

English edition

## Legislation

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**EN**

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**Commission**

2002/947/EC:

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(Acts adopted pursuant to Title VI of the Treaty on European Union)

## COUNCIL FRAMEWORK DECISION

of 28 November 2002

### on the strengthening of the penal framework to prevent the facilitation of unauthorised entry, transit and residence

(2002/946/JHA)

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty establishing the European Union, and in particular Article 29, Article 31(e) and Article 34(2)(b) thereof,

Having regard to the initiative of the French Republic <sup>(1)</sup>,

Having regard to the opinion of the European Parliament <sup>(2)</sup>,

Whereas:

- (1) One of the objectives of the European Union is to provide citizens with a high level of safety within an area of freedom, security and justice by developing common action among the Member States in the fields of police and judicial cooperation in criminal matters.
- (2) In this framework, measures should be taken to combat the aiding of illegal immigration both in connection with unauthorised crossing of the border in the strict sense and for the purpose of sustaining networks which exploit human beings.
- (3) To that end it is essential to approximate existing legal provisions, in particular, on the one hand, the precise definition of the infringement in question and the cases of exemption, which is the subject of Council Directive 2002/90/EC of 28 November 2002 defining the facilitation of unauthorised entry, transit and residence <sup>(3)</sup> and, on the other hand, minimum rules for penalties, liability of legal persons and jurisdiction, which is the subject of this framework Decision.
- (4) It is likewise essential not to confine possible actions to natural persons only but to provide for measures relating to the liability of legal persons.

(5) This framework Decision supplements other instruments adopted in order to combat illegal immigration, illegal employment, trafficking in human beings and the sexual exploitation of children.

(6) As regards Iceland and Norway, this framework Decision constitutes a development of provisions of the Schengen *acquis* within the meaning of the Agreement concluded by the Council of the European Union and the Republic of Iceland and the Kingdom of Norway concerning the association of those two States with the implementation, application and development of the Schengen *acquis* <sup>(4)</sup>, which fall within the area referred to in Article 1(E) of Council Decision 1999/437/EC of 17 May 1999 on certain arrangements for the application of that Agreement <sup>(5)</sup>.

(7) The United Kingdom is taking part in this framework Decision in accordance with Article 5 of the Protocol integrating the Schengen *acquis* into the framework of the European Union annexed to the Treaty on European Union and to the Treaty establishing the European Community, and Article 8(2) of Council Decision 2000/365/EC of 29 May 2000 concerning the request of the United Kingdom of Great Britain and Northern Ireland to take part in some of the provisions of the Schengen *acquis* <sup>(6)</sup>.

(8) Ireland is taking part in this framework Decision in accordance with Article 5 of the Protocol integrating the Schengen *acquis* into the framework of the European Union annexed to the Treaty on European Union and to the Treaty establishing the European Community, and Article 6(2) of Council Decision 2002/192/EC of 28 February 2002 concerning Ireland's request to take part in some of the provisions of the Schengen *acquis* <sup>(7)</sup>,

<sup>(1)</sup> OJ C 253, 4.9.2000, p. 6.

<sup>(2)</sup> OJ C 276, 1.10.2001, p. 244.

<sup>(3)</sup> See page 17 of this Official Journal.

<sup>(4)</sup> OJ L 176, 10.7.1999, p. 36.

<sup>(5)</sup> OJ L 176, 10.7.1999, p. 31.

<sup>(6)</sup> OJ L 131, 1.6.2000, p. 43.

<sup>(7)</sup> OJ L 64, 7.3.2002, p. 20.

HAS ADOPTED THIS FRAMEWORK DECISION:

### Article 1

#### Penalties

1. Each Member State shall take the measures necessary to ensure that the infringements defined in Articles 1 and 2 of Directive 2002/90/EC are punishable by effective, proportionate and dissuasive criminal penalties which may entail extradition.

2. Where appropriate, the criminal penalties covered in paragraph 1 may be accompanied by the following measures:

- confiscation of the means of transport used to commit the offence,
- a prohibition on practising directly or through an intermediary the occupational activity in the exercise of which the offence was committed,
- deportation.

3. Each Member State shall take the measures necessary to ensure that, when committed for financial gain, the infringements defined in Article 1(1)(a) and, to the extent relevant, Article 2(a) of Directive 2002/90/EC are punishable by custodial sentences with a maximum sentence of not less than eight years where they are committed in any of the following circumstances:

- the offence was committed as an activity of a criminal organisation as defined in Joint Action 98/733/JHA<sup>(1)</sup>,
- the offence was committed while endangering the lives of the persons who are the subject of the offence.

4. If imperative to preserve the coherence of the national penalty system, the actions defined in paragraph 3 shall be punishable by custodial sentences with a maximum sentence of not less than six years, provided that it is among the most severe maximum sentences available for crimes of comparable gravity.

### Article 2

#### Liability of legal persons

1. Each Member State shall take the measures necessary to ensure that legal persons can be held liable for the infringements referred to in Article 1(1) and which are committed for their benefit by any person, acting either individually or as part of an organ of the legal person, who has a leading position within the legal person, based on:

- a power of representation of the legal person,
- an authority to take decisions on behalf of the legal person, or

- an authority to exercise control within the legal person.

2. Apart from the cases already provided for in paragraph 1, each Member State shall take the necessary measures to ensure that a legal person can be held liable where the lack of supervision or control by a person referred to in paragraph 1 has made possible the commission of the infringements referred to in Article 1(1) for the benefit of that legal person by a person under its authority.

3. Liability of a legal person under paragraphs 1 and 2 shall not exclude criminal proceedings against natural persons who are perpetrators or instigators of or accessories in the offences referred to in paragraph 1.

### Article 3

#### Sanctions for legal persons

1. Each Member State shall take the measures necessary to ensure that a legal person held liable pursuant to Article 2(1) is punishable by effective, proportionate and dissuasive sanctions, which shall include criminal or non-criminal fines and may include other sanctions such as:

- (a) exclusion from entitlement to public benefits or aid;
- (b) temporary or permanent disqualification from the practice of commercial activities;
- (c) placing under judicial supervision;
- (d) a judicial winding-up order.

2. Each Member State shall take the measures necessary to ensure that a legal person held liable pursuant to Article 2(2) is punishable by effective, proportionate and dissuasive sanctions or measures.

### Article 4

#### Jurisdiction

1. Each Member State shall take the measures necessary to establish its jurisdiction with regard to the infringements referred to in Article 1(1) and committed

- (a) in whole or in part within its territory;
- (b) by one of its nationals, or
- (c) for the benefit of a legal person established in the territory of that Member State.

2. Subject to the provisions of Article 5, any Member State may decide that it will not apply, or that it will apply only in specific cases or circumstances, the jurisdiction rule set out in:

- paragraph 1(b),
- paragraph 1(c).

<sup>(1)</sup> OJ L 351, 29.12.1998, p. 1.

3. Each Member State shall inform the Secretary-General of the Council in writing if it decides to apply paragraph 2, where appropriate with an indication of the specific circumstances or conditions in which its decision applies.

#### Article 5

##### Extradition and prosecution

1. (a) Any Member State which, under its law, does not extradite its own nationals shall take the necessary measures to establish its jurisdiction over the infringements referred to in Article 1(1) when such infringements are committed by its own nationals outside its territory.
- (b) Each Member State shall, when one of its nationals is alleged to have committed in another Member State the infringements referred to in Article 1(1) and it does not extradite that person to that other Member State solely on the ground of his nationality, submit the case to its competent authorities for the purpose of prosecution, if appropriate. In order to enable prosecution to take place, the files, information and exhibits relating to the offence shall be transmitted in accordance with the procedures laid down in Article 6(2) of the European Convention on Extradition of 13 December 1957. The requesting Member State shall be informed of the prosecution initiated and of its outcome.
2. For the purpose of this Article, a 'national' of a Member State shall be construed in accordance with any declaration made by that State under Article 6(1)(b) and (c) of the European Convention on Extradition, where appropriate as amended by any declarations made with respect to the Convention relating to extradition between the Member States of the European Union <sup>(1)</sup>.

#### Article 6

##### International law on refugees

This framework Decision shall apply without prejudice to the protection afforded refugees and asylum seekers in accordance with international law on refugees or other international instruments relating to human rights, in particular Member States' compliance with their international obligations pursuant to Articles 31 and 33 of the 1951 Convention relating to the status of refugees, as amended by the Protocol of New York of 1967.

#### Article 7

##### Communication of information between the Member States

1. If a Member State is informed of infringements referred to in Article 1(1) which are in breach of the law on the entry and residence of aliens of another Member State, it shall inform the latter accordingly.

2. Any Member State which requests another Member State to prosecute, on the grounds of a breach of its own laws on the entry and residence of aliens, infringements referred to in Article 1(1) must specify, by means of an official report or a certificate from the competent authorities, the provisions of its law which have been breached.

#### Article 8

##### Territorial application

This framework Decision shall apply to Gibraltar.

#### Article 9

##### Implementation

1. Member States shall adopt the measures necessary to comply with the provisions of this framework Decision before 5 December 2004.
2. By the same date, Member States shall transmit to the General Secretariat of the Council and to the Commission the text of the provisions transposing into their national law the obligations imposed on them by this framework Decision. On the basis of a report established using this information by the Commission, the Council shall, before 5 June 2005, assess the extent to which Member States have complied with the provisions of this framework Decision.

#### Article 10

##### Repeal

The provisions of Article 27(2) and (3) of the 1990 Schengen Convention shall be repealed as from 5 December 2004. Where a Member State implements this framework Decision pursuant to Article 9(1) in advance of that date, the said provisions shall cease to apply to that Member State from the date of implementation.

#### Article 11

##### Entry into force

This framework Decision shall enter into force on the day of its publication in the Official Journal.

Done at Brussels, 28 November 2002.

For the Council  
The President  
B. HAARDER

<sup>(1)</sup> OJ C 313, 23.10.1996, p. 12.

## I

(Acts whose publication is obligatory)

**COUNCIL REGULATION (EC) No 2154/2002  
of 28 November 2002**

**amending Regulation (EEC) No 4045/89 on scrutiny by Member States of transactions forming part of the system of financing by the Guarantee Section of the European Agricultural Guidance and Guarantee Fund**

THE COUNCIL OF THE EUROPEAN UNION,

HAS ADOPTED THIS REGULATION:

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

*Article 1*

Having regard to the proposal from the Commission <sup>(1)</sup>,

Regulation (EEC) No 4045/89 is hereby amended as follows:

Having regard to the opinion of the European Parliament <sup>(2)</sup>,

1. Article 1 shall be amended as follows:

Whereas:

(a) paragraph 1 shall be replaced by the following:

(1) The rules for the selection of undertakings to be scrutinised as laid down in Article 2 of Regulation (EEC) No 4045/89 <sup>(3)</sup> should be modified in order to take account of developments in the use of risk-analysis techniques in other control measures, to take account of inflation since the last amendment to Regulation (EEC) No 4045/89, and to give Member States greater flexibility in the selection of undertakings.

'1. This Regulation relates to scrutiny of the commercial documents of those entities receiving or making payments relating directly or indirectly to the system of financing by the Guarantee Section of the EAGGF, or their representatives, hereinafter called "undertakings", in order to ascertain whether transactions forming part of the system of financing by the Guarantee Section of the EAGGF have actually been carried out and have been executed correctly.'

(2) Provision should be made for cases where Member States carry out joint actions involving mutual assistance between Member States. A reduction in the number of scrutinies, reflecting the selection of undertakings on the basis of risk-analysis techniques and enhanced mutual assistance, should not give rise to a deterioration in the quality of these scrutinies.

(b) the following paragraph 5 shall be added:

'5. Scrutinies of rural development measures and projects not explicitly excluded from the scope of such scrutinies, pursuant to the Annex to Regulation (EC) No 2311/2000 <sup>(\*)</sup>, shall pay particular attention to the special conditions governing the implementation of such measures and projects.

(3) The provisions relating to the communication of requests for mutual assistance under Article 7 of Regulation (EEC) No 4045/89 should be simplified.

<sup>(\*)</sup> OJ L 265, 19.10.2000, p. 10.;

(4) The provisions dealing with the financial participation of the Community in Member States' expenditure resulting from the application of Regulation (EEC) No 4045/89 have become obsolete and should be deleted.

2. Article 2(2) shall be amended as follows:

(a) in the first subparagraph, 'ECU 100 000' shall be replaced by 'EUR 150 000';

(b) in the fourth subparagraph, 'ECU 300 000' shall be replaced by 'EUR 350 000';

(c) in the fifth subparagraph, 'ECU 30 000' shall be replaced by 'EUR 40 000';

(5) Regulation (EEC) No 4045/89 therefore should be amended accordingly,

3. the following indent shall be added to Article 3(1):

'— Checks, in relation to bookkeeping, or records of financial movements showing, at the time of the scrutiny, that the documents held by the paying agency as justification for the payment of aid to the beneficiary are accurate.'

<sup>(1)</sup> OJ C 51 E, 26.2.2002, p. 366.

<sup>(2)</sup> Opinion of 24 September 2002 (not yet published in the Official Journal).

<sup>(3)</sup> OJ L 388, 30.12.1989, p. 18. Regulation as last amended by Regulation (EC) No 3235/94 (OJ L 338, 28.12.1994, p. 16).

4. Article 7 shall be amended as follows:

(a) in paragraph 1, the following subparagraph shall be added:

'Where two or more Member States include in the programme sent in under Article 10(1) a proposal for joint action involving extensive mutual assistance, the Commission may, on request, allow a reduction of up to a maximum of 25 % of the minimum number of scrutinies as determined under Article 2(2) for the Member States concerned.;

(b) in paragraph 2, the fifth subparagraph shall be replaced by the following:

'An overview of such requests shall be sent to the Commission on a quarterly basis, within one month after the end of each quarter. The Commission may demand that a copy of individual requests be provided.;

(c) paragraph 4 shall be replaced by the following:

'4. If additional information is required in another Member State as part of the scrutiny of an undertaking in accordance with Article 2, and in particular cross-checks in accordance with Article 3, specific scrutiny

requests may be made indicating the reasons for the request. An overview of such specific requests shall be sent to the Commission on a quarterly basis within one month after the end of each quarter. The Commission may demand that a copy of individual requests be provided.

The scrutiny request shall be met not later than six months after its receipt; the results of the scrutiny shall be communicated without delay to the requesting Member State and to the Commission. The communication to the Commission shall be on a quarterly basis within one month after the end of each quarter.;

5. Articles 12, 13, 14, 15, 16, 16a and 17 shall be deleted.

#### *Article 2*

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

It shall apply with effect from the 2003/2004 scrutiny period.

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

Done at Brussels, 28 November 2002.

*For the Council*

*The President*

M. FISCHER BOEL

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**COMMISSION REGULATION (EC) No 2155/2002**  
**of 4 December 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 <sup>(1)</sup>, as last amended by Regulation (EC) No 1947/2002 <sup>(2)</sup>, and in particular Article 4(1) thereof,

Whereas:

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

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

HAS ADOPTED THIS REGULATION:

*Article 1*

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

*Article 2*

This Regulation shall enter into force on 5 December 2002.

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

Done at Brussels, 4 December 2002.

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

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<sup>(1)</sup> OJ L 337, 24.12.1994, p. 66.

<sup>(2)</sup> OJ L 299, 1.11.2002, p. 17.



## ANNEX

**to the Commission Regulation of 4 December 2002 establishing the standard import values for determining the entry price of certain fruit and vegetables**

(EUR/100 kg)

CN code	Third country code <sup>(1)</sup>	Standard import value
0702 00 00	052	61,7
	204	82,6
	999	72,2
0707 00 05	052	112,7
	204	111,0
	628	196,3
	999	140,0
0709 90 70	052	118,7
	204	77,3
	999	98,0
0805 10 10, 0805 10 30, 0805 10 50	052	59,5
	388	56,0
	999	57,8
0805 20 10	052	72,1
	204	70,0
	999	71,0
0805 20 30, 0805 20 50, 0805 20 70, 0805 20 90	052	63,4
	464	139,5
	999	101,5
0805 50 10	052	65,2
	600	79,1
	999	72,2
0808 10 20, 0808 10 50, 0808 10 90	060	26,2
	400	82,4
	404	104,3
	720	159,3
	800	166,0
	999	107,6
0808 20 50	052	129,7
	400	108,5
	720	63,7
	999	100,6

<sup>(1)</sup> 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 2156/2002****of 4 December 2002****fixing the definitive aid on certain grain legumes for the 2002/2003 marketing year**

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Council Regulation (EC) No 1577/96 of 30 July 1996 introducing a specific measure in respect of certain grain legumes <sup>(1)</sup>, as last amended by Regulation (EC) No 811/2000 <sup>(2)</sup>, and in particular Article 6(1) thereof,

Whereas:

- (1) Article 3 of Regulation (EC) No 1577/96 divides the maximum guaranteed area between lentils and chickpeas on the one hand and vetches on the other hand, allowing the unused balance of one maximum guaranteed area to be reallocated to the other maximum guaranteed area before an overrun is determined.
- (2) The maximum guaranteed area for lentils and chickpeas referred to in Article 3 of Regulation (EC) No 1577/96 was not exceeded in 2002/2003, whereas the maximum guaranteed area for vetches, increased by the unused balance of the maximum guaranteed area for lentils and chickpeas, was exceeded by 20,25 % in 2002/2003. The

aid provided for in Article 2(2) of Regulation (EC) No 1577/96 should therefore be reduced proportionately for vetches for the marketing year in question.

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

HAS ADOPTED THIS REGULATION:

*Article 1*

The definitive aid for certain grain legumes for the 2002/2003 marketing year shall be EUR 181,00 per hectare for lentils and chickpeas and EUR 150,52 per hectare for vetches.

*Article 2*This Regulation shall enter into force on the third day following that of its publication in the *Official Journal of the European Communities*.

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

Done at Brussels, 4 December 2002.

*For the Commission*

Franz FISCHLER

*Member of the Commission*<sup>(1)</sup> OJ L 206, 16.8.1996, p. 4.<sup>(2)</sup> OJ L 100, 20.4.2000, p. 1.

**COMMISSION REGULATION (EC) No 2157/2002**  
**of 4 December 2002**

**apportioning, for the 2002/2003 marketing year, 5 000 tonnes of short flax fibre and hemp fibre as national guaranteed quantities between Denmark, Greece, Ireland, Italy and Luxembourg**

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Council Regulation (EC) No 1673/2000 of 27 July 2000 on the common organisation of the markets in flax and hemp grown for fibre <sup>(1)</sup>, as amended by Regulation (EC) No 651/2002 <sup>(2)</sup>, and in particular Article 9 thereof,

Whereas:

- (1) Article 8(1) of Commission Regulation (EC) No 245/2001 of 5 February 2001 laying down detailed rules for the application of Regulation (EC) No 1673/2000 on the common organisation of the markets in flax and hemp grown for fibre <sup>(3)</sup>, as last amended by Regulation (EC) No 651/2002, stipulates that the apportioning of 5 000 tonnes of short flax fibre and hemp fibre as national guaranteed quantities, as provided for in Article 3(2)(b) of Regulation (EC) No 1673/2000, must be effected before 16 November of the marketing year in progress. To that end, Italy has sent the Commission information relating to areas covered by sale/purchase contracts, processing commitments and processing contracts, and estimated flax and hemp straw and fibre yields. For their part, Denmark, Greece, Ireland and Luxembourg have indicated that no flax or hemp fibre will be produced in those Member States for the 2002/2003 marketing year. On the basis of estimates of production resulting from the information provided, total production in the five

Member States concerned will not reach the overall quantity of 5 000 tonnes allocated to them, and the national guaranteed quantities as set out below should be set.

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

HAS ADOPTED THIS REGULATION:

*Article 1*

For the 2002/2003 marketing year, the apportionment in national guaranteed quantities provided for in Article 3(2)(b) of Regulation (EC) No 1673/2000 shall be as follows:

- Denmark: 0 tonnes,
- Greece: 0 tonnes,
- Ireland: 0 tonnes,
- Italy: 180 tonnes, and
- Luxembourg: 0 tonnes.

*Article 2*

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

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

Done at Brussels, 4 December 2002.

*For the Commission*  
Franz FISCHLER  
*Member of the Commission*

<sup>(1)</sup> OJ L 193, 29.7.2000, p. 16.

<sup>(2)</sup> OJ L 101, 17.4.2002, p. 3.

<sup>(3)</sup> OJ L 35, 6.2.2001, p. 18.

**COMMISSION REGULATION (EC) No 2158/2002**  
**of 3 December 2002**  
**establishing unit values for the determination of the customs value of certain perishable goods**

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Council Regulation (EEC) No 2913/92 of 12 October 1992 establishing the Community Customs Code <sup>(1)</sup>, as last amended by Regulation (EC) No 2700/2000 of the European Parliament and of the Council <sup>(2)</sup>,

Having regard to Commission Regulation (EEC) No 2454/93 of 2 July 1993 laying down provisions for the implementation of Council Regulation (EEC) No 2913/92 establishing the Community Customs Code <sup>(3)</sup>, as last amended by Regulation (EC) No 444/2002 <sup>(4)</sup>, and in particular Article 173(1) thereof,

Whereas:

- (1) Articles 173 to 177 of Regulation (EEC) No 2454/93 provide that the Commission shall periodically establish unit values for the products referred to in the classification in Annex 26 to that Regulation.

- (2) The result of applying the rules and criteria laid down in the abovementioned Articles to the elements communicated to the Commission in accordance with Article 173(2) of Regulation (EEC) No 2454/93 is that unit values set out in the Annex to this Regulation should be established in regard to the products in question,

HAS ADOPTED THIS REGULATION:

*Article 1*

The unit values provided for in Article 173(1) of Regulation (EEC) No 2454/93 are hereby established as set out in the table in the Annex hereto.

*Article 2*

This Regulation shall enter into force on 6 December 2002.

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

Done at Brussels, 3 December 2002.

*For the Commission*

Erkki LIIKANEN

*Member of the Commission*

<sup>(1)</sup> OJ L 302, 19.10.1992, p. 1.

<sup>(2)</sup> OJ L 311, 12.12.2000, p. 17.

<sup>(3)</sup> OJ L 253, 11.10.1993, p. 1.

<sup>(4)</sup> OJ L 68, 12.3.2002, p. 11.

## ANNEX

Code	Description	Amount of unit values per 100 kg			
	Species, varieties, CN code	EUR	DKK	SEK	GBP
1.10	New potatoes 0701 90 50	—	—	—	—
1.30	Onions (other than seed) 0703 10 19	21,33	158,40	192,94	13,64
1.40	Garlic 0703 20 00	148,36	1 101,70	1 341,92	94,87
1.50	Leeks ex 0703 90 00	56,55	419,95	511,51	36,16
1.60	Cauliflowers 0704 10 00	—	—	—	—
1.80	White cabbages and red cabbages 0704 90 10	34,86	258,87	315,32	22,29
1.90	Sprouting broccoli or calabrese ( <i>Brassica oleracea</i> L. <i>convar. botrytis</i> (L.) <i>Alef</i> var. <i>italica</i> <i>Plenck</i> ) ex 0704 90 90	61,43	456,19	555,65	39,28
1.100	Chinese cabbage ex 0704 90 90	42,28	313,98	382,44	27,04
1.110	Cabbage lettuce (head lettuce) 0705 11 00	—	—	—	—
1.130	Carrots ex 0706 10 00	34,84	258,73	315,14	22,28
1.140	Radishes ex 0706 90 90	72,05	535,05	651,71	46,08
1.160	Peas ( <i>Pisum sativum</i> ) 0708 10 00	446,35	3 314,62	4 037,35	285,44
1.170	Beans:				
1.170.1	Beans ( <i>Vigna</i> spp., <i>Phaseolus</i> spp.) ex 0708 20 00	110,62	821,45	1 000,56	70,74
1.170.2	Beans ( <i>Phaseolus</i> ssp. <i>vulgaris</i> var. <i>Compressus</i> <i>Savi</i> ) ex 0708 20 00	54,23	402,72	490,53	34,68
1.180	Broad beans ex 0708 90 00	—	—	—	—
1.190	Globe artichokes 0709 10 00	—	—	—	—
1.200	Asparagus:				
1.200.1	— green ex 0709 20 00	256,74	1 906,55	2 322,26	164,18
1.200.2	— other ex 0709 20 00	299,76	2 226,05	2 711,42	191,70
1.210	Aubergines (eggplants) 0709 30 00	86,23	640,37	779,99	55,15

Code	Description	Amount of unit values per 100 kg			
	Species, varieties, CN code	EUR	DKK	SEK	GBP
1.220	Ribbed celery ( <i>Apium graveolens</i> L., var. <i>dulce</i> (Mill.) Pers.) ex 0709 40 00	100,48	746,17	908,87	64,26
1.230	Chantarelles 0709 59 10	809,36	6 010,39	7 320,90	517,59
1.240	Sweet peppers 0709 60 10	196,77	1 461,23	1 779,83	125,83
1.270	Sweet potatoes, whole, fresh (intended for human consumption) 0714 20 10	86,23	640,36	779,98	55,14
2.10	Chestnuts ( <i>Castanea</i> spp.), fresh ex 0802 40 00	—	—	—	—
2.30	Pineapples, fresh ex 0804 30 00	116,11	862,23	1 050,23	74,25
2.40	Avocados, fresh ex 0804 40 00	161,57	1 199,84	1 461,46	103,32
2.50	Guavas and mangoes, fresh ex 0804 50 00	79,26	588,61	716,95	50,69
2.60	Sweet oranges, fresh:				
2.60.1	— Sanguines and semi-sanguines 0805 10 10	—	—	—	—
2.60.2	— Navels, navelines, navelates, salustianas, vernas, Valencia lates, Maltese, shamoutis, ovalis, trovita and hamlins 0805 10 30	—	—	—	—
2.60.3	— Others 0805 10 50	—	—	—	—
2.70	Mandarins (including tangerines and satsumas), fresh; clementines, wilkings and similar citrus hybrids, fresh:				
2.70.1	— Clementines ex 0805 20 10	—	—	—	—
2.70.2	— Monreales and satsumas ex 0805 20 30	—	—	—	—
2.70.3	— Mandarines and wilkings ex 0805 20 50	—	—	—	—
2.70.4	— Tangerines and others ex 0805 20 70 ex 0805 20 90	—	—	—	—
2.85	Limes ( <i>Citrus aurantifolia</i> , <i>Citrus latifolia</i> ), fresh 0805 50 90	76,10	565,16	688,38	48,67
2.90	Grapefruit, fresh:				
2.90.1	— white ex 0805 40 00	57,66	428,17	521,53	36,87
2.90.2	— pink ex 0805 40 00	63,19	469,23	571,54	40,41

Code	Description	Amount of unit values per 100 kg			
	Species, varieties, CN code	EUR	DKK	SEK	GBP
2.100	Table grapes 0806 10 10	302,36	2 245,32	2 734,89	193,36
2.110	Water melons 0807 11 00	50,68	376,35	458,42	32,41
2.120	Melons (other than water melons):				
2.120.1	— Amarillo, cuper, honey dew (including cantalene), ontentiente, piel de sapo (including verde liso), rochet, tendral, futuro ex 0807 19 00	41,17	305,73	372,39	26,33
2.120.2	— Other ex 0807 19 00	106,48	790,71	963,12	68,09
2.140	Pears				
2.140.1	Pears — nashi ( <i>Pyrus pyrifolia</i> ), Pears — Ya ( <i>Pyrus bretschneideri</i> ) ex 0808 20 50	—	—	—	—
2.140.2	Other ex 0808 20 50	—	—	—	—
2.150	Apricots 0809 10 00	360,76	2 679,04	3 263,18	230,71
2.160	Cherries 0809 20 95 0809 20 05	696,67	5 173,55	6 301,60	445,52
2.170	Peaches 0809 30 90	328,90	2 442,41	2 974,96	210,33
2.180	Nectarines ex 0809 30 10	367,90	2 732,08	3 327,79	235,27
2.190	Plums 0809 40 05	382,89	2 843,40	3 463,38	244,86
2.200	Strawberries 0810 10 00	546,06	4 055,11	4 939,29	349,21
2.205	Raspberries 0810 20 10	361,18	2 682,16	3 266,98	230,97
2.210	Fruit of the species <i>Vaccinium myrtillus</i> 0810 40 30	614,33	4 562,08	5 556,80	392,86
2.220	Kiwi fruit ( <i>Actinidia chinensis</i> Planch.) 0810 50 00	172,72	1 282,61	1 562,28	110,45
2.230	Pomegranates ex 0810 90 95	155,66	1 155,93	1 407,97	99,54
2.240	Khakis (including sharon fruit) ex 0810 90 95	150,56	1 118,07	1 361,86	96,28
2.250	Lychees ex 0810 90 30	526,28	3 908,21	4 760,36	336,56



**COMMISSION REGULATION (EC) No 2159/2002**  
**of 4 December 2002**  
**fixing the import duties in the rice sector**

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Council Regulation (EC) No 3072/95 of 22 December 1995 on the common organisation of the market in rice <sup>(1)</sup>, as last amended by Commission Regulation (EC) No 411/2002 <sup>(2)</sup>,

Having regard to Commission Regulation (EC) No 1503/96 of 29 July 1996 laying down detailed rules for the application of Council Regulation (EC) No 3072/95 as regards import duties in the rice sector <sup>(3)</sup>, as last amended by Regulation (EC) No 1298/2002 <sup>(4)</sup>, and in particular Article 4(1) thereof,

Whereas:

- (1) Article 11 of Regulation (EC) No 3072/95 provides that the rates of duty in the Common Customs Tariff are to be charged on import of the products referred to in Article 1 of that Regulation. However, in the case of the products referred to in paragraph 2 of that Article, the import duty is to be equal to the intervention price valid for such products on importation and increased by a certain percentage according to whether it is husked or milled rice, minus the cif import price provided that duty does not exceed the rate of the Common Customs Tariff duties.
- (2) Pursuant to Article 12(3) of Regulation (EC) No 3072/95, the cif import prices are calculated on the basis of the representative prices for the product in question on the world market or on the Community import market for the product.

- (3) Regulation (EC) No 1503/96 lays down detailed rules for the application of Regulation (EC) No 3072/95 as regards import duties in the rice sector.
- (4) The import duties are applicable until new duties are fixed and enter into force. They also remain in force in cases where no quotation is available from the source referred to in Article 5 of Regulation (EC) No 1503/96 during the two weeks preceding the next periodical fixing.
- (5) In order to allow the import duty system to function normally, the market rates recorded during a reference period should be used for calculating the duties.
- (6) Application of Regulation (EC) No 1503/96 results in import duties being fixed as set out in the Annexes to this Regulation,

HAS ADOPTED THIS REGULATION:

*Article 1*

The import duties in the rice sector referred to in Article 11(1) and (2) of Regulation (EC) No 3072/95 shall be those fixed in Annex I to this Regulation on the basis of the information given in Annex II.

*Article 2*

This Regulation shall enter into force on 5 December 2002.

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

Done at Brussels, 4 December 2002.

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

<sup>(1)</sup> OJ L 329, 30.12.1995, p. 18.

<sup>(2)</sup> OJ L 62, 5.3.2002, p. 27.

<sup>(3)</sup> OJ L 189, 30.7.1996, p. 71.

<sup>(4)</sup> OJ L 189, 18.7.2002, p. 8.

## ANNEX I

## Import duties on rice and broken rice

(EUR/t)

CN code	Duties (€)				
	Third countries (except ACP and Bangladesh) (7)	ACP (1) (2) (3)	Bangladesh (4)	Basmati India and Pakistan (6)	Egypt (8)
1006 10 21	(7)	69,51	101,16		158,25
1006 10 23	(7)	69,51	101,16		158,25
1006 10 25	(7)	69,51	101,16		158,25
1006 10 27	(7)	69,51	101,16		158,25
1006 10 92	(7)	69,51	101,16		158,25
1006 10 94	(7)	69,51	101,16		158,25
1006 10 96	(7)	69,51	101,16		158,25
1006 10 98	(7)	69,51	101,16		158,25
1006 20 11	264,00	88,06	127,66		198,00
1006 20 13	264,00	88,06	127,66		198,00
1006 20 15	264,00	88,06	127,66		198,00
1006 20 17	264,00	88,06	127,66	14,00	198,00
1006 20 92	264,00	88,06	127,66		198,00
1006 20 94	264,00	88,06	127,66		198,00
1006 20 96	264,00	88,06	127,66		198,00
1006 20 98	264,00	88,06	127,66	14,00	198,00
1006 30 21	(7)	133,21	193,09		312,00
1006 30 23	(7)	133,21	193,09		312,00
1006 30 25	(7)	133,21	193,09		312,00
1006 30 27	(7)	133,21	193,09		312,00
1006 30 42	(7)	133,21	193,09		312,00
1006 30 44	(7)	133,21	193,09		312,00
1006 30 46	(7)	133,21	193,09		312,00
1006 30 48	(7)	133,21	193,09		312,00
1006 30 61	(7)	133,21	193,09		312,00
1006 30 63	(7)	133,21	193,09		312,00
1006 30 65	(7)	133,21	193,09		312,00
1006 30 67	(7)	133,21	193,09		312,00
1006 30 92	(7)	133,21	193,09		312,00
1006 30 94	(7)	133,21	193,09		312,00
1006 30 96	(7)	133,21	193,09		312,00
1006 30 98	(7)	133,21	193,09		312,00
1006 40 00	(7)	41,18	(7)		96,00

(1) The duty on imports of rice originating in the ACP States is applicable, under the arrangements laid down in Council Regulation (EC) No 1706/98 (OJ L 215, 1.8.1998, p. 12) and amended Commission Regulation (EC) No 2603/97 (OJ L 351, 23.12.1997, p. 22).

(2) In accordance with Regulation (EC) No 1706/98, the duties are not applied to products originating in the African, Caribbean and Pacific States and imported directly into the overseas department of Réunion.

(3) The import levy on rice entering the overseas department of Réunion is specified in Article 11(3) of Regulation (EC) No 3072/95.

(4) The duty on imports of rice not including broken rice (CN code 1006 40 00), originating in Bangladesh is applicable under the arrangements laid down in Council Regulation (EEC) No 3491/90 (OJ L 337, 4.12.1990, p. 1) and amended Commission Regulation (EEC) No 862/91 (OJ L 88, 9.4.1991, p. 7).

(5) No import duty applies to products originating in the OCT pursuant to Article 101(1) of amended Council Decision 91/482/EEC (OJ L 263, 19.9.1991, p. 1).

(6) For husked rice of the Basmati variety originating in India and Pakistan, a reduction of EUR/t 250 applies (Article 4a of amended Regulation (EC) No 1503/96).

(7) Duties fixed in the Common Customs Tariff.

(8) The duty on imports of rice originating in and coming from Egypt is applicable under the arrangements laid down in Council Regulation (EC) No 2184/96 (OJ L 292, 15.11.1996, p. 1) and Commission Regulation (EC) No 196/97 (OJ L 31, 1.2.1997, p. 53).

## ANNEX II

**Calculation of import duties for rice**

	Paddy	Indica rice		Japonica rice		Broken rice
		Husked	Milled	Husked	Milled	
1. Import duty (EUR/tonne)	( <sup>1</sup> )	264,00	416,00	264,00	416,00	( <sup>1</sup> )
2. Elements of calculation:						
(a) Arag cif price (EUR/tonne)	—	216,61	223,40	273,40	306,59	—
(b) fob price (EUR/tonne)	—	—	—	243,30	276,49	—
(c) Sea freight (EUR/tonne)	—	—	—	30,10	30,10	—
(d) Source	—	USDA and operators	USDA and operators	Operators	Operators	—

(<sup>1</sup>) Duties fixed in the Common Customs Tariff.

**COUNCIL DIRECTIVE 2002/90/EC**  
**of 28 November 2002**  
**defining the facilitation of unauthorised entry, transit and residence**

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty establishing the European Community, and in particular Article 61(a) and Article 63(3)(b) thereof,

Having regard to the initiative of the French Republic <sup>(1)</sup>,

Having regard to the opinion of the European Parliament <sup>(2)</sup>,

Whereas:

- (1) One of the objectives of the European Union is the gradual creation of an area of freedom, security and justice, which means, *inter alia*, that illegal immigration must be combated.
- (2) Consequently, measures should be taken to combat the aiding of illegal immigration both in connection with unauthorised crossing of the border in the strict sense and for the purpose of sustaining networks which exploit human beings.
- (3) To that end it is essential to approximate existing legal provisions, in particular, on the one hand, the precise definition of the infringement in question and the cases of exemption, which is the subject of this Directive and, on the other hand, minimum rules for penalties, liability of legal persons and jurisdiction, which is the subject of Council framework Decision 2002/946/JHA of 28 November 2002 on the strengthening of the penal framework to prevent the facilitation of unauthorised entry, transit and residence <sup>(3)</sup>.
- (4) The purpose of this Directive is to provide a definition of the facilitation of illegal immigration and consequently to render more effective the implementation of framework Decision 2002/946/JHA in order to prevent that offence.
- (5) This Directive supplements other instruments adopted in order to combat illegal immigration, illegal employment, trafficking in human beings and the sexual exploitation of children.
- (6) As regards Iceland and Norway, this Directive constitutes a development of provisions of the Schengen *acquis* within the meaning of the Agreement concluded by the Council of the European Union and the Republic of Iceland and the Kingdom of Norway concerning the association of those two States with the implementation, application and development of the Schengen *acquis* <sup>(4)</sup>, which fall within the area referred to in Article 1(E) of Council Decision 1999/437/EC of 17 May 1999 on certain arrangements for the application of that Agreement <sup>(5)</sup>.

- (7) The United Kingdom and Ireland are taking part in the adoption and application of this Directive in accordance with the relevant provisions of the Treaties.
- (8) In accordance with Articles 1 and 2 of the Protocol on the position of Denmark annexed to the Treaty on European Union and to the Treaty establishing the European Community, Denmark is not taking part in the adoption of this Directive and is not bound by it or subject to its application. Given that this Directive builds upon the Schengen *acquis* under the provisions of Title IV of Part Three of the Treaty establishing the European Community, Denmark shall, in accordance with Article 5 of the said Protocol, decide within a period of six months after the Council has adopted this Directive whether it will implement it in its national law,

HAS ADOPTED THIS DIRECTIVE:

*Article 1*

**General infringement**

1. Each Member State shall adopt appropriate sanctions on:
  - (a) any person who intentionally assists a person who is not a national of a Member State to enter, or transit across, the territory of a Member State in breach of the laws of the State concerned on the entry or transit of aliens;
  - (b) any person who, for financial gain, intentionally assists a person who is not a national of a Member State to reside within the territory of a Member State in breach of the laws of the State concerned on the residence of aliens.
2. Any Member State may decide not to impose sanctions with regard to the behaviour defined in paragraph 1(a) by applying its national law and practice for cases where the aim of the behaviour is to provide humanitarian assistance to the person concerned.

*Article 2*

**Instigation, participation and attempt**

Each Member State shall take the measures necessary to ensure that the sanctions referred to in Article 1 are also applicable to any person who:

- (a) is the instigator of,
- (b) is an accomplice in, or
- (c) attempts to commit

an infringement as referred to in Article 1(1)(a) or (b).

<sup>(1)</sup> OJ C 253, 4.9.2000, p. 1.

<sup>(2)</sup> OJ C 276, 1.10.2001, p. 244.

<sup>(3)</sup> See page 1 of this Official Journal.

<sup>(4)</sup> OJ L 176, 10.7.1999, p. 36.

<sup>(5)</sup> OJ L 176, 10.7.1999, p. 31.

*Article 3***Sanctions**

Each Member State shall take the measures necessary to ensure that the infringements referred to in Articles 1 and 2 are subject to effective, proportionate and dissuasive sanctions.

*Article 4***Implementation**

1. Member States shall bring into force the laws, regulations and administrative provisions necessary to comply with this Directive before 5 December 2004. They shall forthwith inform the Commission thereof.

When Member States adopt these measures, they shall contain a reference to this Directive or shall be accompanied by such reference on the occasion of their official publication. The methods of making such a reference shall be laid down by the Member States.

2. Member States shall communicate to the Commission the text of the main provisions of their national law which they adopt in the field covered by this Directive, together with a table showing how the provisions of this Directive correspond to the national provisions adopted. The Commission shall inform the other Member States thereof.

*Article 5***Repeal**

Article 27(1) of the 1990 Schengen Convention shall be repealed as from 5 December 2004. Where a Member State implements this Directive pursuant to Article 4(1) in advance of that date, the said provision shall cease to apply to that Member State from the date of implementation.

*Article 6***Entry into force**

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

*Article 7***Addressees**

This Directive is addressed to the Member States in accordance with the Treaty establishing the European Community.

Done at Brussels, 28 November 2002.

*For the Council*

*The President*

B. HAARDER

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## II

(Acts whose publication is not obligatory)

## COMMISSION

## COMMISSION DECISION

of 2 December 2002

**amending Decision 93/467/EEC authorising Member States to provide for derogations from certain provisions of Council Directive 2000/29/EC, in respect of oak (*Quercus* L.) logs with bark attached, originating in Canada or the United States of America**

(notified under document number C(2002) 4761)

(2002/947/EC)

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Council Directive 2000/29/EC of 8 May 2000 on protective measures against the introduction into the Community of organisms harmful to plants or plant products and against their spread within the Community<sup>(1)</sup>, as last amended by Commission Directive 2002/36/EC<sup>(2)</sup>, and in particular Article 15(1) thereof,

Having regard to the request made by Germany,

Whereas:

- (1) Pursuant to the provisions of Directive 2000/29/EC, oak (*Quercus* L.) logs with bark attached, originating in North American countries, may not, in principle, be introduced into the Community because of the risk of introducing *Ceratocystis fagacearum* (Bretz) Hunt., the cause of oak wilt.
- (2) Commission Decision 93/467/EEC<sup>(3)</sup>, as last amended by Decision 2000/780/EC<sup>(4)</sup>, authorises derogations for oak (*Quercus* L.) logs with bark attached originating in Canada and the United States of America provided that special conditions are satisfied.
- (3) The authorisation provided for in the Decision expires on 31 December 2002.
- (4) The circumstances justifying the authorisation still obtain.

- (5) The authorisation should therefore be extended for a further limited period, without prejudice to Commission Decision 2002/757/EC of 19 September 2002 on provisional emergency phytosanitary measures to prevent the introduction into and the spread within the Community of *Phytophthora ramorum* Werres, De Cock & Man in 't Veld sp. nov.<sup>(5)</sup>.
- (6) Decision 93/467/EEC should therefore be amended accordingly.
- (7) The Commission will request Canada and the United States of America to supply the technical information necessary to continue monitoring the functioning of the protective measures required under the technical conditions.
- (8) The measures provided for in this Decision are in accordance with the opinion of the Standing Committee on Plant Health,

HAS ADOPTED THIS DECISION:

*Article 1*

Decision 93/467/EEC is amended as follows:

1. in Article 3, '31 December 2002' is replaced by '31 December 2004';
2. in Annex I, part 7, '2000/780/EC' is replaced by '93/467/EEC, as amended by Decision 2002/947/EC'.

<sup>(1)</sup> OJ L 169, 10.7.2000, p. 1.

<sup>(2)</sup> OJ L 116, 3.5.2002, p. 16.

<sup>(3)</sup> OJ L 217, 27.8.1993, p. 49.

<sup>(4)</sup> OJ L 309, 9.12.2000, p. 35.

<sup>(5)</sup> OJ L 252, 20.9.2002, p. 37.

*Article 2*

This Decision is addressed to the Member States.

Done at Brussels, 2 December 2002.

*For the Commission*  
David BYRNE  
*Member of the Commission*

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## COMMISSION DECISION

of 29 November 2002

## on a Community financial contribution to expenditure by Portugal on establishing the Community vineyard register

(notified under document number C(2002) 4780)

(Only the Portuguese text is authentic)

(2002/948/EC)

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Council Regulation (EEC) No 2392/86 of 24 July 1986 establishing a Community vineyard register <sup>(1)</sup>, as last amended by Regulation (EC) No 1631/98 <sup>(2)</sup>, and in particular Article 9(3) thereof,

After consulting the European Agricultural Guidance and Guarantee Fund Committee,

Whereas:

- (1) Article 9(1) of Regulation (EEC) No 2392/86 states that the Community is to contribute 50 % of the actual cost of establishing the Community vineyard register in the Member States and of the investment in data-processing facilities needed to manage the register.
- (2) On the basis of Article 9(3) of that Regulation, an advance has been paid to Portugal. It is to be deducted from the total amount of the Community contribution.
- (3) Under Article 9(4) of that Regulation, Articles 8 and 9 of Council Regulation (EC) No 1258/1999 <sup>(3)</sup> apply to the Community contribution to establishing the vineyard register.
- (4) Portugal has sent the Commission the documents needed to decide on the amount to be defrayed as expenditure incurred in establishing the register.
- (5) The Commission has carried out the checks provided for in Article 9(2) of Council Regulations (EEC) No 729/70 <sup>(4)</sup> and (EC) No 1258/1999.

- (6) In the light of the checks carried out, some of the expenditure declared by Portugal does not meet the statutory requirements provided for in Article 9(1) of Regulation (EEC) No 2392/86 and therefore may not be funded by the Community.
- (7) Under Article 4(4) of Regulation (EEC) No 2392/86, the final date for establishing the register in Portugal was 31 December 2000. A Community contribution should therefore be refused for expenditure on work completed after that date.
- (8) A breakdown of the amounts to be defrayed and the amounts to be excluded for failure to comply with Community rules was sent to Portugal on 23 October 2002,

HAS ADOPTED THIS DECISION:

*Article 1*

The Community contribution to the expenditure incurred by Portugal in establishing the Community vineyard register shall be as set out in the table annexed to this Decision.

*Article 2*

This Decision is addressed to the Portuguese Republic.

Done at Brussels, 29 November 2002.

*For the Commission*

Franz FISCHLER

*Member of the Commission*

<sup>(1)</sup> OJ L 208, 31.7.1986, p. 1.

<sup>(2)</sup> OJ L 210, 28.7.1998, p. 14.

<sup>(3)</sup> OJ L 160, 26.6.1999, p. 103.

<sup>(4)</sup> OJ L 94, 28.4.1970, p. 13.

## ANNEX

Year	Eligible expenditure (PTE)	Conversion rate (O) for 1st working day)	Eligible expenditure (EUR)	Part-financing at 50 % (EUR)
1991	132 911 852	182,054	730 068,29	365 034,14
1992	44 684 986	179,131	249 454,23	124 727,12
1993	7 644 214	175,652	43 519,08	21 759,54
1994	10 054 400	196,964	51 046,89	25 523,45
1995	29 014 361	195,876	148 126,17	74 063,08
1996	586 509 813	196,283	2 988 082,58	1 494 041,29
1997	801 466 523	195,714	4 095 090,40	2 047 545,20
1998	1 192 000	202,077	5 899,74	2 949,37
1999	512 025 480	200,482	2 553 972,33	1 276 986,16
2000	2 104 034 081	200,482	10 494 877,74	5 247 438,87
Total	4 229 537 710		21 360 136	10 680 068
			Advances	- 2 013 091
			Balance to be paid	8 666 977

## COMMISSION DECISION

of 4 December 2002

concerning the non-inclusion of azafenidin in Annex I to Council Directive 91/414/EEC

(notified under document number C(2002) 4781)

(Text with EEA relevance)

(2002/949/EC)

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Council Directive 91/414/EEC of 15 July 1991 concerning the placing of plant protection products on the market <sup>(1)</sup>, as last amended by Commission Directive 2002/81/EC <sup>(2)</sup>, and in particular of Article 6(1) thereof,

Whereas:

(1) In accordance with Article 6(2) of Directive 91/414/EEC (hereinafter 'the Directive') Spain received on 25 June 1997 an application from Du Pont de Nemours ('the applicant') for the inclusion of the active substance azafenidin (DPX R 6447) in Annex I to the Directive.

(2) In accordance with the provisions of Article 6(3) of the Directive the Commission confirmed in its Decision 98/242/EC <sup>(3)</sup> that the dossier submitted for azafenidin could be considered as satisfying, in principle, the data and information requirements of Annex II and for a plant protection product containing this active substance, of Annex III to the Directive.

(3) In accordance with Article 5(1) of the Directive, an active substance should be included in Annex I for a period not exceeding 10 years if it may be expected that neither the use of, or residues from, plant protection products containing the active substance will have any harmful effects on human or animal health or on groundwater or any unacceptable influence on the environment.

(4) For azafenidin, the effects on human health and the environment have been assessed, in accordance with the provisions of Article 6(2) and (4) of the Directive, for the uses proposed by the applicant. Spain acting as nominated rapporteur Member State, submitted a draft assessment report concerning the substance to the Commission on 23 February 2001.

(5) On receipt of the report of the rapporteur Member State, the Commission undertook consultations with experts of the Member States as well as with the applicant Du Pont de Nemours as provided for in Article 6(4) of the Directive.

(6) The applicant informed the Commission and the rapporteur Member State that it no longer wished to participate in the programme of work for this active substance.

(7) Therefore, it is not possible to include this active substance in Annex I to Directive 91/414/EEC.

(8) Any period of grace for disposal, storage, placing on the market and use of existing stocks of plant protection products containing azafenidin allowed by Member States, in accordance with the provisions of Article 8(1) of Directive 91/414/EEC, should be limited to a period no longer than 12 months to allow existing stocks to be used in no more than one further growing season.

(9) This decision does not prejudice any action the Commission may undertake at a later stage for this active substance within the framework of Council Directive 79/117/EEC <sup>(4)</sup>.

(10) It is appropriate to provide that the finalised review report, except for confidential information, should be kept available or made available by the Member States for consultation by any interested parties.

(11) The measures provided for in this Decision are in accordance with the opinion of the Standing Committee on the Food Chain and Animal Health,

HAS ADOPTED THIS DECISION:

*Article 1*

Azafenidin is not included as an active substance in Annex I to Council Directive 91/414/EEC.

<sup>(1)</sup> OJ L 230, 19.8.1991, p. 1.

<sup>(2)</sup> OJ L 276, 12.10.2002, p. 28.

<sup>(3)</sup> OJ L 96, 28.3.1998, p. 45.

<sup>(4)</sup> OJ L 33, 8.2.1979, p. 36.

*Article 2*

Member States shall ensure that:

1. provisional authorisations for plant protection products containing azafenidin are withdrawn within a period of 6 months from the date of adoption of the present Decision;
2. from the date of adoption of the present Decision no provisional authorisations for plant protection products containing azafenidin will be granted under the derogation provided for in Article 8(1) of Directive 91/414/EEC.

*Article 3*

Any period of grace granted by Member States in accordance with the provisions of Article 4(6) of Directive 91/414/EEC, shall be as short as possible and not longer than 18 months from the date of adoption of the present Decision.

*Article 4*

Member States shall keep available the review report for azafenidin, except for confidential information within the meaning of Article 14 of Directive 91/414/EEC, for consultation by any interested parties or shall make it available to them on specific request.

*Article 5*

This Decision is addressed to the Member States.

Done at Brussels, 4 December 2002.

*For the Commission*

David BYRNE

*Member of the Commission*

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