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Contents

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(Continued overleaf)

EN

Acts whose titles are printed in light type are those relating to day-to-day management of agricultural matters, and are generally valid for a limited period.

The titles of all other acts are printed in bold type and preceded by an asterisk.

II *Acts whose publication is not obligatory*

Council

Corrigenda

I

(Acts whose publication is obligatory)

COMMISSION REGULATION (EC) No 1384/2002

of 30 July 2002

establishing the standard import values for determining the entry price of certain fruit and vegetables

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Commission Regulation (EC) No 3223/94 of 21 December 1994 on detailed rules for the application of the import arrangements for fruit and vegetables [1], as last amended by Regulation (EC) No 1498/98 [2], and in particular Article 4(1) thereof,

Whereas:

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

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

HAS ADOPTED THIS REGULATION:

Article 1

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

Article 2

This Regulation shall enter into force on 31 July 2002.

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

Done at Brussels, 30 July 2002.

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

[1] OJ L 337, 24.12.1994, p. 66.
[2] OJ L 198, 15.7.1998, p. 4.

ANNEX

to the Commission Regulation of 30 July 2002 establishing the standard import values for determining the entry price of certain fruit and vegetables

(EUR/100 kg)

CN code	Third country code (1)	Standard import value
0702 00 00	064	75,1
	096	30,6
	999	52,8
0709 90 70	052	76,0
	999	76,0
0805 50 10	388	59,3
	524	58,8
	528	55,2
	999	57,8
0806 10 10	052	144,7
	064	114,9
	220	121,5
	508	75,3
	600	140,4
	624	191,3
	999	131,3
0808 10 20, 0808 10 50, 0808 10 90	388	91,7
	400	113,3
	508	81,7
	512	92,1
	528	79,7
	720	143,5
	804	105,0
	999	101,0
0808 20 50	052	120,0
	388	85,9
	512	80,6
	528	92,6
	804	66,9
	999	89,2
0809 10 00	052	139,8
	064	144,5
	999	142,2
0809 20 95	052	385,3
	400	285,2
	404	337,6
	999	336,0
0809 30 10, 0809 30 90	052	112,8
	064	88,7
	999	100,8
0809 40 05	064	58,4
	999	58,4

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

COMMISSION REGULATION (EC) No 1385/2002

of 30 July 2002

correcting Regulation (EC) No 1270/2002 opening tendering procedure No 43/2002 EC for the sale of wine alcohol for new industrial uses

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Council Regulation (EC) No 1493/1999 of 17 May 1999 on the common organisation of the market in wine [1], as last amended by Regulation (EC) No 2585/2001 [2],

Having regard to Commission Regulation (EC) No 1623/2000 of 25 July 2000 laying down detailed rules for implementing Council Regulation (EC) No 1493/1999 on the common organisation of the market in wine with regard to common market mechanisms [3], as last amended by Regulation (EC) No 1315/2002 [4], and in particular Article 80 thereof,

Whereas:

(1) An error has been made as regards the location of the vats referred to in the Annex to Commission Regulation (EC) No 1270/2002 [5]. The Annex to that Regulation should therefore be replaced.

(2) The measures provided for in this Regulation are in accordance with the Management Committee for Wine,

HAS ADOPTED THIS REGULATION:

Article 1

The Annex to Regulation (EC) No 1270/2002 is replaced by the Annex to this Regulation.

Article 2

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

It shall apply from 13 July 2002.

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

Done at Brussels, 30 July 2002.

For the Commission
Franz FISCHLER
Member of the Commission

[1] OJ L 179, 14.7.1999, p. 1.
[2] OJ L 345, 29.12.2001, p. 10.
[3] OJ L 194, 31.7.2000, p. 45.
[4] OJ L 192, 20.7.2002, p. 24.
[5] OJ L 184, 13.7.2002, p. 3.

ANNEX

INVITATION TO TENDER No 43/2002 EC FOR THE SALE OF ALCOHOL FOR NEW INDUSTRIAL USES

Place of storage, volume and characteristics of the alcohol put up for sale

Member State	Location	Vat No	Volume in hectolitres of alcohol at 100 % vol	Regulation (EC) No 1493/1999 Article	Type of alcohol	Alcoholic strength (in % vol)
France	Onivins-Longuefuye F-53200 Longuefuye	1	15 870	28	raw	+ 92
		1	6 560	30	raw	+ 92
		2	22 490	28	raw	+ 92
		4	22 440	27	raw	+ 92
		21	7 980	27	raw	+ 92
	Onivins-Port-La-Nouvelle Av. Adolphe Turrel BP 62 F-11210 Port-La-Nouvelle	25	12 490	30	raw	+ 92
		24	12 170	27	raw	+ 92
	Total		100 000			

COMMISSION REGULATION (EC) No 1386/2002

of 29 July 2002

laying down detailed rules for the implementation of Council Regulation (EC) No 1164/94 as regards the management and control systems for assistance granted from the Cohesion Fund and the procedure for making financial corrections

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Council Regulation (EC) No 1164/94 of 16 May 1994 establishing a Cohesion Fund [1], as amended by Regulations (EC) No 1264/1999 and (EC) No 1265/1999 [2], and in particular Article 12(4) thereof and Article H(4) of Annex II thereto,

Whereas:

(1) Article 12(1) of Regulation (EC) No 1164/94 requires Member States to take a number of measures to ensure that the Cohesion Fund is used efficiently and correctly and in accordance with the principle of sound financial management.

(2) For this purpose, it is necessary for Member States to provide adequate guidance regarding the organisation of the relevant functions of the bodies responsible for the implementation of projects, for certifying expenditure and for the general management and coordination of Cohesion Fund operations in the Member State concerned.

(3) Regulation (EC) No 1164/94 requires the Member States to cooperate with the Commission in ensuring that they have smoothly running management and control systems and to give it all necessary assistance to undertake checks, including sample checks.

(4) In order to harmonise standards for the certification of expenditure for which payments from the Fund are claimed, the content of such certificates should be laid down and the nature and quality of the information on which they rely specified.

(5) To enable the Commission to carry out the checks referred to in Article 12(2) of Regulation (EC) No 1164/94, Member States should supply it on request with data which the bodies responsible for the implementation of projects and for the general management and coordination of Cohesion Fund operations require in order to fulfil the management, monitoring and evaluation requirements of that Regulation. It is necessary to lay down the content of such data and the format and means of transmission of computer files when data is supplied in electronic form. The Commission should ensure that computerised and other data is kept confidential and secure.

(6) This Regulation should apply without prejudice to the provisions of Council Regulation (Euratom, EC) No 2185/96 of 11 November 1996 concerning on-the-spot checks and inspections carried out by the Commission in order to protect the European Communities' financial interests against fraud and other irregularities [3].

(7) This Regulation should apply without prejudice to the provisions of Commission Regulation (EC) No 1831/94 of 26 July 1994 concerning irregularities and the recovery of sums wrongly paid in connection with the financing of the Cohesion Fund and the organisation of an information system in this field [4].

(8) Detailed provisions should be laid down concerning the procedure under Article H of Annex II to Regulation (EC) No 1164/94, including the recovery of amounts paid unduly, repayment to the Commission and default interest,

HAS ADOPTED THIS REGULATION:

CHAPTER I

Subject matter and scope

Article 1

This Regulation lays down detailed rules for the implementation of Regulation (EC) No 1164/94 as regards the management and control systems for assistance granted from the Cohesion Fund (hereinafter referred to as the Fund) for eligible measures that fall within Article 3 of that Regulation and were first approved after 1 January 2000, and as regards the procedure for making financial corrections to such assistance.

CHAPTER II

Management and control systems

Article 2

1. Each Member State shall ensure that adequate guidance on the provision of management and control systems necessary to ensure the sound management of the Fund in accordance with generally accepted principles and standards is given to the following bodies and authorities:

(a) the bodies responsible for the implementation of projects under Article 10(4) of Regulation (EC) No 1164/94 (hereinafter called implementing bodies);

[1] OJ L 130, 25.5.1994, p. 1.
[2] OJ L 161, 26.6.1999, pp. 57 and 62.
[3] OJ L 292, 15.11.1996, p. 2.
[4] OJ L 191, 27.7.1994, p. 9.

(b) the authorities or bodies responsible for certifying statements of expenditure for which payments from the Fund are claimed under Article 12(1)(d) of Regulation (EC) No 1164/94 and Article D(4) of Annex II to that Regulation, including, where these are different, the authorities or bodies designated under Article D(1) of Annex II to the Regulation (hereinafter called paying authorities);

(c) the authorities responsible for the general management and coordination of Fund operations in the Member State (hereinafter called managing authorities), and

(d) public or private bodies or services acting under the responsibility of managing or paying authorities or performing tasks on their behalf in relation to implementing bodies (hereinafter called intermediate bodies).

In particular, that guidance shall assist those authorities or bodies in establishing the systems necessary not only to provide adequate assurance of the correctness, regularity and eligibility of claims on Community assistance but also to ensure that projects are carried out in accordance with the terms of the relevant decision and with the objectives assigned to those projects.

2. For the purposes of this Regulation, 'implementing bodies' shall include, where the implementing body is not the final recipient of funding, bodies and firms involved in the implementation of the project, whether as concession-holders, appointees or otherwise.

3. For the purposes of this Regulation, and except where otherwise specified, 'project' means any individual project, stage of a project or group of projects falling within Article 1(3) of Regulation (EC) No 1164/94, or any measure falling within Article 3(2) of that Regulation which is the subject of a decision taken under Article 10(6) thereof (hereinafter referred to as a granting Decision).

Article 3

The management and control systems of managing and paying authorities, intermediate bodies and implementing bodies shall, subject to proportionality in relation to the volume of assistance administered, provide for:

(a) a clear definition, a clear allocation and, insofar as it is necessary for sound management, an adequate separation of functions within the organisation concerned;

(b) effective systems for ensuring that the functions are performed in a satisfactory manner;

(c) in the case of intermediate bodies, reporting to the authority responsible on the performance of their tasks and the means employed.

Article 4

1. The management and control systems referred to Article 3 shall include procedures to verify the authenticity of the expenditure claimed and execution of the project from its preparatory stage through to the entry into service of the financed investment in accordance with the terms of the relevant granting Decision, with the objectives assigned to the project, and with applicable national and Community rules on, in particular, the eligibility of expenditure for support from the Fund, protection of the environment, transport, trans-European networks, competition and public procurement.

Verifications shall cover all aspects, whether of a financial, technical or administrative nature, that determine the effective utilisation of the funds committed.

2. The procedures shall require the recording of verifications of projects on the spot. The records shall state the work done, the results of the verification and the measures taken in respect of discrepancies. Where any physical or administrative verifications are not exhaustive, but are performed on a sample of works or transactions, the records shall identify the works or transactions selected and shall describe the sampling method.

Article 5

1. Member States shall, in respect of projects first approved after 1 January 2000, inform the Commission, within three months of the entry into force of this Regulation, of the organisation of the managing and paying authorities and intermediate bodies responsible for Fund operations in their country, of the management and control systems in place in these authorities and bodies and of improvements planned pursuant to the guidance referred to in Article 2(1).

2. The communication shall contain the following information in respect of each managing and paying authority and intermediate body:

(a) the functions vested in them;

(b) the allocation of functions between or within their departments, including between the managing and paying authority where they are the same body;

(c) the procedures for the inspection and acceptance of works and by which claims for reimbursement of expenditure are received, verified and validated, and by which payments to beneficiaries are authorized, executed and accounted for;

(d) the provisions for the audit of management and control systems.

3. The Commission shall, in cooperation with the Member State, satisfy itself that the management and control systems presented under paragraphs 1 and 2 meet the standards required by Regulation (EC) No 1164/94 and by this Regulation, and shall make known any obstacles which they present to the transparency of checks on the operation of the Fund and to the Commission's discharge of its responsibilities under Article 274 of the Treaty. Reviews of the operation of the systems shall be undertaken on a regular basis.

Article 6

1. The management and control systems shall provide a sufficient audit trail.

2. An audit trail shall be considered sufficient where it permits:

(a) reconciliation of the summary amounts certified to the Commission with the individual expenditure records and supporting documents held at the various administrative levels and by implementing bodies;

(b) verification of the allocation and transfer of the available Community and national funds;

(c) verification of the correctness of the information supplied on the execution of the project in accordance with the terms of the granting Decision and the objectives assigned to the project.

3. An indicative description of the information requirements for a sufficient audit trail is given in Annex I.

4. The managing authority shall satisfy itself on the following points:

(a) that there are procedures to ensure that documents that are relevant to specific items of expenditure incurred, payments made, works undertaken and verifications of them carried out in connection with the project, and which are required for a sufficient audit trail, are held in accordance with the requirements of Article G(3) of Annex II to Regulation (EC) No 1164/94 and with Annex I to this Regulation;

(b) that a record is maintained of the body holding them and its location;

(c) that the documents are made available for inspection by the persons and bodies who would normally have the right to inspect such documents.

5. The persons and bodies referred to in paragraph 4(c) shall be:

(a) the staff of the managing and paying authority, of intermediate bodies and of the implementing body who process payment claims;

(b) the services undertaking audits of management and control systems;

(c) the person or department of the paying authority responsible for certifying interim and final payment claims under Article 12(1)(d) of Regulation (EC) No 1164/94 and Article D(2)(d) of Annex II to that Regulation, and the person or department which issues the declaration under Article 12(1)(f) of the Regulation;

(d) mandated officials of national audit institutions and the Community.

They may require that extracts or copies of the documents or accounting records referred to in paragraph 4 be supplied to them.

Article 7

The paying authority shall keep an account of amounts recoverable from payments of Community assistance already made, and ensure that the amounts are recovered without unjustified delay. After recovery, it shall repay the irregular payments recovered, together with interest received on account of late payment, by deducting the amounts concerned from its next statement of expenditure and request for payment to the Commission in respect of the project concerned. If this is insufficient, the Commission may request that the excess amount be refunded to it.

The paying authority shall send the Commission once a year, in annex to the fourth quarterly report on recoveries supplied under Regulation (EC) No 1831/94, a statement of the amounts awaiting recovery at that date, classified by the year of initiation of the recovery proceedings.

CHAPTER III

Certification of expenditure

Article 8

1. The certificates of statements of interim and final expenditure referred to in Article 12(1)(d) of Regulation (EC) No 1164/94 and in the fourth indent of Article D(2)(d) of Annex II thereto shall be drawn up in the form prescribed in Annex II to this Regulation by a person or department within the paying authority that is functionally independent of any services that approve claims.

2. Before certifying any statement of expenditure, the paying authority shall satisfy itself that the following conditions are fulfilled:

(a) the managing authority, intermediate bodies and the implementing body have fulfilled the requirements of Regulation (EC) No 1164/94, in particular Article 12(1)(c) and (e) thereof and Article D(2)(b) and (d) of Annex II thereto, and observed the terms of the granting Decision;

(b) the statement of expenditure includes only expenditure:

(i) that has been actually effected within the eligibility period laid down in the granting Decision and can be supported by receipted invoices or accounting documents of equivalent probative value;

(ii) relating to works that had not been essentially completed at the time the application for assistance was lodged;

(iii) that are justified by the progress or completion of the project in accordance with the terms of the granting Decision and the objectives assigned to the project.

3. So that the sufficiency of the control systems and the audit trail can always be taken into account before a statement of expenditure is presented to the Commission, the managing authority shall ensure that the paying authority is kept informed of the procedures operated by it, by intermediate bodies and by the implementing body to:

(a) verify the authenticity of expenditure claimed and execution of the project in accordance with the terms of the relevant granting Decision and the objectives assigned to the project;

(b) ensure compliance with the applicable rules;

(c) maintain the audit trail.

4. In cases where the managing authority and the paying authority are or belong to the same body, this body shall ensure that procedures offering equivalent standards of control to those stipulated in paragraphs 2 and 3 are applied.

CHAPTER IV

Sample checks

Article 9

1. Member States shall organise checks on projects on an appropriate sampling basis, designed in particular to:

(a) verify the effectiveness of the management and control systems in place;

(b) verify selectively, on the basis of risk analysis, expenditure declarations made at the various levels concerned.

2. The checks carried out for the period 2000-2006 shall cover at least 15 % of the total eligible expenditure incurred on projects first approved during that period. This percentage may be reduced in proportion to the expenditure incurred before the entry into force of this Regulation. The checks shall be based on a representative sample of transactions, taking account of the requirements of paragraph 3.

Member States shall endeavour to spread the implementation of the checks evenly over the period concerned. They shall ensure an appropriate separation of tasks as between such checks and implementation or payment procedures concerning projects.

3. The selection of the sample of transactions to be checked shall take into account:

(a) the need to check an appropriate mix of types and sizes of projects;

(b) any risk factors which have been identified by national or Community checks;

(c) the need to ensure that the different types of body involved in the management and implementation of projects and the two sectors of activity (transport and the environment) are satisfactorily checked.

Article 10

Through the checks, the Member States shall endeavour to verify the following:

(a) the practical application and effectiveness of the management and control systems;

(b) the execution of projects in accordance with the terms of the granting Decision and the objectives assigned to the projects;

(c) for an adequate number of accounting records, the correspondence of those records with supporting documents held by intermediate bodies, and the implementing body;

(d) the presence of a sufficient audit trail;

(e) for an adequate number of expenditure items, that the nature and timing of the relevant expenditure comply with Community provisions and correspond to the approved specifications of the project and the works actually executed;

(f) that the appropriate national co-financing has in fact been made available; and

(g) that the cofinanced projects have been implemented in accordance with Community rules and policies as required by Article 8 of Regulation (EC) No 1164/94.

Article 11

The checks shall establish whether any problems encountered are of a systemic character, entailing a risk for other or all projects carried out by the same implementing body or in the Member State concerned. They shall also identify the causes of such situations, any further examination which may be required and the necessary corrective and preventive action.

Article 12

In accordance with Article G(1) of Annex II to Regulation (EC) No 1164/94, Member States shall inform the Commission by 30 June each year, and for the first time by 30 June 2003, of their application of Articles 9 to 11 of this Regulation in the previous calendar year and in addition provide any necessary amplification or updating of the description of their management and control systems communicated under Article 5(1).

CHAPTER V

Declaration at winding-up of projects

Article 13

The person or department designated to issue declarations on the winding-up of projects under Article 12(1)(f) of Regulation (EC) No 1164/94 shall have a function independent of:

(a) the managing authority, the implementing body and intermediate bodies;

(b) the person or department within the paying authority responsible for drawing up the certificates referred to in Article 8(1).

It shall conduct its examination according to internationally accepted auditing standards. It shall be supplied by the implementing body, the managing and paying authority and intermediate bodies with all information required and shall be given access to the records and supporting evidence necessary for drawing up the declaration.

Article 14

Declarations shall be based on an examination of the management and control systems, of the findings of checks already carried out and, where necessary, of a further sample check of transactions, and of the final report drawn up under Article F(4) of Annex II to Regulation (EC) No 1164/94. The person or department issuing the declaration shall make all necessary enquiries to obtain reasonable assurance that the certified statement of expenditure is correct, that the underlying transactions are legal and regular and that the project has been carried out in accordance with the terms of the granting Decision and the objectives assigned to the project.

Declarations shall be drawn up on the basis of the indicative model shown in Annex III and shall be accompanied by a report which shall include all relevant information to justify the declaration, including a summary of the findings of all checks carried out by national and Community bodies to which the declarant has had access.

Article 15

If the presence of important management or control weaknesses, or the high frequency of irregularities encountered or doubt about whether the project has been properly implemented does not allow the provision of a positive overall assurance as to the validity of the request for payment of the final balance and the final certificate of expenditure, the declaration shall refer to these circumstances and shall estimate the extent of the problem and its financial impact.

In such a case the Commission may ask that a further check be carried out with a view to the identification and rectification of irregularities within a specified period of time.

CHAPTER VI

Form and content of accounting information to be held and communicated to the Commission on request

Article 16

1. The accounting records on projects referred to in Annex I shall as far as possible be held in computerised form. Such records shall be made available to the Commission at its specific request for the purpose of carrying out documentary and on-the-spot checks, without prejudice to the requirement to supply annual reports under Article F(4) of Annex II to Regulation (EC) No 1164/94.

2. The Commission shall agree with each Member State the content of computer records to be made available under paragraph 1, the means by which they are communicated, and the length of the period required to develop any necessary computer systems. The scope of the information that may be requested, and the preferred technical specifications for the transfer of computer files to the Commission, are indicated in Annexes IV and V.

3. At the written request of the Commission, the Member States shall deliver to the Commission the records referred to in paragraph 1 within 10 working days of receipt of the request. A different period may be agreed between the Commission and the Member State, particularly where the records are not available in computerised form.

4. The Commission shall ensure that the information forwarded by the Member States or collected by it in the course of on-the-spot inspections is kept confidential and secure, in accordance with Article 287 of the Treaty.

5. Subject to the relevant national laws, Commission officials shall have access to all documents prepared either with a view to or following controls carried out under this Regulation and to the data held, including those stored in computer systems.

CHAPTER VII

Financial corrections

Article 17

1. The amount of financial corrections made by the Commission under Article H(2) of Annex II to Regulation (EC) No 1164/94 for individual or systemic irregularities shall be assessed, wherever this is possible and practicable, on the basis of individual files and shall be equal to the amount of expenditure wrongly charged to the Fund, having regard to the principle of proportionality.

2. When it is not possible or practicable to quantify the amount of irregular expenditure precisely, or when it would be disproportionate to cancel entirely the expenditure in question, and the Commission therefore bases its financial corrections on extrapolation or a flat rate, it shall proceed as follows:

(a) in the case of extrapolation, it shall use a representative sample of transactions with like characteristics;

(b) in the case of a flat rate, it shall assess the importance of the infringement of rules and the extent and financial implications of any shortcomings in the management and control system that have led to the irregularity established.

3. Where the Commission bases its position on the facts established by auditors other than those of its own services, it shall draw its own conclusions regarding their financial consequences, after examining the measures taken by the Member State concerned under Article 12(1) and (2) of Regulation (EC) No 1164/94 and Article G(1) of Annex II thereto, the reports supplied under Regulation (EC) No 1831/94, and any replies from the Member State.

Article 18

1. The period of time within which the Member State concerned may respond to a request under the first subparagraph of Article H(1) of Annex II to Regulation (EC) No 1164/94 to submit its comments shall be two months, except in duly justified cases where a longer period may be agreed by the Commission.

2. Where the Commission proposes financial corrections on the basis of extrapolation or at a flat rate, the Member State shall be given the opportunity to demonstrate, through an examination of the files concerned, that the actual extent of irregularity was less than the Commission's assessment. In agreement with the Commission, the Member State may limit the scope of this examination to an appropriate proportion or sample of the files concerned.

Except in duly justified cases, the time allowed for this examination shall not exceed a further period of two months after the two-month period referred to in paragraph 1. The results of such examination shall be examined in the manner specified in the second subparagraph of Article H(1) of Annex II to Regulation (EC) No 1164/94. The Commission shall take account of any evidence supplied by the Member State within the time limits.

3. Whenever the Member State objects to the observations made by the Commission and a hearing takes place under the second subparagraph of Article H(1) of Annex II to Regulation (EC) No 1164/94, the three-month period within which the Commission may take a decision under Article H(2) of Annex II to that Regulation shall begin to run from the date of the hearing.

Article 19

In cases in which the Commission has suspended payments under Article G(2) of Annex II to Regulation (EC) No 1164/94, the Commission and the Member State concerned shall endeavour to reach agreement in accordance with the procedure and time limits set out in Article 18(1) and (2) of this Regulation. If no agreement is reached, Article 18(3) shall apply.

Article 20

1. Any repayment due to be made to the Commission pursuant to Article H(3) of Annex II to Regulation (EC) No 1164/94 shall be effected before the due date indicated in the order for recovery drawn up in accordance with the Financial Regulation applicable to the general budget of the European Communities. This due date shall be the last day of the second month following the issuing of the order.

2. Any delay in effecting repayment shall give rise to interest on account of late payment, starting on the due date referred to in paragraph 1 and ending on the date of actual payment. The rate of such interest shall be one and a half percentage points above the rate applied by the European Central Bank in its main refinancing operations on the first working day of the month in which the due date falls.

3. A financial correction under Article H(2) of Annex II to Regulation (EC) No 1164/94 shall not prejudice the Member State's obligation to pursue recoveries under Article 12(1)(h) of that Regulation.

4. When amounts are to be recovered following an irregularity, the competent service or body shall initiate recovery proceedings and notify the implementing body and the managing and paying authorities thereof.

CHAPTER VIII

General and final provisions

Article 21

Nothing in this Regulation shall prevent Member States from applying national rules more rigorous than those prescribed herein.

Article 22

This Regulation shall be without prejudice to the obligations of Member States in respect of projects first approved before 1 January 2000 to ensure that the projects have been properly carried out, to prevent irregularities and take action against them, and to recover any amounts lost as a result of irregularity or negligence.

Article 23

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

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

Done at Brussels, 29 July 2002.

For the Commission

Michel BARNIER

Member of the Commission

ANNEX I

INDICATIVE DESCRIPTION OF INFORMATION REQUIREMENTS FOR A SUFFICIENT AUDIT TRAIL

(Article 6)

A sufficient audit trail, as referred to in Article 6(2), is present when, for a given project, including individual projects within a group of projects:

1. Accounting records kept at the appropriate management level provide detailed information about expenditure actually incurred in the cofinanced project by the implementing body, including, where the latter is not the final recipient of funding, the bodies and firms involved in the implementation of the project, whether as concession-holders, appointees or otherwise. The accounting records show the date they were created, the amount of each item of expenditure, the nature of the supporting documents and the date and method of payment. The necessary documentary evidence (e.g. invoices) is attached.
2. For items of expenditure relating only partly to the cofinanced project, the accuracy of the allocation of the expenditure between the cofinanced project and the rest is demonstrated. The same applies to types of expenditure that are considered eligible only within certain limits or in proportion to other costs.
3. The technical specifications and financial plan of the project, progress reports, documents concerning tendering and contracting procedures, and reports on inspections of the execution of the project in accordance with Article 4 are also kept at the appropriate management level.
4. For declaring expenditure actually incurred in the cofinanced project to the paying authority, the information referred to in paragraph 1 is aggregated into a detailed statement of expenditure broken down by category. The detailed statements of expenditure constitute supporting documents for the accounting records of the paying authority and are the basis for the preparation of declarations of expenditure to the Commission.
5. Where there is one or more intermediate bodies between the implementing body or the bodies or firms involved in implementation of the project and the paying authority, each intermediate body for its area of responsibility requires detailed statements of expenditure from the body below it as supporting documentation for its own accounting records, from which it provides at least a summary of the expenditure incurred on the project to the body above it.
6. In the case of computerised transfer of accounting data, all the authorities and bodies concerned obtain sufficient information from the lower level to justify their accounting records and the sums reported upwards, so as to ensure a sufficient audit trail from the total summary amounts certified to the Commission down to the individual expenditure items and the supporting documents at the level of the implementation body and the other bodies and firms involved in the implementation of the project.

ANNEX II

CERTIFICATE AND STATEMENT OF EXPENDITURE AND APPLICATION FOR PAYMENT

EUROPEAN COMMISSION

Cohesion Fund

(Interim/final certificate and statement of expenditure and application for payment)

(to be sent to unit … of DG REGIO through official channels)

Name of project:

……

Commission Decision No …… of ……

Commission Reference (CCI No) ……

National reference …… (if any)

CERTIFICATE

I, the undersigned

……,

representing the paying authority designated by [1]

……,

hereby certify that all eligible expenditure included in the attached statement, representing the contributions of the Cohesion Fund and national funding, was paid in line with the progress of the project

after [2]: | | | 20__ | and amounts to: | | EUR |

(exact amount to two decimal places)

The attached statement of expenditure broken down by category of expenditure, and by project in the case of a group of projects, covers expenditure up to

		20__

and is an integral part of this certificate, as is the accompanying report on progress of the project compared with plans/final report.

I also certify that the project is making satisfactory progress towards completion/has been completed in accordance with the objectives and that the information given in the progress report/final report is correct.

I further certify that the project is being/has been implemented in accordance with the terms of the decision and in compliance with the provisions of Regulation (EC) No 1164/94, in particular as regards:

1. compliance with the provisions of the Treaty and instruments adopted under it and with Community policies, in particular the rules on protection of the environment, transport (including trans-European networks), competition, and the award of public contracts (Article 8 of Regulation (EC) No 1164/94);

2. application of management and control procedures to the project, in particular to verify the reality of expenditure claimed and the proper execution of the project in accordance with Article 4 of Regulation (EC) No 1386/2002 and to prevent, detect and correct irregularities, pursue fraud, and recover unduly paid amounts (Article 12 of Regulation (EC) No 1164/94 and Articles G and H of Annex II thereto).

---

[1] Indicate the administrative instrument of designation in accordance with Article D(1) and (4) of Annex II to Regulation (EC) No 1164/94, with appropriate references and the date.

[2] Starting date for eligibility of expenditure under the decision.

In accordance with Article G(3) of Annex II to Regulation (EC) No 1164/94, the supporting documents are and will continue to be available for a minimum period of three years following payment of the balance by the Commission.

I certify that:

1. the statement of expenditure is accurate and results from accounting systems based on verifiable supporting documents;
2. the statement of expenditure and the application for payment take account of any recoveries made and interest received thereon;
3. details of the underlying transactions are recorded, where possible, on computer files and are available on request to the Commission departments responsible.

Date | | | 20__

Name in capitals, stamp, position and signature of competent authority

Statement of expenditure incurred in the project (1)

Reference No (CCI code — Code commun d'identification):

Name of project:

Date:

Category of expenditure	Total expenditure incurred to date (between . . . (2) and . . .)	Expenditure certified in present declaration	Total expenditure planned (initial budget)	Expenditure incurred to date, as proportion of initial budget (%)	Estimated expenditure still required to complete project
1. Planning					
2. Land acquisition					
3. Site preparation					
4. Building and construction					
5. Equipment					
6. Technical assistance					
7. Publicity (3)					
8. VAT or equivalent					
Total					

(1) For decisions on groups of projects, expenditure must be broken down by project, except where the expenditure is common to the group, as it is in the case of technical assistance or publicity.
(2) Starting date for eligibility of expenditure.
(3) Under Decision 96/455/EC (OJ L 188, 27.7.1996, p. 47).

Annex to statement of expenditure: recoveries effected since the last certified statement of expenditure and included in the present statement of expenditure

Amount ordered to be recovered	
Debtor	
Date of issue of recovery order	
Authority which issued recovery order	
Date of recovery	
Amount recovered	

APPLICATION FOR INTERIM/FINAL PAYMENT

Name of project: …

Commission reference (CCI No) …

Pursuant to Article D(2)(b)/(d) of Annex II to Regulation (EC) No 1164/94, I, the undersigned (name in capitals, stamp, position and signature of competent authority) request payment of the amount of EUR ..... as an interim/final payment [1]. This application meets the admissibility requirements because:

(Delete as appropriate)

(a) the report on the progress of the project in relation to physical and financial indicators and demonstrating its conformity with the decision granting the assistance, including the specific conditions laid down	— *is enclosed*
(b) the latest annual report/the final report on implementation required under the Annex to Annex II to the Regulation/Article F(4) of Annex II to the Regulation, including in the latter case details of compliance with the public procurement rules	— *has been supplied* — *is enclosed*
(c) observations and recommendations made by national and/or Community audit authorities, in particular the correction of suspected or proven irregularities	— *have been acted upon* — *no observations or recommendations made*
(d) the main technical, financial and legal problems that have arisen and the measures taken to correct them	— *are indicated* — *none observed*
(e) the analysis of any departures from the original financial plan	— *has been supplied* — *is enclosed*
(f) the publicity measures taken with regard to the project	— *are indicated*
(g) none of the certified expenditure has been suspended pursuant to Article G(2) or H(2) of Annex II to the Regulation	

Payment should be made to:

Beneficiary	
Bank	
Account No	
Account holder (if different from beneficiary)	

Date | | | 20__

Name in capitals, stamp, position and signature of competent authority

[1] Delete as appropriate.

ANNEX III

INDICATIVE MODEL FOR THE DECLARATION AT THE WINDING-UP OF A PROJECT [1]

(Chapter V)

To the European Commission, Directorate-General for Regional Policy

INTRODUCTION

1. I, ... (state name in capitals, title and department), have examined the final statement of expenditure for ..... (name and CCI reference number of project) and the application to the Commission for payment of the balance of the Community aid.

SCOPE OF THE EXAMINATION

2. I conducted the examination in accordance with the provisions of Chapter V of Regulation (EC) No 1386/2002. I planned and performed the examination with a view to obtaining reasonable assurance about whether the final statement of expenditure and application for payment of the balance of the Community aid and the final report are free of material misstatement, particularly as regards the execution of the project [2] in accordance with the terms and conditions of the decision and the objectives assigned to it. The procedure followed and the information used in the examination, including the conclusions of checks carried out in previous years, are summarised in the attached report.

OBSERVATIONS

3. The scope of the examination has been limited by the following:

   (a)

   (b)

   (c), etc.

   (Indicate any obstacles encountered in the examination, for example systemic problems, management weaknesses, lack of audit trail, lack of supporting documentation, cases under legal proceedings, etc.; estimate the amounts of expenditure affected by these obstacles and the corresponding Community aid.)

4. The examination, together with the conclusions of other national or Community controls to which I have had access, revealed a low/high (indicate as appropriate; if high, explain) frequency of errors/irregularities. The errors/irregularities reported have been satisfactorily dealt with by the responsible authorities and they do not appear to affect the amount of the Community aid payable, with the following exceptions:

   (a)

   (b)

   (c), etc.

   (Indicate the errors/irregularities which have not been satisfactorily dealt with, and for each case, the possible systemic character and extent of the problem and the amounts of Community aid which appear to be affected.)

CONCLUSION

Either,

if no obstacles were encountered in the examination, the frequency of errors found is low and all problems have been satisfactorily dealt with:

5. (a) in the light of the examination and the conclusions of other national or Community checks to which I have had access, it is my opinion that the final statement of expenditure and the final report present fairly, in all material respects, the expenditure incurred and the work carried out, in accordance with the regulations and the terms of the decision on the project and its objectives, and that the application to the Commission for payment of the balance of the Community aid appears to be valid;

or,

if certain obstacles were encountered in the examination but the frequency of errors is not high, or if some problems have not been satisfactorily dealt with:

[1] In the case of a group of projects subject to a single decision, the declaration covers the group of projects.
[2] Including the individual projects within a group of projects.

5. (b) except for the matters referred to at point 3 above (and) the errors/irregularities referred to at point 4 which do not appear to have been satisfactorily dealt with, it is my opinion, based on the examination and the conclusions of other national or Community checks to which I have had access, that the final statement of expenditure and the final report present fairly, in all material respects, the expenditure incurred and the work carried out, in accordance with the regulations and the terms of the decision on the project and its objectives, and that the application to the Commission for payment of the balance of the Community aid appears to be valid;

or,

if major obstacles were encountered in the examination or the frequency of errors found is high, even if the reported errors/irregularities have been satisfactorily dealt with:

5. (c) in view of the matters referred to at point 3 (and) given the high frequency of errors reported at point 4, I am not in a position to express an opinion on the final statement of expenditure, final report and application to the Commission for payment of the balance of the Community aid.

Date, signature

ANNEX IV

1. SCOPE OF INFORMATION ON PROJECTS [1] TO BE MADE AVAILABLE TO THE COMMISSION ON REQUEST FOR THE PURPOSE OF DOCUMENTARY AND ON-THE-SPOT CHECKS

The data requested may include the following, the precise content being subject to agreement with the Member State concerned. The field numbers represent the record structure preferred when compiling computer files for transfer to the Commission [2].

A. **Data on project (as per Commission decision)**

Field 1	CCI code (see 'Code commun d'identification') of project [3]
Field 2	Name of project
Field 3	Date of Commission decision [4]
Field 4	Name of paying authority
Field 5	Name of implementing body
Field 6	Intermediate body or bodies (other than paying authority) to which implementing body declares expenditure
Field 7	Name of region or area where project is located/carried out
Field 8	Region or area code
Field 9	Short description of project
Field 10	Start of eligibility period for expenditure
Field 11	End of eligibility period for expenditure
Field 12	Name of concession-holder, appointee or other body or bodies involved in implementing the project under the responsibility or on behalf of the implementing body
Field 13	Total cost of project [5]
Field 14	Expenditure for cofinancing [6]
Field 15	Community contribution
Field 16	Community contribution in % (if recorded in addition to field 15)
Field 17	National public funding
Field 18	National central government funding
Field 19	National regional public funding
Field 20	National local public funding
Field 21	Other national public funding
Field 22	Private financing
Field 23	EIB financing
Field 24	Other financing
Field 25	Intervention by category and subcategory in accordance with Section 2 of this Annex
Field 26	Location in urban/rural areas [7]
Field 27	Effect on the environment [8]
Field 28	Indicator [9]
Field 29	Unit of measurement of indicator
Field 30	Indicator target value for project

[1] In the case of a group of projects subject to a common decision, information is required on each individual project.
[2] See instructions on compiling computer files in Annex V, 2.
[3] Sub-code in the case of individual projects included in a group of projects subject to a single decision.
[4] Decision currently in force, i.e. where applicable amending decision.
[5] Including non-eligible costs excluded from base for calculating public financing.
[6] Public funding or equivalent.
[7] Location of project is (a) urban, (b) rural or (c) not geographically delimited.
[8] The project (a) has the environment as its main focus, (b) is environment-friendly, (c) is environmentally neutral.
[9] Main monitoring indicators to be indicated (subject to agreement with Member State).

B. **Expenditure declared on project**

The information requested may be limited to the records of expenditure declared for the project by the implementing body (Section B.1). By agreement with the Member State, the information requested may relate to records of individual payments by the implementing body or by the concession-holder, appointee or body acting in any other capacity under the responsibility or for the account of the implementing body (Section B.2).

1. *Expenditure declared by the implementing body for inclusion in expenditure declarations to the Commission*

Field 31 CCI code of project (= field 1)

Field 32 Name of project (= field 2)

Field 33 Reference number of declaration

Field 34 Expenditure declared as eligible for cofinancing

Field 35 Community contribution

Field 36 Community contribution in % (if recorded in addition to field 35)

Field 37 National public funding

Field 38 National central government funding

Field 39 National regional public funding

Field 40 National local public funding

Field 41 Other national public funding

Field 42 Private financing

Field 43 EIB financing

Field 44 Other financing

Field 45 Name of body declaring expenditure if not implementing body [1]

Field 46 Accounting date [2]

Field 47 Location of detailed supporting documents for the declaration [3]

Field 48 Start of period over which expenditure incurred

Field 49 End of period over which expenditure incurred

Field 50 Expenditure declared and certified by paying authority

Field 51 Date of expenditure declaration by paying authority

Field 52 Date of any on-the-spot verification [4]

Field 53 Body carrying out on-the-spot verification

Field 54 Indicator [5] (= field 28)

Field 55 Unit of measurement of indicator (= field 29)

Field 56 Degree of achievement of target for project at date of declaration (%)

Field 57 Degree of achievement of target for project at date of declaration compared with planned progress according to initial plan (%)

2. *Data on individual payments by the implementing body or the concession-holder, appointee or other body implementing the project under the responsibility or on behalf of the implementing body*

Field 58 Amount of payment

Field 59 Reference number of payment

Field 60 Payment date [6]

Field 61 Accounting date [7]

Field 62 Location of detailed supporting documents for the payment [8]

Field 63 Payee (supplier of goods and services; contractor): name

Field 64 Payee: reference number

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[1] If the implementing body declares expenditure to an intermediate body, which passes on the claim to the paying authority, the Commission may request details of the expenditure declarations at each level in order to follow the audit trail (see paragraph 5 of Annex I).
[2] Paragraph 1 of Annex I.
[3] Audit trail: paragraph 6 of Annex I.
[4] Under Article 4.
[5] Main monitoring indicators to be indicated (subject to agreement with Member State).
[6] Paragraph 1 of Annex I.
[7] Paragraph 1 of Annex I.
[8] Paragraph 6 of Annex I.

2. CLASSIFICATION BY AREAS OF INTERVENTION

Projects are to be coded in accordance with the following classification and also according to their location in rural or urban areas and their impact on the environment, namely whether:

1. the location of the project is:
   (a) urban;
   (b) rural, or
   (c) not geographically delimited;
2. the project:
   (a) has the environment as its main focus;
   (b) is environment-friendly;
   (c) is environmentally neutral.

CLASSIFICATION

3.	Basic infrastructure
31	**Transport infrastructure**
311	Rail
312	Roads
3121	National roads
3122	Regional/local roads
313	Motorways
314	Airports
315	Ports
316	Waterways
317	Urban transport
318	Multimodal transport
319	Intelligent transport systems
33	**Energy infrastructure (production, delivery)**
332	Renewable sources of energy (solar power, wind power, hydroelectricity, biomass)
34	**Environmental infrastructure (including water)**
341	Air
342	Noise
343	Urban and industrial waste (including hospital and dangerous waste)
344	Drinking water (collection, storage, treatment and distribution)
345	Sewerage and purification
41	**Technical assistance and studies**
411	Preparation, implementation, monitoring
412	Evaluation
413	Studies
415	Information to the public

ANNEX V

PREFERRED TECHNICAL SPECIFICATIONS FOR THE TRANSFER OF COMPUTER FILES TO THE COMMISSION

1. TRANSFER MEANS

Most means in current use can be employed, subject to prior agreement with the Commission. The following is a non-exhaustive list of the preferred means.

1.1. **Magnetic medium**

— floppy disk: 3,5 inch 1,4 Mb (DOS/Windows)
optional compression into ZIP format

— DAT cartridge
4 mm DDS-1 (90 m)

— CD-ROM (WORM).

1.2. **Electronic file transfer**

— direct messaging by e-mail
for files of 5 Mb or less
optional compression into ZIP format

— transfer by FTP
optional compression into ZIP format.

2. PREFERRED STANDARD FOR THE COMPILATION OF AN EXTRACT FROM MEMBER STATES' COMPUTER FILES

The preferred standard file has the following characteristics:

1. every record starts with a three character code identifying the information contained in this record. There are two types of records:

   1.(a) records on the project identified by the code 'PRJ' containing general information on the project. The record attributes (Fields 1 to 30) are those described in Annex IV, 1.A;

   1.(b) expenditure records identified by the code 'PAY' containing detailed information on expenditure declared on the project. The record attributes (Fields 31 to 64) are those described in Annex IV, 1.B;

2. 'PRJ' records containing information for a project are immediately followed by several 'PAY' records containing expenditure information for the project, or else PRJ and PAY records may be supplied in separate files;

3. the fields will be separated by a semi-colon (';'). Two consecutive semi-colons indicate that no data is given for the field ('empty field');

4. records will vary in length. Each record will end with a code 'CR LF' or 'Carriage Return — Line Feed' (in hexadecimal: 0D 0A);

5. the file will be in ASCII code;

6. numeric fields representing amounts:
   (a) decimal separator: '.';
   (b) when necessary, the symbol (+ or −) will appear on the far left, followed immediately by the figures;
   (c) fixed number of decimals;
   (d) no spaces between digits; no spaces between thousands;

7. date field: 'DDMMYYYY' (day in two digits, month in two digits, year in four digits);

8. data in text format must not be put between quotation marks (' '). It goes without saying that the semi-colon separator ';' must not be used in data in text format;

9. all fields: no spaces at the beginning or end of a field;

10. files satisfying the above rules will look like the following (example):

    PRJ;2001E16COE001;Dublin Region Waste Water Treatment Scheme — Stage V;29122000;Department of Finance;Dublin Corporation;

    PAY; 2001E16COE001;Dublin Region Waste Water Treatment Scheme — Stage V;1234;10000000;8000000;80%;

11. in the case of files from Greece, either ELOT-928 or ISO 8859-7 coding should be applied.

3. DOCUMENTATION

Each file must be accompanied by check sums for the following:

1. number of records;
2. total amount;
3. sum of subtotals for each project.

For each field expressed by a code, the meanings of the codes used will be attached to the file.

The sum of the records in the computer file by project must correspond to the payment declarations submitted to the Commission for the period specified in the request for information. Any discrepancies are to be justified in a note attached to the file.

COMMISSION REGULATION (EC) No 1387/2002
of 30 July 2002
fixing the export refunds on milk and milk products

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Council Regulation (EC) No 1255/1999 of 17 May 1999 on the common organisation of the market in milk and milk products [1], as last amended by Commission Regulation (EC) No 509/2002 [2], and in particular Article 31(3) thereof,

Whereas:

(1) Article 31 of Regulation (EC) No 1255/1999 provides that the difference between prices in international trade for the products listed in Article 1 of that Regulation and prices for those products within the Community may be covered by an export refund within the limits resulting from agreements concluded in accordance with Article 300 of the Treaty.

(2) Regulation (EC) No 1255/1999 provides that when the refunds on the products listed in Article 1 of the abovementioned Regulation, exported in the natural state, are being fixed, account must be taken of:

— the existing situation and the future trend with regard to prices and availabilities of milk and milk products on the Community market and prices for milk and milk products in international trade,

— marketing costs and the most favourable transport charges from Community markets to ports or other points of export in the Community, as well as costs incurred in placing the goods on the market of the country of destination,

— the aims of the common organisation of the market in milk and milk products which are to ensure equilibrium and the natural development of prices and trade on this market,

— the limits resulting from agreements concluded in accordance with Article 300 of the Treaty, and

— the need to avoid disturbances on the Community market, and

— the economic aspect of the proposed exports.

(3) Article 31(5) of Regulation (EC) No 1255/1999 provides that when prices within the Community are being determined account should be taken of the ruling prices which are most favourable for exportation, and that when prices in international trade are being determined particular account should be taken of:

(a) prices ruling on third country markets;

(b) the most favourable prices in third countries of destination for third country imports;

(c) producer prices recorded in exporting third countries, account being taken, where appropriate, of subsidies granted by those countries; and

(d) free-at-Community-frontier offer prices.

(4) Article 31(3) of Regulation (EC) No 1255/1999 provides that the world market situation or the specific requirements of certain markets may make it necessary to vary the refund on the products listed in Article 1 of the abovementioned Regulation according to destination.

(5) Article 31(3) of Regulation (EC) No 1255/1999 provides that the list of products on which export refunds are granted and the amount of such refunds should be fixed at least once every four weeks; the amount of the refund may, however, remain at the same level for more than four weeks.

(6) In accordance with Article 16 of Commission Regulation (EC) No 174/1999 of 26 January 1999 on specific detailed rules for the application of Council Regulation (EC) No 804/68 as regards export licences and export refunds on milk and milk products [3], as last amended by Regulation (EC) No 1166/2002 [4], the refund granted for milk products containing added sugar is equal to the sum of the two components; one is intended to take account of the quantity of milk products and is calculated by multiplying the basic amount by the milk products content in the product concerned; the other is intended to take account of the quantity of added sucrose and is calculated by multiplying the sucrose content of the entire product by the basic amount of the refund valid on the day of exportation for the products listed in Article 1(1)(d) of Council Regulation (EC) No 1260/2001 of 19 June 2001 on the common organisation of the markets in the sugar sector [5], as amended by Commission Regulation (EC) No 680/2002 [6], however, this second component is applied only if the added sucrose has been produced using sugar beet or cane harvested in the Community.

[1] OJ L 160, 26.6.1999, p. 48.
[2] OJ L 79, 22.3.2002, p. 15.
[3] OJ L 20, 27.1.1999, p. 8.
[4] OJ L 170, 29.6.2002, p. 51.
[5] OJ L 178, 30.6.2001, p. 1.
[6] OJ L 104, 20.4.2002, p. 26.

(7) Commission Regulation (EEC) No 896/84 [1], as last amended by Regulation (EEC) No 222/88 [2], laid down additional provisions concerning the granting of refunds on the change from one milk year to another; those provisions provide for the possibility of varying refunds according to the date of manufacture of the products.

(8) For the calculation of the refund for processed cheese provision must be made where casein or caseinates are added for that quantity not to be taken into account.

(9) It follows from applying the rules set out above to the present situation on the market in milk and in particular to quotations or prices for milk products within the Community and on the world market that the refund should be as set out in the Annex to this Regulation.

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

HAS ADOPTED THIS REGULATION:

Article 1

The export refunds referred to in Article 31 of Regulation (EC) No 1255/1999 on products exported in the natural state shall be as set out in the Annex.

Article 2

This Regulation shall enter into force on 1 August 2002.

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

Done at Brussels, 30 July 2002.

For the Commission
Franz FISCHLER
Member of the Commission

[1] OJ L 91, 1.4.1984, p. 71.
[2] OJ L 28, 1.2.1988, p. 1.

ANNEX

to the Commission Regulation of 30 July 2002 fixing the export refunds on milk and milk products

Product code	Destination	Unit of measurement	Amount of refund
0401 10 10 9000	970	EUR/100 kg	2,458
0401 10 90 9000	970	EUR/100 kg	2,458
0401 20 11 9100	970	EUR/100 kg	2,458
0401 20 11 9500	970	EUR/100 kg	3,798
0401 20 19 9100	970	EUR/100 kg	2,458
0401 20 19 9500	970	EUR/100 kg	3,798
0401 20 91 9000	970	EUR/100 kg	4,806
0401 20 99 9000	970	EUR/100 kg	4,806
0401 30 11 9400	970	EUR/100 kg	11,09
0401 30 11 9700	970	EUR/100 kg	16,66
0401 30 19 9700	970	EUR/100 kg	16,66
0401 30 31 9100	L06	EUR/100 kg	40,46
0401 30 31 9400	L06	EUR/100 kg	63,20
0401 30 31 9700	L06	EUR/100 kg	69,70
0401 30 39 9100	L06	EUR/100 kg	40,46
0401 30 39 9400	L06	EUR/100 kg	63,20
0401 30 39 9700	L06	EUR/100 kg	69,70
0401 30 91 9100	L06	EUR/100 kg	79,43
0401 30 91 9500	L06	EUR/100 kg	116,74
0401 30 99 9100	L06	EUR/100 kg	79,43
0401 30 99 9500	L06	EUR/100 kg	116,74
0402 10 11 9000	L06	EUR/100 kg	85,00
0402 10 19 9000	L06	EUR/100 kg	85,00
0402 10 91 9000	L06	EUR/kg	0,8500
0402 10 99 9000	L06	EUR/kg	0,8500
0402 21 11 9200	L06	EUR/100 kg	85,00
0402 21 11 9300	L06	EUR/100 kg	106,39
0402 21 11 9500	L06	EUR/100 kg	112,31
0402 21 11 9900	L06	EUR/100 kg	120,90
0402 21 17 9000	L06	EUR/100 kg	85,00
0402 21 19 9300	L06	EUR/100 kg	106,39
0402 21 19 9500	L06	EUR/100 kg	112,31
0402 21 19 9900	L06	EUR/100 kg	120,90
0402 21 91 9100	L06	EUR/100 kg	121,71
0402 21 91 9200	L06	EUR/100 kg	122,69
0402 21 91 9350	L06	EUR/100 kg	123,88
0402 21 91 9500	L06	EUR/100 kg	135,55
0402 21 99 9100	L06	EUR/100 kg	121,71
0402 21 99 9200	L06	EUR/100 kg	122,69
0402 21 99 9300	L06	EUR/100 kg	123,88
0402 21 99 9400	L06	EUR/100 kg	132,38
0402 21 99 9500	L06	EUR/100 kg	135,55
0402 21 99 9600	L06	EUR/100 kg	147,05
0402 21 99 9700	L06	EUR/100 kg	153,41
0402 21 99 9900	L06	EUR/100 kg	160,93
0402 29 15 9200	L06	EUR/kg	0,8500
0402 29 15 9300	L06	EUR/kg	1,0641
0402 29 15 9500	L06	EUR/kg	1,1234
0402 29 15 9900	L06	EUR/kg	1,2090
0402 29 19 9300	L06	EUR/kg	1,0641
0402 29 19 9500	L06	EUR/kg	1,1234
0402 29 19 9900	L06	EUR/kg	1,2090
0402 29 91 9000	L06	EUR/kg	1,2171
0402 29 99 9100	L06	EUR/kg	1,2171
0402 29 99 9500	L06	EUR/kg	1,3238
0402 91 11 9370	L06	EUR/100 kg	6,804
0402 91 19 9370	L06	EUR/100 kg	6,804
0402 91 31 9300	L06	EUR/100 kg	8,058
0402 91 39 9300	L06	EUR/100 kg	8,058
0402 91 99 9000	L06	EUR/100 kg	43,93
0402 99 11 9350	L06	EUR/kg	0,1734
0402 99 19 9350	L06	EUR/kg	0,1734
0402 99 31 9150	L06	EUR/kg	0,1816
0402 99 31 9300	L06	EUR/kg	0,2629
0402 99 31 9500	L06	EUR/kg	0,4530
0402 99 39 9150	L06	EUR/kg	0,1816
0403 90 11 9000	L06	EUR/100 kg	83,81
0403 90 13 9200	L06	EUR/100 kg	83,81
0403 90 13 9300	L06	EUR/100 kg	105,76
0403 90 13 9500	L06	EUR/100 kg	111,23
0403 90 13 9900	L06	EUR/100 kg	119,82
0403 90 19 9000	L06	EUR/100 kg	120,45
0403 90 33 9400	L06	EUR/kg	1,0576
0403 90 33 9900	L06	EUR/kg	1,1982
0403 90 51 9100	970	EUR/100 kg	2,458
0403 90 59 9170	970	EUR/100 kg	16,66
0403 90 59 9310	L06	EUR/100 kg	40,46
0403 90 59 9340	L06	EUR/100 kg	59,20
0403 90 59 9370	L06	EUR/100 kg	59,20
0403 90 59 9510	L06	EUR/100 kg	59,20
0404 90 21 9120	L06	EUR/100 kg	72,52
0404 90 21 9160	L06	EUR/100 kg	85,00
0404 90 23 9120	L06	EUR/100 kg	85,00
0404 90 23 9130	L06	EUR/100 kg	106,39
0404 90 23 9140	L06	EUR/100 kg	112,31
0404 90 23 9150	L06	EUR/100 kg	120,90
0404 90 29 9110	L06	EUR/100 kg	121,76
0404 90 29 9115	L06	EUR/100 kg	122,68
0404 90 29 9125	L06	EUR/100 kg	123,95
0404 90 29 9140	L06	EUR/100 kg	135,61
0404 90 81 9100	L06	EUR/kg	0,8500
0404 90 83 9110	L06	EUR/kg	0,8500
0404 90 83 9130	L06	EUR/kg	1,0639
0404 90 83 9150	L06	EUR/kg	1,1231
0404 90 83 9170	L06	EUR/kg	1,2090
0404 90 83 9936	L06	EUR/kg	0,1734
0405 10 11 9500	L05	EUR/100 kg	180,49
0405 10 11 9700	L05	EUR/100 kg	185,00
0405 10 19 9500	L05	EUR/100 kg	180,49
0405 10 19 9700	L05	EUR/100 kg	185,00
0405 10 30 9100	L05	EUR/100 kg	180,49
0405 10 30 9300	L05	EUR/100 kg	185,00
0405 10 30 9700	L05	EUR/100 kg	185,00
0405 10 50 9300	L05	EUR/100 kg	185,00
0405 10 50 9500	L05	EUR/100 kg	180,49
0405 10 50 9700	L05	EUR/100 kg	185,00
0405 10 90 9000	L05	EUR/100 kg	191,78
0405 20 90 9500	L05	EUR/100 kg	169,22
0405 20 90 9700	L05	EUR/100 kg	175,98
0405 90 10 9000	L05	EUR/100 kg	235,07
0405 90 90 9000	L05	EUR/100 kg	185,00
0406 10 20 9100	A00	EUR/100 kg	—
0406 10 20 9230	L03	EUR/100 kg	—
	L04	EUR/100 kg	39,41
	400	EUR/100 kg	—
	A01	EUR/100 kg	39,41

Product code	Destination	Unit of measurement	Amount of refund
0406 10 20 9290	L03	EUR/100 kg	—
	L04	EUR/100 kg	36,66
	400	EUR/100 kg	—
	A01	EUR/100 kg	36,66
0406 10 20 9300	L03	EUR/100 kg	—
	L04	EUR/100 kg	16,09
	400	EUR/100 kg	—
	A01	EUR/100 kg	16,09
0406 10 20 9610	L03	EUR/100 kg	—
	L04	EUR/100 kg	53,46
	400	EUR/100 kg	—
	A01	EUR/100 kg	53,46
0406 10 20 9620	L03	EUR/100 kg	—
	L04	EUR/100 kg	54,22
	400	EUR/100 kg	—
	A01	EUR/100 kg	54,22
0406 10 20 9630	L03	EUR/100 kg	—
	L04	EUR/100 kg	60,52
	400	EUR/100 kg	—
	A01	EUR/100 kg	60,52
0406 10 20 9640	L03	EUR/100 kg	—
	L04	EUR/100 kg	88,94
	400	EUR/100 kg	—
	A01	EUR/100 kg	88,94
0406 10 20 9650	L03	EUR/100 kg	—
	L04	EUR/100 kg	74,11
	400	EUR/100 kg	—
	A01	EUR/100 kg	74,11
0406 10 20 9660	A00	EUR/100 kg	—
0406 10 20 9830	L03	EUR/100 kg	—
	L04	EUR/100 kg	27,49
	400	EUR/100 kg	—
	A01	EUR/100 kg	27,49
0406 10 20 9850	L03	EUR/100 kg	—
	L04	EUR/100 kg	33,33
	400	EUR/100 kg	—
	A01	EUR/100 kg	33,33
0406 10 20 9870	A00	EUR/100 kg	—
0406 10 20 9900	A00	EUR/100 kg	—
0406 20 90 9100	A00	EUR/100 kg	—
0406 20 90 9913	L03	EUR/100 kg	—
	L04	EUR/100 kg	61,46
	400	EUR/100 kg	17,96
	A01	EUR/100 kg	61,46
0406 20 90 9915	L03	EUR/100 kg	—
	L04	EUR/100 kg	81,13
	400	EUR/100 kg	23,93
	A01	EUR/100 kg	81,13
0406 20 90 9917	L03	EUR/100 kg	—
	L04	EUR/100 kg	86,20
	400	EUR/100 kg	25,44
	A01	EUR/100 kg	86,20
0406 20 90 9919	L03	EUR/100 kg	—
	L04	EUR/100 kg	96,33
	400	EUR/100 kg	28,38
	A01	EUR/100 kg	96,33
0406 20 90 9990	A00	EUR/100 kg	—
0406 30 31 9710	L03	EUR/100 kg	—
	L04	EUR/100 kg	8,10
	400	EUR/100 kg	—
	A01	EUR/100 kg	15,17
0406 30 31 9730	L03	EUR/100 kg	—
	L04	EUR/100 kg	11,87
	400	EUR/100 kg	—
	A01	EUR/100 kg	22,26
0406 30 31 9910	L03	EUR/100 kg	—
	L04	EUR/100 kg	8,10
	400	EUR/100 kg	—
	A01	EUR/100 kg	15,17
0406 30 31 9930	L03	EUR/100 kg	—
	L04	EUR/100 kg	11,87
	400	EUR/100 kg	—
	A01	EUR/100 kg	22,26
0406 30 31 9950	L03	EUR/100 kg	—
	L04	EUR/100 kg	17,26
	400	EUR/100 kg	—
	A01	EUR/100 kg	32,38
0406 30 39 9500	L03	EUR/100 kg	—
	L04	EUR/100 kg	11,87
	400	EUR/100 kg	—
	A01	EUR/100 kg	22,26
0406 30 39 9700	L03	EUR/100 kg	—
	L04	EUR/100 kg	17,26
	400	EUR/100 kg	—
	A01	EUR/100 kg	32,38
0406 30 39 9930	L03	EUR/100 kg	—
	L04	EUR/100 kg	17,26
	400	EUR/100 kg	—
	A01	EUR/100 kg	32,38
0406 30 39 9950	L03	EUR/100 kg	—
	L04	EUR/100 kg	19,53
	400	EUR/100 kg	—
	A01	EUR/100 kg	36,60
0406 30 90 9000	L03	EUR/100 kg	—
	L04	EUR/100 kg	20,48
	400	EUR/100 kg	—
	A01	EUR/100 kg	38,40
0406 40 50 9000	L03	EUR/100 kg	—
	L04	EUR/100 kg	94,14
	400	EUR/100 kg	—
	A01	EUR/100 kg	94,14
0406 40 90 9000	L03	EUR/100 kg	—
	L04	EUR/100 kg	96,66
	400	EUR/100 kg	—
	A01	EUR/100 kg	96,66
0406 90 13 9000	L03	EUR/100 kg	—
	L04	EUR/100 kg	106,29
	400	EUR/100 kg	34,20
	A01	EUR/100 kg	121,71
0406 90 15 9100	L03	EUR/100 kg	—
	L04	EUR/100 kg	109,84
	400	EUR/100 kg	35,25
	A01	EUR/100 kg	125,77
0406 90 17 9100	L03	EUR/100 kg	—
	L04	EUR/100 kg	109,84
	400	EUR/100 kg	35,25
	A01	EUR/100 kg	125,77
0406 90 21 9900	L03	EUR/100 kg	—
	L04	EUR/100 kg	107,63
	400	EUR/100 kg	25,29
	A01	EUR/100 kg	122,94
0406 90 23 9900	L03	EUR/100 kg	—
	L04	EUR/100 kg	94,51
	400	EUR/100 kg	—
	A01	EUR/100 kg	108,69
0406 90 25 9900	L03	EUR/100 kg	—
	L04	EUR/100 kg	93,89
	400	EUR/100 kg	—
	A01	EUR/100 kg	107,52

Product code	Destination	Unit of measurement	Amount of refund
0406 90 27 9900	L03	EUR/100 kg	—
	L04	EUR/100 kg	85,04
	400	EUR/100 kg	—
	A01	EUR/100 kg	97,38
0406 90 31 9119	L03	EUR/100 kg	—
	L04	EUR/100 kg	78,15
	400	EUR/100 kg	14,50
	A01	EUR/100 kg	89,64
0406 90 33 9119	L03	EUR/100 kg	—
	L04	EUR/100 kg	78,15
	400	EUR/100 kg	14,50
	A01	EUR/100 kg	89,64
0406 90 33 9919	L03	EUR/100 kg	—
	L04	EUR/100 kg	71,43
	400	EUR/100 kg	—
	A01	EUR/100 kg	82,21
0406 90 33 9951	L03	EUR/100 kg	—
	L04	EUR/100 kg	72,14
	400	EUR/100 kg	—
	A01	EUR/100 kg	82,27
0406 90 35 9190	L03	EUR/100 kg	—
	L04	EUR/100 kg	110,56
	400	EUR/100 kg	34,88
	A01	EUR/100 kg	127,15
0406 90 35 9990	L03	EUR/100 kg	—
	L04	EUR/100 kg	110,56
	400	EUR/100 kg	22,80
	A01	EUR/100 kg	127,15
0406 90 37 9000	L03	EUR/100 kg	—
	L04	EUR/100 kg	106,29
	400	EUR/100 kg	34,20
	A01	EUR/100 kg	121,71
0406 90 61 9000	L03	EUR/100 kg	—
	L04	EUR/100 kg	117,14
	400	EUR/100 kg	32,46
	A01	EUR/100 kg	135,59
0406 90 63 9100	L03	EUR/100 kg	—
	L04	EUR/100 kg	116,53
	400	EUR/100 kg	36,31
	A01	EUR/100 kg	134,46
0406 90 63 9900	L03	EUR/100 kg	—
	L04	EUR/100 kg	112,03
	400	EUR/100 kg	27,77
	A01	EUR/100 kg	129,88
0406 90 69 9100	A00	EUR/100 kg	—
0406 90 69 9910	L03	EUR/100 kg	—
	L04	EUR/100 kg	112,03
	400	EUR/100 kg	27,77
	A01	EUR/100 kg	129,88
0406 90 73 9900	L03	EUR/100 kg	—
	L04	EUR/100 kg	97,56
	400	EUR/100 kg	29,89
	A01	EUR/100 kg	111,82
0406 90 75 9900	L03	EUR/100 kg	—
	L04	EUR/100 kg	98,22
	400	EUR/100 kg	12,61
	A01	EUR/100 kg	113,03
0406 90 76 9300	L03	EUR/100 kg	—
	L04	EUR/100 kg	88,57
	400	EUR/100 kg	—
	A01	EUR/100 kg	101,43
0406 90 76 9400	L03	EUR/100 kg	—
	L04	EUR/100 kg	99,20
	400	EUR/100 kg	13,13
	A01	EUR/100 kg	113,61
0406 90 76 9500	L03	EUR/100 kg	—
	L04	EUR/100 kg	94,38
	400	EUR/100 kg	13,13
	A01	EUR/100 kg	107,15
0406 90 78 9100	L03	EUR/100 kg	—
	L04	EUR/100 kg	91,53
	400	EUR/100 kg	—
	A01	EUR/100 kg	106,96
0406 90 78 9300	L03	EUR/100 kg	—
	L04	EUR/100 kg	97,04
	400	EUR/100 kg	—
	A01	EUR/100 kg	110,84
0406 90 78 9500	L03	EUR/100 kg	—
	L04	EUR/100 kg	96,13
	400	EUR/100 kg	—
	A01	EUR/100 kg	109,15
0406 90 79 9900	L03	EUR/100 kg	—
	L04	EUR/100 kg	78,47
	400	EUR/100 kg	—
	A01	EUR/100 kg	90,23
0406 90 81 9900	L03	EUR/100 kg	—
	L04	EUR/100 kg	99,20
	400	EUR/100 kg	27,02
	A01	EUR/100 kg	113,61
0406 90 85 9930	L03	EUR/100 kg	—
	L04	EUR/100 kg	107,14
	400	EUR/100 kg	33,67
	A01	EUR/100 kg	123,32
0406 90 85 9970	L03	EUR/100 kg	—
	L04	EUR/100 kg	98,22
	400	EUR/100 kg	29,46
	A01	EUR/100 kg	113,03
0406 90 85 9999	A00	EUR/100 kg	—
0406 90 86 9100	A00	EUR/100 kg	—
0406 90 86 9200	L03	EUR/100 kg	—
	L04	EUR/100 kg	90,13
	400	EUR/100 kg	17,68
	A01	EUR/100 kg	106,94
0406 90 86 9300	L03	EUR/100 kg	—
	L04	EUR/100 kg	91,43
	400	EUR/100 kg	19,38
	A01	EUR/100 kg	108,06
0406 90 86 9400	L03	EUR/100 kg	—
	L04	EUR/100 kg	97,13
	400	EUR/100 kg	21,93
	A01	EUR/100 kg	113,61
0406 90 86 9900	L03	EUR/100 kg	—
	L04	EUR/100 kg	107,14
	400	EUR/100 kg	25,67
	A01	EUR/100 kg	123,32
0406 90 87 9100	A00	EUR/100 kg	—
0406 90 87 9200	L03	EUR/100 kg	—
	L04	EUR/100 kg	75,11
	400	EUR/100 kg	15,81
	A01	EUR/100 kg	89,10
0406 90 87 9300	L03	EUR/100 kg	—
	L04	EUR/100 kg	83,95
	400	EUR/100 kg	17,85
	A01	EUR/100 kg	99,25
0406 90 87 9400	L03	EUR/100 kg	—
	L04	EUR/100 kg	86,15
	400	EUR/100 kg	19,55
	A01	EUR/100 kg	100,75
0406 90 87 9951	L03	EUR/100 kg	—
	L04	EUR/100 kg	97,43
	400	EUR/100 kg	27,03
	A01	EUR/100 kg	111,58

Product code	Destination	Unit of measurement	Amount of refund
0406 90 87 9971	L03	EUR/100 kg	—
	L04	EUR/100 kg	97,43
	400	EUR/100 kg	21,93
	A01	EUR/100 kg	111,58
0406 90 87 9972	L03	EUR/100 kg	—
	L04	EUR/100 kg	41,51
	400	EUR/100 kg	—
	A01	EUR/100 kg	47,73
0406 90 87 9973	L03	EUR/100 kg	—
	L04	EUR/100 kg	95,66
	400	EUR/100 kg	15,39
	A01	EUR/100 kg	109,55
0406 90 87 9974	L03	EUR/100 kg	—
	L04	EUR/100 kg	103,82
	400	EUR/100 kg	15,39
	A01	EUR/100 kg	118,38
0406 90 87 9975	L03	EUR/100 kg	—
	L04	EUR/100 kg	105,90
	400	EUR/100 kg	20,40
	A01	EUR/100 kg	119,70
0406 90 87 9979	L03	EUR/100 kg	—
	L04	EUR/100 kg	94,51
	400	EUR/100 kg	15,39
	A01	EUR/100 kg	108,69
0406 90 88 9100	A00	EUR/100 kg	—
0406 90 88 9300	L03	EUR/100 kg	—
	L04	EUR/100 kg	74,16
	400	EUR/100 kg	19,38
	A01	EUR/100 kg	87,34

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

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

The other destinations are defined as follows:

L03 Ceuta, Melilla, Iceland, Norway, Switzerland, Liechtenstein, Andorra, Gibraltar, Holy See (often referred to as Vatican City), Malta, Turkey, Estonia, Latvia, Lithuania, Poland, Czech Republic, Slovakia, Hungary, Romania, Bulgaria, Canada, Cyprus, Australia and New Zealand,

L04 Albania, Slovenia, Croatia, Bosnia and Herzegovina, Yugoslavia and the Former Yugoslav Republic of Macedonia,

L05 all destinations except Poland, Estonia, Latvia, Lithuania, Hungary and the United States of America.

L06 all destinations except Estonia, Latvia, Lithuania, Hungary and the United States of America.

970 includes the exports referred to in Articles 36(1)(a) and (c) and 44(1)(a) and (b) of Commission Regulation (EC) No 800/1999 (OJ L 102, 17.4.1999, p. 11) and exports under contracts with armed forces stationed on the territory of a Member State which do not come under its flag.

COMMISSION REGULATION (EC) No 1388/2002

of 30 July 2002

altering the export refunds on white sugar and raw sugar exported in the natural state

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Council Regulation (EC) No 1260/2001 of 19 June 2001 on the common organisation of the markets in the sugar sector [1], as amended by Commission Regulation (EC) No 680/2002 [2], and in particular the third subparagraph of Article 27(5) thereof,

Whereas:

(1) The refunds on white sugar and raw sugar exported in the natural state were fixed by Commission Regulation (EC) No 1307/2002 [3], as amended by Regulation (EC) No 1349/2002 [4].

(2) It follows from applying the detailed rules contained in Regulation (EC) No 1307/2002 to the information known to the Commission that the export refunds at present in force should be altered to the amounts set out in the Annex hereto,

HAS ADOPTED THIS REGULATION:

Article 1

The export refunds on the products listed in Article 1(1)(a) of Regulation (EC) No 1260/2001, undenatured and exported in the natural state, as fixed in the Annex to Regulation (EC) No 1307/2002 are hereby altered to the amounts shown in the Annex hereto.

Article 2

This Regulation shall enter into force on 1 August 2002.

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

Done at Brussels, 30 July 2002.

For the Commission

Franz FISCHLER

Member of the Commission

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[1] OJ L 178, 30.6.2001, p. 1.
[2] OJ L 104, 20.4.2002, p. 26.
[3] OJ L 191, 19.7.2002, p. 17.
[4] OJ L 197, 26.7.2002, p. 18.

ANNEX

to the Commission Regulation of 30 July 2002 altering the export refunds on white sugar and raw sugar exported in its unaltered state

Product code	Destination	Unit of measurement	Amount of refund
1701 11 90 9100	A00	EUR/100 kg	40,06 (1)
1701 11 90 9910	A00	EUR/100 kg	40,06 (1)
1701 11 90 9950	A00	EUR/100 kg	(2)
1701 12 90 9100	A00	EUR/100 kg	40,06 (1)
1701 12 90 9910	A00	EUR/100 kg	40,06 (1)
1701 12 90 9950	A00	EUR/100 kg	(2)
1701 91 00 9000	A00	EUR/1 % of sucrose × net 100 kg of product	0,4355
1701 99 10 9100	A00	EUR/100 kg	43,55
1701 99 10 9910	A00	EUR/100 kg	43,55
1701 99 10 9950	A00	EUR/100 kg	43,55
1701 99 90 9100	A00	EUR/1 % of sucrose × net 100 kg of product	0,4355

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

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

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

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

COMMISSION REGULATION (EC) No 1389/2002

of 30 July 2002

fixing the export refunds on syrups and certain other sugar products exported in the natural state

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Council Regulation (EC) No 1260/2001 of 19 June 2001 on the common organisation of the markets in the sugar sector [1], as amended by Commission Regulation (EC) No 680/2002 [2], and in particular the second subparagraph of Article 27(5) thereof,

Whereas:

(1) Article 27 of Regulation (EC) No 1260/2001 provides that the difference between quotations or prices on the world market for the products listed in Article 1(1)(d) of that Regulation and prices for those products within the Community may be covered by an export refund.

(2) Article 3 of Commission Regulation (EC) No 2135/95 of 7 September 1995 laying down detailed rules of application for the grant of export refunds in the sugar sector [3], provides that the export refund on 100 kilograms of the products listed in Article 1(1)(d) of Regulation (EC) No 1260/2001 is equal to the basic amount multiplied by the sucrose content, including, where appropriate, other sugars expressed as sucrose; the sucrose content of the product in question is determined in accordance with Article 3 of Commission Regulation (EC) No 2135/95.

(3) Article 30(3) of Regulation (EC) No 1260/2001 provides that the basic amount of the refund on sorbose exported in the natural state must be equal to the basic amount of the refund less one hundredth of the production refund applicable, pursuant to Commission Regulation (EC) No 1265/2001 of 27 June 2001 laying down detailed rules for the application of Council Regulation (EC) No 1260/2001 as regards granting the production refund on certain sugar products used in the chemical industry [4] to the products listed in the Annex to the last mentioned Regulation;

(4) According to the terms of Article 30(1) of Regulation (EC) No 1260/2001, the basic amount of the refund on the other products listed in Article 1(1)(d) of the said Regulation exported in the natural state must be equal to one-hundredth of an amount which takes account, on the one hand, of the difference between the intervention price for white sugar for the Community areas without deficit for the month for which the basic amount is fixed and quotations or prices for white sugar on the world market and, on the other, of the need to establish a balance between the use of Community basic products in the manufacture of processed goods for export to third countries and the use of third country products brought in under inward-processing arrangements.

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

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

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

(8) Application of these quotas results in fixing refunds for the products in question at the levels given in the Annex to this Regulation.

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

[1] OJ L 178, 30.6.2001, p. 1.
[2] OJ L 104, 20.4.2002, p. 26.
[3] OJ L 214, 8.9.1995, p. 16.
[4] OJ L 178, 30.6.2001, p. 63.

HAS ADOPTED THIS REGULATION:

Article 1

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

Article 2

This Regulation shall enter into force on 1 August 2002.

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

Done at Brussels, 30 July 2002.

For the Commission
Franz FISCHLER
Member of the Commission

ANNEX

to the Commission Regulation of 30 July 2002 fixing the export refunds on syrups and certain other sugar products exported in the natural state

Product code	Destination	Unit of measurement	Amount of refund
1702 40 10 9100	A00	EUR/100 kg dry matter	43,55 (2)
1702 60 10 9000	A00	EUR/100 kg dry matter	43,55 (2)
1702 60 80 9100	A00	EUR/100 kg dry matter	82,75 (4)
1702 60 95 9000	A00	EUR/1 % sucrose × net 100 kg of product	0,4355 (1)
1702 90 30 9000	A00	EUR/100 kg dry matter	43,55 (2)
1702 90 60 9000	A00	EUR/1 % sucrose × net 100 kg of product	0,4355 (1)
1702 90 71 9000	A00	EUR/1 % sucrose × net 100 kg of product	0,4355 (1)
1702 90 99 9900	A00	EUR/1 % sucrose × net 100 kg of product	0,4355 (1) (3)
2106 90 30 9000	A00	EUR/100 kg dry matter	43,55 (2)
2106 90 59 9000	A00	EUR/1 % sucrose × net 100 kg of product	0,4355 (1)

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

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

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

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

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

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

COMMISSION REGULATION (EC) No 1390/2002
of 30 July 2002
fixing the production refund on white sugar used in the chemical industry

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Council Regulation (EC) No 1260/2001 of 19 June 2001 on the common organisation of the markets in the sugar sector [1], as amended by Commission Regulation (EC) No 680/2002 [2], and in particular Article 7(5) thereof,

Whereas:

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

(2) Commission Regulation (EC) No 1265/2001 of 27 June 2001 laying down detailed rules for the application of Council Regulation (EC) No 1260/2001 as regards granting the production refund on certain sugar products used in the chemical industry [3] lays down the rules for determining the production refunds and specifies the chemical products the basic products used in the manufacture of which attract a production refund. Articles 5, 6 and 7 of Regulation (EC) No 1265/2001 provide that the production refund applying to raw sugar, sucrose syrups and unprocessed isoglucose is to be derived from the refund fixed for white sugar in accordance with a method of calculation specific to each basic product.

(3) Article 9 of Regulation (EC) No 1265/2001 provides that the production refund on white sugar is to be fixed at monthly intervals commencing on the first day of each month. It may be adjusted in the intervening period where there is a significant change in the prices for sugar on the Community and/or world markets. The application of those provisions results in the production refund fixed in Article 1 of this Regulation for the period shown.

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

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

HAS ADOPTED THIS REGULATION:

Article 1

The production refund on white sugar referred to in Article 4 of Regulation (EC) No 1265/2001 shall be equal to EUR 41,310/100 kg net.

Article 2

This Regulation shall enter into force on 1 August 2002.

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

Done at Brussels, 30 July 2002.

For the Commission
Franz FISCHLER
Member of the Commission

[1] OJ L 178, 30.6.2001, p. 1.
[2] OJ L 104, 20.4.2002, p. 26.
[3] OJ L 178, 30.6.2001, p. 63.

COMMISSION REGULATION (EC) No 1391/2002
of 30 July 2002
determining the world market price for unginned cotton

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

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

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

Whereas:

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

(2) In accordance with Article 5 of Regulation (EC) No 1051/2001, the world market price for unginned cotton is to be determined in respect of a product of specific characteristics and by reference to the most favourable offers and quotations on the world market among those considered representative of the real market trend. To that end, an average is to be calculated of offers and quotations recorded on one or more European exchanges for a product delivered cif to a port in the Community and coming from the various supplier countries considered the most representative in terms of international trade. However, there is provision for adjusting the criteria for determining the world market price for ginned cotton to reflect differences justified by the quality of the product delivered and the offers and quotations concerned. Those adjustments are specified in Article 3(2) of Regulation (EC) No 1591/2001.

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

HAS ADOPTED THIS REGULATION:

Article 1

The world price for unginned cotton as referred to in Article 4 of Regulation (EC) No 1051/2001 is hereby determined as equalling EUR 24,077/kg.

Article 2

This Regulation shall enter into force on 31 July 2002.

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

Done at Brussels, 30 July 2002.

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

[1] OJ L 148, 1.6.2001, p. 1.
[2] OJ L 148, 1.6.2001, p. 3.
[3] OJ L 210, 3.8.2001, p. 10.

DIRECTIVE 2002/58/EC OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL

of 12 July 2002

concerning the processing of personal data and the protection of privacy in the electronic communications sector (Directive on privacy and electronic communications)

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 [1],

Having regard to the opinion of the Economic and Social Committee [2],

Having consulted the Committee of the Regions,

Acting in accordance with the procedure laid down in Article 251 of the Treaty [3],

Whereas:

(1) Directive 95/46/EC of the European Parliament and of the Council of 24 October 1995 on the protection of individuals with regard to the processing of personal data and on the free movement of such data [4] requires Member States to ensure the rights and freedoms of natural persons with regard to the processing of personal data, and in particular their right to privacy, in order to ensure the free flow of personal data in the Community.

(2) This Directive seeks to respect the fundamental rights and observes the principles recognised in particular by the Charter of fundamental rights of the European Union. In particular, this Directive seeks to ensure full respect for the rights set out in Articles 7 and 8 of that Charter.

(3) Confidentiality of communications is guaranteed in accordance with the international instruments relating to human rights, in particular the European Convention for the Protection of Human Rights and Fundamental Freedoms, and the constitutions of the Member States.

(4) Directive 97/66/EC of the European Parliament and of the Council of 15 December 1997 concerning the processing of personal data and the protection of privacy in the telecommunications sector [5] translated the principles set out in Directive 95/46/EC into specific rules for the telecommunications sector. Directive 97/66/EC has to be adapted to developments in the markets and technologies for electronic communications services in order to provide an equal level of protection of personal data and privacy for users of publicly available electronic communications services, regardless of the technologies used. That Directive should therefore be repealed and replaced by this Directive.

(5) New advanced digital technologies are currently being introduced in public communications networks in the Community, which give rise to specific requirements concerning the protection of personal data and privacy of the user. The development of the information society is characterised by the introduction of new electronic communications services. Access to digital mobile networks has become available and affordable for a large public. These digital networks have large capacities and possibilities for processing personal data. The successful cross-border development of these services is partly dependent on the confidence of users that their privacy will not be at risk.

(6) The Internet is overturning traditional market structures by providing a common, global infrastructure for the delivery of a wide range of electronic communications services. Publicly available electronic communications services over the Internet open new possibilities for users but also new risks for their personal data and privacy.

(7) In the case of public communications networks, specific legal, regulatory and technical provisions should be made in order to protect fundamental rights and freedoms of natural persons and legitimate interests of legal persons, in particular with regard to the increasing capacity for automated storage and processing of data relating to subscribers and users.

(8) Legal, regulatory and technical provisions adopted by the Member States concerning the protection of personal data, privacy and the legitimate interest of legal persons, in the electronic communication sector, should be harmonised in order to avoid obstacles to the internal market for electronic communication in accordance with Article 14 of the Treaty. Harmonisation should be limited to requirements necessary to guarantee that the promotion and development of new electronic communications services and networks between Member States are not hindered.

[1] OJ C 365 E, 19.12.2000, p. 223.
[2] OJ C 123, 25.4.2001, p. 53.
[3] Opinion of the European Parliament of 13 November 2001 (not yet published in the Official Journal), Council Common Position of 28 January 2002 (OJ C 113 E, 14.5.2002, p. 39) and Decision of the European Parliament of 30 May 2002 (not yet published in the Official Journal). Council Decision of 25 June 2002.
[4] OJ L 281, 23.11.1995, p. 31.
[5] OJ L 24, 30.1.1998, p. 1.

(9) The Member States, providers and users concerned, together with the competent Community bodies, should cooperate in introducing and developing the relevant technologies where this is necessary to apply the guarantees provided for by this Directive and taking particular account of the objectives of minimising the processing of personal data and of using anonymous or pseudonymous data where possible.

(10) In the electronic communications sector, Directive 95/46/EC applies in particular to all matters concerning protection of fundamental rights and freedoms, which are not specifically covered by the provisions of this Directive, including the obligations on the controller and the rights of individuals. Directive 95/46/EC applies to non-public communications services.

(11) Like Directive 95/46/EC, this Directive does not address issues of protection of fundamental rights and freedoms related to activities which are not governed by Community law. Therefore it does not alter the existing balance between the individual's right to privacy and the possibility for Member States to take the measures referred to in Article 15(1) of this Directive, necessary for the protection of public security, defence, State security (including the economic well-being of the State when the activities relate to State security matters) and the enforcement of criminal law. Consequently, this Directive does not affect the ability of Member States to carry out lawful interception of electronic communications, or take other measures, if necessary for any of these purposes and in accordance with the European Convention for the Protection of Human Rights and Fundamental Freedoms, as interpreted by the rulings of the European Court of Human Rights. Such measures must be appropriate, strictly proportionate to the intended purpose and necessary within a democratic society and should be subject to adequate safeguards in accordance with the European Convention for the Protection of Human Rights and Fundamental Freedoms.

(12) Subscribers to a publicly available electronic communications service may be natural or legal persons. By supplementing Directive 95/46/EC, this Directive is aimed at protecting the fundamental rights of natural persons and particularly their right to privacy, as well as the legitimate interests of legal persons. This Directive does not entail an obligation for Member States to extend the application of Directive 95/46/EC to the protection of the legitimate interests of legal persons, which is ensured within the framework of the applicable Community and national legislation.

(13) The contractual relation between a subscriber and a service provider may entail a periodic or a one-off payment for the service provided or to be provided. Prepaid cards are also considered as a contract.

(14) Location data may refer to the latitude, longitude and altitude of the user's terminal equipment, to the direction of travel, to the level of accuracy of the location information, to the identification of the network cell in which the terminal equipment is located at a certain point in time and to the time the location information was recorded.

(15) A communication may include any naming, numbering or addressing information provided by the sender of a communication or the user of a connection to carry out the communication. Traffic data may include any translation of this information by the network over which the communication is transmitted for the purpose of carrying out the transmission. Traffic data may, *inter alia*, consist of data referring to the routing, duration, time or volume of a communication, to the protocol used, to the location of the terminal equipment of the sender or recipient, to the network on which the communication originates or terminates, to the beginning, end or duration of a connection. They may also consist of the format in which the communication is conveyed by the network.

(16) Information that is part of a broadcasting service provided over a public communications network is intended for a potentially unlimited audience and does not constitute a communication in the sense of this Directive. However, in cases where the individual subscriber or user receiving such information can be identified, for example with video-on-demand services, the information conveyed is covered within the meaning of a communication for the purposes of this Directive.

(17) For the purposes of this Directive, consent of a user or subscriber, regardless of whether the latter is a natural or a legal person, should have the same meaning as the data subject's consent as defined and further specified in Directive 95/46/EC. Consent may be given by any appropriate method enabling a freely given specific and informed indication of the user's wishes, including by ticking a box when visiting an Internet website.

(18) Value added services may, for example, consist of advice on least expensive tariff packages, route guidance, traffic information, weather forecasts and tourist information.

(19) The application of certain requirements relating to presentation and restriction of calling and connected line identification and to automatic call forwarding to subscriber lines connected to analogue exchanges should not be made mandatory in specific cases where such application would prove to be technically impossible or would require a disproportionate economic effort. It is important for interested parties to be informed of such cases and the Member States should therefore notify them to the Commission.

(20) Service providers should take appropriate measures to safeguard the security of their services, if necessary in conjunction with the provider of the network, and inform subscribers of any special risks of a breach of the security of the network. Such risks may especially occur for electronic communications services over an open network such as the Internet or analogue mobile telephony. It is particularly important for subscribers and users of such services to be fully informed by their service provider of the existing security risks which lie outside the scope of possible remedies by the service provider. Service providers who offer publicly available electronic communications services over the Internet should inform users and subscribers of measures they can take to protect the security of their communications for instance by using specific types of software or encryption technologies. The requirement to inform subscribers of particular security risks does not discharge a service provider from the obligation to take, at its own costs, appropriate and immediate measures to remedy any new, unforeseen security risks and restore the normal security level of the service. The provision of information about security risks to the subscriber should be free of charge except for any nominal costs which the subscriber may incur while receiving or collecting the information, for instance by downloading an electronic mail message. Security is appraised in the light of Article 17 of Directive 95/46/EC.

(21) Measures should be taken to prevent unauthorised access to communications in order to protect the confidentiality of communications, including both the contents and any data related to such communications, by means of public communications networks and publicly available electronic communications services. National legislation in some Member States only prohibits intentional unauthorised access to communications.

(22) The prohibition of storage of communications and the related traffic data by persons other than the users or without their consent is not intended to prohibit any automatic, intermediate and transient storage of this information in so far as this takes place for the sole purpose of carrying out the transmission in the electronic communications network and provided that the information is not stored for any period longer than is necessary for the transmission and for traffic management purposes, and that during the period of storage the confidentiality remains guaranteed. Where this is necessary for making more efficient the onward transmission of any publicly accessible information to other recipients of the service upon their request, this Directive should not prevent such information from being further stored, provided that this information would in any case be accessible to the public without restriction and that any data referring to the individual subscribers or users requesting such information are erased.

(23) Confidentiality of communications should also be ensured in the course of lawful business practice. Where necessary and legally authorised, communications can be recorded for the purpose of providing evidence of a commercial transaction. Directive 95/46/EC applies to such processing. Parties to the communications should be informed prior to the recording about the recording, its purpose and the duration of its storage. The recorded communication should be erased as soon as possible and in any case at the latest by the end of the period during which the transaction can be lawfully challenged.

(24) Terminal equipment of users of electronic communications networks and any information stored on such equipment are part of the private sphere of the users requiring protection under the European Convention for the Protection of Human Rights and Fundamental Freedoms. So-called spyware, web bugs, hidden identifiers and other similar devices can enter the user's terminal without their knowledge in order to gain access to information, to store hidden information or to trace the activities of the user and may seriously intrude upon the privacy of these users. The use of such devices should be allowed only for legitimate purposes, with the knowledge of the users concerned.

(25) However, such devices, for instance so-called 'cookies', can be a legitimate and useful tool, for example, in analysing the effectiveness of website design and advertising, and in verifying the identity of users engaged in on-line transactions. Where such devices, for instance cookies, are intended for a legitimate purpose, such as to facilitate the provision of information society services, their use should be allowed on condition that users are provided with clear and precise information in accordance with Directive 95/46/EC about the purposes of cookies or similar devices so as to ensure that users are made aware of information being placed on the terminal equipment they are using. Users should have the opportunity to refuse to have a cookie or similar device stored on their terminal equipment. This is particularly important where users other than the original user have access to the terminal equipment and thereby to any data containing privacy-sensitive information stored on such equipment. Information and the right to refuse may be offered once for the use of various devices to be installed on the user's terminal equipment during the same connection and also covering any further use that may be made of those devices during subsequent connections. The methods for giving information, offering a right to refuse or requesting consent should be made as user-friendly as possible. Access to specific website content may still be made conditional on the well-informed acceptance of a cookie or similar device, if it is used for a legitimate purpose.

(26) The data relating to subscribers processed within electronic communications networks to establish connections and to transmit information contain information on the private life of natural persons and concern the right to respect for their correspondence or concern the legitimate interests of legal persons. Such data may only be stored to the extent that is necessary for the provision of the service for the purpose of billing and for interconnection payments, and for a limited time. Any further processing of such data which the provider of the publicly available electronic communications services may want to perform, for the marketing of electronic communications services or for the provision of value added services, may only be allowed if the subscriber has agreed to this on the basis of accurate and full information given by the provider of the publicly available electronic communications services about the types of further processing it intends to perform and about the subscriber's right not to give or to withdraw his/her consent to such processing. Traffic data used for marketing communications services or for the provision of value added services should also be erased or made anonymous after the provision of the service. Service providers should always keep subscribers informed of the types of data they are processing and the purposes and duration for which this is done.

(27) The exact moment of the completion of the transmission of a communication, after which traffic data should be erased except for billing purposes, may depend on the type of electronic communications service that is provided. For instance for a voice telephony call the transmission will be completed as soon as either of the users terminates the connection. For electronic mail the transmission is completed as soon as the addressee collects the message, typically from the server of his service provider.

(28) The obligation to erase traffic data or to make such data anonymous when it is no longer needed for the purpose of the transmission of a communication does not conflict with such procedures on the Internet as the caching in the domain name system of IP addresses or the caching of IP addresses to physical address bindings or the use of log-in information to control the right of access to networks or services.

(29) The service provider may process traffic data relating to subscribers and users where necessary in individual cases in order to detect technical failure or errors in the transmission of communications. Traffic data necessary for billing purposes may also be processed by the provider in order to detect and stop fraud consisting of unpaid use of the electronic communications service.

(30) Systems for the provision of electronic communications networks and services should be designed to limit the amount of personal data necessary to a strict minimum. Any activities related to the provision of the electronic communications service that go beyond the transmission of a communication and the billing thereof should be based on aggregated, traffic data that cannot be related to subscribers or users. Where such activities cannot be based on aggregated data, they should be considered as value added services for which the consent of the subscriber is required.

(31) Whether the consent to be obtained for the processing of personal data with a view to providing a particular value added service should be that of the user or of the subscriber, will depend on the data to be processed and on the type of service to be provided and on whether it is technically, procedurally and contractually possible to distinguish the individual using an electronic communications service from the legal or natural person having subscribed to it.

(32) Where the provider of an electronic communications service or of a value added service subcontracts the processing of personal data necessary for the provision of these services to another entity, such subcontracting and subsequent data processing should be in full compliance with the requirements regarding controllers and processors of personal data as set out in Directive 95/46/EC. Where the provision of a value added service requires that traffic or location data are forwarded from an electronic communications service provider to a provider of value added services, the subscribers or users to whom the data are related should also be fully informed of this forwarding before giving their consent for the processing of the data.

(33) The introduction of itemised bills has improved the possibilities for the subscriber to check the accuracy of the fees charged by the service provider but, at the same time, it may jeopardise the privacy of the users of publicly available electronic communications services. Therefore, in order to preserve the privacy of the user, Member States should encourage the development of electronic communication service options such as alternative payment facilities which allow anonymous or strictly private access to publicly available electronic communications services, for example calling cards and facilities for payment by credit card. To the same end, Member States may ask the operators to offer their subscribers a different type of detailed bill in which a certain number of digits of the called number have been deleted.

(34) It is necessary, as regards calling line identification, to protect the right of the calling party to withhold the presentation of the identification of the line from which the call is being made and the right of the called party to reject calls from unidentified lines. There is justification for overriding the elimination of calling line identification presentation in specific cases. Certain subscribers, in particular help lines and similar organisations, have an interest in guaranteeing the anonymity of their callers. It is necessary, as regards connected line identification, to protect the right and the legitimate interest of the called party to withhold the presentation of the identification of the line to which the calling party is actually connected, in particular in the case of forwarded calls. The providers of publicly available electronic communications services should inform their subscribers of the existence of calling and connected line identification in the network and of all services which are offered on the basis of calling and connected line identification as well as the privacy options which are available. This will allow the subscribers to make an informed choice about the privacy facilities they may want to use. The privacy options which are offered on a per-line basis do not necessarily have to be available as an automatic network service but may be obtainable through a simple request to the provider of the publicly available electronic communications service.

(35) In digital mobile networks, location data giving the geographic position of the terminal equipment of the mobile user are processed to enable the transmission of communications. Such data are traffic data covered by Article 6 of this Directive. However, in addition, digital mobile networks may have the capacity to process location data which are more precise than is necessary for the transmission of communications and which are used for the provision of value added services such as services providing individualised traffic information and guidance to drivers. The processing of such data for value added services should only be allowed where subscribers have given their consent. Even in cases where subscribers have given their consent, they should have a simple means to temporarily deny the processing of location data, free of charge.

(36) Member States may restrict the users' and subscribers' rights to privacy with regard to calling line identification where this is necessary to trace nuisance calls and with regard to calling line identification and location data where this is necessary to allow emergency services to carry out their tasks as effectively as possible. For these purposes, Member States may adopt specific provisions to entitle providers of electronic communications services to provide access to calling line identification and location data without the prior consent of the users or subscribers concerned.

(37) Safeguards should be provided for subscribers against the nuisance which may be caused by automatic call forwarding by others. Moreover, in such cases, it must be possible for subscribers to stop the forwarded calls being passed on to their terminals by simple request to the provider of the publicly available electronic communications service.

(38) Directories of subscribers to electronic communications services are widely distributed and public. The right to privacy of natural persons and the legitimate interest of legal persons require that subscribers are able to determine whether their personal data are published in a directory and if so, which. Providers of public directories should inform the subscribers to be included in such directories of the purposes of the directory and of any particular usage which may be made of electronic versions of public directories especially through search functions embedded in the software, such as reverse search functions enabling users of the directory to discover the name and address of the subscriber on the basis of a telephone number only.

(39) The obligation to inform subscribers of the purpose(s) of public directories in which their personal data are to be included should be imposed on the party collecting the data for such inclusion. Where the data may be transmitted to one or more third parties, the subscriber should be informed of this possibility and of the recipient or the categories of possible recipients. Any transmission should be subject to the condition that the data may not be used for other purposes than those for which they were collected. If the party collecting the data from the subscriber or any third party to whom the data have been transmitted wishes to use the data for an additional purpose, the renewed consent of the subscriber is to be obtained either by the initial party collecting the data or by the third party to whom the data have been transmitted.

(40) Safeguards should be provided for subscribers against intrusion of their privacy by unsolicited communications for direct marketing purposes in particular by means of automated calling machines, telefaxes, and e-mails, including SMS messages. These forms of unsolicited commercial communications may on the one hand be relatively easy and cheap to send and on the other may impose a burden and/or cost on the recipient. Moreover, in some cases their volume may also cause difficulties for electronic communications networks and terminal equipment. For such forms of unsolicited communications for direct marketing, it is justified to require that prior explicit consent of the recipients is obtained before such communications are addressed to them. The single market requires a harmonised approach to ensure simple, Community-wide rules for businesses and users.

(41) Within the context of an existing customer relationship, it is reasonable to allow the use of electronic contact details for the offering of similar products or services, but only by the same company that has obtained the electronic contact details in accordance with Directive 95/46/EC. When electronic contact details are obtained, the customer should be informed about their further use for direct marketing in a clear and distinct manner, and be given the opportunity to refuse such usage. This opportunity should continue to be offered with each subsequent direct marketing message, free of charge, except for any costs for the transmission of this refusal.

(42) Other forms of direct marketing that are more costly for the sender and impose no financial costs on subscribers and users, such as person-to-person voice telephony calls, may justify the maintenance of a system giving subscribers or users the possibility to indicate that they do not want to receive such calls. Nevertheless, in order not to decrease existing levels of privacy protection, Member States should be entitled to uphold national systems, only allowing such calls to subscribers and users who have given their prior consent.

(43) To facilitate effective enforcement of Community rules on unsolicited messages for direct marketing, it is necessary to prohibit the use of false identities or false return addresses or numbers while sending unsolicited messages for direct marketing purposes.

(44) Certain electronic mail systems allow subscribers to view the sender and subject line of an electronic mail, and also to delete the message, without having to download the rest of the electronic mail's content or any attachments, thereby reducing costs which could arise from downloading unsolicited electronic mails or attachments. These arrangements may continue to be useful in certain cases as an additional tool to the general obligations established in this Directive.

(45) This Directive is without prejudice to the arrangements which Member States make to protect the legitimate interests of legal persons with regard to unsolicited communications for direct marketing purposes. Where Member States establish an opt-out register for such communications to legal persons, mostly business users, the provisions of Article 7 of Directive 2000/31/EC of the European Parliament and of the Council of 8 June 2000 on certain legal aspects of information society services, in particular electronic commerce, in the internal market (Directive on electronic commerce) ([1]) are fully applicable.

(46) The functionalities for the provision of electronic communications services may be integrated in the network or in any part of the terminal equipment of the user, including the software. The protection of the personal data and the privacy of the user of publicly available electronic communications services should be independent of the configuration of the various components necessary to provide the service and of the distribution of the necessary functionalities between these components. Directive 95/46/EC covers any form of processing of personal data regardless of the technology used. The existence of specific rules for electronic communications services alongside general rules for other components necessary for the provision of such services may not facilitate the protection of personal data and privacy in a technologically neutral way. It may therefore be necessary to adopt measures requiring manufacturers of certain types of equipment used for electronic communications services to construct their product in such a way as to incorporate safeguards to ensure that the personal data and privacy of the user and subscriber are protected. The adoption of such measures in accordance with Directive 1999/5/EC of the European Parliament and of the Council of 9 March 1999 on radio equipment and telecommunications terminal equipment and the mutual recognition of their conformity ([2]) will ensure that the introduction of technical features of electronic communication equipment including software for data protection purposes is harmonised in order to be compatible with the implementation of the internal market.

(47) Where the rights of the users and subscribers are not respected, national legislation should provide for judicial remedies. Penalties should be imposed on any person, whether governed by private or public law, who fails to comply with the national measures taken under this Directive.

(48) It is useful, in the field of application of this Directive, to draw on the experience of the Working Party on the Protection of Individuals with regard to the Processing of Personal Data composed of representatives of the supervisory authorities of the Member States, set up by Article 29 of Directive 95/46/EC.

(49) To facilitate compliance with the provisions of this Directive, certain specific arrangements are needed for processing of data already under way on the date that national implementing legislation pursuant to this Directive enters into force,

HAVE ADOPTED THIS DIRECTIVE:

Article 1

Scope and aim

1. This Directive harmonises the provisions of the Member States required to ensure an equivalent level of protection of fundamental rights and freedoms, and in particular the right to privacy, with respect to the processing of personal data in the electronic communication sector and to ensure the free movement of such data and of electronic communication equipment and services in the Community.

([1]) OJ L 178, 17.7.2000, p. 1.

([2]) OJ L 91, 7.4.1999, p. 10.

2. The provisions of this Directive particularise and complement Directive 95/46/EC for the purposes mentioned in paragraph 1. Moreover, they provide for protection of the legitimate interests of subscribers who are legal persons.

3. This Directive shall not apply to activities which fall outside the scope of the Treaty establishing the European Community, such as those covered by Titles V and VI of the Treaty on European Union, and in any case to activities concerning public security, defence, State security (including the economic well-being of the State when the activities relate to State security matters) and the activities of the State in areas of criminal law.

Article 2

Definitions

Save as otherwise provided, the definitions in Directive 95/46/EC and in Directive 2002/21/EC of the European Parliament and of the Council of 7 March 2002 on a common regulatory framework for electronic communications networks and services (Framework Directive) [1] shall apply.

The following definitions shall also apply:

(a) 'user' means any natural person using a publicly available electronic communications service, for private or business purposes, without necessarily having subscribed to this service;

(b) 'traffic data' means any data processed for the purpose of the conveyance of a communication on an electronic communications network or for the billing thereof;

(c) 'location data' means any data processed in an electronic communications network, indicating the geographic position of the terminal equipment of a user of a publicly available electronic communications service;

(d) 'communication' means any information exchanged or conveyed between a finite number of parties by means of a publicly available electronic communications service. This does not include any information conveyed as part of a broadcasting service to the public over an electronic communications network except to the extent that the information can be related to the identifiable subscriber or user receiving the information;

(e) 'call' means a connection established by means of a publicly available telephone service allowing two-way communication in real time;

(f) 'consent' by a user or subscriber corresponds to the data subject's consent in Directive 95/46/EC;

(g) 'value added service' means any service which requires the processing of traffic data or location data other than traffic data beyond what is necessary for the transmission of a communication or the billing thereof;

(h) 'electronic mail' means any text, voice, sound or image message sent over a public communications network which can be stored in the network or in the recipient's terminal equipment until it is collected by the recipient.

[1] OJ L 108, 24.4.2002, p. 33.

Article 3

Services concerned

1. This Directive shall apply to the processing of personal data in connection with the provision of publicly available electronic communications services in public communications networks in the Community.

2. Articles 8, 10 and 11 shall apply to subscriber lines connected to digital exchanges and, where technically possible and if it does not require a disproportionate economic effort, to subscriber lines connected to analogue exchanges.

3. Cases where it would be technically impossible or require a disproportionate economic effort to fulfil the requirements of Articles 8, 10 and 11 shall be notified to the Commission by the Member States.

Article 4

Security

1. The provider of a publicly available electronic communications service must take appropriate technical and organisational measures to safeguard security of its services, if necessary in conjunction with the provider of the public communications network with respect to network security. Having regard to the state of the art and the cost of their implementation, these measures shall ensure a level of security appropriate to the risk presented.

2. In case of a particular risk of a breach of the security of the network, the provider of a publicly available electronic communications service must inform the subscribers concerning such risk and, where the risk lies outside the scope of the measures to be taken by the service provider, of any possible remedies, including an indication of the likely costs involved.

Article 5

Confidentiality of the communications

1. Member States shall ensure the confidentiality of communications and the related traffic data by means of a public communications network and publicly available electronic communications services, through national legislation. In particular, they shall prohibit listening, tapping, storage or other kinds of interception or surveillance of communications and the related traffic data by persons other than users, without the consent of the users concerned, except when legally authorised to do so in accordance with Article 15(1). This paragraph shall not prevent technical storage which is necessary for the conveyance of a communication without prejudice to the principle of confidentiality.

2. Paragraph 1 shall not affect any legally authorised recording of communications and the related traffic data when carried out in the course of lawful business practice for the purpose of providing evidence of a commercial transaction or of any other business communication.

3. Member States shall ensure that the use of electronic communications networks to store information or to gain access to information stored in the terminal equipment of a subscriber or user is only allowed on condition that the subscriber or user concerned is provided with clear and comprehensive information in accordance with Directive 95/46/EC, *inter alia* about the purposes of the processing, and is offered the right to refuse such processing by the data controller. This shall not prevent any technical storage or access for the sole purpose of carrying out or facilitating the transmission of a communication over an electronic communications network, or as strictly necessary in order to provide an information society service explicitly requested by the subscriber or user.

Article 6

Traffic data

1. Traffic data relating to subscribers and users processed and stored by the provider of a public communications network or publicly available electronic communications service must be erased or made anonymous when it is no longer needed for the purpose of the transmission of a communication without prejudice to paragraphs 2, 3 and 5 of this Article and Article 15(1).

2. Traffic data necessary for the purposes of subscriber billing and interconnection payments may be processed. Such processing is permissible only up to the end of the period during which the bill may lawfully be challenged or payment pursued.

3. For the purpose of marketing electronic communications services or for the provision of value added services, the provider of a publicly available electronic communications service may process the data referred to in paragraph 1 to the extent and for the duration necessary for such services or marketing, if the subscriber or user to whom the data relate has given his/her consent. Users or subscribers shall be given the possibility to withdraw their consent for the processing of traffic data at any time.

4. The service provider must inform the subscriber or user of the types of traffic data which are processed and of the duration of such processing for the purposes mentioned in paragraph 2 and, prior to obtaining consent, for the purposes mentioned in paragraph 3.

5. Processing of traffic data, in accordance with paragraphs 1, 2, 3 and 4, must be restricted to persons acting under the authority of providers of the public communications networks and publicly available electronic communications services handling billing or traffic management, customer enquiries, fraud detection, marketing electronic communications services or providing a value added service, and must be restricted to what is necessary for the purposes of such activities.

6. Paragraphs 1, 2, 3 and 5 shall apply without prejudice to the possibility for competent bodies to be informed of traffic data in conformity with applicable legislation with a view to settling disputes, in particular interconnection or billing disputes.

Article 7

Itemised billing

1. Subscribers shall have the right to receive non-itemised bills.

2. Member States shall apply national provisions in order to reconcile the rights of subscribers receiving itemised bills with the right to privacy of calling users and called subscribers, for example by ensuring that sufficient alternative privacy enhancing methods of communications or payments are available to such users and subscribers.

Article 8

Presentation and restriction of calling and connected line identification

1. Where presentation of calling line identification is offered, the service provider must offer the calling user the possibility, using a simple means and free of charge, of preventing the presentation of the calling line identification on a per-call basis. The calling subscriber must have this possibility on a per-line basis.

2. Where presentation of calling line identification is offered, the service provider must offer the called subscriber the possibility, using a simple means and free of charge for reasonable use of this function, of preventing the presentation of the calling line identification of incoming calls.

3. Where presentation of calling line identification is offered and where the calling line identification is presented prior to the call being established, the service provider must offer the called subscriber the possibility, using a simple means, of rejecting incoming calls where the presentation of the calling line identification has been prevented by the calling user or subscriber.

4. Where presentation of connected line identification is offered, the service provider must offer the called subscriber the possibility, using a simple means and free of charge, of preventing the presentation of the connected line identification to the calling user.

5. Paragraph 1 shall also apply with regard to calls to third countries originating in the Community. Paragraphs 2, 3 and 4 shall also apply to incoming calls originating in third countries.

6. Member States shall ensure that where presentation of calling and/or connected line identification is offered, the providers of publicly available electronic communications services inform the public thereof and of the possibilities set out in paragraphs 1, 2, 3 and 4.

Article 9

Location data other than traffic data

1. Where location data other than traffic data, relating to users or subscribers of public communications networks or publicly available electronic communications services, can be processed, such data may only be processed when they are made anonymous, or with the consent of the users or subscribers to the extent and for the duration necessary for the provision of a value added service. The service provider must inform the users or subscribers, prior to obtaining their consent, of the type of location data other than traffic data which will be processed, of the purposes and duration of the processing and whether the data will be transmitted to a third party for the purpose of providing the value added service. Users or subscribers shall be given the possibility to withdraw their consent for the processing of location data other than traffic data at any time.

2. Where consent of the users or subscribers has been obtained for the processing of location data other than traffic data, the user or subscriber must continue to have the possibility, using a simple means and free of charge, of temporarily refusing the processing of such data for each connection to the network or for each transmission of a communication.

3. Processing of location data other than traffic data in accordance with paragraphs 1 and 2 must be restricted to persons acting under the authority of the provider of the public communications network or publicly available communications service or of the third party providing the value added service, and must be restricted to what is necessary for the purposes of providing the value added service.

Article 10

Exceptions

Member States shall ensure that there are transparent procedures governing the way in which a provider of a public communications network and/or a publicly available electronic communications service may override:

(a) the elimination of the presentation of calling line identification, on a temporary basis, upon application of a subscriber requesting the tracing of malicious or nuisance calls. In this case, in accordance with national law, the data containing the identification of the calling subscriber will be stored and be made available by the provider of a public communications network and/or publicly available electronic communications service;

(b) the elimination of the presentation of calling line identification and the temporary denial or absence of consent of a subscriber or user for the processing of location data, on a per-line basis for organisations dealing with emergency calls and recognised as such by a Member State, including law enforcement agencies, ambulance services and fire brigades, for the purpose of responding to such calls.

Article 11

Automatic call forwarding

Member States shall ensure that any subscriber has the possibility, using a simple means and free of charge, of stopping automatic call forwarding by a third party to the subscriber's terminal.

Article 12

Directories of subscribers

1. Member States shall ensure that subscribers are informed, free of charge and before they are included in the directory, about the purpose(s) of a printed or electronic directory of subscribers available to the public or obtainable through directory enquiry services, in which their personal data can be included and of any further usage possibilities based on search functions embedded in electronic versions of the directory.

2. Member States shall ensure that subscribers are given the opportunity to determine whether their personal data are included in a public directory, and if so, which, to the extent that such data are relevant for the purpose of the directory as determined by the provider of the directory, and to verify, correct or withdraw such data. Not being included in a public subscriber directory, verifying, correcting or withdrawing personal data from it shall be free of charge.

3. Member States may require that for any purpose of a public directory other than the search of contact details of persons on the basis of their name and, where necessary, a minimum of other identifiers, additional consent be asked of the subscribers.

4. Paragraphs 1 and 2 shall apply to subscribers who are natural persons. Member States shall also ensure, in the framework of Community law and applicable national legislation, that the legitimate interests of subscribers other than natural persons with regard to their entry in public directories are sufficiently protected.

Article 13

Unsolicited communications

1. The use of automated calling systems without human intervention (automatic calling machines), facsimile machines (fax) or electronic mail for the purposes of direct marketing may only be allowed in respect of subscribers who have given their prior consent.

2. Notwithstanding paragraph 1, where a natural or legal person obtains from its customers their electronic contact details for electronic mail, in the context of the sale of a product or a service, in accordance with Directive 95/46/EC, the same natural or legal person may use these electronic contact details for direct marketing of its own similar products or services provided that customers clearly and distinctly are given the opportunity to object, free of charge and in an easy manner, to such use of electronic contact details when they are collected and on the occasion of each message in case the customer has not initially refused such use.

3. Member States shall take appropriate measures to ensure that, free of charge, unsolicited communications for purposes of direct marketing, in cases other than those referred to in paragraphs 1 and 2, are not allowed either without the consent of the subscribers concerned or in respect of subscribers who do not wish to receive these communications, the choice between these options to be determined by national legislation.

4. In any event, the practice of sending electronic mail for purposes of direct marketing disguising or concealing the identity of the sender on whose behalf the communication is made, or without a valid address to which the recipient may send a request that such communications cease, shall be prohibited.

5. Paragraphs 1 and 3 shall apply to subscribers who are natural persons. Member States shall also ensure, in the framework of Community law and applicable national legislation, that the legitimate interests of subscribers other than natural persons with regard to unsolicited communications are sufficiently protected.

Article 14

Technical features and standardisation

1. In implementing the provisions of this Directive, Member States shall ensure, subject to paragraphs 2 and 3, that no mandatory requirements for specific technical features are imposed on terminal or other electronic communication equipment which could impede the placing of equipment on the market and the free circulation of such equipment in and between Member States.

2. Where provisions of this Directive can be implemented only by requiring specific technical features in electronic communications networks, Member States shall inform the Commission in accordance with the procedure provided for by Directive 98/34/EC of the European Parliament and of the Council of 22 June 1998 laying down a procedure for the provision of information in the field of technical standards and regulations and of rules on information society services [1].

3. Where required, measures may be adopted to ensure that terminal equipment is constructed in a way that is compatible with the right of users to protect and control the use of their personal data, in accordance with Directive 1999/5/EC and Council Decision 87/95/EEC of 22 December 1986 on standardisation in the field of information technology and communications [2].

Article 15

Application of certain provisions of Directive 95/46/EC

1. Member States may adopt legislative measures to restrict the scope of the rights and obligations provided for in Article 5, Article 6, Article 8(1), (2), (3) and (4), and Article 9 of this Directive when such restriction constitutes a necessary, appropriate and proportionate measure within a democratic society to safeguard national security (i.e. State security), defence, public security, and the prevention, investigation, detection and prosecution of criminal offences or of unauthorised use of the electronic communication system, as referred to in Article 13(1) of Directive 95/46/EC. To this end, Member States may, *inter alia*, adopt legislative measures providing for the retention of data for a limited period justified on the grounds laid down in this paragraph. All the measures referred to in this paragraph shall be in accordance with the general principles of Community law, including those referred to in Article 6(1) and (2) of the Treaty on European Union.

2. The provisions of Chapter III on judicial remedies, liability and sanctions of Directive 95/46/EC shall apply with regard to national provisions adopted pursuant to this Directive and with regard to the individual rights derived from this Directive.

3. The Working Party on the Protection of Individuals with regard to the Processing of Personal Data instituted by Article 29 of Directive 95/46/EC shall also carry out the tasks laid down in Article 30 of that Directive with regard to matters covered by this Directive, namely the protection of fundamental rights and freedoms and of legitimate interests in the electronic communications sector.

Article 16

Transitional arrangements

1. Article 12 shall not apply to editions of directories already produced or placed on the market in printed or off-line electronic form before the national provisions adopted pursuant to this Directive enter into force.

2. Where the personal data of subscribers to fixed or mobile public voice telephony services have been included in a public subscriber directory in conformity with the provisions of Directive 95/46/EC and of Article 11 of Directive 97/66/EC before the national provisions adopted in pursuance of this Directive enter into force, the personal data of such subscribers may remain included in this public directory in its printed or electronic versions, including versions with reverse search functions, unless subscribers indicate otherwise, after having received complete information about purposes and options in accordance with Article 12 of this Directive.

Article 17

Transposition

1. Before 31 October 2003 Member States shall bring into force the provisions necessary to comply with this Directive. They shall forthwith inform the Commission thereof.

[1] OJ L 204, 21.7.1998, p. 37. Directive as amended by Directive 98/48/EC (OJ L 217, 5.8.1998, p. 18).

[2] OJ L 36, 7.2.1987, p. 31. Decision as last amended by the 1994 Act of Accession.

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. The methods of making such reference shall be laid down by the Member States.

2. Member States shall communicate to the Commission the text of the provisions of national law which they adopt in the field governed by this Directive and of any subsequent amendments to those provisions.

Article 18

Review

The Commission shall submit to the European Parliament and the Council, not later than three years after the date referred to in Article 17(1), a report on the application of this Directive and its impact on economic operators and consumers, in particular as regards the provisions on unsolicited communications, taking into account the international environment. For this purpose, the Commission may request information from the Member States, which shall be supplied without undue delay. Where appropriate, the Commission shall submit proposals to amend this Directive, taking account of the results of that report, any changes in the sector and any other proposal it may deem necessary in order to improve the effectiveness of this Directive.

Article 19

Repeal

Directive 97/66/EC is hereby repealed with effect from the date referred to in Article 17(1).

References made to the repealed Directive shall be construed as being made to this Directive.

Article 20

Entry into force

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

Article 21

Addressees

This Directive is addressed to the Member States.

Done at Brussels, 12 July 2002.

For the European Parliament	*For the Council*
The President	*The President*
P. COX	T. PEDERSEN

II

(Acts whose publication is not obligatory)

COUNCIL

COUNCIL DECISION

of 25 June 2002

concerning the conclusion, on behalf of the European Community, of the Cartagena Protocol on Biosafety

(2002/628/EC)

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty establishing the European Community, and in particular Article 175(1), in conjunction with the first sentence of the first subparagraph of Article 300(2) and the first subparagraph of Article 300(3) thereof,

Having regard to the proposal from the Commission [1],

Having regard to the opinion of the European Parliament [2],

Whereas:

(1) The promotion of measures at international level to deal with regional or worldwide environmental problems, including the conservation and sustainable use of biological diversity, is one of the objectives of the European Community's policy on the environment, in accordance with Article 174 of the Treaty.

(2) By Decision 93/626/EEC [3] the European Community concluded the Convention on Biological Diversity under the auspices of the United Nations Environment Programme.

(3) In 1995 the Council authorised the Commission to participate, on behalf of the Community, in the negotiations on a Protocol on Biosafety, under Article 19(3) of the Convention on Biological Diversity. The Commission participated in those negotiations, together with the Member States.

(4) The Cartagena Protocol on Biosafety was adopted in Montreal on 29 January 2000.

(5) The Protocol provides a framework, based on the precautionary principle, for the safe transfer, handling and use of living modified organisms resulting from modern biotechnology that may have adverse effects on the conservation and sustainable use of biological diversity, taking also into account risks to human health and specifically focussing on transboundary movements.

(6) The European Community and fourteen Members States signed the Protocol on 24 May 2000, during the fifth meeting of the Parties to the Convention on Biological Diversity held in Nairobi. Luxembourg signed the Protocol on 11 July 2000.

(7) According to Article 34 of the Convention on Biological Diversity, any protocol to that Convention is subject to ratification, acceptance or approval by States and by regional economic integration organisations.

(8) The Cartagena Protocol on Biosafety contributes to the achievement of the objectives of the environmental policy of the Community. It is therefore appropriate that this Protocol be concluded on behalf of the Community as soon as possible,

HAS DECIDED AS FOLLOWS:

Article 1

The Cartagena Protocol on Biosafety to the Convention on Biological Diversity is hereby approved on behalf of the European Community.

The text of the Protocol is set out in Annex A to this Decision.

[1] OJ C 181 E, 30.7.2002, p. 258.
[2] Opinion delivered on 11 June 2002 (not yet published in the Official Journal).
[3] OJ L 309, 13.12.1993, p. 1.

Article 2

1. The President of the Council is authorised to designate the person or persons empowered to deposit the instrument of approval on behalf of the European Community with the Secretary General of the United Nations, in accordance with Articles 34 and 41 of the Convention on Biological Diversity.

2. The President of the Council is hereby authorised to designate the person or persons empowered to deposit, on behalf of the European Community, the declaration of competence set out in Annex B to this Decision, in accordance with Article 34(3) of the Convention on Biological Diversity.

Done at Luxembourg, 25 June 2002.

For the Council

The President

J. MATAS i PALOU

ANNEX A

CARTAGENA PROTOCOL ON BIOSAFETY
to the convention on biological diversity

The Parties to this Protocol,

Being Parties to the Convention on Biological Diversity, hereinafter referred to as 'the Convention',

Recalling Article 19, paragraphs 3 and 4, Article 8(g) and Article 17 of the Convention,

Recalling also Decision II/5 of 17 November 1995 of the Conference of the Parties to the Convention to develop a Protocol on biosafety, specifically focusing on transboundary movement of any living modified organism resulting from modern biotechnology that may have adverse effect on the conservation and sustainable use of biological diversity, setting out for consideration, in particular, appropriate procedures for advance informed agreement,

Reaffirming the precautionary approach contained in Principle 15 of the Rio Declaration on Environment and Development,

Aware of the rapid expansion of modern biotechnology and the growing public concern over its potential adverse effects on biological diversity, taking also into account risks to human health,

Recognizing that modern biotechnology has great potential for human well-being if developed and used with adequate safety measures for the environment and human health,

Recognizing also the crucial importance to humankind of centres of origin and centres of genetic diversity,

Taking into account the limited capabilities of many countries, particularly developing countries, to cope with the nature and scale of known and potential risks associated with living modified organisms,

Recognizing that trade and environment agreements should be mutually supportive with a view to achieving sustainable development,

Emphasizing that this Protocol shall not be interpreted as implying a change in the rights and obligations of a Party under any existing international agreements,

Understanding that the above recital is not intended to subordinate this Protocol to other international agreements,

Have agreed as follows:

Article 1

Objective

In accordance with the precautionary approach contained in Principle 15 of the Rio Declaration on Environment and Development, the objective of this Protocol is to contribute to ensuring an adequate level of protection in the field of the safe transfer, handling and use of living modified organisms resulting from modern biotechnology that may have adverse effects on the conservation and sustainable use of biological diversity, taking also into account risks to human health, and specifically focusing on transboundary movements.

Article 2

General provisions

1. Each Party shall take necessary and appropriate legal, administrative and other measures to implement its obligations under this Protocol.

2. The Parties shall ensure that the development, handling, transport, use, transfer and release of any living modified organisms are undertaken in a manner that prevents or reduces the risks to biological diversity, taking also into account risks to human health.

3. Nothing in this Protocol shall affect in any way the sovereignty of States over their territorial sea established in accordance with international law, and the sovereign rights and the jurisdiction which States have in their exclusive economic zones and their continental shelves in accordance with international law, and the exercise by ships and aircraft of all States of navigational rights and freedoms as provided for in international law and as reflected in relevant international instruments.

4. Nothing in this Protocol shall be interpreted as restricting the right of a Party to take action that is more protective of the conservation and sustainable use of biological diversity than that called for in this Protocol, provided that such action is consistent with the objective and the provisions of this Protocol and is in accordance with that Party's other obligations under international law.

5. The Parties are encouraged to take into account, as appropriate, available expertise, instruments and work undertaken in international forums with competence in the area of risks to human health.

Article 3

Use of terms

For the purposes of this Protocol:

(a) 'Conference of the Parties' means the Conference of the Parties to the Convention;

(b) 'Contained use' means any operation, undertaken within a facility, installation or other physical structure, which involves living modified organisms that are controlled by specific measures that effectively limit their contact with, and their impact on, the external environment;

(c) 'Export' means intentional transboundary movement from one Party to another Party;

(d) 'Exporter' means any legal or natural person, under the jurisdiction of the Party of export, who arranges for a living modified organism to be exported;

(e) 'Import' means intentional transboundary movement into one Party from another Party;

(f) 'Importer' means any legal or natural person, under the jurisdiction of the Party of import, who arranges for a living modified organism to be imported;

(g) 'Living modified organism' means any living organism that possesses a novel combination of genetic material obtained through the use of modern biotechnology;

(h) 'Living organism' means any biological entity capable of transferring or replicating genetic material, including sterile organisms, viruses and viroids;

(i) 'Modern biotechnology' means the application of:

— *in vitro* nucleic acid techniques, including recombinant deoxyribonucleic acid (DNA) and direct injection of nucleic acid into cells or organelles, or

— fusion of cells beyond the taxonomic family,

that overcome natural physiological reproductive or recombination barriers and that are not techniques used in traditional breeding and selection;

(j) 'Regional economic integration organization' means an organization constituted by sovereign States of a given region, to which its member States have transferred competence in respect of matters governed by this Protocol and which has been duly authorized, in accordance with its internal procedures, to sign, ratify, accept, approve or accede to it;

(k) 'Transboundary movement' means the movement of a living modified organism from one Party to another Party, save that for the purposes of Articles 17 and 24 transboundary movement extends to movement between Parties and non-Parties.

Article 4

Scope

This Protocol shall apply to the transboundary movement, transit, handling and use of all living modified organisms that may have adverse effects on the conservation and sustainable use of biological diversity, taking also into account risks to human health.

Article 5

Pharmaceuticals

Notwithstanding Article 4 and without prejudice to any right of a Party to subject all living modified organisms to risk assessment prior to the making of decisions on import, this Protocol shall not apply to the transboundary movement of living modified organisms which are pharmaceuticals for humans that are addressed by other relevant international agreements or organisations.

Article 6

Transit and contained use

1. Notwithstanding Article 4 and without prejudice to any right of a Party of transit to regulate the transport of living modified organisms through its territory and make available to the Biosafety Clearing-House, any decision of that Party, subject to Article 2, paragraph 3, regarding the transit through its territory of a specific living modified organism, the provisions of this Protocol with respect to the advance informed agreement procedure shall not apply to living modified organisms in transit.

2. Notwithstanding Article 4 and without prejudice to any right of a Party to subject all living modified organisms to risk assessment prior to decisions on import and to set standards for contained use within its jurisdiction, the provisions of this Protocol with respect to the advance informed agreement procedure shall not apply to the transboundary movement of living modified organisms destined for contained use undertaken in accordance with the standards of the Party of import.

Article 7

Application of the advance informed agreement procedure

1. Subject to Articles 5 and 6, the advance informed agreement procedure in Articles 8 to 10 and 12 shall apply prior to the first intentional transboundary movement of living modified organisms for intentional introduction into the environment of the Party of import.

2. 'Intentional introduction into the environment' in paragraph 1 above, does not refer to living modified organisms intended for direct use as food or feed, or for processing.

3. Article 11 shall apply prior to the first transboundary movement of living modified organisms intended for direct use as food or feed, or for processing.

4. The advance informed agreement procedure shall not apply to the intentional transboundary movement of living modified organisms identified in a decision of the Conference of the Parties serving as the meeting of the Parties to this Protocol as being not likely to have adverse effects on the conservation and sustainable use of biological diversity, taking also into account risks to human health.

Article 8

Notification

1. The Party of export shall notify, or require the exporter to ensure notification to, in writing, the competent national authority of the Party of import prior to the intentional transboundary movement of a living modified organism that falls within the scope of Article 7, paragraph 1. The notification shall contain, at a minimum, the information specified in Annex I.

2. The Party of export shall ensure that there is a legal requirement for the accuracy of information provided by the exporter.

Article 9

Acknowledgement of receipt of notification

1. The Party of import shall acknowledge receipt of the notification, in writing, to the notifier within 90 days of its receipt.

2. The acknowledgement shall state:

(a) the date of receipt of the notification;

(b) whether the notification, prima facie, contains the information referred to in Article 8;

(c) whether to proceed according to the domestic regulatory framework of the Party of import or according to the procedure specified in Article 10.

3. The domestic regulatory framework referred to in paragraph 2(c) above, shall be consistent with this Protocol.

4. A failure by the Party of import to acknowledge receipt of a notification shall not imply its consent to an intentional transboundary movement.

Article 10

Decision procedure

1. Decisions taken by the Party of import shall be in accordance with Article 15.

2. The Party of import shall, within the period of time referred to in Article 9, inform the notifier, in writing, whether the intentional transboundary movement may proceed:

(a) only after the Party of import has given its written consent; or

(b) after no less than 90 days without a subsequent written consent.

3. Within 270 days of the date of receipt of notification, the Party of import shall communicate, in writing, to the notifier and to the Biosafety Clearing-House the decision referred to in paragraph 2(a) above:

(a) approving the import, with or without conditions, including how the decision will apply to subsequent imports of the same living modified organism;

(b) prohibiting the import;

(c) requesting additional relevant information in accordance with its domestic regulatory framework or Annex I; in calculating the time within which the Party of import is to respond, the number of days it has to wait for additional relevant information shall not be taken into account; or

(d) informing the notifier that the period specified in this paragraph is extended by a defined period of time.

4. Except in a case in which consent is unconditional, a decision under paragraph 3 above, shall set out the reasons on which it is based.

5. A failure by the Party of import to communicate its decision within 270 days of the date of receipt of the notification shall not imply its consent to an intentional transboundary movement.

6. Lack of scientific certainty due to insufficient relevant scientific information and knowledge regarding the extent of the potential adverse effects of a living modified organism on the conservation and sustainable use of biological diversity in the Party of import, taking also into account risks to human health, shall not prevent that Party from taking a decision, as appropriate, with regard to the import of the living modified organism in question as referred to in paragraph 3 above, in order to avoid or minimize such potential adverse effects.

7. The Conference of the Parties serving as the meeting of the Parties shall, at its first meeting, decide upon appropriate procedures and mechanisms to facilitate decision-making by Parties of import.

Article 11

Procedure for living modified organisms intended for direct use as food or feed, or for processing

1. A Party that makes a final decision regarding domestic use, including placing on the market, of a living modified organism that may be subject to transboundary movement for direct use as food or feed, or for processing shall, within 15 days of making that decision, inform the Parties through the Biosafety Clearing-House. This information shall contain, at a minimum, the information specified in Annex II. The Party shall provide a copy of the information, in writing, to the national focal point of each Party that informs the Secretariat in advance that it does not have access to the Biosafety Clearing-House. This provision shall not apply to decisions regarding field trials.

2. The Party making a decision under paragraph 1 above, shall ensure that there is a legal requirement for the accuracy of information provided by the applicant.

3. Any Party may request additional information from the authority identified in paragraph (b) of Annex II.

4. A Party may take a decision on the import of living modified organisms intended for direct use as food or feed, or for processing, under its domestic regulatory framework that is consistent with the objective of this Protocol.

5. Each Party shall make available to the Biosafety Clearing-House copies of any national laws, regulations and guidelines applicable to the import of living modified organisms intended for direct use as food or feed, or for processing, if available.

6. A developing country Party or a Party with an economy in transition may, in the absence of the domestic regulatory framework referred to in paragraph 4 above, and in exercise of its domestic jurisdiction, declare through the Biosafety Clearing-House that its decision prior to the first import of a living modified organism intended for direct use as food or feed, or for processing, on which information has been provided under paragraph 1 above, will be taken according to the following:

(a) a risk assessment undertaken in accordance with Article 15; and

(b) a decision made within a predictable timeframe, not exceeding 270 days.

7. Failure by a Party to communicate its decision according to paragraph 6 above, shall not imply its consent or refusal to the import of a living modified organism intended for direct use as food or feed, or for processing, unless otherwise specified by the Party.

8. Lack of scientific certainty due to insufficient relevant scientific information and knowledge regarding the extent of the potential adverse effects of a living modified organism on the conservation and sustainable use of biological diversity in the Party of import, taking also into account risks to human health, shall not prevent that Party from taking a decision, as appropriate, with regard to the import of that living modified organism intended for direct use as food or feed, or for processing, in order to avoid or minimize such potential adverse effects.

9. A Party may indicate its needs for financial and technical assistance and capacity-building with respect to living modified organisms intended for direct use as food or feed, or for processing. Parties shall cooperate to meet these needs in accordance with Articles 22 and 28.

Article 12

Review of decisions

1. A Party of import may, at any time, in light of new scientific information on potential adverse effects on the conservation and sustainable use of biological diversity, taking also into account the risks to human health, review and change a decision regarding an intentional transboundary movement. In such case, the Party shall, within 30 days, inform any notifier that has previously notified movements of the living modified organism referred to in such decision, as well as the Biosafety Clearing-House, and shall set out the reasons for its decision.

2. A Party of export or a notifier may request the Party of import to review a decision it has made in respect of it under Article 10 where the Party of export or the notifier considers that:

(a) a change in circumstances has occurred that may influence the outcome of the risk assessment upon which the decision was based; or

(b) additional relevant scientific or technical information has become available.

3. The Party of import shall respond to such a request within 90 days and set out the reasons for its decision.

4. The Party of import may, at its discretion, require a risk assessment for subsequent imports.

Article 13

Simplified procedure

1. A Party of import may, provided that adequate measures are applied to ensure the safe intentional transboundary movement of living modified organisms in accordance with the

objective of this Protocol, specify in advance to the Biosafety Clearing-House:

(a) cases in which intentional transboundary movement to it may take place at the same time as the movement is notified to the Party of import; and

(b) imports of living modified organisms to it to be exempted from the advance informed agreement procedure.

Notifications under subparagraph (a) above, may apply to subsequent similar movements to the same Party.

2. The information relating to an intentional transboundary movement that is to be provided in the notifications referred to in paragraph 1(a) above shall be the information specified in Annex I.

Article 14

Bilateral, regional and multilateral agreements and arrangements

1. Parties may enter into bilateral, regional and multilateral agreements and arrangements regarding intentional transboundary movements of living modified organisms, consistent with the objective of this Protocol and provided that such agreements and arrangements do not result in a lower level of protection than that provided for by the Protocol.

2. The Parties shall inform each other, through the Biosafety Clearing-House, of any such bilateral, regional and multilateral agreements and arrangements that they have entered into before or after the date of entry into force of this Protocol.

3. The provisions of this Protocol shall not affect intentional transboundary movements that take place pursuant to such agreements and arrangements as between the parties to those agreements or arrangements.

4. Any Party may determine that its domestic regulations shall apply with respect to specific imports to it and shall notify the Biosafety Clearing-House of its decision.

Article 15

Risk assessment

1. Risk assessments undertaken pursuant to this Protocol shall be carried out in a scientifically sound manner, in accordance with Annex III and taking into account recognized risk assessment techniques. Such risk assessments shall be based, at a minimum, on information provided in accordance with Article 8 and other available scientific evidence in order to identify and evaluate the possible adverse effects of living modified organisms on the conservation and sustainable use of biological diversity, taking also into account risks to human health.

2. The Party of import shall ensure that risk assessments are carried out for decisions taken under Article 10. It may require the exporter to carry out the risk assessment.

3. The cost of risk assessment shall be borne by the notifier if the Party of import so requires.

Article 16

Risk management

1. The Parties shall, taking into account Article 8(g) of the Convention, establish and maintain appropriate mechanisms, measures and strategies to regulate, manage and control risks identified in the risk assessment provisions of this Protocol associated with the use, handling and transboundary movement of living modified organisms.

2. Measures based on risk assessment shall be imposed to the extent necessary to prevent adverse effects of the living modified organism on the conservation and sustainable use of biological diversity, taking also into account risks to human health, within the territory of the Party of import.

3. Each Party shall take appropriate measures to prevent unintentional transboundary movements of living modified organisms, including such measures as requiring risk assessments to be carried out prior to the first release of a living modified organism.

4. Without prejudice to paragraph 2 above, each Party shall endeavour to ensure that any living modified organism, whether imported or locally developed, has undergone an appropriate period of observation that is commensurate with its life-cycle or generation time before it is put to its intended use.

5. Parties shall cooperate with a view to:

(a) identifying living modified organisms or specific traits of living modified organisms that may have adverse effects on the conservation and sustainable use of biological diversity, taking also into account risks to human health; and

(b) taking appropriate measures regarding the treatment of such living modified organisms or specific traits.

Article 17

Unintentional transboundary movements and emergency measures

1. Each Party shall take appropriate measures to notify affected or potentially affected States, the Biosafety Clearing-House and, where appropriate, relevant international organizations, when it knows of an occurrence under its jurisdiction resulting in a release that leads, or may lead, to an unintentional transboundary movement of a living modified organism that is likely to have significant adverse effects on the conservation and sustainable use of biological diversity, taking also into account risks to human health in such States. The notification shall be provided as soon as the Party knows of the above situation.

2. Each Party shall, no later than the date of entry into force of this Protocol for it, make available to the Biosafety Clearing-House the relevant details setting out its point of contact for the purposes of receiving notifications under this Article.

3. Any notification arising from paragraph 1 above, should include:

(a) available relevant information on the estimated quantities and relevant characteristics and/or traits of the living modified organism;

(b) information on the circumstances and estimated date of the release, and on the use of the living modified organism in the originating Party;

(c) any available information about the possible adverse effects on the conservation and sustainable use of biological diversity, taking also into account risks to human health, as well as available information about possible risk management measures;

(d) any other relevant information; and

(e) a point of contact for further information.

4. In order to minimize any significant adverse effects on the conservation and sustainable use of biological diversity, taking also into account risks to human health, each Party, under whose jurisdiction the release of the living modified organism referred to in paragraph 1 above, occurs, shall immediately consult the affected or potentially affected States to enable them to determine appropriate responses and initiate necessary action, including emergency measures.

Article 18

Handling, transport, packaging and identification

1. In order to avoid adverse effects on the conservation and sustainable use of biological diversity, taking also into account risks to human health, each Party shall take necessary measures to require that living modified organisms that are subject to intentional transboundary movement within the scope of this Protocol are handled, packaged and transported under conditions of safety, taking into consideration relevant international rules and standards.

2. Each Party shall take measures to require that documentation accompanying:

(a) living modified organisms that are intended for direct use as food or feed, or for processing, clearly identifies that they 'may contain' living modified organisms and are not intended for intentional introduction into the environment, as well as a contact point for further information. The Conference of the Parties serving as the meeting of the Parties to this Protocol shall take a decision on the detailed requirements for this purpose, including specification of their identity and any unique identification, no later than two years after the date of entry into force of this Protocol;

(b) living modified organisms that are destined for contained use clearly identifies them as living modified organisms; and specifies any requirements for the safe handling, storage, transport and use, the contact point for further information, including the name and address of the individual and institution to whom the living modified organisms are consigned; and

(c) living modified organisms that are intended for intentional introduction into the environment of the Party of import and any other living modified organisms within the scope of the Protocol, clearly identifies them as living modified organisms; specifies the identity and relevant traits and/or characteristics, any requirements for the safe handling, storage, transport and use, the contact point for further information and, as appropriate, the name and address of the importer and exporter; and contains a declaration that the movement is in conformity with the requirements of this Protocol applicable to the exporter.

3. The Conference of the Parties serving as the meeting of the Parties to this Protocol shall consider the need for and modalities of developing standards with regard to identification, handling, packaging and transport practices, in consultation with other relevant international bodies.

Article 19

Competent national authorities and national focal points

1. Each Party shall designate one national focal point to be responsible on its behalf for liaison with the Secretariat. Each Party shall also designate one or more competent national authorities, which shall be responsible for performing the administrative functions required by this Protocol and which shall be authorized to act on its behalf with respect to those functions. A Party may designate a single entity to fulfill the functions of both focal point and competent national authority.

2. Each Party shall, no later than the date of entry into force of this Protocol for it, notify the Secretariat of the names and addresses of its focal point and its competent national authority or authorities. Where a Party designates more than one competent national authority, it shall convey to the Secretariat, with its notification thereof, relevant information on the respective responsibilities of those authorities. Where applicable, such information shall, at a minimum, specify which competent authority is responsible for which type of living modified organism. Each Party shall forthwith notify the Secretariat of any changes in the designation of its national focal point or in the name and address or responsibilities of its competent national authority or authorities.

3. The Secretariat shall forthwith inform the Parties of the notifications it receives under paragraph 2 above, and shall also make such information available through the Biosafety Clearing-House.

Article 20

Information sharing and the Biosafety Clearing-House

1. A Biosafety Clearing-House is hereby established as part of the clearing-house mechanism under Article 18, paragraph 3, of the Convention, in order to:

(a) facilitate the exchange of scientific, technical, environmental and legal information on, and experience with, living modified organisms; and

(b) assist Parties to implement the Protocol, taking into account the special needs of developing country Parties, in particular the least developed and small island developing States among them, and countries with economies in transition as well as countries that are centres of origin and centres of genetic diversity.

2. The Biosafety Clearing-House shall serve as a means through which information is made available for the purposes of paragraph 1 above. It shall provide access to information made available by the Parties relevant to the implementation of the Protocol. It shall also provide access, where possible, to other international biosafety information exchange mechanisms.

3. Without prejudice to the protection of confidential information, each Party shall make available to the Biosafety Clearing-House any information required to be made available to the Biosafety Clearing-House under this Protocol, and:

(a) any existing laws, regulations and guidelines for implementation of the Protocol, as well as information required by the Parties for the advance informed agreement procedure;

(b) any bilateral, regional and multilateral agreements and arrangements;

(c) summaries of its risk assessments or environmental reviews of living modified organisms generated by its regulatory process, and carried out in accordance with Article 15, including, where appropriate, relevant information regarding products thereof, namely, processed materials that are of living modified organism origin, containing detectable novel combinations of replicable genetic material obtained through the use of modern biotechnology;

(d) its final decisions regarding the importation or release of living modified organisms; and

(e) reports submitted by it pursuant to Article 33, including those on implementation of the advance informed agreement procedure.

4. The modalities of the operation of the Biosafety Clearing-House, including reports on its activities, shall be considered and decided upon by the Conference of the Parties serving as the meeting of the Parties to this Protocol at its first meeting, and kept under review thereafter.

Article 21

Confidential information

1. The Party of import shall permit the notifier to identify information submitted under the procedures of this Protocol or required by the Party of import as part of the advance informed agreement procedure of the Protocol that is to be treated as confidential. Justification shall be given in such cases upon request.

2. The Party of import shall consult the notifier if it decides that information identified by the notifier as confidential does not qualify for such treatment and shall, prior to any disclosure, inform the notifier of its decision, providing reasons on request, as well as an opportunity for consultation and for an internal review of the decision prior to disclosure.

3. Each Party shall protect confidential information received under this Protocol, including any confidential information received in the context of the advance informed agreement procedure of the Protocol. Each Party shall ensure that it has procedures to protect such information and shall protect the confidentiality of such information in a manner no less favourable than its treatment of confidential information in connection with domestically produced living modified organisms.

4. The Party of import shall not use such information for a commercial purpose, except with the written consent of the notifier.

5. If a notifier withdraws or has withdrawn a notification, the Party of import shall respect the confidentiality of commercial and industrial information, including research and development information as well as information on which the Party and the notifier disagree as to its confidentiality.

6. Without prejudice to paragraph 5 above, the following information shall not be considered confidential:

(a) the name and address of the notifier;

(b) a general description of the living modified organism or organisms;

(c) a summary of the risk assessment of the effects on the conservation and sustainable use of biological diversity, taking also into account risks to human health; and

(d) any methods and plans for emergency response.

Article 22

Capacity-building

1. The Parties shall cooperate in the development and/or strengthening of human resources and institutional capacities in biosafety, including biotechnology to the extent that it is required for biosafety, for the purpose of the effective implementation of this Protocol, in developing country Parties, in particular the least developed and small island developing States among them, and in Parties with economies in transition, including through existing global, regional, subregional and national institutions and organizations and, as appropriate, through facilitating private sector involvement.

2. For the purposes of implementing paragraph 1 above, in relation to cooperation, the needs of developing country Parties, in particular the least developed and small island developing States among them, for financial resources and access to and transfer of technology and know-how in accordance with the relevant provisions of the Convention, shall be taken fully into account for capacity-building in biosafety. Cooperation in capacity-building shall, subject to the different situation, capabilities and requirements of each Party, include scientific and technical training in the proper and safe management of biotechnology, and in the use of risk assessment and risk management for biosafety, and the enhancement of technological and institutional capacities in biosafety. The needs of Parties with economies in transition shall also be taken fully into account for such capacity-building in biosafety.

Article 23

Public awareness and participation

1. The Parties shall:

(a) promote and facilitate public awareness, education and participation concerning the safe transfer, handling and use of living modified organisms in relation to the conservation and sustainable use of biological diversity, taking also into account risks to human health. In doing so, the Parties shall cooperate, as appropriate, with other States and international bodies;

(b) endeavour to ensure that public awareness and education encompass access to information on living modified organisms identified in accordance with this Protocol that may be imported.

2. The Parties shall, in accordance with their respective laws and regulations, consult the public in the decision-making process regarding living modified organisms and shall make the results of such decisions available to the public, while respecting confidential information in accordance with Article 21.

3. Each Party shall endeavour to inform its public about the means of public access to the Biosafety Clearing-House.

Article 24

Non-Parties

1. Transboundary movements of living modified organisms between Parties and non-Parties shall be consistent with the objective of this Protocol. The Parties may enter into bilateral, regional and multilateral agreements and arrangements with non-Parties regarding such transboundary movements.

2. The Parties shall encourage non-Parties to adhere to this Protocol and to contribute appropriate information to the Biosafety Clearing-House on living modified organisms released in, or moved into or out of, areas within their national jurisdictions.

Article 25

Illegal transboundary movements

1. Each Party shall adopt appropriate domestic measures aimed at preventing and, if appropriate, penalizing transboundary movements of living modified organisms carried out in contravention of its domestic measures to implement this Protocol. Such movements shall be deemed illegal transboundary movements.

2. In the case of an illegal transboundary movement, the affected Party may request the Party of origin to dispose, at its own expense, of the living modified organism in question by repatriation or destruction, as appropriate.

3. Each Party shall make available to the Biosafety Clearing-House information concerning cases of illegal transboundary movements pertaining to it.

Article 26

Socio-economic considerations

1. The Parties, in reaching a decision on import under this Protocol or under its domestic measures implementing the Protocol, may take into account, consistent with their international obligations, socio-economic considerations arising from the impact of living modified organisms on the conservation and sustainable use of biological diversity, especially with regard to the value of biological diversity to indigenous and local communities.

2. The Parties are encouraged to cooperate on research and information exchange on any socio-economic impacts of living modified organisms, especially on indigenous and local communities.

Article 27

Liability and redress

The Conference of the Parties serving as the meeting of the Parties to this Protocol shall, at its first meeting, adopt a process with respect to the appropriate elaboration of international rules and procedures in the field of liability and redress for damage resulting from transboundary movements of living modified organisms, analysing and taking due account of the ongoing processes in international law on these matters, and shall endeavour to complete this process within four years.

Article 28

Financial mechanism and resources

1. In considering financial resources for the implementation of this Protocol, the Parties shall take into account the provisions of Article 20 of the Convention.

2. The financial mechanism established in Article 21 of the Convention shall, through the institutional structure entrusted with its operation, be the financial mechanism for this Protocol.

3. Regarding the capacity-building referred to in Article 22 of this Protocol, the Conference of the Parties serving as the meeting of the Parties to this Protocol, in providing guidance with respect to the financial mechanism referred to in paragraph 2 above, for consideration by the Conference of the Parties, shall take into account the need for financial resources by developing country Parties, in particular the least developed and the small island developing States among them.

4. In the context of paragraph 1 above, the Parties shall also take into account the needs of the developing country Parties, in particular the least developed and the small island developing States among them, and of the Parties with economies in transition, in their efforts to identify and implement their capacity-building requirements for the purposes of the implementation of this Protocol.

5. The guidance to the financial mechanism of the Convention in relevant decisions of the Conference of the Parties, including those agreed before the adoption of this Protocol, shall apply, *mutatis mutandis*, to the provisions of this Article.

6. The developed country Parties may also provide, and the developing country Parties and the Parties with economies in transition avail themselves of, financial and technological resources for the implementation of the provisions of this Protocol through bilateral, regional and multilateral channels.

Article 29

Conference of the Parties serving as the meeting of the Parties to this Protocol

1. The Conference of the Parties shall serve as the meeting of the Parties to this Protocol.

2. Parties to the Convention that are not Parties to this Protocol may participate as observers in the proceedings of any meeting of the Conference of the Parties serving as the meeting of the Parties to this Protocol. When the Conference of the Parties serves as the meeting of the Parties to this Protocol, decisions under this Protocol shall be taken only by those that are Parties to it.

3. When the Conference of the Parties serves as the meeting of the Parties to this Protocol, any member of the bureau of the Conference of the Parties representing a Party to the Convention but, at that time, not a Party to this Protocol, shall be substituted by a member to be elected by and from among the Parties to this Protocol.

4. The Conference of the Parties serving as the meeting of the Parties to this Protocol shall keep under regular review the implementation of this Protocol and shall make, within its mandate, the decisions necessary to promote its effective implementation. It shall perform the functions assigned to it by this Protocol and shall:

(a) make recommendations on any matters necessary for the implementation of this Protocol;

(b) establish such subsidiary bodies as are deemed necessary for the implementation of this Protocol;

(c) seek and utilize, where appropriate, the services and cooperation of, and information provided by, competent international organizations and intergovernmental and non-governmental bodies;

(d) establish the form and the intervals for transmitting the information to be submitted in accordance with Article 33 of this Protocol and consider such information as well as reports submitted by any subsidiary body;

(e) consider and adopt, as required, amendments to this Protocol and its annexes, as well as any additional annexes to this Protocol, that are deemed necessary for the implementation of this Protocol; and

(f) exercise such other functions as may be required for the implementation of this Protocol.

5. The rules of procedure of the Conference of the Parties and financial rules of the Convention shall be applied, *mutatis mutandis*, under this Protocol, except as may be otherwise decided by consensus by the Conference of the Parties serving as the meeting of the Parties to this Protocol.

6. The first meeting of the Conference of the Parties serving as the meeting of the Parties to this Protocol shall be convened by the Secretariat in conjunction with the first meeting of the Conference of the Parties that is scheduled after the date of the entry into force of this Protocol. Subsequent ordinary meetings of the Conference of the Parties serving as the meeting of the Parties to this Protocol shall be held in conjunction with ordinary meetings of the Conference of the Parties, unless otherwise decided by the Conference of the Parties serving as the meeting of the Parties to this Protocol.

7. Extraordinary meetings of the Conference of the Parties serving as the meeting of the Parties to this Protocol shall be held at such other times as may be deemed necessary by the Conference of the Parties serving as the meeting of the Parties to this Protocol, or at the written request of any Party, provided that, within six months of the request being communicated to the Parties by the Secretariat, it is supported by at least one third of the Parties.

8. The United Nations, its specialized agencies and the International Atomic Energy Agency, as well as any State member thereof or observers thereto not party to the Convention, may be represented as observers at meetings of the Conference of the Parties serving as the meeting of the Parties to this Protocol. Any body or agency, whether national or international, governmental or non-governmental, that is qualified in matters covered by this Protocol and that has informed the Secretariat of its wish to be represented at a meeting of the Conference of the Parties serving as a meeting of the Parties to this Protocol as an observer, may be so admitted, unless at least one third of the Parties present object. Except as otherwise provided in this Article, the admission and participation of observers shall be subject to the rules of procedure, as referred to in paragraph 5 above.

Article 30

Subsidiary bodies

1. Any subsidiary body established by or under the Convention may, upon a decision by the Conference of the Parties serving as the meeting of the Parties to this Protocol, serve the Protocol, in which case the meeting of the Parties shall specify which functions that body shall exercise.

2. Parties to the Convention that are not Parties to this Protocol may participate as observers in the proceedings of any meeting of any such subsidiary bodies. When a subsidiary body of the Convention serves as a subsidiary body to this Protocol, decisions under the Protocol shall be taken only by the Parties to the Protocol.

3. When a subsidiary body of the Convention exercises its functions with regard to matters concerning this Protocol, any member of the bureau of that subsidiary body representing a Party to the Convention but, at that time, not a Party to the Protocol, shall be substituted by a member to be elected by and from among the Parties to the Protocol.

Article 31

Secretariat

1. The Secretariat established by Article 24 of the Convention shall serve as the secretariat to this Protocol.

2. Article 24, paragraph 1, of the Convention on the functions of the Secretariat shall apply, *mutatis mutandis*, to this Protocol.

3. To the extent that they are distinct, the costs of the secretariat services for this Protocol shall be met by the Parties hereto. The Conference of the Parties serving as the meeting of the Parties to this Protocol shall, at its first meeting, decide on the necessary budgetary arrangements to this end.

Article 32

Relationship with the Convention

Except as otherwise provided in this Protocol, the provisions of the Convention relating to its protocols shall apply to this Protocol.

Article 33

Monitoring and reporting

Each Party shall monitor the implementation of its obligations under this Protocol, and shall, at intervals to be determined by the Conference of the Parties serving as the meeting of the Parties to this Protocol, report to the Conference of the Parties serving as the meeting of the Parties to this Protocol on measures that it has taken to implement the Protocol.

Article 34

Compliance

The Conference of the Parties serving as the meeting of the Parties to this Protocol shall, at its first meeting, consider and approve cooperative procedures and institutional mechanisms to promote compliance with the provisions of this Protocol and to address cases of non-compliance. These procedures and mechanisms shall include provisions to offer advice or assistance, where appropriate. They shall be separate from, and without prejudice to, the dispute settlement procedures and mechanisms established by Article 27 of the Convention.

Article 35

Assessment and review

The Conference of the Parties serving as the meeting of the Parties to this Protocol shall undertake, five years after the entry into force of this Protocol and at least every five years thereafter, an evaluation of the effectiveness of the Protocol, including an assessment of its procedures and annexes.

Article 36

Signature

This Protocol shall be open for signature at the United Nations Office at Nairobi by States and regional economic integration organizations from 15 to 26 May 2000, and at United Nations Headquarters in New York from 5 June 2000 to 4 June 2001.

Article 37

Entry into force

1. This Protocol shall enter into force on the ninetieth day after the date of deposit of the fiftieth instrument of ratification, acceptance, approval or accession by States or regional economic integration organizations that are Parties to the Convention.

2. This Protocol shall enter into force for a State or regional economic integration organization that ratifies, accepts or approves this Protocol or accedes thereto after its entry into force pursuant to paragraph 1 above, on the ninetieth day after the date on which that State or regional economic integration organization deposits its instrument of ratification, acceptance, approval or accession, or on the date on which the Convention enters into force for that State or regional economic integration organization, whichever shall be the later.

3. For the purposes of paragraphs 1 and 2 above, any instrument deposited by a regional economic integration organization shall not be counted as additional to those deposited by member States of such organization.

Article 38

Reservations

No reservations may be made to this Protocol.

Article 39

Withdrawal

1. At any time after two years from the date on which this Protocol has entered into force for a Party, that Party may withdraw from the Protocol by giving written notification to the Depositary.

2. Any such withdrawal shall take place upon expiry of one year after the date of its receipt by the Depositary, or on such later date as may be specified in the notification of the withdrawal.

Article 40

Authentic texts

The original of this Protocol, of which the Arabic, Chinese, English, French, Russian and Spanish texts are equally authentic, shall be deposited with the Secretary-General of the United Nations.

IN WITNESS WHEREOF the undersigned, being duly authorized to that effect, have signed this Protocol.

DONE at Montreal on this twenty-ninth day of January, two thousand.

Annex I to Annex A

INFORMATION REQUIRED IN NOTIFICATIONS UNDER ARTICLES 8, 10 AND 13

(a) Name, address and contact details of the exporter.

(b) Name, address and contact details of the importer.

(c) Name and identity of the living modified organism, as well as the domestic classification, if any, of the biosafety level of the living modified organism in the State of export.

(d) Intended date or dates of the transboundary movement, if known.

(e) Taxonomic status, common name, point of collection or acquisition, and characteristics of recipient organism or parental organisms related to biosafety.

(f) Centres of origin and centres of genetic diversity, if known, of the recipient organism and/or the parental organisms and a description of the habitats where the organisms may persist or proliferate.

(g) Taxonomic status, common name, point of collection or acquisition, and characteristics of the donor organism or organisms related to biosafety.

(h) Description of the nucleic acid or the modification introduced, the technique used, and the resulting characteristics of the living modified organism.

(i) Intended use of the living modified organism or products thereof, namely, processed materials that are of living modified organism origin, containing detectable novel combinations of replicable genetic material obtained through the use of modern biotechnology.

(j) Quantity or volume of the living modified organism to be transferred.

(k) A previous and existing risk assessment report consistent with Annex III.

(l) Suggested methods for the safe handling, storage, transport and use, including packaging, labelling, documentation, disposal and contingency procedures, where appropriate.

(m) Regulatory status of the living modified organism within the State of export (for example, whether it is prohibited in the State of export, whether there are other restrictions, or whether it has been approved for general release) and, if the living modified organism is banned in the State of export, the reason or reasons for the ban.

(n) Result and purpose of any notification by the exporter to other States regarding the living modified organism to be transferred.

(o) A declaration that the abovementioned information is factually correct.

Annex II to Annex A

INFORMATION REQUIRED CONCERNING LIVING MODIFIED ORGANISMS INTENDED FOR DIRECT USE AS FOOD OR FEED, OR FOR PROCESSING UNDER ARTICLE 11

(a) The name and contact details of the applicant for a decision for domestic use.

(b) The name and contact details of the authority responsible for the decision.

(c) Name and identity of the living modified organism.

(d) Description of the gene modification, the technique used, and the resulting characteristics of the living modified organism.

(e) Any unique identification of the living modified organism.

(f) Taxonomic status, common name, point of collection or acquisition, and characteristics of recipient organism or parental organisms related to biosafety.

(g) Centres of origin and centres of genetic diversity, if known, of the recipient organism and/or the parental organisms and a description of the habitats where the organisms may persist or proliferate.

(h) Taxonomic status, common name, point of collection or acquisition, and characteristics of the donor organism or organisms related to biosafety.

(i) Approved uses of the living modified organism.

(j) A risk assessment report consistent with Annex III.

(k) Suggested methods for the safe handling, storage, transport and use, including packaging, labelling, documentation, disposal and contingency procedures, where appropriate.

Annex III to Annex A

RISK ASSESSMENT

Objective

1. The objective of risk assessment, under this Protocol, is to identify and evaluate the potential adverse effects of living modified organisms on the conservation and sustainable use of biological diversity in the likely potential receiving environment, taking also into account risks to human health.

Use of risk assessment

2. Risk assessment is, *inter alia*, used by competent authorities to make informed decisions regarding living modified organisms.

General principles

3. Risk assessment should be carried out in a scientifically sound and transparent manner, and can take into account expert advice of, and guidelines developed by, relevant international organizations.

4. Lack of scientific knowledge or scientific consensus should not necessarily be interpreted as indicating a particular level of risk, an absence of risk, or an acceptable risk.

5. Risks associated with living modified organisms or products thereof, namely, processed materials that are of living modified organism origin, containing detectable novel combinations of replicable genetic material obtained through the use of modern biotechnology, should be considered in the context of the risks posed by the non-modified recipients or parental organisms in the likely potential receiving environment.

6. Risk assessment should be carried out on a case-by-case basis. The required information may vary in nature and level of detail from case to case, depending on the living modified organism concerned, its intended use and the likely potential receiving environment.

Methodology

7. The process of risk assessment may on the one hand give rise to a need for further information about specific subjects, which may be identified and requested during the assessment process, while on the other hand information on other subjects may not be relevant in some instances.

8. To fulfil its objective, risk assessment entails, as appropriate, the following steps:

   (a) an identification of any novel genotypic and phenotypic characteristics associated with the living modified organism that may have adverse effects on biological diversity in the likely potential receiving environment, taking also into account risks to human health;

   (b) an evaluation of the likelihood of these adverse effects being realized, taking into account the level and kind of exposure of the likely potential receiving environment to the living modified organism;

   (c) an evaluation of the consequences should these adverse effects be realized;

   (d) an estimation of the overall risk posed by the living modified organism based on the evaluation of the likelihood and consequences of the identified adverse effects being realized;

   (e) a recommendation as to whether or not the risks are acceptable or manageable, including, where necessary, identification of strategies to manage these risks; and

   (f) where there is uncertainty regarding the level of risk, it may be addressed by requesting further information on the specific issues of concern or by implementing appropriate risk management strategies and/or monitoring the living modified organism in the receiving environment.

Points to consider

9. Depending on the case, risk assessment takes into account the relevant technical and scientific details regarding the characteristics of the following subjects:

   (a) *Recipient organism or parental organisms*. The biological characteristics of the recipient organism or parental organisms, including information on taxonomic status, common name, origin, centres of origin and centres of genetic diversity, if known, and a description of the habitat where the organisms may persist or proliferate;

   (b) *Donor organism or organisms*. Taxonomic status and common name, source, and the relevant biological characteristics of the donor organisms;

(c) *Vector*. Characteristics of the vector, including its identity, if any, and its source or origin, and its host range;

(d) *Insert or inserts and/or characteristics of modification*. Genetic characteristics of the inserted nucleic acid and the function it specifies, and/or characteristics of the modification introduced;

(e) *Living modified organism*. Identity of the living modified organism, and the differences between the biological characteristics of the living modified organism and those of the recipient organism or parental organisms;

(f) *Detection and identification of the living modified organism*. Suggested detection and identification methods and their specificity, sensitivity and reliability;

(g) *Information relating to the intended use*. Information relating to the intended use of the living modified organism, including new or changed use compared to the recipient organism or parental organisms; and

(h) *Receiving environment*. Information on the location, geographical, climatic and ecological characteristics, including relevant information on biological diversity and centres of origin of the likely potential receiving environment.

ANNEX B

DECLARATION BY THE EUROPEAN COMMUNITY IN ACCORDANCE WITH ARTICLE 34(3) OF THE CONVENTION ON BIOLOGICAL DIVERSITY

The European Community declares that, in accordance with the Treaty establishing the European Community, and in particular Article 175(1) thereof, it is competent for entering into international agreements, and for implementing the obligations resulting therefrom, which contribute to the pursuit of the following objectives:

— preserving, protecting and improving the quality of the environment,

— protecting human health,

— prudent and rational utilisation of natural resources,

— promoting measures at international level to deal with regional or worldwide environmental problems.

Moreover, the European Community declares that it has already adopted legal instruments, binding on its Member States, covering matters governed by this Protocol, and will submit and update, as appropriate, a list of those legal instruments to the Biosafety Clearing House in accordance with Article 20(3)(a) of the Cartagena Protocol on Biosafety.

The European Community is responsible for the performance of those obligations resulting from the Cartagena Protocol on Biosafety which are covered by Community law in force.

The exercise of Community competence is, by its nature, subject to continuous development.

CORRIGENDA

Corrigendum to Commission Regulation (EC) No 1359/2002 of 25 July 2002 fixing the export refunds on rice and broken rice and suspending the issue of export licences

(Official Journal of the European Communities L 197 of 26 July 2002)

On page 43, footnote 1 beneath the table:

for: '… 950 t.',

read: '… 289 t.'

Corrigendum to Decision No 2/2002 of the Association Council, Association between the European Communities and their Member States, of the one part, and the Republic of Hungary, of the other part, of 16 April 2002 concerning the improvement of the trade arrangements for processed agricultural products envisaged by Protocol 3 to the Europe Agreement

(Official Journal of the European Communities L 172 of 2 July 2002)

On page 26, in Annex 1, table 1(a), against CN code 2202, in the column headed 'Description':

for: '… not including fruit or vegetable juices of No 2209',

read: '… not including fruit or vegetable juices of No 2009';

on page 27, in Annex 1, table 1(b), against CN codes 0710 40 00 and 0710 90 30, in the column headed 'Yearly increase from 2003 on':

for: '16 836',

read: '1 688';

on page 28, in Annex 1, table 2(a), the entries for CN codes 0403 to 0711 90 30 should be replaced by following:

CN code	Description	Duty applicable on 31.12.2001
(1)	(2)	(3)
'0403	Buttermilk, curdled milk and cream, yogurt, 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:	
0403 10	– Yoghurt:	
	– – Flavoured or containing added fruit, nuts or cocoa:	
	– – – In powder, granules or other solid forms, of a milk fat content, by weight:	
0403 10 51	– – – – Not exceeding 1,5 %	8,3 % + 95 EUR/100 kg
0403 10 53	– – – – Exceeding 1,5 % but not exceeding 27 %	8,3 % + 130,4 EUR/100 kg
0403 10 59	– – – – Exceeding 27 %	8,3 % + 168,8 EUR/100 kg
	– – – Other, of a milk fat content, by weight:	
0403 10 91	– – – – Not exceeding 3 %	8,3 % + 12,4 EUR/100 kg
0403 10 93	– – – – Exceeding 3 % but not exceeding 6 %	8,3 % + 17,1 EUR/100 kg
0403 10 99	– – – – Exceeding 6 %	8,3 % + 26,6 EUR/100 kg
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	– – – – Not exceeding 1,5 %	8,3 % + 95 EUR/100 kg
0403 90 73	– – – – Exceeding 1,5 % but not exceeding 27 %	8,3 % + 130,4 EUR/100 kg
0403 90 79	– – – – Exceeding 27 %	8,3 % + 168,8 EUR/100 kg
	– – – Other, of a milkfat content, by weight:	
0403 90 91	– – – – Not exceeding 3 %	8,3 % + 12,4 EUR/100 kg
0403 90 93	– – – – Exceeding 3 % but not exceeding 6 %	8,3 % + 17,1 EUR/100 kg
0403 90 99	– – – – Exceeding 6 %	8,3 % + 26,6 EUR/100 kg
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 %	9 % + EAR
0405 20 30	– – Of a fat content, by weight, of 60 % or more but not exceeding 75 %	9 % + EAR
0710	Vegetables (uncooked or cooked by steaming or boiling in water), frozen:	
0710 40 00	– Sweet corn	3 % + 9,4 EUR/100 kg net eda

CN code	Description	Duty applicable on 31.12.2001
(1)	(2)	(3)
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	3 % + 9,4 EUR/100 kg net eda'

on page 42, in Annex II, table 1, for CN codes 0403 and ex 0403 90, in column 3 headed 'Annual quota 2002':

for: '8 078',
read: '8 858';

on page 44, in Annex II, table 1, for CN codes 1902 19 10 00 and 1902 19 90 00, in the final column:

for: '38,4',
read: '35';

on page 45, in Annex II, table 1, for CN codes 1902 11 00 00, 1902 19 00 00, 1902 30 00 00, ex 1902 20 10 00, ex 1902 20 10 00, 1902 20 30 00, 1902 20 91 00 and 1902 20 99 00, in the final column:

for. '38,4',
read: '35';

on page 47, in Annex II, table 1, for CN code 2205 10, in column 3 headed 'Annual quota 2002 (1 000 kg)':

for: '1 680 hl',
read: '2 140 hl';

on page 47, in Annex II, table 1, for CN code 2205 10, in column 5 headed 'Duty applicable on 31.12.2001 (%) — Above quota':

for: '70',
read: '50';

on page 52, in Annex II, table 2, the entry for CN code 1902 30 should be deleted.