

Official Journal

of the European Communities

ISSN 0378-6978

L 31

Volume 45

1 February 2002

English edition

Legislation

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I

(Acts whose publication is obligatory)

**REGULATION (EC) No 178/2002 OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL
of 28 January 2002
laying down the general principles and requirements of food law, establishing the European Food
Safety Authority and laying down procedures in matters of food safety**

THE EUROPEAN PARLIAMENT AND THE COUNCIL OF THE
EUROPEAN UNION,

Having regard to the Treaty establishing the European
Community, and in particular Articles 37, 95, 133 and Article
152(4)(b) thereof,

Having regard to the proposal from the Commission ⁽¹⁾,

Having regard to the opinion of the Economic and Social
Committee ⁽²⁾,

Having regard to the opinion of the Committee of the
Regions ⁽³⁾,

Acting in accordance with the procedure laid down in Article
251 of the Treaty ⁽⁴⁾,

Whereas:

- (1) The free movement of safe and wholesome food is an essential aspect of the internal market and contributes significantly to the health and well-being of citizens, and to their social and economic interests.
- (2) A high level of protection of human life and health should be assured in the pursuit of Community policies.
- (3) The free movement of food and feed within the Community can be achieved only if food and feed safety requirements do not differ significantly from Member State to Member State.
- (4) There are important differences in relation to concepts, principles and procedures between the food laws of

the Member States. When Member States adopt measures governing food, these differences may impede the free movement of food, create unequal conditions of competition, and may thereby directly affect the functioning of the internal market.

- (5) Accordingly, it is necessary to approximate these concepts, principles and procedures so as to form a common basis for measures governing food and feed taken in the Member States and at Community level. It is however necessary to provide for sufficient time for the adaptation of any conflicting provisions in existing legislation, both at national and Community level, and to provide that, pending such adaptation, the relevant legislation be applied in the light of the principles set out in the present Regulation.
- (6) Water is ingested directly or indirectly like other foods, thereby contributing to the overall exposure of a consumer to ingested substances, including chemical and microbiological contaminants. However, as the quality of water intended for human consumption is already controlled by Council Directives 80/778/EEC ⁽⁵⁾ and 98/83/EC ⁽⁶⁾, it suffices to consider water after the point of compliance referred to in Article 6 of Directive 98/83/EC.
- (7) Within the context of food law it is appropriate to include requirements for feed, including its production and use where that feed is intended for food-producing animals. This is without prejudice to the similar requirements which have been applied so far and which will be applied in the future in feed legislation applicable to all animals, including pets.
- (8) The Community has chosen a high level of health protection as appropriate in the development of food law, which it applies in a non-discriminatory manner whether food or feed is traded on the internal market or internationally.

⁽¹⁾ OJ C 96 E, 27.3.2001, p. 247.

⁽²⁾ OJ C 155, 29.5.2001, p. 32.

⁽³⁾ Opinion delivered on 14 June 2001 (not yet published in the Official Journal).

⁽⁴⁾ Opinion of the European Parliament of 12 June 2001 (not yet published in the Official Journal), Council Common Position of 17 September 2001 (not yet published in the Official Journal) and Decision of the European Parliament of 11 December 2001 (not yet published in the Official Journal). Council Decision of 21 January 2002.

⁽⁵⁾ OJ L 229, 30.8.1980, p. 11. Directive repealed by Directive 98/83/EC.

⁽⁶⁾ OJ L 330, 5.12.1998, p. 32.

- (9) It is necessary to ensure that consumers, other stakeholders and trading partners have confidence in the decision-making processes underpinning food law, its scientific basis and the structures and independence of the institutions protecting health and other interests.
- (10) Experience has shown that it is necessary to adopt measures aimed at guaranteeing that unsafe food is not placed on the market and at ensuring that systems exist to identify and respond to food safety problems in order to ensure the proper functioning of the internal market and to protect human health. Similar issues relating to feed safety should be addressed.
- (11) In order to take a sufficiently comprehensive and integrated approach to food safety, there should be a broad definition of food law covering a wide range of provisions with a direct or indirect effect on the safety of food and feed, including provisions on materials and articles in contact with food, animal feed and other agricultural inputs at the level of primary production.
- (12) In order to ensure the safety of food, it is necessary to consider all aspects of the food production chain as a continuum from and including primary production and the production of animal feed up to and including sale or supply of food to the consumer because each element may have a potential impact on food safety.
- (13) Experience has shown that for this reason it is necessary to consider the production, manufacture, transport and distribution of feed given to food-producing animals, including the production of animals which may be used as feed on fish farms, since the inadvertent or deliberate contamination of feed, and adulteration or fraudulent or other bad practices in relation to it, may give rise to a direct or indirect impact on food safety.
- (14) For the same reason, it is necessary to consider other practices and agricultural inputs at the level of primary production and their potential effect on the overall safety of food.
- (15) Networking of laboratories of excellence, at regional and/or interregional level, with the aim of ensuring continuous monitoring of food safety, could play an important role in the prevention of potential health risks for citizens.
- (16) Measures adopted by the Member States and the Community governing food and feed should generally be based on risk analysis except where this is not appropriate to the circumstances or the nature of the measure.
- Recourse to a risk analysis prior to the adoption of such measures should facilitate the avoidance of unjustified barriers to the free movement of foodstuffs.
- (17) Where food law is aimed at the reduction, elimination or avoidance of a risk to health, the three interconnected components of risk analysis — risk assessment, risk management, and risk communication — provide a systematic methodology for the determination of effective, proportionate and targeted measures or other actions to protect health.
- (18) In order for there to be confidence in the scientific basis for food law, risk assessments should be undertaken in an independent, objective and transparent manner, on the basis of the available scientific information and data.
- (19) It is recognised that scientific risk assessment alone cannot, in some cases, provide all the information on which a risk management decision should be based, and that other factors relevant to the matter under consideration should legitimately be taken into account including societal, economic, traditional, ethical and environmental factors and the feasibility of controls.
- (20) The precautionary principle has been invoked to ensure health protection in the Community, thereby giving rise to barriers to the free movement of food or feed. Therefore it is necessary to adopt a uniform basis throughout the Community for the use of this principle.
- (21) In those specific circumstances where a risk to life or health exists but scientific uncertainty persists, the precautionary principle provides a mechanism for determining risk management measures or other actions in order to ensure the high level of health protection chosen in the Community.
- (22) Food safety and the protection of consumer's interests is of increasing concern to the general public, non-governmental organisations, professional associations, international trading partners and trade organisations. It is necessary to ensure that consumer confidence and the confidence of trading partners is secured through the open and transparent development of food law and through public authorities taking the appropriate steps to inform the public where there are reasonable grounds to suspect that a food may present a risk to health.

- (23) The safety and confidence of consumers within the Community, and in third countries, are of paramount importance. The Community is a major global trader in food and feed and, in this context, it has entered into international trade agreements, it contributes to the development of international standards which underpin food law, and it supports the principles of free trade in safe feed and safe, wholesome food in a non-discriminatory manner, following fair and ethical trading practices.
- (24) It is necessary to ensure that food and feed exported or re-exported from the Community complies with Community law or the requirements set up by the importing country. In other circumstances, food and feed can only be exported or re-exported if the importing country has expressly agreed. However, it is necessary to ensure that even where there is agreement of the importing country, food injurious to health or unsafe feed is not exported or re-exported.
- (25) It is necessary to establish the general principles upon which food and feed may be traded and the objectives and principles for the contribution of the Community to developing international standards and trade agreements.
- (26) Some Member States have adopted horizontal legislation on food safety imposing, in particular, a general obligation on economic operators to market only food that is safe. However, these Member States apply different basic criteria for establishing whether a food is safe. Given these different approaches, and in the absence of horizontal legislation in other Member States, barriers to trade in foods are liable to arise. Similarly such barriers may arise to trade in feed.
- (27) It is therefore necessary to establish general requirements for only safe food and feed to be placed on the market, to ensure that the internal market in such products functions effectively.
- (28) Experience has shown that the functioning of the internal market in food or feed can be jeopardised where it is impossible to trace food and feed. It is therefore necessary to establish a comprehensive system of traceability within food and feed businesses so that targeted and accurate withdrawals can be undertaken or information given to consumers or control officials, thereby avoiding the potential for unnecessary wider disruption in the event of food safety problems.
- (29) It is necessary to ensure that a food or feed business including an importer can identify at least the business from which the food, feed, animal or substance that may be incorporated into a food or feed has been supplied, to ensure that on investigation, traceability can be assured at all stages.
- (30) A food business operator is best placed to devise a safe system for supplying food and ensuring that the food it supplies is safe; thus, it should have primary legal responsibility for ensuring food safety. Although this principle exists in some Member States and areas of food law, in other areas this is either not explicit or else responsibility is assumed by the competent authorities of the Member State through the control activities they carry out. Such disparities are liable to create barriers to trade and distort competition between food business operators in different Member States.
- (31) Similar requirements should apply to feed and feed business operators.
- (32) The scientific and technical basis of Community legislation relating to the safety of food and feed should contribute to the achievement of a high level of health protection within the Community. The Community should have access to high-quality, independent and efficient scientific and technical support.
- (33) The scientific and technical issues in relation to food and feed safety are becoming increasingly important and complex. The establishment of a European Food Safety Authority, hereinafter referred to as 'the Authority', should reinforce the present system of scientific and technical support which is no longer able to respond to increasing demands on it.
- (34) Pursuant to the general principles of food law, the Authority should take on the role of an independent scientific point of reference in risk assessment and in so doing should assist in ensuring the smooth functioning of the internal market. It may be called upon to give opinions on contentious scientific issues, thereby enabling the Community institutions and Member States to take informed risk management decisions necessary to ensure food and feed safety whilst helping avoid the fragmentation of the internal market through the adoption of unjustified or unnecessary obstacles to the free movement of food and feed.
- (35) The Authority should be an independent scientific source of advice, information and risk communication in order to improve consumer confidence; nevertheless, in order to promote coherence between the risk assessment, risk management and risk communication functions, the link between risk assessors and risk managers should be strengthened.

- (36) The Authority should provide a comprehensive independent scientific view of the safety and other aspects of the whole food and feed supply chains, which implies wide-ranging responsibilities for the Authority. These should include issues having a direct or indirect impact on the safety of the food and feed supply chains, animal health and welfare, and plant health. However, it is necessary to ensure that the Authority focuses on food safety, so its mission in relation to animal health, animal welfare and plant health issues that are not linked to the safety of the food supply chain should be limited to the provision of scientific opinions. The Authority's mission should also cover scientific advice and scientific and technical support on human nutrition in relation to Community legislation and assistance to the Commission at its request on communication linked to Community health programmes.
- (37) Since some products authorised under food law such as pesticides or additives in animal feed may involve risks to the environment or to the safety of workers, some environmental and worker protection aspects should also be assessed by the Authority in accordance with the relevant legislation.
- (38) In order to avoid duplicated scientific assessments and related scientific opinions on genetically modified organisms (GMOs), the Authority should also provide scientific opinions on products other than food and feed relating to GMOs as defined by Directive 2001/18/EC ⁽¹⁾ and without prejudice to the procedures established therein.
- (39) The Authority should contribute through the provision of support on scientific matters, to the Community's and Member States' role in the development and establishment of international food safety standards and trade agreements.
- (40) The confidence of the Community institutions, the general public and interested parties in the Authority is essential. For this reason, it is vital to ensure its independence, high scientific quality, transparency and efficiency. Cooperation with Member States is also indispensable.
- (41) To that effect the Management Board should be appointed in such a way as to secure the highest standard of competence, a broad range of relevant expertise, for instance in management and in public administration, and the broadest possible geographic distribution within the Union. This should be facilitated by a rotation of the different countries of origin of the members of the Management Board without any post being reserved for nationals of any specific Member State.
- (42) The Authority should have the means to perform all the tasks required to enable it to carry out its role.
- (43) The Management Board should have the necessary powers to establish the budget, check its implementation, draw up internal rules, adopt financial regulations, appoint members of the Scientific Committee and Scientific Panels and appoint the Executive Director.
- (44) The Authority should cooperate closely with competent bodies in the Member States if it is to operate effectively. An Advisory Forum should be created in order to advise the Executive Director, to constitute a mechanism of exchange of information, and to ensure close cooperation in particular with regard to the networking system. Cooperation and appropriate exchange of information should also minimise the potential for diverging scientific opinions.
- (45) The Authority should take over the role of the Scientific Committees attached to the Commission in issuing scientific opinions in its field of competence. It is necessary to reorganise these Committees to ensure greater scientific consistency in relation to the food supply chain and to enable them to work more effectively. A Scientific Committee and Permanent Scientific Panels should therefore be set up within the Authority to provide these opinions.
- (46) In order to guarantee independence, members of the Scientific Committee and Panels should be independent scientists recruited on the basis of an open application procedure.
- (47) The Authority's role as an independent scientific point of reference means that a scientific opinion may be requested not only by the Commission, but also by the European Parliament and the Member States. In order to ensure the manageability and consistency of the process of scientific advice, the Authority should be able to refuse or amend a request providing justification for this and on the basis of predetermined criteria. Steps should also be taken to help avoid diverging scientific opinions and, in the event of diverging scientific opinions between scientific bodies, procedures should be in place to resolve the divergence or provide the risk managers with a transparent basis of scientific information.
- ⁽¹⁾ Directive 2001/18/EC of the European Parliament and of the Council of 12 March 2001 on the deliberate release into the environment of genetically modified organisms and repealing Council Directive 90/220/EEC (OJ L 106, 17.4.2001, p. 1).

- (48) The Authority should also be able to commission scientific studies necessary for the accomplishment of its duties, while ensuring that the links established by it with the Commission and the Member States prevent duplication of effort. It should be done in an open and transparent fashion and the Authority should take into account existing Community expertise and structures.
- (49) The lack of an effective system of collection and analysis at Community level of data on the food supply chain is recognised as a major shortcoming. A system for the collection and analysis of relevant data in the fields covered by the Authority should therefore be set up, in the form of a network coordinated by the Authority. A review of Community data collection networks already existing in the fields covered by the Authority is called for.
- (50) Improved identification of emerging risks may in the long term be a major preventive instrument at the disposal of the Member States and the Community in the exercise of its policies. It is therefore necessary to assign to the Authority an anticipatory task of collecting information and exercising vigilance and providing evaluation of and information on emerging risks with a view to their prevention.
- (51) The establishment of the Authority should enable Member States to become more closely involved in scientific procedures. There should therefore be close cooperation between the Authority and the Member States for this purpose. In particular, the Authority should be able to assign certain tasks to organisations in the Member States.
- (52) It is necessary to ensure that a balance is struck between the need to use national organisations to carry out tasks for the Authority and the need to ensure for the purposes of overall consistency that such tasks are carried out in line with the criteria established for such tasks. Existing procedures for the allocation of scientific tasks to the Member States, in particular with regard to the evaluation of dossiers presented by industry for the authorisation of certain substances, products or procedures, should be re-examined within a year with the objective of taking into account the establishment of the Authority and the new facilities it offers, the evaluation procedures remaining at least as stringent as before.
- (53) The Commission remains fully responsible for communicating risk management measures. The appropriate information should therefore be exchanged between the Authority and the Commission. Close cooperation between the Authority, the Commission and the Member States is also necessary to ensure the coherence of the global communication process.
- (54) The independence of the Authority and its role in informing the public mean that it should be able to communicate autonomously in the fields falling within its competence, its purpose being to provide objective, reliable and easily understandable information.
- (55) Appropriate cooperation with the Member States and other interested parties is necessary in the specific field of public information campaigns to take into account any regional parameters and any correlation with health policy.
- (56) In addition to its operating principles based on independence and transparency, the Authority should be an organisation open to contacts with consumers and other interested groups.
- (57) The Authority should be financed by the general budget of the European Union. However, in the light of experience acquired, in particular with regard to the processing of authorisation dossiers presented by industry, the possibility of fees should be examined within three years following the entry into force of this Regulation. The Community budgetary procedure remains applicable as far as any subsidies chargeable to the general budget of the European Union are concerned. Moreover, the auditing of accounts should be undertaken by the Court of Auditors.
- (58) It is necessary to allow for the participation of European countries which are not members of the European Union and which have concluded agreements obliging them to transpose and implement the body of Community law in the field covered by this Regulation.
- (59) A system for rapid alert already exists in the framework of Council Directive 92/59/EEC of 29 June 1992 on general product safety⁽¹⁾. The scope of the existing system includes food and industrial products but not feed. Recent food crises have demonstrated the need to set up an improved and broadened rapid alert system covering food and feed. This revised system should be managed by the Commission and include as members of the network the Member States, the Commission and the Authority. The system should not cover the Community arrangements for the early exchange of information in the event of a radiological emergency as defined in Council Decision 87/600/Euratom⁽²⁾.
- (60) Recent food safety incidents have demonstrated the need to establish appropriate measures in emergency situations ensuring that all foods, whatever their type and origin, and all feed should be subject to common measures in the event of a serious risk to human health, animal health or the environment. Such a comprehensive approach to emergency food safety measures should allow effective action to be taken and avoid artificial disparities in the treatment of a serious risk in relation to food or feed.

⁽¹⁾ OJ L 228, 11.8.1992, p. 24.

⁽²⁾ OJ L 371, 30.12.1987, p. 76.

- (61) Recent food crises have also shown the benefits to the Commission of having properly adapted, more rapid procedures for crisis management. These organisational procedures should make it possible to improve coordination of effort and to determine the most effective measures on the basis of the best scientific information. Therefore, revised procedures should take into account the Authority's responsibilities and should provide for its scientific and technical assistance in the form of advice in the event of a food crisis.
- (62) In order to ensure a more effective, comprehensive approach to the food chain, a Committee on the Food Chain and Animal Health should be established to replace the Standing Veterinary Committee, the Standing Committee for Foodstuffs and the Standing Committee for Feedingstuffs. Accordingly, Council Decisions 68/361/EEC ⁽¹⁾, 69/414/EEC ⁽²⁾, and 70/372/EEC ⁽³⁾, should be repealed. For the same reason the Committee on the Food Chain and Animal Health should also replace the Standing Committee on Plant Health in relation to its competence (for Directives 76/895/EEC ⁽⁴⁾, 86/362/EEC ⁽⁵⁾, 86/363/EEC ⁽⁶⁾, 90/642/EEC ⁽⁷⁾ and 91/414/EEC ⁽⁸⁾) on plant protection products and the setting of maximum residue levels.
- (63) The measures necessary for the implementation of this Regulation should be adopted in accordance with Council Decision 1999/468/EC of 28 June 1999 laying down the procedures for the exercise of implementing powers conferred on the Commission ⁽⁹⁾.
- (64) It is necessary that operators should have sufficient time to adapt to some of the requirements established by the present Regulation and that the European Food Safety Authority should commence its operations on 1 January 2002.
- (65) It is important to avoid confusion between the missions of the Authority and the European Agency for the Evaluation of Medicinal Products (EMEA) established by Council Regulation (EEC) No 2309/93 ⁽¹⁰⁾. Consequently, it is necessary to establish that this Regulation is without prejudice to the competence conferred on the EMEA by Community legislation, including powers conferred by Council Regulation (EEC) No 2377/90 of 26 June 1990 laying down a Community procedure for the establishment of maximum residue limits of veterinary medicinal products in foodstuffs of animal origin ⁽¹¹⁾.
- (66) It is necessary and appropriate for the achievement of the basic objectives of this Regulation to provide for the approximation of the concepts, principles and procedures forming a common basis for food law in the Community and to establish a European Food Safety Authority. In accordance with the principle of proportionality as set out in Article 5 of the Treaty, this Regulation does not go beyond what is necessary in order to achieve the objectives pursued,
- HAVE ADOPTED THIS REGULATION:

CHAPTER I

SCOPE AND DEFINITIONS

Article 1

Aim and scope

1. This Regulation provides the basis for the assurance of a high level of protection of human health and consumers' interest in relation to food, taking into account in particular the diversity in the supply of food including traditional products, whilst ensuring the effective functioning of the internal market.

It establishes common principles and responsibilities, the means to provide a strong science base, efficient organisational arrangements and procedures to underpin decision-making in matters of food and feed safety.

2. For the purposes of paragraph 1, this Regulation lays down the general principles governing food and feed in general, and food and feed safety in particular, at Community and national level.

It establishes the European Food Safety Authority.

It lays down procedures for matters with a direct or indirect impact on food and feed safety.

⁽¹⁾ OJ L 255, 18.10.1968, p. 23.

⁽²⁾ OJ L 291, 19.11.1969, p. 9.

⁽³⁾ OJ L 170, 3.8.1970, p. 1.

⁽⁴⁾ OJ L 340, 9.12.1976, p. 26. Directive as last amended by Commission Directive 2000/57/EC (OJ L 244, 29.9.2000, p. 76).

⁽⁵⁾ OJ L 221, 7.8.1986, p. 37. Directive as last amended by Commission Directive 2001/57/EC (OJ L 208, 1.8.2001, p. 36).

⁽⁶⁾ OJ L 221, 7.8.1986, p. 43. Directive as last amended by Commission Directive 2001/57/EC.

⁽⁷⁾ OJ L 350, 14.12.1990, p. 71. Directive as last amended by Commission Directive 2001/57/EC.

⁽⁸⁾ OJ L 230, 19.8.1991, p. 1. Directive as last amended by Commission Directive 2001/49/EC (OJ L 176, 29.6.2001, p. 61).

⁽⁹⁾ OJ L 184, 17.7.1999, p. 23.

⁽¹⁰⁾ OJ L 214, 24.8.1993, p. 1. Regulation amended by Commission Regulation (EC) No 649/98 (OJ L 88, 24.3.1998, p. 7).

⁽¹¹⁾ OJ L 224, 18.8.1990, p. 1. Regulation as last amended by Commission Regulation (EC) No 1553/2001 (OJ L 205, 31.7.2001, p. 16).

3. This Regulation shall apply to all stages of production, processing and distribution of food and feed. It shall not apply to primary production for private domestic use or to the domestic preparation, handling or storage of food for private domestic consumption.

Article 2

Definition of 'food'

For the purposes of this Regulation, 'food' (or 'foodstuff') means any substance or product, whether processed, partially processed or unprocessed, intended to be, or reasonably expected to be ingested by humans.

'Food' includes drink, chewing gum and any substance, including water, intentionally incorporated into the food during its manufacture, preparation or treatment. It includes water after the point of compliance as defined in Article 6 of Directive 98/83/EC and without prejudice to the requirements of Directives 80/778/EEC and 98/83/EC.

'Food' shall not include:

- (a) feed;
- (b) live animals unless they are prepared for placing on the market for human consumption;
- (c) plants prior to harvesting;
- (d) medicinal products within the meaning of Council Directives 65/65/EEC ⁽¹⁾ and 92/73/EEC ⁽²⁾;
- (e) cosmetics within the meaning of Council Directive 76/768/EEC ⁽³⁾;
- (f) tobacco and tobacco products within the meaning of Council Directive 89/622/EEC ⁽⁴⁾;
- (g) narcotic or psychotropic substances within the meaning of the United Nations Single Convention on Narcotic Drugs, 1961, and the United Nations Convention on Psychotropic Substances, 1971;
- (h) residues and contaminants.

Article 3

Other definitions

For the purposes of this Regulation:

1. 'food law' means the laws, regulations and administrative provisions governing food in general, and food safety in particular, whether at Community or national level; it covers any stage of production, processing and distribution

of food, and also of feed produced for, or fed to, food-producing animals;

2. 'food business' means any undertaking, whether for profit or not and whether public or private, carrying out any of the activities related to any stage of production, processing and distribution of food;
3. 'food business operator' means the natural or legal persons responsible for ensuring that the requirements of food law are met within the food business under their control;
4. 'feed' (or 'feedingstuff') means any substance or product, including additives, whether processed, partially processed or unprocessed, intended to be used for oral feeding to animals;
5. 'feed business' means any undertaking whether for profit or not and whether public or private, carrying out any operation of production, manufacture, processing, storage, transport or distribution of feed including any producer producing, processing or storing feed for feeding to animals on his own holding;
6. 'feed business operator' means the natural or legal persons responsible for ensuring that the requirements of food law are met within the feed business under their control;
7. 'retail' means the handling and/or processing of food and its storage at the point of sale or delivery to the final consumer, and includes distribution terminals, catering operations, factory canteens, institutional catering, restaurants and other similar food service operations, shops, supermarket distribution centres and wholesale outlets;
8. 'placing on the market' means the holding of food or feed for the purpose of sale, including offering for sale or any other form of transfer, whether free of charge or not, and the sale, distribution, and other forms of transfer themselves;
9. 'risk' means a function of the probability of an adverse health effect and the severity of that effect, consequential to a hazard;
10. 'risk analysis' means a process consisting of three interconnected components: risk assessment, risk management and risk communication;
11. 'risk assessment' means a scientifically based process consisting of four steps: hazard identification, hazard characterisation, exposure assessment and risk characterisation;
12. 'risk management' means the process, distinct from risk assessment, of weighing policy alternatives in consultation with interested parties, considering risk assessment and other legitimate factors, and, if need be, selecting appropriate prevention and control options;

⁽¹⁾ OJ 22, 9.2.1965, p. 369. Directive as last amended by Directive 93/39/EEC (OJ L 214, 24.8.1993, p. 22).

⁽²⁾ OJ L 297, 13.10.1992, p. 8.

⁽³⁾ OJ L 262, 27.9.1976, p. 169. Directive as last amended by Commission Directive 2000/41/EC (OJ L 145, 20.6.2000, p. 25).

⁽⁴⁾ OJ L 359, 8.12.1989, p. 1. Directive as last amended by Directive 92/41/EEC (OJ L 158, 11.6.1992, p. 30).

13. 'risk communication' means the interactive exchange of information and opinions throughout the risk analysis process as regards hazards and risks, risk-related factors and risk perceptions, among risk assessors, risk managers, consumers, feed and food businesses, the academic community and other interested parties, including the explanation of risk assessment findings and the basis of risk management decisions;
14. 'hazard' means a biological, chemical or physical agent in, or condition of, food or feed with the potential to cause an adverse health effect;
15. 'traceability' means the ability to trace and follow a food, feed, food-producing animal or substance intended to be, or expected to be incorporated into a food or feed, through all stages of production, processing and distribution;
16. 'stages of production, processing and distribution' means any stage, including import, from and including the primary production of a food, up to and including its storage, transport, sale or supply to the final consumer and, where relevant, the importation, production, manufacture, storage, transport, distribution, sale and supply of feed;
17. 'primary production' means the production, rearing or growing of primary products including harvesting, milking and farmed animal production prior to slaughter. It also includes hunting and fishing and the harvesting of wild products;
18. 'final consumer' means the ultimate consumer of a food-stuff who will not use the food as part of any food business operation or activity.

CHAPTER II

GENERAL FOOD LAW

Article 4

Scope

1. This Chapter relates to all stages of the production, processing and distribution of food, and also of feed produced for, or fed to, food-producing animals.
2. The principles laid down in Articles 5 to 10 shall form a general framework of a horizontal nature to be followed when measures are taken.
3. Existing food law principles and procedures shall be adapted as soon as possible and by 1 January 2007 at the latest in order to comply with Articles 5 to 10.
4. Until then, and by way of derogation from paragraph 2, existing legislation shall be implemented taking account of the principles laid down in Articles 5 to 10.

SECTION 1

GENERAL PRINCIPLES OF FOOD LAW

Article 5

General objectives

1. Food law shall pursue one or more of the general objectives of a high level of protection of human life and health and the protection of consumers' interests, including fair practices in food trade, taking account of, where appropriate, the protection of animal health and welfare, plant health and the environment.

2. Food law shall aim to achieve the free movement in the Community of food and feed manufactured or marketed according to the general principles and requirements in this Chapter.

3. Where international standards exist or their completion is imminent, they shall be taken into consideration in the development or adaptation of food law, except where such standards or relevant parts would be an ineffective or inappropriate means for the fulfilment of the legitimate objectives of food law or where there is a scientific justification, or where they would result in a different level of protection from the one determined as appropriate in the Community.

Article 6

Risk analysis

1. In order to achieve the general objective of a high level of protection of human health and life, food law shall be based on risk analysis except where this is not appropriate to the circumstances or the nature of the measure.
2. Risk assessment shall be based on the available scientific evidence and undertaken in an independent, objective and transparent manner.
3. Risk management shall take into account the results of risk assessment, and in particular, the opinions of the Authority referred to in Article 22, other factors legitimate to the matter under consideration and the precautionary principle where the conditions laid down in Article 7(1) are relevant, in order to achieve the general objectives of food law established in Article 5.

*Article 7***Precautionary principle**

1. In specific circumstances where, following an assessment of available information, the possibility of harmful effects on health is identified but scientific uncertainty persists, provisional risk management measures necessary to ensure the high level of health protection chosen in the Community may be adopted, pending further scientific information for a more comprehensive risk assessment.

2. Measures adopted on the basis of paragraph 1 shall be proportionate and no more restrictive of trade than is required to achieve the high level of health protection chosen in the Community, regard being had to technical and economic feasibility and other factors regarded as legitimate in the matter under consideration. The measures shall be reviewed within a reasonable period of time, depending on the nature of the risk to life or health identified and the type of scientific information needed to clarify the scientific uncertainty and to conduct a more comprehensive risk assessment.

*Article 8***Protection of consumers' interests**

1. Food law shall aim at the protection of the interests of consumers and shall provide a basis for consumers to make informed choices in relation to the foods they consume. It shall aim at the prevention of:

- (a) fraudulent or deceptive practices;
- (b) the adulteration of food; and
- (c) any other practices which may mislead the consumer.

SECTION 2

PRINCIPLES OF TRANSPARENCY*Article 9***Public consultation**

There shall be open and transparent public consultation, directly or through representative bodies, during the preparation, evaluation and revision of food law, except where the urgency of the matter does not allow it.

*Article 10***Public information**

Without prejudice to the applicable provisions of Community and national law on access to documents, where there are reasonable grounds to suspect that a food or feed may present

a risk for human or animal health, then, depending on the nature, seriousness and extent of that risk, public authorities shall take appropriate steps to inform the general public of the nature of the risk to health, identifying to the fullest extent possible the food or feed, or type of food or feed, the risk that it may present, and the measures which are taken or about to be taken to prevent, reduce or eliminate that risk.

SECTION 3

GENERAL OBLIGATIONS OF FOOD TRADE*Article 11***Food and feed imported into the Community**

Food and feed imported into the Community for placing on the market within the Community shall comply with the relevant requirements of food law or conditions recognised by the Community to be at least equivalent thereto or, where a specific agreement exists between the Community and the exporting country, with requirements contained therein.

*Article 12***Food and feed exported from the Community**

1. Food and feed exported or re-exported from the Community for placing on the market of a third country shall comply with the relevant requirements of food law, unless otherwise requested by the authorities of the importing country or established by the laws, regulations, standards, codes of practice and other legal and administrative procedures as may be in force in the importing country.

In other circumstances, except in the case where foods are injurious to health or feeds are unsafe, food and feed can only be exported or re-exported if the competent authorities of the country of destination have expressly agreed, after having been fully informed of the reasons for which and the circumstances in which the food or feed concerned could not be placed on the market in the Community.

2. Where the provisions of a bilateral agreement concluded between the Community or one of its Member States and a third country are applicable, food and feed exported from the Community or that Member State to that third country shall comply with the said provisions.

*Article 13***International standards**

Without prejudice to their rights and obligations, the Community and the Member States shall:

- (a) contribute to the development of international technical standards for food and feed and sanitary and phytosanitary standards;
- (b) promote the coordination of work on food and feed standards undertaken by international governmental and non-governmental organisations;
- (c) contribute, where relevant and appropriate, to the development of agreements on recognition of the equivalence of specific food and feed-related measures;
- (d) give particular attention to the special development, financial and trade needs of developing countries, with a view to ensuring that international standards do not create unnecessary obstacles to exports from developing countries;
- (e) promote consistency between international technical standards and food law while ensuring that the high level of protection adopted in the Community is not reduced.

SECTION 4

GENERAL REQUIREMENTS OF FOOD LAW*Article 14***Food safety requirements**

- 1. Food shall not be placed on the market if it is unsafe.
- 2. Food shall be deemed to be unsafe if it is considered to be:
 - (a) injurious to health;
 - (b) unfit for human consumption.
- 3. In determining whether any food is unsafe, regard shall be had:
 - (a) to the normal conditions of use of the food by the consumer and at each stage of production, processing and distribution, and
 - (b) to the information provided to the consumer, including information on the label, or other information generally available to the consumer concerning the avoidance of specific adverse health effects from a particular food or category of foods.

4. In determining whether any food is injurious to health, regard shall be had:

- (a) not only to the probable immediate and/or short-term and/or long-term effects of that food on the health of a person consuming it, but also on subsequent generations;
- (b) to the probable cumulative toxic effects;
- (c) to the particular health sensitivities of a specific category of consumers where the food is intended for that category of consumers.

5. In determining whether any food is unfit for human consumption, regard shall be had to whether the food is unacceptable for human consumption according to its intended use, for reasons of contamination, whether by extraneous matter or otherwise, or through putrefaction, deterioration or decay.

6. Where any food which is unsafe is part of a batch, lot or consignment of food of the same class or description, it shall be presumed that all the food in that batch, lot or consignment is also unsafe, unless following a detailed assessment there is no evidence that the rest of the batch, lot or consignment is unsafe.

7. Food that complies with specific Community provisions governing food safety shall be deemed to be safe insofar as the aspects covered by the specific Community provisions are concerned.

8. Conformity of a food with specific provisions applicable to that food shall not bar the competent authorities from taking appropriate measures to impose restrictions on it being placed on the market or to require its withdrawal from the market where there are reasons to suspect that, despite such conformity, the food is unsafe.

9. Where there are no specific Community provisions, food shall be deemed to be safe when it conforms to the specific provisions of national food law of the Member State in whose territory the food is marketed, such provisions being drawn up and applied without prejudice to the Treaty, in particular Articles 28 and 30 thereof.

*Article 15***Feed safety requirements**

- 1. Feed shall not be placed on the market or fed to any food-producing animal if it is unsafe.
- 2. Feed shall be deemed to be unsafe for its intended use if it is considered to:
 - have an adverse effect on human or animal health;
 - make the food derived from food-producing animals unsafe for human consumption.

3. Where a feed which has been identified as not satisfying the feed safety requirement is part of a batch, lot or consignment of feed of the same class or description, it shall be presumed that all of the feed in that batch, lot or consignment is so affected, unless following a detailed assessment there is no evidence that the rest of the batch, lot or consignment fails to satisfy the feed safety requirement.

4. Feed that complies with specific Community provisions governing feed safety shall be deemed to be safe insofar as the aspects covered by the specific Community provisions are concerned.

5. Conformity of a feed with specific provisions applicable to that feed shall not bar the competent authorities from taking appropriate measures to impose restrictions on it being placed on the market or to require its withdrawal from the market where there are reasons to suspect that, despite such conformity, the feed is unsafe.

6. Where there are no specific Community provisions, feed shall be deemed to be safe when it conforms to the specific provisions of national law governing feed safety of the Member State in whose territory the feed is in circulation, such provisions being drawn up and applied without prejudice to the Treaty, in particular Articles 28 and 30 thereof.

Article 16

Presentation

Without prejudice to more specific provisions of food law, the labelling, advertising and presentation of food or feed, including their shape, appearance or packaging, the packaging materials used, the manner in which they are arranged and the setting in which they are displayed, and the information which is made available about them through whatever medium, shall not mislead consumers.

Article 17

Responsibilities

1. Food and feed business operators at all stages of production, processing and distribution within the businesses under their control shall ensure that foods or feeds satisfy the requirements of food law which are relevant to their activities and shall verify that such requirements are met.

2. Member States shall enforce food law, and monitor and verify that the relevant requirements of food law are fulfilled by food and feed business operators at all stages of production, processing and distribution.

For that purpose, they shall maintain a system of official controls and other activities as appropriate to the circumstances, including public communication on food and feed safety and risk, food and feed safety surveillance and other

monitoring activities covering all stages of production, processing and distribution.

Member States shall also lay down the rules on measures and penalties applicable to infringements of food and feed law. The measures and penalties provided for shall be effective, proportionate and dissuasive.

Article 18

Traceability

1. The traceability of food, feed, food-producing animals, and any other substance intended to be, or expected to be, incorporated into a food or feed shall be established at all stages of production, processing and distribution.

2. Food and feed business operators shall be able to identify any person from whom they have been supplied with a food, a feed, a food-producing animal, or any substance intended to be, or expected to be, incorporated into a food or feed.

To this end, such operators shall have in place systems and procedures which allow for this information to be made available to the competent authorities on demand.

3. Food and feed business operators shall have in place systems and procedures to identify the other businesses to which their products have been supplied. This information shall be made available to the competent authorities on demand.

4. Food or feed which is placed on the market or is likely to be placed on the market in the Community shall be adequately labelled or identified to facilitate its traceability, through relevant documentation or information in accordance with the relevant requirements of more specific provisions.

5. Provisions for the purpose of applying the requirements of this Article in respect of specific sectors may be adopted in accordance with the procedure laid down in Article 58(2).

Article 19

Responsibilities for food: food business operators

1. If a food business operator considers or has reason to believe that a food which it has imported, produced, processed, manufactured or distributed is not in compliance with the food safety requirements, it shall immediately initiate procedures to withdraw the food in question from the market where the food has left the immediate control of that initial food business operator and inform the competent authorities thereof. Where the product may have reached the consumer, the operator shall effectively and accurately inform the consumers of the reason for its withdrawal, and if necessary, recall from consumers products already supplied to them when other measures are not sufficient to achieve a high level of health protection.

2. A food business operator responsible for retail or distribution activities which do not affect the packaging, labelling, safety or integrity of the food shall, within the limits of its respective activities, initiate procedures to withdraw from the market products not in compliance with the food-safety requirements and shall participate in contributing to the safety of the food by passing on relevant information necessary to trace a food, cooperating in the action taken by producers, processors, manufacturers and/or the competent authorities.

3. A food business operator shall immediately inform the competent authorities if it considers or has reason to believe that a food which it has placed on the market may be injurious to human health. Operators shall inform the competent authorities of the action taken to prevent risks to the final consumer and shall not prevent or discourage any person from cooperating, in accordance with national law and legal practice, with the competent authorities, where this may prevent, reduce or eliminate a risk arising from a food.

4. Food business operators shall collaborate with the competent authorities on action taken to avoid or reduce risks posed by a food which they supply or have supplied.

Article 20

Responsibilities for feed: feed business operators

1. If a feed business operator considers or has reason to believe that a feed which it has imported, produced, processed, manufactured or distributed does not satisfy the feed safety requirements, it shall immediately initiate procedures to withdraw the feed in question from the market and inform the competent authorities thereof. In these circumstances or, in the case of Article 15(3), where the batch, lot or consignment does not satisfy the feed safety requirement, that feed shall be destroyed, unless the competent authority is satisfied otherwise. The operator shall effectively and accurately inform users of the

feed of the reason for its withdrawal, and if necessary, recall from them products already supplied when other measures are not sufficient to achieve a high level of health protection.

2. A feed business operator responsible for retail or distribution activities which do not affect the packaging, labelling, safety or integrity of the feed shall, within the limits of its respective activities, initiate procedures to withdraw from the market products not in compliance with the feed-safety requirements and shall participate in contributing to the safety of food by passing on relevant information necessary to trace a feed, cooperating in the action taken by producers, processors, manufacturers and/or the competent authorities.

3. A feed business operator shall immediately inform the competent authorities if it considers or has reason to believe that a feed which it placed on the market may not satisfy the feed safety requirements. It shall inform the competent authorities of the action taken to prevent risk arising from the use of that feed and shall not prevent or discourage any person from cooperating, in accordance with national law and legal practice, with the competent authorities, where this may prevent, reduce or eliminate a risk arising from a feed.

4. Feed business operators shall collaborate with the competent authorities on action taken in order to avoid risks posed by a feed which they supply or have supplied.

Article 21

Liability

The provisions of this Chapter shall be without prejudice to Council Directive 85/374/EEC of 25 July 1985 on the approximation of the laws, regulations and administrative provisions of the Member States concerning liability for defective products ⁽¹⁾.

CHAPTER III

EUROPEAN FOOD SAFETY AUTHORITY

SECTION 1

MISSION AND TASKS

Article 22

Mission of the Authority

1. A European Food Safety Authority, hereinafter referred to as the 'Authority', is hereby established.

2. The Authority shall provide scientific advice and scientific and technical support for the Community's legislation and policies in all fields which have a direct or indirect impact on food and feed safety. It shall provide independent information on all matters within these fields and communicate on risks.

3. The Authority shall contribute to a high level of protection of human life and health, and in this respect take account of animal health and welfare, plant health and the environment, in the context of the operation of the internal market.

⁽¹⁾ OJ L 210, 7.8.1985, p. 29. Directive as last amended by Directive 1999/34/EC of the European Parliament and of the Council (OJ L 141, 4.6.1999, p. 20).

4. The Authority shall collect and analyse data to allow the characterisation and monitoring of risks which have a direct or indirect impact on food and feed safety.

5. The mission of the Authority shall also include the provision of:

- (a) scientific advice and scientific and technical support on human nutrition in relation to Community legislation and, at the request of the Commission, assistance concerning communication on nutritional issues within the framework of the Community health programme;
- (b) scientific opinions on other matters relating to animal health and welfare and plant health;
- (c) scientific opinions on products other than food and feed relating to genetically modified organisms as defined by Directive 2001/18/EC and without prejudice to the procedures established therein.

6. The Authority shall provide scientific opinions which will serve as the scientific basis for the drafting and adoption of Community measures in the fields falling within its mission.

7. The Authority shall carry out its tasks in conditions which enable it to serve as a point of reference by virtue of its independence, the scientific and technical quality of the opinions it issues and the information it disseminates, the transparency of its procedures and methods of operation, and its diligence in performing the tasks assigned to it.

It shall act in close cooperation with the competent bodies in the Member States carrying out similar tasks to these of the Authority.

8. The Authority, Commission and Member States shall cooperate to promote the effective coherence between risk assessment, risk management and risk communication functions.

9. The Member States shall cooperate with the Authority to ensure the accomplishment of its mission.

Article 23

Tasks of the Authority

The tasks of the Authority shall be the following:

- (a) to provide the Community institutions and the Member States with the best possible scientific opinions in all cases provided for by Community legislation and on any question within its mission;
- (b) to promote and coordinate the development of uniform risk assessment methodologies in the fields falling within its mission;
- (c) to provide scientific and technical support to the Commission in the areas within its mission and, when so requested, in the interpretation and consideration of risk assessment opinions;

- (d) to commission scientific studies necessary for the accomplishment of its mission;
- (e) to search for, collect, collate, analyse and summarise scientific and technical data in the fields within its mission;
- (f) to undertake action to identify and characterise emerging risks, in the fields within its mission;
- (g) to establish a system of networks of organisations operating in the fields within its mission and be responsible for their operation;
- (h) to provide scientific and technical assistance, when requested to do so by the Commission, in the crisis management procedures implemented by the Commission with regard to the safety of food and feed;
- (i) to provide scientific and technical assistance, when requested to do so by the Commission, with a view to improving cooperation between the Community, applicant countries, international organisations and third countries, in the fields within its mission;
- (j) to ensure that the public and interested parties receive rapid, reliable, objective and comprehensible information in the fields within its mission;
- (k) to express independently its own conclusions and orientations on matters within its mission;
- (l) to undertake any other task assigned to it by the Commission within its mission.

SECTION 2

ORGANISATION

Article 24

Bodies of the Authority

The Authority shall comprise:

- (a) a Management Board;
- (b) an Executive Director and his staff;
- (c) an Advisory Forum;
- (d) a Scientific Committee and Scientific Panels.

Article 25

Management Board

1. The Management Board shall be composed of 14 members appointed by the Council in consultation with the European Parliament from a list drawn up by the Commission which includes a number of candidates substantially higher than the number of members to be appointed, plus a representative of the Commission. Four of the members shall have their background in organisations representing consumers and other interests in the food chain.

The list drawn up by the Commission, accompanied by the relevant documentation, shall be forwarded to the European Parliament. As soon as possible and within three months of such communication, the European Parliament may make its views available for consideration by the Council, which will then appoint the Management Board.

The members of the Board shall be appointed in such a way as to secure the highest standards of competence, a broad range of relevant expertise and, consistent with these, the broadest possible geographic distribution within the Union.

2. Members' term of office shall be four years, and may be renewed once. However, for the first mandate, this period shall be six years for half of the members.

3. The Management Board shall adopt the Authority's internal rules on the basis of a proposal by the Executive Director. These rules shall be made public.

4. The Management Board shall elect one of its members as its Chair for a two-year period, which shall be renewable.

5. The Management Board shall adopt its rules of procedure.

Unless otherwise provided, the Management Board shall act by a majority of its members.

6. The Management Board shall meet at the invitation of the Chair or at the request of at least a third of its members.

7. The Management Board shall ensure that the Authority carries out its mission and performs the tasks assigned to it under the conditions laid down in this Regulation.

8. Before 31 January each year, the Management Board shall adopt the Authority's programme of work for the coming year. It shall also adopt a revisable multi-annual programme. The Management Board shall ensure that these programmes are consistent with the Community's legislative and policy priorities in the area of food safety.

Before 30 March each year, the Management Board shall adopt the general report on the Authority's activities for the previous year.

9. The Management Board, having received the Commission's approval and the opinion of the Court of Auditors, shall adopt the Authority's financial regulation which specifies in particular the procedure for drawing up and implementing the Authority's budget, in accordance with Article 142 of the Financial Regulation of 21 December 1977 applicable to the general budget of the European Communities ⁽¹⁾ and with the legislative requirements concerning investigations conducted by the European Anti-Fraud Office.

10. The Executive Director shall take part in the meetings of the Management Board, without voting rights, and shall provide the Secretariat. The Management Board shall invite the Chair of the Scientific Committee to attend its meetings without voting rights.

Article 26

Executive Director

1. The Executive Director shall be appointed by the Management Board, on the basis of a list of candidates proposed by the Commission after an open competition, following publication in the *Official Journal of the European Communities* and elsewhere of a call for expressions of interest, for a period of five years which shall be renewable. Before appointment the candidate nominated by the Management Board shall be invited without delay to make a statement before the European Parliament and answer questions put by members of this institution. The Executive Director may be removed from office by a majority of the Management Board.

2. The Executive Director shall be the legal representative of the Authority and shall be responsible for:

- (a) the day-to-day administration of the Authority;
- (b) drawing up a proposal for the Authority's work programmes in consultation with the Commission;
- (c) implementing the work programmes and the decisions adopted by the Management Board;
- (d) ensuring the provision of appropriate scientific, technical and administrative support for the Scientific Committee and the Scientific Panels;
- (e) ensuring that the Authority carries out its tasks in accordance with the requirements of its users, in particular with regard to the adequacy of the services provided and the time taken;
- (f) the preparation of the statement of revenue and expenditure and the execution of the budget of the Authority;
- (g) all staff matters;
- (h) developing and maintaining contact with the European Parliament, and for ensuring a regular dialogue with its relevant committees.

3. Each year, the Executive Director shall submit to the Management Board for approval:

- (a) a draft general report covering all the activities of the Authority in the previous year;
- (b) draft programmes of work;
- (c) the draft annual accounts for the previous year;
- (d) the draft budget for the coming year.

The Executive Director shall, following adoption by the Management Board, forward the general report and the programmes to the European Parliament, the Council, the Commission and the Member States, and shall have them published.

4. The Executive Director shall approve all financial expenditure of the Authority and report on the Authority's activities to the Management Board.

⁽¹⁾ OJ L 356, 31.12.1977, p. 1. Regulation as last amended by Regulation (EC, ECSC, Euratom) No 762/2001 (OJ L 111, 20.4.2001, p. 1).

Article 27

Advisory Forum

1. The Advisory Forum shall be composed of representatives from competent bodies in the Member States which undertake tasks similar to those of the Authority, on the basis of one representative designated by each Member State. Representatives may be replaced by alternates, appointed at the same time.
2. Members of the Advisory Forum may not be members of the Management Board.
3. The Advisory Forum shall advise the Executive Director in the performance of his duties under this Regulation, in particular in drawing up a proposal for the Authority's work programme. The Executive Director may also ask the Advisory Forum for advice on the prioritisation of requests for scientific opinions.
4. The Advisory Forum shall constitute a mechanism for an exchange of information on potential risks and the pooling of knowledge. It shall ensure close cooperation between the Authority and the competent bodies in the Member States in particular on the following items:
 - (a) avoidance of duplication of the Authority's scientific studies with Member States, in accordance with Article 32;
 - (b) in those circumstances identified in Article 30(4), where the Authority and a national body are obliged to cooperate;
 - (c) in the promoting of the European networking of organisations operating within the fields of the Authority's mission, in accordance with Article 36(1);
 - (d) where the Authority or a Member State identifies an emerging risk.
5. The Advisory Forum shall be chaired by the Executive Director. It shall meet regularly at the invitation of the Chair or at the request of at least a third of its members, and not less than four times per year. Its operational procedures shall be specified in the Authority's internal rules and shall be made public.
6. The Authority shall provide the technical and logistic support necessary for the Advisory Forum and provide the Secretariat for its meetings.
7. Representatives of the Commission's departments may participate in the work of the Advisory Forum. The Executive Director may invite representatives of the European Parliament and from other relevant bodies to take part.

Where the Advisory Forum discusses the matters referred to in Article 22(5)(b), representatives from competent bodies in the Member States which undertake tasks similar to those referred to in Article 22(5)(b) may participate in the work of the Advisory Forum, on the basis of one representative designated by each Member State.

Article 28

Scientific Committee and Scientific Panels

1. The Scientific Committee and permanent Scientific Panels shall be responsible for providing the scientific opinions of the Authority, each within their own spheres of competence, and shall have the possibility, where necessary, of organising public hearings.
 2. The Scientific Committee shall be responsible for the general coordination necessary to ensure the consistency of the scientific opinion procedure, in particular with regard to the adoption of working procedures and harmonisation of working methods. It shall provide opinions on multisectoral issues falling within the competence of more than one Scientific Panel, and on issues which do not fall within the competence of any of the Scientific Panels.
- Where necessary, and particularly in the case of subjects which do not fall within the competence of any of the Scientific Panels, the Scientific Committee shall set up working groups. In such cases, it shall draw on the expertise of those working groups when establishing scientific opinions.
3. The Scientific Committee shall be composed of the Chairs of the Scientific Panels and six independent scientific experts who do not belong to any of the Scientific Panels.
 4. The Scientific Panels shall be composed of independent scientific experts. When the Authority is established, the following Scientific Panels shall be set up:
 - (a) the Panel on food additives, flavourings, processing aids and materials in contact with food;
 - (b) the Panel on additives and products or substances used in animal feed;
 - (c) the Panel on plant health, plant protection products and their residues;
 - (d) the Panel on genetically modified organisms;
 - (e) the Panel on dietetic products, nutrition and allergies;
 - (f) the Panel on biological hazards;
 - (g) the Panel on contaminants in the food chain;
 - (h) the Panel on animal health and welfare.

The number and names of the Scientific Panels may be adapted in the light of technical and scientific development by the Commission, at the Authority's request, in accordance with the procedure referred to in Article 58(2).

5. The members of the Scientific Committee who are not members of Scientific Panels and the members of the Scientific Panels shall be appointed by the Management Board, acting upon a proposal from the Executive Director, for a three-year term of office, which shall be renewable, following publication in the *Official Journal of the European Communities*, in relevant leading scientific publications and on the Authority's website of a call for expressions of interest.

6. The Scientific Committee and the Scientific Panels shall each choose a Chair and two Vice-Chairs from among their members.

7. The Scientific Committee and the Scientific Panels shall act by a majority of their members. Minority opinions shall be recorded.

8. The representatives of the Commission's departments shall be entitled to be present in the meetings of the Scientific Committee, the Scientific Panels and their working groups. If invited to do so, they may assist for the purposes of clarification or information but shall not seek to influence discussions.

9. The procedures for the operation and cooperation of the Scientific Committee and the Scientific Panels shall be laid down in the Authority's internal rules.

These procedures shall relate in particular to:

- (a) the number of times that a member can serve consecutively on a Scientific Committee or Scientific Panel;
- (b) the number of members in each Scientific Panel;
- (c) the procedure for reimbursing the expenses of members of the Scientific Committee and the Scientific Panels;
- (d) the manner in which tasks and requests for scientific opinions are assigned to the Scientific Committee and the Scientific Panels;
- (e) the creation and organisation of the working groups of the Scientific Committee and the Scientific Panels, and the possibility of external experts being included in those working groups;
- (f) the possibility of observers being invited to meetings of the Scientific Committee and the Scientific Panels;
- (g) the possibility of organising public hearings.

SECTION 3

OPERATION

Article 29

Scientific opinions

1. The Authority shall issue a scientific opinion:
- (a) at the request of the Commission, in respect of any matter within its mission, and in all cases where Community legislation makes provision for the Authority to be consulted;
 - (b) on its own initiative, on matters falling within its mission.

The European Parliament or a Member State may request the Authority to issue a scientific opinion on matters falling within its mission.

2. Requests referred to in paragraph 1 shall be accompanied by background information explaining the scientific issue to be addressed and the Community interest.

3. Where Community legislation does not already specify a time limit for the delivery of a scientific opinion, the Authority shall issue scientific opinions within the time limit specified in the requests for opinions, except in duly justified circumstances.

4. Where different requests are made on the same issues or where the request is not in accordance with paragraph 2, or is unclear, the Authority may either refuse, or propose amendments to a request for an opinion in consultation with the institution or Member State(s) that made the request. Justifications for the refusal shall be given to the institution or Member State(s) that made the request.

5. Where the Authority has already delivered a scientific opinion on the specific topic in a request, it may refuse the request if it concludes there are no new scientific elements justifying the re-examination. Justifications for the refusal shall be given to the institution or Member State(s) that made the request.

6. The implementing rules for the application of this Article shall be established by the Commission after consulting the Authority, in accordance with the procedure provided for in Article 58(2). These rules shall specify in particular:

- (a) the procedure to be applied by the Authority to the requests referred to it;
- (b) the guidelines governing the scientific evaluation of substances, products or processes which are subject under Community legislation to a system of prior authorisation or entry on a positive list, in particular where Community legislation makes provision for, or authorises, a dossier to be presented for this purpose by the applicant.

7. The Authority's internal rules shall specify requirements in regard to format, explanatory background and publication of a scientific opinion.

Article 30

Diverging scientific opinions

1. The Authority shall exercise vigilance in order to identify at an early stage any potential source of divergence between its scientific opinions and the scientific opinions issued by other bodies carrying out similar tasks.

2. Where the Authority identifies a potential source of divergence, it shall contact the body in question to ensure that all relevant scientific information is shared and in order to identify potentially contentious scientific issues.

3. Where a substantive divergence over scientific issues has been identified and the body in question is a Community agency or one of the Commission's Scientific Committees, the Authority and the body concerned shall be obliged to cooperate with a view to either resolving the divergence or presenting a joint document to the Commission clarifying the contentious scientific issues and identifying the relevant uncertainties in the data. This document shall be made public.

4. Where a substantive divergence over scientific issues has been identified and the body in question is a Member State body, the Authority and the national body shall be obliged to cooperate with a view to either resolving the divergence or preparing a joint document clarifying the contentious scientific issues and identifying the relevant uncertainties in the data. This document shall be made public.

Article 31

Scientific and technical assistance

1. The Authority may be requested by the Commission to provide scientific or technical assistance in any field within its mission. The tasks of providing scientific and technical assistance shall consist of scientific or technical work involving the application of well-established scientific or technical principles which does not require scientific evaluation by the Scientific Committee or a Scientific Panel. Such tasks may include in particular assistance to the Commission for the establishment or evaluation of technical criteria and also assistance to the Commission in the development of technical guidelines.

2. Where the Commission refers a request for scientific or technical assistance to the Authority, it shall specify, in agreement with the Authority, the time limit within which the task must be completed.

Article 32

Scientific studies

1. Using the best independent scientific resources available, the Authority shall commission scientific studies necessary for the performance of its mission. Such studies shall be commissioned in an open and transparent fashion. The Authority shall seek to avoid duplication with Member State or Community research programmes and shall foster cooperation through appropriate coordination.

2. The Authority shall inform the European Parliament, the Commission and the Member States of the results of its scientific studies.

Article 33

Collection of data

1. The Authority shall search for, collect, collate, analyse and summarise relevant scientific and technical data in the

fields within its mission. This shall involve in particular the collection of data relating to:

- (a) food consumption and the exposure of individuals to risks related to the consumption of food;
- (b) incidence and prevalence of biological risk;
- (c) contaminants in food and feed;
- (d) residues.

2. For the purposes of paragraph 1, the Authority shall work in close cooperation with all organisations operating in the field of data collection, including those from applicant countries, third countries or international bodies.

3. The Member States shall take the necessary measures to enable the data they collect in the fields referred to in paragraphs 1 and 2 to be transmitted to the Authority.

4. The Authority shall forward to the Member States and the Commission appropriate recommendations which might improve the technical comparability of the data it receives and analyses, in order to facilitate consolidation at Community level.

5. Within one year following the date of entry into force of this Regulation, the Commission shall publish an inventory of data collection systems existing at Community level in the fields within the mission of the Authority.

The report, which shall be accompanied, where appropriate, by proposals, shall indicate in particular:

- (a) for each system, the role which should be assigned to the Authority, and any modifications or improvements which might be required to enable the Authority to carry out its mission, in cooperation with the Member States;
- (b) the shortcomings which should be remedied to enable the Authority to collect and summarise at Community level relevant scientific and technical data in the fields within its mission.

6. The Authority shall forward the results of its work in the field of data collection to the European Parliament, the Commission and the Member States.

Article 34

Identification of emerging risks

1. The Authority shall establish monitoring procedures for systematically searching for, collecting, collating and analysing information and data with a view to the identification of emerging risks in the fields within its mission.

2. Where the Authority has information leading it to suspect an emerging serious risk, it shall request additional information from the Member States, other Community agencies and the Commission. The Member States, the Community agencies concerned and the Commission shall reply as a matter of urgency and forward any relevant information in their possession.

3. The Authority shall use all the information it receives in the performance of its mission to identify an emerging risk.

4. The Authority shall forward the evaluation and information collected on emerging risks to the European Parliament, the Commission and the Member States.

Article 35

Rapid alert system

To enable it to perform its task of monitoring the health and nutritional risks of foods as effectively as possible, the Authority shall be the recipient of any messages forwarded via the rapid alert system. It shall analyse the content of such messages with a view to providing the Commission and the Member States with any information required for the purposes of risk analysis.

Article 36

Networking of organisations operating in the fields within the Authority's mission

1. The Authority shall promote the European networking of organisations operating in the fields within the Authority's mission. The aim of such networking is, in particular, to facilitate a scientific cooperation framework by the coordination of activities, the exchange of information, the development and implementation of joint projects, the exchange of expertise and best practices in the fields within the Authority's mission.

2. The Management Board, acting on a proposal from the Executive Director, shall draw up a list to be made public of competent organisations designated by the Member States which may assist the Authority, either individually or in networks, with its mission. The Authority may entrust to these organisations certain tasks, in particular preparatory work for scientific opinions, scientific and technical assistance, collection of data and identification of emerging risks. Some of these tasks may be eligible for financial support.

3. The implementing rules for the application of paragraphs 1 and 2 shall be laid down by the Commission, after consulting the Authority, in accordance with the procedure referred to in Article 58(2). Those rules shall specify, in particular, the criteria for inclusion of an institute on the list of competent organisations designated by the Member States, arrangements for setting out harmonised quality requirements and the financial rules governing any financial support.

4. Within one year following the entry into force of this Regulation, the Commission shall publish an inventory of Community systems existing in the fields within the mission of the Authority which make provision for Member States to carry out certain tasks in the field of scientific evaluation, in particular the examination of authorisation dossiers. The report, which shall be accompanied, where appropriate, by proposals, shall indicate in particular, for each system, any modifications or improvements which might be required to

enable the Authority to carry out its mission, in cooperation with the Member States.

SECTION 4

INDEPENDENCE, TRANSPARENCY, CONFIDENTIALITY AND COMMUNICATION

Article 37

Independence

1. The members of the Management Board, the members of the Advisory Forum and the Executive Director shall undertake to act independently in the public interest.

For this purpose, they shall make a declaration of commitment and a declaration of interests indicating either the absence of any interests which might be considered prejudicial to their independence or any direct or indirect interests which might be considered prejudicial to their independence. Those declarations shall be made annually in writing.

2. The members of the Scientific Committee and the Scientific Panels shall undertake to act independently of any external influence.

For this purpose, they shall make a declaration of commitment and a declaration of interests indicating either the absence of any interests which might be considered prejudicial to their independence or any direct or indirect interests which might be considered prejudicial to their independence. Those declarations shall be made annually in writing.

3. The members of the Management Board, the Executive Director, the members of the Advisory Forum, the members of the Scientific Committee and the Scientific Panels, as well as external experts participating in their working groups shall declare at each meeting any interests which might be considered prejudicial to their independence in relation to the items on the agenda.

Article 38

Transparency

1. The Authority shall ensure that it carries out its activities with a high level of transparency. It shall in particular make public without delay:

- (a) agendas and minutes of the Scientific Committee and the Scientific Panels;
- (b) the opinions of the Scientific Committee and the Scientific Panels immediately after adoption, minority opinions always being included;
- (c) without prejudice to Articles 39 and 41, the information on which its opinions are based;
- (d) the annual declarations of interest made by members of the Management Board, the Executive Director, members of the Advisory Forum and members of the Scientific Committee and Scientific Panels, as well as the declarations of interest made in relation to items on the agendas of meetings;

- (e) the results of its scientific studies;
- (f) the annual report of its activities;
- (g) requests from the European Parliament, the Commission or a Member State for scientific opinions which have been refused or modified and the justifications for the refusal or modification.

2. The Management Board shall hold its meetings in public unless, acting on a proposal from the Executive Director, it decides otherwise for specific administrative points of its agenda, and may authorise consumer representatives or other interested parties to observe the proceedings of some of the Authority's activities.

3. The Authority shall lay down in its internal rules the practical arrangements for implementing the transparency rules referred to in paragraphs 1 and 2.

Article 39

Confidentiality

1. By way of derogation from Article 38, the Authority shall not divulge to third parties confidential information that it receives for which confidential treatment has been requested and justified, except for information which must be made public if circumstances so require, in order to protect public health.

2. Members of the Management Board, the Executive Director, members of the Scientific Committee and Scientific Panels as well as external experts participating in their working groups, members of the Advisory Forum and members of the staff of the Authority, even after their duties have ceased, shall be subject to the requirements of confidentiality pursuant to Article 287 of the Treaty.

3. The conclusions of the scientific opinions delivered by the Authority relating to foreseeable health effects shall on no account be kept confidential.

4. The Authority shall lay down in its internal rules the practical arrangements for implementing the confidentiality rules referred to in paragraphs 1 and 2.

Article 40

Communications from the Authority

1. The Authority shall communicate on its own initiative in the fields within its mission without prejudice to the Commission's competence to communicate its risk management decisions.

2. The Authority shall ensure that the public and any interested parties are rapidly given objective, reliable and easily accessible information, in particular with regard to the results of its work. In order to achieve these objectives, the Authority shall develop and disseminate information material for the general public.

3. The Authority shall act in close collaboration with the Commission and the Member States to promote the necessary coherence in the risk communication process.

The Authority shall publish all opinions issued by it in accordance with Article 38.

4. The Authority shall ensure appropriate cooperation with the competent bodies in the Member States and other interested parties with regard to public information campaigns.

Article 41

Access to documents

1. The Authority shall ensure wide access to the documents which it possesses.

2. The Management Board, acting on a proposal from the Executive Director, shall adopt the provisions applicable to access to the documents referred to in paragraph 1, taking full account of the general principles and conditions governing the right of access to the Community institutions' documents.

Article 42

Consumers, producers and other interested parties

The Authority shall develop effective contacts with consumer representatives, producer representatives, processors and any other interested parties.

SECTION 5

FINANCIAL PROVISIONS

Article 43

Adoption of the Authority's budget

1. The revenues of the Authority shall consist of a contribution from the Community and, from any State with which the Community has concluded the agreements referred to in Article 49, and charges for publications, conferences, training and any other similar activities provided by the Authority.

2. The expenditure of the Authority shall include the staff, administrative, infrastructure and operational expenses, and expenses resulting from contracts entered into with third parties or resulting from the financial support referred to in Article 36.

3. In good time, before the date referred to in paragraph 5, the Executive Director shall draw up an estimate of the Authority's revenue and expenditure for the coming financial year, and shall forward it to the Management Board, accompanied by a provisional list of posts.

4. Revenue and expenditure shall be in balance.

5. By 31 March each year at the latest, the Management Board shall adopt the draft estimates including the provisional list of posts accompanied by the preliminary work programme and forward them to the Commission, and the States with which the Community has concluded the agreements referred to in Article 49. On the basis of that draft, the Commission shall enter the relevant estimates in the preliminary draft general budget of the European Union to be put before the Council pursuant to Article 272 of the Treaty.

6. After the adoption of the general budget of the European Union by the budgetary authority, the Management Board shall adopt the Authority's final budget and work programme, adjusting them where necessary to the Community's contribution. It shall forward them without delay to the Commission and the budgetary authority.

Article 44

Implementation of the Authority's budget

1. The Executive Director shall implement the Authority's budget.
2. Control of commitment and payment of all expenditure and control of the existence and recovery of all the Authority's revenue shall be carried out by the Commission's financial controller.
3. By 31 March each year at the latest, the Executive Director shall forward to the Commission, the Management Board and the Court of Auditors the detailed accounts for all the revenue and expenditure in respect of the previous financial year.

The Court of Auditors shall examine the accounts in accordance with Article 248 of the Treaty. It shall publish each year a report on the Authority's activities.

4. The European Parliament, acting on a recommendation from the Council, shall give a discharge to the Authority's Executive Director in respect of the implementation of the budget.

Article 45

Fees received by the Authority

Within three years following the date of entry into force of this Regulation and after consulting the Authority, the Member States and the interested parties, the Commission shall publish a report on the feasibility and advisability of presenting a legislative proposal under the co-decision procedure and in accordance with the Treaty and for other services provided by the Authority.

SECTION 6

GENERAL PROVISIONS

Article 46

Legal personality and privileges

1. The Authority shall have legal personality. In all Member States it shall enjoy the widest powers granted by law to legal

persons. In particular, it may acquire and dispose of movable and immovable property and institute legal proceedings.

2. The Protocol on the privileges and immunities of the European Communities shall apply to the Authority.

Article 47

Liability

1. The contractual liability of the Authority shall be governed by the law applicable to the contract in question. The Court of Justice of the European Communities shall have jurisdiction to give judgment pursuant to any arbitration clause contained in a contract concluded by the Authority.
2. In the case of non-contractual liability, the Authority shall, in accordance with the general principles common to the laws of the Member States, make good any damage caused by it or its servants in the performance of their duties. The Court of Justice shall have jurisdiction in any dispute relating to compensation for such damage.
3. The personal liability of its servants towards the Authority shall be governed by the relevant provisions applying to the staff of the Authority.

Article 48

Staff

1. The staff of the Authority shall be subject to the rules and regulations applicable to officials and other staff of the European Communities.
2. In respect of its staff, the Authority shall exercise the powers which have been devolved to the appointing authority.

Article 49

Participation of third countries

The Authority shall be open to the participation of countries which have concluded agreements with the European Community by virtue of which they have adopted and apply Community legislation in the field covered by this Regulation.

Arrangements shall be made under the relevant provisions of those agreements, specifying in particular the nature, extent and manner in which these countries will participate in the Authority's work, including provisions relating to participation in the networks operated by the Authority, inclusion in the list of competent organisations to which certain tasks may be entrusted by the Authority, financial contributions and staff.

CHAPTER IV

RAPID ALERT SYSTEM, CRISIS MANAGEMENT AND EMERGENCIES

SECTION 1

RAPID ALERT SYSTEM*Article 50***Rapid alert system**

1. A rapid alert system for the notification of a direct or indirect risk to human health deriving from food or feed is hereby established as a network. It shall involve the Member States, the Commission and the Authority. The Member States, the Commission and the Authority shall each designate a contact point, which shall be a member of the network. The Commission shall be responsible for managing the network.

2. Where a member of the network has any information relating to the existence of a serious direct or indirect risk to human health deriving from food or feed, this information shall be immediately notified to the Commission under the rapid alert system. The Commission shall transmit this information immediately to the members of the network.

The Authority may supplement the notification with any scientific or technical information, which will facilitate rapid, appropriate risk management action by the Member States.

3. Without prejudice to other Community legislation, the Member States shall immediately notify the Commission under the rapid alert system of:

- (a) any measure they adopt which is aimed at restricting the placing on the market or forcing the withdrawal from the market or the recall of food or feed in order to protect human health and requiring rapid action;
- (b) any recommendation or agreement with professional operators which is aimed, on a voluntary or obligatory basis, at preventing, limiting or imposing specific conditions on the placing on the market or the eventual use of food or feed on account of a serious risk to human health requiring rapid action;
- (c) any rejection, related to a direct or indirect risk to human health, of a batch, container or cargo of food or feed by a competent authority at a border post within the European Union.

The notification shall be accompanied by a detailed explanation of the reasons for the action taken by the competent authorities of the Member State in which the notification was issued. It shall be followed, in good time, by supplementary information, in particular where the measures on which the notification is based are modified or withdrawn.

The Commission shall immediately transmit to members of the network the notification and supplementary information received under the first and second subparagraphs.

Where a batch, container or cargo is rejected by a competent authority at a border post within the European Union, the Commission shall immediately notify all the border posts within the European Union, as well as the third country of origin.

4. Where a food or feed which has been the subject of a notification under the rapid alert system has been dispatched to a third country, the Commission shall provide the latter with the appropriate information.

5. The Member States shall immediately inform the Commission of the action implemented or measures taken following receipt of the notifications and supplementary information transmitted under the rapid alert system. The Commission shall immediately transmit this information to the members of the network.

6. Participation in the rapid alert system may be opened up to applicant countries, third countries or international organisations, on the basis of agreements between the Community and those countries or international organisations, in accordance with the procedures defined in those agreements. The latter shall be based on reciprocity and shall include confidentiality measures equivalent to those applicable in the Community.

*Article 51***Implementing measures**

The measures for implementing Article 50 shall be adopted by the Commission, after discussion with the Authority, in accordance with the procedure referred to in Article 58(2). These measures shall specify, in particular, the specific conditions and procedures applicable to the transmission of notifications and supplementary information.

*Article 52***Confidentiality rules for the rapid alert system**

1. Information, available to the members of the network, relating to a risk to human health posed by food and feed shall in general be available to the public in accordance with the information principle provided for in Article 10. In general, the public shall have access to information on product identification, the nature of the risk and the measure taken.

However, the members of the network shall take steps to ensure that members of their staff are required not to disclose information obtained for the purposes of this Section which by its nature is covered by professional secrecy in duly justified cases, except for information which must be made public, if circumstances so require, in order to protect human health.

2. Protection of professional secrecy shall not prevent the dissemination to the competent authorities of information relevant to the effectiveness of market surveillance and enforcement activities in the field of food and feed. The authorities receiving information covered by professional secrecy shall ensure its protection in conformity with paragraph 1.

SECTION 2

EMERGENCIES

Article 53

Emergency measures for food and feed of Community origin or imported from a third country

1. Where it is evident that food or feed originating in the Community or imported from a third country is likely to constitute a serious risk to human health, animal health or the environment, and that such risk cannot be contained satisfactorily by means of measures taken by the Member State(s) concerned, the Commission, acting in accordance with the procedure provided for in Article 58(2) on its own initiative or at the request of a Member State, shall immediately adopt one or more of the following measures, depending on the gravity of the situation:

- (a) in the case of food or feed of Community origin:
 - (i) suspension of the placing on the market or use of the food in question;
 - (ii) suspension of the placing on the market or use of the feed in question;
 - (iii) laying down special conditions for the food or feed in question;
 - (iv) any other appropriate interim measure;
- (b) in the case of food or feed imported from a third country:
 - (i) suspension of imports of the food or feed in question from all or part of the third country concerned and, where applicable, from the third country of transit;
 - (ii) laying down special conditions for the food or feed in question from all or part of the third country concerned;
 - (iii) any other appropriate interim measure.

2. However, in eMERGENCIES, the Commission may provisionally adopt the measures referred to in paragraph 1 after consulting the Member State(s) concerned and informing the other Member States.

As soon as possible, and at most within 10 working days, the measures taken shall be confirmed, amended, revoked or extended in accordance with the procedure referred to in Article 58(2), and the reasons for the Commission's decision shall be made public without delay.

Article 54

Other emergency measures

1. Where a Member State officially informs the Commission of the need to take emergency measures, and where the Commission has not acted in accordance with Article 53, the Member State may adopt interim protective measures. In this event, it shall immediately inform the other Member States and the Commission.

2. Within 10 working days, the Commission shall put the matter before the Committee set up in Article 58(1) in accordance with the procedure provided for in Article 58(2) with a view to the extension, amendment or abrogation of the national interim protective measures.

3. The Member State may maintain its national interim protective measures until the Community measures have been adopted.

SECTION 3

CRISIS MANAGEMENT

Article 55

General plan for crisis management

1. The Commission shall draw up, in close cooperation with the Authority and the Member States, a general plan for crisis management in the field of the safety of food and feed (hereinafter referred to as 'the general plan').

2. The general plan shall specify the types of situation involving direct or indirect risks to human health deriving from food and feed which are not likely to be prevented, eliminated or reduced to an acceptable level by provisions in place or cannot adequately be managed solely by way of the application of Articles 53 and 54.

The general plan shall also specify the practical procedures necessary to manage a crisis, including the principles of transparency to be applied and a communication strategy.

*Article 56***Crisis unit**

1. Without prejudice to its role of ensuring the application of Community law, where the Commission identifies a situation involving a serious direct or indirect risk to human health deriving from food and feed, and the risk cannot be prevented, eliminated or reduced by existing provisions or cannot adequately be managed solely by way of the application of Articles 53 and 54, it shall immediately notify the Member States and the Authority.

2. The Commission shall set up a crisis unit immediately, in which the Authority shall participate, and provide scientific and technical assistance if necessary.

*Article 57***Tasks of the crisis unit**

1. The crisis unit shall be responsible for collecting and evaluating all relevant information and identifying the options available to prevent, eliminate or reduce to an acceptable level the risk to human health as effectively and rapidly as possible.

2. The crisis unit may request the assistance of any public or private person whose expertise it deems necessary to manage the crisis effectively.

3. The crisis unit shall keep the public informed of the risks involved and the measures taken.

CHAPTER V

PROCEDURES AND FINAL PROVISIONS

SECTION 1

COMMITTEE AND MEDIATION PROCEDURES

*Article 58***Committee**

1. The Commission shall be assisted by a Standing Committee on the Food Chain and Animal Health, hereinafter referred to as the 'Committee', composed of representatives of the Member States and chaired by the representative of the Commission. The Committee shall be organised in sections to deal with all relevant matters.

2. Where reference is made to this paragraph, the procedure laid down in Article 5 of Decision 1999/468/EC shall apply, in compliance with Articles 7 and 8 thereof.

3. The period provided for in Article 5(6) of Decision 1999/468/EC shall be three months.

*Article 59***Functions assigned to the Committee**

The Committee shall carry out the functions assigned to it by this Regulation and by other relevant Community provisions, in the cases and conditions provided for in those provisions. It may also examine any issue falling under those provisions, either at the initiative of the Chairman or at the written request of one of its members.

*Article 60***Mediation procedure**

1. Without prejudice to the application of other Community provisions, where a Member State is of the opinion that a measure taken by another Member State in the field of food safety is either incompatible with this Regulation or is likely to affect the functioning of the internal market, it shall refer the matter to the Commission, which will immediately inform the other Member State concerned.

2. The two Member States concerned and the Commission shall make every effort to solve the problem. If agreement cannot be reached, the Commission may request an opinion on any relevant contentious scientific issue from the Authority. The terms of that request and the time limit within which the Authority is requested to give its opinion shall be established by mutual agreement between the Commission and the Authority, after consulting the two Member States concerned.

SECTION 2

FINAL PROVISIONS

*Article 61***Review clause**

1. Before 1 January 2005 and every six years thereafter, the Authority, in collaboration with the Commission, shall commission an independent external evaluation of its achievements on the basis of the terms of reference issued by the Management Board in agreement with the Commission. The evaluation will assess the working practices and the impact of the Authority. The evaluation will take into account the views of the stakeholders, at both Community and national level.

The Management Board of the Authority shall examine the conclusions of the evaluation and issue to the Commission such recommendations as may be necessary regarding changes in the Authority and its working practices. The evaluation and the recommendations shall be made public.

2. Before 1 January 2005, the Commission shall publish a report on the experience acquired from implementing Sections 1 and 2 of Chapter IV.

3. The reports and recommendations referred to in paragraphs 1 and 2 shall be forwarded to the Council and the European Parliament.

Article 62

References to the European Food Safety Authority and to the Standing Committee on the Food Chain and Animal Health

1. Every reference in Community legislation to the Scientific Committee on Food, the Scientific Committee on Animal Nutrition, the Scientific Veterinary Committee, the Scientific Committee on Pesticides, the Scientific Committee on Plants and the Scientific Steering Committee shall be replaced by a reference to the European Food Safety Authority.

2. Every reference in Community legislation to the Standing Committee on Foodstuffs, the Standing Committee for Feedingstuffs and the Standing Veterinary Committee shall be replaced by a reference to the Standing Committee on the Food Chain and Animal Health.

Every reference to the Standing Committee on Plant Health in Community legislation based upon and including Directives 76/895/EEC, 86/362/EEC, 86/363/EEC, 90/642/EEC and 91/414/EEC relating to plant protection products and the setting of maximum residue levels shall be replaced by a reference to the Standing Committee on the Food Chain and Animal Health.

3. For the purpose of paragraphs 1 and 2, 'Community legislation' shall mean all Community Regulations, Directives and Decisions.

4. Decisions 68/361/EEC, 69/414/EEC and 70/372/EEC are hereby repealed.

Article 63

Competence of the European Agency for the Evaluation of Medicinal Products

This Regulation shall be without prejudice to the competence conferred on the European Agency for the Evaluation of Medicinal Products by Regulation (EEC) No 2309/93, Regulation (EEC) No 2377/90, Council Directive 75/319/EEC ⁽¹⁾ and Council Directive 81/851/EEC ⁽²⁾.

Article 64

Commencement of the Authority's operation

The Authority shall commence its operations on 1 January 2002.

Article 65

Entry into force

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

Articles 11 and 12 and Articles 14 to 20 shall apply from 1 January 2005.

Articles 29, 56, 57 and 60 and Article 62(1) shall apply as from the date of appointment of the members of the Scientific Committee and of the Scientific Panels which shall be announced by means of a notice in the 'C' series of the Official Journal.

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

Done at Brussels, 28 January 2002.

For the European Parliament

The President

P. COX

For the Council

The President

J. PIQUÉ I CAMPS

⁽¹⁾ OJ L 147, 9.6.1975, p. 13. Directive amended by Directive 2001/83/EC of the European Parliament and of the Council (OJ L 311, 28.11.2001, p. 67).

⁽²⁾ OJ L 317, 6.11.1981, p. 1. Directive amended by Directive 2001/82/EC of the European Parliament and of the Council (OJ L 311, 28.11.2001, p. 1).

COUNCIL REGULATION (EC) No 179/2002**of 28 January 2002****amending Regulation (EC) No 2792/1999 laying down the detailed rules and arrangements regarding Community structural assistance in the fisheries sector**

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty establishing the European Community, and in particular Articles 36 and 37 thereof,

Having regard to the proposal from the Commission ⁽¹⁾,

Having regard to the opinion of the European Parliament ⁽²⁾,

Having regard to the opinion of the Economic and Social Committee ⁽³⁾,

Whereas:

- (1) Regulation (EC) No 2792/1999 ⁽⁴⁾ contains in particular provisions connected with the implementation of the multiannual guidance programmes for the fishing fleets.
- (2) Decision 2002/70/EC amends Decision 97/413/EC concerning the objectives and detailed rules for restructuring the Community fisheries sector for the period from 1 January 1997 to 31 December 2001 with a view to achieving a balance on a sustainable basis between resources and their exploitation ⁽⁵⁾; in particular, it extends its period of validity until 31 December 2002.
- (3) In order to reinforce international action to prevent and eliminate illegal, unreported and unregulated fishing, public aid should not be made available for the permanent transfer of fishing vessels to certain third countries that have been identified by the relevant regional fisheries organisations as countries that permit fishing in a manner which jeopardises the effectiveness of international conservation measures.
- (4) It is appropriate to reinforce the condition for withdrawal connected with the introduction of new capacities in those segments in which the annual objectives have not yet been respected.
- (5) Certain provisions of Regulation (EC) No 2792/1999 should therefore be amended,

HAS ADOPTED THIS REGULATION:

Article 1

Regulation (EC) No 2792/1999 is hereby amended as follows:

1. In Article 4(3), '1 May 2001' shall be replaced by '1 May 2002'.

⁽¹⁾ OJ C 270 E, 25.9.2001, p. 80.

⁽²⁾ Opinion delivered on 25 October 2001 (not yet published in the Official Journal).

⁽³⁾ Opinion delivered on 17 October 2001 (not yet published in the Official Journal).

⁽⁴⁾ OJ L 337, 30.12.1999, p. 10. Regulation as amended by Regulation (EC) No 1451/2001 (OJ L 198, 21.7.2001, p. 9).

⁽⁵⁾ See page 77 of this Official Journal.

2. The first subparagraph of Article 6(2) shall be replaced by the following:

'In the case of vessels already registered in the Fishing Vessel Register of the Community of less than 12 metres overall, other than trawlers, Member States may submit a request for a clearly identified and quantified increase in the capacity objectives to improve safety, navigation at sea, hygiene, product quality and working conditions, provided that these measures do not result in an increase in the exploitation rate of the resources concerned.'

3. The following point shall be added to Article 7(3)(b):

'(iv) if the third country to which the vessel is to be transferred is not a Contracting or Cooperating Party to relevant regional fisheries organisations, that country has not been identified by such organisations as one which permits fishing in a manner which jeopardises the effectiveness of international conservation measures. The Commission shall publish a list of the countries concerned on a regular basis in the C series of the *Official Journal of the European Communities*.'

4. Article 9(1) shall be replaced by the following:

'1. Without prejudice to the conditions laid down in the second subparagraph of Article 3(3), public aid for fleet renewal and modernisation shall be granted only on the following conditions and those set out in Article 6 and Annex III and provided that the overall annual objectives of the multiannual guidance programme are respected:

- (a) where the annual objectives for the segments concerned are respected, Member States must ensure that during the programming period from 2000 to 2006 the entry of new capacity with public aid is compensated by the withdrawal of a capacity without public aid which is at least equal to the new capacity introduced in the segments concerned, taken in aggregate and in terms of both tonnage and power;
- (b) until 30 June 2002, where the annual objectives of the segments concerned are not yet respected, Member States must ensure that the entry of new capacity with public aid is compensated, during the period from 2000 to 2001, by the withdrawal of a capacity without public aid which is at least 30 % greater than the new capacity introduced in the segments concerned, taken in aggregate and in terms of both tonnage and power; for the period 1 January 2002 to 30 June 2002, the capacity withdrawn must be at least 35 % greater than the new capacity introduced.

The capacity withdrawn may be replaced only by the new capacity which is introduced with public aid as provided for under this point;

- (c) public aid may also be granted for the equipping or modernising of vessels where this does not concern capacity measured in terms of either tonnage or power.

The Council shall, acting in accordance with the procedure laid down in Article 37 of the Treaty, decide by 30 June 2002 on any necessary adjustments to be applied as from 1 July 2002 to the provisions of this paragraph.'

5. Article 16(2) shall be replaced by the following:

'2. The Member States may grant financial compensation to fisherman and owners of vessels where Community legislation imposes technical restrictions on the use of certain gear or fishing methods; this aid is intended to cover the technical adjustment and may not be paid for more than six months.'

Article 2

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

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

Done at Brussels, 28 January 2002.

For the Council

The President

J. PIQUÉ I CAMPS

COMMISSION REGULATION (EC) No 180/2002
of 31 January 2002
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 1498/98 ⁽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 1 February 2002.

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

Done at Brussels, 31 January 2002.

For the Commission
Franz FISCHLER
Member of the Commission

⁽¹⁾ OJ L 337, 24.12.1994, p. 66.

⁽²⁾ OJ L 198, 15.7.1998, p. 4.

ANNEX

to the Commission Regulation of 31 January 2002 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	86,8
	204	75,7
	212	116,9
	999	93,1
0707 00 05	052	167,7
	220	230,6
	628	193,9
	999	197,4
0709 90 70	052	208,1
	204	125,6
	999	166,8
0805 10 10, 0805 10 30, 0805 10 50	052	50,1
	204	53,4
	212	38,8
	220	46,9
	508	22,3
	624	41,5
	999	42,2
0805 20 10	204	91,5
	999	91,5
0805 20 30, 0805 20 50, 0805 20 70, 0805 20 90	052	72,7
	204	82,9
	464	136,9
	600	97,2
	624	80,0
	999	93,9
	052	48,2
0805 50 10	600	48,3
	999	48,3
0808 10 20, 0808 10 50, 0808 10 90	039	106,7
	052	69,0
	060	32,2
	400	118,6
	404	86,8
	720	124,5
	999	89,6
0808 20 50	388	144,5
	400	113,3
	528	114,9
	720	99,9
	999	118,2

⁽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 181/2002**of 31 January 2002****on a decision to make no award in respect of the 25th partial invitation to tender for white sugar issued in connection with the standing invitation to tender referred to in Regulation (EC) No 1430/2001**

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 point (b) of the second subparagraph of Article 27(5) thereof,

Whereas:

- (1) Commission Regulation (EC) No 1430/2001 of 13 July 2001 on a standing invitation to tender to determine levies and/or refunds on exports of white sugar for the 2001/02 marketing year⁽²⁾ requires that partial invitations to tender be issued for the export of the sugar in question. Pursuant to Article 8(2) of Regulation (EC) No 1430/2001 a decision may be taken to make no award in respect of a specific partial invitation to tender.

- (2) 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

No award shall be made in respect of the 25th partial invitation to tender for white sugar issued pursuant to Regulation (EC) No 1430/2001 for which the time limit for the submission of tenders expired on 31 January 2002.

Article 2

This Regulation shall enter into force on 1 February 2002.

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

Done at Brussels, 31 January 2002.

For the Commission

Franz FISCHLER

Member of the Commission

⁽¹⁾ OJ L 178, 30.6.2001, p. 1.

⁽²⁾ OJ L 192, 14.7.2001, p. 3.

COMMISSION REGULATION (EC) No 182/2002**of 31 January 2002****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 1 February 2002.

⁽¹⁾ OJ L 178, 30.6.2001, p. 1.

⁽²⁾ OJ L 141, 24.6.1999, p. 12.

⁽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, 31 January 2002.

For the Commission
 Franz FISCHLER
Member of the Commission

ANNEX

to the Commission Regulation of 31 January 2002 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⁾	8,60	—	0
1703 90 00 ⁽¹⁾	13,54	—	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 183/2002
of 31 January 2002
altering the export refunds on white sugar and raw sugar exported in the natural 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 third subparagraph of Article 27(5) thereof,

Whereas:

- (1) The refunds on white sugar and raw sugar exported in the natural state were fixed by Commission Regulation (EC) No 122/2002 ⁽²⁾.
- (2) It follows from applying the detailed rules contained in Regulation (EC) No 122/2002 to the information known to the Commission that the export refunds at present in

force should be altered to the amounts set out in the Annex hereto,

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, as fixed in the Annex to Regulation (EC) No 122/2002 are hereby altered to the amounts shown in the Annex hereto.

Article 2

This Regulation shall enter into force on 1 February 2002.

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

Done at Brussels, 31 January 2002.

For the Commission

Franz FISCHLER

Member of the Commission

⁽¹⁾ OJ L 178, 30.6.2001, p. 1.

⁽²⁾ OJ L 23, 25.1.2002, p. 3.

ANNEX

to the Commission Regulation of 31 January 2002 altering the export refunds on white sugar and raw sugar exported in its unaltered state

Product code	Destination	Unit of measurement	Amount of refund
1701 11 90 9100	A00	EUR/100 kg	35,45 ⁽¹⁾
1701 11 90 9910	A00	EUR/100 kg	35,45 ⁽¹⁾
1701 11 90 9950	A00	EUR/100 kg	⁽²⁾
1701 12 90 9100	A00	EUR/100 kg	35,45 ⁽¹⁾
1701 12 90 9910	A00	EUR/100 kg	35,45 ⁽¹⁾
1701 12 90 9950	A00	EUR/100 kg	⁽²⁾
1701 91 00 9000	A00	EUR/1 % of sucrose × net 100 kg of product	0,3854
1701 99 10 9100	A00	EUR/100 kg	38,54
1701 99 10 9910	A00	EUR/100 kg	38,54
1701 99 10 9950	A00	EUR/100 kg	38,54
1701 99 90 9100	A00	EUR/1 % of sucrose × net 100 kg of product	0,3854

⁽¹⁾ Applicable to raw sugar with a yield of 92 %; if the yield is other than 92 %, the refund applicable is calculated in accordance with the provisions of Article 28(4) of Council Regulation (EC) No 1260/2001.

⁽²⁾ Fixing suspended by Commission Regulation (EEC) No 2689/85 (OJ L 255, 26.9.1985, p. 12), as amended by Regulation (EEC) No 3251/85 (OJ L 309, 21.11.1985, p. 14).

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) as amended.

The numeric destination codes are set out in Commission Regulation (EC) No 2020/2001 (OJ L 273, 16.10.2001, p. 6).

COMMISSION REGULATION (EC) No 184/2002**of 31 January 2002****fixing the export refunds on syrups and certain other sugar products exported in the natural 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)(d) of that Regulation and prices for those products within the Community may be covered by an export refund.

(2) Article 3 of 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⁾, provides that the export refund on 100 kilograms of the products listed in Article 1(1)(d) of Regulation (EC) No 1260/2001 is equal to the basic amount multiplied by the sucrose content, including, where appropriate, other sugars expressed as sucrose; the sucrose content of the product in question is determined in accordance with Article 3 of Commission Regulation (EC) No 2135/95.

(3) Article 30(3) of Regulation (EC) No 1260/2001 provides that the basic amount of the refund on sorbose exported in the natural state must be equal to the basic amount of the refund less one-hundredth of the production refund applicable, pursuant to Commission Regulation (EC) No 1265/2001 of 27 June 2001 laying down detailed rules for the application of Council Regulation (EC) No 1260/2001 as regards granting the production refund on certain sugar products used in the chemical industry ⁽³⁾ to the products listed in the Annex to the last mentioned Regulation;

(4) According to the terms of Article 30(1) of Regulation (EC) No 1260/2001, the basic amount of the refund on the other products listed in Article 1(1)(d) of the said

Regulation exported in the natural state must be equal to one-hundredth of an amount which takes account, on the one hand, of the difference between the intervention price for white sugar for the Community areas without deficit for the month for which the basic amount is fixed and quotations or prices for white sugar on the world market and, on the other, of the need to establish a balance between the use of Community basic products in the manufacture of processed goods for export to third countries and the use of third country products brought in under inward processing arrangements.

(5) According to the terms of Article 30(4) of Regulation (EC) No 1260/2001, the application of the basic amount may be limited to some of the products listed in Article 1(1)(d) of the said Regulation.

(6) Article 27 of Regulation (EC) No 1260/2001 makes provision for setting refunds for export in the natural state of products referred to in Article 1(1)(f) and (g) and (h) of that Regulation; the refund must be fixed per 100 kilograms of dry matter, taking account of the export refund for products falling within CN code 1702 30 91 and for products referred to in Article 1(1)(d) of Regulation (EC) No 1260/2001 and of the economic aspects of the intended exports; in the case of the products referred to in the said Article 1(1)(f) and (g), the refund is to be granted only for products complying with the conditions in Article 5 of Regulation (EC) No 2135/95; for the products referred to in Article 1(1)(h), the refund shall be granted only for products complying with the conditions in Article 6 of Regulation (EC) No 2135/95.

(7) The refunds referred to above must be fixed every month; they may be altered in the intervening period.

(8) Application of these quotas results in fixing refunds for the products in question at the levels given 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,

⁽¹⁾ OJ L 178, 30.6.2001, p. 1.

⁽²⁾ OJ L 214, 8.9.1995, p. 16.

⁽³⁾ OJ L 178, 30.6.2001, p. 63.

HAS ADOPTED THIS REGULATION:

Article 1

The export refunds on the products listed in Article 1(1)(d)(f)(g) and (h) of Regulation (EC) No 1260/2001, exported in the natural state, shall be set out in the Annex hereto.

Article 2

This Regulation shall enter into force on 1 February 2002.

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

Done at Brussels, 31 January 2002.

For the Commission

Franz FISCHLER

Member of the Commission

ANNEX

to the Commission Regulation of 31 January 2002 fixing the export refunds on syrups and certain other sugar products exported in the natural state

Product code	Destination	Unit of measurement	Amount of refund
1702 40 10 9100	A00	EUR/100 kg dry matter	38,54 ⁽²⁾
1702 60 10 9000	A00	EUR/100 kg dry matter	38,54 ⁽²⁾
1702 60 80 9100	A00	EUR/100 kg dry matter	73,23 ⁽⁴⁾
1702 60 95 9000	A00	EUR/1 % sucrose × net 100 kg of product	0,3854 ⁽¹⁾
1702 90 30 9000	A00	EUR/100 kg dry matter	38,54 ⁽²⁾
1702 90 60 9000	A00	EUR/1 % sucrose × net 100 kg of product	0,3854 ⁽¹⁾
1702 90 71 9000	A00	EUR/1 % sucrose × net 100 kg of product	0,3854 ⁽¹⁾
1702 90 99 9900	A00	EUR/1 % sucrose × net 100 kg of product	0,3854 ⁽¹⁾ ⁽³⁾
2106 90 30 9000	A00	EUR/100 kg dry matter	38,54 ⁽²⁾
2106 90 59 9000	A00	EUR/1 % sucrose × net 100 kg of product	0,3854 ⁽¹⁾

⁽¹⁾ The basic amount is not applicable to syrups which are less than 85 % pure (Regulation (EC) No 2135/95). Sucrose content is determined in accordance with Article 3 of Regulation (EC) No 2135/95.

⁽²⁾ Applicable only to products referred to in Article 5 of Regulation (EC) No 2135/95.

⁽³⁾ The basic amount is not applicable to the product defined under point 2 of the Annex to Regulation (EEC) No 3513/92 (OJ L 355, 5.12.1992, p. 12).

⁽⁴⁾ Applicable only to products defined under Article 6 of Regulation (EC) No 2135/95.

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) as amended.

The numeric destination codes are set out in Commission Regulation (EC) No 2020/2001 (OJ L 273, 16.10.2001, p. 6).

COMMISSION REGULATION (EC) No 185/2002**of 31 January 2002****fixing the production refund on white sugar used in the chemical industry**

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 7(5) thereof,

Whereas:

(1) Pursuant to Article 7(3) of Regulation (EC) No 1260/2001, production refunds may be granted on the products listed in Article 1(1)(a) and (f) of that Regulation, on syrups listed in Article 1(1)(d) thereof and on chemically pure fructose covered by CN code 1702 50 00 as an intermediate product, that are in one of the situations referred to in Article 23(2) of the Treaty and are used in the manufacture of certain products of the chemical industry.

(2) Commission Regulation (EC) No 1265/2001 of 27 June 2001 laying down detailed rules for the application of Council Regulation (EC) No 1260/2001 as regards granting the production refund on certain sugar products used in the chemical industry ⁽²⁾ lays down the rules for determining the production refunds and specifies the chemical products the basic products used in the manufacture of which attract a production refund. Articles 5, 6 and 7 of Regulation (EC) No 1265/2001 provide that the production refund applying to raw sugar, sucrose syrups and unprocessed isoglucose is to be derived from the refund fixed for white sugar in accordance with a method of calculation specific to each basic product.

(3) Article 9 of Regulation (EC) No 1265/2001 provides that the production refund on white sugar is to be fixed at monthly intervals commencing on the first day of

each month. It may be adjusted in the intervening period where there is a significant change in the prices for sugar on the Community and/or world markets. The application of those provisions results in the production refund fixed in Article 1 of this Regulation for the period shown.

(4) As a result of the amendment to the definition of white sugar and raw sugar in Article 1(2)(a) and (b) of Regulation (EC) No 1260/2001, flavoured or coloured sugars or sugars containing any other added substances are no longer deemed to meet those definitions and should thus be regarded as 'other sugar'. However, in accordance with Article 1 of Regulation (EC) No 1265/2001, they attract the production refund as basic products. A method should accordingly be laid down for calculating the production refund on these products by reference to their sucrose content.

(5) 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 production refund on white sugar referred to in Article 4 of Regulation (EC) No 1265/2001 shall be equal to EUR 34,867/100 kg net.

Article 2

This Regulation shall enter into force on 1 February 2002.

⁽¹⁾ OJ L 178, 30.6.2001, p. 1.

⁽²⁾ OJ L 178, 30.6.2001, p. 63.

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

Done at Brussels, 31 January 2002.

For the Commission
Franz FISCHLER
Member of the Commission

**COMMISSION REGULATION (EC) No 186/2002
of 31 January 2002
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⁾. 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 23,997/100 kg.

Article 2

This Regulation shall enter into force on 1 February 2002.

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

Done at Brussels, 31 January 2002.

For the Commission

Franz FISCHLER

Member of the Commission

⁽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.

COMMISSION REGULATION (EC) No 187/2002
of 31 January 2002
fixing the import duties in the cereals sector

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⁾,

Having regard to Commission Regulation (EC) No 1249/96 of 28 June 1996 laying down detailed rules for the application of Council Regulation (EEC) No 1766/92 as regards import duties in the cereals sector ⁽³⁾, as last amended by Regulation (EC) No 2104/2001 ⁽⁴⁾, and in particular Article 2(1) thereof,

Whereas:

- (1) Article 10 of Regulation (EEC) No 1766/92 provides that the rates of duty in the Common Customs Tariff are to be charged on import of the products referred to in Article 1 of that Regulation. However, in the case of the products referred to in paragraph 2 of that Article, the import duty is to be equal to the intervention price valid for such products on importation and increased by 55 %, minus the cif import price applicable to the consignment in question. However, that duty may not exceed the rate of duty in the Common Customs Tariff.
- (2) Pursuant to Article 10(3) of Regulation (EEC) No 1766/92, the cif import prices are calculated on the basis of the representative prices for the product in question on the world market.

- (3) Regulation (EC) No 1249/96 lays down detailed rules for the application of Council Regulation (EEC) No 1766/92 as regards import duties in the cereals sector.
- (4) The import duties are applicable until new duties are fixed and enter into force. They also remain in force in cases where no quotation is available for the reference exchange referred to in Annex II to Regulation (EC) No 1249/96 during the two weeks preceding the next periodical fixing.
- (5) In order to allow the import duty system to function normally, the representative market rates recorded during a reference period should be used for calculating the duties.
- (6) Application of Regulation (EC) No 1249/96 results in import duties being fixed as set out in the Annex to this Regulation,

HAS ADOPTED THIS REGULATION:

Article 1

The import duties in the cereals sector referred to in Article 10(2) of Regulation (EEC) No 1766/92 shall be those fixed in Annex I to this Regulation on the basis of the information given in Annex II.

Article 2

This Regulation shall enter into force on 1 February 2002.

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

Done at Brussels, 31 January 2002.

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 161, 29.6.1996, p. 125.

⁽⁴⁾ OJ L 283, 27.10.2001, p. 8.

ANNEX I

Import duties for the products covered by Article 10(2) of Regulation (EEC) No 1766/92

CN code	Description	Import duty ⁽²⁾ (EUR/tonne)
1001 10 00	Durum wheat high quality	0,00
	medium quality ⁽¹⁾	0,00
1001 90 91	Common wheat seed	0,00
1001 90 99	Common high quality wheat other than for sowing ⁽³⁾	0,00
	medium quality	0,00
	low quality	0,59
1002 00 00	Rye	0,00
1003 00 10	Barley, seed	0,00
1003 00 90	Barley, other ⁽⁴⁾	0,00
1005 10 90	Maize seed other than hybrid	35,54
1005 90 00	Maize other than seed ⁽⁵⁾	35,54
1007 00 90	Grain sorghum other than hybrids for sowing	0,00

⁽¹⁾ In the case of durum wheat not meeting the minimum quality requirements for durum wheat of medium quality, referred to in Annex I to Regulation (EC) No 1249/96, the duty applicable is that fixed for low-quality common wheat.

⁽²⁾ For goods arriving in the Community via the Atlantic Ocean or via the Suez Canal (Article 2(4) of Regulation (EC) No 1249/96), the importer may benefit from a reduction in the duty of:

— EUR 3 per tonne, where the port of unloading is on the Mediterranean Sea, or

— EUR 2 per tonne, where the port of unloading is in Ireland, the United Kingdom, Denmark, Sweden, Finland or the Atlantic coasts of the Iberian peninsula.

⁽³⁾ The importer may benefit from a flat-rate reduction of EUR 14 per tonne, where the conditions laid down in Article 2(5) of Regulation (EC) No 1249/96 are met.

⁽⁴⁾ The importer may benefit from a flat-rate reduction of EUR 8 per tonne, where the conditions laid down in Article 2(5) of Regulation (EC) No 1249/96 are met.

⁽⁵⁾ The importer may benefit from a flat-rate reduction of EUR 24 per tonne, where the conditions laid down in Article 2(5) of Regulation (EC) No 1249/96 are met.

ANNEX II

Factors for calculating duties

(period from 16 January 2002 to 30 January 2002)

1. Averages over the two-week period preceding the day of fixing:

Exchange quotations	Minneapolis	Kansas City	Chicago	Chicago	Minneapolis	Minneapolis	Minneapolis
Product (% proteins at 12 % humidity)	HRS2. 14 %	HRW2. 11,5 %	SRW2	YC3	HAD2	Medium quality (*)	US barley 2
Quotation (EUR/t)	126,80	122,28	124,34	94,44	224,39 (**)	214,39 (**)	150,52 (***)
Gulf premium (EUR/t)	41,98	25,98	17,85	12,80	—	—	—
Great Lakes premium (EUR/t)	41,98	—	—	—	—	—	—

(*) A discount of 10 EUR/t (Article 4(1) of Regulation (EC) No 1249/96).

(**) Fob Gulf.

(***) Fob USA.

2. Freight/cost: Gulf of Mexico–Rotterdam: 20,02 EUR/t; Great Lakes–Rotterdam: 31,18 EUR/t.

3. Subsidy within the meaning of the third paragraph of Article 4(2) of Regulation (EC) No 1249/96: 0,00 EUR/t (HRW2)
0,00 EUR/t (SRW2).

COMMISSION REGULATION (EC) No 188/2002**of 31 January 2002****fixing the export refunds on rice and broken rice and suspending the issue of export licences**

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⁾, as last amended by Regulation (EC) No 1987/2001 ⁽²⁾, and in particular the second subparagraph of Article 13(3) and (15) thereof,

Whereas:

(1) Article 13 of Regulation (EC) No 3072/95 provides that the difference between quotations or prices on the world market for the products listed in Article 1 of that Regulation and prices for those products within the Community may be covered by an export refund.

(2) Article 13(4) of Regulation (EC) No 3072/95, provides that when refunds are being fixed account must be taken of the existing situation and the future trend with regard to prices and availabilities of rice and broken rice on the Community market on the one hand and prices for rice and broken rice on the world market on the other. The same Article provides that it is also important to ensure equilibrium and the natural development of prices and trade on the rice market and, furthermore, to take into account the economic aspect of the proposed exports and the need to avoid disturbances of the Community market with limits resulting from agreements concluded in accordance with Article 300 of the Treaty.

(3) Commission Regulation (EEC) No 1361/76 ⁽³⁾ lays down the maximum percentage of broken rice allowed in rice for which an export refund is fixed and specifies the percentage by which that refund is to be reduced where the proportion of broken rice in the rice exported exceeds that maximum.

(4) Export possibilities exist for a quantity of 13 143 tonnes of rice to certain destinations. The procedure laid down in Article 7(4) of Commission Regulation (EC) No 1162/95 ⁽⁴⁾, as last amended by Regulation (EC) No 409/2001 ⁽⁵⁾ should be used. Account should be taken of this when the refunds are fixed.

(5) Article 13(5) of Regulation (EC) No 3072/95 defines the specific criteria to be taken into account when the export refund on rice and broken rice is being calculated.

(6) The world market situation or the specific requirements of certain markets may make it necessary to vary the refund for certain products according to destination.

(7) A separate refund should be fixed for packaged long grain rice to accommodate current demand for the product on certain markets.

(8) The refund must be fixed at least once a month; whereas it may be altered in the intervening period.

(9) It follows from applying these rules and criteria to the present situation on the market in rice and in particular to quotations or prices for rice and broken rice within the Community and on the world market, that the refund should be fixed as set out in the Annex hereto.

(10) For the purposes of administering the volume restrictions resulting from Community commitments in the context of the WTO, the issue of export licences with advance fixing of the refund should be restricted.

(11) 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 export refunds on the products listed in Article 1 of Regulation (EC) No 3072/95 with the exception of those listed in paragraph 1(c) of that Article, exported in the natural state, shall be as set out in the Annex hereto.

Article 2

With the exception of the quantity of 13 143 tonnes provided for in the Annex, the issue of export licences with advance fixing of the refund is suspended.

Article 3

This Regulation shall enter into force on 1 February 2002.

⁽¹⁾ OJ L 329, 30.12.1995, p. 18.

⁽²⁾ OJ L 271, 12.10.2001, p. 5.

⁽³⁾ OJ L 154, 15.6.1976, p. 11.

⁽⁴⁾ OJ L 117, 24.5.1995, p. 2.

⁽⁵⁾ OJ L 60, 1.3.2001, p. 27.

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

Done at Brussels, 31 January 2002.

For the Commission
Franz FISCHLER
Member of the Commission

ANNEX

to the Commission Regulation of 31 January 2002 fixing the export refunds on rice and broken rice and suspending the issue of export licences

Product code	Destination	Unit of measurement	Amount of refunds (1)	Product code	Destination	Unit of measurement	Amount of refunds (1)
1006 20 11 9000	R01	EUR/t	154,00	1006 30 65 9100	R01	EUR/t	192,00
1006 20 13 9000	R01	EUR/t	154,00		R02	EUR/t	193,00
1006 20 15 9000	R01	EUR/t	154,00		R03	EUR/t	198,00
1006 20 17 9000	—	EUR/t	—		064	EUR/t	167,00
1006 20 92 9000	R01	EUR/t	154,00		A97	EUR/t	193,00
1006 20 94 9000	R01	EUR/t	154,00		021 and 023	EUR/t	193,00
1006 20 96 9000	R01	EUR/t	154,00	1006 30 65 9900	R01	EUR/t	192,00
1006 20 98 9000	—	EUR/t	—		064	EUR/t	167,00
1006 30 21 9000	R01	EUR/t	154,00		A97	EUR/t	193,00
1006 30 23 9000	R01	EUR/t	154,00	1006 30 67 9100	021 and 023	EUR/t	193,00
1006 30 25 9000	R01	EUR/t	154,00		064	EUR/t	167,00
1006 30 27 9000	—	EUR/t	—	1006 30 67 9900	064	EUR/t	167,00
1006 30 42 9000	R01	EUR/t	154,00	1006 30 92 9100	R01	EUR/t	192,00
1006 30 44 9000	R01	EUR/t	154,00		R02	EUR/t	193,00
1006 30 46 9000	R01	EUR/t	154,00		R03	EUR/t	198,00
1006 30 48 9000	—	EUR/t	—		064	EUR/t	167,00
1006 30 61 9100	R01	EUR/t	192,00		A97	EUR/t	193,00
	R02	EUR/t	193,00		064	EUR/t	167,00
	R03	EUR/t	198,00	1006 30 94 9100	R01	EUR/t	192,00
	064	EUR/t	167,00		R02	EUR/t	193,00
	A97	EUR/t	193,00		R03	EUR/t	198,00
	021 and 023	EUR/t	193,00		064	EUR/t	167,00
1006 30 61 9900	R01	EUR/t	192,00		A97	EUR/t	193,00
	A97	EUR/t	193,00		021 and 023	EUR/t	193,00
	064	EUR/t	167,00	1006 30 94 9900	R01	EUR/t	192,00
1006 30 63 9100	R01	EUR/t	192,00		A97	EUR/t	193,00
	R02	EUR/t	193,00		064	EUR/t	167,00
	R03	EUR/t	198,00	1006 30 96 9100	R01	EUR/t	192,00
	064	EUR/t	167,00		R02	EUR/t	193,00
	A97	EUR/t	193,00		R03	EUR/t	198,00
	021 and 023	EUR/t	193,00		064	EUR/t	167,00
1006 30 63 9900	R01	EUR/t	192,00		A97	EUR/t	193,00
	064	EUR/t	167,00		021 and 023	EUR/t	193,00
	A97	EUR/t	193,00	1006 30 96 9900	R01	EUR/t	192,00
					A97	EUR/t	193,00
					064	EUR/t	167,00
				1006 30 98 9100	021 and 023	EUR/t	193,00
				1006 30 98 9900	—	EUR/t	—
				1006 40 00 9000	—	EUR/t	—

(1) The procedure laid down in Article 7(4) of Regulation (EC) No 1162/95 applies to licences applied for under that Regulation for quantities according to the destination:
 destination R01: 3 357 t,
 all destinations R02 and R03: 2 685 t,
 destinations 021 and 023: 654 t,
 destination 064: 6 147 t,
 destination A97: 300 t.

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) as amended.

The numeric destination codes are set out in Commission Regulation (EC) No 2020/2001 (OJ L 273, 16.10.2001, p. 6).

The other destinations are defined as follows:

R01 Switzerland, Liechtenstein, communes of Livigno and Campione d'Italia.

R02 Morocco, Algeria, Tunisia, Malta, Egypt, Israel, Lebanon, Libya, Syria, Ex-Spanish Sahara, Cyprus, Jordan, Iraq, Iran, Yemen, Kuwait, United Arab Emirates, Oman, Bahrain, Qatar, Saudi Arabia, Eritrea, West Bank/Gaza Strip, Estonia, Latvia, Lithuania, Poland, Czech Republic, Slovenia, Slovakia, Norway, Faroe Islands, Iceland, Russia, Belarus, Bosnia and Herzegovina, Croatia, Yugoslavia, Former Yugoslav Republic of Macedonia, Albania, Romania, Bulgaria, Georgia, Armenia, Azerbaijan, Moldova, Ukraine, Kazakstan, Turkmenistan, Uzbekistan, Tajikistan, Kyrgyzstan.

R03 Colombia, Ecuador, Peru, Bolivia, Chile, Argentina, Uruguay, Paraguay, Brazil, Venezuela, Canada, Mexico, Guatemala, Honduras, El Salvador, Nicaragua, Costa Rica, Panama, Cuba, Bermuda, South Africa, Australia, New Zealand, Hong Kong SAR, Singapore, A40, A11 except Suriname, Guyana, Madagascar.

COMMISSION REGULATION (EC) No 189/2002**of 31 January 2002****fixing the rates of refunds applicable to certain products from the sugar sector exported in the form of goods not covered by Annex I to the Treaty**

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⁾, and in particular Article 27(5)(a) and (15),

Whereas:

- (1) Article 27(1) and (2) of Regulation (EEC) No 1260/2001 provides that the differences between the prices in international trade for the products listed in Article 1(1)(a), (c), (d), (f), (g) and (h) of that Regulation and prices within the Community may be covered by an export refund where these products are exported in the form of goods listed in the Annex to that Regulation. Commission Regulation (EC) No 1520/2000 of 13 July 2000 laying down common implementing rules for granting export refunds on certain agricultural products exported in the form of goods not covered by Annex I to the Treaty and the criteria for fixing the amount of such refunds ⁽²⁾, as last amended by Regulation (EC) No 1563/2001 ⁽³⁾, specifies the products for which a rate of refund should be fixed, to be applied where these products are exported in the form of goods listed in Annex I to Regulation (EC) No 1260/2001.
- (2) In accordance with Article 4(1) of Regulation (EC) No 1520/2000, the rate of the refund per 100 kilograms for each of the basic products in question must be fixed for each month.
- (3) Article 27(3) of Regulation (EC) No 1260/2001 and Article 11 of the Agreement on Agriculture concluded under the Uruguay Round lay down that the export refund for a product contained in a good may not

exceed the refund applicable to that product when exported without further processing.

- (4) The refunds fixed under this Regulation may be fixed in advance as the market situation over the next few months cannot be established at the moment.
- (5) The commitments entered into with regard to refunds which may be granted for the export of agricultural products contained in goods not covered by Annex I to the Treaty may be jeopardized by the fixing in advance of high refund rates. It is therefore necessary to take precautionary measures in such situations without, however, preventing the conclusion of long-term contracts. The fixing of a specific refund rate for the advance fixing of refunds is a measure which enables these various objectives to be met.
- (6) It is necessary to ensure continuity of strict management taking account of expenditure forecasts and funds available in the budget.
- (7) 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 rates of the refunds applicable to the basic products appearing in Annex A to Regulation (EC) No 1520/2000 and listed in Article 1(1) and (2) of Regulation (EC) No 1260/2001, exported in the form of goods listed in Annex V to Regulation (EC) No 1260/2001, are fixed as shown in the Annex hereto.

Article 2

This Regulation shall enter into force on 1 February 2002.

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

Done at Brussels, 31 January 2002.

For the Commission

Erkki LIIKANEN

Member of the Commission

⁽¹⁾ OJ L 178, 30.6.2001, p. 1.

⁽²⁾ OJ L 177, 15.7.2000, p. 1.

⁽³⁾ OJ L 208, 1.8.2001, p. 8.

ANNEX

to the Commission Regulation of 31 January 2002 fixing the rates of the refunds applicable to certain products in the sugar sector exported in the form of goods not covered by Annex I to the Treaty

Product	Rate of refund in EUR/100 kg	
	In case of advance fixing of refunds	Other
White sugar:	38,54	38,54

COMMISSION REGULATION (EC) No 190/2002**of 31 January 2002****fixing the rates of the refunds applicable to certain milk products exported in the form of goods not covered by Annex I to the Treaty**

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Council Regulation (EC) No 1255/1999 of 15 May 1999 on the common organisation of the market in milk and milk products ⁽¹⁾, as last amended by Regulation (EC) No 1670/2000 ⁽²⁾, and in particular Article 31(3) thereof,

Whereas:

(1) Article 31(1) of Regulation (EC) No 1255/1999 provides that the difference between prices in international trade for the products listed in Article 1 (a), (b), (c), (d), (e), and (g) of that Regulation and prices within the Community may be covered by an export refund. Whereas Commission Regulation (EC) No 1520/2000 of 13 July 2000 laying down common implementing rules for granting export refunds on certain agricultural products exported in the form of goods not covered by Annex I to the Treaty, and criteria for fixing the amount of such refunds ⁽³⁾, as last amended by Regulation (EC) No 1563/2001 ⁽⁴⁾, specifies the products for which a rate of refund should be fixed, to be applied where these products are exported in the form of goods listed in the Annex to Regulation (EC) No 1255/1999.

(2) In accordance with the first subparagraph of Article 4 (1) of Regulation (EC) No 1520/2000, the rate of the refund per 100 kilograms for each of the basic products in question must be fixed for each month.

(3) Article 4(3) of Regulation (EC) No 1520/2000 provides that, when the rate of the refund is being fixed, account should be taken, where necessary, of production refunds, aids or other measures having equivalent effect applicable in all Member States in accordance with the Regulation on the common organisation of the market in the product in question to the basic products listed in Annex A to that Regulation or to assimilated products.

(4) Article 11(1) of Regulation (EC) No 1255/1999 provides for the payment of aid for Community-produced skimmed milk processed into casein if such milk and the casein manufactured from it fulfil certain conditions.

(5) Commission Regulation (EC) No 2571/97 of 15 December 1997 on the sale of butter at reduced prices and the granting of aid for cream, butter and concentrated butter for use in the manufacture of pastry products, ice-cream and other foodstuffs ⁽⁵⁾, as last amended by Regulation (EC) No 635/2000 ⁽⁶⁾, lays down that butter and cream at reduced prices should be made available to industries which manufacture certain goods.

(6) It is necessary to ensure continuity of strict management taking account of expenditure forecasts and funds available in the budget.

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

HAS ADOPTED THIS REGULATION:

Article 1

1. The rates of the refunds applicable to the basic products appearing in Annex A to Regulation (EC) No 1520/2000 and listed in Article 1 of Regulation (EC) No 1255/1999, exported in the form of goods listed in the Annex to Regulation (EC) No 1255/1999, are hereby fixed as shown in the Annex to this Regulation.

2. No rates of refund are fixed for any of the products referred to in the preceding paragraph which are not listed in the Annex to this Regulation.

Article 2

This Regulation shall enter into force on 1 February 2002.

⁽¹⁾ OJ L 160, 26.6.1999, p. 48.

⁽²⁾ OJ L 193, 29.7.2000, p. 10.

⁽³⁾ OJ L 177, 15.7.2000, p. 1.

⁽⁴⁾ OJ L 208, 1.8.2001, p. 8.

⁽⁵⁾ OJ L 350, 20.12.1997, p. 3.

⁽⁶⁾ OJ L 76, 25.3.2000, p. 9.

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

Done at Brussels, 31 January 2002.

For the Commission

Erkki LIIKANEN

Member of the Commission

ANNEX

to the Commission Regulation of 31 January 2002 fixing the rates of the refunds applicable to certain milk products exported in the form of goods not covered by Annex I to the Treaty

(EUR/100 kg)

CN code	Description	Rate of refund
ex 0402 10 19	Powdered milk, in granules or other solid forms, not containing added sugar or other sweetening matter, with a fat content not exceeding 1,5 % by weight (PG 2):	
	(a) On exportation of goods of CN code 3501	—
	(b) On exportation of other goods	30,00
ex 0402 21 19	Powdered milk, in granules or other solid forms, not containing added sugar or other sweetening matter, with a fat content of 26 % by weight (PG 3):	
	(a) Where goods incorporating, in the form of products assimilated to PG 3, reduced-price butter or cream obtained pursuant to Regulation (EC) No 2571/97 are exported	50,74
	(b) On exportation of other goods	78,00
ex 0405 10	Butter, with a fat content by weight of 82 % (PG 6):	
	(a) Where goods containing reduced-price butter or cream which have been manufactured in accordance with the conditions provided for in Regulation (EC) No 2571/97 are exported	90,00
	(b) On exportation of goods of CN code 2106 90 98 containing 40 % or more by weight of milk fat	182,25
	(c) On exportation of other goods	175,00

COMMISSION REGULATION (EC) No 191/2002

of 31 January 2002

fixing the rates of the refunds applicable to certain cereal and rice-products exported in the form of goods not covered by Annex I to the Treaty

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 13(3) thereof,

Having regard to Council Regulation (EC) No 3072/95 of 22 December 1995 on the common organisation of the market in rice ⁽³⁾, as last amended by Regulation (EC) No 1987/2001 ⁽⁴⁾, and in particular Article 13(3) thereof,

Whereas:

- (1) Article 13(1) of Regulation (EEC) No 1766/92 and Article 13(1) of Regulation (EC) No 3072/95 provide that the difference between quotations of prices on the world market for the products listed in Article 1 of each of those Regulations and the prices within the Community may be covered by an export refund.
- (2) Commission Regulation (EC) No 1520/2000 of 13 July 2000 laying down common implementing rules for granting export refunds on certain agricultural products exported in the form of goods not covered by Annex I to the Treaty, and the criteria for fixing the amount of such refunds ⁽⁵⁾, as last amended by Regulation (EC) No 1563/2001 ⁽⁶⁾, specifies the products for which a rate of refund should be fixed, to be applied where these products are exported in the form of goods listed in Annex B to Regulation (EEC) No 1766/92 or in Annex B to Regulation (EC) No 3072/95 as appropriate.
- (3) In accordance with the first subparagraph of Article 4(1) of Regulation (EC) No 1520/2000, the rate of the refund per 100 kilograms for each of the basic products in question must be fixed for each month.
- (4) The commitments entered into with regard to refunds which may be granted for the export of agricultural products contained in goods not covered by Annex I to the Treaty may be jeopardised by the fixing in advance of high refund rates. Whereas it is therefore necessary to take precautionary measures in such situations without, however, preventing the conclusion of long-term contracts. Whereas the fixing of a specific refund rate for the advance fixing of refunds is a measure which enables these various objectives to be met.

- (5) Now that a settlement has been reached between the European Community and the United States of America on Community exports of pasta products to the United States and has been approved by Council Decision 87/482/EEC ⁽⁷⁾, it is necessary to differentiate the refund on goods falling within CN codes 1902 11 00 and 1902 19 according to their destination.
- (6) Pursuant to Article 4(3) and (5) of Regulation (EC) No 1520/2000 provides that a reduced rate of export refund has to be fixed, taking account of the amount of the production refund applicable, pursuant to Council Regulation (EEC) No 1722/93 ⁽⁸⁾, as last amended by Commission Regulation (EC) No 1786/2001 ⁽⁹⁾, for the basic product in question, used during the assumed period of manufacture of the goods.
- (7) Spirituous beverages are considered less sensitive to the price of the cereals used in their manufacture. However, Protocol 19 of the Act of Accession of the United Kingdom, Ireland and Denmark stipulates that the necessary measures must be decided to facilitate the use of Community cereals in the manufacture of spirituous beverages obtained from cereals. Accordingly, it is necessary to adapt the refund rate applying to cereals exported in the form of spirituous beverages.
- (8) It is necessary to ensure continuity of strict management taking account of expenditure forecasts and funds available in the budget.
- (9) 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 rates of the refunds applicable to the basic products appearing in Annex A to Regulation (EC) No 1520/2000 and listed either in Article 1 of Regulation (EEC) No 1766/92 or in Article 1(1) of Regulation (EC) No 3072/95, exported in the form of goods listed in Annex B to Regulation (EEC) No 1766/92 or in Annex B to amended Regulation (EC) No 3072/95 respectively, are hereby fixed as shown in the Annex to this Regulation.

Article 2

This Regulation shall enter into force on 1 February 2002.

⁽¹⁾ OJ L 181, 1.7.1992, p. 21.

⁽²⁾ OJ L 193, 29.7.2000, p. 1.

⁽³⁾ OJ L 329, 30.12.1995, p. 18.

⁽⁴⁾ OJ L 271, 12.10.2001, p. 5.

⁽⁵⁾ OJ L 177, 15.7.2000, p. 1.

⁽⁶⁾ OJ L 208, 1.8.2001, p. 8.

⁽⁷⁾ OJ L 275, 29.9.1987, p. 36.

⁽⁸⁾ OJ L 159, 1.7.1993, p. 112.

⁽⁹⁾ OJ L 242, 12.9.2001, p. 3.

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

Done at Brussels, 31 January 2002.

For the Commission

Erkki LIIKANEN

Member of the Commission

ANNEX

to the Commission Regulation of 31 January 2002 fixing the rates of the refunds applicable to certain cereals and rice products exported in the form of goods not covered by Annex I to the Treaty

CN code	Description of products ⁽¹⁾	Rate of refund per 100 kg of basic product (EUR/100 kg)	
		In case of advance fixing of refunds	Other
1001 10 00	Durum wheat: – on exports of goods falling within CN codes 1902 11 and 1902 19 to the United States of America – in other cases	— —	— —
1001 90 99	Common wheat and meslin: – on exports of goods falling within CN codes 1902 11 and 1902 19 to the United States of America – in other cases: – – where Article 4(5) of Regulation (EC) No 1520/2000 applies ⁽²⁾ – – where goods falling within subheading 2208 ⁽³⁾ are exported – – in other cases	— — — — —	— — — — —
1002 00 00	Rye	1,809	1,809
1003 00 90	Barley – where goods falling within subheading 2208 ⁽³⁾ are exported – in other cases	— —	— —
1004 00 00	Oats	—	—
1005 90 00	Maize (corn) used in the form of: – starch: – – where Article 4(5) of Regulation (EC) No 1520/2000 applies ⁽²⁾ – – where goods falling within subheading 2208 ⁽³⁾ are exported – – in other cases – glucose, glucose syrup, maltodextrine, maltodextrine syrup of CN codes 1702 30 51, 1702 30 59, 1702 30 91, 1702 30 99, 1702 40 90, 1702 90 50, 1702 90 75, 1702 90 79, 2106 90 55 ⁽⁴⁾ : – – where Article 4(5) of Regulation (EC) No 1520/2000 applies ⁽²⁾ – – where goods falling within subheading 2208 ⁽³⁾ are exported – – in other cases – where goods falling within subheading 2208 ⁽³⁾ are exported – other (including unprocessed) Potato starch of CN code 1108 13 00 similar to a product obtained from processed maize: – where Article 4(5) of Regulation (EC) No 1520/2000 applies ⁽²⁾ – – where goods falling within subheading 2208 ⁽³⁾ are exported – in other cases	1,956 — 1,956 1,467 — 1,467 — 1,956 1,956 — 1,956	1,956 — 1,956 1,467 — 1,467 — 1,956 1,956 — 1,956

(EUR/100 kg)			
CN code	Description of products ⁽¹⁾	Rate of refund per 100 kg of basic product	
		In case of advance fixing of refunds	Other
ex 1006 30	Wholly-milled rice:		
	– round grain	19,300	19,300
	– medium grain	19,300	19,300
	– long grain	19,300	19,300
1006 40 00	Broken rice	4,400	4,400
1007 00 90	Sorghum	—	—

⁽¹⁾ As far as agricultural products obtained from the processing of a basic product or/and assimilated products are concerned, the coefficients shown in Annex E of amended Commission Regulation (EC) No 1520/2000 shall be applied (OJ L 177, 15.7.2000, p. 1).

⁽²⁾ The goods concerned fall under CN code 3505 10 50.

⁽³⁾ Goods listed in Annex B of Council Regulation (EEC) No 1766/92 or referred to in Article 2 of Regulation (EEC) No 2825/93.

⁽⁴⁾ For syrups of CN codes NC 1702 30 99, 1702 40 90 and 1702 60 90, obtained from mixing glucose and fructose syrup, the export refund may be granted only for the glucose syrup.

COMMISSION REGULATION (EC) No 192/2002

of 31 January 2002

laying down detailed rules for issuing import licences for sugar and sugar and cocoa mixtures with ACP/OCT or EC/OCT cumulation of origin

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Council Decision 2001/822/EC of 27 November 2001 on the association of the overseas countries and territories with the European Community ⁽¹⁾, and in particular Article 6(4) of Annex III thereto,

Whereas:

- (1) Pursuant to Decision 2001/822/EC, ACP/OCT or EC/OCT cumulation of origin is allowed for the quantities laid down in that Decision for the products falling within CN Chapter 17 and CN codes 1806 10 30 and 1806 10 90.
- (2) A system of licences should be introduced for the products in question and the rules for issuing them laid down so as to permit the requisite controls on imports of the quantities provided for in the abovementioned Decision.
- (3) Save where this Regulation provides otherwise, Commission Regulation (EC) No 1291/2000 of 9 June 2000 laying down common detailed rules for the application of the system of import and export licences and advance-fixing certificates for agricultural products ⁽²⁾, as last amended by Regulation (EC) No 2299/2001 ⁽³⁾, should apply.
- (4) With a view to ensuring orderly management, preventing speculation and providing for effective controls, detailed rules should be laid down for submitting licence applications and the documents that the interested parties must produce.
- (5) The specific features of the licence application form for importing the products in question should be laid down. In order to ensure that such imports are administered strictly, it should be laid down in particular that rights deriving from licences are not transferable and that the release for free circulation of quantities of products exceeding those covered by licences issued is prohibited.
- (6) A timetable should be laid down for the submission of applications, the issue of licences by the competent authorities of the Member States and for the fixing of a single reducing coefficient where the maximum annual

quantity is exceeded. Provision should be made for operators to be able, in such cases, to withdraw their licence applications and for their securities to be released immediately. Lastly, special time limits should be set for the submission of licence applications and the issuing of the licences at the beginning of 2002.

- (7) Since the import arrangements established by Council Decision 97/803/EC of 24 November 1997 amending, at mid-term, Decision 91/482/EEC on the association of the overseas countries and territories with the European Economic Community ⁽⁴⁾ have been replaced by the arrangements established by Decision 2001/822/EC, Commission Regulation (EC) No 2553/97 of 17 December 1997 on rules for issuing import licences for certain products covered by CN codes 1701, 1702, 1703 and 1704 and qualifying as ACP/OCT originating products ⁽⁵⁾ should be repealed,

HAS ADOPTED THIS REGULATION:

Article 1

1. Importation of products falling within CN Chapter 17 and CN codes 1806 10 30 and 1806 10 90 with ACP/OCT or EC/OCT cumulation of origin shall be subject to production of an import licence issued in accordance with Regulation (EC) No 1291/2000, save where this Regulation provides otherwise.
2. Import licences issued under this Regulation shall bear the serial number 09.4652.

Article 2

For the purposes of this Regulation the concept of 'originating products' and the relevant administrative methods shall be those set out in Annex III to Decision 2001/822/EC.

Article 3

1. Import licence applications shall be lodged with the competent authorities of the Member States.
2. Import licence applications shall relate to a quantity of not less than 25 tonnes and not more than the maximum quantity authorised by Article 6(4) of Annex III to Decision 2001/822/EC.

⁽¹⁾ OJ L 314, 30.11.2001, p. 1.

⁽²⁾ OJ L 152, 24.6.2000, p. 1.

⁽³⁾ OJ L 308, 27.11.2001, p. 19.

⁽⁴⁾ OJ L 329, 29.11.1997, p. 50.

⁽⁵⁾ OJ L 349, 19.12.1997, p. 26.

3. Import licence applications shall be accompanied by the following documents:

- (a) the export licence issued by the OCT authorities in accordance with the model form set out in the Annex, issued by the bodies responsible for issuing EUR 1 certificates;
- (b) proof that the applicant is a natural or legal person who has been engaged in trade in sugar for at least six months;
- (c) a written declaration by the applicant to the effect that he has not submitted more than one application during the application submission period. Where an applicant submits more than one import licence application, all applications from the same person shall be inadmissible;
- (d) proof that the party concerned has lodged a security of EUR 12 per 100 kilograms.

Article 4

Import licence applications and import licences shall show:

- (a) in section 7, the OCT of provenance, the word 'yes' being marked with a cross;
- (b) in section 8, the OCT of origin, the word 'yes' being marked with a cross. Import licences shall be valid only for products originating in the OCT shown in that section;
- (c) in section 20 of the licence, one of the following:
 - Exención de derechos de importación (Decisión 2001/822/CE, artículo 35) número de orden ...
 - Fritages for importafgifter (artikel 35 i afgørelse 2001/822/EF), løbenummer ...
 - Frei von Einfuhrabgaben (Beschluss 2001/822/EG, Artikel 35), Ordnungsnummer ...
 - Δασμολογική απαλλαγή (απόφαση 2001/822/EK, άρθρο 35), αύξων αριθμός ...
 - Free from import duty (Decision 2001/822/EC, Article 35), serial number ...
 - Exemption du droit d'importation (Décision 2001/822/CE, article 35), numéro d'ordre ...
 - Esenzione dal dazio all'importazione (Decisione 2001/822/CE, articolo 35), numero d'ordine ...
 - Vrij van invoerrechten (Besluit 2001/822/EG, artikel 35), volgnummer ...
 - Isenção de direitos de importação (Decisão 2001/822/CE, artigo 35.º), número de ordem ...
 - Vapaa tuontitulleista (päättöksen 2001/822/EY 35 artikla), järjestyksennumero ...
 - Importtullfri (beslut 2001/822/EG, artikel 35), löpnummer ...

Article 5

1. Notwithstanding Article 8(4) of Regulation (EC) No 1291/2000, the quantity released into free circulation may not exceed that indicated in sections 17 and 18 of the import

licence. The figure '0' shall be entered to that effect in section 19 of the licence.

2. Notwithstanding Article 9 of Regulation (EC) No 1291/2000, rights deriving from import licences shall not be transferable.

Article 6

1. Licence applications shall be submitted to the competent authorities of the Member States in the first five working days of January, April, July and October of each year.

However, for the year 2002, instead of the first five working days of January applications shall be submitted in the first ten working days of February.

The licences shall be issued within 13 working days of the closing date for submitting licence applications.

2. Within two working days of the closing date for submitting licence applications, the Member States shall notify the Commission of:

- (a) the quantities of products, broken down by eight-digit CN code and by OCT of origin, covered by import licence applications lodged and the relevant dates;
- (b) the quantities of products, broken down by eight-digit CN code and by OCT of origin, covered by unused or partly used import licences, corresponding to the difference between the quantities attributed on the back of licences and those for which the latter were issued.

If no import licence applications have been lodged in a Member State during the periods referred to in paragraph 1, that Member State shall so inform the Commission on the day referred to in the first subparagraph of this paragraph.

3. Where licence applications exhaust or exceed the annual maximum quantity referred to in the second subparagraph of Article 6(4) of Annex III to Decision 2001/822/EC, within ten working days of the closing date for submitting licence applications the Commission shall suspend the submission of further applications for the current year and fix, where appropriate, the single reducing coefficient to be applied to each of the applications submitted.

The single reducing coefficient shall be in proportion to the difference between the maximum quantity still available and the quantity covered by the licence applications in question.

If a single reducing coefficient is applied, licence applications may be withdrawn within twelve working days of the closing date for submitting licence applications. The security shall be released immediately.

4. Where the quantity for which the import licence is issued is less than that applied for, the amount of the security referred to in Article 3(3)(d) shall be reduced proportionately.

Article 7

Import licences shall be valid from their actual date of issue until 31 December of the year of issue.

Article 8

Regulation (EC) No 2553/97 is hereby repealed.

Article 9

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

It shall apply from 1 February 2002.

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

Done at Brussels, 31 January 2002.

For the Commission

Franz FISCHLER

Member of the Commission

ANNEX

Model export licence as referred to in Article 2(3), first indent, of Regulation (EC) No 192/2002

1. Exporter (name, full address, country)	ORIGINAL	2. No	
	3. Quota year		
4. Importer, (name, full address, country) (optional)	EXPORT LICENCE SUGAR		
5. Place and date of loading — means of transport (optional)	6. Country of origin	7. Country of destination	
	8. Additional details		
9. Description of goods		10. CN code (8-digit)	11. Quantity (kg)
12. CERTIFICATION BY COMPETENT AUTHORITY I, the undersigned, hereby certify that, in the case of the country indicated in Box 13, the total quantity of sugar for which export licences have been issued under Regulation (EC) No 192/2002 for the year indicated in Box 3, including this export licence, is less than the maximum quantity authorised by Article 6(4) of Annex III to Decision 2001/822/EC.			
13. Competent authority (name, complete address, country)	At: on:		
	(signature) (stamp)		

COMMISSION REGULATION (EC) No 193/2002**of 31 January 2002****fixing the export refunds on products processed from cereals and rice**

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 organization of the market in cereals ⁽¹⁾, as last amended by Regulation (EC) No 1666/2000 ⁽²⁾, and in particular Article 13(3) thereof,

Having regard to Council Regulation (EC) No 3072/95 of 22 December 1995 on the common organization of the market in rice ⁽³⁾, as last amended by Regulation (EC) No 1987/2001 ⁽⁴⁾, and in particular Article 13(3) thereof,

Whereas:

(1) Article 13 of Regulation (EEC) No 1766/92 and Article 13 of Regulation (EC) No 3072/95 provide that the difference between quotations or prices on the world market for the products listed in Article 1 of those Regulations and prices for those products within the Community may be covered by an export refund.

(2) Article 13 of Regulation (EC) No 3072/95 provides that when refunds are being fixed account must be taken of the existing situation and the future trend with regard to prices and availabilities of cereals, rice and broken rice on the Community market on the one hand and prices for cereals, rice, broken rice and cereal products on the world market on the other. The same Articles provide that it is also important to ensure equilibrium and the natural development of prices and trade on the markets in cereals and rice and, furthermore, to take into account the economic aspect of the proposed exports, and the need to avoid disturbances on the Community market.

(3) Article 4 of Commission Regulation (EC) No 1518/95 ⁽⁵⁾, as amended by Regulation (EC) No 2993/95 ⁽⁶⁾, on the import and export system for products processed from cereals and from rice defines the specific criteria to be taken into account when the refund on these products is being calculated.

(4) The refund to be granted in respect of certain processed products should be graduated on the basis of the ash, crude fibre, tegument, protein, fat and starch content of the individual product concerned, this content being a particularly good indicator of the quantity of basic product actually incorporated in the processed product.

(5) There is no need at present to fix an export refund for manioc, other tropical roots and tubers or flours obtained therefrom, given the economic aspect of potential exports and in particular the nature and origin of these products. For certain products processed from cereals, the insignificance of Community participation in world trade makes it unnecessary to fix an export refund at the present time.

(6) The world market situation or the specific requirements of certain markets may make it necessary to vary the refund for certain products according to destination.

(7) The refund must be fixed once a month. It may be altered in the intervening period.

(8) Certain processed maize products may undergo a heat treatment following which a refund might be granted that does not correspond to the quality of the product; whereas it should therefore be specified that on these products, containing pregelatinized starch, no export refund is to be granted.

(9) The Management Committee for Cereals has not delivered an opinion within the time limit set by its chairman,

HAS ADOPTED THIS REGULATION:

Article 1

The export refunds on the products listed in Article 1(1)(d) of Regulation (EEC) No 1766/92 and in Article 1(1)(c) of Regulation (EC) No 3072/95 and subject to Regulation (EC) No 1518/95 are hereby fixed as shown in the Annex to this Regulation.

⁽¹⁾ OJ L 181, 1.7.1992, p. 21.

⁽²⁾ OJ L 193, 29.7.2000, p. 1.

⁽³⁾ OJ L 329, 30.12.1995, p. 18.

⁽⁴⁾ OJ L 271, 12.10.2001, p. 5.

⁽⁵⁾ OJ L 147, 30.6.1995, p. 55.

⁽⁶⁾ OJ L 312, 23.12.1995, p. 25.

Article 2

This Regulation shall enter into force on 1 February 2002.

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

Done at Brussels, 31 January 2002.

For the Commission

Franz FISCHLER

Member of the Commission

ANNEX

to the Commission Regulation of 31 January 2002 fixing the export refunds on products processed from cereals and rice

Product code	Destination	Unit of measurement	Refunds	Product code	Destination	Unit of measurement	Refunds
1102 20 10 9200 ⁽¹⁾	C01	EUR/t	27,38	1104 23 10 9100	A00	EUR/t	29,34
1102 20 10 9400 ⁽¹⁾	C01	EUR/t	23,47	1104 23 10 9300	A00	EUR/t	22,49
1102 20 90 9200 ⁽¹⁾	C01	EUR/t	23,47	1104 29 11 9000	A00	EUR/t	0,00
1102 90 10 9100	C01	EUR/t	0,00	1104 29 51 9000	A00	EUR/t	0,00
1102 90 10 9900	C01	EUR/t	0,00	1104 29 55 9000	A00	EUR/t	0,00
1102 90 30 9100	C01	EUR/t	0,00	1104 30 10 9000	A00	EUR/t	0,00
1103 12 00 9100	A00	EUR/t	0,00	1104 30 90 9000	A00	EUR/t	4,89
1103 13 10 9100 ⁽¹⁾	A00	EUR/t	35,21	1107 10 11 9000	A00	EUR/t	0,00
1103 13 10 9300 ⁽¹⁾	A00	EUR/t	27,38	1107 10 91 9000	A00	EUR/t	0,00
1103 13 10 9500 ⁽¹⁾	A00	EUR/t	23,47	1108 11 00 9200	A00	EUR/t	0,00
1103 13 90 9100 ⁽¹⁾	A00	EUR/t	23,47	1108 11 00 9300	A00	EUR/t	0,00
1103 19 10 9000	A00	EUR/t	18,09	1108 12 00 9200	A00	EUR/t	31,30
1103 19 30 9100	A00	EUR/t	0,00	1108 12 00 9300	A00	EUR/t	31,30
1103 21 00 9000	A00	EUR/t	0,00	1108 13 00 9200	A00	EUR/t	31,30
1103 29 20 9000	A00	EUR/t	0,00	1108 13 00 9300	A00	EUR/t	31,30
1104 11 90 9100	A00	EUR/t	0,00	1108 19 10 9200	A00	EUR/t	66,88
1104 12 90 9100	A00	EUR/t	0,00	1108 19 10 9300	A00	EUR/t	66,88
1104 12 90 9300	A00	EUR/t	0,00	1109 00 00 9100	A00	EUR/t	0,00
1104 19 10 9000	A00	EUR/t	0,00	1702 30 51 9000 ⁽²⁾	A00	EUR/t	30,66
1104 19 50 9110	A00	EUR/t	31,30	1702 30 59 9000 ⁽²⁾	A00	EUR/t	23,47
1104 19 50 9130	A00	EUR/t	25,43	1702 30 91 9000	A00	EUR/t	30,66
1104 21 10 9100	A00	EUR/t	0,00	1702 30 99 9000	A00	EUR/t	23,47
1104 21 30 9100	A00	EUR/t	0,00	1702 40 90 9000	A00	EUR/t	23,47
1104 21 50 9100	A00	EUR/t	0,00	1702 90 50 9100	A00	EUR/t	30,66
1104 21 50 9300	A00	EUR/t	0,00	1702 90 50 9900	A00	EUR/t	23,47
1104 22 20 9100	A00	EUR/t	0,00	1702 90 75 9000	A00	EUR/t	32,13
1104 22 30 9100	A00	EUR/t	0,00	1702 90 79 9000	A00	EUR/t	22,30
				2106 90 55 9000	A00	EUR/t	23,47

⁽¹⁾ No refund shall be granted on products given a heat treatment resulting in pregelatinisation of the starch.

⁽²⁾ Refunds are granted in accordance with Council Regulation (EEC) No 2730/75 (OJ L 281, 1.11.1975, p. 20), amended.

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) as amended.

The numeric destination codes are set out in Regulation (EC) No 2020/2001 (OJ L 273, 16.10.2001, p. 6).

C01: All destinations except Poland.

COMMISSION REGULATION (EC) No 194/2002
of 31 January 2002
fixing the export refunds on cereal-based compound feedingstuffs

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 organization of the market in cereals ⁽¹⁾, as last amended by Regulation (EC) No 1666/2000 ⁽²⁾, and in particular Article 13(3) thereof,

Whereas:

- (1) Article 13 of Regulation (EEC) No 1766/92 provides that the difference between quotations or prices on the world market for the products listed in Article 1 of that Regulation and prices for those products within the Community may be covered by an export refund.
- (2) Regulation (EC) No 1517/95 of 29 June 1995 laying down detailed rules for the application of Regulation (EEC) No 1766/92 as regards the arrangements for the export and import of compound feedingstuffs based on cereals and amending Regulation (EC) No 1162/95 laying down special detailed rules for the application of the system of import and export licences for cereals and rice ⁽³⁾ in Article 2 lays down general rules for fixing the amount of such refunds.
- (3) That calculation must also take account of the cereal products content. In the interest of simplification, the refund should be paid in respect of two categories of 'cereal products', namely for maize, the most commonly used cereal in exported compound feeds and maize products, and for 'other cereals', these being eligible cereal products excluding maize and maize products. A

refund should be granted in respect of the quantity of cereal products present in the compound feedingstuff.

- (4) Furthermore, the amount of the refund must also take into account the possibilities and conditions for the sale of those products on the world market, the need to avoid disturbances on the Community market and the economic aspect of the export.
- (5) However, in fixing the rate of refund it would seem advisable to base it at this time on the difference in the cost of raw inputs widely used in compound feedingstuffs as the Community and world markets, allowing more accurate account to be taken of the commercial conditions under which such products are exported.
- (6) The refund must be fixed once a month; whereas it may be altered in the intervening period.
- (7) The Management Committee for Cereals has not delivered an opinion within the time limit set by its chairman,

HAS ADOPTED THIS REGULATION:

Article 1

The export refunds on the compound feedingstuffs covered by Regulation (EEC) No 1766/92 and subject to Regulation (EC) No 1517/95 are hereby fixed as shown in the Annex to this Regulation.

Article 2

This Regulation shall enter into force on 1 February 2002.

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

Done at Brussels, 31 January 2002.

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 147, 30.6.1995, p. 51.

ANNEX

to the Commission Regulation of 31 January 2002 fixing the export refunds on cereal-based compound feedingstuffs

Product codes benefiting from export refund:

2309 10 11 9000, 2309 10 13 9000, 2309 10 31 9000,
2309 10 33 9000, 2309 10 51 9000, 2309 10 53 9000,
2309 90 31 9000, 2309 90 33 9000, 2309 90 41 9000,
2309 90 43 9000, 2309 90 51 9000, 2309 90 53 9000.

Cereal products	Destination	Unit of measurement	Amount of refunds
Maize and maize products: CN codes 0709 90 60, 0712 90 19, 1005, 1102 20, 1103 13, 1103 29 40, 1104 19 50, 1104 23, 1904 10 10	A00	EUR/t	19,56
Cereal products excluding maize and maize products	A00	EUR/t	0,00

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) as amended.

COMMISSION REGULATION (EC) No 195/2002**of 31 January 2002****fixing the maximum export refund on common wheat in connection with the invitation to tender issued in Regulation (EC) No 943/2001**

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⁾,

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 602/2001 ⁽⁴⁾, and in particular Article 4 thereof,

Whereas:

- (1) An invitation to tender for the refund on exportation of common wheat to all third countries with the exclusion of Poland was opened pursuant to Commission Regulation (EC) No 943/2001 ⁽⁵⁾.
- (2) Article 7 of Regulation (EC) No 1501/95 provides that 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 fix

a maximum export refund taking account of the criteria referred to in Article 1 of Regulation (EC) No 1501/95. In that case a contract is awarded to any tenderer whose bid is equal to or lower than the maximum refund.

- (3) The application of the abovementioned criteria to the current market situation for the cereal in question results in the maximum export refund being fixed at the amount specified in Article 1.
- (4) The measures provided for in this Regulation are in accordance with the opinion of the Management Committee for Cereals,

HAS ADOPTED THIS REGULATION:

Article 1

For tenders notified from 25 to 31 January 2002, pursuant to the invitation to tender issued in Regulation (EC) No 943/2001, the maximum refund on exportation of common wheat shall be EUR 0,00/t.

Article 2

This Regulation shall enter into force on 1 February 2002.

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

Done at Brussels, 31 January 2002.

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 147, 30.6.1995, p. 7.

⁽⁴⁾ OJ L 89, 29.3.2001, p. 16.

⁽⁵⁾ OJ L 133, 16.5.2001, p. 3.

COMMISSION REGULATION (EC) No 196/2002
of 31 January 2002
fixing the maximum export refund on barley in connection with the invitation to tender issued in
Regulation (EC) No 1558/2001

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⁾,

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 602/2001 ⁽⁴⁾, and in particular Article 4 thereof,

Whereas:

- (1) An invitation to tender for the refund for the export of barley to all third countries except for the United States of America and Canada was opened pursuant to Commission Regulation (EC) No 1558/2001 ⁽⁵⁾.
- (2) Article 7 of Regulation (EC) No 1501/95 provides that 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 fix

a maximum export refund taking account of the criteria referred to in Article 1 of Regulation (EC) No 1501/95. In that case a contract is awarded to any tenderer whose bid is equal to or lower than the maximum refund.

- (3) The application of the abovementioned criteria to the current market situation for the cereal in question results in the maximum export refund being fixed at the amount specified in Article 1.
- (4) The measures provided for in this Regulation are in accordance with the opinion of the Management Committee for Cereals,

HAS ADOPTED THIS REGULATION:

Article 1

For tenders notified from 25 to 31 January 2002, pursuant to the invitation to tender issued in Regulation (EC) No 1558/2001, the maximum refund on exportation of barley shall be EUR 0,00/t.

Article 2

This Regulation shall enter into force on 1 February 2002.

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

Done at Brussels, 31 January 2002.

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 147, 30.6.1995, p. 7.

⁽⁴⁾ OJ L 89, 29.3.2001, p. 16.

⁽⁵⁾ OJ L 205, 31.7.2001, p. 33.

COMMISSION REGULATION (EC) No 197/2002
of 31 January 2002
fixing the maximum export refund on rye in connection with the invitation to tender issued in
Regulation (EC) No 1005/2001

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⁾,

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 602/2001 ⁽⁴⁾, and in particular Article 7 thereof,

Whereas:

- (1) An invitation to tender for the refund for the export of rye to all third countries was opened pursuant to Commission Regulation (EC) No 1005/2001 ⁽⁵⁾.
- (2) Article 7 of Regulation (EC) No 1501/95 provides that 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 fix

a maximum export refund taking account of the criteria referred to in Article 1 of Regulation (EC) No 1501/95. In that case a contract is awarded to any tenderer whose bid is equal to or lower than the maximum refund.

- (3) The application of the abovementioned criteria to the current market situation for the cereal in question results in the maximum export refund being fixed at the amount specified in Article 1.
- (4) The measures provided for in this Regulation are in accordance with the opinion of the Management Committee for Cereals,

HAS ADOPTED THIS REGULATION:

Article 1

For tenders notified from 25 to 31 January 2002, pursuant to the invitation to tender issued in Regulation (EC) No 1005/2001, the maximum refund on exportation of rye shall be EUR 29,99/t.

Article 2

This Regulation shall enter into force on 1 February 2002.

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

Done at Brussels, 31 January 2002.

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 147, 30.6.1995, p. 7.

⁽⁴⁾ OJ L 89, 29.3.2001, p. 16.

⁽⁵⁾ OJ L 140, 24.5.2001, p. 10.

COMMISSION REGULATION (EC) No 198/2002
of 31 January 2002
fixing the maximum reduction in the duty on maize imported in connection with the invitation to
tender issued in Regulation (EC) No 9/2002

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 Spain was opened pursuant to Commission Regulation (EC) No 9/2002⁽³⁾.
- (2) Pursuant to Article 5 of Commission Regulation (EC) No 1839/95⁽⁴⁾, as last amended by Regulation (EC) No 2235/2000⁽⁵⁾, the Commission, acting under the procedure laid down in Article 23 of Regulation (EEC) No 1766/92, may decide to fix maximum reduction in the import duty. In fixing this maximum the criteria provided for in Articles 6 and 7 of Regulation (EC) No 1839/95 must be taken into account. A contract is awarded to any tenderer whose tender is equal to or less than the maximum reduction in the duty.

(3) The application of the abovementioned criteria to the current market situation for the cereal in question results in the maximum reduction in the import duty being fixed at the amount specified in Article 1.

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

HAS ADOPTED THIS REGULATION:

Article 1

For tenders notified from 25 to 31 January 2002, pursuant to the invitation to tender issued in Regulation (EC) No 9/2002, the maximum reduction in the duty on maize imported shall be 27,47 EUR/t and be valid for a total maximum quantity of 112 750 tonnes.

Article 2

This Regulation shall enter into force on 1 February 2002.

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

Done at Brussels, 31 January 2002.

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 3, 5.1.2002, p. 29.

⁽⁴⁾ OJ L 177, 28.7.1995, p. 4.

⁽⁵⁾ OJ L 256, 10.10.2000, p. 13.

COMMISSION REGULATION (EC) No 199/2002**of 31 January 2002****fixing the maximum reduction in the duty on maize imported in connection with the invitation to tender issued in Regulation (EC) No 30/2002**

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 was opened pursuant to Commission Regulation (EC) No 30/2002⁽³⁾.
- (2) Pursuant to Article 5 of Commission Regulation (EC) No 1839/95⁽⁴⁾, as last amended by Regulation (EC) No 2235/2000⁽⁵⁾, the Commission, acting under the procedure laid down in Article 23 of Regulation (EEC) No 1766/92, may decide to fix maximum reduction in the import duty. In fixing this maximum the criteria provided for in Articles 6 and 7 of Regulation (EC) No 1839/95 must be taken into account. A contract is

awarded to any tenderer whose tender is equal to or less than the maximum reduction in the duty.

- (3) The application of the abovementioned criteria to the current market situation for the cereal in question results in the maximum reduction in the import duty being fixed at the amount specified in Article 1.
- (4) The measures provided for in this Regulation are in accordance with the opinion of the Management Committee for Cereals,

HAS ADOPTED THIS REGULATION:

Article 1

For tenders notified from 25 to 31 January 2002, pursuant to the invitation to tender issued in Regulation (EC) No 30/2002, the maximum reduction in the duty on maize imported shall be 24,95 EUR/t and be valid for a total maximum quantity of 69 400 t.

Article 2

This Regulation shall enter into force on 1 February 2002.

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

Done at Brussels, 31 January 2002.

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 6, 10.1.2002, p. 35.

⁽⁴⁾ OJ L 177, 28.7.1995, p. 4.

⁽⁵⁾ OJ L 256, 10.10.2000, p. 13.

COMMISSION REGULATION (EC) No 200/2002
of 31 January 2002
fixing the refunds applicable to cereal and rice sector products supplied as Community and national food aid

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 Commission Regulation (EC) No 1666/2000 ⁽²⁾, and in particular the third subparagraph of Article 13(2) thereof,

Having regard to Council Regulation (EC) No 3072/95 of 22 December 1995 on the common organisation of the market in rice ⁽³⁾, as last amended by Regulation (EC) No 1987/2001 ⁽⁴⁾, and in particular Article 13(3) thereof,

Whereas:

- (1) Article 2 of Council Regulation (EEC) No 2681/74 of 21 October 1974 on Community financing of expenditure incurred in respect of the supply of agricultural products as food aid ⁽⁵⁾ lays down that the portion of the expenditure corresponding to the export refunds on the products in question fixed under Community rules is to be charged to the European Agricultural Guidance and Guarantee Fund, Guarantee Section.
- (2) In order to make it easier to draw up and manage the budget for Community food aid actions and to enable the Member States to know the extent of Community participation in the financing of national food aid

actions, the level of the refunds granted for these actions should be determined.

- (3) The general and implementing rules provided for in Article 13 of Regulation (EEC) No 1766/92 and in Article 13 of Regulation (EC) No 3072/95 on export refunds are applicable *mutatis mutandis* to the abovementioned operations.
- (4) The specific criteria to be used for calculating the export refund on rice are set out in Article 13 of Regulation (EC) No 3072/95.
- (5) 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

For Community and national food aid operations under international agreements or other supplementary programmes, and other Community free supply measures, the refunds applicable to cereals and rice sector products shall be as set out in the Annex.

Article 2

This Regulation shall enter into force on 1 February 2002.

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

Done at Brussels, 31 January 2002.

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 329, 30.12.1995, p. 18.

⁽⁴⁾ OJ L 271, 12.10.2001, p. 5.

⁽⁵⁾ OJ L 288, 25.10.1974, p. 1.

ANNEX

to the Commission Regulation of 31 January 2002 fixing the refunds applicable to cereal and rice sector products supplied as Community and national food aid

(EUR/t)

Product code	Refund
1001 10 00 9400	0,00
1001 90 99 9000	0,00
1002 00 00 9000	30,00
1003 00 90 9000	0,00
1005 90 00 9000	24,00
1006 30 92 9100	203,00
1006 30 92 9900	203,00
1006 30 94 9100	203,00
1006 30 94 9900	203,00
1006 30 96 9100	203,00
1006 30 96 9900	203,00
1006 30 98 9100	203,00
1006 30 98 9900	203,00
1006 30 65 9900	203,00
1007 00 90 9000	24,00
1101 00 15 9100	0,00
1101 00 15 9130	0,00
1102 10 00 9500	41,00
1102 20 10 9200	27,38
1102 20 10 9400	23,47
1103 11 10 9200	0,00
1103 13 10 9100	35,21
1104 12 90 9100	0,00

NB: The product codes are defined in Commission Regulation (EEC) No 3846/87 (OJ L 366, 24.12.1987, p. 1), amended.

COMMISSION REGULATION (EC) No 201/2002
of 31 January 2002
amending representative prices and additional duties for the import of certain products 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 markets in the sugar sector ⁽¹⁾,

Having regard to Commission Regulation (EC) No 1423/95 of 23 June 1995 laying down detailed implementing rules for the import of products in the sugar sector other than molasses ⁽²⁾, as last amended by Regulation (EC) No 624/98 ⁽³⁾, and in particular the second subparagraph of Article 1(2), and Article 3(1) thereof,

Whereas:

- (1) The amounts of the representative prices and additional duties applicable to the import of white sugar, raw sugar and certain syrups are fixed by Commission Regulation

(EC) No 1309/2001 ⁽⁴⁾, as last amended by Regulation (EC) No 108/2002 ⁽⁵⁾.

- (2) It follows from applying the general and detailed fixing rules contained in Regulation (EC) No 1423/95 to the information known to the Commission that the representative prices and additional duties at present in force should be altered to the amounts set out in the Annex hereto,

HAS ADOPTED THIS REGULATION:

Article 1

The representative prices and additional duties on imports of the products referred to in Article 1 of Regulation (EC) No 1423/95 shall be as set out in the Annex hereto.

Article 2

This Regulation shall enter into force on 1 February 2002.

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

Done at Brussels, 31 January 2002.

For the Commission

Franz FISCHLER

Member of the Commission

⁽¹⁾ OJ L 178, 30.6.2001, p. 1.

⁽²⁾ OJ L 141, 24.6.1995, p. 16.

⁽³⁾ OJ L 85, 20.3.1998, p. 5.

⁽⁴⁾ OJ L 177, 30.6.2001, p. 21.

⁽⁵⁾ OJ L 19, 22.1.2002, p. 3.

ANNEX

to the Commission Regulation of 31 January 2002 amending representative prices and the amounts of additional duties applicable to imports of white sugar, raw sugar and products covered by CN code 1702 90 99

(EUR)

CN code	Amount of representative prices per 100 kg net of product concerned	Amount of additional duty per 100 kg net of product concerned
1701 11 10 ⁽¹⁾	20,05	6,28
1701 11 90 ⁽¹⁾	20,05	11,91
1701 12 10 ⁽¹⁾	20,05	6,09
1701 12 90 ⁽¹⁾	20,05	11,39
1701 91 00 ⁽²⁾	29,85	10,31
1701 99 10 ⁽²⁾	29,85	5,79
1701 99 90 ⁽²⁾	29,85	5,79
1702 90 99 ⁽³⁾	0,30	0,35

⁽¹⁾ For the standard quality as defined in Article 1 of amended Council Regulation (EEC) No 431/68 (OJ L 89, 10.4.1968, p. 3).

⁽²⁾ For the standard quality as defined in Article 1 of Council Regulation (EEC) No 793/72 (OJ L 94, 21.4.1972, p. 1).

⁽³⁾ By 1 % sucrose content.

COMMISSION REGULATION (EC) No 202/2002
of 31 January 2002
fixing the corrective amount applicable to the refund on cereals

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 organization of the market in cereals ⁽¹⁾, as last amended by Regulation (EC) No 1666/2000 ⁽²⁾, and in particular Article 13 (8) thereof,

Whereas:

- (1) Article 13 (8) of Regulation (EEC) No 1766/92 provides that the export refund applicable to cereals on the day on which application for an export licence is made must be applied on request to exports to be effected during the period of validity of the export licence; whereas, in this case, a corrective amount may be applied to the refund.
- (2) Commission Regulation (EC) No 1501/95 of 29 June 1995 laying down certain detailed rules under Council Regulation (EEC) No 1766/92 on the granting of export refunds on cereals and the 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 602/2001 ⁽⁴⁾, allows for the fixing of a corrective amount for the products listed in Article 1(1) (c) of Regulation (EEC) No 1766/92; that corrective amount must be calculated taking account of the factors referred to in Article 1 of Regulation (EC) No 1501/95.

- (3) The world market situation or the specific requirements of certain markets may make it necessary to vary the corrective amount according to destination.
- (4) The corrective amount must be fixed at the same time as the refund and according to the same procedure; it may be altered in the period between fixings.
- (5) It follows from applying the provisions set out above that the corrective amount must be as set out in the Annex hereto.
- (6) 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 corrective amount referred to in Article 1(1) (a), (b) and (c) of Regulation (EEC) No 1766/92 which is applicable to export refunds fixed in advance except for malt shall be as set out in the Annex hereto.

Article 2

This Regulation shall enter into force on 1 February 2002.

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

Done at Brussels, 31 January 2002.

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 147, 30.6.1995, p. 7.

⁽⁴⁾ OJ L 89, 29.3.2001, p. 16.

ANNEX

to the Commission Regulation of 31 January 2002 fixing the corrective amount applicable to the refund on cereals

(EUR/t)

Product code	Destination	Current 2	1st period 3	2nd period 4	3rd period 5	4th period 6	5th period 7	6th period 8
1001 10 00 9200	—	—	—	—	—	—	—	—
1001 10 00 9400	—	—	—	—	—	—	—	—
1001 90 91 9000	—	—	—	—	—	—	—	—
1001 90 99 9000	C01	—	-0,93	-1,86	-2,79	-3,72	—	—
1002 00 00 9000	C02	-20,00	-20,00	-20,00	-20,00	-20,00	—	—
	A05	0,00	0,00	0,00	0,00	0,00	—	—
1003 00 10 9000	—	—	—	—	—	—	—	—
1003 00 90 9000	A00	—	-0,93	-1,86	-2,79	-3,72	—	—
1004 00 00 9200	—	—	—	—	—	—	—	—
1004 00 00 9400	A00	0	-0,93	-1,86	-2,79	-3,72	—	—
1005 10 90 9000	—	—	—	—	—	—	—	—
1005 90 00 9000	A00	0	-0,93	-1,86	-2,79	-3,72	—	—
1007 00 90 9000	—	—	—	—	—	—	—	—
1008 20 00 9000	—	—	—	—	—	—	—	—
1101 00 11 9000	—	—	—	—	—	—	—	—
1101 00 15 9100	C01	0	-1,27	-2,55	-3,82	-5,10	—	—
1101 00 15 9130	C01	0	-1,19	-2,38	-3,57	-4,76	—	—
1101 00 15 9150	C01	0	-1,10	-2,19	-3,29	-4,39	—	—
1101 00 15 9170	C01	0	-1,01	-2,03	-3,04	-4,05	—	—
1101 00 15 9180	C01	0	-0,95	-1,90	-2,85	-3,79	—	—
1101 00 15 9190	—	—	—	—	—	—	—	—
1101 00 90 9000	—	—	—	—	—	—	—	—
1102 10 00 9500	C01	0	0,00	0,00	0,00	0,00	—	—
1102 10 00 9700	C01	0	0,00	0,00	0,00	0,00	—	—
1102 10 00 9900	—	—	—	—	—	—	—	—
1103 11 10 9200	A00	0	-1,40	-2,79	-4,19	-5,58	—	—
1103 11 10 9400	A00	0	-1,25	-2,49	-3,74	-4,98	—	—
1103 11 10 9900	—	—	—	—	—	—	—	—
1103 11 90 9200	A00	0	-1,27	-2,55	-3,82	-5,10	—	—
1103 11 90 9800	—	—	—	—	—	—	—	—

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) as amended.

The numeric destination codes are set out in Commission Regulation (EC) No 2020/2001 (OJ L 273, 16.10.2001, p. 6).

The other destinations are as follows:

C01 All destinations except for Poland,

C02 Poland, Czech Republic, Slovak Republic, Hungary, Estonia, Latvia, Lithuania, Norway, Faroe Islands, Iceland, Russia, Belarus, Bosnia and Herzegovina, Croatia, Slovenia, former Republic of Yugoslavia with the exception of Slovenia, Croatia and Bosnia and Herzegovina, Albania, Romania, Bulgaria, Armenia, Georgia, Azerbaijan, Moldova, Ukraine, Kazakhstan, Kyrgyzstan, Uzbekistan, Tajikistan and Turkmenistan,

A05 other non-member countries.

COMMISSION REGULATION (EC) No 203/2002
of 31 January 2002
fixing the corrective amount applicable to the refund on malt

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 organization of the market in cereals ⁽¹⁾, as last amended by Regulation (EC) No 1666/2000 ⁽²⁾, and in particular Article 13(8),

Whereas:

- (1) Article 13(8) of Regulation (EEC) No 1766/92 provides that the export refund applicable to cereals on the day on which application for an export licence is made, adjusted for the threshold price in force during the month of exportation, must be applied on request to exports to be effected during the period of validity of the export licence. In this case, a corrective amount may be applied to the refund.
- (2) Commission Regulation (EC) No 1501/95 of 29 June 1995 laying down certain detailed rules under 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 602/2001 ⁽⁴⁾, allows for the fixing of a corrective amount for the malt referred to

in Article 1(1)(c) of Regulation (EEC) No 1766/92. That corrective amount must be calculated taking account of the factors referred to in Article 1 of Regulation (EC) No 1501/95.

- (3) It follows from applying the provisions set out above that the corrective amount must be as set out in the Annex hereto.
- (4) The measures provided for in this Regulation are in accordance with the opinion of the Management Committee for Cereals,

HAS ADOPTED THIS REGULATION:

Article 1

The corrective amount referred to in Article 13(4) of Regulation (EEC) No 1766/92 which is applicable to export refunds fixed in advance in respect of malt shall be as set out in the Annex hereto.

Article 2

This Regulation shall enter into force on 1 February 2002.

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

Done at Brussels, 31 January 2002.

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 147, 30.6.1995, p. 7.

⁽⁴⁾ OJ L 89, 29.3.2001, p. 16.

ANNEX

to the Commission Regulation of 31 January 2002 fixing the corrective amount applicable to the refund on malt

(EUR/t)

Product code	Destination	Current 2	1st period 3	2nd period 4	3rd period 5	4th period 6	5th period 7
1107 10 11 9000	A00	0	0	0	0	0	0
1107 10 19 9000	A00	0	-1,18	-2,36	-3,54	-4,72	—
1107 10 91 9000	A00	0	0	0	0	0	0
1107 10 99 9000	A00	0	-1,18	-2,36	-3,54	-4,72	—
1107 20 00 9000	A00	0	-1,39	-2,77	-4,16	-5,54	—

(EUR/t)

Product code	Destination	6th period 8	7th period 9	8th period 10	9th period 11	10th period 12	11th period 1
1107 10 11 9000	A00	0	0	0	0	0	0
1107 10 19 9000	A00	-1,18	-2,36	-3,54	-4,72	-5,91	-7,09
1107 10 91 9000	A00	0	0	0	0	0	0
1107 10 99 9000	A00	-1,18	-2,36	-3,54	-4,72	-5,91	-7,09
1107 20 00 9000	A00	-1,39	-2,77	-4,16	-5,54	-6,93	-8,31

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) as amended.

The numeric destination codes are set out in Regulation (EC) No 2020/2001 (OJ L 273, 16.10.2001, p. 6).

II

(Acts whose publication is not obligatory)

COUNCIL

COUNCIL DECISION

of 28 January 2002

amending Decision 97/413/EC concerning the objectives and detailed rules for restructuring the Community fisheries sector for the period from 1 January 1997 to 31 December 2001 with a view to achieving a balance on a sustainable basis between resources and their exploitation

(2002/70/EC)

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty establishing the European Community,

Having regard to Council Regulation (EEC) No 3760/92 of 20 December 1992 establishing a Community system for fisheries and aquaculture ⁽¹⁾, and in particular Article 11 thereof,

Having regard to the proposal from the Commission ⁽²⁾,

Having regard to the opinion of the European Parliament ⁽³⁾,

Whereas:

- (1) The Common Fisheries Policy will be reviewed before 1 January 2003. In order to ensure consistency between the policy for restructuring the fisheries sector and the rest of the Common Fisheries Policy it is therefore necessary to prolong the period of application of Decision 97/413/EC ⁽⁴⁾ until 31 December 2002.
- (2) In order to make further progress towards achieving a balance between fisheries resources and their exploitation, the fishing effort of the Community fleet should continue to be reduced during the prolongation year.
- (3) Measures to improve safety, navigation at sea, hygiene, product quality and working conditions should not lead to an increase in fishing effort and such measures should therefore be applied within the existing capacity objectives for the fleet, with the exception of vessels already

registered of an overall length of less than 12 metres other than trawlers.

- (4) Decision 97/413/EC should therefore be amended accordingly,

HAS ADOPTED THIS DECISION:

Article 1

Decision 97/413/EC is hereby amended as follows:

1. Paragraphs 1, 2, 3 and 4 of Article 2 shall be replaced by the following:

‘1. By 31 December 2002 at the latest, the fishing effort of each Member State shall be reduced, taking the levels defined in Article 7(1) as a starting point, on the basis of the reduction rates in fishing effort which are required to be achieved in relation to the critical stocks set out in Annex I.

2. The pilot reduction rates shall be as follows:

- 36 % for the stocks defined as depletion risk in Annex I,
- 24 % for the stocks defined as overfished in Annex I.

3. In the case of stocks defined as fully exploited in Annex I, there shall be no increase in fishing effort for the period 1997 to 2002.

4. In respect of stocks other than those referred to in paragraphs 2 and 3, including stocks for which the situation is insufficiently known, there shall be no increase in fishing effort for the period 1997 to 2002. In specific cases where Member States can identify additional fishing opportunities on these stocks, a level of additional fishing effort for the fleet segments fishing these stocks may be decided.’

⁽¹⁾ OJ L 389, 31.12.1992, p. 1. Regulation as last amended by Regulation (EC) No 1181/98 (OJ L 164, 9.6.1998, p. 1).

⁽²⁾ OJ C 270 E, 25.9.2001, p. 79.

⁽³⁾ Opinion delivered on 25 October 2001 (not yet published in the Official Journal).

⁽⁴⁾ OJ L 175, 3.7.1997, p. 27.

2. Article 3 shall be replaced by the following:

'Article 3

A Member State may exempt fishing vessels of its fleet of less than 12 metres overall, other than trawlers, from the provisions of Article 2. In this case, the aggregate capacity of this fleet segment, expressed in GT tonnage and in kW power, shall not increase beyond the level at 1 January 1997, or beyond the level corresponding to the objectives of MAGP III, for the period to 31 December 2002 except for vessels already registered in the Fishing Vessel Register of the Community, in the framework of programmes for improving safety, navigation at sea, hygiene, product quality and working conditions.'

3. Article 4(2) shall be deleted.

4. In Article 7, '31 December 2001' shall be replaced by '31 December 2002'.

5. Article 9 shall be replaced by the following:

'Article 9

The implementation of the objectives and detailed rules of this Decision shall be carried out by the Commission in accordance with Article 4 of Regulation (EC) No 2792/1999 (*). The Commission shall modify, in accordance with this Decision, the Multiannual Guidance Programmes for

the fishing fleets of individual Member States. The programmes shall be prolonged to cover the period from 1 January 1997 to 31 December 2002 and shall be progressively achieved by reference to annual intermediate objectives.

(*) OJ L 337, 30.12.1999, p. 10. Regulation as amended by Regulation (EC) No 1451/2001 (OJ L 198, 21.7.2001, p. 9).'

6. Annex II shall be replaced by the Annex to this Decision.

Article 2

This Decision shall apply as from 1 January 2002.

Article 3

This Decision is addressed to the Member States.

Done at Brussels, 28 January 2002.

For the Council

The President

J. PIQUÉ I CAMPS

ANNEX

'ANNEX II

Effort Reduction Targets

1. The Effort Reduction Target (ERT) for a Member State's fleet segment or fishery shall be calculated in accordance with the following formula:

$$\text{ERT} = \text{RR} \times \text{W}$$

where:

ERT = Effort Reduction Target

RR = Reduction Rates as in Article 2

W = the percentage of the catch of a fleet segment or fishery which comprises depletion risk and overfished stocks.

2. The reduction rate for a fleet segment or fishery shall be determined in accordance with the following table by reference to the composition of its catch as between depletion risk, overfished, fully exploited or other stocks.

Depletion risk stocks	Overfished stocks	Fully exploited stocks	Other stocks	Reduction rate (%)
✓	×	✓ or ×	✓ or ×	36
×	✓	✓ or ×	✓ or ×	24
✓	✓	✓ or ×	✓ or ×	30 ⁽¹⁾
×	×	✓	✓ or ×	0

⁽¹⁾ Where depletion risk stocks exceed 5 % of the catch of the fleet segment or fishery, the reduction rate shall be 36 %.

Key:

✓ = present in the catch of the fleet segment or fishery

× = absent in the catch of the fleet segment or fishery'

COMMISSION

COMMISSION DECISION

of 3 July 2001

on the State aid implemented by Germany for KHK Verbindetechnik GmbH Brotterode

(notified under document number C(2001) 1781)

(Only the German text is authentic)

(Text with EEA relevance)

(2002/71/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:

- (4) The Commission received comments from interested parties. It forwarded them to Germany, which was given the opportunity to react.

II. DETAILED DESCRIPTION OF THE AID

1. The company

I. PROCEDURE

- (1) By letter from Germany dated 14 June 1999, the Commission was informed that Germany had implemented aid for KHK Verbindetechnik GmbH Brotterode ('KHK'). By letters dated 8 October 1999, 20 December 1999, 13 January 2000, 27 March 2000 and 3 July 2000, Germany provided the Commission with further information.
- (2) By letter dated 17 October 2000, the Commission informed Germany that it had decided to initiate the procedure laid down in Article 88(2) of the EC Treaty in respect of the aid.
- (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 on the aid.

- (5) The company was established in 1996, when the receiver sold the assets of a company in bankruptcy, Metallverarbeitung Brotterode GmbH ('MVB') ⁽³⁾.
- (6) The bankruptcy proceedings in respect of MVB were effectively opened on 1 July 1996. The receiver continued production while seeking a new investor. Negotiations were entered into with six candidates. Finally, only one of them — comprising four private persons, three of them employed by MVB — was chosen as the best bidder. These private investors founded the new company KHK Verbindetechnik GmbH Brotterode (KHK). KHK acquired some of MVB's production facilities by means of an asset deal. MVB's assets, in particular the necessary buildings and machinery, were sold to KHK by the receiver for DEM 1,2 million.

⁽¹⁾ OJ C 27, 27.1.2001, p. 30.

⁽²⁾ See footnote 1.

⁽³⁾ In the Commission decision initiating the formal investigation procedure, it is stated in paragraph 3 that the aid linked to the first privatisation is compatible with the common market since it complied with the Treuhand regimes and aid schemes approved by the Commission. Therefore, only aid linked to the second privatisation is assessed in the decision. See footnote 1.

- (7) The company is situated in Brotterode, Thuringia, which is an assisted area within the meaning of Article 87(3)(a) of the EC Treaty. KHK is a small to medium-sized enterprise (SME) active in the manufacture of radiator supports, step irons used for climbing masts and ball-ended anchors used for transporting prefabricated concrete units.

2. The restructuring

- (8) The restructuring plan consists of the following:
- (a) concentration of activities in one location;
 - (b) modernisation of the production plant;
 - (c) automation of the production process;
 - (d) substantial reduction in the number of employees;
 - (e) reduction of the product range and limitation to products generating a positive cash flow;
 - (f) development of a new product line.
- (9) MVB consisted of five separate production sites dispersed throughout the town of Brotterode. KHK bought one of the existing production halls together with the adjoining land. Production facilities were transferred to the single production site. KHK invested in automating the various production lines. Production was computerised. Subsequent transformation works created an energy supply separate from the other parts of MVB, together with a separate heating system.
- (10) KHK has successfully continued two product lines out of the three originally taken over from MVB: radiator supports and step irons. The product line of pneumatic tools was discontinued. In 1998 KHK introduced the production of ball-ended anchors used for transporting prefabricated concrete units. The company sells its entire output to German wholesale customers.
- (11) When it was declared bankrupt in 1996, MVB employed 48 people and had a turnover of DEM 3,515 million. KHK employed 18 people when it started up in 1996. In 2000 27 people were employed and, with a balance sheet totalling DEM 180 000, KHK achieved a turnover of DEM 4,6 million.
- (12) The restructuring period was notified as being 1996 to 1999 and the total cost of the restructuring plan DEM 2,291 million.

Item	Price
Purchase price for the assets out of the bankruptcy	DEM 1 222 000
Investments	DEM 419 000
Inventory build-up	DEM 350 000
Liquidity during start-up period	DEM 300 000
Total	DEM 2 291 000

- (13) The public funding for the project is as follows:

Reources from the joint federal/Länder programme (approved scheme) ⁽¹⁾	DEM 344 000
Investment allowances (approved scheme) ⁽²⁾	DEM 39 000
SME programme ⁽³⁾	DEM 140 000
Subsidy for personnel costs ⁽⁴⁾	DEM 130 000
Conditionally repayable BvS (Bundesanstalt für vereinigungsbedingte Sonderaufgaben) loan	DEM 960 000
Total	DEM 1 613 000

⁽¹⁾ Twenty-sixth framework plan, State aid N 123/97, Commission authorisation of 30 July 1997 (joint federal/Länder programme).

⁽²⁾ Special tax depreciation 1997 to 1999, State aid NN 47/94.

⁽³⁾ SME programme for Thuringia, State aid N 480/94.

⁽⁴⁾ Under Section 10 of the Social code (Sozialgesetzbuch) III, approved by the Commission on 8 December 1997, State aid NN 107/97.

- (14) The investor contribution as notified to the Commission is as follows:

Paid-in capital upon incorporation of KHK	DEM 50 000
Current-account credit facility (private bank)	DEM 213 000
Investment loan (private bank) ⁽¹⁾	DEM 415 000
Total	DEM 678 000

⁽¹⁾ Investment loan from Deutsche Bank, 100% refinanced by the Kreditanstalt für Wiederaufbau (KfW) under its ERP reconstruction programme, State aid N 563/c/94, approved by the Commission on 1 December 1994.

- (15) With the DEM 960 000 loan KHK bought MVB's assets. Subsequently, a private bank granted the company a DEM 213 000 current-account credit facility (with a ceiling of DEM 300 000) and a DEM 415 000 investment loan. Both credit lines are backed by the same collateral, namely the personal guarantee of the investors, a mortgage on the premises of the company amounting to DEM 715 000, a transfer of title on machines, installations and inventory, and a transfer of accounts receivable on clients. The investment loan is also secured up to 80 % (DEM 332 000) by a public deficiency guarantee by the Bürgschaftsbank Thüringen ⁽⁴⁾ and 100 % refinanced by the Kreditanstalt für Wiederaufbau (KfW) under an approved ERP reconstruction programme scheme ⁽⁵⁾.

- (16) In its decision opening the procedure, the Commission doubted whether the DEM 415 000 investment loan could be considered in full as an investor contribution within the meaning of the Community guidelines on State aid for rescuing and restructuring firms in difficulty ⁽⁶⁾ ('the guidelines') since it was secured, in addition to the collateral provided by the investor/company, by a public guarantee of 80 % of the amount (DEM 332 000). It was also noted that the loan was refinanced by the KfW under its ERP programme, an aid scheme approved by the Commission, and that the company assets used as collateral for the loans were acquired mainly through the State aid received.
- (17) In addition, the Commission also doubted whether the DEM 213 000 current-account credit facility was granted under market conditions and could therefore be considered an investor contribution within the meaning of the guidelines since it was secured by assets bought with State aid.
- (18) For the reasons set out above, the Commission had doubts whether the investor contribution to the restructuring could be considered significant within the meaning of the guidelines and hence whether the aid could be regarded as being in proportion to the restructuring costs and benefits.

III. COMMENTS FROM INTERESTED PARTIES

- (19) The Commission received comments from KHK, which stressed that the restructuring plan had been fully carried out and that the company's results in 2000 were better

than expected, with a turnover of DEM 4,6 million and a balance-sheet total of DEM 180 000. Without the financial support from the BvS and the *Land* of Thuringia, however, it would not have been possible to establish the company and consequently all jobs would have been lost. The company's shareholders were committed to carrying on the activities successfully and had also committed themselves financially by providing personal guarantees for the company.

IV. COMMENTS FROM GERMANY

- (20) Germany stated that the Commission's doubts about the two credit lines were based on the fact that the company assets used as collateral for the loans had been purchased at least partly with the aid granted to KHK. According to Germany, the Commission concluded that using the assets purchased by State aid as collateral for a loan from a commercial bank had the effect that the loan contained aid elements as well. This would lead to inadmissible double counting of the aid, resulting in inadmissibility of the conclusion itself. For example, the BvS loan would be considered once as ad hoc aid with a 100 % aid intensity and once as an aid element contained in the commercial loan.
- (21) According to Germany, irrespective of the inadmissibility or otherwise of the above conclusion, the Commission should in such a case also define the amount of the aid element. It would be virtually impossible to determine what proportion of the financial resources used for buying the assets employed as collateral stemmed from State aid. There was no formula that would help to quantify the possible aid element in the loan and so this did not lead to a practicable solution.
- (22) Germany stressed that the Commission's conclusion did not take into account the fact that the objective, and very essence of the aid, was to enable the beneficiary to take part in commercial business under market conditions. The continued existence of the aid in the economic development of the company was therefore inherent in the aid in question. The Commission's conclusion would result in a situation where the aid intensity would be increased by every economic event that could somehow be related to the originally granted aid.
- (23) Moreover, Germany stressed that the Commission should also take into account the fact that the loans were also secured by the personal guarantee of the investors, a transfer of title on inventory and a transfer of accounts receivable on clients. Therefore

⁽⁴⁾ Bürgschaftsrichtlinie Aufbaubank Thüringen, State aid N 117/96, approved by the Commission on 27 December 1996.

⁽⁵⁾ Investment loan from Deutsche Bank, 100% refinanced by the Kreditanstalt für Wiederaufbau (KfW) under its ERP reconstruction programme, State aid N 563/c/94, approved by the Commission on 1 December 1994.

⁽⁶⁾ OJ C 368, 23.12.1994, p. 12.

the purchasing of assets with aid should not lead to a finding that loans secured by these assets contained further aid elements.

(24) As regards the DEM 415 000 investment loan, Germany stated that, in its opinion, the aid element contained in this loan amounted at most to the 80 % of the loan guaranteed by the *Land*, i.e. DEM 332 000.

(25) As regards the DEM 213 000 operating loan, Germany stated that Deutsche Bank AG was a private bank and the loan had been granted under market conditions. It should therefore be considered an investor contribution in accordance with the Commission's practice. Germany pointed out that the maximum amount of the credit line was DEM 300 000, the interest rate was 9 % and the loan was secured by the personal guarantee of the investors (DEM 417 000), a mortgage on the company's premises (DEM 715 000), a transfer of title on machines, installations and inventory, and a transfer of accounts receivable on clients. According to Germany, these conditions corresponded to market conditions.

(26) In addition, Germany explained that the credit line of at most DEM 300 000 granted to KHK by Deutsche Bank should be considered an investor contribution in its entirety. So far, the company had drawn only DEM 213 000, but it could not be ruled out that the company might need to resort to the remaining DEM 87 000 owing to unexpected liquidity needs. The full amount of DEM 300 000 was in any case available to the company. The total amount of the restructuring costs for the company should therefore be considered to be DEM 2,378 million.

(27) The final point raised by Germany in its comments related to the size of the company and the area concerned. Germany stressed that KHK was an SME and a management buy-out by former employees of the company. The company was situated in an assisted area within the meaning of Article 87(3)(a) of the EC Treaty characterised by high unemployment. The investment in KHK permanently secured 24 jobs in the region and thereby contributed to its economic development.

V. ASSESSMENT OF THE AID

(28) Pursuant to Article 87(1) of the EC Treaty, any aid granted by a Member State or through State resources in any form whatsoever which distorts or threatens to

distort competition by favouring certain undertakings or the production of certain goods is, in so far as it affects trade between Member States, incompatible with the common market. According to the established case-law of the Court of Justice and the Court of First Instance of the European Communities, the criterion of trade being affected is met if the recipient firm carries out an economic activity involving trade between Member States.

(29) The Commission notes that the notified aid is being granted through State resources to an individual company, thereby favouring it by reducing the costs it would normally have to bear if it wanted to carry out the notified restructuring project. Moreover, the recipient of the aid, KHK, produces metal components that are subject to trade between Member States. The aid in question therefore falls within the scope of Article 87(1) of the EC Treaty.

1. Restructuring aid

(30) The notified project is concerned with restructuring the company in line with the restructuring plan submitted by the investors. The Commission notes that restructuring aid for firms in difficulty must be assessed pursuant to the guidelines.

(31) The Commission notes that, in order to make the restructuring possible, the newly incorporated company KHK took over assets from MVB. The assets of MVB were sold under an open bidding procedure governed by the rules of German insolvency law. From the information provided in the notification, the Commission can conclude that the assets of MVB were sold to the highest bidder at their market price.

(32) In general, a newly founded company cannot be considered a company in difficulty. However, on account of the exceptional transformation process in the new *Länder*, the Commission has agreed to apply the guidelines to '*Auffanglösungen*'⁽⁷⁾ (arrangements whereby companies are offered a new chance) provided that the operation is not a mere sale of individual assets and that

⁽⁷⁾ See approvals by the Commission dated 16 April 1997 and 30 April 1997: State aid N 874/96 and NN 139/96 in favour of UNION Werkzeugmaschinen GmbH — letter D/3428 dated 2 May 1997; State aid N 892/96 in favour of FORON Haus- und Küchentechnik GmbH — letter D/4047 dated 28 May 1997. This approach is now confirmed by point 7, footnote 10, of the Community guidelines on State aid for rescuing and restructuring firms in difficulty (OJ C 288, 9.10.1999, p. 2): 'The only exceptions of this rule are any cases dealt with by the Bundesanstalt für vereinigungsbedingte Sonderaufgaben in the context of its privatisation remit and other similar cases in the new *Länder*, involving companies emerging from a liquidation or a take-over of assets occurring up to 31 December 1999.'

the activity of the company in bankruptcy is continued. Applying the guidelines to such companies can be justified in the light of the problems in the new *Länder* in general and of the company in particular.

- (33) KHK is situated in the new *Länder*. The sale comprised all assets of the former MVB, which were necessary for the production lines taken over. The financially viable activities of MVB were continued. Consequently, the asset deal constitutes a genuine '*Auffanglösung*' and the measures in favour of KHK can be regarded as restructuring aid.

- (34) The Commission notes that on 9 October 1999 new Community guidelines on State aid for rescuing and restructuring firms in difficulty entered into force⁽⁸⁾. According to point 101 of these guidelines, the Commission examines the compatibility of non-notified aid on the basis of the new guidelines if some or all of the aid is granted after their publication and on the basis of the guidelines in force at the time the aid is granted in all other cases. Since all aid in the present case was granted before the new guidelines entered into force, the aid is assessed in the light of the 1994 guidelines⁽⁹⁾.

- (35) According to the guidelines, the Commission considers that rescue and restructuring aid may contribute to the development of economic activities without adversely affecting trade to an extent contrary to the common interest within the meaning of Article 87(3)(c) of the Treaty if the conditions laid down in the guidelines are met.

- (36) The Commission notes that, of the total of DEM 1 643 000 of public contributions notified for the second restructuring, DEM 653 000 is aid granted on the basis of approved schemes. Therefore, this aid is considered to be existing aid within the meaning of Article 1(b)(ii) of Council Regulation (EC) No 659/1999 of 22 March 1999 laying down detailed rules for the application of Article 93 of the EC Treaty⁽¹⁰⁾, and its compatibility with the common market does not therefore need to be assessed by the Commission in this decision. However, the DEM 653 000 of existing aid is taken into account in assessing the proportionality of the aid pursuant to point 3.2.2(iii) of the guidelines.

- (37) According to the guidelines the aid must be in proportion to the restructuring costs and benefits. Point 3.2.2(iii) of the guidelines stipulates that the aid needs to be limited to the strict minimum needed to enable restructuring to be undertaken and must be related to the benefits anticipated from the Community's point of view. Aid beneficiaries should make a significant contribution of their own to the restructuring plan.

- (38) In the Commission decision opening the procedure, the Commission doubted whether the two credit lines granted to the company by Deutsche Bank could be considered an investor contribution since they were secured by assets bought with State aid. Therefore, the Commission had doubts as to whether the investor contribution could be considered significant within the meaning of the guidelines.

2. Investment loan of DEM 415 000

- (39) In the decision opening the procedure, doubts were raised as to whether the DEM 415 000 investment loan could be considered an investor contribution since it was secured, in addition to the collateral provided by the investor/company,⁽¹¹⁾ by a public deficiency guarantee of 80 % of the amount (DEM 332 000). In addition, the loan was refinanced under an approved aid programme.

- (40) The Commission notes that the public guarantee was granted under an approved guarantee scheme⁽¹²⁾. According to the provisions of this scheme, guarantees to companies in difficulties can reach an aid intensity of 100 %. It is noted that, in its comments on the opening of the procedure, Germany changed its position as set out in the notification by stating that the aid element of the loan in question amounted to a maximum of 80 % of the loan amount, i.e. DEM 332 000. Germany counted only the remaining DEM 83 000 as an investor contribution.

- (41) In view of this and given the fact that KHK was a company in difficulties when the loan was granted and the public guarantee was required by the bank granting the loan, the Commission is of the opinion that the public guarantee of 80 % of the loan, representing an amount of DEM 332 000, is to be regarded as aid.

⁽⁸⁾ OJ C 288, 9.10.1999, p. 2.

⁽⁹⁾ See footnote 6.

⁽¹⁰⁾ OJ L 83, 27.3.1999, p. 1.

⁽¹¹⁾ Personal guarantee of the investors, mortgage on the premises of the company, transfer of title on machines, installations and inventory, and transfer of accounts receivable on clients.

⁽¹²⁾ Bürgschaftsrichtlinie Aufbaubank Thüringen, N 117/96.

- (42) In addition to the guarantee, it is also noted that, even if the loan is provided by a private bank, it is refinanced by the KfW under its ERP reconstruction programme. This programme is an approved aid scheme. The scheme provides loans at lower interest rates to individuals for the takeover of companies provided that the continuation of the companies' activities is thereby ensured and that the individuals concerned would otherwise not have the necessary financial resources available.
- (43) The Commission notes that the loan was granted for 12 years (1997 to 2009). The interest rate is 5 % per annum until 31 March 2007. The loan is to be paid back in equal instalments over the period 2000 to 2009. It is noted that the reference rate for March 1997 when the loan was granted was 6,86 %. Since the company was at the time a company in difficulties and since a condition of the loan according to the approved scheme was that no other financing should be available, it is assumed that no bank would have been willing to grant an equivalent loan to the company under market conditions.
- (44) For this reason, since comparison with a market rate is not possible, the comparison is made between the granted interest rate of 5 % and the reference rate of 6,86 % + 4 % in accordance with the Commission notice on the method for setting the reference and discount rates⁽¹³⁾. The difference between these rates, 5,86 %, is considered aid to the company for the 20 % of the loan not covered by the guarantee. When calculated for the loan period and discounted to its 1997 value, the aid resulting from the subsidised interest rate amounts to DEM 24 966.

3. Current-account credit facility of DEM 213 000 (with a ceiling of DEM 300 000)

- (45) In its decision opening the procedure, the Commission raised doubts as to whether the DEM 213 000 current-account credit facility was granted under market conditions and could therefore be considered an investor contribution since it was secured by assets bought with State aid.
- (46) The Commission notes that, when assessing whether a loan is granted on market terms, it normally looks at the conditions of the loan and the situation from the point of view of the bank granting the loan. Provided that the bank is a private bank, the interest rate corresponds to

market terms, the securities correspond to the normal practice of the bank and those securities are provided by the beneficiary of the loan, the Commission concludes that the loan is granted on market terms.

- (47) The Commission notes that companies normally use their assets/future business income as collateral for commercial loans. This is the most common form of collateral and banks also require it. Without using their business assets as security, further financing of business activities, investments, etc. would not be possible.
- (48) The Commission also notes that in previous cases falling under the guidelines it has approved the use of State aid for buying the assets of the company in difficulties⁽¹⁴⁾. It acknowledges Germany's comment that the objective, and very essence, of the restructuring aid is to enable the beneficiary to take part in commercial business under market conditions. It also acknowledges the fact that companies normally use their assets, claims, etc. as collateral for continuous commercial financing of their operations and/or loans needed for further investments.
- (49) For these reasons, the Commission considers that the fact that assets bought with State aid have been used as collateral for a loan is not sufficient as such to lead to the conclusion that the loan was not granted under market conditions and therefore contains an aid element.
- (50) The Commission notes that, in addition to the real estate and machinery, the credit is also secured by a transfer of claims and unsold products to the bank and by a personal guarantee of the four shareholders. The interest rate is 9 %. Therefore, there are no indications in the terms of the credit line that the credit was not granted under market conditions. Consequently, the Commission considers it to be commercial financing within the meaning of the guidelines.
- (51) In addition, the Commission notes Germany's comment to the effect that the current-account credit facility with a ceiling of DEM 300 000 granted to KHK by Deutsche Bank should be considered an investor contribution in its entirety since, even if the company has so far drawn only DEM 213 000 of it, the full amount of DEM 300 000 is available to the company and was granted to it by the bank for the liquidity needs of the restructuring process.

⁽¹³⁾ OJ C 273, 9.9.1997, p. 3.

⁽¹⁴⁾ Sysma Antriebstechnik GmbH (State aid N 220/98), FINOW Rohrleitungssystem- und Anlagenbau (State aid NN 3/98), Schiess Wema GmbH (State aid NN 68/98), Auerbach Maschinenfabrik GmbH (State aid NN 46/98) and Thüringer Pianoforte GmbH (State aid N 18/2000).

- (52) The Commission notes that the notified restructuring plan provided for a total restructuring cost of DEM 2 291 000. A restructuring plan must set forth all the costs of the restructuring and indicate how these costs are to be allocated between the public authorities and the beneficiary of the aid. In the notification containing this allocation, only DEM 213 000 of the current-account credit line was indicated as an investor contribution. Given that a change to the restructuring plan can be considered only under specific circumstances and that the restructuring period ended in 1999, the Commission considers that there are no grounds for retroactively changing the notified restructuring plan. Therefore, the total of DEM 2 291 000 is considered to be the total cost of the restructuring and DEM 213 000 is considered to be the investor contribution consisting of the current-account credit line from Deutsche Bank towards the financing of that cost.

4. Proportionality of the aid

- (53) In the light of recitals 39 to 52, the Commission notes that the public financing of the restructuring is considered to be as follows:

Public financing (in DEM):

Recourses from the joint federal/Länder programme (approved scheme) ⁽¹⁾	DEM 344 000
Investment allowances (approved scheme) ⁽²⁾	DEM 39 000
SME programme ⁽³⁾	DEM 140 000
Subsidy for personnel costs ⁽⁴⁾	DEM 130 000
BvS loan repayable under certain conditions	DEM 960 000
Public guarantee of 80% of the investment loan ⁽⁵⁾ and an interest subsidy ⁽⁶⁾	DEM 356 966
Total	DEM 1 969 966

⁽¹⁾ Twenty-sixth framework plan, State aid N 123/97, Commission authorisation of 30 July 1997 (joint federal/Länder programme).

⁽²⁾ Special tax depreciation 1997 to 1999, State aid NN 47/94.

⁽³⁾ SME programme Thuringia, State aid N 480/94.

⁽⁴⁾ Under Section 10 of the Social code (Sozialgesetzbuch) III, approved by the Commission on 8 December 1997, State aid NN 10797.

⁽⁵⁾ Approved scheme, State aid N 111/96, approved by the Commission on 1 December 1996.

⁽⁶⁾ ERP reconstruction programme, approved scheme N 563/c/94, approved by the Commission on 1 December 1994.

- (54) The Commission notes that the DEM 356 966 of aid resulting from the public guarantee and the interest subsidy is based on approved aid schemes. Therefore, these aid measures are considered existing aid within the meaning of Article 1(b)(ii) of Regulation (EC) No 659/1999 and their compatibility with the common market does not therefore need to be assessed by the Commission in this Decision. However, these existing aid measures are taken into account in assessing the proportionality of the aid pursuant to point 3.2.2(iii) of the guidelines.

- (55) Considering that the aid element of the DEM 415 000 loan amounts to DEM 356 966, it has still to be assessed whether the remaining DEM 58 034 can be considered an investor contribution within the meaning of the guidelines.

- (56) The guidelines state that aid beneficiaries will normally be expected to make a significant contribution to the restructuring plan from their own resources or from external commercial financing. The notion of 'external commercial financing' has been interpreted in the Commission's practice as being equivalent to financing under market conditions.

- (57) The Commission notes that in the present case several aid elements are present in the same loan. If the Commission were to assess the loan with only a public guarantee or with only an interest subsidy present, the assessment could lead to the conclusion that the part of the measure not covered by public resources and for which the risk is covered by the private bank/other collateral would be considered an investor contribution, provided that the other conditions of the loan corresponded to market conditions.

- (58) In the present case, however, the above conclusion cannot be reached. Firstly, for the part not covered by the guarantee, market conditions do not obtain because the interest rate is subsidised by the State. Secondly, after having considered the aid element of the interest subsidy, the rest of the loan cannot be regarded as being subject to market conditions owing to the public guarantee.

- (59) For these reasons, the Commission is of the opinion that the combined effect of the various aid elements prevents the remaining amount of DEM 58 034 from being considered financing under market conditions.

- (60) In the light of recitals 55 to 59, the Commission notes that the investor contribution to the restructuring is as follows:

Investor contribution:

Paid-in capital upon incorporation of KHK	DEM 50 000
Current-account credit facility	DEM 213 000

- (61) The Commission notes that the aid intensity of the restructuring is 86 % and the investor contribution 11,5 % ⁽¹⁵⁾.
- (62) The Commission notes that KHK is an SME currently employing 27 people in an assisted area. In line with its previous practice, the Commission has approved aid to SMEs with a correspondingly high investor contribution in cases concerning eastern German companies ⁽¹⁶⁾. In these cases the aid granted had a limited liquidity effect which prevented the companies from receiving surplus cash that could be used to fund aggressive, distortive behaviour towards competitors. In addition, the investors had themselves contributed to the restructuring with their own private property.
- (63) In the present case, most of the aid (DEM 1,01 million) is provided under approved schemes. The ad hoc aid, a conditionally repayable loan of DEM 960 000, was used to purchase the company's assets. The aid thereby had a limited liquidity effect. In addition, the two credit lines granted to the company have been secured by personal guarantees of the four investors. The investors have therefore contributed to the restructuring with their own private property.
- (64) For these reasons, the Commission considers that the beneficiary contribution can be considered significant within the meaning of the guidelines. It therefore takes the view that the aid fulfils the condition in point 3.2.2(iii) of the guidelines, according to which the aid must be in proportion to the restructuring costs and benefits.

VI. CONCLUSION

- (65) The Commission finds that Germany has unlawfully implemented the aid in question in breach of Article 88(3) of the Treaty. However, it notes that, since the aid complies with the 1994 Community guidelines on State aid for rescuing and restructuring firms in difficulty, it is compatible with Article 87(3)(c) of the EC Treaty,

HAS ADOPTED THIS DECISION:

Article 1

The State aid which Germany has implemented for KHK Verbindetechnik GmbH Brotterode, amounting to EUR 491 000 (DEM 960 000), is compatible with the common market within the meaning of Article 87(3)(c) of the Treaty.

Article 2

This Decision is addressed to the Federal Republic of Germany.

Done at Brussels, 3 July 2001.

For the Commission

Mario MONTI

Member of the Commission

⁽¹⁵⁾ The remainder of the loan, DEM 58 034, representing 2,5 % of the restructuring costs, is considered neither an investor contribution nor aid.

⁽¹⁶⁾ Cases NN 131/96 GMB Magnete Bitterfeld (12 %), NN 61/98 Stahl- und Maschinenbau Rostock (12 %) and C 27/98 Draiswerke (11 %).

CORRIGENDA

Corrigendum to Commission Decision 2001/781/EC of 25 September 2001 adopting a manual of receiving agencies and a glossary of documents that may be served under Council Regulation (EC) No 1348/2000 on the service in the Member States of judicial and extrajudicial documents in civil or commercial matters

(Official Journal of the European Communities L 298 of 15 November 2001)

On page 232, in Annex 1, Part II.B 'AUSTRIA', in column 2 (name of the corresponding locality), against postcode 4800:

for: 'Attang-Puchheim',

read: 'Attnang-Puchheim'.
