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II

(Preparatory Acts)

COMMISSION

Proposal for a Council Regulation imposing a definitive anti-dumping duty and collecting definitively the provisional duty imposed on imports of certain zinc oxides originating in the People's Republic of China

(2002/C 262 E/01)

COM(2002) 76 final

(Submitted by the Commission on 13 February 2002)

EXPLANATORY MEMORANDUM

The anti-dumping investigation concerning imports into the Community of certain zinc oxides originating in the People's Republic of China ('PRC') was initiated by the Commission on 20 December 2000.

By Regulation (EC) No 1827/2001, a provisional anti-dumping duty was imposed in September 2001.

The attached proposal for a Council Regulation is based on the definitive findings of dumping, injury, causation and Community interest which confirmed that the provisional anti-dumping measures were warranted. In view of the fact that some of the Chinese producers that have an individual duty export via trading companies, it is proposed that these producers make regular reports to the Commission. This is to ensure that the individual duty rates are only applied to zinc oxide produced by them.

It is therefore proposed that the Council adopt the attached proposal for a Regulation, which should be published in the *Official Journal of the European Communities* no later than 16 March 2002.

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty establishing the European Community,

Having regard to Council Regulation (EC) No 384/96 of 22 December 1995 on protection against dumped imports from countries not members of the European Community [1], and in particular Article 9 thereof,

Having regard to the proposal submitted by the Commission after consulting the Advisory Committee,

Whereas:

A. PROVISIONAL MEASURES

(1) The Commission, by Regulation (EC) No 1827/2001 [2] ('provisional Regulation'), imposed a provisional anti-dumping duty on imports of certain zinc oxides originating in the People's Republic of China ('PRC').

(2) In addition to the verification visits undertaken at the premises of exporting producers in the PRC, as mentioned in recital (7) of the provisional Regulation, it should be noted that verification visits were also carried out at the premises of a number of related export sales companies, namely:

Guangxi Liuzhou Nonferrous Metals Smelting Import & Export Co., Ltd, Liuzhou

Rickeed Industries Ltd, Hong Kong

Yinli Import and Export Co. Ltd, Liuzhou,

as well as at a related domestic company:

Gredmann Guangzhou Ltd, Guangzhou.

B. SUBSEQUENT PROCEDURE

(3) Subsequent to the disclosure of the essential facts and considerations on the basis of which it was decided to impose provisional anti-dumping measures, several interested parties submitted comments in writing. In accordance with the provisions of Article 20(1) of Regulation (EC) No 384/96 ('basic Regulation'), all interested parties who requested a hearing were granted an opportunity to be heard by the Commission.

(4) The Commission continued to seek and verify all information deemed necessary for the definitive findings.

(5) All parties were informed of the essential facts and considerations on the basis of which it was intended to recommend the imposition of definitive anti-dumping duties and the definitive collection of amounts secured by way of provisional duties. They were also granted a period within which they could make representations subsequent to this disclosure.

[1] OJ L 56, 6.3.1996, p. 1. Regulation as last amended by Regulation (EC) No 2238/2000 (OJ L 257, 11.10.2000, p. 2).

[2] OJ L 248, 18.9.2001, p. 17.

(6) The oral and written arguments submitted by the parties were considered and, where deemed appropriate, the findings have been changed accordingly.

(7) Having reviewed the provisional findings on the basis of the information gathered since then, it is concluded that the main findings as set out in the provisional Regulation are hereby confirmed.

C. PRODUCT CONCERNED AND LIKE PRODUCT

1. Product concerned

(8) Subsequent to the publication of the provisional Regulation, a number of interested parties claimed that the definition of the product concerned was not correct. They argued that different grades of zinc oxide existed on the market, which according to their purity, had different properties and applications. As a result, these various grades of zinc oxide could not be considered as a homogenous product. In addition, it was argued that there was insufficient interchangeability between the various grades of zinc oxide. Whilst it was accepted that higher purity grades could theoretically be used in all applications, the same could not be said of lower purity grades because of the level of impurities they contain.

(9) The fact that interchangeability may only be one-way due to different levels of purity between certain of the grades is not considered to be sufficient evidence in itself that the same grades constitute different products which should be treated separately for the purposes of the investigation. On the contrary, the fact that high purity grades can be used in all the various applications of zinc oxide demonstrates that all the grades can be considered as one product. If certain users accept a higher content of impurities this is mostly on the basis of price considerations.

(10) Therefore, the comments made by the interested parties are not in any way sufficient to lead to a change of earlier findings, as set out in recital (11) of the provisional Regulation, that all grades of the product concerned should be considered as a single product.

(11) The findings, as set out in recitals (9) to (11) of the provisional Regulation, with regard to the product concerned are hereby confirmed.

2. Like product

(12) Certain interested parties claimed that producers of zinc oxide in the Community and the PRC used dissimilar production processes that gave zinc oxide produced in the PRC significant cost advantages in terms of raw material and other costs. They suggested that Chinese producers mainly used the 'direct' or American process while Community producers almost exclusively used the 'indirect' or French process. The direct process is so called because it produces zinc oxide directly from oxidised zinc materials. It was claimed that these raw materials were cheaper than the refined zinc metal and other zinc residues that are used in the indirect process.

(13) In the first instance, the question concerning the different production processes is not considered relevant in the current investigation as zinc oxides produced by either process share the same basic chemical characteristics (ZnO) and properties. Furthermore, a significant proportion of the sales made by the Community industry is obtained from the direct process and the costs related to both processes have been taken into account in the investigation.

(14) No new elements were brought to the attention of the Commission to lead it to alter the conclusions reached at the provisional stage, namely that the zinc oxide produced and sold by Community producers and that produced in the PRC and exported to the Community are a like product.

(15) The provisional findings concerning the like product as set out in recitals (12) to (14) of the provisional Regulation are hereby confirmed.

D. DUMPING

1. Market economy treatment

(16) Some Chinese producers questioned the consistency between granting market economy treatment ('MET') (recital (18) of the provisional Regulation) and the subsequent refusal by the Commission to use prices paid by the company in question for the zinc raw material (recital (47) of the provisional Regulation). According to these companies MET should not have been granted given that the Commission found that the zinc raw material prices, the main cost element, did not reflect market values within the meaning of Article 2(7)(c) of the basic Regulation.

(17) During the second and more detailed on-spot investigation, by which the reply to the exporters' questionnaire was verified and after MET had been granted, the Commission found that certain cost elements, i.e. the prices paid for the zinc raw material, were unreliable. The Commission, therefore, adjusted the costs by basing them on zinc quotations as quoted on the London Metal Exchange ('LME'). It is normal practice to adjust costs if it appears that they are not accurate, reliable or in line with normal market conditions. The claim is therefore rejected and the findings in recitals (15) to (24) of the provisional Regulation are hereby confirmed.

2. **Individual treatment**

(18) In the absence of any comments under this heading, the provisional findings, as set out in recitals (25) to (27) of the provisional Regulation are hereby confirmed.

3. **Normal value**

Determination of normal value for exporting producers not granted MET

Selection of the analogue country

(19) The Community zinc oxide users contested the choice of the United States of America ('USA') as an appropriate analogue country for the purpose of establishing normal value, arguing that costs in the PRC and the USA are different. This particular issue was already dealt with in detail in recitals (28) to (36) of the provisional Regulation and is hereby confirmed.

(20) In the absence of any new comments under this heading, the provisional findings, as set out in recitals (37) to (39) of the provisional Regulation, are hereby confirmed.

Determination of normal value for exporting producers granted MET

(21) The 'users', as well as some of the Chinese producers, claimed that the Chinese zinc raw material prices were determined by the Chinese market and should, therefore, be considered without making adjustments in accordance with the LME zinc quotations. As explained in recitals (46) and (47) of the provisional Regulation, the prices for supply and demand of zinc or zinc related products in market economy countries worldwide are based on LME zinc quotations. Furthermore, it should be noted that when selling or purchasing zinc concentrate on the international market, Chinese companies use the LME as reference like any other operator. For reasons of reliability of costs, the Chinese prices for zinc raw materials had to be adjusted as these costs did not fully reflect the impact of LME zinc quotations. The claims have, therefore, to be rejected and the methodology used for the adjustment of zinc raw material prices through LME zinc quotations is hereby confirmed.

(22) After the publication of the provisional Regulation, one of the Chinese producers requested that the above-mentioned adjustment to the zinc raw material cost be made to the price of zinc concentrates rather than to the price of zinc calcine on the grounds that its production process began with zinc concentrates. This issue was re-examined and it was found that the producer in question did indeed purchase zinc concentrates but subcontracted the production of the next stage of production, i.e. the production of zinc calcine from zinc concentrates, to a third party. The investigation also revealed that the company produced at least in part from zinc calcine it had purchased on the Chinese market and that had to be adjusted as outlined above. In view of the concern to arrive at a market value for the raw materials and given that the company in question's own production process actually began with zinc calcine, the company's claim could not be accepted and the methodology described in the provisional Regulation had to be confirmed.

(23) Another Chinese producer claimed that in constructing its normal value, the figure for selling, general and administrative expenses ('SG & A') was incorrect and submitted information in support of this claim. It was found that the claim was justified and the figures were corrected accordingly.

(24) One company claimed that the SG & A for domestic sales of all products should be used instead of the specific SG & A for domestic sales of the product concerned. This claim could not be accepted. The purpose of constructing a normal value is to calculate a surrogate for the domestic price of the like product. The SG & A used in this calculation should thus relate to the production and sales of the like product on the domestic market of the country of origin, as provided for in Article 2(6) of the basic Regulation. The company's claim had therefore to be rejected and the initial findings are hereby confirmed.

(25) The Chinese producers which were granted MET claimed that the profit made by sales of by-products generated from the manufacture of zinc calcine and/or zinc oxide should be deducted from the manufacturing costs of zinc oxide. However the investigation revealed that the companies treated by-products separately in their accounts. The profit on these by-products fluctuated substantially in time and was shown separately as extraordinary income in their accounts. The companies never considered any return on the sales of by-products as a credit towards the cost of zinc oxide. This approach was also followed for the purposes of the provisional findings. The claim has consequently been rejected and the provisional findings are hereby confirmed.

(26) Moreover, they also claimed that in order to establish the level of profit in the calculation of the constructed normal value, the Commission should refer to the Community producers' profit instead of referring to the profit made by the producer in the analogue country. Article 2(7)(a) of the basic Regulation provides that the normal value is determined on the basis of the price or constructed value in a market economy third country, in this case the USA. Other methods of establishing normal value are only considered when the relevant analogue country data are not available. The use of the Community producers' profit margin should therefore be rejected.

(27) One Chinese producer claimed that direct selling expenses, relating to exports only, were included in the SG & A expenses relating to domestic sales. This claim was substantiated and found to be justified. The calculations have consequently been corrected.

(28) Concerning the methodology described in recitals (40) to (47) of the provisional Regulation, these findings are hereby confirmed.

4. **Export prices**

(29) One Chinese producer claimed that in the calculation of export prices certain expenses had been deducted twice. The claim was verified and accepted and a correction was made accordingly.

(30) In the absence of any other comments under this heading, the provisional findings, as set out in recital (48) of the provisional Regulation, are hereby confirmed.

5. **Comparison**

(31) In the absence of any comments under this heading, the provisional findings, as set out in recitals (49) and (50) of the provisional Regulation, are hereby confirmed.

6. **Dumping margins**

For the cooperating exporting producers granted MET and individual treatment ('IT')

(32) One Chinese producer claimed that its dumping calculation should be based on sales and/or costs of ownproduced products, both for normal value and for exports, and that the volume of the zinc oxide purchased from other producers should be excluded from the cost calculations. This claim was verified in more detail and it was possible to isolate the transactions in question. The argument was consequently accepted and a new calculation has been made limited to the sales and/or costs of zinc oxide produced by the company itself.

(33) The definitive weighted average dumping margins expressed as a percentage of the CIF Community price duty unpaid for the product produced by the following manufacturers are:

Liuzhou Nonferrous Metals Smelting Co. Ltd	6,9 %
Liuzhou Fuxin Chemical Industry Co. Ltd	11,0 %
Gredmann Guigang Chemical Ltd	19,3 %
Liuzhou Longcheng Chemical General Plant	64,5 %

For all other exporting producers

(34) The level of dumping provisionally established at 69,8 % of the cif Community frontier price is hereby confirmed.

E. **COMMUNITY INDUSTRY**

(35) Certain parties claimed that on the basis of recital (57) of the provisional Regulation, it appeared that 15 out of 21 zinc oxide producers in the Community did not cooperate in the investigation. It was therefore suggested that the complaint did not meet the requirements of Article 5(4) of the basic Regulation. It should be recalled that the six producers who did cooperate in the investigation represented a major part of Community zinc oxide production in the investigation period, 1 January to 31 December 2000 ('IP'), in this case, more than 75 % of the production of the 21 known companies, thereby satisfying the requirements of Article 5(4). In the absence of any new information submitted with respect to the definition of the Community industry, the findings as set out in recitals (57) to (59) of the provisional Regulation are hereby confirmed.

F. **INJURY**

1. **Preliminary remarks**

(36) In the absence of any arguments to the contrary, the methodology used for establishing the level of imports of the product concerned into the Community as set out in recital (60) of the provisional Regulation and that used to determine Community consumption of zinc oxide (recitals (62) and (63)) is hereby confirmed.

2. **Situation of the Community industry**

(37) In accordance with Article 3(5) of the basic Regulation, the examination of the impact of the dumped imports on the Community industry included an evaluation of all relevant factors and indices having a bearing on the state of the Community industry.

(38) Certain interested parties questioned the Commission's conclusions on injury. They argued that certain information relating to the operating performance of the Community industry, such as production, production capacity and utilisation levels, contained in the non-confidential version of the complaint and the replies to the Commission's questionnaires showed either increasing or stable trends. One interested party also claimed that the Commission's findings were erroneous, as the data used in recital (82) of the provisional Regulation concerning cash flow were incomplete. The same interested parties also pointed to the fact that some of the parent companies of the entities forming the Community industry recorded substantial profits in the IP and that as such the Community industry did not suffer material injury within the meaning of Article 3 of the basic Regulation.

(39) These arguments could not be accepted. In the first instance, these interested parties based their claims on partial information concerning only certain members of the Community industry. They did not take into account the results of the Commission's investigation as set in recitals (72) to (89) of the provisional Regulation that represent the overall situation of the Community industry. Secondly, it is to be recalled that the current investigation is limited in scope to the product concerned as defined in recital (9) of the provisional Regulation. Whilst it is true that the parent companies of certain members of the Community industry recorded profits during the IP, the overall level of profitability for their zinc oxide activities in the Community was negative in this period as set out in recital (77) of the provisional Regulation.

(40) As regards the cash flow information detailed in recital (82) of the provisional Regulation, it is acknowledged that some entities forming the Community industry were not able to supply detailed information concerning their zinc oxide activities. However, the entities, which were able to do so, and whose verified information was used by the Commission to arrive at their provisional findings accounted for over 80 % of the production of the Community industry in the IP. The verified data were therefore considered to be representative of the situation of the Community industry as a whole.

3. **Developments occurring before and after the IP**

(41) A number of interested parties, in particular users of the product concerned, asked the Commission to broaden the scope of their analysis and take into account developments occurring both before the beginning of the analysis period (1 January 1996 to 31 December 2000) and after the end of the IP. They argued that the years 1993, 1994 and 1995 should be considered in order to have a better appreciation of the market. They also claimed that Community producers were taking advantage of falling zinc metal prices after the IP to increase their margins and that as such, the imposition of measures was unwarranted.

(42) It should be recalled that Article 6(1) of the basic Regulation provides that information relating to a period after the IP should, normally, not be taken into account. The information provided by the interested parties concerning events occurring after the IP, consisting principally of references to the fall in the zinc quotation on the LME, did not give any basis on which it could be said that the findings reached in the investigation were no longer valid. Indeed, the investigation established that under normal market conditions, the prices in zinc oxide market followed the evolution of raw material prices and mostly the LME zinc quotation. Fluctuations in prices and costs in the zinc oxide business were therefore linked to the LME quotation and developments which occurred after the IP were simply a manifestation of the normal functioning of the market and it could not be said that there had been any change of a structural nature in the market which made it manifestly unsuitable to base findings on data relating to the IP. The request to take events occurring after the IP into account is therefore rejected.

(43) Similarly, it should be recalled that the findings regarding injury were established on the basis of information relating to the IP. The purpose of presenting data relating to earlier years is to better understand the IP and place it in context by showing the development of trends. It is considered that the presentation of data relating to the four years preceding the IP (1996-1999) is sufficient for this purpose. The claim to widen the analysis period to include 1993, 1994 and 1995 is therefore rejected.

4. **Conclusion on injury**

(44) Given that no other arguments were received regarding the injury suffered by the Community industry, the conclusion that it has suffered material injury within the meaning of Article 3 of the basic Regulation, as detailed in recitals (72)-(89) of the provisional Regulation, is hereby confirmed.

G. **CAUSATION**

1. **General comments on the Commission's conclusions regarding causality**

(45) One interested party argued that the alleged injury suffered by the Community industry was the result of factors other than the imports concerned although these other factors were not specified. It was claimed that the Community industry had managed to maintain its production levels and raise its prices during the analysis period in spite of the dumped imports. Another interested party argued that the provisional Regulation failed to take proper account of the depreciation of the euro against the US dollar in the second half of the analysis period and that this factor, rather than the imports from the PRC, was responsible for the injury suffered by the Community industry.

(46) In view of the fact that the first interested party gave no other factors which it considered could be responsible for the injury suffered by the Community industry, this claim adds nothing new to the investigation and should therefore be rejected.

(47) With regard to the issue of the depreciation of the euro against the dollar raised by the other interested party, it was accepted in recital (61) of the provisional Regulation that this may have magnified the increase in the cost of zinc as a raw material. This could have had an adverse effect on the financial performance of certain Community producers as the LME quotation is made in dollars whereas the majority of their sales are made in euro. However, it is to be recalled that, at this same time, the Community industry was, to a certain degree, able to increase its selling prices to reflect the increase in its cost of production. The fact that this increase did not fully reflect the increase in the cost of zinc as quoted on the LME shows the price suppressing effect of the dumped imports on the selling prices of the Community industry during the IP. Indeed, in the IP, the volume of imports from the PRC reached record levels and obtained

a market share of 18,4 % as their prices significantly undercut those of the Community industry. It is also noted that imports from other third countries decreased during the analysis period and had a market share of 7,3 % in the IP. It is not unreasonable to conclude that without the dumped imports, the Community industry could have fully, or almost fully, passed on the increased costs. The claim that the dumped imports were not responsible for the injury suffered by the Community industry is therefore rejected.

(48) In view of the above considerations and given that no other valid arguments were received regarding the possible cause of the injury suffered by the Community industry, it is hereby confirmed that the dumped imports of zinc oxide originating in the PRC caused injury to the Community industry.

H. COMMUNITY INTEREST

(49) Following the publication of the provisional Regulation, the Commission received a large number of letters with identical texts from users of zinc oxide in the Spanish ceramic tile industry, principally the manufactures of frits, enamels and glazes and the producers of ceramic tiles. Many of these companies had not previously made themselves known to the Commission or cooperated in the investigation although it is to be recalled that their respective trade associations had made representations.

(50) These users raised a number of points concerning the definition of the product concerned, the choice of the analogue country and the financial performance of the Community industry, which have already been addressed above.

(51) Their comments on the Community interest aspects of the investigation can be summarised into two main areas. The first area concerns the loss of competitiveness that an increase in the cost of zinc oxide would have on their financial performance and the consequences for continued investment in manufacturing frits and ceramic tiles in the Community. The second area concerns the manner in which the Commission took account of the balance of interests of the various interested parties when making its assessment of the overall Community interest. They argued that the Commission had unfairly focussed on the relatively small number of job losses in the Community industry during the analysis period and had failed to reflect the thousands of jobs that had been created in the ceramic industry during the same period. However, no evidence was submitted in support of the aforementioned allegations.

(52) The representations received from these interested parties, both after the publication of the provisional Regulation and following disclosure of the essential facts and considerations on which it was proposed to impose definitive anti-dumping duties, did not add any new elements or evidence that had not already been taken into account. Consequently, the conclusion that there are no compelling reasons not to impose measures, as set out in recital (151) of the provisional Regulation is hereby confirmed.

I. ANTI-DUMPING MEASURES

1. Injury elimination level

(53) A number of interested parties claimed that the Commission did not make a fair price comparison between the zinc oxide originating in the PRC and that produced by the Community industry since most of the Chinese oxide was produced with the American process and was of a low quality.

(54) This argument is not correct. Indeed, a comparison of sales prices on the Community market during the IP was made between prices of the Community industry and those of the cooperating exporting producers on the basis of comparable grades and level of trade (prices to independent dealers/importers). Such a fair comparison was made both for the purposes of establishing the injury margin and for the undercutting calculation.

(55) These comparisons between the zinc oxide produced by the Community industry and that exported to the Community by the Chinese exporting producers, were made on the basis of the same range of zinc oxide (i.e. a zinc oxide produced by the direct process with a zinc oxide content between 95 % and 99,8 %).

(56) In the absence of any other claim, the methodology for calculating the injury margins as set out in recital (154) and (155) of the provisional Regulation is hereby confirmed.

(57) As regards the determination of the non-injurious price, it was found that certain products of one Community producer were wrongly classified, in the cost of production table, in a high quality grade and these were appropriately reclassified. This had the effect of slightly lowering the non-injurious price and margins previously found.

2. Form and level of the duties

(58) Three of the four cooperating exporting producers in China exported their manufactured products either directly or via their respective related trading companies. However, the investigation revealed that the related trading companies also exported zinc oxide which they had purchased from producers which did not cooperate in the investigation. Only the zinc oxide products manufactured by the producing companies can benefit from the specific dumping margin calculated for each producer concerned. The fourth producer sold part of its production to another producer involved in the proceeding. Furthermore given the substantial level of non-cooperation (35 %) and the fact that the non-cooperating producers also exported via the same related traders, it is exceptionally considered that special

provisions are needed in this case to ensure the proper application of the anti-dumping duty.

(59) These special provisions include the presentation to the customs authorities of the Member States of a valid commercial invoice, which shall conform to the requirements set out in the Annex to the Regulation. Only imports accompanied by such an invoice shall be declared under the applicable Taric additional codes of the producer in question. Imports not accompanied by such an invoice shall be made subject to the residual anti-dumping duty applicable to all other exporters. The companies concerned have also been invited to submit regular reports to the Commission in order to ensure a proper follow up of their sales of zinc oxide to the Community. In cases where reports are not submitted, or where the reports disclose that the measures are not adequate to eliminate the effects of injurious dumping, it may be necessary to initiate an interim review in accordance with Article 11(3) of the basic Regulation.

(60) The corrections made to the dumping and injury margins had no effect on the application of the lesser duty rule and therefore the methodology used for establishing the anti-dumping duty rates as described in recitals (156) to (159) of the provisional Regulation is hereby confirmed.

3. **Definitive collection of provisional duties and other provisions**

(61) In view of the magnitude of the dumping found for the exporting producers, and in the light of the seriousness of the injury caused to the Community industry, it is considered necessary that the amounts secured by way of provisional anti-dumping duties shall be collected at the rate of the duty definitively imposed. As the definitive duties are lower than the provisional duties, the amounts secured in excess of that level should be released.

(62) Any claim requesting the application of these individual company anti-dumping duty rates (e.g. following a change in the name of the entity or following the setting up of new production or sales entities) should be addressed to the Commission forthwith with all relevant information, in particular any modification in the company's activities linked to production, domestic and export sales associated with e.g. that name change or that change in the production and sales entities. The Commission, if appropriate, will, after consultation of the Advisory Committee, amend the Regulation accordingly by updating the list of companies benefiting from individual duty rates,

HAS ADOPTED THIS REGULATION

Article 1

1. A definitive anti-dumping duty is hereby imposed on imports of zinc oxide (chemical formula: ZnO) with a purity of not less than 93 % zinc oxide, falling within CN code ex 2817 00 00 (TARIC code 2817 00 00 11) and originating in the People's Republic of China.

2. The rate of definitive anti-dumping duty applicable, before duty, to the net, free-at-Community frontier price of the products manufactured by the following companies, shall be as follows, provided that they are imported in conformity with paragraph 3:

Company	Definitive duty (%)	TARIC additional code
Liuzhou Nonferrous Metals Smelting Co., Ltd 17 Baiyun Road, Liuzhou City 545006 Guangxi Province, China	6,9	A277
Liuzhou Fuxin Chemical Industry Co. Ltd 16-90 Xihuan Road, Liuzhou 545007 Guangxi Province, China	11,0	A278
Gredmann Guigang Chemical Ltd Development Zone for Enterprises with Foreign Investment (Batang Maijiupo) Guigang City 537100 Guangxi Province, China	19,3	A279
Liuzhou Longcheng Chemical General Plant Luowei Horticultural Farm, Liuzhou Guangxi Province, China	26,3	A280
All other companies	28,0	A999

3. The application of the individual duty rates specified for the four companies mentioned in paragraph 2 shall be conditional upon presentation to the customs authorities of the Member States of a valid commercial invoice, which shall conform to the requirements set out in the Annex to the Regulation. If no such invoice is presented, the duty rate applicable to all other companies shall apply.

4. Unless otherwise specified, the provisions in force concerning customs duties shall apply.

Article 2

The amounts secured by way of the provisional anti-dumping duty imposed pursuant to Regulation (EC) No 1827/2001 shall be definitively collected at the rate of the duties definitively imposed. The amounts secured in excess of the definitive rate of anti-dumping duties shall be released.

Article 3

This Regulation shall enter into force on the 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.

ANNEX

The valid commercial invoice must include a signed declaration in the following format:

The name of the official of the company that has issued the commercial invoice and the following signed declaration:

'I, the undersigned, certify that the goods sold for export to the European Community and covered by this invoice:

1. were manufactured by (company name and address)
2. have a zinc oxide content of (precise %)
3. have a volume of (tonnes).

I declare that the information provided in this invoice is complete and correct.'

Proposal for a Council Decision on a Community position within the EU-Mexico Joint Council concerning the tariff treatment of certain products listed in Annex 1 and 2 to Decision No 2/2000 of the EU-Mexico Joint Council

(2002/C 262 E/02)

COM(2002) 91 final — 2002/0045(ACC)

(Submitted by the Commission on 20 February 2002)

EXPLANATORY MEMORANDUM

It has recently emerged that the EU and Mexico are affording different tariff treatment to products included in the tariff elimination schedule established by Decision No 2/2000 of the EU-Mexico Joint Council. The products involved are those included in category 4 ([1]) of the tariff elimination schedule, that is, products for which the calendar of reductions will only start on 1 July 2003, and the difference comes from diverging interpretations of the scope of the base rates listed in Annex 1 to Decision No 2/2000. Base rates are defined in Article 3(7) of Decision No 2/2000 as 'the basic customs duty to which the successive reductions are to be applied'.

For products in category 4 the Community is at present not granting any preferential treatment to products of Mexican origin according to Decision No 2/2000, i.e., it is applying MFN rates. MFN rates are in some cases higher than base rates. This is because base rates for certain products of Mexican origin were negotiated to be equal to the GSP rate in force at the end of 1998; however, GSP for some of these products was stopped for products originating in Mexico at the beginning of 1999 ([2]).

Mexico is, by contrast, applying to products in the same category the base rates, which, similarly, in certain cases, are lower than MFN rates. This is because for EU exports base rates were equal to duty rates in force at end 1998, that is, before a generalised increase of Mexican MFN rates on certain industrial and agricultural products.

When the divergence emerged, about one year after the entry into force of Decision No 2/2000, the Mexican side asked that the EC switch to their interpretation of what comprises the base rate, i.e., to make it the rate applied to products in category 4 until tariff elimination starts in 2003.

The Commission proposes that Decision No 2/2000 be amended, to establish that the customs duties applicable on category 4 products shall not exceed the base rates in Annexes I and II, for the following reasons:

— The Mexican interpretation leads to a situation where the EU appears to be benefiting from a non-reciprocated tariff concession from Mexico, and now that the situation has emerged, it needs to be addressed. This has become an important question of principle in our bilateral relationship with Mexico. It is therefore necessary to align both sides' interpretation.

— The trade involved is very low, but EU imports in 2000 (EUR 208 000) were lower than EU exports (EUR 1 400 000). This means that the Mexican interpretation (i.e. using base rates instead of MFN rates) would make the EU save in duty payments more than it would lose in duty income.

— The proposed amendment is coherent with the tariff elimination process which will begin for the products included in category 4 on 1 January 2003.

— This interpretation is therefore more favourable to both sides and should be adopted.

It is therefore proposed that the EU-Mexico Joint Council adopt the decision enclosed.

([1]) Agricultural and fishery products.

([2]) This reference to GSP does not imply that GSP is incorporated in the EU-Mexico FTA. GSP remains a completely independent development instrument and the concessions under GSP are not to be mixed with bilateral concessions under Article XXIV of GATT 1994.

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty establishing the European Community, and in particular Article 133 thereof,

Having regard to the proposal from the Commission,

HAS DECIDED AS FOLLOWS:

Sole Article

To adopt, as a Community position within the EU-Mexico Joint Council, the annexed draft decision.

DECISION OF THE EUROPEAN UNION-MEXICO JOINT COUNCIL No .../2001

of ...

relating to the tariff treatment of certain products listed in Annex 1 and 2 to Decision No 2/2000 of the EU-Mexico Joint Council

THE JOINT COUNCIL,

Having regard to the Economic Partnership, Political Coordination and Cooperation Agreement between the European Community and its Member States, of the one part, and the United Mexican States, of the other part, signed in Brussels on 8 December 1997,

Having regard to Decision No 2/2000 of the EU-Mexico Joint Council of 23 March 2000 (hereinafter 'Decision No 2/2000') and in particular to Article 3 paragraph 5 thereof,

Whereas:

(1) Article 3(5) of Decision No 2/2000 gives the Joint Council the capacity to accelerate the reduction of customs duties or otherwise improve conditions of access, so as to supersede the terms established in Articles 4 to 10 thereof for the product concerned.

(2) It is appropriate to provide that in the customs duties applied by each party on imports of products falling within category 4 shall not exceed the base rates stipulated in Annexes I and II,

HAS DECIDED AS FOLLOWS:

Article 1

1. Customs duties on imports into the Community of products originating in Mexico listed in Annex I under category 4 shall not exceed the base rates for those products specified in that annex.

2. Customs duties on imports into Mexico of products originating in the Community listed in Annex II under category 4 shall not exceed the base rates for those products specified in that annex.

Article 2

This Decision shall enter into force on the fifth day following that in which it is adopted by the Joint Council.

Proposal for a Council Regulation amending Regulation (EC) No 2604/2000 imposing a definitive anti-dumping duty on imports of certain polyethylene terephthalate originating, *inter alia*, in India

(2002/C 262 E/03)

COM(2002) 106 final

(Submitted by the Commission on 27 February 2002)

EXPLANATORY MEMORANDUM

The above review was initiated by Commission Regulation (EC) No 1240/2001 which was published in the *Official Journal of the European Communities* L 171 of 26 June 2001. All interested parties were given the opportunity to submit their comments in due course.

The investigation revealed the practice of dumping for the exporting producer which requested the initiation of the proceeding. The level of dumping established is lower than the country-wide injury margin established for India in the original investigation. Consequently, pursuant to the 'lesser duty rule' it is decided to set the duty at the level of the established dumping margin, i.e. 14,7 %.

On this basis it is proposed to amend the Council Regulation in force accordingly.

Member States were consulted and the majority supported the imposition of an individual anti-dumping duty.

It is therefore proposed that the Council adopts the attached proposal to amend Council Regulation (EC) No 2604/2000 imposing a definitive anti-dumping duty on imports of certain polyethylene terephthalate originating, *inter alia*, in India.

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty establishing the European Community,

Having regard to Council Regulation (EC) No 384/96 of 22 December 1995 on protection against dumped imports from countries not members of the European Community [1], and in particular Article 11(4) thereof,

Having regard to the proposal submitted by the Commission after consulting the Advisory Committee,

Whereas:

A. **MEASURES IN FORCE**

(1) By Regulation (EC) No 2603/2000 [2], the Council imposed a definitive countervailing duty in the form of a specific amount per tonne of EUR 41,3/t on imports of certain polyethylene terephthalate (hereinafter 'product concerned') originating, *inter alia*, in India, with the exception of imports from several India companies specifically mentioned, which are subject to a lesser rate of duty. By Regulation (EC) No 2604/2000 [3], the Council imposed a definitive anti-dumping duty in the form of a specific amount per tonne of EUR 181,7/t on imports of certain polyethylene terephthalate originating, *inter alia*, in India, with the exception of imports from several Indian companies specifically mentioned, which are subject to different rate of duty. The product is currently classifiable under CN code 3907 60 20.

B. **CURRENT INVESTIGATION**

(2) The Commission subsequently received a request to initiate a 'new exporter' review of Regulation (EC) No 2604/2000, pursuant to Article 11(4) of Council Regulation (EC) No 384/96 (the 'Basic Regulation'), from the Indian producer Futura Polymers Ltd (hereinafter referred to as the 'company concerned'). This company claimed that it was not related to any of the exporting producers in India subject to the anti-dumping measures in force with regard to the product concerned. Furthermore, it claimed that it had not exported the product concerned during the original period of investigation (1 October 1998 to 30 September 1999), but had exported the product concerned to the Community since then.

[1] OJ L 56, 6.3.1996, p. 1. Regulation as last amended by Regulation (EC) No 2238/2000 (OJ L 257, 11.10.2000, p. 2).

[2] OJ L 301, 30.11.2000, p. 1.

[3] OJ L 301, 30.11.2000, p. 21.

(3) The product covered by the current review is the same as in the original investigation, i.e. polyethylene terephthalate ('PET') with a coefficient of viscosity of 78 ml/g or higher, according to DIN (Deutsche Industrienorm) 53728.

(4) The Commission examined the evidence submitted by the Indian exporting producer concerned and considered it sufficient to justify the initiation of a review in accordance with the provisions of Article 11(4) of the Basic Regulation. After consultation of the Advisory Committee and after the Community industry concerned had been given the opportunity to comment, the Commission initiated, by Regulation (EC) No 1240/2001 ([1]), a review of Regulation (EC) No 2604/2000 with regard to the company concerned and commenced its investigation.

(5) By the Regulation initiating the review, the Commission also repealed the anti-dumping duty imposed by Regulation (EC) No 2604/2000 with regard to imports of the product concerned produced and exported to the Community by the company concerned and directed customs authorities, pursuant to Article 14(5) of the Basic Regulation, to take appropriate steps to register such imports.

(6) The Commission officially advised the company concerned and the representatives of the exporting country of the initiation of the review. Furthermore, it gave other parties directly concerned the opportunity to make their views known in writing and to request a hearing. However no such request was received by the Commission.

(7) The Commission sent a questionnaire to the company concerned and received a reply within the deadline. The Commission also sought and verified all the information deemed necessary for the determination of dumping. A verification visit was carried out at the premises of the company concerned.

(8) The investigation of dumping covered the period from 1 April 2000 to 31 March 2001 (the 'investigation period').

(9) The same methodology as that used in the original investigation was applied in the current investigation.

C. SCOPE OF THE REVIEW

(10) As no request for a review of the findings on injury was made in this investigation, the review was limited to dumping.

D. RESULTS OF THE INVESTIGATION

1. New exporter qualification

(11) The investigation confirmed that the company concerned had not exported the product concerned during the original period of investigation and that it had begun exporting to the Community after this period.

Furthermore, according to documentary evidence submitted, the company was able to satisfactorily demonstrate that it did not have any links, direct or indirect, with any of the Indian exporting producers subject to the anti-dumping measures in force with regard to the product concerned.

Accordingly, it is confirmed that the company concerned should be considered a new exporter in accordance with Article 11(4) of the Basic Regulation, and thus an individual dumping margin should be determined for it.

2. Dumping

Normal value

(12) As far as the determination of normal value is concerned, the Commission first established, for the company, whether its total domestic sales of polyethylene terephthalate were representative in comparison with its total export sales to the Community. In accordance with Article 2(2) of the Basic Regulation, domestic sales were considered representative since the total domestic sales volume of the exporting producer was at least 5 % of its total export sales volume to the Community. Domestic sales of the product type exported to the Community were also representative, i.e. at least 5 % of the sales volume exported to the Community.

(13) An examination was also made as to whether the domestic sales could be regarded as having been made in the ordinary course of trade, by establishing the proportion of profitable sales to independent customers. The sales volume of the product concerned sold at a net sales price equal to or above the calculated cost of production ('profitable sales') represented 80 % or more of the total sales volume and the weighted average price of that type was above cost of production. Consequently normal value was based on the actual domestic price, calculated as a weighted average of the prices of all domestic sales made during the investigation period, irrespective of whether all these sales were profitable or not.

Export price

(14) Since all export sales to the Community were made to independent customers in the Community, the export price was established in accordance with Article 2(8) of the Basic Regulation, namely on the basis of export prices actually paid or payable.

Comparison

(15) For the purpose of ensuring a fair comparison between normal value and export price, due allowance in the form of adjustments was made for differences affecting price comparability in accordance with Article 2(10) of the Basic Regulation.

(16) All the export sales allowances were accepted. These related to inland freight, other freight, bank charges, other charges and packing.

([1]) OJ L 171, 26.6.2001, p. 3.

(17) All the domestic sales allowances claimed by the company were accepted, i.e. credit costs, commissions and indirect taxes. Since test certificates for the product showed a quality difference between that sold domestically and that exported to the Community, an adjustment for differences in physical characteristics was made. This difference was quantified by comparing prices of the two qualities sold to third countries.

Dumping margin

(18) According to Article 2(11) of the Basic Regulation, the dumping margin was established on the basis of a comparison between the weighted average normal value by type and the weighted average export price.

(19) This weighted average dumping margin established for the company, expressed as a percentage of the free-at-Community-frontier price, amounts to 14,7 %.

E. AMENDMENT OF THE MEASURES BEING REVIEWED

(20) In the light of the foregoing, it is considered that a definitive anti-dumping duty should be imposed at the level of the dumping margin found but, in accordance with Article 9(4) of the basic Regulation, should not be higher than the country-wide injury margin established for India by the definitive Regulation in the original anti-dumping investigation. In this case the anti-dumping duty was based on the dumping margin mentioned above since the investigation, pursuant to Article 11(4) of the basic Regulation, was limited to the examination of the situation of dumping of the company concerned and the country-wide injury margin of the original investigation was higher.

(21) In accordance with Article 14(1) of the Basic Regulation, no product shall be subject to both antidumping and countervailing duties for the purposes of dealing with one and the same situation arising from dumping or from export subsidisation. As anti-dumping duties should be imposed on imports of the product concerned it is necessary to determine whether, and to what extent, the subsidy and the dumping margin arise from the same situation.

(22) In the case in question the company concerned cooperated in the initial anti-subsidy case and the countervailing duty has been established at 0 %.

F. RETROACTIVE LEVYING OF THE ANTI-DUMPING DUTY

(23) As the review has resulted in a determination of dumping in respect of the company concerned, the anti-dumping duty applicable to this company shall also be levied retroactively from the date of initiation of this review on imports which have been made subject to registration pursuant to Article 3 of Regulation (EC) No 1240/2001.

G. UNDERTAKING

(24) The company, Futura Polymers Ltd, offered a price undertaking concerning its exports of the product concerned to the Community, in accordance with Article 8(1) of the basic Regulation.

(25) After examination of the offer, the Commission considered the undertaking as acceptable since it would eliminate the injurious effects of dumping pursuant to Article 8(1) of the basic Regulation. Moreover, the regular and detailed reports which the company undertook to provide to the Commission will allow effective monitoring. Furthermore, the nature of the product and the sales structure of the company is such that the Commission considers that the risk of circumvention is limited.

(26) In order to ensure the effective respect and monitoring of the undertaking, when the request for release for free circulation pursuant to the undertaking is presented, exemption from the duty is conditional upon presentation to the customs service of the Member State concerned a valid 'Commercial Invoice' issued by Futura Polymers Ltd and containing the information listed in the Annex of Regulation (EC) No 2604/2000. Where no such invoice is presented, or when it does not correspond to the product presented to customs, the appropriate rate of anti-dumping duty should be payable in order to ensure the effective application of the undertaking.

(27) In the event of a breach or withdrawal of the undertaking an anti-dumping duty may be imposed, pursuant to Article 8(9) and (10) of the basic Regulation.

H. DISCLOSURE AND DURATION OF THE MEASURES

(28) The company concerned was informed of the facts and considerations on the basis of which it was intended to impose the amended definitive anti-dumping duty on its imports into the Community.

(29) This review does not affect the date on which Regulation (EC) No 2604/2000 will expire pursuant to Article 11(2) of the Basic Regulation,

HAS ADOPTED THIS REGULATION:

Article 1

1. The text concerning Futura Polymer Limited in Article 1(3) of Regulation (EC) No 2604/2000 is hereby replaced by:

Country	Company	Definitive duty (EUR/t)	TARIC additional code
India	Futura Polymer Limited	161,2	A184

2. The table in Article 2(3) of Regulation (EC) No 2604/2000 is hereby amended by:

Company	Country	TARIC additional code
Futura Polymer Limited	India	A184

3. The duty hereby imposed shall also be levied retroactively on imports of the product concerned which have been registered pursuant to Article 3 of Regulation (EC) No 1240/2001.

4. Unless otherwise specified, the provisions in force concerning customs duties shall apply.

Article 2

This Regulation shall enter into force on the day 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.

Proposal for a Council Regulation adopting autonomous measures concerning the importation of fish and fishery products originating in the Republic of Poland

(2002/C 262 E/04)

COM(2002) 114 final — 2002/0060(ACC)

(Submitted by the Commission on 6 March 2002)

EXPLANATORY MEMORANDUM

On 29 May 2000, the Council authorised the Commission to undertake negotiations on behalf of the Community with the Republic of Poland to liberalise reciprocal trade in fish and fishery products.

Negotiations were held on 18-19 July, 16 November, 7 December 2000 and 8 February 2001. An addendum to the agreement was signed on 13 July 2001.

The two parties agreed on a model for simple, gradual and reciprocal tariff concessions, whose details have been recorded in the Agreed Minutes and an addendum signed by each head of delegation. The main commitments made by the Community as a result of the conclusion of negotiations are as follows:

— One month after the date of entry into force of the agreement, the tariff duties applied on all fish and fishery products covered by the definition set out in Regulation (EC) No 104/2000, will be reduced by one-third. One year after entry into force of the agreement, a further one-third reduction will be applied. Two years after entry into force of the agreement, full free trade of all fish and fishery products will be applied.

— However, as regards or the products specified in the annex to the attached proposal for a Council Regulation, one month after the entry into force of the agreement the Community will apply 70 % of the MFN rate of tariff duties. One year after the entry into force of the agreement, the Community will apply 40 % of the MFN rate of tariff duties as they were at the time of the entry into force of the agreement. Two years after entry into force of the agreement, full free trade of all fish and fishery products will be applied.

— The tariff quotas already granted by the Community to Poland on an autonomous basis will remain valid until accession. Imports into the Community above the quota quantities will be subject to the agreed tariff reductions as outlined above.

A Protocol laying down the new trade arrangements for certain fish and fishery products has to be added to the Europe Agreement between the Community and the Republic of Poland. Pending the completion of internal procedures required for the entry into force of the additional Protocol, it is proposed that, through a Council Regulation, the Community adopts autonomous measures enabling the concessions made to Poland to apply as early as 1 January 2002. A swift implementation of the agreement is desirable in order to introduce the gradual liberalisation of trade in fish and fishery products and to give a positive political sign to Poland in the context of the accession process.

The adoption of the proposed autonomous measures will bring forward the effective starting date for the gradual liberalisation of trade in fish and fishery products between the Community and the Republic of Poland. It is therefore necessary to ensure that this circumstance is taken into account at the time when the new Additional Protocol to the Europe Agreement enters into force. For this purpose, the conclusion of an interpretative Exchange of Letters with Poland will be proposed shortly.

In light of the above, the Council is requested to adopt the attached Regulation implementing, on an autonomous basis, the concessions agreed between the Community and Poland.

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty establishing the European Community, and in particular Article 133 thereof,

Having regard to the proposal from the Commission,

Whereas:

(1) The Europe Agreement establishing an association between the European Communities and their Member States, of the one part, and the Republic of Poland, of the other part [1], was signed in Brussels in December 1991 and entered into force in February 1994.

(2) Regulation (EC) No 1798/94 [2], as modified by Regulation (EC) No 921/96 [3], provides for certain concessions for fish and fishery products which are listed in Annex IV thereto.

(3) In accordance with the Directives issued by the Council on 29 May 2000, negotiations with Poland on a new Additional Protocol to the Europe Agreement were concluded on 13 July 2001.

(4) The new Additional Protocol, based on Articles 23 and 20(5) of the Europe Agreement, provides for concessions on fish and fishery products.

(5) A swift implementation of the agreement forms an essential part of the results of the negotiations for the conclusion of a new Additional Protocol to the Europe Agreement with Poland.

(6) Poland will take all useful legislative provisions, on an autonomous basis, in order to enable the reciprocal and simultaneous implementation of concessions to the Community provided for in the Additional Protocol.

(7) It is therefore appropriate for the Community to adopt autonomous measures introducing the concessions provided for in the new Additional Protocol to the Europe Agreement.

(8) As far as the management of the tariff quotas is concerned, it is appropriate to follow the chronological order of dates of acceptance of customs declarations in accordance with Commission Regulation (EEC) No 2454/93 of 2 July 1993 laying down provisions for the implementation of Council Regulation (EEC) No 2913/92 establishing the Community Customs Code [4],

HAS ADOPTED THIS REGULATION:

Article 1

1. The arrangements for the importation into the Community of fish and fishery products originating in Poland, as set out in Articles 2, 3 and 4 below, shall modify the Europe Agreement with the Republic of Poland.

2. From the date of entry into force of the new Additional Protocol to the Europe Agreement with Poland, the concessions provided therein shall apply taking account of the implementation measures already adopted by both Parties, in a reciprocal manner, in advance of that date. Accordingly, on the date of entry into force of the Additional Protocol, its provisions shall replace and supersede the relevant provisions of this Regulation.

Article 2

As from 1 January 2002, the Community shall apply a one-third reduction of the tariff duties applied for fish and fishery products as defined in Article 1 of Council Regulation (EC) No 104/2000 [5], other than those mentioned in Articles 3 and 4 below.

As from 1 January 2003, the Community shall apply a further one-third reduction of the tariff duties as they were at the time this Regulation became applicable.

As from 1 January 2004, the Community shall eliminate the tariff duties on all fish and fishery products, including those products mentioned in Articles 3 and 4 below.

Article 3

As from 1 January 2002, the Community shall apply a 30 % reduction of the tariff duties applied to the products mentioned in the Annex to this Regulation. As from 1 January 2003, the Community shall apply a further reduction of 30 % of the tariff duties as they were at the time this Regulation became applicable.

(1) OJ L 348 of 31.12.1993, p. 2.
(2) OJ L 189 of 23.7.1994, p. 1.
(3) OJ L 126 of 24.5.1996, p. 1.
(4) OJ L 253, 11.10.1993, p. 1. Regulation as last amended by Regulation (EC) No 993/2001 (OJ L 141, 28.5.2001, p. 1).
(5) OJ L 17, 21.1.2000, p. 22.

Article 4

The tariff quotas mentioned in Annex IV to Regulation (EC) No 1798/94 remain valid until 31 December 2003. For quantities imported into the Community above these tariff quotas, the provisions of Article 2 shall apply.

Article 5

The calculation of the reductions mentioned in Articles 2 and 3 will be carried out using common mathematical principles.

In particular, the following rules shall apply:

(a) all the figures which have less than 50 (included) after the decimal point shall be rounded down to the nearest whole number,

(b) all the figures which have more than 50 after the decimal point shall be rounded up to the nearest whole number,

(c) all the tariffs below 2 % shall automatically be fixed at 0 %.

Article 6

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

It shall apply from 1 January 2002.

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

ANNEX

	EU Combined Nomenclature	Description
0302 Fish, fresh or chilled, excluding fish fillets and other fish meat of heading No 0304:		
	0302 40 00	– Herrings *(Clupea harengus, Clupea pallasii)*, excluding livers and roes
0303 Fish, frozen, excluding fish fillets and other fish meat of heading No 0304:		
	0303 50 00	– Herrings *(Clupea harengus, Clupea pallasii)*, excluding livers and roes
0304 Fish fillets and other fish meat (whether or not minced), fresh, chilled or frozen:		
	0304 10 97	– – – – Flaps of herring
		– Frozen fillets:
	0304 20 75	– – of herring *(Clupea harengus, Clupea pallasii)*
		– Other
	0304 90 22	– – – – of herring *(Clupea harengus, Clupea pallasii)*
0305 Fish, dried, salted or in brine; smoked fish, whether or not cooked before or during the smoking process; flours, meals and pellets of fish, fit for human consumption:		
	0305 42 00	– – Herrings *(Clupea harengus, Clupea pallasii)*
	0305 59 30	– – – Herrings *(Clupea harengus, Clupea pallasii)*
	0305 61 00	– – Herrings *(Clupea harengus, Clupea pallasii)*
1604 Prepared or preserved fish; caviar and caviar substitutes prepared from fish eggs:		
	1604 12	– – Herrings

Proposal for a Council Regulation adopting autonomous measures concerning the importation of fish and fishery products originating in the Czech Republic

(2002/C 262 E/05)

COM(2002) 115 final — 2002/0056(ACC)

(Submitted by the Commission on 6 March 2002)

EXPLANATORY MEMORANDUM

On 29 May 2000, the Council authorised the Commission to undertake negotiations with the Czech Republic to liberalise reciprocal trade concessions in fish and fishery products.

Negotiations were held on 20 October 2000 and 27 March 2001. The two parties agreed on a model for simple, gradual and reciprocal tariff concessions, whose details have been recorded in the Agreed Minutes signed by each head of delegation. The main commitments made by the Community as a result of the conclusion of negotiations are as follows:

— At the date of entry into force of the agreement, the Community will eliminate the existing tariff quota for live trout falling under CN Code 0301 91 90, as provided for in Regulation No 965/97, and the tariff duties for this product will be eliminated. As regards live carp falling under the CN Code 0301 93 00 the Community will increase the existing tariff quotato to 4 000 tonnes, at the date of entry into force of the agreement. The following year, the quota will be increased to 4 500 tonnes and two years after the entry into force of the agreement, the quota will be increased to 5 000 tonnes. Three years after entry into force of the agreement, the quota for live carp will be eliminated.

— As regards all other fish and fishery products, as covered by the definition set out in Regulation (EC) No 104/2000, the Community will apply a one-third reduction of the tariff duties at the date of entry into force of the agreement. The following year a further reduction of one-third will be applied. Three years after the date of entry into force of the agreement, the Community shall eliminate all tariff duties on fish and fishery products.

A Protocol laying down the new trade arrangements for certain fish and fishery products has to be added to the Europe Agreement between the Community and the Czech Republic. Pending the completion of internal procedures required for the entry into force of the additional Protocol, it is proposed that, through a Council Regulation, the Community adopts autonomous measures enabling the concessions made to the Czech Republic to apply as early as 1 January 2002. A swift implementation of the agreement is desirable in order to introduce the gradual liberalisation of trade in fish and fishery products and to give a positive political sign to the Czech Republic in the context of the accession process.

The adoption of the proposed autonomous measures will bring forward the effective starting date for the gradual liberalisation of trade in fish and fishery products between the Community and the Czech Republic. It is therefore necessary to ensure that this circumstance is taken into account at the time when the new Additional Protocol to the Europe Agreement enters into force. For this purpose, the conclusion of an interpretative Exchange of Letters with the Czech Republic will be proposed shortly.

In light of the above, the Council is requested to adopt the attached Regulation implementing, on an autonomous basis, the concessions agreed between the Community and the Czech Republic.

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty establishing the European Community, and in particular Article 133 thereof,

Having regard to the proposal from the Commission,

Whereas:

(1) The Europe Agreement establishing an association between the European Communities and their Member States, of the one part, and the Czech Republic, of the other part [1], provides for certain concessions for fish and fishery products, which are referred to in Annex XV thereto.

(2) Annex XV of the Europe Agreement has been replaced by the text contained in Annex I to the Protocol for the adaptation of trade aspects of the Europe Agreement [2].

(3) In accordance with the directives issued by the Council on 29 May 2000, negotiations with the Czech Republic on a new Additional Protocol to the Europe Agreement were concluded on 27 March 2001.

(4) The new Additional Protocol, based on Articles 21(5) and 24 of the Europe Agreement, provides for concessions on fish and fishery products.

(5) A swift implementation of the agreement forms an essential part of the results of the negotiations for the conclusion of a new Additional Protocol to the Europe Agreement with the Czech Republic.

(6) The Czech Republic will take all useful legislative provisions, on an autonomous basis, in order to enable the reciprocal and simultaneous implementation of concessions to the Community provided for in the Additional Protocol.

(7) It is therefore appropriate for the Community to adopt autonomous measures introducing the concessions provided for in the new Additional Protocol to the Europe Agreement.

(8) In order to implement the terms of the agreement, Council Regulation (EC) No 965/97 opening and providing for the management of autonomous Community tariff quotas for certain live fish originating in the Czech Republic [3] shall be modified.

(9) As far as the management of the tariff quota is concerned, it is appropriate to follow the chronological order of dates of acceptance of customs declarations in accordance with Commission Regulation (EEC) No 2454/93 of 2 July 1993 laying down provisions for the implementation of Council Regulation (EEC) No 2913/92 establishing the Community Customs Code [4],

HAS ADOPTED THIS REGULATION:

Article 1

1. The arrangements for the importation into the Community of fish and fishery products originating in the Czech Republic, as set out in Articles 2, 3 and 4 below, shall modify the Europe Agreement establishing an association between the European Communities and the Czech Republic.

2. From the date of entry into force of the new Additional Protocol to the Europe Agreement with the Czech Republic, the concessions provided therein shall apply taking account of the implementation measures already adopted by both Parties, in a reciprocal manner, in advance of that date. Accordingly, on the date of entry into force of the Additional Protocol, its provisions shall replace and supersede the relevant provisions of this Regulation.

Article 2

On 1 January 2002, the Community shall eliminate the tariff quota for live trout (*Salmo trutta, Oncorhynchus mykiss, Oncorhynchus clarki, Oncorhynchus aguabonita, Oncorhynchus gilae*) falling under CN code 0301 91 90 as provided for in Regulation (EC) No 965/97. As from that date, the tariff duty for that product shall be eliminated.

Article 3

On 1 January 2002, the annual volume of the tariff quota with order number 09.5263, as provided for in Regulation (EC) No 965/97 for live carp falling under CN code 0301 93 00, shall be increased to 4 000 tonnes.

On 1 January 2003 the volume of this quota shall be increased to 4 500 tonnes.

On 1 January 2004 the volume of the quota shall be increased to 5 000 tonnes.

For quantities imported into the Community above these tariff quotas, the provisions of Article 4 shall apply.

[1] OJ L 360, 31.12.1994, p. 2.
[2] OJ L 341, 16.12.1998, p. 3.
[3] OJ L 141, 31.5.1997, p. 1.
[4] OJ L 253, 11.10.1993, p. 1. Regulation as last amended by Regulation (EC) No 993/2001 (OJ L 141, 28.5.2001, p. 1).

Article 4

As from 1 January 2002, the Community shall apply a one-third reduction of the tariff duties on all other fish and fishery products, as defined in Article 1 of Council Regulation (EC) No 104/2000 [1].

As from 1 January 2003, the Community shall apply a further one-third reduction of the tariff duties as they were at the time this Regulation became applicable.

As from 1 January 2005 the Community shall eliminate the tariff duties on all fish and fishery products.

Article 5

The calculation of the reductions mentioned in Article 4 will be carried out using common mathematical principles.

In particular, the following rules shall apply:

(a) all the figures which have less than 50 (included) after the decimal point shall be rounded down to the nearest whole number;

(b) all the figures which have more than 50 after the decimal point shall be rounded up to the nearest whole number;

(c) all the tariffs below 2 % shall automatically be fixed at 0 %.

Article 6

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

It shall apply from 1 January 2002.

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

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(1) OJ L 17, 21.1.2000, p. 22.

Proposal for a Council Decision authorising Luxembourg to apply a differentiated rate of excise duty to low-sulphur diesel in accordance with Article 8(4) of Directive 92/81/EEC

(2002/C 262 E/06)

COM(2002) 113 final

(Submitted by the Commission on 7 March 2002)

EXPLANATORY MEMORANDUM

1. Submission of request

In a letter dated 3 December 2001 Luxembourg informed the Commission that it wanted to introduce a differentiated rate of excise duty on diesel fuel with a sulphur content not exceeding 50 particles per million (ppm) under Article 8(4) of Council Directive 92/81/EEC on the harmonisation of the structures of excise duties on mineral oils ([1]).

The term 'low-sulphur diesel' refers to diesel with a sulphur content meeting the 50 ppm environmental criterion laid down in Directive 98/70/EC of the European Parliament and of the Council of 13 October 1998 relating to the quality of petrol and diesel fuels ([2]).

Luxembourg explains that the purpose of the proposed lower rate of excise duty is to encourage the use of this environmentally-friendly fuel.

Excise duty would be increased by EUR 15 per 1 000 litres for diesel fuel with a sulphur content exceeding 50 ppm. Thus the EUR 246,65/1 000 litre rate currently charged on all diesel fuel would apply only to low-sulphur diesel, and a new rate of EUR 261,65 would be introduced for the higher-sulphur category. The pump price of diesel with a sulphur content in excess of 50 ppm would increase by LUF 0,7/litre (EUR 0,02/litre) so the new differentiated rate should lead to its rapid disappearance from the market.

Luxembourg has asked for this measure to enter into force on 1 January 2002 and expire on 1 January 2004.

Luxembourg does not consider this measure to constitute State aid, since it applies to all consumers, regardless of economic sector.

2. The Commission's assessment

Under Article 8(4) of Council Directive 92/81/EEC on the harmonisation of the structures of excise duties on mineral oils, the Council, acting unanimously on a proposal from the Commission, may authorise any Member State to introduce exemptions from, or reductions in, excise duties on grounds of specific policy considerations.

By letter dated 3 December 2001, Luxembourg requested authorisation to apply a differentiated rate of excise duty to low-sulphur (50 ppm) diesel from 1 January 2002.

In accordance with Directive 92/81/EEC, the other Member States have been informed of this request.

The differentiation will be achieved by means of a EUR 15/1 000 litre increase in excise duty for diesel with a sulphur content exceeding 50 ppm. The existing EUR 246,65/1 000 litre rate for diesel will then apply only to low-sulphur fuel, while a new rate of EUR 261,65 will be brought in for diesel whose sulphur content exceeds 50 ppm.

([1]) OJ L 316, 31.10.1992, p. 12, as last amended by Directive 94/74/EC (OJ L 365, 31.12.1994, p. 46).

([2]) OJ L 350, 28.12.1998, p. 58, amending Council Directive 93/12/EEC (OJ L 74, 27.3.1993, p. 81).

The differentiated rates of excise duties will thus comply with the minimum Community rates laid down in Article 5 of Directive 92/82/CEE [1].

Following a thorough study of the measure and acknowledging the importance of tax incentives to promote cleaner fuels, the Commission notes that the lower rate of excise will be of general application, in other words available to anyone filling up with low-sulphur diesel in Luxembourg. The availability of sufficient quantities of this fuel, of a satisfactory quality, has been verified.

The derogation is sought on environmental grounds — the benefits in terms of air quality are known.

The measure is for a fixed period. It expires on 31 December 2003, and use of this type of fuel becomes mandatory on 1 January 2005 under Directive 98/70/EC of the European Parliament and of the Council of 13 October 1998 relating to the quality of petrol and diesel fuels. However, the logic of the system envisaged in Article 8(4) of Directive 92/81/EC dictates that requests should refer to derogations which will enter into force only after being approved by the Council, without prejudice to other rules of Community law. Accordingly the Commission intends to propose that the measure enter into force on a date that allows the Council time to adopt the proposed authorisation decision, namely 1 April 2002.

The Commission notes that the Council has authorised differentiation of excise duty for low-sulphur diesel in the Netherlands [2] and Ireland [3]. Similar derogations for low-sulphur fuels (petrol and diesel) have also been approved for Germany [4] and Belgium [5].

3. **Decision**

In accordance with Article 8(4) of Council Directive 92/81/EEC, the Commission proposes that the Council authorise Luxembourg to apply a differentiated rate of excise duty of a maximum of EUR 15 per 1 000 litres to low-sulphur (50 ppm) diesel used as fuel from 1 April 2002 until 31 December 2003.

[1] OJ L 316, 31.10.1992, p. 19, as last amended by Directive 94/74/EC (OJ L 365, 31.12.1994, p. 46).
[2] Council Decision 2001/229/EC, 12.3.2001 (OJ L 84, 23.3.2001).
[3] Council Decision 2002/23/EC, 4.12.2001 (OJ L 11, 15.1.2002).
[4] Decision 2000/283/EC of 10.4.2000 authorises Germany to apply a differentiated rate of excise duty from 1 November 2001 to 31 December 2002 on fuels with a maximum sulphur content of 50 ppm on condition that it complies with the requirements laid down in Council Directive 92/82/EEC of 19 October 1992 on the approximation of the rates of excise duties on mineral oils, and in particular the minimum rates laid down in Articles 4 and 5 thereof.
[5] Council Decision 2001/439/EC, 5.6.2001 (OJ L 155, 12.6.2001).

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty establishing the European Community,

Having regard to Council Directive 92/81/EEC of 19 October 1992 on the harmonisation of the structures of excise duties on mineral oils [1], and in particular Article 8(4) thereof,

Having regard to the proposal from the Commission,

Whereas:

(1) Luxembourg has requested authorisation to apply a differentiated rate of excise duty to low-sulphur (50 ppm) diesel used as fuel.

[1] OJ L 316, 31.10.1992, p. 12, as last amended by Directive 94/74/EC (OJ L 365, 31.12.1994, p. 46).

(2) The other Member States have been informed of Luxembourg's request.

(3) The differentiation of excise duty will take the form of a EUR 15/1 000 litre increase in excise duty on diesel fuel with a sulphur content exceeding 50 ppm. The effective rates will remain above the minimum Community rates of excise duty laid down in Council Directive 92/82/EEC of 19 October 1992 on the harmonisation of the structures of excise duties on mineral oils [2].

(4) The derogation is sought on environmental grounds — the benefits in terms of air quality are known.

[2] OJ L 316, 31.10.1992, p. 19, as last amended by Directive 94/74/EC (OJ L 365, 31.12.1994, p. 46).

(5) Low-sulphur diesel complies with the environmental criterion (50 ppm) laid down in Directive 98/70/EC of the European Parliament and of the Council of 13 October 1998 relating to the quality of petrol and diesel fuels and amending Council Directive 93/12/EEC [1]. Under Article 4 of that Directive, the use of 50 ppm diesel will normally be compulsory from 1 January 2005. The Luxembourg measure will expire on 31 December 2003.

(6) On the information available at present, neither the Commission nor the Member States consider that the application of a differentiated rate of excise duty on low-sulphur diesel will cause distortions of competition affecting the common interest or hinder the operation of the single market.

(7) The Commission regularly reviews reductions and exemptions to check that they do not distort competition or the operation of the internal market and are not incompatible with Community environmental policy,

HAS ADOPTED THIS DECISION:

Article 1

Luxembourg is authorised to apply a differentiated rate of excise duty to low-sulphur (50 ppm) diesel from 1 April 2002 to 31 December 2003.

Article 2

The differentiation in excise duty referred to in Article 1 must not exceed EUR 15 per 1 000 litres of fuel.

The rate of excise duty on diesel used as fuel must comply with the terms of Council Directive 92/82/EEC, and in particular the minimum rates laid down in Article 5 thereof.

Article 3

This authorisation shall expire on 31 December 2003.

Article 4

This Decision is addressed to Luxembourg.

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[1] OJ L 350, 28.12.1998, p. 58, amended by Commission Directive 2000/71/EC (OJ L 287, 14.11.2000, p. 46).

Proposal for a Council Decision on a Community position within the EU-Mexico Joint Council concerning the tariff treatment of certain products listed in Annex I and II to Decision No 2/2000 of the EU-Mexico Joint Council

(2002/C 262 E/07)

COM(2002) 125 final — 2002/0054(ACC)

(Submitted by the Commission on 11 March 2002)

EXPLANATORY MEMORANDUM

Decision 2/2000 of the EU-Mexico Joint Council, establishing the liberalisation of trade between the EU and Mexico, lays down in Articles 4 to 10 the rules for elimination of customs duties between the parties. However, Article 3(5) allows the parties to reduce customs duties more rapidly than provided for in Articles 4 to 10 and establishes that a Decision by the Joint Council is the legal basis to do so.

The request to proceed to an immediate elimination on duties for certain industrial products first came from Mexico with the exception of codes 8702 to 8706 (motor cars) which were requested by the EU, to achieve parity of treatment with Mexican NAFTA partners. The products involved are used by domestic industry and not domestically produced (in some cases, the Mexican industry is mainly constituted by EU companies). They have requested in exchange the elimination of EU duties on products on a reciprocal basis (products already liberalised in Mexico or included in the present exercise).

The products involved on both sides are listed in Annexes I and II of the enclosed Joint Council Decision.

The proposal is very advantageous for the EU. This is because, for industrial products, the EU will in any case eliminate all tariffs by 1 January 2003 while Mexico will only complete its liberalisation in 2007 and has therefore much more room for reduction. The EU duties which it is hereby proposed to eliminate range between 1,1 and 3,3 %. The Mexican duties to be eliminated vary between 2,2 and 8 %. Imports of the products affected by this proposal were EUR 659 Mio in the first year of operation of the FTA, of which EUR 644 Mio were cars; exports were above EUR 1 billion (estimates from Mexican figures), of which EUR 852 Mio of cars, in the same period.

The 133 Committee has been consulted on a preliminary basis and has given its agreement.

The enclosed proposal is therefore submitted for approval.

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty establishing the European Community, and in particular Article 133 thereof,

Having regard to the proposal from the Commission,

HAS DECIDED AS FOLLOWS:

Sole Article

To adopt, as a Community position within the EU-Mexico Joint Council, the annexed draft decision.

DECISION No .../2002 OF THE EUROPEAN UNION-MEXICO JOINT COUNCIL

of ...

Accelerating the elimination of customs duties of certain products listed in Annexes I and II to Decision No 2/2000 of the EU-Mexico Joint Council

THE JOINT COUNCIL,

Having regard to the Economic Partnership, Political Coordination and Cooperation Agreement between the European Community and its Member States, of the one part, and the United Mexican States, of the other part, signed in Brussels on 8 December 1997;

Having regard to Decision No 2/2000 of the EU-Mexico Joint Council of 23 March 2000 (hereinafter 'Decision No 2/2000') and in particular Article 3 paragraph 5 thereof;

Whereas:

(1) Article 3 paragraph 5 of Decision No 2/2000 gives the Joint Council the capacity to accelerate the reduction of customs duties more rapidly than is provided for in Articles 4 to 10, or otherwise improve the conditions of access under such Articles;

(2) A Decision by the Joint Council to accelerate the elimination of a custom duty or otherwise improve conditions of access shall supersede the terms established in Articles 4 to 10 for the product concerned,

HAS DECIDED AS FOLLOWS:

Article 1

The Parties shall accelerate the elimination of customs duties applicable to certain originating products contained in Annexes I and II to Decision No 2/2000, as provided for in Articles 2 to 5 of this Decision.

Article 2

Mexico shall accelerate the elimination of customs duties for originating goods of the European Community as established in Annex I.

Article 3

The European Community shall accelerate the elimination of customs duties for originating goods of Mexico as established in Annex II.

Article 4

This Decision by the Joint Council shall supersede the terms established in Articles 4 to 10 of Decision No 2/2000 for the product concerned.

Article 5

This Decision shall enter into force on ....

ANNEX I

TARIFF ITEMS IN WHICH MEXICO ACCELERATES THE ELIMINATION OF CUSTOMS DUTIES FOR ORIGINATING GOODS OF THE EUROPEAN COMMUNITY

(a) Products for which Mexico eliminates customs duties for originating goods of the European Community at the date of entry into force of this Decision ([1])

Tariff item (*) — indicative description

2909.50.04	Eugenol o isoeugenol, excepto en grado farmacéutico
2922.50.17	Clorhidrato de 1-isopropilamino-3-(1-naftoxi)-propan-2-ol
2923.10.99	Los demás
2924.29.13	N-Acetil-p-aminofenol
3002.10.99	Unicamente: medicamento a base de etanercept
3002.10.99	Unicamente: medicamento a base de basiliximab
3002.90.99	Unicamente: toxina botulínica tipo 'A'
3003.90.99	Unicamente: medicamento a granel a base de vitamina E 50 %
3004.20.99	Unicamente: medicamento a base de fosfato sódico de dexametasona y sulfato de neomicina
3004.20.99	Unicamente: Antiséptico glucocorticoide y antiinflamatorio de uso oftálmico con principio activo fluorometolona y sulfato de neomicina
3004.20.99	Unicamente: medicamento a base de ertapenem sódico
3004.39.99	Unicamente: medicamento a base de estradiol
3004.39.99	Unicamente: medicamento a base de gestodeno y etinil estradiol
3004.39.99	Unicamente: medicamento a base de levonorgestrel y etinilestradiol
3004.39.99	Unicamente: medicamento a base de estrógenos conjugados
3004.40.99	Unicamente: medicamento a base de tropisetron
3004.50.99	Unicamente: medicamento a base de fitomenadiona
3004.90.99	Unicamente: medicamento a base de Clorhidrato de Moxifloxacino (tabletas y solución inyectable)
3004.90.99	Unicamente: medicamento a base de Atenolol-nifedipina (cápsulas)
3004.90.99	Unicamente: medicamento a base de isosorbide dinitrato (cápsulas)
3004.90.99	Unicamente: medicamento a base de Glucomannano (cápsulas)
3004.90.99	Unicamente: medicamento a base de rufloxacino mononitrato (tabletas)
3004.90.99	Unicamente: medicamento a base de clorhidrato de Dorzolamida y Maleato de Timolol
3004.90.99	Unicamente: medicamento a base de fosfato sódico de Dexametasona
3004.90.99	Unicamente: medicamento a base de Losartán Potásico e Hidroclorotiazida
3004.90.99	Unicamente: medicamento a base de Maleato de Timolol
3004.90.99	Unicamente: medicamento a base de Cardidopa y Levodopa
3004.90.99	Unicamente: medicamento a base de benseramida y levodopa
3004.90.99	Unicamente: medicamento a base de moxifloxacino
3004.90.99	Unicamente: medicamento a base de ácido pamidrónico
3004.90.99	Unicamente: medicamento a base de isradipino
3004.90.99	Unicamente: medicamento a base de valsartán
3004.90.99	Unicamente: medicamento a base de rivastigmina
3004.90.99	Unicamente: medicamento a base de letrozol
3004.90.99	Unicamente: medicamento a base de formoterol
3004.90.99	Unicamente: medicamento a base de terbinafina
3004.90.99	Unicamente: medicamento a base de fluvastatina

([1]) (The word 'Unicamente' indicates that the description refers only to the modality of the good being accelerated within the tariff item. It is equivalent to an 'ex out' in WTO terminology.)

3004.90.99	Unicamente: medicamento a base de nicotina
3004.90.99	Unicamente: medicamento a base de nitroglicerina
3004.90.99	Unicamente: medicamento a base de quinagolida
3004.90.99	Unicamente: medicamento a base de tizanidina
3004.90.99	Unicamente: medicamento a base de amiprenavir
3004.90.99	Unicamente: medicamento oftálmico a base de aceite de silicona
3004.90.99	Unicamente: medicamento oftálmico a base de perfluorodecalina
3004.90.99	Unicamente: medicamento a base de tirofiban clorhidrato
3004.90.99	Unicamente: medicamento a base de losartán potásico
3004.90.99	Unicamente: medicamento a base de simvastatina
3004.90.99	Unicamente: medicamento a base de acitretino
3004.90.99	Unicamente: medicamento a base de carvedilol
3004.90.99	Unicamente: medicamento a base de filgastrim
3004.90.99	Unicamente: medicamento a base de flunitrazepam
3004.90.99	Unicamente: medicamento a base de mesilato de nelfinavir
3004.90.99	Unicamente: medicamento a base de tolcapone
3004.90.99	Unicamente: medicamento a base de benzoato de rizatriptán
3004.90.99	Unicamente: medicamento a base de tenoxicam
3004.90.99	Unicamente: Antiglaucomatos o antihipertensivo ocular con principio activo clorhidrato de levobunolol y alcohol polivinílico
3004.90.99	Unicamente: Alternativa terapéutica para mantenimiento de midriasis transoperatoria de extracción de catarata extracapsular con principio activo flurbiprofeno sódico
3004.90.99	Unicamente: Solución de uso oftálmico para conjuntivitis infecciosa, úlceras corneales e infecciones oculares con principio activo de ofloxacina
3004.90.99	Unicamente: Subtilisina a microangular tabletas para limpieza de lentes de contacto
3004.90.99	Unicamente: medicamento a base de lamivudina y zidovudina (tabletas)
3004.90.99	Unicamente: medicamento a base de abacavir (tabletas)
3004.90.99	Unicamente: medicamento a base de lamivudina (tabletas)
3004.90.99	Unicamente: medicamentos a base de abacavir, lamivudina y zidovudina (tabletas)
3302.90.99	Los demás
3822.00.99	Unicamente: Medicamento oftálmico a base de tira de papel filtro whatman prueba para evaluar la cantidad de lágrima producida en el ojo humano
3822.00.99	Unicamente: Reactivo para detección de embarazo en tira reactiva, contenida en un estuche o dispositivo de plástico para su venta en farmacias presentación prueba individual
3907.91.02	2,2,4-Trimetil-1,2-dihidro-quinolina polimerizada
8426.91.02	Grúas con acondicionamiento hidráulico de brazos articulados o rígidos con capacidad hasta 9.9 toneladas a un radio de 1 m
8426.91.04	Grúas con brazo (aguilón) articulado, de acondicionamiento hidráulico con capacidad superior a 9.9 toneladas a un radio de 1 m
8506.10.01	Secas, utilizadas en audífonos, para sordera
8506.10.02	Secas, rectangulares, cuyas medidas en milímetros sean: longitud de 40 a 55, ancho de 22 a 28 y espesor de 12 a 18, excepto lo comprendido en las fracciones 8506.10.01 y 04

8506.10.03	Secas, cilíndricas, cuyo diámetro sea mayor de 12 sin exceder de 39 mm. Con longitud de 45 a 65 mm, excepto lo comprendido en las fracciones 8506.10.01 y 04
8506.10.04	Alcalinas, excepto lo comprendido en las fracciones 8506.10.01,02 y 03
8506.10.99	Los demás
8506.30.01	Secas, utilizadas en audífonos, para sordera
8506.30.02	Secas, rectangulares, cuyas medidas en milímetros sean: longitud de 40 a 55, ancho de 22 a 28 y espesor de 12 a 18, excepto lo comprendido en las fracciones 8506.30.01 y 04
8506.30.03	Secas, cilíndricas, cuyo diámetro sea mayor de 12 sin exceder de 39 mm. Con longitud de 45 a 65 mm, excepto lo comprendido en las fracciones 8506.30.01 y 04
8506.30.04	Alcalinas, excepto lo comprendido en las fracciones 8506.30.01,02 y 03
8506.30.99	Los demás
8506.40.01	Secas, utilizadas en audífonos, para sordera
8506.40.02	Secas, rectangulares, cuyas medidas en milímetros sean: longitud de 40 a 55, ancho de 22 a 28 y espesor de 12 a 18, excepto lo comprendido en las fracciones 8506.40.01 y 04
8506.40.03	Secas, cilíndricas, cuyo diámetro sea mayor de 12 sin exceder de 39 mm, con longitud de 45 a 65 mm, excepto lo comprendido en las fracciones 8506.40.01 y 04
8506.40.04	Alcalinas, excepto lo comprendido en las fracciones 8506.40.01, 02 y 03
8506.40.99	Los demás
8506.50.01	Secas, utilizadas en audífonos, para sordera
8506.50.02	Secas, rectangulares, cuyas medidas en milímetros sean: longitud de 40 a 55, ancho de 22 a 28 y espesor de 12 a 18, excepto lo comprendido en las fracciones 8506.50.01 y 04
8506.50.03	Secas, cilíndricas, cuyo diámetro sea mayor de 12 sin exceder de 39 mm, con longitud de 45 a 65 mm, excepto lo comprendido en las fracciones 8506.50.01 y 04
8506.50.04	Alcalinas, excepto lo comprendido en las fracciones 8506.50.01, 02 y 03
8506.50.99	Los demás
8506.60.01	De aire,cinc
8506.80.01	Secas, utilizadas en audífonos, para sordera
8506.80.02	Secas, rectangulares, cuyas medidas en milímetros sean: longitud de 40 a 55, ancho de 22 a 28 y espesor de 12 a 18, excepto lo comprendido en las fracciones 8506.80.01 y 04
8506.80.03	Secas, cilíndricas, cuyo diámetro sea mayor de 12 sin exceder de 39 mm, con longitud de 45 a 65 mm, excepto lo comprendido en las fracciones 8506.80.01 y 04
8506.80.04	Alcalinas, excepto lo comprendido en las fracciones 8506.80.01,02 y 03
8506.80.99	Los demás
8506.90.01	Partes
8703.10.01	Con motor eléctrico
8703.10.02	Vehículos especiales para el transporte de personas en terreno de golf
8703.10.03	Motociclos de cuatro ruedas (cuadrimotos) o de tres ruedas equipados con diferencial y reversa

(*) Subject to correlation to 2002 HS nomenclature.

(b) Mexico eliminates the customs duties within the automotive quota established in Section 'C', paragraph 2.1 of Annex II (Tariff Elimination Schedule of Mexico) for originating goods of the European Community at the date of entry into force of this Decision.

ANNEX II

TARIFF ITEMS IN WHICH THE EUROPEAN COMMUNITY ACCELERATES THE ELIMINATION OF CUSTOMS DUTIES FOR ORIGINATING GOODS OF MEXICO

Products for which the European Community eliminates customs duties for originating goods of Mexico at the date of entry into force of this Decision:

ex 2905.19.00	Metal alcoholates
2915.31.00	Ethyl acetate
2915.32.00	Vinyl acetate
2916.12.10	Methyl acrylate
2922.50.00	Amino-alcohol-phenols, amino-acid-phenols and other amino-compounds with oxygen function
8712.00.10	Bicycles and other cycles (including delivery tricycles), not motorised, without ball bearings
8712.00.30	Bicycles
8712.00.80	Other
ex 8702	Motor vehicles for the transport of ten or more persons, including the driver — with a weight less then 8 864 kg
8703	Motor cars and other motor vehicles principally designed for the transport of persons (other than those of heading 8702), including station wagons and racing cars
ex 8704	Motor vehicles for the transport of goods — with a weight less than 8 864 kg
8706	Chassis fitted with engines, for the motor vehicles of headings Nos 8701 to 8705

Proposal for a Council Decision on the signature of a Euro-Mediterranean Association Agreement between the European Community and its Member States and the People's Democratic Republic of Algeria on behalf of the European Community

(2002/C 262 E/08)

COM(2002) 157 final — 2002/0077(AVC)

(Submitted by the Commission on 22 March 2002)

EXPLANATORY MEMORANDUM

1. On the basis of directives adopted by the Council of the European Union on 10 June 1996, the Commission opened negotiations with Algeria with a view to the conclusion of a Euro-Mediterranean Association Agreement. In accordance with the directives, the negotiations were conducted in consultation with the Member States. Following several sessions of negotiations and numerous technical meetings, the negotiating directives were completed on 14 December 2000. After a fresh round of intensive negotiations in 2001, political agreement was reached on the last outstanding issues at the troika meeting of 5 December 2001. The draft Agreement was unanimously approved by the Member States in the Maghreb/Mashreq Group meeting of 10 December 2001 and was initialled on 19 December 2001.

2. The aim of the draft Euro-Mediterranean Association Agreement is to establish an association between the European Community and its Member States, of the one part, and Algeria, of the other part. It will replace the Cooperation Agreement and the Agreement on ECSC products signed in 1976 which are still in force. Following the entry into force of the agreements with Israel, Tunisia, Morocco and the Palestine Liberation Organisation, the signature of the agreements with Jordan and Egypt and the initialling of the agreement with Lebanon, this latest Agreement is a further illustration of the strengthening of the partnership established by the Barcelona Conference of 27 and 28 November 1995.

3. The future agreement will be concluded for an unlimited duration and will help strengthen existing ties between the Community and Algeria by establishing relations based on reciprocity and partnership. Respect for human rights and democratic principles will constitute an essential element of the Agreement.

4. The main components of the Agreement are as follows:

   (a) regular political dialogue;

   (b) a free trade area, to be established in stages, in accordance with WTO rules, between the Community and Algeria, over a maximum period of 12 years;

      — With regard to industrial products, the preferential arrangements for Algerian products introduced under the 1976 Cooperation Agreements are confirmed. Algeria will liberalise the arrangements applying to imports of EU origin on a reciprocal basis. The liberalisation will be phased according to the sensitivity of the products.

      — Specific reciprocal concessions are proposed for agricultural products, processed agricultural products and fishery products. The Parties will consider new reciprocal concessions within five years of the entry into force of the Agreement.

   (c) The Agreement contains provisions related to free trade in goods in the areas of liberalisation of the provision of services, capital movements, competition rules, intellectual property rights and public procurement;

   (d) The objective of economic cooperation will be to support Algeria's own efforts to achieve sustainable economic and social development. The 1976 Cooperation Agreements set out the main themes of action on economic cooperation: industrial, scientific, technical and technological cooperation, environmental protection, cooperation on fisheries, energy, promotion of regional cooperation and boosting private investment. The Euro-Mediterranean Agreement will strengthen this type of cooperation. New themes are also being introduced: education and training, standardisation and conformity assessment, approximation of legislation, financial services, agriculture, transport, telecommunications and information technology, tourism and customs.

(e) The provisions concerning workers in the 1976 Cooperation Agreement are maintained, notably those relating to non-discrimination in respect of conditions of work, pay and dismissal and social security provision.

In addition to the above, the new Agreement will introduce social cooperation. This will be implemented in the form of a regular dialogue on any area of interest to either party in the social field. The above dialogue will also cover cultural cooperation.

(f) With a view to achieving the Agreement's objectives, financial cooperation will be implemented for Algeria. This will in particular entail modernising the Algerian economy, upgrading economic infrastructure, promoting private investment and job-creating activity, taking into account the effects of the gradual creation of a free trade area on the economy and flanking measures to support social policy.

(g) The Agreement contains extensive provisions on cooperation in the field of justice and home affairs, which is one of its most important features. Institution-building and strengthening the rule of law are the cornerstones of action in this field. On the subject of movement of persons, both parties have agreed to examine ways of simplifying and speeding up procedures for issuing visas to those contributing to the implementation of the Agreement. Cooperation in the area of control and prevention of illegal immigration will be given effect through the negotiation of readmission agreements. Cooperation is also envisaged in the legal and judicial field and in the areas of organised crime, money-laundering, racism and xenophobia, drugs and drug addiction and corruption. In the area of action against terrorism, cooperation will be implemented in compliance with international conventions and in the framework of the relevant Security Council resolutions.

(h) The Agreement contains the standard general and institutional provisions. The Association Council will meet at ministerial level once a year where possible to discuss the major problems arising in the framework of the Agreement and issues of mutual interest.

An Association Committee will be set up to manage the Agreement.

A social affairs group must be set up by the Association Council one year after the Agreement's entry into force.

5. The Commission considers the outcome of the negotiations satisfactory for both parties. It has duly initialled the draft agreement and proposes:

— that the Council approve the signature of the Euro-Mediterranean Association Agreement between the European Community and Algeria on behalf of the European Community;

— that the Council conclude the Euro-Mediterranean Association Agreement between the European Community and Algeria on behalf of the European Community.

The European Parliament must give its prior consent to conclusion.

Ratification by all Member States is a prerequisite for the entry into force of the Agreement.

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty establishing the European Community, and in particular Article 310 in conjunction with the first sentence of the first subparagraph of Article 300(2) thereof,

Having regard to the proposal from the Commission,

Whereas:

(1) On 10 June 1996, the Council authorised the Commission to open negotiations for a Euro-Mediterranean Association Agreement between the European Community and its Member States, of the one part, and Algeria, of the other part, and finalised the negotiating directives on 14 December 2000.

(2) The negotiations have been completed and the Agreement was initialled on 19 December 2001,

HAS DECIDED AS FOLLOWS:

Sole Article

Subject to its conclusion at a later date, the President of the Council is hereby authorised to designate the persons empowered to sign, on behalf of the European Community, the Euro-Mediterranean Association Agreement between the European Community and its Member States, of the one part, and the People's Democratic Republic of Algeria of the other part.

Proposal for a Council Decision on the conclusion of a Euro-Mediterranean Association Agreement between the European Community and its Member States and the People's Democratic Republic of Algeria

(2002/C 262 E/09)

COM(2002) 157 final — 2002/0077(AVC)

(Submitted by the Commission on 22 March 2002)

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty establishing the European Community, and in particular Article 310 in conjunction with the second sentence of the first subparagraph of Article 300(2) and the second subparagraph of Article 300(3) thereof,

Having regard to the proposal from the Commission,

Having regard to the assent of the European Parliament;

Whereas:

(1) The Euro-Mediterranean Association Agreement between the European Community and its Member States, of the one part, and the People's Democratic Republic of Algeria, of the other part, has been signed on behalf of the European Community, in [. . .] on [. . .2002], subject to its possible conclusion at a later date, in accordance with Council Decision No . . ./. . ./EC of . . .

(2) This Agreement should be concluded,

HAS DECIDED AS FOLLOWS:

Article 1

1. The Euro-Mediterranean Association Agreement between the European Community and its Member States, of the one part, and the People's Democratic Republic of Algeria, of the other part, including Annexes and Protocols annexed thereto and the joint declarations and declarations of the European Community attached to the Final Act are hereby approved on behalf of the European Community.

2. The texts referred to in the first paragraph are attached to this Decision.

Article 2

1. The position to be taken by the Community within the Association Council and the Association Committee shall be determined by the Council on the basis of a proposal by the Commission or, where appropriate, by the Commission, each in accordance with the corresponding provisions of the Treaties.

2. In accordance with Article 93 of the Euro-Mediterranean Association Agreement, the President of the Council shall preside over the Association Council. A representative of the Commission shall preside over the Association Committee in accordance with the Rules of Procedure thereof.

3. The decision to publish the decisions of the Association Council and the Association Committee in the Official Journal of the European Communities shall be taken on a case-by-case basis by the Council and the Commission respectively.

Article 3

The President of the Council, on behalf of the European Community, is hereby authorised to designate the person or persons empowered to deposit the act of notification provided for in Article 110 of the Agreement.

EURO-MEDITERRANEAN AGREEMENT

establishing an Association between the European Community and its Member States, of the one part, and the People's Democratic Republic of Algeria, of the other part

THE KINGDOM OF BELGIUM,

THE KINGDOM OF DENMARK,

THE FEDERAL REPUBLIC OF GERMANY,

THE HELLENIC REPUBLIC,

THE KINGDOM OF SPAIN,

THE FRENCH REPUBLIC,

IRELAND,

THE ITALIAN REPUBLIC,

THE GRAND DUCHY OF LUXEMBOURG,

THE KINGDOM OF THE NETHERLANDS,

THE AUSTRIAN REPUBLIC,

THE PORTUGUESE REPUBLIC,

THE REPUBLIC OF FINLAND,

THE KINGDOM OF SWEDEN,

THE UNITED KINGDOM OF GREAT BRITAIN AND NORTHERN IRELAND,

Contracting Parties to the Treaty establishing the European Community, hereinafter referred to as the 'Member States', and

THE EUROPEAN COMMUNITY,

hereinafter referred to as 'the Community',

of the one part,

AND THE PEOPLE'S DEMOCRATIC REPUBLIC OF ALGERIA,

hereinafter referred to as 'Algeria',

of the other part,

CONSIDERING the proximity and interdependence which historic links and common values have established between the Community, its Member States and Algeria;

CONSIDERING that the Community, its Member States and Algeria wish to strengthen those links and to establish lasting relations, based on reciprocity, solidarity, partnership and co-development;

CONSIDERING the importance which the Parties attach to the principles of the United Nations Charter, particularly the observance of human rights and political and economic freedom, which form the very basis of the Association;

CONSCIOUS, on the one hand, of the importance of relations in an overall Euro-Mediterranean context and, on the other, of the objective of integration between the countries of the Maghreb;

DESIROUS of fully achieving the objectives of the association between them by implementing the relevant provisions of this Agreement to bring the levels of economic and social development of the Community and Algeria closer to each other;

CONSCIOUS of the importance of this Agreement, which is based on reciprocity of interests, mutual concessions, cooperation and dialogue;

DESIROUS of establishing and developing political consultation on bilateral and international issues of mutual interest;

CONSCIOUS that terrorism and international organised crime represent a threat to the fulfilment of the objectives of the partnership and to stability in the region;

TAKING ACCOUNT of the Community's willingness to provide Algeria with decisive support in its endeavours to bring about economic reform and adjustment and social development;

CONSIDERING the commitment of both the Community and Algeria to free trade, in compliance with the rights and obligations arising out of the General Agreement on Tariffs and Trade (GATT) in its post-Uruguay Round form;

DESIROUS of establishing cooperation sustained by regular dialogue on economic, scientific, technological, social, cultural, audio-visual and environmental issues in order to achieve better mutual understanding;

CONFIRMING that the provisions of this Agreement that fall within the scope of Part III, Title IV of the Treaty establishing the European Community bind the United Kingdom and Ireland as separate Contracting Parties, and not as part of the European Community, until the United Kingdom or Ireland (as the case may be) notifies Algeria that it has become bound as part of the European Community in accordance with the Protocol on the position of the United Kingdom and Ireland Annexed to the Treaty on European Union and the Treaty establishing the European Community. The same applies to Denmark, in accordance with the Protocol Annexed to those Treaties on the position of Denmark;

CONVINCED that this Agreement provides a suitable framework for the development of a partnership based on private initiative, and that it will create a climate conducive to economic, trade and investment relations between the Parties, a consideration which offers vital backing for economic restructuring and technological modernisation,

HAVE AGREED AS FOLLOWS:

Article 1

1. An Association is hereby established between the Community and its Member States, of the one part, and Algeria, of the other part.

2. The aims of this Agreement are to:

— provide an appropriate framework for political dialogue between the Parties, allowing the development of close relations and cooperation in all areas they consider relevant to such dialogue;

— promote trade and the expansion of harmonious economic and social relations between the Parties and establish the conditions for the gradual liberalisation of trade in goods, services and capital;

— facilitate human exchanges, particularly in the context of administrative procedures;

— encourage integration of the Maghreb countries by promoting trade and cooperation within the Maghreb group and between it and the European Communities and their Member States;

— promote economic, social, cultural and financial cooperation.

Article 2

Respect for the democratic principles and fundamental human rights established by the Universal Declaration of Human Rights shall inspire the domestic and external policies of the Parties and shall constitute an essential element of this Agreement.

TITLE I

POLITICAL DIALOGUE

Article 3

1. A regular political and security dialogue shall be established between the Parties. It shall help build lasting links of solidarity between the partners which will contribute to the prosperity, stability and security of the Mediterranean region and bring about a climate of understanding and tolerance between cultures.

2. Political dialogue and cooperation are intended in particular to:

(a) facilitate rapprochement between the Parties through the development of better mutual understanding and regular coordination on international issues of common interest;

(b) enable each party to consider the position and interests of the other;

(c) contribute to consolidating security and stability in the Euro-Mediterranean region;

(d) help develop joint initiatives.

Article 4

Political dialogue shall cover all issues of common interest to the Parties, in particular the conditions required to ensure peace, security and regional development through support for cooperation.

Article 5

Political dialogue shall be established at regular intervals and whenever necessary notably:

(a) at ministerial level, mainly in the framework of the Association Council;

(b) at the level of senior officials representing Algeria, on the one hand, and the Council Presidency and the Commission on the other;

(c) taking full advantage of all diplomatic channels including regular briefings, consultations on the occasion of international meetings and contacts between diplomatic representatives in third countries;

(d) where appropriate, by any other means which would make a useful contribution to consolidating dialogue and increasing its effectiveness.

TITLE II

FREE MOVEMENT OF GOODS

Article 6

The Community and Algeria shall gradually establish a free trade area over a transitional period lasting a maximum of twelve years starting from the date of entry into force of this Agreement in accordance with the provisions of this Agreement and in conformity with those of the 1994 General Agreement on Tariffs and Trade and the other multilateral agreements on trade in goods annexed to the Agreement establishing the WTO, hereinafter referred to as 'GATT'.

CHAPTER 1

INDUSTRIAL PRODUCTS

Article 7

The provisions of this Chapter shall apply to products originating in the Community and Algeria falling within Chapters 25 to 97 of the Combined Nomenclature and of the Algerian Customs tariff with the exception of the products listed in Annex 1.

Article 8

Products originating in Algeria shall be imported into the Community free of customs duties and charges having equivalent effect.

Article 9

1. Customs duties and charges having equivalent effect applicable on import into Algeria of products originating in the Community listed in Annex 2 shall be abolished upon the entry into force of this Agreement.

2. Customs duties and charges having equivalent effect applicable on import into Algeria of the products originating in the Community listed in Annex 3 shall be progressively abolished in accordance with the following timetable:

— two years after the date of entry into force of this Agreement each duty and charge shall be reduced to 80 % of the basic duty;

— three years after the date of entry into force of this Agreement each duty and charge shall be reduced to 70 % of the basic duty;

— four years after the date of entry into force of this Agreement each duty and charge shall be reduced to 60 % of the basic duty;

— five years after the date of entry into force of this Agreement each duty and charge shall be reduced to 40 % of the basic duty;

— six years after the date of entry into force of this Agreement each duty and charge shall be reduced to 20 % of the basic duty;

— seven years after the date of entry into force of this Agreement the remaining duties shall be abolished.

3. Customs duties and charges having equivalent effect applicable on import into Algeria of the products originating in the Community other than those listed in Annexes 2 and 3 shall be progressively abolished in accordance with the following timetable:

— two years after the date of entry into force of this Agreement each duty and charge shall be reduced to 90 % of the basic duty;

— three years after the date of entry into force of this Agreement each duty and charge shall be reduced to 80 % of the basic duty;

— four years after the date of entry into force of this Agreement each duty and charge shall be reduced to 70 % of the basic duty;

— five years after the date of entry into force of this Agreement each duty and charge shall be reduced to 60 % of the basic duty;

— six years after the date of entry into force of this Agreement each duty and charge shall be reduced to 50 % of the basic duty;

— seven years after the date of entry into force of this Agreement each duty and charge shall be reduced to 40 % of the basic duty;

— eight years after the date of entry into force of this Agreement each duty and charge shall be reduced to 30 % of the basic duty;

— nine years after the date of entry into force of this Agreement each duty and charge shall be reduced to 20 % of the basic duty;

— ten years after the date of entry into force of this Agreement each duty and charge shall be reduced to 10 % of the basic duty;

— eleven years after the date of entry into force of this Agreement each duty and charge shall be reduced to 5 % of the basic duty;

— twelve years after the date of entry into force of this Agreement the remaining duties shall be abolished.

4. In the event of serious difficulties for a given product, the relevant timetables in accordance with paragraphs (2) and (3) may be reviewed by the Association Committee by common accord on the understanding that the schedule for which the review has been requested may not be extended in respect of the product concerned beyond the maximum transitional period referred to in Article 6. If the Association Committee has not taken a decision within 30 days of its application to review the timetable, Algeria may suspend the timetable provisionally for a period which may not exceed one year.

5. For each product concerned, the basic duty to be gradually reduced as provided in paragraphs (2) and (3) shall be the rates referred to in Article 18.

Article 10

The provisions concerning the abolition of customs duties on imports shall also apply to customs duties of a fiscal nature.

Article 11

1. Exceptional measures of limited duration which derogate from the provisions of Article 9 may be taken by Algeria in the form of an increase or reintroduction of customs duties.

These measures may only concern infant industries, or certain sectors undergoing restructuring or facing serious difficulties, particularly where these difficulties produce major social problems.

Customs duties on imports applicable in Algeria to products originating in the Community introduced by these measures may not exceed 25 % ad valorem and shall maintain an element of preference for products originating in the Community. The total value of imports of the products subjected to such measures may not exceed 15 % of total imports of industrial products from the Community during the last year for which statistics are available.

These measures shall be applied for a period not exceeding five years unless a longer duration is authorised by the Association Committee. They shall cease to apply at the latest on expiry of the maximum transitional period referred to in Article 6.

No such measures may be introduced in respect of a product if more than three years have elapsed since the elimination of all duties and quantitative restrictions or charges or measures having equivalent effect concerning that product.

Algeria shall inform the Association Committee of any exceptional measures it intends to take and, at the request of the Community, consultations shall be held on such measures and the sectors to which they apply before they are implemented. When adopting such measures, Algeria shall provide the Committee with a schedule for the abolition of the customs duties introduced pursuant to this Article. Such schedule shall provide for the phasing-out of the duties concerned by equal annual instalments, starting no later than the end of the second year following their introduction. The Association Committee may decide on a different schedule.

2. By way of derogation from the fourth subparagraph of paragraph 1, the Association Committee may exceptionally, in order to take account of the difficulties involved in setting up a new industry, authorise Algeria to maintain the measures already taken pursuant to paragraph 1 for a maximum period of three years beyond the transitional period referred to in Article 6.

CHAPTER 2

AGRICULTURAL, FISHERY AND PROCESSED AGRICULTURAL PRODUCTS

Article 12

The provisions of this Chapter shall apply to products originating in the Community and Algeria falling within Chapters 1 to 24 of the Combined Nomenclature and of the Algerian Customs tariff and to the products listed in Annex 1.

Article 13

The Community and Algeria shall progressively establish a greater liberalisation of their reciprocal trade in agricultural, fisheries and processed agricultural products of interest to both Parties.

Article 14

1. Agricultural products originating in Algeria listed in Protocol No 1 on importation into the Community shall be subject to the arrangements set out in that Protocol.

2. Agricultural products originating in the Community listed in Protocol No 2 on importation into Algeria shall be subject to the arrangements set out in that Protocol.

3. Fishery products originating in Algeria listed in Protocol No 3 on importation into the Community shall be subject to the arrangements set out in that Protocol.

4. Fishery products originating in the Community listed in Protocol No 4 on importation into Algeria shall be subject to the arrangements set out in that Protocol.

5. Trade in processed agricultural products falling under this Chapter shall be subject to the arrangements set out in Protocol No 5.

Article 15

1. Five years after the entry into force of this Agreement, the Community and Algeria shall assess the situation in order to determine the liberalisation measures to be applied by the Community and Algeria six years after the entry into force of the Agreement, in accordance with the objective set out in Article 13.

2. Without prejudice to the provisions of the preceding paragraph and taking account of the patterns of trade in agricultural products, fishery products and processed agricultural products between the Parties and the particular sensitivity of such products, the Community and Algeria shall examine in the Association Council, product by product and on a reciprocal basis, the possibilities of granting each other further concessions.

Article 16

1. Should specific rules be introduced as a result of implementation of their agricultural policies or modification of their existing rules, or should the provisions on the implementation of their agricultural policies be modified or developed, the Community and Algeria may modify the arrangements laid down in the Agreement in respect of the products concerned.

2. The Party carrying out such modification shall inform the Association Committee thereof. At the request of the other Party, the Association Committee shall meet to take due account of the interests of the other Party.

3. If the Community or Algeria, in applying paragraph 1, modifies the arrangements made by this Agreement for agricultural products, they shall accord imports originating in the other Party an advantage comparable to that provided for in this Agreement.

4. Any modification of the arrangements made by this Agreement shall be the subject, at the request of the other Contracting Party, of consultations within the Association Council.

CHAPTER 3

COMMON PROVISIONS

Article 17

1. No new customs duties on imports or exports or charges having equivalent effect shall be introduced in trade between the Community and Algeria, nor shall those already applied upon entry into force of this Agreement be increased.

2. No new quantitative restriction on imports or exports or measure having equivalent effect shall be introduced in trade between the Community and Algeria.

3. Quantitative restrictions on imports or exports and measures having equivalent effect in trade between Algeria and the Community shall be abolished upon the entry into force of this Agreement.

4. Algeria shall abolish by 1 January 2006 at the latest the provisional additional duty applied to the products listed in Annex 4. That duty shall be reduced on a linear basis by 12 points per year starting on 1 January 2002.

If Algeria's commitments in respect of its accession to the WTO provide for a shorter period for the abolition of the provisional additional duty, that shorter period shall be applicable.

Article 18

1. For each product concerned, the basic duty to be reduced as provided in Article 9(2) and (3) and in Article 14 shall be the rate actually applied vis-à-vis the Community on 1 January 2002.

2. In the event of Algerian accession to the WTO, the applicable rates for imports between the Parties shall be the WTO bound rate or lower applied rate enforced as of accession. If, after accession to the WTO, a tariff reduction is applied on an *erga omnes* basis, the reduced rate shall apply.

3. The provisions of paragraph (2) shall apply to any tariff reduction applied *erga omnes* introduced after the date on which the negotiations are concluded.

4. The Parties shall communicate to each other their respective basic rates applied on 1 January 2002.

Article 19

Products originating in Algeria shall not enjoy more favourable treatment when imported into the Community than that applied by Member States among themselves.

The provisions of this Agreement shall apply without prejudice to the provisions of Council Regulation (EEC) No 1911/91 of 26 June 1991 on the application of the provisions of Community law to the Canary Islands.

Article 20

1. Both Parties shall refrain from any measure or practice of an internal fiscal nature establishing, whether directly or indirectly, discrimination between the products of one Party and like products originating in the territory of the other Party.

2. Products exported to the territory of one of the Parties may not benefit from repayment of indirect internal taxation in excess of the amount of indirect taxation imposed on them directly or indirectly.

Article 21

1. This Agreement shall not preclude the maintenance or establishment of customs unions, free trade areas or arrangements for frontier trade insofar as they do not have the effect of altering the trade arrangements provided for in this Agreement.

2. Consultation between the Parties shall take place within the Association Committee concerning agreements establishing customs unions or free trade areas and, where requested, on other major issues related to their respective trade policies with third countries. In particular in the event of a third country acceding to the Community, such consultations shall take place so as to ensure that account is taken of the mutual interests of the Community and Algeria stated in this Agreement.

Article 22

If one of the Parties finds that dumping is taking place in trade with the other Party within the meaning of Article VI GATT 1994, it may take appropriate measures against this practice in accordance with the WTO Agreement on the Implementation of Article VI of GATT 1994, related internal legislation and the procedures laid down in Article 26.

Article 23

The WTO Agreement on Subsidies and Countervailing Measures shall be applicable between the Parties.

If one of the Parties finds that subsidies are being used in trade with the other Party within the meaning of Articles VI and XVI GATT 1994, it may take appropriate measures against this practice in accordance with the WTO Agreement on Subsidies and Countervailing Measures and its own legislation on the matter.

Article 24

1. Except where otherwise stated in this Article, the provisions of Article XIX GATT 1994 and of the WTO Agreement on Safeguards are applicable between the Parties.

2. Each Party shall inform the Association Committee forthwith of any step that it takes or intends to take with regard to the application of safeguard measures. Each Party shall send the Association Committee, immediately or at least one week in advance, a communication in writing containing all information pertinent to:

— the opening of a safeguard investigation;

— the outcome of the investigation.

The information provided shall include an explanation of the procedure on which the investigation is based and details of the schedule of hearings and other suitable occasions for the parties concerned to submit their opinions.

Each Party shall also give the Association Committee an advance written notification containing all relevant information about the decision to apply provisional safeguard measures; this notification must be received at least one week before the measures are applied.

3. On being notified of the final results of the investigation and before applying safeguard measures in accordance with Article XIX of GATT 1994 and the WTO Agreement on Safeguards, the Party intending to apply such measures shall refer the matter to the Association Committee for a thorough examination of the situation with a view to finding a mutually acceptable solution.

4. In order to find such a solution, the Parties shall immediately hold consultations within the Association Committee. If the Parties fail to reach an agreement within 30 days of the initiation of such consultations on a solution to avoid the application of the safeguard measures, the Party intending to apply safeguard measures may apply the provisions of Article XIX of GATT 1994 and of the WTO Agreement on Safeguards.

5. In the selection of safeguard measures pursuant to this Article, the Parties shall give priority to those which cause least disturbance to the achievement of the objectives of this Agreement. Such measures shall not go beyond what is necessary to remedy the difficulties arising and shall maintain the level or margin of preference granted pursuant to this Agreement.

6. The Party intending to apply safeguard measures pursuant to this Article shall offer the other Party compensation in the form of liberalisation of trade vis-à-vis imports from the latter; that compensation will be essentially equivalent to the adverse trade effects of the measures on the other Party with effect from the date of their implementation. The offer shall be made before the safeguard measure is adopted and concurrently with the notification of and referral to the Association Committee, in accordance with paragraph 3 of this Article. If the Party whose product is the intended subject of the safeguard measure considers the offer of compensation unsatisfactory, the two Parties may agree to other forms of trade compensation in the framework of the consultations referred to in paragraph 3 of this Article.

7. If the Parties fail to agree on the matter of compensation within 30 days of the initiation of the above consultations, the Party whose product is the subject of safeguard measures may adopt compensatory tariff measures having trade effects essentially equivalent to the safeguard measure adopted pursuant to this Article.

Article 25

Where compliance with the provisions of Article 17(3) leads to:

(i) re-export towards a third country against which the exporting party maintains, for the product concerned, quantitative export restrictions, export duties, or measures having equivalent effect, or

(ii) a serious shortage, or threat thereof, of a product essential to the exporting party;

and where the situations referred to above give rise, or are likely to give rise, to major difficulties for the exporting Party, that Party may take appropriate measures under the conditions and in accordance with the procedures laid down in Article 26. The measures shall be non-discriminatory and shall be abolished when conditions no longer justify their maintenance.

Article 26

1. In the event of the Community or Algeria subjecting imports of products liable to give rise to the difficulties referred to in Article 24 to an administrative procedure having as its purpose the rapid supply of information on trade flow trends, it shall inform the other Party.

In the cases specified in Articles 22 and 25, before taking the measures provided for therein or, in cases to which paragraph 2(c) applies, as soon as possible, the Community or Algeria, as the case may be, shall supply the Association Committee with all relevant information with a view to seeking a solution acceptable to the two Parties.

In the selection of measures, priority shall be given to those which least disturb the functioning of this Agreement.

2. For the implementation of the second subparagraph of paragraph 1, the following provisions shall apply:

(a) as regards Article 22, the exporting Party shall be informed of the dumping case as soon as the authorities of the importing Party have initiated an investigation. When no end has been put to the dumping within the meaning of Article VI of GATT 1994 or no other satisfactory solution has been reached within 30 days of the matter being referred, the importing Party may adopt the appropriate measures;

(b) as regards Article 25, the difficulties arising from the situations referred to in that Article shall be referred for examination to the Association Committee.

The Association Committee may take any decision needed to put an end to the difficulties. If it has not taken such a decision within 30 days of the matter being referred to it, the exporting party may apply appropriate measures on the exportation of the product concerned;

(c) where exceptional circumstances requiring immediate action make prior information or examination, as the case may be, impossible, the Community or Algeria, whichever is concerned, may, in the situations specified in Articles 22 and 25, apply forthwith the precautionary measures strictly necessary to deal with the situation and shall inform the other Party immediately thereof.

Article 27

Nothing in this Agreement shall preclude prohibitions or restrictions on imports, exports or goods in transit justified on grounds of public morality, public policy or public security, of the protection of health and life of humans, animals or plants, of the protection of national treasures possessing artistic, historic or archaeological value, of the protection of intellectual, industrial and commercial property or of regulations concerning gold and silver. Such prohibitions or restrictions shall not, however, constitute a means of arbitrary discrimination or a disguised restriction on trade between the Parties.

Article 28

The concept of 'originating products' for the application of the provisions of the present Title and the methods of administrative cooperation relating to them are set out in Protocol No 6.

Article 29

The Combined Nomenclature of goods shall be applied to the classification of goods for imports into the Community. The Algerian customs tariff shall be applied to the classification of goods for imports into Algeria.

TITLE III

TRADE IN SERVICES

Article 30

Reciprocal commitments

1. The European Community and its Member States shall extend to Algeria the treatment which they are obliged to grant under Article II.I of the General Agreement on Trade in Services, hereinafter referred to as GATS.

2. The European Community and its Member States shall grant to Algerian service suppliers no less favourable treatment than that accorded to like service suppliers as specified in the schedule of specific commitments taken by the European Community and its Member States under the GATS to which it is annexed.

3. This treatment shall not apply to advantages accorded by either Party under the terms of an agreement of the type defined in Article V of the GATS or to measures taken on the basis of such an agreement and to other advantages granted in accordance with the list of most-favoured-nation exemptions annexed by the European Community and its Member States to the GATS.

4. Algeria shall grant no less favourable treatment to service suppliers of the European Community and its Member States than that specified in Articles 31 to 33.

Article 31

Cross-border supply of services

With regard to the supply of services by Community service suppliers into the territory of Algeria, other than through a commercial presence or the presence of natural persons, as referred to in Articles 32 and 33, Algeria shall grant treatment to Community service suppliers no less favourable than that accorded to companies of any third country.

Article 32

Commercial presence

1. (a) Algeria shall grant for the establishment of Community companies in its territory treatment no less favourable than that accorded to companies of any third country.

(b) Algeria shall grant to subsidiaries and branches of Community companies, established in its territory in accordance with its legislation, in respect of their operations, treatment no less favourable than that accorded to its own companies or branches, or to Algerian subsidiaries or branches of companies of any third country, whichever is the better.

The treatment referred to in paragraphs 1(a) and 1(b) shall be granted to companies, subsidiaries and branches established in Algeria on the date of entry into force of this Agreement and to companies, subsidiaries and branches established there after that date.

Article 33

Temporary presence of natural persons

1. A Community company or Algerian company established in the territory of Algeria or the Community respectively shall be entitled to temporarily employ, or have temporarily employed by one of its subsidiaries or branches, in accordance with the legislation in force in the host country of establishment, employees who are nationals of Community Member States and Algeria respectively, provided that such employees are key personnel as defined in paragraph 2, and that they are employed exclusively by such companies, subsidiaries or branches. The residence and work permits of such employees shall only cover the period of such employment.

2. Key personnel of the abovementioned companies herein referred to as 'organisation' are 'intra-corporate transferees' as defined in (c) in the following categories, provided that the organisation is a legal person and that the persons concerned have been employed by it or have been partners in it (other than as majority shareholders), for at least the twelve months immediately preceding such movement:

(a) persons working in a senior position with an organisation, who primarily direct the management of the establishment, receiving general supervision or direction principally from the board of directors or stockholders of the business or their equivalent, including:

— directing the establishment or a department or sub-division of the establishment;

— supervising and controlling the work of other supervisory, professional or managerial employees;

— having the authority personally to recruit and dismiss or recommend recruiting, dismissing or other personnel actions;

(b) persons working within an organisation who possess uncommon knowledge essential to the establishment's service, research equipment, techniques or management. The assessment of such knowledge may reflect, apart from knowledge specific to the establishment, a high level of qualification referring to a type of work or trade requiring specific technical knowledge, including membership of an accredited profession;

(c) an 'intra-corporate transferee' is defined as a natural person working within an organisation in the territory of a Party, and being temporarily transferred in the context of pursuit of economic activities in the territory of the other Party; the organisation concerned must have its principal place of business in the territory of a Party and the transfer be to an establishment (branch, subsidiary) of that organisation, effectively pursuing like economic activities in the territory of the other Party.

3. The entry into and the temporary presence within the respective territories of Algeria and the Community of nationals of the Member States or of Algeria respectively, shall be permitted, when these representatives of companies are persons working in a senior position, as defined in paragraph 2(a) above, within a company, and are responsible for the establishment of an Algerian or a Community company, in the Community or Algeria respectively, when:

— those representatives are not engaged in making direct sales or supplying services, and

— the company has no other representative, office, branch or subsidiary in a Community Member State or Algeria respectively.

Article 34

Transport

1. Articles 30 to 33 shall not apply to air, inland waterway or land transport or to national shipping (cabotage), subject to the provisions of paragraphs 2 to 6 of this Article.

2. In respect of activities undertaken by shipping agencies for the provision of international maritime transport services, including inter-modal activities involving a sea leg, each Party shall permit to the companies of the other Party their commercial presence in its territory in the form of subsidiaries or branches, under conditions of establishment and operation no less favourable than those accorded to its own companies or to subsidiaries or branches of companies of any third country whichever are the better. Such activities include, but are not limited to:

(a) marketing and sales of maritime transport and related services through direct contact with customers, from quotation to invoicing, whether these services are operated or offered by the service supplier itself or by service suppliers with which the service seller has established standing business arrangements;

(b) purchase and use, on their own account or on behalf of their customer (and the resale to their customers) of any transport and related services, including inward transport services by any mode, particularly inland waterways, road and rail, necessary for the supply of an integrated service;

(c) preparation of transport documents, customs documents, or other documents related to the origin and character of the goods transported;

(d) provision of business information of any means, including computerised information systems and electronic data interchange (subject to any non-discriminatory restrictions concerning telecommunications);

(e) setting up of any business arrangement, including participation in the company's stock and the appointment of personnel recruited locally (or, in the case of foreign personnel, subject to the relevant provisions of this Agreement), with any locally established shipping agency;

(f) acting on behalf of the companies, organising the call of the ship or taking over cargoes when required.

3. With respect to maritime transport, the Parties undertake to apply effectively the principle of unrestricted access to the international market and traffic on a commercial basis.

However, the legislation of each Party shall apply to the preferential right of the national flag for national cabotage and for salvage, towage and pilotage.

The above provision does not prejudice the rights and obligations arising under the United Nations Convention on a Code of Conduct for Liner Conferences, as applicable for either Party to the present Agreement. Non-conference lines shall be free to operate in competition with a conference line as long as they adhere to the principle of fair competition on a commercial basis.

The Parties affirm their commitment to a freely competitive environment as being an essential feature of the dry and liquid bulk trade.

4. In applying the principles of paragraph 3 above, the Parties shall:

(a) not introduce cargo-sharing arrangements in future bilateral Agreements with third countries concerning dry and liquid bulk and liner trade. However, this does not exclude the possibility of such arrangements concerning liner cargo in those exceptional circumstances where liner shipping companies from one or other Party to the present Agreement would not otherwise have an effective opportunity to ply for trade to and from the third country concerned;

(b) abolish, upon entry into force of this Agreement, all unilateral measures, administrative, technical and other obstacles which could constitute a disguised restriction or have discriminatory effects on the free supply of services in international maritime transport.

5. Each Party shall grant, *inter alia*, a treatment no less favourable than that accorded to its own ships, for the ships used for the transport of goods, passengers or both, sailing under the flag of the other Party or operated by its nationals or companies, with respect to access to ports, the use of infrastructure and auxiliary maritime services of those ports, as well as related fees and charges, customs facilities and the assignment of berths and facilities for loading and unloading.

6. With a view to coordinated development of transport between the Parties, adapted to their commercial needs, the conditions of mutual market access and provision of air, road, rail and inland waterway transport services may be dealt with by specific arrangements, where appropriate, negotiated between the Parties after the entry into force of this Agreement.

Article 35

Domestic regulation

1. The provisions of Title III shall not prejudice the application by each Party of any measures necessary to prevent the circumvention of its measures concerning third country access to its market, through the provisions of this Agreement.

2. The provisions of this Title shall be applied subject to limitations justified on grounds of public policy, public security or public health. They shall not apply to activities which in the territory of either Party are connected, even occasionally, with the exercise of official authority.

3. The provisions of this Title do not preclude the application by a Party of particular rules concerning the establishment and operation in its territory of branches of companies of another Party not incorporated in the territory of the first Party, which are justified by legal or technical differences between such branches as compared to branches of companies incorporated in its territory or, as regards financial services, for prudential reasons. The difference in treatment shall not go beyond what is strictly necessary as a result of such legal or technical differences or, as regards financial services, for prudential reasons.

4. Notwithstanding any other provisions of the Agreement, a Party shall not be prevented from taking measures for prudential reasons, including for the protection of investors, depositors, policy holders or persons to whom a fiduciary duty is owed by a financial service supplier, or to ensure the integrity and stability of the financial system. Where such measures do not conform with the provisions of the Agreement, they shall not be used as a means of avoiding the obligations of a Party under the Agreement.

5. Nothing in the Agreement shall be construed to require a Party to disclose information relating to the affairs and accounts of individual customers or any confidential or proprietary information in the possession of public entities.

6. For the purpose of the movement of natural persons supplying a service, nothing in this Agreement shall prevent the Parties from applying their laws and regulations regarding entry and stay, work, labour conditions and establishment of natural persons and supply of services, provided that, in so doing, they do not apply them in a manner as to nullify or impair the benefits accruing to any Party under the terms of a specific provision of the Agreement. The above provision does not prejudice the application of paragraph 2 above.

Article 36

Definitions

For the purposes of this Agreement:

(a) A 'service supplier' means any natural or legal person who supplies a service from the territory of one Party into the territory of the other Party; in the territory of one Party to the service consumer of the other Party; through commercial presence (establishment) in the territory of the other Party and through the presence of a natural person of a Party in the territory of the other Party.

(b) A 'Community company' or 'Algerian company' respectively shall mean a company set up in accordance with the laws of a Member State or of Algeria respectively and having its registered office or central administration or principal place of business in the territory of the Community or Algeria respectively.

However, should the company, set up in accordance with the laws of a Member State or Algeria respectively, have only its registered office in the territory of the Community or Algeria respectively, the company shall be considered a Community or Algerian company respectively if its operations possess a real and continuous link with the economy of one of the Member States or Algeria respectively.

(c) 'Subsidiary' of a company shall mean a company which is controlled by the first company.

(d) 'Branch' of a company shall mean a place of business not having legal personality which has the appearance of permanency, such as the extension of a parent body, has a management and is materially equipped to negotiate business with third parties so that the latter, although knowing that there will, if necessary, be a legal link with the parent body, the head office of which is abroad, do not have to deal directly with such parent body but may transact business at the place of business constituting the extension.

(e) 'Establishment' shall mean the right of Community or Algerian companies as referred to in subparagraph (b) to take up economic activities by means of the setting-up of subsidiaries and branches in Algeria or in the Community respectively.

(f) 'Operation' shall mean the pursuit of economic activities.

(g) 'Economic activities' shall mean activities of an industrial, commercial and professional character.

(h) 'National of a Member State or of Algeria' shall mean a natural person who is a national of one of the Member States or of Algeria respectively.

With regard to international maritime transport, including inter-modal operations involving a sea leg, nationals of the Member States or of Algeria established outside the Community or Algeria respectively, and shipping companies established outside the Community or Algeria and controlled by nationals of a Member State or Algerian nationals respectively, shall also be subject to the provisions of this Title if their vessels are registered in that Member State or in Algeria respectively in accordance with their respective legislations.

Article 37

General provisions

1. The Parties shall avoid taking any measures or actions which render the conditions for the establishment and operation of each other's companies more restrictive than the situation existing on the day preceding the date of signature of the Agreement.

2. The Parties undertake to consider development of this Title with a view to the establishment of an 'economic integration agreement' as defined in Article V of GATS. In making such recommendations, the Association Council shall take account of past experience of implementation of the most-favoured-nation treatment and of the obligations of each Party under the GATS, and in particular Article V thereof.

The Association Council shall also, when making such examination, take into account progress made in the approximation of laws between the Parties in the relevant activities.

This objective shall be subject to a first examination by the Association Council at the latest five years after the entry into force of this Agreement.

TITLE IV

PAYMENTS, CAPITAL, COMPETITION AND OTHER ECONOMIC PROVISIONS

CHAPTER 1

CURRENT PAYMENTS AND MOVEMENT OF CAPITAL

Article 38

Subject to the provisions of Article 40, the Parties undertake to allow all current payments for current transactions to be made in a freely convertible currency.

Article 39

1. The Community and Algeria shall ensure, from the entry into force of the Agreement, that capital relating to direct investments in Algeria in companies formed in accordance with current laws can move freely and that the yield from such investments and any profit stemming therefrom can be liquidated and repatriated.

2. The Parties shall consult each other and cooperate with a view to establishing the necessary conditions for facilitating and fully liberalising the movement of capital between the Community and Algeria.

Article 40

Where one or more Member States of the Community, or Algeria, is in serious balance of payments difficulties, or under threat thereof, the Community or Algeria, as the case may be, may, in accordance with the conditions established under the General Agreement on Tariffs and Trade and Articles VIII and XIV of the Articles of Agreement of the International Monetary Fund, adopt restrictions on current transactions which shall be of limited duration and may not go beyond what is strictly necessary to remedy the balance of payments situation. The Community or Algeria, as the case may be, shall inform the other Party forthwith and shall submit to it as soon as possible a timetable for the abolition of the measures concerned.

CHAPTER 2

COMPETITION AND OTHER ECONOMIC MATTERS

Article 41

1. The following are incompatible with the proper functioning of the Agreement, insofar as they may affect trade between the Community and Algeria:

(a) all agreements between undertakings, decisions by associations of undertakings and concerted practices between undertakings which have as their object or effect the prevention, restriction or distortion of competition;

(b) abuse by one or more undertakings of a dominant position in:

— the territories of the Community as a whole or in a substantial part thereof;

— the territories of Algeria as a whole or in a substantial part thereof.

2. The Parties shall ensure administrative cooperation in the implementation of their respective competition legislations and exchange information taking into account the limitations imposed by the requirements of professional and business secrecy in accordance with the procedures laid down in Annex 5 to this Agreement.

3. If the Community or Algeria considers that a particular practice is incompatible with the terms of the first paragraph of this Article, and if such practice causes or threatens to cause serious prejudice to the interest of the other Party, it may take appropriate measures after consultation within the Association Committee or after 30 working days following referral for such consultation.

Article 42

The Member States and Algeria shall progressively adjust, without prejudice to their commitments to the GATT, any State monopolies of a commercial character, so as to ensure that, by the end of the fifth year following the entry into force of this Agreement, no discrimination regarding the conditions under which goods are procured and marketed exists between nationals of the Member States and Algeria. The Association Committee will be informed about the measures adopted to implement this objective.

Article 43

With regard to public enterprises and enterprises which have been granted special or exclusive rights, the Association Council shall ensure, from the fifth year following the entry into force of this Agreement, that no measure which disturbs trade between the Community and Algeria in a manner which runs counter to the interests of the Parties is adopted or maintained. This provision should not obstruct the performance in law or in fact of the particular tasks assigned to these enterprises.

Article 44

1. The Parties shall provide suitable and effective protection of intellectual, industrial and commercial property rights, in line with the highest international standards. This shall encompass effective means of enforcing such rights.

2. Implementation of this Article and of Annex 6 shall be regularly assessed by the Parties. If difficulties which affect trade arise in connection with intellectual, industrial and commercial property rights, either Party may request urgent consultations to find mutually satisfactory solutions.

Article 45

The Parties undertake to adopt appropriate measures to ensure the protection of personal data in order to eliminate barriers to the free movement of such data between the Parties.

Article 46

1. The Parties shall set as their objective a reciprocal and gradual liberalisation of public procurement contracts.

2. The Association Council shall take the steps necessary to implement paragraph 1.

TITLE V

ECONOMIC COOPERATION

Article 47

Objectives

1. The Parties undertake to step up economic cooperation in their mutual interest and in the spirit of partnership which is at the root of this Agreement.

2. The objective of economic cooperation will be to support Algeria's own efforts to achieve sustainable economic and social development.

3. Such economic cooperation is in keeping with the objectives set out in the Barcelona Declaration.

Article 48

Scope

1. Cooperation will be targeted first and foremost at areas of activity suffering the effects of internal constraints and difficulties or affected by the process of liberalising Algeria's economy as a whole, and more particularly by the liberalisation of trade between Algeria and the Community.

2. Similarly, cooperation shall focus on areas likely to bring the economies of the Community and Algeria closer together, particularly those which will generate growth and employment, and foster the development of trade flows between Algeria and the Community, notably by encouraging the diversification of Algerian exports.

3. Cooperation shall foster economic integration within the Maghreb group of countries using any measures likely to further such relations within the region.

4. Preservation of the environment and ecological balances shall constitute a central component of the various fields of economic cooperation.

5. The Parties may determine by agreement other fields of economic cooperation.

Article 49

Methods

Economic cooperation shall be implemented in particular by:

(a) regular economic dialogue between the Parties covering all areas of macro-economic policy;

(b) communication and exchanges of information;

(c) transfer of advice, expertise and training;

(d) implementation of joint actions;

(e) technical, administrative and regulatory assistance;

(f) measures to support partnerships and direct investment by operators, in particular private operators, and privatisation programmes.

Article 50

Regional Cooperation

In order to maximise the impact of this Agreement vis-à-vis the development of the Euro-Mediterranean partnership and within the countries of the Maghreb, the Parties shall foster all activities which have a regional impact or involve third countries, notably:

(a) economic integration;

(b) development of economic infrastructure;

(c) environmental matters;

(d) scientific and technological research;

(e) education, teaching and training;

(f) cultural matters;

(g) customs matters;

(h) regional institutions and the establishment of common or harmonised programmes and policies.

Article 51

Scientific, technical and technological cooperation

Cooperation shall be aimed at:

(a) encouraging the establishment of permanent links between the Parties' scientific communities, notably by means of:

— the access of Algeria to Community R&D programmes, in conformity with existing provisions concerning the participation of third countries in those programmes;

— the participation of Algeria in decentralised cooperation networks;

— the promotion of synergy between training and research;

(b) strengthening research capacity in Algeria;

(c) stimulating technological innovation, the transfer of new technologies and know-how, implementation of R&D projects and optimisation of the results of scientific and technical research;

(d) encouraging all activities aimed at establishing synergy at regional level.

Article 52

Environment

1. The Parties shall encourage cooperation in preventing deterioration of the environment, controlling pollution and ensuring the rational use of natural resources, with a view to ensuring sustainable development and guaranteeing the quality of the environment and the protection of public health.

2. Cooperation shall in particular focus on:

— desertification related issues;

— rational water resource management;

— salinisation;

— the impact of agriculture on soil and water quality;

— the appropriate use of energy and transport;

— the impact of industrial development on the environment, in particular the safety of industrial plant;

— waste management, in particular toxic waste;

— the integrated management of sensitive areas;

— the control and prevention of urban, industrial and marine pollution;

— use of advanced environmental management and monitoring tools, particularly environmental information and statistical systems;

— technical assistance, in particular for the preservation of bio-diversity.

Article 53

Industrial cooperation

Cooperation shall be aimed at:

(a) encouraging or supporting measures designed to promote direct investment and industrial partnership ventures in Algeria;

(b) encouraging direct cooperation between the Parties' economic operators, including cooperation in the context of access for Algeria to Community business networks and decentralised cooperation networks;

(c) backing the effort to modernise and restructure Algeria's public and private sector industry (including the agri-food industry);

(d) fostering the development of small- and medium-sized enterprises;

(e) fostering an environment which favours private initiative, with the aim of stimulating and diversifying output for the domestic and export markets;

(f) making the most of Algeria's human resources and industrial potential through better use of policy in the fields of innovation and research and technological development;

(g) supporting the restructuring of industry and the industrial upgrading programme with a view to the creation of the free trade area so as to make products more competitive;

(h) contributing to the development of exports of Algerian manufactures.

Article 54

Investments and promotion of investments

The aim of cooperation shall be to create a favourable climate for investment flows, in particular by means of the following:

(a) the establishment of harmonised and simplified procedures, co-investment machinery (especially to link small- and medium-sized enterprises) and methods of identifying and providing information on investment opportunities;

(b) a legal environment conducive to investment between the two Parties, where appropriate through the conclusion by the Member States and Algeria of investment protection agreements, and agreements to prevent double taxation;

(c) technical assistance to schemes to promote and guarantee national and foreign investments.

Article 55

Standardisation and conformity assessment

Cooperation shall aim at reducing divergences in standardisation and certification.

Cooperation shall be implemented in particular through:

— encouraging the use of European standards and conformity assessment procedures and techniques;

— upgrading Algerian conformity assessment and metrology bodies and helping to establish the necessary conditions for the eventual negotiation of mutual recognition agreements in these fields;

— cooperation in the area of quality management;

— providing assistance to the bodies responsible for intellectual, industrial and commercial property and for standardisation and quality in Algeria.

Article 56

Approximation of laws

Cooperation shall be aimed at helping Algeria to bring its legislation closer to that of the Community in the areas covered by this Agreement.

Article 57

Financial services

Cooperation shall be aimed at the improvement and development of financial services.

This will basically involve:

— the exchange of information concerning financial regulations and practices and training schemes, in particular with a view to the creation of SMEs;

— support for the reform of Algeria's banking and financial system, including development of the stock market.

Article 58

Agriculture and fisheries

Cooperation shall be aimed at the modernisation and restructuring, where necessary, of the agriculture, forestry and fisheries sectors.

It shall in particular be aimed at:

— support for policies geared to developing and diversifying production;

— food security;

— integrated rural development, including improvement of basic services and development of ancillary economic activities;

— promoting environmentally-friendly forms of agriculture and fisheries;

— the evaluation and rational management of natural resources;

— establishing closer relations, on a voluntary basis, between enterprises, groupings and professional organisations representing the agricultural, fisheries and agri-business sectors;

— technical assistance and training;

— harmonising phytosanitary and veterinary standards and checks;

— cooperation between rural areas, exchange of experience and know-how on rural development;

— support for privatisation;

— the evaluation and rational management of fish stocks;

— support for research programmes.

Article 59

Transport

The aims of cooperation shall be:

— to support the restructuring and modernisation of transport;

— to improve movement of passengers and goods;

— the establishment and enforcement of operating standards comparable to those prevailing in the Community.

The priority areas of cooperation shall be:

— road transport, including the gradual improvement of transit;

— the management of railways, airports and ports and cooperation between the relevant national authorities;

— modernisation of road, rail, port and airport infrastructure on major trans-European routes of mutual interest and routes of regional interest, and navigation aids;

— upgrading of technical equipment to bring it up to Community standards for road/rail transport, inter-modal transport, containerisation and transhipment;

— technical assistance and training.

Article 60

Information society and telecommunications

Cooperation in this field shall focus in particular on:

— a dialogue on issues related to the different aspects of the information society, including telecommunications policies;

— the exchange of information and provision of any technical assistance required on regulations and standardisation, conformity testing and certification of information and communication technologies;

— the dissemination of advanced information and telecommunication technologies, including satellite technology and information services and technologies;

— the promotion and implementation of joint projects for research, technical development or industrial applications in information technologies, communications, telematics and information society;

— giving Algerian bodies the opportunity to participate in pilot projects and European programmes under the specific arrangements pertaining to them in the sectors concerned;

— the interconnection and interoperability of Community and Algerian networks and telematic services;

— technical assistance with the planning and management of the radio frequency spectrum with a view to coordinated and effective use of radio communications in the Euro-Mediterranean region.

Article 61

Energy and mining

The aims of cooperation in the energy and mining sectors shall be:

(a) institutional, legislative and regulatory upgrading to ensure that activities are regulated and investment promoted;

(b) technical and technological upgrading to prepare energy and mining companies for the requirements of the market economy and competition;

(c) the development of partnerships between European and Algerian companies in the activities of exploration, production, processing, distribution and services in the energy and mining sectors.

The priority areas of cooperation in this respect shall be:

— adaptation of the institutional, legislative and regulatory framework of activities in the energy and mining sectors to market economy rules by means of technical, administrative and regulatory assistance;

— support for efforts to restructure public enterprises in the energy and mining sectors;

— building partnerships in the areas of:

  — oil and gas exploration, production and processing

  — electricity production

  — distribution of petroleum products

  — production of equipment and services used in the production of energy products

  — developing and transforming the potential of mining;

— development of gas, oil and electricity distribution;

— support for the modernisation and development of energy networks and for their linking to European Community networks;

— the setting-up of databases on the mining and energy sectors;

— the support and promotion of private investment in energy and mining sector activities;

— the environment, the development of renewable energies and energy efficiency;

— the promotion of technology transfers in the energy and mining sectors.

Article 62

Tourism and the craft sector

Cooperation in this field will principally be aimed at:

— stepping up the exchange of information on flows and policies on tourism, spa tourism and craft trades;

— stepping up hotel administration and management training schemes and training in other areas of the tourism and craft sectors;

— promoting exchanges of experiences with a view to the smooth and sustainable development of tourism;

— encouraging youth tourism;

— helping Algeria to develop its potential in the area of tourism, spas and crafts and to improve the image of its tourism products;

— supporting privatisation.

Article 63

Cooperation in customs matters

1. The aim of cooperation shall be to ensure compliance with the free trade arrangements. The priority areas shall be:

(a) the simplification of customs controls and procedures;

(b) the introduction of a single administrative document similar to the Community's and a possible link-up between the Community and Algerian transit systems.

Technical assistance may be provided where necessary.

2. Without prejudice to other forms of cooperation envisaged in this Agreement, notably for the fight against drugs and money laundering, the administrative authorities of the Contracting Parties shall provide mutual assistance in accordance with the provisions of Protocol No 7.

Article 64

Cooperation in statistics

The main objective of cooperation in this sphere should be to ensure, in particular through the harmonisation of the methods used by the Parties, the comparability and usefulness of statistics on foreign trade, public finance and balance of payments, population, migration, transport and communications, and generally all the fields covered by this Agreement. Technical assistance may be provided where necessary.

Article 65

Cooperation on consumer protection

1. The Parties agree that cooperation in this area should be aimed at making their respective consumer protection systems compatible.

2. Cooperation shall focus mainly on:

(a) the exchange of information on legislative activities and exchanges of experts, in particular consumer interest representatives;

(b) the organisation of seminars and training courses;

(c) the establishment of permanent systems of mutual information on dangerous products, i.e. those which constitute a hazard to health or consumer safety;

(d) improving information provided to consumers especially on prices, characteristics of products and services offered;

(e) institutional reforms;

(f) technical assistance;

(g) the establishment of Algerian laboratories for comparative analysis and testing and assistance with the introduction of a decentralised consumer information system;

(h) assistance with the organisation and introduction of a warning system to be integrated into the European system.

Article 66

Given the particularities of the Algerian economy, the two Parties shall establish the methods and procedures for implementing the economic cooperation activities agreed pursuant to this Title in order to support the process of modernising the Algerian economy and the creation of the free trade area.

The identification and evaluation of requirements and the procedures for implementing the economic cooperation activities shall be examined in a framework to be introduced in accordance with the conditions laid down in Article 98 of this Agreement.

The Parties shall agree on the priorities to be carried out in the abovementioned framework.

TITLE VI

SOCIAL AND CULTURAL COOPERATION

CHAPTER 1

WORKERS

Article 67

1. The treatment accorded by each Member State to workers of Algerian nationality employed in its territory shall be free from any discrimination based on nationality, as regards working conditions, remuneration and dismissal, relative to its own nationals.

2. All Algerian workers allowed to undertake paid employment in the territory of a Member State on a temporary basis shall be covered by the provisions of paragraph 1 with regard to working conditions and remuneration.

3. Algeria shall accord the same treatment to workers who are nationals of a Member State and employed in its territory.

Article 68

1. Subject to the provisions of the following paragraphs, workers of Algerian nationality and any members of their families living with them shall enjoy, in the field of social security, treatment free from any discrimination based on nationality relative to nationals of the Member States in which they are employed.

The term 'social security' shall cover the branches of social security dealing with sickness and maternity benefits, invalidity, old-age and survivors' benefits, industrial accident and occupational disease benefits and death, unemployment and family benefits.

These provisions shall not, however, cause the other coordination rules provided for in Community legislation based on Article 42 of the EC Treaty to apply, except under the conditions set out in Article 70 of this Agreement.

2. All periods of insurance, employment or residence completed by such workers in the various Member States shall be added together for the purpose of pensions and annuities in respect of old age, invalidity and survivors' benefits, family, sickness and maternity benefits, and medical care for the workers and for members of their families resident in the Community.

3. The workers in question shall receive family allowances for members of their families who are resident in the Community.

4. The workers in question shall be able to transfer freely to Algeria, at the rates applied by virtue of the legislation of the debtor Member State or States, any pensions or annuities in respect of old age, survivor status, industrial accident or occupational disease, or of invalidity resulting from industrial accident or occupational disease, except in the case of special non-contributory benefits.

5. Algeria shall accord to workers who are nationals of a Member State and employed in its territory, and to the members of their families, treatment similar to that specified in paragraphs 1, 3 and 4.

Article 69

The provisions of this Chapter shall apply to nationals of the Parties residing or working legally in the territory of their host countries.

Article 70

1. Before the end of the first year following the entry into force of this Agreement, the Association Council shall adopt provisions to implement the principles set out in Article 68.

2. The Association Council shall adopt detailed rules for administrative cooperation providing the necessary management and monitoring guarantees for the application of the provisions referred to in paragraph 1.

Article 71

The provisions adopted by the Association Council in accordance with Article 70 shall not affect any rights or obligations arising from bilateral agreements linking Algeria and the Member States where those agreements provide for more favourable treatment of nationals of Algeria or of the Member States.

CHAPTER 2

DIALOGUE IN SOCIAL MATTERS

Article 72

1. The Parties shall conduct regular dialogue on any social matter which is of interest to them.

2. Such dialogue shall be used to find ways to achieve progress in the field of movement of workers and equal treatment and social integration for Algerian and Community nationals residing legally in the territories of their host countries.

3. The dialogue shall cover, *inter alia*, all issues related to:

(a) the living and working conditions of workers and their dependants;

(b) migration;

(c) illegal immigration and the conditions governing the return of individuals who are in breach of the legislation dealing with the right to stay and the right of establishment in their host countries;

(d) schemes and programmes to encourage equal treatment between Algerian and Community nationals, mutual knowledge of cultures and civilisations, the furthering of tolerance and the removal of discrimination.

Article 73

Dialogue on social matters shall be conducted at the same levels and in accordance with the same procedures as provided for in Title I of this Agreement, which can itself provide a framework for that dialogue.

CHAPTER 3

COOPERATION IN THE SOCIAL FIELD

Article 74

1. The Parties recognise the importance of social development, which must go hand in hand with economic development. They will give priority to respect for fundamental social rights.

2. With a view to consolidating cooperation between the Parties in the social field, projects and programmes shall be carried out in any area of interest to them.

Priority will be afforded to measures:

(a) contributing to the improvement of living conditions, job creation and the development of training in areas from which emigrants come;

(b) resettling those repatriated because of their illegal status under the legislation of the state in question;

(c) productive investment or the creation of businesses in Algeria by Algerian workers legally settled in the Community;

(d) promoting the role of women in the economic and social development process through education and the media, in keeping with Algerian policy;

(e) bolstering Algerian family planning and mother and child protection programmes;

(f) improving the social welfare and health systems;

(g) implementing and financing exchange and leisure programmes for mixed groups of Algerian and European young people residing in the Member States, with a view to promoting mutual knowledge of their respective cultures and fostering tolerance;

(h) improving living conditions in poor areas;

(i) promoting socio-professional dialogue;

(j) promoting respect for human rights in the socio-professional context;

(k) contributing to the development of the housing sector, especially with regard to low-cost housing;

(l) alleviating the adverse impact of the adjustment of economic and social structures;

(m) improving the vocational training system.

Article 75

Cooperation schemes may be carried out in conjunction with the Member States and the relevant international organisations.

Article 76

A working party shall be set up by the Association Council by the end of the first year following the entry into force of this Agreement. It shall be responsible for the continuous and regular evaluation of the implementation of Chapters 1 to 3.

CHAPTER 4

COOPERATION IN THE FIELDS OF EDUCATION AND CULTURE

Article 77

The Agreement shall aim to promote the exchange of information and cultural cooperation, taking account of bilateral schemes in the Member States.

Greater knowledge and better mutual understanding of the respective cultures will be promoted.

Special attention must be paid to promoting joint activities in various fields, including the press, cinema and television, and to encouraging youth exchange schemes.

This cooperation could cover the following areas:

— literary translation;

— conservation and restoration of monuments and sites of historical and cultural interest;

— training of persons working in the cultural field;

— exchanges of artists and works of arts;

— organisation of cultural events;

— raising mutual awareness and disseminating information on important cultural events;

— encouragement of cooperation in the audiovisual field, particularly training and co-production;

— distribution of literary, technical and scientific journals and publications.

Article 78

The aim of cooperation in the field of education and training shall be to:

(a) contribute to the improvement of the education and training system, including vocational training;

(b) place special emphasis on giving the female population access to education, including technical training, higher education and vocational training;

(c) develop the level of expertise of senior staff in the public and private sectors;

(d) encourage the establishment of lasting links between specialist bodies on the Parties' territories in order to pool and exchange experience and methods.

TITLE VII

FINANCIAL COOPERATION

Article 79

In order to support the objectives of this Agreement, Algeria shall receive financial cooperation in accordance with the appropriate procedures and with the appropriate financial resources.

These procedures shall be adopted by mutual agreement between the Parties by means of the most suitable instruments once the Agreement enters into force.

In addition to the areas covered by Titles V and VI of this Agreement, cooperation shall apply to the following:

— facilitating reforms designed to modernise the economy, including rural development;

— upgrading economic infrastructure;

— promoting private investment and job-creating activities;

— offsetting the effects on the Algerian economy of the progressive introduction of a free trade area, in particular where the updating and restructuring of industry is concerned;

— accompanying measures for policies implemented in the social sectors.

Article 80

Within the framework of the Community instruments designed to support structural adjustment programmes in the Mediterranean countries in order to restore key financial equilibria and create an economic environment conducive to faster growth and enhanced social welfare, the Community and Algeria, in close coordination with other contributors, in particular the international financial institutions, shall adapt the instruments intended to accompany development and liberalisation policies for the Algerian economy.

Article 81

In order to ensure a coordinated approach to dealing with any exceptional macroeconomic or financial problems which might stem from the progressive implementation of this Agreement, the Parties shall closely monitor the development of trade and financial relations between the Community and Algeria as part of the regular economic dialogue established under Title V.

TITLE VIII

COOPERATION IN THE FIELD OF JUSTICE AND HOME AFFAIRS

Article 82

Institution-building and the rule of law

In their cooperation in the field of justice and home affairs, the Parties shall attach particular importance to institution-building in the areas of law enforcement and the machinery of justice. This includes the consolidation of the rule of law.

In this context the Parties shall also ensure that the rights of nationals of both Parties are respected without discrimination in the territory of the other Party.

The provisions of this Article do not relate to differences of treatment based on nationality.

Article 83

Movement of persons

Desirous of facilitating the movement of persons between them, the Parties shall ensure, in accordance with the relevant Community and national legislation in force, that the formalities for the issue of visas are carefully applied and executed and shall agree to examine, within the limits of their powers, ways of simplifying and speeding up the issue of visas to persons contributing to the implementation of this Agreement. The Association Committee shall periodically examine the implementation of this Article.

Article 84

Cooperation in the prevention and control of illegal immigration; readmission

1. The Parties reaffirm the importance which they attach to the development of mutually beneficial cooperation in relation to the exchange of information on illegal immigration flows and agree to cooperate in order to prevent and control illegal immigration. To this end:

— Algeria, on the one hand, and each Member State of the European Community, on the other hand, agree to readmit any of their nationals illegally present on the territory of the other Party after the necessary identification formalities have been completed;

— Algeria and the Member States of the European Community shall provide their nationals with the appropriate identity documents for this purpose.

2. Desirous of facilitating the movement and residence of their nationals whose status is regular, the Parties agree to negotiate, at the request of either Party, the conclusion of agreements on combating illegal immigration and on readmission. If either Party considers it necessary, such agreements shall cover the readmission of nationals of other countries arriving in their territory direct from the territory of the other. The practical arrangements for the implementation of the above agreements shall be laid down, where appropriate, by the Parties in the agreements themselves or in their implementing protocols.

3. The Association Council shall examine the possibility of other forms of joint action for the prevention and control of illegal immigration, including ways of detecting forged documents.

Article 85

Legal and judicial cooperation

1. The Parties agree that cooperation in the legal and judicial fields is essential and a necessary adjunct to the other forms of cooperation provided for in this Agreement.

2. Such cooperation may include, where appropriate, the negotiation of agreements in these fields.

3. Civil judicial cooperation will in particular cover:

— strengthening mutual assistance with regard to cooperation in the handling of disputes or cases of a civil, commercial or family nature;

— the exchange of experience in relation to managing and improving the administration of civil justice.

4. Criminal judicial cooperation will cover:

— strengthening existing mutual assistance or extradition arrangements;

— the development of exchanges, in particular in relation to the practice of criminal judicial cooperation, the protection of individual rights and freedoms, action against organised crime and improving the efficiency of criminal justice.

5. Cooperation in this area shall in particular include the introduction of specialist training courses.

Article 86

Preventing and tackling organised crime

1. The Parties agree to cooperate in order to prevent and fight organised crime, in particular in the following fields: human trafficking; exploitation for sexual purposes; the illicit traffic of prohibited, counterfeited or pirated products, and illegal transactions concerning, in particular, industrial refuse or radioactive material; corruption; stolen cars; the trafficking of firearms and explosives; computer crime; and trafficking in cultural goods.

The Parties shall cooperate closely in order to establish appropriate mechanisms and standards.

2. Technical and administrative cooperation in this field may include training and improving the effectiveness of the authorities and bodies responsible for fighting and preventing crime and the design of crime prevention measures.

Article 87

Money laundering

1. The Parties agree on the need to work towards and cooperate on preventing the use of their financial systems to launder the proceeds of criminal activities in general and drug trafficking in particular.

2. Cooperation in this area shall include administrative and technical assistance with the purpose of adopting and implementing suitable standards against money laundering equivalent to those adopted by the Community and international authorities active in this field, including the Financial Action Task Force (FATF).

3. Cooperation shall have the objective of:

(a) training agents of the services responsible for preventing, detecting and combating money laundering, and officials of the judiciary;

(b) appropriate support for the creation of specialist institutions and the strengthening of existing institutions.

Article 88

Combating racism and xenophobia

The Parties agree to take appropriate steps to prevent and combat discrimination in all its forms and manifestations, whether it be on grounds of race, ethnic origin or religion, particularly in the fields of education, employment, training and housing.

Public information and awareness campaigns will be organised to this end.

The Parties shall in particular ensure in this context that all persons who consider themselves victims of such discrimination have access to judicial and administrative procedures.

The provisions of this Article do not relate to differences of treatment based on nationality.

Article 89

Combating drugs and drug addiction

1. Cooperation shall be aimed at:

(a) improving the effectiveness of policies and measures to prevent and combat the growing, production, supply and consumption of, and trafficking in, narcotics and psychotropic substances;

(b) eliminating illicit consumption of such products.

2. The Parties shall determine together, in accordance with their respective laws, the strategies and cooperation methods appropriate for attaining these objectives. Their operations, other than joint operations, shall be the subject of consultation and close coordination.

Such action may involve the appropriate public and private sector institutions and international organisations, in collaboration with the Government of Algeria and the relevant authorities in the Community and the Member States.

3. Cooperation shall take the following forms in particular:

(a) establishment or extension of social and health institutions and information centres for the treatment and rehabilitation of drug addicts;

(b) the implementation of prevention, information, training and epidemiological research projects;

(c) the establishment of standards for preventing diversion of precursors and other essential ingredients for the illicit manufacture of narcotics and psychotropic substances, which are equivalent to those adopted by the Community and the appropriate international authorities;

(d) support for the creation of special anti-drug trafficking services.

4. Both Parties shall encourage cooperation at regional and sub-regional level.

Article 90

Fight against terrorism

In accordance with the international conventions to which they are party and with their respective laws and regulations, both Parties agree to cooperate with a view to preventing and penalising acts of terrorism:

— through the implementation in its entirety of Security Council resolution 1373 and other related resolutions;

— through the exchange of information on terrorist groups and their support networks in accordance with international and national law;

— by pooling experience of means and practices for combating terrorism, including experience in the technical and training fields.

Article 91

Corruption

1. The Parties agree to cooperate, on the basis of the relevant international legal instruments, on action to combat corruption in international business transactions:

— by taking effective practical measures against all forms of corruption, bribery and illicit activities of every sort in international business transactions practised by individuals or corporate bodies;

— by providing mutual assistance in criminal investigations into acts of corruption.

2. Cooperation shall also cover technical assistance for the training of officials and magistrates responsible for tackling corruption and support for initiatives designed to organise action against this form of crime.

TITLE IX

INSTITUTIONAL, GENERAL AND FINAL PROVISIONS

Article 92

An Association Council is hereby established which shall meet at ministerial level once a year, where possible, on the initiative of its Chair and in accordance with the conditions laid down in its rules of procedure.

It shall examine any major issues arising within the framework of this Agreement and any other bilateral or international issues of mutual interest.

Article 93

1. The Association Council shall consist of the members of the Council of the European Union and members of the Commission of the European Communities, on the one hand, and of members of the Government of Algeria, on the other.

2. Members of the Association Council may arrange to be represented in accordance with the provisions laid down in its rules of procedure.

3. The Association Council shall establish its rules of procedure.

4. The Association Council shall be chaired in turn by a member of the Council of the European Union and a member of the Government of Algeria in accordance with the provisions laid down in its rules of procedure.

Article 94

The Association Council shall, for the purpose of attaining the objectives of the Agreement, have the power to take decisions in the cases provided for therein.

These decisions shall be binding on the Parties which shall take the measures necessary to implement the decisions taken. The Association Council may also make appropriate recommendations.

It shall draw up its decisions and recommendations by agreement between the Parties.

Article 95

1. Subject to the powers of the Council, an Association Committee is hereby established which shall be responsible for the implementation of the Agreement.

2. The Association Council may delegate to the Association Committee, in full or in part, any of its powers.

Article 96

1. The Association Committee, which shall meet at official level, shall consist of representatives of members of the Council of the European Union and of the Commission of the European Communities, on the one hand, and of representatives of the Government of Algeria, on the other.

2. The Association Committee shall establish its rules of procedure.

3. The Association Committee shall meet in the Community or in Algeria.

Article 97

The Association Committee shall have the power to take decisions for the management of the Agreement as well as in those areas in which the Council has delegated its powers to it.

It shall draw up its decisions by agreement between the Parties. These decisions shall be binding on the Parties, which shall take the measures necessary to implement the decisions taken.

Article 98

The Association Council may decide to set up any working group or body necessary for the implementation of the Agreement.

Article 99

The Association Council shall take all appropriate measures to facilitate cooperation and contacts between the European Parliament and the parliamentary institutions of Algeria, and between the Economic and Social Committee of the Community and its counterpart in Algeria.

Article 100

1. Each of the Parties may refer to the Association Council any dispute relating to the application or interpretation of this Agreement.

2. The Association Council may settle the dispute by means of a decision.

3. Each Party shall be bound to take the measures involved in carrying out the decision referred to in paragraph 2.

4. In the event of it not being possible to settle the dispute in accordance with paragraph 2, either Party may notify the other of the appointment of an arbitrator; the other Party must then appoint a second arbitrator within two months. For the application of this procedure, the Community and the Member States shall be deemed to be one party to the dispute.

The Association Council shall appoint a third arbitrator.

The arbitrators' decisions shall be taken by majority vote.

Each party to the dispute must take the steps required to implement the decision of the arbitrators.

Article 101

Nothing in the Agreement shall prevent a Contracting Party from taking any measures:

(a) which it considers necessary to prevent the disclosure of information contrary to its essential security interests;

(b) which relate to the production of, or trade in, arms, munitions or war materials or to research, development or production indispensable for defence purposes, provided that such measures do not impair the conditions of competition in respect of products not intended for specifically military purposes;

(c) which it considers essential to its own security in the event of serious internal disturbances affecting the maintenance of law and order, in time of war or serious international tension constituting threat of war or in order to carry out obligations it has accepted for the purpose of maintaining peace and international security.

Article 102

In the fields covered by this Agreement, and without prejudice to any special provisions contained therein:

— the arrangements applied by Algeria in respect of the Community shall not give rise to any discrimination between the Member States, their nationals or their companies or firms;

— the arrangements applied by the Community in respect of Algeria shall not give rise to any discrimination between Algerian nationals, companies or firms.

Article 103

Nothing in the Agreement shall have the effect of:

— extending the fiscal advantages granted by either Party in any international agreement or arrangement by which it is bound;

— preventing the adoption or application by either Party of any measure aimed at preventing the avoidance or evasion of taxes;

— opposing the right of either Party to apply the relevant provisions of its tax legislation to taxpayers who are not in identical situation, in particular as regards their place of residence.

Article 104

1. The Parties shall take any general or specific measures required to fulfil their obligations under this Agreement. They shall see to it that the objectives set out in the Agreement are attained.

2. If either Party considers that the other Party has failed to fulfil an obligation under the Agreement, it may take appropriate measures. Before so doing, except in cases of special urgency, it shall supply the Association Council with all the relevant information required for a thorough examination of the situation with a view to seeking a solution acceptable to the Parties.

In the selection of measures, priority must be given to those which least disturb the functioning of the Agreement. These measures shall be notified immediately to the Association Council and shall be the subject of consultations within the Association Council if the other Party so requests.

Article 105

Protocols 1 to 7 and Annexes 1 to 6 shall form an integral part of this Agreement.

Article 106

For the purposes of this Agreement, 'Parties' shall mean, on the one hand, the Community or the Member States, or the Community and its Member States, in accordance with their respective powers, and, on the other hand, Algeria.

Article 107

The Agreement is concluded for an unlimited period.

Each of the Parties may denounce the Agreement by notifying the other Party. The Agreement shall cease to apply six months after the date of such notification.

Article 108

This Agreement shall apply, on the one hand, to the territories to which the Treaty establishing the European Community applies under the conditions laid down in that Treaty and, on the other, to the territory of Algeria.

Article 109

This Agreement is drawn up in duplicate in the Danish, Dutch, English, Finnish, French, German, Greek, Italian, Portuguese, Spanish, Swedish and Arabic languages, each of these texts being equally authentic.

Article 110

1. This Agreement will be approved by the Contracting Parties in accordance with their own procedures.

It shall enter into force on the first day of the second month following the date on which the Contracting Parties notify each other that the procedures referred to in the first paragraph have been completed.

2. Upon its entry into force, the Agreement shall replace the Cooperation Agreement between the European Economic Community and Algeria and the Agreement between the Member States of the European Coal and Steel Community and Algeria, signed in Algiers on 26 April 1976.

ANNEX 1

LIST OF AGRICULTURAL AND PROCESSED AGRICULTURAL PRODUCTS FALLING UNDER HS CHAPTERS 25-97 REFERRED TO IN ARTICLES 7 AND 14

HS Code	2905.43	(mannitol)
HS Code	2905.44	(sorbitol)
HS Code	2905.45	(glycerol)
HS Heading	33.01	(essential oils)
HS Code	3302.10	(odoriferous substances)
HS Headings	35.01 to 35.05	(albuminoidal substances, modified starches, glues)
HS Code	3809.10	(finishing agents)
HS Heading	38.23	(industrial fatty acids, acid from oil refining, industrial fatty alcohols)
HS Code	3824.60	(sorbitol other than sorbitol of 2905 44)
HS Headings	41.01 to 41.03	(hides and skins)
HS Heading	43.01	(raw furskins)
HS Headings	50.01 to 50.03	(raw silk and silk waste)
HS Headings	51.01 to 51.03	(wool and animal hair)
HS Headings	52.01 to 52.03	(raw cotton, waste and cotton carded or combed)
HS Heading	53.01	(raw flax)
HS Heading	53.02	(raw hemp)

ANNEX 2

LIST OF PRODUCTS REFERRED TO IN ARTICLE 9(1)

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ANNEX 3

LIST OF PRODUCTS REFERRED TO IN ARTICLE 9(2)

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ANNEX 4

PRODUCTS REFERRED TO IN ARTICLE 17(4)

Tariff heading (Algerian customs tariff)

0401.1000	0802.3200	2001.9090	2203.0000	5702.9200
0401.2010	0806.1000	2002.9010	2204.1000	5703.1000
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0401.3020	0808.2000	2005.4000	2204.3000	6101.1000
0403.1000	0812.9000	2005.5100	2209.0000	6101.2000
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0406.3000	1101.0000	2006.0000	3303.0020	6102.1000
0406.4000	1103.1120	2007.1000	3303.0030	6102.2000
0406.9090	1105.1000	2007.9100	3303.0040	6102.3000
0407.0020	1105.2000	2007.9900	3304.1000	6102.9010
0409.0000	1512.1900	2009.1900	3305.9000	6102.9090
0701.9000	1517.1000	2009.2000	3307.1000	6103.1100
0703.2000	1604.1300	2009.3000	3307.2000	6103.1200
0710.1000	1604.1400	2009.4000	3307.3000	6103.1900
0710.2100	1604.1600	2009.5000	3307.9000	6103.2100
0710.2200	1704.1000	2009.6000	3401.1100	6103.2200
0710.2900	1806.3100	2009.7000	3401.1990	6103.2300
0710.3000	1806.3200	2009.8090	3402.2000	6103.2900
0710.4000	1806.9000	2009.9000	3605.0000	6103.3100
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0711.2000	1902.2000	2102.3000	3925.9000	6103.3900
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0711.4000	1902.4000	2103.9010	4802.5600	6103.4200
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ANNEX 5

IMPLEMENTING RULES FOR ARTICLE 41

CHAPTER I

General provisions

1. **Objectives**

1.1. Cases relating to practices contrary to Article 41(1)(a) or (b) of the Euro-Mediterranean Agreement shall be dealt with by applying the appropriate legislation, in order to avoid adverse effects on trade and economic development and the possible negative impact that such practices may have on the other Party's important interests.

1.2. The competence of the Parties' competition authorities to deal with these cases shall flow from the existing rules of their respective competition laws, including where these rules are applied to undertakings located outside their territory, but whose activities affect that territory.

1.3. The purpose of these rules is to promote cooperation and coordination between the Parties in the application of their competition laws in order to ensure that restrictions on competition do not block or cancel out the benefits which should be ensured following the progressive liberalisation of trade between the European Community and Algeria.

2. **Definitions**

For the purposes of these rules:

(a) 'competition law' shall mean:

(i) for the European Community ('the Community'), Articles 81 and 82 of the EC Treaty, Council Regulation (EEC) No 4064/89 and related secondary legislation adopted by the Community;

(ii) For Algeria, Competition Decree No 95-06 of 23 Sha'ban 1415 corresponding to 25 January 1995, and its implementing provisions;

(iii) and any amendments to or repeal of those laws;

(b) 'competition authority' shall mean:

(i) for the Community, the Commission of the European Community as to its responsibilities pursuant to the competition law of the Community;

(ii) for Algeria, the Conseil de la Concurrence (Competition Board);

(c) 'enforcement activity' shall mean any application of competition law by way of investigation or proceeding conducted by the competition authority of a Party, which may result in penalties or remedies;

(d) 'anti-competitive activity' and 'conduct and practices which restrict competition' shall mean any conduct or transaction that is impermissible under the competition laws of a Party and may be subject to penalties or remedies.

CHAPTER II

Cooperation and coordination

3. **Notification**

3.1. Each Party's competition authority shall notify the other of its enforcement activities where:

(a) the notifying Party considers them relevant to enforcement activities of the other Party;

(b) they may significantly affect important interests of the other Party;

(c) they relate to restrictions on competition which may directly and substantially affect the territory of the other Party;

(d) they involve anti-competitive activities carried out mainly in the territory of the other Party; and

(e) they condition or prohibit action in the territory of the other Party.

3.2. To the extent possible, and provided that this is not contrary to the Parties' competition laws and does not adversely affect any investigation being carried out, notification shall take place during the initial phase of the procedure, to enable the notified competition authority to express its opinion. The notified authority shall give due consideration to the opinions received when taking decisions.

3.3. The notifications provided for in Article 3.1 of this Chapter shall be detailed enough to permit an evaluation in the light of the interests of the other Party.

3.4. The Parties undertake to give the above notification wherever possible, depending on available administrative resources.

4. **Exchange of information and confidentiality**

4.1. The Parties shall exchange information which will facilitate the effective application of their respective competition laws and promote a better understanding of their respective legal frameworks.

4.2. The exchange of information shall be subject to the standards of confidentiality applicable under the law of each Party. Confidential information whose dissemination is expressly prohibited or which, if disseminated, could adversely affect the Parties, shall not be provided without the express consent of the source of the information. Each competition authority shall maintain, to the fullest extent possible, the confidentiality of any information provided to it in confidence by the other competition authority under the rules and shall oppose, to the fullest extent possible, any application for disclosure of such information by a third party that is not authorised by the competition authority that supplied the information.

5. **Coordination of enforcement activities**

5.1. Each competition authority may notify the other of its willingness to coordinate enforcement activities with respect to a specific case. This coordination shall not prevent the competition authorities from taking autonomous decisions.

5.2. In determining the extent of coordination, the competition authorities shall consider:

(a) the results which coordination could produce;

(b) the additional information to be obtained;

(c) the reduction in costs for the competition authorities and the economic agents involved; and

(d) the applicable deadlines under their respective legislations.

6. **Consultation when important interests of one Party are adversely affected in the territory of the other Party**

6.1. A competition authority which considers that one or more undertakings situated in one Party's territory are or have been engaged in anti-competitive activities of whatever origin that are substantially and adversely affecting the interests of the Party it represents may request consultations with the other competition authority, recognising that entering into such consultations is without prejudice to any action under its competition laws and to the full freedom of ultimate decision of the competition authority concerned. The requested competition authority may take the appropriate remedial action, in the light of the legislation in force.

6.2. Each Party shall, wherever possible and in accordance with its own legislation, take into consideration the important interests of the other Party in the course of its enforcement activities. A competition authority which considers that an enforcement activity being conducted by the competition authority of the other Party under its competition law may affect the important interests of the Party it represents should transmit its views on the matter to or request consultations with the other competition authority. Without prejudice to the continuation of its action under its competition laws or to its full freedom of ultimate decision, the competition authority so addressed should give full and sympathetic consideration to the views expressed by the requesting competition authority, and in particular to any suggestions as to alternative means of fulfilling the needs and objectives of the enforcement activity.

7. **Technical cooperation**

7.1. The Parties shall be open to technical cooperation in order to enable them to take advantage of their respective experience and to strengthen the implementation of their competition law and policies.

7.2. Cooperation shall include the following activities:

(a) training for officials, to enable them to gain practical experience;

(b) seminars, in particular for civil servants; and

(c) studies of competition law and policies, with a view to supporting their development.

8. **Modification and update of the rules**

The Association Committee may amend these rules.

ANNEX 6

RELATING TO INTELLECTUAL, INDUSTRIAL AND COMMERCIAL PROPERTY

1. Before the end of the fourth year from the entry into force of this Agreement, Algeria and the European Communities and/or their Member States shall, to the extent they have not yet done so, accede to, and ensure an adequate and effective implementation of the obligations arising from, the following multilateral conventions:

— International Convention for the Protection of Performers, Producers of Phonograms and Broadcasting Organizations (Rome, 1961), known as the 'Rome Convention';

— Budapest Treaty on the International Recognition of the Deposit of Micro-organisms for the Purposes of Patent Procedure (1977, amended 1980), known as the 'Budapest Treaty';

— Agreement on Trade-Related Aspects of Intellectual Property Rights (Marrakech, April 15, 1994), taking into consideration the transitional period provided for developing countries in Article 65 of that Agreement;

— Protocol relating to the Madrid Agreement concerning the International Registration of Marks (1989), known as 'The Protocol relating to the Madrid Agreement';

— Trademark Law Treaty (Geneva 1994);

— WIPO Copyright Treaty (Geneva, 1996);

— WIPO Performances and Phonograms Treaty (Geneva, 1996).

2. Both Parties shall continue to ensure an adequate and effective implementation of the obligations arising from the following multilateral conventions:

— Nice Agreement concerning the International Classification of Goods and Services for the purposes of the Registration of Marks (Geneva 1977), known as the 'Nice Agreement';

— Patent Cooperation Treaty (1970, amended in 1979 and modified in 1984);

— Paris Convention for the Protection of Industrial Property in the 1967 Act of Stockholm (Paris Union), hereafter referred to as the 'Paris Convention';

— Berne Convention for the Protection of Literary and Artistic Works in the Act of Paris of 24 July 1971, known as the 'Berne Convention';

— Madrid Agreement concerning the International Registration of Marks in the 1969 Act of Stockholm (Madrid Union), known as 'Madrid Agreement'; and

meanwhile, the Contacting Parties express their attachment to observing the obligations flowing from the above multilateral conventions. The Association Committee may decide that this paragraph shall apply to other multilateral conventions in this field.

3. By the end of the fifth year after the entry into force of the Agreement, Algeria and the European Communities and/or its Member States shall, to the extent they have not yet done so, accede to, and ensure an adequate and effective implementation of the obligations arising from, the International Convention for the Protection of New Varieties of Plants (Geneva Act, 1991), known as 'UPOV'.

Accession to this Convention may be replaced by the implementation of an adequate and effective *sui generis* system of protection of plant varieties if both parties agree.

PROTOCOL No 1

on the arrangements applying to imports into the Community of agricultural products originating in the People's Democratic Republic of Algeria

Article 1

1. The products listed in Annex 1 of the present protocol, originating in the People's Democratic Republic of Algeria, shall be admitted for import into the Community in accordance with the conditions set out below and in the Annex.

2. Import duties shall be either eliminated or reduced by the percentage indicated in respect of each product in column (a).

For certain products, for which the Common Customs Tariff provides for the application of an *ad valorem* duty and a specific duty, the rate of reduction indicated in column (a) shall apply only to the *ad valorem* duty.

3. The customs duties shall be eliminated in respect of certain products within the limits of the tariff quotas shown against them in column (b).

The Common Customs Tariff duties in respect of the quantities imported in excess of the quotas shall be applied without reduction.

4. The reference quantities fixed in respect of certain other products exempt from customs duties are shown in column (c).

Should the volume of imports of one of the products exceed the reference quantity for any given reference year, the Community may, having regard to an annual review of trade flows which it shall carry out, make the product in question subject to a Community tariff quota for the following reference year, the volume of which shall be equal to the reference quantity. In such a case, for quantities imported in excess of the quota, the Common Customs Tariff duty shall be applied in full.

Article 2

For the first year of application, the volumes of tariff quotas shall be calculated as a pro rata of the basic volumes, taking into account the part of the period elapsed before the date of entry into force of this agreement.

Article 3

1. Subject to paragraph 2, rates of preferential duty shall be rounded down to the first decimal place.

2. Where the result of calculating the rate of preferential duty in application of paragraph 1 is one of the following, the preferential rate shall be considered a full exemption:

(a) 1 % or less in the case of *ad valorem* duties, or

(b) EUR 1 or less per individual amount in the case of specific duties.

Article 4

1. Wines of fresh grapes originating in the People's Democratic Republic of Algeria and bearing a designation of origin must be accompanied by a certificate indicating their origin in accordance with the model given in Annex 2 to this Protocol or by documents V I 1 or V I 2 completed in accordance with Article 25 of Council Regulation (EEC) No 883/2001 laying down detailed rules for implementing Council Regulation (EC) No 1493/1999 as regards trade with third countries in products in the wine sector.

2. In accordance with Algerian law, the provision of paragraph 1 applies to wines with the following designations of origin: Aïn Bessem-Bouira, Médéa, Coteaux du Zaccar, Dahra, Coteaux de Mascara, Monts du Tessalah, and Coteaux de Tlemcen.

ANNEX 1

CN Code	Description of goods [1]	Customs duty rate deduction (%)	Quantity (tonnes) [2]	Reference quantity (tonnes)	Specific provisions
		(a)	(b)	(c)	
0101 90 19	Live horses, other than pure-bred animals, for slaughter	100			
0104 10 30 0104 10 80	Live sheep, other than pure-bred breeding animals	100			
0104 20 90	Live goats, other than pure-bred breeding animals	100			
ex 0204	Meat of sheep or goats, fresh, chilled or frozen, other than domestic goat's meat	100			[8]
0205 00	Meat of horses, asses, mules or hinnies, fresh, chilled or frozen	100			
0208	Other meat and edible meat offal, fresh, chilled or frozen	100			
0409 00 00	Natural honey	100	100		[3]
0603	Cut flowers and flower buds of a kind suitable for bouquets or for ornamental purposes, fresh, dried, dyed, bleached, impregnated or otherwise prepared	100	100		
0604	Foliage, branches and other parts of plants, without flowers or flower buds, and grasses, mosses and lichens, being goods of a kind suitable for bouquets or ornamental purposes, fresh, dried, dyed, bleached, impregnated or otherwise prepared	100	100		
0701 90 50	New potatoes, from 1 January to 31 March	100	5 000		[4]
0702 00 00	Tomatoes, from 15 October to 30 April	100			[5]
0703 10 19	Onions, fresh or chilled	100			
0703 10 90	Shallots, fresh or chilled	100			
0703 90 00	Leeks and other alliaceous vegetables, fresh or chilled	100			
0704 10 00 0704 10 00 0704 20 00 0704 90	Cauliflowers and headed broccoli, from 1 January to 14 April Cauliflowers and headed broccoli, from 1 to 31 December Brussels sprouts Other cabbages, kohlrabi, kale and similar edible brassicas	100		1 000	Art 1(4)
0706 10 00	Carrots and turnips, from 1 January to 31 March	100			
0707 00	Cucumbers and gherkins, from 1 November to 31 May, fresh or chilled	100			[5]
0708 10 00	Peas (*Pisum sativum*), from 1 September to 30 April	100			
0708 20 00	Beans (Vigna spp., Phaseolus spp.), from 1 November to 30 April, fresh or chilled	100			
ex 0708 90 00	Broad beans	100			

CN Code	Description of goods [1]	Customs duty rate deduction (%)	Quantity (tonnes) [2]	Reference quantity (tonnes)	Specific provisions
		(a)	(b)	(c)	
0709 10 00	Globe artichokes, from 1 October to 31 March, fresh or chilled	100			[5]
0709 20 00	Fresh or chilled asparagus	100			
0709 30 00	Aubergines, fresh or chilled, from 1 December to 30 June	100			
0709 52 00	Fresh or chilled truffles	100		100	Art 1(4)
0709 60 10	Sweet peppers, from 1 November to 31 May	100			
0709 60 99	Other fresh or chilled fruits of the genus Capsicum or Pimenta	100			
0709 90 70	Courgettes, from 1 December to 31 March, fresh or chilled	100			[5]
ex 0709 90 90	Wild onions (*Muscari comosum*), from 15 February to 15 May	100			
0710 80 59	Other fruits of the genus Capsicum or Pimenta, uncooked by steaming or boiling in water, frozen	100			
0711 20 10	Olives, for uses other than the production of oil	100			[6]
0711 30 00	Capers	100			
0711 90 10	Fruits of the genus Capsicum or Pimenta, excluding sweet peppers, provisionally preserved	100			
0713 10 10	Peas (*Pisum sativum*) for sowing	100			
ex 0713	Dried legumious vegetables, not for sowing	100			
ex 0804 10 00	Dates in immediate containers of a net capacity not exceeding 35 kg	100			
0804 20 10	Fresh figs	100			
0804 20 90	Dried figs	100			
0804 40	Fresh or dried avocados	100			
ex 0805 10	Fresh oranges	100			[5]
ex 0805 20	Fresh mandarins (including tangerines and satsumas); fresh clementines, wilkings and similar citrus hybrids	100			[5]
ex 0805 50 10	Fresh lemons	100			[5]
0805 40 00	Grapefruit	100			
ex 0806 10 10	Fresh table grapes, from 15 November to 15 July, other than the Emperor variety (*Vitis vinifera c.v.*)	100			[5]
0807 11 00	Watermelons, from 1 April to 15 June	100			
0807 19 00	Melons, from 1 November to 31 May	100			
0809 10 00	Apricots	100	1 000		[5]

CN Code	Description of goods (1)	Customs duty rate deduction (%)	Quantity (tonnes) (2)	Reference quantity (tonnes)	Specific provisions
		(a)	(b)	(c)	
0809 40 05	Plums, from 1 November to 15 June	100			(5)
0810 10 00	Strawberries, from 1 November to 31 March	100	500		
0810 20 10	Raspberries, from 15 May to 15 June	100			
ex 0810 90 95	Medlars and prickly pears	100			
ex 0812 90 20	Fine ground oranges, provisionally preserved, but unsuitable in that state for consumption	100			
ex 0812 90 99	Fine ground citrus fruit, other than oranges, provisionally preserved, but unsuitable in that state for consumption	100			
0813 30 00	Dried apples	100			
0904 20 30	Peppers, neither crushed not ground	100			
0904 20 90	Peppers, crushed or ground	100			
1209 99 99	Other seeds, fruit and spores, of a kind used for sowing	100			(7)
1212 10	Locust beans, including locust bean seeds	100			
ex 1302 20	Pectic substances and pectinates	100			
1509 1509 10 10 1509 10 90 1509 90 00 1510 1510 00 10 1509 90 00	Olive oil and its fractions, whether or not refined, but not chemically modified: – Lampante virgin olive oil – Other virgin oil – Other than virgin Other olive oils and their fractions, obtained solely from olives, whether or not refined, but not chemically modified, including blends of these oils or fractions with oils or fractions of heading No 1509: – Crude oils – Others	100	1 000		
1512 19 91	Refined sunflower-seed oil	100	25 000		
ex 2001 10 00	Cucumbers, prepared or preserved by vinegar or acetic acid, without added sugar	100			
2001 90 20	Fruit of genus capsicum, prepared or preserved by vinegar or acetic acid (excl. sweet peppers and pimentos)	100			
ex 2001 90 50	Mushrooms, prepared or preserved by vinegar or acetic acid, without added sugar	100			
ex 2001 90 65	Olives, prepared or preserved by vinegar or acetic acid, without added sugar	100			
ex 2001 90 70	Sweet peppers or pimentos, prepared or preserved by vinegar or acetic acid, without added sugar	100			

CN Code	Description of goods [1]	Customs duty rate deduction (%)	Quantity (tonnes) [2]	Reference quantity (tonnes)	Specific provisions
		(a)	(b)	(c)	
ex 2001 90 75	Red salad beetroot, prepared or preserved by vinegar or acetic acid, without added sugar	100			
ex 2001 90 85	Red cabbages, prepared or preserved by vinegar or acetic acid, without added sugar	100			
ex 2001 90 91	Tropical fruit and tropical nuts, prepared or preserved by vinegar or acetic acid, without added sugar	100			
ex 2001 90 93	Onions, prepared or preserved by vinegar or acetic acid, without added sugar	100			
ex 2001 90 96	Other vegetables, fruits and other edible parts of plants, prepared or preserved by vinegar or acetic acid, without added sugar	100			
2002 10 10	Peeled tomatoes, prepared or preserved otherwise than by vinegar or acetic acid	100	300		
2002 90 31 2002 90 39 2002 90 91 2002 90 99	Tomatoes prepared or preserved otherwise than by vinegar or acetic acid, other than whole or in pieces, with a dry matter content of not less than 12 % by weight	100	300		
2003 10 20 2003 10 30	Mushrooms of the genus Agaricus, prepared or preserved otherwise than by vinegar or acetic acid	100			[5]
2003 90 00	Other mushrooms, prepared or preserved otherwise than by vinegar or acetic acid	100			
2003 20 00	Truffles, prepared or preserved otherwise than by vinegar or acetic acid	100			
2004 10 99	Other potatoes, prepared or preserved otherwise than by vinegar or acetic acid, frozen	100			
ex 2004 90 30	Capers and olives, prepared or preserved otherwise than by vinegar or acetic acid, frozen	100			
2004 90 50	Peas (*Pisum sativum*) and green beans, prepared or preserved otherwise than by vinegar or acetic acid, frozen	100			
2004 90 98	Other vegetables prepared or preserved otherwise than by vinegar or acetic acid, frozen:				
	Artichokes, asparagus, carrots and mixtures	100			
	Others	50			
2005 10 00	Homogenised vegetables prepared or preserved otherwise than by vinegar or acetic acid, not frozen:				
	Asparagus, carrots and mixtures	100		200	Art 1(4)
	Others	100		200	Art 1(4)

CN Code	Description of goods (1)	Customs duty rate deduction (%)	Quantity (tonnes) (2)	Reference quantity (tonnes)	Specific provisions
		(a)	(b)	(c)	
2005 20 20	Potatoes, thinly sliced, cooked in fat or oil, whether or not salted or flavoured, in airtight packings, suitable for direct consumption	100			
2005 20 80	Other potatoes, prepared or preserved otherwise than by vinegar or acetic acid, not frozen	100			
2005 40 00	Peas (*Pisum Sativum*), prepared or preserved otherwise than by vinegar or acetic acid, not frozen	100			
2005 51 00	Beans, shelled, prepared or preserved otherwise than by vinegar or acetic acid, not frozen	100		200	Art 1(4)
2005 59 00	Other beans (*Vigna* spp., *Phaseolus* spp.), prepared or preserved otherwise than by vinegar or acetic acid, not frozen	100			
2005 60 00	Asparagus, prepared or preserved otherwise than by vinegar or acetic acid, not frozen	100		200	Art 1(4)
2005 70	Olives, prepared or preserved otherwise than by vinegar or acetic acid, not frozen	100			
2005 90 10	Fruit of the genus Capsicum, other than sweet peppers or pimentos, prepared or preserved otherwise than by vinegar or acetic acid, not frozen	100			
2005 90 30	Capers, prepared or preserved otherwise than by vinegar or acetic acid, not frozen	100			
2005 90 50	Artichokes, prepared or preserved otherwise than by vinegar or acetic acid, not frozen	100		200	Art 1(4)
2005 90 60	Carrots, prepared or preserved otherwise than by vinegar or acetic acid, not frozen	100		200	Art 1(4)
2005 90 70	Mixtures of vegetables, prepared or preserved otherwise than by vinegar or acetic acid, not frozen	100		200	Art 1(4)
2005 90 80	Other vegetables, prepared or preserved otherwise than by vinegar or acetic acid, not frozen	100		200	Art 1(4)
2007 10 91	Homogenised preparations of tropical fruit	100			
2007 10 99	Other homogenised preparations	100			
2007 91 90	Jams, fruit jellies, marmalades, purées and pastes, being cooked preparations of citrus fruits, with a sugar content not exceeding 13 % by weight, other than homogenised preparations	100		200	Art 1(4)

CN Code	Description of goods (¹)	Customs duty rate deduction (%)	Quantity (tonnes) (²)	Reference quantity (tonnes)	Specific provisions
		(a)	(b)	(c)	
2007 99 91	Apple purées and compotes, with a sugar content not exceeding 13 % by weight	100		200	Art 1(4)
2007 99 93	Jams, fruit jellies, marmalades, purées and pastes, being cooked preparations of tropical fruits or tropical nuts, with a sugar content not exceeding 13 % by weight, other than homogenised preparations	100			
2007 99 98	Jams, fruit jellies, marmalades, purées and pastes, being cooked preparations of other fruits, with a sugar content not exceeding 13 % by weight, other than homogenised preparations	100		200	Art 1(4)
2008 30 51 2008 30 71 ex 2008 30 90	Grapefruit segments, prepared or preserved without added spirit	100			
ex 2008 30 55 ex 2008 30 75	Mandarins (including tangerines and satsumas) prepared or preserved without added spirit, finely ground; clementines, wilkings and other similar citrus hybrids, prepared or preserved without added spirit, finely ground	100			
ex 2008 30 59	Oranges and lemons, prepared or preserved without added spirit, finely ground	100			
ex 2008 30 79	Oranges and lemons, prepared or preserved without added spirit, finely ground	100			
ex 2008 30 90	Finely ground citrus fruits, without either added spirit or added sugar	100			
ex 2008 30 90	Citrus fruit pulp, without either added spirit or added sugar	40			
2008 50 61 2008 50 69	Apricots prepared or preserved without either added spirit or added sugar	100			
ex 2008 50 92 ex 2008 50 94	Apricot halves, prepared or preserved, without either added spirit or added sugar, in immediate packings of a net content of 4,5 kg or more	50			
ex 2008 50 99	Apricot halves, prepared or preserved, without either added spirit or added sugar, in immediate packings of a net content of less than 4,5 kg	100			
ex 2008 70 92 ex 2008 70 94	Peach and nectarine halves, prepared or preserved, without either added spirit or added sugar, in immediate packings of a net content of 4,5 kg or more	50			
ex 2008 70 99	Peach and nectarine halves, prepared or preserved, without either added spirit or added sugar, in immediate packings of a net content of less than 4,5 kg	100			

CN Code	Description of goods [1]	Customs duty rate deduction (%)	Quantity (tonnes) [2]	Reference quantity (tonnes)	Specific provisions
		(a)	(b)	(c)	
2008 92 51 2008 92 59 2008 92 72 2008 92 74 2008 92 76 2008 92 78	Mixed fruit prepared or preserved without either added spirit or added sugar	55			
2009 11 2009 12 00 2009 19	Orange juice	100			[5]
2009 21 00 2009 29	Grapefruit juice	100			[5]
ex 2009 31 11 ex 2009 31 19 ex 2009 39 31 ex 2009 39 39	Juice of any citrus fruit other than lemons, of a Brix value not exceeding 67, and of a value not exceeding EUR 30 per 100 kg net weight	100			
2009 50	Tomato juice	100	200		
ex 2009 80 35 ex 2009 80 38 ex 2009 80 79 ex 2009 80 86 ex 2009 80 89 ex 2009 80 99	Apricot juice	100	200		[5]
ex 2204	Wine of fresh grapes	100	224 000 hl		
ex 2204 21	Wines bearing one of the following designations of origin: Aïn Bessem-Bouira, Médéa, Coteaux du Zaccar, Dahra, Coteaux de Mascara, Monts du Tessalah, or Coteaux de Tlemcen, of an actual alcoholic strength not exceeding 15 % vol, in containers holding 2 litres or less	100	224 000 hl		Art 4(1)
2301	Flours, meals and pellets, of meat or meat offal, of fish or of crustaceans, molluscs or other aquatic invertebrates, unfit for human consumption; greaves	100			
2302 30 10 2302 30 90 2302 40 10 2302 40 90	Bran, sharps and other residues, whether or not in the form of pellets, derived from the sifting, milling or other working of cereals other then maize or rice	100			
ex 2309 90 97	Mineral and vitamin complex, of a kind used in animal feeding	100			

(1) Irrespective of the rules for the interpretation of the combined nomenclature, the wording of the product description must be considered to have merely indicative value, since the applicability of the preferential arrangements is determined in the context of this Annex by the scope of the CN code. Where ex CN codes are referred to, the applicability of the preferential arrangements is determined on the basis of the CN code and the corresponding description taken jointly.

(2) The Common Customs Tariff duties applied to quantities imported in excess of the tariff quotas are MFN duties.

(3) Decision 278/94/EC.

(4) Once the application of Community rules for the potato sector has commenced, this period will be extended up to 15 April, and the customs duty applicable to quantities in excess of the tariff quota will be raised to 50 %.

(5) The reduction applies only to the *ad valorem* part of the duty.

(6) Entry under this subheading is subject to conditions laid down in the relevant Community provisions (see Articles 291 to 300 of Commission Regulation (EEC) No 2454 (OJ L 253, 11.10.1993, p. 71) and subsequent amendments).

(7) This concession applies only to those seeds covered by the provisions of the directives on the marketing of seeds and plants.

(8) The reduction applies to both the *ad valorem* and the specific parts of the duty.

ANNEX 2

CERTIFICATE OF DESIGNATION OF ORIGIN

<table>
<tr><td rowspan="2">1. Exporter (Name, full address, country)</td><td>2. Number</td><td>00000</td></tr>
<tr><td colspan="2" rowspan="2">3. Name of the authority guaranteeing the designation of origin:</td></tr>
<tr><td rowspan="2">4. Consignee (Name, full address, country):</td></tr>
<tr><td colspan="2">5.
CERTIFICATE OF DESIGNATION OF ORIGIN</td></tr>
<tr><td>6. Means of transport:</td><td colspan="2" rowspan="2">7. Designation of origin</td></tr>
<tr><td>8. Place of unloading:</td></tr>
</table>

<table>
<tr><td>9. Marks and numbers — number and kind of packages.</td><td>10. Gross weight</td><td>11. Litres</td></tr>
<tr><td></td><td></td><td></td></tr>
<tr><td colspan="3">12. Litres (in words):</td></tr>
<tr><td colspan="3">13. Stamp of issuing body:</td></tr>
<tr><td>14. Customs stamp:</td><td colspan="2"></td></tr>
</table>

15. We hereby certify that the wine described in this certificate is wine produced within the wine district of . . . and is considered by Algerian/Moroccan/Tunisian legislation as entitled to the designation of origin '. . .'. The alcohol added to this wine is of vinous origin.
16. (1)

(1) Additional information: for use of the exporting country.

DOCUMENT V I 1

THIRD COUNTRY OF ISSUE:

Serial No:

V I 1

DOCUMENT
FOR THE IMPORTATION OF WINE, GRAPE JUICE OR GRAPE MUST
INTO THE EUROPEAN COMMUNITY

1. Exporter

☐

2. Consignee

3. CUSTOMS STAMP (1)

4. Means of transport (1)

5. Place of unloading (1)

6. Marks and reference Nos — Number and nature of packages — Description of product

7. Quantity in l/hl/kg (2)

8. Number of bottles

9. Colour of product

(1) Obligatory only for wines benefiting from a reduced customs tariff.

(2) Delete as appropriate.

(3) Put an 'x' in the appropriate box.

10. CERTIFICATE

The product designated above ([3]) ☐ is/☐ is not intended for direct human consumption, complies with the conditions governing production and entry into circulation applying in the country of origin of the product and, if intended for direct human consumption, has not been subjected to oenological practices which are not permitted under current Community provisions relating to the import of the product in question.

Full name and address of the official agency: ....

(Place and date)

....

Stamp

....

(Signature, name and title of official)

11. ANALYSIS REPORT

describing the analytical characteristics of the product described above

FOR GRAPE MUST AND GRAPE JUICE: density:

FOR WINE AND GRAPE MUST STILL IN FERMENTATION:

total alcoholic strength: .... actual alcoholic strength: ....

FOR ALL PRODUCTS:

total dry extract: .... total acidity: .... volatile acidity: ....

citric acidity: .... total sulphur dioxide: ....

([3]) ☐ presence/ ☐ absence of products obtained from varieties resulting from interspecific crossings (direct producer hybrids) or from other varieties not of the species *Vitis vinifera*

Full name and address of the laboratory: ....

(Place and date)

....

Stamp

....

(Signature, name and title of official)

Attribution (entry into free circulation and issue of extracts)

Quantity	12. No and date of customs document of release for free circulation and of the extract	13. Full name and address of the consignee (extract)	14. Stamp of the competent authority
Available			
Attributed			
Available			
Attributed			
Available			
Attributed			
Available			
Attributed			
15. Other remarks			

DOCUMENT V I 2

EUROPEAN COMMUNITY

MEMBER STATE OF ISSUE:

Serial No:

V I 2

EXTRACT OF A DOCUMENT
FOR THE IMPORTATION OF WINE, GRAPE JUICE
OR GRAPE MUST INTO THE EUROPEAN COMMUNITY

1. Consignor

☐

2. Consignee

3. Extract V I 1 document

No: ....

issued by ....
(name of third country)

on: ....

4. Extract of V I 2 extract

No: ....

Stamped by ....
(full name and address of the customs office within the Community):

on: ....

(1) Delete as appropriate.

(2) Put an 'x' in the appropriate box.

(3) Obligatory only for wines benfiting from a reduced customs tariff, for liqueur wines and for wines fortified by distallation (delete as appropriate).

5. Marks and reference Nos — Number and nature of packages — Description of product

6. Quantity in l/hl/kg (1)

7. Number of bottles

8. Colour of product

9. CONSIGNOR'S DECLARATION ([2])

The V I 1 document referred to in box 3 ☐/

☐ The extract referred to in box 4 ☐

☐ was completed in respect of the product described above and comprises:

☐ a CERTIFICATE to the effect that the product described above ☐ is/☐ is not intended for direct human consumption, complies with the conditions governing production and entry into circulation applying in the country of origin of the product and, if intended for direct human consumption, has not been subjected to oenological practices which are not permitted under current Community provisions relating to the import of the product in question,

☐ an ANALYSIS REPORT showing that this product has the following analytical characteristics:

for GRAPE MUST AND GRAPE JUICE: density:

for WINE AND GRAPE MUST STILL IN FERMENTATION:

total alcoholic strength: .... actual alcoholic strength:..

for ALL PRODUCTS:

total dry extract: .... total acidity: .... volatile acidity: ....

citric acidity: .... total sulphur dioxide: ....

☐ presence/☐ absence of products obtained from varieties resulting from interspecific crossings (direct producer hybrids) or from other varieties not of the species *Vitis vinifera*,

☐ as well as an ENDORSEMENT ([3]) from the competent official agency certifying that:

— the wine which is the subject of this document was produced in the region of .... and is recognised, according to the rules of the country of origin, as having the right to the designation of origin mentioned in box 5,

— the alcohol added to the wine which is the subject of the present document is of vinous origin.

10. CUSTOMS STAMP	
Declaration certified as true: .... (Place and date) Stamp .... (Signature)	.... (Signature) Full name and address of customs office concerned:

Attribution (entry into free circulation and issue of extracts)

Quantity	11. No and date of customs document of release for free circulation and of the extract	12. Full name and address of the consignee (extract)	13. Stamp of the competent authority
Available			
Attributed			
Available			
Attributed			
Available			
Attributed			
Available			
Attributed			

PROTOCOL No 2

on the arrangements applying to imports into Algeria of agricultural products originating in the Community

Sole Article

The customs duties on import into the People's Democratic Republic of Algeria of the products originating in the Community listed in the Annex shall not be higher than those shown in column (a), reduced by the percentage shown in column (b), within the limits of the tariff quotas shown in column (c).

CN Code	Description	Applied tariff (%)	Reduction of customs duty (%)	Preferential tariff quotas (tonnes)
		(a)	(b)	(c)
0102 10 00	Live bovine animals: pure-bred breeding animals	5	100	50
0102 90	Live bovine animals, other than pure-bred breeding animals	5	100	5 000
0105 11	Cockerels and hens (day-old chickens)	5	100	20
0105 12	Turkeys (day-old chickens)	5	100	100
0202 20 00	Frozen meat of bovine animals, cuts with bones	30	20	200
0202 30 00	Frozen meat of bovine animals, boneless	30	20	11 000
0203	Meat of swine, fresh, chilled or frozen	30	100	200
0207 11 00 0207 12 00	Poultry meat not cut in pieces, fresh or chilled or frozen (*Gallus domesticus*)	30	50	2 500
0402 10	Milk and cream, concentrated or containing added sugar or other sweetening matter, in powder, granules or other solid forms, of a fat content by weight not exceeding 1,5 %	5	100	30 000
0402 21	Milk and cream, concentrated and not containing added sugar or other sweetening matter, in powder, granules or other solid forms, of a fat content by weight exceeding 1,5 %	5	100	40 000
0406 90 20	Melting cheese for processing	30	50	2 500
0406 90 10	Other soft uncooked cheeses, and other pressed cheeses, half- or fully cooked	30	100	800
0406 90 90	Other cheeses (of Italian and Gouda style)	30	100	
0407 00 30	Game bird's eggs	30	100	100
0602 20 00	Edible fruit or nut trees, shrubs and bushes, whether or not grafted	5	100	Unlimited
0602 90 10	Fruit trees, not grafted (wild stock)	5	100	Unlimited
0602 90 20	Young seedlings (trees)	5	100	Unlimited
0602 90 90	Others: indoor plants, vegetable and strawberry cuttings and seedlings	5	100	Unlimited
0701 10 00	Seed potatoes, fresh or chilled	5	100	45 000
ex 0713	Dried leguminous vegetables, shelled, whether or not skinned of split, not for seed	5	100	3 000
0802 12 00	Shelled almonds	30	20	100
0805	Citrus fruit, fresh or dried	30	20	100

CN Code	Description	Applied tariff (%)	Reduction of customs duty (%)	Preferential tariff quotas (tonnes)
		(a)	(b)	(c)
0810 90 00	Other fresh fruit	30	100	500
0813 20 00	Prunes	30	20	50
0813 50 00	Mixtures of nuts or dried fruits of this chapter			
0904	Pepper of the genus *Piper*; dried or crushed or ground fruits of the genus *Capsicum* or of the genus *Pimenta*	30	100	50
0909 30	Cumin seeds, neither crushed nor ground	30	100	50
0910 91 00 0910 99 00	Other spices	30	100	50
1001 10 90	Durum wheat, other than for sowing	5	100	100 000
1001 90 90	Wheat other than durum, other than for sowing	5	100	300 000
1003 00 90	Barley, other than for sowing	15	50	200 000
1004 00 90	Oats, other than for sowing	15	100	1 500
1005 90 00	Maize, other than for sowing	15	100	500
1006	Rice	5	100	2 000
1008 30 90	Canary seed, other than for sowing	30	100	500
1103 13	Groats and meal of maize	30	50	1 000
1105 20 00	Flakes, granules and pellets of potatoes	30	20	100
1107 10	Malt, not roasted	30	100	1 500
1108 12 00	Maize starch	30	20	1 000
1207 99 00	Other oil seeds and oleaginous fruits, whether or not broken	5	100	100
1209 21 00	Lucerne (alafalfa) fodder seeds	5	100	Unlimited
1209 91 00	Vegetable seeds, for sowing	5	100	Unlimited
1209 99 00	Seeds other than vegetable seeds	5	100	Unlimited
1210 20 00	Hop cones, ground, powdered or in the form of pellets; lupulin	5	100	Unlimited
1211 90 00	Plants and parts of plants, incl. seeds and fruits, of a kind used primarily in perfumery, in pharmacy or for insecticidal, fungicidal or similar purposes, fresh or dried, whether or not cut, crushed or powdered	5	100	Unlimited
1212 30 90	Fruit stones and kernels and other vegetable products of a kind used primarily for human consumption, not elsewhere specified	30	100	Unlimited

CN Code	Description	Applied tariff (%)	Reduction of customs duty (%)	Preferential tariff quotas (tonnes)
		(a)	(b)	(c)
1507 10 10	Crude soya-bean oil, whether or not de-gummed	15	50	1 000
1507 90 00	Soya-bean oil, other than crude	30	20	1 000
1511 90 00	Palm oil and its fractions, whether or not refined, but not chemically modified, other than crude	30	100	250
1512 11 10	Sunflower-seed or safflower oil and fractions thereof, crude	15	50	25 000
1514 11 10	Rape or colza oil and fractions thereof, crude	15	100	20 000
1514 91 11	Mustard oil and fractions thereof, crude			
1514 19 00	Rape or colza oil, other than crude	30	100	2 500
1514 91 19	Mustard oil, other than crude			
1516 20	Vegetable fats and oils and their fractions (excl. 1516 20 10)	30	100	2 000
1517 10 00	Margarine, excluding liquid margarine	30	100	2 000
1517 90 00	Other	30		
1601 00 00	Sausages and similar products, of meat, meat offal or blood; food preparations based on these products	30	20	20
1602 50	Other prepared or preserved meat, meat offal or blood of bovine animals	30	20	20
1701 99 00	Cane or beet sugar and chemically pure sucrose, other than raw not containing added flavouring or colouring matter	30	100	150 000
1702 90	Other sugars, including invert sugar, and other sugars and sugar syrups, containing in the dry state more than 50 % by weight of fructose	30	100	500
1703 90 00	Molasses resulting from the extraction or refining of sugar, other than cane molasses	15	100	1 000
2005 40 00	Other vegetables prepared or preserved otherwise than by vinegar or acetic acid, not frozen, other than products of heading No 2006: Peas (*Pisum sativum*)	30	100	200
2005 59 00	Beans, other than shelled	30	20	250
2005 60 00	Asparagus	30	100	500
2005 90 00	Other vegetables and mixtures of vegetables	30	20	200

CN Code	Description	Applied tariff (%)	Reduction of customs duty (%)	Preferential tariff quotas (tonnes)
		(a)	(b)	(c)
2007 99 00	Jams, fruit jellies, marmalades, fruit or nut purée and fruit or nut pastes, being cooked preparations, whether or not containing added sugar or other sweetening matter Non-homogenised preparations, of other than citrus fruit	30	20	100
2008 19 00	Fruit, nuts and other edible parts of plants, otherwise prepared or preserved, whether or not containing added sugar or other sweetening matter or spirit, not elsewhere specified or included Nuts other than ground-nuts, including mixtures	30	20	100
2008 20 00	Pineapples, otherwise prepared or preserved, whether or not containing added sugar or other sweetening matter or spirit, not elsewhere specified or included	30	100	100
2009 41 00	Pineapple juice	15	100	200
2009 80 10	Juices of any other single fruit or vegetable	15	100	100
2204 10 00	Sparkling wine	30	100	100 hl
2302 20 00	Bran, sharps and other residues, whether or not in the form of pellets, derived from the sifting, milling or other working of cereals or of leguminous plants: of rice	30	100	1 000
2304 00 00	Oil-cake and other solid residues, whether or not ground or in the form of pellets, resulting from the extraction of soya-bean oil	30	100	10 000
2306 30 00	Oil-cake and other solid residues, whether or not ground or in the form of pellets, resulting from the extraction of vegetable fats or oils, other than those of heading Nos 2304 or 2305: of sunflower seeds	30	100	1 000
2309 90 00	Preparations of a kind used in animal feeding, other than for dogs or cats	15	50	1 000
2401 10 00	Tobacco, not stemmed/stripped	15	100	8 500
2401 20 00	Tobacco partly or wholly stemmed/stripped	15	100	1 000
5201 00	Cotton, neither carded nor combed	5	100	Unlimited

PROTOCOL No 3

on the arrangements applying to imports into the Community of fishery products originating in Algeria

Sole Article

The products listed below, originating in Algeria, shall be imported into the Community free of customs duties.

CN Code 2002	Description
Chapter 3	Fish and crustaceans, molluscs and other aquatic invertebrates
	–– Products of fish or crustaceans, molluscs or other aquatic invertebrates; dead animals of Chapter 3:
0511 91 10	––– Fish waste
0511 91 90	––– Other
	Prepared or preserved fish; caviar and caviar substitutes prepared from fish eggs:
	– Fish, whole or in pieces, but not minced:
1604 11 00	–– Salmon
1604 12	–– Herrings
	–– Sardines, *sardinella* and brisling or sprats:
1604 13 90	––– Other
1604 14	–– Tunas, skipjack and bonito (*Sarda* spp.)
1604 15	–– Mackerel
1604 16 00	–– Anchovies
1604 19	–– Other
	– Other prepared or preserved fish:
1604 20 05	–– Preparations of surimi
	–– Other:
1604 20 10	––– Of salmon
1604 20 30	––– Of salmonidae, other than salmon
1604 20 40	––– Of anchovies
ex 1604 20 50	––– Of sardines, bonito, mackerel of the species *Scomber scombrus* and *Scomber japonicus*, fish of the species *Orcynopsis unicolor*
1604 20 70	––– Of tunas, skipjack or other fish of the genus *Euthynnus*
1604 20 90	––– Of other fish
1604 30	– Caviar and caviar substitutes:
1605	Crustaceans, molluscs and other aquatic invertebrates, prepared or preserved:
	Pasta, whether or not cooked or stuffed (with meat or other substances) or otherwise prepared, such as spaghetti, macaroni, noodles, lasagne, gnocchi, ravioli, cannelloni; couscous, whether or not prepared:
	– Stuffed pasta, whether or not cooked or otherwise prepared:
1902 20 10	–– Containing more than 20 % by weight of fish, crustaceans, molluscs or other aquatic invertebrates
	Flours, meals and pellets, of meat or meat offal, of fish or of crustaceans, molluscs or other aquatic invertebrates, unfit for human consumption; greaves:
2301 20 00	– Flours, meals and pellets, of fish or of crustaceans, molluscs or other aquatic invertebrates

PROTOCOL No 4

on the arrangements applying to imports into Algeria of fishery products originating in the Community

Sole Article

The products listed below, originating in the Community, shall be imported into Algeria in accordance with the conditions set out below.

Code (Algerian)	Description	Rate of tariff duty applied (acc. to Art. 18)	Rate of reduction applied
(1)	(2)	(3)	(4)
0301	Live fish		
0301 99 10	– alevins	5 %	100 %
0301 99 90	– others	30 %	100 %
0302	Fish, fresh or chilled, excluding fish fillets and other fish meat of heading No 0304:		
	– Salmonidae, excluding livers and roes:		
0302 11 00	– – Trout (*Salmo trutta, Oncorhynchus mykiss, Oncorhynchus clarki, Oncorhynchus aguabonita, Oncorhynchus gilae, Oncorhynchus apache* and *Onchorhynchus chrysogaster*):	30 %	100 %
0302 12 00	– – Pacific salmon (*Oncorhynchus nerka, Oncorhynchus gorbuscha, Oncorhynchus keta, Oncorhynchus tschawytscha, Oncorhynchus kisutch, Oncorhynchus masou* and *Oncorhynchus rhodurus*), Atlantic salmon (*Salmo salar*) and Danube salmon (*Hucho hucho*)	30 %	100 %
0302 19 00	– – Other	30 %	100 %
	– Flat fish (*Pleuronectidae, Bothidae, Cynoglossidae, Soleidae, Scophthalmidae* and *Citharidae*), excluding livers and roes:		
0302 21 00	– – Halibut (*Reinhardtius hippoglossoides, Hippoglossus hippoglossus, Hippoglossus stenolepis*):	30 %	100 %
0302 22 00	– – Plaice (*Pleuronectes platessa*)	30 %	100 %
0302 23 00	– – Sole (*Solea* spp.)	30 %	25 %
0302 29 00	– – Other	30 %	100 %
	– Tunas (of the genus *Thunnus*), skipjack or stripe-bellied bonito (*Euthynnus (Katsuwonus) pelamis*), excluding livers and roes:		
0302 31 00	– – Albacore or longfinned tunas (*Thunnus alalunga*):	30 %	25 %
0302 32 00	– – Yellowfin tunas (*Thunnus albacares*):	30 %	25 %
0302 33 00	– – Skipjack or stripe-bellied bonito	30 %	25 %
0302 34 00	– – Bigeye tuna (*Thunnus obesus*)	30 %	25 %
0302 35 00	– – Bluefin tunas (*Thunnus thynnus*)	30 %	25 %
0302 36 00	– – Southern bluefin tunas (*Thunnus maccoyii*)	30 %	100 %
0302 39 00	– – Other	30 %	25 %
0302 40 00	– Herrings (*Clupea harengus, Clupea pallasii*), excluding livers and roes	30 %	100 %
0302 50 00	– Cod (*Gadus morhua, Gadus ogac, Gadus macrocephalus*), excluding livers and roes	30 %	100 %
	– Other fish, excluding livers and roes		
0302 61 00	– – Sardines (*Sardina pilchardus, Sardinops* spp.), sardinella (*Sardinella* spp.) and brisling or sprats (*Sprattus sprattus*)	30 %	25 %

(1)	(2)	(3)	(4)
0302 62 00	– – Haddock (*Melanogrammus aeglefinus*)	30 %	100 %
0302 63 00	– – Coalfish (*Pollachius virens*)	30 %	100 %
0302 64 00	– – Mackerel (*Scomber scombrus, Scomber australasicus, Scomber japonicus*)	30 %	25 %
0302 65 00	– – Dogfish and other sharks:	30 %	25 %
0302 69 00	– – Other	30 %	25 %
0302 70 00	– Livers and roes	30 %	25 %
0303	Fish, frozen, excluding fish fillets and other fish meat of heading No 0304:		
	– Pacific salmon (*Oncorhynchus nerka, Oncorhynchus gorbuscha, Onchorhynchus keta, Oncorhynchus tschawytscha, Oncorhynchus kisutch, Oncorhynchus masou* and *Oncorhynchus rhodurus*), excluding livers and roes:		
0303 11 00	– – Red salmon	30 %	100 %
0303 19 00	– – Other	30 %	100 %
	– Other salmonidae, excluding livers and roes:		
0303 21 00	– – Trout (*Salmo trutta, Oncorhynchus mykiss, Oncorhynchus clarki, Oncorhynchus aguabonita, Oncorhynchus gilae, Oncorhynchus apache* and *Oncorhynchus chrysogaster*)	30 %	100 %
0303 22 00	– – Atlantic salmon (*Salmo salar*) and Danube salmon (*Hucho hucho*)	30 %	100 %
0303 29 00	– – Other	30 %	100 %
	– Flat fish (*Pleuronectidae, Bothidae, Cynoglossidae, Soleidae, Scophthalmidae* and *Citharidae*), excluding livers and roes:		
0303 31 00	– – Halibut (*Reinhardtius hippoglossoides, Hippoglossus hippoglossus, Hippoglossus stenolepis*)	30 %	100 %
0303 32 00	– – Plaice (*Pleuronectes platessa*)	30 %	100 %
0303 33 00	– – Sole (*Solea* spp.)	30 %	25 %
0303 39 00	– – Other	30 %	100 %
	– Tunas (of the genus *Thunnus*), skipjack or stripe-bellied bonito (*Euthynnus (Katsuwonus) pelamis*), excluding livers and roes:		
0303 41 00	– – Albacore or longfinned tunas (*Thunnus alalunga*):	30 %	25 %
0303 42 00	– – Yellowfin tunas (*Thunnus albacares*):	30 %	25 %
0303 43 00	– – Skipjack or stripe-bellied bonito	30 %	25 %
0303 44 00	– – Bigeye tuna (*Thunnus obesus*)	30 %	25 %
0303 45 00	– – Bluefin tunas (*Thunnus thynnus*)	30 %	25 %
0303 46 00	– – Southern bluefin tunas (*Thunnus maccoyii*)	30 %	100 %
0303 49 00	– – Other	30 %	25 %
0303 50 00	– Herrings (*Clupea harengus, Clupea pallasii*), excluding livers and roes	30 %	100 %
0303 60 00	– Cod (*Gadus morhua, Gadus ogac, Gadus macrocephalus*), excluding livers and roes	30 %	100 %
	– Other fish, excluding livers and roes		
0303 71 00	– – Sardines (*Sardina pilchardus, Sardinops* spp), sardinella (*Sardinella* spp.) and brisling or sprats (*Sprattus sprattus*)	30 %	25 %
0303 72 00	– – Haddock (*Melanogrammus aeglefinus*)	30 %	100 %

(1)	(2)	(3)	(4)
0303 73 00	– – Coalfish (*Pollachius virens*)	30 %	100 %
0303 74 00	– – Mackerel (*Scomber scombrus, Scomber australasicus, Scomber japonicus*)	30 %	25 %
0303 75 00	– – Dogfish and other sharks:	30 %	25 %
0303 77 00	– – Sea bass (*Dicentrarchus labrax, Dicentrarchus punctatus*)	30 %	25 %
0303 78 00	– – Hake (*Merluccius* spp., *Urophycis* spp.)	30 %	25 %
0303 79 00	– – Other	30 %	25 %
	– Livers and roes:		
0303 80 10	– – Of tuna	30 %	25 %
0303 80 90	– – Other	30 %	25 %
0304	Fish fillets and other fish meat (whether or not minced), fresh, chilled or frozen		
	– Fresh or chilled:		
0304 10 10	– – Of tuna	30 %	25 %
0304 10 90	– – Other	30 %	25 %
	– Frozen fillets:		
0304 20 10	– – Of tuna	30 %	25 %
0304 20 90	– – Other	30 %	25 %
0304 90 00	– Others	30 %	25 %
0305	Fish, dried, salted or in brine; smoked fish, whether or not cooked before or during the smoking process; flours, meals and pellets of fish, fit for human consumption:		
0305 10 00	– Flours, meals and pellets of fish, fit for human consumption	30 %	100 %
0305 20 00	– Livers and roes, dried, smoked, salted or in brine	30 %	100 %
0305 30 00	– Fish fillets, dried, salted or in brine, but not smoked	30 %	25 %
	– Smoked fish, including fillets:		
0305 41 00	– – Pacific salmon (*Oncorhynchus nerka, Oncorhynchus gorbuscha, Oncorhynchus keta, Oncorhynchus tschawytscha, Oncorhynchus kisutch, Oncorhynchus masou* and *Oncorhynchus rhodurus*), Atlantic salmon (*Salmo salar*) and Danube salmon (*Hucho hucho*)	30 %	100 %
0305 42 00	– – Herrings (*Clupea harengus, Clupea pallasii*)	30 %	100 %
0305 49 00	– – Other	30 %	25 %
	– Dried fish, whether or not salted but not smoked:		
0305 51 00	– – Cod (*Gadus morhua, Gadus ogac, Gadus macrocephalus*)	30 %	100 %
0305 59 00	– – Other	30 %	25 %
	– Fish, salted but not dried or smoked and fish in brine:		
0305 61 00	– – Herrings (*Clupea harengus, Clupea pallasii*)	30 %	100 %
0305 62 00	– – Cod (*Gadus morhua, Gadus ogac, Gadus macrocephalus*)	30 %	100 %
0305 69 00	– – Other	30 %	25 %

(1)	(2)	(3)	(4)
0306	Crustaceans, whether in shell or not, live, fresh, chilled, frozen, dried, salted or in brine; Crustaceans in shell cooked beforehand by steaming or by boiling in water, whether fresh, chilled, frozen, dried, salted or in brine; flours, meals and pellets of crustaceans, fit for human consumption		
	– Frozen:		
0306 11 00	– – Rock lobster and other sea crawfish (*Palinurus* spp., *Panulirus* spp., *Jasus* spp.)	30 %	25 %
0306 12 00	– – Lobsters (*Homarus* spp.)	30 %	25 %
0306 13 00	– – Shrimps and prawns	30 %	25 %
0306 14 00	– – Crabs	30 %	25 %
0306 19 00	– – Other, including flours, meals and pellets of crustaceans, fit for human consumption	30 %	100 %
0307	Molluscs, whether in shell or not, live, fresh, chilled, frozen, dried, salted or in brine; aquatic invertebrates other than crustaceans and molluscs, live, fresh, chilled, frozen, dried, salted or in brine; flours, meals and pellets of aquatic invertebrates other than crustaceans, fit for human consumption		
	– Oysters:		
0307 10 10	– – Spats	5 %	100 %
0307 10 90	– – Other	30 %	100 %
	– Mussels (*Mytilus* spp., *Perna* spp.)		
0307 31 10	– – Mussel spats	5 %	100 %
0307 31 90	– – Other	30 %	100 %
	– Cuttle fish (*Sepia officinalis, Rossia macrosoma, Sepiola* spp.); Squid (*Ommastrephes* spp., *Loligo* spp., *Nototodarus* spp., *Sepioteuthis* spp.):		
0307 41 00	– – Live, fresh or chilled	30 %	25 %
0307 49 00	– – Other	30 %	25 %
	– Octopus (*Octopus* spp.):		
0307 51 00	– – Live, fresh or chilled	30 %	25 %
0307 59 00	– – Other	30 %	25 %
0307 60 00	– Snails, other than sea snails	30 %	25 %
	– Other, including flours, meals and pellets of aquatic invertebrates other than crustaceans, fit for human consumption:		
0307 91 00	– – Live, fresh or chilled	30 %	25 %
0307 99 00	– – Other	30 %	25 %
0511	Animal products not elsewhere specified or included; dead animals of Chapter 1 or 3, unfit for human consumption:		
0511 91 00	– – Products of fish or crustaceans, molluscs or other aquatic invertebrates; dead animals of Chapter 3:	30 %	25 %
2301	Flours, meals and pellets, of meat or meat offal, of fish or of crustaceans, molluscs or other aquatic invertebrates, unfit for human consumption; greaves:		
2301 10 00	– Flours, meals and pellets, of meat or meat offal; greaves	30 %	25 %

PROTOCOL No 5

on commercial trade in processed agricultural products between Algeria and the European Community

Article 1

Imports into the Community of processed agricultural products originating in Algeria shall be subject to the import customs duties and the charges having equivalent effect listed in Annex 1 to this protocol.

Article 2

Imports into Algeria of processed agricultural products originating in the Community shall be subject to the import customs duties and the charges having equivalent effect listed in Annex 2 to this protocol.

Article 3

The reductions in customs duties listed in Annexes 1 and 2 shall be applicable from the date of entry into force of the Agreement on the basic duty, as defined in Article 18 of the Agreement.

Article 4

Customs duties applied in accordance with Articles 1 and 2 may be reduced once the taxes on trade in basic agricultural products between the Community and Algeria have been reduced, or if these reductions are achieved by mutual concessions concerning processed agricultural products.

The reduction referred to in paragraph 1, the list of products concerned and, where appropriate, the tariff quotas within which the reduction will apply shall be established by the Association Council.

Article 5

The European Community and Algeria shall keep each other informed of any administrative measures implemented concerning the products covered by this Protocol.

These measures must ensure that all the parties concerned are dealt with equally, and must be as simple and as flexible as possible.

ANNEX 1

EU SCHEDULE

Preferential rights accorded by the EU to products originating in Algeria

Notwithstanding the rules for the interpretation of the Combined Nomenclature, the wording for the description of the products is to be considered as having no more than an indicative value, the quotas being determined, within the context of this Annex, by the coverage of the CN codes as they exist at the time of adoption of the current Regulation.

LIST 1

CN code	Description	Customs duties
0501 00 00	Human hair, unworked, whether or not washed or scoured; waste of human hair	0 %
0502	Pigs', hogs' or boars' bristles and hair; badger hair and other brush making hair; waste of such bristles or hair:	
0502 10 00	– Pigs', hogs' or boars' bristles and hair and waste thereof	0 %
0502 90 00	– Other	0 %
0503 00 00	Horsehair and horsehair waste, whether or not put up as a layer with or without supporting material	0 %
0505	Skins and other parts of birds, with their feathers or down, feathers and parts of feathers (whether or not with trimmed edges) and down, not further worked than cleaned, disinfected or treated for preservation; powder and waste of feathers or parts of feathers:	
0505 10	– Feathers of a kind used for stuffing; down:	
0505 10 10	– – Unworked	0 %
0505 10 90	– – Other	0 %
0505 90 00	– Other	0 %

CN code	Description	Customs duties
0506	Bones and horn-cores, unworked, defatted, simply prepared (but not cut to shape), treated with acid or degelatinised; powder and waste of these products:	
0506 10 00	– Ossein and bones treated with acid	0 %
0506 90 00	– Other	0 %
0507	Ivory, tortoise-shell, whalebone and whalebone hair, horns, antlers, hooves, nails, claws and beaks, unworked or simply prepared but not cut to shape; powder and waste of these products:	
0507 10 00	– Ivory; ivory powder and waste	0 %
0507 90 00	– Other	0 %
0508 00 00	Coral and similar materials unworked or simply prepared but not otherwise worked. Shells of molluscs, crustaceans or echinoderms and cuttle-bone, unworked or simply prepared but not cut to shape, powder and waste thereof	0 %
0509 00	Natural sponges of animal origin	
0509 00 10	– Raw	0 %
0509 00 90	– Raw	0 %
0510 00 00	Ambergris, castoreum, civet and musk; cantharides; bile, whether or not dried, gland and other animal products used in the preparation of pharmaceutical products, fresh, chilled, frozen or otherwise provisionally preserved	0 %
0903 00 00	Maté	0 %
1212 20 00	– Seaweed and other algae:	0 %
1302	Vegetable saps and extracts; pectic substances, pectinates and pectates; agar-agar and other mucilages and thickeners, whether or not modified, derived from vegetable products:	
	– Vegetable saps and extracts:	
1302 12 00	– – Of liquorice	0 %
1302 13 00	– – Of hops	0 %
1302 14 00	– – Of pyrethrum or of the roots of plants containing rotenone	0 %
1302 19 30	– – – Intermixtures of vegetable extracts, for the manufacture of beverages or of food preparations	0 %
	– – – Other:	
1302 19 91	– – – – Medicinal	0 %
	– Mucilages and thickeners, whether or not modified, derived from vegetable products:	
1302 31 00	– – Agar-agar	0 %
1302 32	– – Mucilages and thickeners, whether or not modified, derived from locust beans, locust bean seeds or guar seeds:	0 %
1302 32 10	– – – Of locust beans or locust bean seeds	0 %
1401	Vegetable materials of a kind used primarily for plaiting (for example, bamboos, rattans, reeds, rushes, osier, raffia, cleaned, bleached or dyed cereal straw, and lime bark):	
1401 10 00	– Bamboos	0 %
1401 20 00	– Rattans	0 %
1401 90 00	– Other	0 %
1402 00 00	Vegetable materials of a kind used primarily as stuffing or as padding (for example, kapok, vegetable hair and eel-grass), whether or not put up as a layer with or without supporting material:	0 %

CN code	Description	Customs duties
1403 00 00	Vegetable materials of a kind used primarily in brooms or in brushes (for example, broomcorn, piassava, couch-grass and istle), whether or not in hanks or bundles:	0 %
1404	Vegetable products not elsewhere specified or included:	
1404 10 00	– Raw vegetable materials of a kind used primarily in dyeing or tanning	0 %
1404 20 00	– Cotton linters	0 %
1404 90 00	– Other	0 %
1505	Wool grease and fatty substances derived therefrom (including lanolin):	
1505 00 10	– Wool grease, crude	0 %
1505 00 90	– Other	0 %
1506 00 00	Other animal fats and oils and their fractions, whether or not refined, but not chemically modified	0 %
1515	Other fixed vegetable fats and oils (including jojoba oil) and their fractions, whether or not refined, but not chemically modified:	
1515 90 15	– – Oiticica oils; myrtle wax and Japan wax; their fractions	0 %
1516	Animal or vegetable fats and oils and their fractions, partly or wholly hydrogenated, inter-esterified, re-esterified or elaidinised, whether or not refined, but not further prepared:	
1516 20	– Vegetable fats and oils and their fractions:	
1516 20 10	– – Hydrogenated castor oil, so called 'opal-wax'	0 %
1517 90 93	– – – Edible mixtures or preparations of a kind used as mould release preparation	0 %
1518 00	Animal or vegetable fats and oils and their fractions, boiled, oxidized, dehydrated, sulphurized, blown, polymerized by heat in vacuum or in inert gas or otherwise chemically modified, excluding those of heading No 1516; inedible mixtures or preparations of animal or vegetable fats or oils or of fractions of different fats or oils of this chapter, not elsewhere specified or included:	
1518 00 10	– Linoxyn	0 %
	– Other:	
1518 00 91	– – Animal or vegetable fats and oils and their fractions, boiled, oxidized, dehydrated, sulphurised, blown, polymerized by heat in vacuum or in inert gas or otherwise chemically modified, excluding those of heading No 1516	0 %
	– – Other:	
1518 00 95	– – – Inedible mixtures or preparations of animal or of animal and vegetable fats and oils and their fractions	0 %
1518 00 99	– – – Other	0 %
1520 00 00	Glycerol, crude; glycerol waters and glycerol lyes	0 %
1521	Vegetable waxes (other than triglycerides), beeswax, other insect waxes and spermaceti, whether or not refined or coloured:	
1521 10 00	– Vegetable waxes	0 %
1521 90	– Other:	
1521 90 10	– – Spermaceti, whether or not refined or coloured	0 %
	– – Beeswax and other insect waxes, whether or not refined or coloured:	
1521 90 91	– – – Raw	0 %
1521 90 99	– – – Other	0 %
1522 00	Degras; residues resulting from the treatment of fatty substances or animal or vegetable waxes:	
1522 00 10	– Degras	0 %

CN code	Description	Customs duties
1702 90	– Other, including invert sugar: and other sugars and sugar sirops, containing in the dry state 50 % by weight of fructose	
1702 90 10	– – Chemically pure maltose	0 %
1704	Sugar confectionery (including white chocolate), not containing cocoa:	
1704 90	– Other:	
1704 90 10	– – Liquorice extract containing more than 10 % by weight of sucrose but not containing other added substances	0 %
1803	Cocoa paste, whether or not defatted:	
1803 10 00	– Not defatted	0 %
1803 20 00	– Wholly or partly defatted	0 %
1804 00 00	Cocoa butter, fat and oil	0 %
1805 00 00	Cocoa powder, not containing added sugar or other sweetening matter	0 %
1806	Chocolate and other food preparations containing cocoa:	
1806 10	– Cocoa powder, containing added sugar or other sweetening matter:	
1806 10 15	– – Containing no sucrose or containing less than 5 % by weight of sucrose (including invert sugar expressed as sucrose) or isoglucose expressed as sucrose	0 %
1901 90 91	– – – Containing no milk fats, sucrose, isoglucose, glucose or starch or containing less than 1,5 % milk fat, 5 % glucose or starch, excluding food preparations in powder form of goods of heading Nos 0401 to 0404	0 %
2001 90 60	– – Palm hearts	0 %
2008 11 10	– – – Peanut butter	0 %
	– Other, including mixtures other than those of subheading 2008 19:	
2008 91 00	– – Palm hearts	0 %
2101	Extracts, essences and concentrates, of coffee, tea or maté preparations with a basis of these products or with a basis of coffee, tea or maté; roasted chicory and other roasted coffee substitutes and extracts, essences and concentrates, thereof:	
	– Extracts, essences and concentrates of coffee, and preparations with a basis of these extracts, essences or concentrates or with a basis of coffee:	
2101 11	– – Extracts, essences and concentrates:	
2101 11 11	– – – With a coffee-based dry matter content of 95 % or more by weight	0 %
2101 11 19	– – – Other	0 %
2101 12 92	– – – Preparations with a basis of these extracts, essences or concentrates of coffee	0 %
2101 20	– Extracts, essences and concentrates, of tea or maté, and preparations with a basis of these extracts, essences or concentrates, or with a basis of tea or maté:	
2101 20 20	– – Extracts, essences or concentrates	0 %
	– – Preparations:	
2101 20 92	– – – With a basis of extracts, essences or concentrates of tea or maté	0 %
2101 30	– Roasted chicory and other roasted coffee substitutes, and extracts, essences and concentrates thereof:	
	– – Roasted chicory and other roasted coffee substitutes	
2101 30 11	– – – Roasted chicory	0 %
2101 30 91	– – – Of roasted chicory	0 %

CN code	Description	Customs duties
2102	Yeasts (active or inactive); other single-cell micro-organisms, dead (but not including vaccines of No 3002); prepared baking powders:	
2102 10	– Active yeasts	
2102 10 10	– – Culture yeast	0 %
	– – Bakers' yeast:	
2102 10 31	– – – Dried	0 %
2102 10 39	– – – Other	0 %
2102 10 90	– – Other	0 %
2102 20	– Inactive yeasts; other single-cell micro-organisms, dead:	
	– – Inactive yeasts:	
2102 20 11	– – – In tablet, cube or similar form, or in immediate packings of a net content not exceeding 1 kg	0 %
2102 20 19	– – – Other	0 %
2102 20 90	– – Other	0 %
2102 30 00	– Prepared baking powders	0 %
2103	Sauces and preparations therefor; mixed condiments and mixed seasonings; mustard flour and meal and prepared mustard:	
2103 10 00	– Soya sauce	0 %
2103 20 00	– Tomato ketchup and other tomato sauces	0 %
2103 30	– Mustard flour and meal and prepared mustard:	
2103 30 10	– – Mustard flour	0 %
2103 30 90	– – Prepared mustard	0 %
2103 90	– Other:	
2103 90 10	– – Mango chutney, liquid	0 %
2103 90 30	– – Aromatic bitters of an alcoholic strength by volume of 44,2 to 49,2 % vol containing from 1,5 to 6 % by weight of gentian, spices and various ingredients and from 4 to 10 % of sugar, in containers holding 0,5 litre or less	0 %
2103 90 90	– – Other	0 %
2104	Soups and broths and preparations therefor; homogenized composite food preparations:	
2104 10	– Soups and broths and preparations therefor:	
2104 10 10	– – Dried	0 %
2104 10 90	– – Other	0 %
2104 20 00	– Homogenized composite food preparations	0 %
2106	Food preparations not elsewhere specified or included:	
2106 10	– Protein concentrates and textured protein substances:	
2106 10 20	– – Containing no milk fats, sucrose, isoglucose, glucose or starch or containing by weight less than 1,5 % milk fat, 5 % sucrose or isoglucose, 5 % glucose or starch	0 %
2106 90	– Other:	
	– – Other:	
2106 90 92	– – – Containing no milk fats, sucrose, isoglucose, glucose or starch or containing by weight less than 1,5 % milk fat, 5 % sucrose or isoglucose, 5 % glucose or starch	0 %

CN code	Description	Customs duties
2201	Waters, including natural or artificial mineral waters and aerated waters, not containing added sugar or other sweetening matter nor flavoured; ice and snow:	
2201 10	– Mineral waters and aerated waters:	
	– – Natural mineral waters:	
2201 10 11	– – – Not carbonated	0 %
2201 10 19	– – – Others	0 %
	– – Other:	
2201 10 90	– – – Other	0 %
2201 90 00	– Other	0 %
2202	Waters, including mineral waters and aerated waters, containing added sugar or other sweetening matter or flavoured, and other non-alcoholic beverages, not including fruit or vegetable juices of heading No 2009:	
2202 10 00	– Waters including mineral waters and aerated waters, containing added sugar or other sweetening matter or flavoured	0 %
2202 90	– Other:	
2202 90 10	– – Not containing products of Nos 0401 to 0404 or fat obtained from products of Nos 0401 to 0404	0 %
	– – Other, containing by weight of fat obtained from the products of heading Nos 0401 to 0404:	
2203 00	Beer made from malt:	
	– In containers holding 10 litres or less:	
2203 00 01	– – In bottles	0 %
2203 00 09	– – Others	0 %
2203 00 10	– In containers holding more than 10 litres	0 %
2208	Undermatured ethyl alcohol strength by volume of less than 80 % vol; spirits, liqueurs and other spirituous beverages:	
2208 20 12	– – – Cognac	0 %
2208 20 14	– – – Armagnac	0 %
2208 20 26	– – – Grappa	0 %
2208 20 27	– – – Brandy de Jerez	0 %
2208 20 29	– – – Other	0 %
	– – In containers holding more than 2 litres:	
2208 20 40	– – – Raw distillate	0 %
	– – – Other:	
2208 20 62	– – – – Cognac:	0 %
2208 20 64	– – – – Armagnac	0 %
2208 20 86	– – – – Grappa	0 %
2208 20 87	– – – – Brandy de Jerez	0 %
2208 20 89	– – – – Other	0 %

CN code	Description	Customs duties
2208 30	– Whiskies	
	– – Bourbon whiskey, in containers holding:	
2208 30 11	– – – 2 litres or less	0 %
2208 30 19	– – – More than 2 litres	0 %
	– – Scotch whisky:	
	– – – Malt whisky, in containers holding:	
2208 30 32	– – – – 2 litres or less	0 %
2208 30 38	– – – – More than 2 litres	0 %
	– – – Blended whisky, in containers holding:	
2208 30 52	– – – – 2 litres or less	0 %
2208 30 58	– – – – More than 2 litres	0 %
	– – – Other, in containers holding:	
2208 30 72	– – – – 2 litres or less	0 %
2208 30 78	– – – – More than 2 litres	0 %
	– – Other, in containers holding:	
2208 30 82	– – – 2 litres or less	0 %
2208 30 88	– – – More than 2 litres	0 %
2208 50	– Gin and Geneva:	
	– – Gin, in containers holding:	
2208 50 11	– – – 2 litres or less	0 %
2208 50 19	– – – More than 2 litres	0 %
	– – Geneva, in containers holding:	
2208 50 91	– – – 2 litres or less	0 %
2208 50 99	– – – More than 2 litres	0 %
2208 60	– Vodka:	
	– – Of an alcoholic strength by volume of 45,4 % vol or less in containers holding:	
2208 60 11	– – – 2 litres or less	0 %
2208 60 19	– – – More than 2 litres	0 %
	– – Of an alcoholic strength by volume of more than 45,4 % vol in containers holding:	
2208 60 91	– – – 2 litres or less	0 %
2208 60 99	– – – More than 2 litres	0 %
2208 70	– Liqueurs:	
2208 70 10	– – In containers holding 2 litres or less	0 %
2208 70 90	– – In containers holding more than 2 litres	0 %
2208 90	– Other:	
	– – Arrack, in containers holding:	
2208 90 11	– – – 2 litres or less	0 %

CN code	Description	Customs duties
2208 90 19	– – – More than 2 litres	0 %
	– – Plum, pear or cherry spirit (excluding liqueurs), in containers holding:	
2208 90 33	– – – 2 litres or less	0 %
2208 90 38	– – – More than 2 litres	0 %
	– – Other spirits, and other spirituous beverages, in containers holding:	
	– – – 2 litres or less:	
2208 90 41	– – – – Ouzo	0 %
	– – – – Other:	
	– – – – – Spirits (excluding liqueurs):	
	– – – – – – Distilled from fruit	
2208 90 45	– – – – – – – Calvados	0 %
2208 90 48	– – – – – – – Other	0 %
	– – – – – – Other:	
2208 90 52	– – – – – – – Korn	0 %
2208 90 57	– – – – – – – Other	0 %
2208 90 69	– – – – – Other spirituous beverages	0 %
	– – – More than 2 litres:	
	– – – – Spirits (excluding liqueurs):	
2208 90 71	– – – – – Distilled from fruit	0 %
2208 90 74	– – – – – Other	0 %
2208 90 78	– – – – Other spirituous beverages	0 %
	– – Undenatured ethyl alcohol of an alcoholic strength by volume of less than 80 % vol, in containers holding:	
2402 10 00	– Cigars, cheroots and cigarillos, containing tobacco	0 %
2402 20	– Cigarettes containing tobacco:	
2402 20 10	– – Containing cloves	0 %
2402 20 90	– – Other	0 %
2402 90 00	– Other	0 %
2403	Other manufactured tobacco and manufactured tobacco substitutes; ‘homogenized’ or ‘reconstituted’ tobacco; tobacco extracts and essences:	
2403 10	– Smoking tobacco, whether or not containing tobacco substitutes in any proportion:	
2403 10 10	– – In immediate packings of a net content not exceeding two litres	0 %
2403 10 90	– – Other	0 %
	– Other:	
2403 91 00	– – ‘Homogenized’ or ‘reconstituted’ tobacco	0 %
2403 99	– – Other:	
2403 99 10	– – – Chewing tobacco and snuff	0 %
2403 99 90	– – – Other	0 %

CN code	Description	Customs duties
2905 45 00	– – Glycerol	0 %
3301	Essential oils (terpeneless or not), including concretes and absolutes; extracted oleoresins; concentrates of essential oils in fats, in fixed oils, in waxes or the like, obtained by enfleurage or maceration; terpenic by-products of the deterpenation of essential oils; aqueous distillates and aqueous solutions of essential oils:	
3301 90	– Other:	
3301 90 10	– – Terpenic by-products of the deterpenation of essential oils	0 %
	– – Extracted oleoresins	
3301 90 21	– – – Of liquorice and hops	0 %
3301 90 30	– – – Other	0 %
3301 90 90	– – Other	0 %
3302	Mixtures of odoriferous substances and mixtures (including alcoholic solutions) with a basis of one or more of these substances, of a kind used as raw materials in industry; other preparations based on odoriferous substances, of a kind used for the manufacture of beverages:	
3302 10	– Of a kind used in the food or drink industries	
3302 10 21	– – – – – Containing no milkfats, sucrose, isoglucose, glucose or starch or containing, by weight, less than 1,5 % milkfat, 5 % sucrose or isoglucose, 5 % glucose or starch	0 %
3501	Casein, caseinates and other casein derivatives; casein glues:	
3501 10	– Casein:	
3501 10 10	– – For the manufacture of regenerated textile fibres	0 %
3501 10 50	– – For industrial uses other than the manufacture of foodstuffs or fodder	0 %
3501 10 90	– – Other	0 %
3501 90	– Other:	
3501 90 90	– – Other	0 %
3823	Industrial monocarboxylic fatty acids; acid oils from refining; industrial fatty alcohols:	
	– Industrial monocarboxylic fatty acids; acid oils from refining:	
3823 11 00	– – Stearic acid	0 %
3823 12 00	– – Oleic acid	0 %
3823 13 00	– – Tall oil fatty acids	0 %
3823 19	– – Other:	
3823 19 10	– – – Distilled fatty acids	0 %
3823 19 30	– – – Fatty acid distillate	0 %
3823 19 90	– – – Other	0 %
3823 70 00	– Industrial fatty alcohols	0 %

LIST 2

CN code	Description	Customs duties
0403	Buttermilk, curdled milk and cream, yoghurt, kephir and other fermented or acidified milk and cream, whether or not concentrated or containing added sugar or other sweetening matter or flavoured or containing added fruit or cocoa:	0 % within the limit of an annual tariff quota 1 500 tonnes
0403 10	– Yoghurt:	
	– – Flavoured or containing added fruit, nuts or cocoa:	
	– – – In powder, granules or other solid forms, of a milkfat content, by weight:	
0403 10 51	– – – – 1,5 % or less	
0403 10 53	– – – – Exceeding 1,5 % but not exceeding 27 %	
0403 10 59	– – – – Exceeding 27 %	
	– – – Other, of a milkfat content, by weight:	
0403 10 91	– – – – Not exceeding 3 %	
0403 10 93	– – – – Exceeding 3 % but not exceeding 6 %	
0403 10 99	– – – – Exceeding 6 %	
1902	Pasta, whether or not cooked or stuffed (with meat or other substances) or otherwise prepared, such as spaghetti, macaroni, noodles, lasagne, gnocchi, ravioli, cannelloni; couscous, whether or not prepared:	0 % within the limit of an annual tariff quota 2 000 tonnes
1902 30	– Other pasta:	
1902 30 10	– – Dried	
1902 30 90	– – Other	
1902 40	– Couscous:	0 % within the limit of an annual tariff quota 2 000 tonnes
1902 40 10	– – Unprepared	
1902 40 90	– – Other	
1905	Bread, pastry, cakes, biscuits and other bakers' wares, whether or not containing cocoa; communion wafers, empty cachets of a kind suitable for pharmaceutical use, sealing wafers, rice paper and similar products:	
1905 90 90	– – – – other	0 %

LIST 3

CN code	Description	Customs duties
0403	Buttermilk, curdled milk and cream, yoghurt, kephir and other fermented or acidified milk and cream, whether or not concentrated or containing added sugar or other sweetening matter or flavoured of containing added fruit or cocoa:	
0403 90	– Other:	
	– – Flavoured or containing added fruit, nuts or cocoa:	
	– – – In powder, granules or other solid forms, of a milkfat content, by weight:	
0403 90 71	– – – – 1,5 % or less	0 % + EA
0403 90 73	– – – – Exceeding 1,5 % but not exceeding 27 %	0 % + EA
0403 90 79	– – – – Exceeding 27 %	0 % + EA
	– – – Other, of a milkfat content, by weight:	
0403 90 91	– – – – Not exceeding 3 %	0 % + EA
0403 90 93	– – – – Exceeding 3 % but not exceeding 6 %	0 % + EA
0403 90 99	– – – – Exceeding 6 %	0 % + EA

CN code	Description	Customs duties
0405	Butter and other fats and oils derived from milk; dairy spreads:	
0405 20	– Dairy spreads:	
0405 20 10	– – Of a fat content, by weight, of 39 % or more but less than 60 %	0 % + EA
0405 20 30	– – Of a fat content, by weight, of 60 % or more but not exceeding 75 %	0 % + EA
0710	Vegetables (uncooked or cooked by steaming or boiling in water), frozen:	
0710 40 00	– Sweet corn	0 % + EA
0711	Vegetables provisionally preserved (for example, by sulphur dioxide gas, in brine, in sulphur water or in other preservative solutions), but unsuitable in that state for immediate consumption:	
0711 90	– Other vegetables; mixtures of vegetables:	
	– – Vegetables:	
0711 90 30	– – – Sweet corn	0 % + EA
1302	Vegetable saps and extracts; pectic substances, pectinates and pectates; agar-agar and other mucilages and thickeners, whether or not modified, derived from vegetable products:	
1302 20 10	– – Dry	50 % reduction
1302 20 90	– – Other	50 % reduction
1517	Margarine; edible mixtures or preparations of animal or vegetable fats or oils or of fractions of different fats or oils of this Chapter, other than edible fats or oils or their fractions of heading No 1516	
1517 10	– Margarine, excluding liquid margarine:	
1517 10 10	– – Containing more than 10 % but not more than 15 % by weight of milk fats	0 % + EA
1517 90	– Other:	
1517 90 10	– – Containing more than 10 % but not more than 15 % by weight of milk fats	0 % + EA
1702	Other sugars, including chemically pure lactose, maltose, glucose and fructose, in solid form; sugar syrups not containing added flavouring or colouring matter; artificial honey, whether or not mixed with natural honey; caramel:	
1702 50 00	– chemically pure fructose	0 % + EA
1704 10	– Chewing gum, whether or not sugar-coated:	
	– – Containing less than 60 % by weight of sucrose (including invert sugar expressed as sucrose):	
1704 10 11	– – – Gum in strips	0 % + EA
1704 10 19	– – – Other	0 % + EA
	– – Containing 60 % or more by weight of sucrose (including invert sugar expressed as sucrose):	
1704 10 91	– – – Gum in strips	0 % + EA
1704 10 99	– – – Other	0 % + EA
1704 90 30	– – White chocolate	0 % + EA

CN code	Description	Customs duties
	– – Other:	
1704 90 51	– – – Pastes, including marzipan, in immediate packings of a net content of 1 kg or more	0 % + EA
1704 90 55	– – – Throat pastilles and cough drops	0 % + EA
1704 90 61	– – – Sugar coated (panned) goods	0 % + EA
	– – – Other:	
1704 90 65	– – – – Gum confectionery and jelly confectionery, including fruit pastes in the form of sugar confectionery	0 % + EA
1704 90 71	– – – – Boiled sweets, whether or not filled	0 % + EA
1704 90 75	– – – – Toffees, caramels and similar sweets	0 % + EA
	– – – – Other	
1704 90 81	– – – – – Compressed tablets	0 % + EA
1704 90 99	– – – – – Other	0 % + EA
1806	Chocolate and other food preparation containing cocoa	
1806 10 20	– – Containing 5 % or more but less than 65 % by weight of sucrose (including invert sugar expressed as sucrose) or isoglucose expressed as sucrose	0 % + EA
1806 10 30	– – Containing 65 % or more but less than 80 % by weight of sucrose (including invert sugar expressed as sucrose) or isoglucose expressed as sucrose	0 % + EA
1806 10 90	– – Containing 80 % or more by weight of sucrose (including invert sugar expressed as sucrose) or isoglucose expressed as sucrose	0 % + EA
1806 20	– Other preparations in blocks, slabs or bars weighing more than 2 kg or in liquid, paste, powder, granular or other bulk form in containers or immediate packings, of a content exceeding 2 kg:	
1806 20 10	– – Containing 31 % or more by weight of cocoa butter or containing a combined weight of 31 % or more of cocoa butter and milk fat	0 % + EA
1806 20 30	– – Containing a combined weight of 25 % or more, but less than 31 % of cocoa butter and milk fat	0 % + EA
	– – Other:	
1806 20 50	– – – Containing 18 % or more by weight of cocoa butter	0 % + EA
1806 20 70	– – – Chocolate milk crumb	0 % + EA
1806 20 80	– – – Chocolate flavour coating	0 % + EA
1806 20 95	– – – Other	0 % + EA
	– Other, in blocks, slabs or bars:	
1806 31 00	– – Filled	0 % + EA
1806 32	– – Not filled	
1806 32 10	– – – With added cereal, fruit or nuts	0 % + EA
1806 32 90	– – – Other	0 % + EA
1806 90	– Other:	
	– – Chocolate and chocolate products:	
	– – – Chocolates, whether or not filled:	
1806 90 11	– – – – Containing alcohol	0 % + EA

CN code	Description	Customs duties
1806 90 19	– – – – Other	0 % + EA
	– – – Other:	
1806 90 31	– – – – Filled	0 % + EA
1806 90 39	– – – – Not filled	0 % + EA
1806 90 50	– – Sugar confectionery and substitutes therefor made from sugar substitution products, containing cocoa	0 % + EA
1806 90 60	– – Spreads containing cocoa	0 % + EA
1806 90 70	– – Preparations containing cocoa for making beverages	0 % + EA
1806 90 90	– – Other	0 % + EA
1901	Malt extract; food preparations of flour, meal, starch or malt extract, not containing cocoa or containing less than 40 % by weight of cocoa calculated on a totally defatted basis, not elsewhere specified or included; food preparations of goods of heading Nos 0401 to 0404, not containing cocoa or containing less than 5 % by weight of cocoa calculated on a totally defatted basis, not elsewhere specified or included:	
1901 10 00	– Preparations for infant use, put up for retail sale	0 % + EA
1901 20 00	– Mixes and doughs for the preparation of bakers' wares of heading No 1905	0 % + EA
1901 90	– Other:	
	– – Malt extract:	
1901 90 11	– – – With a dry extract content of 90 % or more by weight	0 % + EA
1901 90 19	– – – Other	0 % + EA
	– – Other:	
1901 90 99	– – – Other	0 % + EA
1902	Pasta, whether or not cooked or stuffed (with meat or other substances) or otherwise prepared, such as spaghetti, macaroni, noodles, lasagne, gnocchi, ravioli, cannelloni; couscous, whether or not prepared:	
	– Uncooked pasta, not stuffed or otherwise prepared:	
1902 11 00	– – Containing eggs	0 % + EA
1902 19	– – Other:	
1902 19 10	– – – Containing no common wheat flour or meal	0 % + EA
1902 19 90	– – – Other	0 % + EA
1902 20	– Stuffed pasta, whether or not cooked or otherwise prepared	
	– – Other:	
1902 20 91	– – – Cooked	0 % + EA
1902 20 99	– – – Other	0 % + EA
1903 00 00	Tapioca and substitutes therefor prepared from starch, in the form of flakes, grains, pearls, siftings or similar forms	0 % + EA

CN code	Description	Customs duties
1904	Prepared foods obtained by the swelling or roasting of cereals or cereal products (for example, corn flakes); cereals (other than maize (corn)) in grain form or in the form of flakes or other worked grains (except flour and meal), pre-cooked, or otherwise prepared, not elsewhere specified or included:	
1904 10	– Prepared foods obtained by the swelling or roasting of cereals or cereal products:	
1904 10 10	– – Obtained from maize	0 % + EA
1904 10 30	– – Obtained from rice	0 % + EA
1904 10 90	– – Other:	0 % + EA
1904 20	– Prepared foods obtained from unroasted cereal flakes or from mixtures of unroasted cereal flakes and roasted cereal flakes or swelled cereals:	
	– – Other:	
1904 20 10	– – Preparation of the Müsli type based on unroasted cereal flakes	0 % + EA
	– – Other:	
1904 20 91	– – – Obtained from maize	0 % + EA
1904 20 95	– – – Obtained from rice	0 % + EA
1904 20 99	– – – Other	0 % + EA
1904 90	– Other:	
1904 90 10	– – Rice	0 % + EA
1904 90 80	– – Other	0 % + EA
1905	Bread, pastry, cakes, biscuits and other bakers' wares, whether or not containing cocoa; communion wafers, empty cachets of a kind suitable for pharmaceutical use, sealing wafers, rice paper and similar products:	
1905 10 00	– Crispbread	0 % + EA
1905 20	– Gingerbread and the like:	
1905 20 10	– – Containing by weight of sucrose less than 30 % (including invert sugar expressed as sucrose)	0 % + EA
1905 20 30	– – Containing by weight of sucrose 30 % or more but less than 50 % (including invert sugar expressed as sucrose)	0 % + EA
1905 20 90	– – Containing by weight of sucrose 50 % or more (including invert sugar expressed as sucrose)	0 % + EA
	– Sweet biscuits; waffles and wafers	
1905 31	– – Sweet biscuits;	
	– – Completely or partially coated or covered with chocolate or other preparations containing cocoa:	
1905 31 11	– – – – In immediate packings of a net content not exceeding 85 g	0 % + EA
1905 31 19	– – – – Other	0 % + EA
	– – – Other:	
1905 31 30	– – – – Containing 8 % or more by weight of milk fats	0 % + EA
	– – – – Other	
1905 31 91	– – – – – Sandwich biscuits	0 % + EA
1905 31 99	– – – – – Other	0 % + EA
1905 32	– – Waffles and wafers:	
1905 32 11	– – – – In immediate packings of a net content not exceeding 85 g	0 % + EA
1905 32 19	– – – – Other	0 % + EA

CN code	Description	Customs duties
	– – – Other:	
1905 32 91	– – – – Salted, whether or not filled	0 % + EA
1905 32 99	– – – – other	0 % + EA
1905 40	– Rusks, toasted bread and similar toasted products:	
1905 40 10	– – Rusks	0 % + EA
1905 40 90	– – Other	0 % + EA
1905 90	– Other:	
1905 90 10	– – Matzos	0 % + EA
1905 90 20	– – Communion wafers, empty cachets of a kind suitable for pharmaceutical use, sealing wafers, rice paper and similar products	0 % + EA
	– – Other:	
1905 90 30	– – – Bread, not containing added honey, eggs, cheese or fruit, and containing by weight in the dry matter state not more than 5 % of sugars and not more than 5 % of fat	0 % + EA
1905 90 40	– – – Waffles and wafers with a water content exceeding 10 % by weight	0 % + EA
1905 90 45	– – – Biscuits	0 % + EA
1905 90 55	– – – Extruded or expanded products, savoury or salted	0 % + EA
	– – – Other:	
1905 90 60	– – – – With added sweetening matter	0 % + EA
2001	Vegetables, fruit, nuts and other edible parts of plants, prepared or preserved by vinegar or acetic acid:	
2001 90	– Other:	
2001 90 30	– – Sweet corn (*zea mays* var. *saccharata*)	0 % + EA
2001 90 40	– – Yams, sweet potatoes and similar edible parts of plants containing 5 % or more by weight of starch	0 % + EA
2004	Other vegetables prepared or preserved otherwise than by vinegar or acetic acid, frozen, other than products of heading No 2006:	
2004 10	– Potatoes:	
	– – Other	
2004 10 91	– – – In the form of flour, meal or flakes,	0 % + EA
2004 90	– Other vegetables and mixtures of vegetables:	
2004 90 10	– – Sweet corn (*zea mays* var. *saccharata*)	0 % + EA
2005	Other vegetables prepared or preserved otherwise than by vinegar or acetic acid, frozen, other than products of heading No 2006:	
2005 20	– Potatoes:	
2005 20 10	– – In the form of flour, meal or flakes,	0 % + EA
2005 80 00	– Sweet corn (*zea mays* var. *saccharata*)	0 % + EA
2008	Fruits, nuts and other edible parts of plants, otherwise prepared or preserved, whether or not containing added sugar or other sweetening matter or spirit, not elsewhere specified or included:	
2008 99	– – Other:	
2008 99 85	– – – – – Maize (corn), other than sweet corn (*Zea mays* var. *saccharata*)	0 % + EA
2008 99 91	– – – – – Yams, sweet potatoes and similar edible parts of plants, containing 5 % or more by weight of starch	0 % + EA

CN code	Description	Customs duties
2101 12	– – Preparations with a basis of these extracts, essences or concentrates or with a basis of coffee:	
2101 12 98	– – – Other	0 % + EA
2101 20	– Extracts, essences and concentrates, of tea or maté, and preparations with a basis of these extracts, essences or concentrates, or with a basis of tea or maté:	
2101 20 98	– – – Other	0 % + EA
2101 30	– Roasted chicory and other roasted coffee substitutes, and extracts, essences and concentrates thereof:	
	– – Roasted chicory and other roasted coffee substitutes	
	– – Extracts, essences and concentrates of roasted chicory and other roasted coffee substitutes:	
2101 30 99	– – – Other	0 % + EA
2105 00	Ice cream and other edible ice, whether or not containing cocoa:	
2105 00 10	– Containing no milk fats or containing less than 3 % by weight of such fats	0 % + EA
	– Containing by weight of milk fats:	
2105 00 91	– – 3 % or more but less than 7 %	0 % + EA
2105 00 99	– – 7 % or more	0 % + EA
2106	Food preparations not elsewhere specified or included:	
2106 10 80	– – Other	0 % + EA
2106 90 20	– – Compound alcoholic preparations, other than those based on odoriferous substances, of a kind used for the manufacture of beverages	EA
	– – Other:	
2106 90 98	– – – Other	0 % + EA
2202	Waters, including mineral waters and aerated waters, containing added sugar or other sweetening matter or flavoured, and other non-alcoholic beverages, not including fruit or vegetable juices of heading No 2009:	
2202 90 91	– – – Less than 0,2 % by weight	0 % + EA
2202 90 95	– – – 0,2 % or more but less than 2 %	0 % + EA
2202 90 99	– – – 2 % or more	0 % + EA
2205	Vermouth and other wine of fresh grapes flavoured with plants or aromatic substances	
2205 10	– In containers holding 2 litres or less:	
2205 10 10	– – Of an actual alcoholic strength by volume of 18 % vol or less	EA
2205 10 90	– – Of an actual alcoholic strength by volume exceeding 18 % vol	EA
2205 90	– Other:	
2205 90 10	– – Of an actual alcoholic strength by volume of 18 % vol or less	EA
2205 90 90	– – Of an actual alcoholic strength by volume exceeding 18 % vol	EA
2207	Undenatured ethyl alcohol of an alcoholic strength by volume of 80 % vol or higher; ethyl alcohol and other spirits, denatured, of any strength:	
2207 10 00	– Undenatured ethyl alcohol of an alcoholic strength by volume of less than 80 % vol; spirits, liqueurs and other spirituous beverages:	EA
2207 20 00	– Ethyl alcohol and other spirits, denatured, of any strength	EA

CN code	Description	Customs duties
2208 40	– Rum and taffia:	
	– – In containers holding 2 litres or less:	
2208 40 11	– – – Rum with a content of volatile substances other than ethyl and methyl alcohol equal to or exceeding 225 grams per hectolitre of pure alcohol (with a 10 % tolerance)	EA
	– – – Other:	
2208 40 31	– – – – Of a value exceeding EUR 7,9 per litre of pure alcohol	EA
2208 40 39	– – – – Other	EA
	– – In containers holding more than two litres:	
2208 40 51	– – – Rum with a content of volatile substances other than ethyl and methyl alcohol equal to or exceeding 225 grams per hectolitre of pure alcohol (with a 10 % tolerance)	EA
	– – – Other:	
2208 40 91	– – – – Of a value exceeding EUR 2 per litre of pure alcohol	EA
2208 40 99	– – – – Other	EA
	– – Undenatured ethyl alcohol of an alcoholic strength by volume of less than 80 % vol, in containers holding:	
2208 90 91	– – – 2 litres or less	EA
2208 90 99	– – – More than 2 litres	EA
2905	Acyclic alcohols and their halogenated, sulphonated, nitrated or nitrosated derivatives:	
	– Other polyhydric alcohols:	
2905 43 00	– – Mannitol	0 % + EA
2905 44	– – D-glucitol (sorbitol):	
	– – – In aqueous solution:	
2905 44 11	– – – – Containing 2 % or less by weight of D-mannitol, calculated on the D-glucitol content	0 % + EA
2905 44 19	– – – – Other	0 % + EA
	– – – Other:	
2905 44 91	– – – – Containing 2 % or less by weight of D-mannitol, calculated on the D-glucitol content	0 % + EA
2905 44 99	– – – – Other	0 % + EA
3302	Mixtures of odoriferous substances and mixtures (including alcoholic solutions) with a basis of one or more of these substances, of a kind used as raw materials in industry; other preparations based on odoriferous substances, of a kind used for the manufacture of beverages:	
3302 10 10	– – – – Of an actual alcoholic strength by volume exceeding 0,5 %	EA
	– – – – Other	
3302 10 29	– – – – – Other	0 % + EA
3505	Dextrins and other modified starches (for example, pregelatinised or esterified starches); glues based on starches, or on dextrins or other modified starches:	
3505 10	– Dextrins and other modified starches:	
3505 10 10	– – Dextrins	0 % + EA

CN code	Description	Customs duties
	– – Other modified starches:	
3505 10 90	– – – Other	0 % + EA
3505 20	– Glues:	
3505 20 10	– – Containing by weight 25 % or more of starches or dextrins or other modified starches	0 % + EA
3505 20 30	– – Containing, by weight, 25 % or more but less than 55 % of starches or dextrins or other modified starches	0 % + EA
3505 20 50	– – Containing, by weight, 55 % or more but less than 80 % of starches or dextrins or other modified starches	0 % + EA
3505 20 90	– – Containing, by weight, 80 % or more of starches or dextrins or other modified starches	0 % + EA
3809	Finishing agents, dye carriers to accelerate the dyeing or fixing of dyestuffs and other products and preparations (for example, dressings and mordants), of a kind used in the textile, paper, leather or like industries, not elsewhere specified or included:	
3809 10	– With a basis of amylaceous substances	
3809 10 10	– – Containing by weight of such substances 55 % or more but less than 55 %	0 % + EA
3809 10 30	– – Containing by weight of such substances 55 % or more but less than 70 %	0 % + EA
3809 10 50	– – Containing by weight of such substances 70 % or more but less than 83 %	0 % + EA
3809 10 90	– – Containing by weight of such substances 83 % or more	0 % + EA
3824	Prepared binders for foundry moulds or cores; chemical products and preparations of the chemical or allied industries (including those consisting of mixtures of natural products), not elsewhere specified or included;	
3824 60	– Sorbitol other than that of heading No 2905 44:	
	– – In aqueous solution:	
3824 60 11	– – – Containing 2 % or less by weight of D-mannitol, calculated on the D-glucitol content	0 % + EA
3824 60 19	– – – Other	0 % + EA
	– – Other	
3824 60 91	– – – Containing 2 % or less by weight of D-mannitol, calculated on the D-glucitol content	0 % + EA
3824 60 99	– – – Other	0 % + EA

ANNEX 2

ALGERIA SCHEDULE

Preferential rights accorded by Algeria to products originating in the EU

LIST 1: IMMEDIATE CONCESSIONS

Algerian nomenclature	Equivalent CN code	Description	MFN Algerian tariff	Reduction %
1518 00	1518 00	Animal or vegetable fats and oils and their fractions, boiled, oxidized, dehydrated, sulphurized, blown, polymerized by heat in vacuum or in inert gas or otherwise chemically modified, excluding those of heading No 1516; inedible mixtures or preparations of animal or vegetable fats or oils or of fractions of different fats or oils of this chapter, not elsewhere specified or included:		
1518 00 10	1518 00 10	– Linoxyn – Other:	30 %	100
1518 00 90	1518 00 91 1518 00 95 1518 00 99	– – Animal or vegetable fats and oils and their fractions, boiled, oxidized, dehydrated, sulphurised, blown, polymerized by heat in vacuum or in inert gas or otherwise chemically modified, excluding those of heading No 1516 – – Other: – – – Inedible mixtures or preparations of animal or of animal and vegetable fats and oils and their fractions – – – Other	30 %	100
1704	1704	Sugar confectionery (including white chocolate), not containing cocoa:		
1704 10 1704 10 00	1704 10 1704 10 11 1704 10 19 1704 10 91 1704 10 99	– Chewing gum, whether or not sugar-coated: – – Containing less than 60 % by weight of sucrose (including invert sugar expressed as sucrose): – – – Gum in strips – – – Other – – Containing 60 % or more by weight of sucrose (including invert sugar expressed as sucrose): – – – Gum in strips – – – Other	30 %	20
1704 90 1704 90 00	1704 90 1704 90 10 1704 90 30 1704 90 51	– Other: – – Liquorice extract containing more than 10 % by weight of sucrose but not containing other added substances – – White chocolate – – Other: – – – Pastes, including marzipan, in immediate packings of a net content of 1 kg or more	30 %	25

Algerian nomenclature	Equivalent CN code	Description	MFN Algerian tariff	Reduction %
	1704 90 55	– – – Throat pastilles and cough drops		
	1704 90 61	– – – Sugar coated (panned) goods		
		– – – Other:		
	1704 90 65	– – – – Gum confectionery and jelly confectionery, including fruit pastes in the form of sugar confectionery		
	1704 90 71	– – – – Boiled sweets, whether or not filled		
	1704 90 75	– – – – Toffees, caramels and similar sweets		
		– – – – Other:		
	1704 90 81	– – – – – Compressed tablets		
	1704 90 99	– – – – – Other		
1805 00 00	1805 00 00	Cocoa powder, not containing added sugar or other sweetening matter	15 %	50
1806	1806	Chocolate and other food preparations containing cocoa:		
1806 31 00	1806 31 00	– – Filled	30 %	25
1806 90	1806 90	– Other:	30 %	25
		– – Chocolate and chocolate products:		
		– – – Chocolates, whether or not filled:		
1806 90 00	1806 90 11	– – – – Containing alcohol		
	1806 90 19	– – – – Other		
		– – – Other:		
	1806 90 31	– – – – Filled		
	1806 90 39	– – – – Not filled		
	1806 90 50	– – Sugar confectionery and substitutes therefor made from sugar substitution products, containing cocoa		
	1806 90 60	– – Spreads containing cocoa		
	1806 90 70	– – Preparations containing cocoa for making beverages		
	1806 90 90	– – Other		
1901	1901	Malt extract; food preparations of flour, meal, starch or malt extract, not containing cocoa or containing less than 40 % by weight of cocoa calculated on a totally defatted basis, not elsewhere specified or included; food preparations of goods of heading Nos 0401 to 0404, not containing cocoa or containing less than 5 % by weight of cocoa calculated on a totally defatted basis, not elsewhere specified or included:		
1901 10 10	ex 1901 10 00	– Preparations for infant use, put up for retail sale	5 %	100
1901 10 20			5 %	100

Algerian nomenclature	Equivalent CN code	Description	MFN Algerian tariff	Reduction %
1901 90	1901 90	– Other:		
		– – Malt extract:		
1901 90 00	1901 90 11	– – – With a dry extract content of 90 % or more by weight		
	1901 90 19	– – – Other		
		– – Other:	30 %	100
	1901 90 91	– – – Containing no milk fats, sucrose, isoglucose, glucose or starch or containing less than 1,5 % milk fat, 5 % sucrose (including invert sugar) or isoglucose, 5 % glucose or starch, excluding food preparations in powder form of goods of heading Nos 0401 to 0404		
	1901 90 99	– – – Other		
1902	1902	Pasta, whether or not cooked or stuffed (with meat or other substances) or otherwise prepared, such as spaghetti, macaroni, noodles, lasagne, gnocchi, ravioli, cannelloni; couscous, whether or not prepared:		
1902 20	1902 20	– Stuffed pasta, whether or not cooked or otherwise prepared		
1902 20 00	1902 20 91	– – Other:	30 %	30
	1902 20 99	– – – Cooked		
		– – – Other		
1905	1905	Bread, pastry, cakes, biscuits and other bakers' wares, whether or not containing cocoa; communion wafers, empty cachets of a kind suitable for pharmaceutical use, sealing wafers, rice paper and similar products:		
		– Sweet biscuits; waffles and wafers		
1905 31	1905 31	– – Sweet biscuits:		
		– – – Completely or partially coated or covered with chocolate or other preparations containing cocoa:		
1905 31 00	1905 31 11	– – – – In immediate packings of a net content not exceeding 85 g		
	1905 31 19	– – – – Other		
		– – – Other:		
	1905 31 30	– – – – Containing 8 % or more by weight of milk fats		
		– – – – Other:		
	1905 31 91	– – – – – Sandwich biscuits	30 %	25
	1905 31 99	– – – – – Other		
1905 39 00	1905 32	– – Waffles and wafers:		
		– – – Completely or partially coated or covered with chocolate or other preparations containing cocoa:		
	1905 32 11	– – – – In immediate packings of a net content not exceeding 85 g		
	1905 32 19	– – – – Other		
		– – – Other:		
	1905 32 91	– – – – Salted, whether or not filled		
	1905 32 99	– – – – Other		

Algerian nomenclature	Equivalent CN code	Description	MFN Algerian tariff	Reduction %
1905 90	1905 90	– Other:	30 %	25
1905 90 10	1905 90 10	– – Matzos		
1905 90 20 1905 90 30	1905 90 20	– – Communion wafers, empty cachets of a kind suitable for pharmaceutical use, sealing wafers, rice paper and similar products		
1905 90 90		– – Other:		
	1905 90 30	– – – Bread, not containing added honey, eggs, cheese or fruit, and containing by weight in the dry matter state not more than 5 % of sugars and not more than 5 % of fat		
	1905 90 40	– – – Waffles and wafers with a water content exceeding 10 % by weight		
	1905 90 45	– – – Biscuits		
	1905 90 55	– – – Extruded or expanded products, savoury or salted		
		– – – Other:		
	1905 90 60	– – – – With added sweetening matter		
	1905 90 90	– – – – Other		
2005	2005	Other vegetables prepared or preserved otherwise than by vinegar or acetic acid, frozen, other than products of heading No 2006:		
2005 80 00	2005 80 00	– Sweet corn (*zea mays* var. *saccharata*)	30 %	100
2102	2102	Yeasts (active or inactive); other single-cell micro-organisms, dead (but not including vaccines of No 3002); prepared baking powders:		
2102 10	2102 10	– Active yeasts	15 %	100 % within the limit of 3 000 tonnes
2102 10 00	2102 10 10	– – Culture yeast		
		– – Bakers' yeast:		
	2102 10 31	– – – Dried		
	2102 10 39	– – – Other		
	2102 10 90	– – Other		
2102 30 00	2102 30 00	– Prepared baking powders	15 %	30
2103	2103	Sauces and preparations therefor; mixed condiments and mixed seasonings; mustard flour and meal and prepared mustard:		
2103 90 90	2103 90 90	– – Other	30 %	100
2104	2104	Soups and broths and preparations therefor; homogenized composite food preparations:		
2104 10	2104 10	– Soups and broths and preparations therefor	30 %	100
2104 10 00	2104 10 10	– – Dried		
	2104 10 90	– – Other		

Algerian nomenclature	Equivalent CN code	Description	MFN Algerian tariff	Reduction %
2105	2105 00	Ice cream and other edible ice, whether or not containing cocoa:		
2105 00 00	2105 00 10	– Containing no milk fats or containing less than 3 % by weight of such fats	30 %	20
		– Containing by weight of milk fats:		
	2105 00 91	– – 3 % or more but less than 7 %		
	2105 00 99	– – 7 % or more		
2106	2106	Food preparations not elsewhere specified or included:		
2106 90 10	2106 90	– Other:	15 %	100 % within the limit of 2 000 tonnes
	2106 90 10	– – Cheese fondues		
	2106 90 20	– – Compound alcoholic preparations, other than those based on odoriferous substances, of a kind used for the manufacture of beverages		
		– – Other:		
2106 90 90	2106 90 92	– – – Containing no milk fats, sucrose, isoglucose, glucose or starch or containing by weight less than 1,5 % milk fat, 5 % sucrose or isoglucose, 5 % glucose or starch	30 %	
	2106 90 98	– – – Other		
2201	2201	Waters, including natural or artificial mineral waters and aerated waters, not containing added sugar or other sweetening matter nor flavoured; ice and snow:		
2201 10	2201 10	– Mineral waters and aerated waters:	30 %	20
		– – Natural mineral waters:		
2201 10 00	2201 10 11	– – – Not carbonated		
	2201 10 19	– – – Other		
	2201 10 90	– – Other		
2202	2202	Waters, including mineral waters and aerated waters, containing added sugar or other sweetening matter or flavoured, and other non-alcoholic beverages, not including fruit or vegetable juices of heading No 2009:		
2202 90	2202 90	– Other:	30 %	30
2202 90 00	2202 90 10	– – Not containing products of Nos 0401 to 0404 or fat obtained from products of Nos 0401 to 0404		
		– – Other, containing by weight of fat obtained from the products of heading Nos 0401 to 0404:		
	2202 90 91	– – – Less than 0,2 % by weight		
	2202 90 95	– – – 0,2 % or more but less than 2 %		
	2202 90 99	– – – 2 % or more		
2203	2203 00	Beer made from malt:		

Algerian nomenclature	Equivalent CN code	Description	MFN Algerian tariff	Reduction %
		– In containers holding 10 litres or less:		
2203 00 00	2203 00 01	– – In bottles	30 %	100 % within the limit of 500 tonnes
	2203 00 09	– – Other		
	2203 00 10	– In containers holding more than 10 litres		
2208	2208	Undenatured ethyl alcohol of an alcoholica strength by volume of less than 80 % vol; spirits, liqueurs and other spirituous beverages:		
2208 30 00	2208 30	– Whiskies	30 %	100
2208 40 00	2208 40	– Rum and taffia	30 %	100
2208 50 00	2208 50	– Gin and Geneva	30 %	100
2208 60 00	2208 60	– Vodka	30 %	100
2208 70 00	2208 70	– Liqueurs and cordials	30 %	100
2905	2905	Acyclic alcohols and their halogenated, sulphonated, nitrated or nitrosated derivatives:		
		– Other polyhydric alcohols:		
2905 43 00	2905 43 00	– – Mannitol	15 %	100
2905 44	2905 44	– – D-glucitol (sorbitol):		
		– – – In aqueous solution:		
2905 44 00	2905 44 11	– – – – Containing 2 % or less by weight of D-mannitol, calculated on the D-glucitol content		
	2905 44 19	– – – – Other	15 %	100
		– – – Other		
	2905 44 91	– – – – Containing 2 % or less by weight of D-mannitol, calculated on the D-glucitol content		
	2905 44 99	– – – – Other		
2905 45 00	2905 45 00	– – Glycerol	15 %	100
3301	3301	Essential oils (terpeneless or not), including concretes and absolutes; extracted oleoresins; concentrates of essential oils in fats, in fixed oils, in waxes or the like, obtained by enfleurage or maceration; terpenic by-products of the deterpenation of essential oils; aqueous distillates and aqueous solutions of essential oils:		
3301 90	3301 90	– Other:		
3301 90 00	3301 90 10	– – Terpenic by-products of the deterpenation of essential oils		
		– – Extracted oleoresins:	15 %	100
	3301 90 21	– – – Of liquorice and hops		
	3301 90 30	– – – Other		
	3301 90 90	– – Other		

Algerian nomenclature	Equivalent CN code	Description	MFN Algerian tariff	Reduction %
3302	3302	Mixtures of odoriferous substances and mixtures (including alcoholic solutions) with a basis of one or more of these substances, of a kind used as raw materials in industry; other preparations based on odoriferous substances, of a kind used for the manufacture of beverages:		
3302 10	3302 10	– Of a kind used in the food or drink industries		
		– – Of a kind used in the drink industries:		
		– – – Preparations containing all flavouring agents characterizing a beverage:		
3302 10 00	3302 10 10	– – – – Of an actual alcoholic strength by volume exceeding 0,5 %	15 %	100
		– – – – Other:		
	3302 10 21	– – – – – Containing no milkfats, sucrose, isoglucose, glucose or starch or containing, by weight, less than 1,5 % milkfat, 5 % sucrose or isoglucose, 5 % glucose or starch		
	3302 10 29	– – – – – Other		
3501	3501	Casein, caseinates and other casein derivatives; casein glues:		
3501 10	3501 10	– Casein:		
3501 10 00	3501 10 10	– – For the manufacture of regenerated textile fibres	15 %	100
	3501 10 50	– – For industrial uses other than the manufacture of foodstuffs or fodder		
	3501 10 90	– – Other		
3501 90	3501 90	– Other:	15 %	100
3501 90 90	3501 90 90	– – Other		
3505	3505	Dextrins and other modified starches (for example, pregelatinised or esterified starches); glues based on starches, or on dextrins or other modified starches:		
3505 10	3505 10	– Dextrins and other modified starches:		
3505 10 00	3505 10 10	– – Dextrins	15 %	100
		– – Other modified starches:		
	3505 10 90	– – – Other		
3505 20	3505 20	– Glues:		
3505 20 00	3505 20 10	– – Containing by weight 25 % or more of starches or dextrins or other modified starches		
	3505 20 30	– – Containing, by weight, 25 % or more but less than 55 % of starches or dextrins or other modified starches	30 %	100
	3505 20 50	– – Containing, by weight, 55 % or more but less than 80 % of starches or dextrins or other modified starches		
	3505 20 90	– – Containing, by weight, 80 % or more of starches or dextrins or other modified starches		

Algerian nomenclature	Equivalent CN code	Description	MFN Algerian tariff	Reduction %
3809	3809	Finishing agents, dye carriers to accelerate the dyeing or fixing of dyestuffs and other products and preparations (for example, dressings and mordants), of a kind used in the textile, paper, leather or like industries, not elsewhere specified or included:		
3809 10	3809 10	– With a basis of amylaceous substances		
3809 10 00	3809 10 10	– – Containing by weight of such substances 55 % or more but less than 55 %		
	3809 10 30	– – Containing by weight of such substances 55 % or more but less than 70 %	15 %	100
	3809 10 50	– – Containing by weight of such substances 70 % or more but less than 83 %		
	3809 10 90	– – Containing by weight of such substances 83 % or more		
3823	3823	Industrial monocarboxylic fatty acids; acid oils from refining; industrial fatty alcohols:		
		– Industrial monocarboxylic fatty acids; acid oils from refining:		
3823 11 00	3823 11 00	– – Stearic acid		
3823 12 00	3823 12 00	– – Oleic acid		
3823 13 00	3823 13 00	– – Tall oil fatty acids		
3823 19	3823 19	– – Other:		
3823 19 00	3823 19 10	– – – Distilled fatty acids	15 %	100
	3823 19 30	– – – Fatty acid distillate		
	3823 19 90	– – – Other		
3823 70 00	3823 70 00	– Industrial fatty alcohols		
3824	3824	Prepared binders for foundry moulds or cores; chemical products and preparations of the chemical or allied industries (including those consisting of mixtures of natural products), not elsewhere specified or included;		
3824 60	3824 60	– Sorbitol other than that of heading No 2905 44:		
		– – In aqueous solution:		
3824 60 00	3824 60 11	– – – Containing 2 % or less by weight of D-mannitol, calculated on the D-glucitol content		
	3824 60 19	– – – Other	15 %	100
		– – Other:		
	3824 60 91	– – – Containing 2 % or less by weight of D-mannitol, calculated on the D-glucitol content		
	3824 60 99	– – – Other		

LIST 2: DEFERRED CONCESSIONS (ARTICLE 15 OF THE AGREEMENT)

Algerian nomenclature	Equivalent CN code	Description
0403	0403	Buttermilk, curdled milk and cream, yoghurt, kephir and other fermented or acidified milk and cream, whether or not concentrated or containing added sugar or other sweetening matter or flavoured of containing added fruit or cocoa:
0403 10	0403 10	– Yoghurt:
		– – Flavoured or containing added fruit, nuts or cocoa:
		– – – In powder, granules or other solid forms, of a milkfat content, by weight:
0403 10 00	0403 10 51	– – – – 1,5 % or less
	0403 10 53	– – – – Exceeding 1,5 % but not exceeding 27 %
	0403 10 59	– – – – Exceeding 27 %
		– – – Other, of a milkfat content, by weight:
	0403 10 91	– – – – Not exceeding 3 %
	0403 10 93	– – – – Exceeding 3 % but not exceeding 6 %
	0403 10 99	– – – – Exceeding 6 %
0403 90	0403 90	– Other:
		– – Flavoured or containing added fruit, nuts or cocoa:
		– – – In powder, granules or other solid forms, of a milkfat content, by weight:
0403 90 00	0403 90 71	– – – – 1,5 % or less
	0403 90 73	– – – – Exceeding 1,5 % but not exceeding 27 %
	0403 90 79	– – – – Exceeding 27 %
		– – – Other, of a milkfat content, by weight:
	0403 90 91	– – – – Not exceeding 3 %
	0403 90 93	– – – – Exceeding 3 % but not exceeding 6 %
	0403 90 99	– – – – Exceeding 6 %
0405	0405	Butter and other fats and oils derived from milk; dairy spreads:
0405 20	0405 20	– Dairy spreads:
0405 20 00	0405 20 10	– – Of a fat content, by weight, of 39 % or more but less than 60 %
	0405 20 30	– – Of a fat content, by weight, of 60 % or more but not exceeding 75 %
0501 00 00	0501 00 00	Human hair, unworked, whether or not washed or scoured; waste of human hair
0502	0502	Pigs', hogs' or boars' bristles and hair; badger hair and other brush making hair; waste of such bristles or hair:
0503 00 00	0503 00 00	Horsehair and horsehair waste, whether or not put up as a layer with or without supporting material
0505	0505	Skins and other parts of birds, with their feathers or down, feathers and parts of feathers (whether or not with trimmed edges) and down, not further worked than cleaned, disinfected or treated for preservation; powder and waste of feathers or parts of feathers:
0506	0506	Bones and horn-cores, unworked, defatted, simply prepared (but not cut to shape), treated with acid or degelatinised; powder and waste of these products:
0507	0507	Ivory, tortoise-shell, whalebone and whalebone hair, horns, antlers, hooves, nails, claws and beaks, unworked or simply prepared but not cut to shape; powder and waste of these products:
0508 00 00	0508 00 00	Coral and similar materials unworked or simply prepared but not otherwise worked. Shells of molluscs, crustaceans or echinoderms and cuttle-bone, unworked or simply prepared but not cut to shape, powder and waste thereof

Algerian nomenclature	Equivalent CN code	Description
0509 00	0509 00	Natural sponges of animal origin
0510 00 00	0510 00 00	Ambergris, castoreum, civet and musk; cantharides; bile, whether or not dried, gland and other animal products used in the preparation of pharmaceutical products, fresh, chilled, frozen or otherwise provisionally preserved
0710	0710	Vegetables (uncooked or cooked by steaming or boiling in water), frozen:
0710 40 00	0710 40 00	– Sweet corn
0711	0711	Vegetables provisionally preserved (for example, by sulphur dioxide gas, in brine, in sulphur water or in other preservative solutions), but unsuitable in that state for immediate consumption:
0711 90	0711 90	– Other vegetables; mixtures of vegetables:
		– – Vegetables:
0711 90 00	0711 90 30	– – – Sweet corn
0903 00 00	0903 00 00	Maté
1212	1212	Locust beans, seaweeds and other algae, sugar beet and sugar cane, fresh, chilled, frozen or dried, whether or not ground; fruit stones and kernels and other vegetable products (including unroasted chicory roots of the variety Cichorium intybus sativum) of a kind used primarily for human consumption, not elsewhere specified or included:
1212 20 00	1212 20 00	– seaweed and other algae:
1302	1302	Vegetable saps and extracts; pectic substances, pectinates and pectates; agar-agar and other mucilages and thickeners, whether or not modified, derived from vegetable products:
		– Vegetable saps and extracts:
1302 12 00	1302 12 00	– – Of liquorice
1302 13 00	1302 13 00	– – Of hops
1302 14 00	1302 14 00	– – Of pyrethrum or of the roots of plants containing rotenone
1302 19	1302 19	– – Other:
1302 19 00	1302 19 30	– – – Intermixtures of vegetable extracts, for the manufacture of beverages or of food preparations
		– – – Other:
1302 20	1302 19 91	– – – – Medicinal
	1302 20	– Pectic substances, pectinates and pectates:
1302 31 00	1302 31 00	– – Agar-agar
1302 32	1302 32	– – Mucilages and thickeners, whether or not modified, derived from locust beans, locust bean seeds or guar seeds:
1302 32 00	1302 32 10	– – – Of locust beans or locust bean seeds
1401	1401	Vegetable materials of a kind used primarily for plaiting (for example, bamboos, rattans, reeds, rushes, osier, raffia, cleaned, bleached or dyed cereal straw, and lime bark):
1402 00 00	1402 00 00	Vegetable materials of a kind used primarily as stuffing or as padding (for example, kapok, vegetable hair and eel-grass), whether or not put up as a layer with or without supporting material
1403 00 00	1403 00 00	Vegetable materials of a kind used primarily in brooms or in brushes (for example, broomcorn piassava, couch-grass and istle), whether or not in hanks or bundles
1404	1404	Vegetable products not elsewhere specified or included:
1505	1505	Wool grease and fatty substances derived therefrom (including lanolin):

Algerian nomenclature	Equivalent CN code	Description
1506 00 00	1506 00 00	Other animal fats and oils and their fractions, whether or not refined, but not chemically modified
1515	1515	Other fixed vegetable fats and oils (including jojoba oil) and their fractions, whether or not refined, but not chemically modified:
1515 90 91	1515 90 15	– – Oiticica oils; myrtle wax; Japan wax; their fractions
1516	1516	Animal or vegetable fats and oils and their fractions, partly or wholly hydrogenated, inter-esterified, re-esterified or elaidinised, whether or not refined, but not further prepared:
1516 20	1516 20	– Vegetable fats and oils and their fractions:
	1516 20 10	– – Hydrogenated castor oil, so called ‘opal-wax’
1517	1517	Margarine; edible mixtures or preparations of animal or vegetable fats or oils or of fractions of different fats or oils of this Chapter, other than edible fats or oils or their fractions of heading No 1516
1517 10 00	1517 10	– Margarine, excluding liquid margarine:
	1517 10 10	– – Containing more than 10 % but not more than 15 % by weight of milk fats
1517 90	1517 90	– Other:
1517 90 00	1517 90 10	– – Containing more than 10 % but not more than 15 % by weight of milk fats
		– – Other:
	1517 90 93	– – – Edible mixtures or preparations of a kind used as mould release preparation
1520 00 00	1520 00 00	Glycerol, crude; glycerol waters and glycerol lyes
1521	1521	Vegetable waxes (other than triglycerides), beeswax, other insect waxes and spermaceti, whether or not refined or coloured:
1521 10 00	1521 10 00	– Vegetable waxes
1521 90	1521 90	– Other:
1521 90 00	1521 90 10	– – Spermaceti, whether or not refined or coloured
		– – Beeswax and other insect waxes, whether or not refined or coloured:
	1521 90 91	– – – Raw
	1521 90 99	– – – Other
1522 00	1522 00	Degras; residues resulting from the treatment of fatty substances or animal or vegetable waxes:
1522 00 00	1522 00 10	– Degras
1702	1702	Other sugars, including chemically pure lactose, maltose, glucose and fructose, in solid form; sugar syrups not containing added flavouring or colouring matter; artificial honey, whether or not mixed with natural honey; Caramel:
1702 50 00	1702 50 00	– Chemically pure fructose
1702 90	1702 90	– Other, including invert sugar: and other sugars and sugar sirops, containing in the dry state 50 % by weight of fructose
1702 90 00	1702 90 10	– – Chemically pure maltose
1803	1803	Cocoa paste, whether or not defatted:
1804 00 00	1804 00 00	Cocoa butter, fat and oil
1806	1806	Chocolate and other food preparations containing cocoa:
1806 10	1806 10	– Cocoa powder, containing added sugar or other sweetening matter:

Algerian nomenclature	Equivalent CN code	Description
1806 20	1806 20	– Other preparations in blocks, slabs or bars weighing more than 2 kg or in liquid, paste, powder, granular or other bulk form in containers or immediate packings, of a content exceeding 2 kg:
1806 32	1806 32	– – Not filled
1901	1901	Malt extract; food preparations of flour, meal, starch or malt extract, not containing cocoa or containing less than 40 % by weight of cocoa calculated on a totally defatted basis, not elsewhere specified or included; food preparations of goods of heading Nos 0401 to 0404, not containing cocoa or containing less than 5 % by weight of cocoa calculated on a totally defatted basis, not elsewhere specified or included:
1901 10 30	ex 1901 10 00	– Preparations for infant use, put up for retail sale
1901 20 00	1901 20 00	– Mixes and doughs for the preparation of bakers' wares of heading No 1905
1902	1902	Pasta, whether or not cooked or stuffed (with meat or other substances) or otherwise prepared, such as spaghetti, macaroni, noodles, lasagne, gnocchi, ravioli, cannelloni; couscous, whether or not prepared:
		– Uncooked pasta, not stuffed or otherwise prepared:
1902 11 00	1902 11 00	– – Containing eggs
1902 19	1902 19	– – Other:
1902 30	1902 30	– Other pasta:
1902 40	1902 40	– Couscous:
1903 00 00	1903 00 00	Tapioca and substitutes therefor prepared from starch, in the form of flakes, grains, pearls, siftings or similar forms
1904	1904	Prepared foods obtained by the swelling or roasting of cereals or cereal products (for example, corn flakes); cereals (other than maize (corn)) in grain form or in the form of flakes or other worked grains (except flour and meal), pre-cooked, or otherwise prepared, not elsewhere specified or included:
1904 10	1904 10	– Prepared foods obtained by the swelling or roasting of cereals or cereal products:
1904 20	1904 20	– Prepared foods obtained from unroasted cereal flakes or from mixtures of unroasted cereal flakes and roasted cereal flakes or swelled cereals:
1904 90	1904 90	– Other
1905	1905	Bread, pastry, cakes, biscuits and other bakers' wares, whether or not containing cocoa; communion wafers, empty cachets of a kind suitable for pharmaceutical use, sealing wafers, rice paper and similar products:
1905 10 00	1905 10 00	– Crispbread
1905 20	1905 20	– Gingerbread and the like:
1905 40	1905 40	– Rusks, toasted bread and similar toasted products:
2001	2001	Vegetables, fruit, nuts and other edible parts of plants, prepared or preserved by vinegar or acetic acid:
2001 90	2001 90	– Other:
2001 90 90	2001 90 30	– – Sweet corn (*zea mays* var. *saccharata*)
	2001 90 40	– – Yams, sweet potatoes and similar edible parts of plants containing 5 % or more by weight of starch
	2001 90 60	– – Palm hearts
2004	2004	Other vegetables prepared or preserved otherwise than by vinegar or acetic acid, frozen, other than products of heading No 2006:
2004 10	2004 10	– Potatoes:
		– – Other:
2004 10 00	2004 10 91	– – – in the form of flour, meal or flakes,

Algerian nomenclature	Equivalent CN code	Description
2004 90	2004 90	– other vegetables and mixtures of vegetables:
2004 90 90	2004 90 10	– – Sweet corn (*zea mays* var. *saccharata*)
2005	2005	Other vegetables prepared or preserved otherwise than by vinegar or acetic acid, frozen, other than products of heading No 2006:
2005 20	2005 20	– Potatoes:
2005 20 00	2005 20 10	– – in the form of flour, meal or flakes,
2008	2008	Fruits, nuts and other edible parts of plants, otherwise prepared or preserved, whether or not containing added sugar or other sweetening matter or spirit, not elsewhere specified or included:
		– Nuts, ground-nuts and other seeds, whether or not mixed together:
2008 11	2008 11	– – Ground-nuts:
2008 11 00	2008 11 10	– – – Peanut butter
		– Other, including mixtures other than those of subheading 2008 19:
2008 91 00	2008 91 00	– – Palm hearts
2008 99	2008 99	– – Other:
2008 99 00		– – – Not containing added spirit:
		– – – – Not containing added sugar:
	2008 99 85	– – – – – Maize (corn), other than sweet corn (*Zea mays* var. *saccharata*)
	2008 99 91	– – – – – Yams, sweet potatoes and similar edible parts of plants, containing 5 % or more by weight of starch
2101	2101	Extracts, essences and concentrates, of coffee, tea or maté preparations with a basis of these products or with a basis of coffee, tea or maté; roasted chicory and other roasted coffee substitutes and extracts, essences and concentrates, thereof:
		– Extracts, essences and concentrates of coffee, and preparations with a basis of these extracts, essences or concentrates or with a basis of coffee:
2101 11	2101 11	– – Extracts, essences and concentrates:
2101 12	2101 12	– – Preparations with a basis of these extracts, essences or concentrates or with a basis of coffee:
2101 20	2101 20	– Extracts, essences and concentrates, of tea or maté, and preparations with a basis of these extracts, essences or concentrates, or with a basis of tea or maté:
2101 30	2101 30	– Roasted chicory and other roasted coffee substitutes, and extracts, essences and concentrates thereof:
2102	2102	Yeasts (active or inactive); other single-cell micro-organisms, dead (but not including vaccines of No 3002); prepared baking powders:
2102 20	2102 20	– Inactive yeasts; other single-cell micro-organisms, dead:
		– – Inactive yeasts:
2102 20 00	2102 20 11	– – – In tablet, cube or similar form, or in immediate packings of a net content not exceeding 1 kg
	2102 20 19	– – – Other
	2102 20 90	– – Other
2103	2103	Sauces and preparations therefor; mixed condiments and mixed seasonings; mustard flour and meal and prepared mustard:
2103 10 00	2103 10 00	– Soya sauce
2103 20 00	2103 20 00	– Tomato ketchup and other tomato sauces

Algerian nomenclature	Equivalent CN code	Description
2103 30	2103 30	– Mustard flour and meal and prepared mustard:
2103 90	2103 90	– Other:
2103 90 10	2103 90 10	– – Mango chutney, liquid
	2103 90 30	– – Aromatic bitters of an alcoholic strength by volume of 44,2 to 49,2 % vol containing from 1,5 to 6 % by weight of gentian, spices and various ingredients and from 4 to 10 % of sugar, in containers holding 0,5 litre or less
2104	2104	Soups and broths and preparations therefor; homogenized composite food preparations:
2104 20 00	2104 20 00	– Homogenized composite food preparations
2106	2106	Food preparations not elsewhere specified or included:
2106 10	2106 10	– Protein concentrates and textured protein substances:
2106 10 00	2106 10 20	– – Containing no milk fats, sucrose, isoglucose, glucose or starch or containing by weight less than 1,5 % milk fat, 5 % sucrose or isoglucose, 5 % glucose or starch
	2106 10 80	– – Other
2201	2201	Waters, including natural or artificial mineral waters and aerated waters, not containing added sugar or other sweetening matter nor flavoured; ice and snow:
2201 90 00	2201 90 00	– Other
2202	2202	Waters, including mineral waters and aerated waters, containing added sugar or other sweetening matter or flavoured, and other non-alcoholic beverages, not including fruit or vegetable juices of heading No 2009:
2202 10 00	2202 10 00	– Waters including mineral waters and aerated waters, containing added sugar or other sweetening matter or flavoured
2205	2205	Vermouth and other wine of fresh grapes flavoured with plants or aromatic substances
2205 10	2205 10	– In containers holding 2 litres or less:
2205 90	2205 90	– Other:
2207	2207	Undenatured ethyl alcohol of an alcoholic strength by volume of 80 % vol or higher; ethyl alcohol and other spirits, denatured, of any strength:
2208	2208	Undenatured ethyl alcohol strength by volume of less than 80 % vol; spirits, liqueurs and other spirituous beverages:
2208 20 00	2208 20	– Spirits obtained by distilling grape wine or grape marc:
2208 90 00	2208 90	– Other:
2402	2402	Cigars, cheroots, cigarillos and cigarettes, of tobacco or of tobacco substitutes:
2402 10 00	2402 10 00	– Cigars, cheroots and cigarillos, containing tobacco
2402 20	2402 20	– Cigarettes containing tobacco:
2402 90 00	2402 90 00	– Other
2403	2403	Other manufactured tobacco and manufactured tobacco substitutes; 'homogenized' or 'reconstituted' tobacco; tobacco extracts and essences:
2403 10	2403 10	– Smoking tobacco, whether or not containing tobacco substitutes in any proportion:
2403 91 00	2403 91 00	– – 'Homogenized' or 'reconstituted' tobacco
2403 99	2403 99	– – Other:

PROTOCOL No 6

CONCERNING THE DEFINITION OF ORIGINATING PRODUCTS AND METHODS OF ADMINISTRATIVE COOPERATION

TITLE I

GENERAL PROVISIONS

Article 1

Definitions

For the purposes of this Protocol:

(a) 'manufacture' means any kind of working or processing including assembly or specific operations;

(b) 'material' means any ingredient, raw material, component or part, etc., used in the manufacture of the product;

(c) 'product' means the product being manufactured, even if it is intended for later use in another manufacturing operation;

(d) 'goods' means both materials and products;

(e) 'customs value' means the value as determined in accordance with the 1994 Agreement on implementation of Article VII of the General Agreement on Tariffs and Trade (WTO Agreement on customs valuation);

(f) 'ex-works price' means the price paid for the product ex works to the manufacturer in the Community or in Algeria in whose undertaking the last working or processing is carried out, provided the price includes the value of all the materials used, minus any internal taxes which are, or may be, repaid when the product obtained is exported;

(g) 'value of materials' means the customs value at the time of importation of the non-originating materials used, or, if this is not known and cannot be ascertained, the first ascertainable price paid for the materials in the Community or in Algeria;

(h) 'value of originating materials' means the value of such materials as defined in (g) applied *mutatis mutandis*;

(i) 'added value' means the ex-works price minus the customs value of each of the products incorporated which did not originate in the country in which those products were obtained;

(j) 'chapters' and 'headings' mean the chapters and the headings (four-digit codes) used in the nomenclature which makes up the Harmonised Commodity Description and Coding System, referred to in this Protocol as 'the Harmonised System' or 'HS';

(k) 'classified' refers to the classification of a product or material under a particular heading;

(l) 'consignment' means products which are either sent simultaneously from one exporter to one consignee or covered by a single transport document covering their shipment from the exporter to the consignee or, in the absence of such a document, by a single invoice;

(m) 'territories' includes territorial waters.

TITLE II

DEFINITION OF THE CONCEPT OF 'ORIGINATING PRODUCTS'

Article 2

General provisions

1. For the purpose of implementing this Agreement, the following products shall be considered as originating in the Community:

(a) products wholly obtained in the Community within the meaning of Article 6;

(b) products obtained in the Community incorporating materials which have not been wholly obtained there, provided that such materials have undergone sufficient working or processing in the Community within the meaning of Article 7.

2. For the purpose of implementing this Agreement, the following products shall be considered as originating in Algeria:

(a) products wholly obtained in Algeria within the meaning of Article 6;

(b) products obtained in Algeria incorporating materials which have not been wholly obtained there, provided that such materials have undergone sufficient working or processing in Algeria within the meaning of Article 7.

Article 3

Bilateral cumulation of origin

1. Materials originating in the Community shall be considered as materials originating in Algeria when incorporated into a product obtained there. It shall not be necessary that such materials have undergone sufficient working or processing, provided they have undergone working or processing going beyond that referred to in Article 8(1).

2. Materials originating in Algeria shall be considered as materials originating in the Community when incorporated into a product obtained there. It shall not be necessary that such materials have undergone sufficient working or processing, provided they have undergone working or processing going beyond that referred to in Article 8(1).

Article 4

Cumulation with materials originating in Morocco or Tunisia

1. Notwithstanding Article 2(1)(b) and subject to the provisions of paragraphs 3 and 4, materials originating in Morocco or Tunisia within the meaning of Protocol No 4 annexed to the Agreements between the Community and these countries shall be considered as originating in the Community and it shall not be necessary that such materials have undergone sufficient working or processing, on condition however that they have undergone working or processing beyond that referred to in Article 8(1).

2. Notwithstanding Article 2(2)(b) and subject to the provisions of paragraphs 3 and 4, materials originating in Morocco or Tunisia within the meaning of Protocol No 4 annexed to the Agreements between the Community and these countries shall be considered as originating in Algeria and it shall not be necessary that such materials have undergone sufficient working or processing, on condition however that they have undergone working or processing beyond that referred to in Article 8(1).

3. The provisions set out in paragraphs 1 and 2 concerning materials originating in Tunisia are only applicable to the extent that trade between the Community and Tunisia and between Algeria and Tunisia, is governed by identical rules of origin.

4. The provisions set out in paragraphs 1 and 2 concerning materials originating in Morocco are only applicable to the extent that trade between the Community and Morocco and between Algeria and Morocco, is governed by identical rules of origin.

Article 5

Cumulation of working or processing

1. For the purpose of implementing Article 2(1)(b), working or processing carried out in Algeria, or, when the conditions required by Article 4(3) and (4) are fulfilled, in Morocco or in Tunisia shall be considered as having been carried out in the Community when the products obtained undergo subsequent working or processing in the Community.

2. For the purpose, of implementing Article 2(2)(b), working or processing carried out in the Community or, when the conditions required by Article 4(3) and (4) are fulfilled, in Morocco or in Tunisia shall be considered as having been carried out in Algeria when the products obtained undergo subsequent working or processing in Algeria.

3. Where pursuant to the provisions of paragraph 1 or 2 the originating products are obtained in two or more of the States referred to in those provisions or in the Community, they shall be considered as originating products of the State or the Community according to where the last working or processing took place, provided that that working or processing went beyond that referred to in Article 8.

Article 6

Wholly obtained products

1. The following shall be considered as wholly obtained in the Community or Algeria:

(a) mineral products extracted from their soil or from their seabed;

(b) vegetable products harvested there;

(c) live animals born and raised there;

(d) products from live animals raised there;

(e) products obtained by hunting or fishing conducted there;

(f) products of sea fishing and other products taken from the sea outside the territorial waters of the Community or Algeria by their vessels;

(g) products made aboard their factory ships exclusively from products referred to in subparagraph (f);

(h) used articles collected there fit only for the recovery of raw materials, including used tyres fit only for retreading or use as waste;

(i) waste and scrap resulting from manufacturing operations conducted there;

(j) products extracted from marine soil or subsoil outside their territorial waters provided that they have sole rights to work that soil or subsoil;

(k) goods produced exclusively from products specified in subparagraphs (a) to (j).

2. The terms 'their vessels' and 'their factory ships' in paragraph 1(f) and (g) shall apply only to vessels and factory ships:

(a) which are registered or recorded in a Community Member State or in Algeria;

(b) which sail under the flag of a Community Member State or of Algeria;

(c) which are owned to an extent of at least 50 % by nationals of a Community Member State or of Algeria, or by a company with its head office in one of these States, of which the manager or managers, Chairman of the Board of Directors or the Supervisory Board, and the majority of the members of such boards are nationals of a Community Member State or of Algeria and of which, in addition, in the case of partnerships or limited companies, at least half the capital belongs to those States or to public bodies or nationals of the said States;

(d) of which the master and officers are nationals of Community Member States or of Algeria; and

(e) of which at least 75 % of the crew are nationals of Community Member States or of Algeria

Article 7

Sufficiently worked or processed products

1. For the purposes of Article 2, products which are not wholly obtained are considered to be sufficiently worked or processed when the conditions set out in the list in Annex II are fulfilled.

The conditions referred to above indicate, for all products covered by the Agreement, the working or processing which must be carried out on non-originating materials used in manufacturing and apply only in relation to such materials. It follows that if a product which has acquired originating status by fulfilling the conditions set out in the list is used in the manufacture of another product, the conditions applicable to the product in which it is incorporated do not apply to it, and no account shall be taken of the non-originating materials which may have been used in its manufacture.

2. Notwithstanding paragraph 1, non-originating materials which, according to the conditions set out in the list, should not be used in the manufacture of a product may nevertheless be used, provided that:

(a) their total value does not exceed 10 % of the ex-works price of the product;

(b) any of the percentages given in the list for the maximum value of non-originating materials are not exceeded through the application of this paragraph.

This paragraph shall not apply to products falling within Chapters 50 to 63 of the Harmonised System.

3. Paragraphs 1 and 2 shall apply except as provided in Article 8.

Article 8

Insufficient working or processing operations

1. Without prejudice to paragraph 2, the following operations shall be considered as insufficient working or processing to confer the status of originating products, whether or not the requirements of Article 7 are satisfied:

(a) operations to ensure the preservation of products in good condition during transport and storage (ventilation, spreading out, drying, chilling, placing in salt, sulphur dioxide or other aqueous solutions, removal of damaged parts, and like operations);

(b) simple operations consisting of removal of dust, sifting or screening, sorting, classifying, matching (including the making-up of sets of articles), washing, painting, cutting up;

(c) (i) changes of packaging and division and assembly of packages;

(ii) simple placing in bottles, flasks, bags, cases, boxes, fixing on cards or boards, etc., and all other simple packaging operations;

(d) affixing marks, labels and other like distinguishing signs on products or their packaging;

(e) simple mixing of products, whether or not of different kinds, where one or more components of the mixtures do not meet the conditions laid down in this Protocol to enable them to be considered as originating in the Community or Algeria;

(f) simple assembly of parts to constitute a complete product;

(g) a combination of two or more operations specified in subparagraphs (a) to (f);

(h) slaughter of animals.

2. All the operations carried out in either the Community or Algeria on a given product shall be considered together when determining whether the working or processing undergone by that product is to be regarded as insufficient within the meaning of paragraph 1.

Article 9

Unit of qualification

1. The unit of qualification for the application of the provisions of this Protocol shall be the particular product which is considered as the basic unit when determining classification using the nomenclature of the Harmonised System.

It follows that:

(a) when a product composed of a group or assembly of articles is classified under the terms of the Harmonised System in a single heading, the whole constitutes the unit of qualification;

(b) when a consignment consists of a number of identical products classified under the same heading of the Harmonised System, each product must be taken individually when applying the provisions of this Protocol.

2. Where, under General Rule 5 of the Harmonised System, packaging is included with the product for classification purposes, it shall be included for the purposes of determining origin.

Article 10

Accessories, spare parts and tools

Accessories, spare parts and tools dispatched with a piece of equipment, machine, apparatus or vehicle, which are part of the normal equipment and included in the price thereof or which are not separately invoiced, shall be regarded as one with the piece of equipment, machine, apparatus or vehicle in question.

Article 11

Sets

Sets, as defined in General Rule 3 of the Harmonised System, shall be regarded as originating when all component products are originating. Nevertheless, when a set is composed of originating and non-originating products, the set as a whole shall be regarded as originating, provided that the value of the non-originating products does not exceed 15 % of the ex-works price of the set.

Article 12

Neutral elements

In order to determine whether a product originates, it shall not be necessary to determine the origin of the following which might be used in its manufacture:

(a) energy and fuel;

(b) plant and equipment;

(c) machines and tools;

(d) goods which do not enter and which are not intended to enter into the final composition of the product.

TITLE III

TERRITORIAL REQUIREMENTS

Article 13

Principle of territoriality

1. The conditions set out in Title II relative to the acquisition of originating status must be fulfilled without interruption in the Community or in Algeria without prejudice to the provisions of Articles 4 and 5.

2. Except as provided for in Articles 4 and 5, where originating goods exported from the Community or from Algeria to another country return, they must be considered as non-originating, unless it can be demonstrated to the satisfaction of the customs authorities that:

(a) the returning goods are the same as those exported; and

(b) they have not undergone any operation beyond that necessary to preserve them in good condition while in that country or while being exported.

Article 14

Direct transport

1. The preferential treatment provided for under the Agreement applies only to products, satisfying the requirements of this Protocol, which are transported directly between the Community and Algeria or through the territories of the other countries referred to in Articles 4 and 5. However, products constituting one single consignment may be transported through other territories with, should the occasion arise, transhipment or temporary warehousing in such territories, provided that they remain under the surveillance of the customs authorities in the country of transit or warehousing and do not undergo operations other than unloading, reloading or any operation designed to preserve them in good condition.

Originating products may be transported by pipeline across territory other than that of the Community or Algeria.

2. Evidence that the conditions set out in paragraph 1 have been fulfilled shall be supplied to the customs authorities of the importing country by the production of:

(a) a single transport document covering the passage from the exporting country through the country of transit; or

(b) a certificate issued by the customs authorities of the country of transit:

   (i) giving an exact description of the products;

   (ii) stating the dates of unloading and reloading of the products and, where applicable, the names of the ships, or the other means of transport used; and

   (iii) certifying the conditions under which the products remained in the transit country; or

(c) failing these, any substantiating documents.

Article 15

Exhibitions

1. Originating products, sent for exhibition in a country other than those referred to in Articles 5 and 4 and sold after the exhibition for importation in the Community or in Algeria shall benefit on importation from the provisions of the Agreement provided it is shown to the satisfaction of the customs authorities that:

(a) an exporter has consigned these products from the Community or from Algeria to the country in which the exhibition is held and has exhibited them there;

(b) the products have been sold or otherwise disposed of by that exporter to a person in the Community or in Algeria;

(c) the products have been consigned during the exhibition or immediately thereafter in the state in which they were sent for exhibition; and

(d) the products have not, since they were consigned for exhibition, been used for any purpose other than demonstration at the exhibition.

2. A proof of origin must be issued or made out in accordance with the provisions of Title V and submitted to the customs authorities of the importing country in the normal manner. The name and address of the exhibition must be indicated thereon. Where necessary, additional documentary evidence of the conditions under which they have been exhibited may be required.

3. Paragraph 1 shall apply to any trade, industrial, agricultural or crafts exhibition, fair or similar public show or display which is not organised for private purposes in shops or business premises with a view to the sale of foreign products, and during which the products remain under customs control.

TITLE IV

DRAWBACK OR EXEMPTION

Article 16

Prohibition of drawback of or exemption from customs duties

1. Non-originating materials used in the manufacture of products originating in the Community, in Algeria or in one of the other countries referred to in Articles 4 and 5 for which a proof of origin is issued or made out in accordance with the provisions of Title V shall not be subject in the Community or in Algeria to drawback of, or exemption from, customs duties of whatever kind.

2. The prohibition in paragraph 1 shall apply to any arrangement for refund, remission or non-payment, partial or complete, of customs duties or charges having an equivalent effect, applicable in the Community or in Algeria to materials used in the manufacture, where such refund, remission or non-payment applies, expressly or in effect, when products obtained from the said materials are exported and not when they are retained for home use there.

3. The exporter of products covered by a proof of origin shall be prepared to submit at any time, upon request from the customs authorities, all appropriate documents proving that no drawback has been obtained in respect of the non-originating materials used in the manufacture of the products concerned and that all customs duties or charges having equivalent effect applicable to such materials have actually been paid.

4. The provisions of paragraphs 1 to 3 shall also apply in respect of packaging within the meaning of Article 9(2), accessories, spare parts and tools within the meaning of Article 10 and products in a set within the meaning of Article 11 when such items are non-originating.

5. The provisions of paragraphs 1 to 4 shall apply only in respect of materials which are of the kind to which the Agreement applies. Furthermore, they shall not preclude the application of an export refund system for agricultural products, applicable upon export in accordance with the provisions of the Agreement.

6. The provisions of this Article shall not apply for six years following the entry into force of the Agreement.

7. After the entry into force of the provisions of this Article and notwithstanding paragraph 1, Algeria may apply arrangements for drawback of, or exemption from, customs duties or charges having an equivalent effect, applicable to materials used in the manufacture of originating products, subject to the following provisions:

(a) a 5 % rate of customs charge shall be retained in respect of products falling within Chapters 25 to 49 and 64 to 97 of the Harmonised System, or such lower rate as is in force in Algeria;

(b) a 10 % rate of customs charge shall be retained in respect of products falling within Chapters 50 to 63 of the Harmonised System, or such lower rate as is in force in Algeria.

The provisions of this paragraph shall be reviewed before the end of the transitional period referred to in Article 6 of the Agreement.

TITLE V

PROOF OF ORIGIN

Article 17

General provisions

1. Products originating in the Community shall, on importation into Algeria and products originating in Algeria shall, on importation into the Community benefit from the Agreement upon submission of either:

(a) a movement certificate EUR.1, a specimen of which appears in Annex III; or

(b) in the cases specified in Article 22(1), a declaration, subsequently referred to as the 'invoice declaration', given by the exporter on an invoice, a delivery note or any other commercial document which describes the products concerned in sufficient detail to enable them to be identified. The text of the invoice declaration appears in Annex IV.

2. Notwithstanding paragraph 1, originating products within the meaning of this Protocol shall, in the cases specified in Article 27, benefit from the Agreement without it being necessary to submit any of the documents referred to above.

Article 18

Procedure for the issue of an EUR.1 movement certificate

1. A movement certificate EUR.1 shall be issued by the customs authorities of the exporting country on application having been made in writing by the exporter or, under the exporter's responsibility, by his authorised representative.

2. For this purpose, the exporter or his authorised representative shall fill out both the movement certificate EUR.1 and the application form, specimens of which appear in Annex III. These forms shall be completed in one of the languages in which this Agreement is drawn up and in accordance with the provisions of the domestic law of the exporting country. If they are hand-written, they shall be completed in ink in printed characters. The description of the products must be given in the box reserved for this purpose without leaving any blank lines. Where the box is not completely filled, a horizontal line must be drawn below the last line of the description, the empty space being crossed through.

3. The exporter applying for the issue of a movement certificate EUR.1 shall be prepared to submit at any time, at the request of the customs authorities of the exporting country where the movement certificate EUR.1 is issued, all appropriate documents proving the originating status of the products concerned as well as the fulfilment of the other requirements of this Protocol.

4. A movement certificate EUR.1 shall be issued by the customs authorities of an EC Member State or Algeria if the products concerned can be considered as products originating in the Community, Algeria or in one of the other countries referred to in Articles 4 and 5 and fulfil the other requirements of this Protocol.

5. The customs authorities issuing movement certificates EUR.1 shall take any steps necessary to verify the originating status of the products and the fulfilment of the other requirements of this Protocol. For this purpose, they shall have the right to call for any evidence and to carry out any inspection of the exporter's accounts or any other check considered appropriate. They shall also ensure that the forms referred to in paragraph 2 are duly completed. In particular, they shall check whether the space reserved for the description of the products has been completed in such a manner as to exclude all possibility of fraudulent additions.

6. The date of issue of the movement certificate EUR.1 shall be indicated in Box 11 of the certificate.

7. A movement certificate EUR.1 shall be issued by the customs authorities and made available to the exporter as soon as actual exportation has been effected or ensured.

Article 19

Movement certificates EUR.1 issued retrospectively

1. Notwithstanding Article 18(7), a movement certificate EUR.1 may exceptionally be issued after exportation of the products to which it relates if:

(a) it was not issued at the time of exportation because of errors or involuntary omissions or special circumstances; or

(b) it is demonstrated to the satisfaction of the customs authorities that a movement certificate EUR.1 was issued but was not accepted at importation for technical reasons.

2. For the implementation of paragraph 1, the exporter must indicate in his application the place and date of exportation of the products to which the movement certificate EUR.1 relates, and state the reasons for his request.

3. The customs authorities may issue a movement certificate EUR.1 retrospectively only after verifying that the information supplied in the exporter's application agrees with that in the corresponding file.

4. Movement certificates EUR.1 issued retrospectively must be endorsed with one of the following phrases:

ES ‘EXPEDIDO A POSTERIORI’
DA ‘UDSTEDT EFTERFØLGENDE’
DE ‘NACHTRÄGLICH AUSGESTELLT’
EL ‘ΕΚΔΟΘΕΝ ΕΚ ΤΩΝ ΥΣΤΕΡΩΝ’
EN ‘ISSUED RETROSPECTIVELY’
FR ‘DÉLIVRÉ A POSTERIORI’
IT ‘RILASCIATO A POSTERIORI’
NL ‘AFGEGEVEN A POSTERIORI’
PT ‘EMITIDO A POSTERIORI’
FI ‘ANNETTU JÄLKIKÄTEEN’
SV ‘UTFÄRDAT I EFTERHAND’
DZ ‘سلمت لاحقا’

5. The endorsement referred to in paragraph 4 shall be inserted in the ‘Remarks’ box of the movement certificate EUR.1.

Article 20

Issue of a duplicate movement certificate EUR.1

1. In the event of theft, loss or destruction of a movement certificate EUR.1, the exporter may apply to the customs authorities which issued it for a duplicate made out on the basis of the export documents in their possession.

2. The duplicate issued in this way must be endorsed with one of the following words:

ES 'DUPLICADO'
DA 'DUPLIKAT'
DE 'DUPLIKAT'
EL 'ΑΝΤΙΓΡΑΦΟ'
EN 'DUPLICATE'
FR 'DUPLICATA'
IT 'DUPLICATO'
NL 'DUPLICAAT'
PT 'SEGUNDA VIA'
FI 'KAKSOISKAPPALE'
SV 'DUPLIKAT'
DZ 'نسخة'

3. The endorsement referred to in paragraph 2 shall be inserted in the 'Remarks' box of the duplicate movement certificate EUR.1.

4. The duplicate, which must bear the date of issue of the original movement certificate EUR 1, shall take effect as from that date.

Article 21

Issue of movement certificates EUR.1 on the basis of a proof of origin issued or made out previously

When originating products are placed under the control of a customs office in the Community or in Algeria, it shall be possible to replace the original proof of origin by one or more movement certificates EUR.1 for the purpose of sending all or some of these products elsewhere within the Community or Algeria. The replacement movement certificate(s) EUR.1 shall be issued by the customs office under whose control the products are placed.

Article 22

Conditions for making out an invoice declaration

1. An invoice declaration as referred to in Article 17(1)(b) may be made out:

(a) by an approved exporter within the meaning of Article 23, or

(b) by any exporter for any consignment consisting of one or more packages containing originating products whose total value does not exceed EUR 6 000.

2. An invoice declaration may be made out if the products concerned can be considered as products originating in the Community, in Algeria or in one of the other countries referred to in Articles 4 and 5 and fulfil the other requirements of this Protocol.

3. The exporter making out an invoice declaration shall be prepared to submit at any time, at the request of the customs authorities of the exporting country, all appropriate documents proving the originating status of the products concerned as well as the fulfilment of the other requirements of this Protocol.

4. An invoice declaration shall be made out by the exporter by typing, stamping or printing on the invoice, the delivery note or another commercial document, the declaration, the text of which appears in Annex IV, using one of the linguistic versions set out in that Annex and in accordance with the provisions of the domestic law of the exporting country. If the declaration is handwritten, it shall be written in ink in printed characters.

5. Invoice declarations shall bear the original signature of the exporter in manuscript. However, an approved exporter within the meaning of Article 23 shall not be required to sign such declarations provided that he gives the customs authorities of the exporting country a written undertaking that he accepts full responsibility for any invoice declaration which identifies him as if it had been signed in manuscript by him.

6. An invoice declaration may be made out by the exporter when the products to which it relates are exported, or after exportation on condition that it is presented in the importing country no longer than two years after the importation of the products to which it relates.

Article 23

Approved exporter

1. The customs authorities of the exporting country may authorise any exporter, hereinafter referred to as 'approved exporter' who makes frequent shipments of products under the Agreement to make out invoice declarations irrespective of the value of the products concerned. An exporter seeking such authorisation must offer to the satisfaction of the customs authorities all guarantees necessary to verify the originating status of the products as well as the fulfilment of the other requirements of this Protocol.

2. The customs authorities may grant the status of approved exporter subject to any conditions which they consider appropriate.

3. The customs authorities shall grant to the approved exporter a customs authorisation number which shall appear on the invoice declaration.

4. The customs authorities shall monitor the use of the authorisation by the approved exporter.

5. The customs authorities may withdraw the authorisation at any time. They shall do so where the approved exporter no longer offers the guarantees referred to in paragraph 1, no longer fulfils the conditions referred to in paragraph 2 or otherwise makes an incorrect use of the authorisation.

Article 24

Validity of proof of origin

1. A proof of origin shall be valid for four months from the date of issue in the exporting country, and must be submitted within the said period to the customs authorities of the importing country.

2. Proofs of origin which are submitted to the customs authorities of the importing country after the final date for presentation specified in paragraph 1 may be accepted for the purpose of applying preferential treatment, where the failure to submit these documents by the final date set is due to exceptional circumstances.

3. In other cases of belated presentation, the customs authorities of the importing country may accept the proofs of origin where the products have been submitted before the said final date.

Article 25

Submission of proof of origin

Proofs of origin shall be submitted to the customs authorities of the importing country in accordance with the procedures applicable in that country. The said authorities may require a translation of a proof of origin. They may also require the import declaration to be accompanied by a statement from the importer to the effect that the products meet the conditions required for the implementation of the Agreement.

Article 26

Importation by instalments

Where, at the request of the importer and on the conditions laid down by the customs authorities of the importing country, dismantled or non-assembled products within the meaning of General Rule 2(a) of the Harmonised System falling within Sections XVI and XVII or headings 7308 and 9406 of the Harmonised System are imported by instalments, a single proof of origin for such products shall be submitted to the customs authorities upon importation of the first instalment.

Article 27

Exemptions from formal proof of origin

1. Products sent as small packages from private persons to private persons or forming part of travellers' personal luggage shall be admitted as originating products without requiring the submission of a proof of origin, provided that such products are not imported by way of trade and have been declared as meeting the requirements of this Protocol and where there is no doubt as to the veracity of such a declaration. In the case of products sent by post, this declaration can be made on the customs declaration CN22/CN23 or on a sheet of paper annexed to that document.

2. Imports which are occasional and consist solely of products for the personal use of the recipients or travellers or their families shall not be considered as imports by way of trade if it is evident from the nature and quantity of the products that no commercial purpose is in view.

3. Furthermore, the total value of these products shall not exceed EUR 500 in the case of small packages or EUR 1 200 in the case of products forming part of travellers' personal luggage.

Article 28

Declaration by the supplier and information certificate

1. When a movement certificate EUR.1 is issued or an invoice declaration is made out for originating products manufactured using goods that have undergone working or processing in one or more of the countries referred to in Article 5 without obtaining originating status, account shall be taken of the supplier's declaration(s) regarding those goods in accordance with the provisions of this Article. The supplier's declaration, of which a specimen is given in Annex V, shall be supplied by the exporter in the State of export either on the commercial invoice for the products or annexed thereto.

2. The customs office concerned may ask the exporter to produce the information certificate issued as provided for in paragraph 3, of which a specimen is given in Annex VII, either in order to check the authenticity and accuracy of information given on the declaration provided for in paragraph 1, or in order to obtain additional information.

3. The information certificate concerning the products used shall be issued at the request of the exporter of these products, either in the circumstances set out in paragraph 2 or at the exporter's initiative, by the competent customs office in the State from which the goods were exported. It shall be made out in duplicate. One copy shall be given to the exporter who has requested it, who shall send it either to the exporter of the final products or to the customs office where the issue of the EUR.1 movement certificate for these products has been requested. The second copy shall be preserved for at least three years by the customs office which has issued it.

Article 29

Supporting documents

The documents referred to in Articles 18(3) and 22(3) used for the purpose of proving that products covered by a movement certificate EUR.1 or an invoice declaration can be considered as products originating in the Community, in Algeria or in one of the other countries referred to in Articles 4 and 5 and fulfil the other requirements of this Protocol may consist inter alia of the following:

(a) direct evidence of the processes carried out by the exporter or supplier to obtain the goods concerned, contained for example in his accounts or internal book-keeping;

(b) documents proving the originating status of materials used, issued or made out in the Community or in Algeria where these documents are used in accordance with domestic law;

(c) documents proving the working or processing of materials in the Community or in Algeria issued or made out in the Community or in Algeria, where these documents are used in accordance with domestic law;

(d) movement certificates EUR.1 or invoice declarations proving the originating status of materials used, issued or made out in the Community or in Algeria in accordance with this Protocol, or in one of the other countries referred to in Articles 4 and 5, in accordance with rules of origin which are identical to the rules in this Protocol;

(e) supplier's declarations and information certificates proving the working or processing undergone by the materials used in the manufacture of the goods concerned, made out in the countries referred to in Article 4 in accordance with the provisions of this Protocol.

Article 30

Preservation of proof of origin and supporting documents

1. The exporter applying for the issue of a movement certificate EUR.1 shall keep for at least three years the documents referred to in Article 18(3).

2. The exporter making out an invoice declaration shall keep for at least three years a copy of this invoice declaration as well as the documents referred to in Article 22(3).

3. The customs authorities of the exporting country issuing a movement certificate EUR.1 shall keep for at least three years the application form referred to in Article 18(2).

4. The customs authorities of the importing country shall keep for at least three years the movement certificates EUR.1 and the invoice declarations submitted to them.

Article 31

Discrepancies and formal errors

1. The discovery of slight discrepancies between the statements made in the proof of origin and those made in the documents submitted to the customs office for the purpose of carrying out the formalities for importing the products shall not ipso facto render the proof of origin null and void if it is duly established that this document does correspond to the products submitted.

2. Obvious formal errors such as typing errors on a proof of origin should not cause this document to be rejected if these errors are not such as to create doubts concerning the correctness of the statements made in this document.

Article 32

Amounts expressed in euros

1. For the application of the provisions of Article 22(1)(b) and Article 27(3) in cases where products are invoiced in a currency other than euros, amounts in the national currencies of the Member States of the Community, of Algeria and of the other countries referred to in Articles 4 and 5 equivalent to the amounts expressed in euros shall be fixed annually by each of the countries concerned.

2. A consignment shall benefit from the provisions of Article 22(1)(b) or Article 27(3) by reference to the currency in which the invoice is drawn up, according to the amount fixed by the country concerned.

3. The amounts to be used in any given national currency shall be the equivalent in that currency of the amounts expressed in euros as at the first working day of October. The amounts shall be communicated to the Commission of the European Communities by 15 October and shall apply from 1 January the following year. The Commission of the European Communities shall notify all countries concerned of the relevant amounts.

4. A country may round up or down the amount resulting from the conversion into its national currency of an amount expressed in euros. The rounded-off amount may not differ from the amount resulting from the conversion by more than 5 %. A country may retain unchanged its national currency equivalent of an amount expressed in euros if, at the time of the annual adjustment provided for in paragraph 3, the conversion of that amount, prior to any rounding-off, results in an increase of less than 15 % in the national currency equivalent. The national currency equivalent may be retained unchanged if the conversion would result in a decrease in that equivalent value.

5. The amounts expressed in euros shall be reviewed by the Association Committee at the request of the Community or of Algeria. When carrying out this review, the Association Committee shall consider the desirability of preserving the effects of the limits concerned in real terms. For this purpose, it may decide to modify the amounts expressed in euros.

TITLE VI

ARRANGEMENTS FOR ADMINISTRATIVE COOPERATION

Article 33

Mutual assistance

1. The customs authorities of the Member States of the Community and of Algeria shall provide each other, through the Commission of the European Communities, with specimen impressions of stamps used in their customs offices for the issue of movement certificates EUR.1 and with the addresses of the customs authorities responsible for verifying those certificates and invoice declarations.

2. In order to ensure the proper application of this Protocol, the Community and Algeria shall assist each other, through the competent customs administrations, in checking the authenticity of the movement certificates EUR.1 or the invoice declarations and the correctness of the information given in these documents.

Article 34

Verification of proof of origin

1. Subsequent verifications of proofs of origin shall be carried out at random or whenever the customs authorities of the importing country have reasonable doubts as to the authenticity of such documents, the originating status of the products concerned or the fulfilment of the other requirements of this Protocol.

2. For the purposes of implementing the provisions of paragraph 1, the customs authorities of the importing country shall return the movement certificate EUR.1 and the invoice, if it has been submitted, the invoice declaration, or a copy of these documents, to the customs authorities of the exporting country giving, where appropriate, the reasons for the enquiry. Any documents and information obtained suggesting that the information given on the proof of origin is incorrect shall be forwarded in support of the request for verification.

3. The verification shall be carried out by the customs authorities of the exporting country. For this purpose, they shall have the right to call for any evidence and to carry out any inspection of the exporter's accounts or any other check considered appropriate.

4. If the customs authorities of the importing country decide to suspend the granting of preferential treatment to the products concerned while awaiting the results of the verification, release of the products shall be offered to the importer subject to any precautionary measures judged necessary.

5. The customs authorities requesting the verification shall be informed of the results of this verification as soon as possible. These results must indicate clearly whether the documents are authentic and whether the products concerned can be considered as products originating in the Community, in Algeria or in one of the other countries referred to in Article 4 and fulfil the other requirements of this Protocol.

6. If in cases of reasonable doubt there is no reply within ten months of the date of the verification request or if the reply does not contain sufficient information to determine the authenticity of the document in question or the real origin of the products, the requesting customs authorities shall, except in exceptional circumstances, refuse entitlement to the preferences.

7. The subsequent verification of information certificates provided for by Article 28 shall be carried out in the cases mentioned in paragraph 1 and in accordance with the procedures laid down in paragraphs 2 to 6.

Article 35

Dispute settlement

Where disputes arise in relation to the verification procedures of Article 34 which cannot be settled between the customs authorities requesting a verification and the customs authorities responsible for carrying out this verification or where they raise a question as to the interpretation of this Protocol, they shall be submitted to the Customs Cooperation Committee.

In all cases the settlement of disputes between the importer and the customs authorities of the importing country shall be under the legislation of the said country.

Article 36

Penalties

Penalties shall be imposed on any person who draws up, or causes to be drawn up, a document which contains incorrect information for the purpose of obtaining a preferential treatment for products.

Article 37

Free zones

1. The Community and Algeria shall take all necessary steps to ensure that products traded under cover of a proof of origin which in the course of transport use a free zone situated in their territory, are not substituted by other goods and do not undergo handling other than normal operations designed to prevent their deterioration.

2. By means of an exemption to the provisions contained in paragraph 1, when products originating in the Community or in Algeria are imported into a free zone under cover of a proof of origin and undergo treatment or processing, the authorities concerned shall issue a new movement certificate EUR.1 at the exporter's request, if the treatment or processing undergone is in conformity with the provisions of this Protocol.

TITLE VII

CEUTA AND MELILLA

Article 38

Application of the Protocol

1. The term 'Community' used in Article 2 does not cover Ceuta and Melilla.

2. Products originating in Algeria, when imported into Ceuta or Melilla, shall enjoy in all respects the same customs regime as that which is applied to products originating in the customs territory of the Community under Protocol 2 of the Act of Accession of the Kingdom of Spain and the Portuguese Republic to the European Communities. Algeria shall grant to imports of products covered by the Agreement and originating in Ceuta and Melilla the same customs regime as that which is granted to products imported from and originating in the Community.

3. For the purpose of the application of paragraph 2 concerning products originating in Ceuta and Melilla, this Protocol shall apply *mutatis mutandis* subject to the special conditions set out in Article 39.

Article 39

Special conditions

1. Providing they have been transported directly in accordance with the provisions of Article 14, the following shall be considered as:

1. products originating in Ceuta and Melilla:

   (a) products wholly obtained in Ceuta and Melilla;

   (b) products obtained in Ceuta and Melilla in the manufacture of which products other than those referred to in (a) are used, provided that:

      (i) the said products have undergone sufficient working or processing within the meaning of Article 7; or that

      (ii) those products are originating in Algeria or in the Community, provided that they have been submitted to working or processing which goes beyond the operations referred to in Article 8;

2. products originating in Algeria:

   (a) products wholly obtained in Algeria;

   (b) products obtained in Algeria in the manufacture of which products other than those referred to in (a) are used, provided that:

      (i) the said products have undergone sufficient working or processing within the meaning of Article 7; or that

      (ii) those products are originating, within the meaning of this Protocol, in Ceuta and Melilla or in the Community, provided that they have been submitted to working or processing which goes beyond the operations referred to in Article 8(1).

2. Ceuta and Melilla shall be considered as a single territory.

3. The exporter or his authorised representative shall enter 'Algeria' and 'Ceuta and Melilla' in Box 2 of movement certificates EUR.1 or on invoice declarations. In addition, in the case of products originating in Ceuta and Melilla, this shall be indicated in Box 4 of movement certificates EUR.1 or on invoice declarations.

4. The Spanish customs authorities shall be responsible for the application of this Protocol in Ceuta and Melilla.

TITLE VIII

FINAL PROVISIONS

Article 40

Amendments to the Protocol

The Association Council may decide to amend the provisions of this protocol at the request of one of the contracting parties or of the Customs Cooperation Committee.

Article 41

Customs Cooperation Committee

1. A Customs Cooperation Committee shall be set up, charged with carrying out administrative cooperation with a view to the correct and uniform application of this Protocol and with carrying out any other tasks in the customs field which may be entrusted to it.

2. The Committee shall be composed, on the one hand, of experts of the Member States and of officials of the Commission of the European Communities who are responsible for customs questions and, on the other hand, of experts nominated by Algeria.

Article 42

Implementation of the Protocol

The Community and Algeria shall each take the steps necessary to implement this Protocol.

Article 43

Arrangements with Morocco and Tunisia

The Contracting Parties shall take any measures necessary for the conclusion of arrangements with Morocco and Tunisia enabling this Protocol to be applied. The Contracting Parties shall notify each other of measures taken to this affect.

Article 44

Goods in transit or storage

The provisions of the Agreement may be applied to goods which comply with the provisions of this Protocol and which on the date of entry into force of the Agreement are either in transit or are in the Community or in Algeria in temporary storage, in bonded warehouses or in free zones, subject to the submission to the customs authorities of the importing State, within four months of that date, of a certificate EUR.1 endorsed retrospectively by the competent authorities of the exporting State together with the documents showing that the goods have been transported directly.

ANNEX I

INTRODUCTORY NOTES TO THE LIST IN ANNEX II

Note 1

The list sets out the conditions required for all products to be considered as sufficiently worked or processed within the meaning of Article 7 of the Protocol.

Note 2

2.1. The first two columns in the list describe the product obtained. The first column gives the heading number or chapter number used in the Harmonised System and the second column gives the description of goods used in that system for that heading or chapter. For each entry in the first two columns, a rule is specified in column 3 or 4. Where, in some cases, the entry in the first column is preceded by an 'ex', this signifies that the rules in column 3 or 4 apply only to the part of that heading as described in column 2.

2.2. Where several heading numbers are grouped together in column 1 or a chapter number is given and the description of products in column 2 is therefore given in general terms, the adjacent rules in column 3 or 4 apply to all products which, under the Harmonised System, are classified in headings of the chapter or in any of the headings grouped together in column 1.

2.3. Where there are different rules in the list applying to different products within a heading, each indent contains the description of that part of the heading covered by the adjacent rules in column 3 or 4.

2.4. Where, for an entry in the first two columns, a rule is specified in both columns 3 and 4, the exporter may opt, as an alternative, to apply either the rule set out in column 3 or that set out in column 4. If no origin rule is given in column 4, the rule set out in column 3 is to be applied.

Note 3

3.1. The provisions of Article 7 of the Protocol, concerning products having acquired originating status which are used in the manufacture of other products, shall apply, regardless of whether this status has been acquired inside the factory where these products are used or in another factory in the Community or in Algeria.

Example:

An engine of heading 8407, for which the rule states that the value of the non-originating materials which may be incorporated may not exceed 40 % of the ex-works price, is made from 'other alloy steel roughly shaped by forging' of heading ex 7224.

If this forging has been forged in the Community from a non-originating ingot, it has already acquired originating status by virtue of the rule for heading ex 7224 in the list. The forging can then count as originating in the value-calculation for the engine, regardless of whether it was produced in the same factory or in another factory in the Community. The value of the non-originating ingot is thus not taken into account when adding up the value of the non-originating materials used.

3.2. The rule in the list represents the minimum amount of working or processing required, and the carrying-out of more working or processing also confers originating status; conversely, the carrying-out of less working or processing cannot confer originating status. Thus, if a rule provides that non-originating material, at a certain level of manufacture, may be used, the use of such material at an earlier stage of manufacture is allowed, and the use of such material at a later stage is not.

3.3. Without prejudice to Note 3.2 where a rule states that 'materials of any heading' may be used, materials of the same heading as the product may also be used, subject, however, to any specific limitations which may also be contained in the rule. However, the expression 'manufacture from materials of any heading, including other materials of heading No ...' means that only materials classified in the same heading as the product of a different description than that of the product as given in column 2 of the list may be used.

3.4. When a rule in the list specifies that a product may be manufactured from more than one material, this means that one or more materials may be used. It does not require that all be used.

Example:

The rule for fabrics of HS headings 5208 to 5212 provides that natural fibres may be used and that chemical materials, among other materials, may also be used. This does not mean that both have to be used; it is possible to use one or the other, or both.

3.5. Where a rule in the list specifies that a product must be manufactured from a particular material, the condition obviously does not prevent the use of other materials which, because of their inherent nature, cannot satisfy the rule. (See also Note 6.2 below in relation to textiles.)

Example:

The rule for prepared foods of heading 1904, which specifically excludes the use of cereals and their derivatives, does not prevent the use of mineral salts, chemicals and other additives which are not products from cereals.

However, this does not apply to products which, although they cannot be manufactured from the particular materials specified in the list, can be produced from a material of the same nature at an earlier stage of manufacture.

Example:

In the case of an article of apparel of ex Chapter 62 made from non-woven materials, if the use of only non-originating yarn is allowed for this class of article, it is not possible to start from non-woven cloth — even if non-woven cloths cannot normally be made from yarn. In such cases, the starting material would normally be at the stage before yarn — that is, the fibre stage.

3.6. Where, in a rule in the list, two percentages are given for the maximum value of non-originating materials that can be used, then these percentages may not be added together. In other words, the maximum value of all the non-originating materials used may never exceed the higher of the percentages given. Furthermore, the individual percentages must not be exceeded, in relation to the particular materials to which they apply.

Note 4

4.1. The term 'natural fibres' is used in the list to refer to fibres other than artificial or synthetic fibres. It is restricted to the stages before spinning takes place, including waste, and, unless otherwise specified, includes fibres which have been carded, combed or otherwise processed, but not spun.

4.2. The term 'natural fibres' includes horsehair of heading 0503, silk of headings 5002 and 5003, as well as wool-fibres and fine or coarse animal hair of headings 5101 to 5105, cotton fibres of headings 5201 to 5203, and other vegetable fibres of headings 5301 to 5305.

4.3. The terms 'textile pulp', 'chemical materials' and 'paper-making materials' are used in the list to describe the materials, not classified in Chapters 50 to 63, which can be used to manufacture artificial, synthetic or paper fibres or yarns.

4.4. The term 'man-made staple fibres' is used in the list to refer to synthetic or artificial filament tow, staple fibres or waste, of headings 5501 to 5507.

Note 5

5.1. Where, for a given product in the list, reference is made to this Note, the conditions set out in column 3 shall not be applied to any basic textile materials used in the manufacture of this product and which, taken together, represent 10 % or less of the total weight of all the basic textile materials used. (See also Notes 5.3 and 5.4 below.)

5.2. However, the tolerance mentioned in Note 5.1 may be applied only to mixed products which have been made from two or more basic textile materials.

The following are the basic textile materials:

— silk,

— wool,

— coarse animal hair,

— fine animal hair,

— horsehair,

— cotton,

— paper-making materials and paper,

— flax,

— true hemp,

— jute and other textile bast fibres,

— sisal and other textile fibres of the genus Agave,

— coconut, abaca, ramie and other vegetable textile fibres,

— synthetic man-made filaments,

— artificial man-made filaments,

— synthetic man-made staple fibres of polypropylene,

— synthetic man-made staple fibres of polyester,

— synthetic man-made staple fibres of polyamide,

— synthetic man-made staple fibres of polyacrylonitrile,

— synthetic man-made staple fibres of polyimide,

— synthetic man-made staple fibres of polytetrafluoroethylene,

— synthetic man-made staple fibres of polyphenylene sulphide,

— synthetic man-made staple fibres of polyvinyl chloride,

— other synthetic man-made staple fibres,

— artificial man-made staple fibres of viscose,

— other artificial man-made staple fibres,

— yarn made of polyurethane segmented with flexible segments of polyether, whether or not gimped,

— yarn made of polyurethane segmented with flexible segments of polyester, whether or not gimped,

— products of heading 5605 (metallised yarn) incorporating strip consisting of a core of aluminium foil or of a core of plastic film whether or not coated with aluminium powder, of a width not exceeding 5 mm, sandwiched by means of a transparent or coloured adhesive between two layers of plastic film,

— other products of heading 5605.

Example:

A yarn, of heading 5205, made from cotton fibres of heading 5203 and synthetic staple fibres of heading 5506, is a mixed yarn. Therefore, non-originating synthetic staple fibres which do not satisfy the origin-rules (which require manufacture from chemical materials or textile pulp) may be used, provided that their total weight does not exceed 10 % of the weight of the yarn.

Example:

A woollen fabric, of heading 5112, made from woollen yarn of heading 5107 and synthetic yarn of staple fibres of heading 5509, is a mixed fabric. Therefore, synthetic yarn which does not satisfy the origin-rules (which require manufacture from chemical materials or textile pulp), or woollen yarn which does not satisfy the origin-rules (which require manufacture from natural fibres, not carded or combed or otherwise prepared for spinning), or a combination of the two, may be used, provided that their total weight does not exceed 10 % of the weight of the fabric.

Example:

Tufted textile fabric, of heading 5802, made from cotton yarn of heading 5205 and cotton fabric of heading 5210, is only a mixed product if the cotton fabric is itself a mixed fabric made from yarns classified in two separate headings, or if the cotton yarns used are themselves mixtures.

Example:

If the tufted textile fabric concerned had been made from cotton yarn of heading 5205 and synthetic fabric of heading 5407, then, obviously, the yarns used are two separate basic textile materials and the tufted textile fabric is, accordingly, a mixed product.

Example:

A carpet with tufts made from both artificial yarns and cotton yarns and with a jute backing is a mixed product because three basic textile materials are used. Thus, any non-originating materials that are at a later stage of manufacture than the rule allows may be used, provided their total weight does not exceed 10 % of the weight of the textile materials of the carpet. Thus, both the jute backing and/or the artificial yarns could be imported at that stage of manufacture, provided the weight conditions are met.

5.3. In the case of products incorporating 'yarn made of polyurethane segmented with flexible segments of polyether, whether or not gimped', this tolerance is 20 % in respect of this yarn.

5.4. In the case of products incorporating 'strip consisting of a core of aluminium foil or of a core of plastic film whether or not coated with aluminium powder, of a width not exceeding 5 mm, sandwiched by means of a transparent or coloured adhesive between two layers of plastic film', this tolerance is 30 % in respect of this strip.

Note 6

6.1. Where, in the list, reference is made to this Note, textile materials (with the exception of linings and interlinings), which do not satisfy the rule set out in the list in column 3 for the made-up product concerned, may be used, provided that they are classified in a heading other than that of the product and that their value does not exceed 8 % of the ex-works price of the product.

6.2. Without prejudice to Note 6.3, materials, which are not classified within Chapters 50 to 63, may be used freely in the manufacture of textile products, whether or not they contain textiles.

Example:

If a rule in the list provides that, for a particular textile item (such as trousers), yarn must be used, this does not prevent the use of metal items, such as buttons, because buttons are not classified within Chapters 50 to 63. For the same reason, it does not prevent the use of slide fasteners, even though slide fasteners normally contain textiles.

6.3. Where a percentage-rule applies, the value of materials which are not classified within Chapters 50 to 63 must be taken into account when calculating the value of the non-originating materials incorporated.

Note 7

7.1. For the purposes of headings ex 2707, 2713 to 2715, ex 2901, ex 2902 and ex 3403, the 'specific processes' are the following:

(a) vacuum-distillation;

(b) redistillation by a very thorough fractionation-process;

(c) cracking;

(d) reforming;

(e) extraction by means of selective solvents;

(f) the process comprising all of the following operations: processing with concentrated sulphuric acid, oleum or sulphuric anhydride; neutralisation with alkaline agents; decolourisation and purification with naturally-active earth, activated earth, activated charcoal or bauxite;

(g) polymerisation;

(h) alkylation;

(i) isomerisation.

7.2. For the purposes of headings 2710, 2711 and 2712, the 'specific processes' are the following:

(a) vacuum-distillation;

(b) redistillation by a very thorough fractionation-process;

(c) cracking;

(d) reforming;

(e) extraction by means of selective solvents;

(f) the process comprising all of the following operations: processing with concentrated sulphuric acid, oleum or sulphuric anhydride; neutralisation with alkaline agents; decolourisation and purification with naturally-active earth, activated earth, activated charcoal or bauxite;

(g) polymerisation;

(h) alkylation;

(ij) isomerisation;

(k) in respect of heavy oils of heading ex 2710 only, desulphurisation with hydrogen, resulting in a reduction of at least 85 % of the sulphur-content of the products processed (ASTM D 1266-59 T method);

(l) in respect of products of heading 2710 only, deparaffining by a process other than filtering;

(m) in respect of heavy oils of heading ex 2710 only, treatment with hydrogen, at a pressure of more than 20 bar and a temperature of more than 250 °C, with the use of a catalyst, other than to effect desulphurisation, when the hydrogen constitutes an active element in a chemical reaction. The further treatment, with hydrogen, of lubricating oils of heading ex 2710 (e.g. hydrofinishing or decolourisation), in order, more especially, to improve colour or stability shall not, however, be deemed to be a specific process;

(n) in respect of fuel oils of heading ex 2710 only, atmospheric distillation, on condition that less than 30 % of these products distils, by volume, including losses, at 300 °C, by the ASTM D 86 method;

(o) in respect of heavy oils other than gas oils and fuel oils of heading ex 2710 only, treatment by means of a high-frequency electrical brush-discharge;

(p) in respect of crude products (other than petroleum jelly, ozokerite, lignite wax or peat wax, paraffin wax containing by weight less than 0,75 % of oil) of heading ex 2712 only, de-oiling by fractional crystallisation.

7.3. For the purposes of headings ex 2707, 2713 to 2715, ex 2901, ex 2902 and ex 3403, simple operations, such as cleaning, decanting, desalting, water-separation, filtering, colouring, marking, obtaining a sulphur-content as a result of mixing products with different sulphur-contents, or any combination of these operations or like operations, do not confer origin.

ANNEX II

LIST OF WORKING OR PROCESSING REQUIRED TO BE CARRIED OUT ON NON-ORIGINATING MATERIALS IN ORDER THAT THE PRODUCT MANUFACTURED CAN OBTAIN ORIGINATING STATUS

The products mentioned in the list may not be all covered by the Agreement. It is, therefore, necessary to consult the other parts of the Agreement

HS heading	Desccription of product	Working or processing, carried out on non-originating materials, which confers originating status	
(1)	(2)	(3) or	(4)
Chapter 1	Live animals	All the animals of Chapter 1 shall be wholly obtained	
Chapter 2	Meat and edible meat offal	Manufacture in which all the materials of Chapters 1 and 2 used are wholly obtained	
Chapter 3	Fish and crustaceans, molluscs and other aquatic invertebrates	Manufacture in which all the materials of Chapter 3 used are wholly obtained	
ex Chapter 4	Dairy produce; birds' eggs; natural honey; edible products of animal origin, not elsewhere specified or included; except for:	Manufacture in which all the materials of Chapter 4 used are wholly obtained	
0403	Buttermilk, curdled milk and cream, yoghurt, kephir and other fermented or acidified milk and cream, whether or not concentrated or containing added sugar or other sweetening matter or flavoured or containing added fruit, nuts or cocoa	Manufacture in which: — all the materials of Chapter 4 used are wholly obtained, — all the fruit juice (except that of pineapple, lime or grapefruit) of heading 2009 used is originating, and — the value of all the materials of Chapter 17 used does not exceed 30 % of the ex-works price of the product	
ex Chapter 5	Products of animal origin, not elsewhere specified or included; except for:	Manufacture in which all the materials of Chapter 5 used are wholly obtained	
ex 0502	Prepared pigs', hogs' or boars' bristles and hair	Cleaning, disinfecting, sorting and straightening of bristles and hair	
Chapter 6	Live trees and other plants; bulbs, roots and the like; cut flowers and ornamental foliage	Manufacture in which: — all the materials of Chapter 6 used are wholly obtained, and — the value of all the materials used does not exceed 50 % of the ex-works price of the product	

(1)	(2)	(3) or	(4)
Chapter 7	Edible vegetables and certain roots and tubers	Manufacture in which all the materials of Chapter 7 used are wholly obtained	
Chapter 8	Edible fruit and nuts; peel of citrus fruits or melons	Manufacture in which: — all the fruit and nuts used are wholly obtained, and — the value of all the materials of Chapter 17 used does not exceed 30 % of the value of the ex-works price of the product	
ex Chapter 9	Coffee, tea, maté and spices; except for:	Manufacture in which all the materials of Chapter 9 used are wholly obtained	
0901	Coffee, whether or not roasted or decaffeinated; coffee husks and skins; coffee substitutes containing coffee in any proportion	Manufacture from materials of any heading	
0902	Tea, whether or not flavoured	Manufacture from materials of any heading	
ex 0910	Mixtures of spices	Manufacture from materials of any heading	
Chapter 10	Cereals	Manufacture in which all the materials of Chapter 10 used are wholly obtained	
ex Chapter 11	Products of the milling industry; malt; starches; inulin; wheat gluten; except for:	Manufacture in which all the cereals, edible vegetables, roots and tubers of heading 0714 or fruit used are wholly obtained	
ex 1106	Flour, meal and powder of the dried, shelled leguminous vegetables of heading 0713	Drying and milling of leguminous vegetables of heading 0708	
Chapter 12	Oil seeds and oleaginous fruits; miscellaneous grains, seeds and fruit; industrial or medicinal plants; straw and fodder	Manufacture in which all the materials of Chapter 12 used are wholly obtained	
1301	Lac; natural gums, resins, gumresins and oleoresins (for example, balsams)	Manufacture in which the value of all the materials of heading 1301 used does not exceed 50 % of the ex-works price of the product	

(1)	(2)	(3) or	(4)
1302	Vegetable saps and extracts; pectic substances, pectinates and pectates; agar-agar and other mucilages and thickeners, whether or not modified, derived from vegetable products:		
	– Mucilages and thickeners, modified, derived from vegetable products	Manufacture from non-modified mucilages and thickeners	
	– Other	Manufacture in which the value of all the materials used does not exceed 50 % of the ex-works price of the product	
Chapter 14	Vegetable plaiting materials; vegetable products not elsewhere specified or included	Manufacture in which all the materials of Chapter 14 used are wholly obtained	
ex Chapter 15	Animal or vegetable fats and oils and their cleavage products; prepared edible fats; animal or vegetable waxes; except for:	Manufacture from materials of any heading, except that of the product	
1501	Pig fat (including lard) and poultry fat, other than that of heading 0209 or 1503:		
	– Fats from bones or waste	Manufacture from materials of any heading, except those of heading 0203, 0206 or 0207 or bones of heading 0506	
	– Other	Manufacture from meat or edible offal of swine of heading 0203 or 0206 or of meat and edible offal of poultry of heading 0207	
1502	Fats of bovine animals, sheep or goats, other than those of heading 1503:		
	– Fats from bones or waste	Manufacture from materials of any heading, except those of heading 0201, 0202, 0204 or 0206 or bones of heading 0506	
	– Other	Manufacture in which all the materials of Chapter 2 used are wholly obtained	

(1)	(2)	(3) or	(4)
1504	Fats and oils and their fractions, of fish or marine mammals, whether or not refined, but not chemically modified:		
	– Solid fractions	Manufacture from materials of any heading, including other materials of heading 1504	
	– Other	Manufacture in which all the materials of Chapters 2 and 3 used are wholly obtained	
ex 1505	Refined lanolin	Manufacture from crude wool grease of heading 1505	
1506	Other animal fats and oils and their fractions, whether or not refined, but not chemically modified:		
	– Solid fractions	Manufacture from materials of any heading, including other materials of heading 1506	
	– Other	Manufacture in which all the materials of Chapter 2 used are wholly obtained	
1507 to 1515	Vegetable oils and their fractions:		
	– Soya, ground nut, palm, copra, palm kernel, babassu, tung and oiticica oil, myrtle wax and Japan wax, fractions of jojoba oil and oils for technical or industrial uses other than the manufacture of foodstuffs for human consumption	Manufacture from materials of any heading, except that of the product	
	– Solid fractions, except for that of jojoba oil	Manufacture from other materials of headings 1507 to 1515	
	– Other	Manufacture in which all the vegetable materials used are wholly obtained	
1516	Animal or vegetable fats and oils and their fractions, partly or wholly hydrogenated, interesterified, re-esterified or elaidinised, whether or not refined, but not further prepared	Manufacture in which: — all the materials of Chapter 2 used are wholly obtained, and — all the vegetable materials used are wholly obtained. However, materials of headings 1507, 1508, 1511 and 1513 may be used	

(1)	(2)	(3) or	(4)
1517	Margarine; edible mixtures or preparations of animal or vegetable fats or oils or of fractions of different fats or oils of this Chapter, other than edible fats or oils or their fractions of heading 1516	Manufacture in which: — all the materials of Chapters 2 and 4 used are wholly obtained, and — all the vegetable materials used are wholly obtained. However, materials of headings 1507, 1508, 1511 and 1513 may be used	
Chapter 16	Preparations of meat, of fish or of crustaceans, molluscs or other aquatic invertebrates	Manufacture: — from animals of Chapter 1, and/or — in which all the materials of Chapter 3 used are wholly obtained	
ex Chapter 17	Sugars and sugar confectionery; except for:	Manufacture from materials of any heading, except that of the product	
ex 1701	Cane or beet sugar and chemically pure sucrose, in solid form, containing added flavouring or colouring matter	Manufacture in which the value of all the materials of Chapter 17 used does not exceed 30 % of the ex-works price of the product	
1702	Other sugars, including chemically pure lactose, maltose, glucose and fructose, in solid form; sugar syrups not containing added flavouring or colouring matter; artificial honey, whether or not mixed with natural honey; caramel:		
	– Chemically-pure maltose and fructose	Manufacture from materials of any heading, including other materials of heading 1702	
	– Other sugars in solid form, containing added flavouring or colouring matter	Manufacture in which the value of all the materials of Chapter 17 used does not exceed 30 % of the ex-works price of the product	
	– Other	Manufacture in which all the materials used are originating	
ex 1703	Molasses resulting from the extraction or refining of sugar, containing added flavouring or colouring matter	Manufacture in which the value of all the materials of Chapter 17 used does not exceed 30 % of the ex-works price of the product	

(1)	(2)	(3) or	(4)
1704	Sugar confectionery (including white chocolate), not containing cocoa	Manufacture: — from materials of any heading, except that of the product, and — in which the value of all the materials of Chapter 17 used does not exceed 30 % of the ex-works price of the product	
Chapter 18	Cocoa and cocoa preparations	Manufacture: — from materials of any heading, except that of the product, and — in which the value of all the materials of Chapter 17 used does not exceed 30 % of the ex-works price of the product	
1901	Malt extract; food preparations of flour, groats, meal, starch or malt extract, not containing cocoa or containing less than 40 % by weight of cocoa calculated on a totally defatted basis, not elsewhere specified or included; food preparations of goods of headings 0401 to 0404, not containing cocoa or containing less than 5 % by weight of cocoa calculated on a totally defatted basis, not elsewhere specified or included:		
	– Malt extract	Manufacture from cereals of Chapter 10	
	– Other	Manufacture: — from materials of any heading, except that of the product, and — in which the value of all the materials of Chapter 17 used does not exceed 30 % of the ex-works price of the product	
1902	Pasta, whether or not cooked or stuffed (with meat or other substances) or otherwise prepared, such as spaghetti, macaroni, noodles, lasagne, gnocchi, ravioli, cannelloni; couscous, whether or not prepared:		
	– Containing 20 % or less by weight of meat, meat offal, fish, crustaceans or molluscs	Manufacture in which all the cereals and derivatives (except durum wheat and its derivatives) used are wholly obtained	

(1)	(2)	(3) or	(4)
	– Containing more than 20 % by weight of meat, meat offal, fish, crustaceans or molluscs	Manufacture in which: — all the cereals and their derivatives (except durum wheat and its derivatives) used are wholly obtained, and — all the materials of Chapters 2 and 3 used are wholly obtained	
1903	Tapioca and substitutes therefor prepared from starch, in the form of flakes, grains, pearls, siftings or similar forms	Manufacture from materials of any heading, except potato starch of heading 1108	
1904	Prepared foods obtained by the swelling or roasting of cereals or cereal products (for example, corn flakes); cereals (other than maize (corn)) in grain form or in the form of flakes or other worked grains (except flour, groats and meal), pre-cooked or otherwise prepared, not elsewhere specified or included	Manufacture: — from materials of any heading, except those of heading 1806, — in which all the cereals and flour (except durum wheat and *Zea indurata maize*, and their derivatives) used are wholly obtained, and — in which the value of all the materials of Chapter 17 used does not exceed 30 % of the ex-works price of the product	
1905	Bread, pastry, cakes, biscuits and other bakers' wares, whether or not containing cocoa; communion wafers, empty cachets of a kind suitable for pharmaceutical use, sealing wafers, rice paper and similar products	Manufacture from materials of any heading, except those of Chapter 11	
ex Chapter 20	Preparations of vegetables, fruit, nuts or other parts of plants; except for:	Manufacture in which all the fruit, nuts or vegetables used are wholly obtained	
ex 2001	Yams, sweet potatoes and similar edible parts of plants containing 5 % or more by weight of starch, prepared or preserved by vinegar or acetic acid	Manufacture from materials of any heading, except that of the product	
ex 2004 and ex 2005	Potatoes in the form of flour, meal or flakes, prepared or preserved otherwise than by vinegar or acetic acid	Manufacture from materials of any heading, except that of the product	
2006	Vegetables, fruit, nuts, fruit-peel and other parts of plants, preserved by sugar (drained, glacé or crystallized)	Manufacture in which the value of all the materials of Chapter 17 used does not exceed 30 % of the ex-works price of the product	

(1)	(2)	(3) or	(4)
2007	Jams, fruit jellies, marmalades, fruit or nut purée and fruit or nut pastes, obtained by cooking, whether or not containing added sugar or other sweetening matter	Manufacture: — from materials of any heading, except that of the product, and — in which the value of all the materials of Chapter 17 used does not exceed 30 % of the ex-works price of the product	
ex 2008	– Nuts, not containing added sugar or spirits	Manufacture in which the value of all the originating nuts and oil seeds of headings 0801, 0802 and 1202 to 1207 used exceeds 60 % of the ex-works price of the product	
	– Peanut butter; mixtures based on cereals; palm hearts; maize (corn)	Manufacture from materials of any heading, except that of the product	
	– Other except for fruit and nuts cooked otherwise than by steaming or boiling in water, not containing added sugar, frozen	Manufacture: — from materials of any heading, except that of the product, and — in which the value of all the materials of Chapter 17 used does not exceed 30 % of the ex-works price of the product	
2009	Fruit juices (including grape must) and vegetable juices, unfermented and not containing added spirit, whether or not containing added sugar or other sweetening matter	Manufacture: — from materials of any heading, except that of the product, and — in which the value of all the materials of Chapter 17 used does not exceed 30 % of the ex-works price of the product	
ex Chapter 21	Miscellaneous edible preparations; except for:	Manufacture from materials of any heading, except that of the product	
2101	Extracts, essences and concentrates, of coffee, tea or maté and preparations with a basis of these products or with a basis of coffee, tea or maté; roasted chicory and other roasted coffee substitutes, and extracts, essences and concentrates thereof	Manufacture: — from materials of any heading, except that of the product, and — in which all the chicory used is wholly obtained	

(1)	(2)	(3) or	(4)
2103	Sauces and preparations therefor; mixed condiments and mixed seasonings; mustard flour and meal and prepared mustard:		
	Sauces and preparations therefor; mixed condiments and mixed seasonings	Manufacture from materials of any heading, except that of the product. However, mustard flour or meal or prepared mustard may be used	
	– Mustard flour and meal and prepared mustard	Manufacture from materials of any heading	
ex 2104	– Soups and broths and preparations therefor	Manufacture from materials of any heading, except prepared or preserved vegetables of headings 2002 to 2005	
2106	Food preparations not elsewhere specified or included	Manufacture: — from materials of any heading, except that of the product, and — in which the value of all the materials of Chapter 17 used does not exceed 30 % of the ex-works price of the product	
ex Chapter 22	Beverages, spirits and vinegar; except for:	Manufacture: — from materials of any heading, except that of the product, and — in which all the grapes or materials derived from grapes used are wholly obtained	
2202	Waters, including mineral waters and aerated waters, containing added sugar or other sweetening matter or flavoured, and other non-alcoholic beverages, not including fruit or vegetable juices of heading 2009	Manufacture: — from materials of any heading, except that of the product, — in which the value of all the materials of Chapter 17 used does not exceed 30 % of the ex-works price of the product, and — in which all the fruit juice used (except that of pineapple, lime or grapefruit) is originating	

(1)	(2)	(3) or	(4)
2207	Undenatured ethyl alcohol of an alcoholic strength by volume of 80 % vol or higher; ethyl alcohol and other spirits, denatured, of any strength	Manufacture: — from materials of any heading, except heading 2207 or 2208 and — in which all the grapes or materials derived from grapes used are wholly obtained or, if all the other materials used are already originating, arrack may be used up to a limit of 5 % by volume	
2208	Undenatured ethyl alcohol of an alcoholic strength by volume of less than 80 % vol; spirits, liqueurs and other spirituous beverages	Manufacture: — from materials of any heading, except heading 2207 or 2208 and — in which all the grapes or materials derived from grapes used are wholly obtained or, if all the other materials used are already originating, arrack may be used up to a limit of 5 % by volume	
ex Chapter 23	Residues and waste from the food industries; prepared animal fodder; except for:	Manufacture from materials of any heading, except that of the product	
ex 2301	Whale meal; flours, meals and pellets of fish or of crustaceans, molluscs or other aquatic invertebrates, unfit for human consumption	Manufacture in which all the materials of Chapters 2 and 3 used are wholly obtained	
ex 2303	Residues from the manufacture of starch from maize (excluding concentrated steeping liquors), of a protein content, calculated on the dry product, exceeding 40 % by weight	Manufacture in which all the maize used is wholly obtained	
ex 2306	Oil cake and other solid residues resulting from the extraction of olive oil, containing more than 3 % of olive oil	Manufacture in which all the olives used are wholly obtained	
2309	Preparations of a kind used in animal feeding	Manufacture in which: — all the cereals, sugar or molasses, meat or milk used are originating, and — all the materials of Chapter 3 used are wholly obtained	

(1)	(2)	(3) or	(4)
ex Chapter 24	Tobacco and manufactured tobacco substitutes; except for:	Manufacture in which all the materials of Chapter 24 used are wholly obtained	
2402	Cigars, cheroots, cigarillos and cigarettes, of tobacco or of tobacco substitutes	Manufacture in which at least 70 % by weight of the unmanufactured tobacco or tobacco refuse of heading 2401 used is originating	
ex 2403	Smoking tobacco	Manufacture in which at least 70 % by weight of the unmanufactured tobacco or tobacco refuse of heading 2401 used is originating	
ex Chapter 25	Salt; sulphur; earths and stone; plastering materials, lime and cement; except for:	Manufacture from materials of any heading, except that of the product	
ex 2504	Natural crystalline graphite, with enriched carbon content, purified and ground	Enriching of the carbon content, purifying and grinding of crude crystalline graphite	
ex 2515	Marble, merely cut, by sawing or otherwise, into blocks or slabs of a rectangular (including square) shape, of a thickness not exceeding 25 cm	Cutting, by sawing or otherwise, of marble (even if already sawn) of a thickness exceeding 25 cm	
ex 2516	Granite, porphyry, basalt, sandstone and other monumental or building stone, merely cut, by sawing or otherwise, into blocks or slabs of a rectangular (including square) shape, of a thickness not exceeding 25 cm	Cutting, by sawing or otherwise, of stone (even if already sawn) of a thickness exceeding 25 cm	
ex 2518	Calcined dolomite	Calcination of dolomite not calcined	
ex 2519	Crushed natural magnesium carbonate (magnesite), in hermetically-sealed containers, and magnesium oxide, whether or not pure, other than fused magnesia or dead-burned (sintered) magnesia	Manufacture from materials of any heading, except that of the product. However, natural magnesium carbonate (magnesite) may be used	
ex 2520	Plasters specially prepared for dentistry	Manufacture in which the value of all the materials used does not exceed 50 % of the ex-works price of the product	
ex 2524	Natural asbestos fibres	Manufacture from asbestos concentrate	
ex 2525	Mica powder	Grinding of mica or mica waste	
ex 2530	Earth colours, calcined or powdered	Calcination or grinding of earth colours	

(1)	(2)	(3) or	(4)
Chapter 26	Ores, slag and ash	Manufacture from materials of any heading, except that of the product	
ex Chapter 27	Mineral fuels, mineral oils and products of their distillation; bituminous substances; mineral waxes; except for:	Manufacture from materials of any heading, except that of the product	
ex 2707	Oils in which the weight of the aromatic constituents exceeds that of the non-aromatic constituents, being oils similar to mineral oils obtained by distillation of high temperature coal tar, of which more than 65 % by volume distils at a temperature of up to 250 °C (including mixtures of petroleum spirit and benzole), for use as power or heating fuels	Operations of refining and/or one or more specific process(es) (1) or Other operations in which all the materials used are classified within a heading other than that of the product. However, materials of the same heading as the product may be used, provided that their total value does not exceed 50 % of the ex-works price of the product	
ex 2709	Crude oils obtained from bituminous minerals	Destructive distillation of bituminous materials	
2710	Petroleum oils and oils obtained from bituminous materials, other than crude; preparations not elsewhere specified or included, containing by weight 70 % or more of petroleum oils or of oils obtained from bituminous materials, these oils being the basic constituents of the preparations; waste oils	Operations of refining and/or one or more specific process(es) (2) or Other operations in which all the materials used are classified within a heading other than that of the product. However, materials of the same heading as the product may be used, provided that their total value does not exceed 50 % of the ex-works price of the product	
2711	Petroleum gases and other gaseous hydrocarbons	Operations of refining and/or one or more specific process(es) (2) or Other operations in which all the materials used are classified within a heading other than that of the product. However, materials of the same heading as the product may be used, provided that their total value does not exceed 50 % of the ex-works price of the product	

(1)	(2)	(3) or	(4)
2712	Petroleum jelly; paraffin wax, microcrystalline petroleum wax, slack wax, ozokerite, lignite wax, peat wax, other mineral waxes, and similar products obtained by synthesis or by other processes, whether or not coloured	Operations of refining and/or one or more specific process(es) ([2]) or Other operations in which all the materials used are classified within a heading other than that of the product. However, materials of the same heading as the product may be used, provided that their total value does not exceed 50 % of the ex-works price of the product	
2713	Petroleum coke, petroleum bitumen and other residues of petroleum oils or of oils obtained from bituminous materials	Operations of refining and/or one or more specific process(es) ([1]) or Other operations in which all the materials used are classified within a heading other than that of the product. However, materials of the same heading as the product may be used, provided that their total value does not exceed 50 % of the ex-works price of the product	
2714	Bitumen and asphalt, natural; bituminous or oil shale and tar sands; asphaltites and asphaltic rocks	Operations of refining and/or one or more specific process(es) ([1]) or Other operations in which all the materials used are classified within a heading other than that of the product. However, materials of the same heading as the product may be used, provided that their total value does not exceed 50 % of the ex-works price of the product	
2715	Bituminous mixtures based on natural asphalt, on natural bitumen, on petroleum bitumen, on mineral tar or on mineral tar pitch (for example, bituminous mastics, cut-backs)	Operations of refining and/or one or more specific process(es) ([1]) or Other operations in which all the materials used are classified within a heading other than that of the product. However, materials of the same heading as the product may be used, provided that their total value does not exceed 50 % of the ex-works price of the product	

(1)	(2)	(3)	or (4)
ex Chapter 28	Inorganic chemicals; organic or inorganic compounds of precious metals, of rare-earth metals, of radio-active elements or of isotopes; except for:	Manufacture from materials of any heading, except that of the product. However, materials of the same heading as the product may be used, provided that their total value does not exceed 20 % of the ex-works price of the product	Manufacture in which the value of all the materials used does not exceed 40 % of the ex-works price of the product
ex 2805	'Mischmetall'	Manufacture by electrolytic or thermal treatment in which the value of all the materials used does not exceed 50 % of the ex-works price of the product	
ex 2811	Sulphur trioxide	Manufacture from sulphur dioxide	Manufacture in which the value of all the materials used does not exceed 40 % of the ex-works price of the product
ex 2833	Aluminium sulphate	Manufacture in which the value of all the materials used does not exceed 50 % of the ex-works price of the product	
ex 2840	Sodium perborate	Manufacture from disodium tetra-borate pentahydrate	Manufacture in which the value of all the materials used does not exceed 40 % of the ex-works price of the product
ex Chapter 29	Organic chemicals; except for:	Manufacture from materials of any heading, except that of the product. However, materials of the same heading as the product may be used, provided that their total value does not exceed 20 % of the ex-works price of the product	Manufacture in which the value of all the materials used does not exceed 40 % of the ex-works price of the product
ex 2901	Acyclic hydrocarbons for use as power or heating fuels	Operations of refining and/or one or more specific process(es) [1] or Other operations in which all the materials used are classified within a heading other than that of the product. However, materials of the same heading as the product may be used, provided that their total value does not exceed 50 % of the ex-works price of the product	
ex 2902	Cyclanes and cyclenes (other than azulenes), benzene, toluene, xylenes, for use as power or heating fuels	Operations of refining and/or one or more specific process(es) [1] or	

(1)	(2)	(3) or	(4)
		Other operations in which all the materials used are classified within a heading other than that of the product. However, materials of the same heading as the product may be used, provided that their total value does not exceed 50 % of the ex-works price of the product	
ex 2905	Metal alcoholates of alcohols of this heading and of ethanol	Manufacture from materials of any heading, including other materials of heading 2905. However, metal alcoholates of this heading may be used, provided that their total value does not exceed 20 % of the ex-works price of the product	Manufacture in which the value of all the materials used does not exceed 40 % of the ex-works price of the product
2915	Saturated acyclic monocarboxylic acids and their anhydrides, halides, peroxides and peroxyacids; their halogenated, sulphonated, nitrated or nitrosated derivatives	Manufacture from materials of any heading. However, the value of all the materials of headings 2915 and 2916 used shall not exceed 20 % of the ex-works price of the product	Manufacture in which the value of all the materials used does not exceed 40 % of the ex-works price of the product
ex 2932	– Internal ethers and their halogenated, sulphonated, nitrated or nitrosated derivatives	Manufacture from materials of any heading. However, the value of all the materials of heading 2909 used shall not exceed 20 % of the ex-works price of the product	Manufacture in which the value of all the materials used does not exceed 40 % of the ex-works price of the product
	– Cyclic acetals and internal hemiacetals and their halogenated, sulphonated, nitrated or nitrosated derivatives	Manufacture from materials of any heading	Manufacture in which the value of all the materials used does not exceed 40 % of the ex-works price of the product
2933	Heterocyclic compounds with nitrogen hetero-atom(s) only	Manufacture from materials of any heading. However, the value of all the materials of headings 2932 and 2933 used shall not exceed 20 % of the ex-works price of the product	Manufacture in which the value of all the materials used does not exceed 40 % of the ex-works price of the product
2934	Nucleic acids and their salts, whether or not chemically defined; other heterocyclic compounds	Manufacture from materials of any heading. However, the value of all the materials of headings 2932, 2933 and 2934 used shall not exceed 20 % of the ex-works price of the product	Manufacture in which the value of all the materials used does not exceed 40 % of the ex-works price of the product
ex 2939	Concentrates of poppy straw containing not less than 50 % by weight of alkaloids	Manufacture in which the value of all the materials used does not exceed 50 % of the ex-works price of the product	
ex Chapter 30	Pharmaceutical products; except for:	Manufacture from materials of any heading, except that of the product. However, materials of the same heading as the product may be used, provided that their total value does not exceed 20 % of the ex-works price of the product	

(1)	(2)	(3) or	(4)
3002	Human blood; animal blood prepared for therapeutic, prophylactic or diagnostic uses; antisera and other blood fractions and modified immunological products, whether or not obtained by means of biotechnological processes; vaccines, toxins, cultures of microorganisms (excluding yeasts) and similar products:		
	– Products consisting of two or more constituents which have been mixed together for therapeutic or prophylactic uses or unmixed products for these uses, put up in measured doses or in forms or packings for retail sale	Manufacture from materials of any heading, including other materials of heading 3002. However, materials of the same description as the product may be used, provided that their total value does not exceed 20 % of the ex-works price of the product	
	– Other		
	– – Human blood	Manufacture from materials of any heading, including other materials of heading 3002. However, materials of the same description as the product may be used, provided that their total value does not exceed 20 % of the ex-works price of the product	
	– – Animal blood prepared for therapeutic or prophylactic uses	Manufacture from materials of any heading, including other materials of heading 3002. However, materials of the same description as the product may be used, provided that their total value does not exceed 20 % of the ex-works price of the product	
	– – Blood fractions other than antisera, haemoglobin, blood globulins and serum globulins	Manufacture from materials of any heading, including other materials of heading 3002. However, materials of the same description as the product may be used, provided that their total value does not exceed 20 % of the ex-works price of the product	
	– – Haemoglobin, blood globulins and serum globulins	Manufacture from materials of any heading, including other materials of heading 3002. However, materials of the same description as the product may be used, provided that their total value does not exceed 20 % of the ex-works price of the product	
	– – Other	Manufacture from materials of any heading, including other materials of heading 3002. However, materials of the same description as the product may be used, provided that their total value does not exceed 20 % of the ex-works price of the product	

(1)	(2)	(3) or	(4)
3003 and 3004	Medicaments (excluding goods of heading 3002, 3005 or 3006):		
	– Obtained from amikacin of heading 2941	Manufacture from materials of any heading, except that of the product. However, materials of headings 3003 and 3004 may be used, provided that their total value does not exceed 20 % of the ex-works price of the product	
	– Other	Manufacture: — from materials of any heading, except that of the product. However, materials of headings 3003 and 3004 may be used, provided that their total value does not exceed 20 % of the ex-works price of the product, and — in which the value of all the materials used does not exceed 50 % of the ex-works price of the product	
ex 3006	Waste pharmaceuticals specified in note 4(k) to this chapter	The origin of the product in its original classification shall be retained	
ex Chapter 31	Fertilizers; except for:	Manufacture from materials of any heading, except that of the product. However, materials of the same heading as the product may be used, provided that their total value does not exceed 20 % of the ex-works price of the product	Manufacture in which the value of all the materials used does not exceed 40 % of the ex-works price of the product
ex 3105	Mineral or chemical fertilizers containing two or three of the fertilizing elements nitrogen, phosphorous and potassium; other fertilizers; goods of this chapter, in tablets or similar forms or in packages of a gross weight not exceeding 10 kg, except for: — sodium nitrate — calcium cyanamide — potassium sulphate — magnesium potassium sulphate	Manufacture: — from materials of any heading, except that of the product. However, materials of the same heading as the product may be used, provided that their total value does not exceed 20 % of the ex-works price of the product, and — in which the value of all the materials used does not exceed 50 % of the ex-works price of the product	Manufacture in which the value of all the materials used does not exceed 40 % of the ex-works price of the product

(1)	(2)	(3) or	(4)
ex Chapter 32	Tanning or dyeing extracts; tannins and their derivatives; dyes, pigments and other colouring matter; paints and varnishes; putty and other mastics; inks; except for:	Manufacture from materials of any heading, except that of the product. However, materials of the same heading as the product may be used, provided that their total value does not exceed 20 % of the ex-works price of the product	Manufacture in which the value of all the materials used does not exceed 40 % of the ex-works price of the product
ex 3201	Tannins and their salts, ethers, esters and other derivatives	Manufacture from tanning extracts of vegetable origin	Manufacture in which the value of all the materials used does not exceed 40 % of the ex-works price of the product
3205	Colour lakes; preparations as specified in note 3 to this chapter based on colour lakes ([3])	Manufacture from materials of any heading, except headings 3203, 3204 and 3205. However, materials of heading 3205 may be used, provided that their total value does not exceed 20 % of the ex-works price of the product	Manufacture in which the value of all the materials used does not exceed 40 % of the ex-works price of the product
ex Chapter 33	Essential oils and resinoids; perfumery, cosmetic or toilet preparations; except for:	Manufacture from materials of any heading, except that of the product. However, materials of the same heading as the product may be used, provided that their total value does not exceed 20 % of the ex-works price of the product	Manufacture in which the value of all the materials used does not exceed 40 % of the ex-works price of the product
3301	Essential oils (terpeneless or not), including concretes and absolutes; resinoids; extracted oleoresins; concentrates of essential oils in fats, in fixed oils, in waxes or the like, obtained by enfleurage or maceration; terpenic by-products of the deterpenation of essential oils; aqueous distillates and aqueous solutions of essential oils	Manufacture from materials of any heading, including materials of a different 'group' ([4]) in this heading. However, materials of the same group as the product may be used, provided that their total value does not exceed 20 % of the ex-works price of the product	Manufacture in which the value of all the materials used does not exceed 40 % of the ex-works price of the product
ex Chapter 34	Soap, organic surface-active agents, washing preparations, lubricating preparations, artificial waxes, prepared waxes, polishing or scouring preparations, candles and similar articles, modelling pastes, 'dental waxes' and dental preparations with a basis of plaster; except for:	Manufacture from materials of any heading, except that of the product. However, materials of the same heading as the product may be used, provided that their total value does not exceed 20 % of the ex-works price of the product	Manufacture in which the value of all the materials used does not exceed 40 % of the ex-works price of the product
ex 3403	Lubricating preparations containing less than 70 % by weight of petroleum oils or oils obtained from bituminous minerals	Operations of refining and/or one or more specific process(es) ([1]) or	

(1)	(2)	(3) or	(4)
		Other operations in which all the materials used are classified within a heading other than that of the product. However, materials of the same heading as the product may be used, provided that their total value does not exceed 50 % of the ex-works price of the product	
3404	Artificial waxes and prepared waxes:		
	– With a basis of paraffin, petroleum waxes, waxes obtained from bituminous minerals, slack wax or scale wax	Manufacture from materials of any heading, except that of the product. However, materials of the same heading as the product may be used, provided that their total value does not exceed 50 % of the ex-works price of the product	
	– Other	Manufacture from materials of any heading, except: — hydrogenated oils having the character of waxes of heading 1516, — fatty acids not chemically defined or industrial fatty alcohols having the character of waxes of heading 3823 and — materials of heading 3404. However, these materials may be used, provided that their total value does not exceed 20 % of the ex-works price of the product	Manufacture in which the value of all the materials used does not exceed 40 % of the ex-works price of the product
ex Chapter 35	Albuminoidal substances; modified starches; glues; enzymes; except for:	Manufacture from materials of any heading, except that of the product. However, materials of the same heading as the product may be used, provided that their total value does not exceed 20 % of the ex-works price of the product	Manufacture in which the value of all the materials used does not exceed 40 % of the ex-works price of the product
3505	Dextrins and other modified starches (for example, pregelatinised or esterified starches); glues based on starches, or on dextrins or other modified starches:		
	– Starch ethers and esters	Manufacture from materials of any heading, including other materials of heading 3505	Manufacture in which the value of all the materials used does not exceed 40 % of the ex-works price of the product

(1)	(2)	(3) or	(4)
	– Other	Manufacture from materials of any heading, except those of heading 1108	Manufacture in which the value of all the materials used does not exceed 40 % of the ex-works price of the product
ex 3507	Prepared enzymes not elsewhere specified or included	Manufacture in which the value of all the materials used does not exceed 50 % of the ex-works price of the product	
Chapter 36	Explosives; pyrotechnic products; matches; pyrophoric alloys; certain combustible preparations	Manufacture from materials of any heading, except that of the product. However, materials of the same heading as the product may be used, provided that their total value does not exceed 20 % of the ex-works price of the product	Manufacture in which the value of all the materials used does not exceed 40 % of the ex-works price of the product
ex Chapter 37	Photographic or cinematographic goods; except for:	Manufacture from materials of any heading, except that of the product. However, materials of the same heading as the product may be used, provided that their total value does not exceed 20 % of the ex-works price of the product	Manufacture in which the value of all the materials used does not exceed 40 % of the ex-works price of the product
3701	Photographic plates and film in the flat, sensitised, unexposed, of any material other than paper, paperboard or textiles; instant print film in the flat, sensitised, unexposed, whether or not in packs:		
	– Instant print film for colour photography, in packs	Manufacture from materials of any heading, except those of headings 3701 and 3702. However, materials of heading 3702 may be used, provided that their total value does not exceed 30 % of the ex-works price of the product	Manufacture in which the value of all the materials used does not exceed 40 % of the ex-works price of the product
	– Other	Manufacture from materials of any heading, except those of headings 3701 and 3702. However, materials of headings 3701 and 3702 may be used, provided that their total value does not exceed 20 % of the ex-works price of the product	Manufacture in which the value of all the materials used does not exceed 40 % of the ex-works price of the product
3702	Photographic film in rolls, sensitised, unexposed, of any material other than paper, paperboard or textiles; instant print film in rolls, sensitised, unexposed	Manufacture from materials of any heading, except those of headings 3701 and 3702	Manufacture in which the value of all the materials used does not exceed 40 % of the ex-works price of the product

(1)	(2)	(3) or	(4)
3704	Photographic plates, film paper, paperboard and textiles, exposed but not developed	Manufacture from materials of any heading, except those of headings 3701 to 3704	Manufacture in which the value of all the materials used does not exceed 40 % of the ex-works price of the product
ex Chapter 38	Miscellaneous chemical products; except for:	Manufacture from materials of any heading, except that of the product. However, materials of the same heading as the product may be used, provided that their total value does not exceed 20 % of the ex-works price of the product	Manufacture in which the value of all the materials used does not exceed 40 % of the ex-works price of the product
ex 3801	– Colloidal graphite in suspension in oil and semi-colloidal graphite; carbonaceous pastes for electrodes	Manufacture in which the value of all the materials used does not exceed 50 % of the ex-works price of the product	
	– Graphite in paste form, being a mixture of more than 30 % by weight of graphite with mineral oils	Manufacture in which the value of all the materials of heading 3403 used does not exceed 20 % of the ex-works price of the product	Manufacture in which the value of all the materials used does not exceed 40 % of the ex-works price of the product
ex 3803	Refined tall oil	Refining of crude tall oil	Manufacture in which the value of all the materials used does not exceed 40 % of the ex-works price of the product
ex 3805	Spirits of sulphate turpentine, purified	Purification by distillation or refining of raw spirits of sulphate turpentine	Manufacture in which the value of all the materials used does not exceed 40 % of the ex-works price of the product
ex 3806	Ester gums	Manufacture from resin acids	Manufacture in which the value of all the materials used does not exceed 40 % of the ex-works price of the product
ex 3807	Wood pitch (wood tar pitch)	Distillation of wood tar	Manufacture in which the value of all the materials used does not exceed 40 % of the ex-works price of the product
3808	Insecticides, rodenticides, fungicides, herbicides, antisprouting products and plantgrowth regulators, disinfectants and similar products, put up in forms or packings for retail sale or as preparations or articles (for example, sulphur-treated bands, wicks and candles, and flypapers)	Manufacture in which the value of all the materials used does not exceed 50 % of the ex-works price of the products	
3809	Finishing agents, dye carriers to accelerate the dyeing or fixing of dyestuffs and other products and preparations (for example, dressings and mordants), of a kind used in the textile, paper, leather or like industries, not elsewhere specified or included	Manufacture in which the value of all the materials used does not exceed 50 % of the ex-works price of the products	

(1)	(2)	(3) or	(4)
3810	Pickling preparations for metal surfaces; fluxes and other auxiliary preparations for soldering, brazing or welding; soldering, brazing or welding powders and pastes consisting of metal and other materials; preparations of a kind used as cores or coatings for welding electrodes or rods	Manufacture in which the value of all the materials used does not exceed 50 % of the ex-works price of the products	
3811	Anti-knock preparations, oxidation inhibitors, gum inhibitors, viscosity improvers, anti-corrosive preparations and other prepared additives, for mineral oils (including gasoline) or for other liquids used for the same purposes as mineral oils:		
	– Prepared additives for lubricating oil, containing petroleum oils or oils obtained from bituminous minerals	Manufacture in which the value of all the materials of heading 3811 used does not exceed 50 % of the ex-works price of the product	
	– Other	Manufacture in which the value of all the materials used does not exceed 50 % of the ex-works price of the product	
3812	Prepared rubber accelerators; compound plasticisers for rubber or plastics, not elsewhere specified or included; antioxidizing preparations and other compound stabilizers for rubber or plastics	Manufacture in which the value of all the materials used does not exceed 50 % of the ex-works price of the product	
3813	Preparations and charges for fireextinguishers; charged fireextinguishing grenades	Manufacture in which the value of all the materials used does not exceed 50 % of the ex-works price of the product	
3814	Organic composite solvents and thinners, not elsewhere specified or included; prepared paint or varnish removers	Manufacture in which the value of all the materials used does not exceed 50 % of the ex-works price of the product	
3818	Chemical elements doped for use in electronics, in the form of discs, wafers or similar forms; chemical compounds doped for use in electronics	Manufacture in which the value of all the materials used does not exceed 50 % of the ex-works price of the product	
3819	Hydraulic brake fluids and other prepared liquids for hydraulic transmission, not containing or containing less than 70 % by weight of petroleum oils or oils obtained from bituminous minerals	Manufacture in which the value of all the materials used does not exceed 50 % of the ex-works price of the product	
3820	Anti-freezing preparations and prepared de-icing fluids	Manufacture in which the value of all the materials used does not exceed 50 % of the ex-works price of the product	

(1)	(2)	(3) or	(4)
3822	Diagnostic or laboratory reagents on a backing, prepared diagnostic or laboratory reagents whether or not on a backing, other than those of heading 3002 or 3006; certified reference materials	Manufacture in which the value of all the materials used does not exceed 50 % of the ex-works price of the product	
3823	Industrial monocarboxylic fatty acids; acid oils from refining; industrial fatty alcohols:		
	– Industrial monocarboxylic fatty acids, acid oils from refining	Manufacture from materials of any heading, except that of the product	
	– Industrial fatty alcohols	Manufacture from materials of any heading, including other materials of heading 3823	
3824	Prepared binders for foundry moulds or cores; chemical products and preparations of the chemical or allied industries (including those consisting of mixtures of natural products), not elsewhere specified or included:		
	– The following of this heading: – – Prepared binders for foundry moulds or cores based on natural resinous products – – Naphthenic acids, their water-insoluble salts and their esters – – Sorbitol other than that of heading 2905 – – Petroleum sulphonates, excluding petroleum sulphonates of alkali metals, of ammonium or of ethanolamines; thiophenated sulphonic acids of oils obtained from bituminous minerals, and their salts – – Ion exchangers – – Getters for vacuum tubes – – Alkaline iron oxide for the purification of gas – – Ammoniacal gas liquors and spent oxide produced in coal gas purification – – Sulphonaphthenic acids, their water-insoluble salts and their esters – – Fusel oil and Dippel's oil	Manufacture from materials of any heading, except that of the product. However, materials of the same heading as the product may be used, provided that their total value does not exceed 20 % of the ex-works price of the product	Manufacture in which the value of all the materials used does not exceed 40 % of the ex-works price of the product

(1)	(2)	(3) or	(4)
	– – Mixtures of salts having different anions		
	– – Copying pastes with a basis of gelatin, whether or not on a paper or textile backing		
	– Other	Manufacture in which the value of all the materials used does not exceed 50 % of the ex-works price of the product	
3901 to 3915	Plastics in primary forms, waste, parings and scrap, of plastic; except for headings ex 3907 and 3912 for which the rules are set out below:		
	– Addition homopolymerisation products in which a single monomer contributes more than 99 % by weight to the total polymer content	Manufacture in which: — the value of all the materials used does not exceed 50 % of the ex-works price of the product, and — within the above limit, the value of all the materials of Chapter 39 used does not exceed 20 % of the ex-works price of the product (5)	Manufacture in which the value of all the materials used does not exceed 25 % of the ex-works price of the product
	– Other	Manufacture in which the value of all the materials of Chapter 39 used does not exceed 20 % of the ex-works price of the product (5)	Manufacture in which the value of all the materials used does not exceed 25 % of the ex-works price of the product
ex 3907	– Copolymer, made from polycarbonate and acrylonitrilebutadiene- styrene copolymer (ABS)	Manufacture from materials of any heading, except that of the product. However, materials of the same heading as the product may be used, provided that their total value does not exceed 50 % of the ex-works price of the product (5)	
	– Polyester	Manufacture in which the value of all the materials of Chapter 39 used does not exceed 20 % of the ex-works price of the product and/or manufacture from polycarbonate of tetrabromo-(bisphenol A)	
3912	Cellulose and its chemical derivatives, not elsewhere specified or included, in primary forms	Manufacture in which the value of all the materials of the same heading as the product used does not exceed 20 % of the ex-works price of the product	

(1)	(2)	(3) or	(4)
3916 to 3921	Semi-manufactures and articles of plastics; except for headings ex 3916, ex 3917, ex 3920 and ex 3921, for which the rules are set out below:		
	– Flat products, further worked than only surface-worked or cut into forms other than rectangular (including square); other products, further worked than only surface-worked	Manufacture in which the value of all the materials of Chapter 39 used does not exceed 50 % of the ex-works price of the product	Manufacture in which the value of all the materials used does not exceed 25 % of the ex-works price of the product
	– Other		
	– – Addition homopolymerisation products in which a single monomer contributes more than 99 % by weight to the total polymer content	Manufacture in which: — the value of all the materials used does not exceed 50 % of the ex-works price of the product, and — within the above limit, the value of all the materials of Chapter 39 used does not exceed 20 % of the ex-works price of the product (5)	Manufacture in which the value of all the materials used does not exceed 25 % of the ex-works price of the product
	– – Other	Manufacture in which the value of all the materials of Chapter 39 used does not exceed 20 % of the ex-works price of the product (5)	Manufacture in which the value of all the materials used does not exceed 25 % of the ex-works price of the product
ex 3916 and ex 3917	Profile shapes and tubes	Manufacture in which: — the value of all the materials used does not exceed 50 % of the ex-works price of the product, and — within the above limit, the value of all the materials of the same heading as the product used does not exceed 20 % of the ex-works price of the product	Manufacture in which the value of all the materials used does not exceed 25 % of the ex-works price of the product
ex 3920	– Ionomer sheet or film	Manufacture from a thermoplastic partial salt which is a copolymer of ethylene and metacrylic acid partly neutralised with metal ions, mainly zinc and sodium	Manufacture in which the value of all the materials used does not exceed 25 % of the ex-works price of the product
	– Sheets of regenerated cellulose, polyamides or polyethylene	Manufacture in which the value of all the materials of the same heading as the product used does not exceed 20 % of the ex-works price of the product	

(1)	(2)	(3)	or (4)
ex 3921	Foils of plastic, metallised	Manufacture from highlytransparent polyester-foils with a thickness of less than 23 micron [6]	Manufacture in which the value of all the materials used does not exceed 25 % of the ex-works price of the product
3922 to 3926	Articles of plastics	Manufacture in which the value of all the materials used does not exceed 50 % of the ex-works price of the product	
ex Chapter 40	Rubber and articles thereof; except for:	Manufacture from materials of any heading, except that of the product	
ex 4001	Laminated slabs of crepe rubber for shoes	Lamination of sheets of natural rubber	
4005	Compounded rubber, unvulcanised, in primary forms or in plates, sheets or strip	Manufacture in which the value of all the materials used, except natural rubber, does not exceed 50 % of the ex-works price of the product	
4012	Retreaded or used pneumatic tyres of rubber; solid or cushion tyres, tyre treads and tyre flaps, of rubber:		
	– Retreaded pneumatic, solid or cushion tyres, of rubber	Retreading of used tyres	
	– Other	Manufacture from materials of any heading, except those of headings 4011 and 4012	
ex 4017	Articles of hard rubber	Manufacture from hard rubber	
ex Chapter 41	Raw hides and skins (other than furskins) and leather; except for:	Manufacture from materials of any heading, except that of the product	
ex 4102	Raw skins of sheep or lambs, without wool on	Removal of wool from sheep or lamb skins, with wool on	
4104 to 4106	Tanned or crust hides and skins, without wool or hair on, whether or not split, but not further prepared	Retanning of pre-tanned leather or Manufacture from materials of any heading, except that of the product	
4107, 4112 and 4113	Leather further prepared after tanning or crusting, including parchment-dressed leather, without wool or hair on, whether or not split, other than leather of heading 4114	Manufacture from materials of any heading, except headings 4104 to 4113	

(1)	(2)	(3) or	(4)
ex 4114	Patent leather and patent laminated leather; metallised leather	Manufacture from materials of headings 4104 to 4106, provided that their total value does not exceed 50 % of the ex-works price of the product	
Chapter 42	Articles of leather; saddlery and harness; travel goods, handbags and similar containers; articles of animal gut (other than silk worm gut)	Manufacture from materials of any heading, except that of the product	
ex Chapter 43	Furskins and artificial fur; manufactures thereof; except for:	Manufacture from materials of any heading, except that of the product	
ex 4302	Tanned or dressed furskins, assembled:		
	– Plates, crosses and similar forms	Bleaching or dyeing, in addition to cutting and assembly of nonassembled tanned or dressed furskins	
	– Other	Manufacture from non-assembled, tanned or dressed furskins	
4303	Articles of apparel, clothing accessories and other articles of furskin	Manufacture from non-assembled tanned or dressed furskins of heading 4302	
ex Chapter 44	Wood and articles of wood; wood charcoal; except for:	Manufacture from materials of any heading, except that of the product	
ex 4403	Wood roughly squared	Manufacture from wood in the rough, whether or not stripped of its bark or merely roughed down	
ex 4407	Wood sawn or chipped lengthwise, sliced or peeled, of a thickness exceeding 6 mm, planed, sanded or end-jointed	Planing, sanding or end-jointing	
ex 4408	Sheets for veneering (including those obtained by slicing laminated wood) and for plywood, of a thickness not exceeding 6 mm, spliced, and other wood sawn lengthwise, sliced or peeled of a thickness not exceeding 6 mm, planed, sanded or end-jointed	Splicing, planing, sanding or endjointing	
ex 4409	Wood continuously shaped along any of its edges, ends or faces, whether or not planed, sanded or end-jointed:		
	– Sanded or end-jointed	Sanding or end-jointing	

(1)	(2)	(3) or	(4)
	– Beadings and mouldings	Beading or moulding	
ex 4410 to ex 4413	Beadings and mouldings, including moulded skirting and other moulded boards	Beading or moulding	
ex 4415	Packing cases, boxes, crates, drums and similar packings, of wood	Manufacture from boards not cut to size	
ex 4416	Casks, barrels, vats, tubs and other coopers' products and parts thereof, of wood	Manufacture from riven staves, not further worked than sawn on the two principal surfaces	
ex 4418	– Builders' joinery and carpentry of wood	Manufacture from materials of any heading, except that of the product. However, cellular wood panels, shingles and shakes may be used	
	– Beadings and mouldings	Beading or moulding	
ex 4421	Match splints; wooden pegs or pins for footwear	Manufacture from wood of any heading, except drawn wood of heading 4409	
ex Chapter 45	Cork and articles of cork; except for:	Manufacture from materials of any heading, except that of the product	
4503	Articles of natural cork	Manufacture from cork of heading 4501	
Chapter 46	Manufactures of straw, of esparto or of other plaiting materials; basketware and wickerwork	Manufacture from materials of any heading, except that of the product	
Chapter 47	Pulp of wood or of other fibrous cellulosic material; recovered (waste and scrap) paper or paperboard	Manufacture from materials of any heading, except that of the product	
ex Chapter 48	Paper and paperboard; articles of paper pulp, of paper or of paperboard; except for:	Manufacture from materials of any heading, except that of the product	
ex 4811	Paper and paperboard, ruled, lined or squared only	Manufacture from paper-making materials of Chapter 47	

(1)	(2)	(3) or	(4)
4816	Carbon paper, self-copy paper and other copying or transfer papers (other than those of heading 4809), duplicator stencils and offset plates, of paper, whether or not put up in boxes	Manufacture from paper-making materials of Chapter 47	
4817	Envelopes, letter cards, plain postcards and correspondence cards, of paper or paperboard; boxes, pouches, wallets and writing compendiums, of paper or paperboard, containing an assortment of paper stationery	Manufacture: — from materials of any heading, except that of the product, and — in which the value of all the materials used does not exceed 50 % of the ex-works price of the product	
ex 4818	Toilet paper	Manufacture from paper-making materials of Chapter 47	
ex 4819	Cartons, boxes, cases, bags and other packing containers, of paper, paperboard, cellulose wadding or webs of cellulose fibres	Manufacture: — from materials of any heading, except that of the product, and — in which the value of all the materials used does not exceed 50 % of the ex-works price of the product	
ex 4820	Letter pads	Manufacture in which the value of all the materials used does not exceed 50 % of the ex-works price of the product	
ex 4823	Other paper, paperboard, cellulose wadding and webs of cellulose fibres, cut to size or shape	Manufacture from paper-making materials of Chapter 47	
ex Chapter 49	Printed books, newspapers, pictures and other products of the printing industry; manuscripts, typescripts and plans; except for:	Manufacture from materials of any heading, except that of the product	
4909	Printed or illustrated postcards; printed cards bearing personal greetings, messages or announcements, whether or not illustrated, with or without envelopes or trimmings	Manufacture from materials of any heading, except those of headings 4909 and 4911	
4910	Calendars of any kind, printed, including calendar blocks:		

(1)	(2)	(3) or	(4)
	– Calendars of the 'perpetual' type or with replaceable blocks mounted on bases other than paper or paperboard	Manufacture: — from materials of any heading, except that of the product, and — in which the value of all the materials used does not exceed 50 % of the ex-works price of the product	
	– Other	Manufacture from materials of any heading, except those of headings 4909 and 4911	
ex Chapter 50	Silk; except for:	Manufacture from materials of any heading, except that of the product	
ex 5003	Silk waste (including cocoons unsuitable for reeling, yarn waste and garnetted stock), carded or combed	Carding or combing of silk waste	
5004 to ex 5006	Silk yarn and yarn spun from silk waste	Manufacture from (7): — raw silk or silk waste, carded or combed or otherwise prepared for spinning, — other natural fibres, not carded or combed or otherwise prepared for spinning, — chemical materials or textile pulp, or — paper-making materials	
5007	Woven fabrics of silk or of silk waste:		
	– Incorporating rubber thread	Manufacture from single yarn (7)	
	– Other	Manufacture from (7): — coir yarn, — natural fibres, — man-made staple fibres, not carded or combed or otherwise prepared for spinning, — chemical materials or textile pulp, or	

(1)	(2)	(3) or	(4)
		— paper or Printing accompanied by at least two preparatory or finishing operations (such as scouring, bleaching, mercerising, heat setting, raising, calendering, shrink resistance processing, permanent finishing, decatising, impregnating, mending and burling), provided that the value of the unprinted fabric used does not exceed 47,5 % of the ex-works price of the product	
ex Chapter 51	Wool, fine or coarse animal hair; horsehair yarn and woven fabric; except for:	Manufacture from materials of any heading, except that of the product	
5106 to 5110	Yarn of wool, of fine or coarse animal hair or of horsehair	Manufacture from (7): — raw silk or silk waste, carded or combed or otherwise prepared for spinning, — natural fibres, not carded or combed or otherwise prepared for spinning, — chemical materials or textile pulp, or — paper-making materials	
5111 to 5113	Woven fabrics of wool, of fine or coarse animal hair or of horsehair:		
	– Incorporating rubber thread	Manufacture from single yarn (7)	
	– Other	Manufacture from (7): — coir yarn, — natural fibres, — man-made staple fibres, not carded or combed or otherwise prepared for spinning, — chemical materials or textile pulp, or — paper or	

(1)	(2)	(3)	or (4)
		Printing accompanied by at least two preparatory or finishing operations (such as scouring, bleaching, mercerising, heat setting, raising, calendering, shrink resistance processing, permanent finishing, decatising, impregnating, mending and burling), provided that the value of the unprinted fabric used does not exceed 47,5 % of the ex-works price of the product	
ex Chapter 52	Cotton; except for:	Manufacture from materials of any heading, except that of the product	
5204 to 5207	Yarn and thread of cotton	Manufacture from (7): — raw silk or silk waste, carded or combed or otherwise prepared for spinning, — natural fibres, not carded or combed or otherwise prepared for spinning, — chemical materials or textile pulp, or — paper-making materials	
5208 to 5212	Woven fabrics of cotton:		
	– Incorporating rubber thread	Manufacture from single yarn (7)	
	– Other	Manufacture from (7): — coir yarn, — natural fibres, — man-made staple fibres, not carded or combed or otherwise prepared for spinning, — chemical materials or textile pulp, or — paper or Printing accompanied by at least two preparatory or finishing operations (such as scouring, bleaching, mercerising, heat setting, raising, calendering, shrink resistance processing, permanent finishing, decatising, impregnating, mending and burling), provided that the value of the unprinted fabric used does not exceed 47,5 % of the ex-works price of the product	

(1)	(2)	(3) or	(4)
ex Chapter 53	Other vegetable textile fibres; paper yarn and woven fabrics of paper yarn; except for:	Manufacture from materials of any heading, except that of the product	
5306 to 5308	Yarn of other vegetable textile fibres; paper yarn	Manufacture from (7): — raw silk or silk waste, carded or combed or otherwise prepared for spinning, — natural fibres, not carded or combed or otherwise prepared for spinning, — chemical materials or textile pulp, or — paper-making materials	
5309 to 5311	Woven fabrics of other vegetable textile fibres; woven fabrics of paper yarn:		
	– Incorporating rubber thread	Manufacture from single yarn (7)	
	– Other	Manufacture from (7): — coir yarn, — jute yarn, — natural fibres, — man-made staple fibres, not carded or combed or otherwise prepared for spinning, — chemical materials or textile pulp, or — paper or Printing accompanied by at least two preparatory or finishing operations (such as scouring, bleaching, mercerising, heat setting, raising, calendering, shrink resistance processing, permanent finishing, decatising, impregnating, mending and burling), provided that the value of the unprinted fabric used does not exceed 47,5 % of the ex-works price of the product	
5401 to 5406	Yarn, monofilament and thread of man-made filaments	Manufacture from (7): — raw silk or silk waste, carded or combed or otherwise prepared for spinning,	

(1)	(2)	(3) or	(4)
		— natural fibres, not carded or combed or otherwise prepared for spinning, — chemical materials or textile pulp, or — paper-making materials	
5407 and 5408	Woven fabrics of man-made filament yarn:		
	– Incorporating rubber thread	Manufacture from single yarn (7)	
	– Other	Manufacture from (7): — coir yarn, — natural fibres, — man-made staple fibres, not carded or combed or otherwise prepared for spinning, — chemical materials or textile pulp, or — paper or Printing accompanied by at least two preparatory or finishing operations (such as scouring, bleaching, mercerising, heat setting, raising, calendering, shrink resistance processing, permanent finishing, decatising, impregnating, mending and burling), provided that the value of the unprinted fabric used does not exceed 47,5 % of the ex-works price of the product	
5501 to 5507	Man-made staple fibres	Manufacture from chemical materials or textile pulp	
5508 to 5511	Yarn and sewing thread of manmade staple fibres	Manufacture from (7): — raw silk or silk waste, carded or combed or otherwise prepared for spinning, — natural fibres, not carded or combed or otherwise prepared for spinning, — chemical materials or textile pulp, or — paper-making materials	

(1)	(2)	(3) or	(4)
5512 to 5516	Woven fabrics of man-made staple fibres:		
	– Incorporating rubber thread	Manufacture from single yarn (7)	
	– Other	Manufacture from (7): — coir yarn, — natural fibres, — man-made staple fibres, not carded or combed or otherwise prepared for spinning, — chemical materials or textile pulp, or — paper or Printing accompanied by at least two preparatory or finishing operations (such as scouring, bleaching, mercerising, heat setting, raising, calendering, shrink resistance processing, permanent finishing, decatising, impregnating, mending and burling), provided that the value of the unprinted fabric used does not exceed 47,5 % of the ex-works price of the product	
ex Chapter 56	Wadding, felt and non-wovens; special yarns; twine, cordage, ropes and cables and articles thereof; except for:	Manufacture from (7): — coir yarn, — natural fibres, — chemical materials or textile pulp, or — paper-making materials	
5602	Felt, whether or not impregnated, coated, covered or laminated:		
	– Needleloom felt	Manufacture from (7): — natural fibres, or — chemical materials or textile pulp However: — polypropylene filament of heading5402, — polypropylene fibres of heading 5503 or 5506, or	

(1)	(2)	(3) or	(4)
		— polypropylene filament tow of heading 5501, of which the denomination in all cases of a single filament or fibre is less than 9 decitex, may be used, provided that their total value does not exceed 40 % of the ex-works price of the product	
	– Other	Manufacture from (7): — natural fibres, — man-made staple fibres made from casein, or — chemical materials or textile pulp	
5604	Rubber thread and cord, textile covered; textile yarn, and strip and the like of heading 5404 or 5405, impregnated, coated, covered or sheathed with rubber or plastics:		
	– Rubber thread and cord, textile covered	Manufacture from rubber thread or cord, not textile covered	
	– Other	Manufacture from (7): — natural fibres, not carded or combed or otherwise processed for spinning, — chemical materials or textile pulp, or — paper-making materials	
5605	Metallised yarn, whether or not gimped, being textile yarn, or strip or the like of heading 5404 or 5405, combined with metal in the form of thread, strip or powder or covered with metal	Manufacture from (7): — natural fibres, — man-made staple fibres, not carded or combed or otherwise processed for spinning, — chemical materials or textile pulp, or — paper-making materials	
5606	Gimped yarn, and strip and the like of heading 5404 or 5405, gimped (other than those of heading 5605 and gimped horsehair yarn); chenille yarn (including flock chenille yarn); loop wale-yarn	Manufacture from (7): — natural fibres, — man-made staple fibres, not carded or combed or otherwise processed for spinning,	

(1)	(2)	(3) or	(4)
		— chemical materials or textile pulp, or — paper-making materials	
Chapter 57	Carpets and other textile floor coverings:		
	– Of needleloom felt	Manufacture from (7): — natural fibres, or — chemical materials or textile pulp However: — polypropylene filament of heading 5402, — polypropylene fibres of heading 5503 or 5506, or — polypropylene filament tow of heading 5501, of which the denomination in all cases of a single filament or fibre is less than 9 decitex, may be used, provided that their total value does not exceed 40 % of the ex-works price of the product Jute fabric may be used as a backing	
	– Of other felt	Manufacture from (7): — natural fibres, not carded or combed or otherwise processed for spinning, or — chemical materials or textile pulp	
	– Other	Manufacture from (7): — coir yarn or jute yarn, — synthetic or artificial filament yarn, — natural fibres, or — man-made staple fibres, not carded or combed or otherwise processed for spinning	

(1)	(2)	(3) or	(4)
		Jute fabric may be used as a backing	
ex Chapter 58	Special woven fabrics; tufted textile fabrics; lace; tapestries; trimmings; embroidery; except for:		
	– Combined with rubber thread	Manufacture from single yarn (7)	
	– Other	Manufacture from (7): — natural fibres, — man-made staple fibres, not carded or combed or otherwise processed for spinning, or — chemical materials or textile pulp or Printing accompanied by at least two preparatory or finishing operations (such as scouring, bleaching, mercerising, heat setting, raising, calendering, shrink resistance processing, permanent finishing, decatising, impregnating, mending and burling), provided that the value of the unprinted fabric used does not exceed 47,5 % of the ex-works price of the product	
5805	Hand-woven tapestries of the types Gobelins, Flanders, Aubusson, Beauvais and the like, and needle-worked tapestries (for example, petit point, cross stitch), whether or not made up	Manufacture from materials of any heading, except that of the product	
5810	Embroidery in the piece, in strips or in motifs	Manufacture: — from materials of any heading, except that of the product, and — in which the value of all the materials used does not exceed 50 % of the ex-works price of the product	
5901	Textile fabrics coated with gum or amylaceous substances, of a kind used for the outer covers of books or the like; tracing cloth; prepared painting canvas; buckram and similar stiffened textile fabrics of a kind used for hat foundations	Manufacture from yarn	
5902	Tyre cord fabric of high tenacity yarn of nylon or other polyamides, polyesters or viscose rayon:		

(1)	(2)	(3) or	(4)
	– Containing not more than 90 % by weight of textile materials	Manufacture from yarn	
	– Other	Manufacture from chemical materials or textile pulp	
5903	Textile fabrics impregnated, coated, covered or laminated with plastics, other than those of heading 5902	Manufacture from yarn or Printing accompanied by at least two preparatory or finishing operations (such as scouring, bleaching, mercerising, heat setting, rasing, calendering, shrink resistance processing, permanent finishing, decatising, impregnating, mending and burling), provided that the value of the unprinted fabric used does not exceed 47,5 % of the ex-works price of the product	
5904	Linoleum, whether or note cut to shape; floor coverings consisting of a coating or covering applied on a textile backing, whether or not cut to shape	Manufacture from yarn (7)	
5905	Textile wall coverings:		
	– Impregnated, coated, covered or laminated with rubber, plastics or other materials	Manufacture from yarn	
	– Other	Manufacture from (7): — coir yarn, — natural fibres, — man-made staple fibres, not carded or combed or otherwise processed for spinning, or — chemical materials or textile pulp or Printing accompanied by at least two preparatory or finishing operations (such as scouring, bleaching, mercerising, heat setting, raising, calendering, shrink resistance processing, permanent finishing, decatising, impregnating, mending and burling), provided that the value of the unprinted fabric used does not exceed 47,5 % of the ex-works price of the product	

(1)	(2)	(3) or	(4)
5906	Rubberised textile fabrics, other than those of heading 5902:		
	– Knitted or crocheted fabrics	Manufacture from [7]: — natural fibres, — man-made staple fibres, not carded or combed or otherwise processed for spinning, or — chemical materials or textile pulp	
	– Other fabrics made of synthetic filament yarn, containing more than 90 % by weight of textile materials	Manufacture from chemical materials	
	– Other	Manufacture from yarn	
5907	Textile fabrics otherwise impregnated, coated or covered; painted canvas being theatrical scenery, studio back-cloths or the like	Manufacture from yarn or Printing accompanied by at least two preparatory or finishing operations (such as scouring, bleaching, mercerising, heat setting, rasing, calendering, shrink resistance processing, permanent finishing, decatising, impregnating, mending and burling), provided that the value of the unprinted fabric used does not exceed 47,5 % of the ex-works price of the product	
5908	Textile wicks, woven, plaited or knitted, for lamps, stoves, lighters, candles or the like; incandescent gas mantles and tubular knitted gas mantle fabric therefor, whether or not impregnated:		
	– Incandescent gas mantles, impregnated	Manufacture from tubular knitted gas-mantle fabric	
	– Other	Manufacture from materials of any heading, except that of the product	
5909 to 5911	Textile articles of a kind suitable for industrial use:		
	– Polishing discs or rings other than of felt of heading 5911	Manufacture from yarn or waste fabrics or rags of heading 6310	
	– Woven fabrics, of a kind commonly used in papermaking or other technical uses, felted or not, whether or not impregnated or coated, tubular or endless with single or multiple warp and/or weft, or flat woven with multiple warp and/or weft of heading 5911	Manufacture from [7]: — coir yarn, — the following materials: — yarn of polytetrafluoroethylene [8],	

(1)	(2)	(3) or	(4)
		— yarn, multiple, of polyamide, coated impregnated or covered with a phenolic resin, — yarn of synthetic textile fibres of aromatic polyamides, obtained by polycondensation of *m*-phenylenediamine and isophthalic acid, — monofil of polytetrafluoro-ethylene (8), — yarn of synthetic textile fibres of poly(*p*-phenylene terephthalamide), — glass fibre yarn, coated with phenol resin and gimped with acrylic yarn (8), — copolyester monofilaments of a polyester and a resin of terephthalic acid and 1,4-cyclohexanediethanol and isophthalic acid, — natural fibres, — man-made staple fibres not carded or combed or otherwise processed for spinning, or — chemical materials or textile pulp	
	– Other	Manufacture from (7): — coir yarn, — natural fibres, — man-made staple fibres, not carded or combed or otherwise processed for spinning, or — chemical materials or textile pulp	
Chapter 60	Knitted or crocheted fabrics	Manufacture from (7): — natural fibres, — man-made staple fibres, not carded or combed or otherwise processed for spinning, or — chemical materials or textile pulp	

(1)	(2)	(3) or	(4)
Chapter 61	Articles of apparel and clothing accessories, knitted or crocheted:		
	– Obtained by sewing together or otherwise assembling, two or more pieces of knitted or crocheted fabric which have been either cut to form or obtained directly to form	Manufacture from yarn (7) (9)	
	– Other	Manufacture from (7): — natural fibres, — man-made staple fibres, not carded or combed or otherwise processed for spinning, or — chemical materials or textile pulp	
ex Chapter 62	Articles of apparel and clothing accessories, not knitted or crocheted; except for:	Manufacture from yarn (7) (9)	
ex 6202, ex 6204, ex 6206, ex 6209 and ex 6211	Women's, girls' and babies' clothing and clothing accessories for babies, embroidered	Manufacture from yarn (9) or Manufacture from unembroidered fabric, provided that the value of the unembroidered fabric used does not exceed 40 % of the ex-works price of the product (9)	
ex 6210 and ex 6216	Fire-resistant equipment of fabric covered with foil of aluminised polyester	Manufacture from yarn (9) or Manufacture from uncoated fabric, provided that the value of the uncoated fabric used does not exceed 40 % of the ex-works price of the product (9)	
6213 and 6214	Handkerchiefs, shawls, scarves, mufflers, mantillas, veils and the like:		
	– Embroidered	Manufacture from unbleached single yarn (7) (9) or Manufacture from unembroidered fabric, provided that the value of the unembroidered fabric used does not exceed 40 % of the ex-works price of the product (9)	
	– Other	Manufacture from unbleached single yarn (7) (9) or	

(1)	(2)	(3) or	(4)
		Making up, followed by printing accompanied by at least two preparatory or finishing operations (such as scouring, bleaching, mercerising, heat setting, raising, calendering, shrink resistance processing, permanent finishing, decatising, impregnating, mending and burling), provided that the value of all the unprinted goods of headings 6213 and 6214 used does not exceed 47,5 % of the ex-works price of the product	
6217	Other made up clothing accessories; parts of garments or of clothing accessories, other than those of heading 6212:		
	– Embroidered	Manufacture from yarn (9) or Manufacture from unembroidered fabric, provided that the value of the unembroidered fabric used does not exceed 40 % of the ex-works price of the product (9)	
	– Fire-resistant equipment of fabric covered with foil of aluminised polyester	Manufacture from yarn (9) or Manufacture from uncoated fabric, provided that the value of the uncoated fabric used does not exceed 40 % of the ex-works price of the product (9)	
	– Interlinings for collars and cuffs, cut out	Manufacture: — from materials of any heading, except that of the product, and — in which the value of all the materials used does not exceed 40 % of the ex-works price of the product	
	– Other	Manufacture from yarn (9)	
ex Chapter 63	Other made-up textile articles; sets; worn clothing and worn textile articles; rags; except for:	Manufacture from materials of any heading, except that of the product	
6301 to 6304	Blankets, travelling rugs, bed linen etc.; curtains etc.; other furnishing articles:		
	– Of felt, of nonwovens	Manufacture from (7): — natural fibres, or — chemical materials or textile pulp	

(1)	(2)	(3) or	(4)
	– Other		
	– – Embroidered	Manufacture from unbleached single yarn (9) (10) or Manufacture from unembroidered fabric (other than knitted or crocheted), provided that the value of the unembroidered fabric used does not exceed 40 % of the ex-works price of the product	
	– – Other	Manufacture from unbleached single yarn (9) (10)	
6305	Sacks and bags, of a kind used for the packing of goods	Manufacture from (7): — natural fibres, — man-made staple fibres, not carded or combed or otherwise processed for spinning, or — chemical materials or textile pulp	
6306	Tarpaulins, awnings and sunblinds; tents; sails for boats, sailboards or landcraft; camping goods:		
	– Of nonwovens	Manufacture from (7) (9): — natural fibres, or — chemical materials or textile pulp	
	– Other	Manufacture from unbleached single yarn (7) (9)	
6307	Other made-up articles, including dress patterns	Manufacture in which the value of all the materials used does not exceed 40 % of the ex-works price of the product	
6308	Sets consisting of woven fabric and yarn, whether or not with accessories, for making up into rugs, tapestries, embroidered table cloths or serviettes, or similar textile articles, put up in packings for retail sale	Each item in the set must satisfy the rule which would apply to it if it were not included in the set. However, non-originating articles may be incorporated, provided that their total value does not exceed 15 % of the ex-works price of the set	
ex Chapter 64	Footwear, gaiters and the like; parts of such articles; except for:	Manufacture from materials of any heading, except from assemblies of uppers affixed to inner soles or to other sole components of heading 6406	

(1)	(2)	(3) or	(4)
6406	Parts of footwear (including uppers whether or not attached to soles other than outer soles); removable in-soles, heel cushions and similar articles; gaiters, leggings and similar articles, and parts thereof	Manufacture from materials of any heading, except that of the product	
ex Chapter 65	Headgear and parts thereof; except for:	Manufacture from materials of any heading, except that of the product	
6503	Felt hats and other felt headgear, made from the hat bodies, hoods or plateaux of heading 6501, whether or not lined or trimmed	Manufacture from yarn or textile fibres (9)	
6505	Hats and other headgear, knitted or crocheted, or made up from lace, felt or other textile fabric, in the piece (but not in strips), whether or not lined or trimmed; hair-nets of any material, whether or not lined or trimmed	Manufacture from yarn or textile fibres (9)	
ex Chapter 66	Umbrellas, sun umbrellas, walking-sticks, seat-sticks, whips, riding-crops, and parts thereof; except for:	Manufacture from materials of any heading, except that of the product	
6601	Umbrellas and sun umbrellas (including walking-stick umbrellas, garden umbrellas and similar umbrellas)	Manufacture in which the value of all the materials used does not exceed 50 % of the ex-works price of the product	
Chapter 67	Prepared feathers and down and articles made of feathers or of down; artificial flowers; articles of human hair	Manufacture from materials of any heading, except that of the product	
ex Chapter 68	Articles of stone, plaster, cement, asbestos, mica or similar materials; except for:	Manufacture from materials of any heading, except that of the product	
ex 6803	Articles of slate or of agglomerated slate	Manufacture from worked slate	
ex 6812	Articles of asbestos; articles of mixtures with a basis of asbestos or of mixtures with a basis of asbestos and magnesium carbonate	Manufacture from materials of any heading	
ex 6814	Articles of mica, including agglomerated or reconstituted mica, on a support of paper, paperboard or other materials	Manufacture from worked mica (including agglomerated or reconstituted mica)	

(1)	(2)	(3) or	(4)
Chapter 69	Ceramic products	Manufacture from materials of any heading, except that of the product	
ex Chapter 70	Glass and glassware; except for:	Manufacture from materials of any heading, except that of the product	
ex 7003, ex 7004 and ex 7005	Glass with a non-reflecting layer	Manufacture from materials of heading 7001	
7006	Glass of heading 7003, 7004 or 7005, bent, edge-worked, engraved, drilled, enamelled or otherwise worked, but not framed or fitted with other materials:		
	– Glass-plate substrates, coated with a dielectric thin film, and of a semiconductor grade in accordance with SEMII-standards ([11])	Manufacture from non-coated glassplate substrate of heading 7006	
	– Other	Manufacture from materials of heading 7001	
7007	Safety glass, consisting of toughened (tempered) or laminated glass	Manufacture from materials of heading 7001	
7008	Multiple-walled insulating units of glass	Manufacture from materials of heading 7001	
7009	Glass mirrors, whether or not framed, including rear-view mirrors	Manufacture from materials of heading 7001	
7010	Carboys, bottles, flasks, jars, pots, phials, ampoules and other containers, of glass, of a kind used for the conveyance or packing of goods; preserving jars of glass; stoppers, lids and other closures, of glass	Manufacture from materials of any heading, except that of the product or Cutting of glassware, provided that the total value of the uncut glassware used does not exceed 50 % of the ex-works price of the product	
7013	Glassware of a kind used for table, kitchen, toilet, office, indoor decoration or similar purposes (other than that of heading 7010 or 7018)	Manufacture from materials of any heading, except that of the product or Cutting of glassware, provided that the total value of the uncut glassware used does not exceed 50 % of the ex-works price of the product or	

(1)	(2)	(3) or	(4)
		Hand-decoration (except silk-screen printing) of hand-blown glassware, provided that the total value of the hand-blown glassware used does not exceed 50 % of the ex-works price of the product	
ex 7019	Articles (other than yarn) of glass fibres	Manufacture from: — uncoloured slivers, rovings, yarn or chopped strands, or — glass wool	
ex Chapter 71	Natural or cultured pearls, precious or semi-precious stones, precious metals, metals clad with precious metal, and articles thereof; imitation jewellery; coin; except for:	Manufacture from materials of any heading, except that of the product	
ex 7101	Natural or cultured pearls, graded and temporarily strung for convenience of transport	Manufacture in which the value of all the materials used does not exceed 50 % of the ex-works price of the product	
ex 7102, ex 7103 and ex 7104	Worked precious or semiprecious stones (natural, synthetic or reconstructed)	Manufacture from unworked precious or semi-precious stones	
7106, 7108 and 7110	Precious metals:		
	– Unwrought	Manufacture from materials of any heading, except those of headings 7106, 7108 and 7110 or Electrolytic, thermal or chemical separation of precious metals of heading 7106, 7108 or 7110 or Alloying of precious metals of heading 7106, 7108 or 7110 with each other or with base metals	
	– Semi-manufactured or in powder form	Manufacture from unwrought precious metals	
ex 7107, ex 7109 and ex 7111	Metals clad with precious metals, semi-manufactured	Manufacture from metals clad with precious metals, unwrought	
7116	Articles of natural or cultured pearls, precious or semi-precious stones (natural, synthetic or reconstructed)	Manufacture in which the value of all the materials used does not exceed 50 % of the ex-works price of the product	

(1)	(2)	(3) or	(4)
7117	Imitation jewellery	Manufacture from materials of any heading, except that of the product or Manufacture from base metal parts, not plated or covered with precious metals, provided that the value of all the materials used does not exceed 50 % of the ex-works price of the product	
ex Chapter 72	Iron and steel; except for:	Manufacture from materials of any heading, except that of the product	
7207	Semi-finished products of iron or non-alloy steel	Manufacture from materials of heading 7201, 7202, 7203, 7204 or 7205	
7208 to 7216	Flat-rolled products, bars and rods, angles, shapes and sections of iron or non-alloy steel	Manufacture from ingots or other primary forms of heading 7206	
7217	Wire of iron or non-alloy steel	Manufacture from semi-finished materials of heading 7207	
ex 7218, 7219 to 7222	Semi-finished products, flatrolled products, bars and rods, angles, shapes and sections of stainless steel	Manufacture from ingots or other primary forms of heading 7218	
7223	Wire of stainless steel	Manufacture from semi-finished materials of heading 7218	
ex 7224, 7225 to 7228	Semi-finished products, flatrolled products, hot-rolled bars and rods, in irregularly wound coils; angles, shapes and sections, of other alloy steel; hollow drill bars and rods, of alloy or nonalloy steel	Manufacture from ingots or other primary forms of heading 7206, 7218 or 7224	
7229	Wire of other alloy steel	Manufacture from semi-finished materials of heading 7224	
ex Chapter 73	Articles of iron or steel; except for:	Manufacture from materials of any heading, except that of the product	
ex 7301	Sheet piling	Manufacture from materials of heading 7206	
7302	Railway or tramway track construction material of iron or steel, the following: rails, checkrails and rack rails, switch blades, crossing frogs, point rods and other crossing pieces, sleepers (cross-ties), fish-plates, chairs, chair wedges, sole pates (base plates), rail clips, bedplates, ties and other material specialised for jointing or fixing rails	Manufacture from materials of heading 7206	

(1)	(2)	(3) or	(4)
7304, 7305 and 7306	Tubes, pipes and hollow profiles, of iron (other than cast iron) or steel	Manufacture from materials of heading 7206, 7207, 7218 or 7224	
ex 7307	Tube or pipe fittings of stainless steel (ISO No X5CrNiMo 1712), consisting of several parts	Turning, drilling, reaming, threading, deburring and sandblasting of forged blanks, provided that the total value of the forged blanks used does not exceed 35 % of the ex-works price of the product	
7308	Structures (excluding prefabricated buildings of heading 9406) and parts of structures (for example, bridges and bridge-sections, lock-gates, towers, lattice masts, roofs, roofing frameworks, doors and windows and their frames and thresholds for doors, shutters, balustrades, pillars and columns), of iron or steel; plates, rods, angles, shapes, sections, tubes and the like, prepared for use in structures, of iron or steel	Manufacture from materials of any heading, except that of the product. However, welded angles, shapes and sections of heading 7301 may not be used	
ex 7315	Skid chain	Manufacture in which the value of all the materials of heading 7315 used does not exceed 50 % of the ex-works price of the product	
ex Chapter 74	Copper and articles thereof; except for:	Manufacture: — from materials of any heading, except that of the product, and — in which the value of all the materials used does not exceed 50 % of the ex-works price of the product	
7401	Copper mattes; cement copper (precipitated copper)	Manufacture from materials of any heading, except that of the product	
7402	Unrefined copper; copper anodes for electrolytic refining	Manufacture from materials of any heading, except that of the product	
7403	Refined copper and copper alloys, unwrought:		
	– Refined copper	Manufacture from materials of any heading, except that of the product	
	– Copper alloys and refined copper containing other elements	Manufacture from refined copper, unwrought, or waste and scrap of copper	

(1)	(2)	(3) or	(4)
7404	Copper waste and scrap	Manufacture from materials of any heading, except that of the product	
7405	Master alloys of copper	Manufacture from materials of any heading, except that of the product	
ex Chapter 75	Nickel and articles thereof; except for:	Manufacture: — from materials of any heading, except that of the product, and — in which the value of all the materials used does not exceed 50 % of the ex-works price of the product	
7501 to 7503	Nickel mattes, nickel oxide sinters and other intermediate products of nickel metallurgy; unwrought nickel; nickel waste and scrap	Manufacture from materials of any heading, except that of the product	
ex Chapter 76	Aluminium and articles thereof; except for:	Manufacture: — from materials of any heading, except that of the product, and — in which the value of all the materials used does not exceed 50 % of the ex-works price of the product	
7601	Unwrought aluminium	Manufacture: — from materials of any heading, except that of the product, and — in which the value of all the materials used does not exceed 50 % of the ex-works price of the product or Manufacture by thermal or electrolytic treatment from unalloyed aluminium or waste and scrap of aluminium	
7602	Aluminium waste or scrap	Manufacture from materials of any heading, except that of the product	

(1)	(2)	(3) or	(4)
ex 7616	Aluminium articles other than gauze, cloth, grill, netting, fencing, reinforcing fabric and similar materials (including endless bands) of aluminium wire, and expanded metal of aluminium	Manufacture: — from materials of any heading, except that of the product. However, gauze, cloth, grill, netting, fencing, reinforcing fabric and similar materials (including endless bands) of aluminium wire, or expanded metal of aluminium may be used; and — in which the value of all the materials used does not exceed 50 % of the ex-works price of the product	
Chapter 77	Reserved for possible future use in the HS		
ex Chapter 78	Lead and articles thereof; except for:	Manufacture: — from materials of any heading, except that of the product, and — in which the value of all the materials used does not exceed 50 % of the ex-works price of the product	
7801	Unwrought lead:		
	– Refined lead	Manufacture from 'bullion' or 'work' lead	
	– Other	Manufacture from materials of any heading, except that of the product. However, waste and scrap of heading 7802 may not be used	
7802	Lead waste and scrap	Manufacture from materials of any heading, except that of the product	
ex Chapter 79	Zinc and articles thereof; except for:	Manufacture: — from materials of any heading, except that of the product, and — in which the value of all the materials used does not exceed 50 % of the ex-works price of the product	

(1)	(2)	(3) or	(4)
7901	Unwrought zinc	Manufacture from materials of any heading, except that of the product. However, waste and scrap of heading 7902 may not be used	
7902	Zinc waste and scrap	Manufacture from materials of any heading, except that of the product	
ex Chapter 80	Tin and articles thereof; except for:	Manufacture: — from materials of any heading, except that of the product, and — in which the value of all the materials used does not exceed 50 % of the ex-works price of the product	
8001	Unwrought tin	Manufacture from materials of any heading, except that of the product. However, waste and scrap of heading 8002 may not be used	
8002 and 8007	Tin waste and scrap; other articles of tin	Manufacture from materials of any heading, except that of the product	
Chapter 81	Other base metals; cermets; articles thereof:		
	– Other base metals, wrought; articles thereof	Manufacture in which the value of all the materials of the same heading as the product used does not exceed 50 % of the ex-works price of the product	
	– Other	Manufacture from materials of any heading, except that of the product	
ex Chapter 82	Tools, implements, cutlery, spoons and forks, of base metal; parts thereof of base metal; except for:	Manufacture from materials of any heading, except that of the product	
8206	Tools of two or more of the headings 8202 to 8205, put up in sets for retail sale	Manufacture from materials of any heading, except those of headings 8202 to 8205. However, tools of headings 8202 to 8205 may be incorporated into the set, provided that their total value does not exceed 15 % of the ex-works price of the set	

(1)	(2)	(3) or	(4)
8207	Interchangeable tools for hand tools, whether or not poweroperated, or for machine-tools (for example, for pressing, stamping, punching, tapping, threading, drilling, boring, broaching, milling, turning, or screwdriving), including dies for drawing or extruding metal, and rock drilling or earth boring tools	Manufacture: — from materials of any heading, except that of the product, and — in which the value of all the materials used does not exceed 40 % of the ex-works price of the product	
8208	Knives and cutting blades, for machines or for mechanical appliances	Manufacture: — from materials of any heading, except that of the product, and — in which the value of all the materials used does not exceed 40 % of the ex-works price of the product	
ex 8211	Knives with cutting blades, serrated or not (including pruning knives), other than knives of heading 8208	Manufacture from materials of any heading, except that of the product. However, knife blades and handles of base metal may be used	
8214	Other articles of cutlery (for example, hair clippers, butchers' or kitchen cleavers, choppers and mincing knives, paper knives); manicure or pedicure sets and instruments (including nail files)	Manufacture from materials of any heading, except that of the product. However, handles of base metal may be used	
8215	Spoons, forks, ladles, skimmers, cake-servers, fish-knives, butterknives, sugar tongs and similar kitchen or tableware	Manufacture from materials of any heading, except that of the product. However, handles of base metal may be used	
ex Chapter 83	Miscellaneous articles of base metal; except for:	Manufacture from materials of any heading, except that of the product	
ex 8302	Other mountings, fittings and similar articles suitable for buildings, and automatic door closers	Manufacture from materials of any heading, except that of the product. However, other materials of heading 8302 may be used, provided that their total value does not exceed 20 % of the ex-works price of the product	

(1)	(2)	(3) or	(4)
ex 8306	Statuettes and other ornaments, of base metal	Manufacture from materials of any heading, except that of the product. However, other materials of heading 8306 may be used, provided that their total value does not exceed 30 % of the ex-works price of the product	
ex Chapter 84	Nuclear reactors, boilers, machinery and mechanical appliances; parts thereof; except for:	Manufacture: — from materials of any heading, except that of the product, and — in which the value of all the materials used does not exceed 40 % of the ex-works price of the product	Manufacture in which the value of all the materials used does not exceed 30 % of the ex-works price of the product
ex 8401	Nuclear fuel elements	Manufacture from materials of any heading, except that of the product (12)	Manufacture in which the value of all the materials used does not exceed 30 % of the ex-works price of the product
8402	Steam or other vapour generating boilers (other than central heating hot water boilers capable also of producing low pressure steam); super-heated water boilers	Manufacture: — from materials of any heading, except that of the product, and — in which the value of all the materials used does not exceed 40 % of the ex-works price of the product	Manufacture in which the value of all the materials used does not exceed 25 % of the ex-works price of the product
8403 and ex 8404	Central heating boilers other than those of heading 8402 and auxiliary plant for central heating boilers	Manufacture from materials of any heading, except those of headings 8403 or 8404	Manufacture in which the value of all the materials used does not exceed 40 % of the ex-works price of the product
8406	Steam turbines and other vapour turbines	Manufacture in which the value of all the materials used does not exceed 40 % of the ex-works price of the product	
8407	Spark-ignition reciprocating or rotary internal combustion piston engines	Manufacture in which the value of all the materials used does not exceed 40 % of the ex-works price of the product	
8408	Compression-ignition internal combustion piston engines (diesel or semi-diesel engines)	Manufacture in which the value of all the materials used does not exceed 40 % of the ex-works price of the product	
8409	Parts suitable for use solely or principally with the engines of heading 8407 or 8408	Manufacture in which the value of all the materials used does not exceed 40 % of the ex-works price of the product	

(1)	(2)	(3)	or (4)
8411	Turbo-jets, turbo-propellers and other gas turbines	Manufacture: — from materials of any heading, except that of the product, and — in which the value of all the materials used does not exceed 40 % of the ex-works price of the product	Manufacture in which the value of all the materials used does not exceed 25 % of the ex-works price of the product
8412	Other engines and motors	Manufacture in which the value of all the materials used does not exceed 40 % of the ex-works price of the product	
ex 8413	Rotary positive displacement pumps	Manufacture: — from materials of any heading, except that of the product, and — in which the value of all the materials used does not exceed 40 % of the ex-works price of the product	Manufacture in which the value of all the materials used does not exceed 25 % of the ex-works price of the product
ex 8414	Industrial fans, blowers and the like	Manufacture: — from materials of any heading, except that of the product, and — in which the value of all the materials used does not exceed 40 % of the ex-works price of the product	Manufacture in which the value of all the materials used does not exceed 25 % of the ex-works price of the product
8415	Air conditioning machines, comprising a motor-driven fan and elements for changing the temperature and humidity, including those machines in which the humidity cannot be separately regulated	Manufacture in which the value of all the materials used does not exceed 40 % of the ex-works price of the product	
8418	Refrigerators, freezers and other refrigerating or freezing equipment, electric or other; heat pumps other than air conditioning machines of heading 8415	Manufacture: — from materials of any heading, except that of the product, — in which the value of all the materials used does not exceed 40 % of the ex-works price of the product, and — in which the value of all the nonoriginating materials used does not exceed the value of all the originating materials used	Manufacture in which the value of all the materials used does not exceed 25 % of the ex-works price of the product

(1)	(2)	(3)	or (4)
ex 8419	Machines for wood, paper pulp, paper and paperboard industries	Manufacture in which: — the value of all the materials used does not exceed 40 % of the ex-works price of the product, and — within the above limit, the value of all the materials of the same heading as the product used does not exceed 25 % of the ex-works price of the product	Manufacture in which the value of all the materials used does not exceed 30 % of the ex-works price of the product
8420	Calendering or other rolling machines, other than for metals or glass, and cylinders therefor	Manufacture in which: — the value of all the materials used does not exceed 40 % of the ex-works price of the product, and — within the above limit, the value of all the materials of the same heading as the product used does not exceed 25 % of the ex-works price of the product	Manufacture in which the value of all the materials used does not exceed 30 % of the ex-works price of the product
8423	Weighing machinery (excluding balances of a sensitivity of 5 cg or better), including weight operated counting or checking machines; weighing machine weights of all kinds	Manufacture: — from materials of any heading, except that of the product, and — in which the value of all the materials used does not exceed 40 % of the ex-works price of the product	Manufacture in which the value of all the materials used does not exceed 25 % of the ex-works price of the product
8425 to 8428	Lifting, handling, loading or unloading machinery	Manufacture in which: — the value of all the materials used does not exceed 40 % of the ex-works price of the product, and — within the above limit, the value of all the materials of heading 8431 used does not exceed 10 % of the ex-works price of the product	Manufacture in which the value of all the materials used does not exceed 30 % of the ex-works price of the product
8429	Self-propelled bulldozers, angledozers, graders, levellers, scrapers, mechanical shovels, excavators, shovel loaders, tamping machines and road rollers:		
	– Road rollers	Manufacture in which the value of all the materials used does not exceed 40 % of the ex-works price of the product	

(1)	(2)	(3)	or (4)
	– Other	Manufacture in which: — the value of all the materials used does not exceed 40 % of the ex-works price of the product, and — within the above limit, the value of all the materials of heading 8431 used does not exceed 10 % of the ex-works price of the product	Manufacture in which the value of all the materials used does not exceed 30 % of the ex-works price of the product
8430	Other moving, grading, levelling, scraping, excavating, tamping, compacting, extracting or boring machinery, for earth, minerals or ores; pile-drivers and pileextractors; snow-ploughs and snow-blowers	Manufacture in which: — the value of all the materials used does not exceed 40 % of the ex-works price of the product, and — within the above limit, the value of all the materials of heading 8431 used does not exceed 10 % of the ex-works price of the product	Manufacture in which the value of all the materials used does not exceed 30 % of the ex-works price of the product
ex 8431	Parts suitable for use solely or principally with road rollers	Manufacture in which the value of all the materials used does not exceed 40 % of the ex-works price of the product	
8439	Machinery for making pulp of fibrous cellulosic material or for making or finishing paper or paperboard	Manufacture in which: — the value of all the materials used does not exceed 40 % of the ex-works price of the product, and — within the above limit, the value of all the materials of the same heading as the product used does not exceed 25 % of the ex-works price of the product	Manufacture in which the value of all the materials used does not exceed 30 % of the ex-works price of the product
8441	Other machinery for making up paper pulp, paper or paperboard, including cutting machines of all kinds	Manufacture in which: — the value of all the materials used does not exceed 40 % of the ex-works price of the product, and — within the above limit, the value of all the materials of the same heading as the product used does not exceed 25 % of the ex-works price of the product	Manufacture in which the value of all the materials used does not exceed 30 % of the ex-works price of the product

(1)	(2)	(3) or	(4)
8444 to 8447	Machines of these headings for use in the textile industry	Manufacture in which the value of all the materials used does not exceed 40 % of the ex-works price of the product	
ex 8448	Auxiliary machinery for use with machines of headings 8444 and 8445	Manufacture in which the value of all the materials used does not exceed 40 % of the ex-works price of the product	
8452	Sewing machines, other than book-sewing machines of heading 8440; furniture, bases and covers specially designed for sewing machines; sewing machine needles:		
	– Sewing machines (lock stitch only) with heads of a weight not exceeding 16 kg without motor or 17 kg with motor	Manufacture in which: — the value of all the materials used does not exceed 40 % of the ex-works price of the product, — the value of all the nonoriginating materials used in assembling the head (without motor) does not exceed the value of all the originating materials used, and — the thread-tension, crochet and zigzag mechanisms used are originating	
	– Other	Manufacture in which the value of all the materials used does not exceed 40 % of the ex-works price of the product	
8456 to 8466	Machine-tools and machines and their parts and accessories of headings 8456 to 8466	Manufacture in which the value of all the materials used does not exceed 40 % of the ex-works price of the product	
8469 to 8472	Office machines (for example, typewriters, calculating machines, automatic data processing machines, duplicating machines, stapling machines)	Manufacture in which the value of all the materials used does not exceed 40 % of the ex-works price of the product	
8480	Moulding boxes for metal foundry; mould bases; moulding patterns; moulds for metal (other than ingot moulds), metal carbides, glass, mineral materials, rubber or plastics	Manufacture in which the value of all the materials used does not exceed 50 % of the ex-works price of the product	

(1)	(2)	(3) or	(4)
8482	Ball or roller bearings	Manufacture: — from materials of any heading, except that of the product, and — in which the value of all the materials used does not exceed 40 % of the ex-works price of the product	Manufacture in which the value of all the materials used does not exceed 25 % of the ex-works price of the product
8484	Gaskets and similar joints of metal sheeting combined with other material or of two or more layers of metal; sets or assortments of gaskets and similar joints, dissimilar in composition, put up in pouches, envelopes or similar packings; mechanical seals	Manufacture in which the value of all the materials used does not exceed 40 % of the ex-works price of the product	
8485	Machinery parts, not containing electrical connectors, insulators, coils, contacts or other electrical features, not specified or included elsewhere in this Chapter	Manufacture in which the value of all the materials used does not exceed 40 % of the ex-works price of the product	
ex Chapter 85	Electrical machinery and equipment and parts thereof; sound recorders and reproducers, television image and sound recorders and reproducers, and parts and accessories of such articles; except for:	Manufacture: — from materials of any heading, except that of the product, and — in which the value of all the materials used does not exceed 40 % of the ex-works price of the product	Manufacture in which the value of all the materials used does not exceed 30 % of the ex-works price of the product
8501	Electric motors and generators (excluding generating sets)	Manufacture in which: — the value of all the materials used does not exceed 40 % of the ex-works price of the product, and — within the above limit, the value of all the materials of heading 8503 used does not exceed 10 % of the ex-works price of the product	Manufacture in which the value of all the materials used does not exceed 30 % of the ex-works price of the product
8502	Electric generating sets and rotary converters	Manufacture in which: — the value of all the materials used does not exceed 40 % of the ex-works price of the product, and — within the above limit, the value of all the materials of headings 8501 and 8503 used does not exceed 10 % of the ex-works price of the product	Manufacture in which the value of all the materials used does not exceed 30 % of the ex-works price of the product

(1)	(2)	(3) or	(4)
ex 8504	Power supply units for automatic data-processing machines	Manufacture in which the value of all the materials used does not exceed 40 % of the ex-works price of the product	
ex 8518	Microphones and stands therefor; loud-speakers, whether or not mounted in their enclosures; audio-frequency electric amplifiers; electric sound amplifier sets	Manufacture in which: — the value of all the materials used does not exceed 40 % of the ex-works price of the product, and — the value of all the nonoriginating materials used does not exceed the value of all the originating materials used	Manufacture in which the value of all the materials used does not exceed 25 % of the ex-works price of the product
8519	Turntables (record-decks), record-players, cassette-players and other sound reproducing apparatus, not incorporating a sound recording device	Manufacture in which: — the value of all the materials used does not exceed 40 % of the ex-works price of the product, and — the value of all the nonoriginating materials used does not exceed the value of all the originating materials used	Manufacture in which the value of all the materials used does not exceed 30 % of the ex-works price of the product
8520	Magnetic tape recorders and other sound recording apparatus, whether or not incorporating a sound reproducing device	Manufacture in which: — the value of all the materials used does not exceed 40 % of the ex-works price of the product, and — the value of all the nonoriginating materials used does not exceed the value of all the originating materials used	Manufacture in which the value of all the materials used does not exceed 30 % of the ex-works price of the product
8521	Video recording or reproducing apparatus, whether or not incorporating a video tuner	Manufacture in which: — the value of all the materials used does not exceed 40 % of the ex-works price of the product, and — the value of all the nonoriginating materials used does not exceed the value of all the originating materials used	Manufacture in which the value of all the materials used does not exceed 30 % of the ex-works price of the product
8522	Parts and accessories suitable for use solely or principally with the apparatus of headings 8519 to 8521	Manufacture in which the value of all the materials used does not exceed 40 % of the ex-works price of the product	
8523	Prepared unrecorded media for sound recording or similar recording of other phenomena, other than products of Chapter 37	Manufacture in which the value of all the materials used does not exceed 40 % of the ex-works price of the product	

(1)	(2)	(3)	or (4)
8524	Records, tapes and other recorded media for sound or other similarly recorded phenomena, including matrices and masters for the production of records, but excluding products of Chapter 37:		
	– Matrices and masters for the production of records	Manufacture in which the value of all the materials used does not exceed 40 % of the ex-works price of the product	
	– Other	Manufacture in which: — the value of all the materials used does not exceed 40 % of the ex-works price of the product, and — within the above limit, the value of all the materials of heading 8523 used does not exceed 10 % of the ex-works price of the product	Manufacture in which the value of all the materials used does not exceed 30 % of the ex-works price of the product
8525	Transmission apparatus for radio-telephony, radio-telegraphy, radio-broadcasting or television, whether or not incorporating reception apparatus or sound recording or reproducing apparatus; television cameras; still image video cameras and other video camera recorders; digital cameras	Manufacture in which: — the value of all the materials used does not exceed 40 % of the ex-works price of the product, and — the value of all the nonoriginating materials used does not exceed the value of all the originating materials used	Manufacture in which the value of all the materials used does not exceed 25 % of the ex-works price of the product
8526	Radar apparatus, radio navigational aid apparatus and radio remote control apparatus	Manufacture in which: — the value of all the materials used does not exceed 40 % of the ex-works price of the product, and — the value of all the nonoriginating materials used does not exceed the value of all the originating materials used	Manufacture in which the value of all the materials used does not exceed 25 % of the ex-works price of the product
8527	Reception apparatus for radiotelephony, radio-telegraphy or radio-broadcasting, whether or not combined, in the same housing, with sound recording or reproducing apparatus or a clock	Manufacture in which: — the value of all the materials used does not exceed 40 % of the ex-works price of the product, and — the value of all the nonoriginating materials used does not exceed the value of all the originating materials used	Manufacture in which the value of all the materials used does not exceed 25 % of the ex-works price of the product

(1)	(2)	(3) or	(4)
8528	Reception apparatus for television, whether or not incorporating radio broadcast receivers or sound or video recording or reproducing apparatus; video monitors and video projectors	Manufacture in which: — the value of all the materials used does not exceed 40 % of the ex-works price of the product, and — the value of all the nonoriginating materials used does not exceed the value of all the originating materials used	Manufacture in which the value of all the materials used does not exceed 25 % of the ex-works price of the product
8529	Parts suitable for use solely or principally with the apparatus of headings 8525 to 8528:		
	– Suitable for use solely or principally with video recording or reproducing apparatus	Manufacture in which the value of all the materials used does not exceed 40 % of the ex-works price of the product	
	– Other	Manufacture in which: — the value of all the materials used does not exceed 40 % of the ex-works price of the product, and — the value of all the nonoriginating materials used does not exceed the value of all the originating materials used	Manufacture in which the value of all the materials used does not exceed 25 % of the ex-works price of the product
8535 and 8536	Electrical apparatus for switching or protecting electrical circuits, or for making connections to or in electrical circuits	Manufacture in which: — the value of all the materials used does not exceed 40 % of the ex-works price of the product, and — within the above limit, the value of all the materials of heading 8538 used does not exceed 10 % of the ex-works price of the product	Manufacture in which the value of all the materials used does not exceed 30 % of the ex-works price of the product
8537	Boards, panels, consoles, desks, cabinets and other bases, equipped with two or more apparatus of heading 8535 or 8536, for electric control or the distribution of electricity, including those incorporating instruments or apparatus of Chapter 90, and numerical control apparatus, other than switching apparatus of heading 8517	Manufacture in which: — the value of all the materials used does not exceed 40 % of the ex-works price of the product, and — within the above limit, the value of all the materials of heading 8538 used does not exceed 10 % of the ex-works price of the product	Manufacture in which the value of all the materials used does not exceed 30 % of the ex-works price of the product

(1)	(2)	(3) or	(4)
ex 8541	Diodes, transistors and similar semi-conductor devices, except wafers not yet cut into chips	Manufacture: — from materials of any heading, except that of the product, and — in which the value of all the materials used does not exceed 40 % of the ex-works price of the product	Manufacture in which the value of all the materials used does not exceed 25 % of the ex-works price of the product
8542	Electronic integrated circuits and micro-assemblies:		
	– Monolithic integrated circuits	Manufacture in which: — the value of all the materials used does not exceed 40 % of the ex-works price of the product, and — within the above limit, the value of all the materials of headings 8541 and 8542 used does not exceed 10 % of the ex-works price of the product or The operation of diffusion (in which integrated circuits are formed on a semi-conductor substrate by the selective introduction of an appropriate dopant), whether or not assembled and/or tested in a country other than those specified in Articles 3 and 4	Manufacture in which the value of all the materials used does not exceed 25 % of the ex-works price of the product
	– Other	Manufacture in which: — the value of all the materials used does not exceed 40 % of the ex-works price of the product, and — within the above limit, the value of all the materials of headings 8541 and 8542 used does not exceed 10 % of the ex-works price of the product	Manufacture in which the value of all the materials used does not exceed 25 % of the ex-works price of the product
8544	Insulated (including enamelled or anodised) wire, cable (including coaxial cable) and other insulated electric conductors, whether or not fitted with connectors; optical fibre cables, made up of individually sheathed fibres, whether or not assembled with electric conductors or fitted with connectors	Manufacture in which the value of all the materials used does not exceed 40 % of the ex-works price of the product	
8545	Carbon electrodes, carbon brushes, lamp carbons, battery carbons and other articles of graphite or other carbon, with or without metal, of a kind used for electrical purposes	Manufacture in which the value of all the materials used does not exceed 40 % of the ex-works price of the product	

(1)	(2)	(3) or	(4)
8546	Electrical insulators of any material	Manufacture in which the value of all the materials used does not exceed 40 % of the ex-works price of the product	
8547	Insulating fittings for electrical machines, appliances or equipment, being fittings wholly of insulating materials apart from any minor components of metal (for example, threaded sockets) incorporated during moulding solely for purposes of assembly, other than insulators of heading 8546; electrical conduit tubing and joints therefor, of base metal lined with insulating material	Manufacture in which the value of all the materials used does not exceed 40 % of the ex-works price of the product	
8548	Waste and scrap of primary cells, primary batteries and electric accumulators; spent primary cells, spent primary batteries and spent electric accumulators; electrical parts of machinery or apparatus, not specified or included elsewhere in this Chapter	Manufacture in which the value of all the materials used does not exceed 40 % of the ex-works price of the product	
ex Chapter 86	Railway or tramway locomotives, rolling-stock and parts thereof; railway or tramway track fixtures and fittings and parts thereof; mechanical (including electromechanical) traffic signalling equipment of all kinds; except for:	Manufacture in which the value of all the materials used does not exceed 40 % of the ex-works price of the product	
8608	Railway or tramway track fixtures and fittings; mechanical (including electromechanical) signalling, safety or traffic control equipment for railways, tramways, roads, inland waterways, parking facilities, port installations or airfields; parts of the foregoing	Manufacture: — from materials of any heading, except that of the product, and — in which the value of all the materials used does not exceed 40 % of the ex-works price of the product	Manufacture in which the value of all the materials used does not exceed 30 % of the ex-works price of the product
ex Chapter 87	Vehicles other than railway or tramway rolling-stock, and parts and accessories thereof; except for:	Manufacture in which the value of all the materials used does not exceed 40 % of the ex-works price of the product	
8709	Works trucks, self-propelled, not fitted with lifting or handling equipment, of the type used in factories, warehouses, dock areas or airports for short distance transport of goods; tractors of the type used on railway station platforms; parts of the foregoing vehicles	Manufacture: — from materials of any heading, except that of the product, and — in which the value of all the materials used does not exceed 40 % of the ex-works price of the product	Manufacture in which the value of all the materials used does not exceed 30 % of the ex-works price of the product

(1)	(2)	(3)	or (4)
8710	Tanks and other armoured fighting vehicles, motorized, whether or not fitted with weapons, and parts of such vehicles	Manufacture: — from materials of any heading, except that of the product, and — in which the value of all the materials used does not exceed 40 % of the ex-works price of the product	Manufacture in which the value of all the materials used does not exceed 30 % of the ex-works price of the product
8711	Motorcycles (including mopeds) and cycles fitted with an auxiliary motor, with or without side-cars; side-cars:		
	– With reciprocating internal combustion piston engine of a cylinder capacity:		
	– – Not exceeding 50 cm^3	Manufacture in which: — the value of all the materials used does not exceed 40 % of the ex-works price of the product, and — the value of all the nonoriginating materials used does not exceed the value of all the originating materials used	Manufacture in which the value of all the materials used does not exceed 20 % of the ex-works price of the product
	– – Exceeding 50 cm^3	Manufacture in which: — the value of all the materials used does not exceed 40 % of the ex-works price of the product, and — the value of all the nonoriginating materials used does not exceed the value of all the originating materials used	Manufacture in which the value of all the materials used does not exceed 25 % of the ex-works price of the product
	– Other	Manufacture in which: — the value of all the materials used does not exceed 40 % of the ex-works price of the product, and — the value of all the nonoriginating materials used does not exceed the value of all the originating materials used	Manufacture in which the value of all the materials used does not exceed 30 % of the ex-works price of the product
ex 8712	Bicycles without ball bearings	Manufacture from materials of any heading, except those of heading 8714	Manufacture in which the value of all the materials used does not exceed 30 % of the ex-works price of the product

(1)	(2)	(3) or	(4)
8715	Baby carriages and parts thereof	Manufacture: — from materials of any heading, except that of the product, and — in which the value of all the materials used does not exceed 40 % of the ex-works price of the product	Manufacture in which the value of all the materials used does not exceed 30 % of the ex-works price of the product
8716	Trailers and semi-trailers; other vehicles, not mechanically propelled; parts thereof	Manufacture: — from materials of any heading, except that of the product, and — in which the value of all the materials used does not exceed 40 % of the ex-works price of the product	Manufacture in which the value of all the materials used does not exceed 30 % of the ex-works price of the product
ex Chapter 88	Aircraft, spacecraft, and parts thereof; except for:	Manufacture from materials of any heading, except that of the product	Manufacture in which the value of all the materials used does not exceed 40 % of the ex-works price of the product
ex 8804	Rotochutes	Manufacture from materials of any heading, including other materials of heading 8804	Manufacture in which the value of all the materials used does not exceed 40 % of the ex-works price of the product
8805	Aircraft launching gear; deckarrestor or similar gear; ground flying trainers; parts of the foregoing articles	Manufacture from materials of any heading, except that of the product	Manufacture in which the value of all the materials used does not exceed 30 % of the ex-works price of the product
Chapter 89	Ships, boats and floating structures	Manufacture from materials of any heading, except that of the product. However, hulls of heading 8906 may not be used	Manufacture in which the value of all the materials used does not exceed 40 % of the ex-works price of the product
ex Chapter 90	Optical, photographic, cinematographic, measuring, checking, precision, medical or surgical instruments and apparatus; parts and accessories thereof; except for:	Manufacture: — from materials of any heading, except that of the product, and — in which the value of all the materials used does not exceed 40 % of the ex-works price of the product	Manufacture in which the value of all the materials used does not exceed 30 % of the ex-works price of the product

(1)	(2)	(3) or	(4)
9001	Optical fibres and optical fibre bundles; optical fibre cables other than those of heading 8544; sheets and plates of polarizing material; lenses (including contact lenses), prisms, mirrors and other optical elements, of any material, unmounted, other than such elements of glass not optically worked	Manufacture in which the value of all the materials used does not exceed 40 % of the ex-works price of the product	
9002	Lenses, prisms, mirrors and other optical elements, of any material, mounted, being parts of or fittings for instruments or apparatus, other than such elements of glass not optically worked	Manufacture in which the value of all the materials used does not exceed 40 % of the ex-works price of the product	
9004	Spectacles, goggles and the like, corrective, protective or other	Manufacture in which the value of all the materials used does not exceed 40 % of the ex-works price of the product	
ex 9005	Binoculars, monoculars, other optical telescopes, and mountings therefor, except for astronomical refracting telescopes and mountings therefor	Manufacture: — from materials of any heading, except that of the product, — in which the value of all the materials used does not exceed 40 % of the ex-works price of the product; and — in which the value of all the nonoriginating materials used does not exceed the value of all the originating materials used	Manufacture in which the value of all the materials used does not exceed 30 % of the ex-works price of the product
ex 9006	Photographic (other than cinematographic) cameras; photographic flashlight apparatus and flashbulbs other than electrically ignited flashbulbs	Manufacture: — from materials of any heading, except that of the product, — in which the value of all the materials used does not exceed 40 % of the ex-works price of the product, and — in which the value of all the nonoriginating materials used does not exceed the value of all the originating materials used	Manufacture in which the value of all the materials used does not exceed 30 % of the ex-works price of the product

(1)	(2)	(3)	or (4)
9007	Cinematographic cameras and projectors, whether or not incorporating sound recording or reproducing apparatus	Manufacture: — from materials of any heading, except that of the product, — in which the value of all the materials used does not exceed 40 % of the ex-works price of the product, and — in which the value of all the nonoriginating materials used does not exceed the value of all the originating materials used	Manufacture in which the value of all the materials used does not exceed 30 % of the ex-works price of the product
9011	Compound optical microscopes, including those for photomicrography, cinephotomicrography or microprojection	Manufacture: — from materials of any heading, except that of the product, — in which the value of all the materials used does not exceed 40 % of the ex-works price of the product, and — in which the value of all the nonoriginating materials used does not exceed the value of all the originating materials used	Manufacture in which the value of all the materials used does not exceed 30 % of the ex-works price of the product
ex 9014	Other navigational instruments and appliances	Manufacture in which the value of all the materials used does not exceed 40 % of the ex-works price of the product	
9015	Surveying (including photogrammetrical surveying), hydrographic, oceanographic, hydrological, meteorological or geophysical instruments and appliances, excluding compasses; rangefinders	Manufacture in which the value of all the materials used does not exceed 40 % of the ex-works price of the product	
9016	Balances of a sensitivity of 5 cg or better, with or without weights	Manufacture in which the value of all the materials used does not exceed 40 % of the ex-works price of the product	
9017	Drawing, marking-out or mathematical calculating instruments (for example, drafting machines, pantographs, protractors, drawing sets, slide rules, disc calculators); instruments for measuring length, for use in the hand (for example, measuring rods and tapes, micrometers, callipers), not specified or included elsewhere in this chapter	Manufacture in which the value of all the materials used does not exceed 40 % of the ex-works price of the product	

(1)	(2)	(3)	or (4)
9018	Instruments and appliances used in medical, surgical, dental or veterinary sciences, including scintigraphic apparatus, other electro-medical apparatus and sight-testing instruments:		
	– Dentists' chairs incorporating dental appliances or dentists' spittoons	Manufacture from materials of any heading, including other materials of heading 9018	Manufacture in which the value of all the materials used does not exceed 40 % of the ex-works price of the product
	– Other	Manufacture: — from materials of any heading, except that of the product, and — in which the value of all the materials used does not exceed 40 % of the ex-works price of the product	Manufacture in which the value of all the materials used does not exceed 25 % of the ex-works price of the product
9019	Mechano-therapy appliances; massage apparatus; psychological aptitude-testing apparatus; ozone therapy, oxygen therapy, aerosol therapy, artificial respiration or other therapeutic respiration apparatus	Manufacture: — from materials of any heading, except that of the product, and — in which the value of all the materials used does not exceed 40 % of the ex-works price of the product	Manufacture in which the value of all the materials used does not exceed 25 % of the ex-works price of the product
9020	Other breathing appliances and gas masks, excluding protective masks having neither mechanical parts nor replaceable filters	Manufacture: — from materials of any heading, except that of the product, and — in which the value of all the materials used does not exceed 40 % of the ex-works price of the product	Manufacture in which the value of all the materials used does not exceed 25 % of the ex-works price of the product
9024	Machines and appliances for testing the hardness, strength, compressibility, elasticity or other mechanical properties of materials (for example, metals, wood, textiles, paper, plastics)	Manufacture in which the value of all the materials used does not exceed 40 % of the ex-works price of the product	
9025	Hydrometers and similar floating instruments, thermometers, pyrometers, barometers, hygrometers and psychrometers, recording or not, and any combination of these instruments	Manufacture in which the value of all the materials used does not exceed 40 % of the ex-works price of the product	

(1)	(2)	(3) or	(4)
9026	Instruments and apparatus for measuring or checking the flow, level, pressure or other variables of liquids or gases (for example, flow meters, level gauges, manometers, heat meters), excluding instruments and apparatus of heading 9014, 9015, 9028 or 9032	Manufacture in which the value of all the materials used does not exceed 40 % of the ex-works price of the product	
9027	Instruments and apparatus for physical or chemical analysis (for example, polarimeters, refractometers, spectrometers, gas or smoke analysis apparatus); instruments and apparatus for measuring or checking viscosity, porosity, expansion, surface tension or the like; instruments and apparatus for measuring or checking quantities of heat, sound or light (including exposure meters); microtomes	Manufacture in which the value of all the materials used does not exceed 40 % of the ex-works price of the product	
9028	Gas, liquid or electricity supply or production meters, including calibrating meters therefor:		
	– Parts and accessories	Manufacture in which the value of all the materials used does not exceed 40 % of the ex-works price of the product	
	– Other	Manufacture in which: — the value of all the materials used does not exceed 40 % of the ex-works price of the product, and — the value of all the nonoriginating materials used does not exceed the value of all the originating materials used	Manufacture in which the value of all the materials used does not exceed 30 % of the ex-works price of the product
9029	Revolution counters, production counters, taximeters, mileometers, pedometers and the like; speed indicators and tachometers, other than those of heading 9014 or 9015; stroboscopes	Manufacture in which the value of all the materials used does not exceed 40 % of the ex-works price of the product	
9030	Oscilloscopes, spectrum analysers and other instruments and apparatus for measuring or checking electrical quantities, excluding meters of heading 9028; instruments and apparatus for measuring or detecting alpha, beta, gamma, Xray, cosmic or other ionizing radiations	Manufacture in which the value of all the materials used does not exceed 40 % of the ex-works price of the product	
9031	Measuring or checking instruments, appliances and machines, not specified or included elsewhere in this chapter; profile projectors	Manufacture in which the value of all the materials used does not exceed 40 % of the ex-works price of the product	

(1)	(2)	(3) or	(4)
9032	Automatic regulating or controlling instruments and apparatus	Manufacture in which the value of all the materials used does not exceed 40 % of the ex-works price of the product	
9033	Parts and accessories (not specified or included elsewhere in this chapter) for machines, appliances, instruments or apparatus of Chapter 90	Manufacture in which the value of all the materials used does not exceed 40 % of the ex-works price of the product	
ex Chapter 91	Clocks and watches and parts thereof; except for:	Manufacture in which the value of all the materials used does not exceed 40 % of the ex-works price of the product	
9105	Other clocks	Manufacture in which: — the value of all the materials used does not exceed 40 % of the ex-works price of the product, and — the value of all the nonoriginating materials used does not exceed the value of all the originating materials used	Manufacture in which the value of all the materials used does not exceed 30 % of the ex-works price of the product
9109	Clock movements, complete and assembled	Manufacture in which: — the value of all the materials used does not exceed 40 % of the ex-works price of the product, and — the value of all the nonoriginating materials used does not exceed the value of all the originating materials used	Manufacture in which the value of all the materials used does not exceed 30 % of the ex-works price of the product
9110	Complete watch or clock movements, unassembled or partly assembled (movement sets); incomplete watch or clock movements, assembled; rough watch or clock movements	Manufacture in which: — the value of all the materials used does not exceed 40 % of the ex-works price of the product, and — within the above limit, the value of all the materials of heading 9114 used does not exceed 10 % of the ex-works price of the product	Manufacture in which the value of all the materials used does not exceed 30 % of the ex-works price of the product
9111	Watch cases and parts thereof	Manufacture: — from materials of any heading, except that of the product, and — in which the value of all the materials used does not exceed 40 % of the ex-works price of the product	Manufacture in which the value of all the materials used does not exceed 30 % of the ex-works price of the product

(1)	(2)	(3) or	(4)
9112	Clock cases and cases of a similar type for other goods of this chapter, and parts thereof	Manufacture: — from materials of any heading, except that of the product, and — in which the value of all the materials used does not exceed 40 % of the ex-works price of the product	Manufacture in which the value of all the materials used does not exceed 30 % of the ex-works price of the product
9113	Watch straps, watch bands and watch bracelets, and parts thereof:		
	– Of base metal, whether or not gold- or silver-plated, or of metal clad with precious metal	Manufacture in which the value of all the materials used does not exceed 40 % of the ex-works price of the product	
	– Other	Manufacture in which the value of all the materials used does not exceed 50 % of the ex-works price of the product	
Chapter 92	Musical instruments; parts and accessories of such articles	Manufacture in which the value of all the materials used does not exceed 40 % of the ex-works price of the product	
Chapter 93	Arms and ammunition; parts and accessories thereof	Manufacture in which the value of all the materials used does not exceed 50 % of the ex-works price of the product	
ex Chapter 94	Furniture; bedding, mattresses, mattress supports, cushions and similar stuffed furnishings; lamps and lighting fittings, not elsewhere specified or included; illuminated signs, illuminated name-plates and the like; prefabricated buildings; except for:	Manufacture from materials of any heading, except that of the product	Manufacture in which the value of all the materials used does not exceed 40 % of the ex-works price of the product
ex 9401 and ex 9403	Base metal furniture, incorporating unstuffed cotton cloth of a weight of 300 g/m^2 or less	Manufacture from materials of any heading, except that of the product or Manufacture from cotton cloth already made up in a form ready for use with materials of heading 9401 or 9403, provided that: — the value of the cloth does not exceed 25 % of the ex-works price of the product, and — all the other materials used are originating and are classified in a heading other than heading 9401 or 9403	Manufacture in which the value of all the materials used does not exceed 40 % of the ex-works price of the product

(1)	(2)	(3) or	(4)
9405	Lamps and lighting fittings including searchlights and spotlights and parts thereof, not elsewhere specified or included; illuminated signs, illuminated name-plates and the like, having a permanently fixed light source, and parts thereof not elsewhere specified or included	Manufacture in which the value of all the materials used does not exceed 50 % of the ex-works price of the product	
9406	Prefabricated buildings	Manufacture in which the value of all the materials used does not exceed 50 % of the ex-works price of the product	
ex Chapter 95	Toys, games and sports requisites; parts and accessories thereof; except for:	Manufacture from materials of any heading, except that of the product	
9503	Other toys; reduced-size ('scale') models and similar recreational models, working or not; puzzles of all kinds	Manufacture: — from materials of any heading, except that of the product, and — in which the value of all the materials used does not exceed 50 % of the ex-works price of the product	
ex 9506	Golf clubs and parts thereof	Manufacture from materials of any heading, except that of the product. However, roughly-shaped blocks for making golf-club heads may be used	
ex Chapter 96	Miscellaneous manufactured articles; except for:	Manufacture from materials of any heading, except that of the product	
ex 9601 and ex 9602	Articles of animal, vegetable or mineral carving materials	Manufacture from 'worked' carving materials of the same heading as the product	
ex 9603	Brooms and brushes (except for besoms and the like and brushes made from marten or squirrel hair), hand-operated mechanical floor sweepers, not motorized, paint pads and rollers, squeegees and mops	Manufacture in which the value of all the materials used does not exceed 50 % of the ex-works price of the product	
9605	Travel sets for personal toilet, sewing or shoe or clothes cleaning	Each item in the set must satisfy the rule which would apply to it if it were not included in the set. However, non-originating articles may be incorporated, provided that their total value does not exceed 15 % of the ex-works price of the set	

(1)	(2)	(3) or	(4)
9606	Buttons, press-fasteners, snapfasteners and press-studs, button moulds and other parts of these articles; button blanks	Manufacture: — from materials of any heading, except that of the product, and — in which the value of all the materials used does not exceed 50 % of the ex-works price of the product	
9608	Ball-point pens; felt-tipped and other porous-tipped pens and markers; fountain pens, stylograph pens and other pens; duplicating stylos; propelling or sliding pencils; pen-holders, pencil-holders and similar holders; parts (including caps and clips) of the foregoing articles, other than those of heading 9609	Manufacture from materials of any heading, except that of the product. However, nibs or nib-points of the same heading as the product may be used	
9612	Typewriter or similar ribbons, inked or otherwise prepared for giving impressions, whether or not on spools or in cartridges; ink-pads, whether or not inked, with or without boxes	Manufacture: — from materials of any heading, except that of the product, and — in which the value of all the materials used does not exceed 50 % of the ex-works price of the product	
ex 9613	Lighters with piezo-igniter	Manufacture in which the value of all the materials of heading 9613 used does not exceed 30 % of the ex-works price of the product	
ex 9614	Smoking pipes and pipe bowls	Manufacture from roughly-shaped blocks	
Chapter 97	Works of art, collectors' pieces and antiques	Manufacture from materials of any heading, except that of the product	

(1) For the special conditions relating to 'specific processes', see Introductory Notes 7.1 and 7.3.

(2) For the special conditions relating to 'specific processes', see Introductory Note 7.2.

(3) Note 3 to Chapter 32 says that these preparations are those of a kind used for colouring any material or used as ingredients in the manufacture of colouring preparations, provided that they are not classified in another heading in Chapter 32.

(4) A 'group' is regarded as any part of the heading separated from the rest by a semicolon.

(5) In the case of the products composed of materials classified within both headings 3901 to 3906, on the one hand, and within headings 3907 to 3911, on the other hand, this restriction only applies to that group of materials which predominates by weight in the product.

(6) The following foils shall be considered as highly transparent: foils, the optical dimming of which, measured according to ASTM-D 1003-16 by Gardner Hazemeter (i.e. Hazefactor), is less than 2 %.

(7) For special conditions relating to products made of a mixture of textile materials, see Introductory Note 5.

(8) The use of this material is restricted to the manufacture of woven fabrics of a kind used in paper-making machinery.

(9) See Introductory Note 6.

(10) For knitted or crocheted articles, not elastic or rubberised, obtained by sewing or assembling pieces of knitted or crocheted fabrics (cut out or knitted directly to shape), see Introductory Note 6.

(11) SEMII – Semiconductor Equipment and Materials Institute Incorporated.

(12) This rule shall apply until 31.12.2005.

ANNEX III

MOVEMENT CERTIFICATE EUR.1 AND APPLICATION FOR A MOVEMENT CERTIFICATE EUR.1

Printing instructions

1. Each form shall messure 210 × 297 mm; a tolerance of up to minus 5 mm or plus 8 mm in the length may be allowed. The paper used must be white, sized for writing, not containing mechanical pulp and weighing not less than 25 g/m^2. It shall have a printed green guilloche pattern background making any falsification by mechanical or chemical means apparent to the eye.

2. The competent authorities of the Member States of the Community and of Algeria may reserve the right to print the forms themselves or may have them printed by approved printers. In the latter case, each form must include a reference to such approval. Each form must bear the name and address of the printer or a mark by which the printer can be identified. It shall also bear a serial number, either printed or not, by which it cam be identified.

MOVEMENT CERTIFICATE

1. Exporter (Name, full address, country)

EUR.1 No A 000.000

See note overleaf before completing this form

2. Certificate used in preferential trade between

....

and

....

(insert appropriate countries, groups of countries or territories)

3. Consignee (Name, full address, country) (Optional)

4. Country, group of countries or territory in which the products are considered as originating

5. Country, group of countries or territory of destination

6. Transport details (Optional)

7. Remarks

8. Item number; Mark and number; Number and kind of packages (1); **Description of goods**	**9. Gross mass (kg) or other measure (litres, m³ etc.)**	**10. Invoice** (Optional)

11. CUSTOMS ENDORSEMENT

Declaration certified

Export document (2):

Form .... No ....

of ....

Customs office: ....

Issuing country: ....

....

Place ...., date ....

....

(Signature)

Stamp

12. DECLARATION BY THE EXPORTER

I, the undersigned, declare that the goods described above meet the conditions required for the issue of this certificate.

Place ...., date ....

....

(Signature)

(1) If goods are note packed, indicate number of articles or state 'in bulk' as appropriate.

(2) Complete only where the regulations of the exporting country or territory require.

13. Request for verification, to:	14. RESULT OF VERIFICATION
Verification of the authenticity and accuracy of this certificate is requested. Place ...., date .... Stamp .... (Signature)	Verification carried out shows that this certificate (*) ☐ was issued by the Customs Office indicated and that the information contained therein is accurate ☐ does not meet the requirements as to authenticity and accurarcy (see remarks appended). Place ...., date .... Stamp .... (Signature) (*) Insert X in the appropriate box.

NOTES

1. Certificate must not contain erasures or words written over one another. Any alterations must be made by deleting the incorrect particulars and adding any necessary corrections. Any such alteration must be initialled by the person who completed the certificate and endorsed by the Customs authorities of the issuing country or territory.
2. No spaces must be left between the items entered on the certificate and each item must be preceded by an item number. A horizontal line must be drawn immediately below the last item. Any unused space must be struck through in such a manner as to make any later additions impossible.
3. Goods must be described in accordance with commercial practice and with sufficient detail to enable them to be identified.

APPLICATION FOR A MOVEMENT CERTIFICATE EUR.1

1. Exporter (Name, full address, country)

EUR.1 **No A** **000.000**

See notes overleaf before completing this form

2. Application for certificate used in preferential trade between

....

and

....

(Insert appropriate countries or groups of countries or territories)

3. Consignee (Name, full address, country) (Optional)

4. Country, group of countries or territory in which the products are considered as originating

5. Country, group of countries or territory of destination

6. Transport details (Optional)

7. Remarks

8. Item number; Mark and number; Number and kind of packages (1), **Description of goods**	**9. Cross mass (kg) or other measure (lires, m³ etc.)**	**10. Invoice** (Optional)

(1) If goods are not packed, indicate number of articles or state 'in bulk' as appropriate.

DECLARATION BY THE EXPORTER

I, the undersigned, exporter of the goods described overleaf,

DECLARE that the goods meet the conditions required for the issue of the attached certificate;

SPECIFY as follows the circumstances which have enable these goods to meet the above conditions:

....

....

....

SUBMIT the following supporting documents (1):

....

....

....

UNDERTAKE to submit, at the request of the appropriate authorities, any supporting evidence which these authorities may require for the purpose of issuing the attached certificate, and undertake, if required, to agree to any inspection of my accounts and to any check on the processes of manufacture of the above goods, carried out by the said authorities;

REQUEST the issue of the attached certificate for these goods.

Place .... , date ....

....

(Signature)

(1) For example: import documents, movement certificates, invoices, manufacturer's declarations, etc., referring to the products used in manufacture or to the goods re-exported in the same state.

ANNEX IV

INVOICE DECLARATION

The invoice declaration, the text of which is given below, must be made out in accordance with the footnotes. However, the footnotes do not have to be reproduced.

French Version

L'exportateur des produits couverts par le présent document [autorisation douanière n° ... ([1])] déclare que, sauf indication claire du contraire, ces produits ont l'origine préférentielle ... ([2]).

Spanish Version

El exportador de los productos incluidos en el presente documento (autorización aduanera n° ... ([1])] declara que, salvo indicación en sentido contrario, estos productos gozan de un origen preferencial ... ([2]).

Danish Version

Eksportøren af varer, der er omfattet af nærværende dokument, (toldmyndighedernes tilladelse nr. ... ([1])), erklærer, at varerne, medmindre andet tydeligt er angivet, har præferenceoprindelse i ... ([2]).

German Version

Der Ausführer (Ermächtigter Ausführer; Bewilligungs-Nr. ... ([1])), ver Waren, auf die sich dieses Handelspapier bezieht, erklärt, dass diese Waren, soweit nicht anders angegeben, präferenzbegünstigte ... Ursprungswaren sind ([2]).

Greek Version

Ο εξαγωγέας των προϊόντων που καλύπτονται από το παρόν έγγραφο [άδεια τελωνείου υπαριθ. ... ([1])] δηλώνει ότι, εκτός εάν δηλώνεται σαφώς άλλως, τα προϊόντα αυτά είναι προτιμησιακής καταγωγής ... ([2]).

English Version

The exporter of the products covered by this document (customs authorisation No ... ([1])) declares that, except where otherwise clearly indicated, these products are of ... preferential origin ([2]).

Italian Version

L'esportatore delle merci contemplate nel presente documento [autorizzazione doganale n. ... ([1])] dichiara che, salvo indicazione contraria, le merci sono di origine preferenziale ... ([2]).

Dutch Version

De exporteur van de goederen waarop dit document van toepassing is (douanevergunning nr. ... ([1])), verklaart dat, behoudens uitdrukkelijke andersluidende vermelding, deze goederen van preferentiële ... oorsprong zijn ([2]).

Portugese Version

O abaixo assinado, exportador dos produtos cobertos pelo presente documento [autorização aduaneira n.º ... (1)] declara que, salvo expressamente indicado em contrário, estes produtos são de origem preferencial ... (2)

Finnish Version

Tässä asiakirjassa mainittujen tuotteiden viejä (tullin lupan:o ... (1)) ilmoittaa, että nämä tuotteet ovat, ellei toisin ole selvästi merkitty, etuuskohteluun oikeutettuja ... alkuperätuotteita (2).

Swedish Version

Exportören av de varor som omfattas av detta dokument (tullmyndighetens tillstånd nr ... (1)) försäkrar att dessa varor, om inte annat tydligt markerats, har förmånsberättigande ... ursprung (2).

Arabic Version

هذه بأن يصرح (1... رقم جمركي إعتماد) الوثيقة هذه تشملها التي المنتجات مصدر إن ....
. صراحة ذلك خلاف على ينص لم إذا الا 2 ....ل الإمتيازي المنشأ صفة لها المنتجات

.... (3)
(Place and date)

.... (4)
(Signature of exporter; in addition the name of the person signing the declaration has to be indicated in clear script)

---

(1) When the invoice declaration is made out by an approved exporter within the meaning of Article 23 of the Protocol, the authorisation number of the approved exporter must be entered in this space. When the invoice declaration is not made out by an approved exporter, the words in brackets must be omitted or the space left blank.

(2) Origin of products to be indicated. When the invoice declaration relates in whole or in part, to products originating in Ceuta and Melilla within the meaning of Article 38 of the Protocol, the exporter must clearly indicate them in the document on which the declaration is made out by means of the symbol 'CM'.

(3) These indications may be omitted if the information is contained on the document itself.

(4) See Article 22(5) of the Protocol. In cases where the exporter is not required to sign, the exemption of signature also implies the exemption of the name of the signatory.

ANNEX V

SPECIMEN OF DECLARATION

I, the undersigned, declare that the goods described in this invoice were obtained

....

and (as appropriate):

(a) [1] comply with the rules on the definition of 'wholly obtained products'.

or

(b) [1] were produced from the following products:

Description	Country of origin [2]	Value [1]
....	....	....
....	....	....
....	....	....
....	....	....

and have undergone the following working:

.... (indicate working)

in ....

Done at ...., on ....
(Signature)

[1] Fill in if necessary.

[2] Fill in if necessary. If so:
— if the goods originate in a country covered by the agreement or convention concerned: indicate the country;
— if they originate in another country: enter 'third country'

ANNEX VI

<table>
<tr><td colspan="4">1. Supplier (1)</td><td colspan="4">INFORMATION CERTIFICATE
to facilitate the issue of a
MOVEMENT CERTIFICATE
for preferential trade between the</td></tr>
<tr><td colspan="4">2. Consignee (1)</td><td colspan="4">THE EUROPEAN COMMUNITY
and
....
(in block letters)</td></tr>
<tr><td colspan="4">3. Processor (1)</td><td colspan="4">4. State in which the working or processing has been carried out</td></tr>
<tr><td colspan="4">5. Customs office of importation (2)</td><td colspan="4" rowspan="2">6. For official use</td></tr>
<tr><td colspan="4">7. Import document (2)
Form .... No ....
Series ....
of ....</td></tr>
<tr><td colspan="8">GOODS SENT TO THE MEMBER STATES OF DESTINATION</td></tr>
<tr><td rowspan="2">8. Marks, numbers, quantity and kind of package</td><td colspan="4" rowspan="2">9. Harmonised Commodity Description and Coding System heading/subheading number (HS code)</td><td colspan="3">10. Quantity (3)</td></tr>
<tr><td colspan="3">11. Value (4)</td></tr>
<tr><td colspan="8">MPORTED GOODS USED</td></tr>
<tr><td colspan="2">12. Harmonised Commodity Description and Coding System heading/subheading number (HS code)</td><td colspan="2">13. Country of origin (5)</td><td colspan="2">14. Quantity (3)</td><td colspan="2">15. Value (2) (6)</td></tr>
<tr><td colspan="8">16. Nature of the working or processing carried out</td></tr>
<tr><td colspan="8">17. Remarks</td></tr>
<tr><td colspan="5">18. CUSTOMS ENDORSEMENT
Declaration certified
Document
form .... No ....
Customs office: ....
of ....
....
(Signature)

Stamp of office</td><td colspan="3">19. DECLARATION BY THE SUPPLIER
I, the undersigned, declare that the information on this certificate is accurate
Place, ... date ....
....
(Signature)</td></tr>
</table>

REQUEST FOR VERIFICATION	RESULTS OF VERIFICATION
The undersigned customs official requests verification of the authenticity and accuracy of this information certificate.	Verification carried out by the undersigned customs official shows that this information certificate: (a) was issued by the customs office indicated and that the information contained therein is accurate (*) (b) does not meet the requirements as to authenticity and accuracy (see notes appended) (*).
Place .... date	Place .... date ....
Stamp of office	Stamp of office
.... (Official's signature)	.... (Official's signature)
	(*) Delete where not applicable.

CROSS REFERENCES

(1) Name of individual or business and full address.

(2) Optional information.

(3) kg, hl, m^3 or other measure.

(4) Packaging shall be considered as forming a whole with the goods contained therein. However, this provision shall not apply to packaging which is not of the normal type for the article packed, and which has a lasting utility value of its own, apart from its function as packaging.

(5) Complete if necessary If so:
— if the goods originate in a country covered by the agreement or convention concerned: indicate the country;
— if they originate in another country: enter 'third country'.

(6) The value must be indicated in accordance with the provisions on rules of origin.

ANNEXE VII

JOINT DECLARATION CONCERNING THE PRINCIPALITY OF ANDORRA

1. Products originating in the Principality of Andorra falling within Chapters 25 to 97 of the Harmonised System shall be accepted by Algeria as originating in the Community within the meaning of this Agreement.
2. Protocol 6 shall apply *mutatis mutandis* for the purpose of defining the originating status of the abovementioned products.

JOINT DECLARATION CONCERNING THE REPUBLIC OF SAN MARINO

1. Products originating in the Republic of San Marino shall be accepted by Algeria as originating in the Community within the meaning of this Agreement.
2. Protocol 6 shall apply *mutatis mutandis* for the purpose of defining the originating status of the abovementioned products.

JOINT DECLARATION ON CUMULATION OF ORIGIN

The Community and Algeria recognise the important role of cumulation of origin and confirm their commitment to introducing a system of diagonal cumulation of origin between partners agreeing to apply identicial rules of origin. This diagonal cumulation shall be introduced either between all the Mediterranean partners participating in the Barcelona process or between those partners and the partners of the pan-European cumulation system, according to the results of the Euro-Med Working Party on rules of origin.

The Community and Algeria shall therefore start consultations as soon as possible with a view to establishing the details of Algeria's accession to the diagonal cumulation system adopted. Protocol 6 shall be amended accordingly

PROTOCOL No 7

Mutual administrative assistance in the field of customs

Article 1

Definitions

For the purposes of this Protocol

(a) 'customs legislation' shall mean any legal or regulatory provisions applicable in the territories of the Contracting Parties governing the import, export and transit of goods and their placing under any other customs regime or procedure, including measures of prohibition, restriction and control;

(b) 'applicant authority' shall mean a competent administrative authority which has been designated by one of the Contracting Parties for this purpose and which makes a request for assistance on the basis of this Protocol;

(c) 'requested authority' shall mean a competent administrative authority which has been designated by one of the Contracting Parties for this purpose and which receives a request for assistance on the basis of this Protocol;

(d) 'personal data' shall mean all information relating to an identified or identifiable individual.

(e) 'operation in breach of customs legislation' shall mean any violation or attempted violation of customs legislation.

Article 2

Scope

1. The Contracting Parties shall assist each other, in the areas within their competence, in the manner and under the conditions laid down in this Protocol, to ensure the correct application of the customs legislation, in particular in order to prevent, investigate and combat operations in breach of that legislation.

2. Assistance in customs matters, as provided for in this Protocol, shall apply to any administrative authority of the Contracting Parties which is competent for the application of this Protocol. It shall not prejudice the rules governing mutual assistance in criminal matters. Nor shall it cover information obtained under powers exercised at the request of a judicial authority, except where communication of such information is authorised by that authority.

3. Assistance to recover duties, taxes or fines is not covered by this Protocol.

Article 3

Assistance on request

1. At the request of the applicant authority, the requested authority shall provide it with all relevant information which may enable it to ensure that customs legislation is correctly applied, including information regarding activities noted or planned which are or could be operations in breach of customs legislation.

2. At the request of the applicant authority, the requested authority shall inform it:

(a) whether goods exported from the territory of one of the Parties have been properly imported into the territory of the other Contracting Party, specifying, where appropriate, the customs procedure applied to the goods;

(b) whether goods imported into the territory of one of the Contracting Parties have been properly exported from the territory of the other Party, specifying, where appropriate, the customs procedure applied to the goods.

3. At the request of the applicant authority, the requested authority shall, within the framework of its legal or regulatory provisions, take the necessary steps to ensure surveillance of:

(a) natural or legal persons in respect of whom there are reasonable grounds for believing that they are engaging in or have engaged in operations which contravene customs legislation;

(b) places where stocks of goods have been or may be assembled in such a way that there are reasonable grounds for believing that these goods are intended to be used in operations in breach of customs legislation;

(c) goods that are or may be transported in such a way that there are reasonable grounds for believing that they are intended to be used in operations in breach of customs legislation;

(d) means of transport that are or may be used in such a way that there are reasonable grounds for believing that they are intended to be used in operations in breach of customs legislation.

Article 4

Spontaneous assistance

The Contracting Parties shall assist each other, at their own initiative and in accordance with their legal or regulatory provisions, if they consider that to be necessary for the correct application of customs legislation, particularly by providing information obtained pertaining to:

— activities which are or appear to be operations in breach of customs legislation and which may be of interest to another Contracting Party;

— new means or methods employed in carrying out operations in breach of customs legislation;

— goods known to be subject to operations in breach of customs legislation;

— natural or legal persons in respect of whom there are reasonable grounds for believing that they are or have been involved in operations in breach of customs legislation;

— means of transport for which there are reasonable grounds for believing that they have been, are or might be used in operations in breach of customs legislation.

Article 5

Delivery/notification

At the request of the applicant authority, the requested authority shall, in accordance with legal or regulatory provisions applicable to the latter, take all necessary measures to:

— deliver any documents or

— notify any decisions

emanating from the applicant authority and falling within the scope of this Protocol, to an addressee residing or established in the territory of the requested authority.

Requests for delivery of documents and notification of decisions shall be made in writing in an official language of the requested authority or in a language acceptable to that authority.

Article 6

Form and substance of requests for assistance

1. Requests pursuant to this Protocol shall be made in writing. They shall be accompanied by the documents necessary to enable compliance with the request. When required because of the urgency of the situation, oral requests may be accepted, but must be confirmed in writing immediately.

2. Requests pursuant to paragraph 1 shall include the following information:

(a) the applicant authority;

(b) the measure requested;

(c) the object of and the reason for the request;

(d) the legal or regulatory provisions and other legal elements involved;

(e) indications as exact and comprehensive as possible on the natural or legal persons who are the target of the investigations;

(f) a summary of the relevant facts and of the enquiries already carried out.

3. Requests shall be submitted in an official language of the requested authority or in a language acceptable to that authority. This requirement shall not apply to any documents that accompany the request under paragraph 1.

4. If a request does not meet the formal requirements set out above, its correction or completion may be requested; in the meantime precautionary measures may be ordered.

Article 7

Execution of requests

1. In order to comply with a request for assistance, the requested authority shall proceed, within the limits of its competence and available resources, as though it were acting on its own account or at the request of other authorities of that same Contracting Party, by supplying information already possessed, by carrying out appropriate enquiries or by arranging for them to be carried out. This provision shall also apply to any other authority to which the request has been addressed by the requested authority in application of this Protocol when the latter cannot act on its own.

2. Requests for assistance shall be executed in accordance with the legal or regulatory provisions of the requested Contracting Party.

3. Duly authorised officials of one of the Contracting Parties may, with the agreement of the other Party involved and subject to the conditions laid down by the latter, be present to obtain in the offices of the requested authority or any other authority concerned in accordance with paragraph 1, information relating to activities that are or may be operations in breach of customs legislation which the applicant authority needs for the purposes of this Protocol.

4. Duly authorised officials of a Contracting Party may, with the agreement of the other Contracting Party involved and within the conditions laid down by the latter, be present at enquiries carried out in the latter's territory.

Article 8

Form in which information is to be communicated

1. The requested authority shall communicate the results of enquiries to the applicant authority in writing together with all relevant documents, certified copies and other items.

2. This information may be supplied in computerised form.

3. Original documents shall be transmitted only upon request in cases where certified copies would be insufficient. These originals shall be returned at the earliest opportunity.

Article 9

Exceptions to the obligation to provide assistance

1. Assistance may be refused or may be subject to the satisfaction of certain conditions or requirements, in cases where a Party is of the opinion that assistance under this Protocol would:

(a) be likely to prejudice Algeria's sovereignty or that of a Member State of the Community whose assistance has been requested pursuant to this Protocol; or or

(b) be likely to prejudice public policy, security or other essential interests, in particular in the cases referred to under Article 10(2); or

(c) be likely to violate an industrial, commercial or professional secret.

2. Assistance may be postponed by the requested authority on the ground that it will interfere with an ongoing investigation, prosecution or proceeding. In such a case, the requested authority shall consult with the applicant authority to determine if assistance can be given subject to such terms or conditions as the requested authority may require.

3. Where the applicant authority seeks assistance which it would itself be unable to provide if so requested, it shall draw attention to that fact in its request. It shall then be for the requested authority to decide how to respond to such a request.

4. For the cases referred to in paragraphs 1 and 2, the decision of the requested authority and the reasons for it must be communicated to the applicant authority without delay.

Article 10

Exchange of information and confidentiality

1. Any information communicated in whatsoever form pursuant to this Protocol shall be of a confidential or restricted nature, depending on the rules applicable in each of the Contracting Parties. It shall be covered by the obligation of official secrecy and shall enjoy the protection extended to similar information under the relevant laws of the Contracting Party that received it and the corresponding provisions applying to the Community authorities.

2. Personal data may be exchanged only where the Contracting Party which may receive them undertakes to protect such data in at least an equivalent way to the one applicable to that particular case in the Contracting Party that may supply them. To that end, the Contracting Parties shall inform each other of their applicable rules, including, where appropriate, legal provisions in force in the Member States of the Community.

3. Information obtained shall be used solely for the purposes of this Protocol. Where one of the Contracting Parties wishes to use such information for other purposes, it shall obtain the prior written consent of the authority which provided the information. Such use shall then be subject to any restrictions laid down by that authority.

4. The use, in judicial or administrative proceedings instituted in respect of operations in breach of customs legislation, of information obtained under this Protocol, is considered to be for the purposes of this Protocol. Therefore, the Contracting Parties may, in their records of evidence, reports and testimonies and in proceedings and charges brought before the courts, use as evidence information obtained and documents consulted in accordance with the provisions of this Protocol. The competent authority which supplied that information or gave access to those documents shall be notified of such use.

Article 11

Experts and witnesses

An official of a requested authority may be authorised to appear, within the limitations of the authorisation granted, as an expert or witness in judicial or administrative proceedings regarding the matters covered by this Protocol, and produce such items, documents or certified copies thereof, as may be needed for the proceedings. The request for appearance must indicate specifically before which judicial or administrative authority such an official will have to appear, on what matters and by virtue of what title or qualification he will be questioned.

Article 12

Assistance expenses

The Contracting Parties shall waive all claims on each other for the reimbursement of expenses incurred pursuant to this Protocol except, as appropriate, for expenses relating to experts and witnesses and to interpreters and translators who are not public service employees.

Article 13

Implementation

1. The implementation of this Protocol shall be entrusted on the one hand to the customs authorities of Algeria and on the other hand to the competent services of the Commission of the European Communities and, where appropriate, the customs authorities of the Member States. They shall decide on all practical measures and arrangements necessary for its application, taking into consideration rules in the field of data protection in particular. They may recommend to the competent bodies amendments which they consider should be made to this Protocol.

2. The Contracting Parties shall consult each other and keep each other informed of the detailed rules of implementation which are adopted in accordance with the provisions of this Protocol.

Article 14

Other agreements

1. Taking into account the respective competencies of the European Community and the Member States, the provisions of this Protocol shall:

— not affect the obligations of the Contracting Parties under any other international agreement or convention;

— be deemed complementary with agreements on mutual assistance which have been or may be concluded between individual Member States and Algeria;

— not affect the Community provisions governing the communication between the competent services of the Commission of the European Communities and the customs authorities of the Member States of any information obtained in the domains covered by this Protocol which could be of interest to the Community.

2. Notwithstanding the provisions of paragraph 1, the provisions of this Protocol shall take precedence over the provisions of any bilateral agreement on mutual assistance which has been or may be concluded between individual Member States and Algeria insofar as the provisions of the latter are incompatible with those of this Protocol.

3. In respect of questions relating to the application of this Protocol, the Contracting Parties shall consult each other to resolve the matter in the framework of the Cooperation Committee set up under Article 41 of Protocol 6 to the Association Agreement.

FINAL ACT

The plenipotentiaries of:

THE KINGDOM OF BELGIUM,

THE KINGDOM OF DENMARK,

THE FEDERAL REPUBLIC OF GERMANY,

THE HELLENIC REPUBLIC,

THE KINGDOM OF SPAIN,

THE FRENCH REPUBLIC,

IRELAND,

THE ITALIAN REPUBLIC,

THE GRAND DUCHY OF LUXEMBOURG,

THE KINGDOM OF THE NETHERLANDS,

THE REPUBLIC OF AUSTRIA,

THE PORTUGUESE REPUBLIC,

THE REPUBLIC OF FINLAND,

THE KINGDOM OF SWEDEN,

THE UNITED KINGDOM OF GREAT BRITAIN AND NORTHERN IRELAND,

Contracting Parties to the Treaty establishing the European Community and the Treaty on European Union,

hereinafter referred to as 'the Member States', and of

THE EUROPEAN COMMUNITY, hereinafter referred to as 'the Community',

of the one part, and

the plenipotentiaries of THE PEOPLE'S DEMOCRATIC REPUBLIC OF ALGERIA,

of the other part,

meeting in ... on ... in the year two thousand and two for the signature of the Euro-Mediterranean Association Agreement between the European Community and their Member States, of the one part, and the People's Democratic Republic of Algeria of the other part, hereinafter referred to as 'the Agreement';

have at the time of signature adopted the following texts:

the Agreement,

its Annexes 1-6, namely:

Annex 1	List of agricultural and processed agricultural products falling under Chapters 25 to 97 of the Harmonised System referred to in Articles 7 and 14
Annex 2	List of industrial products referred to in Article 9(1)
Annex 3	List of industrial products referred to in Article 9(2)

Annex 4 List of products subject to the provisional additional duty referred to in Article 17(4)

Annex 5 Procedures for the application of Article 41

Annex 6 Intellectual, industrial and commercial property: list of conventions referred to in Article 44

and Protocols 1 to 7, namely:

Protocol 1 Agricultural products originating in Algeria (Article 14(1))

Protocol 2 Agricultural products originating in the Community (Article 14(2))

Protocol 3 Fishery products originating in Algeria (Article 14(3))

Protocol 4 Fishery products originating in the Community (Article 14(4))

Protocol 5 Processed agricultural products (Article 14(5))

Protocol 6 Rules of origin (Article 28)

Protocol 7 Mutual administrative assistance in the field of customs (Article 63)

The plenipotentiaries of the Member States of the Community and the plenipotentiaries of Algeria have also adopted the following declarations attached to this Final Act:

JOINT DECLARATIONS

Joint Declaration relating to Article 44 of the Agreement

Joint Declaration on human exchanges

Joint Declaration relating to Article 104 of the Agreement

Joint Declaration relating to Article 110 of the Agreement

DECLARATIONS BY THE EUROPEAN COMMUNITY

Declaration by the European Community on Turkey

Declaration by the European Community on the accession of Algeria to the WTO

Declaration by the European Community relating to Article 41 of the Agreement

Declaration by the European on the concept of 'nationals', defined for the purposes of the Community (Article 84)

Declaration by the European Community relating to Article 88 of the Agreement (racism and xenophobia)

DECLARATION BY ALGERIA

Declaration by Algeria relating to Article 9 of the Agreement

Declaration by Algeria on customs union between the European Community and Turkey

Declaration by Algeria relating to Article 41 of the Agreement

Declaration by Algeria relating to Article 84 of the Agreement (readmission)

JOINT DECLARATIONS

Joint declaration relating to Article 44 of the Agreement

Under the Agreement, the Parties agree that intellectual, industrial and commercial property comprises, in particular, copyright, including copyright in computer programs, and neighbouring rights, database rights, commercial trademarks and geographical descriptions including designation of origin, industrial designs and models, patents, configuration plans (topographies) of integrated circuits, protection of undisclosed information and protection against unfair competition in accordance with Article 10(a) of the Paris Convention for the Protection of Industrial Property (1967 Stockholm Act) and the protection of confidential information concerning 'know-how'.

Joint Declaration on human exchanges

The Parties will examine the desirability of negotiating agreements on sending Algerian workers to take up temporary work.

Joint declaration relating to Article 84 of the Agreement

The Parties declare that the term 'nationals of other countries arriving in their territory direct from the territory of the other' will be defined in the context of the agreements referred to in Article 84(2).

Joint declaration relating to Article 104 of the Agreement

1. The Parties agree, for the purpose of the correct interpretation and practical application of this Agreement, that the term 'cases of special urgency' in Article 104 means a case of the material breach of the Agreement by one of the Parties. A material breach of the Agreement consists in:

   — repudiation of the Agreement not sanctioned by the general rules of international law,

   — violation of the essential elements of the Agreement agreed to in Article 2.

2. The Parties agree that the 'appropriate measures' referred to in Article 104 of the Agreement are measures taken in accordance with international law. If a Party takes a measure in a case of special urgency as provided for under Article 104, the other Party may avail itself of the procedure relating to settlement of disputes.

Joint declaration relating to Article 110 of the Agreement

The advantages which Algeria derives from the arrangements granted to it by France under the Protocol on goods originating in and coming from certain countries and enjoying special treatment when imported into a Member State, annexed to the Treaty establishing the European Community, have been taken into account in this Agreement. As a result, these special arrangements must be considered repealed from the date on which the Agreement enters into force.

DECLARATIONS BY THE EUROPEAN COMMUNITY

Declaration by the European Community on Turkey

The Community recalls that in accordance with the Customs Union in force between the Community and Turkey, the latter has the obligation, in relation to countries which are not members of the Community, to align itself on the Common Customs Tariff and, progressively, on the preferential customs regime of the Community, taking the necessary measures and negotiating agreements on mutually advantageous basis with the countries concerned. Consequently, the Community invites Algeria to enter into negotiations with Turkey as soon as possible.

Declaration by the European Community on the accession of Algeria to the WTO

The European Community and its Member States state their support for Algeria's rapid accession to the WTO and agree to provide any assistance necessary to this end.

Declaration by the European Community relating to Article 41 of the Agreement

The Community declares that, in interpreting Article 41(1), it will evaluate any practice contrary to that Article on the basis of the criteria resulting from the rules contained in Articles 81 and 82 of the Treaty establishing the European Community, including secondary legislation.

Declaration by the European Community relating to Article 84 of the Agreement Paragraph 1, first indent

As regards the Member States of the European Union, the obligations set out in the first indent of Article 84(1) of this Agreement apply only to those persons who are to be considered their nationals for Community purposes.

Declaration by the European Community relating to Article 88 of the Agreement (racism and xenophobia)

The provisions of Article 88 apply without prejudice to the provisions and conditions relating to the admission and residence of nationals of other countries and stateless persons on the territory of the Member States of the European Union or to any treatment associated with the legal status of the third-country nationals and stateless persons concerned.

DECLARATIONS BY ALGERIA

Declaration by Algeria relating to Article 9 of the Agreement

Algeria considers one of the essential objectives of the Association Agreement to be an increase in the flow of European direct investment in Algeria. It invites the Community and its Member States to support the practical realisation of this objective, in particular in the context of trade liberalisation and the dismantling of tariff barriers. The Association Council will examine the question if the need arises.

Declaration by Algeria on customs union between the European Community and Turkey

Algeria takes note of the Declaration by the European Community on Turkey. While observing that this declaration arises from the existence of customs union between those parties, Algeria will consider this matter when the time comes.

Declaration by Algeria relating to Article 41 of the Agreement

In applying its law on competition, Algeria will bear in mind the competition policy guidelines developed within the European Union.

Declaration by Algeria relating to Article 91 of the Agreement

Algeria considers that suspending the principle of banking secrecy is an essential factor in combating corruption.

Proposal for a Council Decision on the position to be taken by the Community within the Association Council established by the Europe Agreement between the European Communities and their Member States, of the one part, and Romania, of the other part, concerning the export of certain steel products from Romania to the European Communities

(2002/C 262 E/10)

COM(2002) 188 final — 2002/0084(ACC)

(Submitted by the Commission on 15 April 2002)

EXPLANATORY MEMORANDUM

The aim of the double-checking system is to improve transparency and to avoid possible diversions of trade. It is founded on the provision in the EU-Romania Europe Agreement ([1]) which allows either Party to introduce an administrative procedure having as its purpose the rapid provision of information on the trend of trade flows. In 1996 the Parties agreed to establish such a system in respect of Romanian exports of certain steel products to the Community.

This double-checking system was extended by common agreement every year up to 2001 for a period between 1 January and 31 December of the year in question. It expired on 31 December 2001.

At its meeting on 22 January 2002, the bilateral Contact Group agreed to recommend that the Association Council should re-introduce the double-checking system in 2002.

The annexed proposal is intended to define the position to be adopted by the Community within the EU-Romania Association Council with a view to re-introducing the double-checking system for the period 1 July to 31 December 2002.

([1]) OJ L 357, 31.12.1994, p. 12.

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty establishing the European Community, and in particular Article 133 thereof,

Having regard to the proposal from the Commission,

Having regard to the Decision of the Council and the Commission of 19 December 1994 on the conclusion of the Europe Agreement between the European Communities and their Member States, of the one part, and Romania, of the other part, and in particular Article 2(1) thereof ([1]),

Whereas:

(1) The Contact Group referred to in Article 11 of Protocol 2 of the Europe Agreement between the European Communities and their Member States of the one part and Romania of the other part, which entered into force on 1 February 1995 ([2]), met on 22 January 2002 to discuss trends in imports of steel products from Romania into the Community and, in the context of Article 34(2) of that Agreement, recognised the need for an administrative procedure having as its purpose the rapid provision of information on the trend of trade flows, in order to ensure that the attainment of the objectives of the Agreement will not be jeopardised.

(2) The Contact Group therefore agreed to recommend to the Association Council established under Article 106 of the Agreement that the double-checking system introduced in 1996 by Decision No 3/95 ([3]) of the Association Council and last extended for 2001 by Decision No 1/2001 ([4]) should be re-introduced for the period from 1 July to 31 December 2002.

(3) The Parties are desirous of promoting the orderly and equitable development of trade in steel between the Community and Romania.

(4) The Association Council, having been supplied with all relevant information, found that the solution acceptable to the two parties which least disturbs the functioning of the Agreement is the re-introduction of the double-checking system, without quantitative limits, for the import into the Community of certain steel products for the period from 1 July to 31 December 2002,

HAS DECIDED AS FOLLOWS:

The position to be taken by the Community within the Association Council established by the Europe Agreement between the European Communities and their Member States, of the one part, and Romania, of the other part, concerning the export of certain steel products from Romania to the European Communities, and in particular the re-introduction of the double-checking system, shall be based on the draft decision of the Association Council annexed to this Decision.

([1]) OJ L 357, 31.12.1994, p. 1.

([2]) OJ L 357, 31.12.1994, p. 2.

([3]) OJ L 325, 30.12.1995, p. 51.

([4]) OJ L 35, 6.2.2001, p. 36.

DECISION No .../2002 OF THE EU-ROMANIA ASSOCIATION COUNCIL

of ... 2002

concerning the export of certain steel products from Romania to the Community for the period 1 July to 31 December 2002 (double-checking system)

(2002/.../EC)

THE ASSOCIATION COUNCIL,

Whereas:

(1) The Contact Group referred to in Article 11 of Protocol 2 of the Europe Agreement establishing an association between the European Communities and their Member States, of the one part, and Romania, of the other part, which entered into force on 1 February 1995, met on 22 January 2002 and agreed to recommend to the Association Council established under Article 106 of the Agreement that the double-checking system introduced in 1996 by Association Council Decision No 3/95 and last extended for 2001 by Decision No 1/2001 should be re-introduced for the period from 1 July to 31 December 2002.

(2) The Association Council, having been supplied with all relevant information, has agreed with this recommendation,

HAS DECIDED AS FOLLOWS:

Article 1

(1) For the period 1 July to 31 December 2002, imports into the Community of the products listed in Annex I originating in Romania shall be subject to the presentation of an import document conforming to the model shown at Annex II issued by the authorities in the Community.

(2) The classification of the products covered by this Agreement is based on the tariff and statistical nomenclature of the Community (hereinafter called the 'Combined Nomenclature', or in abbreviated form 'CN'). The origin of the products covered by this Decision shall be determined in accordance with the rules in force in the Community.

(3) For the period stipulated in paragraph 1, imports into the Community of the iron and steel products listed in Annex I originating in Romania shall, in addition, be subject to the issue of an export document by the competent Romanian authorities. The importer must present the original of the export document not later than 31 March of the year following that in which the goods covered by the document were shipped. Shipment is considered to have taken place on the date of loading onto the exporting means of transport.

(4) The export document shall conform to the model shown in Appendix III. It shall be valid for exports throughout the customs territory of the Community.

(5) Romania shall notify the Commission of the European Community of the names and addresses of the appropriate Romanian governmental authorities which are authorised to issue and to verify export documents, together with specimens of the stamps and signatures they use. Romania shall also notify the Commission of any change in these particulars.

(6) Certain technical provisions on the implementation of the double-checking system are set out in Annex IV.

(7) Goods shipped before 1 July 2002 are not covered by this Decision.

Article 2

(1) Romania undertakes to supply the Community with precise statistical information on the export documents issued by the Romanian authorities pursuant to Article 1. Such information shall be transmitted to the Community by the end of the month following the month to which the statistics relate.

(2) The Community undertakes to supply the Romanian authorities with precise statistical information on import documents issued by Member States in connection with the export documents issued by the Romanian authorities under Article 1. Such information shall be transmitted to the Romanian authorities by the end of the month following the month to which the statistics relate.

Article 3

If necessary, at the request of either of the Parties, consultations shall be held on any problems arising from the operation of this Decision. Such consultations shall be held promptly. Any consultations held under this paragraph shall be approached by both Parties in a spirit of cooperation and with a desire to reconcile the difference between them.

Article 4

Any notifications to be given hereunder shall be given:

— in respect of the Community, to the Commission of the European Communities (DG Trade E.2),

— in respect of Romania, to the Romanian Mission to the European Communities and the Ministry of Industry and Trade of Romania.

Article 5

This Decision shall enter into force on the day of its adoption.

It shall apply from 1 July 2002.

Done at ...

For the Association Council

The President

ANNEX I

ROMANIA

List of products subject to double-checking (2002)

7202 11 20
7202 11 80
7202 99 11

7203 90 00

7206 10 00
7206 90 00

7208 10 00
7208 25 00
7208 26 00
7208 27 00
7208 36 00
7208 37 10
7208 37 90
7208 38 10
7208 38 90
7208 39 10
7208 39 90
7208 40 10
7208 40 90
7208 51 10
7208 51 30
7208 51 50
7208 51 91
7208 51 99
7208 52 10
7208 52 91
7208 52 99
7208 53 10
7208 53 90
7208 54 10
7208 54 90
7208 90 10

7209 15 00
7209 16 10
7209 16 90
7209 17 10
7209 17 90
7209 18 10
7209 18 91
7209 18 99
7209 25 00
7209 26 10
7209 26 90
7209 27 10
7209 27 90
7209 28 10
7209 28 90
7209 90 10

7210 11 10
7210 12 11
7210 12 19
7210 20 10
7210 30 10
7210 41 10
7210 49 10
7210 50 10
7210 61 10
7210 69 10
7210 70 31
7210 70 39
7210 90 31
7210 90 33
7210 90 38

7211 13 00
7211 14 10
7211 14 90
7211 19 20
7211 19 90
7211 23 10
7211 23 51
7211 29 20
7211 90 11

7212 10 10
7212 10 91
7212 20 11
7212 30 11
7212 40 10
7212 40 91
7212 50 31
7212 50 51
7212 60 11
7212 60 91

7213 10 00
7213 20 00
7213 91 10
7213 91 20
7213 91 41
7213 91 49
7213 91 70
7213 91 90
7213 99 10
7213 99 90

7214 20 00
7214 30 00
7214 91 10
7214 91 90
7214 99 10
7214 99 31
7214 99 39
7214 99 50
7214 99 61
7214 99 69
7214 99 80
7214 99 90

7215 90 10

7216 10 00
7216 21 00
7216 22 00
7216 31 11
7216 31 19
7216 31 91
7216 31 99
7216 32 11
7216 32 19
7216 32 91
7216 32 99
7216 33 10
7216 33 90
7216 40 10
7216 40 90
7216 50 10
7216 50 91
7216 50 99
7216 99 10

7219 11 00
7219 12 10
7219 12 90
7219 13 10
7219 13 90
7219 14 10
7219 14 90
7219 21 10
7219 21 90
7219 22 10
7219 22 90
7219 23 00
7219 24 00
7219 31 00
7219 32 10
7219 32 90
7219 33 10
7219 33 90
7219 34 10
7219 34 90
7219 35 10
7219 35 90
7219 90 10

7220 11 00
7220 12 00
7220 20 10
7220 90 11
7220 90 31

7221 00 10
7221 00 90

7222 11 11
7222 11 19
7222 11 21
7222 11 29
7222 11 91
7222 11 99
7222 19 10
7222 19 90
7222 30 10
7222 40 10
7222 40 30

7225 11 00
7225 19 10
7225 19 90
7225 20 20
7225 30 00
7225 40 20
7225 40 50
7225 40 80
7225 50 00
7225 91 10
7225 92 10
7225 99 10

7226 11 10
7226 19 10
7226 19 30
7226 20 20
7226 91 10
7226 91 90
7226 92 10
7226 93 20
7226 94 20
7226 99 20

7227 10 00
7227 20 00
7227 90 10
7227 90 50
7227 90 95

7228 10 10
7228 10 30
7228 20 11
7228 20 19
7228 20 30
7228 30 20
7228 30 41
7228 30 49
7228 30 61
7228 30 69
7228 30 70
7228 30 89
7228 60 10
7228 70 10
7228 70 31
7228 80 10
7228 80 90

7301 10 00

ANNEX II

EUROPEAN COMMUNITY **SURVEILLANCE DOCUMENT**

1

Holder's copy

1

1. Consignee (name, full address, country, VAT number)

2. Serial No of issue

3. Proposed place and date of import

4. Authority responsible for issue
(name, address and telephone No)

5. Declarant/representative as applicable
(name and full address)

6. Country of origin
(and nomenclature code)

7. Country of consignment
(and nomenclature code)

8. Last day of validity

9. Goods description

10. CN code and category

11. Quantity in kilograms (net mass) or in additional units

12. Value in euros, cif at Community frontier

13. Further particulars

14. Stamp of the competent authority

Date:

Signature: Stamp:

15. Attributions Indicate the quantity available in part 1 of column 17 and the quantity attributed in part 2 thereof.			
16. Net quantity (net mass or other unit of measure stating the unit)		**19. Customs document** (form and number) **or extract No and date of attribution**	**20. Name, Member State, stamp and signature of the attributing authority**
17. In figures	**18. In words for the quantity attributed**		
1.			
2.			
1.			
2.			
1.			
2.			
1.			
2.			
1.			
2.			
1.			
2.			
1.			
2.			

Extension pages to be attached hereto.

EUROPEAN COMMUNITY **SURVEILLANCE DOCUMENT**

2

Copy for the issuing authority

2

1. Consignee (name, full address, country, VAT number)

2. Serial No of issue

3. Proposed place and date of import

4. Authority responsible for issue
(name, address and telephone No)

5. Declarant/representative as applicable
(name and full address)

6. Country of origin
(and nomenclature code)

7. Country of consignment
(and nomenclature code)

8. Last day of validity

9. Goods description

10. CN code and category

11. Quantity in kilograms (net mass) or in additional units

12. Value in euros, cif at Community frontier

13. Further particulars

14. Stamp of the competent authority

Date:

Signature: Stamp:

15. Attributions Indicate the quantity available in part 1 of column 17 and the quantity attributed in part 2 thereof.			
16. Net quantity (net mass or other unit of measure stating the unit)		**19. Customs document** (form and number) **or extract No and date of attribution**	**20. Name, Member State, stamp and signature of the attributing authority**
17. In figures	**18. In words for the quantity attributed**		
1.			
2.			
1.			
2.			
1.			
2.			
1.			
2.			
1.			
2.			
1.			
2.			
1.			
2.			

Extension pages to be attached hereto.

ANNEX III

1. Exporter (name, full address, country)	**ORIGINAL**	2. **No**
	3. Year	4. Product group
5. Consignee (name, full address, country)	**EXPORT DOCUMENT** (ECSC and EC steel products)	
	6. Country of origin	7. Country of destination
8. Place and date of shipment — means of transport	9. Supplementary details	

10. Description of goods — manufacturer	11. CN code	12. Quantity ([1])	13. Fob value ([2])

14. CERTIFICATION BY THE COMPETENT AUTHORITY	
15. Competent authority (name, full address, country)	At . . . on . . . (Signature) (Stamp)

([1]) Show net weight (kg) and also quantity in the unit prescribed where other than net weight.
([2]) In the currency of the sale contract.

1. Exporter (name, full address, country)	**COPY**	2. **No**
	3. Year	4. Product group
	EXPORT DOCUMENT (ECSC and EC steel products)	
5. Consignee (name, full address, country)	6. Country of origin	7. Country of destination
8. Place and date of shipment — means of transport	9. Supplementary details	

10. Description of goods — manufacturer	11. CN code	12. Quantity ([1])	13. Fob value ([2])

14. CERTIFICATION BY THE COMPETENT AUTHORITY	
15. Competent authority (name, full address, country)	At . . . on . . . (Signature) (Stamp)

([1]) Show net weight (kg) and also quantity in the unit prescribed where other than net weight.
([2]) In the currency of the sale contract.

ANNEX IV

ROMANIA

TECHNICAL ANNEX ON THE DOUBLE-CHECKING SYSTEM

1. The export documents shall measure 210 mm × 297 mm. The paper used shall be white writing paper, sized, not containing mechanical pulp, and weighing not less than 25 g/m^2. They shall be made out in English. If they are completed by hand, entries must be in ink and in printed script. These documents may comprise additional copies duly indicated as such. If the documents have several copies only the top copy is the original. This copy shall be clearly marked as 'original' and other copies as 'copies'. Only the original shall be accepted by the competent authorities of the Community as being valid for the control of export to the Community in accordance with the provisions of the double-checking system.

2. Each document shall bear a standardised serial number, whether or not printed, by which it can be identified. This number shall be composed of the following elements:

   — two letters identifying the exporting country as follows: RO,

   — two letters identifying the intended Member State of customs clearance as follows:
     BE = Belgium
     DK = Denmark
     DE = Germany
     EL = Greece
     ES = Spain
     FR = France
     IE = Ireland
     IT = Italy
     LU = Luxembourg
     NL = Netherlands
     AT = Austria
     PT = Portugal
     FI = Finland
     SE = Sweden
     GB = United Kingdom.

   — a one-digit number identifying the year, corresponding to the last figure in the respective year, e.g. 2 for 2002,

   — a two-digit number from 01 to 99, identifying the particular issuing office concerned in the exporting country,

   — a five-digit number running consecutively from 00001 to 99999 allocated to the intended Member State of customs clearance.

3. The export documents shall be valid for six months from the date of their issue. They may be renewed or prolonged, but not beyond 31 December of the calendar year appearing in Box No 3 of the export document.

4. Since the importer needs to present the original export document when requesting an import document, export documents should, as far as possible, be issued in respect of individual commercial transactions, not global contracts.

5. Romania need not show price information on the export document if there is a genuine need to protect commercial confidentiality. In such cases, Box 9 of the export document should indicate the reason for not showing the price information and that it is available to the competent authorities of the Community on request.

6. Export documents may be issued after the shipment of the products to which they relate. In such cases they must bear the endorsement 'issued retrospectively'.

7. In the event of a theft, loss or destruction of an export document, the exporter may apply to the competent governmental authority which issued the document for a duplicate to be made out on the basis of the export documents in his possession. The duplicate of any such document so issued shall bear the endorsement 'duplicate'. The duplicate shall bear the date of the original export document.

8. The competent authorities of the Community shall be informed immediately of the withdrawal or modification of any export documents already issued and, where relevant, of the basis for such action.

Proposal for a Council Regulation concerning the export of certain steel products from Romania to the European Community for the period from 1 July to 31 December 2002 (double-checking system)

(2002/C 262 E/11)

COM(2002) 189 final — 2002/0088(ACC)

(Submitted by the Commission on 15 April 2002)

EXPLANATORY MEMORANDUM

The purpose of the double-checking system is to improve transparency and to avoid possible diversions of trade. It is founded on the provision in the EU-Romania Europe Agreement [1] allowing either Party to introduce an administrative procedure having as its purpose the rapid provision of information on the trend of trade flows. In 1996 the Parties agreed to introduce such a system for exports of certain steel products from Romania to the Community.

Until 2001 this double-checking system was each year renewed by common agreement for the period 1 January-31 December. It ended on 31 December 2001 with the expiry of Regulation (EC) No 237/2001 [2].

At its meeting of 22 January 2002 the bilateral contact group agreed to recommend that the Association Council reintroduce the double-checking system in 2002.

The attached proposal is therefore aimed at reintroducing the double-checking system for the period 1 July to 31 December 2002.

[1] OJ L 357, 31.12.1994, p. 2.
[2] OJ L 35, 6.2.2001, p. 1.

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty establishing the European Community, and in particular Article 133 thereof,

Having regard to the proposal from the Commission,

Whereas:

(1) The Europe Agreement establishing an association between the European Communities and their Member States, of the one part, and Romania, of the other part, entered into force on 1 February 1995 [1].

(2) The Parties have agreed, by Association Council Decision No .../2002, to reintroduce the double-checking system for the period 1 July-31 December 2002,

HAS ADOPTED THIS REGULATION:

Article 1

1. For the period 1 July-31 December 2002, in accordance with the provisions of Association Council Decision No .../2002, imports into the Community of certain iron and steel products originating in Romania, as listed in Annex I, shall be subject to the presentation of an import document issued by the authorities in the Community.

2. The import document shall be made out on a form corresponding to the model set out in Annex II.

3. The classification of the products covered by this Regulation is based on the tariff and statistical nomenclature of the Community (hereinafter referred to as the 'combined nomenclature' or, in abbreviated form, 'CN'). The origin of the products covered by this Regulation shall be determined in accordance with the rules in force in the Community.

4. For the period specified in paragraph 1, imports into the Community of the products listed in Annex I shall also be subject to the issue of an export document issued by the competent Romanian authorities. The importer must present the original of the export document no later than 31 March of the year following that in which the goods covered by the document were shipped.

5. Shipment is considered to have taken place on the date of loading on to the exporting means of transport.

6. The export document shall conform to the model shown at Annex III. It shall be valid for exports throughout the customs territory of the Community.

7. Goods shipped before 1 July 2002 shall be excluded from the scope of this Regulation.

Article 2

1. The import document referred to in Article 1(1) shall be issued automatically by the competent authority in the Member States, without charge for any quantities requested, within five working days of presentation of an application by any Community importer, wherever established in the Community. This application shall be deemed to have been received by the competent national authority no later than three working days after submission, unless it is proven otherwise.

[1] OJ L 357, 31.12.1994, p. 2.

2. An import document issued by one of the competent national authorities listed in Annex IV shall be valid throughout the Community.

3. The importer's application shall include the following elements:

(a) the name and full address of the applicant (including telephone and fax numbers, and any identification number used by the competent national authorities) and VAT registration number, if subject to VAT;

(b) if applicable, the name and full address of the declarant or representative of the applicant (including telephone and fax numbers);

(c) the full name and address of the exporter;

(d) the exact description of the goods, including

— their trade name,

— the combined nomenclature (CN) code(s),

— the country of origin,

— the country of consignment;

(e) the net weight, expressed in kg, and the quantity in the unit prescribed where other than net weight, by combined nomenclature heading;

(f) the cif value of the goods in euro at the Community frontier by combined nomenclature heading;

(g) whether the products concerned are seconds or of substandard quality [1];

(h) the proposed period and place of customs clearance;

(i) whether the application is a repeat of a previous application concerning the same contract;

(j) the following declaration, dated and signed by the applicant with the transcription of his name in capital letters:

'I, the undersigned, certify that the information provided in this application is true and given in good faith, and that I am established in the Community.'

The importer shall also submit a copy of the contract of sale or purchase, the pro forma invoice and/or, in cases where the goods are not directly purchased in the country of production, a certificate of production issued by the producing steel mill.

4. Import documents may be used only for such time as arrangements for liberalisation of imports remain in force in respect of the transactions concerned. Without prejudice to possible changes in the import regulations in force or measures taken in the framework of an agreement or the management of a quota:

— the period of validity of the import document is hereby fixed at four months,

— unused or partly used import documents may be renewed for an equal period.

5. The importer shall return import documents to the issuing authority at the end of their period of validity.

Article 3

1. A finding that the unit price at which the transaction is effected exceeds that indicated in the import document by less than 5 % or that the total value or quantity of the products presented for import exceeds the value or quantity given in the import document by less than 5 % shall not preclude the release for free circulation of the products in question.

2. Applications for import documents and the documents themselves shall be confidential. They shall be restricted to the competent authorities and the applicant.

Article 4

1. Within the first 10 days of each month, the Member States shall communicate to the Commission:

(a) details of the quantities and values (calculated in euro) for which import documents were issued during the preceding month;

(b) details of imports during the month preceding the month referred to in subparagraph (a).

The information provided by Member States shall be broken down by product, CN code and by country.

2. The Member States shall report any anomalies or cases of fraud which they discover and, where relevant, the basis on which they have refused to grant an import document.

Article 5

All reports provided for in these provisions shall be addressed to the Commission of the European Communities and sent electronically via the integrated network set up for this purpose, save where overriding technical reasons provisionally make it necessary to use another means of communication.

Article 6

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

It shall apply from 1 July 2002.

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

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[1] Under the criteria given in OJ C 180, 11.7.1991, p. 4.

ANNEX I

ROMANIA

List of products subject to double-checking (2002)

7202 11 20
7202 11 80
7202 99 11

7203 90 00

7206 10 00
7206 90 00

7208 10 00
7208 25 00
7208 26 00
7208 27 00
7208 36 00
7208 37 10
7208 37 90
7208 38 10
7208 38 90
7208 39 10
7208 39 90
7208 40 10
7208 40 90
7208 51 10
7208 51 30
7208 51 50
7208 51 91
7208 51 99
7208 52 10
7208 52 91
7208 52 99
7208 53 10
7208 53 90
7208 54 10
7208 54 90
7208 90 10

7209 15 00
7209 16 10
7209 16 90
7209 17 10
7209 17 90
7209 18 10
7209 18 91
7209 18 99
7209 25 00
7209 26 10
7209 26 90
7209 27 10
7209 27 90
7209 28 10
7209 28 90
7209 90 10

7210 11 10
7210 12 11
7210 12 19
7210 20 10
7210 30 10
7210 41 10
7210 49 10
7210 50 10
7210 61 10
7210 69 10
7210 70 31
7210 70 39
7210 90 31
7210 90 33
7210 90 38

7211 13 00
7211 14 10
7211 14 90
7211 19 20
7211 19 90
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7219 11 00
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7228 10 10
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7301 10 00

ANNEX II

EUROPEAN COMMUNITY **SURVEILLANCE DOCUMENT**

1

Holder's copy

1

1. Consignee (name, full address, country, VAT number)	**2. Serial No of issue**
	3. Proposed place and date of import
	4. Authority responsible for issue (name, address and telephone No)
5. Declarant/representative as applicable (name and full address)	**6. Country of origin** (and geonomenclature code)
	7. Country of consignment (and geonomenclature code)
	8. Last day of validity

9. Description	**10. CN code and category**
	11. Quantity in kilograms (net mass) or in additional units
	12. Value in euros, cif at Community frontier

13. Further particulars

14. Stamp of the competent authority

Date:

Signature: Stamp:

<table>
<tr><td colspan="4">15. Attributions
Indicate the quantity available in part 1 of column 17 and the quantity attributed in part 2 thereof.</td></tr>
<tr><td colspan="2">16. Net quantity (net mass or other unit of measure stating the unit)</td><td rowspan="2">19. Customs document (form and number) or extract No and date of attribution</td><td rowspan="2">20. Name, Member State, stamp and signature of the attributing authority</td></tr>
<tr><td>17. In figures</td><td>18. In words for the quantity attributed</td></tr>
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<tr><td>2.</td></tr>
</table>

Extension pages to be attached hereto.

EUROPEAN COMMUNITY **SURVEILLANCE DOCUMENT**

2

Copy for the issuing authority

2

1. Consignee (name, full address, country, VAT number)	**2. Serial No of issue**
	3. Proposed place and date of import
	4. Authority responsible for issue (name, address and telephone No)
5. Declarant/representative as applicable (name and full address)	**6. Country of origin** (and geonomenclature code)
	7. Country of consignment (and geonomenclature code)
	8. Last day of validity

9. Description	**10. CN code and category**
	11. Quantity in kilograms (net mass) or in additional units
	12. Value in euros, cif at Community frontier

13. Further particulars

14. Stamp of the competent authority

Date:

Signature: Stamp:

15. Attributions Indicate the quantity available in part 1 of column 17 and the quantity attributed in part 2 thereof.			
16. Net quantity (net mass or other unit of measure stating the unit)		**19. Customs document** (form and number) **or extract No and date of attribution**	**20. Name, Member State, stamp and signature of the attributing authority**
17. In figures	**18. In words for the quantity attributed**		
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Extension pages to be attached hereto.

ANNEX III

1. Exporter (name, full address, country)	ORIGINAL	2. **No**
	3. Year	4. Product group
5. Consignee (name, full address, country)	**EXPORT DOCUMENT** (ECSC and EC steel products)	
	6. Country of origin	7. Country of destination
8. Place and date of shipment — means of transport	9. Supplementary details	

10. Description of goods — manufacturer	11. CN code	12. Quantity ([1])	13. Fob value ([2])

14. CERTIFICATION BY THE COMPETENT AUTHORITY

15. Competent authority (name, full address, country)	Done at . . ., on . . ., (Signature) (Stamp)

([1]) Show net weight (kg) and also quantity in the unit prescribed where other than net weight.
([2]) In the currency of the sale contract.

1. Exporter (name, full address, country)	**COPY**	2. **No**
	3. Year	4. Product group
	EXPORT DOCUMENT (ECSC and EC steel products)	
5. Consignee (name, full address, country)	6. Country of origin	7. Country of destination
8. Place and date of shipment — means of transport	9. Supplementary details	

10. Description of goods — manufacturer	11. CN code	12. Quantity ([1])	13. Fob value ([2])

14. CERTIFICATION BY THE COMPETENT AUTHORITY

15. Competent authority (name, full address, country)	Done at . . ., on . . ., (Signature) (Stamp)

([1]) Show net weight (kg) and also quantity in the unit prescribed where other than net weight.
([2]) In the currency of the sale contract.

ANNEX IV

LIST OF THE COMPETENT NATIONAL AUTHORITIES

BELGIQUE/BELGIË

Ministère des Affaires Economiques
Administration des Relations Economiques
Services Licences
Rue Général Leman 60
B-1040 Bruxelles
Fax: +32-2-230 83 22

Ministerie van Economische Zaken
Bestuur van de Economische Betrekkingen
Dienst Vergunningen
Generaal Lemanstraat 60
B-1040 Brussel
Fax: +32-2-230 83 22

DANMARK

Erhvervsfremme Styrelsen
Erhvervsministeriet
Vejlsøvej 29
DK-8600 Silkeborg
Fax: +45 35 46 64 01

DEUTSCHLAND

Bundesamt für Wirtschaft und Ausfuhrkontrolle,
(BAFA)
Frankfurter Straße 29-35
D-65760 Eschborn 1
Fax: +49-61 96 9 42 26

ΕΛΛΑΣ

Υπουργείο Εθνικής Οικονομίας
Γενική Γραμματεία Διεθνών Σχέσεων
Διεύθυνση Διεθνών Οικονομικών Ροών
Κορνάρου 1
GR-105 63 Αθήνα
Fax: +301-3286094

ESPAÑA

Ministerio de Economía
Secretaría General de Comercio Exterior
Paseo de la Castellana 162
E-28046 Madrid
Fax: +34-1-563 18 23/349 38 31

FRANCE

Service des Industries Manufacturières
DIGITIP
12, rue Villiot — Bâtiment Le Bervil
F-75572 Paris cedex 12
Fax: +33-1-53 44 91 81

IRELAND

Department of Enterprise, Trade and Employment
Import/Export Licensing, Block C
Earlsfort Centre
Hatch Street
Dublin 2
Fax: +353-1-631 28 26

ITALIA

Ministero delle Attivita Produttive
Direzione generale per la politica commerciale e per la gestione del regime degli scambi
Viale America 341
I-00144 Roma
Fax: +39-6-59 93 22 35/59 93 26 36

LUXEMBOURG

Ministère des affaires étrangères
Office des licences
BP 113
L-2011 Luxembourg
Téléfax: +352-46 61 38

NEDERLAND

Belastingdienst/Douane centrale dienst voor in- en uitvoer
Postbus 30003, Engelse Kamp 2
NL-9700 RD Groningen
Fax: +31-50 5232341

ÖSTERREICH

Bundesministerium für Wirtschaft und Arbeit
Außenwirtschaftsadministration
Landstrasser Hauptstraße 55-57
A-1030 Wien
Fax: +43-1-711 00/8386

PORTUGAL

Ministério da Economia
Direcção-Geral das Relações Económicas Internacionais
Av. da República, 79
P-1000 Lisboa
Fax: 351-1-793 22 10

SUOMI

Tullihallitus
PL 512
FIN-00101 Helsinki
Telekopio: +358 9 614 2852

SVERIGE

Kommerskollegium
Box 6803
S-11386 Stockholm
Fax: 46-8-30 67 59

UNITED KINGDOM

Department of Trade and Industry
Import Licensing Branch
Queensway House — West Precinct
Billingham, Cleveland
UK-TS23 2NF
Fax: 44-1642-533 557

Proposal for a Council Regulation amending Regulation (EC) No 2334/97 as last amended by Regulation (EC) No 1678/2001 imposing a definitive anti-dumping duty on certain imports of flat pallets of wood originating in the Republic of Poland

(2002/C 262 E/12)

COM(2002) 253 final

(Submitted by the Commission on 24 May 2002)

EXPLANATORY MEMORANDUM

In November 1997, by Regulation (EC) No 2334/97, as last amended in August 2001 by Regulation (EC) No 1678/2001, the Council imposed definitive anti-dumping duties on certain imports of flat pallets of wood originating in the Republic of Poland and accepted undertakings offered by certain producers in connection with these imports.

One Polish exporting producer has now offered an undertaking which is considered acceptable as it eliminates the injurious dumping found.

At the same time, six other Polish producers which gave undertakings did not respect the prices specified therein and it is therefore considered appropriate to withdraw acceptance of the undertakings and impose an anti-dumping duty in its place.

Furthermore, one other producer which is subject to an undertaking is related to one of the six above-mentioned companies. In order to prevent one company continuing to benefit from an exemption from the anti-dumping duties by simply channelling its exports through its related company, it is therefore considered appropriate to remove the name of this related producer from the list of the companies from which undertakings were accepted.

The Member States have been consulted and are in favour of the amendment of the measures.

The Commission should therefore propose that the Council decide to amend Regulation (EC) No 2334/97 by:

— accepting the undertaking offered by the Polish exporting producer,

— imposing anti-dumping duties in place of the undertakings withdrawn by the Commission,

— amending the Annex II of the mentioned Regulation, which specifies the list of companies from which undertakings are accepted.

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty establishing the European Community,

Having regard to Council Regulation (EC) No 384/96 of 22 December 1995 on protection against dumped imports from countries not members of the European Community ([1]), and in particular Article 8(9) and 9(4) thereof,

Having regard to Council Regulation (EC) No 2334/97 of 24 November 1997 imposing a definitive anti-dumping duty on certain imports of flat pallets of wood originating in Poland ([2]), and in particular Article 4(1) and (2) thereof,

Having regard to the proposal submitted by the Commission after consulting the Advisory Committee,

Whereas:

A. **PREVIOUS PROCEDURE**

(1) The Council, by Regulation (EC) No 2334/97, imposed definitive anti-dumping duties on certain imports of flat pallets of wood falling within CN code ex 4415 20 20 originating in the Republic of Poland and accepted undertakings offered by certain producers in connection with these imports. Sampling was applied to Polish producers/exporters and individual duties ranging from 4,0 % to 10,6 % were imposed on the companies in the sample, while a weighted average duty of 6,3 % was imposed on other cooperating companies not included in the sample. A duty of 10,6 % was imposed on companies which either did not make themselves known or did not cooperate in the investigation. The producers from whom undertakings were accepted were exempted from anti-dumping duties with regard to imports of one specific pallet type, the EUR-pallet, which is the only pallet type covered by the undertakings.

(2) Article 4(1) of Regulation (EC) No 2334/97 stipulates that where any party provides sufficient evidence to the Commission that:

— it did not export to the Community or produce the wooden pallets described in Article 1(1) of that Regulation during the investigation period,

— it is not related to any of the producers or exporters in Poland which are subject to the anti-dumping duties imposed by that Regulation,

— it has actually exported to the Community the goods concerned after the investigation period, or it has entered into any irrevocable contractual obligation to export a significant quantity to the Community,

then that Regulation can be amended by granting the party in question the duty rate applicable to cooperating producers who were not in the sample, i.e. 6,3 %. Exporting producers meeting the criteria of Article 4(1) and thus subject to the weighted average duty of 6,3 % are listed in Annex I to Regulation (EC) No 2334/97.

(3) Article 4(2) of Regulation (EC) No 2334/97 provides furthermore that any party meeting the criteria set out in Article 4(1) thereof can also be exempted from the payment of the anti-dumping duty if an undertaking with regard to the so-called EUR-pallets is accepted from such a party. Exporting producers from which such an undertaking is accepted are listed in Annex II to Regulation (EC) No 2334/97.

(4) The Council, by Regulations (EC) No 2079/98 ([3]), (EC) No 2048/1999 ([4]), (EC) No 1521/2000 ([5]) and (EC) No 1678/2001 ([6]) amended Annexes I and II to Regulation (EC) No 2334/97.

B. **ACCEPTANCE OF UNDERTAKING**

(5) One Polish exporting producer, P.P.H. 'Astra' Sp. z o.o., Nawojowa, which received the weighted average duty of 6,3 %, has also offered an undertaking with regard to EUR-pallets which was accepted by Commission Decision 2002/.../EC. Consequently, this company should be added to Annex II to Regulation (EC) No 2334/97.

C. **FAILURE TO COMPLY WITH THE UNDERTAKING**

(6) The following six Polish exporting producers from which the Commission accepted undertakings have violated the undertaking by not respecting the minimum price specified therein:

— P.W. 'Intur-kfs' Sp. z o.o., Inowroclaw (Taric additional code 8662)

— Z.P.H.U. 'Miroslaw Przybylek', Klonowa (Taric additional code 8574)

— Import-Export 'Elko' Sp. z o.o., Kalisz (Taric additional code 8532)

— 'Drewpal' sp. j., Blizanow (Taric additional code 8534)

— 'D&M&D' Sp. z o.o., Blizanow (Taric additional code 8566)

— 'CMC' Sp. z o.o., Andrychow, Inwald (Taric additional code 8528).

([1]) OJ L 56, 6.3.1996, p. 1. Regulation as last amended by Regulation (EC) No 2238/2000 (OJ L 257, 11.10.2000, p. 2).

([2]) OJ L 324, 27.11.1997, p. 1. Regulation as last amended by Regulation (EC) No 1678/2001 (OJ L 227, 23.8.2001, p. 22).

([3]) OJ L 266, 1.10.1998, p. 1.

([4]) OJ L 255, 30.9.1999, p. 1.

([5]) OJ L 175, 14.7.2000, p. 1.

([6]) OJ L 227, 23.8.2001, p. 22.

The Commission therefore informed these six exporting producers that it was intended to remove their names from the list of companies from which an undertaking was accepted. These exporting producers commented on the breaches pointed out by the Commission and were granted a hearing where so requested. However, none of these exporting producers put forward any arguments which put into question the finding of a violation of the undertaking.

(7) In order to prevent CMC Sp. z o.o.-Andrychow continuing to benefit from an exemption from the anti-dumping duties by simply channelling its exports through its related company, the Commission considered it appropriate to withdraw its acceptance of the undertaking given by the following exporter/producer and to impose definitive anti-dumping duties:

— P.P.H.U. 'Zbigniew Marek', Andrychow (Taric additional code A113).

(8) As breaches of the undertakings have been found to have occurred, acceptance of the undertakings has been withdrawn by Commission Decision 2002/.../EC. Definitive anti-dumping duties should therefore be imposed forthwith against the six companies mentioned in recital (6), as well as against the related company mentioned in recital (7) with regard to their exports of the EUR-pallets.

D. AMENDMENT OF THE ANNEX II TO REGULATION (EC) No 2334/97

(9) In view of all the above, the Annex II to Regulation (EC) No 2334/97 which lists the companies from which undertakings have been accepted should be amended accordingly. The exporting producers which are no longer subject to undertakings shall be subject to the appropriate duty provided for in Article 1(2) of Regulation (EC) No 2334/97.

(10) Any claim requesting the application of these individual company anti-dumping duty rates (e.g. following a change in the name of the entity or following the setting up of new production or sales entities) should be addressed to the Commission forthwith [1] with all relevant information, in particular any modification in the company's activities linked to production, domestic and export sales associated with e.g. that name change or that change in the production and sales entities. The Commission, if appropriate, will, after consultation of the Advisory Committee, amend the Regulation accordingly by updating the list of companies benefiting from individual duty rates,

HAS ADOPTED THIS REGULATION:

Article 1

Annex II to Regulation (EC) No 2334/97, as last amended by Regulation (EC) No 1678/2001, shall be replaced by Annex I to this Regulation.

Article 2

1. Definitive anti-dumping duties are hereby imposed on imports of EUR-pallets falling within CN code ex 4415 20 20 (Taric code: 4415 20 20* 10) originating in the Republic of Poland and exported by the following companies:

— P.W. 'Intur-kfs' Sp. z o.o., Inowroclaw

— Z.P.H.U. 'Miroslaw Przybylek', Klonowa

— Import-Export 'Elko' Sp. z o.o., Kalisz

— 'Drewpal' sp. j., Blizanow

— 'D&M&D' Sp. z o.o., Blizanow

— 'CMC' Sp. z o.o., Andrychow, Inwald

— P.P.H.U. 'Zbigniew Marek', Andrychow.

2. The rate of the anti-dumping duty applicable to the net, free-at-Community frontier prices, before duty, on EUR-pallets, shall be as follows:

Name of the company	Anti-dumping rate	Taric code
P.W. 'Intur-kfs' Sp. z o.o., Inowroclaw	9,7 %	8016
Z.P.H.U. 'Miroslaw Przybylek', Klonowa	6,3 %	8019
Import-Export 'Elko' Sp. z o.o., Kalisz	6,3 %	8019
'Drewpal' sp. j., Blizanow	6,3 %	8019
'D&M&D' Sp. z o.o., Blizanow	6,3 %	8019
'CMC' Sp. z o.o., Andrychow, Inwald	6,3 %	8019
P.P.H.U. 'Zbigniew Marek', Andrychow	6,3 %	8019

Article 3

This Regulation shall enter into force on the 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.

[1] Commission of the European Communities, Directorate-General for Trade, Terv 00/13, B-1049 Brussels, Belgium.

ANNEX I

Manufacturer	Additional Taric Code
1. 'Baumann Palety' Sp. z.o.o., Barczewo	8570
2. E. Dziurny — C. Nowak S.C., Snietnica	8571
3. F.P.H. 'Tina' S.C., Katowice	8572
4. Firma 'Sabelmar' S.C., Konczyce Male	8573
5. 'Kross-Pol' Sp. z.o.o., Kolobrzeg	8576
6. P.P.H. 'GKT' S.C., Bilgoraj	8584
7. P.P.H. 'Unikat', Aleksandrow IV 697	8586
8. P.P.H.U. 'Adapol' S.C., Wolomin	8587
9. P.P.H.U. 'Alpa' Sp. z.o.o., Dobrzyca	8588
10. P.P.U.H. 'Alwa' Sp. z.o.o., Slawno	8589
11. P.P.H.U. 'Palimex' Sp. z.o.o., Wloszakowice	8590
12. P.P.U.H. 'SMS' — St. Mrozowicz, Suleczyno	8591
13. P.T.H. 'Mirex', Kolobrzeg	8597
14. P.W. 'Peteco' Sp. z.o.o., Warszawa	8690
15. 'Paletex' Produkcja Palet, Roman Panasiuk, Warszawa	8691
16. Produkcja Palet 'A. Adamus', Kuznia Grabowska	8692
17. P.P.H. Zygmunt Skibinski, Kowal	8693
18. 'Scanproduct' S.A., Czarny Dujanec	8715
19. 'Transdrewneks' Sp. z.o.o., Grudziadz-Owczarki	8716
20. W.Z.P.U.M. 'Euro-Tech', Rakszawa	8725
21. Z.P.H. 'Palettenwerk' — K. Kozik, Jordanow	8726
22. Zaklad Przerobu Drewna S.C., Drawsko Pomorskie	8745
23. Z.P.H.U. 'Sek-Pol' Sp. z.o.o., Tarnobrzeg	8526
24. 'Euro-Mega-Plus' Sp. z.o.o., Kielce	8527
25. Wyrob, Sprzedaz, Skup Palet, Josef Kolodziejczyk, Aleksandrow IV 704	8529
26. Firma Produkcyjno Transportowa Marian Gerka, Brodnica	8530
27. Z.P.H.U. 'Drewnex' Mamos, Luczak, Mamos s.j., Cekow	8531
28. P.P.H.U. 'Probox', Import-Export, Kalisz	8533
29. Zaman S.C., Radom	8535
30. 'Marimpex', Pulawy	8537
31. 'AVEN' Sp. z.o.o., Kostrzyn	8558
32. P.P.H.U. 'Eurex' BIS, Godynice	8538
33. ENKEL S.C., Pulawy	8540

Manufacturer	Additional Taric Code
34. Produkcja Stolarska Posrednictwo Export-Import, W.i.T. HENSOLDT, Lebork	8541
35. P.P.U.H. 'DREWPOL', Braszewice	8834
36. PTN Kruklanki Sp. z.o.o., Krulanki	8556
37. WEDAM S.C., Stezyca	8557
38. Import-Export Jan Sibinski, Czajkow	8559
39. P.P.H.U. 'Alk', Bierzwnik	8561
40. 'Empol' S.C., Jastrzebniki 37	8560
41. Euro-Handels Sp. z.o.o., Szczecin	8440
42. P.P.H. 'Paletex' Sibinski Jaroslaw, Czajkow	8441
43. Firma 'KIKO' S.C., Poznan	8443
44. 'Enkel' Waldemar Wnuk, Pulawy	8444
45. Firma Borkowski S.C. Export-Import, Grabow n. Prosna	8446
46. 'Bilusa' Sp. z.o.o., Klodawa	8484
47. P.P.U.H PAL-POL S.C., Prabuty	8485
48. Firma 'A.C.S.' S.C., Kamien	8486
49. 'SMT' Sp. z.o.o., Miastko	8562
50. Firma Transdrewneks Gadzala Antoni, Torun	8563
51. 'Palko' Sp. z.o.o., Sedziszow	8565
52. P.P.H. 'Vector', Kalisz	8567
53. P.P.H.U. 'ELMA' S.C., Sobieseki	A109
54. P.P.H. SWENDEX S.C., Lublin	A110
55. Pomorski Serwis Paletowy Sp. z o.o., Kobylnica	A114
56. 'EMI' S.C., Bilgoraj	A124
57. P.P.H.U ROMAX Import-Eksport, Wroclaw	A133
58. P.P.D.B. 'Lesnik' S.C., Krosno	A259
59. 'EUROPAL' S.C., Brzeziny	A260
60. P.P.U.H. 'CENTROPAL' EKSPORT-IMPORT, Czajkow	A261
61. Energomontaz Polnoc Serwis Sp. z.o.o., Swierze Gorne	A262
62. P.P.H. 'BOM'S' S-ka z.o.o., Suwalki	A263
63. P.P.H. 'Astra' Sp. z.o.o., Nawojowa	

Proposal for a Council Decision on a Community Position concerning the Rules of procedure of the Association Council and the Association Committee established by the Euro-Mediterranean Agreement established an Association between the European Communities and their Member States, of the one part, and the Hashemite Kingdom of Jordan, of the other part

(2002/C 262 E/13)

COM(2002) 286 final

(Submitted by the Commission on 4 June 2002)

EXPLANATORY MEMORANDUM

The Association Agreement between the European Communities and their Member States and the Hashemite Kingdom of Jordan, concluded in November 1997, entered into force on 1 May 2002.

An Association Council is established under Article 89 of the Agreement, which will examine any major issues arising within the framework of the Agreement and any other bilateral or international issues of mutual interest. Moreover, under Article 92 of the Agreement an Association Committee is created, subject to the powers of the Association Council. The Association Committee shall be responsible for the implementation of the Agreement.

Article 90(3) and Article 93(2) specify that the Association Council and the Association Committee shall adopt their rules of procedures. The first meeting of the Association Council is scheduled for [June 10, 2002]. It is therefore necessary to adopt its rules of procedure during this first meeting. As practised with the other Euro-Mediterranean Association Agreements already in force the Association Council shall, at the same time, adopt the internal procedure for the Association Committee.

The proposed rules of procedure specify the duties of the Association Council and the Association Committee and the practices, which they will need to follow, in accordance with the Association Agreement.

It is therefore proposed that the Council approves the attached proposal.

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty establishing the European Community, and in particular Article 300(2), second subparagraph thereof,

Having regard to the proposal from the Commission,

Whereas:

(1) The Euro-Mediterranean Agreement between the European Communities and their Member States, of the one part, and the Hashemite Kingdom of Jordan, of the other part, has definitely entered into force on 1 May 2002.

(2) Article 89 of the said Agreement establishes an Association Council, which will examine any major issues arising within the framework of the Agreement and any other bilateral or international issues of mutual interest.

(3) Article 92 of the said Agreement establishes an Association Committee, subject to the powers of the Association Council, which shall be responsible for the implementation of the Agreement.

(4) Article 90(3) and Article 93(2) of the said Agreement provide that the Association Council and the Association Committee shall adopt their respective rules of procedure.

(5) The Community should determine the position to be taken within the Association Council with regard to the adoption of the rules of procedure for the Association Council and the Association Committee,

HAS DECIDED AS FOLLOWS:

Sole Article

The position to be adopted by the Communities and their Member States within the Association Council established by Article 89 of the Euro-Mediterranean Agreement between the European Communities and their Member States, of the one part, and the Hashemite Kingdom of Jordan, of the other part, shall be based on the draft decisions of the Association Council annexed to the present Decision.

DECISION No . . ./2002 OF THE ASSOCIATION COUNCIL BETWEEN THE EUROPEAN COMMUNITIES AND THEIR MEMBER STATES, OF THE ONE PART, AND THE HASHEMITE KINGDOM OF JORDAN OF THE OTHER PART

of . . .

concerning the adoption of its Rules of procedure

(. . ./. . ./. . .)

THE EU-JORDAN ASSOCIATION COUNCIL,

Having regard to the Euro-Mediterranean Agreement establishing an Association between the European Communities and their Member States, of the one part, and the Hashemite Kingdom of Jordan, of the other part, and in particular Articles 89 to 96 thereof,

Whereas that Agreement entered into force on 1 May 2002,

HAS DECIDED TO ADOPT THE FOLLOWING RULES OF PROCEDURE:

Article 1

Presidency

The Association Council shall be presided over alternately for a period of 12 months by a representative of the Presidency of the Council of the European Union, on behalf of the Community and its Member States, and a representative of the Government of the Hashemite Kingdom of Jordan. The first period shall begin on the date of the first Association Council meeting and end on 31 December 2002.

Article 2

Meetings

The Association Council shall meet regularly at ministerial level once a year. Special sessions of the Association Council may be held if the Parties so agree, at the request of either Party. Unless otherwise agreed by the Parties, each session of the Association Council shall be held at the usual venue for meetings of the Council of the European Union at a date agreed by both Parties.

The meetings of the Association Council shall be jointly convened by the secretaries of the Association Council in agreement with the President.

Article 3

Representation

The members of the Association Council may be represented if unable to attend. If a member wishes to be so represented, he must notify the President of the name of his representative before the meeting at which he is to be so represented.

The representative of a member of the Association Council shall exercise all the rights of that member.

Article 4

Delegations

The members of the Association Council may be accompanied by officials.

Before each meeting, the President shall be informed of the intended composition of the delegation of each Party.

A representative of the European Investment Bank may attend the meetings of the Association Council as an observer when matters which concern the Bank appear on the agenda.

The Association Council may invite, by agreement between the Parties, non-members to attend its meetings in order to provide information on particular subjects.

Article 5

Secretariat

An official of the General Secretariat of the Council of the European Union and an official of the Mission of the Hashemite Kingdom of Jordan in Brussels shall act jointly as secretaries of the Association Council.

Article 6

Correspondence

Correspondence addressed to the Association Council shall be sent to the President of the Association Council at the address of the General Secretariat of the Council of the European Union.

The two secretaries shall ensure that correspondence is forwarded to the President of the Association Council and, where appropriate, circulated to the other members of the Association Council. Correspondence circulated shall be sent to the Secretariat-General of the Commission, the Permanent Representations of the Member States and the Mission of the Hashemite Kingdom of Jordan in Brussels.

Communications from the President of the Association Council shall be sent to the addressees by the two secretaries and circulated, where appropriate, to the other members of the Association Council at the addresses indicated in the second paragraph.

Article 7

Publicity

Unless otherwise decided, the meetings of the Association Council shall not be public.

Article 8

Agendas for meetings

1. The President shall draw up a provisional agenda for each meeting. It shall be forwarded by the secretaries of the Association Council to the addressees referred to in Article 6 not later than 15 days before the beginning of the meeting.

The provisional agenda shall include the items in respect of which the President has received a request for inclusion in the agenda not later than 21 days before the beginning of the meeting, save that such items shall not be written into the provisional agenda unless the supporting documentation has been forwarded to the secretaries not later than the date of dispatch of the agenda.

The agenda shall be adopted by the Association Council at the beginning of each meeting. An item other than those appearing on the provisional agenda may be placed on the agenda if the Parties so agree.

2. The President may, in agreement with the Parties, shorten the periods specified in paragraph 1 in order to take account of the requirements of a particular case.

Article 9

Minutes

Draft minutes of each meeting shall be drawn up by the two secretaries.

The minutes shall, as a general rule, indicate in respect of each item on the agenda:

— the documentation submitted to the Association Council,

— statements which a member of the Association Council has asked to be entered,

— the decisions taken, the statements agreed upon and the conclusions adopted.

The draft minutes shall be submitted to the Association Council for approval. They shall be approved within six months after each Association Council meeting. When approved, the minutes shall be signed by the President and the two secretaries. The minutes shall be filed in the archives of the General Secretariat of the Council of the European Union; a certified true copy shall be forwarded to each of the addressees referred to in Article 6.

Article 10

Decisions and recommendations

1. The Association Council shall adopt its decisions and recommendations by mutual agreement of the Parties.

In the period between meetings, the Association Council may adopt decisions or recommendations by written procedure if both Parties so agree.

2. The decisions and recommendations of the Association Council within the meaning of Article 91 of the Euro-Mediterranean Agreement shall be entitled respectively 'Decision' and 'Recommendation' followed by a serial number, the date of their adoption and a description of their subject. Each decision shall specify the date of its entry into force. The decisions and recommendations of the Association Council shall be signed by the President and authenticated by the two secretaries.

Decisions and recommendations shall be forwarded to each of the addressees referred to in Article 6.

The Association Council may decide to order publication of its decisions and recommendations in the *Official Journal of the European Communities* and the Official Journal of the Hashemite Kingdom of Jordan.

Article 11

Languages

The official languages of the Association Council shall be the official languages of the two Parties.

Unless otherwise decided, the Association Council shall base its deliberations on documentation prepared in those languages.

Article 12

Expenses

The Community and the Hashemite Kingdom of Jordan shall each defray the expenses they incur by reason of their participation in the meetings of the Association Council, both with regard to staff, travel and subsistence expenditure and to postal and telecommunications expenditure.

Expenditure in connection with interpreting at meetings, translation and reproduction of documents shall be borne by the Community, with the exception of expenditure in connection with interpreting or translation into or from Arabic, which shall be borne by the Hashemite Kingdom of Jordan.

Other expenditure relating to the material organisation of meetings shall be borne by the Party which hosts the meetings.

Article 13

Association Committee

1. The Association Council shall be assisted in carrying out its duties by the Association Committee. The Committee shall be composed of representatives of the members of the Council of the European Union and of representatives of the Commission of the European Communities, on the one hand, and of representatives of the Government of the Hashemite Kingdom of Jordan, on the other hand.

2. The Association Committee shall prepare the meetings and the deliberations of the Association Council, implement the decisions of the Association Council where appropriate and, in general, ensure continuity of the Association relationship and the proper functioning of the Euro-Mediterranean Agreement. It shall consider any matter referred to it by the Association Council as well as any other matter which may arise in the course of the day-to-day implementation of the Euro-Mediterranean Agreement. It shall submit proposals or any draft decisions/recommendations to the Association Council for its approval.

3. In cases where the Euro-Mediterranean Agreement refers to an obligation to consult or a possibility of consultation, such consultation may take place within the Association Committee. The consultation may continue in the Association Council if the two Parties so agree.

4. The draft Rules of Procedure of the Association Committee are annexed to this Decision (Annex 1).

ANNEX 1

RULES OF PROCEDURE OF THE ASSOCIATION COMMITTEE

Association between the European Communities and their Member States, of the one part, and the Hashemite Kingdom of Jordan, of the other part

Article 1

Chairmanship

The Association Committee shall be presided over alternately for periods of 12 months by representatives of the European Community and a representative of the Government of the Hashemite Kingdom of Jordan.

The position of the European Union with regard to Titles V and VI of the Treaty on European Union will always be expressed by a representative of the Presidency of the Council of the European Union.

The first period shall begin on the date of the first Association Council meeting and end on 31 December of the same year.

Article 2

Meetings

The Association Committee shall meet when circumstances require, with the agreement of both Parties.

Each meeting of the Association Committee shall be held at a time and place agreed by both Parties.

The meetings of the Association Committee shall be convened by the Chairman.

Article 3

Delegations

Before each meeting, the Chairman shall be informed of the intended composition of the delegation of each Party.

Article 4

Secretariat

An official of the European Commission and an official of the Government of the Hashemite Kingdom of Jordan shall act jointly as secretaries of the Association Committee.

All communications to or from the Chairman of the Association Committee in the framework of these Rules of Procedure shall be addressed to the secretaries of the Association Committee and the secretaries and President of the Association Council.

Article 5

Publicity

Unless otherwise decided, the meetings of the Association Committee shall not be public.

Article 6

Agendas for meetings

1. The Chairman shall draw up a provisional agenda for each meeting. It shall be forwarded by the secretaries of the Association Committee to the addressees referred to in Article 4 not later than 15 days before the beginning of the meeting.

The provisional agenda shall include the items in respect of which the Chairman has received a request for inclusion in the agenda not later than 21 days before the beginning of the meeting, save that such items shall not be written into the provisional agenda unless the supporting documentation has been forwarded to the secretaries not later than the date of dispatch of the agenda.

The Association Committee may ask experts to attend its meetings in order to provide information on particular subjects.

The agenda shall be adopted by the Association Committee at the beginning of each meeting. An item other than those appearing on the provisional agenda may be placed on the agenda if the two Parties so agree.

2. The Chairman may, in agreement with the two Parties, shorten the periods specified in paragraph 1 in order to take account of the requirements of a particular case.

Article 7

Minutes

Draft minutes of each meeting shall be drawn up by the two Secretaries. They shall indicate the decisions and recommendations taken and the conclusions adopted. The draft minutes shall be submitted to the Association Committee for approval. When approved, the minutes shall be signed by the Chairman and the two Secretaries and one original copy shall be filed by each of the Parties.

Article 8

Deliberations

In the specific cases where the Association Committee is empowered by the Association Council under the Euro-Mediterranean Agreement to adopt decisions/recommendations, those acts shall be entitled respectively 'Decision' and 'Recommendation', followed by a serial number, the date of their adoption and a description of their subject.

Whenever the Association Committee takes a decision, Articles 10 and 11 of Decision No . . . of the Association Council [of June 10, 2002] adopting its Rules of Procedure shall be applied *mutatis mutandis*.

Decisions and recommendations of the Association Committee shall be forwarded to the addressees referred to in Article 4 of these Rules of Procedure.

Article 9

Expenses

Each Party shall defray the expenses related to its participation in the meetings of the Association Committee and of any working groups or bodies which might be set up in accordance with Article 95 of the Euro-Mediterranean Agreement, both with regard to staff, travel and subsistence expenditure and to postal and telecommunications expenditure. Expenditure in connection with interpreting at meetings, translation and reproduction of documents shall be borne by the Community, with the exception of expenditure in connection with interpreting and/or translation into or from Arabic, which shall be borne by the Hashemite Kingdom of Jordan.

Other expenditure relating to the material organisation of meetings shall be borne by the Party which hosts the meetings.

DECLARATION OF THE COUNCIL AND THE COMMISSION RELATING TO ARTICLE 93 OF THE EURO-MEDITERRANEAN AGREEMENT ESTABLISHING AN ASSOCIATION BETWEEN THE EUROPEAN COMMUNITIES AND THEIR MEMBER STATES, OF THE ONE PART, AND THE HASHEMITE KINGDOM OF JORDAN, OF THE OTHER PART

The Council of the European Union and the European Commission declare with regard to Article 93(3) of the EU-Jordan Association Agreement that the chairmanship of the Association Committee, when exercised by the EU, will henceforth be implemented by a representative of the European Commission. The EU position with regard to Titles V and VI of the Treaty on the European Union will always be expressed by a representative of the Presidency of the Council of the EU.

The Euro-Mediterranean Agreement establishing an Association between the European Communities and their Member States, of the one part, and the Hashemite Kingdom of Jordan, of the other part, shall be amended formally as soon as possible when the Agreement is next revised, for instance, when new Member States join the EU.

Proposal for a Council Decision on the signature by the European Community to the Protocol of accession of the European Community to the European Organisation for the Safety of Air Navigation (Eurocontrol) and its provisional application

(2002/C 262 E/14)

COM(2002) 292 final

(Submitted by the Commission on 6 June 2002)

EXPLANATORY MEMORANDUM

1. With this communication the Commission submits to the Council a proposal for a decision authorising the Community to sign a Protocol defining the conditions under which it becomes a member of the European Organisation for Safety of Air Navigation (Eurocontrol) and recommending the provisional application of some provisions of this Accession Protocol.

2. This accession to Eurocontrol forms part of the overall strategy to build up a single sky over the single market as described in the Commission's Communication proposing an action programme on the creation of a Single European Sky and a Regulation laying down the framework for its creation ([1]), and in the Commission's Communication on the creation of a Single European Sky proposing a Regulation on the provision of air navigation services in the Single European Sky, a Regulation on the organisation and use of the airspace in the Single European Sky and a Regulation on the interoperability of the European Air Traffic Management network ([2]).

3. The European Organisation for the Safety of Air Navigation (Eurocontrol) was set up by an International Convention of 13 December 1960. In 1993, the Contracting Parties to this Convention initiated a process of its revision. The objective of such a revision was to extend the competence of Eurocontrol to all aspects of Air Traffic Management (ATM) and provide the organisation with more efficient decision-making mechanisms, thereby reinforcing the disciplines of its Member States.

4. As a consequence of its White Paper 'Freeing Europe's Airspace' which supported that process, but which also underlined that it would affect the exercise of Community competence in areas covered by the so revised Eurocontrol Convention, the Commission adopted on 13 November 1996 a recommendation for a Council Decision authorising it to start negotiations with a view to establishing Community membership of that organisation ([3]). In support to that recommendation it also issued on 19 February 1997 and 16 March 1997 two working papers, respectively on the exercise of Community competence in relation to ATM ([4]) and the need for Community membership of Eurocontrol ([5]).

5. The process of negotiation on the revised Convention of Eurocontrol was finalised on the first half of 1997. With a view to making the accession of the Community possible under the terms of that revised Convention, an article was devised (Article 40) so as to open it 'to regional economic integration organisations on terms and conditions to be agreed between the Contracting Parties and those organisations, of which one or more signatory States are members, these terms and conditions to be contained in an additional Protocol to the Convention'.

6. On 18 June 1997 the Council agreed that Member States could sign the revised Eurocontrol Convention without prejudice to Community competence. The Council also confirmed that the most adequate way for the Community to exercise its competence was to seek Community membership of Eurocontrol and it recommended that further work be expedited to allow the negotiation of the necessary accession protocol.

([1]) COM(2001) 123 final of 30.11.2001.

([2]) COM(2001) 564 final of 11.12.2001.

([3]) SEC(96) 2042 final of 13.11.1996.

([4]) SEC(97) 352 of 19.2.1997.

([5]) SEC(97) 718 of 16.4.1997.

7. The process of revision of the Eurocontrol Convention was concluded on 27 June 1997, when the Contracting Parties to Eurocontrol adopted the Protocol consolidating the Eurocontrol Convention, which was opened for signature on the same day.

   On that occasion, the European Community Member States, members of Eurocontrol, declared that their signature of the Protocol consolidating the Eurocontrol International Convention was without prejudice to the Community's exclusive competence in certain areas covered by that Convention and to Community's membership of Eurocontrol for the purpose of exercising such exclusive competence.

8. On 20 July 1998, the Council authorised the Commission to start negotiations with the Contracting Parties to Eurocontrol in order to agree the accession of the Community to this organisation by means of a Protocol under article 40 of the revised Eurocontrol Convention. The decision of the Council ([1]) included directives relating to Community accession to Eurocontrol and ad-hoc procedures for the conduct of negotiations.

9. To formalise the agreement resulting from the negotiation started on 29 January 1999, a Diplomatic Conference is under preparation to be convened mid-2002. On that occasion, the various Parties involved in the negotiation will be requested to sign a Final Act adopting the text of the Accession Protocol, including the accompanying declarations, and to sign the protocol itself.

10. With regard to the process of approval of the Accession Protocol, the procedure entails two steps, as provided by the usual provisions regarding the signing, approval and entry into force of international treaties and enshrined in the provisions of the Treaty (Article 300).

11. The requirement for the Community to become a full member of Eurocontrol is now made even more urgent by the situation of air traffic delays and airspace congestion in Europe. In order to build the single sky which its internal market needs and to take the full benefits of Commission proposals on implementing the Single European Sky, the Community must indeed take the initiative and give political guidance to Eurocontrol so as to use the expertise and resources of that organisation, to reach its own objectives, in cooperation with its European partners. Accession by the Community to Eurocontrol will be a key element in securing the consistency between that international organisation and the Community, and makes it possible to put the Community's activity in a Pan-European context.

12. In accordance with Decision No 71 of the Permanent Commission of Eurocontrol, certain provisions of the revised Convention are provisionally applied. The Final Act on the accession of the Community to Eurocontrol now includes a Resolution on the early implementation of the Accession Protocol. This was agreed by all Parties at the sixth Negotiation Session 7 March 2002. This calls for the provisional application of the Accession Protocol, as provided by Article 300(2) of the Treaty.

    The provisional application of the revised Eurocontrol convention and the provisional application of the Accession Protocol, insofar as they concern areas of Community competence, require procedures to be laid down for reaching Community and common positions and for expressing them within Eurocontrol. Accordingly, in areas of exclusive Community competence, the Commission will state the Community's position and vote on behalf of the Community.

In the light of these considerations and according to the established procedures, the Commission proposes that the Council adopt the attached decision.

([1]) 10208/98 Aviation 38 of 15.7.1998.

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty establishing the European Community, and in particular Article 80, paragraph 2, in conjunction with the first sentence of the first subparagraph of Article 300(2) thereof,

Having regard to the proposal from the Commission,

Whereas:

(1) The situation of airspace congestion and the coming implementation of the Single European Sky call for urgent measures to be undertaken at Community level and within the framework of the Eurocontrol organisation.

(2) The European Community has exclusive competence or competence shared with its Member States in certain areas covered by the Eurocontrol International Convention relating to Cooperation for the Safety of Air Navigation of 13 December 1960, as variously amended, and as consolidated by the Protocol opened for signature on 27 June 1997; the accession of the European Community to Eurocontrol for the purpose of exercising such competence is permitted under Article 40 of that Convention.

(3) The Commission has, on behalf of the Community, negotiated with the Contracting Parties to Eurocontrol a Protocol, on the accession of the European Community to Eurocontrol.

(4) It is appropriate that the Accession Protocol be signed, and the related declarations be duly made, without prejudice to the fulfilment of the necessary ratification procedures.

(5) In accordance with Decision No 71 of the Eurocontrol Permanent Commission for the safety of Air Navigation, certain provisions of the revised Eurocontrol Convention are provisionally applied; therefore the Protocol of accession should also be provisionally applied, provided that there is a reciprocal application on the part of the other signatory parties to the Eurocontrol Convention, as consolidated by the Protocol of 27 June 1997,

HAS DECIDED AS FOLLOWS:

Article 1

Subject to the conclusion at a later stage, the President of the Council is hereby authorised to designate the person(s) empowered to sign, on behalf of the European Community, the attached Protocol of accession of the European Community to Eurocontrol and to make the attached declarations.

Article 2

Articles 1 to 7 of the Accession Protocol shall be applied on a provisional basis before its entry into force in parallel to the early implementation of certain provisions of the Eurocontrol Convention, as consolidated by the Protocol of 27 June 1997. This provisional application begins the first day of the first month following the signature by the Community of this Accession Protocol.

PROTOCOL

on the accession of the European Community to the Eurocontrol international convention relating to cooperation for the Safety of Air Navigation of 13 December 1960, as variously amended and as consolidated by the Protocol of 27 June 1997

THE REPUBLIC OF ALBANIA,

THE FEDERAL REPUBLIC OF GERMANY,

THE REPUBLIC OF AUSTRIA,

THE KINGDOM OF BELGIUM,

THE REPUBLIC OF BULGARIA,

THE REPUBLIC OF CYPRUS,

THE REPUBLIC OF CROATIA,

THE KINGDOM OF DENMARK,

THE KINGDOM OF SPAIN,

THE REPUBLIC OF FINLAND,

THE FRENCH REPUBLIC,

THE UNITED KINGDOM OF GREAT BRITAIN AND NORTHERN IRELAND,

THE HELLENIC REPUBLIC,

THE REPUBLIC OF HUNGARY,

IRELAND,

THE ITALIAN REPUBLIC,

THE FORMER YUGOSLAV REPUBLIC OF MACEDONIA,

THE GRAND DUCHY OF LUXEMBOURG,

THE REPUBLIC OF MALTA,

THE REPUBLIC OF MOLDOVA,

THE PRINCIPALITY OF MONACO,

THE KINGDOM OF NORWAY,

THE KINGDOM OF THE NETHERLANDS,

THE PORTUGUESE REPUBLIC,

ROMANIA,

THE SLOVAK REPUBLIC,

THE REPUBLIC OF SLOVENIA,

THE KINGDOM OF SWEDEN,

THE SWISS CONFEDERATION,

THE CZECH REPUBLIC,

THE REPUBLIC OF TURKEY,

AND

THE EUROPEAN COMMUNITY,

Having regard to the Eurocontrol International Convention relating to Cooperation for the Safety of Air Navigation of 13 December 1960, as amended by the Additional Protocol of 6 July 1970, in turn amended by the Protocol of 21 November 1978, all amended by the Protocol of 12 February 1981, and as amended and consolidated by the Protocol of 27 June 1997, hereinafter referred to as 'the Convention', and in particular Article 40 thereof;

Having regard to the responsibilities granted by the Treaty establishing the European Community of 25 March 1957, as revised by the Amsterdam Treaty of 2 October 1997, to the European Community in certain areas covered by the Convention;

Whereas the European Community Member States, Members of Eurocontrol, when adopting the Protocol consolidating the Convention which was opened for signature on 27 June 1997, declared that their signature was without prejudice to the Community's exclusive competence in certain areas covered by that Convention and to the Community's membership of Eurocontrol for the purpose of exercising such exclusive competence;

Whereas the purpose of the accession of the European Community to the Convention is to assist the European Organisation for the Safety of Air Navigation, hereinafter referred to as 'Eurocontrol', in achieving its objectives as set out in the Convention, notably that of being a single and efficient body for Air Traffic Management policy-making in Europe;

Whereas the European Community's accession to Eurocontrol requires clarification of the way in which the provisions of the Convention will apply to the European Community and its Member States;

Whereas the terms and conditions of the accession of the European Community to the Convention shall enable the Community to exercise within Eurocontrol such competencies that have been transferred to it from its Member States;

Whereas arrangements for greater cooperation over the use of Gibraltar airport were agreed in London on 2 December 1987 by the Kingdom of Spain and the United Kingdom in a joint declaration by the Ministers of Foreign Affairs of the two countries, and such arrangements have yet to come into operation,

HAVE AGREED AS FOLLOWS:

Article 1

The European Community, within the framework of its competence, accedes to the Convention on the terms and conditions laid down in this Protocol, in accordance with Article 40 of the Convention.

Article 2

For the European Community, within the framework of its competence, the Convention shall apply to en-route air navigation services and related approach and aerodrome services for air traffic in the Flight Information Regions of its Member States listed in Annex II to the Convention, which are within the limits of the territorial applicability of the Treaty establishing the European Community.

The application of this Protocol to the airport of Gibraltar is understood to be without prejudice to the respective legal positions of the Kingdom of Spain and the United Kingdom with regard to the dispute over sovereignty over the territory in which the airport is situated.

Application of this Protocol to Gibraltar airport shall be suspended until the arrangements in the Joint Declaration made by the Foreign Ministers of the Kingdom of Spain and the United Kingdom on 2 December 1987 have come into operation. The Governments of Spain and the United Kingdom will inform the other Contracting Parties to this Protocol of such date of entry into operation.

Article 3

Subject to the provisions of this Protocol, provisions in the Convention shall be so interpreted as to also include the European Community within the framework of Community competence, and the various terms used to designate the Contracting Parties to the Convention and their representatives are to be understood accordingly.

Article 4

The European Community will not contribute to the budget of Eurocontrol.

Article 5

Without prejudice to the exercise of its voting rights under Article 6, the European Community shall be entitled to be represented and involved in the work of all bodies of Eurocontrol in which any of its Member States is entitled to be represented as a Contracting Party, and where matters falling within its competence may be dealt with, with the exception of bodies which have an audit function.

In all bodies of Eurocontrol where it may participate, the European Community will present its positions, within the framework of its competence, in accordance with its institutional rules.

The European Community may not submit candidates for membership of elected Eurocontrol bodies, nor may it submit candidates for office on the bodies in which it is entitled to participate.

Article 6

1. For decisions in matters where the European Community has exclusive competence and for the purpose of the application of the rules provided for in Article 8 of the Convention, the European Community shall exercise the voting rights of its Member States under the Convention, and the votes and weighted votes so cast by the European Community shall be cumulated for the determination of the majorities provided for in the said Article 8 of the Convention. When the Community votes, its Member States shall not vote.

For the purpose of deciding on the number of Contracting Parties to the Convention required for a request for decision-making by a three-quarters majority, as stipulated at the end of the first sub-paragraph of Article 8.2, the Community shall be considered as representing its Member States, which are members of Eurocontrol.

2. A decision proposed with respect to a specific item to be voted on by the European Community shall be postponed if a Contracting Party to the Convention that is not a member of the European Community so requests. The postponement shall be used for consultations between the Contracting Parties to the Convention, assisted by the Eurocontrol Agency, on the decision proposed. In the event of such a request, the taking of the decision may be postponed for a maximum period of six months.

For decisions in matters where the European Community has no exclusive competence, Member States of the European Community shall vote in accordance with their voting rights as provided for in Article 8 of the Convention, and the European Community shall not vote.

3. The European Community shall inform on a case-by-case basis the other Contracting Parties to the Convention of the cases where, with regard to the various items of the agendas of the General Assembly, the Council and other deliberating bodies to which the General Assembly and the Council have delegated powers, it will exercise the voting rights provided for in paragraph 1 above. This obligation shall also apply when decisions are taken by correspondence.

Article 7

The scope of the competence transferred to the Community is indicated in general terms in a written declaration made by the European Community at the time of the signature of this Protocol.

This declaration may be modified as appropriate by notification from the European Community to Eurocontrol. It does not replace or in any way limit the matters that may be covered by the notifications of Community competence to be made prior to Eurocontrol decision-making by means of formal voting or otherwise.

Article 8

Article 34 of the Convention shall apply to any dispute arising between two or more Contracting Parties to this Protocol or between one or more Contracting Parties to this Protocol and Eurocontrol relating to the interpretation, application or performance of this Protocol, including its existence, validity and termination.

Article 9

1. This Protocol shall be opened for signature by all States signatories to the Protocol consolidating the Eurocontrol International Convention relating to Cooperation for the Safety of Air Navigation of 13 December 1960, as variously amended, opened for signature on 27 June 1997, hereinafter referred to as 'the Consolidating Protocol', and the European Community.

It shall also be open, prior to the date of its entry into force, for signature by any State, duly authorised to sign the Consolidating Protocol, in accordance with Article II of that Protocol.

2. This Protocol shall be subject to ratification, acceptance or approval. The instruments of ratification, acceptance or approval shall be deposited with the Government of the Kingdom of Belgium.

3. This Protocol shall enter into force when it has been ratified, accepted or approved, on the one hand, by all signatory States that are also signatories to the Consolidating Protocol and whose ratification, acceptance or approval is required for the entry into force of the Consolidating Protocol, and on the other hand, by the European Community, on the first day of the second month after the deposit of the last instrument of ratification, acceptance or approval, provided that the Consolidating Protocol has come into force on that date. Where this condition is not met, it shall enter into force on the same date as the Consolidating Protocol.

4. This Protocol shall enter into force with respect to such signatories that have deposited their instruments of ratification, acceptance or approval after its entry into force on the first day of the second month following the deposit of the relevant instruments of ratification, acceptance or approval.

5. The Government of the Kingdom of Belgium shall notify the Governments of the other signatory States of this Protocol and the European Community of each signature, each deposit of an instrument of ratification, acceptance or approval and each date of entry into force of this Protocol pursuant to paragraphs 3 and 4 above.

Article 10

Each accession to the Convention after its entry into force shall represent also consent to be bound by this Protocol. The provisions of Articles 39 and 40 of the Convention shall also apply to this Protocol.

Article 11

1. This Protocol shall remain in force for an indefinite period.

2. If all Eurocontrol Member States which are Members of the European Community withdraw from Eurocontrol, notification of withdrawal from the Convention, as well as from this Protocol, shall be considered to have been given by the European Community together with the notification of withdrawal under Article 38.2 of the Convention of the last Member State of the European Community withdrawing from Eurocontrol.

Article 12

The Government of the Kingdom of Belgium shall have this Protocol registered with the Secretary-General of the United Nations pursuant to Article 102 of the Charter of the United Nations and with the Council of the International Civil Aviation Organisation pursuant to Article 83 of the Convention on International Civil Aviation signed in Chicago on 7 December 1944.

IN WITNESS WHEREOF, the undersigned Plenipotentiaries, having presented their Full Powers, found to be in good and due form, have signed this Protocol.

DONE at Brussels, this . . . day of (month) (year) in each of the official languages of the signatory States, in a single original, which shall remain deposited in the archives of the Government of the Kingdom of Belgium, which shall transmit certified copies to the Governments of the other signatory States and to the European Community. In the case of any inconsistency, the text in the French language shall prevail.

FINAL ACT

of the Diplomatic Conference on the Protocol on the accession of the European Community to the Eurocontrol International Convention relating to Cooperation for the Safety of Air Navigation of 13 December 1960, as variously amended and as consolidated by the Protocol of 27 June 1997

(Brussels, . . . 2002)

THE PLENIPOTENTIARIES OF

THE REPUBLIC OF ALBANIA,

THE FEDERAL REPUBLIC OF GERMANY,

THE REPUBLIC OF AUSTRIA,

THE KINGDOM OF BELGIUM,

THE REPUBLIC OF BULGARIA,

THE REPUBLIC OF CYPRUS,

THE REPUBLIC OF CROATIA,

THE KINGDOM OF DENMARK,

THE KINGDOM OF SPAIN,

THE REPUBLIC OF FINLAND,

THE FRENCH REPUBLIC,

THE UNITED KINGDOM OF GREAT BRITAIN AND NORTHERN IRELAND,

THE HELLENIC REPUBLIC,

THE REPUBLIC OF HUNGARY,

IRELAND,

THE ITALIAN REPUBLIC,

THE FORMER YUGOSLAV REPUBLIC OF MACEDONIA,

THE GRAND DUCHY OF LUXEMBOURG,

THE REPUBLIC OF MALTA,

THE REPUBLIC OF MOLDOVA,

THE PRINCIPALITY OF MONACO,

THE KINGDOM OF NORWAY,

THE KINGDOM OF THE NETHERLANDS,

THE PORTUGUESE REPUBLIC,

ROMANIA,

THE SLOVAK REPUBLIC,

THE REPUBLIC OF SLOVENIA,

THE KINGDOM OF SWEDEN,

THE SWISS CONFEDERATION,

THE CZECH REPUBLIC,

THE REPUBLIC OF TURKEY,

AND

THE EUROPEAN COMMUNITY,

Assembled at Brussels on . . . 2002;

1. Have unanimously adopted the text of a Protocol set out in Annex to the present Final Act and hereinafter called 'the Accession Protocol', on the accession of the European Community to the Eurocontrol International Convention relating to Cooperation for the Safety of Air Navigation of 13 December 1960, as variously amended, and as consolidated by the Protocol opened for signature on 27 June 1997, hereinafter called 'the revised Convention'. The said Accession Protocol has been opened for signature at Brussels on . . . 2002.

2. Have adopted the following resolutions regarding respectively the ratification, acceptance or approval by the Contracting Parties at their earliest convenience of the Accession Protocol and the early implementation of the Accession Protocol;

THE CONFERENCE:

Assembled at Brussels on . . . 2002;

Having unanimously adopted the Protocol, hereinafter called 'the Accession Protocol', on the accession of the European Community to the Eurocontrol International Convention relating to Cooperation for the Safety of Air Navigation of 13 December 1960, as variously amended, and as consolidated by the Protocol opened for signature on 27 June 1997, hereinafter called 'the revised Convention';

I. Resolution urging Contracting Parties to ratify, accept or approve the Accession Protocol at their earliest convenience

Considering that the accession of the European Community will significantly contribute to the aims and tasks of Eurocontrol on the terms and conditions contained in the Accession Protocol;

Recalling the resolution adopted by the Diplomatic Conference of 27 June 1997 on the Protocol consolidating the Eurocontrol Convention urging the Contracting Parties to the Eurocontrol Convention to ratify the abovementioned Protocol of 27 June 1997 at their earliest convenience;

Agreeing on the importance of an entry into force of the revised Convention and of the Accession Protocol as soon as possible;

Urges the signatories to the Accession Protocol to ratify, accept or approve that Protocol as soon as possible.

Requests the Director General of Eurocontrol to take all practical measures, in cooperation with the signatory States and the European Community, to provide assistance, if requested, in the process of ratification, acceptance or approval of the Accession Protocol.

II. Resolution on early implementation of the Accession Protocol

Having noted the Resolution on early implementation of the Consolidating Protocol adopted by the Diplomatic Conference on the adoption of that Protocol on 27 June 1997;

Considering the importance of a smooth and efficient implementation of the Accession Protocol;

Urges all States and the European Community to develop, to the fullest extent possible, arrangements for the early implementation of certain provisions of the Accession Protocol.

3. Have adopted the following joint declarations on the absence of Community competence in the fields of national security and defence and on RTDE coordination:

I. Joint declaration on the absence of Community competence in the fields of national security and defence

The signatories to the Protocol on the accession of the European Community to the Eurocontrol International Convention relating to Cooperation for the Safety of Air Navigation of 13 December 1960, as variously amended, and as consolidated by the Protocol opened for signature on 27 June 1997, hereinafter called 'the revised Convention',

Having noted that the European Community has at present no competence with regard to defence and security policies;

Taking note of the role of Eurocontrol as contained in the provisions of the revised Convention relating to military issues;

Agree that:

If the competence of the European Community were to be extended to those matters there would be a need to review whether this radically transforms the extent of their obligations under the revised Convention and whether therefore the Protocol in its present form can be applied to those matters.

II. Joint declaration on RTDE coordination

The signatories to the Protocol on the accession of the European Community to the Eurocontrol International Convention relating to Cooperation for the Safety of Air Navigation of 13 December 1960, as variously amended, and as consolidated by the Protocol opened for signature on 27 June 1997, hereinafter called 'the revised Convention',

Having examined the provisions of the revised Convention relating to the coordination of research, technological development and evaluation (RTDE) activities in the fields covered by that Convention;

Having noted that Article 2(1)(h) of the revised Convention is applicable to the coordination of RTDE activities between Eurocontrol and its Contracting Parties;

Having noted that the coordination organised by the Eurocontrol Agency under Article 1(5)(i) of its Statute concerns its own RTDE activities and those of ATM Organisations;

Agree that:

— the 'coordination of RTDE activities' is the exchange of views, information and experience about RTDE programmes and activities in the area of air traffic management; its main objectives are to promote complementarity and to avoid duplication of work;

— in coordinating their RTDE activities, all parties involved shall respect the overall objectives, competencies, administrative, managerial and budgetary responsibilities and the procedures of their respective institutions or bodies entrusted with the execution of RTDE programmes, as well as their rules governing participation, dissemination and intellectual property rights;

— the Contracting Parties shall remain free to decide on their RTDE strategies, programmes and projects in accordance with their own internal procedures.

4. Have noted the following joint declaration by the States signatories to the Consolidating Protocol and this Final Act:

III. Joint declaration regarding the entry into force of the Consolidating Protocol and the Accession Protocol, and regarding further signatures to the Accession Protocol

The States signatories to the Protocol consolidating the Eurocontrol International Convention relating to Cooperation for the Safety of Air Navigation of 13 December 1960, as variously amended, opened for signature on 27 June 1997, hereinafter called 'the Consolidating Protocol', and signatories to the Final Act of the Diplomatic Conference on the Protocol on the accession of the European Community to the Eurocontrol Convention, opened for signature on ... 2002, hereinafter called 'the Accession Protocol';

Desirous to clarify the conditions regarding the entry into force of the consolidating Protocol and the Accession Protocol;

Confirm their interpretation of Article II, paragraph 3, of the Consolidating Protocol to the effect that the aforesaid Protocol shall enter into force when all States that are parties to the Eurocontrol Convention on . . . 2002, have deposited their instruments of ratification, acceptance or approval of the Consolidating Protocol.

Agree that Eurocontrol shall take the appropriate steps to ensure, when considering a request for accession to the Eurocontrol Convention and for an authorisation to sign the Consolidating Protocol, that adequate commitments are made for signature and for ratification, acceptance or approval, of the Accession Protocol.

IN WITNESS WHEREOF, the Plenipotentiaries have signed the present Final Act.

Done at Brussels, this . . . day of . . . 2002, in a single original, which shall remain deposited in the archives of the Government of the Kingdom of Belgium, which shall transmit certified copies to the Governments of the other signatory States and to the European Community.

For the Republic of Albania,
For the Federal Republic of Germany,
For the Republic of Austria,
For the Kingdom of Belgium,
For the Republic of Bulgaria,
For the Republic of Cyprus,
For the Republic of Croatia,
For the Kingdom of Denmark,
For the Kingdom of Spain,
For the Republic of Finland,
For the French Republic,
For the United Kingdom of Great Britain and Northern Ireland,
For the Hellenic Republic,
For the Republic of Hungary,
For Ireland,
For the Italian Republic,
For The Former Yugoslav Republic of Macedonia,
For the Grand Duchy of Luxembourg,
For the Republic of Malta,
For the Republic of Moldova,
For the Principality of Monaco,
For the Kingdom of Norway,
For the Kingdom of the Netherlands,
For the Portuguese Republic,
For Romania,
For the Slovak Republic,
For the Republic of Slovenia,
For the Kingdom of Sweden,
For the Swiss Confederation,
For the Czech Republic,
For the Republic of Turkey,
and
For the European Community.

Proposal for a Council Regulation amending the Annex to Commission Regulation (EC) No 1107/96 with regard to the name 'Feta'

(2002/C 262 E/15)

COM(2002) 314 final

(Submitted by the Commission on 14 June 2002)

EXPLANATORY MEMORANDUM

On 14 July 1992 the Council adopted Regulation (EEC) No 2081/92 on the protection of geographical indications and designations of origin for agricultural products and foodstuffs [1].

Under the simplified procedure established by Article 17 of Regulation (EEC) No 2081/92, the Greek authorities notified on 21 January 1994 the name 'Feta' for registration as a protected designation of origin (PDO). The Commission examined the request for registration for conformity with Articles 2 and 4 and concluded that the name 'Feta' met the criteria of the Regulation and should therefore be protected.

The Commission submitted the 'Feta' file to the Scientific Committee for Designations of Origin, Geographical Indications and Certificates of Specific Character established by Commission Decision 93/53/EEC [2] of 21 December 1992. According to Article 2 of that decision, the task of the committee, made up of qualified experts with legal or agricultural backgrounds, and particularly with knowledge of intellectual property rights, is to examine, at the request of the Commission, all technical problems relating to the application of the basic regulation. These include questions relating to the generic nature of the name and the factors to be taken into account when defining geographical indications and designations of origin of agricultural products and foodstuffs.

On 15 November 1994, the Scientific Committee expressed the view, by four votes in favour and three against, having regard in particular to the information supplied, that the name 'Feta' met the conditions for registration under Council Regulation (EEC) No 2081/92, more particularly Article 2(3) thereof. In the same opinion, the Scientific Committee unanimously concluded, on the basis of the documentation submitted to it, that the name 'Feta' for Greek cheese was not generic within the meaning of Article 3(1) of the basic regulation. It stated that the 'non-generic' nature of the name 'Feta' is an independent point and is without prejudice to examination of the situation of products legally on the market within the meaning of Article 13(2) of Regulation (EEC) No 2081/92. According to Article 13 there is a transitional period of 5 years till the enforcement of the denomination 'Feta' as a protected denomination of origin and the prohibition of other producers to use this designation.

On 20 January 1996, the Commission asked the Regulatory Committee for protected denominations of origin (PDO) and protected geographic indications (PGI) (III-b procedure with three months expiry period) to deliver an opinion on the draft regulation including among others 'Feta' as 'PDO'. The resulting 45 favourable votes amounted from support by Belgium, Greece, Spain, Italy, Luxembourg, France, and Portugal. Denmark, Germany, Ireland, Netherlands, UK, Sweden, Finland and Austria expressed a negative opinion resulting to 42 votes. Denmark, Germany, Ireland, Netherlands, United Kingdom, Austria, Finland and Sweden mentioned that the proposal was containing product names such as 'Feta' that are generic according in their view.

Due to the absence of opinion in the Committee, the Commission transmitted the draft measures to Council on 8 March 1996. During the Council of Agricultural Ministers on 20 May 1996, Denmark, Germany, France, Ireland, Austria, Finland and Sweden opposed the proposed measures. The United Kingdom abstained. Greece, Spain, Portugal, Italy, Luxembourg, Belgium and the Netherlands expressed support. The Commission, following the absence of opinion by Council and in accordance with the regulatory committee procedure, adopted the proposed regulation. The resulting Commission Regulation (EC) No 1107/96 entered into force on 21 June 1996.

By applications lodged on 30 August, 9 September and 12 September 1996 respectively, the Kingdom of Denmark (C-289/96), the Federal Republic of Germany (C-293/96) and the French Republic (C-299/96) brought actions under Article 173 of the EC Treaty for annulment of Commission Regulation (EC) No 1107/96 in so far as it registers the designation 'Feta' as a PDO.

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[1] OJ L 208, 24.7.1992, p. 1.

[2] OJ L 13, 21.1.1993, p. 16.

The fore-mentioned governments claimed that the contested regulation is invalid in so far as it provides for registration of the word 'Feta' as a PDO for two principal reasons. First, they argue that the conditions laid down by Article 2 of Regulation (EEC) No 2081/92, which must be fulfilled if a product is to benefit from a PDO, have not been satisfied. In particular they argued that registration of 'Feta' as a PDO is contrary to Article 2(2) of Regulation (EEC) No 2081/92 in that the geographical area which falls under the protection of the registered name would extend to substantially all of Greece, something which the regulation precludes in the case of traditional non-geographical names, such as that in point here. Second, they submit that the word 'Feta' is a generic term and cannot, therefore, in light of Articles 3 and 17 of Regulation (EEC) No 2081/92, be protected as a PDO. In particular, according to Article 3 of the same regulation, 'names that have become generic may not be registered'.

The Court of Justice of the European Community concluded that the Commission had not taken due account of all factors which Regulation (EEC) No 2081/92 requires. By its judgment of 16 March 1999 covering the prescribed joined cases, it decided on the partial annulment of Regulation (EC) No 1107/96.

Subsequently the Commission, on 15 October 1999, invited the Member States to provide exhaustive information on production, consumption and available knowledge on the denomination of 'Feta'. The supplied data are summarised in the recitals of the draft Regulation at hand. This information was transmitted to the scientific Committee. On 24 April 2001, it unanimously concluded that 'Feta' constitutes a non-generic designation of origin. The principal reasons of this opinion are also presented in the recitals of the draft Regulation.

This opinion of the Scientific Committee was presented to the Member States in the regulatory committee on 20 November 2001. The Member States that considered both the data they supplied still valid (from 1999) and the summary provided by the Commission to be correct were Greece, United Kingdom, Netherlands, Spain, Belgium, Austria, Portugal and Italy. Germany, Denmark and Finland expressed doubts on the Scientific Committee. France and Sweden did not take position. A new draft measure registering 'Feta' as PDO was also discussed which led to some minor amendments.

The Commission presented the slightly amended measure on 9 April to the regulatory Committee, and asked its opinion on the draft Regulation on 16 May 2002. No opinion was delivered resulting from a favourable vote (47): Portugal, Belgium, Greece, Spain, Italy, Luxembourg, Netherlands, Sweden, Finland; a negative vote (23): Denmark, Germany, United Kingdom; and abstention (17): France, Austria, Ireland.

Reasons for the votes against and abstentions:

United Kingdom expressed its sympathy to Greece but supported that large quantities have been produced before and 'Feta' is a generic name. It also supported that there was a difficulty in the comprehension of the elements included in the analysis presented to the committee on 20 November 2001.

Ireland produces a small quantity of 'Feta' and there is no tremendous interest from its side.

France agrees with the analysis presented by the Commission to the committee on 20 November 2001 and it is convinced that 'Feta' is a non-generic name. However it supports that the name 'Feta' should rather be used in conjunction with a geographical name. France has appealed against the registration of the denomination 'Feta' in 1996. In France 'Feta' produced mainly from ewe's milk and not from cow's milk (ewe/cow milk equal to ¼).

Denmark firmly considers 'Feta' a generic name. It pointed at inaccuracies in the scientific committee report.

Austria mentioned difficulties in understanding the data of the analysis presented on 20 November 2001. Production of 'Feta' in other Member States should be taken into account, as should the situation in enlargement candidate countries. Considering its bilateral agreement with Greece on 'Feta' it abstained.

Germany maintained its well-known position of 1996. It requested the submission of the presented analysis in German.

The Commission acknowledged that 'Feta' is currently produced in many Member States. This does however not mean that the product is generic. It does not consider the 8 tonnes production in the United Kingdom to be large. Moreover, 14 out of 18 English dictionaries refer to 'Feta' as a Greek cheese, the others refer to a Greek, Middle East or Balkans origin. Hence, it is difficult to defend the generic nature of the name 'Feta' in the United Kingdom. It also emphasised the independent nature of the scientific committee, and did not enter into discussion on the Danish rejection of the scientific opinion. With respect to the reference to enlargement countries it recalled that Council Regulation (EE) No 2081/92 for the determination of a generic nature only refers to EU territory.

In absence of an opinion of the competent regulatory committee, the Commission, pursuant to Article 5(4) of Council Decision 1999/468/EC laying down the procedures for the exercise of implementing powers conferred on the Commission, hereby presents the concerned proposal for a Regulation to the Council, and informs the Parliament thereof.

This proposal has no impact on the Community budget.

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty establishing the European Community,

Having regard to the proposal from the Commission,

Having regard to Council Regulation (EEC) No 2081/92 of 14 July 1992 on the protection of geographical indications and designations of origin for agricultural products and foodstuffs [1], and in particular Article 17 thereof,

Whereas:

(1) Under Article 17(1) of Regulation (EEC) No 2081/92, on 21 January 1994 the Greek authorities sent the Commission an application for the registration of the name 'Feta' for a cheese.

(2) The name 'Feta' was registered as a protected designation of origin under Commission Regulation (EC) No 1107/96 of 12 June 1996 on the registration of geographical indications and designations of origin under the procedure laid down in Article 17 of Council Regulation (EEC) No 2081/92 [2].

(3) The Kingdom of Denmark, the Federal Republic of Germany and the French Republic subsequently brought an action for that registration to be annulled under Article 230 of the Treaty.

(4) In its judgment of 16 March 1999 on joined cases C-289/96, C-293/96 and C-299/96, the Court of Justice partly annulled Regulation (EC) No 1107/96 insofar as it registered the name 'Feta' as a protected designation of origin. The Court considered that the Commission 'did not take due account of all the factors which the third indent of Article 3(1) of the basic regulation required it to take into consideration', emphasising in particular that the Commission had paid insufficient attention to the actual situation in the Member States.

(5) Commission Regulation (EC) No 1070/1999 of 25 May 1999 amending the Annex to Regulation (EC) No 1107/96 [3] accordingly deleted the name 'Feta' from the said Annex and from the register of protected designations of origin and geographical indications.

(6) Next, on 15 October 1999, the Commission sent each of the Member States a detailed questionnaire intended to provide an exhaustive updated picture of the situation in all the Member States with regard to the production and consumption of 'Feta' and the knowledge of the term professed by Community consumers.

(7) With regard to the production of 'Feta' cheese, the Member States were asked to describe the situation as regards the following factors: the existence of national rules or specific codified practices, the conditions in which production was commenced (in particular the objectives sought, whether the initiative was private or public, the markets and the consumer profile targeted), the quantities produced each year, the final destination of the product, and the exact names of the relevant trademarks used.

(8) With regard to the consumption of 'Feta' cheese, the Member States were asked to describe the situation as regards the following factors: the existence of rules on the marketing of this cheese, the quantities consumed each year, the geographic origin of the cheese consumed, and the specific labels present on the market.

[1] OJ L 208, 24.7.1992, p. 1. Regulation last amended by Commission Regulation (EC) No 2796/2000 (OJ L 324, 21.12.2000, p. 26).

[2] OJ L 148, 21.6.1996, p. 1.

[3] OJ L 130, 26.5.1999, p. 18.

(9) With regard to consumer knowledge of the name 'Feta', the Member States were asked to describe the situation as regards the following factors: definitions of this term, in particular in general works such as dictionaries and encyclopaedias, relevant demoscopic studies or surveys, and any other additional information.

(10) The Commission summarised the information received overall and by Member State, and the Member States subsequently made a number of corrections and amendments.

(11) The information shows that in 12 Member States the production of 'Feta' cheese is not governed by specific rules laying down precise definitions of quality, production methods or, where applicable, geographical areas of production. In Greece, production practices for 'Feta' cheese have been codified in increasingly specific terms since 1935, and the definition of the geographical area of production, traditionally based on consistent and equitable practices, was protected in 1988. Legislation on the quality specifications to be complied with in producing 'Feta' cheese has existed in Denmark since 1963 and was in force in the Netherlands between 1981 and 1998. It should also be noted that the term 'Feta' appears in Community rules on export refunds for milk and milk products and the combined customs nomenclature. These rules relate to customs matters alone and seek neither to interpret consumer opinion nor regulate industrial property rights, nor do they have any bearing on the name under which the cheese concerned is actually marketed, which depends exclusively on considerations related to consumer expectations in the various countries of destination concerned.

(12) Production of 'Feta' cheese, as defined in the combined customs nomenclature, is non-existent in Luxembourg and Portugal. It is, or has been, statistically and economically marginal or sporadic in nine other Member States: Italy, Belgium, Finland, Austria, Ireland, Sweden, the United Kingdom, the Netherlands and Spain.

(13) However, production of Feta cheese has been found to be substantial in four Member States. Greece has been producing 'Feta' cheese since ancient times, almost exclusively for the Greek market. Official statistics going back to 1931 indicate an output of 25 000 tonnes, and production has now reached around 115 000 tonnes a year. In Greece, cheese bearing the designation 'Feta' is made exclusively from ewe's milk or from a mixture of ewe's and goat's milk.

(14) Denmark has been producing 'Feta' cheese since the 1930s, almost exclusively for export. No data are available before 1967, when 133 tonnes were produced. Output exceeded 1 000 tonnes in 1971 and, when the Community began granting export refunds on exports of 'Feta' cheese in 1975, output increased tremendously, from 9 868 tonnes in 1975 to a peak of 110 932 tonnes in 1989. Since 1995, output has fallen steadily, and amounted to only 27 640 tonnes in 1998, largely due to a fall in demand from third countries and the gradual reduction in export refunds for this type of cheese. Danish production is almost exclusively made from cow's milk.

(15) France began producing 'Feta' cheese in 1931. No data are available before 1980, when 875 tonnes were produced. From 1988 to 1998 output varied between 7 960 tonnes and 19 964 tonnes. Originally manufactured to meet demand from France's Armenian and Greek communities, 'Feta' cheese is now produced for export, with 77,5 % of output on average going to the other Member States and the rest of the world. The French production is based on the utilisation, principally, of ewe's milk, and to a lesser extent, cow's milk.

(16) Germany has been producing 'Feta' cheese since 1972 (when production of 78 tonnes was recorded). In 1977 production exceeded the 5 000 tonne mark, just topped 15 000 tonnes in 1980 and reached 24 000 tonnes in 1985, since when it has oscillated between 19 757 and 39 201 tonnes. Originally, the only market was the Balkan immigrant communities within Germany, but exports gradually developed to Middle Eastern countries and the Balkans (mainly owing to export refunds) and to other Member States. German production almost exclusively uses cow's milk.

(17) It should be pointed out that the above figures, which are based on data provided by the Member States on their own output, should be treated as purely indicative since the absence of a specific legislative framework in almost all the Member States, along with the very general definition of the term 'Feta' in the combined customs nomenclature, sometimes leads to rather approximate estimates, and cross-comparisons of responses produce statistically divergent data. Indeed, many Member States find it difficult to distinguish between domestic output and re-exports, which may unduly inflate the figures.

(18) As regards Member States' legislation on the consumption of 'Feta' cheese, as a general rule only the Community and national provisions relating to cheeses in general apply to marketing, presentation and labelling. Only Greece and Denmark have specific detailed legislation on these aspects, while Austria confines the name 'Feta' to Greek products, by virtue of its 1971 bilateral agreement with Greece.

(19) As regards the volume of consumption of 'Feta' in the Community, analysis of the replies given by the

Member States shows that a broad estimate calculated by adding the quantities of 'Feta' cheese produced and imported, and subtracting the quantities exported, has proved inadequate in some cases and has even produced anomalous results in others: since it is impossible to take account of existing stocks, quantities re-exported and other factors, the calculation has resulted in theoretically negative consumption in some Member States. Furthermore, 'Feta' cheese as defined in the combined customs nomenclature is not systematically marketed under that name, either because of legal restrictions reserving the use of the term to products that meet certain more specific requirements, or for commercial reasons which tend to prefer distinct names which are recognised by the consumers for whom the cheese is intended. Despite the relative uncertainty caused by this state of affairs, the replies sent by the Member States suggest that when Greece joined the European Community it accounted for some 92 % of Community consumption of 'Feta'. While consumption has gradually increased in the other Member States since then, Greece still accounts for about 73 % of Community consumption of 'Feta'. A breakdown of consumption in each Member State shows that annual consumption of 'Feta' cheese per person in Spain, Luxembourg, Portugal, Italy and the Netherlands is no more than 0,010 kg, or 0,08 % of Community consumption. In Ireland, the United Kingdom, Austria, France, Sweden, Belgium and Finland, annual consumption of 'Feta' cheese per person varies between 0,040 kg and 0,150 kg, or between 0,32 % and 1,22 % of Community consumption. It is 0,290 kg (2,36 %) in Germany and 0,700 kg (5,0 %) in Denmark, as compared to 10,500 kg (85,64 %) in Greece.

(20) According to the information sent by the Member States, those cheeses actually bearing the name 'Feta' on Community territory generally make explicit or implicit reference to Greek territory, culture or tradition, even when produced in Member States other than Greece, by adding text or drawings with a marked Greek connotation. The link between the name 'Feta' and Greece is thus deliberately suggested and sought as part of a sales strategy that capitalises on the reputation of the original product, and this creates a real risk of consumer confusion. Labels for 'Feta' cheese not originating in Greece but actually marketed in the Community under that name without making any direct or indirect allusion to Greece are in the minority and the quantities of cheese actually marketed in this way account for a very small proportion of the Community market.

(21) General reference works such as dictionaries and encyclopaedias, and specialised publications sent in by the Member States, show that the term 'Feta' does not appear in Italian- and Portuguese-language works, while all Greek-, Spanish- and Dutch-language publications refer exclusively to a Greek cheese made from ewe's and goat's milk. Swedish works refer to a cheese of Greek origin made from ewe's and goat's milk, which is now also produced in other Member States from cow's milk, Denmark and Sweden being mentioned in particular. In Danish-language works, reference is made predominantly to a Greek cheese made from ewe's and goat's milk, but also to a cheese made in Denmark and the Balkans, and even without any specific geographical reference. Finnish works refer solely to a Greek cheese or cheese of Greek origin made from ewe's milk or from ewe's milk and goat's milk, with the exception of one work which states no geographical origin. German works refer to a cheese produced in Greece and most of the countries of south-east Europe, and in overseas countries. Fourteen out of the 17 French-language works forwarded refer to a Greek cheese made from ewe's milk and/or goat's milk, while one work refers to a cheese produced in Greece and in the Balkans, one to a cheese of Greek origin widely imitated in Europe, and one to a Greek cheese made from ewe's milk and goat's milk, the production of which has spread to other countries in the same region, and more recently to the rest of Europe and to North America, using cow's milk. Of the English-language works, four refer to a cheese made with ewe's milk, especially in Greece, four others refer to a Greek cheese made from ewe's milk or goat's milk, one refers to a cheese originating in Greece and the Middle East, traditionally made from ewe's milk or goat's milk, but now sometimes also made with cow's milk, two works refer to 'Feta' as a cheese originating in Greece, made from ewe's or goat's milk, now produced in other countries, though still most often as an ingredient in Greek dishes, one work refers to production of 'Feta' in New Zealand, Bulgaria, Yugoslavia, Cyprus, Denmark and Greece, the country of origin, one work refers to a cheese made in Greece and in the Balkans, another refers to a Greek cheese made from ewe's or goat's milk, but made from cow's milk in the United States, and four works suggest that a cheese made by the ancient Greeks was the direct forerunner of the 'Feta' cheese made in Greece today. In all languages, the way the definition of 'Feta' cheese has evolved over time has not diminished the association and identification with Greece.

(22) All the information forwarded by the Member States was also forwarded to the Scientific Committee, hereinafter referred to as 'the Committee', which issued a unanimous opinion on the matter on 24 April 2001.

(23) The Committee began by stating that '(. . .) a designation of origin or geographical indication can be considered as having become the common name of a product only when there is in the relevant territory no significant part of the public concerned that still considers the indication as a geographical indication (. . .); as regards the territory where the transformation must have occurred, the situation in the European Community as a whole must be considered, given the Community-wide scope of the Regulation and the consideration of the European Community as comprising a single market. Therefore, it is not possible to consider exclusively or primarily the situation in individual Member States in isolation. Article 3 of the Regulation provides for consideration of the Member State of origin, the Member States of consumption and the other Member States, including pertinent Community and national legislation. (. . .) As regards the public concerned, the assessment will depend on the kind of product and the public to which that product is addressed. In the present case, the product being a cheese for consumption primarily by the final consumer (but also by commercial purchasers, such as restaurants, food factories, etc.), the general public is relevant. Therefore, it is with regard to the general public that the designation or indication in question must have lost its original geographical meaning. In determining what the general public perception is, both "direct" measurements are relevant, such as opinion polls and other surveys, and "indirect" measurements, such as the level of production and consumption, the kind and nature of labelling employed, the kind and nature of advertising employed with regard to such products, use in dictionaries, etc.'

(24) Turning to the production of 'Feta' cheese, the Committee noted that production in Greece represents 60 % of total Community production of this cheese, and 90 % of Community production from ewe's and goat's milk; 'Feta' cheese produced from cow's milk represents 34 % of total Community production, and is largely destined for third countries.

(25) As regards consumption, the Committee stressed that 73 % of consumption of 'Feta' cheese actually takes place in Greece, where annual consumption is 10,5 kg per person, as against 1,76 kg in the rest of the EU. Although the Committee conceded that 'Feta' consumption is certainly much higher than this in Denmark and Germany, it is still 15 times and 36 times lower than in Greece, respectively. According to the Committee, 'Feta' consumption as a proportion of total per capita consumption of cheese is also significant: in Greece in particular 10,5 kg of 'Feta' is consumed per person per year out of an annual consumption of 14 kg of cheese; in Denmark that ratio is 0,7 kg of 'Feta' to 15 kg of cheese; in France, 0,13 kg of 'Feta' to 20 kg of cheese; in Germany, 0,29 kg of 'Feta' to 19 kg of cheese.

(26) The Committee noted incidentally that 'a significant proportion of production outside Greece is exported to non-member countries and has no influence on the situation of the designation "Feta" in the single market' and that 'the absence of production and consumption in a number of Member States does not affect the generic or non-generic nature of the designation'.

(27) Turning to the analysis of the relevant national and Community legislation, the Committee observed that 12 Member States do not have specific legislation and the general Community and national rules on cheeses apply to 'Feta'. It noted that Greece has had rules on 'Feta' since 1935 and Denmark since 1963, and that Austria reserves the designation 'Feta' for the Greek product under a bilateral agreement of 1971.

(28) As regards the methods for marketing 'Feta' cheese in the Community, the Committee noted that the consumer is offered 'two products, with differing compositions and organoleptic characteristics, under the same designation'. The Committee pointed out that labels for 'Feta' cheese not originating in Greece make direct or indirect references to Greece, implying that the term 'Feta' is not used as a 'common name, without any geographical significance, synonymous with white cheese (of ewe's or cow's milk) in brine' (. . .); according to the Committee, 'Feta' is 'generally present(ed) as being of Greek origin (. . .)'.

(29) The Committee concludes unanimously that the designation 'Feta' is non-generic, in particular for the following reasons:

(30) Production and consumption of 'Feta' are heavily concentrated in Greece. The products produced in other Member States (Germany, Denmark and France), possibly bearing the name 'Feta', are primarily produced from cow's milk, using different technology, and are exported in large quantities to non-member countries. It cannot therefore be concluded that the designation 'Feta' is generic, since the original Greek product is dominant on the Community market. It should also be noted that in those Member States that are not significant producers and consumers, the designation 'Feta' could not be said to have become generic since the word is not used as a common name. In consumers' perception the name 'Feta' always evokes a Greek origin and therefore is not something which has become a common name and hence generic in the Community.

(31) With regard to the relevant national and Community legislation, the Scientific Committee notes that in the majority of Member States there is no specific legislation or rules for the product concerned. Only Greece and Denmark have specific legislation. The Danish legislation permitting the production of a product called 'Danish Feta' differs significantly from the Greek legislation with regard to technical matters (use of ultrafiltered cow's rather than ewe's and goat's milk and the use of additives until 1994). In addition, Denmark has provided no proof that the designation 'Feta' had become a common name that could be used with the name of the producing country ('Danish Feta') at the time when that Member State permitted its use (1963). Similarly, no proof of its generic nature has been provided for the subsequent period.

(32) The fact that the designation 'Feta' is used in the common customs nomenclature or in Community legislation on export refunds has no influence on the perception, knowledge and protection in the single market of the designation concerned, since that legislation is not relevant in this context.

(33) The Commission has taken note of the advisory opinion of the Scientific Committee. It takes the view that the exhaustive overall analysis of the legal, historical, cultural, political, social, economic, scientific and technical information notified by the Member States or resulting from investigations undertaken or sponsored by the Commission leads to the conclusion that in particular none of the criteria required under Article 3 of Regulation (EEC) No 2081/92 to show that a name is generic have been met, and that consequently the name 'Feta' has not become the 'the name of an agricultural product or a foodstuff which, although it relates to the place or the region where this product or foodstuff was originally produced or marketed, has become the common name of an agricultural product or a foodstuff'.

(34) Since the term 'Feta' has not been established as generic, the Commission has verified, in accordance with Article 17(2) of Regulation (EEC) No 2081/92, that the application by the Greek authorities for the name 'Feta' to be registered as a protected designation of origin complies with Articles 2 and 4 thereof.

(35) The name 'Feta' is a traditional non-geographical name within the meaning of Article 2(3) of Regulation (EEC) No 2081/92. The terms 'region' and 'place' mentioned in that provision may be interpreted only from a geomorphological and non-administrative viewpoint, insofar as the natural and human factors inherent in a given product are likely to transcend administrative borders. Under the above Article 2(3), however, the geographical area inherent in a designation may not cover an entire country. In the case of the name 'Feta', it has therefore been noted that the defined geographical area referred to in the second indent of Article 2(2)(a) of Regulation (EEC) No 2081/92 covers only the territory of mainland Greece and the department of Lesbos; all other islands and archipelagos are excluded because the necessary natural and/or human factors do not apply there. Moreover, the administrative definition of the geographical area has been refined and developed, since the product specification submitted by the Greek authorities contains mandatory cumulative requirements: in particular, the area of origin of the raw material has been substantially limited since the milk used to produce 'Feta' cheese must come from ewes and goats of local breeds reared traditionally, whose feed must be based on the flora present in the pastures of eligible regions.

(36) The geographical area covered by the administrative definition and meeting the requirements of the product specification is sufficiently uniform to meet the requirements of Articles 2(2)(a) and 4(2)(f) of Regulation (EEC) No 2081/92. Extensive grazing and transhumance, central to the method of keeping the ewes and goats used to provide the raw material for making 'Feta' cheese, are the result of an ancestral tradition allowing adaptation to climate changes and their impact on the available vegetation. This has led to the development of small native breeds of sheep and goats which are extremely tough and resistant, fitted for survival in an environment that offers little food in quantitative terms but, in terms of quality, is endowed with an extremely diversified flora, thus giving the finished product its own specific aroma and flavour. The interplay between the above natural factors and the specific human factors, in particular the traditional production method, which requires straining without pressure, has thus given 'Feta' cheese its remarkable international reputation.

(37) Since the product specification submitted by the Greek authorities includes all the information required under Article 4 of Regulation (EEC) No 2081/92, and the formal analysis of that specification has not revealed any obvious error of assessment, the name 'Feta' should be registered as a protected designation of origin.

(38) Regulation (EC) No 1107/96 should therefore be amended accordingly.

(39) The Committee established under Article 15 of Regulation (EEC) No 2081/92 has not delivered an opinion within the time limit set by its chairman,

HAS ADOPTED THIS REGULATION:

Article 1

1. The name 'Φέτα' (Feta) shall be included in the register of protected designations of origin and geographical indications provided for in Article 6(3) of Regulation (EEC) No 2081/92 as a protected designation of origin (PDO).

2. The name 'Φέτα' shall be added to Part A of the Annex to Regulation (EC) No 1107/96 under the heading 'Cheeses', 'Greece'.

Article 2

This Regulation shall enter into force on the day 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.

Proposal for a Council Regulation setting the limits to the Community financing of work programmes drawn up by approved operators' organisations in the olive oil sector provided for in Regulation (EC) No 1638/98 and derogating from Regulation No 136/66/EEC

(2002/C 262 E/16)

COM(2002) 343 final — 2002/0134(CNS)

(Submitted by the Commission on 28 June 2002)

EXPLANATORY MEMORANDUM

This proposal is being presented under Article 4a of Council Regulation (EC) No 1638/98 of 20 July 1998 amending Regulation No 136/66/EEC on the establishment of a common organisation of the market in oils and fats [1], which aims to encourage operators in the olive oil sector to organise themselves, particularly with a view to improving quality. To that end, the Article concerned allows Member States to withhold a portion of production aid to finance work programmes in the areas specified in that Article by approved producers' organisations, approved interbranch organisations and other approved operators' organisations.

The new arrangements must be available to interested parties from 1 November 2002, and from 1 November 2004 will replace the other Community financing raised by withholding amounts from production aid under Council Regulation No 136/66/EEC on the establishment of a common organisation of the market in oils and fats.

The measures to improve quality provided for in Article 5(9) of Regulation No 136/66/EEC are currently financed by compulsory withholding of 1,4 % of production aid, providing an annual budget of around EUR 33 million for the whole of the Community, and concern work carried out during the production cycle following the marketing year in which the amount is withheld from the aid. Additional national financing is permitted subject to certain conditions.

Under Article 20d(1) of Regulation No 136/66/EEC, producer organisations and their associations currently receive a compulsory levy of 0,8 % from the aid granted to their members, amounting to some EUR 17 million per marketing year for all producer Member States. This assistance is paid as a lump sum during the marketing year for which the deduction is made. Additional national financing is permitted under certain circumstances.

The budgets for these two measures depend on the volume of production in each Member State and therefore vary from one year to the next. This state of affairs is not conducive to multiannual programming of work and unlikely to encourage approved organisations to undertake medium-term projects.

The Commission therefore thinks that the ceiling on the amounts withheld from aid to finance the work programmes of approved organisations should be fixed at the beginning of the marketing year concerned, irrespective of the actual production volume. Given the key role that such organisations can play in improving the quality of olive oil and table olives, Member States should be allowed to devote substantial resources to them. However, the differences between the amounts withheld by the Member States must not be allowed to distort the market.

The Commission is proposing that the maximum percentage that each Member State may withhold to finance the work programmes of approved organisations be set at 3 % of the amount arrived at by multiplying the unit amount of production aid, expressed in tonnes, by its national guaranteed quantity. Setting the ceiling at this level would bring expenditure up to a maximum of EUR 70 million, higher than the current amount of the compulsory deductions for the Community as a whole and consistent with the planned expansion of work.

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[1] OJ L 210, 28.7.1998, p. 32.

The current deductions to finance measures to improve quality and assist producer organisations will stay in force until the end of the 2003/04 marketing year, so that there will be a transitional period during which they might co-exist with the newly introduced deduction to finance the work programmes drawn up by approved organisations. The 3 % ceiling should therefore apply to all the amounts withheld from production aid during the 2002/03 and 2003/04 marketing years.

However, the Member States concerned should be allowed to concentrate their resources on the new measures to assist the work programmes of approved organisations. To that end, therefore, during the 2002/03 and/or 2003/04 marketing years, the Member States will be allowed to reduce or abolish the compulsory deductions for quality improvement and/or assisting producer organisations and their associations, provided that those reductions are accompanied by an equivalent increase in the resources channelled into the work programmes provided for in Article 4a(1) of Regulation (EC) No 1638/98.

The proposed measures conern the budgets for 2003 and subsequent years and entail no additional expenditure.

THE COUNCIL OF THE EUROPEAN UNION,

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

Having regard to the proposal from the Commission,

Having regard to the opinion of the European Parliament,

Whereas:

(1) Under Article 4a(1) of Council Regulation (EC) No 1638/98 of 20 July 1998 amending Regulation No 136/66/EEC on the establishment of a common organisation of the market in oils and fats [1], Member States producing olive oil may withhold, within certain limits, a portion of the aid payable to producers of olive oil and/or table olives, with a view to providing Community funding for work programmes drawn up by approved producers' organisations, approved interbranch organisations and other approved operators' organisations or their associations in one or more of the areas provided for in that paragraph. Pursuant to the first indent of Article 4a(3) of that Regulation, the ceiling on that aid should be set.

(2) In order to be effective, such work programmes need a forecast budget which is not affected by the volume of olive oil or table olives, as the case may be, produced each year in each Member State. The ceiling on Community funding should therefore be based on fixed parameters such as the unit amount of production aid as referred to in Article 5(2) of Regulation No 136/66/EEC on the establishment of a common organisation of the market in oils and fats [2], and the national guaranteed quantities referred to in paragraph 3 of that Article.

(3) In order to prevent market distortions, there should be a system preventing the total of amounts withheld by Member States from the production aid for olive oil or table olives pursuant to Article 5(9) and Article 20d(1) of Regulation No 136/66/EEC and Article 4a(1) of Regulation (EC) No 1638/98 from exceeding the limit fixed in this Regulation pursuant to Article 4a(1) of Regulation (EC) No 1638/98.

(4) In order to encourage the work programmes of approved organisations during the 2002/03 and 2003/04 marketing years, Member States must be allowed to concentrate the resources from the other amounts withheld from production aid as referred to in Article 5(9) and/or Article 20d(1) of Regulation No 136/66/EEC on those programmes. To that end, the Member States must be allowed to reduce or abolish such withholding of amounts in order commensurately to increase the resources available for the work programmes of approved organisations. The Commission should be empowered to set the time limit within which this option may be exercised,

HAS ADOPTED THIS REGULATION:

Article 1

From the 2002/03 marketing year, the ceiling on the share of the aid reserved pursuant to Article 4a(1) of Regulation (EC) No 1638/98 for each Member State shall be equal to 3 % of the amount arrived at by multiplying its national guaranteed quantity, as fixed in Article 5(3) of Regulation No 136/66/EEC, by the unit amount of the production aid in euro per tonne, as fixed in Article 5(2) of that Regulation.

(1) OJ L 210, 28.7.1998, p. 32. Regulation amended by Regulation (EC) No 1513/2001 (OJ L 201, 26.7.2001, p. 4).

(2) OJ 172, 30.9.1966, p. 3025/66. Regulation last amended by Regulation (EC) No 1513/2001 (OJ L 201, 26.7.2001, p. 4).

Article 2

By way of exception to Article 1, for the 2002/03 and 2003/04 marketing years the percentage of 3 % referred to in that Article shall be reduced, where applicable after applying Article 3 of this Regulation, by the percentage points referred to in Articles 5(9) and 20d(1) of Regulation No 136/66/EEC.

Article 3

By way of exception to Article 5(9) and Article 20d(1) of Regulation No 136/66/EEC, for the 2002/03 and 2003/04 marketing years each Member State may, before a date to be fixed, either reduce the percentages referred to in those paragraphs or not apply those provisions, provided that it allocates the funds thus released to the share of the aid reserved pursuant to Article 4a(1) of Regulation (EC) No 1638/98.

The date referred to in the first subparagraph shall be fixed by the Commission in accordance with the procedure referred to in Article 38 of Regulation No 136/66/EEC.

Article 4

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

It shall apply from 1 November 2002.

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

Proposal for Council Regulation laying down certain technical measures applicable to fishing activities in the area covered by the Convention on the conservation of Antarctic marine living resources

(2002/C 262 E/17)

COM(2002) 355 final — 2002/0138(CNS)

(Submitted by the Commission on 3 July 2002)

EXPLANATORY MEMORANDUM

The Community has been a Contracting Party to the Convention on the conservation of Antarctic marine living resources since 1981. It is required to transpose the measures for the conservation and management of fish stocks referred to in the Convention into Community law.

The conservation and management measures adopted by the Commission for the conservation of Antarctic marine living resources (CCAMLR) include numerous rules on the technical specifications applicable to fishing activities. To date most of these measures have been transposed into Community law by Council Regulation (EC) No 66/98 of 18 December 1997 laying down certain conservation and control measures applicable to fishing activities in the Antarctic and repealing Regulation (EC) No 2113/96 (OJ L 6, 10.1.1998, p. 1).

The arrangements for the control of fishing activities in the Convention area were transposed by Council Regulation (EEC) No 3943/90 of 19 December 1990 on the application of the system of observation and inspection established under Article XXIV of the Convention on the Conservation of Antarctic Marine Living Resources (OJ L 379, 31.12.1990, p. 45). This Regulation covers inspection at sea and scientific observation by observers on board fishing vessels for the purpose mainly of evaluating stocks.

These two instruments need to be updated to bring them into line with the amendments to the corresponding CCAMLR measures, which have been especially important over the last four years (CCAMLR meetings XVII — 1998 to XX — 2001). Already in 1998, the limits and prohibitions on catches (along with certain measures regulating even fishing for certain species covered by the Convention) were transposed as part of the annual TACs and quotas exercise, whereas these limits previously formed part of Regulation (EC) No 66/98, referred to above. With regard to the other measures in that Regulation, major changes have been made within the CCAMLR to the technical measures transposed by it (Article 6 — fishing gear, Article 14 — mesh sizes, Article 19 — scientific observation, and Article 20 — use of plastic packaging bands). Lastly, the CCAMLR has adopted, since 1998, new technical measures concerning fishing activities in the exploratory crab and squid fisheries, and the reduction of the incidental mortality of seabirds and marine mammals.

Turning to the control system, the CCAMLR has introduced changes designed mainly to distinguish between inspection activities and scientific observation focusing on data collection with a view mainly to evaluating stocks. The scientific observation scheme falls within the technical rather than the control sphere. For that reason, the separation adopted by the CCAMLR is justified and facilitates the transposition of the scientific observation scheme under this Regulation.

The Commission is intending to bring together in a single instrument therefore all the provisions concerning technical measures applying to fishing by Community vessels in the Convention area. The proposal which follows is made up of five Chapters:

— General provisions;

— Fishing gear;

— Conduct of fishing activities;

— Scientific observation on board vessels operating in the Convention area;

— Final provisions.

This proposal will be presented at the same time as a draft Regulation on the control measures applicable to fishing activities in the Convention area.

It should be noted that it contains rules for determining minimum mesh sizes which are normally included in the rules on the control of fishing activities. Their inclusion in this instrument reflects the fact that the concept of technical rules used in Community law (see Directive 98/34/EC on technical standards and regulations) comprises not only the technical specifications that must be met by products (in this case gear), but also the procedures for checking the compliance of those products with the mandatory technical specifications. Moreover, implementation of this type of control is much broader in scope than that of inspections at sea and in port covered by the 'control' proposal.

The two proposals make use of 'the Committee procedures' introduced by Council Decision 1999/468/EC of 28 June 1999. The management procedure under Article 4 of that Decision is included for the adoption of measures needed to implement certain parts of the arrangements, while the regulatory procedure under Article 5 is included for the amendment of the Annexes.

The Commission proposes therefore that the Council adopt the attached Regulation.

THE COUNCIL OF THE EUROPEAN UNION,

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

Having regard to the proposal from the Commission,

Having regard to the opinion of the European Parliament,

Whereas:

(1) The Convention on the Conservation of Antarctic Marine Living Resources, hereinafter called 'the Convention', was approved by the Community by Council Decision 81/691/EEC ([1]) and entered into force in the Community on 21 May 1982.

(2) The Convention provides a framework for regional cooperation in the conservation and management of Antarctic marine living resources through the establishment of a Commission for the Conservation and Management of Antarctic Marine Living Resources, hereinafter called the 'CCAMLR', and the adoption by the latter of conservation measures which become binding on the Contracting Parties.

(3) The CCAMLR has adopted certain measures for the conservation and management of fish stocks which lay down, among other things, technical rules that apply to certain fishing activities in the area covered by the Convention. The measures include stipulations concerning the use of certain types of fishing gear, the banning of certain types of equipment regarded as harmful to the environment, the reduction of the harmful effect of fishing on species such as seabirds and marine mammals and the activities of scientific observers on board fishing vessels for the purpose of collecting data. These measures are binding on the Community and should therefore be implemented.

(4) Some of the technical measures adopted by the CCAMLR have been transposed by Council Regulation (EEC) No 3943/90 of 19 December 1990 on the application of the system of observation and inspection established under Article XXIV of the Convention on the Conservation of Antarctic Marine Living Resources ([2]), and by Council Regulation (EC) No 66/98 of 18 December 1997 laying down certain conservation and control measures applicable to fishing activities in the Antarctic and repealing Regulation (EC) No 2113/96 ([3]).

(5) The adoption by the CCAMLR of new conservation measures and the updating of those already in force since the above Regulations were adopted means that the latter need to be amended.

(6) In order to ensure that Community rules are clearer, the measures for the control of fishing activities and those falling within the technical field should be transposed separately. For that reason Regulations (EEC) No 3943/90 and (EC) No 66/98 have been repealed by Council Regulation (EC) No … laying down certain control measures applicable to fishing activities in the area covered by the Convention on the conservation of Antarctic marine living resources and repealing Regulations (EEC) No 3943/90, (EC) No 66/98 and (EC) No 1721/1999, and the Community arrangements should be supplemented by this Regulation. This is without prejudice to the inclusion of certain technical measures specific to certain exploratory fisheries in the Regulations adopted by the Community annually on the fishing possibilities allocated to Community vessels and the conditions associated with them (the annual 'TACs and quotas' Regulations).

([1]) OJ L 252, 5.9.1981, p. 26.

([2]) OJ L 379, 31.12.1990, p. 45.

([3]) OJ L 6, 10.1.1998, p. 1.

(7) Since the measures necessary for implementing this Regulation are management measures within the meaning of Article 2 of Council Decision 1999/468/EC of 28 June 1999 laying down the procedures for the exercise of implementing powers conferred on the Commission ([1]), they should be adopted in accordance with the management procedure laid down in Article 4 of that Decision. The measures needed to bring the Annexes into line with the regular amendments to the technical measures adopted by the CCAMLR pursuant to the Convention are management measures within the meaning of Article 2 of the above Decision and should therefore be adopted in accordance with the regulatory procedure laid down in Article 5 of the Decision,

HAS ADOPTED THIS REGULATION:

CHAPTER I

GENERAL PROVISIONS

Article 1

Object and scope

1. This Regulation lays down technical measures concerning the activities of Community fishing vessels which take and keep on board marine organisms taken from marine living resources in the area covered by the Convention on the Conservation of Antarctic Marine Living Resources, hereinafter called 'the Convention'.

2. This Regulation shall be without prejudice to the provisions of the Convention and shall operate in furtherance of these objectives and principles and the provisions of the final act of the conference at which it was adopted.

Article 2

Definitions

For the purposes of this Regulation, the following definitions shall apply:

(a) 'Convention area': the area of application of the Convention as defined in Article I thereof;

(b) 'Antarctic convergence': a line joining the following points along parallels of latitude and meridians of longitude: 50° S, 0°–50° S, 30° E–45° S, 30° E–45° S, 80° E–55° S, 80° E–55° S, 150° E–60° S, 150° E–60° S, 50° O–50° S, 50° O–50° S, 0°;

(c) 'Community fishing vessel': a fishing vessel flying the flag of a Community Member State and registered in the Community which takes and keeps on board marine organisms taken from marine living resource from the Convention area;

(d) 'fine-scale rectangle': an area 0,5° latitude by 1° longitude from the north-west angle of the sub-area or statistical division. A rectangle is defined by the latitude of its most northerly limit and the longitude of its nearest 0° limit;

(e) 'new fishery': a fishery for a species using a particular fishing method in a FAO Antarctic sub-area, for which:

(i) information on distribution, abundance, population, potential yield and stock identity from comprehensive research/surveys or exploratory fishing have never been submitted to the CCAMLR; or

(ii) catch and effort data have never been submitted to the CCAMLR; or

(iii) catch and effort data from the two most recent seasons in which fishing took place have never been submitted to the CCAMLR;

(f) 'exploratory fishery': a fishery that was previously classified as a 'new fishery' as defined in point (e). An exploratory fishery shall continue to be classified as such until sufficient information is available:

(i) to evaluate the distribution, abundance and population of the target species, leading to an estimate of the fishery's potential yield;

(ii) to review the fishery's potential impacts on dependent and related species, and

(iii) to allow the CCAMLR's Scientific Committee to formulate and provide advice on appropriate harvest catch levels, as well as on effort levels and fishing gear where appropriate.

CHAPTER II

FISHING GEAR

Article 3

Mesh sizes

1. No trawl, Danish seine or similar net, any part of which is composed of meshes of a size smaller than the minimum mesh sizes laid down in Annex I hereto, shall be used when engaging in directed fishing for the species or groups of species below:

— *Champsocephalus gunnari*

— *Dissostichus eleginoides*

— *Gobionotothen gibberifrons*

— *Lepidonotothen squamifrons*

— *Notothenia rossii*

— *Notothenia kempi.*

([1]) OJ L 184, 17.7.1999, p. 23.

2. The use of any means or device which would obstruct or diminish the size of the meshes is prohibited.

Article 4

Control of mesh sizes

For the nets referred to in Article 3, the minimum mesh size provided for in Annex I shall be determined in accordance with the rules laid down in Annex II.

Article 5

Crab fisheries

1. The fishery for crab shall be conducted using pots only.

2. The crab fishery shall be limited to sexually mature male crabs — all female and undersized male crabs caught shall be released unharmed. In the case of *Paralomis spinosissima* and *Paralomis formosa*, males with a minimum carapace width of 94 and 90 mm, respectively, may be retained in the catch.

3. Crabs processed at sea shall be frozen as crab sections so that the size of the crabs can be determined later from the sections.

Article 6

Use and disposal of plastic packaging bands on Community fishing vessels

1. The use by Community fishing vessels of plastic packaging bands to secure bait boxes is prohibited.

The use of other packaging bands for other purposes on fishing vessels which do not use on-board incinerators (closed systems) is prohibited.

2. Any packaging bands, once removed from packages, shall be cut so that they do not form a continuous loop and burned at the earliest opportunity in the on-board incinerator.

3. All plastic residue shall be stored on board a vessel until reaching port and in no case discarded at sea.

4. Detailed rules for the application of this Article shall be adopted in accordance with the procedure laid down in Article 19(2).

Article 7

Incidental mortality of seabirds in the course of longline fishing

1. Fishing operations shall be conducted in such a way that the baited hooks sink as soon as possible after they are put in the water. For vessels using the Spanish method of longline fishing, weights shall be released before line tension occurs; weights of at least 6 kg shall be used, spaced at intervals of no more than 20 m. Only thawed bait shall be used.

2. Without prejudice to paragraph 8, longlines shall be set at night only.

Where possible, the setting of lines shall be completed at least three hours before sunrise.

During longline fishing at night, only the minimum ship's lights necessary for safety shall be used.

3. The dumping of fish waste overside is prohibited while longlines are being set. The dumping of waste during the haul shall be avoided as far as possible. Where dumping during the haul is unavoidable it shall take place only on the opposite side of the vessel to where longlines are set or hauled.

4. Every effort shall be made to ensure that birds captured alive during longlining are released alive and that where possible hooks are removed without jeopardising the life of the bird concerned.

5. A streamer line designed to discourage birds from settling on baits during deployment of longlines shall be towed. A detailed description of the streamer line and its method of deployment is given in Annex III. Details of the construction relating to the number and placement of swivels may be varied so long as the effective sea surface covered by the streamers is no less than that covered by the model shown in Annex III. Details of the device dragged in the water in order to create tension in the line may also be varied.

6. Other variations in the design of streamer lines may be tested on vessels carrying two observers, at least one appointed in accordance with the CCAMLR Scheme of International Scientific Observation, providing that the conditions laid down in paragraphs 1 to 5 and 7 are met.

7. The use of net guiding cables on fishing vessels in the Convention area is prohibited.

8. The requirement to set longlines at night provided for in paragraph 2 shall not apply to fishing in FAO sub-areas 48.6, south of 60° S, 88.1 and 88.2, provided that on the issue of the licence for this fishery the vessel concerned can demonstrate to the competent authorities its ability to comply fully with either of the exploratory protocols for the setting of longlines set out in Annex IV, and to ensure the presence of one scientific observer.

9. Detailed rules for the application of this Article shall be adopted in accordance with the procedure laid down in Article 17(2).

Article 8

Incidental mortality of seabirds and marine mammals in the course of trawl fishing

1. The use of net monitor cables is prohibited.

2. Community fishing vessels shall at all times arrange the location and level of lighting so as to minimise illumination directed out from the vessel, consistent with the safe operation of the vessel.

3. The dumping at sea of fish waste shall be prohibited during the shooting and hauling of trawl gear.

4. Detailed rules for the application of this Article shall be adopted in accordance with the procedure laid down in Article 19(2).

CHAPTER III

CONDUCT OF FISHING ACTIVITIES

Article 9

Limiting of by-catches

1. In the case of fisheries other than new or exploratory ones, Community fishing vessels shall move in relation to the level of their by-catches in accordance with Annex V, point A.

2. In the case of new and exploratory fisheries, Community vessels shall be subject to the by-catch limits laid down in Annex V, point B, and to the rules laid down therein concerning the movement of vessels in relation to the level of their by-catches.

Article 10

Special measures applicable to the exploratory fisheries for *Dissostichus* spp.

1. Community fishing vessels participating in the exploratory fishery for *Dissostichus* spp. using the trawl or longline methods in the Convention area, except for such fisheries where the CCAMLR has given specific exemptions, shall operate in accordance with the rules set out below.

2. Fishing shall take place over as large a geographical and bathymetric range as possible. To this end, fishing in any fine-scale rectangle shall cease when the reported catch reported in accordance with Article 12 of Regulation (EC) No ... [1] reaches 100 tonnes and that rectangle shall be closed to fishing for the remainder of the season. Fishing in any fine-scale rectangle shall be restricted to one vessel at any one time.

3. In order to give effect to paragraph 2 above:

(a) the precise geographic position of a haul in trawl fisheries shall be determined by the mid-point of the path between the start-point and end-point of the haul;

(b) the precise geographic position of a haul in longline fisheries shall be determined by the centre-point of the line or lines deployed.

For the purposes of the first subparagraph, a haul comprises a single deployment of the trawl net. In longline fisheries, a haul comprises the setting of one or more lines in a single location.

4. Detailed rules for the application of this Article shall be adopted in accordance with the procedure laid down in Article 19(2).

Article 11

Special measures applicable to the fishery for *Champsocephalus gunnari* in FAO sub-area 48.3

1. The fishery for *Champsocephalus gunnari* in sub-area 48.3 shall be conducted by vessels using trawls only. The use of bottom trawls in the directed fishery for *Champsocephalus gunnari* in that sub-area is prohibited.

2. Fishing for *Champsocephalus gunnari* shall be prohibited within 12 nautical miles of the coast of South Georgia during the period between 1 March and 31 May 2002 (spawning period).

3. Where any haul contains more than 100 kg of *Champsocephalus gunnari*, and more than 10 % of the *Champsocephalus gunnari* by number are smaller than 240 mm total length, the fishing vessel shall move to another fishing location at least five nautical miles distant. The fishing vessel shall not return to any point within five nautical miles of the location where the catch of small *Champsocephalus gunnari* exceeds 10 % for a period of at least five days. The location where the incidental catch of small *Champsocephalus gunnari* exceeds 10 % is defined as the path followed by the fishing vessel from the point at which the fishing gear is first deployed to the point at which the fishing gear is retrieved by the fishing vessel.

4. When a vessel has caught a total of 20 seabirds, it shall cease fishing and shall be excluded from further participation in the fishery in that season.

5. Vessels participating in this fishery during the period 1 March to 31 May shall carry out not less than 20 research trawls as described in Annex VI.

6. Detailed rules for the application of this Article shall be adopted in accordance with the procedure laid down in Article 19(2).

[1] Insert reference to the 'control' Regulation once it has been adopted.

CHAPTER IV

SCIENTIFIC OBSERVATION ON BOARD VESSELS OPERATING IN THE CONVENTION AREA

Article 12

Object and scope

The scientific observation system adopted by the CCAMLR under Article XXIV of the Convention shall apply, in accordance with the provisions of this Chapter, to Community fishing vessels and vessels flying the flag of a CCAMLR member carrying on fishing and research operations in the Convention area.

Article 13

Activities subject to scientific observation

1. During each fishing period Community fishing vessels shall carry on board at least one scientific observer when fishing for:

(a) *Champsocephalus gunnari* in FAO Antarctic sub-area 48.3 and FAO Antarctic division 58.5.2;

(b) crab in FAO sub-area 48.3;

(c) *Dissostichus eleginoides* in FAO Antarctic sub-areas 48.3 and 48.4 and in FAO Antarctic division 58.5.2;

(d) *Dissostichus mawsoni* in FAO Antarctic sub-area 48.4; or

(e) *Martialia hyadesi* in FAO Antarctic sub-area 48.3.

2. Community fishing vessels shall also carry on board at least one scientific observer when participating in an exploratory fishery as referred to in Article 10 of this Regulation, in another exploratory fishery authorised in accordance with Article 7 of Regulation (EC) No . . . ([1]) or in the scientific research activities referred to in Article 8 of that Regulation.

3. Detailed rules for the application of this Article shall be adopted in accordance with the procedure laid down in Article 19(2).

Article 14

Scientific observers

1. Member States shall designate scientific observers authorised to carry out the tasks associated with the implementation of the observation system adopted by the CCAMLR in accordance with this Regulation.

2. The duties and tasks of scientific observers carried on board vessels are set out in Annex VII hereto.

3. Scientific observers shall be nationals of the Member State which designates them. They shall comply with the customs and rules in force on the vessel on which they make their observations.

4. Scientific observers shall be familiar with the scientific research activities to be observed, the provisions of the Convention and the measures adopted under the Convention, and shall have received adequate training to carry out their duties competently. They shall, in addition, be able to communicate in the language of the flag State of the vessels on which they carry out their activities.

5. Scientific observers shall carry a document identifying them as CCAMLR scientific observers.

6. Scientific observers shall present to the CCAMLR, through the Member State which designated them, and at the latest one month after the end of the observation period or after the return of the observers to their country of origin, a report on each observation visit carried out. A copy shall be sent to the flag State of the vessel concerned and to the Commission.

7. Detailed rules for the application of this Article shall be adopted in accordance with the procedure laid down in Article 19(2).

Article 15

Agreements on the placing of observers on board vessels

1. The placing of scientific observers on board Community fishing vessels conducting fishing or scientific research operations shall take place in accordance with the bilateral agreements concluded to that end with another CCAMLR member.

2. The bilateral agreements referred to in paragraph 1 shall be based on the following principles:

(a) Scientific observers shall be accorded the status of ship's officer while on board. Accommodation and meals provided for observers while on board shall correspond to that status.

(b) CCAMLR members which carry scientific observers on board vessels flying their flag (hereinafter called the 'host countries') shall ensure that those responsible for their vessels provide scientific observers with every assistance in carrying out their duties. Among other things they shall have free access to the ship's data and operations in order to be able to carry out their duties as scientific observers as required by the CCAMLR.

(c) The host countries shall take appropriate action to ensure the safety and well-being of scientific observers in carrying out their duties on board their vessels, to provide medical care for them and to safeguard their freedom and dignity.

([1]) Insert reference to the 'control' Regulation once it has been adopted.

(d) Action shall be taken to enable scientific observers to send and receive messages using the vessel's communications equipment and with the assistance of the operator. All moderate costs incurred in making these communications shall, in principle, be met by the CCAMLR member which designated the scientific observers (hereinafter called the 'designating country').

(e) Action to take on board and carry scientific observers shall be taken so as not to inconvenience fishing and research operations.

(f) The scientific observers shall provide the masters concerned with a copy of their reports, if they so wish.

(g) Designating countries shall ensure that their scientific observers are covered by insurance that is recognised by the parties concerned.

(h) Designating countries shall be responsible for the transfer of scientific observers to and from the places of embarkation.

(i) Save as otherwise provided, equipment, clothing and salary and any allowances for scientific observers shall, as a rule, be the responsibility of the designating country while accommodation and meals on board shall be that of the vessel of the host country.

3. Detailed rules for the application of this Article shall be adopted in accordance with the procedure laid down in Article 19(2).

Article 16

Reporting of information

1. Member States which have designated scientific observers shall provide the CCAMLR with details of the observation programmes at the earliest opportunity and not later than the signing of each bilateral agreement referred to in Article 11. The following information shall be provided for each observer:

(a) date of signing of the agreement;

(b) name and flag of the vessel taking on board observers;

(c) Member State responsible for designating observers;

(d) fishing area (zone, sub-area, CCAMLR statistical division);

(e) type of data collected by observers and presented to the CCAMLR secretariat (by-catch, target species, biological data, etc.);

(f) dates set for the start and end of the observation programme; and

(g) date set for the return of observers to their country of origin.

2. Detailed rules for the application of this Article shall be adopted in accordance with the procedure laid down in Article 19(2).

CHAPTER V

FINAL PROVISIONS

Article 17

Amendment of annexes

Annexes I to VII shall be amended in line with the conservation measures that become binding on the Community, in accordance with the regulatory procedure referred to in Article 19(3).

Article 18

Implementation

The measures necessary for implementing Articles 6, 7, 8, 10, 11, 13, 14, 15 and 16 of this Regulation shall be adopted in accordance with the management procedure referred to in Article 19(2).

Article 19

Committee

1. The Commission shall be assisted by the Committee set up under Article 17 of Council Regulation (EEC) No 3760/92 [1].

2. Where reference is made to this paragraph, the management procedure provided for in Article 4 of Decision 1999/468/EC shall apply, subject to the provisions of Article 7 thereof.

The period referred to in Article 4(3) of Decision 1999/468/EC shall be [one] month.

3. Where reference is made to this paragraph, the regulatory procedure provided for in Article 5 of Decision 1999/468/EC shall apply, subject to the provisions of Article 7 thereof.

4. The period referred to in Article 5(6) of Decision 1999/468/EC shall be [one] month.

Article 20

Entry into force

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

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

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(1) OJ L 389, 31.12.1992, p. 1.

ANNEX I

MINIMUM MESH SIZE WITHIN THE MEANING OF ARTICLE 3(1)

Species	Type of net	Minimum mesh size
Notothenia rossii	Trawls, Danish seines and similar nets	120 mm
Dissostichus eleginoides	Trawls, Danish seines and similar nets	120 mm
Goibionotothe gibberifrons	Trawls, Danish seines and similar nets	80 mm
Notothenia kempi	Trawls, Danish seines and similar nets	80 mm
Lepidonotothen squamifrons	Trawls, Danish seines and similar nets	80 mm
Champsocephalus gunnari	Trawls, Danish seines and similar nets	90 mm

ANNEX II

RULES FOR DETERMINING MINIMUM MESH SIZES WITHIN THE MEANING OF ARTICLE 4

A. **Description of gauges**

1. The gauges to be used for determining mesh size shall be 2 mm thick, flat, of durable material and capable of retaining their shape. They shall have either a series of parallel-edged sides connected by intermediate tapering edges with a taper of one to eight on each side, or only tapering edges with the taper specified above. They shall have a hole at the narrowest extremity.

2. Each gauge shall be inscribed on its face with the width in millimetres both of the parallel-sided section, if any, and of the tapering section. In the case of the latter, the width shall be inscribed at intervals of 1 mm and shall be indicated at regular intervals.

B. **Use of the gauge**

1. The net shall be stretched in the direction of the long diagonal of the meshes.

2. A gauge as described in point A shall be inserted by its narrowest extremity into the mesh opening in a direction perpendicular to the plane of the net.

3. The gauge shall be inserted into the mesh opening either manually or using a weight or dynamometer, until it is stopped at the tapering edges by the resistance of the mesh.

C. **Selection of meshes to be measured**

1. The portion of net to be measured shall form a series of 20 consecutive meshes running in the direction of the long axis of the net.

2. Meshes situated less than 50 cm from lacings, ropes or codline shall not be measured. This distance shall be measured perpendicular to the lacings, ropes or codline with the net stretched in the direction of that measurement. Nor shall any mesh be measured which has been mended or broken or has attachments to the net fixed at that mesh.

3. By way of derogation from 1, the meshes to be measured need not be consecutive if the conditions set out in 2 apply.

4. Nets shall be measured only when wet and unfrozen.

D. **Measurements of each mesh**

The size of each mesh shall be the width of the gauge at the point where the gauge is stopped when it is used in accordance with point B.

E. **Determination of the mesh size of the net**

The mesh size of the net shall be the arithmetical mean, in millimetres, of the measurements of the total number of meshes selected and measured as provided for in points C and D, the arithmetical mean being rounded off to the nearest millimetre.

The total number of meshes to be measured is specified in point F.

F. **Sequence of inspection procedure**

1. The inspector shall measure one series of 20 meshes, selected in accordance with point C above, inserting the gauge manually without using a weight or dynamometer.

   The mesh size of the net shall then be determined in accordance with point E above.

   If the calculation of the mesh size shows that the mesh size does not appear to comply with the rules in force, two additional series of 20 meshes selected in accordance with point C above shall be measured.

   The mesh size shall then be recalculated, taking into account the 60 meshes already measured. Without prejudice to 2 this shall be the mesh size of the net.

2. If the master of the vessel contests the mesh size determined in accordance with 1, such measurement shall not be considered for the determination of the mesh size and the net shall be remeasured, using a weight or dynamometer attached to the gauge for the purposes of remeasurement; the choice of weight or dynamometer shall be left to the discretion of the inspector. The weight shall be fixed (using a hook) to the hole in the narrowest extremity of the gauge. The dynamometer may either be fixed to the hole in the narrowest extremity of the gauge or be applied at the widest extremity of the gauge. The accuracy of the weight or dynamometer shall be certified by the appropriate national authority.

   For nets of a mesh size of 35 mm or less as determined in accordance with 1 above, a force of 19.61 newton (equivalent to a mass of two kilograms) shall be applied and a force of 49.03 newton (equivalent to a mass of five kilograms), shall be applied for other nets.

   For the purposes of determining the mesh size in accordance with point E above, only one series of 20 meshes shall be measured wherever a weight or dynamometer is used.

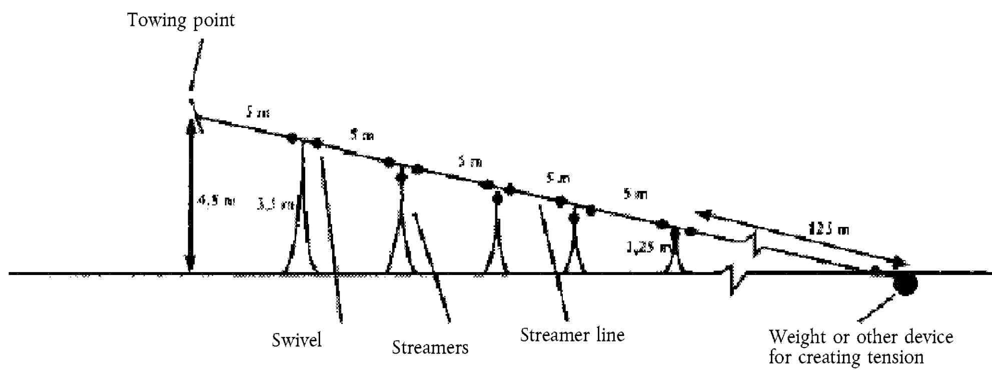
ANNEX III

DETAILED DESCRIPTION OF THE STREAMER LINE REFERRED TO IN ARTICLE 7(5) AND METHOD OF DEPLOYMENT

1. The streamer line is to be suspended at the stern from a point approximately 4,5 m above the water and such that the line is directly above the point where the baits hit the water.

2. The streamer line is to be approximately 3 mm diameter, have a minimum length of 150 m and have a device at the end to create tension so that the main line streams directly behind the vessel even in cross winds.

3. At 5 m intervals commencing from the point of attachment to the vessel five branch streamers each comprising two strands of approximately 3 mm diameter cord should be attached. The length of the streamer should range between approximately 3,50 m nearest the vessel to approximately 1,25 m for the fifth streamer. When the streamer line is deployed the branch streamers should reach the sea surface and periodically dip into it when the vessel heaves. Swivels should be placed in the streamer line at the towing point, before and after the point of attachment of each branch streamer and immediately before any weight placed on the end of the streamer line. Each branch streamer should also have a swivel at its attachment to the streamer line.



ANNEX IV

EXPERIMENTAL PROTOCOLS FOR THE SETTING OF LONGLINES REFERRED TO IN ARTICLE 7(8)

PROTOCOL A

A1. The vessel shall, under observation by a scientific observer:

(a) set a minimum of five longlines with a minimum of four Time Depth Recorders (TDR) on each line;

(b) place TDRs at random on the longline within and between sets;

(c) calculate an individual sink rate for each TDR when returned to the vessel, where:

(i) the sink rate shall be measured as an average of the time taken to sink from the surface (0 m) to 15 m; and

(ii) this sink rate shall be at a minimum rate of 0,3 m/s;

(d) if the minimum sink rate (0,3 m/s) is not achieved at all 20 sample points, repeat the test until such time as a total of 20 tests with a minimum sink rate of 0,3 m/s are recorded; and

(e) all equipment and fishing gear used in the tests is to be the same as that to be used in the Convention area.

A2. During fishing, for a vessel to maintain the exemption from night-time setting requirements, continuous line sink monitoring shall be undertaken by the CCAMLR scientific observer. The vessel shall cooperate with the CCAMLR observer who shall:

(a) seek to place a TDR on every longline set during the observer's period of work;

(b) every seven days place all available TDRs on a single longline to determine any sink-rate variation along the line;

(c) place TDRs at random on the longline within and between sets;

(d) calculate an individual rate for each TDR when returned to the vessel; and

(e) measure the sink rate as an average of the time taken to sink from the surface (0 m) to 15 m.

A3. The vessel will:

(a) ensure the average sink rate is at a minimum of 0,3 m/s;

(b) report daily to the fishery manager; and

(c) ensure that data collected from line sink trials is recorded in the approved format and submitted to the fishery manager at the end of the season.

PROTOCOL B

B1. The vessel will, under observation by a scientific observer:

(a) set a minimum of five longlines of the maximum length to be used in the Convention Area with a minimum of four bottle tests (see paragraphs B5 to B9) on the middle one third of the longline;

(b) place test bottles at random on the longline within and between sets, noting that all tests should be applied halfway between weights;

(c) calculate an individual sink rate for each bottle test where the sink rate shall be measured as the time taken for the longline to sink from the surface (0 m) to 15 m;

(d) this sink rate shall be at a minimum rate of 0,3 m/s;

(e) if the minimum sink rate is not achieved at all 20 sample points (four tests on five lines), continue testing until such time as a total of 20 tests with a minimum sink rate of 0,3 m/s are recorded; and

(f) all equipment and fishing gear used in the tests is to be to the same specifications as that to be used in the Convention area.

B2. During fishing, for a vessel to maintain the exemption provided for in Article 7(8), regular line sink-rate monitoring shall be undertaken by the CCAMLR scientific observer. The vessel shall cooperate with the CCAMLR observer who shall:

(a) aim to conduct a bottle test on every longline set during the observer's shift, noting that the test should be undertaken on the middle one third of the line;

(b) every seven days place at least four test bottles on a single longline to determine any sink-rate variation along the line;

(c) place test bottles at random on the longline within and between sets, noting that all bottles should be attached halfway between weights;

(d) calculate an individual sink rate for each bottle test; and

(e) measure the line sink rate as the time taken for the line to sink from the surface (0 m) to 15 m.

B3. The vessel will whilst operating under this exemption:

(a) ensure that all longlines are weighted to achieve a minimum line sink rate of 0,3 m/s at all times;

(b) report daily to its national agency on the achievement of this target; and

(c) ensure that data collected from line sink-rate monitoring are recorded in the approved format and submitted to the relevant national agency at the end of the season.

B4. A bottle test is to be conducted as described below.

Bottle set-up

B5. 15 m of 2 mm multifilament nylon snood twine, or equivalent, is securely attached to the neck of a 750 ml plastic bottle [1] (buoyancy about 0,7 kg) with a longline clip attached to the other end. The length measurement is taken from the attachment point (terminal end of the clip) to the neck of the bottle, and should be checked by the observer every few days.

B6. Reflective adhesive tape should be wrapped around the bottle to allow it to be observed at night. A piece of waterproof paper with a unique identifying number large enough to be read from a few metres away should be placed inside the bottle.

Test

B7. The bottle is emptied of water, the stopper is left open and the twine is wrapped around the body of the bottle for setting. The bottle with the encircled twine is attached to the longline [2], midway between weights (the attachment point).

B8. The observer records the time at which the attachment point enters the water as t_1 in seconds [3]. The time at which the bottle is observed to be pulled completely under is recorded as t_2 in seconds. The result of the test is calculated as follows:

Line sink rate $= 15/(t_2 - t_1)$

B9. The result should be 0,3 m/s or more. These data are to be recorded in the space provided in the electronic observer logbook.

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[1] A plastic water bottle that has a hard plastic screw-on stopper is needed. The stopper of the bottle is left open so that the bottle will fill with water after being pulled under water. This allows the plastic bottle to be re-used rather than being crushed by water pressure.

[2] On autolines attach to the backbone; on the Spanish longline system attach to the hookline.

[3] Binoculars will make this process easier to view, especially in foul weather.

ANNEX V

RULES CONCERNING BY-CATCHES IN THE FISHERIES CARRIED OUT IN THE CONVENTION AREA

A. REGULATED FISHERIES

1. If, in the course of the directed fishery for *Dissostichus eleginoides* in FAO sub-area 48.3, the by-catch of any species is 1 tonne or more, the fishing vessel shall move to another fishing location not closer than five nautical miles distant. The fishing vessel shall not fish within a radius of five nautical miles of the location in which the by-catch exceeded 1 tonne, for a period of at least five days.

   For the purposes of the preceding paragraph, 'target species' means *Dissostichus eleginoides* and 'by-catch species' means all species other than *Dissostichus eleginoides*.

2. If, in the course of the directed fishery for *Champsocephalus gunnari* in FAO sub-area 48.3, the by-catch of any of the following species: *Chaenocephalus aceratus, Gobionotothen gibberifrons, Lepidonotothen squamifrons, Notothenia rossii*, or *Pseudochaenichthys georgianus*,

   (a) is greater than 100 kg and exceeds 5 % of the total catch of all fish by weight, or

   (b) is 2 tonnes or more, then

   the fishing vessel shall move to another location at least five nautical miles distant. It shall not return to any point within a radius of five nautical miles of the location where the by-catch of the above species exceeded 5 % for a period of at least five days.

3. If, in the course of the directed fishery for *Dissostichus eleginoides* or *Champsocephalus gunnari* in FAO sub-area 58.5.2, the by-catch in any one haul of *Channichthys rhinoceratus* or *Lepidonotothen squamifrons* is 2 tonnes or more, the fishing vessel shall move to another location at least five nautical miles distant. It shall not return to any point within a radius of five nautical miles of the location where the by-catch of the above species exceeded 2 tonnes for a period of at least five days.

   If, in the course of the above fisheries, the by-catch in any one haul of any other by-catch species for which limits have been imposed under Community rules is 1 tonne or more, the fishing vessel shall move to another location at least five nautical miles distant. It shall not return to any point within a radius of five nautical miles of the location where the by-catch of the above species exceeded 1 tonne for a period of at least five days.

4. If, in the course of the directed fishery for *Electrona carlsbergi*, the by-catch in any one haul of a species other than the target species:

   (a) is greater than 100 kg and exceeds 5 % of the total catch of all fish by weight, or

   (b) is 2 tonnes or more, then

   the fishing vessel shall move to another location at least five nautical miles distant. It shall not return to any point within a radius of five nautical miles of the location where the by-catch of species other than the target species exceeded 5 % for a period of at least five days.

5. The location where the by-catch exceeds the quantities referred to in points 1 to 4 is defined as the path followed by the fishing vessel from the point at which the fishing gear is first deployed from the fishing vessel to the point at which the fishing gear is retrieved by the fishing vessel.

B. NEW AND EXPLORATORY FISHERIES

1. The by-catch of *Macrourus* spp. in the new and exploratory fisheries in the statistical sub-areas and divisions concerned will be limited to the following:

   (a) in the small-scale research units (SSRUs) in sub-area 48.6, division 58.4.2 and sub-area 88.1 south of 65° S, and in division 58.4.3b, the by-catch of *Macrourus* spp. will be limited to 100 tonnes; and

   (b) in other SSRUs, the by-catch of *Macrourus* spp. will be limited to 40 tonnes.

2. The by-catch of any species other than *Macrourus* spp. in the new and exploratory fisheries in the statistical sub-areas and divisions concerned will be limited to the following:

   (a) in the small-scale research units (SSRUs) in sub-area 48.6, division 58.4.2 and sub-area 88.1 south of 65° S, and in division 58.4.3b, the by-catch of any species will be limited to 50 tonnes; and

   (b) in other SSRUs, the by-catch of *Macrourus* spp. will be limited to 20 tonnes.

3. For the purposes of points 1 and 2, '*Macrourus* spp.' and 'skates and rays' should each be counted as a single species.

4. If the by-catch of any one species is equal to or greater than 2 tonnes in any one haul or set, then the fishing vessel shall move to another location at least five nautical miles distant. It shall not return to any point within a radius of five nautical miles of the location where the by-catch exceeded 2 tonnes for a period of at least five days. The location where the by-catch exceeded 2 tonnes is defined as the path followed by the fishing vessel from the point at which the fishing gear is first deployed from the fishing vessel to the point at which the fishing gear is retrieved by the fishing vessel.

ANNEX VI

RESEARCH HAULS IN THE FISHERY FOR *CHAMPSOCEPHALUS GUNNARI* IN FAO SUB-AREA 48.3 DURING THE SPAWNING SEASON

1. Twelve research hauls will be carried out in the Shag Rocks/Black Rocks area. These must be distributed between the four sectors illustrated in Figure 1: four each in the NW and SE sectors, and two each in the NE and SW sectors. A further eight research hauls will be conducted on the north-western shelf of South Georgia over water less than 300 m deep, as illustrated in Figure 1.

2. Each research haul must be at least five nautical miles distant from all others. The spacing of stations is intended to be such that both areas are adequately covered in order to provide information about the length, sex, maturity and weight composition of *Champsocephalus gunnari*.

3. If concentrations of fish are located en route to South Georgia, they should be fished in addition to the research hauls.

4. The duration of research hauls must be of a minimum of 30 minutes with the net at fishing depth. During the day, the net must be fished close to the bottom.

5. The catch of all research hauls shall be sampled by the international scientific observer on board. Samples should aim to comprise at least 100 fish, sampled using standard random sampling techniques. All fish in the sample should be at least examined for length, sex and maturity determination, and where possible weight. More fish should be examined if the catch is large and time permits.

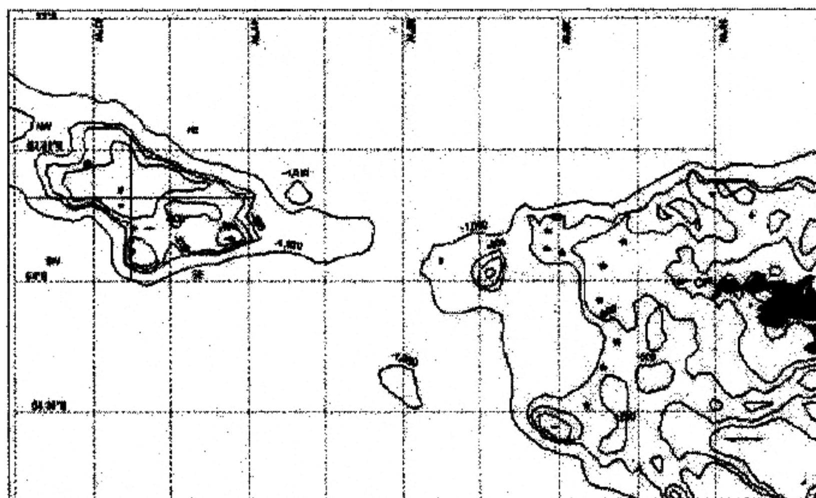

Figure 1: Distribution of 20 exploratory fishing hauls on *Champsocephalus gunnari* at Shag Rocks (12) and South Georgia (8) from 1 March to 31 May. Haul locations around South Georgia (stars) are illustrative.

ANNEX VII

FUNCTIONS AND TASKS OF SCIENTIFIC OBSERVERS ON BOARD VESSELS ENGAGED IN SCIENTIFIC RESEARCH OR HARVESTING OF MARINE LIVING RESOURCES IN THE CONVENTION AREA REFERRED TO IN ARTICLE 14(2)

A. The function of scientific observers on board vessels engaged in scientific research or harvesting of marine living resources is to observe and report on the operation of fishing activities in the Convention area with the objectives and principles of the Convention in mind.

B. In fulfilling this function, scientific observers will undertake the following tasks:

(a) record details of the vessel's operation (e.g. partition of time between searching, fishing, transit etc., and details of hauls);

(b) take samples of catches to determine biological characteristics;

(c) record biological data by species caught;

(d) record by-catches, their quantity and other biological data;

(e) record entanglement and incidental mortality of birds and mammals;

(f) record the procedure by which declared catch weight is measured and collect data relating to the conversion factor between green weight and final product in the event that catch is recorded on the basis of weight of processed product;

(g) prepare reports of their observations using the observation formats approved by the Scientific Committee and submit them to their respective authorities;

(h) submit copies of reports to masters of vessels;

(i) assist, where appropriate, the master of the vessel in the catch recording and reporting procedures;

(j) undertake other tasks as may be decided by mutual agreement of the parties concerned to the bilateral agreement applicable;

(k) collect and report factual data on sightings of fishing vessels in the Convention area, including vessel type identification, position and activity; and

(l) collect information on fishing gear loss and waste disposal by fishing vessels at sea.

Proposal for Council Regulation laying down certain control measures applicable to fishing activities in the area covered by the Convention on the conservation of Antarctic marine living Resources and repealing Regulations (EEC) No 3943/90, (EC) No 66/98 and (EC) No 1721/1999

(2002/C 262 E/18)

COM(2002) 356 final — 2002/0137(CNS)

(Submitted by the Commission on 3 July 2002)

EXPLANATORY MEMORANDUM

The Community has been a Contracting Party to the Convention on the conservation of Antarctic marine living resources since 1981. It is required to transpose the measures for the conservation and management of fish stocks referred to in the Convention into Community law.

The conservation and management measures adopted by the Commission for the conservation of Antarctic marine living resources (CCAMLR) include numerous rules on the monitoring of fishing activities. Up to now most of these have been transposed into Community law by Council Regulation (EC) No 66/98 of 18 December 1997 laying down certain conservation and control measures applicable to fishing activities in the Antarctic and repealing Regulation (EC) No 2113/96 (OJ L 6, 10.1.1998 p. 1).

The arrangements for the control of fishing activities in the Convention area were transposed by Council Regulation (EEC) No 3943/90 of 19 December 1990 on the application of the system of observation and inspection established under Article XXIV of the Convention on the Conservation of Antarctic Marine Living Resources (OJ L 379, 31.12.1990 p. 45).

The Community rules on controls in the Convention area have been amplified by Council Regulation (EC) No 1721/1999 of 29 July 1999 laying down certain control measures in respect of vessels flying the flag of Non-Contracting Parties to the Convention on the Conservation of Antarctic Marine Living Resources (OJ L 203, 3.8.1999, p. 14).

These three instruments need to be updated to bring them into line with the amendments to the corresponding CCAMLR measures, which have been especially important over the last four years (CCAMLR meetings XVII — 1998 to XX — 2001). Already in 1998, the limits and prohibitions on catches of the species covered by the Convention were transposed as part of the annual TACs and quotas exercise, whereas these limits previously formed part of Regulation (EC) No 66/98, referred to above. With regard to the other measures in that Regulation, major changes have been made, within the CCAMLR, to those concerning access to fishing activities in the area and the various catch and effort reporting systems as regards both the procedures to be followed and the species subject to the individual system for the different fishing areas. In particular, specific rules have been adopted for the crab and squid fisheries.

On the issue of the control system, the CCAMLR has introduced changes designed mainly to distinguish between inspection and scientific observation activities focusing on data collection. This requires a complete recasting of Regulation (EEC) No 3943/90 to take account of the fact that basic responsibility for implementing the inspection arrangements rests with the Member States and that the Commission's responsibility must be at the level of 'monitoring the inspectors', as it undertook to do to the Council and the European Parliament in its Communication on European Community participation in regional fisheries organisations or RFOs, COM(1999) 613 final of 8 December 1999.

Lastly, on the matter of the checks on vessels flying the flag of non-Contracting Parties, Regulation (EC) No 1721/1999 transposes a CCAMLR measure dating from 1998 which was significantly modified in 1999 and consequently also needs to be updated.

The Commission proposal brings together in a single instrument, therefore, all the control provisions applying to fishing by Community vessels in the Convention area. The draft Regulation is made up of seven Chapters:

— General provisions

— Arrangements concerning access to fishing activities in the Convention area

— Catch and effort reporting system

— Control and inspection at sea by vessels flying the flag of a Contracting Party to the Convention

— Control and inspection in port

— Control measures applicable to vessels flying the flag of a Non-Contracting Party to the Convention

— Final provisions.

This proposal is being presented at the same time as a draft Regulation on the technical measures applicable to fishing activities in the Convention area, including requirements concerning fishing gear and the scientific observer scheme.

The two proposals have recourse to 'the Committee procedures' introduced by Council Decision 1999/468/EC of 28 June 1999. The management procedure under Article 4 of that Decision is included for the adoption of measures needed for implementing certain parts of the arrangements.

The Commission proposes therefore that the Council adopt the attached Regulation.

THE COUNCIL OF THE EUROPEAN UNION,

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

Having regard to the proposal from the Commission,

Having regard to the opinion of the European Parliament,

Whereas:

(1) The Convention on the Conservation of Antarctic Marine Living Resources, hereinafter called 'the Convention', was approved by the Community by Council Decision 81/691/EEC ([1]) and entered into force in the Community on 21 May 1982.

(2) The Convention provides a framework for regional cooperation in the conservation and management of Antarctic marine fauna and flora through the establishment of a Commission for the Conservation and Management of Antarctic Marine Living Resources, hereinafter called the 'CCAMLR', and the adoption by the latter of conservation measures which become binding on the Contracting Parties.

(3) The Community, as a Contracting Party to the Convention, is required to ensure that the conservation measures adopted by the CCAMLR are applied to Community fishing vessels.

(4) The measures concerned include numerous rules and provisions for the control of fishing activities in the Convention area which must be incorporated in Community law as special provisions within the meaning of Article 1(3) of Council Regulation (EEC) No 2847/93 of 12 October 1993 establishing a control system applicable to the common fisheries policy ([2]), and supplementing the provisions thereof.

(5) Some of those special provisions have been transposed into Community law by Council Regulation (EEC) No 3943/90 of 19 December 1990 on the application of the system of observation and inspection established under Article XXIV of the Convention on the Conservation of Antarctic Marine Living Resources ([3]), by Council Regulation (EC) No 66/98 of 18 December 1997 laying down certain conservation and control measures applicable to fishing activities in the Antarctic and repealing Regulation (EC) No 2113/96 ([4]), and by Council Regulation (EC) No 1721/1999 of 29 July 1999 laying down certain control measures in respect of vessels flying the flag of Non-Contracting Parties to the Convention on the Conservation of Antarctic Marine Living Resources ([5]).

(6) With a view to implementing the new conservation measures adopted by the CCAMLR, the above Regulations should be amended. In order to ensure that Community rules are clearer, they should be repealed and replaced by a single Regulation bringing together the special provisions for the control of fishing activities arising from the Community's obligations as a Contracting Party to the Convention.

(7) Since the measures needed to implement this Regulation are management measures within the meaning of Article 2 of Council Decision 1999/468/EC of 28 June 1999 laying down the procedures for the exercise of implementing powers conferred on the Commission ([6]), they should be adopted in accordance with the management procedure provided for in Article 4 of that Decision,

HAS ADOPTED THIS REGULATION:

CHAPTER I

GENERAL PROVISIONS

Article 1

Object and scope

1. This Regulation lays down general rules and conditions for the application by the Community of:

(a) control measures applicable to fishing vessels flying the flag of a Contracting Party to the Convention for the Conservation of Antarctic Marine Living Resources, hereinafter called 'the Convention', operating in the Convention area in waters located beyond the limits of national jurisdictions;

([1]) OJ L 252, 5.9.1981, p. 26.

([2]) OJ L 261, 20.10.1993, p. 1, as last amended by Council Regulation (EC) No 2846/98 (OJ L 358, 31.12.1998, p. 5).

([3]) OJ L 379, 31.12.1990, p. 45.

([4]) OJ L 6, 10.1.1998, p. 1, as amended by Council Regulation (EC) No 2479/98 (OJ L 309, 19.11.1998, p. 1).

([5]) OJ L 203, 3.8.1999, p. 14.

([6]) OJ L 184, 17.7.1999, p. 23.

(b) a system to promote compliance by vessels flying the flag of a non-Contracting Party with conservation measures laid down by the Commission for the Conservation of Antarctic Marine Living Resources, hereinafter called the 'CCAMLR'.

2. This Regulation shall apply without prejudice to the provisions of the Convention and shall operate in furtherance of its objectives and principles and the provisions of the final act of the conference at which it was adopted.

Article 2

Definitions

For the purposes of this Regulation, the following definitions shall apply:

(a) 'Convention area': the area of application of the Convention as defined in Article I thereof;

(b) 'Antarctic convergence': a line joining the following points along parallels of latitude and meridians of longitude: 50° S, 0°–50° S, 30° E–45° S, 30° E–45° S, 80° E–55° S, 80° E–55° S, 150° E–60° S, 150° E–60° S, 50° O–50° S, 50° O–50° S, 0°;

(c) 'Community fishing vessel': a fishing vessel flying the flag of a Community Member State and registered in the Community which takes and keeps on board marine organisms taken from marine living resources in the Convention area;

(d) 'VMS system': a satellite-based vessel monitoring system installed on board Community fishing vessels in accordance with Article 3 of Regulation (EEC) No 2847/93;

(e) 'new fishery': a fishery for a species using a particular fishing method in a FAO Antarctic sub-area, for which:

(i) information on distribution, abundance, population, potential yield and stock identity from comprehensive research/surveys or exploratory fishing have never been submitted to the CCAMLR; or

(ii) catch and effort data have never been submitted to the CCAMLR; or

(iii) catch and effort data from the two most recent seasons in which fishing took place have never been submitted to the CCAMLR;

(f) 'exploratory fishery': a fishery that was previously classified as a 'new fishery' as defined in point (e). An exploratory fishery shall continue to be classified as such until sufficient information is available:

(i) to evaluate the distribution, abundance and population of the target species, leading to an estimate of the fishery's potential yield;

(ii) to review the fishery's potential impacts on dependent and related species, and

(iii) to allow the CCAMLR's Scientific Committee to formulate and provide advice on appropriate harvest catch levels, as well as on effort levels and fishing gear where appropriate;

(g) 'CCAMLR inspector': an inspector assigned by a Contracting Party to the Convention to implementing the control system referred to in Article 1(1);

(h) 'CCAMLR control system': the document bearing that name, adopted by the CCAMLR, concerning the control and inspection at sea of vessels flying the flag of a Contracting Party to the Convention;

(i) 'non-Contracting Party vessel': a fishing vessel which flies the flag of a non-Contracting Party to the Convention and which has been sighted engaging in fishing activities in the Convention area;

(j) 'sighting': any sighting of a vessel flying the flag of a non-Contracting Party to the Convention by a vessel flying the flag of a Contracting Party to the Convention and operating in the Convention area, or by an aircraft registered in a Contracting Party to the Convention, and overflying the Convention area or by a CCAMLR inspector.

CHAPTER II

ARRANGEMENTS CONCERNING ACCESS TO FISHING ACTIVITIES IN THE CONVENTION AREA

Article 3

Community participation

1. Only Community fishing vessels holding a special fishing permit issued in accordance with Council Regulation (EC) No 1627/94 by their flag Member State shall be authorised, in accordance with the conditions laid down in the permit, to fish, retain on board, transship and land fishery resources from the Convention area.

2. The Member States shall send the Commission, by computer transmission, within three days following the issue of the permit referred to in paragraph 1, the following information concerning the vessel covered by the permit:

(a) the name of the vessel concerned;

(b) the period for which it is authorised to fish in the Convention area, with the dates on which fishing activities start and end;

(c) the fishing area or areas;

(d) the target species;

(e) the gear used.

The Commission shall forward this information to the CCAMLR secretariat without delay.

3. The information transmitted to the Commission by the Member States shall include the internal fleet register number as provided for in Article 1 of Commission Regulation (EC) No 2090/98 [1], together with the home port and the names of the owner or charterer of the vessel, and shall be accompanied by the notification that the master of the vessel has been informed of the measures in force for the area or areas where the vessel will be fishing in the Convention area.

4. Paragraphs 1, 2 and 3 shall apply subject to the special provisions laid down in Articles 5, 6, 7 and 8 below.

5. Detailed rules for the application of this Article shall be adopted in accordance with the procedure laid down in Article 31(2).

Article 4

General rules of conduct

1. The special fishing permit referred to in Article 3, or an authenticated copy thereof, shall be carried on board fishing vessels and shall be available at all times for inspection by a CCAMLR inspector.

2. Each Member State shall ensure that all Community fishing vessels flying its flag notify it of their entry to and exit from all ports, their entry to and exit from the Convention area and their movements between FAO Antarctic sub-areas and divisions.

3. Member States shall verify this information against data received through the VMS systems operating on board fishing vessels. They shall forward it to the Commission by computer transmission within two days of receipt. The Commission shall transmit this information without delay to the CCAMLR executive secretariat.

4. In the event of a technical breakdown of the VMS system on board a Community fishing vessel, the flag Member State shall notify the CCAMLR as early as possible, with a copy to the Commission, of the name of the vessel, and the date and position of the vessel when the VMS system ceased to function. As soon as the VMS system is again operational the flag Member State shall inform the CCAMLR thereof without delay.

Article 5

Special provisions concerning access to crab fisheries

1. Member States shall notify the Commission of the intention of a Community fishing vessel to fish for crab in FAO Antarctic sub-area 48.3. Notification shall be made four months in advance of the date set for the start of the fishery and shall include the internal fleet register number and the research and fishing operations plan of the vessel concerned.

[1] OJ L 266, 1.10.1998, p. 27.

2. The Commission shall examine the notification, check that it complies with the applicable rules and inform the Member State of its findings. The Member State may issue the special fishing permit upon receipt of the findings of the Commission or within ten working days following notification. The Commission shall notify the CCAMLR accordingly, at the latest three months in advance of the date set for the start of the fishery.

3. Detailed rules for the application of this Article shall be adopted in accordance with the procedure laid down in Article 31(2).

Article 6

Special provisions concerning access to new fisheries

1. Fishing in a new fishery in the Convention area shall be prohibited unless it has been authorised in accordance with paragraph 5.

2. The Member State concerned shall notify the Commission not later than four months in advance of the annual meeting of the CCAMLR of the intention of a Community fishing vessel to develop a new fishery in the Convention area.

The notification shall be accompanied by as much of the following information as the Member State is able to provide:

(a) the nature of the proposed fishery, including target species, methods of fishing, proposed region and any minimum level of catches that would be required to develop a viable fishery;

(b) biological information from comprehensive research/survey cruises, such as distribution, abundance, demographic data and information on stock identity;

(c) details of dependent and associated species and the likelihood of them being affected in any way at all by the proposed fishery;

(d) information from other fisheries in the region or similar fisheries elsewhere that may assist in the evaluation of potential yield.

3. The Commission shall forward to the CCAMLR for consideration the information provided in accordance with paragraph 2, together with any other relevant information at its disposal.

4. Once the CCAMLR has taken a decision, the new fishery shall be authorised by the Commission in cases where the CCAMLR has not adopted any conservation measure with regard to the new fishery, or by the Council, acting by a qualified majority on a proposal from the Commission, in all other cases.

5. Detailed rules for the application of this Article shall be adopted in accordance with the procedure laid down in Article 31(2).

Article 7

Special provisions concerning access to exploratory fisheries

1. Exploratory fishing in the Convention area shall be prohibited unless it has been authorised in accordance with paragraphs 2 to 6.

2. Each Member State participating in an exploratory fishery or intending to authorise a vessel to participate in one shall prepare a research and fishery operations plan which it shall forward directly to the CCAMLR before a date set by the latter, with a copy to the Commission.

The plan shall contain as much of the following information as the Member State is able to provide:

(a) a description of how the Member State's activities will comply with the data collection plan developed by the CCAMLR Scientific Committee;

(b) the nature of the exploratory fishery, including target species, methods of fishing, proposed region and maximum catch levels proposed for the forthcoming season;

(c) biological information from study and research voyages, such as distribution, abundance, demographic data, and information on stock identity;

(d) details of dependent and related species and the likelihood of them being adversely affected by the proposed fishery;

(e) information from other fisheries in the region or similar fisheries elsewhere that may assist in the evaluation of potential yield.

3. Each Member State participating in an exploratory fishery shall submit annually to the CCAMLR, with a copy to the Commission, before the expiry of the deadline agreed within the CCAMLR the data specified in the data collection plan developed by the Scientific Committee for the fishery concerned.

Where the data specified in the data collection plan have not been forwarded to the CCAMLR for the most recent season in which fishing took place, continued exploratory fishing by the Member State which failed to forward its data shall be prohibited until the relevant data have been presented to the CCAMLR, with a copy to the Commission, and the Scientific Committee has been given an opportunity to review the data.

4. Before a Member State authorises its vessels to participate in an exploratory fishery that is already in progress, that Member shall notify the CCAMLR not less than four months in advance of the next regular meeting of the CCAMLR. The notifying Member State shall not authorise its vessels to enter the exploratory fishery until the conclusion of that meeting.

5. The name, type, size, registration number and radio call sign of each vessel participating in the exploratory fishery shall be notified directly by Member States to the CCAMLR, with a copy to the Commission, at least three months in advance of the start of each fishing voyage.

6. Fishing capacity and effort shall be subject to a precautionary limit set at a level not exceeding that necessary to obtain the information specified in the data collection plan and required to make the evaluations referred to in Article 2(f).

7. Detailed rules for the application of this Article shall be adopted in accordance with the procedure laid down in Article 31(2).

Article 8

Special provisions concerning access to scientific research activities

1. Member States whose vessels intend to conduct scientific research when the estimated catch is expected to be less than 50 tonnes, including not more than 10 tonnes of *Dissostichus* spp, shall submit directly to the CCAMLR, with a copy to the Commission, the following data:

(a) the name of the vessel concerned;

(b) its external identification mark;

(c) the division and sub-area in which the research is to be carried out;

(d) the estimated dates of entering and leaving the CCAMLR Convention area;

(e) the purpose of the research;

(f) the fishing equipment likely to be used.

2. The Community vessels referred to in paragraph 1 shall be exempt from conservation measures relating to mesh size regulations, prohibition of types of gear, closed areas, fishing seasons and size limits, and reporting system requirements other than those specified in Articles 9(6), and 16(1).

3. Member States whose vessels intend to conduct scientific research where the estimated total catch is expected to be more than 50 tonnes, or more than 10 tonnes of *Dissostichus* spp., shall submit to the CCAMLR for review, with a copy to the Commission, a research programme at least six months in advance of the planned starting date for the research. Until the review process is completed by the CCAMLR and its decision notified, the planned fishing for research purposes shall not proceed.

4. Member States shall report to the CCAMLR, with a copy to the Commission, catch and effort data for each haul resulting from any scientific research subject to the provisions in paragraphs 1, 2 and 3. A summary of the results shall be provided by the Member State to the CCAMLR, with a copy to the Commission, within 180 days of the completion of the research. A full report of the results of the research shall be provided to the CCAMLR, with a copy to the Commission, within twelve months.

5. Detailed rules for the application of this Article shall be adopted in accordance with the procedure laid down in Article 31(2).

CHAPTER III

CATCH AND EFFORT REPORTING SYSTEM

Section 1

Catch and effort report

Article 9

Catch and effort report

1. Community fishing vessels shall be subject to three catch and effort reporting systems according to period as referred to in Articles 10, 11 and 12 for the different species and the FAO areas, sub-areas and divisions concerned.

2. The catch and effort report shall contain the following information for the period in question:

(a) the name of the vessel,

(b) its external identification mark,

(c) the total catch of the relevant species,

(d) the total number of days and hours fished,

(e) the catches of all species and by-catch species kept on board during the reporting period,

(f) in the case of longline fisheries, the number of hooks.

3. The masters of Community fishing vessels shall submit a catch and effort report to the competent authorities of the flag Member State at the latest one day after the end of the relevant reporting period.

4. The Member States shall notify the Commission, by computer transmission, at the latest within three days following each reporting period, of the catch and effort report transmitted by each fishing vessel flying their flag and registered in the Community. Each catch and effort report shall specify the reporting period of the catch concerned.

5. The Commission shall forward to the CCAMLR, at the latest within five days following the end of each reporting period, the catch and effort reports received in accordance with paragraph 3.

6. The catch and effort reporting systems shall apply to species taken for scientific research purposes, whenever the catch within a given period exceeds five tonnes.

7. Detailed rules for the application of this Article shall be adopted in accordance with the procedure laid down in Article 31(2).

Article 10

Monthly catch and effort reporting system

1. For the purposes of the monthly catch and effort reporting system, the reporting period shall be a calendar month.

2. The monthly catch and effort reporting system shall apply to:

(a) the fishery for *Electrona carlsbergi* in FAO Antarctic sub-area 48.3;

(b) the fishery for *Euphausia superba* in FAO Antarctic area 48 and in FAO Antarctic divisions 58.4.2 and 58.4.1.

3. Detailed rules for the application of this Article shall be adopted in accordance with the procedure laid down in Article 31(2).

Article 11

Ten-day catch and effort reporting system

1. For the purposes of the ten-day catch and effort reporting system, each calendar month shall be divided into three reporting periods, designated by the letters A, B and C and running from day 1 to day 10, day 11 to day 20 and day 21 to the last day of the month respectively.

2. The ten-day catch and effort reporting system shall apply to:

(a) the fisheries for *Champsocephalus gunnari* and *Dissostichus eleginoides* and other deep-water species in FAO Antarctic division 58.5.2;

(b) the exploratory fishery for the squid *Martialia hyadesi* in FAO Antarctic sub-area 48.3;

(c) the fishery for the crab *Paralomis* spp. (order *Decapoda*, sub-order *Reptantia*) in FAO Antarctic sub-area 48.3, other than that operated during the first phase of the CCAMLR exploratory fishery scheme for that species and sub-area.

3. Detailed rules for the application of this Article shall be adopted in accordance with the procedure laid down in Article 31(2).

Article 12

Five-day catch and effort reporting system

1. For the purposes of the five-day catch and effort reporting system, each calendar month shall be divided into six reporting periods, designated by the letters A, B, C, D, E and F and running from day 1 to day 5, day 6 to day 10, day 11 to day 15, day 16 to day 20, day 21 to day 25 and day 26 to the last day of the month respectively.

2. The five-day catch and effort reporting system shall apply for each fishing season to:

(a) the fishery for *Champsocephalus gunnari* in FAO Antarctic sub-area 48.3;

(b) the fishery for *Dissostichus eleginoides* in FAO Antarctic sub-areas FAO 48.3 and 48.4.

3. Following notification by the CCAMLR of the closure of a fishery in the event of failure to transmit the catch and effort report referred to in this Article, the vessel or vessels concerned shall cease operating immediately in the fishery in question and shall be authorised to resume fishing only where the report or, as appropriate, an explanation of the technical difficulties justifying the failure to present a report has been sent to the CCAMLR.

4. Detailed rules for the application of this Article shall be adopted in accordance with the procedure laid down in Article 31(2).

Section 2

Monthly fine-scale data reporting systems for trawl, longline and pot fisheries

Article 13

Monthly fine-scale catch and effort data reporting system

1. Community fishing vessels shall forward to the competent authorities of the Member State whose flag they fly, for each fishing season, by the fifteenth day of the month following that in which fishing takes place, fine-scale catch and effort data for the month concerned, concerning, as appropriate, trawling, longlining or pot fishing, for the species and in the areas below:

(a) *Champsocephalus gunnari* in FAO Antarctic division 58.5.2 and in FAO Antarctic sub-area FAO 48.3;

(b) *Dissostichus eleginoides* in FAO Antarctic sub-areas FAO 48.3 and 48.4;

(c) *Dissostichus eleginoides* in FAO Antarctic division 58.5.2

(d) *Electrona carlsbergi* in FAO Antarctic sub-area 48.3;

(e) *Martialia hyadesi* in FAO Antarctic sub-area 48.3;

(f) *Paralomis* spp. (order *Decapoda*, sub-order *Reptantia*) in FAO Antarctic sub-area 48.3, other than that fished during the first phase of the CCAMLR exploratory fishery scheme for that species and sub-area.

2. In the case of the fisheries referred to in paragraphs 1(a), and (e), the data shall be reported for each laying of pots, and in other cases for each haul.

3. All catches of target and by-catch species shall be reported for individual species. The data shall include the numbers of seabirds and marine mammals of each species caught and released or killed.

4. Member States shall transmit this information to the Commission at the end of each month. The Commission shall transmit these data to the CCAMLR without delay.

5. Detailed rules for the application of this Article shall be adopted in accordance with the procedure laid down in Article 31(2).

Article 14

Monthly fine-scale biological data reporting system

1. Community fishing vessels shall forward to the competent authorities of the Member State whose flag they fly, under the same conditions and for the same fisheries as those referred to in Article 13, representative samples of length composition measurements of the target species and by-catch species taken in the fishery.

2. Length measurements of fish shall be of total length rounded down to the nearest centimetre and representative samples of length composition shall be taken from a single fine-scale grid rectangle (0.5° latitude by 1° longitude). In the event that a vessel moves from one fine-scale rectangle to another during the course of a month, then separate length compositions should be submitted for each rectangle.

3. In the case of data concerning the fishery referred to in Article 13(1)(d), a representative sample shall comprise not less than 500 fish.

4. At the end of each month Member States shall transmit the notifications received to the Commission, which shall forward them to the CCAMLR without delay.

5. Detailed rules for the application of this Article shall be adopted in accordance with the procedure laid down in Article 31(2).

Article 15

Closure of a fishery on grounds of failure to submit a report

Where the CCAMLR notifies a Member State that a fishery has been closed on account of failure to submit a report as referred to in Articles 13 and 14, the Member State concerned shall ensure that its vessels operating in that fishery cease fishing immediately.

Section 3

Annual reporting of catches

Article 16

Total catch data

1. Without prejudice to Article 15 of Regulation (EEC) No 2847/93, Member States shall notify the Commission, by 31 July each year, of the total catches for the preceding year taken by Community fishing vessels flying their flag, broken down by vessel.

2. Detailed rules for the application of this Article shall be adopted in accordance with the procedure laid down in Article 31(2).

Article 17

Data for catches of crab in FAO Antarctic sub-area 48.3

1. Community vessels fishing for crab in FAO Antarctic sub-area 48.3 shall forward to the Commission, by 25 September each year, data concerning fishing activities and the catches of crab taken before 31 August of that year.

2. The data concerning catches taken from 31 August each year shall be forwarded to the Commission within two months following the closure of the fishery.

3. Detailed rules for the application of this Article shall be adopted in accordance with the procedure laid down in Article 31(2).

Article 18

Fine-scale catch and effort data for the exploratory squid fishery in FAO Antarctic sub-area 48.3

1. Community vessels fishing for squid (*Martialia hyadesi*) using a jig in FAO Antarctic sub-area 48.3 shall forward to the Commission, by 25 September each year, the fine-scale catch and effort data for that fishery. The data shall include the numbers of seabirds and marine mammals of each species caught and released or killed.

2. Detailed rules for the application of this Article shall be adopted in accordance with the procedure laid down in Article 31(2).

CHAPTER IV

CONTROL AND INSPECTION AT SEA

Article 19

Scope

This Chapter shall apply to Community fishing vessels and fishing vessels flying the flag of another Contracting Party to the Convention.

Article 20

CCAMLR inspectors appointed by the Member States to carry out inspections at sea

1. The Member States shall appoint CCAMLR inspectors who may be placed on board any Community fishing vessel or, by arrangement with another Contracting Party, on board a vessel of the latter, engaged in or about to be engaged in the harvesting of marine living resources or in scientific research activities related to fisheries resources in the Convention area.

2. CCAMLR inspectors shall inspect Community vessels in the Convention area for compliance with the applicable conservation measures adopted by the CCAMLR and any other Community conservation or control measures relating to fisheries resources applying to those vessels.

3. CCAMLR inspectors shall be familiar with the scientific research activities to be inspected, the provisions of the Convention and the conservation measures adopted under it. The Member States shall certify the qualifications of each inspector they appoint.

4. Inspectors shall be nationals of the Member State which designates them and, while carrying out inspection activities, shall be subject solely to the jurisdiction of that Member State. They shall be accorded the status of ship's officer while on board and shall be able to communicate in the language of the Flag State of the vessels on which they carry out their activities.

5. Each CCAMLR inspector shall carry an identity document approved or provided by the CCAMLR and issued by the Member State which makes the appointment. This document shall indicate that the inspector has been designated to carry out inspections in accordance with the CCAMLR observation and inspection system.

6. Member States shall forward the names of the inspectors they appoint, with a copy to the Commission, to the CCAMLR secretariat within 14 days of their appointment.

7. Member States shall cooperate with each other and with the Commission in the application of the system.

8. Detailed rules for the application of this Article shall be adopted in accordance with the procedure laid down in Article 31(2).

Article 21

Determining the activities that may be subject to inspection

Research activities and the harvesting of marine living resources in the Convention area may be subject to inspection. These activities shall be presumed where a CCAMLR inspector finds that the activities of a fishing vessel meet one or more of the following four criteria and there is no information to the contrary:

(a) fishing gear is in use, has recently been in use or is ready to be used, e.g.:

— trawl nets and boards are rigged;

— baited hooks, baited pots or traps or thawed bait are ready for use;

— the log indicates recent fishing or fishing in progress;

(b) fish which occur in the Convention area are being processed or have recently been processed, e.g:

— fresh fish or fish waste are present on board;

— fish are being frozen;

— notes are present with operational or processing information;

(c) fishing gear from the vessel is in the water, e.g.:

— fishing gear bears the vessel's markings;

— fishing gear is identical with that on board the vessel;

— the log indicates that gear is in the water;

(d) fish (or their products) which occur in the Convention area are stowed on board.

Article 22

Marking of vessels carrying inspectors

1. Vessels carrying CCAMLR inspectors shall fly a special flag or pennant approved by the CCAMLR to indicate that the inspectors on board are carrying out inspection duties in accordance with the CCAMLR inspection system.

2. Detailed rules for the application of this Article shall be adopted in accordance with the procedure laid down in Article 31(2).

Article 23

Inspection procedures at sea

1. Any Community vessel present in the Convention area for the purpose of harvesting or conducting scientific research on marine living resources shall, when given the appropriate signal in the International Code of Signals in accordance with Article 22 above by a vessel carrying a CCAMLR inspector, stop or take other such actions as necessary to facilitate the safe and prompt transfer of the inspector to the vessel, unless the vessel is actively engaged in harvesting operations, in which case it shall do so as soon as practicable.

2. The master of the vessel shall permit the inspector, who may be accompanied by assistants, to board the vessel. On boarding a vessel, an inspector shall present the document described in Article 20(5). Inspectors shall be provided appropriate assistance by the master of the vessel in carrying out their duties, including access as necessary to communications equipment.

3. The inspection shall be carried out so that the vessel is subject to the minimum interference and inconvenience. Inquiries shall be limited to the ascertainment of facts in relation to compliance with the CCAMLR measures in effect for the flag State concerned.

4. Inspectors shall have the authority to inspect catches, nets and other fishing gear as well as harvesting and scientific research activities, and shall have access to records and reports of catch and location data insofar as necessary to carry out their functions. Inspectors may take photographs and/or video footage as necessary to document any alleged breach of conservation measures in force adopted by the CCAMLR.

5. CCAMLR inspectors shall affix an identification mark approved by the CCAMLR to any net or other fishing gear which appears to have been used in breach of the conservation measures in force. They shall record this fact in the report referred to in Article 24.

6. Before leaving the vessel that has been inspected, the CCAMLR inspector shall give the master of that vessel a copy of the completed inspection report referred to in Article 24.

7. Detailed rules for the application of this Article shall be adopted in accordance with the procedure laid down in Article 31(2).

Article 24

Inspection report

1. Inspections at sea carried out in accordance with Article 23 shall be the subject of an inspection report drawn up as follows:

(a) CCAMLR inspectors shall report on any alleged breach of the conservation measures in force. Inspectors shall allow the master of the vessel being inspected to comment, on the inspection report form, about any aspect of the inspection;

(b) inspectors shall sign the inspection report form. The master of the inspected vessel shall be invited to sign the inspection report form to acknowledge receipt of the report.

2. The CCAMLR inspector shall provide a copy of the inspection form along with photographs and video footage to the designating Member State not later than 15 days following his/her return to port.

3. The Member State which appointed the CCAMLR inspector shall forward a copy of the inspection form not later than 15 days from its reception along with two copies of photographs and video footage to the CCAMLR. It shall also forward one copy of this material to the Commission not later than seven days from receipt together with any supplementary report or information that it would have transmitted subsequently to the CCAMLR regarding the inspection report.

4. Any Member State which receives an inspection report concerning a vessel flying its flag shall notify the Commission thereof without delay, enclosing a copy of any comments and/or observations it may have forwarded to the CCAMLR following receipt of the inspection report and, where appropriate, any supplementary report or information received later.

5. Detailed rules for the application of this Article shall be adopted in accordance with the procedure laid down in Article 31(2).

Article 25

Infringement procedure

1. If, as a result of inspection activities carried out in accordance with the CCAMLR inspection system, there is evidence of breach of the measures adopted under the Convention, the flag Member State shall take steps to prosecute and, if necessary, impose penalties.

2. The flag Member State shall, within fourteen days of the laying of charges or the initiation of proceedings, inform the CCAMLR and the Commission, and keep them informed of the progress of the proceedings and their outcome.

3. The flag Member State shall at least once a year report to the CCAMLR, in writing, about the outcome of the proceedings and the penalties imposed. If the proceedings have not been completed, a progress report shall be made. When proceedings have not been launched, or have been unsuccessful, the report shall contain an explanation. The flag Member State shall send a copy of the report to the Commission.

4. Penalties provided for by flag Member States in respect of infringements of CCAMLR conservation measures shall be sufficiently severe as to effectively ensure compliance with those measures and shall seek to deprive offenders of any economic benefit accruing from their illegal activities.

5. The flag Member State shall ensure that any of its vessels which have been found to have contravened a CCAMLR conservation measure do not carry out fishing operations within the Convention area until they have complied with the penalties imposed.

6. Detailed rules for the application of this Article shall be adopted in accordance with the procedure laid down in Article 31(2).

CHAPTER V

CONTROL AND INSPECTION IN PORT

Article 26

Control and inspection in port

1. Member States shall carry out checks on Community fishing vessels and on those flying the flag of another Contracting Party to the Convention which are intending to land or tranship *Dissostichus* spp. at their ports.

The checks shall seek to establish that the catch to be landed or transshipped is accompanied by the catch document for *Dissostichus* required under Council Regulation (EC) No 1035/2001 ([1]), that it corresponds to the information contained in the document and, where the vessel has engaged in harvesting activities in the Convention area, that they are in compliance with the CCAMLR conservation measures.

2. To facilitate checks, the Member States shall require the vessels concerned to provide advance notice of their entry into port and to declare in writing that they have not engaged in unlawful, unregulated and unreported fishing activities in the Convention area or have not provided support for activities of this type. Entry into port shall be refused, save in emergencies, to vessels which fail to declare that they have not taken part in unlawful, unregulated and unreported fishing activities or which fail to forward their declaration.

In the case of vessels authorised to enter port, the competent authorities in the port Member State shall carry out their checks as rapidly as possible and at the latest within 48 hours following entry into port.

Checks shall not unduly inconvenience vessels or crew, and shall comply with the relevant provisions of the CCAMLR inspection system.

3. Where there is evidence that the vessel has fished in breach of the CCAMLR conservation measures, the competent authorities in the port Member State shall not authorise the landing or transshipment of the catch.

The port Member State shall notify the flag Member State of the findings of the checks and cooperate with it in carrying out an investigation into the alleged breach and, where appropriate, applying the penalties provided for under national law.

4. Member States shall notify the CCAMLR at the earliest opportunity of any vessel covered by this Article to which access to port or authorisation to land or transship *Dissostichus* spp. has been refused. They shall transmit a copy of that information to the Commission at the same time.

5. Detailed rules for the application of this Article shall be adopted in accordance with the procedure laid down in Article 31(2).

CHAPTER VI

CONTROL MEASURES APPLICABLE TO VESSELS OF A NON-CONTRACTING PARTY TO THE CONVENTION

Article 27

Sighting at sea

1. Any vessel of a Non-Contracting Party to the Convention sighted while engaging in fishing in the Convention area shall be presumed to have undermined the effectiveness of CCAMLR conservation measures. In the case of transshipment activities involving the participation of a vessel of a Non-Contracting Party sighted inside or outside the Convention area, the presumption that the effectiveness of the CCAMLR conservation measures has been undermined shall apply to any other vessel of Non-Contracting parties which was engaged in those activities with that vessel.

2. Member States shall transmit to the CCAMLR without delay reports of any such sightings, with a copy to the Commission.

([1]) OJ L 145, 31.5.2001, p. 1.

3. A Member State which observes the vessel of a Non-Contracting Party shall seek to inform it that it has been observed engaging in fishing activities in the Convention area and, consequently, that it is presumed to have undermined the objective of the Convention, and also that this information will be notified to all Contracting Parties to the Convention and to the vessel's flag State.

4. Detailed rules for the application of this Article shall be adopted in accordance with the procedure laid down in Article 31(2).

Article 28

Prohibition of transshipment

Community fishing vessels shall not receive transshipments of fish from a non-Contracting Party vessel which has been sighted and reported as having engaged in fishing activities in the Convention area.

Article 29

Inspection in port

1. The master of a non-Contracting Party vessel who wishes to enter a port in a Member State shall notify the competent authorities in that Member State at least 72 hours in advance of the estimated time of arrival there, the origin of the catch on board and, where appropriate, the vessel or vessels from which catches have been transshipped. The vessel may not enter the port unless the competent authorities of the relevant Member State have acknowledged receipt of the required prior notification.

2. Except for cases of *force majeure* or distress, non-Contracting Party vessels may only enter those ports which have been designated by the Member States for the purposes of this Regulation.

On the date on which this Regulation enters into force, Member States shall send the Commission a list of the ports designated for that purpose. They shall notify the Commission of any subsequent changes to that list. The Commission shall publish the list of ports and changes hereto in the C series of the *Official Journal of the European Communities*.

3. Member States shall ensure that each non-Contracting Party vessel as referred to in Article 27(1) which enters a designated port is inspected by their competent authorities and is prevented from landing or transshipping any catch until this inspection has been completed. Inspections shall cover, *inter alia*, the vessel documents, fishing log, fishing gear, species held on board and any other information, such as data from a VMS system, concerning the activities of the vessel in the Convention area.

4. When, in the course of an inspection pursuant to paragraph 3, a non-Contracting Party vessel is found to have species on board subject to CCAMLR conservation measures, the landing and transshipment of those species shall be prohibited, unless the master of the vessel can show that the species were caught outside the Convention area, or in accordance with all the relevant conservation measures and the principles of the Convention.

5. The results of all inspections of vessels of non-Contracting Parties carried out at the Member States' ports and of any action that follows shall be transmitted without delay to the CCAMLR, with a copy to the Commission.

6. Detailed rules for the application of this Article shall be adopted in accordance with the procedure laid down in Article 31(2).

CHAPTER VII

FINAL PROVISIONS

Article 30

Implementation

The measures necessary for implementing Articles 3, 5, 6, 7, 8, 9, 10, 11, 12, 13, 14, 16, 17, 18, 20, 22, 23, 24, 25, 26, 27 and 29 shall be adopted in accordance with the management procedure referred to in Article 31(2).

Article 31

Committee

1. The Commission shall be assisted by the Committee set up under Article 17 of Council Regulation (EEC) No 3760/92 ([1]).

2. Where reference is made to this paragraph, the management procedure provided for in Article 4 of Decision 1999/468/EC shall apply, subject to the provisions of Article 7 thereof.

3. The period referred to in Article 4(3) of Decision 1999/468/EEC shall be [one] month.

Article 32

Repeal

Regulations (EEC) No 3943/1990, (EC) No 66/98, and (EC) No 1721/1999 are hereby repealed.

Article 33

Entry into force

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

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

([1]) OJ L 389, 31.12.1992, p. 1.

Proposal for a Council Decision amending Council Directive 96/49/EC as regards the time-limits within which pressure drums, cylinder racks and tanks for the transport of dangerous goods by rail must comply with it

(2002/C 262 E/19)

COM(2002) 357 final

(Submitted by the Commission on 3 July 2002)

EXPLANATORY MEMORANDUM

1. **Framework Directive 96/49/EC as modified**

The transport of dangerous goods in the EU by rail is mainly covered by the Framework Directive 96/49/EC on transport of dangerous goods by rail.

Article 6.4 of the Directive as modified by Council Directive 2000/62/EC authorises each Member State to maintain provisions of national legislation in force on 31 December 1996 relating to the construction, use and conditions of carriage of new receptacles for gases and new tanks which do not comply with its Annex, until references to standards for the construction and use of tanks and receptacles with the same binding force as the provisions of the Directive are added to its Annex and in any event no later than 30 June 2001 with the requirement that this date shall be put back for receptacles and tanks for which there are no detailed technical requirements or for which no sufficient references to the appropriate European standards have been added to the Annex. The receptacles and tanks concerned and the latest date for the application of the Directive as regards those receptacles and tanks shall be determined in accordance with the procedure laid down in Article 9 (comitology procedure with the regulatory Committee on transport of dangerous goods).

This derogation is valid only in national transport and it is currently used by two Member States.

2. **Parallel requirements in Council Directive 1999/36/EC on transportable pressure equipment**

These receptacles and part of the tanks (pressurised tanks) are also subject to Directive 1999/36/EC on transportable pressure equipment. This Directive, which is merely a Directive on free movement of goods, has the same criteria on the starting date of its application: the Annex to the Framework Directive should contain either sufficient detailed technical requirements or sufficient references to the appropriate European standards on transportable pressure equipment. On this Directive the date of application concerning some types of receptacles (pressure drums and cylinder racks) and all pressurised tanks was deferred to 1 July 2003 using the same comitology procedure (this specific Directive has the same regulatory Committee as the Framework Directive), as it was considered that the Annex did not contain sufficient detailed technical requirements or sufficient references to the appropriate European standards. This opinion of the Committee was given on 19.7.2000 and the corresponding Commission Decision deferring for certain transportable pressure equipment the date of implementation of Council Directive 1999/36/CE was adopted on 25 January 2001 ([1]).

3. **Comparison of the Framework Directive with the Directive on transportable pressure equipment concerning the deferral of dates of application**

It should be noted that deferring the dates of application in the Framework Directive and in the Transportable Pressure Equipment Directive has different consequences. Deferring dates in Article 6.4 of the Framework Directive gives in fact more time to the Member States concerned to use in their national transport equipment that is not in conformity with the Framework Directive, but deferring the dates in the Transportable Pressure Equipment Directive ensures that equipment that has a Community certification mark (π) and that has the guarantee not only for free transport (covered already by the Framework Directive) but most importantly for free putting into the market, is certified using harmonised requirements.

([1]) OJ L 39, 9.2.2001, p. 43.

4. **The Commission proposal and the decision of the regulatory Committee on transport of dangerous goods**

Taking into account the same background facts and the obligation in the Framework Directive to initiate the procedure, the Commission prepared a draft Decision in order to defer the date of application according to Article 6.4 of the Framework Directive to 1 July 2003. This question was first discussed at the Committee meeting on 27 November 2001 with only one Member State opposing such an approach. Therefore the Commission put the question for vote in the Committee meeting of 7 March 2002. During the discussion before the vote Member States became very critical on this issue. The Commission proposal received only 13 votes in favour and was thus rejected by the Committee.

5. **The proposal submitted to the Council**

As the Committee did not deliver a favourable opinion on the Commission proposal and as the Commission has a legal obligation to propose the deferral of this date taking into account the lack of detailed technical specification or sufficient references to European Standards in the Annex of the Framework Directive, the Commission is now submitting this proposal to the Council.

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty establishing the European Community,

Having regard to Council Directive 96/49/EC of 23 July 1996 on the approximation of the laws of the Member States with regard to the transport of dangerous goods by rail ([1]), as last amended by Commission Directive 2001/6/EC ([2]), and in particular Article 6(4) third subparagraph thereof,

Whereas:

(1) The European standards laying down detailed technical specifications relating to the construction, use and conditions of carriage of pressure drums, cylinder racks and tanks for the transport of dangerous goods by rail have not yet been added to the Annex to Directive 96/49/EC, since standardisation of the CEN on them is not yet complete.

(2) It is therefore necessary to defer the deadlines, fixed in Article 6(4) of Directive 96/49/EC, by which such pressure drums, cylinder racks and tanks must comply with Directive 96/49/EC.

(3) Directive 96/49/EC should therefore be amended accordingly.

(4) In order to avoid any legal uncertainty this decision should apply from 1 July 2001,

HAS ADOPTED THIS DECISION:

Article 1

In Article 6(4) of Directive 96/49/EC the first and second subparagraphs are replaced by the following:

‘A Member State may maintain national provisions in force on 31 December 1996 relating to the construction, use and conditions of carriage of new tanks, and new pressure drums and cylinder racks as defined in Class 2 of the Annex, which differ from the provisions of that Annex until references to standards for the construction and use of tanks, pressure drums and cylinder racks are added to the Annex, with the same binding force as the provisions therein, but in any event no later than 30 June 2003. Pressure drums, cylinder racks and tanks constructed before 1 July 2003 and other receptacles constructed before 1 July 2001 and maintained to the required safety levels may continue to be used under the original conditions.

The dates 30 June 2003 and 1 July 2003 shall be put back for pressure drums, cylinder racks and tanks for which there are no detailed technical requirements or for which no sufficient references to appropriate European standards have been added to the Annex.’

Article 2

This Decision shall apply from 1 July 2001.

Article 3

This Decision is addressed to the Member States.

([1]) OJ L 235, 17.9.1996, p. 25.

([2]) OJ L 30, 1.2.2001, p. 42.

Proposal for a Council Decision amending Council Directive 94/55/EC as regards the time-limits within which pressure drums, cylinder racks and tanks for the transport of dangerous goods by road must comply with it

(2002/C 262 E/20)

COM(2002) 358 final

(Submitted by the Commission on 3 July 2002)

EXPLANATORY MEMORANDUM

1. Framework Directive 94/55/EC as modified

The transport of dangerous goods in the EU by road is mainly covered by the Framework Directive 94/55/EC on transport of dangerous goods by road.

Article 6.4 of the Directive as modified by Council Directive 2000/61/EC authorises each Member State to maintain provisions of national legislation in force on 31 December 1996 relating to the construction, use and conditions of carriage of new receptacles for gases and new tanks which do not comply with its Annexes, until references to standards for the construction and use of tanks and receptacles with the same binding force as the provisions of the Directive are added to its Annexes and in any event no later than 30 June 2001 with the requirement that this date shall be put back for receptacles and tanks for which there are no detailed technical requirements or for which no sufficient references to the appropriate European standards have been added to the Annexes. The receptacles and tanks concerned and the latest date for the application of the Directive as regards those receptacles and tanks shall be determined in accordance with the procedure laid down in Article 9 (comitology procedure with the regulatory Committee on transport of dangerous goods).

This derogation is valid only in national transport and it is currently used by two Member States.

2. Parallel requirements in Council Directive 1999/36/EC on transportable pressure equipment

These receptacles and part of the tanks (pressurised tanks) are also subject to Directive 1999/36/EC on transportable pressure equipment. This Directive, which is merely a Directive on free movement of goods, has the same criteria on the starting date of its application: the Annexes to the Framework Directive should contain either sufficient detailed technical requirements or sufficient references to the appropriate European standards on transportable pressure equipment. On this Directive the date of application concerning some types of receptacles (pressure drums and cylinder racks) and all pressurised tanks was deferred to 1 July 2003 using the same comitology procedure (this specific Directive has the same regulatory Committee as the Framework Directive), as it was considered that the Annexes did not contain sufficient detailed technical requirements or sufficient references to the appropriate European standards. This opinion of the Committee was given on 19 July 2000 and the corresponding Commission Decision deferring for certain transportable pressure equipment the date of implementation of Council Directive 1999/36/CE was adopted on 25 January 2001 [1].

3. Comparison of the Framework Directive with the Directive on transportable pressure equipment concerning the deferral of dates of application

It should be noted that deferring the dates of application in the Framework Directive and in the transportable pressure equipment directive has different consequences. Deferring dates in Article 6.4 of the Framework Directives gives in fact more time to the Member States concerned to use in their national transport equipment that is not in conformity with the Framework Directive, but deferring the dates in the transportable pressure equipment directive ensures that equipment that has a Community certification mark (π) and that has the guarantee not only for free transport (covered already by the Framework Directive) but most importantly for free putting into the market, is certified using harmonised requirements.

(1) OJ L 39, 9.2.2001, p. 43.

4. **The Commission proposal and the decision of the regulatory Committee on transport of dangerous goods**

Taking into account the same background facts and the obligation in the Framework Directive to initiate the procedure, the Commission prepared a draft Decision in order to defer the date of application according to Article 6.4 of the Framework Directive to 1 July 2003. This question was first discussed at the Committee meeting on 27 November 2001 with only one Member State opposing such an approach. Therefore the Commission put the question for vote in the Committee meeting of 7 March 2002. During the discussion before the vote Member States became very critical on this issue. The Commission proposal received only 13 votes in favour and was thus rejected by the Committee.

5. **The proposal submitted to the Council**

As the Committee did not deliver a favourable opinion on the Commission proposal and as the Commission has a legal obligation to propose the deferral of this date taking into account the lack of detailed technical specification or sufficient references to European Standards in the Annexes of the Framework Directive, the Commission is now submitting this proposal to the Council.

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty establishing the European Community,

Having regard to Council Directive 94/55/EC of 21 November 1994 on the approximation of the laws of the Member States with regard to the transport of dangerous goods by road ([1]), as last amended by Commission Directive 2001/7/EC ([2]), and in particular Article 6(4) third subparagraph thereof,

Whereas:

(1) The European standards laying down detailed technical specifications relating to the construction, use and conditions of carriage of pressure drums, cylinder racks and tanks for the transport of dangerous goods by road have not yet been added to Annexes A and B to Directive 94/55/EC since standardisation of the CEN on them is not yet complete.

(2) It is therefore necessary to defer the deadlines, fixed in Article 6(4) of Directive 94/55/EC, by which such pressure drums, cylinder racks and tanks must comply with Directive 94/55/EC.

(3) Directive 94/55/EC should therefore be amended accordingly.

(4) In order to avoid any legal uncertainty this decision should apply from 1 July 2001,

HAS ADOPTED THIS DECISION:

Article 1

The first subparagraph of Article 6(4) of Directive 94/55/EC is replaced by the following:

> 'Each Member State may maintain its national provisions in force on 31 December 1996 relating to the construction, use and conditions of carriage of new pressure drums and cylinder racks within the meaning of the special provision referred to in paragraph 4 of Annex C and new tanks which do not comply with Annexes A and B, until references to standards for the construction and use of tanks, pressure drums and cylinder racks with the same binding force as the provisions of this Directive are added to Annexes A and B and in any event no later than 30 June 2003. Pressure drums, cylinder racks and tanks constructed before 1 July 2003 and other receptacles constructed before 1 July 2001 and maintained to the required safety levels may continue to be used under the original conditions.'

Article 2

This Decision shall apply from 1 July 2001.

Article 3

This Decision is addressed to the Member States.

([1]) OJ L 319, 12.12.1994, p. 7.

([2]) OJ L 30, 1.2.2001, p. 43.

Proposal for a Council Decision establishing guidance notes supplementing Annex VII to Directive 2001/18/EC of the European Parliament and of the Council on the deliberate release into the environment of genetically modified organisms and repealing Council Directive 90/220/EEC

(2002/C 262 E/21)

COM(2002) 359 final

(Submitted by the Commission on 4 July 2002)

EXPLANATORY MEMORANDUM

1. Directive 2001/18/EC introduces an obligation for notifiers to implement monitoring plans in order to trace and identify any direct or indirect, immediate, delayed or unforeseen effects on human health or the environment of GMOs as or in products after they have been placed on the market.

2. Annex VII to the Directive describes in general terms the objective to be attained and the general principles to be followed in designing the plan referred to in Articles 13(2), 19(3) and 20 of the aforementioned Directive. The first paragraph stipulates that the Annex must be supplemented by guidance notes to be drawn up in accordance with the procedure laid down in Article 30.

3. A draft of the measures to be taken has accordingly been submitted for opinion to the committee set up under Article 30 of the Directive. This draft supplements the information provided in Annex VII and:

   — expands on the monitoring objectives;

   — expands on the general principles for monitoring;

   — provides an outline for a general framework for the development of appropriate post-marketing monitoring plans.

4. The committee has not delivered an opinion on the proposal. In such a case, Article 30 stipulates that the Commission must forthwith propose to the Council the measures to be adopted and inform the European Parliament thereof. The Council must then act by qualified majority.

5. If, by the expiry of the time limit, the Council has not adopted the proposed implementing measures or has not indicated its opposition to the proposed implementing measures, they shall be adopted by the Commission.

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty establishing the European Community,

Having regard to Directive 2001/18/EC of the European Parliament and of the Council ([1]) of 12 March 2001 on the deliberate release into the environment of genetically modified organisms and repealing Directive 90/220/EEC, and in particular the first paragraph of Annex VII thereto,

Having regard to the proposal from the Commission,

Whereas:

(1) Directive 2001/18/EC stipulates that, before a genetically modified organism (hereinafter referred to as GMO) as or in products is placed on the market, a notification must be submitted to the competent authority of the Member State where such a GMO is to be placed on the market for the first time.

(2) According to Directive 2001/18/EC, the notifier must ensure that monitoring and reporting on the deliberate release of GMOs are carried out in accordance with the conditions specified in the authorisation for the placing on the market of a GMO pursuant to Articles 13(2), 19(3) and 20 of that Directive. Therefore, such notification must contain a plan for monitoring, including a proposal for the time-period of the monitoring plan, in accordance with Annex VII to Directive 2001/18/EC.

(3) Annex VII to Directive 2001/18/EC should be supplemented by notes providing detailed guidance on the objectives, general principles and design of the monitoring plan referred to in that Annex.

(4) The committee set up under Article 30(2) of Directive 2001/18/EC was consulted on 12 June 2002 and has not delivered an opinion on the Commission's proposal for a Decision,

HAS ADOPTED THIS DECISION:

Article 1

The guidance notes set out in the Annex to this Decision shall be used as a supplement to Annex VII of Directive 2001/18/EC.

Article 2

This Decision is addressed to the Member States.

([1]) OJ L 106, 17.4.2001, p. 1.

ANNEX

INTRODUCTION

Directive 2001/18/EC introduces an obligation for notifiers to implement monitoring plans in order to trace and identify any direct or indirect, immediate, delayed or unforeseen effects on human health or the environment of GMOs as or in products after they have been placed on the market.

Notifiers are required, under Article 13(2)(e) of that Directive, to submit as part of the notification for the placing on the market of a GMO, a plan for monitoring in accordance with Annex VII to that Directive. This should include a proposal for the time-period of the monitoring plan, which may be different from the proposed period for the consent. Annex VII describes in general terms the objective to be achieved and the general principles to be followed to design a monitoring plan referred to in Articles 13(2), 19(3) and 20.

This guidance note supplements the information provided in Annex VII, and in the context of the Directive:

— expands on the objectives for monitoring,

— expands on the general principles for monitoring,

— provides an outline for a general framework for the development of appropriate post-market monitoring plans.

Following the placing on the market of a GMO, the notifier, under Article 20(1) of the Directive, has a legal obligation to ensure that monitoring and reporting are carried out according to the conditions specified in the consent. Article 19(3)(f) details that the written consent should, in all cases, explicitly specify monitoring requirements in accordance with Annex VII, including obligations to report to the Commission and competent authorities. In addition, to ensure transparency in accordance with Article 20(4), the results of the monitoring should also be made publicly available.

Monitoring plans for GMOs to be placed on the market will clearly need to be developed on a case-by-case basis taking account of the environmental risk assessment, the modified characteristics specific to the GMO in question, their intended use and the receiving environment. This guidance note makes reference to a general framework but does not attempt to provide explicit details for the development of monitoring plans to cover all GMOs. However, this framework does not preclude use of more specific, additional information or guidance with regard to specific traits or GMOs, which clearly could be considered when developing monitoring plans, on a case-by-case basis, for individual GMOs.

A. OBJECTIVES

Before a GMO or a combination of GMOs as or in products is placed on the market, a notification must be submitted to the competent authority of the Member State where the GMO is to be placed on the market for the first time. This notification should, in accordance with Article 13(2), contain a technical dossier of information including a full environmental risk assessment.

The environmental risk assessment aims, on a case-by-case basis, to identify and evaluate potential adverse effects of the GMO, either direct and indirect, immediate or delayed, on human health and the environment arising from its placing on the market. This assessment may also need to take account of potential long-term effects associated with the interaction with other organisms and the environment. The evaluation of such potential adverse effects should be founded on common methodology based on independently verifiable scientific evidence.

Individual GMOs are likely to differ considerably in terms of the inherent characteristics of the modified species as well as the specific modification and resultant characteristics. These characteristics will largely determine the nature of any potential effects arising from the placing on the market of a GMO.

It is also necessary to confirm that the pre-market risk assessment for a GMO is accurate, following its placing on the market. Moreover, the possibility of the occurrence of potential adverse effects that were not foreseen in the evaluation cannot be ignored. Post-market monitoring, as required under Article 20 of the Directive, is foreseen for this purpose.

Against this background, it is foreseen that the objectives of post-market monitoring, as detailed under Annex VII, are to:

— confirm that any assumptions regarding the occurrence and impact of potential adverse effects of the GMO or its use in the environmental risk assessment are correct, and

— identify the occurrence of adverse effects of the GMO or its use on human health or the environment which were not anticipated in the environmental risk assessment.

B. GENERAL PRINCIPLES

Monitoring as detailed in Articles 13, 19 and 20 of Directive 2001/18/EC and in the context of this guidance note refers to post-market monitoring, which takes place after consent for the placing of a GMO on the market has been granted.

Article 13(2)(e) of the Directive requires notifiers to submit, as part of their notifications, a plan for monitoring in accordance with Annex VII.

The consent should, under Article 19(3)(f), specify the time period of the monitoring plan and, where appropriate, any obligations on persons selling the product or any user of it, *inter alia*, in the case of cultivation, concerning a level of information deemed appropriate on their location.

On the basis of reports submitted by notifiers, in accordance with the consent and the framework for the monitoring plan specified, the competent authority receiving the original notification may, as detailed in Article 20(1), adapt the monitoring plan after the first monitoring period.

Planning is essential with respect to all types of monitoring and when developing monitoring plans, both case-specific monitoring and general surveillance should be considered. In addition, monitoring of potential adverse cumulative long-term effects should be considered as a compulsory part of the monitoring plan.

Case-specific monitoring should, when included in the monitoring plan, focus on potential effects arising from the placing on the market of a GMO that has been highlighted as a result of the conclusions and assumptions of the environmental risk assessment. However, whilst it is possible to predict that certain effects may occur, on the basis of risk assessment and available scientific information, it is considerably more difficult to plan for potential effects or variables that cannot be foreseen or predicted. It may, however, be possible through appropriate planning of monitoring and surveillance plans to optimise the chances for early detection of such effects. The design of the monitoring plan should, therefore incorporate general surveillance for unanticipated or unforeseen adverse effects.

The cost-effectiveness of case-specific monitoring and general surveillance should be taken into account in this context.

Member States may themselves also assist with monitoring via the general duty under Article 4(5), which requires that the competent authority organises inspections and other control measures as appropriate, to ensure compliance with the Directive. Indeed, Member States are entitled, in accordance with the Treaty, to take further measures for monitoring and inspection, for example by national authorities, of GMOs as or in products placed on the market. However, it should be recognised that such action is not a substitute for the monitoring plan for which notifiers are responsible (although, with the consent of the relevant parties, may form part of it).

Interpretation of the data collected via monitoring should take account of existing environmental conditions and activities in order to determine an appropriate baseline. General surveillance and environmental monitoring programmes in general may similarly assist in this context. Where unexpected changes in the environment are observed, further risk assessment may need to be considered to establish whether they have arisen as a consequence of the placing on the market of the GMO or as a result of other factors. Against this background, measures necessary to protect human health and the environment may also have to be considered.

C. DESIGN OF MONITORING PLAN

The design of monitoring plans should be founded on a framework comprising three key sections, namely:

1. Monitoring strategy

2. Monitoring methodology

3. Analysis, reporting, review.

1. **Monitoring strategy**

The monitoring strategy importantly requires identification of the potential effects that may arise from the placing on the market of a GMO, the degree to which they need to be monitored and an appropriate approach(s) and time-scale(s) over which to monitor.

In the first instance, the likelihood of potential direct, indirect, immediate or delayed adverse effects arising from the GMO should be considered in line with its intended use and the receiving environment.

Direct effects refer to primary effects on human health or the environment that are a result of the GMO itself and which do not occur through a causal chain of events. For example, when considering a crop modified for resistance against a specific insect, direct effects may include death and changes in the population of both target and non-target insects that arise as a result of the toxin produced by the GMO.

Indirect effects refer to effects on human health or the environment occurring through a causal chain of events. For example, in the above case indirect effects may arise where a reduction in the population of target insects impacts on populations of other organisms that normally feed on these insects.

Indirect effects may involve interactions between a number of organisms and the environment making it more difficult to predict any potential effect. Observations of indirect effects are also likely to be delayed. These factors must, however, be considered as part of the strategy.

Immediate effects refer to effects on human health or the environment that are observed during the period of the release of the GMO. Immediate effects may be direct or indirect.

Delayed effects refer to effects on human health or the environment which may not be observed during the period of the release of the GMO, but become apparent as a direct or indirect effect either at a later stage or after termination of the release. The build-up of resistance by insects to the Bt-toxin through continued exposure is an example of a delayed effect.

Immediate and delayed effects may themselves be either direct or indirect but imply a time-scale for change. Direct effects are more likely to appear in the immediate or short term at a level that can be detected. Indirect effects may take a longer time period to manifest but nevertheless may need to be taken into account

It is very difficult if not impossible to predict the appearance of potential unforeseen or unanticipated effects that were not highlighted in the risk assessment. General surveillance for potential unforeseen or unanticipated effects should, therefore, be considered as a part of the monitoring strategy.

1.1. **Risk assessment**

The monitoring strategy should identify how evaluations obtained from the risk assessment are to be confirmed in line with the use of that GMO and the receiving environment. This should take account of the conclusions and assumptions from the risk assessment, based on scientific evaluation and the recommendations of expert committees. In addition, issues arising from the risk assessment that are subject to a degree of uncertainty, for example possible effects that may appear only where releases are of a large-scale, may also be required as part of the monitoring strategy. Reference to the guidance notes to supplement Annex II, on the principles for the environmental risk assessment, of Directive 2001/18/EC should assist in this respect.

1.2. **Background information**

Background information pertaining to the GMO in question, including data and information from experimental releases, scientific publications and relevant comparable evidence from other releases, may all be used in the planning and design of the monitoring plan. In particular, data gained through available risk research studies and monitoring of experimental releases will importantly assist in this context.

1.3. **Approach**

The approach of the monitoring strategy should be described. In many cases, focus is likely to be placed on primary concerns ('needs to know') and the establishment of a cyclic monitoring process in order to be able to continuously improve the quality of the programme.

The approach should provide the means to detect potential adverse effects at an early stage of manifestation. Early detection of any adverse effects attributable to a GMO will allow for more rapid reassessment and implementation of measures to reduce any consequences to the environment.

The design of monitoring plans for GMOs should be built using a step-by-step approach taking account of existing data and monitoring methodology. A step-by-step approach will in many cases also need to take account of the scale of release. The first step may be founded on evidence from experimental trials with subsequent steps based on large-scale field trials and ultimately to surveys on commercial plots. Experience and information gained through the monitoring of experimental releases of GMOs is, therefore, likely to be useful in designing the post-marketing monitoring regime required for the placing on the market of GMOs.

Existing observation programmes could also be adapted to the needs of monitoring GMOs as a means to ensure comparability and to limit the expenditure of resources in developing the approach. This would include existing environment observation programmes in the field of agriculture, food surveys, nature conservation, soil observation and veterinary surveys. Inclusion of such programmes as part of the monitoring plan would firstly require that notifiers gain an appropriate agreement with the persons or organisations, including national authorities, conducting such work.

This section focuses on case-specific monitoring and general surveillance in accordance with the two general objectives under Annex VII although consideration of other types of monitoring system is not precluded.

1.3.1. **Case-specific monitoring**

Case-specific monitoring serves to confirm that any assumption, in the environmental risk assessment, regarding potential adverse effects arising from a GMO and its use are correct.

The approach should:

— focus on all the potential effects on human health and the environment identified in the risk assessment, and

— define a specified time period in which to obtain results.

The first step in developing a monitoring plan for case-specific monitoring is to determine the case-specific objectives of the monitoring strategy. This includes determining which assumptions regarding the occurrence and impact of potential adverse effects of the GMO or its use were made in the environmental risk assessment and should to be confirmed by the case-specific monitoring. Where the conclusions of the risk assessment identifies an absence of risk or negligible risk, however, then case-specific monitoring may not be required.

Potential adverse effects that are identified in the environmental risk assessment should only be included in the monitoring plan on the basis that monitoring could contribute to the confirmation or rejection of the assumptions associated with these effects.

If the intended use of a GMO includes cultivation, then consideration may have to be given to the monitoring of potential risks arising from pollen transfer, dissemination and persistence of these GMOs. The degree to which these phenomena are likely to occur will also be dependent on the scale of this use and the receiving environment including the proximity to and scale of production of sexually compatible conventional crop species and wild relatives.

Conversely, potential environmental risks arising from GMOs approved only for import and processing will likely often be assessed as extremely limited given that they will not be intentionally introduced into the environment and that they are unlikely to disseminate.

Potential effects on human health or the environment arising from the release or placing on the market of a GMO will firstly depend on the inherent nature of a GMO and its specific genetic modification. For example, potential effects arising from transfer of pollen from genetically modified crops to non-GM crops or related wild-type plants will, in the first instance be largely dependent on whether the genetically modified crop is out-crossing or self-pollinating.

However, any subsequent effects for example, the potential development of insect resistance to the Bt-toxin will only be linked to GMOs modified to express this specific toxin. This would not be the case for GMOs modified for herbicide tolerance alone, as these GMOs do not contain a Bt-toxin gene. The presence of wild relatives may also need to be considered in this context.

Similarly, it would only be relevant to monitor the potential transfer of antibiotic resistance genes and the possible consequences with respect to GMOs that include antibiotic marker genes as part of the modification.

After identification of the objectives on the basis of potential adverse effects, the next step should be to identify the parameters that need to be measured in order to achieve these objectives. Parameters as well as the methods used to measure and evaluate them must be valid and fit-for-purpose.

1.3.2. **General surveillance**

General surveillance is largely based on routine observation ('look — see' approach) and should be used to identify the occurrence of unforeseen adverse effects of the GMO or its use for human health and the environment that were not predicted in the risk assessment. This is likely to involve observation of phenotypic characteristics but more detailed analyses are not precluded.

In contrast to case-specific monitoring, general surveillance should:

— seek to identify and record any indirect, delayed and/or cumulative adverse effects that have not been anticipated in the risk assessment,

— be carried out over a longer time period and possibly a wider area.

The type of general surveillance, including locations, areas and any parameters to be measured, will largely depend on the type of unanticipated adverse effect being surveyed. For example, any unanticipated adverse effects on the cultivated ecosystem such as changes in bio-diversity, cumulative environmental impacts from multiple releases and interactions may require a different approach to general surveillance of other effects arising from gene transfer.

General surveillance could, where compatible, make use of established routine surveillance practises such as monitoring of agricultural crops, plant protection, veterinary and medical products as well as ecological monitoring, environmental observation and nature conservation programmes. The monitoring plan may also provide details as to how relevant information collected through established routine surveillance practices conducted by third parties will be retrieved by, or made available to, the consent holder.

If established routine surveillance practise is used in the general surveillance, this practise should be described as well as the changes in the practise needed to fulfil a relevant general surveillance.

1.4. **Baselines**

Determination of the baseline status of the receiving environment is a pre-requisite for the identification and evaluation of changes observed via monitoring. In short, the baseline serves as a point of reference against which any effects arising from the placing on the market of a GMO can be compared. This baseline should, therefore, be determined prior to attempting to detect and monitor any such effects. Parallel monitoring of 'GMO areas' and comparable 'non-GMO reference areas' may provide an alternative and may be important where environments are highly dynamic.

Reliable information about the status of the receiving environment, on the basis of adequate environmental observation systems, may, therefore, be required prior to implementation of monitoring programmes and environmental policy actions. Environment observation programmes are designed to take proven or suspected and plausible ecosystem relationships into account and may assist in the determination of the:

— status of the environment and changes therein,

— causes of such changes, and

— expected development of the environment.

Examples of indicators of the status of the receiving environment may include animals, plants and micro-organisms from different organism groups and ecosystems. Relevant indicators may be considered on the basis of the characteristics of the GMO in question and the parameters to be monitored. Sexual compatibility of other organisms with the GMO may also be relevant in this context. For a particular indicator species, a number of possible measurement parameters or fitness variables will exist, including the likes of numbers, growth rate, biomass, reproductive effort, population rate of increase/decrease and genetic diversity.

It may also be appropriate to consider baselines in relation to changes in management practice resulting from the use of GMOs. This could include changes in pesticide usage with respect to the cultivation of crop species modified for tolerance to herbicides and resistance to insects. It may also be appropriate when considering the monitoring plan for herbicide-tolerant genetically modified crops, to consider herbicide use for conventional crops as part of an appropriate baseline.

1.5. **Time-period**

Monitoring should be carried out over a time period of sufficient length to detect not only immediate potential effects, where appropriate, but also delayed effects which have been identified in the environmental risk assessment. Consideration should also be given to the interplay between the estimated level of risk and the duration of the release. A prolonged period of release may increase the risk of cumulative effects. The non-appearance of immediate effects over a prolonged period, on the other hand, may allow monitoring to focus on delayed and indirect effects. It should also be considered whether it is necessary to extend the monitoring plan beyond the period of the consent. This may be the case, for example, where the persistence of GMOs in the environment has the potential to be significant.

The proposed time-period of the monitoring plan should be indicated, including an outline of the likely frequency of visits/inspections and any intervals for review of the monitoring plan. This should take account of the likely appearance of any potential effects as highlighted in the risk assessment. For example, consideration should be given to any adverse effect resulting from the dissemination, reproduction and persistence/survival of a GMO in the environment following its placing on the market. This may be a matter of days or months for genetically modified microbes released in bio-remediation programmes but could extend to a number of years where certain crop species are concerned. The likelihood of dissemination and persistence of the modified sequences themselves should also be considered in terms of crosses with sexually compatible species.

The planning of inspections will largely be dependent on the type of effect to be monitored. For example, effects arising from pollen transfer will only be visible following flowering although it would be pertinent to visit a site prior to flowering to establish the extent to which sexually compatible species are present in the vicinity. Similarly, monitoring for the appearance of volunteers in subsequent growing seasons will be linked to the time of seed shed and persistence and germination of the subsequent seed bank.

Prior visits may also be necessary, as appropriate, prior to the onset of monitoring in order to establish relevant baselines.

Monitoring plans and their time-periods should not be fixed indefinitely but reviewed and amended in light of results obtained during the monitoring programme.

1.6. **Assigning responsibilities**

Ultimately, it is the notifier/consent holder who is responsible, under the Directive, for ensuring that a monitoring plan is included in the notification, put in place and appropriately implemented.

In the first instance, responsibility is placed on notifiers to submit as part of their notification, under Article 13(2)(e) of the Directive, a plan for monitoring in accordance with Annex VII. The suitability of the proposed monitoring plan is one of the criteria by which any application for the placing on the market of a GMO should be judged. The plan should be judged solely on the basis of whether or not it is adequate, which requires fulfilment of the requirements laid down in the Directive itself as opposed to strict alignment with this guidance note.

Article 20(1) subsequently requires that following the placing on the market of a GMO as or in a product, the notifier shall ensure that monitoring and reporting on it are carried out according to the conditions specified in the consent. This should be achieved through appropriate implementation of the monitoring plan.

Responsibilities for each step of the monitoring plan should, therefore, be clearly assigned in the notification. This would apply to both case-specific monitoring and also general surveillance as part of the monitoring plan. Whilst the notifier retains responsibility for ensuring that monitoring is carried out, this does not preclude that third parties such as consultants and users could be involved in the monitoring by carrying out various tasks the monitoring plan requires. Where third parties are employed or contracted to conduct monitoring studies, the structure of their involvement should be detailed. Consent holders should additionally ensure that appropriate systems are in place to ensure transmission of relevant information between concerned parties, particularly with respect to the identification of any adverse effects.

It should similarly be noted that it is not precluded that Member States carry out additional monitoring in the form of case-specific monitoring or general surveillance. This should not, however, be considered a substitute for the monitoring plan, which remains under the responsibility of the notifier for implementation (although, with the consent of relevant parties, may form part of it).

1.7. **Existing systems**

It may be possible to extend existing monitoring or general surveillance systems to address potential adverse effects arising from the placing on the market of GMOs. These systems may include observation programmes in the field of agriculture, food surveys, nature conservation, soil observation and veterinary surveys.

For example, seed production systems that follow OECD certification rules and therefore include routine inspections of fields and surrounding areas could be adapted to on-field monitoring for specified parameters.

Monitoring and surveillance of conventional commercial crops is already carried out, as a matter of course in Member States, with regard to calculation of fertiliser application as well as pest, disease and weed control. This type of monitoring and surveillance is conducted on a regular basis throughout the growing season by consultants selling the relevant agronomic products and the growers themselves.

It may, therefore, be possible to attach a similar service to sales of genetically modified seed, where representatives of the company, or contracted consultants, to provide at least some form of general surveillance. Instruction concerning surveillance and monitoring could be distributed to growers purchasing genetically modified seed stocks and contractual agreements could be formulated as a condition of sale or use.

It is certainly feasible that growers or agronomic consultants could conduct surveys of major unforeseen changes or effects such as dissemination and establishment of volunteer plants in adjacent areas if clear instructions are provided. Under these circumstances, it is foreseen that monitoring and surveillance for adverse effects could be incorporated into routine practices for determining agronomic inputs for pest and weed control.

2. **Monitoring methodology**

This section provides guidance as to the types of parameters and elements that may need to be identified and monitored as part of a monitoring programme as well as the means to conduct such monitoring, including areas to monitor and frequency of monitoring.

2.1. **Monitoring parameters/elements**

Firstly, it will be necessary to identify the relevant parameters/elements to be monitored with appropriate justification for their selection. This will largely be dependent upon the conclusions of the environmental risk assessment. Decisions as to the parameters or elements to be monitored must be taken on a case-by-case basis in line with the modified characteristics of the GMO in question. This would include the likes of monitoring of intended effects on target organisms arising from the modification, an example of which would be monitoring of corn borer populations with respect to the cultivation of Bt-maize varieties.

However, non-specific elements may also need to be considered as part of the monitoring plan and examples of such elements are presented as follows although others are not precluded.

— Effects on non-target organisms arising from the modification, including development of resistance in wild relatives or pest organisms, change in the host range or in the dispersal of pest organisms and viruses, development of new viruses

— Dispersal, establishment and persistence into non-target environments or eco-systems

— Out-crossing/breeding (e.g. occurrence, means and rates of out-crossing/breeding), with sexually compatible wild relatives in natural populations

— Unintended changes in the basic behaviour of the organism, for example, changes in reproduction, number of progeny, growth behaviour and survival ability of the seeds

— Changes in bio-diversity (e.g. in number or composition of species).

2.2. **Areas/samples**

The monitoring plan may include details as to where the monitoring will be carried out and over what area. This may be at the level of individual Member States, geographical regions, individual sites, plots or any other area(s) deemed appropriate.

The areas and/or samples to be monitored with respect to possible effects arising from the placing on the market of the GMO should be identified, including those for the purpose of reference or control. Any reference or control areas and/or samples must be sufficiently representative in terms of environment and conditions of use for meaningful conclusions to be drawn. Moreover, any sampling methodology should be scientifically and statistically sound. On this basis, such data can provide important information on the variation of indicators, which will increase the power of the effect detection.

When considering the areas to be monitored with regard to, for example, a genetically modified crop species, its characteristics (both inherent and modified) as well as its reproduction and dissemination and the types of ecosystems that may be affected could be considered in determining the habitats selected for monitoring. Relevant areas to monitor would include selected agricultural fields where the crop is commercially grown as well as surrounding habitats.

It may also be necessary to extend monitoring/surveillance to adjacent or neighbouring cultivated and non-cultivated areas, post-harvest surveillance areas for volunteer plants and protected areas. Certain types of habitats, such as disturbed areas and species-rich plant communities, are more prone to invasion than others. Disturbed areas with low vegetation and high abundance of herbs and grasses are particularly suitable for the purpose of monitoring. Firstly, they are widely distributed and often found close to more intensively cultivated agricultural areas. Secondly, these areas are often typical of roadsides, ditches and edges of fields where accidental loss and dispersal of seeds is most likely to occur in the first instance.

Monitoring for the possibility of transfer of genetic material to sexually compatible organic and conventional crops may also be considered. This will require evaluation of the extent to which such crops are grown in adjacent or neighbouring areas.

2.3. **Inspections**

The monitoring plan should indicate the likely frequency of inspections. This may include a timetable to indicate the timing and number of intended visits to a site. In this respect, as detailed in sections 1.5 and 2.2 above, consideration should importantly be given to the time when potential adverse effects are most likely to appear as well as the area(s) to be monitored.

2.4. **Sampling and analysis**

The methodology to subsequently monitor these parameters/elements should also be clearly identified and outlined, including techniques for sampling and analysis. Standard methodology, as provided for by the likes of European CEN Standards and OECD-methods for monitoring organisms in the environment, should be followed where appropriate and reference to the source of the methodology provided. Methods used for monitoring should be scientifically sound and valid under the experimental conditions in which they are to be applied; therefore consideration should be given to the characteristics of the methods, such as selectivity, specificity, reproducibility, any limitations, detection limits, and the availability of appropriate controls.

The monitoring plan should also indicate how the methodology is expected to be updated, if appropriate, according to the selected monitoring approach/strategy.

Statistical analysis could also be employed when designing the appropriate sampling and testing methodology, in order to determine optimal sample sizes and minimum monitoring periods for the required statistical level of effect detection.

2.5. **Collection and collation of data**

The monitoring plan should, for both case-specific monitoring and general surveillance, identify how, by whom and how often data is to be collected and collated. This may be of particular importance where third parties are employed or contracted to collect data. Notifiers may need to provide standard mechanisms, formats and protocols for data collection and recording as a means to ensure consistency. For example, standardised recording sheets or direct logging or registration of data on standardised 'spread-sheets' via portable computers could be provided. The notifier may also need to detail how the data will be collated, importantly how information is to be retrieved from third parties, such as consultants or users.

Deadlines and intervals for reports detailing the results of the monitoring should also be indicated.

3. **Analysis, reporting, review**

The monitoring plan should indicate how often the data is reviewed and discussed in an overall analysis.

3.1. **Evaluation**

Evaluation of data should, where appropriate, include statistical analysis with appropriate standard error values to enable subsequent decisions to be taken on a sound basis. These will include decisions as to whether evaluations highlighted in the risk assessment are correct. In this respect, correct baselines and/or controls relating to the status of the receiving environment are also paramount for accurate evaluations. Use of statistical analysis should also provide information as to whether the type of methodology, including sampling and testing, is appropriate.

The evaluation of results from monitoring and surveys may reveal whether other parameters should be monitored under the programme. Appropriate responses to any preliminary findings may also need to be examined, in particular, where potential negative impacts on vulnerable habitats and organism groups are suggested.

The interpretation of the data collected by monitoring may need to be considered in the light of other existing environmental conditions and activities. Where changes in the environment are observed, further assessment may be required to establish whether they are a consequence of the GMO or its use, or whether such changes may be the result of environmental factors other than the placing of the GMO on the market. It may be necessary to re-evaluate the baselines used for comparison in this respect.

The monitoring plan should be structured in such a way, that the results of both the case-specific monitoring and general surveillance as well as additional research could clearly be used in the decision-making process for renewal of approval for products.

3.2. **Reporting**

Following the placing on the market of a GMO, the notifier under Article 20(1) of the Directive, has a legal obligation to ensure that monitoring and reporting are carried out according to the conditions specified in the consent. The reports of this monitoring must be submitted to the Commission and the competent authorities of the Member States although no time frame for submission is laid down. This information should also be made publicly available in line with the requirements of Article 20(4) of the Directive. Against this background, notifiers should describe the conditions of reporting in the monitoring plan.

In addition, an indication as to how relevant information collected through any established or routine surveillance practises will be made available to the consent holder and competent authorities should also be provided in the monitoring plan.

Notifiers/consent holders should ensure transparency of the results and measures of the monitoring programmes and the monitoring plan should identify how the gathered information is reported/published. This could for example be achieved via;

— information sheets to users and other stakeholders,

— workshops to present and exchange information with stakeholders,

— archived in-company documents,

— inclusion on company web-sites,

— publication of information in trade and scientific publications.

The provisions of Article 20 of the Directive also relate to reporting. In accordance with Article 20(2), if new information concerning risk becomes available from users or other sources, the notifier is immediately required to take the measures necessary to protect human health and the environment, and inform the competent authority thereof.

In addition, the notifier is also required to revise the information and conditions specified in the notification.

3.3. **Review and adaptation**

Monitoring plans should not be viewed as static. It is fundamental that the monitoring plan and associated methodology is reviewed at appropriate intervals and updated or adapted as necessary.

Article 20(1) of the Directive allows the competent authority receiving the original notification, on the basis of reports submitted by notifiers and in accordance with the consent and the framework for the specified monitoring plan, to adapt the monitoring plan after the first monitoring period. However, implementation of the revised monitoring plan again remains under the responsibility of the notifier.

Reviews should examine the effectiveness and efficiency of data measurements and collection, including sampling and analysis. The review should also evaluate whether the monitoring measures are effective in addressing the evaluations and any questions arising from the risk assessments.

For example, if specific models are used for predictive purposes, a validation based on the data collected and subsequent appraisal may be conducted. Similarly, new developments and progress in sampling and analytic techniques should also be taken into account where appropriate.

Following such reviews, the adjustment of methods, monitoring goals and the monitoring programme may be necessary and should be adapted or upgraded as appropriate.

Proposal for a Council Decision establishing, pursuant to Directive 2001/18/EC of the European Parliament and of the Council, the summary notification information format for notifications concerning the deliberate release into the environment of genetically modified organisms for purposes other than for placing on the market

(2002/C 262 E/22)

COM(2002) 361 final

(Submitted by the Commission on 4 July 2002)

EXPLANATORY MEMORANDUM

1. Under Part B of Directive 2001/18/EC, prior notification must be given to the competent national authority of the planned release of a genetically modified organism (GMO), or of a combination of such organisms, for purposes other than for placing on the market.

2. Within the framework established by Directive 2001/18/EC for the exchange of information between the competent authorities and the Commission, the authority must then send a summary, in accordance with a specific format, of the notification to the Commission, which in turn must forward copies to the other Member States.

3. That format should reflect the need to enable the fullest possible exchange of relevant information, presented in a standardised and easily comprehensible manner, without prejudice to the fact that the information thus provided cannot serve as the basis for an environmental risk assessment.

4. Article 11(1) of the Directive stipulates that the summary notification information format must be drawn up in accordance with the procedure laid down in Article 30. A draft of the measures to be taken has accordingly been submitted for opinion to the committee set up under Article 30 of the Directive.

5. The committee has not delivered an opinion on the proposal. In such a case, Article 30 stipulates that the Commission must forthwith propose to the Council the measures to be adopted and inform the European Parliament thereof. The Council must then act by qualified majority.

6. If, by the expiry of the time limit, the Council has not adopted the proposed implementing measures or has not indicated its opposition to the proposed implementing measures, they shall be adopted by the Commission.

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty establishing the European Community,

Having regard to Directive 2001/18/EC of the European Parliament and of the Council ([1]) of 12 March 2001 on the deliberate release into the environment of genetically modified organisms and repealing Directive 90/220/EEC, and in particular Article 11(1) thereof,

Having regard to the proposal from the Commission,

Whereas:

(1) Under Part B of Directive 2001/18/EC, prior notification must be given to the competent national authority of the planned release of a genetically modified organism (GMO), or of a combination of such organisms, for purposes other than for placing on the market.

(2) Within the framework established by the Directive 2001/18/EC for the exchange of information between the competent authorities and the Commission, the authority must then send a summary, in accordance with a specific format, of the notification to the Commission, which in turn must forward copies to the other Member States.

(3) That format should reflect the need to enable the fullest possible exchange of relevant information, presented in a standardised and easily comprehensible manner, without prejudice to the fact that the information thus provided cannot serve as the basis for an environmental risk assessment.

(4) The committee set up under Article 30(2) of Directive 2001/18/EC was consulted on 12 June 2002 and has not delivered an opinion on the Commission's proposal for a Decision,

HAS ADOPTED THIS DECISION:

Article 1

For the purposes of summarising, for transmission to the Commission, notifications received pursuant to Article 6 of Directive 2001/18/EC, the competent authorities appointed by Member States under that Directive shall use the Summary Notification Information Format set out in the Annex to this Decision.

Article 2

This Decision is addressed to the Member States.

([1]) OJ L 106, 17.4.2001, p. 1.

ANNEX

SUMMARY NOTIFICATION INFORMATION FORMAT FOR THE DELIBERATE RELEASE OF A GMO OR A COMBINATION OF GMOs FOR PURPOSES OTHER THAN FOR PLACING ON THE MARKET

INTRODUCTION

The Summary Notification Information Format for deliberate releases of a GMO or of a combination of GMOs, has been established for the purposes and according to the procedures envisaged by Article 11 of Directive 2001/18/EC.

It is recognised that this Format is not designed to accommodate all the information required for carrying out an environmental risk assessment.

The space provided after each question is not indicative of the depth of the information required for the purposes of the Summary Notification Information Format.

The Summary Notification Information Format consists of a Part 1 and a Part 2.

Part 1 applies to products consisting of or containing genetically modified higher plants. The term 'higher plants' means plants which belong to the taxonomic group Gymnospermae and Angiospermae. Part 1 contains the following sections:

A. General information

B. Information on the genetically modified plant

C. Information relating to the experimental release

D. Summary of the potential environmental impact of the release of the GMPts

E. Brief description of any measures taken for the management of risks

F. Summary of planned field trials designed to gain new data on the environmental and human health impact of the release.

In Part 1 the information entered should, however, adequately reflect (in a condensed form) the information submitted to the competent authority in accordance with Articles 6 and 7 of Directive 2001/18/EC under the conditions specified in the preface to Annex III B.

Part 2 applies to products consisting of or containing genetically modified organisms other than higher plants and contains the following sections:

A. General Information

B. Information relating to the recipient or parental organisms from which the GMO is derived

C. Information relating to the genetic modification

D. Information on the organism(s) from which the insert is derived (donor)

E. Information relating to the genetically modified organism

F. Information relating to the release

G. Interactions of the GMO with the environment and potential impact on the environment

H. Information relating to monitoring

I. Information on post-release and waste treatment

J. Information on emergency response plans.

In Part 2 the information entered should, however, adequately reflect (in a condensed form) the information submitted to the competent authority in accordance with Articles 6 and 7 of Directive 2001/18/EC under the conditions specified in the preface to Annex III A.

PART 1

SUMMARY NOTIFICATION INFORMATION FORMAT FOR THE RELEASE OF GENETICALLY MODIFIED HIGHER PLANTS (ANGIOSPERMAE AND GYMNOSPERMAE)

A. GENERAL INFORMATION

1. **Details of notification**

(a) Notification number
(b) Date of acknowledgement of notification
(c) Title of the project
(d) Proposed period of release

2. **Notifier**

Name of institute or company

3. **Is the same GMPt release planned elsewhere, inside or outside the Community (in conformity with Article 6(1)) by the same notifier?**

Yes ☐	No ☐
If yes, insert the country code(s):	

4. **Has the same GMPt been notified for release elsewhere, inside or outside the Community, by the same notifier?**

Yes ☐	No ☐
If yes, notification number:	

B. INFORMATION ON THE GENETICALLY MODIFIED PLANT

1. **Identity of the recipient or parental plant**

(a) Family name
(b) Genus
(c) Species
(d) Subspecies (if applicable)
(e) Cultivar/breeding line (if applicable)
(f) Common name

2. **Description of the traits and characteristics which have been introduced or modified, including marker genes and previous modifications**

3. **Type of the genetic modification**

(a) Insertion of genetic material
(b) Deletion of genetic material
(c) Base substitution
(d) Cell fusion
(e) Other, please specify

4. **In the case of insertion of genetic material, give the source and intended function of each constituent fragment of the region to be inserted**

5. **In the case of deletion or other modification of genetic material, give information on the function of the deleted or modified sequences**

6. **Brief description of the method used for the genetic modification**

7. **If the recipient or parental plant is a forest tree species, describe ways and extent of dissemination and specific factors affecting dissemination**

C. INFORMATION RELATING TO THE EXPERIMENTAL RELEASE

1. **Purpose of the release (including any relevant information available at this stage) such as agronomic purposes, test of hybridisation, changed survivability or dissemination, test of effects on target or non-target organisms**

2. **Geographical location of the release site**

3. **Size of the site (m^2)**

4. **Relevant data regarding previous releases carried out with the same GM-plant, if any, specifically related to the potential environmental and human health impacts from the release**

D. SUMMARY OF THE POTENTIAL ENVIRONMENTAL IMPACT OF THE RELEASE OF THE GMPTS IN ACCORDANCE WITH ANNEX II, D2 OF DIRECTIVE 2001/18/EC

Note especially if the introduced traits could directly or indirectly confer an increased selective advantage in natural environments; also explain any significant expected environmental benefits

E. BRIEF DESCRIPTION OF ANY MEASURES TAKEN FOR THE MANAGEMENT OF RISKS INCLUDING ISOLATION DESIGNED TO LIMIT DISPERSAL, FOR EXAMPLE MONITORING AND POST-HARVEST MONITORING PROPOSALS

F. SUMMARY OF PLANNED FIELD TRIALS DESIGNED TO GAIN NEW DATA ON THE ENVIRONMENTAL AND HUMAN HEALTH IMPACT OF THE RELEASE (WHERE APPROPRIATE)

PART 2

SUMMARY NOTIFICATION INFORMATION FORMAT FOR THE RELEASE OF GENETICALLY MODIFIED ORGANISMS OTHER THAN HIGHER PLANTS

in accordance with Article 11 of Directive 2001/18/EC

A. GENERAL INFORMATION

1. **Details of notification**

(a) Member State of notification
(b) Notification number
(c) Date of acknowledgement of notification
(d) Title of the project
(e) Proposed period of release

2. **Notifier**

Name of institution or company

3. **GMO characterisation**

(a) Indicate whether the GMO is a:		
Viroid	☐	
RNA virus	☐	
DNA virus	☐	
bacterium	☐	
fungus	☐	
animal	☐	
— mammal	☐	
— insect	☐	
— fish	☐	
— other animal	☐	(please specify phylum, class)
other, please specify (kingdom, phylum and class)		
(b) Identity of the GMO (genus and species)		
(c) Genetic stability — according to Annex IIIa, II, A(10)		

4. **Is the same GMO release planned elsewhere in the Community (in conformity with Article 6(1)), by the same notifier?**

Yes ☐	No ☐
If yes, insert the country code(s):	

5. **Has the same GMO been notified for release elsewhere in the Community by the same notifier?**

Yes ☐	No ☐
If yes: — Member State of notification — Notification number	

6. **Has the same GMO been notified for release or placing on the market outside the Community by the same or other notifier?**

Yes ☐	No ☐
If yes: — Member State of notification — Notification number	

7. **Summary of the potential environmental impact of the release of the GMOs**

B. INFORMATION RELATING TO THE RECIPIENT OR PARENTAL ORGANISMS FROM WHICH THE GMO IS DERIVED

1. **Recipient or parental organism characterisation:**

(a) Indicate whether the recipient or parental organism is a:

Viroid	☐	
RNA virus	☐	
DNA virus	☐	
bacterium	☐	
fungus	☐	
animal	☐	
— mammal	☐	
— insect	☐	
— fish	☐	
— other animal	☐	(please specify phylum, class)
other, please specify		

2. **Name**

(i) Order and/or higher taxon (for animals)
(ii) Genus
(iii) Species
(iv) Subspecies
(v) Strain
(vi) pathovar (biotype, ecotype, race, etc.)
(vii) common name

3. **Geographical distribution of the organism**

(a) Indigenous to, or otherwise established in, the country where the notification is made:

Yes ☐ No ☐ Not known ☐

(b) Indigenous to, or otherwise established in, other EC countries:

(i) Yes ☐

If yes, indicate the type of ecosystem in which it is found:

Atlantic ☐

Mediterranean ☐

Arctic ☐

Alpine ☐

Continental ☐

(ii) No ☐

(iii) Not known ☐

(c) Is it frequently used in the country where the notification is made?

Yes ☐ No ☐

(d) Is it frequently kept in the country where the notification is made?

Yes ☐ No ☐

4. **Natural habitat of the organism**

(a) If the organism is a micro-organism

water ☐

soil, free-living ☐

soil in association with plant-root systems ☐

in association with plant leaf/stem systems ☐

iin association with animals ☐

other (specify)

(b) If the organism is an animal: natural habitat or usual agroecosystem:

5. (a) **Detection techniques**

5. (b) **Identification techniques**

6. **Is the recipient organism classified under existing Community rules relating to the protection of human health and/or the environment?**

Yes ☐	No ☐
If yes, specify	

7. **Is the recipient organism significantly pathogenic or harmful in any other way (including its extracellular products), either living or dead?**

Yes ☐	No ☐	Not known ☐
If yes: (a) to which of the following organisms: humans ☐ animals ☐ plants ☐ other ☐		
(b) give the relevant information specified under Annex III A, point II (A), 11/(d) of Directive 2001/18/EC		

8. **Information concerning reproduction**

(a) Generation time in natural ecosystems:
(b) Generation time in the ecosystem where the release will take place:
(c) Way of reproduction: Sexual ☐ Asexual ☐
(d) Factors affecting reproduction:

9. **Survivability**

(a) Ability to form structures enhancing survival or dormancy:

(i) endospores	☐
(ii) cysts	☐
(iii) sclerotia	☐
(iv) asexual spores (fungi)	☐
(v) sexual spores (fungi)	☐
(vi) eggs	☐
(vii) pupae	☐
(viii) larvae	☐
(ix) other, please specify	

(b) Relevant factors affecting survivability:

10. (a) **Ways of dissemination**

10. (b) **Factors affecting dissemination**

11. **Previous genetic modifications of the recipient or parental organism already notified for release in the country where the notification is made (give notification numbers)**

C. INFORMATION RELATING TO THE GENETIC MODIFICATION

1. **Type of the genetic modification**

(i) Insertion of genetic material	☐
(ii) Deletion of genetic material	☐
(iii) Base substitution	☐
(iv) Cell fusion	☐
(v) Other, please specify	

2. **Intended outcome of the genetic modification**

3. (a) **Has a vector been used in the process of modification?**

Yes ☐	No ☐
If no, go straight to question 5	

3. (b) **If yes, is the vector wholly or partially present in the modified organism?**

Yes ☐	No ☐
If no, go straight to question 5	

4. **If the answer to 3(b) is yes, supply the following information**

(a) Type of vector

plasmid	☐
bacteriophage	☐
virus	☐
cosmid	☐
transposable element	☐
other, please specify	

(b) Identity of the vector

(c) Host range of the vector

(d) Presence in the vector of sequences giving a selectable or identifiable phenotype

Yes ☐ No ☐

Antibiotic resistance ☐

Other, specify

Indication of which antibiotic resistance gene is inserted

(e) Constituent fragments of the vector

(f) Method for introducing the vector into the recipient organism

(i) transformation	☐
(ii) electroporation	☐
(iii) macroinjection	☐
(iv) microinjection	☐
(v) infection	☐
(vi) other, please specify	

5. **If the answer to question B.3 (a) and (b) is no, what was the method used in the process of modification?**

(i) transformation	☐
(ii) microinjection	☐
(iii) microencapsulation	☐
(iv) macroinjection	☐
(v) other, please specify	

6. **Information on the insert**

(a) Composition of the insert

(b) Source of each constituent part of the insert
(c) Intended function of each constituent part of the insert in the GMO
(d) Location of the insert in the host organism — on a free plasmid ☐ — integrated in the chromosome ☐ — other, please specify
(e) Does the insert contain parts whose product or function are not known? Yes ☐ No ☐ If yes, please specify

D. INFORMATION ON THE ORGANISM(S) FROM WHICH THE INSERT IS DERIVED (DONOR)

1. **Indicate whether it is a:**

Viroid	☐	
RNA virus	☐	
DNA virus	☐	
bacterium	☐	
fungus	☐	
animal	☐	
— mammal	☐	
— insect	☐	
— fish	☐	
— other animal	☐	(please specify phylum, class)
other, please specify		

2. **Complete name**

(i) order and/or higher taxon (for animals)
(ii) family name (for plants)
(iii) genus
(iv) species

(v) subspecies
(vi) strain
(vii) cultivar/breeding line
(viii) pathovar
(ix) common name

3. **Is the organism significantly pathogenic or harmful in any other way (including its extracellular products), either living or dead?**

Yes ☐	No ☐	Not known ☐
If yes, please specify the following (a) to which of the following organisms?: humans ☐ animals ☐ plants ☐ other ☐		
(b) are the donated sequences involved in any way to the pathogenic or harmful properties of the organism? Yes ☐ No ☐ Not known ☐		
If yes, give the relevant information under Annex III A, point II (A), 11(d):		

4. **Is the donor organism classified under existing Community rules relating to the protection of human health and the environment, such as Directive 90/679/EEC on the protection of workers from risks related to exposure to biological agents at work?**

Yes ☐	No ☐
If yes, please specify	

5. **Do the donor and recipient organism exchange genetic material naturally?**

Yes ☐	No ☐	Not known ☐

E. INFORMATION RELATING TO THE GENETICALLY MODIFIED ORGANISM

1. **Genetic traits and phenotypic characteristics of the recipient or parental organism which have been changed as a result of the genetic modification**

(a) Is the GMO different from the recipient as far as survivability is concerned?

Yes ☐ No ☐ Not known ☐

Please specify

(b) Is the GMO in any way different from the recipient as far as mode and/or rate of reproduction is concerned?

Yes ☐ No ☐ Not know ☐

Please specify

(c) Is the GMO in any way different from the recipient as far as dissemination is concerned?

Yes ☐ No ☐ Not known ☐

Please specify

(d) Is the GMO in any way different from the recipient as far as pathogenicity is concerned?

Yes ☐ No ☐ Not known ☐

Please specify

2. **Genetic stability of the genetically modified organism**

3. **Is the GMO significantly pathogenic or harmful in any way (including its extracellular products), either living or dead?**

Yes, ☐ No ☐ Not known ☐

If yes,

(a) to which of the following organisms?

humans ☐

animals ☐

plants ☐

other ☐

(b) give the relevant information specified under Annex III A, point II (A), 11(d) and II (C) 2(i)

4. **Description of identification and detection methods**

(a) Techniques used to detect the GMO in the environment
(b) Techniques used to identify the GMO

F. INFORMATION RELATING TO THE RELEASE

1. **Purpose of the release (including any significant potential environmental benefits that may be expected)**

2. **Is the site of the release different from the natural habitat or from the ecosystem in which the recipient or parental organism is regularly used, kept or found?**

Yes ☐	No ☐
If yes, please specify	

3. **Information concerning the release and the surrounding area**

(a) Geographical location (administrative region and where appropriate grid reference):
(b) Size of the site (m^2): (i) actual release site (m^2): (ii) wider release area (m^2):
(c) Proximity to internationally recognised biotopes or protected areas (including drinking water reservoirs), which could be affected:
(d) Flora and fauna including crops, livestock and migratory species which may potentially interact with the GMO

4. **Method and amount of release**

(a) Quantities of GMOs to be released:
(b) Duration of the operation:
(c) Methods and procedures to avoid and/or minimise the spread of the GMOs beyond the site of the release

5. **Short description of average environmental conditions (weather, temperature etc.)**

6. **Relevant data regarding previous releases carried out with the same GMO, if any, specially related to the potential environmental and human health impacts from the release**

G. INTERACTIONS OF THE GMO WITH THE ENVIRONMENT AND POTENTIAL IMPACT ON THE ENVIRONMENT, IF SIGNIFICANTLY DIFFERENT FROM THE RECIPIENT OR PARENT ORGANISM

1. **Name of target organisms (if applicable)**

(i) order and/or higher taxon (for animals)
(ii) family name (for plants)
(iii) genus
(iv) species
(v) subspecies
(vi) strain
(vii) cultivar/breeding line
(viii) pathovar
(ix) common name

2. **Anticipated mechanism and result of interaction between the released GMOs and the target organism (if applicable)**

3. **Any other potentially significant interactions with other organisms in the environment**

4. **Is post-release selection such as increased competitiveness, increased invasiveness for the GMO likely to occur?**

Yes ☐	No ☐	Not known ☐
Please give details		

5. **Types of ecosystems to which the GMO could be disseminated from the site of release and in which it could become established**

6. **Complete name of non-target organisms which (taking into account the nature of the receiving environment) may be unintentionally significantly harmed by the release of the GMO**

(i) order and/or higher taxon (for animals)
(ii) family name (for plants)
(iii) genus

(iv) species
(v) subspecies
(vi) strain
(vii) cultivar/breeding line
(viii) pathovar
(ix) common name

7. **Likelihood of genetic exchange in vivo**

(a) from the GMO to other organisms in the release ecosystem:
(b) from other organisms to the GMO:
(c) likely consequences of gene transfer:

8. **Give references to relevant results (if available) from studies of the behaviour and characteristics of the GMO and its ecological impact carried out in simulated natural environments (e.g. microcosms, etc.):**

9. **Possible environmentally significant interactions with biogeochemical processes (if different from the recipient or parental organism)**

H. INFORMATION RELATING TO MONITORING

1. **Methods for monitoring the GMOs**

2. **Methods for monitoring ecosystem effects**

3. **Methods for detecting transfer of the donated genetic material from the GMO to other organisms**

4. **Size of the monitoring area (m^2)**

5. **Duration of the monitoring**

6. **Frequency of the monitoring**

I. INFORMATION ON POST-RELEASE AND WASTE TREATMENT

1. **Post-release treatment of the site**

2. **Post-release treatment of the GMOs**

3. (a) **Type and amount of waste generated**

3. (b) **Treatment of waste**

J. INFORMATION ON EMERGENCY RESPONSE PLANS

1. **Methods and procedures for controlling the dissemination of the GMO(s) in case of unexpected spread**

2. **Methods for removal of the GMO(s) of the areas potentially affected**

3. **Methods for disposal or sanitation of plants, animals, soils etc. that could be exposed during or after the spread**

4. **Plans for protecting human health and the environment in the event of an undesirable effect**

Proposal for a Council Decision establishing pursuant to Directive 2001/18/EC of the European Parliament and of the Council the summary information format relating to the placing on the market of genetically modified organisms as or in products

(2002/C 262 E/23)

COM(2002) 362 final

(Submitted by the Commission on 4 July 2002)

EXPLANATORY MEMORANDUM

1. Under Part C of Directive 2001/18/EC, prior notification must be given to the competent national authority of the planned placing on the market of a genetically modified organism (GMO), or a combination of such organisms.

2. That notification comprises, *inter alia*, a summary of the relevant dossier, which the competent authority must send to the competent authorities of the other Member States and to the Commission, and which the Commission must immediately make available to the public. That summary must be drawn up in accordance with a particular format.

3. That format should reflect the need to enable the fullest possible exchange of relevant information, presented in a standardised and easily comprehensible manner, without prejudice to the fact that the information thus provided cannot serve as the basis for an environmental risk assessment.

4. Article 13(2)(h) of the Directive stipulates that the summary notification information format must be drawn up in accordance with the procedure laid down in Article 30. A draft of the measures to be taken has accordingly been submitted for opinion to the committee set up under Article 30 of the Directive.

5. The committee has not delivered an opinion on the proposal. In such a case, Article 30 stipulates that the Commission must forthwith propose to the Council the measures to be adopted and inform the European Parliament thereof. The Council must then act by qualified majority.

6. If, by the expiry of the time limit, the Council has not adopted the proposed implementing measures or has not indicated its opposition to the proposed implementing measures, they shall be adopted by the Commission.

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty establishing the European Community,

Having regard to Directive 2001/18/EC of the European Parliament and of the Council [1] of 12 March 2001 on the deliberate release into the environment of genetically modified organisms and repealing Directive 90/220/EEC, and in particular Article 13(2)(h) thereof,

Having regard to the proposal from the Commission,

Whereas:

(1) Under Part C of Directive 2001/18/EC, prior notification must be given to the competent national authority of the planned placing on the market of a genetically modified organism (GMO), or a combination of such organisms.

(2) That notification comprises, *inter alia*, a summary of the relevant dossier, which the competent authority must send to the competent authorities of the other Member States and to the Commission, and which the Commission must immediately make available to the public. That summary must be drawn up in accordance with a particular format.

(3) That format should reflect the need to enable the fullest possible exchange of relevant information, presented in a standardised and easily comprehensible manner, without prejudice to the fact that the information thus provided cannot serve as the basis for an environmental risk assessment.

(4) The committee set up under Article 30(2) of Directive 2001/18/EC was consulted on 12 June 2002 and has not delivered an opinion on the Commission's proposal for a Decision,

HAS ADOPTED THIS DECISION:

Article 1

For the purposes of drawing up the summary of the dossier for submission to the competent national authority pursuant to Article 13(2)(h) of Directive 2001/18/EC, the notifier shall use the Summary Information Format set out in the Annex to this Decision.

Article 2

This Decision is addressed to the Member States.

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[1] OJ L 106, 17.4.2001, p. 1.

ANNEX

SUMMARY INFORMATION FORMAT IN RELATION TO THE PLACING ON THE MARKET OF A GMO OR A COMBINATION OF GMOs AS OR IN PRODUCTS

INTRODUCTION

The following format must be used for the summary of the dossier to accompany a notification, for submission to the competent national authority, concerning the placing on the market of a GMO or a combination of GMOs as or in products.

This document, when completed, will present a summary of the information entered under the corresponding points of the full dossier. It is recognised, therefore, that the risk assessment required under Directive 2001/18/EC cannot be carried out solely on the basis of this document.

The space provided after each question is not indicative of the depth of the information required for the purposes of the Summary Information Format.

The Summary Information Formatis divided into Parts 1 and 2.

Part 1 applies to products consisting of or containing genetically modified organisms other than higher plants and contains the following sections:

A. General information

B. Nature of the GMOs contained in the product

C. Predicted behaviour of the product

D. Information relating to previous releases

E. Information relating to the monitoring plan.

Part 2 applies to products consisting of or containing genetically modified higher plants. The term 'higher plants' means plants which belong to the taxonomic group Gymnospermae and Angiospermae. Part 2 contains the following sections:

A. General information

B. Nature of the GMHP contained in the product

C. Information relating to previous releases

D. Information relating to the monitoring plan.

PART 1

SUMMARY INFORMATION FORMAT FOR PRODUCTS CONTAINING GENETICALLY MODIFIED ORGANISMS OTHER THAN HIGHER PLANTS

A. GENERAL INFORMATION

1. **Details of notification**

(a) Member State of notification
(b) Notification number
(c) Name of the product (commercial and other names)
(d) Date of acknowledgement of notification

2. **Notifier/Producer/Importer**

(a) Name of notifier	
(b) Address of notifier	
(c) The notifier is:	domestic producer ☐ importer ☐
(d) In the case of an import (i) Name of producer (ii) Address of producer	

3. **Characterisation of the GMOs contained in the product**

Indicate the name and nature of each type of GMO contained in the product

4. **General description of the product**

(a) Type of product
(b) Composition of the product
(c) Specificity of the product
(d) Types of users
(e) Any special conditions of use and handling suggested as a condition of the authorisation applied for
(f) If applicable, geographical areas within the EU to which the product is intended to be confined under the terms of the authorisation applied for
(g) Any type of environment to which the product is unsuited
(h) Estimated potential annual demand (i) in the Community (ii) in export markets for EC supplies
(i) Unique identification code(s) of the GMO(s)

5. **Has the combination of GMOs contained in the product been notified under Part B of Directive 2001/18/EC by the same notifier?**

Yes ☐	No ☐
(i) If yes, give country and notification number	
(ii) If no, refer to risk analysis data on the basis of the elements of Part B of Directive 2001/18/EC.	

6. **Is the product being simultaneously notified to another Member State by the same notifier?**

Yes ☐	No ☐
If yes, please specify:	

7. **Has another product with the same combination of GMOs been placed on the EC market by another notifier?**

Yes ☐	No ☐	Not known ☐
If yes, please specify		

8. **Information on releases of the same GMOs or of the same combination of GMOs previously or currently notified and/or carried out by the notifier either inside or outside the Community**

9. **Specify instructions and or recommendations for storage and handling, including any mandatory restrictions proposed as a condition of the authorisation applied for**

10. **Proposed packaging**

11. **Any proposed labelling requirements, in addition to those required by law**

12. **Measures to take in the event of unintended release or misuse**

13. **Measures for waste disposal and treatment (if applicable)**

B. NATURE OF THE GMOS CONTAINED IN THE PRODUCT

INFORMATION RELATING TO THE RECIPIENT OR PARENTAL ORGANISM(S) FROM WHICH THE GMO IS DERIVED

14. **Scientific name and common names**

15. **Phenotypic and genetic traits**

16. **Geographical distribution and natural habitat of the organism**

17. **Genetic stability of the organism and factors affecting it**

18. **Potential for genetic transfer and exchange with other organisms and the likely consequences of gene transfer**

19. **Information concerning reproduction and factors affecting it**

20. **Information on survival and factors affecting it**

21. **Ways of dissemination and factors affecting it**

22. **Interactions with the environment**

23. (a) **Detection techniques**

23. (b) **Identification techniques**

24. **Classification under existing Community rules concerning the protection of human health and/or environment**

25. (a) **Pathogenic characteristics**

25. (b) **Other harmful characteristics of the organisms living or dead, including its extracellular products**

26. **Nature and description of known extrachromosomal genetic elements**

27. **Summary of known history of previous genetic modifications**

INFORMATION RELATING TO THE GENETIC MODIFICATION

28. **Methods used for the genetic modification**

29. **Characteristics of the vector**

(a) Nature and source of the vector
(b) Description of the vector construction
(c) Genetic map and/or restriction map of the vector
(d) Sequence data
(e) Information on the degree to which the vector contains sequences whose product or function area is not known
(f) Genetic transfer capabilities of the vector
(g) Frequency of mobilisation of the vector
(h) Part of the vector which remains in the GMO

30. **Information on the insert**

(a) Methods used to construct the insert
(b) Restriction sites
(c) Sequence of the insert
(d) Origin and function of each constituent part of the insert in the GMO
(e) Information on the degree to which the insert is limited to the required function
(f) Location of the insert in the GMO

INFORMATION ON THE ORGANISM(S) FROM WHICH THE INSERT IS DERIVED (DONOR)

31. **Scientific and other names**

32. (a) **Pathogenic characteristics of the donor organism**

32. (b) **Other harmful characteristics of the organism living or dead, including its extracellular products**

33. **If the donor organism has any pathogenic or harmful characteristics, indicate whether the donated sequences are in any way involved in them**

34. **Classification under existing Community rules relating to the protection of human health and the environment**

35. **Potential for natural exchange of genetic material between the donor(s) and recipient organism**

INFORMATION RELATING TO THE GMO(S) CONTAINED IN THE PRODUCT

36. **Description of genetic traits or phenotypic characteristics, if different from that of the recipient or parental organism(s)**

37. **Genetic stability of the GMO, if different from that of the recipient or parental organism(s)**

38. **Rate and level of expression of the new genetic material**

39. **Activity of the expressed proteins**

40. (a) **Description of detection techniques for the GMO in the environment, if different from that of the recipient or parental organism(s)**

40. (b) **Description of identification techniques to distinguish the GMO from the recipient or parental organism**

41. **Health considerations**

(a) Toxic or allergenic effects of the non-viable GMOs and/or their metabolic products, if significantly different from those of the recipient/parental organism
(b) Product hazards, if significant
(c) Comparison of the GMO with the donor, recipient or parental organism regarding pathogenicity, if significantly different
(d) Capacity for colonisation, if significantly different from the recipient or parental organism(s)
(e) If the organism is more pathogenic than the recipient or parental organism(s) to humans who are immuno competent, supply the information specified in Annex III A, Part II C 2(I) (iv)

INTERACTIONS OF THE GMO WITH THE ENVIRONMENT

42. **Survival, multiplication and dissemination of the GMO(s) in the environment if different from the recipient or parental organism**

43. **Environmental impacts of the GMOS(s) if different from the recipient or parental organism**

C. PREDICTED BEHAVIOUR OF THE PRODUCT, IF DIFFERENT FROM THE RECIPIENT OR PARENT ORGANISM(S)

ENVIRONMENTAL IMPACT OF THE PRODUCT

HUMAN HEALTH EFFECTS OF THE PRODUCT, IF DIFFERENT FROM THE RECIPIENT OR PARENT ORGANISM(S)

D. INFORMATION RELATING TO PREVIOUS RELEASES

HISTORY OF PREVIOUS RELEASES NOTIFIED UNDER PART B OF THE DIRECTIVE (IF APPLICABLE)

1. **Notification number**

2. **Release site**

3. **Aim of the release**

4. **Duration of the release**

5. **Duration of post-release monitoring**

6. **Aim of post-release monitoring**

7. **Conclusions of post-release monitoring**

8. **Results of the release with respect to any risk to human heath and the environment according to Article 8 of Directive 90/220/EEC or Article 10 of Directive 2001/18/EC**

HISTORY OF PREVIOUS RELEASES CARRIED OUT INSIDE OR OUTSIDE THE COMMUNITY

1. **Release country**

2. **Authority overseeing the release**

3. **Release site**

4. **Aim of the release**

5. **Duration of post-release monitoring**

6. **Aim of post-release monitoring**

7. **Conclusions of post-release monitoring**

8. **Results of the release with respect to any risk to human health and the environment**

HISTORY OF PREVIOUS WORK RELEVANT TO RISK ASSESSMENT PRIOR TO COMMERCIALISATION

E. INFORMATION RELATING TO THE MONITORING PLAN — IDENTIFIED TRAITS, CHARACTERISTICS AND UNCERTAINTIES RELATED TO THE GMO OR ITS INTERACTION WITH THE ENVIRONMENT THAT SHOULD BE ADDRESSED IN THE POST-COMMERCIALISATION MONITORING PLAN

PART 2

SUMMARY INFORMATION FORMAT FOR PRODUCTS CONTAINING GENETICALLY MODIFIED HIGHER PLANTS (GMHPs)

A. GENERAL INFORMATION

1. **Details of notification**

(a) Member State of notification
(b) Notification number
(c) Name of the product (commercial and other names)
(d) Date of acknowledgement of notification

2. **Notifier**

(a) Name of notifier
(b) Address of notifier
(c) Is the notifier: domestic manufacturer ☐ importer ☐
(d) In the case of an import the name and address of the manufacturer shall be given

3. **General description of the product**

(a) Name of the recipient or parental plant and the intended function of the genetic modification
(b) Any specific form in which the product must not be placed on the market (seeds, cut-flowers, vegetative parts, etc.) as a proposed condition of the authorisation applied for
(c) Intended use of the product and types of users
(d) Any specific instructions and/or recommendations for use, storage and handling, including mandatory restrictions proposed as a condition of the authorisation applied for
(e) If applicable, geographical areas within the EU to which the product is intended to be confined under the terms of the authorisation applied for
(f) Any type of environment to which the product is unsuited
(g) Any proposed packaging requirements
(h) Any proposed labelling requirements in addition to those required by law
(i) Estimated potential demand (i) in the Community (ii) in export markets for EC supplies
(j) Unique identification code(s) of the GMO(s)

4. **Has the GMHP referred to in this product been notified under Part B of Directive 2001/18/EC and/or Directive 90/220/EEC?**

Yes ☐	No ☐
(i) If no, refer to risk analysis data on the basis of the elements of Part B of Directive 2001/18/EC	

5. **Is the product being simultaneously notified to another Member State?**

Yes ☐	No ☐
(i) If no, refer to risk analysis data on the basis of the elements of Part B of Directive 2001/18/EC	

OR

Has the product been notified in a third country either previously or simultaneously?

Yes ☐	No ☐
If yes, please specify	

6. **Has the same GMHP been previously notified for marketing in the Community?**

Yes ☐	No ☐
If yes, give notification number and Member State	

7. **Measures to take in case of unintended release or misuse as well as measures for disposal and treatment**

B. NATURE OF THE GMHP CONTAINED IN THE PRODUCT

INFORMATION RELATING TO THE RECIPIENT OR (WHERE APPROPRIATE) PARENTAL PLANTS

8. **Complete name**

(a) Family name
(b) Genus
(c) Species
(d) Subspecies
(e) Cultivar/breeding line
(f) Common name

9. (a) **Information concerning reproduction**

(i) Mode(s) of reproduction

(ii) Specific factors affecting reproduction, if any
(iii) Generation time

9. (b) **Sexual compatibility with other cultivated or wild plant species**

10. **Survivability**

(a) Ability to form structures for survival or dormancy
(b) Specific factors affecting survivability, if any

11. **Dissemination**

(a) Ways and extent of dissemination
(b) Specific factors affecting dissemination, if any

12. **Geographical distribution of the plant**

13. **In the case of plant species not normally grown in the Member State(s), description of the natural habitat of the plant, including information on natural predators, parasites, competitors and symbionts**

14. **Potentially significant interactions of the plant with other organisms in the ecosystem where it is usually grown, including information on toxic effects on humans, animals and other organisms**

15. **Phenotypic and genetic traits**

INFORMATION RELATING TO THE GENETIC MODIFICATION

16. **Description of the methods used for the genetic modification**

17. **Nature and source of the vector used**

18. **Size, source (name of donor organism(s)) and intended function of each constituent fragment of the region intended for insertion**

INFORMATION RELATING TO THE GMHP

19. **Description of the trait(s) and characteristics which have been introduced or modified**

20. **Information on the sequences actually inserted/deleted/modified**

(a) Size and structure of the insert and methods used for its characterisation, including information on any parts of the vector introduced in the GMHP or any carrier or foreign DNA remaining in the GMHP
(b) In case of deletion, size and function of the deleted region(s)
(c) Location of the insert in the plant cells (integrated in the chromosome, chloroplast, mitochondrion, or maintained in a non-integrated form), and methods for its determination
(d) Copy number and genetic stability of the insert
(e) In case of modifications other than insertion or deletion, describe function of the modified genetic material before and after the modification as well as direct changes in expression of genes as a result of the modification

21. **Information on the expression of the insert**

(a) Information on the expression of the insert and methods used for its characterisation
(b) Parts of the plant where the insert is expressed (e.g. roots, stem, pollen, etc.)

22. **Information on how the GMHP differs from the recipient plant in**

(a) Mode(s) and/or rate of reproduction
(b) Dissemination
(c) Survivability
(d) Other differences

23. **Potential for transfer of genetic material from the GMHP to other organisms**

24. **Information on any harmful effects on human health and the environment, arising from the genetic modification**

25. **Information on the safety of the GMHP to animal health, where the GMHP is intended to be used in animal feedstuffs, if different from that of the recipient/parental organism(s)**

26. **Mechanism of interaction between the GMHP and target organisms (if applicable), if different from that of the recipient/parental organism(s)**

27. **Potentially significant interactions with non-target organisms, if different from the recipient or parental organism(s)**

28. **Description of detection and identification techniques for the GMHP, to distinguish it from the recipient or parental organism(s)**

INFORMATION ON THE POTENTIAL ENVIRONMENTAL IMPACT FROM THE RELEASE OF THE GMHP

29. **Potential environmental impact from the release or the placing on the market of GMOs (Annex II, D2 of Directive 2001/18/EC), if different from a similar release or placing on the market of the recipient or parental organism(s)**

30. **Potential environmental impact of the interaction between the GMHP and target organisms (if applicable), if different from that of the recipient or parental organism(s)**

31. **Possible environmental impact resulting from potential interactions with non-target organisms, if different from that of the recipient or parental organism(s)**

(a) Effects on biodiversity in the area of cultivation

(b) Effects on biodiversity in other habitats

(c) Effects on pollinators

(d) Effects on endangered species

C. INFORMATION RELATING TO PREVIOUS RELEASES

32. **History of previous releases notified under Part B of Directive 2001/18/EC and under Part B of Directive 90/220/EEC by the same notifier**

(a) Notification number

(b) Conclusions of post-release monitoring

(c) Results of the release in respect to any risk to human health and the environment (submitted to the Competent Authority according to Article 10 of Directive 2001/18/EC)

33. **History of previous releases carried out inside or outside the Community by the same notifier**

(a) Release country
(b) Authority overseeing the release
(c) Release site
(d) Aim of the release
(e) Duration of the release
(f) Aim of post-releases monitoring
(g) Duration of post-releases monitoring
(h) Conclusions of post-release monitoring
(i) Results of the release in respect to any risk to human health and the environment

D. INFORMATION RELATING TO THE MONITORING PLAN — IDENTIFIED TRAITS, CHARACTERISTICS AND UNCERTAINTIES RELATED TO THE GMO OR ITS INTERACTION WITH THE ENVIRONMENT THAT SHOULD BE ADDRESSED IN THE POST-COMMERCIALISATION MONITORING PLAN

Proposal for a Council Regulation amending Council Directive 70/524/EEC concerning additives in feedingstuffs as regards withdrawal of the authorisation of an additive and amending Commission Regulation (EC) No 2430/1999

(2002/C 262 E/24)

COM(2002) 367 final

(Submitted by the Commission on 8 July 2002)

EXPLANATORY MEMORANDUM

The purpose of this Regulation is to withdraw the authorisation for use as an additive in feedingstuffs of the coccidiostat Nifursol, a histomonostat belonging to the nitrofuran group.

In October 2001 the Scientific Committee for Animal Nutrition adopted an opinion which concluded that, on the basis of the mutagenicity, genotoxicity and carcinogenicity studies provided by the person responsible for putting the substance into circulation, it was not possible to derive an Acceptable Daily Intake for the consumers.

The company submitted then a further set of data, which have been evaluated by the Scientific Committee for Animal Nutrition. In its opinion of April 2002, the Committee has confirmed the previous one.

Therefore it is not possible to guarantee that the product is safe for the human health.

Article 9m of the Directive provides for the withdrawal of the authorisation of an additive if any of the conditions as set out in Article 3a of Directive 70/524/EEC is no longer satisfied.

Under the procedure laid down in Article 23 of Council Directive 70/524/EEC, concerning additives in feedingstuffs, the Commission sought the opinion of the Standing Committee on the Food Chain and Animal Health on a draft Commission Regulation, which withdraws the authorisation of the additive 'Nifursol' belonging to the group of coccidiostats and other medicinal substances.

Owing to the fact that the Standing Committee on the Food Chain and Animal Health failed to deliver a favourable opinion on 23 May 2002, the Commission is required, under the abovementioned Article, to refer the proposed measures to the Council. The Council will have three months to decide. If the Council fails to reach a decision, the Commission will adopt the measures, except where the Council has voted by a simple majority against such measures.

This proposal has no financial impact on the budget of the European Communities.

It is based on an exclusive Community competence.

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty establishing the European Community,

Having regard to Council Directive 70/524/EEC of 23 November 1970 concerning additives in feedingstuffs [1], as last amended by Commission Regulation (EC) No 2205/2001 [2], and in particular Article 9m thereof,

Having regard to the proposal from the Commission,

Whereas:

(1) The coccidiostat Nifursol, a nitrofuran, was authorised for use as an additive in feedingstuffs for the first time by Commission Directive 82/822/EEC [3]. This authorisation was linked to a person responsible for putting it into circulation for a period of ten years by means of Commission Regulation (EC) No 2430/1999 [4], without a re-evaluation.

[1] OJ L 270, 14.12.1970, p. 1.

[2] OJ L 297, 15.11.2001, p. 3.

[3] OJ L 347, 7.12.1982, p. 16.

[4] OJ L 296, 17.11.1999, p. 3.

(2) Article 9m provides for the withdrawal of the authorisation of an additive if any of the conditions for its authorisation set out in Article 3a of Directive 70/524/EEC is no longer satisfied.

(3) During the period between 1990 and 1995, both the Joint FAO/WHO Expert Committee on Food Additives (JECFA) and the Committee for Veterinary Medicinal Products (CVMP) gave opinions on the use of veterinary medicinal products in food-producing animals of the group of substances known as nitrofurans. They concluded that it was not possible, because of the genotoxicity and carcinogenicity of the substance, to identify an Acceptable Daily Intake (i.e. a level of intake by humans of residues of the substances which could be regarded as safe). Accordingly, it was not possible to set maximum residue levels for the substances. All nitrofurans were therefore inserted into Annex IV of Council Regulation (EEC) No 2377/90, with the effect of prohibiting throughout the Community the administration of these substances, as veterinary medicinal products, to food-producing animals.

(4) The Commission therefore asked to the Scientific Committee for Animal Nutrition (SCAN) to make a new scientific risk assessment of Nifursol, which belongs also to the group of nitrofurans.

(5) The SCAN adopted an opinion concerning Nifursol on 11 October 2001, which concluded that on the basis of the mutagenicity, genotoxicity and carcinogenicity studies provided by the person responsible for putting Nifursol into circulation, and because of the lack of data on developmental toxicity, it was not possible to derive an Acceptable Daily Intake for the consumers. The SCAN confirmed this opinion on 18 April 2002 after having examined complementary data.

(6) It cannot be guaranteed that Nifursol does not present a risk for human health.

(7) Article 3a(b) states that Community authorisation of an additive shall be given only if, taking into account the conditions of use, it does not adversely affect human or animal health or the environment, nor harm the consumer by impairing the characteristics of animal products.

(8) Consequently, as a condition laid down in Article 3a of Directive 70/524/EEC is no longer met for the coccidiostat Nifursol, the use of the substance as an additive in feedingstuff should no longer be permitted. Regulation (EC) No 2430/1999 and the entry of this coccidiostat in Chapter II of Annex B to Directive 70/524/EEC should be amended accordingly.

(9) In the absence of a favourable opinion of the Standing Committee on the Food Chain and Animal Health, the Commission has been unable to adopt the provisions it envisaged under the procedure laid down in Article 23 of Directive 70/524/EEC,

HAS ADOPTED THIS REGULATION:

Article 1

1. Annex I to Commission Regulation (EC) No 2430/1999 is amended as follows:

   The entry relating to the additive E 769, Nifursol, is deleted.

2. Chapter II of Annex B to Directive 70/524/EEC is amended as follows:

   The following substance belonging to the group of coccidiostats and other medicinal substances shall be deleted:

   — Nifursol.

Article 2

This Regulation shall enter into force on the 7th day following its publication in the *Official Journal of the European Communities*.

It shall apply from 30 November 2002.

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

Proposal for a Council Regulation on the conclusion of the Agreement in the form of an Exchange of Letters on the extension of the Protocol setting out the fishing opportunities and the financial contribution provided for by the Agreement between the European Economic Community and the Government of the Republic of Angola on fishing off the coast of Angola for the period from 3 May to 2 August 2002

(2002/C 262 E/25)

COM(2002) 369 final — 2002/0148(CNS)

(Submitted by the Commission on 9 July 2002)

EXPLANATORY MEMORANDUM

The Protocol to the Fisheries Agreement between the European Community and the Republic of Angola expired on 2 May 2002. Pending the conclusion of the negotiations on the amendments to be made to the Protocol to the Fisheries Agreement, the two parties have decided to extend the expired Protocol for a further three months. The extension of the Protocol was initialled by both parties on 26 April 2002 and sets out the technical and financial conditions governing the fishing activities of Community vessels in Angolan waters during the period from 3 May to 2 August 2002.

The Commission proposes, on this basis, that the Council adopt this extension of the Protocol.

A proposal for a Council Decision on the provisional application of the extension pending its definitive entry into force is the subject of a separate procedure.

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty establishing the European Community, and in particular Article 37, in conjunction with Article 300(2) and the first subparagraph of Article 300(3) thereof,

Having regard to the proposal from the Commission,

Having regard to the opinion of the European Parliament,

Whereas:

(1) The European Community and the Republic of Angola have entered into negotiations to determine any amendments or additions to be made to the Agreement between the European Economic Community and the Government of the Republic of Angola on fishing off the coast of Angola at the end of the period of application of the Protocol annexed thereto.

(2) During the negotiations, the two Parties decided to extend the current Protocol for three months by means of an Agreement in the form of an Exchange of Letters initialled on 26 April 2002, pending the conclusion of the negotiations on the amendments to be made to the Protocol.

(3) It is in the Community's interest to approve that extension.

(4) The allocation of the fishing opportunities among the Member States under the expired Protocol should be confirmed,

HAS ADOPTED THIS REGULATION:

Article 1

The Agreement in the form of an Exchange of Letters concerning the extension of the Protocol setting out the fishing opportunities and the financial contribution provided for in the Agreement between the European Economic Community and the Government of the Republic of Angola on fishing off the coast of Angola for the period from 3 May to 2 August 2002 is hereby approved on behalf of the European Community.

The text of this Agreement is attached to this Regulation.

Article 2

The fishing opportunities established *pro rata temporis* by Article 1 shall be allocated among the Member States as follows:

— shrimp vessels:

Spain: 6 550 GRT per month, averaged over the year, 22 vessels;

— demersal fishing vessels:

Spain: 1 650 GRT per month, averaged over the year,

Porutgal: 1 000 GRT per month, averaged over the year,

Italy: 650 GRT per month, averaged over the year,

Greece: 450 GRT per month, averaged over the year,

— freezer tuna seiners:

France: 7 vessels

Spain: 11 vessels

— surface longliners:

Portugal: 5 vessels

Spain: 20 vessels

— pelagic fishing vessels:

Ireland: 2 vessels.

If licence applications from these Member States do not cover all the fishing opportunities fixed by the Protocol, the Commission may consider licence applications from any other Member State.

Article 3

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

AGREEMENT

in the form of an Exchange of Letters on the extension of the Protocol setting out the fishing opportunities and the financial contribution provided for in the agreement between the European Economic Community and the Government of the Republic of Angola on fishing off the coast of Angola for the period from 3 May to 2 August 2002

A. *Letter from the Community*

Sirs,

I have the honour to confirm that we agree to the following interim arrangements for the extension of the Fisheries Agreement between the Government of the Republic of Angola and the European Economic Community, pending the conclusion of the negotiations on a new Protocol:

1. The arrangements applicable over the last two years will be extended for the period from 3 May to 2 August 2002. The Community's financial contribution under the interim arrangements will correspond *pro rata temporis* to that provided for in Article 2 of the Protocol currently in force. Payment will be made no later than 31 December 2002.

2. During the interim period, licences will be issued within the limits laid down in Article 1 of the Protocol currently in force on payment of fees or advances corresponding *pro rata temporis* to those laid down in point 2 of Annex A to the Protocol. The maximum catches laid down for shrimp vessels in Article 1 of the Protocol currently in force will apply *pro rata temporis* during the interim period.

I should be obliged if you would acknowledge receipt of this letter and confirm the agreement of the Government of the Republic of Angola with its contents.

Please accept, Sirs, the assurance of my highest consideration.

On behalf of the European Community

B. *Letter from the Government of the Republic of Angola*

Sirs,

I have the honour to acknowledge receipt of your letter of today's date, which reads as follows:

'I have the honour to confirm that we agree to the following interim arrangements for the extension of the Fisheries Agreement between the Government of the Republic of Angola and the European Economic Community, pending the conclusion of the negotiations on a new Protocol:

1. The arrangements applicable over the last two years will be extended for the period from 3 May to 2 August 2002. The Community's financial contribution under the interim arrangements will correspond *pro rata temporis* to that provided for in Article 2 of the Protocol currently in force. Payment will be made no later than 31 December 2002.

2. During the interim period, licences will be issued within the limits laid down in Article 1 of the Protocol currently in force on payment of fees or advances corresponding *pro rata temporis* to those laid down in point 2 of Annex A to the Protocol. The maximum catches laid down for shrimp vessels in Article 1 of the Protocol currently in force will apply *pro rata temporis* during the interim period.

I should be obliged if you would acknowledge receipt of this letter and confirm the agreement of the Government of the Republic of Angola with its contents.'

I have the honour to confirm that the Government of the Republic of Angola accepts the proposed arrangements and that your letter and this letter constitute an agreement in accordance with your proposal.

Please accept, Sirs, the assurance of my highest consideration.

For the Government of the Republic of Angola

Proposal for a Council Regulation on the safeguard measures provided for in the ACP-EU Partnership Agreement

(2002/C 262 E/26)

COM(2002) 371 final — 2002/0140(ACC)

(Submitted by the Commission on 9 July 2002)

EXPLANATORY MEMORANDUM

The ACP-EU Partnership Agreement, signed in Cotonou on 23 June 2000, has been put into anticipated application by Decision 1/2000 of the ACP-EC Council of Ministers ([1]). The preferential trade arrangements set out in Annex V to this Agreement contain provisions for safeguard measures in the event of particularly increased imports, injurious to domestic producers. The proposed Regulation will implement these provisions.

The proposed Regulation will replace and repeal Council Regulation (EEC) No 3705/90 ([2]), which contained the procedures implementing the corresponding provisions of the fourth Lomé Convention. With the exception of minor modifications, in particular the replacement of the references to the Lomé Convention by such to the Cotonou Agreement, the proposed regulation is identical to Regulation (EEC) No 3705/90.

For these reasons, the Commission proposes to the Council to adopt the attached Regulation.

([1]) OJ L 195, 1.8.2000, p. 46.
([2]) OJ L 358, 21.12.1990, p. 4.

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty establishing the European Community, and in particular Article 133 thereof,

Having regard to the proposal from the Commission,

Whereas:

(1) It is necessary to lay down detailed rules for implementing the safeguard clauses provided for in Chapter 1 of Annex V to the ACP-EU Partnership Agreement, signed in Cotonou on 23 June 2000, hereinafter referred to as 'the Cotonou Agreement', in order to enable the Community and the Member States to comply with their obligations under that Agreement.

(2) It is therefore appropriate to adapt the provisions of Council Regulation (EEC) No 3705/90 of 18 December 1990 on the safeguard measures provided for in the Fourth ACP-EEC Convention ([1]) to refer to the Cotonou Agreement.

(3) Regulation (EEC) No 3705/90 is rendered obsolete by the present Regulation and should therefore be repealed.

([1]) OJ L 358, 21.12.1990, p. 4.

(4) Account should be taken of the undertakings set out in Article 8(3) and (4) and Articles 9 and 11 of Annex V to the Cotonou Agreement when examining whether a safeguard measure should be introduced.

(5) The procedures concerning safeguard clauses provided for in the Treaty and in the Regulations on the common organisation of the agricultural markets are also applicable.

(6) By virtue of the Cotonou Agreement, it is also necessary to lay down certain specific provisions concerning the general rules set out in Council Regulation (EC) No 3285/94 of 22 December 1994 on common rules for imports ([2]), as last amended by Council Regulation (EC) No 2474/2000 ([3]),

HAS ADOPTED THIS REGULATION:

Article 1

1. Where a Member State requests the Commission to apply safeguard measures as provided for in Article 8 of Annex V to the Cotonou Agreement and if the Commission decides not to apply them, the Commission shall inform the Council and the Member States accordingly within three working days of receipt of the request from the Member State.

([2]) OJ L 349, 31.12.1994, p. 53.
([3]) OJ L 286, 11.11.2000, p. 1.

Member States shall provide the Commission with the information needed to justify their requests to apply safeguard measures.

Where the Commission decides not to apply safeguard measures, any Member State may refer that decision to the Council within 10 working days of its notification.

In such a case, the Commission shall notify the ACP States and inform them of the opening of consultations as referred to in Article 9(1) of Annex V to the Cotonou Agreement.

The Council, acting by a qualified majority, may adopt a different decision within 20 working days after the conclusion of the consultations with the ACP States.

2. Where the Commission, at the request of a Member State or on its own initiative, decides that the safeguard measures provided for in Article 8 of Annex V to the Cotonou Agreement should be applied:

— it shall inform the Member States forthwith or, if it is responding to a Member State's request, within three working days of the date of receipt of that request,

— it shall consult a committee made up of representatives of the Member States and chaired by a Commission representative,

— at the same time it shall inform the ACP States and notify them of the opening of consultations as referred to in Article 9(1) of Annex V to the Cotonou Agreement,

— at the same time it shall provide the ACP States with all the information necessary for those consultations.

3. In any event, the consultations shall be deemed to be completed 21 days after the notification referred to in the fourth subparagraph of paragraph 1 or the third indent of paragraph 2.

At the end of the consultations or on expiry of the period of 21 days, and if no other arrangement proves possible, the Commission, after consulting the committee referred to in the second indent of paragraph 2, may take appropriate measures to implement Article 8 of Annex V to the Cotonou Agreement.

4. The decision referred to in paragraph 3 shall be notified forthwith to the Council, the Member States and the ACP States.

It shall be immediately applicable.

5. Any Member State may refer the Commission decision referred to in paragraph 3 to the Council within 10 working days of receiving notification of the decision.

6. If the Commission has not taken a decision within 10 working days following the end of the consultations with the ACP States or, as the case may be, the end of the period of 21 days, any Member State which has referred the matter to the Commission in accordance with paragraph 2 may refer it to the Council.

7. In the cases referred to in paragraphs 5 and 6, the Council, acting by a qualified majority, may adopt a different decision within 20 working days.

Article 2

1. Where special factors arise within the meaning of Article 9(3) of Annex V to the Cotonou Agreement, the Commission may take safeguard measures, or authorise a Member State to apply safeguard measures immediately.

2. If the Commission receives a request from a Member State it shall take a decision thereon within three working days of receipt of the request.

It shall notify the Council and the Member States of its decision.

3. Any Member State may refer the Commission's decision to the Council in accordance with the procedure provided for in Article 1(5).

The procedure set out in Article 1(7) shall be applicable.

If the Commission has not taken a decision within the time-limits specified in paragraph 2, any Member State which has referred the matter to the Commission may refer it to the Council in accordance with the procedures referred to in the first and second subparagraphs.

The provisions of this Article shall not preclude the consultations referred to in Article 9(1) of Annex V to the Cotonou Agreement.

Article 3

Implementation of this Regulation shall not preclude the application of the regulations establishing a common organisation of the agricultural markets or related Community or national administrative provisions or the specific rules adopted under Article 308 of the Treaty for processed agricultural products.

Article 4

Regulation (EEC) No 3705/90 is repealed.

Article 5

This Regulation shall enter into force on the third day following 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.

Proposal for a Council Regulation imposing a definitive anti-dumping duty and collecting definitively the provisional duty imposed on imports of sulphanilic acid originating in the People's Republic of China and India

(2002/C 262 E/27)

COM(2002) 373 final

(Submitted by the Commission on 9 July 2002)

EXPLANATORY MEMORANDUM

The present anti-dumping investigation concerning imports into the Community of sulphanilic acid originating in the People's Republic of China ('PRC') and India was initiated by the Commission on 6 July 2001. A parallel anti-subsidy investigation concerning imports of the same product originating in India was initiated on the same date.

Provisional anti-dumping and countervailing duties were imposed on 3 April 2002 by Regulation (EC) No 575/2002 and Regulation (EC) No 573/2002.

The attached proposal for a Council Regulation is based on the definitive findings concerning dumping, injury, causation and Community interest. These definitive findings have confirmed that the provisional anti-dumping measures were warranted.

It is therefore proposed that the Council adopt the attached proposal for a Regulation, which should be published in the *Official Journal of the European Communities* no later than 3 August 2002.

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty establishing the European Community,

Having regard to Council Regulation (EC) No 384/96 of 22 December 1995 on protection against dumped imports from countries not Members of the European Community [1], and in particular Article 9 thereof,

Having regard to the proposal submitted by the Commission after consulting the Advisory Committee,

Whereas:

A. PROVISIONAL MEASURES

(1) The Commission by Regulation (EC) No 575/2002 [2] ('provisional Regulation') imposed a provisional anti-dumping duty on imports of sulphanilic acid originating in the People's Republic of China ('PRC') and India. The Commission by Regulation (EC) No 573/2002 [3] ('provisional anti-subsidy Regulation') also imposed a provisional countervailing duty on imports of sulphanilic acid originating in India.

B. SUBSEQUENT PROCEDURE

(2) Subsequent to the disclosure of the essential facts and considerations on the basis of which it was decided to impose provisional anti-dumping measures, a number of interested parties submitted comments in writing. All interested parties who requested a hearing were granted an opportunity to be heard by the Commission.

(3) The Commission continued to seek and verify all information deemed necessary for the definitive findings.

(4) All parties were informed of the essential facts and considerations on the basis of which it was intended to recommend the imposition of definitive anti-dumping duties and the definitive collection of amounts secured by way of provisional duties. They were also granted a period within which they could make representations subsequent to this disclosure.

(5) The oral and written arguments submitted by the parties were taken into account.

(6) Having reviewed the provisional findings on the basis of the information gathered since then, it is concluded that the main findings as set out in the provisional Regulation are confirmed.

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[1] OJ L 56, 6.3.1996, p. 1, as last amended by Regulation (EC) No 2238/2000 (OJ L 257, 11.10.2000, p. 2).

[2] OJ L 87, 4.4.2002, p. 28, as corrected by corrigenda of 6.4.2002, OJ L 91, p. 52 and 11.4.2002, OJ L 94, p. 34.

[3] OJ L 87, 4.4.2002, p. 5.

C. **PRODUCT CONCERNED AND LIKE PRODUCT**

1. **Product concerned**

(7) Subsequent to the publication of the provisional Regulation, a number of interested parties claimed that the definition of the product concerned was incorrect. They argued that the technical and purified grades of sulphanilic acid were substantially different in terms of their purity and had different properties and applications. It was claimed that the two grades of sulphanilic acid could not be considered as a homogeneous product and should therefore have been treated as distinct products for the purposes of the investigation. In support of this assertion, it was argued that there was insufficient interchangeability between the two grades of sulphanilic acid. Whilst it was accepted that the purified grade could be used in all applications, the same could not be said of technical grade sulphanilic acid because of the level of impurities it contained, most notably aniline residues. These impurities consequently made technical grade acid unsuitable for use in the production of optical brighteners and food dyes.

(8) It is recalled that purified grade sulphanilic acid results from the purification of technical grade sulphanilic acid in a process which removes certain impurities. This purification process does not alter the molecular properties of the compound or the way in which it reacts with other chemicals. Therefore, technical and purified grades share the same basic chemical characteristics. The fact that interchangeability may only be in one direction in certain applications because of concerns about impurities is therefore not considered to be sufficient justification that purified and technical grades constitute different products which should be treated separately in two different investigations. Whilst accepting that the purification process adds certain additional costs to the production process, it is recalled that these were taken into account when making a fair comparison between the different grades produced by the Community industry and those imported from the countries concerned for the purposes of calculating the level of price undercutting and the injury elimination level.

(9) Consequently, it was not considered that the comments made by interested parties concerning the definition of the product concerned were sufficient to alter the findings on this issue that had been reached at the provisional stage. It is therefore definitively concluded that both grades of sulphanilic acid should be treated as one single product for the purpose of the present proceeding.

2. **Like product**

(10) No new elements were brought to the attention of the Commission that would lead it to alter the conclusions reached at the provisional stage, namely that sulphanilic acid produced and sold by Community producers and that produced in the countries concerned and exported to the Community are like products.

(11) The provisional findings concerning the like product as set out in recital (12) of the provisional Regulation are hereby confirmed.

D. **DUMPING**

1. **India**

1.1. *Normal value*

(12) The Indian exporting producer contested the methodology for the determination of the profit margin used in the construction of normal value as set out in recital (18) of the provisional Regulation. It claimed that the opening and closing stocks of the like product should be taken into account in this determination.

(13) This claim was rejected because the company suggested taking into account opening and closing stocks only in determining the profit margin and not in determining the cost of manufacturing used to calculate the constructed normal value. Thus, the use of two different costs of manufacturing for the same purpose cannot be accepted. Moreover, the cost of manufacturing used in calculating normal value in the provisional Regulation was that incurred during the investigation period ('IP') and was considered more appropriate since it is not affected by any *ad hoc* valuation of stocks.

1.2. *Export price*

(14) The same company claimed that for the sales made via its related importer, the export price should be constructed by using the actual profit margin of its related importer. This claim could not be accepted since the profit margin realised by the related importer is based on transfer prices between associated parties (the company in question and its related importer) and as such these prices cannot be considered reliable in accordance with Article 2(9) of Regulation (EC) No 384/96 ('basic Regulation').

(15) On the basis of the above, the findings set in recitals (19) to (21) of the provisional Regulation are confirmed.

1.3. *Comparison*

(16) No comments were received under this heading. The findings as set out in recitals (22) to (26) of the provisional Regulation are therefore confirmed.

1.4. *Dumping margin*

(17) As no comments were submitted justifying changes to the dumping findings as set out in the provisional Regulation, the dumping margin (24,6 %) established in recital (29) of the provisional Regulation is confirmed.

2. **People's Republic of China**

2.1. *Normal value*

(18) As no new information was submitted under this heading, the findings as set out in recitals (30) to (35) of the provisional Regulation are confirmed.

2.2. *Export price*

(19) As no new information was submitted under this heading, the findings as set out in recitals (36) to (39) of the provisional Regulation are confirmed.

2.3. *Comparison*

(20) As no new information was submitted under this heading, the findings as set out in recital (40) of the provisional Regulation are confirmed.

2.4. *Dumping margin*

(21) The dumping margin (21,0 %) established in recitals (41) and (42) of the provisional Regulation is confirmed.

E. **COMMUNITY INDUSTRY**

(22) Following the publication of the provisional Regulation, a number of interested parties queried the definition of the Community industry and its standing in terms of Article 5(4) of the basic Regulation. In particular, it was suggested that the complainant producer, Sorochimie Chime Fine did not have the support of the second Community producer, Quimigal S.A. when it lodged its complaint.

(23) It is recalled that whilst Quimigal was not a party to the original complaint, it did express it support for the proceeding at the initiation stage and has fully cooperated in the investigation. In response to the claims of certain interested parties, it has also reiterated its support for the proceeding during the course of the investigation. Therefore, as no new elements were brought to the attention of the Commission that would lead it to alter its earlier findings, the provisional findings concerning the definition of the Community industry and its standing as detailed in recital (44) of the provisional Regulation are hereby confirmed.

F. **INJURY**

1. **Preliminary remarks**

(24) Several interested parties questioned the way in which the Commission had established figures for imports of sulphanilic acid into the Community, Community consumption and market shares. They claimed that there had been insufficient disclosure of the Commission's findings regarding imports, in both volume and value terms, and that consequently their rights of defence had been impeded. It was noted that some of this information was also missing from the public version of the complaint with the result that the complaint did not meet the standards detailed in Article 5(2) of the basic Regulation.

(25) It is to be noted that according to Article 19(1) of the basic Regulation, information which is submitted in confidence by parties to an investigation shall be treated as such by the investigation authority so long as the information concerned warrants such treatment. It is recalled that sulphanilic acid is manufactured by a relatively small number of producers around the world. Consequently, it was not possible for reasons of confidentiality to disclose precise information relating to imports of the product into the Community, especially for those countries where there is only one exporting producer. Therefore, for the purposes of disclosure, indexed figures and explanatory narrative were made available to interested parties concerning this and related items.

(26) As none of the interested parties which raised the issue of insufficient disclosure were able to demonstrate that the information made available to them in a summarised form did not enable them to defend their rights, their arguments in this respect had to be rejected.

2. **Imports concerned**

(27) One interested party suggested that the figure for the increase in imports noted in the provisional Regulation was misleading. It was claimed that as a number of other producers had withdrawn from the market, users in the Community were obliged to purchase sulphanilic acid on the world market, thereby leading to the sharp rise in import volumes. This claim had to be rejected for a number of reasons. In the first instance, no additional evidence concerning the level of imports was submitted so as to alter the findings reached at the provisional stage on this point. Similarly, whilst it was acknowledged in recital (127) of the provisional Regulation that imports were expected to continue to play a significant role in meeting demand in the Community, it was also noted that had the Community industry not been subject to the injurious effects of the dumped imports, it would have been able to put into effect certain expansion plans, thereby satisfying a larger part of Community

demand. In the light of the above, the provisional findings concerning imports into the Community from the countries concerned and their level of price undercutting as noted in recitals (47) to (54) of the provisional Regulation are confirmed.

3. **Situation of the Community industry**

(28) In accordance with Article 3(5) of the basic Regulation, the examination of the impact of the dumped imports on the Community industry included an evaluation of all relevant economic factors and indices having a bearing on its state.

(29) Subsequent to provisional disclosure, a number of interested parties questioned the manner in which the Commission had reached its provisional determination concerning injury as certain indicators were showing positive developments. In particular, it was suggested that the increase in the Community industry's production, sales and capacity utilisation during the analysis period (1 January 1997 to 30 June 2001) proved that it had not suffered injury. One interested party also claimed that the Commission had failed to make a proper assessment of wage costs as required by the Article 3(5) of the basic Regulation.

(30) It is recalled that according to Article 3(5) of the basic Regulation, none of the economic factors or indices listed in the aforementioned Article shall necessarily be decisive in the determination of injury. It is indeed true that certain indicators relating to quantities produced and sold by the Community industry showed positive developments. This should be seen in the light of the fact that Community consumption of sulphanilic acid increased by some 13 % during the analysis period and that there has been a reduction of the number of suppliers on the market due to the closure of certain Community producers.

(31) More importantly, it should be recalled that the Community industry suffered injury in the form of price depression and price suppression. In particular, its average selling price declined sharply between 1997 and 1998, as the pressure exerted by the increasing volume of the imports concerned on the market became evident. Subsequently, although the Community industry was able to increase its average selling price as demand on the Community market also increased, it failed to achieve a level which would enable it to cover its full cost of production and losses continued to be incurred in the IP.

(32) With regard to the argument raised concerning wages, it is noted that although the number of workers employed by Sorochimie decreased during the analysis period, the average employment cost per employee increased. This is due to the fact that there was a change in the mix of employees during the period and also to general wage inflation. With regard to Quimigal, it is to be noted that in the base year for the index (1998) the company was not producing sulphanilic acid. When it began production in 1999, the workers were engaged full time in this activity with an extra day being worked from 2000 onwards. Neither company noted that the wages of those employed in sulphanilic acid activities had been effected by the imports concerned. Therefore, wages were not considered to be an indicator of injury.

(33) In view of the above, the provisional findings that the Community industry suffered material injury within the meaning of Article 3 of the basic Regulation, as detailed in recitals (57) to (76) of the provisional Regulation, are confirmed.

G. CAUSATION

1. **General comments on the Commission's conclusions regarding the causation of injury**

(34) Certain interested parties argued that the Community industry was itself partly responsible for the injury it had suffered. Several parties questioned the quality of Sorochimie's management, product and customer service and highlighted the fact it had itself imported sulphanilic acid during the analysis period. One party also alleged that the injury suffered by Sorochimie should be attributed to its other business activity (glue) which experienced significant difficulties during the IP. With regard to the situation of Quimigal, the second company forming part of the Community industry, it was argued that its decision to enter the market with a low price strategy during its start-up phase had also contributed to the alleged injury. Finally, it was also claimed that the Community industry had to meet stringent environmental regulations and had higher labour and transport costs than exporting producers in India with the implication that imports originating in that country had a competitive advantage and were not made at injurious prices.

(35) The investigation showed that Sorochimie, despite its financial difficulties linked to the excessively low prices prevailing on the market, was able to gain new customers during the analysis period and to adapt its products to meet their needs. The company was obliged to purchase certain quantities of the product concerned during the analysis period in order to meet existing customer requirements while its production equipment was undergoing essential repairs. It cannot thus be considered that Sorochimie contributed to its own injury. Similarly, it is recalled that any exceptional costs relating to the company's difficulties in its glue business have been excluded from the current investigation as they are not linked to the product concerned and thus are not reflected in the injury indicators described in the provisional Regulation.

(36) It was noted in recital (85) of the provisional Regulation that Quimigal's decision to enter the market was taken at a time when prices for sulphanilic acid on the Community market were higher. Quimigal was able to establish itself on the market at a time of both increasing demand in the Community and changes in the number of suppliers of sulphanilic acid both in the Community and outside. It was also noted that the company was obliged to offer prices similar to those of the dumped imports in order to establish itself on the market and gain market share in 1999 and 2000 in that its relatively small size meant that it was a price taker rather than a price setter. Nevertheless, its market share decreased slightly in the IP as imports from the countries concerned increased in volume. No indication has therefore been found that the deterioration of the situation of the Community industry is due to excessive intra-Community industry competition.

(37) With regard to the allegedly higher costs that the Community industry is obliged to meet in terms of complying with environmental regulations and other items, it should be recalled that the competitive advantage of the imports concerned was taken into account in the determination of normal value. Consequently, the provisional findings concerning causation as set out in recitals (88) and (89) of the provisional Regulation are confirmed.

H. **COMMUNITY INTEREST**

(38) Following the publication of the provisional Regulation, one interested party questioned how the Commission could determine, in the light of Sorochimie being in administration, that the Community industry was viable and competitive. It is recalled that Sorochimie was obliged to seek protection from its creditors following certain difficulties in its glue business and other pressures in its sulphanilic acid activities. The Commercial Court of Charleville Mézières has appointed an administrator to oversee the company's trading activities and has granted the company a period of time in which to prepare a restructuring plan. This period of time has recently been extended until 31 January 2003. In the absence of other unforeseen events, the company should continue to be in existence for the immediate future and therefore be in a position to benefit from the imposition of definitive measures. Consequently, the provisional findings that the imposition of measures is in the interest of the Community industry as noted in recital (100) of the provisional Regulation are confirmed.

(39) A number of interested parties claimed that the Commission had failed to make an objective assessment of the situation of users in not taking into account any increase in the Community industry's prices that would likely follow the imposition of measures. It was also claimed that measures were counter to the Community interest as the production capacity of the Community industry was insufficient to meet Community demand and a possible duopolistic situation based on the two Community producers could result from the closure of the market to imports from India and the PRC.

(40) In respect of the claim that the Commission failed to take account of the various interests in an objective manner when determining whether the imposition of measures were counter to the Community interest, it is recalled that at the provisional stage, the Commission made a detailed analysis of each of the main user sectors (optical brighteners, concrete additives and dyes and colorant producers). This analysis included an assessment of the impact of measures on their costs on the basis that the prices of the imports concerned would increase in line with the proposed measures. At the same time, due allowance was made in this calculation for a maximum possible increase in the price of sulphanilic acid sold by the Community industry of 10 % on the basis that its prices would increase to a level similar to that of the imports concerned following the imposition of measures taking into account that it was already operating at a fairly high rate of capacity utilisation in the IP. As such, no new elements were submitted by interested parties which would alter the provisional findings concerning the possible increase in the manufacturing costs of the different user industries.

(41) Regarding the supply and competition situation on the Community market, it is to be noted that the current production capacity of the Community industry could satisfy in the region of 50 % of Community demand. In any event, the purpose of the measures is not to close the market to imports from the countries concerned but to ensure that they are made at non-dumped and non-injurious prices. It is therefore expected that imports from third countries including India and the PRC will continue to enter the market. At the same time, measures should ensure continued sulphanilic acid production in the Community with the result that users will have more choice and competition between suppliers. It should also be stressed that the Community industry has plans to increase its output by investing in new facilities if the capital expenditure can be justified. For this to occur, the injurious effects of the dumped imports need to be removed.

(42) In the light of the above, the provisional findings that the imposition of measures is not contrary to the interest of the Community as noted in recital (130) of the provisional Regulation is confirmed.

I. ANTI-DUMPING MEASURES

1. Injury elimination level

(43) The methodology to establish the injury margin as set out at recitals (131) to (133) of the provisional Regulation is hereby confirmed.

2. Definitive measures

(44) Since for both India and the PRC the dumping margin has been found to be lower than the injury elimination level, the definitive duties to be imposed should correspond to the dumping margins established, in accordance with Article 9(4) of the basic Regulation.

(45) However, with regard to the parallel anti-subsidy proceeding in respect of India, in accordance with Article 24(1) of Council Regulation (EC) No 2026/97 [1] ('the basic anti-subsidy Regulation') and Article 14(1) of the basic Regulation, no product shall be subject to both anti-dumping and countervailing duties for the purpose of dealing with one and the same situation arising from dumping or export subsidisation. It is therefore necessary to determine whether, and to what extent, the subsidy amounts and the dumping margins arise from the same situation.

(46) With regard to India, a definitive countervailing duty corresponding to the amount of subsidy, which was found to be lower than the injury margin, was proposed in accordance with Article 15(1) of the basic anti-subsidy Regulation. Certain of the subsidy schemes investigated which were found to be countervailable in India constituted export subsidies within the meaning of Article 3(4)(a) of the basic anti-subsidy Regulation. As such, these subsidies could only affect the export price of the Indian exporting producer, thus leading to an increased margin of dumping. In other words, the definitive dumping margin established for the sole cooperating Indian producer is partly due to the existence of export subsidies. In these circumstances, it is not considered appropriate to impose both countervailing and anti-dumping duties to the full extent of the relevant export subsidy amount and dumping margin definitively established. Therefore, the definitive anti-dumping duty should be adjusted to reflect the actual dumping margin remaining after the imposition of the definitive countervailing duty offsetting the effect of the export subsidies. Consequently, the definitive anti-dumping duty rate for India has been set at the level of the dumping margin (24,6 %) minus the rate of definitive countervailing duty of the export subsidies (6,3 %).

[1] OJ L 288, 21.10.1997, p. 1.

(47) The Government of India and the Indian exporting producer opposed this approach and claimed that the definitive anti-dumping duty should be reduced by the total level of subsidisation found (7,4 %) and not only by the amount export subsidies. They argued that in practice any benefit may be used to cross-subsidise any area of activity the exporter so chooses, which would mean that if the subsidy is not used to lower the export prices it should not be countervailed. Alternatively, they argued, if the subsidy is used to lower domestic prices then only part of that subsidy which enables unfair export pricing should be countervailed.

(48) In this respect, it is noted that subsidies which are not contingent upon export performance ('domestic subsidies') are considered to affect equally the export price and the normal value of the Indian exporting producer, which means that they have a neutral effect on the margin of dumping. It is, therefore, concluded that the amounts of domestic subsidies and the dumping margins do not arise from the same situation and consequently no adjustment to the dumping duty is warranted from the existence of such subsidisation.

(49) For the PRC, the anti-dumping duty rate has been set at the level of the dumping margin.

3. Definitive collection of provisional duties

(50) In view of the magnitude of the dumping found for the exporting producers, and in the light of the seriousness of the injury caused to the Community industry, it is considered necessary that the amounts secured by way of provisional anti-dumping duties shall be collected at the rate of the duty definitively imposed.

J. UNDERTAKING

(51) The sole cooperating company in the PRC, Mancheng Gold Star Chemical Industry Co., Ltd of Baoding ('Mancheng'), has proposed a joint undertaking together with the State-controlled trading company, Sinochem Hebei Import & Export Corporation. However, it is recalled that Mancheng was a producer which did not meet the requirements to be granted individual treatment because it was not licensed to export and all its exports were made via the said State-controlled trading company. Moreover, due to the very low level of cooperation obtained from exporting producers in the PRC, the Commission is not a position to consider further an undertaking proposed by a trading company because of the high inherent risk of circumvention of such an undertaking. The Chinese parties concerned were informed accordingly.

(52) Subsequent to the imposition of provisional measures, the sole cooperating exporting producer in India of the product concerned offered a price undertaking in accordance with Article 8(1) of the basic Regulation. By doing so, it agreed to sell the product concerned at or above price levels which eliminate the injurious effects of dumping. The company will also provide the Commission with regular and detailed information concerning its exports to the Community, meaning that the undertaking can be monitored effectively by the Commission. Furthermore, the sales structure of the exporting producer is such that the Commission considers that the risk of circumventing the agreed undertaking is limited.

(53) In view of this, the offer of an undertaking was accepted by the Commission in Decision (2002/. . ./EC).

(54) In order to ensure the effective respect and monitoring of the undertaking, when the request for release for free circulation pursuant to the undertaking is presented to the relevant customs authority, exemption from the duty should be conditional upon presentation of a commercial invoice containing the information listed in the Annex to this Regulation which is necessary for customs to ascertain that shipments correspond to the commercial documents at the required level of detail. Where no such invoice is presented, or when it does not correspond to the product concerned presented to customs, the appropriate rate of anti-dumping duty should instead be payable.

(55) It should be noted that in the event of a breach or withdrawal of the undertaking or a suspected breach, an anti-dumping duty may be imposed pursuant to Article 8(9) and (10) of the basic Regulation,

HAS ADOPTED THIS REGULATION:

Article 1

1. A definitive anti-dumping duty is hereby imposed on imports of sulphanilic acid falling within CN codes ex 2921 42 10 (TARIC code 2921 42 10 60) originating in the People's Republic of China and India.

2. The rate of definitive anti-dumping duty applicable, before duty, to the net, free-at-Community frontier price of the products described in paragraph 1, shall be as follows:

Country	Definitive duty (%)
The People's Republic of China	21,0 %
India	18,3 %

3. Notwithstanding paragraph 1, the definitive duty shall not apply to imports released for free circulation in accordance with Article 2.

4. Unless otherwise specified, the provisions in force concerning customs duties shall apply.

Article 2

1. Imports under the following TARIC additional code which are produced and directly exported (i.e. shipped and invoiced) by the company named below to a company in the Community acting as an importer shall be exempt from the anti-dumping duty imposed by Article 1 provided that they are imported in conformity with paragraph 2.

Country	Company	TARIC additional code
India	Kokan Synthetics & Chemicals Pvt Ltd, 14 Guruprasad, Gokhale Road (N), Dadar (W), Mumbai 400 028, India	A398

2. Imports mentioned in paragraph 1 shall be exempt from the duty on condition that:

(i) a commercial invoice containing at least the elements of the necessary information listed in the Annex is presented to Member States customs authorities upon presentation of the declaration for release into free circulation; and

(ii) the goods declared and presented to customs correspond precisely to the description on the commercial invoice.

Article 3

The amounts secured by way of the provisional anti-dumping duty imposed pursuant to Regulation (EC) No 575/2002 shall be definitively collected at the rate of the duties definitively imposed on imports of sulphanilic acid originating in the People's Republic of China and India, as defined in Regulation (EC) No 575/2002.

The amounts secured in excess of the definitive rate of anti-dumping duties shall be released.

Article 4

This Regulation shall enter into force on the 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.

ANNEX

Elements to be indicated in the commercial invoice referred to in Article 2(2):

1. The heading 'COMMERCIAL INVOICE ACCOMPANYING GOODS SUBJECT TO AN UNDERTAKING'.

2. The name of the company mentioned in Article 2(1) issuing the commercial invoice.

3. The commercial invoice number.

4. The date of issue of the commercial invoice.

5. The TARIC additional code under which the goods on the invoice are to be customs-cleared at the Community frontier.

6. The exact description of the goods, including:

   — the Product Code Number (PCN), i.e. 'PA99', 'PS85' or 'TA98',

   — the technical/physical specifications of the PCN, i.e. for 'PA99' and 'PS85' white free flowing powder, and for 'TA98' grey free flowing powder,

   — the company product code number (CPC) (if applicable),

   — CN code,

   — quantity (to be given in tonnes).

7. The description of the terms of the sale, including:

   — price per tonne,

   — the applicable payment terms,

   — the applicable delivery terms,

   — total discounts and rebates.

8. Name of the company acting as an importer to which the invoice is issued directly by the company.

9. The name of the official of the company that has issued the commercial invoice and the following signed declaration:

   'I, the undersigned, certify that the sale for direct export to the European Community of the goods covered by this invoice is being made within the scope and under the terms of the Undertaking offered by Kokan Synthetics & Chemicals Pvt Ltd, 14 Guruprasad, Gokhale Road (N), Dadar (W), Mumbai 400 028, India, and accepted by the European Commission through Decision (2002/. . ./EC). I declare that the information provided on this invoice is complete and correct.'

Proposal for a Council Decision relating to the conclusion of an Additional Protocol adjusting the trade aspects of the Europe Agreement establishing an association between the European Communities and their Member States, of the one part, and the Republic of Poland, of the other part, to take account of the outcome of the negotiations between the parties on new mutual agricultural concessions

(2002/C 262 E/28)

COM(2002) 363 final — 2002/0145(ACC)

(Submitted by the Commission on 9 July 2002)

EXPLANATORY MEMORANDUM

1. On 30 March 1999, the Council authorised the Commission to open negotiations for additional mutual agricultural concessions in the framework of the Europe Agreements between the European Community and the associated central and eastern European countries.

2. The negotiations with Poland, which have been undertaken in the overall context of the accession process, have been based on Article 20(5) of the Europe Agreement (EA). Article 20(5) of EA provides that the Community and Poland shall examine in the Association Council, product by product and on an orderly and reciprocal basis, the possibility of granting each other further concessions taking account of the volume of trade in agricultural products between them, of their particular sensitivity, of the rules of common agricultural policy of the Community and of the rules of the agricultural policy of the associated country.

3. According to the Council mandate, the negotiations should lead to a fair equilibrium, both in terms of exports and imports, between the interests of the European Community and its Member States and those of the associated countries. On this basis negotiations have been undertaken and were concluded between the parties on 26 September 2000.

4. The result of the negotiations between the Commission and the Republic of Poland on additional agricultural concessions provides for an immediate and full liberalisation of the imports into the Community of some agricultural products, as well as the exports of those products from the Community to the Republic of Poland. The scope for concessions within tariff quotas has also been enlarged compared to the reciprocally currently granted concession. As a consequence of the new agreement approximately two thirds of the bilateral trade of agricultural products will be free of customs duties.

5. The results of the adjustments agreed with Poland are to be inserted in an Additional Protocol to the EA. This is done by the present 'Protocol on new mutual agricultural concessions'. For the first time, improvements to the preferential agricultural regime of the Europe Agreement were provided for in the Protocol adjusting trade aspects of the Europe Agreement ([1]).

6. A swift implementation of the adjustments to allow the entering into force of the new concessions on 1 January 2001 is foreseen, on an autonomous and transitional basis, in Council Regulation (EC) No 2851/2000 ([2]) of 22 December 2000. The Republic of Poland has also taken all useful legislative provisions, on an autonomous and transitional basis, in order to implement simultaneously the engagements of Poland issued from the results of the negotiations.

7. The present Protocol would replace the abovementioned autonomous and transitional measures on the day of its entry into force.

([1]) OJ L 27, 30.1.2002, p. 3.
([2]) OJ L 332, 28.12.2000, p. 7.

8. It is to be noted that, as far as processed agricultural products are concerned, a statement in the minutes of the Council provides that the Commission will duly take into account, during the negotiations, the EU's export interests in this field. The negotiations on the improvement of bilateral trade are currently under way. The outcome of these negotiations will be taken up by Decision of the Association Council according to the different procedure laid down in Protocol 3 to the Europe Agreement.

THE COUNCIL OF THE EUROPEAN UNION,

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

Having regard to the proposal from the Commission,

Whereas:

(1) The Europe Agreement establishing an association between the European Communities and their Member States, of the one part, and the Republic of Poland, of the other part [1], hereinafter referred to as 'the Europe Agreement with Poland', provides for certain concessions for certain agricultural products originating in Poland. Article 20(5) of that Agreement provides that the Community and Poland shall examine the possibility of their granting each other further concessions. The Commission has been authorised to open negotiations for additional mutual agricultural concessions in the framework of the Europe Agreements between the European Community and the associated central and eastern European countries.

(2) The outcome of those negotiations between the Commission and Poland on new agricultural concessions are inserted in an Additional Protocol, hereinafter referred to as 'the agricultural Protocol'. This agricultural Protocol should be approved with a view to formalising, through an international agreement, the further liberalisation of the trade in agricultural products between the Community and Poland.

(3) By Council Regulation (EC) No 2851/2000 of 22 December 2000 establishing certain concessions in the form of Community tariff quotas for certain agricultural products and providing for an adjustment, as an autonomous and transitional measure, of certain agricultural concessions provided for in the Europe Agreement with the Republic of Poland and repealing Regulation (EC) No 3066/95 [2] the Community implemented, in anticipation of the adoption of the agricultural Protocol, autonomous and transitional measures in order to ensure a rapid and simultaneous implementation of the Protocol by replacement of Annexes VIIIa, VIIIb, Xa, Xb and Xc to the Europe Agreement with Poland.

(4) Appropriate measures should be taken to ensure a smooth transition between the preferential arrangements applied under Regulation (EC) No 2851/2000 and those provided for by the agricultural Protocol.

(5) In accordance with Article 1(2) of Regulation (EC) No 2851/2000, Annexes A (a) and A (b) to that Regulation should be replaced with the corresponding annexes of the agricultural Protocol, and the corresponding order numbers of the quotas should be maintained. It is also necessary to ensure that the provisions for the management of the concessions in Regulation (EC) No 2851/2000 are also applicable to the concessions as established by the agricultural Protocol.

(6) The measures necessary for the implementation of this Decision 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 [3],

HAS DECIDED AS FOLLOWS:

Article 1

The Protocol adjusting the trade aspects of the Europe Agreement establishing an association between the European Communities and their Member States, of the one part, and the Republic of Poland, of the other part, to take account of the outcome of the negotiations between the parties on new mutual agricultural concessions is hereby approved on behalf of the Community.

The text of the Protocol is attached to this Decision.

Article 2

The Commission shall adopt detailed rules for the application of this Decision in accordance with the procedure laid down in Article 3(2).

(1) OJ L 348, 31.12.1993, p. 2.

(2) OJ L 332, 28.12.2000, p. 7.

(3) OJ L 184, 17.7.1999, p. 23.

Article 3

1. The Commission shall be assisted by the Management Committee for Cereals instituted by Article 22 of Council Regulation (EC) No 1766/92 [1], or, where appropriate, by another Committee instituted by other Regulations on the common organisation of agricultural markets.

2. Where reference is made to this paragraph, Articles 4 and 7 of Decision 1999/468/EC shall apply.

The period referred to in Article 4(3) of Decision 1999/468/EC shall be one month.

3. The Committee shall adopt its rules of procedure.

Article 4

1. Annexes A (a) and A (b) to Regulation (EC) No 2851/2000 are replaced by Annexes A (a) and A (b) to the Protocol attached to this Decision.

The order numbers of column 1 of Annex A (b) to that Regulation shall remain applicable to the same products as those described in Annex A (b) to the Protocol.

2. Article 1(4) and Article 2 of Council Regulation (EC) No 2851/2000 shall apply *mutatis mutandis* to the concessions provided for in the Protocol attached to this Decision.

3. Paragraphs 1 and 2 shall apply with effect from the date of entry into force of the Protocol attached to this Decision.

Article 5

The President of the Council shall, on behalf of the Community, give the notification provided for in Article 4 of the Protocol.

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(1) OJ L 181, 1.7.1992, p. 2.

PROTOCOL

adjusting the trade aspects of the Europe Agreement establishing an association between the European Communities and their Member States, of the one part, and the Republic of Poland, of the other part, to take account of the outcome of the negotiations between the parties on new mutual agricultural concessions

THE EUROPEAN COMMUNITY,

hereinafter referred to as 'the Community',

of the one part, and

THE REPUBLIC OF POLAND,

of the other part,

WHEREAS the Europe Agreement establishing an association between the European Communities and their Member States, of the one part, and the Republic of Poland, of the other part (hereinafter referred to as 'the Europe Agreement') was signed in Brussels on 16 December 1991 and entered into force on 1 February 1994 [1];

WHEREAS, for the first time, improvements to the preferential agricultural regime of the Europe Agreement were provided for in the Protocol adjusting trade aspects of the Europe Agreement [2];

WHEREAS Article 20(5) of the Europe Agreement provides that the Community and Poland shall examine in the Association Council, product by product and on an orderly and reciprocal basis, the possibility of granting each other additional agricultural concessions. On this basis negotiations have been undertaken and were concluded between the parties;

WHEREAS,

— from the one side, the Council decided, by virtue of Regulation (EC) No 2851/2000 [3], to apply on a provisional basis, as from 1 January 2001, the European Community concessions resulting from the negotiations for the conclusion of the present Protocol and

— from the other side the Government of the Republic of Poland has taken legislative provisions to apply, as from the same date of 1 January 2001, the equivalent concessions of Poland;

WHEREAS the abovementioned concessions will be replaced on the date of entry into force of this Protocol by the concessions provided for herein,

HAVE DECIDED to determine, by mutual agreement, the adjustments to be made to the trade aspects of the Europe Agreement in the agriculture field and to this end have designated as their Plenipotentiaries:

THE EUROPEAN COMMUNITY:

THE GOVERNMENT OF THE REPUBLIC OF POLAND:

WHO, having exchanged their full powers, found in good and due form,

HAVE AGREED AS FOLLOWS:

Article 1

The arrangements for import into the Community applicable to certain agricultural products originating in Poland as set out in Annex A (a) and A (b) and the arrangements for import into Poland applicable to certain agricultural products originating in the Community as set out in Annex B (a) and B (b) to this Protocol shall replace those set out in Annexes VIIIa, VIIIb, IX, Xa, Xb, Xc and XI to the Europe Agreement establishing an association between the European Communities and their Member States, of the one part, and the Republic of Poland, of the other part, as amended by the Protocol adjusting the trade aspects of the Europe Agreement [4].

[1] OJ L 348, 31.12.1993, p. 2.

[2] OJ L 27, 30.1.2002, p. 3.

[3] OJ L 332, 28.12.2000, p. 7.

[4] OJ L 27, 30.1.2002, p. 3.

Article 2

The Annexes to this Protocol shall form an integral part thereof. This Protocol shall form an integral part of the Europe Agreement.

Article 3

This Protocol shall be approved by the Community and the Republic of Poland in accordance with their own procedures. The Contracting Parties shall take the necessary measures to implement this Protocol.

Article 4

This Protocol shall enter into force on the first day of the first month following the Contracting Parties' notification of the accomplishment of the corresponding procedures according to Article 3.

Article 5

This Protocol shall be drawn up in duplicate in the Danish, Dutch, English, Finnish, French, German, Greek, Italian, Portuguese, Spanish, Swedish and Polish languages, each of these texts being equally authentic.

ANNEX A (a)

Customs duties on imports applicable in the Community to products originating in Poland and listed below shall be abolished

CN code [1]	CN code	CN code	CN code	CN code
0101 20 10	0709 20	0810 90 85	1212 10 10	1515 90 99
0104 20 10	0709 51 10	0811 90 11	1212 10 99	1516 20 95
0106 00 10	0709 51 30	0811 90 19	1214 90 10	1516 20 96
0106 00 20	0709 51 50	0811 90 31	1302 19 05	1516 20 98
0205 00 11	0709 51 90	0811 90 39	1502 00 90	1518 00 31
0205 00 19	0709 52 00	0811 90 50	1503 00 19	1518 00 39
0205 00 90	0709 60 10	0811 90 70	1503 00 90	1522 00 91
0208 10 11	0709 60 99	0811 90 85	1504 10 10	1602 31 11
0208 10 19	0709 90 40	0811 90 95	1504 10 99	1602 31 19
0208 20 00	0709 90 50	0812 10 00	1504 20 10	1602 31 30
0208 90 10	0710 21 00	0812 20 00	1504 30 10	1602 31 90
0208 90 50	0710 22 00	0812 90 40	1508 10 90	2001 90 20
0208 90 60	0710 29 00	0812 90 50	1508 90 10	2001 90 50
0208 90 80	0710 30 00	0812 90 60	1508 90 90	2003 10 20
0210 90 10	0710 80 59	0812 90 95	1511 10 90	2003 10 30
0210 90 79	0710 80 61	0813 10 00	1511 90 11	2005 10 00
0407 00 90	0710 80 69	0813 20 00	1511 90 19	2005 20 20
0410 00 00	0710 80 70	0813 30 00	1511 90 91	2005 20 80
0601 10 10	0710 80 85	0813 40 10	1511 90 99	2005 40 00
0601 10 20	0710 80 95	0813 40 30	1513 11 10	2005 51 00
0601 10 30	0710 90 00	0813 40 95	1513 11 91	2005 59 00
0601 10 40	0711 10 00	0813 50 12	1513 11 99	2005 60 00
0601 10 90	0711 30 00	0813 50 15	1513 19 11	2005 90 10
0601 20 30	0711 90 10	0813 50 19	1513 19 19	2005 90 30
0601 20 90	0711 90 40	0813 50 39	1513 19 30	2005 90 50
0602 10 90	0711 90 60	0813 50 91	1513 19 91	2005 90 60
0602 20 90	0711 90 70	0813 50 99	1513 19 99	2005 90 70
0602 30 00	0712 20 00	0814 00 00	1513 21 11	2005 90 75
0602 40 10	0712 30 00	0901 12 00	1513 21 19	2005 90 80
0602 40 90	0712 90 05	0901 21 00	1513 21 30	2008 80
0602 90 10	0712 90 50	0901 22 00	1513 21 90	2009 70 19
0602 90 30	0712 90 90	0902 10 00	1513 29 11	2009 70 30
0602 90 41	0713 50 00	0904 12 00	1513 29 19	2009 70 93
0602 90 45	0713 90 10	0904 20 10	1513 29 30	2009 70 99
0602 90 49	0713 90 90	0904 20 90	1513 29 50	2009 80 19
0602 90 51	0802 21 00	0907 00 00	1513 29 91	2009 80 38
0602 90 59	0802 22 00	0910 40 13	1513 29 99	2009 80 69
0602 90 70	0802 31 00	0910 40 19	1515 19 10	2009 80 95
0602 90 91	0802 32 00	0910 40 90	1515 19 90	2009 80 96
0602 90 99	0802 40 00	0910 91 90	1515 21 10	2009 80 97
0604 10 90	0802 90 85	0910 99 99	1515 21 90	2009 80 99
0604 91 21	0806 20 11	1106 10 00	1515 29 10	2009 90 19
0604 91 29	0806 20 12	1106 30 90	1515 29 90	2009 90 29
0604 91 41	0806 20 18	1208 10 00	1515 30 90	2009 90 39
0604 91 49	0806 20 91	1209 19 00	1515 50 11	2302 50 00
0604 91 90	0806 20 92	1209 21 00	1515 50 19	2306 90 19
0604 99 90	0806 20 98	1209 23 80	1515 50 91	2308 90 90
0701 90 10	0807 11 00	1209 29 50	1515 50 99	2309 10 51
0703 10 90	0807 19 00	1209 29 80	1515 90 29	2309 10 90
0703 90 00	0808 20 90	1209 30 00	1515 90 39	2309 90 10
0704	0809 40 90	1209 91 10	1515 90 40	2309 90 31
0705	0810 10	1209 91 90	1515 90 51	2309 90 41
0706	0810 40 30	1209 99 91	1515 90 59	2309 90 51
0707 00 90	0810 40 50	1209 99 99	1515 90 60	
0708	0810 40 90	1211 90 30	1515 90 91	

[1] As defined in Commission Regulation (EC) No 2204/1999 of 12.10.1999, amending Annex I to Council Regulation (EEC) No 2658/87 on the tariff and statistical nomenclature and on the Common Customs Tariff (OJ L 278, 28.10.1999, p. 1).

ANNEX A (b)

Imports into the Community of the following products originating in Poland shall be subject to the concessions set out below

(MFN = Most Favoured Nation duty)

CN code	Description (1)	Applicable duty (% of MFN) (2)	Quantity from 1.7.2000 to 30.6.2001 (tonnes)	Yearly increase as from 1.7.2001 (tonnes)	Specific provisions
0102 90 05	Live bovine animals of a live weight not exceeding 80 kg	10	178 000 heads	0	(3)
0102 90 21 0102 90 29 0102 90 41 0102 90 49	Live bovine animals of a live weight exceeding 80 kg but not exceeding 300 kg	10	153 000 heads	0	(3)
ex 0102 90	Heifers and cows not for slaughter of the following mountain breeds: grey, brown, yellow, spotted Simmental and Pinzgau breed	6 % *ad valorem*	7 000 head	0	(4)
0103 92 19	Live swine, domestic species	20	1 750	0	
0104 10 30 0104 10 80 0104 20 90	Live sheep or goats	free	9 200	0	(5)
0204	Meat of sheep or goats				(5)
0201 0202	Meat of bovines, fresh, chilled or frozen	free	16 000	1 600	
1602 50	Other prepared or preserved meat, meat offal or blood: – of bovine animals				(11)
ex 0203	Meat of domestic swine, fresh, chilled or frozen	free	30 000	3 000	(6) (7)
ex 0210	Meat of swine:				(7)
0210 11	– Ham, shoulders and cuts thereof, with bone in				
0210 12	– Bellies and cuts thereof				
0210 19	– Other				
0206 80 91 0206 90 91	Edible offal of horses, asses, mules and hinnies	50	unlimited	—	
ex 0207	Meat and edible offal, of the poultry of heading No 0105, excluding 0207 34, 0207 36 81, 0207 36 85	free	for 1.1.2001-30.6.2001: 18 000 Base quantity for the yearly increase: 36 000	3 600	(7)
0402 10 19	Skimmed milk powder	free	10 000	1 000	
0402 21 19	Whole milk powder				
0402 21 99	Whole milk powder				
0405 10 11 0405 10 19 0405 10 30 0405 10 50 0405 10 90 0405 20 90	Butter and dairy spreads	free	6 000	600	(7)

CN code	Description [1]	Applicable duty (% of MFN) [2]	Quantity from 1.7.2000 to 30.6.2001 (tonnes)	Yearly increase as from 1.7.2001 (tonnes)	Specific provisions
0406	Cheese and curd	free	9 000	900	[7]
0407 00 11	Poultry eggs, in shell	20	1 875	0	
0407 00 19					
0407 00 30					
0408 91 80	Birds' eggs, dried	20	375	0	[8]
0408 99 80	Other whole eggs, not in shell				
0409 00 00	Natural honey	93	unlimited		
0603 90 00	Cut flowers	35	unlimited		
0701 10 00	Seed potatoes	20	550	0	
0701 90 90	Potatoes	20	5 000	0	
0703 10 11	Sets of onion	free	400	0	
0703 10 19	Onions	free	148 500	0	
0703 20 00	Garlic	free	875	0	
0707 00 05	Cucumbers	free	unlimited	—	[9] [12]
0709 10 00	Globe artichokes	free	unlimited		[9] [12]
0709 40 00	Celery, other than celeriac	free	125	0	
0710 80 51	Sweet peppers, frozen	free	2 000	0	
0711 40 00	Cucumbers and gherkins	80	unlimited		
0808 10 20	Apples	20	5 375	0	[9] [14]
0808 10 50					[9] [14]
0808 10 90					[9] [14]
0808 10 20	Apples	100 % MFN	—	—	[14]
0808 10 50		100 % MFN	—	—	[14]
0808 10 90		100 % MFN	—	—	[14]
0808 20 10	Perry pears, in bulk, 1 August to 31 December	free	250	0	
0809 20	Cherries	free	unlimited		[9] [12]
0809 40 05	Plums:				
	– for processing, in immediate containers of a net capacity weight exceeding 250 kg [15]	free	unlimited		
	– other	free	unlimited		[9] [13]
0810 20	Raspberries, blackberries, mulberries and loganberries	free	unlimited		[10]
0810 30	Black-, white- or redcurrants and gooseberries				[10]
0811 10	Strawberries, frozen	free	unlimited		[10]
0811 20	Raspberries, blackberries, mulberries, loganberries, black-, white- or redcurrants and gooseberries, frozen				[10]

CN code	Description ([1])	Applicable duty (% of MFN) ([2])	Quantity from 1.7.2000 to 30.6.2001 (tonnes)	Yearly increase as from 1.7.2001 (tonnes)	Specific provisions
0811 90 75	Sour cherries (*Prunus cerasus*)				
0811 90 80	Other cherries than sour cherries	free	30 250	0	
0812 90 10	Apricots	free	1 250	0	
1001 90	Wheat and meslin, other than durum wheat	free	for 1.1.2001-30.6.2001: 200 000 Base quantity for the annual increase: 400 000	40 000	([7])
1008 10 00	Buckwheat	20	5 500	0	
1101 00	Wheat or meslin flour	free	for 1.1.2001-30.6.2001: 5 000 Base quantity for the annual increase: 10 000	1 000	([7])
1102	Cereals flours other than of wheat or meslin				
1108 13 00	Potato starch	20	9 375	0	
1514 10 10	Crude rapeseed, colza or mustard oil, other than for human consumption	free	625	0	
1601 00	Sausages and similar products of meat, meat offal or blood; food preparations based on these products	free	16 000	1 600	([7])
ex 1602	Other prepared or preserved meat, meat offal or blood, of swine:				
1602 41	– Hams and cuts thereof				
1602 42	– Shoulders and cuts thereof				
1602 49	– Other, including mixtures				
1602 20 11	Goose or duck liver	69	unlimited	—	
1602 20 19					
ex 1602	Other prepared or preserved meat, meat offal or blood, of poultry of heading No 0105:	free	for 1.1.2001-30.6.2001: 500 Base quantity for the annual increase: 1 000	100	([7])
1602 32	– Of fowls of the species *Gallus domesticus*				
1602 39	– Other				
ex 1602 90 31	Game	47	unlimited		
ex 1602 90 31	Rabbit	82	unlimited	—	
1703 90 00	Molasses, other than cane molasses	free	300 000	0	
ex 2001 10 00	Cucumbers, prepared or preserved	free	unlimited	0	
ex 2007 99 31	Sour cherry jam	20	1 875	0	([9])
2007 99 33	Strawberry jam				
2007 99 35	Raspberry jam				
ex 2007 99 39	With a sugar content exceeding 30 % by weight. Fruit coming under CN codes 0801, 0803, 0804 (except figs and pineapples), 0807 20 00, 0810 20 90, 0810 30 90, 0810 40 10, 0810 40 50, 0810 40 90, 0810 90	27	unlimited		([9])
ex 2008 99 49	Prepared or preserved apples	free	unlimited		

CN code	Description [1]	Applicable duty (% of MFN) [2]	Quantity from 1.7.2000 to 30.6.2001 (tonnes)	Yearly increase as from 1.7.2001 (tonnes)	Specific provisions
ex 2008 99 99	Fruit coming under CN codes 0803, 0804 (except figs), 0807 20 00, 0810 20 90, 0810 30 90, 0810 40 10, 0810 40 50, 0810 40 90, 0810 90	26	unlimited		
ex 2009 80	Juice of fruit or vegetables, whether or not containing added sugar or other sweetening matter, excluding CN-codes 2009 80 19, 2009 80 38, 2009 80 69, 2009 80 95, 2009 80 96, 2009 80 97 and 2009 80 99	free	500	0	
ex 2302	Bran, sharps and other residues, except CN code 2302 50 00	free	for 1.1.2001-30.6.2001: 2 000 Base quantity for the annual increase: 4 000	400	[7]

(1) Notwithstanding the rules for the interpretation of the Combined Nomenclature, the wording of the description of the products is to be considered as having no more than indicative value, the preferential scheme being determined, within the context of this Annex, by the coverage of the CN code. Where ex CN codes are indicated, the preferential scheme is to be determined by application to the CN code and corresponding description taken together.

(2) In cases where an MFN minimum duty exits, the applicable minimum duty is equal to the MFN minimum duty multiplied by the percentage indicated in this column.

(3) The quota for this product is opened for Bulgaria, the Czech Republic, Estonia, Hungary, Latvia, Lithuania, Poland, Romania and the Slovak Republic. Where it appears likely that total Community imports of live bovine animals may exceed 500 000 head in a given marketing year the Community may take the management measures needed to protect its market, notwithstanding any other rights given under the Agreement.

(4) The quota for this product is opened for Bulgaria, the Czech Republic, Estonia, Hungary, Latvia, Lithuania, Poland, Romania and the Slovak Republic.

(5) The Community may take into account, in the framework of its legislation and when appropriate the supply needs of its market and the need to maintain its market balance.

(6) Excluding tenderloin presented alone.

(7) This concession is only applicable to products not benefiting from any kind of export subsidies.

(8) In dried egg equivalent (100 kg liquid egg = 25,7 kg of dried egg).

(9) The reduction applies only to the *ad valorem* part of the duty.

(10) Subject to minimum import price arrangements contained in the Annex to the present Annex.

(11) Co-efficient for conversion to fresh meat = 2,14, providing meat content is > 60 %.

(12) In addition to the reduction of the *ad valorem* part of the duty, five additional stages (10 %, 12 %, 14 %, 16 % and 18 %) are herewith introduced which have to be used before the application of the full specific duty as mentioned in the Combined Nomenclature.

(13) In addition to the reduction of the *ad valorem* part of the duty, three additional stages (10 %, 12 % and 14 %), are herewith introduced which have to be used before the application of the full specific duty as mentioned in the Combined Nomenclature.

(14) For these CN-codes, the following concessions — applicable for apples imported within, as well as outside, the tariff quota — should be applied:
- five additional stages (10 %, 12 %, 14 %, 16 % and 18 %) are herewith introduced for the period 1 January to 14 February, which have to be used before the application of the full specific duty as mentioned in the Combined Nomenclature.
- three additional stages (14 %, 16 % and 18 %) are herewith introduced for the period 15 February to 31 March, which have to be used before the application of the full specific duty as mentioned in the Combined Nomenclature.
- two additional stages (16 % and 18 %) are herewith introduced for the period 1 April to 15 July, which have to be used before the application of the full specific duty as mentioned in the Combined Nomenclature.
- five additional stages (10 %, 12 %, 14 %, 16 % and 18 %) are herewith introduced for the period 16 July to 31 December, which have to be used before the application of the full specific duty as mentioned in the Combined Nomenclature.

(15) Entry under this subheading is subject to conditions laid down in the relevant Community provisions (see Articles 291 to 300 of Commission Regulation (EEC) No 2454/93 (OJ L 253, 11.10.1993, p. 71) and subsequent amendments).

Annex to Annex A (b)

Minimum import price arrangement for certain soft fruit for processing

1. Minimum import prices are fixed as follows for the following products for processing originating in Poland:

CN Code	Description	Minimum import price (EUR/100 kg net)
ex 0810 20 10	Raspberries, fresh, intended for processing	63,1
ex 0810 30 10	Blackcurrants, fresh, intended for processing	38,5
ex 0810 30 30	Redcurrants, fresh, intended for processing	23,3
ex 0811 10 11	Frozen strawberries containing added sugar or other sweetening matter, with a sugar content exceeding 13 % by weight, whole fruit	75,0
ex 0811 10 11	Frozen strawberries containing added sugar or other sweetening matter, with a sugar content exceeding 13 % by weight, other	57,6
ex 0811 10 19	Frozen strawberries containing added sugar or other sweetening matter, with a sugar content not exceeding 13 % by weight, whole fruit	75,0
ex 0811 10 19	Frozen strawberries containing added sugar or other sweetening matter, with a sugar content not exceeding 13 % by weight, other	57,6
ex 0811 10 90	Frozen strawberries, containing no added sugar or other sweetening matter: whole fruit	75,0
ex 0811 10 90	Frozen strawberries, containing no added sugar or other sweetening matter: other	57,6
ex 0811 20 19	Frozen raspberries, containing added sugar or other sweetening matter, with a sugar content not exceeding 13 % by weight: whole fruit	99,5
ex 0811 20 19	Frozen raspberries, containing added sugar or other sweetening matter, with a sugar content not exceeding 13 % by weight: other	79,6
ex 0811 20 31	Frozen raspberries, containing no added sugar or other sweetening matter: whole fruit	99,5
ex 0811 20 31	Frozen raspberries, containing no added sugar or other sweetening matter: other	79,6
ex 0811 20 39	Frozen blackcurrants, containing no added sugar or other sweetening matter: without stalk	62,8
ex 0811 20 39	Frozen blackcurrants, containing no added sugar or other sweetening matter: other	44,8
ex 0811 20 51	Frozen redcurrants, containing no added sugar or other sweetening matter: without stalk	39,0
ex 0811 20 51	Frozen redcurrants, containing no added sugar or other sweetening matter: other	29,5

2. The minimum import prices, as set out in Article 1, will be respected on a consignment by consignment basis. In the case of a customs declaration value being lower than the minimum import price, a countervailing duty will be charged equal to the difference between the minimum import price and the customs declaration value.

3. If the import prices of a given product covered by this Annex show a trend suggesting that the prices could go below the level of the minimum import prices in the immediate future, the European Commission will inform the Polish authorities in order to enable them to correct the situation.

4. At the request of either the Community or Poland, the Association Committee shall examine the functioning of the system or the revision of the level of the minimum import prices. If appropriate, the Association Committee shall take the necessary decisions.

5. To encourage and promote the development of trade and for the mutual benefit of all parties concerned, a consultation meeting will be organised three months before the beginning of each marketing year in the European Community. This consultation meeting will take place between the European Commission and the interested European producers' organisations for the products concerned, of the one part and the authorities', producers' and exporters' organisations of all the associated exporting countries, of the other part.

   During this consultation meeting, the market situation for soft fruit including, in particular, forecasts for production, stock situation, price evolution and possible market development, as well as possibilities to adapt supply to demand, will be discussed.

ANNEX B (a)

Customs duties on imports applicable in Poland to products originating in the Community and listed below shall be abolished

PCN-code [1]	PCN-code	PCN-code	PCN-code	PCN-code
0101 19 10 0	0711 20 90 0	0904	1302 11 00 0	2009 11 19 0
0101 20 10 0	0711 30 00 0	0905 00 00 0	1302 19 05 0	2009 11 99 0
0102 90 90 0	0711 90 10 0	0906	1302 19 98 1	2009 19 19 0
0103 91 90 0	0711 90 70 0	0907 00 00 0	1302 19 98 9	2009 19 99 0
0103 92 90 0	0712 90 11 0	0908	1302 32 90 0	2009 20 19 0
0106 00 10 1	0713	0909	1302 39 00 0	2009 20 99 0
0106 00 10 9	0714 20	0910	1501 00 11 0	2009 30 19 0
0106 00 20 0	0714 90 90 0	1005 10 11 0	1502	2009 30 39 0
0203 11 90 0	0801	1005 10 13 0	1503	2009 30 55 0
0203 12 90 0	0802	1005 10 15 0	1508	2009 30 59 0
0203 19 90 0	0803	1005 10 19 0	1509	2009 30 95 0
0203 21 90 0	0804	1006 10 10 0	1510	2009 30 99 0
0203 22 90 0	0805	1006 30	1511	2009 40 19 0
0203 29 90 0	0806 20	1007 00 10 0	1513	2009 40 93 0
0205	0807	1008 30 00 0	1515 19	2009 40 99 0
0208	0808 20 90 0	1106 10 00 0	1515 21	2009 60 11 0
0210 90 10 0	0810 40	1106 30 90 0	1515 29	2009 60 19 0
0210 90 71 0	0810 50 00 0	1201	1515 30	2009 60 51 0
0210 90 79 0	0810 90 30 0	1203 00 00 0	1515 40 00 0	2009 60 59 0
0407 00 90 0	0810 90 40 0	1204	1515 50	2009 60 90 0
0408 91 20 0	0810 90 85 0	1206	1515 90	2301
0408 99 20 0	0811 90 70 0	1207 10	1516 20 95 0	2302 50 00 0
0410 00 00 0	0811 90 85 0	1207 20	1516 20 96 0	2303 10 19 0
0511	0812 10 00 0	1207 30 10 0	1516 20 98 0	2303 10 90 0
0601	0812 90 30 0	1207 40	1518 00 31 0	2303 20
0602	0812 90 40 0	1207 50	1518 00 39 0	2303 30 00 0
0604	0812 90 50 0	1207 60	1522 00 91 0	2304 00 00 0
0701 90 10 0	0812 90 60 0	1207 92	1522 00 99 0	2305 00 00 0
0703 10 90 0	0812 90 70 0	1207 99	1602 31	2306
0703 90 00 0	0812 90 95 0	1208	1603 00 80 0	2307 00 11 0
0708 10 00 0	0813 40 10 0	1209 19 00 0	1801 00 00 0	2307 00 90 0
0709 51 30 0	0813 40 50 0	1209 21 00 0	1802 00 00 0	2308 10 00 0
0709 51 50 0	0813 40 60 0	1209 22	2001 90 10 0	2308 90 11 0
0709 51 90 0	0813 40 70 0	1209 30 00 0	2001 90 20 0	2308 90 30 0
0709 52 00 0	0813 40 95 0	1209 91	2005 70	2308 90 90 0
0709 60	0813 50	1209 99	2005 90 10 0	2309 10 11 0
0709 90 31 0	0814 00 00 0	1211	2006 00 10 0	2309 10 31 0
0709 90 40 0	0901 11 00 0	1212 10	2008 19 11 0	2309 10 51 0
0709 90 50 0	0901 12 00 0	1212 30 00 0	2008 19 13 0	2309 10 90 0
0710 80 10 0	0901 21 00 0	1212 99 00 0	2008 19 51 0	2309 90 10 0
0710 80 59 0	0901 22 00 0	1213 00 00 0	2008 19 59 0	2309 90 31 0
0711 10 00 0	0901 90 10 0	1214	2008 99 41 0	2309 90 41 0
0711 20 10 0	0902	1301	2008 99 51 0	2309 90 51 0

(1) As defined by the Polish Customs Tariff — Annex to Council of Ministers Regulation of 20 December 2000 (Dz.U. No 119 item 1253, 28 December 2000).

ANNEX B (b)

Imports into Poland of the following products originating in the Community shall be subject to the concessions set out below

PCN-code	Description ([1])	Applicable duty (% of MFN) ([2])	Annual quantity from 1.1.2001 to 31.12.2001 (tonnes)	Increase from 1.1.2001 to 31.12.2001 (tonnes)	Yearly increase as from 1.1.2002 (tonnes)	Specific Provisions
0102 90 41 0	Live bovine animals	50	unlimited			([2])
0102 90 49 0		50				([2])
0102 90 51 0		50				
0102 90 59 0		50				
ex 0203	Meat of domestic swine, fresh, chilled or frozen	free	30 000	1 500	3 000	([3]) ([5]) ([6])
ex 0210	Meat of swine:					
0210 11	– Ham, shoulders and cuts thereof, with bone in					
0210 12	– Bellies and cuts thereof					
0210 19	– Other					
0207	Meat and edible offal, of the poultry of heading No 0105	free	20 000	1 000	2 000	([5])
ex 0403 10 11 to 0403 10 39	Buttermilk, curdled milk and cream, yoghurt, kephir and other fermented or acidified milk and cream	71	unlimited			
0403 90 11 to 0403 90 69						
0405 10 11 0	Butter and dairy spreads	free	5 000	250	500	([5])
0405 10 19 0						
0405 10 30 0						
0405 10 50 0						
0405 10 90 0						
0405 20 90 0						
0406	Cheese and curd	free	9 000	450	900	([5])
0701 1000 0	Potatoes seed, fresh or chilled	33	unlimited			
0709 10 00 0	Globe artichokes, fresh or chilled	23	unlimited			
0806 10 10 1	Grapes	33	unlimited			
0806 10 10 3		50				
0806 10 10 5		60				
0806 10 10 7		60				
0806 10 10 9		50				
0806 10 90 0		50				
0809 10 00 0	Apricots	60	unlimited			
0809 30	Peaches including nectarines	60	unlimited			
0813 40 30	Pears, dried	60	unlimited			
1001 10 00 0	Durum wheat	50	unlimited			
1001 90	Wheat and meslin, other than durum wheat	free	400 000	20 000	40 000	([5])

PCN-code	Description [1]	Applicable duty (% of MFN) [2]	Annual quantity from 1.1.2001 to 31.12.2001 (tonnes)	Increase from 1.1.2001 to 31.12.2001 (tonnes)	Yearly increase as from 1.1.2002 (tonnes)	Specific Provisions
1101 00	Wheat or meslin flour	free	10 000	500	1 000	[5]
1102	Cereal flour other than wheat or meslin					[5]
1107	Malt	10 % *ad valorem*	45 000			
1205 00 90 0	Rape or colza seeds	15 % *ad valorem*	32 000			
1515 11 00 0	Crude linseed oil	50	unlimited			
1601 00	Sausages and similar products of meat, meat offal or blood; food preparations based on these products	free	1 000	50	100	[5]
ex 1602	Other prepared or preserved meat, meat offal or blood, of swine					
1602 41	– Hams and cuts thereof					
1602 42	– Shoulders and cuts thereof					
1602 49	– Other, including mixtures					
ex 1602	Other prepared or preserved meat, meat offal or blood, of poultry of heading No 0105:	free	1 000	50	100	[5]
1602 32	– Of fowls of the species *Gallus domesticus*					
1602 39	– Other					
1701	Sugar	40 % *ad valorem,* min. EUR 0,17/kg	32 500			[7]
1902 20 10 0 1902 20 30 0	Stuffed pasta, whether or not cooked or otherwise prepared	75	unlimited			
2005 90 30 0	Capers, prepared or otherwise, not frozen	67	unlimited			
2005 90 50 0	Globe artichokes	67	unlimited			
2008 11 96 0 2008 11 98 0	Ground nuts, prepared or otherwise, in packings not exceeding 1 kg	71	unlimited			
2008 70 61 0 to 2008 70 99 0	Peaches, prepared or preserved, not containing added spirit	71	unlimited			
2009 11 11 0	Fruit juices (including grape must) and vegetable juices, unfermented and not containing added spirit, whether or not containing added sugar or other sweeting matter	80	unlimited			
2009 11 91 0		67				
2009 19 11 0		80				
2009 19 91 0		67				
2009 20 11 0		80				
2009 20 91 0		67				
2009 30 11 0		80				
2009 30 31 0		67				
2009 30 51 0		67				
2009 30 91 0		67				

PCN-code	Description (1)	Applicable duty (% of MFN) (2)	Annual quantity from 1.1.2001 to 31.12.2001 (tonnes)	Increase from 1.1.2001 to 31.12.2001 (tonnes)	Yearly increase as from 1.1.2002 (tonnes)	Specific Provisions
2009 40 11 0		80				
2009 40 30 0		67				
2009 40 91 0		67				
2009 60 71 0		67				
2009 60 79 0		67				
2009 80 32 0		71				
2009 80 33 0		71				
2009 80 35 0		71				
2009 80 36 0		80				
2009 80 38 0		80				
2009 80 71 0 to 2009 80 99 9		71				
2009 90 41 0 to 2009 90 98 0		71				
2204 10	Wine of fresh grapes, including fortified wines; grape must other than that of heading No 2009	20 % *ad valorem,* min. EUR 42/hl	unlimited			(4)
2204 21 10 1 2204 21 10 9		20 % *ad valorem,* min. EUR 42/hl				
2204 21 11 0 to 2204 21 98 0		20 % *ad valorem,* min. EUR 25/hl				
2204 21 99 0		25 % *ad valorem,* min. EUR 25/hl + EUR 1,7 %/hl				
2204 30 10 1		78				
2204 30 10 9		78				
2204 30 92 0 to 2204 30 98 9		85				
ex 2302	Bran, sharps and other residues, except CN-code 2302 50 00	free	4 000	200	400	(5)

(1) Notwithstanding the rules for the interpretation of Polish Combined Nomenclature (PCN), the wording of the description of the products should be regarded as indicative; the applicability of the preferential arrangements is determined, in the context of this Annex, by the coverage of the PCN codes.

(2) Heifers of a weight exceeding 220 kg.

(3) Excluding tenderloin presented alone.

(4) Rate of duty applicable. If the applied MFN duty rate *ad valorem* for this product is reduced, the preferential duty rate *ad valorem* set out in the 3rd column will be reduced by the same proportion. If the applied MFN minimum/specific duty rate is reduced below the preferential minimum/specific duty, the latter will be reduced to the same level.

(5) Products for which the EU will not grant any export refunds.

(6) This concession in the pigmeat sector will be implemented after the current veterinary restrictions prohibiting the imports of certain pigmeat products into the Community from Poland will be lifted.

(7) Within the framework of the Polish WTO tariff quota.

Proposal for a Council Decision authorising Sweden to apply a differentiated rate of energy tax to alkylate based petrol for two-stroke engines in accordance with Article 8(4) of Directive 92/81/EEC

(2002/C 262 E/29)

COM(2002) 365 final

(Submitted by the Commission on 9 July 2002)

EXPLANATORY MEMORANDUM

1. Submission of request

1.1. By letter of 22 April 2002, the Swedish authorities applied to the Commission for a derogation allowing them to apply an energy tax differentiation on alkylate based petrol for two-stroke engines in accordance with Article 8(4) of Directive 92/81/EEC ([1]).

In order to obtain the information it required to evaluate the request, the Commission sent an additional question on 14 May 2002 to which the Swedish authorities replied on 16 May 2002. The reply of the Swedish authorities enabled the Commission to finalise its evaluation of the application for a derogation.

1.2. Sweden proposes to amend the law (1994:1776) on energy taxation to introduce a lower rate of energy tax for alkylate based petrol for two-stroke engines with effect from 1 July 2002 or a later date determined by the Government when approval has been obtained from the EU. This measure is designed to improve the environment and public health by increasing the use of the cleaner alkylate based petrol for two-stroke engines through reducing the energy tax rate on this fuel relative to normal petrol for two-stroke engines to compensate for the higher production costs of alkylate based petrol.

In Sweden the total excise duty on mineral oil products is composed of two elements, the energy tax and the CO_2 tax.

Sweden already applies excise duty differentiation according to environmental classes (miljöklasser) of fuel. The differentiated rates were introduced to promote the production and use of cleaner fuels, and so improve air quality and public health. The system has been very successful.

Sweden now wishes to encourage the production and use of alkylate based petrol for two-stroke engines by introducing a further lower duty rate. Sweden plans to set the rate of energy tax for alkylate based petrol for two-stroke engines at 1,50 Swedish crowns per litre below that of motor petrol (motor bensin) of environmental class 1. This equates to an energy tax duty of 1,66 Swedish crowns (18 eurocent ([2])) per litre at current rates. The total excise duty rate (including CO_2 tax) is then 3,12 Swedish crowns (33,9 eurocent) per litre.

The Swedish authorities are intending to introduce the reduced rate of duty with effect from July 2002 until further notice. The duty forgone as a result of the duty reduction is estimated to some 100 million Swedish crowns (11 million euro) per annum.

1.3. Production costs of alkylate based petrol for two-stroke engines exceed those of conventional two-stroke petrol, and its retail price would therefore be uncompetitive without the duty reduction. The duty reduction is simply intended to offset the additional production costs. By removing this disparity, it will enable alkylate based petrol for two-stroke engines to be sold at a similar pump price to conventional two-stroke petrol.

The Swedish government will keep control over prices so that the price of alkylate petrol will not fall below the price of conventional petrol.

([1]) Directive published in OJ L 316, 31.10.1992, p. 12, as last amended by Directive 94/74/EC (OJ L 365, 31.12.1994, p. 46).

([2]) The exchange rate is rounded off to 9,20 SKR for one euro.

1.4. The requested energy tax reduction is foreseen for alkylate based petrol for two-stroke engines (Motorbränslen — Specialbensin för motordrivna arbetsredskap, Tvåtaktsbränsle) that fulfils the criteria of Swedish Standard (SS) 15 54 61 (2nd issue) ([1]).

Some of the most important limits of the abovementioned standard are:

— Lead: maximum 0,002 g/l

— Sulphur: maximum 50 mg/kg

— Olefins: maximum 0,5 volume %

— Aromatic hydrocarbons: maximum 0,5 volume %

— Benzene: maximum 0,1 volume %.

These limits are far below the limits given in Annexes I and III to Directive 98/70/EC ([2]), the distillation requirements for fuels established in this Directive are also observed.

1.5. Provided that the fuel concerned meets the abovementioned standard for alkylate based petrol for two-stroke engines the duty reduction will be granted to any producer of alkylate based petrol in the Member States (or third countries) whose product is put on the market in Sweden. The Swedish authorities estimate the annual volume as some 40 000 m^3 in 2005.

1.6. The promotion of alkylate based petrol for two-stroke engines is a measure to improve environment and health, as the unburnt fuel part of exhaust fumes of two-stroke engines contains considerable lower amounts of aromatic hydrocarbons and olefins, including benzene in comparison to conventional fuel.

2. **Evaluation by the Commission**

2.1. Under Article 8(4) of Council Directive 92/81/EEC, the Council, acting unanimously on a proposal from the Commission, may authorise any Member State to introduce further exemptions or reductions of excise duties for specific policy considerations.

The Swedish authorities have applied to the Commission for derogations allowing them to apply a differentiated rate of energy tax to alkylate based petrol for two-stroke engines in accordance with Article 8(4) of Directive 92/81/EEC ([3]).

As required by Directive 92/81/EEC, the other Member States have been informed of Sweden's request.

2.2. Exemptions requested under Article 8(4) of Directive 92/81/EEC must be examined in terms of their compliance with Community policies.

Since the 1970s the EU has adopted more and more ambitious limits for emissions of vehicles and specifications of fuels to improve the air quality as one of the measures to protect the environment and health. The Communication from the Commission to the Council, the European Parliament and the Economic and Social Committee on Tax policy in the European Union — Priorities for the years ahead ([4]), as well as the 6th Environmental Action Programme ([5]), and the White Paper on Transport ([6]) stipulate fiscal measures as one of the instruments for better incorporation of environmental and health aspects into all policy areas.

([1]) Could be obtained from: SIS Förlag AB, Box 6455, S-113 82 Stockholm.

([2]) OJ L 350, 28.12.1998, p. 58.

([3]) Directive published in OJ L 316, 31.10.1992, p. 12, as last amended by Directive 94/74/EC (OJ L 365, 31.12.1994, p. 46).

([4]) COM(2001) 260 final.

([5]) COM(2001) 31 final and amendments in the decision procedure of Council and EP.

([6]) COM(2001) 370 final.

The tax reduction requested by the Swedish authorities is therefore in line with the Community's policy of promoting cleaner fuels in the interests of protecting the environment and health.

The Commission notes that the effective total excise duty rates for alkylate based petrol are higher than the minimum Community rates applicable:

Community minimum (per 1 000 l) [1]	Energy tax (per 1 000 l)	CO_2-tax (per 1 000 l)	Total excise duty (per 1 000 l)
EUR 287	EUR 181 [2]	EUR 159	EUR 339
	SKR 1 660	SKR 1 460	SKR 3 120

(1) In accordance with Directive 92/82/EEC (OJ L 316, 31.10.1992, p. 19), as last amended by Directive 94/74/EC (OJ L 365, 31.12.1994, p. 46).

(2) The exchange rate is rounded off to SKR 9,20 for one euro.

The Swedish government will keep control over prices so that the price of alkylate petrol will not fall below the price of conventional petrol.

The tax differentiation requested from Sweden is not yet of determined duration until further notice. To keep derogations granted under Article 8(4) of Directive 92/81/EC and their justification under surveillance, the Commission usually grants such derogations with a maximum duration of six years.

3. **Decision**

The Commission proposes that, under Article 8(4) of Council Directive 92/81/EEC, the Council authorises Sweden to apply until 30 June 2008 differentiated rates of energy tax to alkylate based petrol for two-stroke engines.

The reduction in energy tax must be adjusted to avoid over-compensating for the extra costs involved in the manufacture of alkylate based petrol for two-stroke engines.

The rates of total excise duty applicable to the substances referred to above must comply with the terms of Council Directive 92/82/EEC of 19 October 1992 on the approximation of the rates of excise duties on mineral oils [1], and in particular the minimum rates laid down in Article 4 thereof.

(1) Directive published in OJ L 316, 31.10.1992, p. 19, as last amended by Directive 94/74/EC (OJ L 365, 31.12.1994, p. 46).

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty establishing the European Community,

Having regard to Council Directive 92/81/EEC of 19 October 1992 on the harmonisation of the structures of excise duties on mineral oils [1], and in particular Article 8(4) thereof,

Having regard to the proposal from the Commission,

Whereas:

(1) Sweden has applied for a differentiated rate of energy tax to be authorised on alkylate based petrol for two-stroke engines. In Sweden the total excise duty on mineral oil products is composed of two elements, the energy tax and the CO_2 tax.

(2) The other Member States have been notified of this request.

(3) The derogation requested by the Swedish authorities is in line with the Community's tax policy that *inter alia* must reinforce EU policies on innovation, health and consumer protection, sustainable development, environmental and energy.

(4) The energy tax rate for alkylate based petrol for two-stroke engines would be set at 1,50 Swedish crowns per litre below that for conventional Environmental Class 1 petrol. This equates to an energy tax duty of 1,66 Swedish crowns (18 eurocent [2]) litre of alkylate based petrol for two-stroke engines. The total excise duty rate (including CO_2 tax) is then 3,12 Swedish crowns (33,9 eurocent) per litre.

(1) OJ L 316, 31.10.1992, p. 12. Directive as last amended by Directive 94/74/EC (OJ L 365, 31.12.1994, p. 46).

(2) The exchange rate is rounded off to SKR 9,20 for one euro.

(5) The effective total rates of excise duty are higher than the applicable Community minimum rates, in accordance with Council Directive 92/82/EEC of 19 October 1992 on the approximation of the rates of excise duties on mineral oils ([1]).

(6) The requested energy tax reduction is foreseen for alkylate based petrol for two-stroke engines (Motorbränslen — Specialbensin för motordrivna arbetsredskap, Tvåtakts-bränsle) that fulfils the criteria of Swedish Standard (SS) 15 54 61 (2nd issue) ([2]) as well as the standards established in Council Directive 98/70/EC ([3]).

(7) The differentiated rate would apply to alkylate based petrol for two-stroke engines at the point of production or import.

(8) Production costs of for alkylate based petrol for two-stroke engines exceed those of conventional petrol, and its retail price would therefore be uncompetitive without the energy tax reduction. The energy tax reduction is intended to offset the additional production costs. It will enable for alkylate based petrol for two-stroke engines to be sold at a pump price similar to conventional petrol.

(9) The government of Sweden intends to regularly review the production cost of for alkylate based petrol for two-stroke engines and thus monitor that no overcompensation takes place.

(10) The accorded authorisation should apply for a period of six years.

(11) The Commission regularly reviews reductions and exemptions to check that they do not distort competition or hinder the operation of the internal market and are not incompatible with Community policy on protection of the environment, health protection, energy and transport,

HAS ADOPTED THIS DECISION:

Article 1

1. In accordance with Article 8(4) of Directive 92/81/EEC Sweden is authorised to apply a differentiated rate of energy tax to alkylate based petrol for two-stroke engines.

2. The rate of total excise duty applicable to the product referred to in paragraph 1 must comply with the terms of Directive 92/82/EEC, and in particular the minimum rate laid down in Article 4 thereof.

Article 2

Based on a regular review by the Swedish authorities, the reduction in energy tax shall be adjusted to avoid over-compensating for the extra costs involved in the manufacture of alkylate based petrol.

Article 3

This Decision shall expire on 30 June 2008.

Article 4

This Decision is addressed to Sweden.

([1]) OJ L 316, 31.10.1992, p. 19. Directive as last amended by Directive 94/74/EC.

([2]) Could be obtained from: SIS Förlag AB, Box 6455, S-113 82 Stockholm.

([3]) OJ L 350, 28.12.1998, p. 58.

Proposal for a Council Decision on the conclusion of the Agreement in the form of an Exchange of Letters on the extension of the Protocol setting out the fishing opportunities and the financial contribution provided for by the Agreement between the European Economic Community and the Government of the Republic of Angola on fishing off the coast of Angola for the period from 3 May to 2 August 2002

(2002/C 262 E/30)

COM(2002) 368 final

(Submitted by the Commission on 9 July 2002)

EXPLANATORY MEMORANDUM

The Protocol to the Fisheries Agreement between the European Community and the Republic of Angola expired on 2 May 2002. Pending the conclusion of the negotiations on the amendments to be made to the Protocol to the Fisheries Agreement, the two parties have decided to extend the expired Protocol for a further three months. The extension of the Protocol was initialled by both parties on 26 April 2002 and sets out the technical and financial conditions governing the fishing activities of Community vessels in Angolan waters during the period from 3 May 2002 to 2 August 2002.

The Commission proposes, on this basis, that the Council adopt the draft extension of the Protocol by decision, pending its definitive entry into force.

A proposal for a Council Regulation on the period of extension of the Protocol is the subject of a separate procedure.

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty establishing the European Community, and in particular Article 300(2) thereof,

Having regard to the proposal from the Commission,

Whereas:

(1) The European Community and the Republic of Angola have entered into negotiations to determine any amendments or additions to be made to the Agreement between the European Economic Community and the Government of the Republic of Angola on fishing off the coast of Angola at the end of the period of application of the Protocol annexed thereto.

(2) During the negotiations, the two Parties decided to extend the current Protocol for three months by means of an Agreement in the form of an Exchange of Letters initialled on 26 April 2002, pending the conclusion of the negotiations on the amendments to be made to the Protocol.

(3) Under the Exchange of Letters, Community fishermen have fishing opportunities in the waters under the sovereignty or jurisdiction of the Republic of Angola for the period from 3 May 2002 to 2 August 2002.

(4) To avoid an interruption of the fishing activities of Community vessels, the extension must be applied at the earliest opportunity, provided that there is a definitive decision under Article 37 of the Treaty.

(5) The allocation of the fishing opportunities among the Member States under the expired Protocol should be confirmed,

HAS DECIDED AS FOLLOWS:

Article 1

The European Community shall sign the Agreement in the form of an Exchange of Letters on the extension of the Protocol setting out the fishing opportunities and the financial compensation provided for by the Agreement between the European Economic Community and the Government of the Republic of Angola on fishing off the coast of Angola for the period from 3 May 2002 to 2 August 2002.

The text of the Agreement is annexed to this Decision.

Article 2

The Agreement referred to in Article 1 shall be provisionally applicable by the European Community from 3 May 2002.

Article 3

The fishing opportunities established *pro rata temporis* by Article 1 shall be allocated among the Member States as follows:

— shrimp vessels:

  — Spain: 6 550 GRT per month, averaged over the year, 22 vessels;

— demersal fishing vessels:

  — Spain: 1 650 GRT per month, averaged over the year,

  — Portugal: 1 000 GRT per month, averaged over the year,

  — Italy: 650 GRT per month, averaged over the year,

  — Greece: 450 GRT per month, averaged over the year,

— freezer tuna seiners:

  — France: 7 vessels

  — Spain: 11 vessels

— surface longliners:

  — Portugal: 5 vessels

  — Spain: 20 vessels

— pelagic fishing vessels:

  — Ireland: 2 vessels.

If licence applications from these Member States do not cover all the fishing opportunities fixed by the Protocol, the Commission may take into consideration licence applications from any other Member State.

Article 4

The President of the Council is hereby authorised to designate the persons empowered to sign the Agreement in the form of an Exchange of Letters in order to bind the Community.

AGREEMENT

in the form of an Exchange of Letters on the extension of the Protocol setting out the fishing opportunities and the financial contribution provided for in the agreement between the European Economic Community and the Government of the Republic of Angola on fishing off the coast of Angola for the period from 3 May 2002 to 2 August 2002

A. *Letter from the Community*

Sirs,

I have the honour to confirm that we agree to the following interim arrangements for the extension of the Fisheries Agreement between the Government of the Republic of Angola and the European Economic Community, pending the conclusion of the negotiations on a new Protocol:

1. The arrangements applicable over the last two years will be extended for the period from 3 May to 2 August 2002. The Community's financial contribution under the interim arrangements will correspond *pro rata temporis* to that provided for in Article 2 of the Protocol currently in force. Payment will be made no later than 31 December 2002.

2. During the interim period, licences will be issued within the limits laid down in Article 1 of the Protocol currently in force on payment of fees or advances corresponding *pro rata temporis* to those laid down in point 2 of Annex A to the Protocol. The maximum catches laid down for shrimp vessels in Article 1 of the Protocol currently in force will apply *pro rata temporis* during the interim period.

I should be obliged if you would acknowledge receipt of this letter and confirm the agreement of the Government of the Republic of Angola with its contents.

Please accept, Sirs, the assurance of my highest consideration.

On behalf of the European Community

B. *Letter from the Government of the Republic of Angola*

Sirs,

I have the honour to acknowledge receipt of your letter of today's date which reads as follows:

'I have the honour to confirm that we agree to the following interim arrangements for the extension of the Fisheries Agreement between the Government of the Republic of Angola and the European Economic Community, pending the conclusion of the negotiations on a new Protocol:

1. The arrangements applicable over the last two years will be extended for the period from 3 May to 2 August 2002. The Community's financial contribution under the interim arrangements will correspond *pro rata temporis* to that provided for in Article 2 of the Protocol currently in force. Payment will be made no later than 31 December 2002.

2. During the interim period, licences will be issued within the limits laid down in Article 1 of the Protocol currently in force on payment of fees or advances corresponding *pro rata temporis* to those laid down in point 2 of Annex A to the Protocol. The maximum catches laid down for shrimp vessels in Article 1 of the Protocol currently in force will apply *pro rata temporis* during the interim period.

I should be obliged if you would acknowledge receipt of this letter and confirm the agreement of the Government of the Republic of Angola with its contents.'

I have the honour to confirm that the Government of the Republic of Angola accepts the proposed arrangements and that your letter and this letter constitute an agreement in accordance with your proposal.

Please accept, Sirs, the assurance of my highest consideration.

For the Government of the Republic of Angola

Proposal for a Directive of the European Parliament and of the Council amending Directive 94/35/EC on sweeteners for use in foodstuffs

(2002/C 262 E/31)

COM(2002) 375 final — 2002/0152(COD)

(Submitted by the Commission on 11 July 2002)

EXPLANATORY MEMORANDUM

The framework Directive 89/107/EEC on food additives provides for the adoption of specific directives to harmonise the use of different categories of additives in foodstuffs. Directive 94/35/EC on sweeteners for use in foodstuffs sets out a list of authorised sweeteners, the foodstuffs in which they may be used and their conditions of use. The Directive was adopted in June 1994 and first amended in 1996. It now needs to be adapted in the light of recent technical and scientific developments.

The major amendments proposed with this Directive are the following:

1. Authorisation of two new sweeteners; sucralose and the salt of aspartame and acesulfame

The framework and the criteria for the authorisation of new additives are set out in Council Directive 89/107/EEC. These criteria are in summary technological need, no hazard to the health of the consumer at the level of use proposed, no misleading of the consumer and benefit to the consumer.

1.1. Sucralose

Sucralose is a sweetener manufactured by controlled chlorination of sucrose and approximately 500-600 times sweeter than sugar. It is currently approved in several other countries world wide, including Canada, Australia, Japan and the United States of America.

The Scientific Committee on Food has assessed the data on the safety of sucralose and expressed its opinion in September 2000. The Committee concluded that sucralose is acceptable as a sweetener for general food use and set an Acceptable Daily Intake (ADI) of 0-15 mg/kg body weight.

Intense sweeteners have benefits for those consumers wishing to reduce their sugar or calorie intake and for people suffering from diabetes. Authorising an additional intense sweetener has the benefit of offering consumers and food industry the possibility to choose between a wider variety of sweeteners, thus reducing the intake of the single sweeteners.

The manufacturer claims the following specific additional benefits for sucralose when compared with other sweeteners currently authorised:

— Its flavour profile indicates that it is very similar to sugar, with less side or after tastes often associated with intense sweeteners

— It is stable during high temperature processing, such as baking and pasteurisation. This will enable the food industry to produce a wider range of calorie reduced products such as baked goods and cereals. It also means that the table-top sweetener can be used by consumers at home in cooking and baking

— It blends well with sugars. This enables the production of more light products with a reduced level of sugar

— It is stable during long term storage, resulting in economic benefits for consumers and food industry

Following the opinion of the Scientific Committee on Food and the establishing of the technological need, the industry has been consulted on the expected uses of sucralose. Based on the consultations with industry, a list with the food categories and maximum usable doses for sucralose has been drawn up. Intake estimations from the producer of sucralose and two Member States indicate that the ADI for sucralose would not be exceeded with these usable doses.

1.2. Salt of aspartame and acesulfame

The salt of aspartame and acesulfame is, as the name already indicates, a salt of two already authorised sweeteners, aspartame and acesulfame K. It is manufactured from these two substances by replacing the potassium ion of acesulfame K by aspartame.

The Scientific Committee on Food has assessed the data on the safety of the salt of aspartame and acesulfame and expressed its opinion in March 2000. The Committee regarded the use of the salt of aspartame and acesulfame acceptable as an additive considering that:

— the salt represents an alternative source of aspartame and acesulfame ions to the two already permitted sources (E 951 and E 950)

— potential exposure is the same with an equivalent blend of aspartame and acesulfame K

— the use of the substance raises no additional safety considerations.

The manufacturer claims the following specific benefits for the salt of aspartame and acesulfame when compared with the blend of these two substances:

— The component sweeteners cannot separate and a fixed ratio is guaranteed. This leads to more consistent product quality

— The crystals dissolve more rapidly than blends of single sweeteners. Instant products such as desserts, toppings, powder beverage mixtures and table-top sweeteners thus perform better during reconstitution

— In contrast to the blend, the salt is not hygroscopic. Aspartame acesulfame salt is thus much easier to store and to use in manufacture. It eases product handling and poses less stringent demands on packaging

— The salt has semi-cubic crystals which can be produced easily. This means that free-flowing powder of controlled particle sizes — critical for powder mixing applications — can be made

— The salt disperses easily in difficult applications, such as sugar-free candy, where a blend of sweeteners is difficult to employ. This results in superior product quality

— The salt surprisingly boosts the sweetness of chewing gum and gives it a very long-lasting quality without recourse to encapsulation of the sweetener, for example with polymer coatings

— The structure of the solid salt is such that molecular sites which play a role in aspartame breakdown are blocked by the adjacent acesulfame. The resulting increased stability means that the salt can be used directly in difficult applications, such as cinnamon-flavoured gum, where aspartame is unsuitable unless protected by encapsulation

— The potassium contained in acesulfame-K is eliminated when the salt of aspartame and acesulfame salt is made. The salt thus represents a more concentrated source of sweetness, and comprises two pure sweeteners together, without the functionless presence of potassium.

The use of the aspartame acesulfame salt is consequently proposed for the food categories where both aspartame and acesulfame K are authorised. The usable doses for the salt are derived from the lower of the usable doses for the two constituent parts, aspartame and acesulfame K. The maximum usable doses for aspartame and acesulfame K shall however not be exceeded by their use in combination with the salt of aspartame and acesulfame.

2. Monitoring of authorised sweeteners, reduction of the intake of cyclamates

The framework Directive on food additives, Council Directive 89/107/EEC, stipulates that all authorised food additives must be kept under continuous observation and must be re-evaluated whenever necessary in the light of changing conditions of use and new scientific information.

In line with this provision, the Scientific Committee on Food has re-evaluated the safety of cyclamic acid and its sodium and calcium salts in the light of new scientific information that has become available since the previous opinion. In the new opinion expressed in March 2000, the Committee has now established a new ADI of 0-7 mg/kg bodyweight for cyclamic acid and its sodium and calcium salts, expressed as cyclamic acid. Intake studies performed in four Member States on the basis of the former temporary ADI and reviewed by the Committee showed that also this new ADI would not be exceeded.

However, recent intake data submitted by Denmark suggest that the intake of cyclamates in children could exceed the ADI. Therefore, it is proposed to reduce the maximum usable dose for cyclamates by banning or reducing its use in certain food categories.

3. In addition, it is proposed to confer on the Commission the power to decide according to the procedure laid down in Article 7 of the Directive whether a substance is a sweetener within the meaning of this Directive. This would align Directive 94/35/EC to the other two specific Directives on food additives, Directive 94/36/EC on colours for use in foodstuffs and Directive 95/2/EC on food additives other than colours and sweeteners, where similar provisions are foreseen.

Subsidiarity impact statement

1. *What are the objectives of the proposed measure with regard to the Community's obligations?*

Directive 89/107/EEC provides for the adoption of specific directives to harmonise the use of different categories of additives in foodstuffs. Directive 94/35/EC on sweeteners for use in foodstuffs was adopted on 30 June 1994. It now needs to be adapted in the light of recent technical and scientific developments.

2. *Does competence for the proposed measure lie solely with the Community or is it shared with the Member States?*

Competence for the proposed measure lies solely with the Community.

3. *To what extent is this a problem on a Community scale?*

Harmonisation of the use of food additives at Community level was a priority for completion of the internal market. The framework Directive 89/107/EEC on food additives was adopted on 21 December 1988 and the three specific directives (colours, sweeteners, miscellaneous) in 1994 and 1995. Since then, the instruments relating to the use of additives have been the same in the fifteen Member States. This structure ensures a high level of consumer protection, offers the consumer greater freedom of choice between different foodstuffs and guarantees the free movement of foodstuffs.

Directive 94/35/EC on sweeteners for use in foodstuffs is based on the principle of the positive list. A list of authorised sweeteners is set out in the Annex to the Directive with a list of the foodstuffs in which they may be used and the conditions of use. All sweeteners not included in the list are prohibited except for those new sweeteners that are temporarily authorised by Member States for a limited period of two years.

4. *What is the most effective solution taking into account the means available to the Community and the Member States?*

The use of food additives should be regulated uniformly in the European Community to ensure a high level of food safety and free trade in foodstuffs within the Community.

5. *What practical additional benefit will the proposed measure provide and what would be the cost of failure to take action?*

   The Scientific Committee on Food has evaluated two new substances to be used as sweeteners. If the Commission proposes the use of these sweeteners, they can be authorised at Community level. If the Commission does not propose the use of these substances, they cannot be used in the Community.

   Furthermore, the proposal foresees the reduction of the usable dose for a sweetener, for which a new Acceptable Daily Intake (ADI) has now been set, that is lower than the previously established temporary ADI. This measure aims at ensuring that the ADI for this additive is not exceeded.

6. *What form of action is open to the Community?*

   A new Directive adopted by the European Parliament and the Council under the procedure laid down in Article 95 is needed to amend Directive 94/35/EC.

7. *Is it absolutely necessary to adopt uniform rules or would a Directive establishing general principles and leaving implementation to the Member States be sufficient?*

   The Commission proposal is based on the principle of complete harmonisation at Community level, as prescribed by the framework directive on food additives.

THE EUROPEAN PARLIAMENT AND THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty establishing the European Community, and in particular Article 95 thereof,

Having regard to the proposal from the Commission,

Having regard to the opinion of the Economic and Social Committee,

After consultation of the Scientific Committee on Food, pursuant to Article 6 of Council Directive 89/107/EEC of 21 December 1988 on the approximation of the laws of the Member States concerning food additives authorised for use in foodstuffs intended for human consumption [1],

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

Whereas:

(1) European Parliament and Council Directive 94/35/EC of 30 June 1994 on sweeteners for use in foodstuffs [2] lays down a list of sweeteners that may be used in the Community and their conditions of use.

(2) Since 1996, two new sweeteners, sucralose and the salt of aspartame and acesulfame, have been found acceptable for use in food by the Scientific Committee on Food.

(3) The Scientific Committee on Food has now established a new Acceptable Daily Intake (ADI) for cyclamic acid and its sodium and calcium salts. The opinion of the Scientific Committee on Food, in conjunction with a rigorous interpretation of intake estimations, leads to a reduction of the maximum usable doses of cyclamic acid and its sodium and calcium salts.

(4) The food additives concerned comply with the general criteria laid down in Annex II to Directive 89/107/EEC.

(5) It is desirable that when a decision is taken on whether a particular substance is a sweetener, the consultation of the Standing Committee on the Food Chain and Animal Health procedure is followed.

(6) Articles 53 and 54 of 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 [3] establish procedures for taking emergency measures in relation to food of Community origin or imported from a third country. They allow the Commission to adopt such measures in situations where food is likely to constitute a serious risk to human health, animal health or the environment and where such risk cannot be contained satisfactorily by measures taken by the Member State(s) concerned.

(7) The provisions of Directive 94/35/EC should be adapted to take account of Council Decision 1999/468/EC of 28 June 1999 laying down the procedures for the exercise of implementing powers conferred on the Commission [4].

(8) Directive 94/35/EC should therefore be amended accordingly,

[1] OJ L 40, 11.2.1989, p. 27. Directive as amended by European Parliament and Council Directive 94/34/EC (OJ L 237, 10.9.1994, p. 1).

[2] OJ L 237, 10.9.1994, p. 3. Directive as amended by European Parliament and Council Directive 96/83/EC (OJ L 48, 19.2.1997, p. 16).

[3] OJ L 31, 1.2.2002, p. 1.

[4] OJ L 184, 17.7.1999, p. 23.

HAVE ADOPTED THIS DIRECTIVE:

Article 1

Directive 94/35/EC is amended as follows:

1. Article 4 is replaced by the following:

   '*Article 4*

   1. It may be decided in accordance with the procedure referred to in Article 7(2) whether a substance is a sweetener within the meaning of Article 1(2).

   2. Where there are differences of opinion as to whether sweeteners can be used in a given foodstuff under the terms of this Directive, it may be decided in accordance with the procedure referred to in Article 7(2) whether that foodstuff is to be considered as belonging to one of the categories listed in the third column of the Annex.'

2. Article 7 is replaced by the following:

   '*Article 7*

   1. The Commission shall be assisted by the Standing Committee on the Food Chain and Animal Health instituted by Article 58(1) of Regulation (EC) No 178/2002 (hereinafter referred to as "the Committee").

   2. Where reference is made to this paragraph, Articles 5 and 7 of Decision 1999/468/EC shall apply, having regard to the provisions of Article 8 thereof. The period laid down in Article 5(6) of Decision 1999/468/EC shall be three months.

   3. The Committee shall adopt its rules of procedure.'

3. The Annex is amended in accordance with the Annex to this Directive.

Article 2

Member States shall bring into force the laws, regulations and administrative provisions necessary to comply with this Directive by [. . .] at the latest. They shall forthwith inform the Commission thereof.

When Member States adopt those provisions, they shall contain a reference to this Directive or be accompanied by such a reference on the occasion of their official publication. Member States shall determine how such reference is to be made.

Article 3

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

Article 4

This Directive is addressed to the Member States.

ANNEX

The Annex to Directive 94/35/EC is amended as follows:

1. The category 'fine bakery products for special nutritional uses' shall be renamed 'fine bakery products, energy-reduced or with no added sugar';

2. For E 951 aspartame the following category is added:

'— Cornets and wafers, for ice cream, with no added sugar	1 000 mg/kg'

3. For E 952 cyclamic acid and its sodium and calcium salts:

   (a) for the category 'water-based flavoured drinks, energy-reduced or with no added sugar' the maximum usable dose of '400 mg/l' is replaced by '350 mg/l';

   (b) the following categories and maximum usable doses are deleted:

'— Confectionery with no added sugar	500 mg/kg
— Cocoa- or dried-fruit-based confectionery, energy-reduced or with no added sugar	500 mg/kg
— Starch-based confectionery, energy-reduced or with no added sugar	500 mg/kg
— Chewing gum with no added sugar	1 500 mg/kg
— Breath-freshening micro-sweets, with no added sugar	2 500 mg/kg
— Edible ices, energy-reduced or with no added sugar	250 mg/kg'

4. The following tables are added:

'EC-No	Name	Foodstuff	Maximum usable dose
E 955	Sucralose	**Non-alcoholic drinks**	
		— Water-based flavoured drinks, energy-reduced or with no added sugar	300 mg/l
		— Milk- and milk-derivative-based or fruit-juice-based drinks, energy-reduced or with no added sugar	300 mg/l
		Desserts and similar products	
		— Water-based flavoured desserts, energy-reduced or with no added sugar	400 mg/kg
		— Milk- and milk-derivative-based preparations, energy-reduced or with no added sugar	400 mg/kg
		— Fruit- and vegetable-based desserts, energy-reduced or with no added sugar	400 mg/kg
		— Egg-based desserts, energy-reduced or with no added sugar	400 mg/kg
		— Cereal-based desserts, energy-reduced or with no added sugar	400 mg/kg
		— Fat-based desserts, energy-reduced or with no added sugar	400 mg/kg
		— "Snacks": certain flavours of ready to eat, pre-packed, dry, savoury starch products and coated nuts	200 mg/kg

EC-No	Name	Foodstuff	Maximum usable dose
		Confectionery	
		— Confectionery with no added sugar	1 000 mg/kg
		— Cocoa- or dried-fruit-based confectionery, energy-reduced or with no added sugar	800 mg/kg
		— Starch-based confectionery, energy-reduced or with no added sugar	1 000 mg/kg
		— Cornets and wafers, for ice cream, with no added sugar	800 mg/kg
		— *Essoblaten*	800 mg/kg
		— Cocoa-, milk-, dried-fruit- or fat-based sandwich spreads, energy-reduced or with no added sugar	400 mg/kg
		— Breakfast cereals with a fibre content of more than 15 %, and containing at least 20 % bran, energy-reduced or with no added sugar	400 mg/kg
		— Breath-freshening micro-sweets, energy reduced or with no added sugar	2 400 mg/kg
		— Strongly flavoured freshening throat pastilles with no added sugar	1 000 mg/kg
		— Chewing gum with no added sugar	3 000 mg/kg
		— Energy-reduced tablet form of confectionery	200 mg/kg
		— Cider and perry	50 mg/l
		— Drinks consisting of a mixture of a non-alcoholic drink and beer, cider, perry, spirits or wine	250 mg/l
		— Spirit drinks containing less than 15 % alcohol by volume	250 mg/l
		— Alcohol-free beer or with an alcohol content not exceeding 1,2 % vol	250 mg/l
		— "Bière de table/Tafelbier/Table beer" (original wort content less than 6 %) except for "Obergäriges Einfachbier"	250 mg/l
		— Beers with a minimum acidity of 30 milli-equivalents expressed as NaOH	250 mg/l
		— Brown beers of the "oud bruin" type	250 mg/l
		— Energy-reduced beer	10 mg/l
		— Edible ices, energy-reduced or with no added sugar	320 mg/kg
		— Canned or bottled fruit, energy-reduced or with no added sugar	400 mg/kg
		— Energy-reduced jams, jellies and marmalades	400 mg/kg
		— Energy-reduced fruit and vegetable preparations	400 mg/kg
		— Sweet-sour preserves of fruit and vegetables	180 mg/kg
		— *Feinkostsalat*	140 mg/kg
		— Sweet-sour preserves and semi-preserves of fish and marinades of fish, crustaceans and molluscs	120 mg/kg
		— Energy-reduced soups	45 mg/l
		— Sauces	450 mg/kg
		— Mustard	140 mg/kg
		— Fine bakery products, energy-reduced or with no added sugar	700 mg/kg

EC-No	Name	Foodstuff	Maximum usable dose
		— Complete formulae for weight control intended to replace total daily food intake or an individual meal	320 mg/kg
		— Complete formulae and nutritional supplements for use under medical supervision	400 mg/kg
		— Liquid food supplements/dietary integrators	240 mg/kg
		— Solid food supplements/dietary integrators	800 mg/kg
		Food supplements/diet integrators based on vitamins and/or mineral elements, syrup-type or chewable	2 400 mg/kg

EC-No	Name	Foodstuffs	Maximum usable dose [1]		
E 962	Salt of aspartame-acesulfame		Salt of aspartame-acesulfame	Aspartame equivalent	Acesulfame-K equivalent
		Non-alcoholic drinks			
		— Water-based flavoured drinks, energy-reduced or with no added sugar	796 mg/l	512 mg/l	350 mg/l
		— Milk- and milk-derivative-based or fruit-juice-based drinks, energy-reduced or with no added sugar	796 mg/l	512 mg/l	350 mg/l
		Desserts and similar products			
		— Water-based flavoured desserts, energy-reduced or with no added sugar	796 mg/kg	512 mg/kg	350 mg/kg
		— Milk- and milk-derivative-based preparations, energy-reduced or with no added sugar	796 mg/kg	512 mg/kg	350 mg/kg
		— Fruit- and vegetable-based desserts, energy-reduced or with no added sugar	796 mg/kg	512 mg/kg	350 mg/kg
		— Egg-based desserts, energy-reduced or with no added sugar	796 mg/kg	512 mg/kg	350 mg/kg
		— Cereal-based desserts, energy-reduced or with no added sugar	796 mg/kg	512 mg/kg	350 mg/kg
		— Fat-based desserts, energy-reduced or with no added sugar	796 mg/kg	512 mg/kg	350 mg/kg

EC-No	Name	Foodstuffs	Maximum usable dose (1)		
		— “Snacks”: certain flavours of ready to eat, prepacked, dry, savoury starch products and coated nuts	777 mg/kg	500 mg/kg	342 mg/kg
		Confectionery			
		— Confectionery with no added sugar	1 137 mg/kg	731 mg/kg	500 mg/kg
		— Cocoa- or dried-fruit-based confectionery, energy-reduced or with no added sugar	1 137 mg/kg	731 mg/kg	500 mg/kg
		— Starch-based confectionery, energy-reduced or with no added sugar	2 273 mg/kg	1 462 mg/kg	1 000 mg/kg
		— Cornets and wafers, for ice cream, with no added sugar	1 554 mg/kg	1 000 mg/kg	684 mg/kg
		— Cocoa-, milk-, dried-fruit or fat-based sandwich spreads, energy-reduced or with no added sugar	1 554 mg/kg	1 000 mg/kg	684 mg/kg
		— Breakfast cereals with a fibre content of more than 15 %, and containing at least 20 % bran, energy-reduced or with no added sugar	1 554 mg/kg	1 000 mg/kg	684 mg/kg
		— Breath-freshening micro-sweets, energy reduced or with no added sugar	5 683 mg/kg	3 656 mg/kg	2 500 mg/kg
		— Chewing gum with no added sugar	4 546 mg/kg	2 925 mg/kg	2 000 mg/kg
		— Cider and perry	796 mg/l	512 mg/l	350 mg/l
		— Drinks consisting of a mixture of a non-alcoholic drink and beer, cider, perry, spirits or wine	796 mg/l	512 mg/l	350 mg/l
		— Spirit drinks containing less than 15 % alcohol by volume	796 mg/l	512 mg/l	350 mg/l
		— Alcohol-free beer or with an alcohol content not exceeding 1,2 % vol	796 mg/l	512 mg/l	350 mg/l
		— “Bière de table/Tafelbier/Table beer” (original wort content less than 6 %) except for “Obergäriges Einfachbier”	796 mg/l	512 mg/l	350 mg/l
		— Beers with a minimum acidity of 30 milli-equivalents expressed as NaOH	796 mg/l	512 mg/l	350 mg/l
		— Brown beers of the “oud bruin” type	796 mg/l	512 mg/l	350 mg/l

EC-No	Name	Foodstuffs	Maximum usable dose [1]		
		— Energy-reduced beer	39 mg/l	25 mg/l	17 mg/l
		— Edible ices, energy-reduced or with no added sugar	1 243 mg/kg	800 mg/kg	547 mg/kg
		— Canned or bottled fruit, energy-reduced or with no added sugar	796 mg/kg	512 mg/kg	350 mg/kg
		— Energy-reduced jams, jellies and marmalades	1 554 mg/kg	1 000 mg/kg	684 mg/kg
		— Energy-reduced fruit and vegetable preparations	796 mg/kg	512 mg/kg	350 mg/kg
		— Sweet-sour preserves of fruit and vegetables	455 mg/kg	292 mg/kg	200 mg/kg
		— *Feinkostsalat*	544 mg/kg	350 mg/kg	239 mg/kg
		— Sweet-sour preserves and semi-preserves of fish and marinades of fish, crustaceans and molluscs	455 mg/kg	292 mg/kg	200 mg/kg
		— Energy-reduced soups	171 mg/l	110 mg/l	75 mg/l
		— Sauces	544 mg/kg	350 mg/kg	239 mg/kg
		— Mustard	544 mg/kg	350 mg/kg	239 mg/kg
		— Fine bakery products, energy-reduced or with no added sugar	2 273 mg/kg	1 462 mg/kg	1 000 mg/kg
		— Complete formulae for weight control intended to replace total daily food intake or an individual meal	1 023 mg/kg	658 mg/kg	450 mg/kg
		— Complete formulae and nutritional supplements for use under medical supervision	1 023 mg/kg	658 mg/kg	450 mg/kg
		— Liquid food supplements/dietary integrators	796 mg/kg	512 mg/kg	350 mg/kg
		— Solid food supplements/dietary integrators	1 137 mg/kg	731 mg/kg	500 mg/kg
		Food supplements/diet integrators based on vitamins and/or mineral elements, syrup-type or chewable	4 546 mg/kg	2 925 mg/kg	2 000 mg/kg

[1] Maximum usable doses for the salt of aspartame-acesulfame are derived from the maximum usable doses for its constituent parts aspartame (E 951) and acesulfame-K (E 950). The maximum usable doses for aspartame (E 951) and acesulfame-K (E 950) shall not be exceeded by their use in combination with the salt of aspartame-acesulfame.'

Proposal for a Council Regulation imposing a definitive countervailing duty and collecting definitively the provisional countervailing duty imposed on imports of sulphanilic acid originating in India

(2002/C 262 E/32)

COM(2002) 376 final

(Submitted by the Commission on 11 July 2002)

EXPLANATORY MEMORANDUM

The present anti-subsidy investigation concerning imports into the Community of sulphanilic acid originating in India was initiated by the Commission on 6 July 2001. A parallel anti-dumping investigation concerning imports of the same product originating in both India and the People's Republic of China was initiated on the same date.

Provisional anti-dumping and countervailing duties were imposed on 3 April 2002 by Regulation (EC) No 575/2002 and Regulation (EC) No 573/2002.

The attached proposal for a Council Regulation is based on the definitive findings concerning subsidisation, injury, causation and Community interest. These definitive findings have confirmed that the provisional countervailing duty was warranted.

It is therefore proposed that the Council adopt the attached proposal for a Regulation, which should be published in the Official Journal no later than 3 August 2002.

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty establishing the European Community,

Having regard to Council Regulation (EC) No 2026/97 of 6 October 1997 on protection against subsidised imports from countries not Members of the European Community [1], and in particular Article 15 thereof,

Having regard to the proposal submitted by the Commission after consulting the Advisory Committee,

Whereas:

A. PROVISIONAL MEASURES

(1) The Commission by Regulation (EC) No 573/2002 [2] ('provisional Regulation') imposed a provisional countervailing duty on imports of sulphanilic acid originating in India. The Commission by Regulation (EC) No 575/2002 [3] ('provisional anti-dumping Regulation') also imposed a provisional anti-dumping duty on imports of sulphanilic acid originating in the People's Republic of China and in India.

B. SUBSEQUENT PROCEDURE

(2) Subsequent to the disclosure of the essential facts and considerations on the basis of which it was decided to impose a provisional countervailing duty, a number of interested parties submitted comments in writing. All interested parties who requested a hearing were granted an opportunity to be heard by the Commission.

(3) The Commission continued to seek and verify all information deemed necessary for the definitive findings.

(4) All parties were informed of the essential facts and considerations on the basis of which it was intended to recommend the imposition of a definitive countervailing duty and the definitive collection of amounts secured by way of the provisional countervailing duty. They were also granted a period within which they could make representations subsequent to this disclosure.

(5) The oral and written arguments submitted by the parties were taken into account.

(6) Having reviewed the provisional findings on the basis of the information gathered since then, the main findings as set out in the provisional Regulation are confirmed.

(1) OJ L 288, 21.10.1997, p. 1.
(2) OJ L 87, 4.4.2002, p. 5.
(3) OJ L 87, 4.4.2002, p. 28, as corrected by corrigenda of 6.4.2002, OJ L 91, p. 52 and 11.4.2002, OJ L 94, p. 34.

C. PRODUCT CONCERNED AND LIKE PRODUCT

1. Product concerned

(7) Subsequent to the publication of the provisional Regulation, a number of interested parties claimed that the definition of the product concerned was incorrect. They argued that the technical and purified grades of sulphanilic acid were substantially different in terms of their purity and had different properties and applications. It was claimed that the two grades of sulphanilic acid could not be considered as a homogeneous product and should therefore have been treated as distinct products for the purposes of the investigation. In support of this assertion, it was argued that there was insufficient interchangeability between the two grades of sulphanilic acid. Whilst it was accepted that the purified grade could be used in all applications, the same could not be said of technical grade sulphanilic acid because of the level of impurities it contained, most notably aniline residues. These impurities consequently made technical grade acid unsuitable for use in the production of optical brighteners and food dyes.

(8) It is recalled that purified grade sulphanilic acid results from the purification of technical grade sulphanilic acid in a process which removes certain impurities. This purification process does not alter the molecular properties of the compound or the way in which it reacts with other chemicals. Therefore, technical and purified grades share the same basic chemical characteristics. The fact that interchangeability may only be in one direction in some applications because of concerns about impurities is therefore not considered to be sufficient justification that purified and technical grades constitute different products which should be treated separately in two different investigations. Whilst accepting that the purification process adds certain additional costs to the production process, it is recalled that these were taken into account when making a fair comparison between the different grades produced by the Community industry and those imported from the country concerned for the purposes of calculating the level of price undercutting and the injury elimination level.

(9) Consequently, it was not considered that the comments made by interested parties concerning the definition of the product concerned were sufficient to alter the findings on this issue that had been reached at the provisional stage. It is therefore definitively concluded that both grades of sulphanilic acid should be treated as one single product for the purpose of the present proceeding.

2. Like product

(10) No new elements were brought to the attention of the Commission that would lead it to alter the conclusions reached at the provisional stage, namely that sulphanilic acid produced and sold by Community producers and that produced in India and exported to the Community are like products.

(11) The provisional findings concerning the like product as set out in recital (13) of the provisional Regulation are hereby confirmed.

D. SUBSIDY

(12) The findings made in the provisional Regulation concerning the countervailable subsidies obtained by the exporting producers are hereby confirmed, unless it is otherwise expressly stated bellow.

1. Export Processing Zones (EPZ)/Export Oriented Units (EOU)

(13) No new comments were received under this heading. The findings as set out in recitals (18) to (28) of the provisional Regulation are hereby confirmed.

2. Duty Entitlement Passbook Scheme (DEPB) — post export

(14) The Government of India ('GOI') claimed that the Agreement on Subsidies and Countervailing Measures (ASCM) is infringed both in spirit and letter by the Commission not investigating the practical utilisation of the DEPB in each case. They argued that the Commission's assessment of the benefits under these schemes was incorrect since only the excess duty drawback could be considered a subsidy in accordance with Article 2 of Regulation (EC) No 2026/97 ('basic Regulation'). Therefore, in order to establish whether a subsidy exists, an examination as to whether an excess exists must be undertaken.

(15) The Commission used the following approach in order to establish whether the DEPB on post export-basis constitutes a countervailable subsidy and if so, to calculate the amount of benefit.

(16) Pursuant to Article 2(1)(a)(ii) of the basic Regulation, it is concluded that this scheme involves a financial contribution by the GOI since government revenue (i.e. import duties on imports) otherwise due is not collected. There is also a benefit conferred, within the meaning of Article 2(2) of the basic Regulation, to the recipient since the exporting producers were relieved of having to pay normal import duties. The DEPB subsidy is contingent upon export performance and is thus countervailable under Article 3(4) of the basic Regulation unless one of the exceptions provided for by the basic Regulation applies.

(17) Article 2(1)(a)(ii) provides for such an exception for, *inter alia*, drawback and substitution drawback schemes which conform to the strict rules laid down in Annex I item (i), Annex II (definition and rules for drawback) and Annex III (definition and rules for substitution drawback).

(18) The analysis revealed that DEPB on post-export basis is not a drawback or a substitution drawback scheme. This scheme lacks a built-in obligation to import only goods that are consumed in the production of the exported goods (Annex II of the basic Regulation) which would ensure that the requirements of Annex I item (i) were met. Additionally, there is no verification system in place to check whether the imports are actually consumed in the production process. It is also not a substitution drawback scheme because the imported goods do not need to be of the same quantity and characteristics as the domestically sourced inputs that were used for export production (Annex III of the basic Regulation). Lastly, exporting producers are eligible for the DEPB benefits regardless of whether they import any inputs at all. In order to obtain the benefit, it is enough for an exporter to simply export goods without showing that any input material was imported. Thus, exporting producers which procure all of their inputs locally and do not import goods which can be used as inputs are still entitled to the DEPB benefits. Hence, the DEPB on post-export basis does not conform to any of the provisions of Annex I to III. Since the above exception to the subsidy definition does therefore not apply, the countervailable benefit is the remission of total import duties normally due on all imports.

(19) From the above it clearly follows, according to the basic Regulation, that the excess remission of import duties is the basis for calculating the amount of the benefit only in the case of bona fide drawback and substitution drawback schemes. Since it is established that the DEPB on post-export basis does not fall in one of these two categories, the benefit is the total remission of import duties, not any supposed excess remission, since all duty remission is deemed to be in excess in such cases.

(20) For the above reasons, the claim of the GOI cannot be accepted and the provisional findings regarding the countervailability of this scheme and the calculation of the benefit, as set out in recitals (35) to (40) of the provisional Regulation, are confirmed.

3. **Income Tax Exemption Scheme (ITES)**

(21) The cooperating company claimed that when calculating the benefit under this scheme, the actual amount of tax paid by the company was not fully taken into account because only the Minimum Alternative Tax (MAT) was included in the original calculation and not the prepaid income taxes of previous years.

(22) This claim was found to be valid. The benefit to the company was recalculated and was found to be negligible.

4. **Advance Licence — Advance Release Orders (ARO) Scheme**

(23) The GOI submitted that the ARO is merely a legitimate extension of a legitimate substitution drawback scheme (Advance License). According to the GOI this is proved by the fact that there is an unbreakable link between the licences gained (even if subsequently exchanged for AROs), and the importation of the necessary inputs for the manufacture of exported goods. Furthermore, the system is organised and administered by the GOI in such a way as to prevent there being any possibility of excess drawback occurring.

(24) In this respect, the GOI argued that a substitution drawback scheme does not require that a company obtaining duty drawback benefits against imported inputs need consume those exact inputs in the production of the relevant exported goods. According to the GOI, the company may consume domestically procured inputs in the manufacture of the exported product provided they are consumed in equivalent volumes as the inputs on which the benefit of remission of import duty is taken. The GOI further argued that a user of an ARO may only exchange it for the input product (procured indigenously) indicated on the Advance License and that the Advance Licence was obtained by reference to an exported product which has already consumed a matching quantity of the same input.

(25) When addressing these arguments, it should be recalled that advance licences are available to exporters (manufacturer-exporters or merchant-exporters) to enable them to import inputs used in the production of exports, duty-free. The advance licences measure the units of authorised imports either in terms of their quantity or in terms of their value. In both cases the rates used to determine the allowed duty free purchases are established, for most products including the product covered by this investigation, on the basis of the Standard Input Output Norms (SION). The input items specified in the advance licences are items used in the production of the relevant exported finished product.

(26) The advance licence holder intending to source the inputs from indigenous sources, in lieu of direct import, has the option to source them against AROs. In such cases the advance licences are validated as AROs and are endorsed to the supplier upon delivery of the items specified therein. In accordance with the 'Export and Import Policy' document, the endorsement of the ARO entitles the supplier to the benefits of deemed export such as deemed exports drawback and refund of terminal excise duty.

(27) In this case, the cooperating company made very limited use of advance licences to import duty-free inputs. Instead, the company converted the licences into AROs and endorsed them to local suppliers obtaining commercial benefits. The commercial benefits of the AROs correspond to the amount of duties that the AROs enable the supplier to forgo under the deemed export drawback facility.

(28) It is acknowledged that duty drawback systems can allow for the refund or drawback of import charges on inputs which are consumed in the production process of another product and where the export of the latter product contains domestic inputs having the same quality and characteristics as those substituted for the imported inputs. It would for instance be allowed for a company, in case of a shortage of duty-free inputs, to use domestic inputs and incorporate these in the exported goods, and then at a later stage, import the corresponding quantity of duty-free inputs. In this context, the existence of a verification system or procedure is important because it enables, in this case, the GOI, to ensure and demonstrate that the quantity of inputs for which drawback is claimed does not exceed the quantity of similar products exported, in whatever form, and that there is not drawback of import charges in excess of those originally levied on the imported inputs in question.

(29) As stated in the provisional Regulation, the verification established that there was no system or procedure in place to confirm whether and which inputs, sourced against AROs, are consumed in the production process of the exported product or whether an excess benefit of import duties occurred within the meaning of item (i) of Annex I and Annexes II and III to the basic Regulation. In particular, the exporter is under no obligation to actually consume the inputs sourced against AROs in the production process. Since the remission of import duties is not limited to that payable on goods consumed in the production process of the exported products, the condition that only goods actually consumed in the production process of the exported products may benefit from such remission, is not fulfilled. It is therefore concluded, that the ARO element of the Advance Licence scheme is not a permitted remission/drawback scheme within the meaning of the basic Regulation.

(30) In addition, the AROs cannot be considered as a duty drawback scheme, since there appears to be no requirement of importing inputs. In this context, a scheme could only be considered as a bona fide duty drawback scheme in cases where an import element exists, i.e. when there is a link between the imported inputs and the exported goods. The quantity of imported inputs should be corresponding to exported goods.

(31) For the above reasons, these claims cannot be accepted and the provisional findings as regards the countervailability of this scheme and the calculation of the benefit are confirmed.

5. **Package Scheme of Incentives (PSI) of the Government of Maharashtra**

(32) As stated in the provisional Regulation, the PSI scheme is only available to companies having invested in certain designated geographical areas within the jurisdiction of the State of Maharashtra. It is not available to companies located outside these areas. The level of the benefit is different according to the area concerned. The scheme is therefore specific in accordance with Article 3(2)(a) and Article 3(3) of the basic Regulation.

(33) The GOI and the company concerned claimed that this scheme is a non-countervailable subsidy since it meets the criteria of Article 4(3) of the basic Regulation, and thus qualifies as a 'green-light' regional subsidy granted within the State of Maharashtra.

(34) Under this Article, in order not to be subject to countervailing measures, subsidies to disadvantaged regions within the territory of the country of origin and/or export would have to comply with certain criteria; most notably, they would have to be: (i) pursuant to a general framework of regional development, (ii) the regions concerned would have to be clearly designated contiguous geographical areas with a definable economic and administrative identity, and (iii) be regarded as disadvantaged on the basis of neutral and objective criteria which must be clearly spelled out by law or other official document. These criteria shall include a measurement of economic development which shall be based on at least one of the following factors: income per capita, or household income per capita, or GDP per capita (in each case, not above 85 % of the average for the territory of the country of origin or export concerned), or unemployment rate as measured over a three-year period (at least 110 % of the average for the territory of the country of origin or export concerned).

(35) The Government of Maharashtra has in a letter to the Ministry of Commerce & Industry of the GOI stated that the PSI applies to the entire contiguous region outside the relatively advanced region comprised in the Mumbai-Thane belt of the State of Maharashtra, and that the disadvantaged region outside this belt is characterised by a per capita income which is below the State average. Figures were provided which showed that per capita income for the region to which the PSI applies was 74,54 % of the figure for the whole Maharashtra State in 1982/83 and 74,81 % by 1998/99. However, these figures were not substantiated by supporting evidence.

(36) In any event, the examination of the green light claim has revealed that the per capita income in the State of Maharashtra, as measured over a period of three years (1996/97 to 1998/99), is more than 60 % higher than the national average of India. It should be clear that the 85 % benchmark is measured against the per capita income for the whole of the country of origin or export and not that of a particular State or region. On this basis, it is clear that the income per capita of the eligible region in Maharashtra, although less than 85 % of the regional average, is well above the national average income per capita, and the region therefore does not fall into the green-light category on the basis of this criterion. As regards the unemployment criterion, no information was provided by the Indian authorities.

(37) On the basis of the above, it is concluded that, in this case, this scheme does not meet the criteria of Article 4(3) of the basic Regulation. The provisional findings as regards the countervailability of this scheme are, therefore, confirmed.

(38) Concerning the calculation of the subsidy amount as set out in recitals (72) to (74) of the provisional Regulation, the GOI and the company concerned claimed that the amount of benefit obtained under the tax deferral incentive should be allocated over the total sales during the investigation period ('IP') rather than over the total domestic sales during the IP as it was provisionally allocated, because it is a benefit to the company as a whole and should for this reason not solely be attributed to its domestic sales.

(39) In addition, they brought to the attention of the Commission certain factors by which the calculations of the benefit obtained by the company concerned under the sales tax exemption incentive were inflated.

(40) The claim concerning the basis of allocation of the benefit obtained under the tax deferral incentive was considered valid and the Commission amended the calculations of the subsidy amount accordingly.

(41) In relation to the sales tax exemption incentive, after taking into account the comments of the interested parties and after a detailed review of the provisional findings, the provisional calculations were adjusted resulting in an overall reduction of the amount of subsidy.

(42) On the basis of the revised calculations described above, the amount of subsidy that the company has obtained under this scheme is 0,8 %.

6. **Amount of countervailable subsidies**

(43) The amount of countervailable subsidies, calculated in accordance with the provisions of the basic Regulation, expressed *ad valorem*, is 7,1 %, for the investigated exporting producer.

(44) The level of cooperation for India was high (above 80 %). In view of the high level of cooperation, it was decided to set the residual subsidy margin at the level of the subsidy found for the cooperating exporting producer, i.e. 7,1 %.

Type of subsidy	EOU (*)	DEPB (*)	EPCGS	ITES	Advance Licence/ AROs (*)	Maharashtra State Scheme	Total
Kokan Synthetics and Chemicals Private Limited	1,4 %	1,7 %	0	0	3,2 %	0,8 %	7,1 %
All Others							7,1 %

(*) Subsidies marked with an asterix are export subsidies.

E. **COMMUNITY INDUSTRY**

(45) Following the publication of the provisional Regulation, a number of interested parties queried the definition of the Community industry and its standing in terms of Article 10(8) of the basic Regulation. In particular, it was suggested that the complainant producer, Sorochimie Chime Fine, did not have the support of the second Community producer, Quimigal SA when it lodged its complaint.

(46) It is recalled that whilst Quimigal was not a party to the original complaint, it did express it support for the proceeding at the initiation stage and has fully cooperated in the investigation. In response to the claims of certain interested parties, it has also reiterated its support for the proceeding during the course of the investigation. Therefore, as no new elements were brought to the attention of the Commission that would lead it to alter its earlier findings, the provisional findings concerning the definition of the Community industry and its standing as detailed in recital (78) of the provisional Regulation are hereby confirmed.

F. **INJURY**

1. **Preliminary remarks**

(47) Several interested parties questioned the way in which the Commission had established figures for imports of sulphanilic acid into the Community, Community consumption and market shares. They claimed that there had been insufficient disclosure of the Commission's findings regarding imports, in both volume and value terms, and that consequently their rights of defence had been impeded. It was noted that some of this information was also missing from the public version of the complaint with the result that the complaint did not meet the standards detailed in Article 10(2) of the basic Regulation.

(48) It is to be noted that according to Article 29(1) of the basic Regulation, information which is submitted in confidence by parties to an investigation shall be treated as such by the investigation authority so long as the information concerned warrants such treatment. It is recalled that sulphanilic acid is manufactured by a relatively small number of producers around the world. Consequently, it was not possible for reasons of confidentiality to disclose precise information relating to imports of the product into the Community, especially for those countries where there is only one exporting producer. Therefore, for the purposes of disclosure, indexed figures and an explanatory narrative were made available to interested parties concerning this and related items.

(49) As none of the interested parties which raised the issue of insufficient disclosure were able to demonstrate that the information made available to them in a summarised form did not enable them to defend their rights, their arguments in this respect had to be rejected.

2. **Imports concerned**

(50) One interested party suggested that the figure for the increase in imports noted in the provisional Regulation was misleading. It was claimed that as a number of other producers had withdrawn from the market, users in the Community were obliged to purchase sulphanilic acid on the world market, thereby leading to the sharp rise in import volumes. This claim had to be rejected for a number of reasons. In the first instance, no additional evidence concerning the level of imports was submitted so as to alter the findings reached at the provisional stage on this point. Similarly, whilst it was acknowledged in recital (161) of the provisional Regulation that imports from India were expected to continue to play a significant role in meeting demand in the Community, it was also noted that had the Community industry not been subject to the injurious effects of the subsidised imports, it would have been able to put into effect certain expansion plans, thereby satisfying a larger part of Community demand. In the light of the above, the provisional findings concerning imports into the Community from India and the level of price undercutting as noted in recitals (81) to (85) of the provisional Regulation are confirmed.

3. **Situation of the Community industry**

(51) In accordance with Article 8(5) of the basic Regulation, the examination of the impact of the subsidised imports on the Community industry included an evaluation of all relevant economic factors and indices having a bearing on its state.

(52) Subsequent to provisional disclosure, a number of interested parties questioned the manner in which the Commission had reached its provisional determination concerning injury as certain indicators were showing positive developments. In particular, it was suggested that the increase in the Community industry's production, sales and capacity utilisation during the analysis period (1 January 1997 to 30 June 2001) proved that it had not suffered injury. One interested party also claimed that the Commission had failed to make a proper assessment of wage costs as required by the Article 8(5) of the basic Regulation.

(53) It is recalled that according to Article 8(5) of the basic Regulation, none of the economic factors or indices listed in the aforementioned article shall necessarily be decisive in the determination of injury. It is indeed true that certain indicators relating to quantities produced and sold by the Community industry showed positive developments. However, this should be seen in the light of the fact that Community consumption of sulphanilic acid increased by some 13 % during the analysis period and that there has been a reduction of the number of suppliers on the market due to the closure of certain Community producers.

(54) More importantly, it should be recalled that the Community industry suffered injury in the form of price depression and price suppression. In particular, its average selling price declined sharply between 1997 and 1998 as the pressure exerted by the increasing volume of imports on the market became evident. Subsequently, although the Community industry was able to increase its average selling price as demand on the Community market also increased, it failed to achieve a level which would enable it to cover its full cost of production and losses continued to be incurred in the IP.

(55) With regard to the argument raised concerning wages, it is noted that although the number of workers employed by Sorochimie decreased during the analysis period, the average employment cost per employee increased. This is due to the fact that there was a change in the mix of employee during the period and also to general wage inflation. With regard to Quimigal, it is to be noted that in the base year for the index (1998) the company was not producing sulphanilic acid. When it began production in 1999, the workers were engaged full time in this activity with an extra day being worked from 2000 onwards. Neither company noted that the wages of those employed in sulphanilic acid activities had been effected by the imports concerned. Therefore, wages were not considered to be an indicator of injury.

(56) In view of the above, the provisional findings that the Community industry suffered material injury within the meaning of Article 8 of the basic Regulation, as detailed in recitals (88) to (107) of the provisional Regulation, are confirmed.

G. **CAUSATION**

1. **General comments on the Commission's conclusions regarding the causation of injury**

(57) Certain interested parties argued that the Community industry was itself partly responsible for the injury it had suffered. Several parties questioned the quality of Sorochimie's management, product and customer service and highlighted the fact it had itself imported sulphanilic acid during the analysis period. One party also alleged that the injury suffered by Sorochimie should be attributed to its other business activity (glue) which experienced significant difficulties during the IP. With regard to the situation of Quimigal, the second company forming part of the Community industry, it was argued that its decision to enter the market with a low price strategy during its start-up phase had also contributed to the alleged injury. Finally, it was also claimed that the Community industry had to meet stringent environmental regulations and had higher labour and transport costs than exporting producers in India with the implication that imports originating in that country had a competitive advantage and were not made at injurious prices.

(58) The investigation showed that Sorochimie, despite its financial difficulties linked to the excessively low prices prevailing on the market, was able to gain new customers during the analysis period and to adapt its products to meet their needs. The company was obliged to purchase certain quantities of the product concerned during the analysis period in order to meet existing customer requirements while its production equipment was undergoing essential repairs. It cannot thus be considered that Sorochimie contributed to its own injury. Similarly, it is recalled that any exceptional costs relating to the company's difficulties in its glue business have been excluded from the current investigation as they are not linked to the product concerned and thus are not reflected in the injury indicators described in the provisional Regulation.

(59) It was noted in recital (118) of the provisional Regulation that Quimigal's decision to enter the market was taken at a time when prices for sulphanilic acid on the Community market were higher. Quimigal was able to establish itself on the market at a time of both increasing demand in the Community and changes in the number of suppliers of sulphanilic acid both in the Community and outside. It was also noted that the company was obliged to offer prices similar to those of the dumped and subsidised imports in order to establish itself on the market and gain market share in 1999 and 2000 in that its relatively small size meant that it was a price taker rather than a price setter. Nevertheless, its market share decreased slightly in the IP as imports from India increased in volume. No indication has therefore been found that the deterioration of the situation of the Community industry is due to excessive intra-Community industry competition.

(60) With regard to the allegedly higher costs that the Community industry is obliged to meet in terms of complying with environmental regulations and other items, it should be recalled that the competitive advantage of the imports concerned was taken into account in the determination of normal value. Consequently, the provisional findings concerning causation as set out in recitals (121) to (123) of the provisional Regulation are confirmed.

H. **COMMUNITY INTEREST**

(61) Following the publication of the provisional Regulation, one interested party questioned how the Commission could determine, in the light of Sorochimie being in administration, that the Community industry was viable and competitive. It is recalled that Sorochimie was obliged to seek protection from its creditors following certain difficulties in its glue business and other pressures in its sulphanilic acid activities. The Commercial Court of Charleville Mézières has appointed an administrator to oversee the company's trading activities and has granted the company a period of time in which to prepare a restructuring plan. This period of time has recently been extended until 31 January 2003. In the absence of other unforeseen events, the company should continue to be in existence for the immediate future and therefore be in a position to benefit from the imposition of definitive measures. Consequently, the provisional findings that the imposition of measures is in the interest of the Community industry as noted in recital (134) of the provisional Regulation are confirmed.

(62) A number of interested parties claimed that the Commission had failed to make an objective assessment of the situation of users in not taking into account any increase in the Community industry's prices that would likely follow the imposition of measures. It was also claimed that measures were against the Community interest as the production capacity of the Community industry was insufficient to meet Community demand and as a possible duopolistic situation based on the two Community producers could result from the closure of the market to imports from India and also from the PRC, which is itself subject to the parallel anti-dumping investigation.

(63) In respect of the claim that the Commission failed to take account of the various interests in an objective manner when determining whether the imposition of measures, it is recalled that at the provisional stage, the Commission made a detailed analysis of each of the main user sectors (optical brighteners, concrete additives and dyes and colorant producers). This analysis included an assessment of the impact of measures on their costs on the basis that the prices of the imports concerned would increase in line with the proposed measures. At the same time, due allowance was made in this calculation for a maximum possible increase in the price of sulphanilic acid sold by the Community industry of 10 % on the basis that its prices would increase to a level similar to that of the imports concerned following the imposition of measures taking into account that it was already operating at a fairly high rate of capacity utilisation in the IP. As such, no new elements were submitted by interested parties which would alter the provisional findings concerning the possible increase in the manufacturing costs of the different user industries.

(64) Regarding the supply and competition situation on the Community market, it is to be noted that the current production capacity of the Community industry could satisfy in the region of 50 % of Community demand. The purpose of the measures is in any event not to close the market to imports from India but to ensure that they are made at non-subsidised and non-injurious prices. It is therefore expected that imports from third countries including India will continue to enter the market. At the same time, measures should ensure continued sulphanilic acid production in the Community with the result that users will have more choice between domestic and foreign suppliers and competition between all suppliers should be maintained. It should also be stressed that the Community industry has plans to increase its output by investing in new facilities if the capital expenditure can be justified. For this to occur, the injurious effects of the subsidised imports need to be removed.

(65) In the light of the above, the provisional findings that the imposition of measures is not contrary to the interest of the Community as noted in recital (164) of the provisional Regulation is confirmed.

I. **ANTI-SUBSIDY MEASURES**

1. **Injury elimination level**

(66) In the absence of any new submissions on this point, the methodology used to establish the injury margin as set out at recitals (165) to (167) of the provisional Regulation is hereby confirmed.

2. **Definitive measures**

(67) As the injury elimination level is higher than the subsidy margin established, the definitive measures should be based on the latter. The following duty therefore applies:

India (all companies): 7,1 %.

3. **Definitive collection of provisional duties**

(68) In view of the magnitude of subsidisation found and in the light of the seriousness of the injury caused to the Community industry, it is considered necessary that the amounts secured by way of the provisional countervailing duty shall be definitively collected at the rate of the duty definitively imposed. Amounts secured under the provisional duty in excess of the definitive duty shall be released.

J. **UNDERTAKING**

(69) Subsequent to the imposition of provisional measures, the sole cooperating exporting producer in India offered a price undertaking in accordance with Article 13(1) of the basic Regulation. By doing so, it agreed to sell the product concerned at or above price levels which would have the effect of eliminating the injurious effects of subsidisation. The company will also provide the Commission with regular and detailed information concerning its exports to the Community, meaning that the undertaking can be monitored effectively by the Commission. Furthermore, the sales structure of the exporting producer is such that the Commission considers that the risk of circumventing the agreed undertaking is limited.

(70) In view of this, the offer of an undertaking was accepted by the Commission in Decision (2002/. . ./EC).

(71) In order to ensure the effective respect and monitoring of the undertaking, when the request for release for free circulation pursuant to the undertaking is presented to the relevant customs authority, exemption from the duty should be conditional upon presentation of a commercial invoice containing the information listed in the Annex to this Regulation. Where no such invoice is presented, or when it does not correspond to the product concerned presented to customs, the appropriate rate of countervailing duty should instead be payable.

(72) It should be noted that in the event of a breach or withdrawal of the undertaking or a suspected breach, a countervailing duty may be imposed pursuant to Article 13(9) and (10) of the basic Regulation,

HAS ADOPTED THIS REGULATION:

Article 1

1. A definitive countervailing duty is hereby imposed on imports of sulphanilic acid, falling within CN code ex 2921 42 10 (TARIC code 2921 42 10 60) and originating in India.

2. The rate of the definitive countervailing duty applicable to the net, free-at-Community frontier price, before duty shall be 7,1 %.

3. Notwithstanding paragraph 1, the definitive duty shall not apply to imports released for free circulation in accordance with Article 2.

4. Unless otherwise specified, the provisions in force concerning custom duties shall apply.

Article 2

1. Imports under the following TARIC additional code which are produced and directly exported (i.e. shipped and invoiced) by the company named below to a company in the Community acting as an importer shall be exempt from the countervailing duty imposed by Article 1 provided that they are imported in conformity with paragraph 2.

Country	Company	TARIC additional code
India	Kokan Synthetics & Chemicals Pvt Ltd, 14 Guruprasad, Gokhale Road (N), Dadar (W), Mumbai 400 028, India	A398

2. Imports mentioned in paragraph 1 shall be exempt from the duty on condition that:

(i) a commercial invoice containing at least the elements of the necessary information listed in the Annex is presented to Member States customs authorities upon presentation of the declaration for release into free circulation; and

(ii) the goods declared and presented to customs correspond precisely to the description on the commercial invoice.

Article 3

The amounts secured by way of the provisional countervailing duty imposed pursuant to Regulation (EC) No 573/2002 shall be definitively collected at the rate of duties definitively imposed. Amounts secured in excess of the definitive rate of countervailing duty shall be released.

Article 4

This Regulation shall enter into force on the 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.

ANNEX

Elements to be indicated in the commercial invoice referred to in Article 2(2):

1. The heading 'COMMERCIAL INVOICE ACCOMPANYING GOODS SUBJECT TO AN UNDERTAKING'.
2. The name of the company mentioned in Article 2(1) issuing the commercial invoice.
3. The commercial invoice number.
4. The date of issue of the commercial invoice.
5. The TARIC additional code under which the goods on the invoice are to be customs-cleared at the Community frontier.
6. The exact description of the goods, including:
   — the Product Code Number (PCN), i.e. 'PA99', 'PS85' or 'TA98',
   — the technical/physical specifications of the PCN, i.e. for 'PA99' and 'PS85' white free flowing powder and for 'TA98' grey free flowing powder,
   — the company product code number (CPC) (if applicable),
   — CN code,
   — quantity (to be given in tonnes).
7. The description of the terms of the sale, including:
   — price per tonne,
   — the applicable payment terms,
   — the applicable delivery terms,
   — total discounts and rebates.
8. Name of the company acting as an importer to which the invoice is issued directly by the company.
9. The name of the official of the company that has issued the commercial invoice and the following signed declaration:

   'I, the undersigned, certify that the sale for direct export to the European Community of the goods covered by this invoice is being made within the scope and under the terms of the Undertaking offered Kokan Synthetics & Chemicals Pvt Ltd, 14 Guruprasad, Gokhale Road (N), Dadar (W), Mumbai 400 028, India, and accepted by the European Commission through Decision (2002/. . ./EC). I declare that the information provided on this invoice is complete and correct.'

Proposal for a Regulation of the European Parliament and of the Council laying down specific rules for the organisation of official controls on products of animal origin intended for human consumption

(2002/C 262 E/33)

COM(2002) 377 final — 2002/0141(COD)

(Submitted by the Commission on 11 July 2002)

EXPLANATORY MEMORANDUM

I. Introduction

1. On 14 July 2000 the Commission adopted a package of 5 proposals that constitute a recast of existing Community legislation on food hygiene and veterinary legislation that is currently contained in 17 Directives (document COM(2000) 438). These proposals are:

   — A proposal for a Regulation of the European Parliament and of the Council on the hygiene of foodstuffs (2000/0178(COD)).

   — A proposal for a Regulation of the European Parliament and of the Council laying down specific hygiene rules for food of animal origin (2000/179(COD)).

   — A proposal for a Regulation of the European Parliament and of the Council laying down detailed rules for the organisation of official controls on products of animal origin intended for human consumption (2000/180(COD)).

   — A proposal for a Council Regulation laying down the animal health rules governing the production, placing on the market and importation of products of animal origin intended for human consumption (2000/181(CNS)).

   — A proposal for a Directive of the European Parliament and of the Council repealing certain Directives on the hygiene of foodstuffs and the health conditions for the production and placing on the market of certain products of animal origin intended for human consumption, and amending Directives 89/662/EEC and 91/67/EEC (2000/182(COD)).

   These proposals are at present under discussion in the European Parliament and in the Council in accordance with the procedures laid down for that purpose.

2. Since the time these proposals were made new developments have taken place and notably:

   — New scientific advice has become available, in particular on issues that relate to meat safety. This information allows for meat inspection to be organised on a basis that takes account of hazards that threaten human health today, thus making it more science-based and risk-based. It also allows the full integration of the stable-to-table approach, an element that is believed to be of great importance with regard to meat safety.

   — The Commission is preparing, as announced in the White Paper on Food Safety (document COM(1999) 719), a proposal for a Regulation laying down in a horizontal way the principles that are the basis for official feed and food controls. These principles will also be applicable to the organisation of meat inspection.

   These developments require that the Commission's proposal for a Regulation of the European Parliament and of the Council laying down detailed rules for the organisation of official controls on products of animal origin intended for human consumption (2000/180(COD)) be revised in a fundamental way.

3. The Commission therefore decided, on 11 December 2001, to withdraw the proposal contained in Document 2000/180(COD), and to submit a revised proposal.

4. This proposal contains a revised version of document 2000/180(COD) and replaces completely this document. The revision concerns mainly official controls of fresh meat. At the same time, the risk management measures for live bivalve molluscs, as well as for milk and milk products, have been strengthened. This proposal is fully consistent with the proposal for a Directive of the European Parliament and of the Council repealing certain Directives on the hygiene of foodstuffs and the health conditions for the production and placing on the market of certain products of animal origin intended for human consumption, and amending Directives 89/662/EEC and 91/67/EEC (2000/182(COD)).

II. **Official controls on meat**

5. The proposed system for official controls on fresh meat production is characterised by the following:

   — it is science-based;

   — it addresses all known hazards that are relevant for the safety of the meat;

   — the official veterinarian plays a central role in the system;

   — it consists of official audits of the systems put in place by the operator, and also of official inspection activities;

   — it clearly integrates the stable-to-table approach;

   — it deals with the relevant animal health and animal welfare issues;

   — the frequency and intensity of official controls is risk-based;

   — it contains, for certain sectors and on certain conditions, the possibility of involvement of staff of the establishment;

   — it contains training requirements for all staff carrying out official controls.

   These characteristics are further elaborated below.

6. Science-based

   The proposal has been developed on the basis of the latest opinions of the Scientific Committee on Veterinary Measures relating to Public Health (http://europa.eu.int/comm/food/fs/sc/scv/index_en.html). The requirements concerning inspection procedures can be adapted in a flexible way in order to take into account scientific opinions as soon as they are released. This may concern, among other things, new scientific data on emerging hazards, the use of technology and specific inspection procedures.

7. Relevant hazards

   The proposed system contains procedures for controls on all relevant microbiological, chemical and physical food safety hazards. The proposal contains standards for a number of these hazards, and makes reference to standards stated in other Community legislation, especially concerning microbiological and chemical hazards. Only healthy meat, that is in line with the standards in Community legislation, can be declared fit for human consumption.

8. The official veterinarian

   The official veterinarian plays a central role in the system. He/she carries out audits and inspection activities and takes all relevant decisions. To function optimally in the proposed, risk-based meat inspection system, the official veterinarian needs specific training. The proposal contains clear requirements in this respect. The proposal also specifies the training requirements for the official auxiliaries, that can assist the official veterinarian.

9. Audits of the systems put in place by the operator

On the basis of the new European legislation in the field of hygiene, the operator has to ensure, through the application of good hygienic practices (GHP) and procedures based on the principles of Hazard Analysis and Critical Control Points (HACCP), that the meat produced is in line with the standards mentioned in Community legislation. The official veterinarian carries out audits to check whether the GHP and the HACCP-based procedures of the operator achieve the required standards. These audits are carried out on an ongoing basis.

10. Inspection activities

Besides carrying out audits of the systems put in place by the operator, the official veterinarian carries out inspection activities. These inspection activities cover the following issues:

— the relevant records from the holding of provenance of the animals;

— ante-mortem inspection;

— animal welfare;

— post-mortem inspection;

— specified risk materials;

— laboratory testing;

— health marking.

In carrying out his inspection activities, the official veterinarian takes into account the results of the audits mentioned above.

11. Stable-to-table approach

Animals are not accepted for slaughter if they are not accompanied by relevant food safety information from the farm. The official veterinarian carries out his inspection activities taking into account this information. The results of these inspections are communicated to the person responsible for raising the animals on the farm. Where appropriate, part of the ante-mortem inspection can take place on the farm.

12. Animal health and welfare

Ante-mortem inspection is carried out by the official veterinarian. He checks among other things whether any animal disease is present and whether the relevant animal welfare rules are being respected. Animals showing clinical signs of systemic disease or emaciation, shall not be slaughtered for human consumption. Only healthy animals, that are clean, identified in accordance with Community rules and accompanied by the relevant information from the farm shall be accepted for slaughter.

13. Frequency and intensity of official controls is risk-based

The frequency and intensity of official controls is based on an assessment of the health risks, represented by the type of animals and the type of process. At least one official veterinarian shall be present throughout ante- and post-mortem inspection. However, some flexibility exists for small enterprises and for the poultry sector.

14. Involvement of staff of the establishment

Member States may, under specific conditions, allow staff of the establishment to carry out certain inspection activities (normally carried out by official auxiliaries) in the control of poultry, rabbits, fattening pigs and fattening veal; the staff of the establishment must have received prior training equivalent to the training of official auxiliaries.

Only operators that have a good record in meeting the legal requirement, and are motivated to do so, can be allowed, under strict conditions, to have their staff carrying out activities of auxiliaries. By doing so, responsibilities are more clearly divided between operator and competent authority: the operator can better fill in the primary responsibility that he has for the safety of the meat and the official veterinarian can carry out his control activities in a more independent way.

III. **Live bivalve molluscs**

15. Live bivalve molluscs may present, as a consequence of their special physiological characteristics, certain risks for human health. As filter-feeders, they have the capacity to concentrate in their tissues micro-organisms (bacteria and viruses), toxins from algae that are present in the aquatic environment, and other contaminants. Special risk management measures including close monitoring of the environment are therefore required so as to ensure that live bivalve molluscs do not present a hazard to human health.

16. The present proposal aims to identify better the actions that must be undertaken by the competent authority in order to ensure the safety of the products. These actions include the establishment of a monitoring programme of harvesting areas in order to check:

    — the microbiological quality of live bivalve molluscs,

    — the presence of toxin-producing plankton,

    — the presence of chemical contamination.

    If these monitoring programmes show that Community levels have been exceeded, prompt action must be taken in order to prevent molluscs from reaching the consumer.

    The proposal also imposes upon Member States the establishment of control systems for Pectinidae harvested outside classified production areas.

IV. **Milk and milk products**

17. It was felt that there was a need to specify more precisely the responsibilities of the competent authorities with regard to official controls for milk and dairy products. In the milk sector, there is in several Member States a close cooperation between the sector itself and the competent authority, especially with regard to checking health and quality criteria of raw milk upon collection.

    Within that context, the present proposal aims at enshuring that where raw milk fails to meet the health standards, corrective action is taken at farm level, and that milk that might constitute a hazard to human health is not delivered for human consumption.

V. **Feed and food controls: the coherence of Community legislation**

18. The controls in the present proposal must be seen in the wider context of the Community legislation that is being developed as a consequence of the adoption of the White Paper on Food Safety and in particular:

    — the recently adopted Regulation 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, and

    — the establishment of a proposal for a Regulation of the European Parliament and of the Council on official feed and food controls (Action 4 of the Annex to the White Paper on Food Safety).

19. The basic principles related to responsibilities of the Member States authorities are already laid down in the Regulation laying down the general principles of food law, establishing the European Food Authority and laying down procedures in matters of food safety. This Regulation stipulates in particular that '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'.

20. In the White Paper on Food Safety it is stated that:

'There is a clear need for a Community framework of national control systems, which will improve the quality of controls at Community level, and consequently raise food safety standards across the European Union. The operation of such control systems would remain a national responsibility. This Community framework would have three core elements.

— The first element would be operational criteria set up at Community level, which national authorities would be expected to meet. These criteria would form the key reference points against which the competent authorities would be audited by the FVO, thereby allowing it to develop a consistent, complete approach to the audit of national systems.

— The second element would be the development of Community control guidelines. These would promote coherent strategies, and identify risk-based priorities and the most effective control procedures. A Community strategy would take a comprehensive, integrated approach to the operation of controls. These guidelines would also provide advice on the development of systems to record the performance and results of control actions, as well as setting Community indicators of performance.

— The third element of the framework would be enhanced administrative cooperation in the development and operation of control systems. There would be a reinforced Community dimension to the exchange of best practice between national authorities. This would also include promoting mutual assistance between the Member States by integrating and completing the existing legal framework.'

The preparation of a Commission proposal on such a Community framework of national control systems is well advanced and this proposal will formally be submitted by the Commission in 2002. It covers in a horizontal way for all feed and food those issues that are important for the organisation of official controls at a national and at Community level.

21. In addition to the principles and rules referred to in paragraphs 19 and 20 it must be considered that for a number of issues more specific rules must be laid down, so as to describe in a more precise manner what the duties of the competent authorities are with regard to these issues. Examples of specific control requirements already exist in Community legislation: residue controls, controls of zoonotic diseases, controls of certain transmissible spongiform encephalopathies, etc. Likewise, it must be envisaged that for products of animal origin such as meat, milk, fishery products and live bivalve molluscs more specific controls are necessary. These products present a number of hazards that fully justify the definition of such specific controls. These specific controls must be seen in the more general context described above.

THE EUROPEAN PARLIAMENT AND THE COUNCIL OF THE EUROPEAN UNION,

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

Having regard to the proposal from the Commission,

Having regard to the opinion of the Economic and Social Committee,

Having regard to the opinion of the Committee of the Regions,

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

Whereas:

(1) Regulation (EC) No . . . of the European Parliament and of the Council of . . . on the hygiene of foodstuffs lays down general hygiene rules applying to all foodstuffs, while specific hygiene rules for food of animal origin are contained in Regulation (EC) No . . . of the European Parliament and of the Council of . . . laying down specific hygiene rules for food of animal origin.

(2) Regulation (EC) No . . . of the European Parliament and of the Council of . . . on official feed and food controls lays down the general rules for performing official controls of foodstuffs.

(3) In addition to the general rules for performing official controls of foodstuffs, specific rules should be laid down for official controls on products of animal origin in order to take account of the specific aspects associated with such products.

(4) Official controls on products of animal origin should cover all aspects which are important for protecting public health, animal health and animal welfare and for consumers to be provided with suitable and healthy food. They should be based on the most recent information available and should therefore be adapted as relevant new information becomes available.

(5) Community legislation on food safety should have a sound scientific basis. To that end, the European Food Safety Authority should be consulted whenever necessary.

(6) The nature and intensity of the official controls should be based on an assessment of the public and animal health risks, the animal welfare aspects and the product suitability aspects related to the species and category of animals, the type of process and the food business operator concerned.

(7) Official controls on the production of meat should be carried out to ensure that hygiene rules are continuously being respected and that the criteria and targets laid down in Community legislation are being met by meat business operators. These official controls should consist of audits of the operators' activities, and of inspection activities.

(8) Official controls on the production of live bivalve molluscs and on fishery products should be carried out to ascertain that the criteria and targets laid down in Community legislation are being met. Official controls on the production of live bivalve molluscs should among other things target relaying and production areas for bivalve molluscs, and the end-product.

(9) Furthermore, official controls on the production of milk and milk products should be carried out to ascertain that the criteria and targets laid down in Community legislation are being met. Official controls on the production of milk and milk products should among other things target production holdings, raw milk upon collection and processed dairy products.

(10) Since the measures necessary for the implementation of this Regulation are measures of general scope within the meaning of Article 2 of Council Decision 1999/468/EC of 28 June 1999 laying down the procedures for the exercise of implementing powers conferred on the Commission ([1]), they should be adopted by use of the regulatory procedure provided for in Article 5 of that Decision,

HAVE ADOPTED THIS REGULATION:

Article 1

This Regulation lays down the specific rules for the organisation of official controls of products of animal origin intended for human consumption. It shall apply in addition to Regulation (EC) No . . . [on official feed and food controls].

Article 2

For the purposes of this Regulation, the definitions laid down in the following Regulations shall apply as appropriate:

(a) Regulation (EC) No 178/2002 ([2]),

(b) Regulation (EC) No . . . [on official feed and food controls],

(c) Regulation (EC) No . . . [on the hygiene of foodstuffs],

([1]) OJ L 184, 17.7.1999, p. 23.

([2]) OJ L 31, 1.2.2002, p. 1.

(d) Regulation (EC) No ... [laying down specific hygiene rules for food of animal origin].

The following definitions shall also apply:

(a) 'Official veterinarian' means a veterinarian qualified, in accordance with this Regulation, to act in such a capacity and appointed by the competent authority.

(b) 'Official auxiliary' means an officer qualified, in accordance with this Regulation, to act in such a capacity, appointed by the competent authority and working under the authority and responsibility of an official veterinarian.

(c) 'Health mark' means a mark applied by or under the responsibility of the official veterinarian indicating that all the requirements of the present Regulation have been met.

Article 3

1. Where national or Community legislation requires establishments to be approved, the competent authority shall make an on-site visit. They shall approve establishments only if it has been demonstrated that they meet the relevant requirements of food law.

In establishments starting up their activities, the competent authority shall grant a conditional approval if it appears from an on-site visit that all of the infrastructure and equipment requirements are adhered to. A final approval can only be granted if it appears from a new on-site visit carried out within three months after the conditional approval has been given that the other requirements of relevant feed and food law are complied with.

2. Approved establishments shall be given an approval number to which codes shall be added to indicate the types of products of animal origin manufactured. For wholesale markets, the approval number may be completed with a secondary number indicating units or groups of units selling or manufacturing products of animal origin.

3. Member States shall maintain up-to-date lists of approved establishments with their respective approval numbers.

Article 4

In addition to more general requirements on the official control of foodstuffs laid down in Community legislation, Member States shall ensure that products of animal origin are subject to the official controls described in Annexes I to IV.

Article 5

In accordance with the procedure referred to in Article 6 and where necessary after having obtained the opinion of the European Food Safety Authority:

(a) Annexes I to IV shall be amended or supplemented in order to take account of scientific and technical progress;

(b) implementing rules needed to ensure uniform implementation of this Regulation shall be adopted;

(c) microbiological criteria for the control of hygiene in production facilities may be laid down.

Article 6

1. The Commission shall be assisted by the Standing Committee on the Food Chain and Animal Health instituted by Article 58 of Regulation (EC) No 178/2002.

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

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

Article 7

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

It shall apply [one year after its entry into force] ([1]).

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

([1]) This Regulation shall have the same date of application as the other legal texts that are part of the so-called recast of hygiene legislation.

ANNEX I

FRESH MEAT

The specific rules mentioned in this Annex apply to slaughterhouses, game handling establishments and cutting plants.

Chapter 1

Type of controls and decisions following controls

I. TASKS OF THE OFFICIAL VETERINARIAN

I.1. **Auditing tasks of the official veterinarian**

The official veterinarian shall carry out audits in meat establishments with a view to checking whether the operator complies with the requirements of Regulation (EC) No ... [on the hygiene of foodstuffs], Regulation (EC) No ... [laying down specific hygiene rules for food of animal origin] and Regulation (EC) No ... [laying down health rules concerning animal by-products not intended for human consumption], and consequently has taken all appropriate measures to ensure good hygienic practices and safe meat. These audits include:

A. *Audits of the good hygienic practices*

Such audits are carried out to verify the continuous compliance with the operator's own procedures concerning at least:

(a) design and maintenance of plant structure and equipment;

(b) plant hygiene, covering pre-operational, operational and post-operational hygiene;

(c) personal hygiene;

(d) training in hygiene and in work procedures;

(e) control of pests;

(f) control of the water quality;

(g) control of the temperature;

(h) control of incoming and outgoing meat;

(i) handling, collection and storage of animal by-products not intended for human consumption, including Specified Risk Materials.

B. *Audits of the procedures based on the principles of hazard analysis and critical control points (HACCP)*

Such audits are carried out to verify whether all HACCP principles are continuously and properly applied and whether the HACCP-based procedures

guarantee that the animals entering the slaughter process:

(a) are properly identified;

(b) are accompanied by the relevant information from the holding of provenance of the animals;

(c) have hide, skin or fleece conditions that are such that the risk of contamination of the meat during slaughter is kept to a minimum;

(d) are visually healthy;

(e) have been transported and handled in a manner which complies with EU welfare requirements.

guarantee, to the extent possible, that the meat at the end of the slaughter process:

(a) is in conformity with the microbiological criteria laid down in Community legislation, including hygiene parameters and the relevant criteria for pathogens;

(b) does not contain chemical residues in excess of the levels laid down in Community legislation;

(c) does not contain residues of substances forbidden in Community legislation;

(d) does not contain contaminants in excess of the levels laid down in Community legislation;

(e) does not display physical hazards, such as foreign bodies;

(f) does not contain patho-physiological abnormalities or changes, by bringing to the attention of the official veterinarian carcases or meat containing such abnormalities or changes;

(g) does not bear faecal or other contamination;

(h) does not contain Specified Risk Material, except as provided for under Community legislation, and has, in general, been produced in accordance with the relevant Community legislation on transmissible spongiform encephalopathies;

(i) is in conformity with the relevant Community requirements concerning traceability of meat.

C. *Audits of the use of guides*

Where the operator, to comply with legal requirements, uses national or Community guides to good practice, the correct use of these guides shall be audited.

D. *Performance of these audits*

Special care shall be taken in carrying out the different audits in regard to:

(a) keeping oversight of the activities carried out by the staff of the establishment on an ongoing basis, and at all stages of the slaughtering and cutting process. Supporting the audit, the official veterinarian may carry out performance tests, to ascertain that the performance of the staff of the establishment meets specific criteria set by the competent authority. Detailed rules concerning the performance tests shall be adopted if necessary, in accordance with the procedure referred to in Article 6;

(b) verification of all the relevant records of the operator;

(c) taking samples for laboratory analysis whenever deemed necessary;

(d) documenting the elements taken into account and the findings of the audit.

I.2. **Inspection tasks of the official veterinarian**

The results of the audits carried out under I.1 shall be taken into account by the official veterinarian in carrying out his inspection tasks and shall affect, where appropriate, the way these tasks are carried out.

The following issues shall be covered by the inspection tasks:

A. *Food chain information*

1. The relevant information contained in the records of the holding of provenance of the animals, which shall be made available by the operator of the holding in accordance with Regulation (EC) No . . . [on the hygiene of foodstuffs], shall be checked and analysed by the official veterinarian before slaughter of the animals. This information shall cover at least:

(a) the status of the holding of provenance or the regional animal health status;

(b) the animals' health status;

(c) the details of veterinary medicinal products or other treatments administered to the animals during the rearing period (with a maximum of the previous six months), date(s) of administration and the withdrawal period(s);

(d) the occurrence of diseases which may affect the safety of the meat;

(e) the results of any analysis carried out on samples taken from the animals or other samples taken for diagnostic purposes, including samples taken in the framework of the monitoring and control of zoonoses and residues;

(f) the relevant reports from slaughterhouses about previous ante- and post-mortem findings in animals from the same holding of provenance;

(g) the relevant production data;

(h) the name and address of the private veterinarian normally attending the operator of the holding of provenance; and

(i) the name of the responsible official veterinarian/veterinary office.

2. Detailed rules concerning the way this information shall be established, and the way this information shall be presented, shall be laid down in accordance with the procedure of Article 6.

3. In carrying out ante- and post-mortem inspection, the official veterinarian shall take into account the documented results of the check and analysis of this information.

4. In carrying out his inspection tasks, the official veterinarian shall take into account official certificates accompanying the animals, and possible declarations of veterinarians carrying out controls at the level of primary production, including official veterinarians and approved veterinarians taking part in a surveillance network system, as foreseen by Article 14 of Directive 64/432/EEC ([1]), as last amended by Decision 2001/298/EC ([2]).

5. When the operators in the food chain take additional measures to guarantee food safety by implementing integrated systems, private control systems, independent third-party certification or by other means, and when these measures are documented and the animals covered by these schemes clearly identifiable, the official veterinarian may take this into account in carrying out his inspection tasks and in reviewing the HACCP-based procedures.

B. *Ante-mortem inspection* ([3])

1. Before slaughter, all animals must undergo an ante-mortem inspection by the official veterinarian. The animals must undergo ante-mortem inspection within 24 hours of arrival at the slaughterhouse and less than 24 hours before slaughter. In addition, the official veterinarian may require inspection at any other time.

2. The inspection must determine, in particular, whether:

(a) animal identification rules have been complied with;

(b) the welfare of the animals is not compromised;

(c) hide, skin or fleece conditions are such that the risk of contamination of the meat during slaughter is kept to a minimum;

(d) signs of any condition which might adversely affect human or animal health are present, with particular attention for the detection of zoonotic diseases, diseases listed on List A of the Office International des Epizooties (World organisation for animal health, OIE) and other notifiable diseases.

3. The official veterinarian shall, at the slaughterhouse, also carry out clinical inspection of all animals that the operator or official auxiliaries may have put aside as being unfit for slaughter.

4. Where provided for in this Regulation, part of the ante-mortem inspection can be carried out at the holding of provenance of the animals.

5. In case of emergency slaughter outside the slaughterhouse, the official veterinarian in the slaughterhouse shall examine the certificate, issued by the veterinarian, in accordance with Regulation (EC) No . . . [laying down specific hygiene rules for food of animal origin].

C. *Animal welfare*

The official veterinarian shall verify compliance with the relevant Community rules on the welfare of animals, such as the rules concerning the protection of animals at the time of slaughter and the rules concerning the protection of animals during transport.

([1]) OJ 121, 29.7.1964, p. 1977/64.

([2]) OJ L 102, 12.4.2001, p. 63.

([3]) The following rules do not apply to hunted wild game.

D. *Post-mortem inspection*

1. The carcase and offal shall be subjected without delay to visual post-mortem inspection. All external surfaces shall be viewed; minimal handling of the carcase and/or offal, and/or special technical facilities may be required for that purpose. Particular attention shall be paid to the detection of zoonotic diseases, diseases listed on List A of the OIE and other notifiable diseases. The speed of the slaughterline and inspection staffing level shall be such as to allow for proper inspection. Depending on the animal species, the type of holding or the country or region of origin, and based on the principles of risk analysis, additional palpation, incisions or laboratory tests are required as referred to in Chapter 3.

2. Whenever considered necessary to reach a definitive diagnosis, or to detect the presence of an animal disease or an excess of chemical residues or non-compliance with microbiological criteria, additional examination shall take place, such as palpation and incision of parts of the carcase and offal, and laboratory tests.

3. Carcases of domestic solipeds, bovine animals over six months old, and domestic swine over four weeks old shall be submitted for post-mortem inspection split lengthwise into half carcases down the spinal column. If the inspection so necessitates, the official veterinarian may require any head or any carcase to be split lengthwise. However, to take account of technological developments or specific sanitary situations, the competent authority may authorise the submission for inspection of carcases of domestic solipeds, bovine animals over six months old, and domestic swine over four weeks old not split in half.

4. During the inspection precautions must be taken to ensure that contamination of the meat by actions such as palpation, cutting or incision is kept to a minimum.

5. Alternative procedures, serological or other laboratory tests may, after consultation of the European Food Safety Authority and following the procedure referred to in Article 6, replace specific post-mortem inspection procedures described in Chapter 3 when these give at least equivalent guarantees.

E. *Specified Risk Materials (SRMs)*

In accordance with the specific Community rules on SRMs the removal, separation, staining and, where appropriate, marking of SRMs shall be checked by the official veterinarian. He shall ensure that the operator takes all the necessary measures to avoid contamination of the meat with SRM during slaughter (including stunning) and removal of SRM.

F. *Laboratory testing and base-line studies on pathogens*

1. In the framework of:

   (a) official monitoring for zoonoses, including *Salmonella* spp., *Campylobacter* spp., verotoxin producing *Escherichia coli* and multi-resistant bacterial strains;

   (b) specific laboratory testing for the diagnosis of transmissible spongiform encephalopathies referred to in Regulation (EC) No 999/2001 ([1]);

   (c) the detection of unauthorised substances or products, the control on regulated substances and in particular in the framework of the National Residue Plans referred to in Directive 96/23/EC ([2]);

   (d) the detection of zoonotic diseases, diseases listed on List A of the OIE and other notifiable diseases;

   (e) laboratory testing of animals considered suspect by the official veterinarian, or laboratory testing for the official veterinarian to reach a definitive diagnosis;

   the official veterinarian shall carry out the sampling and ensure the samples are identified, handled and sent to the appropriate laboratory in accordance with the relevant specifications and taking into consideration other Community rules laid down in the fields of zoonoses, transmissible spongiform encephalopathies and residues.

([1]) OJ L 147, 31.5.2001, p. 1.

([2]) OJ L 125, 23.5.1996, p. 10.

2. Where necessary, detailed rules for laboratory testing shall be laid down in accordance with the procedure referred to in Article 6. This includes specific rules for base-line studies on *Salmonella* spp., *Campylobacter* spp., verotoxin producing *Escherichia coli* and multi-resistant bacterial strains.

G. *Health and identification marking*

1. Meat of domestic ungulates, farmed game mammals and large wild game shall be health marked under the responsibility of the official veterinarian. After completion of the post-mortem inspection, carcases, half carcases, quarters and carcases cut into three pieces must be health-marked by stamping the mark in ink or hot-branding the mark on the external surface so as to ensure that the number of the establishment is easily identifiable.

2. For this purpose, the official veterinarian shall supervise:

   (a) the health marking;

   (b) the marks and wrapping material when marked as provided for in this section.

3. The health mark can only be applied when the animal (from which the meat has been obtained) has been inspected ante-mortem by the official veterinarian [1] and when all the other requirements of this Regulation have been met.

4. The health mark must be:

   (a) either an oval mark at least 6,5 cm wide by 4,5 cm high bearing the following information in perfectly legible characters:

      (i) on the upper part, the initials of the consigning country in capitals (i.e. one of the following): AT — B — DK — D — EL — E — FI — F — IRL — I — L — NL — P — SE — UK, followed by the veterinary approval number of the establishment,

      (ii) on the lower part, one of the following sets of initials: CEE, EEC, EEG, EOK, EØF, ETY, or EWG;

   (b) or an oval mark at least 6,5 cm wide by 4,5 cm high, bearing the following information in perfectly legible characters:

      (i) on the upper part, the name of the consigning country in capitals,

      (ii) in the centre, the veterinary approval number of the establishment,

      (iii) on the lower part, one of the following sets of initials: CEE, EEC, EEG, EOK, EØF, ETY, or EWG;

   The letters must be at least 0,8 cm high and the figures at least 1 cm high. The health mark may, in addition, include an indication of the official veterinarian who carried out the health inspection of the meat. The dimensions and characters of the mark may be reduced for health marking of lamb, kids and piglets.

5. Carcases must be stamped in ink or hot-branded in accordance with point 4:

   (a) those weighing more than 65 kilograms must be marked on each half-carcase, in the following places at least: external surface of the thighs, loins, back, breast and shoulder,

   (b) lamb, kid and piglet carcases must bear at least two stamps, one on each side of the carcase, on the shoulder or on the external surface of the thighs,

   (c) other carcases must be marked in at least four places, on the shoulder and on the external surface of the thighs. However, in the case of lamb, kid and piglet carcases, health marking may take the form of a label or tag which may be used only once.

6. The livers of bovine animals, swine and solipeds must be hot-branded in accordance with point 4.

[1] This requirement does not apply to hunted wild game.

7. All other sub-products of slaughtering fit for human consumption must be marked immediately in accordance with point 4, either directly on the product or on the wrapping or packaging. The mark in accordance with point 4 must be applied to a label fixed to the wrapping or packaging or printed on the packaging.

8. Packaging must always be marked in accordance with point 9.

9. Packaged cut meat and packaged offal referred to in point 6 and point 7 must bear a health mark in accordance with point 4. The mark must be applied to a label fixed to the packaging, or printed on the packaging, in such a way that it is destroyed when the packaging is opened. Non-destruction of the mark must be tolerated only when the packaging is destroyed by being opened. However, when wrapping fulfils all the protective conditions of packaging, the label referred to above may be affixed to the wrapping.

10. Where fresh meat is wrapped in commercial portions intended for direct sale to the consumer, points 7 and 9 shall apply. The dimension requirements of point 4 need not apply to the mark required under this point. If meat is re-packaged in a plant other than that in which it was first wrapped, the wrapping must bear the health mark of the cutting plant where it was first wrapped, and the packaging must bear the health mark of the packaging centre.

11. Meat from solipeds and its packaging must bear a special mark, to be determined in accordance with the procedure laid down in Article 6.

12. The colours used for health marking must be those listed in the relevant Community legislation on colours for use in foodstuffs.

13. Health marks may not be removed unless the meat is further worked upon in another separate approved establishment where the original mark must be replaced by a mark with that establishment's own number.

H. *Communication of inspection results*

1. The official veterinarian shall record and evaluate the results of his inspection activities. If this reveals the presence of any disease or condition which might affect public or animal health, or compromised animal welfare, this information shall be communicated to the operator of the meat establishment. When the problem arises during primary production, this information shall also be communicated to the competent authority responsible for supervising the holding of provenance of the animals or the hunting area, the private veterinarian attending the holding of provenance and the person responsible for the holding of provenance ([1]). Following such communication, action must be taken by the person responsible for the holding of provenance, to remedy the situation where appropriate.

2. The results of inspections and tests shall be communicated to the relevant databases.

3. Where the animals concerned were raised in another Member State or in a third country, the finding of a disease or condition which might affect public or animal health, or compromised animal welfare, shall be communicated to the operator of the meat establishment and to the central competent authority of the Member State where the meat establishment is located. The latter shall inform the Commission in case the animals concerned were raised in a third country.

4. When the official veterinarian, while carrying out ante- or post-mortem inspection or any other inspection activity, suspects the presence of an infectious agent mentioned on List A of the OIE, he shall immediately notify the central competent authority. He shall take all necessary measures and precautions to prevent the possible spread of the infectious agent. This includes the shut-down of the establishment, with no further movements either on or off the premises, until either the absence of the agent has been confirmed or all the necessary restrictions and measures have been put in place.

5. Detailed rules concerning the communication of inspection results shall be adopted if necessary, in accordance with the procedure referred to in Article 6.

([1]) Where there is the necessity to find evidence for not respecting good veterinary practice or for illegal use of pharmaceutical substances, the official findings shall not be communicated to the private veterinarian and the person responsible for the holding.

II. DECISIONS FOLLOWING CONTROLS

Where, following controls, deficiencies, non-compliance or irregularities are found, appropriate measures shall be taken. These include:

A. *Decisions following audit of the good hygienic practices and the HACCP-based procedures*

1. When audit of the good hygienic practices or the HACCP-based procedures reveals non-compliance, the official veterinarian shall ensure that the operator immediately reviews the process controls, discovers the cause if possible, rectifies the non-compliance and prevents recurrence. Depending on the nature of the problem, measures such as slowing down the process, may be taken by the official veterinarian.

2. Whenever the audit of the good hygienic practices or the HACCP-based procedures or other investigations reveal that meat may be placed on the market that, according to heading II.E of this sub-chapter, is to be considered unfit for human consumption, and the operator fails to adapt immediately the procedures, the slaughtering or cutting process shall be stopped. The process shall only resume when the official veterinarian is satisfied that the situation is under control. A similar procedure shall, whenever considered necessary by the official veterinarian, also apply when non-compliance occurs repeatedly.

3. Where appropriate, the official veterinarian shall order a recall, further examination and, when necessary, withdrawal and/or destruction of meat.

4. When the process has to be stopped repeatedly, and the operator is not able to prevent recurrence, the competent authority shall start the procedure of withdrawal of the approval of the establishment.

B. *Decisions concerning the food chain information*

1. Animals without the relevant food safety information contained in the records of the holding of provenance of the animals shall not be accepted for slaughter. When these animals are already present at the slaughterhouse, they shall, without prejudice to the specific legislation governing veterinary checks in intra-Community trade, be killed separately and declared unfit for human consumption.

2. When there are overriding animal welfare considerations the animal may be slaughtered even if the food chain information has not been supplied; however, all food chain information needed by the official veterinarian for an appropriate post-mortem inspection shall be supplied before the carcase can be approved for human consumption. Pending a final judgement, such a carcase and the related offal shall be stored separately from the other meat. This also applies in case of emergency slaughter outside the slaughterhouse.

3. When the accompanying records, documentation and other information show that:

   (a) the animals come from a holding or an area subject to a movement prohibition or other restriction for reasons of animal or public health;

   (b) rules on the use of veterinary medicinal products have not been complied with;

   (c) any other condition which might adversely affect human or animal health is present;

   these animals shall not be accepted for slaughter unless procedures are followed that have been introduced under Community rules to eliminate human or animal health risks. If these animals are already present at the slaughterhouse, they shall be killed separately and declared unfit for human consumption, taking precautions to safeguard animal and public health where appropriate. Whenever considered necessary by the official veterinarian, official controls shall be carried out on the holding of provenance.

4. When the competent authority discovers that the accompanying records, documentation and other information do not correspond with the true situation on the holding of provenance or the true condition of the animals or aimed at deliberately misleading the official veterinarian, the competent authority shall act upon the person responsible for the holding of provenance of the animals, or any other person involved, among others by carrying out extra controls. The costs of these extra controls shall be born by the operator of the holding of provenance or the other persons involved.

C. *Decisions concerning live animals*

1. Animals not properly identified shall not be accepted for slaughter. These animals shall be killed separately and declared unfit for human consumption. Whenever considered necessary by the official veterinarian, official controls shall be carried out on the holding of provenance.

2. When there are overriding animal welfare considerations, horses may be slaughtered even if the legally required information concerning the identity has not been supplied; however, this information shall be supplied before the carcase can be approved for human consumption. This also applies in case of emergency slaughter of horses outside the slaughterhouse.

3. Animals that have such hide, skin or fleece conditions that there is an increased risk of contamination of the meat during slaughter shall not be slaughtered for human consumption.

4. Animals with a disease or condition which may be transmitted to animals or humans through handling or eating the meat, and, in general, animals showing clinical signs of systemic disease or emaciation, shall not be slaughtered for human consumption. Such animals shall be killed separately, under conditions such that other animals or carcases cannot be contaminated, and declared unfit for human consumption.

5. The slaughter of animals suspected of having a disease or condition which may adversely affect human or animal health, shall be deferred. These animals shall undergo detailed examination in order to make a diagnosis. Where post-mortem inspection is necessary in order to make a diagnosis the official veterinarian may decide that the animals must undergo a post-mortem inspection supplemented, if necessary, by sampling and laboratory examinations. The animals shall be slaughtered separately or at the end of the normal slaughtering, taking all necessary precautions to avoid possible contamination of other meat.

6. Animals which might have residues of veterinary medicinal products in excess of the levels laid down in Community legislation, or residues of forbidden substances, shall be dealt with in accordance with Directive 96/23/EC.

7. The slaughter of animals under a specific scheme for the eradication or control of a specific disease such as brucellosis or tuberculosis or other zoonotic agents such as salmonellosis shall be carried out under the conditions imposed by, and the direct supervision of, the official veterinarian; the animals must be slaughtered under conditions such that other animals and/or the meat of other animals cannot be contaminated.

8. Once animals have arrived within the perimeter of slaughterhouse premises, they shall not leave these premises alive except in the case of a serious breakdown of the slaughter facilities. In these circumstances, only movements direct to another slaughterhouse shall be allowed.

D. *Decisions concerning animal welfare*

1. When the rules concerning the protection of animals at the time of slaughter or killing are not respected, the official veterinarian shall ensure that the operator immediately takes the necessary corrective measures and prevents recurrence. Depending on the nature of the deficiency, measures such as slowing down or stopping the slaughter process, may be taken by the official veterinarian. Where appropriate, the official veterinarian shall inform other competent authorities.

2. When the official veterinarian discovers that rules concerning the protection of animals during transport are not being respected, he shall take the necessary measures in accordance with the relevant Community legislation.

E. *Decisions concerning meat*

The following meat shall be declared unfit for human consumption:

(a) meat from animals which have not undergone ante-mortem inspection, except for hunted wild game;

(b) meat from animals the offal of which has not undergone post-mortem inspection, unless otherwise provided for under this Regulation;

(c) meat from animals which are dead before slaughter, stillborn, unborn or slaughtered under the age of seven days;

(d) meat resulting from the trimming of the sticking points;

(e) meat from animals affected by a notifiable animal disease, unless stated differently under Chapter 3;

(f) meat from animals affected by generalised disease, septicaemia, pyaemia, toxaemia or viraemia;

(g) meat that is not in conformity with the relevant microbiological criteria laid down in Community legislation;

(h) meat found to exhibit parasitic infestation, unless stated differently in Chapter 3;

(i) without prejudice to more specific Community legislation, meat containing residues of veterinary medicinal products, contaminants or other chemical residues in excess of the permitted Community level in that edible tissue; an excess of this Community level should lead to additional analyses whenever appropriate;

(j) without prejudice to more specific Community legislation, all meat from animals or carcases containing residues of forbidden substances and all meat from animals that have been treated with forbidden substances;

(k) the liver and kidneys of animals more than two years old from regions where plans implemented under Article 5 of Directive 96/23/EC have revealed the generalised presence of heavy metals in the environment;

(l) meat that has been treated illegally with decontaminating substances;

(m) meat that has been treated illegally with ionising or UV rays;

(n) meat containing foreign bodies, except in the case of wild game where it concerns material used to hunt the animal;

(o) meat exceeding the maximum permitted radioactive levels laid down in Community legislation;

(p) meat with patho-physiological changes, anomalies in consistency, insufficient bleeding, organoleptic anomalies or from emaciated animals;

(q) meat containing Specified Risk Material except as provided for under Community legislation;

(r) meat showing soiling, faecal or other contamination;

(s) the blood of an animal whose carcase has been declared unfit for human consumption in accordance with the preceding points, and blood contaminated by stomach contents or any other substance;

(t) all meat that, in the opinion of the veterinarian, after examination of all the relevant information, may constitute a public or animal health danger or is for other reasons not suitable for human consumption.

Chapter 2

Responsibilities and frequency of controls

I. THE INSPECTION TEAM

In carrying out the controls referred to in Chapter 1, the official veterinarian may be assisted by official auxiliaries placed under his authority and responsibility. The official auxiliaries shall form part of an independent inspection team under the authority and responsibility of the official veterinarian. The official auxiliaries may carry out the following activities:

(a) collecting information regarding the good hygienic practices and the HACCP-based procedures;

(b) helping with ante-mortem inspection in the slaughterhouse. In this case the official auxiliary's role is to make an initial check on the animals and to help with purely practical tasks;

(c) checks concerning the welfare of animals;

(d) post-mortem inspection, provided that the veterinarian is supervising the work of the official auxiliaries;

(e) checks on the removal, separation, staining and, where appropriate, marking of Specified Risk Material;

(f) checks on cut and stored meat;

(g) sampling; and

(h) inspection and supervision of establishments, means of transport, etc. . . .

II. THE FREQUENCY OF CONTROLS

1. The competent authority shall guarantee appropriate official supervision in meat establishments. The nature and intensity of the official supervision shall be based on a regular assessment of the public and animal health risks, the animal welfare aspects and the product suitability aspects related to the species and category of animals slaughtered, the type of process and the operator concerned. In the calculation of staffing on the slaughter line, a scientific approach shall be followed where appropriate. The number of official staff involved shall be such that all the requirements of this Regulation can be applied.

2. Care shall be taken to ensure that:

(a) in slaughterhouses and game handling establishments, at least one official veterinarian is present throughout both the ante-mortem and the post-mortem inspection.

Some flexibility may be applied for small slaughterhouses and small game handling establishments:

(i) ante-mortem inspection shall be carried out by the official veterinarian, but may take place at the holding of provenance;

(ii) the permanent presence of the official veterinarian during post-mortem inspection is not required, provided that an official auxiliary carries out post-mortem inspection, and that meat with abnormalities is put aside and inspected by the official veterinarian; a documented control system shall be put in place that allows the official veterinarian to be satisfied that standards are being met.

In the case of poultry, this flexibility can, on the basis of a case-by-case analysis of the risks by the competent authority, be applied in other slaughterhouses than small ones.

The flexibility mentioned above shall not apply:

(i) for emergency slaughtered animals and animals suspected of having a disease or condition which may adversely affect human health;

(ii) for bovine animals coming from herds that have not been declared officially tuberculosis-free;

(iii) for bovine animals, sheep and goats coming from herds that have not been declared officially brucellosis-free;

(iv) in case of an outbreak of a disease listed on List A or, where appropriate, List B of the OIE. This concerns animals susceptible to the particular disease in question and coming from the particular region as defined in Article 2 of Directive 64/432/EEC, as last amended by Decision 2001/298/EC;

(v) when considered necessary, to take into account emerging diseases or particular List B diseases. Where appropriate, rules shall be adopted in accordance with the procedure mentioned in Article 6.

When necessary to assure the uniform implementation of this rule, a definition of small establishment shall be approved in accordance with the procedure defined in Article 6.

(b) in cutting plants, a member of the inspection team is regularly present, but at least once a week, when meat is being worked on.

III. INVOLVEMENT OF STAFF OF THE ESTABLISHMENT

1. Member States may allow staff of the establishment to carry out activities of official auxiliaries in the control on the production of poultry and rabbit meat. The following conditions apply:

(a) Where the establishment has successfully been operating, for at least 12 months, good hygienic practices and HACCP-based procedures, the competent authority may permit staff of the establishment, having received a training equivalent to the training of official auxiliaries, and having passed the same test, to carry out tasks of official auxiliaries under the supervision of the official veterinarian. The official veterinarian then shall be present throughout ante- and post-mortem inspection, shall supervise these activities and carry out regular performance tests to ascertain that the performance of the staff of the establishment meets specific criteria set by the competent authority, and shall document the results of these performance tests. When necessary, detailed rules concerning the performance tests shall be adopted in accordance with the procedure referred to in Article 6. When the level of hygiene in the establishment decreases due to the functioning of this staff, or when tasks are not properly carried out by this staff, or, in general, when this staff carries out its activities in a manner that is not satisfactory according to the competent authority, this staff shall be replaced by official auxiliaries.

(b) The competent authority of the Member State shall decide in principle and on a case-by-case basis whether to allow for the implementation of the system described above. If the Member State decides to do so in principle, it should inform the Commission about this decision and the conditions thereof. For meat establishments in a Member State where the system described above is implemented, the actual use of the system is optional. Meat establishments shall not be forced by the competent authority to introduce the system described above. When the competent authority is not convinced that the meat establishment meets the requirements, the system shall not be implemented in the establishment. To assess this, the competent authority shall conduct an analysis of production and inspection records, the type of activities undertaken in the establishment, history of compliance with legislation, expertise, professional attitude and sense of responsibility as regards food safety of the staff of the establishment and other relevant information.

2. Member States with at least five years of experience with staff of establishments carrying out inspection tasks in the poultry sector, may extend the system to the fattening pig and the fattening veal sectors under the following conditions:

   (a) The Member State concerned shall submit an evaluation report to the Commission and the Member States proving that the system has, during these five years, operated successfully in the poultry sector.

   (b) The Food and Veterinary Office of the Commission shall, when deemed necessary by the Commission, carry out an audit of the system in the Member State to confirm its successful operation.

   (c) The Commission can require that the Member State returns to inspection of fattening pigs or fattening veal calves by official auxiliaries or takes any other appropriate measure, when a report of the Food and Veterinary Office or other information indicates that the Member State may not be able to guarantee adequate hygiene or inspection in the pig or veal meat establishments.

   The conditions applying to the implementation of the system in the poultry sector, mentioned under 1 (a) and 1 (b), shall also apply to the implementation of the system in the fattening pig and fattening veal sectors.

3. Staff of the establishment having received specific training, under the supervision of the official veterinarian, may, under the responsibility and the supervision of the official veterinarian, carry out specific sampling and testing.

IV. PROFESSIONAL QUALIFICATIONS

A. *Professional qualifications of the official veterinarian*

1. Only veterinarians who have passed a test organised by the competent authority, as defined by Regulation (EC) No . . . [on official feed and food controls], or by the organisation designated for that purpose by the competent authority, may be appointed as official veterinarians.

2. The test should cover at least the following subjects:

   (a) national and Community legislation on veterinary public health, food safety, animal health, animal welfare and pharmaceutical substances;

   (b) principles of the Common Agricultural Policy, market measures, export refunds and frauds (including the global context: WTO, SPS, Codex Alimentarius, OIE);

   (c) essentials of food processing and food technology;

   (d) principles, concepts and methods of good manufacturing practice and quality management;

   (e) pre-harvest quality management (good farming practices);

   (f) promotion and use of food hygiene, food-related safety (good hygienic practices);

   (g) principles, concepts and methods of risk analysis;

   (h) principles, concepts and methods of HACCP, use of HACCP throughout the food production food chain;

   (i) prevention and control of food-borne hazards related to human health;

   (j) population dynamics of infections and intoxications;

   (k) diagnostic epidemiology;

   (l) monitoring and surveillance systems;

   (m) auditing and regulatory assessment of food safety management systems;

   (n) principles and diagnostic applications of modern testing methods;

   (o) information and communication technology as related to veterinary public health;

   (p) data-handling and applications of biostatistics;

   (q) investigations of outbreaks of food-borne diseases in humans;

(r) relevant aspects concerning transmissible spongiform encephalopathies;

(s) animal welfare at the level of production, transport and slaughter;

(t) environmental issues related to food production (including waste management);

(u) precautionary principle and consumer concerns;

(v) principles of training of personnel working in the production chain.

3. The veterinarian shall be prepared for multidisciplinary cooperation.

4. Detailed rules concerning the content of the test referred to above shall be adopted, where appropriate, in accordance with the procedure referred to in Article 6.

5. In addition, the veterinarian shall receive at least 200 hours of practical training to be appointed as an official veterinarian. The practical training shall be provided by official veterinarians, shall take place in slaughterhouses, cutting plants, inspection posts for fresh meat and holdings and shall concern, among other things, auditing of food safety management systems.

6. The official veterinarian shall maintain up-to-date knowledge and keep abreast of new developments through annual continuing education activities and professional literature.

7. Veterinarians already appointed as official veterinarians and part-time official veterinarians shall, where necessary, acquire the required knowledge on the subjects mentioned above through continuing education activities. Adequate provisions should be made by the competent authority in this respect.

B. *Professional qualifications of the official auxiliaries*

1. Only persons who have passed a test organised by the competent authority of the Member States, or by the organisation designated for that purpose by that central authority, may be appointed as official auxiliaries.

2. Only candidates who prove that they have:

(a) followed at least 600 hours of theoretical training, including laboratory demonstrations, and

(b) received at least 300 hours of practical training under supervision of an official veterinarian,

shall be eligible for the above test. The practical training shall take place under the supervision of an official veterinarian, in slaughterhouses, cutting plants, inspection posts for fresh meat and holdings.

3. The training and tests shall focus either on red meat or poultry meat. However, persons who were trained for one of the two categories and passed the test, may undergo a shortened training to pass the test for the other category.

4. The tests for official auxiliaries shall consist of a theoretical part and a practical part and shall cover the following subjects:

(a) for the inspection of holdings:

(i) theoretical part:

— familiarity with the farming industry — organisation, production methods, international trade, etc.;

— pre-harvest quality management (good farming practices);

— basic knowledge of diseases, in particular zoonotic diseases — viruses, bacteria, parasites, etc.;

— monitoring for disease, use of medicines and vaccines, residue testing;

— hygiene and health inspection;

— animal welfare on the farm, during transport and at the slaughterhouse;

— environmental requirements — in buildings, on farms and in general;

— relevant laws, regulations and administrative provisions applicable;

— consumer concerns and quality control.

(ii) practical part:

— visits to farms of different types and using different rearing methods;

— visits to production establishments;

— loading and unloading of means of transport;

— visits to laboratories;

— veterinary checks;

— documentation.

(b) for inspection at slaughterhouses:

(i) theoretical part:

— familiarity with the meat industry — organisation, production methods, international trade, etc.;

— basic knowledge of hygiene and good hygienic practices, and in particular industrial hygiene, slaughter, cutting and storage hygiene, hygiene of work;

— HACCP and the audit of HACCP-based procedures;

— basic knowledge of the anatomy and physiology of slaughtered animals;

— basic knowledge of the pathology of slaughtered animals;

— basic knowledge of the pathological anatomy of slaughtered animals;

— relevant knowledge concerning transmissible spongiform encephalopathies;

— knowledge of methods and procedures for the slaughter, inspection, preparation, wrapping, packaging and transport of fresh meat;

— knowledge of the relevant laws, regulations and administrative provisions applicable;

— sampling procedures;

— fraud aspects.

(ii) practical part:

— animal identification;

— age checks;

— inspection and assessment of slaughtered animals;

— post-mortem inspection in a slaughterhouse;

— identification of animal species by examination of typical parts of the animal;

— identification of a number of parts of slaughtered animals in which changes have occurred, and comments thereon;

— hygiene control, including the audit of the good hygienic practices and the HACCP-based procedures;

— sampling;

— traceability of meat.

Detailed rules concerning the content of the test referred to above shall be adopted, where appropriate, in accordance with the procedure referred to in Article 6.

The total duration of the training of official auxiliaries shall gradually increase towards 1 400 hours in 2010, including theoretical and practical training.

The official auxiliaries shall maintain up-to-date knowledge and keep abreast of new developments through annual continuing education activities and professional literature.

Chapter 3

Specific requirements

The specific requirements laid down in this Chapter apply in addition to the requirements of the Chapters 1 and 2.

I. DOMESTIC BOVINE ANIMALS

I.1. **Bovine animals over six weeks old**

A. *Food chain information*

For the slaughter of a lot of bovine animals from the same holding of provenance that are sent directly for slaughter, the food chain information, covering the items mentioned under Chapter 1, heading I.2.A, shall be sent to the slaughterhouse operator 24 to 72 hours before the arrival of the lot at the slaughterhouse. When the operator decides to accept the lot for slaughter, he shall without delay give a copy of the information to the official veterinarian, but in any case 24 hours before the arrival of the lot.

B. *Post-mortem inspection*

Carcases and offal of bovine animals over six weeks old shall undergo the following post-mortem inspection procedures:

(a) visual inspection of the head and throat; incision and examination of the sub-maxillary, retropharyngeal and parotid lymph nodes (*Lnn retropharyngiales, mandibulares* and *parotidei*); examination of the external masseters, in which two incisions must be made parallel to the mandible, and the internal masseters (internal pterygoid muscles), which must be incised along one plane. The tongue must be freed to permit a detailed visual inspection of the mouth and the fauces and must itself be visually inspected and palpated. The tonsils must be removed;

(b) inspection of the trachea and oesophagus; visual examination and palpation of the lungs; incision and examination of the bronchial and mediastinal lymph nodes (*Lnn. bifucationes, eparteriales* and *mediastinales*). The trachea and the main branches of the bronchi must be opened lengthwise and the lungs must be incised in their posterior third, perpendicular to their main axes; these incisions are not necessary where the lungs are excluded from human consumption;

(c) visual inspection of the pericardium and heart, the latter being incised lengthwise so as to open the ventricles and cut through the interventricular septum;

(d) visual inspection of the diaphragm;

(e) visual inspection and palpation of the liver and the hepatic and pancreatic lymph nodes (*Lnn portales*); incision of the gastric surface of the liver and at the base of the caudate lobe to examine the bile ducts;

(f) visual inspection of the gastro-intestinal tract, the mesentery, the gastric and mesenteric lymph nodes (*Lnn. gastrici, mesenterici, craniales* and *caudales*); palpation and, if necessary, incision of the gastric and mesenteric lymph nodes;

(g) visual inspection and, if necessary, palpation of the spleen;

(h) visual inspection of the kidneys and incision, if necessary, of the kidneys and the renal lymph nodes (*Lnn. renales*);

(i) visual inspection of the pleura and the peritoneum;

(j) visual inspection of the genital organs;

(k) visual inspection and, if necessary, palpation and incision of the udder and its lymph nodes (*Lnn. supramammarii*). In cows, each half of the udder must be opened by a long, deep incision as far as the lactiferous sinuses (*sinus lactiferes*) and the lymph nodes of the udder must be incised, except when the udder is excluded from human consumption.

I.2. **Bovine animals under six weeks old**

Carcases and offal of bovine animals under six weeks old shall undergo the following post-mortem inspection procedures:

(a) visual inspection of the head and throat; incision and examination of the retropharyngeal lymph nodes (*Lnn retropharyngiales*); inspection of the mouth and fauces; palpation of the tongue; removal of the tonsils;

(b) visual inspection of the lungs, trachea and oesophagus; palpation of the lungs; incision and examination of the bronchial and mediastinal lymph nodes (*Lnn. bifucationes, eparteriales* and *mediastinales*). The trachea and the main branches of the bronchi must be opened lengthwise and the lungs must be incised in their posterior third, perpendicular to their main axes; these incisions are not necessary where the lungs are excluded from human consumption;

(c) visual inspection of the pericardium and heart, the latter being incised lengthwise so as to open the ventricles and cut through the interventricular septum;

(d) visual inspection of the diaphragm;

(e) visual inspection of the liver and the hepatic and pancreatic lymph nodes (*Lnn portales*); palpation and, if necessary, incision of the liver and its lymph nodes;

(f) visual inspection of the gastro-intestinal tract, the mesentery, the gastric and mesenteric lymph nodes (*Lnn. gastrici, mesenterici, craniales* and *caudales*); palpation and, if necessary, incision of the gastric and mesenteric lymph nodes;

(g) visual inspection and, if necessary, palpation of the spleen;

(h) visual inspection of the kidneys; incision, if necessary, of the kidneys and the renal lymph nodes (*Lnn. renales*);

(i) visual inspection of the pleura and peritoneum;

(j) visual inspection and palpation of the umbilical region and the joints. In the event of doubt, the umbilical region must be incised and the joints opened; the synovial fluid must be examined.

II. DOMESTIC SHEEP AND GOATS

A. *Food chain information*

For the slaughter of a lot of sheep or goats from the same holding of provenance that are sent directly for slaughter, the food chain information, covering the items mentioned under Chapter 1, heading I.2.A, shall be sent to the slaughterhouse operator 24 to 72 hours before the arrival of the lot at the slaughterhouse. When the operator decides to accept the lot for slaughter, he shall without delay give a copy of the information to the official veterinarian, but in any case 24 hours before the arrival of the lot.

B. *Post-mortem inspection*

Carcases and offal of sheep and goats shall undergo the following post-mortem inspection procedures:

(a) visual inspection of the head after flaying and, in the event of doubt, examination of the throat, mouth, tongue and retropharyngeal and parotid lymph nodes. Without prejudice to animal-health rules, these examinations are not necessary if the competent authority is able to guarantee that the head, including the tongue and the brains, will be excluded from human consumption;

(b) visual inspection of the lungs, trachea and oesophagus; palpation of the lungs and the bronchial and mediastinal lymph nodes (*Lnn. bifucationes, eparteriales* and *mediastinales*); in the event of doubt, these organs and lymph nodes must be incised and examined;

(c) visual inspection of the pericardium and heart; in the event of doubt, the heart must be incised and examined;

(d) visual inspection of the diaphragm;

(e) visual inspection of the liver and the hepatic and pancreatic lymph nodes (*Lnn portales*); palpation of the liver and its lymph nodes; incision of the gastric surface of the liver to examine the bile ducts;

(f) visual inspection of the gastro-intestinal tract, the mesentery and the gastric and mesenteric lymph nodes (*Lnn. gastrici, mesenterici, craniales* and *caudales*);

(g) visual inspection and, if necessary, palpation of the spleen;

(h) visual inspection of the kidneys; incision, if necessary, of the kidneys and the renal lymph nodes (*Lnn. renales*);

(i) visual inspection of the pleura and peritoneum;

(j) visual inspection of the genital organs;

(k) visual inspection of the udder and its lymph nodes;

(l) visual inspection and palpation of the umbilical region and joints of young animals. In the event of doubt, the umbilical region must be incised and the joints opened; the synovial fluid must be examined.

III. DOMESTIC SOLIPEDS

A. *Food chain information*

The original passport accompanying the animal to slaughter shall be checked by the official veterinarian to ascertain whether the animal is intended to be slaughtered for human consumption.

B. *Post-mortem inspection*

Carcases and offal of solipeds shall undergo the following post-mortem inspection procedures:

(a) visual inspection of the head and, after freeing the tongue, the throat; palpation and, if necessary, incision of the sub-maxillary, retropharyngeal and parotid lymph nodes (*Lnn retropharyngiales, mandibulares* and *parotidei*). The tongue must be freed to permit a detailed visual inspection of the mouth and the fauces and must itself be visually examined and palpated. The tonsils must be removed;

(b) visual inspection of the lungs, trachea and oesophagus; palpation of the lungs; palpation and, if necessary, incision of the bronchial and mediastinal lymph nodes (*Lnn. bifucationes, eparteriales* and *mediastinales*). The trachea and the main branches of the bronchi must be opened lengthwise and the lungs must be incised in their posterior third, perpendicular to their main axes; however, these incisions are not necessary where the lungs are excluded from human consumption;

(c) visual inspection of the pericardium and the heart, the latter being incised lengthwise so as to open the ventricles and cut through the interventricular septum;

(d) visual inspection of the diaphragm;

(e) visual inspection, palpation and, if necessary, incision of the liver and the hepatic and pancreatic lymph nodes (*Lnn portales*);

(f) visual inspection of the gastro-intestinal tract, the mesentery and the gastric and mesenteric lymph nodes (*Lnn. gastrici, mesenterici, craniales* and *caudales*); incision, if necessary, of the gastric and mesenteric lymph nodes;

(g) visual inspection and, if necessary, palpation of the spleen;

(h) visual inspection and palpation of the kidneys; incision, if necessary, of the kidneys and the renal lymph nodes (*Lnn. renales*);

(i) visual inspection of the pleura and peritoneum;

(j) visual inspection of the genital organs of stallions and mares;

(k) visual inspection of the udder and its lymph nodes (*Lnn. supramammarii*) and, if necessary, incision of the supramammary lymph nodes;

(l) visual inspection and palpation of the umbilical region and joints of young animals. In the event of doubt, the umbilical region must be incised and the joints opened; the synovial fluid must be examined;

(m) all grey or white horses must be inspected for melanosis and melanomata by examination of the muscles and lymph nodes (*Lnn. subrhomboidei*) of the shoulders beneath the scapular cartilage after loosening the attachment of one shoulder. The kidneys must be exposed and examined by incision through the entire kidney.

IV. DOMESTIC SWINE

A. *Ante-mortem inspection*

1. Slaughter of a lot of pigs from a holding may be authorised only when:

(a) either the pigs intended for slaughter have been submitted to an ante-mortem inspection at the holding of provenance and are accompanied by the health certificate provided for under Chapter 3, heading X, or

(b) the food chain information, covering the items mentioned under Chapter 1, heading I.2.A, has been sent to the slaughterhouse operator 24 to 72 hours before the arrival of the pigs at the slaughterhouse. When the operator decides to accept the lot for slaughter, he shall without delay give a copy of the information to the official veterinarian, but in any case 24 hours before arrival of the lot.

2. The ante-mortem inspection at the holding of provenance shall comprise:

(a) checking the records or documentation of the holding, including the food chain information as mentioned in Chapter 1, heading I.2.A;

(b) examination to determine whether the pigs:

(i) have a disease or condition which may be transmitted to animals or humans through handling or eating the meat, or are behaving, individually or collectively, in a manner indicating that such a disease may occur;

(ii) show disturbance of general behaviour or signs of disease which may make the meat unfit for human consumption;

(iii) show evidence that they may contain chemical residues in excess of the levels laid down in Community legislation, or residues of forbidden substances.

Besides, the following shall be carried out:

(a) regular sampling of water and feed to check compliance with withdrawal periods; where appropriate, sampling of the animals;

(b) where appropriate, tests for zoonotic agents.

3. Ante-mortem inspection at the holding shall be carried out by the official veterinarian, or by an approved veterinarian taking part in a surveillance network system, as foreseen by Article 14 of Directive 64/432/EEC; the pigs shall be sent directly to slaughter and not be mixed with other pigs.

4. Where ante-mortem inspection has been carried out at the holding, ante-mortem inspection at the slaughterhouse can be limited to a control on the identification and a screening to ascertain whether animal welfare rules have been complied with and signs of any condition which might adversely affect human or animal health are present.

5. Where ante-mortem inspection has not been carried out at the holding, the official veterinarian shall carry out ante-mortem inspection as described in Chapter 1, heading I.2.B.

6. Where the pigs are not slaughtered within three days of the issue of the health certificate provided for in point 1(a):

(a) where the pigs have not left the holding of provenance, the pigs shall be re-examined and a new health certificate shall be issued;

(b) where the pigs are already at the slaughterhouse, slaughter may be authorised once the reason for the delay has been assessed, provided the pigs are subjected to a further veterinary ante-mortem inspection.

B. *Post-mortem inspection*

1. Carcases and offal of pigs, other than fattening pigs raised:

(a) under controlled housing conditions, in integrated production systems;

(b) with a flow of information between holding of provenance and slaughterhouse considered satisfactory by the competent authority;

shall undergo the following post-mortem inspection procedures:

(a) visual inspection of the head and throat; incision and examination of the submaxillary lymph nodes (*Lnn mandibulares*); visual inspection of the mouth, fauces and tongue;

(b) visual inspection of the lungs, trachea and oesophagus; palpation of the lungs and the bronchial and mediastinal lymph nodes (*Lnn. bifucationes, eparteriales* and *mediastinales*). The trachea and the main branches of the bronchi must be opened lengthwise and the lungs must be incised in their posterior third, perpendicular to their main axes; these incisions are not necessary where the lungs are excluded from human consumption;

(c) visual inspection of the pericardium and heart, the latter being incised lengthwise so as to open the ventricles and cut through the interventricular septum;

(d) visual inspection of the diaphragm;

(e) visual inspection of the liver and the hepatic and pancreatic lymph nodes (*Lnn portales*); palpation of the liver and its lymph nodes;

(f) visual inspection of the gastro-intestinal tract, the mesentery, the gastric and mesenteric lymph nodes (*Lnn. gastrici, mesenterici, craniales* and *caudales*); palpation and, if necessary, incision of the gastric and mesenteric lymph nodes;

(g) visual inspection and, if necessary, palpation of the spleen;

(h) visual inspection of the kidneys; incision, if necessary, of the kidneys and the renal lymph nodes (*Lnn. renales*);

(i) visual inspection of the pleura and peritoneum;

(j) visual inspection of the genital organs;

(k) visual inspection of the udder and its lymph nodes (*Lnn. supramammarii*); incision of the supramammary lymph nodes in sows;

(l) visual inspection and palpation of the umbilical region and joints of young animals; in the event of doubt, the umbilical region must be incised and the joints opened.

2. Fattening pigs raised under controlled housing conditions, in integrated production systems, with a flow of information between holding and slaughterhouses considered satisfactory by the competent authority, shall undergo visual inspection only. The competent authority may however, on the basis of epidemiological or other data, decide that some or all of the above described procedures shall be applied to these fattening pigs.

V. POULTRY

A. *Ante-mortem inspection*

1. Slaughter of a flock of poultry from a holding may be authorised only when:

(a) either the birds intended for slaughter have been submitted to an ante-mortem inspection at the holding of provenance and are accompanied by the health certificate provided for in Chapter 3, heading X, or

(b) the food chain information, covering the items mentioned under Chapter 1, heading I.2.A, has been sent to the slaughterhouse operator 24 to 72 hours before the arrival of the birds at the slaughterhouse. When the operator decides to accept the birds for slaughter, he shall without delay give a copy of the information to the official veterinarian, but in any case 24 hours before arrival of the birds.

2. The ante-mortem inspection on the holding of provenance shall comprise:

(a) checking the records or documentation of the holding, including the food chain information as mentioned in Chapter 1, heading I.2.A;

(b) examination to determine whether the birds:

(i) have a disease or condition which may be transmitted to animals or humans through handling or eating the meat, or are behaving, individually or collectively, in a manner indicating that such a disease may occur;

(ii) show disturbance of general behaviour or signs of disease which may make the meat unfit for human consumption;

(iii) show evidence that they may contain chemical residues in excess of the levels laid down in Community legislation, or residues of forbidden substances.

Besides, the following shall be carried out:

(a) regular sampling of water and feed to check compliance with withdrawal periods; where appropriate, sampling of the animals;

(b) where appropriate, tests for zoonotic agents.

3. Ante-mortem inspection at the holding shall be carried out by the official veterinarian.

4. Where ante-mortem inspection has been carried out at the holding, ante-mortem inspection at the slaughterhouse can be limited to a control on the identification and a screening to ascertain whether animal welfare rules have been complied with and signs of any condition which might adversely affect human or animal health are present. This screening may be carried out by an official auxiliary.

5. Where ante-mortem inspection has not been carried out at the holding, the official veterinarian shall carry out an examination to determine whether:

(a) the birds have a disease or condition transmissible to humans or animals or are behaving, individually or collectively, in a manner indicating that such a disease may occur;

(b) show disturbance of general behaviour or signs of disease which may make the meat unfit for human consumption;

(c) show evidence that they may contain chemical residues in excess of the levels laid down in Community legislation, or residues of forbidden substances;

and, where appropriate, tests for zoonotic agents.

6. Where the birds are not slaughtered within three days of the issue of the health certificate provided for in point 1(a):

(a) where the birds have not left the holding of provenance, the birds shall be re-examined and a new health certificate shall be issued;

(b) where the birds are already at the slaughterhouse, slaughter may be authorised once the reason for the delay has been assessed, provided the birds are re-examined.

7. If the birds show clinical symptoms of a disease, their slaughter for human consumption shall be prohibited. Killing of these birds on the slaughterline is however authorised at the end of the normal slaughter process provided precautions are taken to avoid the risk of spreading pathogenic organisms and to clean and disinfect the facilities immediately after slaughter.

8. In the case of poultry reared for the production of 'foie gras' and in the case of delayed eviscerated poultry obtained at the holding of production, ante-mortem inspection shall be carried out in accordance with Chapter 3, heading VI.2.

B. *Post-mortem inspection*

All birds shall undergo post-mortem inspection. As part of the post-mortem inspection, the official veterinarian shall:

(a) inspect the viscera and body cavities of a representative number of birds from each batch of birds from the same origin;

(b) subject to a detailed inspection a random sample of parts of birds or entire birds which were declared unfit for human consumption following post-mortem inspection;

(c) carry out any further investigations deemed necessary where there is reason to suspect that the meat from the birds concerned could be unfit for human consumption;

(d) in the case of poultry reared for the production of 'foie gras' and delayed eviscerated poultry obtained at the holding of production, control the health certificate under point C that shall accompany the carcases.

C. *Specimen health certificate*

HEALTH CERTIFICATE

for poultry intended for the production of foie gras and delayed eviscerated poultry obtained at the holding of provenance, stunned, bled and plucked at the holding and transported to a cutting plant equipped with a separate room for evisceration

Competent service: .... Number: ....

1. **Identification of uneviscerated carcases**

   Species: ....

   Number: ....

2. **Provenance of uneviscerated carcases**

   Address of holding: ....

3. **Destination of uneviscerated carcases**

   The uneviscerated carcases will be transported to the following cutting plant: ....

   ....

4. **Declaration**

   I, the undersigned official veterinarian, declare that:

   — the uneviscerated carcases described above are of birds which were examined before slaughter on the above-mentioned holding at .... (time) on .... (date) and found to be healthy;

   — the records and documentation concerning these animals were in accordance with the legal requirements and do not prohibit slaughter of the birds.

Done at ...., on ....
(Place) (Date)

Stamp

....
(Signature of the official veterinarian)

VI. FARMED LAGOMORPHS

The requirements applicable to poultry shall apply.

VII. FARMED GAME

A. *Ante-mortem inspection*

1. Ante-mortem inspection may be carried out at the holding of provenance; it shall be carried out by the official veterinarian. Ante-mortem inspection at the holding shall include checking the records or documentation of the holding, including the food chain information as mentioned in Chapter 1, heading I.2.A, regular sampling of water and feed and, where appropriate, tests for zoonotic agents. When ante-mortem inspection has taken place at the holding, the ante-mortem inspection at the slaughterhouse may be restricted to detecting injuries sustained during transport and a check of the identification of the animals.

2. Live animals inspected at the holding must be accompanied by a certificate drawn up in accordance with the specimen in Chapter 3, heading X stating that the animals were inspected at the holding and found to be healthy.

B. *Post-mortem inspection*

1. This inspection shall include palpation and, where judged necessary, incision of those parts of the animal which have undergone any change or are suspect for any other reason.

2. Post-mortem inspection procedures described for bovine and ovine animals, domestic swine and poultry shall be applied to the corresponding species of farmed game.

3. When the animals have been slaughtered at the holding, the official veterinarian shall check the certificate issued and signed by the official veterinarian attesting to a favourable result of ante-mortem inspection, correct slaughter and bleeding and the time of slaughter.

VIII. WILD GAME

A. *Post-mortem inspection*

1. Wild game shall be inspected as soon as possible after admission to the game handling establishment.

2. The official veterinarian shall check whether the wild game is accompanied by a declaration of the trained person, as defined in Regulation (EC) No . . . [laying down specific hygiene rules for food of animal origin]. Where this is the case, he shall take this declaration into account in carrying out the post-mortem inspection.

3. During post-mortem inspection, the official veterinarian shall carry out:

   (a) a visual examination of the carcase, its cavities and where appropriate organs with a view to:

   — detecting any abnormalities. For this purpose, the diagnosis may be based on any information provided by the hunter concerning the behaviour of the animal before killing,

   — checking that death was not caused by reasons other than hunting.

   If an assessment cannot be made on the basis of visual examination alone, a more extensive inspection must be carried out in a laboratory;

   (b) an investigation of organoleptic abnormalities;

   (c) palpation of organs, where appropriate;

   (d) an analysis of residues including environmental contaminants by sampling, where there are serious grounds for suspecting the presence of residues or contaminants. Where a more extensive inspection is made on the basis of such suspicions, the veterinarian must wait until that inspection has been concluded before assessing all the game killed during a specific hunt, or those parts which are suspected of showing the same abnormalities;

(e) examination for characteristics indicating that the meat presents a health risk, including:

(i) abnormal behaviour or disturbance of the general condition of the live animal, as reported by the hunter;

(ii) the generalised presence of tumours or abscesses affecting different internal organs or muscles;

(iii) arthritis, orchitis, pathological changes in the liver or the spleen, inflammation of the intestines or the umbilical region;

(iv) the presence of foreign bodies in the body cavities, stomach or intestines or in the urine, where the pleura or peritoneum are discoloured;

(v) the presence of parasites;

(vi) formation of a significant amount of gas in the gastro-intestinal tract with discolouring of the internal organs;

(vii) significant abnormalities of colour, consistency or odour of muscle tissue or organs;

(viii) aged open fractures;

(ix) emaciation and/or general or localised oedema;

(x) recent pleural or peritoneal adhesions;

(xi) other obvious extensive changes, such as putrefaction.

4. Where the official veterinarian so requires, the vertebral column and the head shall be split lengthwise.

5. In the case of small wild game not eviscerated immediately after killing, the official veterinarian shall carry out a post-mortem inspection on a representative sample of animals from the same source. Where inspection reveals a disease transmissible to man or defects as referred to in point 3, the veterinarian shall carry out more checks on the entire batch to determine whether it must be declared unfit for human consumption or whether each carcase must be inspected individually.

6. In the event of doubt, the official veterinarian may perform any further cuts and inspections of the relevant parts of the animals necessary to reach a final diagnosis.

B. *Decisions following controls*

In addition to the cases provided for in Chapter 1, heading II.E, meat presenting characteristics during post-mortem inspection as listed in point A of this section, shall be declared unfit for human consumption.

IX. SPECIFIC HAZARDS

A. *Transmissible spongiform encephalopathies*

1. Inspection of bovine animals over six weeks old, sheep or goats shall be carried out taking into account Regulation (EC) No 999/2001, and all other relevant Community legislation concerning transmissible spongiform encephalopathies. This concerns at least the following aspects:

(a) Where appropriate, the status of the dam shall be checked before slaughter of the animal.

(b) When there is any indication that the age as mentioned in the accompanying information is not correct, a dentition check shall be carried out by the official veterinarian.

(c) Special care shall be taken that all bovine animals, sheep or goats suspected of suffering from a transmissible spongiform encephalopathy, as defined in Regulation (EC) No 999/2001, are treated in accordance with the specifications of that Regulation. These suspect animals shall be slaughtered separately from the other animals, taking all necessary precautions to limit to a minimum the risk of contamination of other carcases, the slaughter line and the staff present in the slaughterhouse.

2. Specific tests for the diagnosis of transmissible spongiform encephalopathies shall be carried out according to the specific Community legislation on this issue.

B. *Cysticercosis*

1. The post-mortem inspection procedures described under Chapter 3, headings I and IV are the minimum requirements for the examination for cysticercosis in bovine animals over six weeks old and swine. In addition, specific serological tests may be used. In the case of bovines over six weeks old, incision of the masseters at post-mortem inspection is not compulsory when a specific serological test is used. The same applies when bovine animals over six weeks old have been raised on a holding officially certified to be free of cysticercosis.

2. Meat infected with cysticercus shall be declared unfit for human consumption. However, when the animal is not generally infected with cysticercus, the parts not infected may be declared fit for human consumption after having undergone a cold treatment.

C. *Trichinosis*

1. Carcases of swine (domestic, farmed game and wild game), solipeds and other species susceptible to trichinosis shall be examined for trichinosis unless the animals were raised on a holding officially certified to be free of trichinosis, or a cold treatment has been applied.

2. Meat from animals infected with trichinae shall be declared unfit for human consumption.

D. *Glanders*

1. Where appropriate, solipeds shall be examined for glanders. Examination for glanders in solipeds shall include a careful examination of mucous membranes from the trachea, larynx, nasal cavities and sinuses and their ramifications, after splitting the head in the median plane and excising the nasal septum.

2. Meat from horses in which glanders has been diagnosed shall be declared unfit for human consumption.

E. *Tuberculosis*

1. Animals which have reacted positively or inconclusively to tuberculin shall be slaughtered separately from the other animals, taking precautions as to avoid the risk of contamination of other carcases, the slaughter line and the staff present in the slaughterhouse.

2. Meat from animals which have produced a positive or inconclusive reaction to tuberculin and in which the post-mortem inspection has revealed localised tuberculous lesions located in a number of organs or areas of the carcase shall be declared unfit for human consumption. Pending an opinion of the European Food Safety Authority, meat from animals which have produced a positive or inconclusive reaction to tuberculin and in which post-mortem inspection has revealed localised tuberculous lesions in the lymph node(s) of one organ or part of the carcase, shall be declared unfit for human consumption or undergo a heat treatment.

F. *Brucellosis*

1. Animals which have reacted positively or inconclusively to a brucellosis test shall be slaughtered separately from the other animals, taking precautions as to avoid the risk of contamination of other carcases, the slaughter line and the staff present in the slaughterhouse.

2. Meat from animals which have reacted positively or inconclusively to a brucellosis test, confirmed by lesions indicating infection, shall be declared unfit for human consumption. Even where no such lesion has been found, the udder, genital tract and blood must nevertheless be declared unfit for human consumption.

G. *Detailed requirements*

The following shall be established in accordance with the procedure referred to in Article 6, and after the European Food Safety Authority has given its opinion:

(a) the cold treatment to be applied to meat in relation to cysticercosis and trichinosis, and the heat treatment to be applied to meat in relation to tuberculosis;

(b) the conditions under which holdings can be certified as officially free of cysticercus or trichinae;

(c) where appropriate, methods to be applied when examining for the conditions referred to in this heading.

X. SPECIMEN HEALTH CERTIFICATE

HEALTH CERTIFICATE

for animals transported from the holding to the slaughterhouse

Competent service: .... Number: ....

1. **Identification of the animals**

   Species: ....

   Number of animals: ....

   Identification marking: ....

2. **Provenance of the animals**

   Address of holding of provenance: ....

   Identification of house (*): ....

3. **Destination of the animals**

   The animals will be transported to the following slaughterhouse: ....

   ....

   by the following means of transport: ....

4. **Other relevant information**

   ....

5. **Declaration**

   I, the undersigned, declare that:

   — the animals described above were examined before slaughter at the abovementioned holding at .... (time) on .... (date) and were found to be healthy,

   — the records and documentation concerning these animals were in accordance with the legal requirements and do not prohibit slaughter of the animals.

Done at ...., on ....
(Place) (Date)

Stamp

....
(Signature of veterinarian)

(*) optional

ANNEX II

LIVE BIVALVE MOLLUSCS

I. OFFICIAL CONTROLS OF PRODUCTION AREAS

1. The competent authority must fix the location and the boundaries of production areas for bivalve molluscs. The production areas from which harvesting of bivalve molluscs is authorised must be classified by the competent authority in three categories according to the level of the faecal contamination as follows:

   (a) **Class A areas:** areas from which live bivalve molluscs may be collected for direct human consumption. Live bivalve molluscs taken from these areas must meet the health standards for live bivalve molluscs referred to in Annex II, Section VII, Chapter V of Regulation (EC) No . . . [laying down specific hygiene rules for food of animal origin].

   (b) **Class B areas:** areas from which live bivalve molluscs may be collected, but only placed on the market for human consumption after treatment in a purification centre or after relaying so as to meet the health standards referred to under (a). Live bivalve molluscs from these areas must not exceed the limits of a five-tube, three dilution Most Probable Number (MPN)-test of 6 000 *faecal coliforms* per 100 g of flesh or 4 600 *E.coli* per 100 g of flesh in 90 % of samples.

   (c) **Class C areas:** areas from which live bivalve molluscs may be collected but placed on the market only after relaying over a long period (at least two months) whether or not combined with purification, or after intensive purification for a period to be fixed in accordance with the procedure referred to in Article 6, so as to meet the health standards referred to under (a). Live bivalve molluscs from these areas must not exceed the limits of a five-tube, three dilution MPN test of 60 000 *faecal coliforms* per 100 g flesh.

2. In order to enable the classification of production zones and to determine the faecal contamination level of an area, the competent authority must:

   (a) make an inventory of the sources of pollution from human or animal origin likely to be a source of contamination for the production area,

   (b) examine the quantities of organic pollutants which are released during the different periods of the year, according to the seasonal variations of both human and animal populations in the catchment area, rainfall readings, waste water treatment, etc.,

   (c) determine the characteristics of the circulation of pollutants by virtue of current patterns, bathymetry and the tidal cycle in the production area,

   (d) establish a sampling programme of bivalve molluscs in the production area which is based on the examination of established data, and with a number of samples, a geographical distribution of the sampling points and a sampling frequency which must ensure that the results of the analysis are as representative as possible for the area considered.

3. Classified relaying and production areas must be periodically monitored in order to:

   (a) prevent any malpractice with regard to the origin, provenance and destination of live bivalve molluscs;

   (b) check the microbiological quality of live bivalve molluscs in relation to the production and relaying areas;

   (c) check for the presence of toxin-producing plankton in production and relaying waters and biotoxins in live bivalve molluscs;

   (d) check for the presence of chemical contaminants in live bivalve molluscs.

4. For the implementation of paragraph 3(b), (c) and (d) above, sampling plans must be drawn up for carrying out such checks at regular intervals or on a case-by-case basis where harvesting periods are irregular. The geographical distribution of the sampling points and the sampling frequency must ensure that the results of the analysis are as representative as possible for the area considered.

   (a) The sampling plan for checking the microbiological quality of live bivalve molluscs must take particular account of:

   — the likely variation in faecal contamination,

   — the parameters referred to in paragraph 2.

(b) The sampling plan for checking the presence of toxin-producing plankton in production and relaying waters and for biotoxins in live bivalve molluscs must take particular account of possible variations in the presence of plankton containing marine biotoxins.

Sampling must be carried out as follows:

— monitoring plankton: periodic sampling to detect changes in the composition of the plankton containing toxins and the geographical distribution thereof. Results suggesting an accumulation of toxins in mollusc flesh must be followed by intensive sampling, by increasing the number of sampling points and number of samples taken in growing and fishing waters, and

— periodic toxicity tests using those molluscs from the affected area most susceptible to contamination.

The sampling frequency for toxin analysis in the molluscs should be at least weekly during the time periods for which harvesting is allowed. This frequency may occasionally be reduced in specific areas for which robust historical data on toxins or phytoplankton occurrence suggest very low risk of toxic episodes. Nevertheless, this should be periodically reviewed in order to assess the risk of toxins occurring in the shellfish from these areas.

When knowledge of toxin accumulation rates is available for a group of species growing in the same area, a species with the highest rate may be used as an indicator species. This will allow the exploitation of all species in the group if toxin levels in the indicator species are below the regulatory limits. When toxin levels in the indicator species are above the regulatory limits, harvesting of the other species should only be allowed if further analysis on the other species shows toxin levels below the limits.

With regard to the monitoring of plankton, the samples should be representative of the water column and should provide information on the presence of toxic species as well as on population trends. If any changes in toxic populations that may lead to toxin accumulation are detected, the sampling frequency of molluscs shall be increased or precautionary closures of the areas will be established until results of toxin analysis are obtained.

(c) The sampling plan for checking the presence of chemical contaminants must allow to determine that the levels referred to in Regulation (EC) No 466/2001 [1] are exceeded.

5. Where the results of sampling show that the health standards for molluscs are exceeded, or that there may be otherwise a risk to human health, the production area concerned must be closed for the harvesting of live bivalve molluscs.

Closed areas may only be re-opened when the health standards for molluscs comply again with Community legislation. When for reasons of the presence of plankton or excessive levels of toxins in molluscs an area has been closed, at least two consecutive results below the regulatory limit separated at least 48 hours are necessary to re-open it. Information on phytoplankton trends may be included in this decision. In those cases when there are robust data on the dynamic of the toxicity for a given area, and provided that recent data on decreasing trends of toxicity are available, the competent authority may decide to re-open the area with results below the regulatory limit obtained from one single sampling.

6. The competent authority shall monitor production areas where the harvesting of bivalve molluscs is forbidden or subject to special conditions, to ensure that products harmful to human health are not placed on the market.

7. In addition to the monitoring of relaying and production zones referred to in paragraph 3, a control system must be set up comprising laboratory tests to verify compliance with the requirements for the end product, in particular to verify that the levels of marine biotoxins and contaminants do not exceed safety limits and that the microbiological quality of the molluscs does not constitute a hazard to human health.

8. The competent authority must:

(a) establish and keep up-to-date a list of approved production and relaying areas, with details of their location and boundaries, as well as the class in which the area is classified, from which live bivalve molluscs may be taken in accordance with the requirements of this Annex.

[1] OJ L 77, 16.3.2001, p. 1.

This list must be communicated to interested parties affected by this Annex, such as producers, gatherers and operators of purification centres and dispatch centres.

(b) immediately inform the interested parties affected by the present Annex, and in particular the producers, gatherers and operators of purification centres and dispatch centres, about any change of the location, boundaries or class of the production area, or its closure, be it temporary or final.

(c) act promptly where the controls prescribed in the present Annex indicate that a production area must be closed or can be re-opened.

9. For deciding on the classification, opening or closure of harvesting areas, the competent authority may take into account the results of controls carried out by the food business operators or by the organisation representing the food business operators concerned. In that event, the analysis must have been carried out in a laboratory that has been approved by the competent authority and in accordance with a protocol that has eventually been agreed between the competent authority and the businesses or organisation concerned.

II. OFFICIAL CONTROLS OF PECTINIDAE HARVESTED OUTSIDE CLASSIFIED PRODUCTION AREAS

Member States shall ensure that appropriate controls are organised on pectinidae that have been harvested outside classified production areas in order to ensure that they comply with the relevant health standards, including biotoxins.

ANNEX III

FISHERY PRODUCTS

In addition to the common control requirements, the following shall apply:

1. Official controls on fishery products shall be carried out at the time of landing or before first sale at an auction or wholesale market.

2. Official controls shall include:

(a) Organoleptic surveillance testing.

Random checks must be carried out to check compliance with the freshness criteria laid down in Community legislation. Where there is doubt as to the freshness of the products, the organoleptic examination must be repeated.

(b) Total Volatile Basic Nitrogen (TVB-N) tests.

Where the organoleptic examination reveals any doubt as to the freshness of the fishery products, samples may be taken and subjected to laboratory tests to determine the levels of TVB-N (Total Volatile Basic Nitrogen).

The TVB-N levels and the methods of analysis to be used shall be those specified in Decision 95/149/EC.

Where the organoleptic examination gives cause to suspect the presence of other conditions which may affect human health, samples may be taken for verification purposes.

(c) Histamine testing

Surveillance testing for histamine shall be carried out to verify compliance with the permitted levels laid down in Community legislation.

The level of histamine in certain fishery products must be within the following limits in nine samples taken from a batch:

— the mean value must not exceed 100 ppm,

— two samples may have a value exceeding 100 ppm but not more than 200 ppm,

— no sample may have a value exceeding 200 ppm.

These limits apply only to fish species of the following families: Scombridae, Clupeidae, Engraulidae, Coryfenidae, Pomatomidae and Scombraesosidae. However, anchovy which has undergone enzyme maturation treatment in brine may have higher histamine levels but not more than twice the above values. Examinations must be carried out in accordance with reliable methods which are recognised scientifically, such as high performance liquid chromatography (HPLC).

(d) Surveillance testing for contaminants.

Monitoring arrangements shall be set up to control the levels in fishery products of contaminants such as heavy metals and organo-chlorinated substances present in the aquatic environment.

(e) Microbiological checks, where necessary.

(f) Surveillance testing to verify compliance with Community legislation on endoparasites.

(g) Checks on the possible presence on the market of poisonous fish species or fish containing biotoxins.

Where necessary, the following shall be established in accordance with the procedure referred to in Article 6, after an opinion has been given by the European Food Safety Authority:

— freshness criteria for the organoleptic evaluation of fishery products, in particular where such criteria have not been established under existing Community legislation,

— the analytical limits, methods of analysis and sampling plans to be used for performing the official checks referred to above.

3. The following shall be declared unfit for human consumption:

(a) fishery products when the organoleptic, chemical, physical or microbiological checks have shown that such products are not fit for human consumption;

(b) fish or parts of fish which have not been properly examined to detect endoparasites in accordance with Community legislation;

(c) fishery products which contain in their edible parts contaminants present in the aquatic environment, such as heavy metals and organochlorinated substances, at levels where the calculated dietary intake would exceed the acceptable daily or weekly intake for humans;

(d) poisonous fish and fishery products containing biotoxins;

(e) fishery products or parts thereof considered dangerous to human health.

ANNEX IV

MILK AND MILK PRODUCTS

In addition to the common control requirements, official controls shall include:

A. *Control of holdings*

1. Animals on production holdings must undergo regular veterinary inspections to ensure that the health requirements for raw milk production, and in particular the health status of the animals and the use of veterinary medicinal products, are being complied with. These inspections may take place at the occasion of veterinary checks carried out pursuant to other Community provisions.

   If there are grounds for suspecting that the animal health requirements are not being complied with, the general health status of the animals shall be checked.

2. The production holdings shall undergo regular checks to ensure that hygiene requirements are being complied with. If it is shown that the hygiene is inadequate, appropriate steps shall be taken to ensure that the operator corrects the situation.

B. *Control of raw milk upon collection*

1. The competent authority shall organise, where appropriate in cooperation with food business operators producing or collecting milk or with the sector representing these operators, control schemes in order to ensure compliance with the standards that apply to raw milk.

2. When the raw milk fails to meet such standards, the competent authority shall take appropriate steps to ensure that the food business operator corrects the situation.

   If the situation is not corrected within three months after notification of non-compliance with those standards, the milk of the production holding shall be suspended from delivery until the operator has proved that the milk complies again with the standards.

3. When the raw milk fails to meet mandatory public health criteria so that food safety may be compromised, the competent authority shall define and implement procedures to suspend the delivering of the raw milk until conditions ensuring food safety are restored. At the same time, the competent authority shall instruct the farmer as to whether the milk must be destroyed, or whether it can be used under certain well defined conditions. As soon as these conditions are reached, the competent authority shall apply a procedure of re-authorisation of delivering milk.

C. *Control of processed dairy products*

Official controls shall include:

1. A verification of the compliance of raw milk used for processing with the standards that apply to it.

2. A verification that food safety objectives are achieved, by appropriate checks performed on the means applied by the food business operators, such as:

   — heat treatment or other physical treatment parameters, or

   — processing conditions in general, including those adapted to traditional methods of production.

3. A verification of the compliance of final products with the standards that apply to them, in particular as regards microbiological criteria and labelling.

Proposal for a Council Decision on the Community position in relation to the establishment of a Joint Consultative Committee to be decided on by the Association Council established by the Europe Agreement between the European Communities and the Republic of Estonia

(2002/C 262 E/34)

COM(2002) 387 final — 2002/0144(ACC)

(Submitted by the Commission on 11 July 2002)

EXPLANATORY MEMORANDUM

1. The Europe Agreement establishing an association between the European Communities and their Member States, of the one part, and the Republic of Estonia, of the other part, which entered into force on 1 February 1998, provides, in Article 114 thereof, that the Association Council may decide to set up any other special committee or body that can assist it in carrying out its duties.

2. Though the establishment of a consultative mechanism for dialogue between the regional and local authorities of the two parties is not explicitly provided for in the aforementioned Europe Agreement, the Commission proposes that a Joint Consultative Committee representing the regional and local authorities of both parties be set up by the Association Council in support of the keen interest expressed, in this respect, by both sides, represented by the Committee of the Regions, of the part of the Community, and by the Estonian Liaison Committee for Co-operation with the Committee of the Regions of the European Communities, of the part of the Republic of Estonia.

3. The proposed Joint Consultative Committee is intended to constitute a forum for dialogue and cooperation between the regional and local authorities in the European Community and regional and local authorities in the Republic of Estonia, which can make a major contribution to the development of their relations and to the integration of Europe. The dialogue and cooperation will prepare for future work with the Committee of the Regions and for membership of the European Union; facilitate exchanging information on current issues of mutual interest, in particular on up-to-date state of play concerning EU regional policy and accession process; encourage information exchange in practical implementation of the principle of subsidiarity in all aspects of life on regional and local level; discussing any other relevant matters proposed by any side, as they can arise in the context of implementation of the Europe Agreement and in the framework of the Pre-accession Strategy. The Association Council may also consult the proposed Joint Consultative Committee before taking decisions in areas of obvious regional interest. Consultation of the committee remains, however, at the discretion of the Association Council.

4. The establishment of the proposed Joint Consultative Committee does not have any financial impact on the Community budget, the Estonian participants being responsible for their own expenses and the expenses on the Community side being covered by the budget of the Committee of the Regions.

5. The text of the proposal for a Council decision on the position to be taken by the Community in the Association Council, as provided for by Article 2(1) of the Council and Commission decision of 19 December 1997 on the conclusion of the aforementioned Europe Agreement, is attached hereto. The Council is asked to adopt this text.

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty establishing a European Community, the Treaty establishing a European Coal and Steel Community [1] and the Treaty establishing a European Atomic Energy Community (Euratom),

Having regard to Article 300, paragraph 2, second and third subparagraphs, of the Treaty establishing the European Community,

Having regard to Article 2 (1) of the Council and Commission Decision of 19 December 1997 concerning the conclusion of a Europe Agreement establishing an association between the European Communities and their Member States, of the one part, and the Republic of Estonia, of the other part,

Having regard to the Commission proposal,

Whereas:

(1) Article 114 of the said Europe Agreement provides that the Association Council may decide to set up any special committee or body that can assist it in carrying out its duties;

(2) Dialogue and cooperation between regional and local authorities in the European Community and the Republic of Estonia can make a major contribution to the full implementation of the Europe Agreement;

(3) It seems appropriate that such cooperation should be organised between the members of the Committee of the Regions of the European Communities and of the Estonian Liaison Committee for Cooperation with the Committee of the Regions of the European Communities,

HAS DECIDED AS FOLLOWS:

The position to be adopted by the Community within the Association Council established by Article 109 of the Europe Agreement establishing an association between the European Communities and their Member States, of the one part, and the Republic of Estonia, of the other part, in relation to the establishment of a Joint Consultative Committee shall be based on the draft decision of the said Association Council which is annexed to the present decision.

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[1] ECSC Treaty expires on 23 July 2002.

DRAFT DECISION No . . ./2002

of the Association Council

between the European Communities and their Member States, of the one part, and the Republic of Estonia, of the other part, of . . . 2002 amending, through the setting up of a Joint Consultative Committee between the Committee of the Regions and the Estonian Liaison Committee for Cooperation with the Committee of the Regions, Decision No 1/98 adopting the rules of procedure of the Association Council

THE ASSOCIATION COUNCIL,

Having regard to the Europe Agreement establishing an association between the European Communities and their Member States, of the one part, and the Republic of Estonia, of the other part [1], and in particular Article 114 thereof;

Whereas:

(1) Dialogue and cooperation between regional and local authorities in the European Community and those in the Republic of Estonia can make a major contribution to the development of their relations and to the integration of Europe;

(2) It seems appropriate that such cooperation should be organised at the level of the Committee of the Regions, of the one part, and of the Estonian Liaison Committee for Cooperation with the Committee of the Regions, of the other part, by the setting up of a Joint Consultative Committee;

(3) This means that the rules of procedure of the Association Council, adopted by Decision 1/98, need to be amended accordingly,

HAS DECIDED AS FOLLOWS:

Article 1

The following Articles shall be added to the rules of procedure of the Association Council:

'*Article 18*

A Joint Consultative Committee (hereinafter referred to as "Committee") is hereby established with the task of assisting the Association Council with a view to promoting dialogue and cooperation between the regional and local authorities in the European Community and those in the Republic of Estonia. Such dialogue and cooperation shall be aimed in particular at:

1. preparing Estonian regions and local authorities for activity in the framework of future membership of the European Union;

2. preparing Estonian regions and local authorities for their participation in the work of the Committee of the Regions after accession of the Republic of Estonia;

3. exchanging information on current issues of mutual interest, in particular on up-to-date state of play concerning EU regional policy and accession process as well as preparation of Estonian regions and local authorities for these policies;

4. encouraging multilateral structured dialogue between (a) Estonian regions and local authorities and (b) regions and local authorities from EU Member States, including through networking in specific areas where direct contacts and cooperation between regions and local authorities from the Republic of Estonia and EU Member States might prove the most effective way of solving particular problems;

[1] OJ L 68, 9.3.1998, p. 3.

5. providing regular exchange of information on inter-regional cooperation between regional and local authorities from the Republic of Estonia and Member States;

6. encouraging exchange of experience and knowledge in the field of regional policy and structural interventions, between (a) Estonian regions and local authorities and (b) regions and local authorities from EU Member States, in particular know-how and techniques concerning preparation of regional and local development plans or strategies and most efficient use of Structural Funds;

7. assisting Estonian regional and local authorities by means of information exchange in practical implementation of the principle of subsidiarity in all aspects of life on regional and local level;

8. discussing any other relevant matters proposed by any side, as they can arise in the context of implementation of the Europe Agreement and in the framework of the Pre-accession Strategy.

Article 19

The Committee shall comprise eight representatives of the Committee of the Regions, on the one hand, and eight representatives of the Estonian Liaison Committee for Cooperation with the Committee of the Regions, on the other hand. An equal number of alternate members shall be appointed.

The Committee shall carry out its activities on the basis of consultation by the Association Council or, as concerns the promotion of the dialogue between the regional and local authorities, on its own initiative.

The Committee may make recommendations to the Association Council.

Members shall be chosen to ensure that the Committee is as faithful a reflection as possible of the various levels of regional and local authorities in both the European Community and the Republic of Estonia.

The Committee shall adopt its own Rules of Procedure.

The Committee shall meet at intervals, which it shall itself determine in its Rules of Procedure.

The Committee shall be co-chaired by a member of the Committee of the Regions of the European Community and a member of the Estonian Liaison Committee for cooperation with the Committee of the Regions.

Article 20

The Committee of the Regions, on the one hand, and the Estonian Liaison Committee for Cooperation with the Committee of the Regions, on the other hand, shall each defray the expenses they incur by reason of their participation in the meetings of the Committee with regard to staff, travel and subsistence expenditure and to postal and telecommunications expenditure.

Expenditure in connection with interpreting at meetings, translation and reproduction of documents shall be borne by the Committee of the Regions, with the exception of expenditure in connection with interpreting or translation into or from Estonian, which shall be borne by the Estonian Liaison Committee for Cooperation with the Committee of the Regions.

Other expenditure relating to the material organisation of meetings shall be borne by the Party which hosts the meetings.'

Article 2

This Decision shall enter into force on the first day of the second month following the date of its adoption.

Amended proposal for a Decision of the European Parliament and of the Council concerning the rules for the participation of undertakings, research centres and universities and for the dissemination of research results for the implementation of the European Community framework programme 2002-2006 ([1])

(2002/C 262 E/35)

COM(2002) 413 final — 2001/0202(COD)

(Submitted by the Commission pursuant to Article 250(2) of the EC Treaty on 11 July 2002)

1. **Purpose of the proposal**

The purpose of the proposal is to lay down the rules for participation and the dissemination of results (EC programme) for the implementation of the sixth framework programme. These rules have been drawn up with a view to adapting the provisions concerning participation and dissemination to the characteristics of the new framework programme and to simplify and streamline the provisions and make them easier to understand.

It should be noted that the provisions concerning intellectual property have been considerably simplified in order to guarantee the smooth operation of projects which may involve a large number of participants and be carried out by partnerships which may change.

2. **Background**

— The Commission adopted its initial proposal (COM(2001) 500 final) on 9 September 2001.

— It adopted an amended proposal on 10 January 2002 (COM(2001) 822 final 2001/0202(COD)) following the political agreement reached within the Council on the instruments of the sixth framework programme on 10 December 2001.

— Following various informal tripartite contacts, the European Parliament adopted 32 amendments on first reading on 3 July 2002.

3. **The Commission's opinion on the European Parliament's amendments**

3.1. ***General assessment***

All the changes made by the European Parliament are in line with the Commission's proposal and make useful clarifications for the implementation of the sixth framework programme. The Commission therefore accepts them all.

3.2. ***Examination of the amendments***

Legal designation of the proposal (Title):

Parliament advocates adopting the proposal in the form of a regulation since it will potentially apply to all stakeholders in the scientific community and is therefore general in scope. The Commission can agree to this amendment.

Minimum number of participants (Article 5):

Parliament proposes an identical minimum of at least three different legal entities established in three Member States or associated States of which at least two are Member States or associated candidate countries, for all the instruments with the exception of specific support actions and actions to promote human resources and mobility. The Commission considers that this will strengthen the transnational character of indirect actions and help ensure a critical mass of skills.

([1]) OJ C 103 E, 30.4.2002, p. 266.

Participation by legal entities from third countries (Article 6):

With regard to participation by legal entities from industrialised third countries, it is also proposed to make their participation conditional on the conclusion of reciprocal arrangements which could take the form of a scientific and technological agreement. The Commission considers the amendments made represent a compromise which accurately reflects the importance which Parliament assigns to these aspects.

Calls for proposals (Article 9):

Parliament advocates the possibility of a two-stage procedure for project evaluation and also proposes that the calls for expressions of interest which the Commission might issue in order to identify and evaluate precise objectives and requirements in a given field shall not affect any decisions the Commission may subsequently take. The Commission agrees with the value of a two-stage evaluation and clarification concerning the calls for expressions of interest.

Criteria for the evaluation and selection of research actions (Article 10):

Parliament wishes to introduce certain optional criteria in the proposal, such as a reference to the role of women in research, synergy with training and societal implications. The Commission can agree to additional criteria provided they are not compulsory.

In addition, Parliament proposes removing the requirement for anonymity during the evaluation, unless otherwise stipulated in the call for proposals. On the other hand, emphasis is placed on the confidentiality of the evaluation process. The Commission considers that the amendment made is an acceptable compromise in the light of the principles underlying the evaluation procedure.

Signature of the contract and consortium agreement (Article 12):

In addition to specifying that the contract shall enter into force on signature by the Commission and the coordinator, Parliament wants to introduce an obligation on the participants to conclude a consortium agreement unless stipulated in the calls for proposals. Parliament also proposes specifying the main elements that have to appear in the consortium agreement. The Commission considers that the amendment reflects its desire for a flexible and simplified approach.

Joint and several liability (Article 13):

Parliament takes over the principles regarding the joint and several liability of the participants as described in the note verbale distributed by the Commission to the Council on the subject, providing for the financial liability of the participants in proportion to their participation within the limits of the contribution allocated to them. However, Parliament has removed any explicit reference to financial solidarity between participants. The Commission considers that the amendment makes a useful clarification with regard to joint and several liability.

Grant (Article 14):

For the networks of excellence, Parliament clarifies how the Community financial contribution will be calculated, specifying that it will depend on the degree of integration and the number of researchers whom the participants propose to integrate, taking into account the specific features of the research area and joint activity programmes concerned.

Parliament also wishes to limit the cost of management activities concerning indirect actions to 7 % of the Community financial contribution.

The Commission considers that these amendments clarify the procedures for financing indirect actions.

Intellectual property rules (in particular Articles 18, 20 and 21):

Parliament wishes to mention the principle of the non-transfer of the rights and obligations of the Commission and of the participants in connection with the provision by the Commission of useful information about knowledge arising from indirect actions to Member States or associated States which so request, for public policy purposes, provided that the participants concerned do not raise justified objections.

In addition, Parliament wishes to introduce in the provisions a reference to the consortium agreement and the time limit within which the Commission and the participants can object to the transfer of knowledge.

Parliament also proposes that a participant should be able to publish results of which it is not the owner in the case of collective and cooperative research actions (SMEs), provided that the Commission and the participants do not object.

The Commission considers that the proposed amendments are consistent with the concern for flexibility and simplification regarding the intellectual property rules.

4. **Conclusion**

In accordance with Article 250(2) of the EC Treaty the Commission amends its proposal as set out above.

Proposal for a Regulation of the European Parliament and of the Council on the Prohibition of Organotin Compounds on Ships

(2002/C 262 E/36)

COM(2002) 396 final — 2002/0149(COD)

(Submitted by the Commission on 12 July 2002)

EXPLANATORY MEMORANDUM

General introduction

In accordance with the policy objectives outlined in the Commission's White Paper on Transport Policy ([1]), this proposal for a regulation of the European Parliament and the Council aims to reduce the negative environmental impact of harmful anti-fouling paints used on ships.

Ships travel faster through the water and consume less fuel when their hulls are clean and smooth-free from fouling organisms, such as barnacles, algae and molluscs, therefore they are coated with anti-fouling systems. During the '60s the chemical industry developed efficacious and cost-effective anti-fouling paints using metallic compounds, in particular the organotin compound tributyltin (TBT). By the '70's most seagoing vessels had TBT paints on their hulls.

Awareness of the harmful environmental effects of organotin compounds gradually grew in the late '80s. Scientific studies have shown that organotin compounds, in particular TBT, used as anti-fouling systems on ships, pose a substantial risk of adverse impacts on ecologically and economically important marine organisms ([2]).

The Community decided, already in December 1989, to ban on its territory the marketing of organostannic compounds used as biocides to prevent fouling on hulls of ships of less than 25 metres in length ([3]). The International Maritime Organization (IMO), in its turn recognized this risk and recommended governments to adopt measures to eliminate anti-fouling paints containing TBT.

Under environmental pressure the idea of a general ban on TBT gained ground in the '90s and the chemical industry started to develop alternative anti-fouling systems.

In November 1999 the IMO Assembly called for a global prohibition of the application of organotin compounds which act as biocides in anti-fouling systems on ships by 1 January 2003 and a complete prohibition of the presence of these organotin compounds on ships by 1 January 2008 ([4]). To achieve this goal the IMO decided to develop a legally binding Convention, with a world-wide application. Under these circumstances the Community decided to await the outcome of the deliberations within the IMO framework before deciding to enlarge the marketing ban on TBT to all ships ([5]).

On 5 October 2001 at the end of a five-day diplomatic conference, the IMO adopted a Convention on the control of harmful anti-fouling systems on ships (AFS-Convention).

([1]) In this White Paper (COM(2001) 370 of 12 September 2001) it is, stressed amongst others, that a modern transport system must be sustainable from an economic and social as well as an environmental viewpoint.

([2]) Organotins have been shown to be toxic and to have hormone-disrupting properties in marine organisms.

([3]) Council Directive 89/677/EEC of 21 December 1989 amending for the eighth time Directive 76/769/EEC on the approximation of the laws, regulations and administrative provisions of the Member States relating to restrictions on the marketing and use of certain dangerous substances and preparations (OJ L 398, 30.12.1989, p. 24).

([4]) IMO Resolution A. 895(21) adopted on 25 November 1999.

([5]) Commission Directive 1999/51/EC of 26 May 1999 adapting to technical progress for the fifth time Annex I to Council Directive 76/769/EEC on the approximation of the laws, regulations and administrative provisions of the Member States relating to restrictions on the marketing and use of certain dangerous substances and preparations (tin, PCP and cadmium) (OJ L 142, 5.6.1999, p. 22).

In view of this conference, Member States and the Commission cooperated closely taking full account of the guidance provided by the Council [1],

The new IMO Convention will prohibit the use of harmful organotins in anti-fouling paints used on ships and will establish a mechanism to prevent the potential future use of other harmful substances in anti-fouling systems.

The new Convention is open for signature since 1 February 2002. It will enter into force 12 months after 25 States representing 25 % of the world's merchant shipping tonnage have ratified it.

The summary of the main provisions of this Convention is given in Annex A.

When providing its guidance for the negotiation of the AFS-Convention, the Council also urged the Commission to take any additional steps deemed necessary, in order to ensure a general ban of TBT used on ships all over the Community and it surrounding seas on the dates recommended in IMO Resolution A. 895(21).

In view of the diplomatic AFS-Conference the Community identified three main objectives to be reached within the new convention:

— Introduction of fixed dates for the banning of TBT, in order to pass a clear message to both the shipping and the chemical industries,

— Integration of the 'precautionary principle', to be understood as 'the lack of full scientific evidence' in the articles of the Convention,

— Adoption of an appropriate entry into force mechanism [2].

Having analysed the outcome of the diplomatic Conference and in particular in light of the 3 main objectives the Council [3] and the Commission welcomed the results achieved at IMO level.

As a follow-up of this AFS-Conference the main action required and expected from the Member States is of course the signature and ratification of the AFS-Convention at the earliest possible opportunity.

Having regard to the abovementioned Council request, the Commission is of the opinion that additional steps are necessary to:

— put the Member States in the best possible position in order to encourage them to ratify the AFS-Convention and to resolve possible obstacles, which might create an impediment to speedy ratification and thus to contribute to the earliest possible entry into force of the AFS-Convention,

— safeguard at Community level the achievement of the main goal of the AFS-Convention, i.e. the prohibition of the application of organotin compounds on ships by 1 January 2003 and a complete prohibition of their presence by 1 January 2008.

Therefore the Commission:

— recommends Member States to sign and to ratify the AFS-Convention at the earliest possible opportunity,

— will adopt Commission Directive ... adapting to technical progress for the ninth time Annex I to Council Directive 76/769/EEC on the approximation of the laws, regulations and administrative provisions of the Member States relating to restrictions on the marketing and use of certain dangerous substances and preparations (organostannic compounds),

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[1] Conclusions of the Council of 12 February 2001 on the final negotiations on the International Convention on the control of harmful anti-fouling systems.

[2] The entry into force of conditions laid down in the Marpol Convention (15 States representing at least 50 % of the world tonnage) were not considered appropriate. Practice has demonstrated that under these circumstances it might take more than 6 years before the Convention would enter into force.

[3] The Environmental Council of 21 October 2001 took note of the positive outcome of the AFS-Conference, as reported by the Belgian Presidency.

— proposes to the European Parliament and the Council to adopt, before the end of 2002, this regulation prohibiting the application of organotins which act as biocides in anti-fouling systems on ships flying the flag of a Member State as from 1 January 2003 and a general prohibition of active organotin on ships sailing to or from Community ports on 1 January 2008, irrespective of the entry into force of the Convention.

It must be stressed that, with this Regulation, the Commission does not want to duplicate the AFS-Convention, which has a broader scope than the simple banning of organotin compounds.

The AFS-Convention prohibits the use of any harmful organotins in anti-fouling paints used on ships. Today this is restricted to organotin compounds, but the Convention establishes a mechanism to prevent the potential future use of other harmful substances in anti-fouling systems, implementing the precautionary principle. Once the AFS-Convention enters into force, the prohibition in the future of any other harmful anti-fouling system will be properly addressed.

The line of conduct followed by the Commission is dictated by Resolution 1 of the International Conference on the Control of Harmful Anti-Fouling Systems on Ships [1].

In this resolution, despite a proactive approach of the prohibition of the application of organotin compounds, the Conference recognised that the time remaining until 1 January 2003, may not be sufficient to enable entry into force of the Convention by that date. Desiring that organotin compounds will effectively cease to be applied in shipping as from 1 January 2003, the Conference requested the IMO Members States to accept the provisions of the Convention as a matter of urgency. In parallel the industry has been urged to refrain from the marketing, sale and application of organotin compounds by that date.

Need for a Regulation

— Due to the fact that the Community is not a contracting party to the AFS-Convention, the ratification of this convention is left solely to the discretion of the Member States. Practice has demonstrated that the ratification process is a cumbersome exercise, which cannot always be accomplished within a short time frame.

— The Commission expects that, despite a general willingness to do so, only a few States will be able to ratify the AFS-Convention before 1 January 2003. Realistically it is to be expected that the AFS-Convention will enter into force several years after this date.

— In addition, for those Member States which would not be able to ratify the Convention before 1 January 2003 the retroactive implementation of the '1 January 2003' requirement, laid down in the Convention, might create an impediment for the ratification process through their national legislation. Therefore it is appropriate to help them to overcome the difficulties they might encounter with such retroactive implementation in their national legislation.

— In responding to AFS-Conference Resolution 1, Member States might introduce national measures with a different scope and application date. Such non-harmonised introduction of the prohibition of TBT in the Community would be to the detriment of the shipping industry and easily result in a distortion of competition between Member States. Therefore, a simultaneous prohibition should be achieved.

— Finally, it must be stressed that the objectives and results pursued through the amendment of Council Directive 76/769/EEC concerning the marketing and use of TBT paints would not affect ships painted with TBT outside the Community, nor ships sailing under a flag of a non-EC Member State. Therefore it is necessary to broaden the prohibition of TBT by 1 January 2003.

[1] Doc. IMO AFS/CONF/25 of 8 October 2001.

For these reasons, the Commission proposes to introduce the ban of organotin compounds:

— for all ships flying the flag of a Member State with effect from 1 January 2003, and

— for all ships, irrespective of their flag, entering a European port by 1 January 2008,

through a Regulation of the European Parliament and the Council, which should enter into force before 1 January 2003.

Main principles of the Proposal

— No need to duplicate the AFS-Convention

It is important to underline that all Member States expressed their satisfaction with the outcome of the AFS-Conference. Consequently it might be expected that all of them will ratify and implement the AFS-Convention.

Having regard to the world-wide commitments made in 1999 at IMO Assembly level and the more appropriate 'entry into force mechanism' of the AFS-Convention and taking account of AFS-Conference Resolution No 1, the Commission expects that the AFS-Convention will effectively enter into force before 1 January 2008. Nevertheless any uncertainty on the total ban of TBT on this date cannot be accepted at Community level.

Under these circumstances the Commission refrained from proposing the development of legislation at Community level, which would unnecessarily duplicate the implementation provisions, which the Member States have to adopt under their obligations as a contracting party to the AFS-Convention. Furthermore it cannot be ignored that some Member States and third countries might already have become a party to the Convention. Therefore, it would be counterproductive to create, within this Regulation, a survey and certification regime different from the AFS-Convention. The Commission is further of the opinion that the most appropriate regime for the control of the implementation of the prohibition of TBT on ships is the one laid down in Directive 95/21/EC of the Council of 19 June 1995 on port State control of shipping. However this Directive can only be used once the AFS-Convention has entered into force. This is the main reason why in the interim period the prohibition to use harmful TBT paints cannot be imposed on ships not flying a flag of the EC. This Regulation should therefore be seen as an incentive for a speedy ratification of the AFS-Convention.

— Restrictive scope

The AFS-Convention has been drafted as a framework convention. After its entry into force and having due regard to the precautionary principle, this framework shall facilitate, the listing of any harmful anti-fouling systems on ships. At this stage only organotin compounds which act as biocides in anti-fouling systems are incorporated in the Convention. Taking into account the specific procedures that will apply to add any other harmful anti-fouling systems to this list, the Commission is of the opinion that the Regulation could and should be restricted to organotin compounds. The AFS framework also adequately addresses the handling and treatment ashore of the wastes from the removal of harmful anti-fouling substances.

— Placing the shipping industry on an equal footing

When adopting the AFS-Convention, all the governmental parties expressed their willingness to cease applying harmful organotin compounds on ships on 1 January 2003 and therefore appealed on specific measures to be taken both at governmental level and industry level, within their field of competence.

The Commission therefore, in response to this request and consistent with international law, refrained from imposing the prohibition of the application of TBT paints to all ships entering European ports. In addition, it must also be recognised that a large number of third countries, which cannot benefit from the added value of a supranational regulation, might have difficulties in imposing, on 1 January 2003, the prohibition on applying TBT to their ships [1]. Therefore, the Commission proposes to suspend the application of the prohibition of the application of TBT paints on ships sailing under a non-EC flag until the entry into force of the AFS-Convention.

Any possible competitive disadvantage for both the EU shipowners [2] and the yards [3], which would follow the recommended banning on 1 January 2003, could be avoided through voluntary commitments at the level of professional organisations representing these interests (International Chamber of Shipping (ICS) and ship building/repair associations).

The Commission welcomes the prompt reaction of the international shipping industry to ban TBT with effect from 1 January 2003. In particular, the strong recommendations of the International Chamber of Shipping (ICS) have to be put in evidence. Immediately after the AFS-Conference, the ICS stressed that 'whether or not the Convention enters into force by 1 January 2003 is perhaps somewhat academic as the fixed dates of 1 January 2003 and 1 January 2008 should be regarded as firm for any ship operating in international trade'. Consequently the Commission, in addressing the shipping aspects of the TBT ban, is building upon this economic reality.

The ratification process is totally beyond the control of the Community. There is, furthermore, no legal guarantee that the banning on 1 January 2008, which has commonly been accepted, would effectively be applicable on that date. Therefore the world-wide shipping industry, which has to programme the maintenance of its ships, requires clear and timely notification of the new environmental condition for access to EC ports. For this reason the general ban of organotin compounds is introduced in the EC legislation.

— Promoting the earliest possible ratification of the AFS-Convention at flag State level

Voluntary commitments at flag State level, in line with AFS-Conference Resolution No 1, should be further promoted [4]. The positive effect of the way forward followed by the Community with this Regulation should also have a beneficial effect upon other flag States. Special attention should also be given to those which have applied for membership of the European Union. Under the accession conditions they will also be bound by this Regulation at the date they effectively join the Community.

Flag States and open registers in particular, which have banned the use of TBT paints on their ships, will have an economic interest in ensuring that the AFS-Convention enters into force as early as possible, thus creating a world-wide level playing field. This Regulation will consequently result in an additional incentive for flag States to ratify the AFS-Convention.

In this context it must be stressed that Cyprus, Malta and the Baltic countries together represent 10 % of the world gross tonnage. Also, the fleet of the countries of the European Economic Area (the 15 Member States + Norway and Iceland), together with the fleets of the 13 applicant countries, represent 30 countries and not less than 30,91 % of the world tonnage.

Assuming that all Member States fulfil their political commitment to ratify the AFS-Convention in the course of 2002/2003, that the applicant countries do the same and considering that a number of third countries also have this intention (Japan, the US), the Convention might enter into force in 2004/2005. Regarding this aim of a complete prohibition of organotin compounds not later than 2005, the Commission will monitor the progress of the entry into force of the AFS-Convention and its application by third flag ships operating in the European Union waters.

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[1] In this context it is useful to note that in 2001, according to LMIS figures, 15 875 individual ships (of 500 GT or more) visited EU ports. 4 503 (28,36 %) sailed under an EU flag.

[2] From a practical point of view it might be questioned whether it would be really worthwhile for a shipowner to change flag just for a few years, knowing that the AFS-Convention will enter into force a few years later and that the date of 1 January 2008 for the total removal of TBT remains unchanged. In addition one should not lose sight of the pressure upon the industry, which has also, through AFS-Conference Resolution No 1, been invited to implement the ban on 1 January 2003.

[3] It must be stressed that under Directive 76/769/EEC yards in the Community have already today a competitive disadvantage compared with yards outside the Community.

[4] Already today Japan and New Zealand have banned the use of TBT paints on their ships.

— Legal considerations

In order to avoid any confusion or misinterpretation with regard to the implementation of a Convention [1], which has not yet entered into force, and in order not to interfere negatively in the ratification process, which is commonly expected to be as short as possible, the Commission is of the opinion that the Regulation should not transpose or refer in its main provisions (Articles 3 to 5) to the AFS-Convention.

A general ban (for all ships irrespective of their flag) of the application of TBT on ships entering a port of the Community on 1 January 2003 would not be compatible with the AFS-Convention.

The Commission proposes to base the Regulation itself upon Article 80(2) of the EC Treaty.

Specific considerations

Article 1

This article defines the purpose of the Regulation.

Article 2

This article contains the definition of the key terms used in the Regulation. Most of them are based upon those used in the IMO AFS-Convention.

Article 3

This article defines the scope of the Regulation. It defines the ships upon which the provisions of the Regulation will be applied. It is the intention to cover all ships, which enter a European port, irrespective of their flag from 1 January 2008 onward. In addition specific provisions, only applicable to all ships flying a flag of Member State, are necessary in order to implement Resolution No 1 of the AFS-Conference. The inclusion of ships 'operating under the authority of a Member State' is necessary to cover also offshore platforms, which are also covered under the AFS-Convention.

The Regulation shall not apply to any warships or other government ships since the treatment of these ships is adequately covered under the AFS-Convention. Consequently these ships should not be addressed in the Regulation, which essentially deals with the interim period.

The AFS-Convention also addresses ships that enter a shipyard. This Regulation is not addressing this case, taking into account that the amended Directive 76/769/EEC will adequately cover those ships.

Article 4

This article introduces the ban to apply organotin compounds on ships as from 1 January 2003. Before the entry into force of the AFS-Convention, the application of this article will be suspended for ships not flying the flag of a Member State.

Article 5

The first paragraph deals with ships which, before 1 January 2003, fly a non-EC flag, and which will be coated with a new anti-fouling system after that date, in the case that such ships would be transferred to an EC register. These ships should also no longer apply anti-fouling paints with active organotin compounds after 1 January 2003. This is, therefore, an incentive for shipowners of third countries, including European owners operating their ships under the flag of an open register, to follow the recommendations of the ICS and thus to regard the date of 1 January 2003 as a fixed date. In doing so these shipowners will safeguard the market value of their ships in case of a possible transfer to an EC register.

The second paragraph is also an incentive for shipowners. Knowing that, in any case organotin compounds will be totally banned in the Community on 1 January 2008, they will be able to adequately schedule the re-painting of their ships in dry-dock.

[1] Fully supported by all the Member States.

As foreseen in the AFS-Convention both the sandblasting of the ships and the bearing of a coating will be accepted to neutralise the harmful effects of organotin compounds.

Article 6

Paragraph 1 addresses the Member States and should allow them to put into place the most appropriate survey and certification regime, similar to the one of the AFS-Convention, without prejudicing the entry into force of the AFS-Convention.

Ships of 400 gross tonnage, irrespective of their voyage will have to be surveyed. This is imposed in the AFS-Convention for ships solely operating on international voyages.

Ships of 24 metres or more in length but less than 400 gross tonnage, will, in conformity with the AFS-Convention, only have to carry a Declaration of compliance. No specific survey or certificate has been foreseen under this Regulation in order not to impose an unreasonable burden upon Member States' administrations. However, if necessary at a later stage, a harmonised regime could be introduced through the comitology procedure.

For ships of less than 24 metres in length, mainly recreational craft and fishing vessels, no specific survey or certification has been foreseen. These ships form a special niche, which essentially operates within the Community. They will entirely be covered under the provisions of Directive 76/769/EEC, as amended.

Paragraph 2 deals with the recognition of certificates and documents. Parties (Member States and third countries) which would already apply the AFS-Convention rules are entitled to use AFS-Certificates and Declarations.

The 3rd paragraph is a safeguard in case the Convention would not have entered into force by 1 January 2007, which would certainly not be the case if all European countries ratify the Convention before 2005.

Article 7

For the control of the certificates an explicit reference is made to the port State control directive and to the relevant provisions of the AFS-Convention and the guidelines which will be developed by the IMO before the end of 2002.

This article covers the control of ships flying an EC flag during the interim period. Since the legal scope of Directive 95/21/EC is linked to international conventions which have entered into force, this Directive cannot be used as a legal basis for PSC controls under this Regulation. Therefore Member Sates should apply provisions equivalent to those of the PSC Directive. A similar approach has been followed with regard to fishing vessels under Directive 97/70/EC. The Commission nevertheless recommends that Member States develop an ad hoc regime within the Paris MOU and will consequently support any initiative of that kind.

It is the intention of the Commission to amend Directive 95/21/EC on port State control of shipping in order to include the AFS-Convention under the relevant instruments of this Directive.

A safeguard provision, similar to the one introduced under Article 6, covers the case that the Convention would not have entered into force by 1 January 2007.

Article 8

This article organises the possibility for the Commission to amend the annexes under very strict conditions.

Article 9

This article confers the implementing tasks (regulatory procedure) in relation with Articles 6, 7 and 8 to the Committee established by Article 12(1) of Directive 93/75/EEC.

Article 10

This article foresees that the Commission shall report to the European Parliament and the Council, one year after the entry into force of this Regulation, on the state of ratification of the AFS-Convention and propose, if necessary, amendments to ensure an accelerated reduction to the presence of harmful anti-fouling compounds in EU waters.

Article 11

This article foresees an immediate entry into force in order to allow the effective banning of organotin compounds on ships from 1 January 2003.

Annex I

This annex establishes the minimum requirements, which are necessary to ensure a proper implementation of this Regulation before the AFS-Convention has entered into force and has been implemented in the legislation of the Member States.

The first part deals with the survey regime, the second with the certification. Some ships already fulfil the requirement of the AFS-Convention. This is due to the introduction of the fixed date of 1 January 2003 in Annex 1 to the Convention and the positive response given by the shipping industry (ICS) to effectively apply the ban from 1 January 2003 on. Consequently, some States have already issued an administrative circular allowing recognized classification societies to deliver, on their behalf, a Statement of Compliance with the AFS-Convention pending the entry into force of the Convention. The Commission, whilst recommending this practice to all Member States, proposes to take due account of this positive element in the certification process.

Annexes II and III

These annexes introduce the appropriate certificates and documentation, which is fully in accordance with the AFS-Convention.

THE EUROPEAN PARLIAMENT AND THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty establishing the European Community, and in particular Article 80(2) thereof,

Having regard to the proposal from the Commission,

Having regard to the opinion of the Economic and Social Committee,

Having regard to the opinion of the Committee of the Regions,

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

Whereas:

(1) The Community is seriously concerned by the harmful environmental effects of organotin compounds used as anti-fouling systems on ships, and in particular of tributyltin (TBT) coatings.

(2) An International Convention on the Control of Harmful Anti-Fouling Systems on Ships (AFS-Convention) was adopted on 5 October 2001 at a Diplomatic Conference held under the aegis of the International Maritime Organization (IMO) with the attendance of the Member States.

(3) The AFS-Convention is a framework Convention allowing the banning of harmful anti-fouling systems used on ships, according to well-defined procedures and having due regard to the precautionary principle expressed in the Rio Declaration on Environment and Development.

(4) The AFS-Convention, at this stage, only prohibits the application of organotin compounds (TBT coatings) on ships.

(5) Fixed application dates have been included in the AFS-Convention: 1 January 2003 for the prohibition of the application of TBT coatings on ships and 1 January 2008 for the elimination of the presence of active TBT coatings on ships.

(6) The AFS-Convention will only enter into force 12 months after its ratification by at least 25 States representing at least 25 % of the world's tonnage.

(7) Member States should ratify the AFS-Convention at the earliest opportunity.

(8) Member States should be put in the best possible position for a speedy ratification of the AFS-Convention and possible obstacles, which might impede such ratification, should be removed.

(9) The International Conference on the Control of Harmful Anti-Fouling Systems on Ships, being aware that the time remaining until 1 January 2003 may not be sufficient to enable the entry into force of the AFS-Convention by that date, and desiring that organotin compounds will effectively cease to be applied in shipping as from 1 January 2003, requested in AFS-Conference Resolution No 1 Member States of the IMO to do the utmost to prepare for consent to be bound by the Convention as a matter of urgency and urged the relevant industry to refrain from the marketing, sale and application of organotin compounds by that date.

(10) As an immediate follow-up to the AFS-Conference the Commission [has adopted] Commission Directive .../2002/EC adapting to technical progress for the ninth time Annex I to Council Directive 76/769/EEC in order to ban, with effect from 1 January 2003, the marketing of organostannic compounds in anti-fouling paints for all ships, irrespective of their length.

(11) In the light of AFS-Conference Resolution No 1, additional steps are necessary for the implementation of measures concerning organotin compounds in order to ensure a general ban of TBT used on ships throughout the Community and its surrounding seas on the dates provided for by the AFS-Convention.

(12) A Regulation should be the appropriate legal instrument as it imposes directly and in a short time frame, on shipowners and Member States, precise requirements to be implemented at the same time and in the same manner throughout the Community. This Regulation, which should seek solely to ban organotin compounds, should not duplicate the AFS-Convention.

(13) Uncertainty on the total ban of active TBT coatings cannot be accepted at Community level; the world-wide shipping industry, which has to programme the maintenance of its ships, should be made aware clearly and on time that as from 1 January 2008 ships bearing an active TBT coating on their hulls will no longer be allowed in Community ports.

(14) Third countries, particularly if they cannot benefit from the added value of a supranational regulation, might have legal technical difficulties in imposing on 1 January 2003, through their national legislation, the prohibition to apply TBT on their ships. The application of the prohibition in this Regulation to apply TBT paints should therefore be suspended as regards ships sailing under a non-Community flag an interim period beginning on 1 January 2003 and ending at the date of entry into force of the AFS-Convention.

(15) Flag States which have banned the use of TBT paints on their ships, have an economic interest in ensuring that the AFS-Convention enters into force as early as possible, in order to ensure a world-wide level playing field. This Regulation, which prohibits all ships flying the flag of a Member State from applying TBT coatings on their ships as from 1 January 2003, should constitute an incentive for flag States to ratify the AFS-Convention.

(16) The definitions and prescriptions used in this Regulation should as far as possible be based upon those used in the AFS-Convention.

(17) This Regulation should also apply to ships operating under the authority of a Member State in order to ensure its application to offshore platforms. It should not apply to any warships or other government ships since the treatment of those ships is adequately covered under the AFS-Convention.

(18) Imposing the prohibition of active TBT coatings on all ships registered in a Member State after 1 January 2003 and flying the flag of a Member State, and whose anti-fouling system has been applied, changed or replaced after 1 January 2003, should be an incentive for the shipping industry to implement the recommendation of AFS-Conference Resolution No 1.

(19) It is appropriate to establish the same survey and certification regime as the one provided for by the AFS-Convention. Under this regime all ships of 400 gross tonnage, irrespective of the nature of their voyage should be surveyed, whilst ships of 24 metres or more in length but less than 400 gross tonnage should only have to carry a declaration of compliance with the Regulation or with the AFS-Convention. The Community should have the right to introduce a harmonised survey regime for these ships, if this proved necessary at a later stage.

(20) It is not necessary to provide for specific survey or declaration for ships less than 24 metres in length since these ships, mainly recreational craft and fishing vessels, will mainly be adequately covered under the provisions of Council Directive 76/769/EEC of 27 July 1976 on the approximation of the laws, regulations and administrative provisions of the Member States relating to restrictions on the marketing and use of certain dangerous substances and preparations ([1]).

(21) Certificates and documents issued in conformity with this Regulation, as well as AFS-Certificates and AFS-Declarations issued by Parties to the AFS-Convention should be recognised.

([1]) OJ L 262, 27.9.1976, p. 201, as last amended by Commission Directive 2002/.../EC (OJ L ...).

(22) If the AFS-Convention has not entered into force by 1 January 2007, the Commission should be permitted to adopt appropriate measures allowing ships flying the flag of a third country to demonstrate their compliance with this Regulation, as well as adopting measures for the control of the implementation of these provisions.

(23) The most appropriate regime for the control of the implementation of the prohibition of TBT on ships and the requirements of the AFS-Convention is the one laid down in Council Directive 95/21/EC of 19 June 1995 concerning the enforcement, in respect of shipping using Community ports and sailing in the waters under the jurisdiction of the Member States, of international standards for ship safety, pollution prevention and shipboard living and working conditions (port State control) ([1]) and amendments should be made to that Directive at the appropriate time. Having regard to the specific scope of that Directive, equivalent provisions should be applied to ships flying the flag of a Member State during the interim period.

(24) In accordance with Article 2 of Council Decision 1999/468/EC of 28 June 1999 laying down procedures for the exercise of implementing powers conferred on the Commission ([2]), the Commission should be authorise to adapt the annexes to this Regulation by use of the regulatory procedure provided for in Article 5 of that Decision.

(25) In order to assess the achievement of the objective of the Regulation the Commission shall report to the European Parliament and the Council and propose, if necessary, the appropriate adjustments to the Regulation.

(26) The entry into force of this Regulation should be such as to allow the effective banning of organotin compounds on ships as from 1 January 2003,

HAVE ADOPTED THIS REGULATION:

Article 1

Objective

The purpose of this Regulation is to reduce or eliminate adverse effects on the marine environment and human health caused by organotin compounds, which act as active biocides in anti-fouling systems used on ships flying the flag of, or operating under the authority of, a Member State and on ships, regardless of the flag they fly, sailing to or from ports of the Member States.

Article 2

Definitions

For the purpose of this Regulation:

1. 'Anti-fouling system' means a coating, paint, surface treatment, surface, or device that is used on a ship to control or prevent attachment of unwanted organisms;

2. 'Gross tonnage' means the gross tonnage calculated in accordance with the tonnage measurement regulations contained in Annex 1 to the International Convention on Tonnage Measurement of Ships, 1969 or any successor Convention;

3. 'Length' means the length as defined in the International Convention on Load Lines, 1966, as modified by the Protocol of 1988 relating thereto, or any successor Convention;

4. 'Ship' means a vessel of any type whatsoever operating in the marine environment and includes hydrofoil boats, air-cushion vehicles, submersibles, floating craft, fixed or floating platforms, floating storage units (FSUs) and floating production storage and off-loading units (FPSOs);

5. 'AFS-Convention' means the International Convention on the Control of Harmful Anti-Fouling Systems on Ships, adopted on 5 October 2001;

6. 'Recognized organisation' means a body recognised in accordance with the provisions of Council Directive 94/57/EC ([3]);

7. 'AFS-Certificate' means the certificate issued to ships in conformity with the provisions of Annex 4 to the AFS-Convention;

8. 'AFS-Declaration' means a declaration drawn up under the provisions of Annex 4 to the AFS-Convention;

9. 'AFS-Statement of Compliance' means a document stating compliance with Annex 1 to the AFS-Convention, issued by a recognized organization on behalf of the Administration of a Member State;

10. 'Interim period' means the period beginning on 1 January 2003 and ending at the date of entry into force of the AFS-Convention.

Article 3

Scope

1. This Regulation shall apply to:

(a) ships flying the flag of a Member State,

(b) ships not flying the flag of a Member State but which operate under the authority of a Member State, and

([1]) OJ L 157, 7.7.1995, p. 1, as last amended by Directive 2001/106/EC of the European Parliament and of the Council (OJ L 19, 22.1.2002, p. 17).

([2]) OJ L 184, 17.7.1999, p. 23.

([3]) OJ L 319, 12.12.1994, p. 20.

(c) ships, that enter a port or offshore terminal of a Member State, but do not fall within points (a) or (b).

2. This Regulation shall not apply to any warships, naval auxiliary, or other ships owned or operated by a State and used, for the time being, only on government non-commercial service.

Article 4

Prohibition to apply organotin compounds which act as biocides

As from 1 January 2003, organotin compounds which act as biocides in anti-fouling systems shall not be applied or re-applied on ships.

However during the interim period this provision shall only apply to ships, referred to in points (a) or (b) of Article 3(1).

Article 5

Prohibition to bear organotin compounds which act as biocides

1. Ships, registered in a Member State after 1 January 2003 and flying the flag of a Member State, and whose anti-fouling system has been applied, changed or replaced after 1 January 2003, shall not bear organotin compounds which act as biocides in anti-fouling systems on their hulls or external parts and surfaces, unless they bear a coating that forms a barrier to such compounds to prevent them leaching from the underlying non-compliant anti-fouling system.

2. As from 1 January 2008 ships, regardless of their flag, shall either not bear organotin compounds which act as biocides in anti-fouling systems on their hulls or external parts and surfaces, or bear a coating that forms a barrier to such compounds leaching from the underlying non-compliant anti-fouling system.

3. The provisions of paragraphs 1 and 2 shall not apply to fixed and floating platforms, FSUs and FPSOs that have been constructed prior to 1 January 2003 and that have not been in dry-dock on or after 1 January 2003.

Article 6

Survey and certification

1. The following shall apply as regards the survey and certification of ships flying the flag of a Member State:

(a) Ships of 400 gross tonnage and above, excluding fixed or floating platforms, FSUs and FPSOs, shall be surveyed and certified in accordance with the requirements laid down in Annex I.

(b) Ships of 24 metres or more in length, but less than 400 gross tonnage, excluding fixed or floating platforms, FSUs and FPSOs, shall carry an AFS-Declaration or a declaration signed by the owner or owner's authorised agent drawn up in accordance with the format laid down in Annex III as demonstration of compliance with Article 4.

If necessary, the Commission, in accordance with the procedure laid down in Article 9(2), may establish a harmonised survey and certification regime for these ships.

(c) Member States may establish appropriate measures for ships that are not subject to the provisions of points (a) and (b) in order to ensure compliance with this Regulation.

2. The following shall apply as regards the recognition of certificates, declarations and statements of compliance:

(a) As from 1 January 2003 Member States shall recognise any valid AFS-Certificate issued to a ship flying the flag of a Party to the AFS-Convention or a certificate issued in accordance with the format laid down in Annex II, when it is issued by the administration of any other Member State or by a recognised organisation acting on its behalf.

(b) Until 1 January 2004 Member States shall recognise any AFS-Statement of Compliance issued on behalf of another Member State.

(c) As from 1 January 2003 Member States shall recognise any valid AFS-Declaration issued to a ship flying the flag of a Party to the AFS-Convention or a declaration signed by the owner or owner's authorised agent drawn up in accordance with the format laid down in Annex III.

These declarations shall be accompanied by appropriate documentation (such as a paint receipt or a contractor invoice) or contain appropriate endorsement.

3. If the AFS-Convention has not entered into force by 1 January 2007, the Commission, in accordance with the procedure laid down in Article 9(2), shall adopt appropriate measures in order to allow ships flying the flag of a third country to demonstrate their compliance with Article 5.

Article 7

Port State control

During the interim period Member States shall apply control provisions equivalent to those laid down in Directive 95/21/EC to ships of 400 gross tonnage and above flying the flag of a Member State. With regard to the inspections and detection of violations Member States shall be guided by the provisions laid down in Article 11 of the AFS-Convention and the relevant Guidelines of the International Maritime Organization (IMO).

If the AFS-Convention has not entered into force on 1 January 2007, the Commission, in accordance with the procedure laid down in Article 9(2), shall establish appropriate procedures for these controls.

Article 8

Adaptations

In order to take account of developments at international level and, in particular in the International Maritime Organization (IMO), or to improve the effectiveness of this Regulation in the light of experience, the Annexes to this Regulation may be amended in accordance with the procedure laid down in Article 9(2).

Article 9

Committee

1. The Commission shall be assisted by the Committee established by Article 12(1) of Directive 93/75/EEC [1], hereinafter referred to as 'the Committee'.

2. Where reference is made to this paragraph, Articles 5 and 7 of Decision 1999/468/EC shall apply, having regard to the provisions of Article 8 thereof.

The period laid down in Article 5(6) of Decision 1999/468/EC shall be three months.

3. The Committee shall adopt its rules of procedure.

Article 10

Evaluation

One year after the entry into force of this Regulation, the Commission shall report to the European Parliament and the Council on the state of ratification of the AFS-Convention and provide information on the extent to which organotin compounds, which act as biocides in anti-fouling systems on ships are still used on ships not flying the flag of a Member State operating to or from European ports. In the light of this report the Commission shall propose, if necessary, amendments to ensure an accelerated reduction of the contribution by ships not flying the flag of a Member State to the presence of harmful anti-fouling compounds in EU waters.

Article 11

Entry into force

This Regulation shall enter into force on the day following 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.

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[1] OJ L 247, 5.10.1993, p. 19.

ANNEX I

SURVEYS AND CERTIFICATION REQUIREMENTS FOR ANTI-FOULING SYSTEMS ON SHIPS FLYING THE FLAG OF A MEMBER STATE

1. Surveys

1.1. Ships of 400 gross tonnage and above, excluding fixed or floating platforms, FSUs and FPSOs, shall as from 1 January 2003, be subject to surveys specified below:

(a) an initial survey before the ship is put into service or when the ship is for the first time in a dry-dock for the application of anti-fouling systems; and

(b) a survey when the anti-fouling systems are changed or replaced. Such surveys shall be endorsed on the certificate required under paragraph 2.1.

1.2. The survey shall be such as to ensure that the ship's anti-fouling system fully complies with Articles 4 and 5.

1.3. Surveys shall be carried out by officers duly authorised by the Administration of the Member State, or of another Member State, or of a party to the AFS-Convention, or by a surveyor nominated for the purpose by one of those Administrations, or by a recognised organisation acting on behalf of the Administration.

1.4. Unless provided otherwise in this Regulation Member States shall for the surveys referred to in paragraph 1.1 follow the requirements laid down in Annex 4 to the AFS-Convention, as well as the guidelines for surveys developed by the IMO.

2. Certification

2.1. After completion of a survey referred to in paragraph 1.1(a) or (b), a Member State, which is not yet a Party to the AFS-Convention shall issue a certificate in accordance with the format laid down in Annex II. A Member State, which is a Party to the AFS-Convention, shall issue an AFS-Certificate.

2.2. A Member State may rely upon an AFS-Statement of Compliance, for the demonstration of compliance with the requirements of Articles 4 and 5. A certificate referred to in paragraph 2.1, shall replace this AFS-Statement at the latest by 1 January 2004.

2.3. Member States shall require that a ship referred to in paragraph 1.1 carries a certificate issued in accordance with paragraph 2.1.

2.4. Member States shall for the purposes of the certification referred to in paragraph 2.1 follow the requirements laid down in Annex 4 to the AFS-Convention.

ANNEX II

FORMS OF THE CERTIFICATE AND RECORD FOR ANTI-FOULING SYSTEMS

The international certificate and the record of Anti-fouling systems shall be drawn up in the form set out below. In case these forms are used only within one Member State references to the AFS-Convention may be deleted.

INTERNATIONAL ANTI-FOULING SYSTEM CERTIFICATE

(This certificate shall be supplemented by a Record of Anti-fouling Systems)

(Official seal) (State)

Issued under the provisions of [the International Convention on the Control of Harmful Anti-Fouling Systems on Ships and] (1) Regulation ... of the European Parliament and the Council on the banning of organotin compounds on ships

under the authority of the Government of

(name of the State)

by

....
(person or organisation authorised)

When a Certificate has been previously issued, this Certificate replaces the certificate dated ....

Particulars of ship (2)

Name of ship:

Distinctive number or letters:

Port of registry:

Gross tonnage:

IMO number (3):

An anti-fouling system controlled under Annex 1 to the Convention [and Regulation ...] has not been applied during or after construction of this ship .... ☐

An anti-fouling system controlled under Annex 1 to the Convention [and Regulation ...] has been applied on this ship previously, but has been removed by .... *(insert name of the facility)* on .... *(date)* .... ☐

An anti-fouling system controlled under Annex 1 to the Convention [and Regulation ...] has been applied on this ship previously, but has been covered with a sealer coat applied by .... *(insert name of the facility)* on .... *(date)* .... ☐

An anti-fouling system controlled under Annex 1 was applied on this ship prior to 1 January 2003, but must be removed or covered with a sealer coat prior to 1 January 2008 .... ☐

(1) May be deleted for ships engaged only on voyages within one Member State.

(2) Alternatively, the particulars of the ship may be placed horizontally in boxes.

(3) In accordance with the IMO Ship Identification Number Scheme adopted by the International Maritime Organization.

THIS IS TO CERTIFY THAT:

1. the ship has been surveyed in accordance with Regulation 1 of Annex 4 to the [Convention and] Regulation . . . of the European Parliament and the Council on the banning of organotin compounds on ships; and

2. the survey shows that the anti-fouling system on the ship complies with the applicable requirements of [Annex 1 to the Convention and] (1) Regulation . . . of the European Parliament and the Council on the banning of organotin compounds on ships.

Issued at: ....

....

(Place of issue of Certificate)

....

((Date of issue) (Signature of authorised official issuing the Certificate)

Date of completion of the survey on which this certificate is issued: ....

....

(1) May be deleted for ships engaged only on voyages within one Member State.

RECORD OF ANTI-FOULING SYSTEMS

This Record shall be permanently attached to the International Anti-Fouling System Certificate

Particulars of ship:

Name of ship:

Distinctive number or letters:

IMO number:

Details of anti-fouling system(s) applied:

Type(s) of anti-fouling system(s) used:

Date(s) of application of anti-fouling system(s):

Name(s) of company(ies) and facility(ies)/location(s) where applied:

Name(s) of anti-fouling system manufacturer(s):

Name(s) and colour(s) of anti-fouling system(s):

Active ingredient(s) and their Chemical Abstract Service Registry Number (CAS number(s)):

Type(s) of sealer coat, if applicable:

Name(s) and colour(s) of sealer coat applied, if applicable:

Date of application of sealer coat:

THIS IS TO CERTIFY that this Record is correct in all respects.

Issued at:

(Place of issue of Record)

(Date of issue)

(Signature of authorised official issuing the record)

Endorsement of the Records [1]

THIS IS TO CERTIFY that a survey required in accordance with [Regulation 1(1)(b) of Annex 4 to the Convention and] paragraph 2.1 of Annex I of Regulation . . . of the European Parliament and the Council on the banning of organotin compounds on ships found that the ship was in compliance with the [Convention and the] Regulation

Details of anti-fouling system(s) applied

Type(s) of anti-fouling system(s) used: ....

Date(s) of application of anti-fouling system(s): ....

Name(s) of company(ies) and facility(ies) location(s) where applied: ....

Name(s) of anti-fouling system manufacturer(s): ....

Name(s) and colour(s) of anti-fouling system(s): ....

Active ingredient(s) and their CAS number(s): ....

Type(s) of sealer coat, if applicable: ....

Name(s) and colour(s) of sealer coat applied, if applicable: ....

Date of application of sealer coat: ....

Signed: ....
(Signature of authorised official issuing the Record)

Place: ....

Date [2]: ....

(Seal or stamp of the authority)

(1) This page of the Record shall be reproduced and added to the Record as considered necessary by the Administration.
(2) Date of completion of the survey on which this endorsement is made.

ANNEX III

DECLARATION ON ANTI-FOULING SYSTEM FOR SHIPS OF 24 METRES OR MORE IN LENGTH, BUT LESS THAN 400 GROSS TONNAGE

Drawn up under Regulation ... of the European Parliament and the Council on the banning of organotin compounds on ships

Name of ship:

Distinctive number or letters:

Port of registry:

Length:

Gross tonnage:

IMO number (if applicable):

I declare that the anti-fouling system used on this ship complies with Article 4 of Regulation ... of the European Parliament and the Council on the banning of organotin compounds on ships.

(Date)

(Signature of owner or owner's authorised agent)

Endorsement of anti-fouling system(s) applied

Type(s) of anti-fouling system(s) used and date(s) of application:

(Date)

(Signature of owner or owner's authorised agent)

Type(s) of anti-fouling system(s) used and date(s) of application:

(Date)

(Signature of owner or owner's authorised agent)

Type(s) of anti-fouling system(s) used and date(s) of application:

(Date)

(Signature of owner or owner's authorised agent)

ANNEX A

Convention on the control of harmful anti-fouling systems on ships

The new IMO convention will prohibit the use of harmful organotins in anti-fouling paints used on ships and will establish a mechanism to prevent the potential future use of other harmful substances in anti-fouling systems

Articles 1 and 2 list the general obligations and relevant definitions.

Under the terms of the new Convention, Parties to the Convention are required to prohibit and/or restrict the use of harmful anti-fouling systems on ships flying their flag, as well as on ships not entitled to fly their flag, but which operate under their authority and on all ships that enter a port, shipyard or offshore terminal of a Party (Articles 3 to 4). Anti-fouling systems to be prohibited or controlled will be listed in an annex (Annex 1) attached to the Convention.

Article 5 recalls appropriate action with regard to the waste removal of an anti-fouling system.

Article 6 on Process for Proposing Amendments to controls on anti-fouling systems sets out how the evaluation of an anti-fouling system should be carried out. This amendment process, together with Annex 2, will allow to update Annex 1, when necessary and according to a specific and detailed procedure involving the Marine Environment Protection Committee of the IMO and a 'technical group', to include people with relevant expertise, to review proposals for other substances used in anti-fouling systems to be prohibited or restricted (Article 7). Scientific and technical research on the effects of anti-fouling systems will be monitored (Article 8).

Article 9 and Annex 3 deal with communication and exchange of relevant information on surveyors and approved anti-fouling systems.

The survey and certification systems are given in Article 10 and Annex 4.

Article 11 describes the port State control system for inspection of ships and detection of violations. The Convention includes a clause in Article 13 which states that a ship shall be entitled to compensation if it is unduly detained or delayed while undergoing inspection for possible violations of the Convention.

Article 12 deals with violations of the Convention and the establishment of a system of sanctions. Settlement of disputes and the relationship with the Law of the Sea are addressed in Articles 14 and 15.

Article 16 covers the procedure to amend the Convention itself. Amendment through a tacit acceptance procedure is foreseen with the involvement of the Marine Environment Protection Committee of the IMO.

Article 17 covers the signature, ratification, acceptance, approval and accession to the Convention, whilst the entry into force conditions are given in Article 18. The convention will enter into force 12 months after 25 States representing 25 % of the world's merchant shipping tonnage have ratified it.

Article 19 covers the denunciation of the Convention and Article 20 designates The Secretary-General of the International Maritime Organization (IMO) as the depository of the Convention.

Annex I attached to the Convention states that by an effective date of 1 January 2003, all ships shall not apply or re-apply organotins compounds which act as biocides in anti-fouling systems. By 1 January 2008 (effective date), ships either: shall not bear such compounds on their hulls or external parts or surfaces; or shall bear a coating that forms a barrier to such compounds leaching from the underlying non-compliant anti-fouling systems.

— Ships of above 400 gross tonnage and above engaged in international voyages (excluding fixed or floating platforms, FSUs and FPSOs) will be required to undergo an initial survey before the ship is put into service or before the International Anti-fouling System Certificate is issued for the first time; and a survey when the anti-fouling systems are changed or replaced.

— Ships of 24 metres or more in length but less than 400 gross tonnage engaged in international voyages (excluding fixed or floating platforms, FSUs and FPSOs) will have to carry a Declaration on Anti-fouling Systems signed by the owner or authorised agent. The Declaration will have to be accompanied by appropriate documentation such as a paint receipt or contractor invoice.

Proposal for a Council Regulation on the conclusion of the Protocol setting out, for the period from 1 June 2002 to 31 May 2005, the fishing opportunities and the financial contribution provided for by the Agreement between the European Economic Community and the Government of the Democratic Republic of São Tomé and Príncipe on fishing off the coast of São Tomé and Príncipe

(2002/C 262 E/37)

COM(2002) 398 final — 2002/0162(CNS)

(Submitted by the Commission on 15 July 2002)

EXPLANATORY MEMORANDUM

The Protocol to the agreement between the European Community and São Tomé and Príncipe expired on 31 May 2002. A new Protocol was initialled by both parties on 14 February 2002 fixing the technical and financial conditions governing the fishing activities of Community vessels in São Tomé and Príncipe waters for the period from 1 June 2002 to 31 May 2005.

The Commission proposes, on this basis, that the Council adopt the conclusion of the new Protocol by Regulation.

A proposal for a Council Decision on the provisional application of the new Protocol pending its definitive entry into force is the subject of a separate procedure.

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty establishing the European Community, and in particular Article 37, in conjunction with Article 300(2) and the first subparagraph of Article 300(3) thereof,

Having regard to the proposal from the Commission,

Having regard to the opinion of the European Parliament,

Whereas:

(1) In accordance with the Agreement between the European Economic Community and the Government of the Democratic Republic of São Tomé and Príncipe on fishing off the coast of São Tomé, the two parties have held negotiations with a view to determining the amendments or additions to be made to the Agreement at the end of the period of application of the Protocol.

(2) As a result of these negotiations, a new Protocol setting out the fishing opportunities and financial contribution provided for in the above Agreement for the period from 1 June 2002 to 31 May 2005 was initialled on 14 February 2002.

(3) It is in the Community's interest to approve the said Protocol.

(4) The allocation of the fishing opportunities among the Member States should be defined as well as their obligations to notify the caches,

HAS ADOPTED THIS REGULATION:

Article 1

The Protocol setting out, for the period from 1 June 2002 to 31 May 2005, the fishing opportunities and the financial contribution provided for by the Agreement between the European Economic Community and the Government of the Democratic Republic of São Tomé and Príncipe on fishing off the coast of São Tomé and Príncipe is hereby approved on behalf of the Community.

The text of the Protocol is attached hereto.

Article 2

The fishing opportunities set out in the Protocol shall be allocated among the Member States as follows:

— freezer tuna seiners:

  — France: 18

  — Spain: 18

— pole-and-line tuna vessels:

  — Portugal: 2

— surface longliners:

  — Spain: 20

  — Portugal: 5

— experimental deep-water fishing targeting crab (1 June 2002 to 31 May 2003 only)

— Spain: 2 vessels under 250 GRT

— Portugal: 1 vessel under 250 GRT

If licence applications from these Member States do not cover all the fishing opportunities fixed by the Protocol, the Commission may take into consideration licence applications from any other Member State.

Article 3

The Member States whose vessels fish under this Protocol shall notify the Commission of the quantities of each stock caught in the São Tomé and Príncipe fishing zone in accordance with Commission Regulation (EC) No 500/2001 [1].

Article 4

The President of the Council is hereby authorised to designate the persons empowered to sign the Protocol in order to bind the Community.

Article 5

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

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

(1) OJ L 73, 15.3.2001, p. 8.

PROTOCOL

Setting out, for the period from 1 June 2002 to 31 May 2005, the fishing opportunities and the financial contribution provided for by the Agreement between the European Economic Community and the Government of the Democratic Republic of São Tomé and Príncipe on fishing off the coast of São Tomé and Príncipe

Article 1

From 1 June 2002 and for a period of three years, fishing opportunities pursuant to Article 2 of the Agreement shall be as follows:

— freezer tuna seiners: 36 vessels

— pole-and-line tuna vessels: 2 vessels

— surface longliners: 25 vessels

For deep-water fishing vessels targeting crab, provision shall be made for a 12-month period of experimental fishing starting from the provisional date of application of this Protocol (1 June 2002 to 31 May 2003). During this 12-month period, three vessels under 250 GRT may fish simultaneously in São Tomé and Príncipe's exclusive economic zone (EEZ).

Article 2

The financial contribution referred to in Article 6 of the Agreement shall be fixed at:

EUR 925 000 in the first year, comprising EUR 555 000 financial compensation and EUR 370 000 for the measures referred to in Article 4 of this Protocol. The Community shall also provide financing of EUR 50 000, in the first year, for an evaluation study on deep-water crab;

EUR 637 500 in the second year, comprising EUR 382 500 financial compensation and EUR 255 000 for the measures referred to in Article 4 of this Protocol;

EUR 637 500 in the third year, comprising EUR 382 500 financial compensation and EUR 255 000 for the measures referred to in Article 4 of this Protocol.

For tuna fishing the financial contribution shall cover an annual catch of 8 500 tonnes in São Tomé and Príncipe waters. If the tuna caught each year by Community vessels in São Tomé and Príncipe's exclusive economic zone exceeds this weight, the amount referred to above shall be proportionately increased at the rate of EUR 75 per additional tonne.

The annual financial compensation shall be payable not later than 31 December 2002, and not later than 31 May 2003 and 2004. Its use shall be the sole responsibility of the Government of the Democratic Republic of São Tomé and Príncipe. It shall be paid to the Public Treasury of São Tomé and Príncipe.

Article 3

The two parties, meeting within the framework of the Joint Committee provided for in Article 8 of the Agreement, shall consult on the basis of the results of the experimental fishing mentioned above and in the light of the best available scientific advice to include, where appropriate, sustainable levels of fishing opportunities for deep-water fishing vessels targeting crab and the financial contribution applicable from the second year of application of the Protocol. These consultations should take place before the end of the first year.

Article 4

1. The measures set out below shall be financed from the financial contribution for the first year, to the amount of EUR 370 000 per year, broken down as follows:

(a) scientific and technical programmes to promote better understanding of fisheries and living resources in the São Tomé and Príncipe fishing zone: EUR 50 000,

(b) stepping up surveillance, inspection and checks in the fishing zones: EUR 50 000,

(c) institutional support to the administrative department responsible for fisheries: EUR 50 000,

(d) study grants and practical training courses in the various scientific, technical and economic fields linked to fishing: EUR 40 000,

(e) São Tomé and Príncipe's contributions to international fisheries organisations and expenses of São Tomé and Príncipe delegates participating in international meetings concerning fisheries: EUR 35 000,

(f) aid for small-scale fishing: EUR 145 000.

2. The measures set out below shall be financed from the financial contribution for the second and third years, to the amount of EUR 255 000 per year, broken down as follows:

(a) scientific and technical programmes to promote better understanding of fisheries and living resources in the São Tomé and Príncipe fishing zone: EUR 40 000,

(b) stepping up surveillance, inspection and checks in the fishing zones: EUR 40 000,

(c) institutional support to the administrative department responsible for fisheries: EUR 40 000,

(d) study grants and practical training courses in the various scientific, technical and economic fields linked to fishing: EUR 30 000,

(e) São Tomé and Príncipe's contributions to international fisheries organisations and expenses of São Tomé and Príncipe delegates participating in international meetings concerning fisheries: EUR 35 000,

(f) aid for small-scale fishing: EUR 70 000.

The measures and the annual amounts allocated thereto shall be decided on by the São Tomé and Príncipe Ministry responsible for fisheries, which shall inform the Commission thereof.

The annual amounts, with the exception of those referred to at (d) and (e), shall be paid into an account designated by the São Tomé and Príncipe Ministry responsible for fisheries and used under the terms of a protocol to be negotiated with the Public Treasury no later than 31 December 2002, 31 May 2003 and 31 May 2004 according to the annual schedule for their use. The amounts referred to at (d) and (e) shall be paid as they are used.

The São Tomé and Príncipe Ministry responsible for fisheries shall transmit a detailed annual report on the implementation of these measures and the results achieved to the Delegation of the European Commission responsible for São Tomé and Príncipe, no later than three months after the anniversary date of the Protocol. The Commission reserves the right to request additional information on these results from the São Tomé and Príncipe Ministry responsible for fisheries and, following consultation with the São Tomé and Príncipe authorities within the framework of meetings of the Joint Committee provided for in Article 8 of the Agreement, to review the payments concerned in the light of the actual implementation of the measures.

Article 5

Should the Community fail to make the payments provided for in Articles 2 and 4, the application of this Protocol may be suspended.

Article 6

A joint scientific meeting shall be held annually to evaluate periodically within the Joint Committee the state of crab resources. Based on the findings, the fishing opportunities laid down in Article 1 of this Protocol and the financial contribution laid down in Article 2 may be adjusted after agreement between the two parties meeting within the framework of the Joint Committee.

Article 7

Should a fundamental change in circumstances prevent fishing in São Tomé and Príncipe's exclusive economic zone, the European Community may suspend payment of the financial contribution following prior consultation, if possible, between the two parties in the Joint Committee.

Payment of the financial contribution shall recommence once the situation returns to normal and following consultation between the two parties in the Joint Committee confirming that the situation is likely to allow a return to normal fishing activities.

Article 8

The Annex to the Agreement between the European Economic Community and the Government of the Democratic Republic of São Tomé and Príncipe on fishing off the coast of São Tomé and Príncipe is hereby repealed and replaced by the Annex to this Protocol.

Article 9

This Protocol shall enter into force on the date on which it is signed.

It shall apply from 1 June 2002.

ANNEX

CONDITIONS GOVERNING FISHING BY COMMUNITY VESSELS IN THE SÃO TOMÉ AND PRÍNCIPE FISHING ZONE

1. APPLICATION FOR AND ISSUE OF LICENCES

The procedure for applications for, and issue of, the licences referred to in Article 4 of the Agreement shall be as follows.

The relevant Community authorities shall present to the São Tomé and Príncipe Ministry responsible for fisheries, via the Delegation of the European Commission responsible for São Tomé and Príncipe, an application for each vessel that wishes to fish under the Agreement, at least 20 days before the date of commencement of the period of validity requested.

The applications shall be made on the forms provided for that purpose by the Government of the Democratic Republic of São Tomé and Príncipe, a specimen of which is attached hereto (Appendix 1).

Licences shall be issued by the São Tomé and Príncipe authorities within 20 days of submission of the application to the shipowners or their representatives via the Delegation of the European Commission responsible for São Tomé and Príncipe.

Licences shall be issued for specific vessels and shall not be transferable. However, at the request of the European Commission, a vessel's licence may, and where *force majeure* is proved, shall, be replaced by a new licence for another vessel whose features are similar to those of the first vessel. The owner of the first vessel shall return the cancelled licence to the São Tomé and Príncipe Ministry responsible for fisheries via the Delegation of the European Commission responsible for São Tomé and Príncipe.

The new licence shall indicate:

— the date of issue,

— the fact that it replaces the licence of the previous vessel for the remaining period of validity.

In this case, no new one-off payment as laid down in points 2 and 4 shall be due.

The licence must be kept on board at all times; however, on receipt of notification of payment of the advance sent to the São Tomé and Príncipe authorities by the European Commission, the vessel shall be entered on a list of vessels authorised to fish, which shall be sent to the São Tomé and Príncipe authorities responsibilities for fisheries inspection. A copy of the said licence may be obtained by fax pending arrival of the licence itself; that copy shall be kept on board.

2. PROVISIONS APPLICABLE TO TUNA SEINERS, POLE-AND-LINE TUNA VESSELS AND SURFACE LONGLINERS

Licences shall be valid for one year. They shall be renewable.

The fees provided for in Article 4 of the Agreement shall be set at EUR 25 per tonne caught in the São Tomé and Príncipe fishing zone.

The competent authorities of São Tomé and Príncipe shall communicate the detailed rules for payment of the fees, in particular the bank accounts and currencies to be used.

Licences shall be issued following payment into an account designated by the São Tomé and Príncipe Ministry responsible for fisheries to be used under the terms of a protocol to be negotiated with the Public Treasury of a one-off payment of EUR 3 750 per year for each tuna seiner, EUR 625 per year for each pole-and-line tuna vessel, EUR 1 375 per year for each surface longliner of more than 150 GRT and EUR 1 000 per year for each surface longliner, equivalent to the fees for:

— 150 t of tuna caught per year in the case of tuna seiners,

— 25 t of tuna caught per year in the case of pole-and-line tuna vessels,

— 55 t of tuna caught per year in the case of surface longliners.

3. STATEMENT OF CATCH AND STATEMENT OF FEES DUE FROM OWNERS OF TUNA SEINERS, POLE-AND-LINE TUNA VESSELS AND SURFACE LONGLINERS

A fishing log in accordance with the ICCAT model in Appendix 2 shall be kept on vessels for each fishing period spent in São Tomé and Príncipe waters. It shall be filled in even when no catches are made.

The words 'Outside São Tomé and Príncipe's EEZ' shall be entered in the abovementioned logbook in respect of periods during which the said vessels are not in São Tomé and Príncipe waters.

The forms, which must be legible and signed by the captains or their representatives, shall be sent within 45 days of the end of fishing activities in São Tomé and Príncipe's exclusive economic zone to the São Tomé and Príncipe Ministry responsible for fisheries, via the Delegation of the European Commission responsible for São Tomé and Príncipe, and as soon as possible, for processing, to the Institut de Recherche pour le Développement (IRD), the Spanish Oceanographic Institute (IEO) or the Instituto Português de Investigação Marítima (Ipimar).

If these provisions are not complied with, the São Tomé and Príncipe Ministry responsible for fisheries reserves the right to suspend the licence of the offending vessel until these formalities have been carried out and to apply the penalties provided for under national law. In such cases, the Delegation of the European Commission responsible for São Tomé and Príncipe shall be informed without delay.

Member States shall inform the European Commission before 31 July each year of the tonnages caught during the past year, as confirmed by the scientific institutes. On the basis of those figures the Commission shall draw up the statement of fees due in respect of the fishing year, which it shall then send to the São Tomé and Príncipe Ministry responsible for fisheries.

Shipowners shall receive notification of the statement drawn up by the Commission by 30 September at the latest, and shall have 30 days in which to meet their financial obligations. This payment shall be made by the shipowners to an account designated by the São Tomé and Príncipe Ministry responsible for fisheries to be used under the terms of a protocol to be negotiated with the Public Treasury. In cases where the amount payable in respect of actual fishing operations is less than the advance payment, shipowners cannot recover the balance.

4. PROVISIONS APPLICABLE TO DEEP-WATER FISHING VESSELS TARGETING CRAB

(a) Licences issued to deep-water fishing vessels targeting crab shall be valid for three months. They shall be renewable.

(b) The quarterly fee shall be EUR 42 per GRT per vessel.

5. STATEMENT OF CATCH FROM OWNERS OF DEEP-WATER FISHING VESSELS TARGETING CRAB

Deep-water fishing vessels targeting crab authorised to fish in São Tomé and Príncipe's exclusive economic zone under the Agreement shall notify their catch statistics to the São Tomé and Príncipe Ministry responsible for fisheries through the Delegation of the European Commission responsible for São Tomé and Príncipe using the form given in Appendix 3. These statements shall be monthly and must be communicated at least once every quarter.

6. INSPECTION AND MONITORING

Community vessels fishing in the São Tomé and Príncipe fishing zone shall permit and facilitate the boarding and fulfilment of the tasks of São Tomé and Príncipe officials responsible for the inspection and monitoring of fishing activities. These officials should not remain on board any longer than the time required to verify catches by sampling and carry out any other inspections relating to fishing activities.

7. OBSERVERS

At the request of the São Tomé and Príncipe authorities, tuna seiners and surface longliners shall take an observer on board who shall be treated as an officer. Deep-water fishing vessels targeting crab shall systematically take an observer on board. That observer shall be treated as an officer. The time spent on board by the observer shall be fixed by the São Tomé and Príncipe authorities but, as a general rule, it should not exceed the time required to carry out his duties. Once on board, observers shall:

— observe the fishing activities of the vessels,

— verify the position of vessels engaged in fishing operations,

— perform biological sampling in the context of scientific programmes,

— note the fishing gear used,

— verify the catch data for the São Tomé and Príncipe zone recorded in the logbook.

While on board, observers shall:

— take all appropriate steps to ensure that the conditions under which they are taken on board and their presence on board do not interrupt or hamper fishing activities,

— respect the material and equipment on board and the confidentiality of all documents belonging to the said vessel,

— draw up an activity report to be transmitted to the competent São Tomé and Príncipe authorities and copied to the Delegation of the European Commission responsible for São Tomé and Príncipe. For deep-water vessels targeting crab, this report shall include an interim statement of catches taken in the exclusive economic zone and entered in the logbook. This interim statement must be submitted before the licence is issued for the following period.

The conditions under which observers are taken on board, which should neither interrupt nor hinder the fishing activities, shall be agreed between the shipowner or his agent and the São Tomé and Príncipe authorities.

The shipowner shall, via his agent, make a payment of EUR 10 to the Government of São Tomé and Príncipe for each day spent by an observer on board a tuna seiner, surface longliner or deep-water fishing vessel targeting crab as a contribution to the cost of the observer on board.

If the shipowner is unable to take the observer on board and put him off at a São Tomé and Príncipe port agreed by common accord with that country's authorities, the shipowner shall bear the cost of taking the observer on board and putting him ashore.

If the observer is not present at the time and place agreed and during the 12 hours following the time agreed, the shipowner shall be automatically absolved of his obligation to take the observer on board.

The salary and social contributions of observers shall be borne by the competent São Tomé and Príncipe authorities.

8. FISHING ZONES

The tuna vessels and surface longliners referred to in Article 1 of the Protocol shall be authorised to engage in fishing activities in the waters beyond 12 nautical miles from the coast of each island.

The deep-water fishing vessels targeting crab referred to in Article 1 of the Protocol shall be authorised to engage in fishing activities in the waters from the 650 isobath.

Without exception, all fishing activity in the zone destined for joint exploitation by São Tomé and Príncipe and Nigeria, delimited by the coordinates set out in Appendix 4, shall be prohibited.

9. ENTERING AND LEAVING THE ZONE

Vessels shall notify the coastal radio station and the São Tomé and Príncipe Ministry responsible for fisheries of their intention to enter or leave São Tomé and Príncipe's fishing zone at least 24 hours in advance (by telephone (239) 122 20 91, fax (239) 122 28 28, or e-mail dpescas1@cstome.net).

When notifying their departure, all vessels shall also notify the estimated catches taken during the time they have spent in São Tomé and Príncipe's fishing zone. This information should preferably be communicated by fax or, for vessels not equipped with fax, by radio.

A vessel found to be fishing without having informed the São Tomé and Príncipe Ministry responsible for fisheries shall be regarded as a vessel without a licence.

Vessels shall also be informed of the fax and telephone numbers and e-mail address when the fishing licence is issued.

The São Tomé and Príncipe Ministry responsible for fisheries and the shipowners shall keep a copy of fax communications or a recording of radio communications until both parties have agreed to the final statement of fees due referred to in point 3.

10. BY-CATCHES

Tuna seiners shall make any by-catches available to the São Tomé and Príncipe Directorate for Fisheries, which will take charge of recovering and landing them.

11. SIGNING-ON OF SEAMEN

At the request of the São Tomé and Príncipe authorities, the tuna seiner fleet shall take on board six São Tomé and Príncipe seamen for the duration of the fishing season. No vessel may take more than one seaman on board.

The conditions of employment and remuneration shall be fixed by mutual agreement between the shipowners and representatives of the seamen.

Should the fleet of tuna seiners not take on board six seamen, shipowners shall be obliged to pay compensation for the seamen not taken on board, the level of which shall be fixed by the two parties and shall correspond to the duration of the fishing season.

That sum shall be used for the training of seamen/fishermen in São Tomé and Príncipe and shall be paid into an account specified by the São Tomé and Príncipe Ministry responsible for fisheries.

12. STANDARDS

The international standards on tuna fishing as recommended by ICCAT shall apply.

13. USE OF SERVICES

Community vessels shall, wherever possible, procure the supplies and services they require in São Tomé and Príncipe ports.

14. PROCEDURES IN THE CASE OF BOARDING

(a) Transmission of information

The São Tomé and Príncipe Ministry responsible for fisheries shall inform the Delegation of the European Commission responsible for São Tomé and Príncipe and the flag State, within 48 hours, of the boarding of any Community fishing vessel fishing under the fisheries agreement in the São Tomé and Príncipe fishing zone and shall transmit a brief report of the circumstances and reasons leading to such boarding. The Delegation of the European Commission responsible for São Tomé and Príncipe and the flag State shall be kept informed of any proceedings initiated and penalties imposed.

(b) Settlement of boarding

In accordance with the law on fisheries and the relevant regulations, infringements may be settled:

— either out of court, in which case the amount of the fine shall be determined in accordance with São Tomé and Príncipe legislation laying down minimum and maximum figures,

— or by legal proceedings, if no out-of-court settlement was possible, in accordance with São Tomé and Príncipe law.

(c) The vessel shall be released and its crew authorised to leave the port:

— either as soon as the obligations imposed by the out-of-court procedure have been completed on presentation of the receipt for the settlement, or

— on presentation of proof that a bank security has been lodged, pending completion of the legal proceedings.

15. PROCEDURES IN THE CASE OF PENALTIES

The Delegation of the European Commission responsible for São Tomé and Príncipe shall be informed of any application of penalties involving a fishing vessel flying the flag of a Member State of the Community fishing under the fisheries agreement between the European Economic Community and São Tomé and Príncipe and shall receive a brief report of the circumstances and reasons leading to such penalties.

Appendix 1

DEMOCRATIC REPUBLIC OF SÃO TOMÉ AND PRÍNCIPE MINISTRY OF AGRICULTURE AND FISHERIES

Fishing licence application No . . .

Name of applicant ....

Name and address of shipowner ....

Name and address of any representative in São Tomé and Príncipe ....

....

Name of vessel ....

Type of vessel ....

Country of registry ....

Port and registration number ....

Vessel's external identification ....

Radio call sign and frequency ....

Length of vessel ....

Width of vessel ....

Engine type and horse power ....

Hold capacity ....

Minimum number of seamen ....

Type of fishing ....

Species targeted ....

....

Period of validity requested ....

I certify that this information is correct.

I hereby declare that I know, approve and undertake to comply with the law governing sea fishing in the Democratic Republic of São Tomé and Príncipe and the applicable international law.

Date ....

APPLICANT

Appendix 2

ICCAT LOGBOOK FOR TUNA FISHERY

☐	Longline
☐	Live bait
☐	Purse seine
☐	Trawling
☐	Others

Vessel name:	Gross tonnage (GRT):		Month	Day	Year	Port
Flag Country:	Capacity — (MT):	Boat LEFT:				
Registration number:	Captain:	Boat RETURNED:				
Owner:	Number of crew:	Number of days at sea:		Number of fishing days:		
Address:	Reporting Date:			Number of sets made:		Trip Number:
	(Reported by):					

Date		Area		Surf. Water Temp. (C°)	Effort Number of hooks used	Catches																						Isco usado na pesca (Bait used)			
Month	Day	Latitude N/S	Longitude E/W			Bluefin Tuna *Thunnus Thynnus or maccoyii*		Yellowfin Tuna *Thunnus albacares*		(Bigeye Tuna) *Thunnus obesus*		(Albacore) *Thunnus alalunga*		(Swordfish) *Xiphias gladius*		(Striped marlin) (White marlin) *Tetraptunus audax or albidus*		(Black Marlin) *Makaira indica*		Sailfish *Istiophorus albicane or platypterus*		Skipjack *Katsuwonus pelamis*		(Mixed catches)		Daily Total (weight in kg only)		Saury	Squid	Live bait	(Others)
						No	Weight kg	No	kg	No	kg	No	kg	No	kg	No	kg	No	kg	No	kg	No	kg	No	kg	No	kg				
LANDING WEIGHT (in kg)																															

Remarks

1. Use one sheet per month, and one line per day.
2. At the end of each trip forward a copy of the log to your correspondent or to ICCAT, Calle Corazón de Maria 8, Madrid 28002, Spain.
3. 'Day' refers to the day you set the line.
4. Fishing area refers to the position of the boat. Round off minutes and record degree of latitude and longitude. Be sure to record N/S and E/W.
5. The bottom line — landing weight — should be completed only at the end of each trip. Actual weight at the time of unloading should be recorded.
6. All information reported herein will be kept strictly confidential.

Appendix 3

DEEP-WATER FISHING VESSELS TARGETING CRAB

Vessel name:	
Nationality (flag):	

Horse power	
GRT:	

Month: Year:

Fishing method:	
Port of unloading:	

Date	Fishing zone		Number of catches	Number of hours fishing	Species of fish							Totals
	Longitude	Latitude										
1.												
2.												
3.												
4.												
5.												
6.												
7.												
8.												
9.												
10.												
11.												
12.												
13.												
14.												
15.												
16.												
17.												
18.												
19.												
20.												
21.												
22.												
23.												
24.												
25.												
26.												
27.												
28.												
29.												
30.												
31.												
		TOTAL										

Appendix 4

Latitude				Longitude			
Degrees	Minutes	Seconds		Degrees	Minutes	Seconds	
03	02	22	N	07	07	31	E
02	50	00	N	07	25	52	E
02	42	38	N	07	36	25	E
02	20	59	N	06	52	45	E
01	40	12	N	05	57	54	E
01	09	17	N	04	51	38	E
01	13	15	N	04	41	27	E
01	21	29	N	04	24	14	E
01	31	39	N	04	06	55	E
01	42	50	N	03	50	23	E
01	55	18	N	03	34	33	E
01	58	53	N	03	53	40	E
02	02	59	N	04	15	11	E
02	05	10	N	04	24	56	E
02	10	44	N	04	47	58	E
02	15	53	N	05	06	03	E
02	19	30	N	05	17	11	E
02	22	49	N	05	26	57	E
02	26	21	N	05	36	20	E
02	30	08	N	05	45	22	E
02	33	37	N	05	52	58	E
02	36	38	N	05	59	00	E
02	45	18	N	06	15	57	E
02	50	18	N	06	26	41	E
02	51	29	N	06	29	27	E
02	52	23	N	06	31	46	E
02	54	46	N	06	38	07	E
03	00	24	N	06	56	58	E
03	01	19	N	07	01	07	E
03	01	27	N	07	01	46	E
03	01	44	N	07	03	07	E
03	02	22	N	07	07	31	E

Proposal for a European Parliament and Council Regulation on smoke flavourings used or intended for use in or on foods

(2002/C 262 E/38)

COM(2002) 400 final — 2002/0163(COD)

(Submitted by the Commission on 15 July 2002)

EXPLANATORY MEMORANDUM

Smoke flavourings fall within the scope of Council Directive 88/388/EEC on flavourings. Article 5 of this Directive provides for the adoption of appropriate provisions concerning source materials used for the production of smoke flavourings and reaction conditions under which they are prepared. As part of the framework to improve Community legislation in the area of foods, the Commission announced in the White Paper on Food Safety a proposal for a European Parliament and Council Regulation on smoke flavourings used or intended for use in or on foods.

The current situation in the Member States concerning the authorisation of smoke flavourings is diverse. Some Member States have a very strict authorisation procedure, others have none at all. Thus, there is a need for harmonisation at Community level.

The objective of the present proposal is to establish Community procedures for the safety assessment and the authorisation of smoke flavourings intended for use in or on foods in order to ensure a high level of protection of human health and protection of consumers' interests, as well as to ensure fair trade practices.

Smoke flavourings are produced from condensed smoke. The chemical composition of smoke is complex depending among other things on the species of wood used, the method used for developing smoke, the water content of the wood and the temperature and oxygen concentration during smoke generation. Smoked foods in general give rise to health concern. The condensed smoke is however fractionated and purified during the production of smoke flavourings. Because of this purification process, the use of smoke flavourings is generally considered to be of less health concern than the traditional smoking process.

A wide range of different smoke flavourings is produced from the purified primary smoke condensates. The Scientific Committee on Food (SCF) concluded in its report of 25 June 1993 that the existing multitude of smoke flavourings is based on only a limited number of commercially available smoke condensates and that, therefore, the toxicological evaluation should focus on the limited number of individual smoke condensates rather than on the multitude of derived smoke flavourings.

The present draft proposes to establish a safety assessment and authorisation procedure for primary smoke condensates and primary tar fractions which can be used as such in and on foods and/or for the production of derived smoke flavourings. The primary products for which no health concern is revealed during evaluation and their conditions of use will be included in a positive list of products authorised to the exclusion of all others in the Community.

Smoke flavourings for the Community market are produced by few companies inside and outside of the EU. Each of these companies has a very limited number of primary products. It is estimated that not more than 20 products need to be evaluated.

It is proposed to restrict the authorisations to a period of ten years after which the authorisations will need to be renewed. This provision ensures that products are regularly re-evaluated according to the latest scientific and technical knowledge and ensures also that authorised products which are no longer used will disappear from the Community positive list.

For an application for authorisation of a primary product, detailed information on the production method of this product as well as on the further steps in the production of derived smoke flavourings, the intended uses in or on specific food or food categories, chemical specifications, toxicological studies and validated methods for sampling and detection of the primary product and derived smoke flavourings have to be provided by the applicant. The evaluation will be done by the European Food Safety Authority according

to a defined time limited and transparent procedure. The Authority has to inform the Commission and the Member States about the receipt of an application and has to provide a summary thereof or the whole dossier. Confidentiality for sensitive data is provided if requested by the applicant, except for information of direct relevance to the assessment of the safety of the product.

After the European Food Safety Authority has completed its scientific evaluation, the Commission will propose a risk management decision to be adopted by the regulatory procedure laid down by Council Decision 1999/468/EC.

Since many smoke flavourings are already on the market in the Community, the transition to a Community positive list should be smooth and should not lead to unfair conditions for smoke flavouring producers. Therefore, the proposal foresees an initial period of eighteen months during which applications for existing and new products can be submitted to the European Food Safety Authority. The establishment of the Community list will take place in a single step procedure after the European Food Safety Authority has expressed opinions on all products for which applications have been submitted during the 18-month period. This procedure will ensure that all companies are subject to the same conditions. After the initial establishment new products may be added following evaluation by the European Food Safety Authority.

The Scientific Committee on Food in its report on smoke flavourings of 25 June 1993, provided a non-exhaustive list of types of wood which may be used for the production of smoke flavourings. This list is annexed to the present Regulation. Additional species of wood, not present in the list, may be included after primary products produced from those species have received a favourable opinion from the European Food Safety Authority.

This Proposal intends to ensure a high level of protection of human health and the protection of consumers' interests with respect to smoke flavourings intended for use in or on foods and to ensure market unity while abiding by the principle of proportionality.

This Proposal has no financial implications for the budget of the European Community.

THE EUROPEAN PARLIAMENT AND THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty establishing the European Community, and in particular Article 95 thereof,

Having regard to the proposal from the Commission,

Having regard to the opinion of the Economic and Social Committee,

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

Whereas:

(1) Council Directive 88/388/EEC of 22 June 1988 on the approximation of the laws of the Member States relating to flavourings for use in foods and to source materials for their production [1], and in particular Article 5(1) seventh indent thereof, provides for the adoption of appropriate provisions concerning source materials used for the production of smoke flavourings and reaction conditions under which they are prepared.

(2) 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.

(3) A high level of protection of human life and health should be assured in the pursuit of Community policies.

(4) In order to protect human health smoke flavourings should undergo a safety assessment through a Community procedure before being placed on the market or used in or on foods within the Community.

(5) Differences between national laws, regulations and administrative provisions concerning the assessment and authorisation of smoke flavourings may hinder their free movement, creating conditions of unequal and unfair competition. An authorisation procedure should therefore be established at Community level.

(6) The chemical composition of smoke is complex and depends among other things on the types of wood used, the method used for developing smoke, the water content of the wood and the temperature and oxygen concentration during smoke generation. Smoked foods in general give rise to health concern, especially with respect to the possible presence of polycyclic aromatic hydrocarbons. Because smoke flavourings are produced from smoke which is subjected to fractionation and purification processes, the use of smoke flavourings is generally considered to be of less health concern than the traditional smoking process.

[1] OJ L 184, 15.7.1988, p. 61.

(7) The present Regulation covers smoke flavourings as defined in Article 1(2)(e) of Directive 88/388/EEC. The production of these smoke flavourings starts with the condensation of smoke. The condensed smoke is normally separated by physical processes into a water-based primary smoke condensate, a water insoluble high density tar phase and a water insoluble oily phase. The water insoluble oily phase is a by-product and unsuitable for the production of smoke flavourings. The primary smoke condensates and fractions of the water insoluble high density tar phase, the so called 'primary tar fractions', are purified to remove components of smoke which are most harmful to human health. They may then be suitable for use as such in or on foods or for the production of derived smoke flavourings made by further appropriate physical processing such as extraction procedures, distillation, concentration by evaporation, absorption or membrane separation and the addition of food ingredients, food additives or solvents, without prejudice to more specific Community legislation.

(8) The Scientific Committee on Food concluded that because of the wide physical and chemical differences in smoke flavourings used for flavouring food, it is not possible to design a common approach to their safety assessment and, accordingly, toxicological evaluation should focus on the safety of individual smoke condensates. Following this advice, this Regulation provides for the scientific evaluation of primary smoke condensates and primary tar fractions in terms of the safety of their use as such and/or for the production of derived smoke flavourings intended for use in or on foods.

(9) As regards conditions of production, this Regulation reflects the findings set out by the Scientific Committee on Food in its report on smoke flavourings of 25 June 1993 [1], in which it provided a non-exhaustive list of types of wood which may be used for the production of smoke flavourings and specified various production conditions and the information necessary to evaluate smoke flavourings used or intended for use in or on foods. That report was based, in turn, on the report of the Council of Europe on 'health aspects of using smoke flavours as food ingredients' [2].

(10) Provision should be made for the establishment, on the basis of the safety assessment, of a list of primary smoke condensates and primary tar fractions authorised for use as such in or on foods and/or for the production of smoke flavourings for use in or on foods within the Community. That list should clearly describe the primary products, specifying conditions of their uses and the dates from which the authorisations are valid.

(11) In order to ensure harmonisation, safety assessments should be carried out by the European Food Safety Authority ('the Authority'), established by 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 [3].

(12) The safety assessment of a specific primary product should be followed by a risk management decision as to whether the product should be entered on the Community list of authorised primary products; that decision should be adopted in accordance with the regulatory procedure so as to ensure close cooperation between the Commission and the Member States.

(13) It is appropriate that the person ('the applicant') who intends to place on the market primary products or derived smoke flavourings should submit all the information necessary for the safety assessment and should propose validated methods of sampling and detection to be used for control of compliance with the provisions of this Regulation; if necessary, the Commission should adopt quality criteria for those analytical methods after having consulted the Authority for scientific and technical assistance.

(14) Since many smoke flavourings are already on the market in the Member States, provision should be made to ensure that the transition to a Community authorisation procedure is smooth and does not disturb the existing smoke flavourings market. Sufficient time should be allowed for the applicant to make available to the Authority the information necessary for the safety assessment of these products. Therefore, a certain time period, hereinafter referred to as the 'first phase', should be fixed during which the information for existing primary products should be submitted by the applicant to the Authority. Applications for authorisation of new primary products may also be submitted during the first phase. The Authority should evaluate without delay all applications for existing as well as new primary smoke condensates or primary tar fractions for which sufficient information has been submitted during the first phase.

(15) The Community positive list should be established by the Commission after the completion of the safety assessment of all primary products for which sufficient information was submitted during the first phase. In order to ensure fair and equal conditions for all applicants, this initial establishment of the list should be done in a single step. After the initial establishment of the list of authorised primary products, it should be possible for additional primary smoke condensates and primary tar fractions to be added thereto by decision of the Commission, following the safety assessment by the Authority.

(1) Reports of the Scientific Committee for Food, Thirty-fourth series, pp. 1-7.

(2) Council of Europe Publishing, 1992, reprinted 1998, ISBN 92-871-2189-3.

(3) OJ L 31, 1.2.2002, p. 1.

(16) Whenever the evaluation by the Authority indicates that an existing smoke flavouring already on the market in the Member States constitutes a serious risk to human health, this product should be removed from the market without delay.

(17) Articles 53 and 54 of Regulation (EC) No 178/2002 establish procedures for taking emergency measures in relation to food of Community origin or imported from a third country. They allow the Commission to adopt such measures in situations where food is likely to constitute a serious risk to human health, animal health or the environment and where such risk cannot be contained satisfactorily by measures taken by the Member State(s) concerned.

(18) It is appropriate that food business operators using primary smoke condensates or primary tar fractions or derived smoke flavourings be required to establish procedures in accordance with which it is possible, at all stages of placing a primary product or derived smoke flavouring on the market, to verify whether it is authorised by this Regulation and whether the conditions of use are respected.

(19) In order to ensure equal access of existing and new primary products to the market, an interim period should be established during which national measures continue to apply in the Member States.

(20) Provision should be made for the Annexes to this Regulation to be adapted to scientific and technical progress.

(21) Since those Annexes, which are necessary for the implementation of this Regulation, are measures of general scope within the meaning of Article 2 of Council Decision 1999/468/EC of 28 June 1999 laying down the procedures for the exercise of implementing powers conferred on the Commission [1], amendments thereto should be adopted by use of the regulatory procedure provided for in Article 5 of that Decision.

(22) The Commission shall be assisted by the Committee referred to in Article 58(1) of Regulation (EC) No 178/2002,

HAVE ADOPTED THIS REGULATION:

Article 1

Subject matter

1. This Regulation seeks to ensure the effective functioning of the internal market in relation to smoke flavourings used or intended for use in or on foods, whilst providing the basis for securing a high level of protection for human health and the interests of consumers.

2. To this end, this Regulation lays down

— a Community procedure for the evaluation and authorisation of primary smoke condensates and primary tar fractions for use as such in or on foods or in the production of derived smoke flavourings for use in or on foods;

— a Community procedure for the establishment of a list of primary smoke condensates and primary tar fractions authorised to the exclusion of all others in the Community and their conditions of use in or on foods.

Article 2

Scope

This Regulation shall apply to:

— smoke flavourings used or intended for use in or on foods;

— source materials for the production of smoke flavourings;

— the reaction conditions under which smoke flavourings are prepared;

— foods in or on which smoke flavourings are present.

Article 3

Definitions

For the purposes of this Regulation, the definitions laid down in Directive 88/388/EEC and Regulation (EC) No 178/2002 shall apply.

The following definitions shall also apply:

1. 'primary smoke condensates' and 'primary tar fractions' shall refer to primary smoke condensates and primary tar fractions used or intended to be used as such in or on foods in order to impart smoke flavour to those foods; it shall also refer to primary smoke condensates and primary tar fractions used for the production of derived smoke flavourings used or intended to be used in or on foods.

2. 'primary products' shall refer to primary smoke condensates and primary tar fractions.

3. 'derived smoke flavourings' shall refer to flavourings produced as a result of the further processing of primary smoke condensates and primary tar fractions and which are used or intended to be used in or on foods in order to impart smoke flavour to those foods.

Article 4

General use and safety requirements

1. The use of smoke flavourings in or on foods shall only be authorised if it is sufficiently demonstrated that

— it does not present risks to human health;

— it does not mislead consumers.

Each authorisation may be subject to specific conditions of use.

[1] OJ L 184, 17.7.1999, p. 23.

2. No person shall place on the market a smoke flavouring or any food in or on which such a smoke flavouring is present if the smoke flavouring is not a primary product authorised in accordance with Article 6, or if is not derived therefrom, and if the conditions of use laid down in the authorisation in accordance with this Regulation are not adhered to.

Article 5

Conditions of production

1. Only those types of untreated wood listed in Annex I may be used for the production of primary smoke condensates and primary tar fractions.

2. The wood referred to in paragraph 1 shall not have been treated, whether intentionally or unintentionally, with chemical substances during the six months immediately preceding felling or subsequent thereto, unless it can be demonstrated that the substance used for the treatment does not give rise to potentially toxic substances during combustion.

The person who places on the market primary smoke condensates and primary tar fractions or derived smoke flavourings or food containing smoke flavourings must be able to demonstrate by appropriate certification or documentation that the requirements laid down in the first paragraph have been met.

3. The conditions for the production of primary smoke condensates and primary tar fractions are laid down in Annex II. The water insoluble oily phase which is a by-product of the process shall not be used for the production of smoke flavourings.

4. Without prejudice to other Community legislation, primary smoke condensates and primary tar fractions may be further processed by appropriate physical processes for the production of derived smoke flavourings. Where opinions differ as to whether a particular physical process is appropriate, a decision may be reached in accordance with the procedure referred to in Article 18(2).

Article 6

Community list of authorised products

1. A list of the primary smoke condensates and primary tar fractions authorised to the exclusion of all others in the Community for use as such in or on foods and/or for the production of derived smoke flavourings shall be established in accordance with the procedure referred to in Article 18(2).

2. In respect of each authorised product, the list referred to in paragraph 1 shall give a unique code for that product, the name of the primary product, the name and address of the authorisation holder, a clear description and characterisation of the primary product, the conditions of its use in or on specific foods or food categories and the date from which the product is authorised.

3. Following the establishment of the list referred to in paragraph 1, primary smoke condensates or primary tar fractions may be added to that list in accordance with the procedure referred to in Article 18(2).

Article 7

Application for authorisation

1. To obtain the authorisation referred to in Article 6(1), a written application shall be submitted to the European Food Safety Authority, hereinafter referred to as 'the Authority'.

2. The Authority shall acknowledge in writing receipt of the application to the applicant within fifteen working days of its receipt. The acknowledgement shall state the date of receipt of the application.

3. The application shall be accompanied by the following:

— the name and address of the applicant;

— the information listed in Annex III;

— a reasoned statement affirming that the product complies with Article 4(1), first indent;

— a summary of the dossier.

4. The Authority shall publish detailed guidance concerning the preparation and the submission of the application. Pending such publication, applicants shall consult the 'Guidance on submissions for food additive evaluations' drawn up by the 'Scientific Committee on Food' [1].

Article 8

Opinion of the Authority

1. The Authority shall give an opinion within six months of the receipt of a valid application as to whether the product and its intended use complies with Article 4(1). The Authority may extend the said period. In such a case it shall inform the applicant, the Commission and the Member States.

2. The Authority may, where appropriate, request the applicant to supplement the particulars accompanying the application within a time limit specified by the Authority which in no event shall exceed six months. Where the Authority requests supplementary information, the time limit laid down in paragraph 1 shall be suspended until such time that this information has been provided. Likewise, this time limit shall be suspended for the time allowed to the applicant to prepare oral or written explanations.

3. In order to prepare its opinion, the Authority shall:

(a) verify that the particulars and documents submitted by the applicant are in accordance with Article 7(3) in which case the application shall be regarded as valid;

[1] Until publication, applicants shall follow the 'Guidance on submissions for food additive evaluations' by the Scientific Committee on Food, of 11 July 2001 or its latest update: http://europa.eu.int/comm/food/fs/sc/scf/out98_en.pdf

(b) make available to the Member States and to the Commission a summary of each application, and, at the request of a Member State or of the Commission, transmit the full application dossier and any supplementary information supplied by the applicant;

(c) inform the applicant, the Commission and the Member States if an application is not valid.

4. In the event of an opinion in favour of authorising the evaluated product, the opinion shall include

— where appropriate, any conditions or restrictions which should be attached to the use of the evaluated primary smoke condensate or primary tar fraction either as such and/or as derived smoke flavourings in or on specific foods or food categories;

— an assessment as to whether the analytical method proposed in accordance with point 3 of Annex III is appropriate for the intended control purposes.

5. The Authority shall forward its opinion to the Commission, the Member States and the applicant.

6. The Authority shall make its opinion public, after deletion of any information identified as confidential in accordance with Article 14.

Article 9

Community authorisation

1. Within three months of receiving the opinion of the Authority, the Commission shall prepare a draft of the measure to be taken in respect of the application for inclusion of a substance in the list referred to in Article 6(1), taking into account the requirements of Article 4(1), Community law and other legitimate factors relevant to the matter under consideration. Where the draft measure is not in accordance with the opinion of the Authority, the Commission shall provide an explanation for the reasons for the differences.

The measure referred to in paragraph 1 shall be

— a draft regulation amending the list referred to in Article 6(1), by including the primary product on the list of authorised products, in accordance with the requirements under Article 6(2) or

— a draft decision, addressed to the applicant, refusing authorisation.

2. The measure shall be adopted in accordance with the procedure laid down in Article 18(2). The Commission shall inform the applicant of its adoption without delay.

3. Without prejudice to Article 11, the authorisation granted in accordance with the procedure laid down in this Regulation shall be valid throughout the Community for ten years and shall be renewable in accordance with Article 12.

4. After an authorisation has been issued in accordance with this Regulation, the authorisation holder or any other food business operator using the authorised primary product or derived smoke flavourings shall comply with any condition or restriction attached to such authorisation.

5. The authorisation holder shall inform the Commission and the Authority immediately of any new scientific or technical information which might affect the assessment of the safety of the authorised primary product or derived smoke flavourings in relation to human health. If necessary, the Authority shall then review the assessment.

6. The granting of an authorisation shall not diminish the general civil and criminal liability of any food business operator in respect to the authorised primary smoke condensate, primary tar fraction, derived smoke flavouring or food containing the authorised primary product or derived smoke flavouring.

Article 10

Initial establishment of the Community list of authorised smoke flavourings

1. During the eighteen months following the entry into force of this Regulation, business operators shall submit an application in accordance with Article 7 in view of the establishment of an initial Community list of authorised primary products. Without prejudice to Article 9(1), this initial list shall be established after the Authority has issued an opinion on each primary product for which a valid application has been submitted during this period.

Applications for which the Authority could not issue an opinion owing to the applicant's failure to comply with the time limits specified for submission of supplementary information in accordance with Article 8(2) shall be excluded from consideration for inclusion in the initial Community list.

2. Within three months of receiving all the opinions referred to in paragraph 1, the Commission shall prepare a draft regulation for the initial establishment of the list referred to in Article 6(1), having regard to the requirements of Article 6(2).

3. The list referred to in Article 6(1) shall be established in accordance with the procedure referred to in Article 18(2).

Article 11

Modification, suspension and revocation of authorisations

1. The authorisation holder may, in accordance with the procedure laid down in Article 7, apply for a modification of the existing authorisation.

2. Where, on its own initiative or following a request from the authorisation holder, a Member State or the Commission, the Authority has reviewed the assessment of a primary product authorised in accordance with this Regulation, it shall deliver its opinion following the procedure laid down in Article 8, where applicable.

3. The Commission shall examine the opinion of the Authority without delay and prepare a draft of the decision to be taken.

4. A draft decision modifying an authorisation shall specify any necessary changes in the conditions of use and, if any, in the restrictions attaching to that authorisation.

5. A final decision on the modification, suspension or revocation of the authorisation shall be adopted in accordance with the procedure referred to in Article 18(2).

6. The Commission shall without delay inform the authorisation holder of the decision taken.

Article 12

Renewal of authorisations

1. Authorisations under this Regulation shall be renewable for ten-year periods on application to the Authority by the authorisation holder, at the latest eighteen months before the expiry date of the authorisation.

2. The Authority shall acknowledge in writing receipt of the application for renewal to the authorisation holder within fifteen working days of its receipt. The acknowledgement shall state the date of receipt of the application.

3. The application shall be accompanied by the following particulars and documents:

(a) a reference to the original authorisation;

(b) any available information concerning the points listed in Annex III which supplements the information already provided to the Authority in the course of the previous evaluation(s) and updates this in the light of the most recent scientific and technical developments;

(c) a reasoned statement affirming that the product complies with Article 4(1), first indent.

4. Articles 7 to 9 shall apply in a like manner.

5. Where, for reasons beyond the control of the authorisation holder, no decision is taken on the renewal of an authorisation before its expiry date, the period of authorisation of the product shall automatically be extended until the Commission takes a decision. The Commission shall inform the authorisation holder about the delay.

Article 13

Traceability

1. At the first stage of the placing on the market of an authorised primary smoke condensate or primary tar fraction or smoke flavouring derived from the authorised products specified in the list referred to in Article 6(1), food business operators shall ensure that the following information is transmitted to the food business operator receiving the product:

(a) the code of the authorised product as given in the list referred to in Article 6(1);

(b) the conditions of use of the authorised product as set out in the list referred to in Article 6(1);

(c) in the case of a derived smoke flavouring, the quantitative relation to the primary product; this shall be expressed in clear and easily understandable terms so that the receiving food business operator can use the derived smoke flavouring in compliance with the conditions of use set out in the list referred to in Article 6(1).

2. At all subsequent stages of the placing on the market of products referred to in paragraph 1, food business operators shall ensure that the information received in accordance with paragraph 1 is transmitted to the food business operators receiving the products.

3. Food business operators shall have in place systems and procedures in accordance to which it is possible to identify the person from whom and to whom the products mentioned in paragraph 1 have been made available.

4. Paragraphs 1 to 3 are without prejudice to other specific requirements under Community legislation.

Article 14

Confidentiality

1. The applicant may indicate which information submitted under Article 7 should be treated as confidential because disclosure may significantly harm his competitive position. Verifiable justification must be given in such cases.

2. Without prejudice to paragraph 3, the Authority shall determine, after consultation with the applicant, which information should be kept confidential and shall inform the applicant of its decision.

3. Without prejudice to Article 39(3) of Regulation (EC) No 178/2002, information relating to the following shall not be considered confidential:

(a) the name and address of the applicant and the name of the product;

(b) in the case of an opinion in favour of authorising the evaluated product, the particulars mentioned in Article 6(2);

(c) information of direct relevance to the assessment of the safety of the product.

4. Notwithstanding paragraph 2, the Authority shall on request supply the Commission and the Member States with all information in its possession.

5. The Commission, the Authority and the Member States shall keep confidential all the information identified as confidential under paragraph 2, except in cases where certain information must be made public in order to protect human health.

6. If an applicant withdraws or has withdrawn an application, the Authority, the Commission and the Member States shall respect the confidentiality of the commercial and industrial information provided, including research and development information as well as information on which the Authority and the applicant disagree as to its confidentiality.

Article 15

Data protection

The information in the application submitted according to Article 7 may not be used for the benefit of another applicant, unless the other applicant has agreed with the authorisation holder that such information may be used.

Article 16

Inspection and control measures

1. Member States shall ensure that inspections and other control measures, as appropriate, are carried out to ensure compliance with this Regulation.

2. Where necessary and on the request of the Commission, the Authority shall assist in developing technical guidance on sampling and testing to facilitate a coordinated approach for the implementation of paragraph 1.

3. If necessary, the Commission shall, after having requested scientific and technical assistance from the Authority, adopt quality criteria for validated analytical methods proposed in accordance with point 3 of Annex III, including substances to be measured, in accordance with the procedure referred to in Article 18(2).

Article 17

Amendments

Amendments to the Annexes to this Regulation and to the list referred to in Article 6(1) shall be adopted in accordance with the procedure referred to in Article 18(2), after having consulted the Authority for scientific and/or technical assistance.

Article 18

Implementing powers of the Commission

1. The Commission shall be assisted by the Committee referred to in Article 58(1) of Regulation (EC) No 178/2002.

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

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

Article 19

Transitional measures

Without prejudice to Article 4(2), trade in and use of the following primary products and derived smoke flavourings, as well as foods containing any of those products, already on the market on the date of entry into force of this Regulation, shall be permitted for the following periods:

(a) primary products for which a valid application is submitted in accordance with Article 7 and Article 8(3) before [18 months after the date of entry into force of this Regulation] and derived smoke flavourings: until the establishment of the list referred to in Article 10(1);

(b) foods containing primary products for which a valid application is submitted in accordance with Article 7 and Article 8(3) before [18 months after the date of entry into force of this Regulation] and/or containing derived smoke flavourings: until 12 months after the establishment of the list referred to in Article 10(1);

(c) foods containing primary products for which a valid application is not submitted in accordance with Article 7 and Article 8(3) before [18 months from the date of entry into force of this Regulation] and/or derived smoke flavourings: until [30 months after the date of entry into force of this Regulation].

Products and foods that have been lawfully put on the market before the end of the periods referred to in (a) to (c) may be marketed until stocks are exhausted.

Article 20

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*.

Article 4(2) shall apply from [18 months from the date of entry into force of this Regulation]. Until this date, national provisions in force concerning smoke flavourings and their use in and on foods continue to apply in the Member States.

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

ANNEX I

LIST OF UNTREATED WOOD WHICH MAY BE USED FOR THE PRODUCTION OF PRIMARY SMOKE CONDENSATES OR PRIMARY TAR FRACTIONS

Latin name	Common name
Acer negundo L.	Maple tree
Betula pendula Roth. (with ssp. B. alba L. and B. verrucosa Ehrh.)	White birch
Betula pubescens Ehrh.	European birch
Carpinus betulus L.	Hornbeam
Carya ovata (Mill.) Koch	Hickory
Castanea sativa Mill.	Chestnut tree
Eucalyptus sp.	Eucalyptus
Fagus grandifolia Ehrh.	Beech
Fagus silvatica L.	Beech
Fraxinus excelsior L.	Common ash
Juglans regia L.	Walnut tree
Malus pumila Mill.	Apple
Prosopis juliflora DC.	Mesquite wood
Prunus avium L.	Cherry tree
Quercus alba L.	White oak
Quercus ilex L.	Holm oak
Quercus robur L.	Common red oak
Rhamnus frangula L.	Alder Buckthorn
Robinia pseudoacacia	Black locust
Ulmus fulva Michx.	Sweet elm
Ulmus rubra Mühlenb.	Elm

ANNEX II

CONDITIONS FOR THE PRODUCTION OF PRIMARY SMOKE CONDENSATES AND PRIMARY TAR FRACTIONS

1. Smoke is generated from wood species listed in Annex I. Herbs, spices, twigs of juniper and twigs, needles and cones of picea may be added if they are free of residues of intentional or unintentional chemical treatment or if they comply with more specific Community legislation. The source material is subjected to controlled burning, dry distillation or treatment with superheated steam in a controlled oxygen environment with a maximum temperature of 600 °C.

2. The smoke is condensed. Water and/or, without prejudice to other Community legislation, solvents may be added to achieve phase separation. Physical processes may be used for isolation, fractionation and/or purification to obtain the following phases:

   (a) a water-based 'primary smoke condensate' mainly containing carboxylic acids, carbonylic and phenolic compounds, having a maximum content of

   3,4 benzopyrene 10 µg/kg

   1,2 benzanthracene 20 µg/kg

   (b) a water insoluble high density tar phase which during the phase separation will precipitate, and which cannot be used as such for the production of smoke flavourings but only after appropriate physical processing to obtain fractions from this water insoluble tar phase which are low in polycyclic aromatic hydrocarbons, already defined as 'primary tar fractions', having a maximum content of

   3,4 benzopyrene 10 µg/kg

   1,2 benzanthracene 20 µg/kg

   (c) a 'water insoluble oily phase'.

   If no phase separation has occurred during or after the condensation, the smoke condensate obtained must be regarded as a water insoluble high density tar phase, and must be processed by appropriate physical processing to obtain primary tar fractions which stay within the specified limits.

ANNEX III

INFORMATION NECESSARY FOR THE SCIENTIFIC EVALUATION OF PRIMARY SMOKE CONDENSATES AND PRIMARY TAR FRACTIONS

The information should be compiled in accordance with the guidelines referred to in Article 7(4) and should be submitted as described therein. Without prejudice to Article 8(2), the following information should be included in the application for authorisation referred to in Article 7:

1. Detailed information on the production methods of the primary smoke condensates or primary tar fractions and the further processing in the production of derived smoke flavourings.

2. The qualitative and quantitative chemical composition of the primary product and the characterisation of the portion which has not been identified. Of major importance are the chemical specifications of the primary product and information on the stability and the degree of variability of the chemical composition. The portions which have not been identified, i.e. the amount of substances whose chemical structure is not known, should be as small as possible and should be characterised by appropriate validated analytical methods, e.g. chromatographic spectra.

3. Validated analytical method(s) for identification and characterisation of the primary product and of derived smoke flavourings.

4. Information on the intended use levels in or on specific food or food categories.

5. Toxicological data following the advice of the Scientific Committee on Food given in its report on smoke flavourings of 25 June 1993 or its latest update.

Proposal for a Council Regulation on a Financial Regulation applicable to the 9th European Development Fund

(2002/C 262 E/39)

COM(2002) 290 final — 2002/0183(CNC)

(Submitted by the Commission on 18 July 2002)

EXPLANATORY MEMORANDUM

1. A vital factor for implementing the EDF — its Financial Regulation

The successive European Development Funds (EDFs) have been set up by internal agreements concluded between the Member States and then submitted for ratification.

In these agreements the Member States have established the financial resources required to honour the commitments they have made vis-à-vis the African, Caribbean and Pacific States (ACP States) and the financial resources reserved for the overseas countries and territories (OCTs) under association decisions.

By the Internal Agreement of 18 September 2000 ([1]) the Member States set up the 9th EDF, which is designed to ensure the financial implementation of:

— the Partnership Agreement concluded with the ACP States in Cotonou (Benin) in 2000 ([2]),

— the Decision on the association of the OCTs, adopted by the Council in November 2001 ([3]),

Article 31 of that Internal Agreement states that, 'the provisions for implementing this Agreement shall be the subject of a Financial Regulation adopted, before the entry into force of the ACP-EC Agreement, by the Council, acting by a qualified majority ... on the basis of a proposal from the Commission'.

So if operations to assist the ACP States and the OCTs are to get under way, the Financial Regulation also needs to be adopted in good time.

2. Political context of the new EDF: internal reforms and recasting of the Financial Regulation

The proposal for a new Financial Regulation for the EDF has been drafted in the dynamic context of the internal reform undertaken by the Commission, which includes in particular the revision and modernisation of its financial procedures. The key element of this process is the proposal to recast the Financial Regulation applicable to the general budget of the Communities, which was adopted by the Commission in July 2000 and is now in the final stages of examination by the legislative authority ([4]). The European Council wanted the recast Regulation to be finally adopted by the end of 2002.

Since the Financial Regulation applicable to the general budget sets out rules governing financial management and control, its recasting is inextricably linked to the process of administrative reform. The main aspects of this reform cannot be implemented without substantial amendments to the Financial Regulation.

On a number of points, the same applies to the EDF. The adoption of the new Financial Regulation for the 9th EDF presents an opportunity to take into account, as far as is compatible with the legal framework (Cotonou Agreement, Association Decision, Internal Agreement), the amendments made to the Financial Regulation applicable to the general budget.

([1]) OJ L 314, 30.11.2001, p. 1.

([2]) OJ L 317, 15.12.2000, p. 3.

([3]) OJ L 314, 30.11.2001, p. 1 and OJ L 324, 7.12.2001, p. 1.

([4]) With a view to the consultations with Parliament, the Council adopted a joint guideline on 22 May 2002 (see 8730/02 FIN 169).

3. **Main aspects of the recasting of the Financial Regulation applicable to the general budget**

The initial recasting proposal adopted in July 2000 ([1]) and the amended proposal adopted in December 2001 ([2]) were essentially inspired by the following principles:

The recasting of the Financial Regulation is an essential complement to the internal reform process on which the Commission has embarked. The recasting proposal provides a whole legislative framework for key strands of that reform, such as the assertion of the responsibility of authorising officers, under the supervision of an internal audit service, with the abolition of centralised *ex ante* controls (in particular approval of the Financial Controller) as the *quid pro quo* ([3]).

However, the recasting exercise goes beyond the objectives identified by the Commission's internal reform and encompasses all the topics currently covered by the Financial Regulation, which is the basic instrument for implementing all aspects of the general budget of the European Communities — from its establishment and execution to its accounting system right through to the external audit procedures and the discharge. The aim of the recasting exercise is therefore to modernise the Commission's management methods in order to make budgetary implementation more effective and to enforce more rigorously the principle of sound financial management.

4. **The special nature of financial management under the EDF**

Before considering how the Commission proposes to apply the content of the recasting proposals to the EDF Financial Regulation, it is worth recalling briefly the main features of the system of financial cooperation between the Union and the ACP States and the OCTs.

Long years of cooperation, dating from the Yaoundé Conventions of the 1960s and 70s, have produced a system of financial cooperation that is rather special, if not unique — a tendency further accentuated by the fact that it has evolved outside the Community budget and the EDF continues to exist outside the system of own resources.

4.1. *Parallels between the EDF and the budget*

At first sight the system for managing the EDF shares a number of features with the management system applicable to the general budget. The various financial actors (authorising officer, accounting officer, financial controller) play the same roles as regards both expenditure and amounts receivable, since the Financial Regulation for the 8th EDF ([4]) was inspired by the general Financial Regulation currently in force. One major point they have in common is that operations carried out by the Commission under the EDF are subject to the same rules as the budget as regards external scrutiny by the Court of Auditors and the discharge granted by Parliament on the Council's recommendation.

4.2. *Divergences between the EDF and the budget*

However, EDF resources are not entered in the general budget, so their financial execution is subject neither to the procedure for establishing the general budget nor to the various mechanisms for implementing it. Each year the Commission provides the Council with 'estimates' of commitments and payments for the following financial year, which are indicative. Should the real outturn of commitments or payments not reach the anticipated level, there are no legal consequences for the use of the appropriations concerned.

([1]) COM(2000) 461 final, 17 October 2001.

([2]) COM(2001) 691 final 2, 10 January 2002 — the reference here is to the amended proposal.

([3]) With a view to the consultations with Parliament, the Council adopted a joint guideline on 22 May 2002 (see 8730/02 FIN 169).

([4]) OJ L 191, 7.7.1998, p. 53.

The EDF is therefore not bound by the same constraints as a budget based on the principle of annuality and the concept of a budgetary 'year'.

4.3. *Methods of EDF management*

As regards the method of implementation, the EDF system can be described as a very advanced case of 'decentralised management' to use the terminology of the Financial Regulation applicable to the general budget [1], the powers of implementation being already conferred on the ACP States by the Cotonou Agreement. Most of the funds available are implemented directly by the Member States concerned in the form of specific programmes and projects. The Commission's role includes taking financing decisions on the financing agreements concluded with beneficiary States. Under these agreements, decentralised implementation is carried out largely under their responsibility, although the Commission — through its heads of delegation on the ground and its central departments — provides support and exercises *ex ante* supervision.

This large measure of decentralisation reflects the goals of association and partnership which mark out relations between the ACP countries and the Member States. This is also evident in the joint permanent institutions, which in certain cases have the power to adopt rules that are binding on the partners.

Complex mechanisms and procedures have been developed to such an extent that even the duties of authorising officers are laid down in the Lomé Conventions and in the present Partnership Agreement. Specific provision is made for the very close involvement of the heads of Community delegations in financial management, from the joint preparation of projects through to the endorsement of decisions to award contracts and other requests for funding proposed by the National Authorising officer of the ACP State. There is also a body of rules specific to ACP-EC cooperation concerning the award and performance of contracts [2].

Financial partnership with non-member countries under the EDF is more developed than in any other expenditure programmes administered by the Commission in the external relations field.

5. **Scope for applying the recasting exercise to the EDF**

Provided there are no obstacles in the specific legal arrangements governing the EDF, the same reforms will be applied to the financial management of the EDF as to programmes financed from the general budget. The Commission's proposal seeks, as far as possible, to apply the same rules as will apply to the general budget from 1 January 2003, as described in detail below.

5.1. *Budgetary principles*

In the absence of a budgetary act as defined in Article 4(1) of the Financial Regulation applicable to the general budget, it is not possible to apply the principles of unity, annuality, equilibrium and universality to EDF resources. The principles of specification (Article 3) and transparency (Article 5) are however introduced for the first time and the principle of sound financial management is aligned on the recast Financial Regulation applicable to the general budget (Article 4).

Certain aspects of annuality have, however, been reinforced. Under current regulations the Commission only has to communicate to the Council its 'estimates' of expenditure for the forthcoming year. These estimates must now be published in the Official Journal (Article 5) and include both commitments and payments (Article 8 — until now only the estimates for payments were mandatory). Every payment order must now also mention the financial year to which it is booked (Article 62).

[1] See Articles 53 and 165 of the amended proposal COM(2001) 691.

[2] Decision 3/90 of 29 March 1990 of the ACP-EEC Council of Ministers adopting general regulations and general conditions(OJ L 382, 31.12.1990, p. 1).

5.2. *Financial actors and procedures; function of internal auditor*

The rules applying to financial actors (authorising officer, accounting officer: see Articles 10-11 and 18-37) will be exactly the same as those in the Financial Regulation applicable to the general budget, as will the basic rules for the validation, authorisation and payment of expenditure (Articles 56-69). The rules concerning amounts receivable and the recovery of debts are aligned on those in the rules applicable to the general budget (Articles 42-48). The internal auditor is given the same functions with regard to the EDF as he enjoys in relation to the general budget (see Articles 70-72).

Expenditure already committed under previous EDFs will continue to be managed under the previous financial regulations, but with the exception of centralised *ex ante* financial control which will be discontinued in favour of the new regulation (Article 132). The internal reform will therefore fully encompass the EDF, making it possible to apply — within the Commission — a uniform system across all the expenditure it manages, while respecting the specific duties of the authorising officer as recognised in the ACP-EC Agreement.

5.3 *Commitment of expenditure and methods of management*

The same definitions of the different types of management which exist under the recast Financial Regulation applicable to the general budget are applied to the EDF (see Articles 13-17). The most important category is decentralised management by the ACP States (Article 14). There is also a smaller category of centralised management by the Commission (Article 15) under which the same rules regarding externalisation will apply as for the budget. The rules on the commitment of expenditure (Articles 49-55) are differentiated according to the type of management concerned:

— under centralised management by the Commission, the commitment of expenditure is governed by exactly the same rules as the budget (Articles 49-54, and the same deadlines for implementation apply (Article 54));

— under decentralised management, the financing agreement with the ACP partner State is subject to the same basic rule (conclusion within the deadline of N+1, year N being the year of the financial commitment made by the Commission). Thereafter, the individual legal commitments which implement the financing agreement should also respect the deadline of three years for contractualisation following the financial commitment.

As with the reforms under the recasting of the Financial Regulation applicable to the general budget, implementation of these new rules will have some impact on the Commission's internal organisation and its human resources. The Commission will do its utmost to ensure effective implementation of the new management system, which entails new tasks for its departments both at headquarters and in local delegations. It reserves the right to make all the necessary proposals, including provisions in the Internal Agreement, to ensure it has enough resources at its disposal for administrative expenditure on implementing the EDF.

These proposals should also help achieve other objectives laid down in the Commission communication on the reform of the management of external assistance (SEC(2000) 814 of 16 May 2000). One of the aims should be to ensure that ACP delegations are successfully integrated into the decentralisation process.

5.4. *Contracts and grants*

It is not appropriate to use the EDF Financial Regulation to define the rules applicable to contracts financed by EDF resources. The reason for this is twofold. First, the Cotonou Agreement itself contains extensive rules (Articles 20-31 of Annex IV). Second, the Cotonou agreement reserves the rules on contracts to a specific instrument to be adopted by the joint ACP-EC Council of Ministers (Article 28 of Annex IV). The same provision specifies, however, that the ACP rules must respect EC rules. The Commission has already proposed the specific instrument for ACP contracts (COM(2002) 183 final of 12 April 2002). It proposed to take the existing 1999 RELEX manual on contracts as a basis for negotiation with the ACP countries. Article 3 of the draft ACP-EC decision will allow the ACP rules to be adapted to ensure they conform to the new Financial Regulation applicable to the general budget once it enters into force in January 2003.

In this proposal for the EDF Financial Regulation, the Commission therefore confines itself (Articles 73-79) to certain essential definitions and a reference to the rules which will be adopted by the ACP-EC Council of Ministers (Article 75).

As regards grants, under centralised management by the Commission exactly the same rules will apply as for the general budget (Articles 82-94). Under decentralised management, where the ACP countries award grants, the Commission shall promote the application of the same standards (Article 95).

In line with an undertaking given in the 2000 discharge procedure, the proposal contains rules applicable to direct labour operations ('marchés en régie'), where work normally subject to procurement rules is conducted directly by the ACP State, that is by its ministries or agencies (Articles 80-81). A particular problem posed by this method of implementation is that the ACP States often have recourse to technical assistance offices (TAOs) and this is allowed by the Cotonou Agreement (Article 35(1) of Annex IV). However, Article 81 of the proposal requires the Commission to ensure that the contracts between an ACP State and a TAO contain a series of minimum guarantees. Moreover, where the Commission acts on behalf of the ACP State, the recourse to a TAO will still be prohibited, just as if the Commission was acting on its own behalf (Article 80(3)).

5.5. *Accounts, Court of Auditors and discharge*

The provisions on the accounts (Articles 96-111) and on control and discharge procedures (Articles 112-120) apply the same rules and deadlines as those contained in the recast Financial Regulation applicable to the general budget.

As regards the Court's powers of access, in addition to the provisions of Article 115, Article 52(4) lays down, on the model of the Financial Regulation applicable to the general budget, that all financing agreements must include the right of the Court to have access to all contractors and sub-contractors financed by the EDF and the acceptance of this right is a pre-condition for financing (Article 115(6)).

Another issue in these provisions concerns the rules to be applied to the European Investment Bank. The Internal Agreement (Article 32) gives the Commission responsibility for presenting the accounts of the EDF to the Council. However, the same agreement entrusts the management of the EDF Investment Facility including interest-rate subsidies to the European Investment Bank (see Articles 121-128).

Article 9 makes clear what the respective responsibilities of the EIB and the Commission are under the terms of the Financial Regulation. Article 112 refers to the possibility of updating the tripartite agreement between the Commission, the Court of Auditors and the EIB.

The provisions concerning the contributions of the Member States (Articles 39-41), the accounts, and the control and discharge procedures have therefore been drafted to reflect this new division of responsibilities.

6. **Conclusions**

The Commission has every hope that, by applying to the EDF the same reforms as those contained in the Financial Regulation applicable to the general budget, the financial management of the EDF can become more transparent and more efficient over the long term. This intention of the Commission should also be seen in the context of the eventual inclusion of the EDF in the general budget, an objective to which the Commission remains attached.

For the reasons set out above, the Commission proposes that the attached Financial Regulation applicable to the EDF be adopted.

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty establishing the European Community,

Having regard to the Partnership Agreement between the members of the African, Caribbean and Pacific Group of States of the one part, and the European Community and its Member States, of the other part, signed in Cotonou on 23 June 2000 ([1]),

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 ('Overseas Association Decision') ([2]),

Having regard to the Internal Agreement between Representatives of the Governments of the Member States, meeting within the Council, on the Financing and Administration of Community Aid under the Financial Protocol to the Partnership Agreement between the African, Caribbean and Pacific States and the European Community and its Member States signed in Cotonou (Benin) on 23 June 2000 and the allocation of financial assistance for the overseas countries and territories to which Part Four of the EC Treaty applies, and in particular Article 31 thereof ([3]),

Having regard to the proposal from the Commission,

Having regard to the opinion of the Court of Auditors,

Having regard to the opinion of the European Investment Bank,

Whereas:

(1) It is necessary to determine the detailed rules for the payment of contributions by the Member States to the 9th European Development Fund (hereinafter 'the EDF'), set up by the Internal Agreement between Representatives of the Governments of the Member States, meeting within the Council, on the Financing and Administration of Community aid under the Financial Protocol to the Parnership Agreement between the African, Caribbean and Pacific States and the European Community and its Member States signed in Cotonou (Benin) on 23 June 2000, and to the allocation of financial assistance for the overseas countries and territories to which Part Four of the EC Treaty applies (hereinafter 'the Internal Agreement').

(2) It is necessary to lay down the conditions in accordance with which the Court of Auditors must exercise its powers in respect of the EDF.

(3) Rules should be laid down for the treatment of any balances remaining from previous EDFs, in particular as regards the detailed arrangements for their transfer to the 9th EDF, their allocation to the various cooperation instruments provided for by the Partnership Agreement between the members of the African, Caribbean and Pacific Group of States of the one part, and the European Community and its Member States, of the other part, signed in Cotonou on 23 June 2000 (hereinafter 'the ACP-EC Agreement') or by the Overseas Association Decision, and the rules applicable for their implementation.

(4) It is necessary to ensure consistency as between this Regulation and the measures adopted by the Commission for the implementation of the Overseas Association Decision.

(5) It is appropriate to ensure the proper, prompt and efficient execution of programmes and projects financed under the ACP-EC Agreement and to establish management procedures which are transparent and easy to apply, and which facilitate the decentralisation of tasks and responsibilities.

(6) Decision [. . .] of the ACP-EC Council of Ministers of [. . .] on the implementation of Articles 28, 29 and 30 of Annex IV to the Cotonou Agreement has specified the general regulations and general conditions applicable to works, supply and service contracts financed by the European Development Fund, as well as the rules governing procedure, conciliation and arbitration in relation to such contracts.

(7) It is necessary to establish the detailed rules in accordance with which the Chief Authorising Officer of the EDF, to be appointed by the Commission with responsibility *inter alia* for the clearance of expenditure under the EDF, must, in close cooperation with the National Authorising Officer, make such arrangements as prove necessary to ensure the proper execution of operations.

(8) As far as possible, Council Regulation (EC, Euratom) No [. . .] of [. . .] on the Financial Regulation applicable to the general budget of the European Communities must, as the cornerstone of the reform of the Commission's internal management, be taken into account in drawing up the Financial Regulation for the EDF, particularly with a view to the possible integration of EDF resources into the general budget of the Communities. In the light of the experience acquired from the implementation of this Regulation, the Commission may propose amendments thereto,

([1]) OJ L 317, 15.12.2000, p. 3.

([2]) OJ L 314, 30.11.2001, p. 1.

([3]) OJ L 317, 15.12.2000, p. 355.

HAS ADOPTED THIS REGULATION:

PART ONE

MAIN PROVISIONS

TITLE I

GENERAL PROVISIONS

CHAPTER 1

SUBJECT MATTER AND SCOPE

Article 1

1. This Regulation lays down the rules for the establishment and financial implementation of the resources of the 9th European Development Fund (hereinafter 'the EDF').

2. Unless otherwise specified, references in this Regulation to the ACP States shall be deemed to refer also to the bodies or representatives defined in Articles 13 and 14 of Annex IV to the ACP-EC Agreement, which they may duly mandate to exercise their responsibilities under that Agreement.

CHAPTER 2

PRINCIPLE OF THE UNIT OF ACCOUNT

Article 2

The resources of the EDF shall be established and implemented in euros and the accounts shall be presented in euros.

However, for the treasury management purposes referred to in Article 27 of this Regulation, the accounting officer may carry out operations in euros, in other currencies and in national currencies.

CHAPTER 3

PRINCIPLE OF SPECIFICATION

Article 3

The resources of the EDF shall be earmarked for specific purposes according to the main instruments of cooperation, that is to say, for support for long-term development, support for cooperation and regional integration, and the Investment Facility.

In respect of the African, Caribbean and Pacific States, hereinafter 'the ACP States'), those instruments are laid down by the Financial Protocol set out in Annex I to the ACP-EC Agreement. Earmarking of resources shall also be based on the provisions of the Internal Agreement and shall take account of the non-allocated reserve provided for in Article 2(2) of that Agreement and of the resources reserved for costs linked to implementation under Article 4 thereof.

In respect of the overseas countries and territories, hereinafter 'the OCTs', those instruments are laid down in Annex II A to the Overseas Association Decision. Earmarking of those resources shall also take account of the non-allocated reserve provided for in Article 3(3) of that Annex and of the resources reserved for studies or technical assistance measures under Article 1(1)(c) thereof.

CHAPTER 4

PRINCIPLE OF SOUND FINANCIAL MANAGEMENT

Article 4

1. EDF resources shall be used in accordance with the principles of sound financial management, that is to say, in accordance with the principles of economy, efficiency and effectiveness.

2. The principle of economy requires that the resources used for the pursuit of activities be made available in due time, in appropriate quantity and quality and at the best price.

The principle of efficiency is concerned with the best relationship between resources employed and results achieved.

The principle of effectiveness is concerned with attaining the specific objectives set and achieving the intended results.

3. Objectives shall be set and achievement of those objectives shall be monitored by means of measurable indicators. To that end, the use of EDF resources must be preceded by an *ex ante* evaluation of the operation to be undertaken with a view to ensuring that the intended results justify the means deployed.

4. Programmes or operations shall be periodically examined, particularly in relation to the estimates of calls for contributions referred to in Article 39(1), so that it can be established that they are justified.

CHAPTER 5

PRINCIPLE OF TRANSPARENCY

Article 5

1. The resources of the EDF shall be established and implemented and the accounts presented in compliance with the principle of transparency.

2. The annual estimates of commitments and payments under Article 10 of the Internal Agreement, together with the EDF accounts referred to in Article 96 of this Regulation, shall be published in the *Official Journal of the European Communities*.

TITLE II

COMPOSITION AND STRUCTURE OF EDF RESOURCES

CHAPTER 1

COMPOSITION OF EDF RESOURCES

Article 6

1. The EDF shall consist of:

(a) the amount laid down in Article 1 of the Internal Agreement;

(b) pursuant to Article 1(2)(b) of the Internal Agreement, any balances remaining from previous EDFs as defined in Title I of Part Three of this Regulation.

2. The revenue accruing from interest on the appropriations referred to in paragraph 1 deposited with the paying agents in Europe referred to in Article 37 of Annex IV to the ACP-EC Agreement shall be credited to one or more bank accounts opened in the name of the Commission, and shall be used in accordance with Article 9 of the Internal Agreement and with this Regulation.

3. The breakdown of allocations laid down by the ACP-EC Agreement and by the Internal Agreement is indicated in the Annex to this Regulation for information purposes.

Article 7

The amount laid down in Article 4 of the Internal Agreement shall be reserved for the financing of costs linked to implementation incurred by the Commission in the framework of the ACP-EC Agreement. It shall be utilised in accordance with the principles set out in Article 9 of the Internal Agreement.

Those resources shall be used *inter alia* to reinforce the administrative capacities of the Commission and its Delegations in order to ensure the smooth preparation and implementation of operations financed from the EDF.

CHAPTER 2

CONTRIBUTIONS TO THE EDF

Article 8

1. Each year, the Commission shall establish and communicate to the Council, by 15 October at the latest, a statement of the payments to be made in the following financial year and a schedule of the calls for contributions. In so doing, the Commission shall take into account the estimates submitted to it by the European Investment Bank (EIB), in accordance with Article 121 concerning operations, including interest rate subsidies, managed by the EIB.

The Commission shall justify the amount requested on the basis of its capacity to deliver the proposed level of resources effectively. The EIB shall justify the amount requested on the basis of its operational requirements. The Council shall decide on those justifications and on each call for contributions in accordance with the rules referred to in Article 10 of the Internal Agreement and laid down in Article 39 of this Regulation.

2. As regards balances remaining from previous EDFs which are transferred to the 9th EDF in accordance with Article 6, the contributions of each Member State shall be calculated in proportion to the contribution of that State to the EDF in question.

3. The Commission's annual estimates of contributions shall cover:

(a) its estimates of commitments for the following financial year, and those of the EIB;

(b) its estimates of commitments and disbursements for each of the four years following the year relating to the call for contributions, and those of the EIB. The schedule shall be approved and reviewed annually by the Council.

4. Should the contributions prove insufficient to meet the EDF's actual needs in the financial year in question, any supplementary payments may be decided upon in accordance with Article 10(4) of the Internal Agreement.

5. Payments of contributions by the Member States shall be made in accordance with Article 39.

TITLE III

IMPLEMENTATION OF EDF RESOURCES

CHAPTER 1

GENERAL PROVISIONS

Article 9

1. The Commission shall assume the Community's responsibilities defined in Article 57 of the ACP-EC Agreement and in the Overseas Association Decision. To that end, it shall undertake the financial implementation of operations carried out with EDF resources allocated in the form of non-repayable aid, excluding interest rate subsidies, and make payments in accordance with this Regulation.

In applying this Regulation, the Commission shall act on its own responsibility and within the limits of the resources allocated.

2. The EIB, acting on behalf of the Community, shall manage the Investment Facility, as well as interest rate subsidies, and shall conduct operations thereunder, in accordance with the rules set out in Part Two. In that context, the Bank shall act on behalf of and at the risk of the Community.

The EIB shall undertake the financial implementation of operations carried out by means of loans from its own resources, where applicable combined with interest rate subsidies drawn from the EDF's grant resources.

3. The provisions of this Part, together with those of Part Three, shall apply exclusively to the financial implementation of the EDF resources managed by the Commission. Those provisions may not be interpreted as giving rise to any obligations on the Commission's part in respect of the financial implementation of EDF resources managed by the EIB.

Article 10

The Commission may, within its own departments, delegate its powers to implement EDF resources, in accordance with the conditions laid down by this Regulation and within the limits set by the Commission in the instrument of delegation. Delegates may act only within the limits of the powers expressly conferred upon them.

Article 11

All financial actors as defined in Chapter 3 shall be prohibited from taking any measures implementing EDF resources which may bring their own interests into conflict with those of the Community. Should such a case arise, the actor in question must refrain from such measures and refer the matter to the competent authority.

Article 12

1. In accordance with the procedures laid down for financing proposals in Articles 24(1) and (3) of the Internal Agreement, and in order to speed up those procedures, the Commission shall submit financing proposals concerning the authorisation of overall amounts allocated to the financing of the activities referred to in Article 16(7) of Annex IV to the ACP-EC Agreement. After the proposal has been adopted, the Commission may take financing decisions on the basis of the global authorisation.

2. The financing proposals referred to in paragraph 1 must specify the objectives and, where appropriate, the intended impact of the Community contribution. They must also describe the viability of the activities, previous experience and earlier evaluations, and coordination with other donors.

CHAPTER 2

METHODS OF IMPLEMENTATION

Article 13

The Commission shall undertake the financial implementation of EDF resources by means of decentralised management with the ACP States in accordance with the conditions set out in the ACP-EC Agreement and applying the breakdown of responsibilities provided for in Article 57 of that Agreement and Articles 34, 35 and 36 of Annex IV thereto.

The Commission shall undertake the financial implementation of EDF resources by means of decentralised management with the OCTs in accordance with the conditions set out in the Overseas Association Decision and in the measures implementing that Decision.

In certain specific cases provided for in the ACP-EC Agreement, in the Internal Agreement, in the Overseas Association Decision and in the measures implementing that Decision, the Commission may undertake the financial implementation of EDF resources by centralised management.

In certain specific cases provided for in the ACP-EC Agreement, in the Internal Agreement, in the Overseas Association Decision and in the measures implementing that Decision, the Commission may undertake the financial implementation of EDF resources by means of joint management with international organisations.

EDF resources may also be associated with funds from other sources in order to achieve a joint objective.

Article 14

1. In the context of decentralised management, the Commission shall undertake the financial implementation of EDF resources in accordance with the detailed rules laid down in paragraphs 2, 3 and 4.

2. The Commission and the beneficiary ACP States or OCTs shall:

(a) check regularly that the operations financed by the EDF have been properly implemented;

(b) take appropriate measures to prevent irregularities and fraud and if necessary bring prosecutions to recover funds wrongly paid.

3. In order to ensure that funds are used in accordance with the applicable rules and within the limits of powers thereby conferred upon it, the Commission shall implement clearance of account procedures or financial correction mechanisms enabling it to discharge its obligations under the ACP-EC Agreement, in particular under Article 34(1) of Annex IV thereto, and under the Overseas Association Decision, in particular under Articles 20 and 32 thereof, for the clearance of expenditure financed from EDF resources.

The implementation by ACP States and OCTs of operations financed from EDF resources shall be subject to Commission scrutiny, which may be exercised by prior approval, by *ex post* checks or by a combined procedure, in accordance with the provisions of the ACP-EC Agreement, the Overseas Association Decision and the measures implementing that Decision.

4. Depending on the degree of decentralisation provided for in the ACP-EC Agreement and in the Overseas Association Decision and the measures implementing that Decision, the Commission shall strive to encourage the beneficiary ACP States and the OCTs to adhere, when exercising the powers entrusted to them under the ACP-EC Agreement and under the Overseas Association Decision, to the principle of sound financial management set out in Article 4, in particular the progressive application of the following criteria:

(a) effective segregation of the duties of authorising officer and accounting officer;

(b) existence of an effective system for the internal control of management operations;

(c) separate procedures for the presentation of accounts showing the use made of EDF resources;

(d) existence of an independent, public or private external audit system;

(e) transparent, non-discriminatory procurement procedures which prevent any conflict of interests;

(f) in the case of the direct-labour operations referred to in Article 80(2), adequate provisions for the management and scrutiny of imprest accounts and for the definition of the responsibilities of the imprest administrator and the accounting officer.

For the purposes of applying the first subparagraph, the Commission shall, in agreement with the beneficiary ACP States and OCTs, incorporate appropriate provisions in the financing agreements referred to in Article 52(3).

Article 15

1. Where the Commission implements EDF resources on a centralised basis, implementing tasks shall be performed either directly in its departments or indirectly, in accordance with paragraphs 2 to 7 of this Article and with Articles 16 and 17.

2. The Commission may not entrust to third parties its implementing powers under the ACP-EC Agreement or the Overseas Association Decision where those powers involve a large measure of discretion implying political choices.

The first subparagraph shall apply in particular to the financing decisions provided for in Article 52(2).

3. Subject to the limits laid down in paragraph 2, the Commission may entrust tasks involving the exercise of public authority, in particular financial implementation tasks, to:

(a) the executive agencies referred to in Article 16;

(b) national bodies governed by public law or private sector bodies with a public service mission and offering adequate financial guarantees for the implementation of the tasks assigned to them within the framework defined in this paragraph.

In the case, referred to in point (b) of the first subparagraph, of programmes or projects cofinanced by the Member States or their implementing bodies and reflecting the priorities laid down in the Country Cooperation Strategies provided for in Chapter III of the Internal Agreement and in Article 20 of the Overseas Association Decision, the Commission may entrust responsibility for managing Community aid to Member States or to their implementing bodies. The Commission may draw on the EDF resources provided for in Article 1(2)(a)(i) and (ii) of the Internal Agreement in order to pay financial compensation for the administration costs incurred.

Implementing tasks may be entrusted to the bodies referred to in point (b) of the first subparagraph only if a prior analysis shows that the delegation of such tasks is the best way of meeting the requirements of sound financial management, if the principle of non-discrimination is applied and if the visibility of the Community's contribution is fully guaranteed. The implementing tasks thus delegated must not give rise to conflicts of interests. If the analysis indicates that the delegation of tasks will meet the needs of sound financial management, the Commission shall request the opinion of the EDF Committee provided for in Article 21 of the Internal Agreement before proceeding to implement such delegation. The EDF Committee may also give its views on the planned application of the selection criteria.

The financial guarantees referred to in point (b) of the first subparagraph shall apply *inter alia* to the full recovery of any amounts payable by the bodies concerned.

4. Where indirect methods of implementation are used, as provided for in paragraph 3, the implementing tasks entrusted must be clearly defined and supervised. The bodies responsible for implementation shall:

(a) conduct regular checks to ensure that the operations to be financed have been implemented correctly;

(b) take appropriate measures to prevent irregularities and fraud and if necessary bring prosecutions to recover funds lost, wrongly paid or badly used.

5. The decisions, referred to in paragraph 3, entrusting implementing tasks shall cover all appropriate arrangements for ensuring the transparency of operations carried out and must provide for:

(a) an independent external audit;

(b) an effective internal control system for management operations;

(c) accounting arrangements for those operations and procedures for the presentation of the accounts which will enable the correct use of EDF resources to be ascertained and the true extent of that use to be reflected in the accounts;

(d) procurement and grant award procedures which comply with the provisions of Titles IV and VI.

The Commission may accept that the audit, accounting and procurement systems of the national bodies referred to in paragraph 3 are equivalent to its own, with due account for internationally accepted standards.

6. The Commission shall ensure periodic supervision, evaluation and control of the implementation of the tasks entrusted to the bodies referred to in paragraph 3. The European Anti-Fraud Office (OLAF) shall enjoy the same powers with regard to such bodies as it does with regard to Commission departments. The bodies in question shall adopt the necessary measures to help OLAF carry out internal investigations. Any act undertaken by such bodies for the financial implementation of EDF resources, and in particular any decision or any contract concluded by them, must specifically provide for the same controls as Article 52(4).

7. The Commission may not entrust measures implementing funds deriving from EDF resources, such as payment and recovery, to external private sector entities or bodies other than those referred to in point (b) of the first subparagraph of paragraph 3.

The tasks which the Commission may entrust by contract to external private sector entities or bodies other than those referred to in point (b) of the first subparagraph of paragraph 3 shall be technical expertise tasks and administrative, preparatory or ancillary tasks involving neither the exercise of public authority nor the use of discretionary power.

Article 16

The executive agencies shall be legal persons under Community law created by Commission decision, to which power may be delegated to implement all or part of a Community programme or project on behalf of the Commission and on its responsibility, in accordance with the Council Regulation laying down the statute for executive agencies to be entrusted with certain tasks relating to the management of Community programmes.

Article 17

In the context of joint management with international organisations, the latter shall, in their accounting, audit, control and procurement procedures, apply standards which offer guarantees equivalent to internationally accepted standards. The implementation by international organisations of operations financed from EDF resources shall be subject to scrutiny by the Commission. Such scrutiny shall be exercised by prior approval, by *ex post* checks or by a combined procedure.

CHAPTER 3

FINANCIAL ACTORS

Section 1

Principle of segregation of duties

Article 18

1. The duties of authorising officer and accounting officer shall be segregated and mutually incompatible.

2. Save where otherwise indicated, references in this Regulation to the authorising officer or to the authorising officer responsible shall be deemed to refer to the Commission's authorising officers defined in Section 2. References to the accounting officer shall be deemed to refer to the Commission's accounting officers defined in Section 3.

Section 2

Authorising officer

Article 19

1. In the context of the financial implementation of the operations referred to in Article 9(1), the Commission shall perform the duties of authorising officer.

2. The Commission shall determine the staff of an appropriate level to whom it shall delegate the duties of authorising officer, and shall delimit the powers delegated and the circumstances in which delegates may subdelegate those powers.

3. In accordance with Article 34 of Annex IV to the ACP-EC Agreement, the Commission shall appoint an authorising officer by delegation as Chief Authorising Officer of the EDF. It shall also define his duties in respect of the implementation of the Overseas Association Decision. The Chief Authorising Officer may delegate his powers to authorising officers by subdelegation.

4. The powers of authorising officer shall be delegated or subdelegated only to persons covered by the Staff Regulations of officials and the conditions of employment of other servants of the European Communities (hereinafter 'the Staff Regulations').

5. The rules on spheres of competence adopted in this Title shall apply to authorising officers by delegation or subdelegation. Authorising officers by delegation or subdelegation may act only within the limits set by the instrument of delegation or subdelegation. Each delegation or subdelegation decision shall indicate the limits and, where appropriate, the duration of the delegation. The authorising officer by delegation or subdelegation may be assisted in his task by one of more members of staff entrusted, under the responsibility of the former, with certain operations required for the implementation of the budget and production of the accounts.

6. Decisions taken pursuant to paragraphs 2, 3 and 5 shall be notified to the delegates, the accounting officer, the internal auditor and the Court of Auditors.

Article 20

The authorising officer entrusted with the management of EDF resources shall be responsible for implementing revenue and expenditure in accordance with the principle of sound financial management and for ensuring that the requirements of legality and regularity are complied with.

Article 21

1. To implement expenditure, the Chief Authorising Officer and authorising officers by subdelegation shall make commitments, validate expenditure and authorise payments and shall undertake the preliminaries for the implementation of EDF resources.

2. Implementation of revenue shall comprise drawing up estimates of amounts receivable, establishing entitlements to be recovered and issuing recovery orders. It shall involve waiving established entitlements where appropriate.

Article 22

1. Save in cases where management is centralised, operations relating to the implementation of programmes or projects shall be carried out by the national or regional authorising officer, as defined in Article 35 of Annex IV to the ACP-EC Agreement and in the measures implementing the Overseas Association Decision, in close cooperation, in the ACP States, with the head of delegation in accordance with Articles 35 and 36 of Annex IV to the ACP-EC Agreement.

2. The head of delegation shall be an authorising officer by subdelegation and, in exercising the powers delegated to him, he shall be subject to this Regulation. He shall receive the necessary instructions and powers to perform his duties as defined in Article 36 of Annex IV to the ACP-EC Agreement and in the measures implementing the Overseas Association Decision.

Article 23

1. The Chief Authorising Officer shall take all measures necessary for the implementation of Annex IV to the ACP-EC Agreement and Articles 18 and 33 of the Overseas Association Decision and Annexes II A to II D thereto.

2. The Chief Authorising Officer shall take all measures necessary to ensure that national, regional or local authorising officers perform the tasks for which they are responsible by virtue of the ACP-EC Agreement, and in particular Annex IV thereto, and by virtue of the Overseas Association Decision or measures implementing that Decision. In close cooperation with the National Authorising Officer, he shall take such commitment decisions and financial measures as prove necessary, from an economic and technical point of view, to ensure the proper execution of operations.

Article 24

Where the Chief Authorising Officer becomes aware of problems in carrying out procedures relating to management of EDF resources, he shall, in conjunction with the national or regional authorising officer, make all contacts necessary to remedy the situation and take any steps appropriate. For instance, in cases where the national or regional authorising officer does not or is unable to perform the duties incumbent on him under the ACP-EC Agreement, the Chief Authorising Officer may temporarily take his place, in which case, the Commission may receive, from the resources allocated to the ACP State in question, financial compensation for the extra administrative workload incurred.

Any measure taken by the Chief Authorising Officer pursuant to the first paragraph shall be taken in the name of and on behalf of the national or regional authorising officer concerned.

Article 25

1. In compliance with the minimum standards adopted by the Commission and having due regard to the risks associated with the management environment and the nature of the operations financed, the Chief Authorising Officer shall put in place the organisational structure and the internal management and control systems and procedures suited to the performance of his duties, including where appropriate *ex post* checks. Before an operation is authorised, the operational and financial aspects shall be verified by staff other than the member of staff who initiated the operation. Initiation of an operation and the *ex ante* and *ex post* verification of that operation shall be separate functions.

2. All staff responsible for controlling the management of financial operations must have the necessary professional skills. They shall respect a specific code of professional standards established by the Commission.

3. Any member of staff involved in the financial management and control of operations who considers that a decision which his superior requires him to apply or to agree to is irregular or contrary to the principles of sound financial management or the professional rules by which he is bound shall inform the Chief Authorising Officer in writing and, if the latter fails to take action, the panel referred to in Article 36(3). In the event of fraud, corruption or any other illegal activity which may harm the interests of the Community, he shall inform OLAF and the authorities designated by the Staff Regulations.

Article 26

The Chief Authorising Officer shall report to the Commission on the performance of his duties in the form of an annual activity report, which shall include financial and management information. The report shall cover the results of his operations by reference to the objectives set, the risks associated with those operations, the use made of the resources provided and the functioning of the internal control system. The annual activity report and other specified information shall be brought to the attention of the internal auditor of the Commission. By 15 June each year at the latest, the Commission shall send the European Parliament and the Council a summary of the annual activity report for the previous year.

Section 3

Accounting officer

Article 27

1. The accounting officer shall be responsible for:

(a) proper implementation of payments, collection of revenue and recovery of amounts established as being receivable;

(b) preparing and presenting the financial statements and reports on financial implementation in accordance with Articles 100 and 101;

(c) keeping the accounts for:

(i) the allocations referred to in Article 6, except those for the Investment Facility, and interest rate subsidies;

(ii) the commitments referred to in Article 52;

(iii) payments, revenue and debts;

(d) laying down, in accordance with Title VII, the accounting rules and methods and the chart of accounts;

(e) defining and validating the accounting systems and, where appropriate, validating systems defined by the Chief Authorising Officer for the purpose of supplying or explaining accounting information;

(f) treasury management.

2. The accounting officer shall obtain from the Chief Authorising Officer and from the EIB, who shall, each for their own part, guarantee its reliability, all the information necessary for the production of accounts giving a true image of the financial implementation of EDF resources.

3. The accounting officer is alone empowered to handle monies and other assets. He shall be responsible for their safekeeping.

Article 28

The accounting officer shall be appointed by the Commission. The accounting officer may, for the performance of his duties, delegate certain tasks to subordinates who are subject to the Staff Regulations. The instrument of delegation shall define the tasks entrusted to the delegates.

Decisions taken pursuant to the first paragraph shall be notified to the delegates, the Chief Authorising Officer, the internal auditor and the Court of Auditors.

Section 4

Paying agent

Article 29

In order to make the payments provided for in Article 37(1) and (4) of Annex IV to the ACP-EC Agreement or in the measures implementing the Overseas Association Decision, the accounting officer shall open accounts with financial institutions in the ACP States and the OCTs, for payments in the national currencies of the ACP States or in the local currencies of the OCTs, and with financial institutions in the Member States, for payments in euros and other currencies. Subject to Article 37(2) of Annex IV to the ACP-EC Agreement, deposits in those accounts shall bear interest. Such interest shall be credited to the one of the accounts provided for in Article 1(3) of the Internal Agreement.

Article 30

The relations between the Commission and the paying agents provided for in Article 37 of Annex IV to the ACP-EC Agreement or in the measures implementing the Overseas Association Decision shall be the subject of contracts. Once signed, copies of those contracts shall be sent to the Court of Auditors for information purposes.

Article 31

1. The Commission shall transfer from the special accounts opened pursuant to Article 41(3) the amounts needed to replenish the accounts opened in its name in accordance with Article 29. Such transfers shall be made on the basis of the cash needs of the projects and programmes.

2. The Commission shall endeavour to make any withdrawals from the special accounts referred to in the first subparagraph of Article 41(3) in such a way as to maintain a distribution of its assets in those accounts corresponding to the proportions in which the various Member States contribute to the EDF.

Article 32

The signatures of the Commission officials and staff who are empowered to carry out operations on the EDF's accounts shall be lodged with the banks concerned when the accounts are opened or, in the case of officials and staff who are authorised subsequently, when they are designated. That procedure also applies to the lodging of signatures of national and regional authorising officers and their deputies for operations in paying agent accounts opened in the ACP States or the OCTs and, where appropriate, in the accounts opened in the Member States.

CHAPTER 4

LIABILITY OF THE FINANCIAL ACTORS

Section 1

General rules

Article 33

1. Without prejudice to any disciplinary action, the Chief Authorising Officer and authorising officers by subdelegation may at any time have their delegation or subdelegation withdrawn temporarily or definitively by the authority which appointed them.

2. Without prejudice to any disciplinary action, accounting officers may at any time be suspended temporarily or definitively from their duties by the Commission.

Article 34

1. The provisions of this Chapter are without prejudice to the criminal law liability which the persons referred to in Article 33 may incur under the applicable national law and the legislation in force on the protection of the European Communities' financial interests and on the fight against corruption involving officials of the European Communities or officials of Member States.

2. Each authorising officer or accounting officer shall be liable to disciplinary action and payment of compensation as provided for in the Staff Regulations, without prejudice to Articles 35, 36 or 37 of this Regulation. In the event of fraud, corruption or any other illegal activity which may harm Community interests, OLAF and the authorities designated by the Staff Regulations shall be informed.

Section 2

Rules applicable to authorising officers

Article 35

Authorising officers shall be liable to pay compensation in accordance with the conditions laid down in the Staff Regulations, under which an official may be required to make good, in whole or in part, any damage suffered by the Communities as a result of serious misconduct on his part in the course of or in connection with the performance of his duties, in particular in the event of failure to comply with the Financial Regulation and the rules for its implementation when establishing entitlements to be recovered or issuing recovery orders, entering into a commitment of expenditure or signing a payment order. The same shall apply if they omit to draw up a document establishing a debt or if they neglect to issue recovery orders or are, without justification, late in issuing them, or if they neglect to issue payment orders or are, without justification, late in issuing them, thereby rendering the institution liable to civil action by third parties.

Article 36

1. Where the Chief Authorising Officer or an authorising officer by subdelegation considers that a decision which it is his responsibility to take is irregular or contrary to the principles of sound financial management, he shall inform the delegating authority in writing. If the delegating authority then gives a reasoned instruction in writing to the Chief Authorising Officer or authorising officer by subdelegation to take the decision in question, the latter may not be held liable.

2. In the event of internal subdelegation, the Chief Authorising Officer shall continue to be responsible for the effectiveness of the internal management and control systems put in place and for the choice of the authorising officer by subdelegation.

3. The specialised panel set up by the Commission in accordance with Regulation (EC, Euratom) No [. . .] (hereinafter 'the General Financial Regulation'), shall have competence to determine, in relation to the EDF, whether a financial irregularity has occurred and, if so, the consequences entailed, if any. In respect of the management of EDF resources by the Commission, cases shall be referred to that panel as provided for in the detailed rules for implementing the General Financial Regulation.

On the basis of the panel's opinion, the Commission shall decide whether to initiate proceedings entailing liability to disciplinary action or to payment of compensation. If the panel detects systemic problems, it shall send a report with recommendations to the Chief Authorising Officer and to the internal auditor.

Section 3

Rules applicable to accounting officers

Article 37

An accounting officer shall be liable to disciplinary action and payment of compensation, as provided for and in accordance with the procedures laid down in the Staff Regulations, in particular where:

(a) he loses or damages monies, assets and documents in his keeping;

(b) he unduly alters bank accounts or postal giro accounts;

(c) he recovers or pays amounts which are not in conformity with the corresponding recovery or payment orders;

(d) he fails to collect revenue due.

CHAPTER 5

REVENUE OPERATIONS

Section 1

Making available of EDF resources

Article 38

EDF revenue consists of payments made by the Member States in accordance with the Internal Agreement and this Regulation, the income generated by deposits in accordance with Article 6(2) of this Regulation and any other sum whose acceptance is established by the Council and which must be earmarked for the same purposes as the resources defined in Articles 6(2) and 7 of this Regulation.

Article 39

1. The Member States' annual contributions shall be determined by the Council, acting by the qualified majority provided for in Article 21 of the Internal Agreement, on a proposal from the Commission, and shall consist of four instalments payable on:

(a) 20 January;

(b) 1 April;

(c) 1 July;

(d) 1 November.

The Commission shall lay the relevant proposals before the Council no later than 15 days before the due dates.

Supplementary contributions for the financial year decided on by the Council in accordance with Article 10(4) of the Internal Agreement shall, unless the Council decides otherwise, be due and be made within as brief a period as possible which shall be laid down in the decision to call for such contributions and which may not exceed three months.

2. Each call for contributions shall specify, in accordance with Article 9:

(a) the amount of the contributions required to finance the EDF operations managed by the Commission;

(b) the amount of the contributions required to finance the EDF operations managed by the EIB, including interest rates subsidies.

3. The amounts to be paid by each Member State and referred to in paragraph 2 of this Article shall be set in such a way as to be in proportion to that State's contributions to the EDF as fixed in Article 1(2) of the Internal Agreement and indicated in the Annex to this Regulation, for each of the amounts referred to in paragraph 2 of this Article.

Article 40

This Part and Part Three shall apply only to revenue collected by the Commission pursuant to Article 41.

Article 41

1. The financial contributions of the Member States shall be expressed in euros.

2. Each Member State shall pay the amount of its contribution in euros.

3. In respect of the amount due to the Commission under Article 39(2)(a), financial contributions shall be credited by each Member State to a special account entitled 'Commission of the European Communities — European Development Fund' opened with the bank of issue of that Member State or the financial institution designated by it. The amount of such contributions shall remain in those special accounts until the payments provided for in Article 37 of Annex IV to the ACP-EC Agreement or in the measures implementing the Overseas Association Decision need to be made.

In respect of the amount due to the EIB under Article 39(2)(b), financial contributions shall be credited by each Member State, in accordance with the detailed rules laid down in Article 122, to an account opened with the EIB in the name of each Member State.

Where necessary, the Commission shall provide appropriate technical assistance in the implementation of the Council decisions referred to in Article 39.

4. Where an instalment of contributions payable under this Article is not paid on the due date, the Member State concerned shall be required to pay interest in respect of the unpaid amount at a rate of two percentage points above the interest rate applied by the European Central Bank to its main refinancing operations, as published in the C series of the *Official Journal of the European Community*, on the first working day of the month in which the amount falls due. That rate shall be increased by a quarter of a percentage point for each month of delay. The increased rate shall be applicable to the entire period of delay.

In respect of the amount due to the Commission under Article 39(2)(a), such late payment interest shall be credited to one of the accounts provided for in Article 6(2).

In respect of the amount due to the EIB under Article 39(2)(b), such late payment interest shall be credited to the EIB.

5. Upon expiry of the financial protocol set out in Annex I to the ACP-EC Agreement, that part of the contributions which the Member States remain obliged to pay in accordance with Article 39 of this Regulation shall be called up by the Commission, as required, in accordance with the conditions laid down in this Regulation.

Section 2

Estimates of amounts receivable

Article 42

The authorising officer responsible shall first make an estimate of the amount receivable in respect of any measure or situation which may give rise to or modify an amount owing to the EDF and is brought to the Commission's attention by the National Authorising Officer or is noticed by the Commission itself. Such estimates shall be sent to the accounting officer for recording in the accounts. They shall mention the type of revenue and the budget item to which it is to be booked and also, as far as possible, the estimated amount involved and the name and description of the debtor. When drawing up estimates of amounts receivable, the accounting officer responsible shall check that:

(a) the revenue is booked to the correct item;

(b) the estimated amount receivable is in order and conforms to the relevant provisions relating to the management of the EDF and all acts adopted pursuant thereto and to the principle of sound financial management referred to in Article 4.

Section 3

Establishment of amounts receivable

Article 43

Establishment of an amount receivable is the act by which the authorising officer responsible:

(a) verifies that the debt exists;

(b) determines or verifies the reality and the amount of the debt;

(c) verifies the conditions in which the debt is due.

Section 4

Principle of recovery

Article 44

1. Amounts wrongly paid shall be recovered.

2. The Commission shall lay down the conditions in which interest on late payment is due to the Communities.

Section 5

Authorisation of recovery

Article 45

1. The authorisation of recovery is the act whereby the authorising officer responsible instructs the accounting officer, by issuing a recovery order, to recover an amount receivable which he has established.

2. Without prejudice to the responsibilities of the ACP States or the OCTs, the Commission may formally establish an amount as being receivable from persons other than States by means of a decision which shall be enforceable within the meaning of Article 256 of the Treaty.

Article 46

Every debt that is identified as being certain, of a fixed amount and due in the context of the implementation of EDF resources shall be established by means of a recovery order given to the accounting officer, followed by a debit note sent to the debtor, both drawn up by the authorising officer responsible. The recovery order shall be accompanied by supporting documents certifying the established entitlements. When drawing up the recovery order, the authorising officer responsible shall ensure that:

(a) the revenue is booked to the correct item;

(b) the recovery order is in order and conforms to the relevant provisions;

(c) the supporting documents are in order;

(d) the particulars of the debtor are correct;

(e) the due date is indicated;

(f) the order conforms to the principle of sound financial management referred to in Article 4;

(g) the amount and currency of the sum to be recovered are correct.

Such recovery orders shall be recorded in the accounts by the accounting officer.

Section 6

Recovery

Article 47

1. The accounting officer shall act on recovery orders for amounts receivable that have been duly established by the authorising officer responsible. He shall exercise due diligence to ensure that the EDF receives its revenue by the due dates indicated in the recovery orders and ensure that the relevant rights of the Communities are safeguarded.

2. If recovery has not actually taken place by the due date specified in the recovery order, the accounting officer shall inform the authorising officer responsible and immediately initiate the procedure for effecting recovery by any means offered by the law, including, where appropriate, by offsetting or, if this is not possible, by enforced recovery.

3. The accounting officer shall recover amounts by offsetting them against equivalent claims that the EDF or the Communities has on any debtor who himself has a claim on the EDF or the Communities that is certain, of a fixed amount and due.

4. In connection with the direct labour operations referred to in Title V, where claims that the EDF has on the National Authorising Officer via the public or semi-public bodies or departments of the ACP State or OCT concerned are not recovered within the prescribed time-limits, the authorising officer responsible shall take all the necessary measures to obtain actual repayment of the sums due, including, where appropriate, suspension by the Chief Authorising Officer of the use of that type of arrangement for that State or OCT.

Article 48

1. Where the authorising officer responsible is planning to waive recovery of an established amount receivable, he shall ensure that the waiver is in order and complies with the principles of sound financial management and proportionality in accordance with procedures and criteria previously laid down by the Commission for that purpose. The waiver decision must be substantiated and taken by the Chief Authorising Officer, who may delegate the decision only as laid down by the Commission.

2. The detailed rules for implementing the General Financial Regulation shall apply *mutatis mutandis* to the implementation of this Article.

CHAPTER 6

EXPENDITURE OPERATIONS

Section 1

General provisions

Article 49

1. Every item of expenditure shall be committed, validated, authorised and paid.

2. The decisions and procedures for commitment of expenditure by the Commission are defined in this Chapter.

Section 2

Commitment of expenditure: principles and definitions

Article 50

The commitment of expenditure shall be preceded by a financing decision adopted by the Commission or by the authorities delegated by the Commission.

Article 51

1. The financial commitment by the Commission is the operation reserving the appropriation necessary to cover subsequent payments to honour a legal commitment.

The legal commitment by the Commission is the act whereby the authorising officer responsible enters into an obligation with regard to third parties which may result in expenditure being charged to the EDF.

The financial commitment and the legal commitment shall be adopted by the same authorising officer. That rule may be waived:

(a) in the case of administrative expenditure incurred by the Commission within the meaning of paragraph 4 in respect of which the financial commitments have been divided in accordance with paragraph 3;

(b) where global commitments relate to financing agreements under Article 52(3).

2. The Commission's financial commitment is individual when the beneficiary and the amount of the expenditure are known.

The Commission's financial commitment is global when at least one of the elements necessary to identify the individual commitment is still not known.

3. Financial commitments for Commission administrative expenditure may be divided over several years into annual instalments. The corresponding legal commitments shall stipulate that division.

4. The following shall be regarded as administrative expenditure for the purposes of point (a) of the third subparagraph of paragraph 1:

(a) expenditure on human resources other than regular staff;

(b) training expenditure;

(c) mission expenses;

(d) representation expenses;

(e) meeting expenses;

(f) expenses relating to freelance interpreters and/or translators;

(g) expenses relating to exchanges of officials;

(h) cost of recurring rentals of movable and immovable property;

(i) cost of miscellaneous insurance;

(j) cost of cleaning and maintenance;

(k) costs related to the use of telecommunications services;

(l) cost of water, gas and electricity;

(m) outlay for periodical publications.

Article 52

1. The authorising officer responsible must first make a financial commitment before entering into a legal obligation, binding upon the the Commission, with third parties.

2. Financing decisions taken by the Commission, in accordance with the ACP-EC Agreement or the Overseas Association Decision, which authorise it to grant financial aid from the EDF, shall give rise to financial commitments by the Commission.

3. The following shall constitute legal commitments by the Commission:

(a) a financing agreement between the Commission, acting for the Community, and the beneficiary ACP State or States or the beneficiary OCTs or the bodies they have designated;

(b) a contract or grant agreement between the Commission and national or international public-sector bodies or natural or legal persons responsible for carrying out the operations.

4. Each financing agreement, contract or grant agreement shall provide expressly for the Commission, including OLAF, and the Court of Auditors, to exercise their powers of control, on documents and on the spot, over all contractors and subcontractors who have received financing from EDF resources.

Article 53

When adopting a financial commitment, the authorising officer responsible shall ensure that:

(a) the expenditure has been charged to the correct item in the budget;

(b) the appropriations are available;

(c) the expenditure conforms to the relevant provisions, in particular of the ACP-EC Agreement, the Overseas Association Decision, the Internal Agreement, this Regulation, and all acts adopted in implementation of those provisions;

(d) the principle of sound financial management is complied with.

Section 3

Commitment of expenditure under centralised management

Article 54

1. Where EDF resources are managed by the Commission on a centralised basis or jointly, the commitment of expenditure shall be subject to the provisions of this Section.

2. Individual legal commitments relating to individual financial commitments shall be concluded by the Commission by 31 December of year N at the latest, year N being the year in which the Commission's individual financial commitment was adopted, subject to Article 51(3).

As a general rule, global financial commitments shall cover the total cost of the corresponding individual legal commitments concluded by the Commission up to 31 December of year N+1, year N being the year in which the Commission's global financial commitment was adopted, subject to Article 51(3).

However, where the global commitments referred to in Article 52(3) are implemented, the Commission shall conclude the corresponding individual contracts and agreements by no later than three years from the date of the financial commitment. Individual contracts and agreements relating to audit and evaluation may be concluded later.

At the end of the periods referred to in the first and second subparagraphs, the unused balance of those financial commitments shall be decommitted by the authorising officer responsible.

3. The amount of each individual legal commitment adopted by the Commission following a global commitment shall, prior to signature, be registered by the authorising officer responsible in the EDF financial accounts and booked to the global commitment.

4. The legal commitments entered into for operations extending over more than one financial year and the corresponding financial commitments shall have a final date for implementation set in accordance with the requirements of sound financial management, save in the case of the administrative expenditure referred to in Article 51(3).

Any parts of such commitments which have not been implemented six months after that date shall be decommitted and the corresponding appropriations cancelled.

Where a legal commitment has not given rise to any payment during a period of three years, the authorising officer shall proceed to decommit the financial commitment and cancel the appropriations.

5. The termination of a project and the decommitment of the funds committed in accordance with paragraphs 1 to 4 shall be carried out when the legal commitments entered into by the Commission in connection with that project with respect to third parties are concluded and the related payments and collections have been recorded in the accounts.

Section 4

Commitment of expenditure under decentralised management

Article 55

1. Where EDF resources are managed on a decentralised basis, the commitment of expenditure by the Commission shall be subject to the provisions of this Section.

2. Financing agreements with the beneficiary ACP States or OCTs shall be concluded by 31 December of year N+1 at the latest, N being the year in which the Commission's financial commitment was adopted.

Where financing agreements are not concluded by the deadline laid down in the first subparagraph, the corresponding appropriations shall be decommitted.

3. The Commission shall be under an obligation to effect payment from EDF resources whenever the head of delegation, acting as authorising officer by subdelegation:

(a) endorses contracts and programme estimates, as provided for in Article 80(4) of this Regulation, in accordance with Article 36(2)(i) of Annex IV to the ACP-EC Agreement, or the relevant provisions of the measures implementing the Overseas Association Decision,

(b) endorses grant agreements.

In respect of each endorsement the authorising officer responsible shall record in the accounts the value of the contract, programme estimate or grant in question. This recording shall be called 'assigned funds'.

The assigned funds recorded shall be set off by the Commission against the global commitments corresponding to the financing decisions concerned.

4. In accordance with the principle of sound financial management referred to in Article 4 and acting within its powers, the Commission shall endeavour to see that:

(a) the individual legal commitments implementing the financing agreements referred to in paragraph 2 are concluded no later than three years from the date of the corresponding financial commitment by the Commission;

(b) the assigned funds corresponding to individual legal commitments entered into for the implementation of a financing agreement referred to in paragraph 2 which have not given rise to any payment during a period of three years are decommitted.

Individual legal commitments as referred to in the first subparagraph shall be contracts, grant agreements or programme estimates concluded by the ACP State or OCT or its authorities or by the Commission acting in their name and on their behalf.

For the purposes of applying the first and second subparagraphs, the Commission shall, in agreement with the beneficiary ACP States and OCTs, incorporate relevant provisions in the financing agreements referred to in paragraph 2.

5. The termination of a project and the decommitment of the funds committed in accordance with paragraphs 1 to 4 shall be carried out after conclusion of the legal commitments entered into by the ACP State or OCT or its authorities, and/or by the Commission acting in their name and on their behalf in connection with that project with respect to third parties, and after the related payments and collections have been recorded in the accounts.

Section 5

Validation of expenditure

Article 56

Validation of expenditure is the act whereby the authorising officer responsible:

(a) verifies the existence of the creditor's entitlement;

(b) determines or verifies the reality and the amount of the claim;

(c) verifies the conditions in which payment is due.

Article 57

1. Validation of any expenditure shall be subject to the existence of valid supporting documents attesting the creditor's entitlement, on the basis of a statement of services actually rendered, supplies actually delivered or work actually carried out or on the basis of other documents justifying payment. The nature of the supporting documents to be enclosed with the payment orders and the particulars to be included shall be such as to make it possible to carry out the checks provided for in Articles 56, 59 and 61.

2. Before taking the decision validating the expenditure, the authorising officer responsible shall personally check the supporting documents or shall, on his own responsibility, ascertain that this has been done.

3. The decision validating the expenditure shall be expressed by the signing of a 'passed for payment' voucher by the authorising officer responsible.

Article 58

The Chief Authorising Officer shall lay down the criteria for signing the 'passed for payment' voucher by analogy with the relevant provisions of the detailed rules for the implementation of the General Financial Regulation.

Article 59

In a non-computerised system, 'passed for payment' shall take the form of a stamp incorporating the signature of the authorising officer responsible. In a computerised system, 'passed for payment' shall take the form of validation using the personal password of the authorising officer responsible.

Section 6

Authorisation of expenditure

Article 60

Authorisation of expenditure is the act whereby the authorising officer responsible, by issuing a payment order, instructs the accounting officer to pay an item of expenditure which he has validated.

Article 61

When drawing up the payment order, the authorising officer responsible shall ensure that:

(a) the payment order has been properly issued, in that a corresponding validation decision has been taken previously in the form of 'passed for payment';

(b) the payment order corresponds to the financial commitment against which it is booked;

(c) the expenditure is charged to the correct item in the accounts;

(d) the appropriations are available;

(e) the particulars of the payee are correct.

Article 62

The payment order must state:

(a) the financial year against which the expenditure is to be booked;

(b) the instrument and allocation against which it is to be booked in accordance with Article 3;

(c) the references of the legal commitment giving rise to an entitlement to payment;

(d) the references of the financial commitment against which it is to be booked;

(e) the references of any other payment orders booked previously against the same financial commitment;

(f) the sum to be paid in figures, indicating the currency in which it is to be paid;

(g) the name and address of the payee;

(h) the bank account into which the payment is to be made;

(i) the object of the expenditure;

(j) the means of payment.

The payment order shall be dated and signed by the authorising officer responsible, then sent to the accounting officer.

Article 63

The supporting documents shall be kept by the authorising officer responsible.

Section 7

Payment of expenditure

Article 64

1. Payment shall be made only on production of proof that the relevant action has been carried out in accordance with the provisions of the basic act or the contract and shall cover one or more of the following operations:

(a) payment of the entire amount due;

(b) payment of the amounts due in any of the following ways:

(i) pre-financing, which may be divided into a number of payments,

(ii) one or more interim payments,

(iii) payment of the balance of the amounts due.

2. A distinction shall be made in the accounts between the different types of payment referred to in paragraph 1 at the time they are made.

3. Pre-financing shall count in full or in part against the interim payments referred to in paragraph 1(b)(ii).

4. The total sum of pre-financing and interim payments shall count against the payment of the balances referred to in paragraph 1(b)(iii).

Article 65

Payment of expenditure shall be made by the accounting officer within the limits of the funds available.

Article 66

Payments shall be effected through the bank accounts referred to in Article 29. The detailed rules for opening, administering and using such accounts shall be determined by the Commission.

Those rules shall in particular require the joint signatures on transfer orders of two duly authorised officials, one of whom must be the accounting officer. They shall also specify the expenditure in respect of which payment must necessarily be made either by cheque or by transfer.

Article 67

1. In cases where the head of delegation performs the duties of authorising officer by subdelegation in accordance with Article 22(2), the corresponding payments may be effected by an accounting officer by subdelegation, where appropriate on the spot.

The accounting officer may effect payments in local currency from the paying agent account in the ACP State or OCT and, where appropriate, payments in foreign currency from one or more paying agent accounts in the Community.

2. For payments made by the accounting officer by subdelegation, the authorising officer responsible shall ensure that appropriate checks are carried out either before or after their execution and on their entry in the accounts.

Section 8

Time limits for expenditure operations

Article 68

The validation, authorisation and payment of expenditure must be completed within a period of no more than 90 days from the date on which payment is due. The National Authorising Officer shall authorise the expenditure and notify the head of delegation accordingly no later than 45 days before that time limit expires.

Claims for delayed payments for which the Commission is responsible in accordance with Article 37 of Annex IV to the ACP-EC Agreement shall be borne by the Commission from the account or accounts provided for in Article 6(2) of this Regulation.

CHAPTER 7

COMPUTER SYSTEMS

Article 69

1. Where revenue and expenditure operations are managed by means of computer systems, documents may be signed by a computerised or electronic procedure.

2. Where computer systems and subsystems are used to process financial implementation operations, a full description of each system or subsystem shall be required.

Each description shall define the content of all data fields and describe how the system treats each individual operation. It shall show in detail how the system guarantees the existence of a complete audit trail for each operation.

3. The data in computer systems and subsystems shall be saved periodically and kept in a safe place.

CHAPTER 8

INTERNAL AUDITOR

Article 70

The internal auditor of the EDF shall be the internal auditor of the Commission. He shall perform his duties in accordance with the relevant international standards. He shall be accountable to the Commission for verifying the proper operation of systems and procedures for implementing EDF resources managed by the Commission under Article 9. The internal auditor may be neither authorising officer nor accounting officer.

Article 71

1. The internal auditor shall advise the Commission on dealing with risks, by issuing independent opinions on the quality of management and control systems and by issuing recommendations for improving the conditions of implementation of operations and promoting sound financial management. He may be called on to advise the authorities of ACP countries or OCTs on the same topics.

He shall be responsible in particular for:

(a) assessing the suitability and effectiveness of internal management systems and the performance of departments in implementing policies, programmes and actions by reference to the risks associated with them;

(b) assessing the suitability and quality of the internal control systems applicable to every operation for the implementation of EDF resources.

2. The internal auditor shall enjoy full and unlimited access to all the information he requires to perform his duties, where necessary on the spot, including in the Member States and in third countries.

3. The internal auditor shall report to the Commission on his findings and recommendations. The Commission shall ensure that action is taken on recommendations resulting from audits. The internal auditor shall also submit to the Commission an annual internal audit report indicating the number and type of audits carried out, the recommendations made and the action taken on those recommendations.

4. Each year the Commission shall send the authority responsible for discharge a report summarising the number and type of internal audits carried out, the recommendations made and the action taken on those recommendations.

Article 72

The special rules applicable to the internal auditor shall be those laid down in the detailed rules for implementing the General Financial Regulation, particularly as regards his independence in the performance of his duties and the circumstances under which he may be held liable.

TITLE IV

PROCUREMENT

CHAPTER 1

SCOPE

Article 73

1. Public contracts are contracts for pecuniary interest concluded in writing by a contracting authority within the meaning of Article 74 in order to obtain, against payment of a price paid in whole or in part from EDF resources, the supply of movable or immovable assets, the execution of works or the provision of services.

Such contracts comprise:

(a) supply contracts;

(b) works contracts;

(c) service contracts.

2. This Title does not relate to grants.

Article 74

1. The following shall be contracting authorities for the purposes of this Title:

(a) the beneficiary ACP State or States or bodies duly mandated by them, or their representatives;

(b) the Commission, in the case of contracts awarded on its own account;

(c) the Commission, on behalf of and for the account of one or more beneficiary ACP States;

(d) a national or international public sector body or natural or legal persons who have signed a financing agreement or grant agreement with one or more ACP countries or with the Commission for the implementation of a programme or project.

2. The procurement procedures shall be laid down in the financing agreements referred to in Article 52(3).

CHAPTER 2

PROCEDURES AND PRINCIPLES CONCERNING THE AWARD OF CONTRACTS

Article 75

1. The procedures for the award of contracts relating to operations financed by the EDF to assist ACP States shall be those defined in Article 28 of Annex IV to the ACP-EC Agreement.

The procedures for the award of contracts relating to operations financed by the EDF to assist OCTs shall be defined in the measures implementing the Overseas Association Decision.

2. Where the Commission acts as contracting authority for the implementation of humanitarian aid or emergency aid within the framework of the ACP-EC Agreement or the Overseas Association Decision, it shall be required to comply with the relevant Community rules on procurement.

CHAPTER 3

PARTICIPATION IN CONTRACTS

Article 76

1. Participation in tendering procedures in respect of contracts financed by the EDF shall be open on equal terms in accordance with the conditions laid down in Article 20 of Annex IV to the ACP-EC Agreement.

2. Nationals of countries other than ACP States and the Member States, including the OCTs, may be authorised to take part in the tendering procedures in accordance with the conditions laid down in Article 22 of Annex IV to the ACP-EC Agreement.

Article 77

Within the limits of the powers conferred on it by the ACP-EC Agreement and in accordance with the conditions laid down in Article 21 of Annex IV thereto, the Commission shall ensure the broadest possible participation, on equal terms, in tendering procedures for contracts financed by the EDF and shall ensure compliance with the principles of transparency, proportionality, equal treatment and non-discrimination

CHAPTER 4

PUBLICATION

Article 78

Within the limits of the powers conferred on it by the ACP-EC Agreement and in accordance with the conditions laid down in Articles 21 and 34 of Annex IV thereto, the Commission shall take the necessary steps to have international tendering procedures published in the *Official Journal of the European Communities* and on the Internet.

Article 79

1. Within the limits of the powers conferred on it by the ACP-EC Agreement, the Commission shall take all appropriate measures to ensure the effective dissemination of information for the economic operators concerned, notably through periodic publication of the programmes and projects to be financed from EDF resources.

2. The Commission shall ensure in particular that the following information is published in the most appropriate media, with an indication of the subject matter, content and value of the proposed contracts:

(a) fact sheets identifying projects;

(b) a summary of financing proposals adopted by the Commission after consulting the EDF Committee.

3. Within the limits of the powers conferred on it by the ACP-EC Agreement, the Commission shall ensure that the results of tendering procedures are published at the earliest opportunity.

TITLE V

DIRECT LABOUR OPERATIONS

Article 80

1. This Title shall govern the direct labour operations provided for in Article 24 of Annex IV to the ACP-EC Agreement. It shall apply *mutatis mutandis* to financial cooperation with the OCT.

2. In the case of direct labour operations, projects and programmes shall be implemented directly through public departments of the ACP State or States concerned.

The Community shall contribute to the costs of the department involved by providing the equipment and/or materials that it lacks and/or the resources to acquire any additional staff required, such as experts from within the ACP States concerned or other ACP States. The Community's participation shall cover only costs incurred by supplementary measures and temporary expenditure relating to execution that are strictly confined to the requirements of the project in question.

The financial management of a project implemented by direct labour in accordance with the first and second subparagraphs shall be carried out by imprest accounts administered by an imprest administrator and an accounting officer, appointed by the National Authorising Officer with the prior approval of the head of delegation.

3. In the case of externalised direct labour operations, the contracting authorities within the meaning of Article 74(1)(a) shall entrust tasks relating to the implementation of projects or programmes to public, semi-public or private bodies that are legally distinct from the ACP State or States concerned. In such cases, the body concerned shall assume responsibility for the management and implementation of the programme or project in place of the National Authorising Officer. Tasks so delegated may include the power to conclude contracts and manage contracts and the supervision of works on behalf of or for the account of the ACP State or States concerned.

4. Direct labour operations shall be implemented on the basis of a programme of measures to be carried out and an estimate of their cost, hereinafter referred to as the 'programme estimate'. The programme estimate is a document laying down the human and material resources required, the budget and the detailed technical and administrative implementing arrangements for execution of a project over a specified period by direct labour and, possibly, by means of public procurement and the award of specific grants. Each programme estimate shall be prepared by the imprest administrator and the accounting officer referred to in paragraph 2, in the case of direct labour operations, or by the third party organisation referred to in paragraph 3, in the case of externalised direct labour operations, and shall then be approved by the National Authorising Officer and the head of delegation before the activities it provides for commence.

5. In the context of the implementation of the programme estimates referred to in paragraph 4, the procurement and grant award procedures shall comply with those laid down in Titles IV and VI respectively. In particular, proposals for the award of contracts must be approved by the head of delegation in accordance with Article 36 of Annex IV to the ACP-EC Agreement. The same shall apply to proposals to award grants.

6. The financing agreements referred to in Article 52(3) must make provision for the implementation of projects or programmes by direct-labour operations.

Article 81

In the case of externalised direct labour operations, the contracting authority referred to in Article 74(1)(a) shall conclude a service contract with a third party organisation. The Commission shall ensure that the contract sets out:

(a) adequate provisions for scrutiny of the use of EDF resources by the Chief Authorising Officer, the head of delegation, OLAF, the National Authorising Officer, the Court of Auditors and the national audit bodies of the ACP State or States concerned;

(b) a clear definition and precise delimitation of the powers delegated to the organisation concerned and the powers retained by the National Authorising Officer;

(c) the procedures to be followed in exercising the powers so delegated, such as the selection of operations to be financed, the award of contracts or the supervision of works;

(d) the possibility of *ex post* review and financial penalties where the granting of funds or award of contracts by the third party organisation does not correspond to the procedures laid down at point (c);

(e) effective segregation of the duties of authorising officer and accounting officer;

(f) the existence of an effective system for the internal control of management operations;

(g) the existence of an accounting system for management operations and separate procedures for the presentation of accounts enabling the correct use of EDF resources to be ascertained.

TITLE VI

GRANTS

CHAPTER 1

GENERAL PROVISIONS

Article 82

1. In the context of centralised management, grants are direct financial contributions, awarded by the Commission by way of donation from EDF resources in order to finance:

(a) either an action designed to help achieve an objective of the ACP-EC Agreement or the Overseas Association Decision, or of a programme or project adopted in accordance with that Agreement or Decision;

(b) or the functioning of a body which pursues such an objective.

They shall be covered by a written agreement.

2. The following shall not constitute grants for the purposes of this Title:

(a) financing agreements as referred to in Article 52(3)(a);

(b) public contracts as referred to in Title IV or direct labour operations as referred to in Title V;

(c) loans, guarantees, contributions, contracts, interest rate subsidies or any other financial operation managed by the EIB;

(d) direct or indirect budgetary assistance, or aid to help relieve debt or support export earnings in the event of short-term fluctuations;

(e) payments made to bodies to whom powers are delegated by the Commission as provided for in Articles 15 and 16 or within the framework of joint management referred to in Article 17.

CHAPTER 2

AWARD PRINCIPLES

Article 83

1. The award of grants shall be subject to the principles of transparency and equal treatment. Grants may not be cumulative; they may not be awarded retrospectively; and they must involve cofinancing.

2. The grant may not have the purpose or effect of producing a profit for the beneficiary.

Article 84

1. Where, in the context of centralised management, an action provides for financing in the form of grants, the operational plan for that action shall contain a programme, except in the case of crisis management aid or humanitarian aid operations.

That programme shall be implemented through the publication of calls for proposals save in duly substantiated cases of urgency or where the nature of the beneficiary leaves no other choice for a given action.

2. The grants awarded shall be published annually with due observance of the requirements of confidentiality and security.

Article 85

1. One action may give rise to the award of only one grant from EDF resources to any one beneficiary.

2. A beneficiary may be awarded only one operating grant from EDF resources per budget year of the beneficiary.

Article 86

1. A grant may be awarded for an action which has already begun only if the applicant is able to demonstrate that it was necessary to start the action before the agreement was signed.

In such cases, expenditure eligible for financing may not have been incurred prior to the date of submission of the grant application, save in duly substantiated exceptional cases or in the case of expenditure necessary for the proper implementation of crisis management aid or humanitarian aid operations, as provided for in the ACP-EC Agreement or the Overseas Association Decision.

No grant may be awarded retrospectively for actions already completed.

2. The agreement on an operating grant may not be signed more than four months after the start of the beneficiary's budget year. Expenditure eligible for financing may not have been incurred before the date when the grant application was submitted or the start of the beneficiary's budget year.

Article 87

An action may be financed entirely from EDF resources only if this proves essential for its completion.

CHAPTER 3

AWARD PROCEDURE

Article 88

1. Grant applications shall be eligible where they fall under the ACP-EC Agreement or the Overseas Association Decision or a programme or project adopted in accordance with that Agreement or Decision and are submitted in writing by legal persons. By way of exception, depending on the nature of the action or the objective pursued by the applicant, natural persons may receive grants in accordance with the conditions laid down in the Agreement or Decision.

2. Grants may not be awarded to applicants whose situation, at the time of a grant award procedure, is such that they fall to be classed as ineligible under the Community rules applicable to public procurement.

Applicants must certify that they are not in one of the situations referred to in the first subparagraph.

3. Effective, proportionate and dissuasive administrative and financial penalties may be imposed by the Chief Authorising Officer on applicants who are excluded under paragraph 2.

Article 89

1. The selection criteria shall be such as to make it possible to assess the applicant's ability to complete the proposed action or work programme.

2. The award criteria shall be such as to make it possible to assess the quality of the proposals submitted in the light of the objectives and priorities set.

Article 90

1. Proposals shall be evaluated, on the basis of pre-announced selection and award criteria, by an evaluation committee set up for that purpose, with a view to determining which proposals may be financed.

2. On the basis of the evaluation provided for in paragraph 1, the authorising officer responsible shall draw up the list of beneficiaries and the amounts approved.

3. The authorising officer responsible shall inform applicants in writing of the decision on their application. If the grant requested is not awarded, he shall give the reasons for the rejection of the application, with reference in particular to the selection and award criteria previously announced.

CHAPTER 4

PAYMENT

Article 91

The pace of payments shall be determined by the financial risks involved, the duration and progress of the action, or the costs incurred by the beneficiary.

Article 92

The authorising officer responsible may require the beneficiary to lodge a guarantee in advance in order to limit the financial risks connected with the payment of pre-financing.

Article 93

1. The amount of the grant shall not become final until after the Commission has accepted the final reports and accounts, without prejudice to subsequent checks by the Commission.

2. Should the beneficiary fail to comply with his legal or contractual obligations, the grant shall be suspended and reduced or terminated after the beneficiary has been given the opportunity to make his observations.

CHAPTER 5

IMPLEMENTATION

Article 94

1. Where implementation of the action requires the award of procurement contracts by the beneficiary, the grant agreements referred to in Article 82(1) shall make provision for procedures that comply with the Community rules on procurement applicable to cooperation with non-member countries.

2. Each grant agreement shall provide expressly for the Commission, including OLAF, and the Court of Auditors to exercise their powers of control, on documents and on the spot, over all contractors and subcontractors who have received financial assistance from EDF resources.

Article 95

In the context of decentralised management, referred to in Article 14, the Commission shall strive to encourage management by the beneficiary ACP States and OCTs that is aimed at applying provisions equivalent to those laid down in this Title.

TITLE VII

ACCOUNTS

CHAPTER 1

PRESENTATION OF THE ACCOUNTS

Article 96

1. The Commission shall draw up, by 31 July each year at the latest, the accounts of the EDF describing the financial situation of the Fund as at 31 December of the preceding year. The EDF Accounts shall comprise:

(a) the financial statements referred to in Article 100;

(b) the reports on financial implementation referred to in Article 101;

(c) the financial statements and the information supplied by the EIB in accordance with Article 125(2).

2. The EDF accounts shall be accompanied by a report on financial management during the preceding year containing an accurate account of:

(a) the achievement of the objectives for the financial year, in accordance with the principle of sound financial management;

(b) the financial situation and the events that had a significant influence on the activities carried out during the financial year.

Article 97

The accounts must comply with the rules and be accurate and comprehensive and present a true and fair view:

(a) as regards the financial statements, of the assets and liabilities, charges and income, entitlements and obligations not shown as assets or liabilities, and cash flow;

(b) as regards the reports on financial implementation, of the revenue and expenditure operations from EDF resources.

Article 98

The financial statements referred to in Article 100 shall be drawn up in accordance with generally accepted accounting principles, namely:

(a) going concern basis;

(b) prudence;

(c) consistent accounting methods;

(d) comparability of information;

(e) materiality;

(f) no netting;

(g) reality over appearance;

(h) accrual-based accounting.

Article 99

1. In accordance with the principle of accrual-based accounting, the financial statements referred to in Article 100 shall show the charges and income for the financial year, regardless of the date of payment or collection.

2. The value of assets and liabilities shall be determined in accordance with the valuation rules provided for in Article 111.

Article 100

1. The financial statements shall be drawn up by the accounting officer and presented in millions of euros. They shall comprise:

(a) the balance sheet, which represents the assets and liabilities and financial situation and the economic outturn of the EDF at 31 December of the previous year; it shall be presented in accordance with the structure laid down by the Council Directive on the annual accounts of certain types of companies, but with account being taken of the specific nature of the EDF's activities;

(b) the cash-flow table showing amounts collected and disbursed during the year, the final treasury position and a statement of sources and uses of funds covering the preceding financial year;

(c) a table of items payable to the EDF showing:

   (i) amounts still to be recovered at the beginning of the financial year;

   (ii) entitlements established in the course of the financial year;

   (iii) amounts recovered in the course of the financial year;

   (iv) cancellation of established entitlements;

   (v) amounts still to be recovered at the end of the financial year.

2. The annex to the financial statements shall supplement and comment on the information presented in the statements referred to in paragraph 1 and shall contain notes indicating which accounting principles were applied in the preparation and presentation of the accounts.

Article 101

1. The reports on financial implementation shall be drawn up by the accounting officer and presented in millions of euro. They shall comprise the financial outturn account, which sets out all financial operations for the year in terms of revenue and expenditure. The annex to the financial outturn account shall supplement and comment on the information presented in it.

2. The reports on financial implementation shall comprise the following tables, presented in millions of euros and drawn up by the Chief Authorising Officer in conjunction with the accounting officer:

(a) a table describing changes over the preceding financial year in the appropriations indicated in the Annex;

(b) a table showing the total by allocation of commitments, assigned funds and payments effected during the financial year and aggregate totals since the opening of the EDF;

(c) tables showing by appropriation, country, territory, region or sub-region, the total commitments, assigned funds and payments effected during the financial year and aggregate totals since the opening of the EDF.

Article 102

The Commission shall send the provisional accounts to the Court of Auditors by 31 March of the following financial year at the latest. By 30 April it shall send the European Parliament, the Council and the Court of Auditors the report, referred to in Article 96, concerning financial management during the year.

Article 103

1. The Court of Auditors shall, by 15 June at the latest, make its observations on the provisional accounts as regards the part of the EDF resources for which the Commission is responsible for financial management under Article 9(1), so that the Commission can make the corrections deemed necessary for drawing up the final accounts.

2. The Commission shall approve the final accounts and send them to the European Parliament, the Council and the Court of Auditors by 31 July of the following year at the latest.

3. The final accounts shall be published by 31 October of the following year in the *Official Journal of the European Communities* together with the statement of assurance given by the Court of Auditors in respect of the part of the EDF resources for which the Commission is responsible for financial management under Article 9(1).

CHAPTER 2

INFORMATION ON IMPLEMENTATION OF EDF RESOURCES

Article 104

1. The Commission and the EIB shall monitor, each to the extent to which it is concerned, the use of EDF assistance by the ACP States, the OCTs or any other beneficiary, and the implementation of projects financed by the EDF, having particular regard to the objectives referred to in Articles 55 and 56 of the ACP-EC Agreement and in the corresponding provisions of the Overseas Association Decision.

2. The EIB shall periodically inform the Commission regarding the implementation of projects financed from the EDF resources it administers, following the procedures set out in the operational guidelines of the Investment Facility.

3. The Commission and the EIB shall provide the EDF Committee with information on the operational implementation of EDF resources through the national and regional allocations set out in the Annex. Such information shall also cover projects and programmes financed from the Investment Facility. The Commission shall send that information to the Court of Auditors in accordance with Article 32(4) of the Internal Agreement.

CHAPTER 3

ACCOUNTING

Article 105

1. The accounting system is the system serving to organise the financial information in such a way that figures can be input, filed and registered.

2. The accounts shall consist of general accounts and financial accounts. Those accounts shall be kept in euros on the basis of the financial year.

3. The figures in the general accounts and the financial accounts shall be adopted at the close of the financial year so that the accounts referred to in Chapter 1 can be drawn up.

4. Notwithstanding paragraphs 2 and 3, the Chief Authorising Officer may keep analytical accounts.

Article 106

The accounting officer shall be responsible for the monitoring and entry in the accounts of payments by the Member States and other revenue.

Article 107

The general accounts shall record, in chronological order using the double entry method, all events and operations affecting the economic and financial situation and the assets and liabilities of the EDF, and which make up the EDF balance sheet.

Article 108

1. Movements on the accounts and the balances shall be entered in the accounting ledgers.

2. All accounting entries, including adjustments to the accounts, shall be based on supporting documents, to which they shall refer.

3. The accounting system shall be such as to leave a trail for all accounting entries.

Article 109

The accounting officer shall, after the close of the financial year and up to the date of presentation of the accounts, make any adjustments which, without involving disbursement or collection in respect of that year, are necessary for a true and fair presentation of the accounts which complies with the rules.

Article 110

1. The financial accounts shall allow detailed monitoring of the financial implementation of EDF resources.

They shall show all:

(a) allocations;

(b) commitments;

(c) assigned funds;

(d) payments, and established debts and collection operations for the financial year, in full and without any adjustment against each other.

2. When commitments, payments and debts are expressed in national currencies, the accounting system shall make it possible, where necessary, for them to be recorded in national currencies as well as in euros.

3. The commitments defined in Article 52 shall be recorded in euros for the value of the financing decisions taken by the Commission.

The assigned funds defined in Article 55(3) shall be recorded in euros at the equivalent of the value of the contracts, grants and programme estimates concluded by the beneficiary ACP State or OCT or by the Commission in the performance of the project. That value shall include where appropriate:

(a) provision for the payment of reimbursable expenses on presentation of supporting documents;

(b) provision for the revision of prices and contingencies as defined in EDF-funded contracts;

(c) financial provision for exchange rate fluctuations.

4. The conversion rates to be used for final accounting of payments made under the projects or programmes referred to in Part 4 of the ACP-EC Agreement and Annex IV thereto or in the Overseas Association Decision shall be the rates applicable on the date on which the Commission accounts referred to in Article 29 of this Regulation were debited.

5. All accounting records referring to the fulfilment of a commitment shall be kept for a period of five years from the date of the decision giving discharge in respect of the financial implementation of EDF resources, referred to in Article 119, concerning the financial year during which the commitment was closed for accounting purposes. However, records relating to operations that have not been definitively closed shall be kept beyond that period up to the end of the year following the year in which those operations are closed.

Article 111

1. The accounting officer shall adopt the applicable accounting rules and methods. He shall prepare and, after consulting the Chief Authorising Officer, adopt the chart of accounts to be applied to the EDF's operations. In so doing he shall be guided by the internationally accepted accounting standards for the public sector but may depart from them where justified by the specific nature of the EDF's activities.

2. Entries in the accounts shall be made on the basis of the chart of accounts using a nomenclature which makes a clear distinction between the general accounts and the financial accounts. The chart of accounts shall be sent to the Court of Auditors.

TITLE VIII

EXTERNAL AUDIT AND DISCHARGE

CHAPTER 1

GENERAL PROVISIONS

Article 112

The operations financed from EDF resources managed by the EIB in accordance with Article 9(2) shall be subject to the audit and discharge procedures laid down in the Statutes of the EIB for all of its operations. Existing specific provisions concluded by common agreement between the Court of Auditors, the EIB and the Commission shall continue to apply and, where necessary, shall be updated to take account of the specific characteristics of the Investment Facility, including interest rate subsidies.

As regards the operations financed from EDF resources managed by the Commission in accordance with Article 9(1), the Court of Auditors shall exercise its powers in accordance with this Title.

CHAPTER 2

EXTERNAL AUDIT

Article 113

The Commission shall inform the Court of Auditors, as soon as possible, of all decisions and rules adopted pursuant to this Regulation.

Article 114

In the performance of its task, the Court of Auditors shall notify the Commission and the authorities to which this Regulation applies of the names of the members of its staff who are empowered to audit them and the tasks entrusted to those persons.

Article 115

1. The Court of Auditors, when examining whether all revenue has been received and all expenditure incurred in a lawful and proper manner, shall have regard to the provisions of the ACP-EC Agreement, the Overseas Association Decision, this Regulation and all other acts adopted pursuant to those instruments.

2. In the performance of its task, the Court of Auditors shall be entitled to consult, in the manner provided for in paragraph 6, all documents and information relating to the financial management of departments or bodies with regard to operations financed or cofinanced from EDF resources. It shall have the power to make enquiries of any official responsible for a revenue or expenditure operation and to use any of the auditing procedures appropriate to those departments or bodies.

In order to obtain all the necessary information for the performance of its task, the Court of Auditors may be present, at its request, during the audit operations carried out within the framework of financial implementation by, or on behalf of, the Commission.

3. The Court of Auditors shall ensure that all securities and cash on deposit or in hand are checked against vouchers signed by the depositories or against official memoranda of cash and securities held. The Court may carry out such checks itself.

4. At the request of the Court of Auditors, the Commission shall authorise financial institutions holding EDF deposits to enable the Court of Auditors to ensure that the external data tally with the accounts.

5. The Commission shall afford the Court of Auditors all the facilities and give it all the information which the latter deems necessary for the performance of its task. It shall place at the disposal of the Court of Auditors all documents concerning the award and performance of contracts and all accounts of cash or materials, all accounting records or supporting documents, and also administrative documents relating thereto, all documents relating to revenue and expenditure, all inventories, all organisation charts which the Court of Auditors considers necessary for auditing the financial outturn report on the basis of documents or on the spot and, for the same purposes, all documents and data created or stored on a magnetic medium.

The officials whose operations are checked by the Court of Auditors shall:

(a) disclose their records of cash in hand, any other cash, securities and materials of any kind and the supporting documents in respect of their stewardship of the funds with which they are entrusted and any books, registers and other documents relating thereto;

(b) present the correspondence or any other document required for the full implementation of the audit referred to in paragraph 1.

The information referred to under (b) of the second subparagraph may be requested only by the Court of Auditors.

The Court of Auditors shall be empowered to audit the documents relating to EDF revenue and expenditure which are held by the Commission departments responsible.

6. The task of establishing that the revenue has been received and the expenditure incurred in a lawful and proper manner and that the financial management has been sound shall extend to the utilisation by bodies outside the Commission of EDF resources received in the form of grants in accordance with Title VI. All financing from EDF resources granted to beneficiaries outside the Commission shall be subject to the agreement in writing by the beneficiaries or, failing agreement on their part, by the contractors or subcontractors, to an audit by the Court of Auditors of the use made of the financing granted.

7. Use of integrated computer systems may not have the effect of impairing access by the Court of Auditors to supporting documents.

Article 116

1. After the closure of each financial year, the Court of Auditors shall draw up an annual report in accordance with paragraphs 2 to 6.

2. The Court of Auditors shall transmit to the Commission, by 15 June at the latest, any observations which, in its opinion, are such that they should appear in the annual report. Those observations must remain confidential. The Commission shall address its replies to the Court of Auditors by 30 September at the latest.

3. The annual report shall contain an assessment of the soundness of financial management.

4. The Court of Auditors may add any summary report or any general observations which it sees fit to make.

5. The Court of Auditors shall take all necessary steps to ensure that the Commission's replies to its observations are published immediately after the observations to which they relate.

6. The Court of Auditors shall send its annual report, together with the Commission's replies, to the authorities responsible for giving discharge and to the Commission, by 31 October at the latest, and shall ensure the publication thereof in the *Official Journal of the European Communities*.

Article 117

1. The Court of Auditors shall notify the Commission of any observations which, in its opinion, are such that they should appear in a special report. Those observations must remain confidential.

The Commission shall have two and a half months within which to inform the Court of Auditors of any comments it wishes to make on the observations in question.

The Court of Auditors shall adopt the definitive version of the special report in question the following month.

2. The special reports referred to in paragraph 1, together with the Commission's replies, shall be transmitted without delay to the European Parliament and the Council, each of which shall decide, where appropriate in conjunction with the Commission, what action is to be taken in response.

Should the Court of Auditors decide to have any such special reports published in the *Official Journal of the European Communities*, they shall be accompanied by the Commission's replies.

3. The Court of Auditors may, at the request of one of the other institutions, issue opinions on matters relating to the EDF.

Article 118

At the same time as the annual report referred to in Article 116, the Court of Auditors shall provide the European Parliament and the Council with a statement of assurance as to the reliability of the accounts and the legality and regularity of the underlying transactions.

CHAPTER 3

DISCHARGE

Article 119

1. Before 30 April of year N+2, the European Parliament, upon a recommendation from the Council acting by a qualified majority, shall give a discharge to the Commission in respect of the financial implementation for year N of the EDF resources, which it manages in accordance with Article 9(1). If that date cannot be met, the European Parliament or the Council shall inform the Commission of the reasons for the postponement. Should the European Parliament postpone the decision giving discharge, the Commission shall make every effort to take measures, as soon as possible, to facilitate removal of the obstacles to that decision.

2. The discharge decision shall cover the accounts referred to in Article 96, except the part thereof provided by the EIB in accordance with Article 125(2). The discharge decision shall include an assessment of the responsibility of the Commission in the execution of the financial management during the preceding period.

3. With a view to granting the discharge, the European Parliament shall, after the Council has done so, examine the EDF accounts referred to in Article 96. It shall also examine the annual report made by the Court of Auditors together with the Commission's replies, any special reports by the Court of Auditors relevant to the financial year in question and the Court of Auditors' statement of assurance as to the reliability of the accounts and the legality and regularity of the underlying transactions.

4. The Commission shall take all appropriate steps to act on the observations accompanying the European Parliament's discharge decision and the comments accompanying the discharge recommendation adopted by the Council.

5. At the request of the European Parliament or the Council, the Commission shall report on the measures taken in the light of those observations and comments, and, in particular, on the instructions given to those of its departments which are responsible for the financial implementation of EDF resources. That report shall also be sent to the Court of Auditors.

6. The decision giving the discharge shall be published in the *Official Journal of the European Communities*.

Article 120

The Commission shall submit to the European Parliament, at the latter's request, any information required for the control of implementation of the EDF resources managed by the Commission in accordance with Article 9(1) for the year in question. Access to confidential information and the arrangements for handling it shall comply with fundamental human rights, the protection of business secrecy, the provisions governing judicial and disciplinary proceedings and the interests of the Community.

PART TWO

SPECIFIC PROVISIONS CONCERNING EDF RESOURCES MANAGED BY THE EIB

Article 121

Each year, before 1 September, the EIB shall send the Commission its estimates of commitments and payments, which are necessary for drawing up the communication referred to in Article 8(1), in respect of the operations of the Investment Facility, including interest rate subsidies, in accordance with the Internal Agreement.

The EIB shall update its estimates every three months. At the beginning of each quarter and no later than 35 working days before the due dates for contributions by the Member States indicated in Article 39, it shall send the Commission its estimates of all amounts to be called on from the EDF that are necessary to finance the operations under its responsibility.

Article 122

1. The contributions referred to in Article 39 and adopted by the Council shall be paid by the Member States to the EIB via a special account opened in the name of each Member State.

2. Save where the Council decides otherwise regarding the remuneration of the EIB in accordance with Article 8 of the Internal Agreement, proceeds received by the Bank via the credit balance of the special accounts referred to in paragraph 1 of this Article shall be recorded in an account in the Commission's name, and used for the purposes set out in Article 9 of the Agreement.

3. Any rights resulting from operations carried out by the EIB using EDF resources, and particularly rights as creditor or owner, shall be vested in the Member States.

4. The EIB shall undertake the treasury management of the amounts referred to in paragraph 1 in accordance with the detailed rules laid down in the management agreement provided for in Article 128.

5. The Investment Facility shall be managed in accordance with the conditions laid down in the ACP-EC Agreement, the Overseas Association Decision and the Internal Agreement.

Article 123

The EIB shall be remunerated on a full indemnity basis for the management of the Investment Facility operations. The Council shall decide on the resources and mechanisms for remuneration of the Bank in accordance with Article 8(2) of the Internal Agreement. The measures implementing that decision shall be incorporated in the management agreement provided for in Article 128.

Article 124

The EIB shall regularly inform the Commission of the operations carried out under the Investment Facility, including interest rate subsidies, of the use made of each call for contributions paid to the EIB and, in particular, of the total quarterly amounts of commitments, contracts and payments, in accordance with the detailed rules laid down in the management agreement provided for in Article 128.

Article 125

1. The EIB shall keep the accounts of the Investment Facility, including interest rate subsidies, financed by the EDF. The EIB and the Commission shall draw up the relevant accounting rules and methods by common agreement and inform the Member States accordingly.

2. Each year the EIB shall send the Council and the Commission a report on the implementation of operations financed from EDF resources under its management, including the financial statements drawn up in accordance with the rules and methods referred to in paragraph 1 and the information referred to in Article 101(2).

Those documents shall be submitted in draft form no later than 28 February and in their final version no later than 30 June of the following financial year, so that they can be used by the Commission in preparing the accounts referred to in Article 96 of this Regulation in accordance with Article 32(1) of the Internal Agreement. The report on the financial management of the resources managed by the EIB shall be submitted by the latter to the Commission no later than 31 March of the following financial year.

Article 126

The EIB's own rules shall apply to contracts financed by the EDF resources which it manages.

Article 127

Where programmes or projects are cofinanced by the Member States or their implementing bodies and correspond to the priorities laid down in the Country Cooperation Strategies provided for in Chapter III of the Internal Agreement and in Article 20 of the Overseas Association Decision, the EIB may entrust responsibility for managing Community aid to Member States or their implementing bodies.

Article 128

The detailed rules for implementing this Part shall be the subject of a management agreement between the Commission, acting on behalf of the Community, and the EIB.

PART THREE

TRANSITIONAL AND FINAL PROVISIONS

TITLE I

TRANSITIONAL PROVISIONS

CHAPTER 1

TRANSFER OF BALANCES REMAINING FROM PREVIOUS EDFs

Article 129

1. The provisions of this Title shall govern the transfer to the 9th EDF of the balances remaining from resources constituted under the Internal Agreements relating to the 6th [1], 7th [2], and 8th [3] EDFs (hereinafter ‘previous EDFs’).

2. The balances remaining from previous EDFs shall be used to finance projects, programmes and other forms of action that contribute to attaining the objectives of the ACP-EC Agreement and the Overseas Association Decision, in accordance with the provisions of that Agreement or that Decision, and with the conditions laid down in this Title.

(1) OJ L 86, 31.3.1986, p. 221.
(2) OJ L 229, 17.8.1991, p. 288.
(3) OJ L 156, 29.5.1998, p. 108.

To that end, any balances remaining from previous EDFs on the date of the entry into force of the Financial Protocol set out in Annex I to the ACP-EC Agreement, in the case of the ACP States, or on the date of the entry into force of the Internal Agreement, in the case of the OCTs, together with any amounts to be decommitted at a later date from ongoing projects under those EDFs, shall be transferred to the 9th EDF.

Article 130

1. Any resources transferred to the 9th EDF that were previously allocated to the indicative programme of an ACP State or an ACP region before the entry into force of the Financial Protocol set out in Annex I to the ACP-EC Agreement shall remain allocated to that State or region.

2. Resources that were allocated to OCTs before the entry into force of the Overseas Association Decision shall remain allocated to them. Any resources thus transferred to the 9th EDF after having been allocated previously to the indicative programme of an OCT or a region shall remain allocated to that OCT or to regional cooperation in the context of the implementation of the Overseas Association Decision.

3. The balance of revenue accruing from interest on the resources of previous EDFs shall be transferred to the 9th EDF and allocated for the same purposes as the revenue provided for in Article 1(3) of the Internal Agreement. The same shall apply to miscellaneous revenue of previous EDFs comprising, for example, default interest received in the event of late payment of contributions to those EDFs by Member States and the interest generated by the EDF resources managed by the EIB, that is payable to the Community.

Article 131

1. In respect of the ACP States, any balance that is not allocated to a country or region, taking into account the transitional measures applicable up to the entry into force of the ACP-EC Agreement, shall be assigned to the unallocated amount of the 9th EDF, in accordance with the decision referred to in Article 132 of this Regulation.

The first subparagraph shall apply in particular to:

(a) any balance remaining from the resources of previous EDFs that were not previously allocated to a specific ACP State or region, including any balances of resources available for emergency aid, aid for refugees or structural adjustment;

(b) any balance remaining from resources under the Stabex and Sysmin instruments.

2. In respect of the OCTs, any balance that is not allocated to an indicative programme on the date when the Internal Agreement enters into force shall be assigned to the non-allocated amount of the EDF.

The first subparagraph shall apply in particular to any balance remaining from the overall amounts referred to in Articles 118 and 142 of Council Decision 91/482/EC [1], which concern, respectively, the Stabex and Sysmin instruments. However, financing decisions concerning balances under Sysmin may be adopted up to the entry into force of the Internal Agreement if a request for financing was introduced before Decision 91/482/EC expired.

Article 132

The Commission shall adopt the detailed arrangements for implementing this Title with regard to the definitive treatment under the 9th EDF of the remaining balances and amounts to be decommitted and transferred to the 9th EDF.

Those detailed arrangements shall be adopted after consultation of the EIB in respect of the resources managed by it and in accordance with the rules laid down in the ACP-EC Agreement, the Overseas Association Decision, the Internal Agreement and this Regulation.

CHAPTER 2

RULES APPLICABLE FOR THE IMPLEMENTATION OF PREVIOUS EDFs AND BALANCES TRANSFERRED

Article 133

1. Balances remaining from previous EDFs that are transferred to the 9th EDF shall be administered in accordance with the conditions laid down in this Title and in the relevant provisions of the ACP-EC Agreement, the Overseas Association Decision or the Internal Agreement.

2. As regards the ACP States, commitments relating to previous EDFs entered into before the entry into force of the ACP-EC Agreement shall continue to be implemented in accordance with the rules applicable to those EDFs, save as regards the duties of the Financial Controller and the presentation of accounts, for which the provisions of this Regulation shall apply. With effect from the date on which the ACP-EC Agreement enters into force, the balances transferred to the 9th EDF shall be used in accordance with the conditions laid down in the ACP-EC Agreement, the Internal Agreement and this Regulation.

However, where transfers are made from previous EDFs for the benefit of national or regional indicative programmes, as provided for in Article 130:

(a) if the amount exceeds EUR 10 million per country or region, those resources shall be administered in accordance with the rules of the EDF of origin as regards eligibility for participation in tenders and the award of contracts;

(b) if the resources transferred are equal to or less than EUR 10 million, the eligibility rules applicable to tenders under the 9th EDF shall apply.

[1] OJ L 263, 19.9.1991, p. 1.

3. As regards the OCTs, commitments relating to the previous EDFs entered into before the entry into force of the Internal Agreement and this Regulation shall continue to be implemented in accordance with the rules applicable to those EDFs, save as regards the duties of the Financial Controller and the presentation of accounts, for which the provisions of this Regulation shall apply. Resources from previous EDFs shall continue to be employed in accordance with the relevant provisions of Decision 91/482/EC, which shall remain applicable for that purpose until the entry into force of the Internal Agreement.

4. Decisions relating to previous EDFs for which the EIB undertakes the financial implementation shall continue to be implemented in accordance with the rules applicable to those EDFs.

Article 134

To ensure that commitments entered into under previous EDFs are completed in accordance with the principle of sound financial management, the Commission shall implement procedures which provide, in particular, that, after this Regulation enters into force, a financing agreement may be renewed only once and may not in any event be renewed for a period of more than three years from the deadline laid down at the time of that entry into force for the completion of the programme or project financed by the agreement in question.

CHAPTER 3

TRANSITIONAL PERIOD

Article 135

1. The deadlines referred to in Articles 102, 103, 116 and 125 shall apply for the first time in respect of financial year 2005.

For earlier years those deadlines shall be:

(a) 30 April and 31 May for Article 102;

(b) 15 July for Article 103(1);

(c) 15 October for Article 103(2);

(d) 30 November for Article 103(3);

(e) 15 July and 31 October for Article 116(2);

(f) 30 November for Article 116(6);

(g) 31 March, 15 September and 30 April for the second subparagraph of Article 125(2).

2. The provisions of Title VII of Part One shall apply gradually depending on technical possibilities in order to be fully effective for the financial year 2005.

TITLE II

FINAL PROVISIONS

Article 136

1. In accordance with Articles 2 and 34 of the Internal Agreement, the Member States shall assess the degree to which commitments and disbursements have been carried out before the expiry of the EDF. On that occasion they shall also assess the Commission's needs in respect of the resources reserved for costs linked to implementation under Articles 4 and 9 of the Internal Agreement. The need for new resources to support financial cooperation and costs linked to implementation under Article 9 of the Internal Agreement shall be established in the light of that assessment. Due account shall be taken of the uncommitted and non-disbursed resources under the EDF.

The Commission shall take full account of that performance assessment when updating the allocation of resources under Article 16 of the Internal Agreement and shall decide on any reallocation of resources that is necessary in order to guarantee optimum use of the available resources.

2. Before the expiry of the EDF, the Member States shall set a date beyond which the resources of the EDF may no longer be committed.

Article 137

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

It shall be applicable for the same period as the Internal Agreement.

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

ANNEX

FINANCIAL INFORMATION ON THE EDF

1. In accordance with Article 1 of the Internal Agreement, the EDF shall consist of an amount of up to EUR 13 800 million contributed by the Member States as follows:

Member State	Contribution in EUR million
Belgium	540,96
Denmark	295,32
Germany	3 223,68
Greece	172,50
Spain	805,92
France	3 353,40
Ireland	85,56
Italy	1 730,52
Luxembourg	40,02
Netherlands	720,36
Austria	365,70
Portugal	133,86
Finland	204,24
Sweden	376,74
United Kingdom	1 751,22
	13 800,00

Within that total amount:

(i) EUR 13 500 million shall be allocated to the ACP States;

(ii) EUR 175 million shall be allocated to the OCTs;

(iii) EUR 125 million shall be allocated to the Commission for costs linked to implementation of the EDF.

2.1. Out of the total amount stated in Article 1(2)(a) of the Internal Agreement, an amount of up to EUR 13 500 million shall be reserved for the ACP States and allocated as follows:

(a) up to EUR 10 000 million in the form of non-repayable aid comprising up to:

(i) EUR 9 836 million reserved for support for long-term development to be programmed in accordance with Articles 1 to 5 of Annex IV to the ACP-EC Agreement. Those resources may be used to finance humanitarian aid and short-term emergency aid in accordance with Article 72(3) of the ACP-EC Agreement. Out of that total allocation, EUR 195 million shall be earmarked to finance the interest rate subsidies provided for in Article 3(c) of Annex I to the ACP-EC Agreement and Articles 2 and 4 of Annex II thereto;

(ii) EUR 90 million reserved for the financing of the budget of the Centre for Development of Enterprise (CDE) in accordance with the provisions of Annex III to the ACP-EC Agreement;

(iii) EUR 70 million reserved for the financing of the budget of the Technical Centre for Agriculture and Rural Cooperation (CTA) in accordance with the provisions of Annex III to the ACP-EC Agreement; and

(iv) EUR 4 million for the expenditure relating to the ACP-EC Joint Assembly, constituted by Article 17 of the ACP-EC Agreement;

(b) up to EUR 1 300 million reserved for the financing of support for regional cooperation and integration of the ACP States in accordance with Articles 6 to 14 of Annex IV to the ACP-EC Agreement;

(c) up to EUR 2 200 million shall be allocated to finance the Investment Facility in accordance with the terms and conditions set out in Annex II ('Terms and conditions of financing') to the ACP-EC Agreement, without prejudice to the financing of the interest rate subsidies provided for in Articles 2 and 4 of Annex II to the Agreement funded from the resources mentioned in point (a)(i) of this Section.

2.2. Out of the EUR 13 500 million referred to in Section 2.1, an amount of EUR 1 000 million may be released only following a performance review undertaken by the Council in 2004, on the basis of a proposal from the Commission. Those resources shall, if released, be distributed as appropriate between the envelopes referred to in points (a), (b) and (c) of Section 2.1.

3. The overall amount of financial assistance to the OCTs allocated by the Community out of the overall amount stated in Article 1(2)(a) of the Internal Agreement shall be EUR 175 million, of which EUR 155 million in the form of non-repayable aid, including EUR 1 million set aside to finance the interest rate subsidies provided for in Article 3(3)(d) of Annex IIA to the Overseas Association Decision, and EUR 20 million under the Investment Facility. The rules governing the implementation of that assistance shall be laid down in the Council Decision on the association of the OCTs with the Community, adopted pursuant to Article 187 of the Treaty.

4. An amount of EUR 125 million shall be reserved for the financing of costs linked to implementation incurred by the Commission in the framework of the ACP-EC Agreement. It shall be utilised in accordance with the principles set out in Article 9 of the Internal Agreement together with the resources referred to in Article 1(3) of that Agreement.

5.1. To the amount laid down in the second paragraph of Section 1 shall be added up to EUR 1 720 million in the form of loans granted by the EIB from its own resources. Those resources shall be granted for the purposes set out in Annex II to the ACP-EC Agreement and in the Overseas Association Decision, in accordance with the conditions provided for by its statutes and the relevant provisions of the terms and conditions for investment financing as laid down in that Annex and Decision.

5.2. Those loans shall be allocated as follows:

(a) up to EUR 1 700 million for financing operations to be carried out in the ACP States;

(b) up to EUR 20 million for financing operations to be carried out in the OCTs.

NOTE TO READERS

As and from the present C . . . E edition of the *Official Journal of the European Communities*, the explanatory statement for all Commission proposals will be published.

Henceforth the two-column presentation of the amended proposal — the left column containing the original proposal, the right column the changes introduced by the amended proposal — will be replaced by two columns of continuous text.

The text that has been deleted in the amended proposal will be struck through with a line, and new or replacement text will be underlined.