4495)

(Only the German text is authentic)

(Text with EEA relevance)

(2004/115/EC)

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community, and in particular Article 88(2) thereof,

Having regard to the Agreement on the European Economic Area, and in particular Article 62(1)(a) thereof,

Having called on interested parties to submit their comments ⁽¹⁾ and having regard to those comments,

Whereas:

(4) The comments received from interested parties were forwarded to Germany.

(5) By fax of 24 October 2003, Germany withdrew its application of 17 November 1997.

2. COMMENTS FROM INTERESTED PARTIES

(6) The only comments received were those submitted by the TIB-Fonds by letter dated 31 May 1999.

1. PROCEDURE

(1) After scrutinising the annual reports of the Thüringer Industriebeteiligungsfonds (TIB-Fonds), the Commission had doubts as to the compatibility of the activities of the TIB-Fonds with its decision of 9 August 1994 on the TIB-Fonds aid scheme (state aid N 183/94). It accordingly initiated proceedings under No NN 120/98 and called for information to be provided (letter of 30 December 1998). Since the Federal Government did not react, the Commission informed Germany by letter dated 15 March 1999 of its decision to initiate the procedure provided for in Article 88(2) of the EC Treaty.

(2) In addition, by letter dated 17 November 1997, Germany notified the Commission of clarifications and amendments to the aid scheme previously approved by the Commission for a 10-year period under aid N 183/1994. It provided the Commission with additional information by letter dated 29 January 1998. The Commission had doubts as to whether the TIB-Fonds was effectively controlled by the *Land* authorities. By letter of 15 March 1999 (see recital 1), Germany was informed of the Commission's decision to initiate the procedure provided for in Article 88(2) in respect of this aspect too.

(3) The Commission decision to initiate the procedure was published in the *Official Journal of the European Communities* ⁽²⁾. The Commission invited interested parties to submit their comments.

⁽¹⁾ OJ C 166, 9.6.2001, p. 14.

⁽²⁾ See footnote 1.

3. DESCRIPTION AND ASSESSMENT

(7) The present procedure covers two distinct aspects: first, the presumed improper application of the Commission decision of 9 August 1994 on the TIB-Fonds aid scheme and, second, the notification of an improved, partially amended aid scheme for the activities of the TIB-Fonds. Since the notification was withdrawn by Germany, the procedure should be closed in accordance with Article 8 of Council Regulation No 659/1999 of 22 March 1999 laying down detailed rules for the application of Article 93 of the EC Treaty ⁽³⁾.

(8) As regards the presumed improper application of the Commission decision in 1994, the period covered by the investigation extends from 9 August 1994 (notification to Germany of the Commission decision in procedure N 184/94) to 15 March 1999 (notification to Germany of the Commission decision initiating the procedure) (cf. point 4 of that decision). Several firms were referred to by name in that decision. In various parallel individual cases, the Commission has, in relation to those firms, examined the compatibility of the activities of the TIB-Fonds with the common market. The procedures are the following: MITEC (NN 31/97), Umformtechnik Erfurt (N 201/99), Compact Disc Albrechts (C 42/98), Kahla Porzellan (C 62/00), Zeuro Möbel (C 56/97), Henneberg Porzellan (C 36/00) and Deckel Maho (C 27/00). These cases are not, therefore, covered by the present procedure.

⁽³⁾ OJ L 83, 27.3.1999, p. 1.

- (9) Insolvency proceedings were initiated in respect of four other small and medium-sized enterprises (KHW Konstruktionsholzwerk Seubert GmbH & Co. KG, Simson Zweirad GmbH, Polyplast GmbH and Möbelwerke Themar). None of those enterprises is active on the market any more. Since they no longer distort competition and since any recovery claims would therefore be devoid of purpose, the procedure should be closed.
- (10) By fax of 25 May 1999, Germany provided information on another six firms. The information communicated does not give the Commission any grounds for considering that the criteria laid down in its decision in Case N 183/94 have not been complied with.

4. CONCLUSION

For the above reasons, the procedure in aid case C 17/99 should be closed,

HAS ADOPTED THIS DECISION:

Article 1

Aid procedure C 17/99, which concerns, on the one hand, the changes notified to the aid scheme initially approved and, on the other, certain measures to assist firms in Thuringia through the Thüringer Industriebeteiligungs fonds during the period from 9 August 1994 to 15 March 1999 under the originally approved aid scheme, is terminated.

Article 2

This Decision is addressed to the Federal Republic of Germany.

Done at Brussels, 10 December 2003.

For the Commission

Mario MONTI

Member of the Commission

DECISION No 1/2004**of 16 January 2004****of the Committee established under the Agreement between the European Community and the Swiss Confederation on Mutual Recognition in relation to Conformity Assessment on the listing of a Conformity Assessment Body under the Sectoral Chapter for Toys**

(2004/116/EC)

THE COMMITTEE,

Having regard to the Agreement between the European Community and the Swiss Confederation on Mutual Recognition in relation to Conformity Assessment (the Agreement) signed on 21 June 1999, and in particular Article 10.4(a) and 11 thereof,

Whereas the Agreement entered into force on 1 June 2002;

Whereas the Committee is to take a decision to list a Conformity Assessment Body or Bodies under a Sectoral Chapter of Annex I of the Agreement,

HAS DECIDED AS FOLLOWS:

1. The Conformity Assessment Body in Annex A is added to the list of Swiss Conformity Assessment Bodies under the Sectoral Chapter for Toys in Annex I of the Agreement.
2. This Decision, done in duplicate, shall be signed by the Co-Chairs or other persons authorised to act on behalf of the Parties. This Decision shall be effective from the date of the later of these signatures.

Signed in Bern, 16 January 2004.

On behalf of the Swiss Confederation

Heinz HERTIG

Signed in Brussels, 6 January 2004.

On behalf of the European Community

Joanna KIOUSSI

ANNEX A

Chapter	Body	Contact/Tel./Fax/E-mail	Directive
3 — Toys	Kantonales Laboratorium Basel-Landschaft Hammerstrasse 25 CH-4410 Liestal	Dr Peter Wenk Tel.: (41-61) 906 64 64 Fax: (41-61) 906 64 65 kl@vsd.bl.ch	88/378/EEC