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[1] Text with EEA relevance

(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*

[1] Text with EEA relevance

I

(Acts whose publication is obligatory)

COUNCIL REGULATION (EC) No 58/2003

of 19 December 2002

laying down the statute for executive agencies to be entrusted with certain tasks in the management of Community programmes

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty establishing the European Community, and in particular Article 308 thereof,

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

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

Having regard to the opinion of the Court of Auditors [3],

Whereas:

(1) An increasing number of programmes are being created in a wide range of fields targeting a variety of categories of beneficiaries, as part of the activities provided for in Article 3 of the Treaty. The Commission is, as a rule, responsible for adopting measures to implement such programmes (Community programmes).

(2) Implementation of the Community programmes concerned is financed, at least in part, from appropriations entered in the general budget of the European Union.

(3) Under Article 274 of the Treaty, the Commission is responsible for implementing the budget.

(4) If the Commission is to be properly accountable to citizens, it must focus primarily on its institutional tasks. It should therefore be able to delegate some of the tasks relating to the management of Community programmes to third parties. Outsourcing certain management tasks could, moreover, be a way of achieving the goals of such Community programmes more effectively.

(5) Outsourcing of management tasks should nevertheless stay within the limits set by the institutional system as laid out in the Treaty. This means that tasks assigned to the institutions by the Treaty which require discretionary powers in translating political choices into action may not be outsourced.

(6) Outsourcing should, moreover, be subject to a cost-benefit analysis taking account of a number of factors such as identification of the tasks justifying outsourcing, a cost-benefit analysis which includes the costs of coordination and checks, the impact on human resources, efficiency and flexibility in the implementation of outsourced tasks, simplification of the procedures used, proximity of outsourced activities to final beneficiaries, visibility of the Community as promoter of the Community programme concerned and the need to maintain an adequate level of know-how inside the Commission.

(7) One form of outsourcing consists in using Community bodies which have legal personality (executive agencies).

(8) In order to ensure uniformity of executive agencies in institutional terms, their statute should be laid down, in particular as regards certain essential aspects of their structure, tasks, operation, budget system, staff, supervision and responsibility.

(9) As the institution responsible for implementing the various Community programmes, the Commission is best qualified to assess whether and to what extent it is appropriate to entrust management tasks relating to one or more specific Community programmes to an executive agency. Recourse to an executive agency does not, however, relieve the Commission of its responsibilities under the Treaty, and in particular Article 274 thereof. It must therefore be able closely to circumscribe the action of each executive agency and maintain real control over its operation, and in particular its governing bodies.

(10) This means that the Commission must have the power to decide to create and, where appropriate, wind up an executive agency in accordance with this Regulation. Since the decision to set up an executive agency is a measure of general scope within the meaning of Article 2 of Council Decision 1999/468/EC of 28 June 1999 laying down the procedures for the exercise of implementing powers conferred on the Commission [4], such decisions should be adopted in accordance with Decision 1999/468/EC.

[1] OJ C 120 E, 24.4.2001, p. 89 and OJ C 103 E, 30.4.2002, p. 253.
[2] Opinion delivered on 5 July 2001 (not yet published in the Official Journal).
[3] OJ C 345, 6.12.2001, p. 1.
[4] OJ L 184, 17.7.1999, p. 23.

(11) The Commission must also be able to appoint both the members of the Steering Committee of each executive agency and its director, to ensure that in delegating tasks which are its own prerogative to an executive agency, the Commission does not thereby relinquish control of it.

(12) The activities performed by an executive agency must also fully comply with the programming which the Commission defines for the Community programmes in the management of which the agency is involved. The agency's annual work programme must therefore be subject to the Commission's approval and comply with budgetary decisions.

(13) To ensure that outsourcing is effective and that full benefit is drawn from the expertise of an executive agency, the Commission must be allowed to delegate to it all or some of the implementing tasks for one or more Community programmes, except for those requiring discretionary powers in translating political choices into action. Tasks which may be delegated include managing all or some of the phases in the lifetime of a given project, implementing the budget, gathering and processing information to be forwarded to the Commission and preparing recommendations for the Commission.

(14) Since the budget of an executive agency is intended to finance only its running costs, its revenue should consist chiefly of a subsidy entered in the general budget of the European Union, to be determined by the budgetary authority, and drawn from the financial allocation to the Community programme in the management of which the agency is involved.

(15) With a view to the application of Article 274 of the Treaty, the operational appropriations of the Community programmes which an executive agency is involved in managing must continue to be entered in the general budget of the European Union and must be implemented by direct charging to that budget. The financial operations relating to these appropriations must therefore be carried out in accordance with Council Regulation (EC, Euratom) No 1605/2002 of 25 June 2002 on the Financial Regulation applicable to the general budget of the European Communities ([1]).

(16) An executive agency may be entrusted with implementing tasks relating to the management of programmes which are financed from sources other than the general budget of the European Union. However, this should not lead even indirectly to extra administrative costs, which should be covered by additional appropriations entered in the general budget concerned. In such cases, this Regulation should apply, subject to specific provisions in the basic acts relating to the Community programmes concerned.

(17) The objective of transparency and reliability in the management of executive agencies requires that internal and external checks be made on their operation. To this end, executive agencies should be made accountable for their actions and the Commission should exercise administrative supervision over the executive agency, without ruling out the possibility of an audit by the Court of Justice.

(18) The public should have access to the documents held by the executive agencies, on terms and within limits similar to those in Article 255 of the Treaty.

(19) Each executive agency must collaborate intensively and continuously with the Commission departments responsible for the Community programmes which it is involved in managing. To facilitate such collaboration as much as possible, each executive agency should be located at the place where the Commission and its departments are located in accordance with the Protocol on the location of the seats of the institutions and of certain bodies and departments of the European Communities and of Europol annexed to the Treaty on European Union and to the Treaties establishing the European Community, the European Coal and Steel Community and the European Atomic Energy Community.

(20) For the adoption of this Regulation, the Treaty does not provide for powers other than those conferred by Article 308,

HAS ADOPTED THIS REGULATION:

Article 1

Aim

This Regulation lays down the statute of executive agencies to which the Commission, under its own control and responsibility, may entrust certain tasks relating to the management of Community programmes.

Article 2

Definitions

For the purpose of this Regulation:

(a) 'executive agency' means a legal entity established in accordance with this Regulation;

(b) 'Community programme' means any activity, set of activities or other initiative which the relevant basic instrument or budgetary authorisation requires the Commission to implement for the benefit of one or more categories of specific beneficiaries, by committing expenditure.

Article 3

Setting-up and winding-up of executive agencies

1. The Commission may decide, after a prior cost-benefit analysis, to set up an executive agency with a view to entrusting it with certain tasks relating to the management of one or more Community programmes. It shall determine the lifetime of the executive agency.

([1]) OJ L 248, 16.9.2002, p. 1.

The cost-benefit analysis shall take into account a number of factors such as identification of the tasks justifying outsourcing, a cost-benefit analysis which includes the costs of coordination and checks, the impact on human resources, possible savings within the general budgetary framework of the European Union, efficiency and flexibility in the implementation of outsourced tasks, simplification of the procedures used, proximity of outsourced activities to final beneficiaries, visibility of the Community as promoter of the Community programme concerned and the need to maintain an adequate level of know-how inside the Commission.

2. At the date determined when setting up the executive agency, the Commission may extend the duration of its lifetime for a period not exceeding that originally provided for. Such extension may be renewed. Where the Commission considers that it no longer requires the services of an executive agency which it has set up, or that its existence no longer complies with the principles of sound financial management, it shall decide to wind it up. In that event, it shall appoint two liquidators. The Commission shall determine the conditions for liquidation of the executive agency. The net result after liquidation shall be taken up in the general budget of the European Union. The decision to extend its lifetime, renew such extension or wind up the agency shall be taken on the basis of the cost-benefit analysis referred to in paragraph 1.

3. The Commission shall adopt the decisions referred to in paragraphs 1 and 2 in accordance with the procedure laid down in Article 24(2). They shall be amended in accordance with the same procedure. The Commission shall forward to the Committee referred to in Article 24(1) all the information necessary in this context, in particular the cost-benefit analysis referred to in paragraph 1 of this Article and the evaluation reports referred to in Article 25.

4. When adopting a Community programme, the Commission shall inform the budgetary authority of whether it intends to set up an executive agency to implement the programme.

5. All executive agencies set up under paragraph 1 of this Article must comply with this Regulation.

Article 4

Legal status

1. An executive agency is a Community body with a public service role.

2. An executive agency shall have legal personality. In each of the Member States, it shall enjoy the most extensive legal capacity accorded to legal persons under national law. It may, in particular, acquire or dispose of movable and immovable property and be a party to legal proceedings. To this end, it shall be represented by its Director.

Article 5

Location

1. An executive agency shall be located at the place where the Commission and its departments are located, in accordance with the Protocol on the location of the seats of the institutions and of certain bodies and departments of the European Communities and of Europol.

2. It shall organise its departments according to the management needs of the Community programmes for which it is responsible and according to the criteria of sound financial management.

Article 6

Tasks

1. To attain the objective set out in Article 3(1), the Commission may entrust an executive agency with any tasks required to implement a Community programme, with the exception of tasks requiring discretionary powers in translating political choices into action.

2. Executive agencies may in particular be entrusted with the following tasks:

(a) managing some or all of the phases in the lifetime of a project, in relation with specific individual projects, in the context of implementing a Community programme and carrying out the necessary checks to that end, by adopting the relevant decisions using the powers delegated to it by the Commission;

(b) adopting the instruments of budget implementation for the revenue and expenditure and carrying out all activities required to implement a Community programme on the basis of the power delegated by the Commission, and in particular activities linked to the awarding of contracts and grants;

(c) gathering, analysing and transmitting to the Commission all the information needed to guide the implementation of a Community programme.

3. The terms, criteria, parameters and procedures with which an executive agency must comply when performing the tasks referred to in paragraph 2 and the details of the checks to be performed by the Commission departments responsible for Community programmes in the management of which an agency is involved shall be defined by the Commission in the instrument of delegation.

Article 7

Structure

1. An executive agency shall be managed by a Steering Committee and a director.

2. An executive agency's director shall have authority over its staff.

Article 8

Steering Committee

1. The Steering Committee shall consist of five members appointed by the Commission.

2. The term of office of the members of the Steering Committee shall be two years in principle and shall take into account the length of time fixed for implementation of the Community programme, management of which has been entrusted to the executive agency. The appointment may be renewed. On expiry of their term of office, or should they resign, the members shall remain in office until their appointment is renewed or they have been replaced.

3. The Steering Committee shall choose a chairperson and deputy-chairperson from among its members.

4. The Steering Committee shall meet when convened by the chairperson, at least four times a year. It may also be convened at the request of its members, by at least a simple majority, or at the request of the director.

5. Any member of the Steering Committee unable to attend a meeting may be represented by another member specially empowered for the meeting concerned. Each member may represent only one other member. Should the chairperson be unable to attend, the Steering Committee shall be chaired by the deputy-chairperson.

6. The Steering Committee's decisions shall be adopted by a simple majority of votes. In the event of a tie, the chair shall have the casting vote.

Article 9

Tasks of the Steering Committee

1. The Steering Committee shall adopt its own rules of procedure.

2. On the basis of a draft submitted by the director and after approval by the Commission, the Steering Committee shall, no later than the beginning of each year, adopt the executive agency's annual work programme comprising detailed objectives and performance indicators. The work programme must comply with the programming defined by the Commission in accordance with the instruments establishing the Community programmes in the management of which the executive agency is involved. The annual work programme may be amended during the year following the same procedure, in particular to take account of Commission decisions relating to the Community programmes concerned. The projects included in the annual work programme shall be accompanied by an estimate of the necessary expenditure.

3. The Steering Committee shall adopt the executive agency's administrative budget by the procedure laid down in Article 13.

4. The Steering Committee shall obtain the Commission's agreement before deciding to accept any gifts, legacies and grants from sources other than the Community.

5. The Steering Committee shall decide on the organisation of the departments of the executive agency.

6. The Steering Committee shall adopt any special rules needed to implement the right of access to the executive agency's documents in accordance with Article 23(1).

7. No later than 31 March of each year, the Steering Committee shall adopt and submit to the Commission an annual activity report together with financial and management information. The report shall be drawn up in accordance with Article 60(7) of Regulation (EC, Euratom) No 1605/2002. The report shall cover both implementation of the operating appropriations corresponding to the Community programme managed by the executive agency and the implementation of its administrative budget.

The Commission shall no later than 15 June each year send to the budgetary authority a summary of executive agencies' annual reports for the previous year, to be attached to that referred to in Article 60(7) of Regulation (EC, Euratom) No 1605/2002.

8. The Steering Committee shall adopt and apply measures to combat fraud and irregularities.

9. The Steering Committee shall perform the other tasks entrusted to it by this Regulation.

Article 10

Director

1. The director of the executive agency shall be appointed by the Commission, which shall to that end appoint an official within the meaning of the Staff Regulations of officials and the conditions of employment of other servants of the European Communities laid down by Council Regulation (EEC, Euratom, ECSC) No 259/68 [1], hereafter referred to as 'Staff Regulations'.

2. The director shall be appointed for a term of four years in principle and shall take into account the length of time fixed for implementation of the Community programme, management of which had been entrusted to the executive agency. This appointment may be renewed. After receiving the opinion of the Steering Committee, the Commission may remove the director from office before expiry of the term of office.

Article 11

Tasks of the director

1. The director shall represent the executive agency and shall be responsible for its management.

2. The director shall prepare the work of the Steering Committee, in particular the draft annual work programme of the executive agency. The director shall participate, without voting, in the work of the Steering Committee.

3. The director shall ensure that the annual work programme of the executive agency is implemented. In particular, the director shall be responsible for performance of the tasks referred to in Article 6 and shall take the relevant decisions to that effect. The director shall act as the executive agency's authorising officer by delegation as regards implementation of the operational appropriations relating to the Community programmes in the management of which the executive agency is involved, where the Commission has delegated powers to the agency to perform budget implementation tasks.

[1] OJ L 56, 4.3.1968, p. 1. Regulation as last amended by Regulation (EC, ECSC, Euratom) No 490/2002 (OJ L 77, 20.3.2002, p. 1).

4. The director shall draw up the provisional statement of revenue and expenditure and, as authorising officer, shall implement the executive agency's administrative budget in accordance with the Financial Regulation referred to in Article 15.

5. The director shall be responsible for preparing and publishing the reports which the executive agency must present to the Commission. These are the annual reports on the activities of the executive agency referred to in Article 9(7) and all other reports, of a general or specific nature, which the Commission asks the executive agency to produce.

6. The director shall be empowered under the arrangements applicable to other servants of the European Communities to conclude employment contracts in respect of staff of the executive agency. The director shall be responsible for all other matters relating to personnel management within the executive agency.

7. In accordance with the financial Regulation applicable to the general budget of the European Communities, the director shall set up management and internal control systems adapted to the tasks entrusted to the executive agency to ensure the operations it performs are lawful, comply with the rules and are effective.

Article 12

Operating budget

1. Forecasts of all the executive agency's revenue and expenditure shall be prepared for each financial year, which shall be the same as the calendar year, and shall be shown in its operating budget. The forecasts, which shall include the establishment plan of the executive agency, shall be sent to the budgetary authority with the documents relating to the preliminary draft general budget of the European Union. The establishment plan, consisting only of temporary posts and specifying the number, grade and category of the staff employed by the executive agency during the financial year concerned, shall be approved by the budgetary authority and published in an annex to Section III — Commission — of the general budget of the European Union.

2. The revenue and expenditure of the executive agency's operating budget shall be in balance.

3. The executive agency's revenue shall include a subsidy entered in the general budget of the European Union, without prejudice to other revenue to be determined by the budgetary authority, drawn from the financial allocation to the Community programmes which the agency is involved in the management of.

Article 13

Preparation of the operating budget

1. Each year the director shall draw up a draft operating budget for the executive agency covering the agency's running costs for the following financial year and shall submit it to the Steering Committee.

2. No later than 1 March each year, the Steering Committee shall adopt the draft operating budget, including the establishment plan, for the following financial year and shall submit it to the Commission.

3. On the basis of this draft budget and in the light of the Commission's programming for the Community programmes in the management of which the executive agency is involved, the Commission shall propose, as part of the annual budget procedure, the annual subsidy to the executive agency's operating budget.

4. At the beginning of each financial year, the Steering Committee shall adopt the executive agency's operating budget, on the basis of the annual subsidy thus determined by the budgetary authority, at the same time as it adopts the annual work programme, adjusting the budget in accordance with the different contributions granted to the executive agency and any funds from other sources.

5. The operating budget of the agency may not be adopted definitively until the general budget of the European Union has been finally adopted.

6. When the Commission contemplates setting up an executive agency, it shall inform the budgetary authority in accordance with the budgetary procedure and respecting the principle of transparency:

(a) of the resources in terms of appropriations and jobs required to run the executive agency;

(b) of planned secondments of officials from the Commission to the executive agency;

(c) of administrative resources freed by transferring tasks from the Commission departments to the executive agency, and the re-allocation of those freed administrative resources.

7. In accordance with the Financial Regulation referred to in Article 15, all amendments to the operating budget, including the establishment plan, shall be submitted in an amending budget adopted in accordance with the procedure provided for in this Article.

Article 14

Implementation of the operating budget and discharge

1. The director shall implement the executive agency's operating budget.

2. The executive agency's accounts shall be consolidated with those of the Commission in accordance with the procedure laid down in Articles 127 and 128 of Regulation (EC, Euratom) No 1605/2002 and in accordance with the following:

(a) each year, the director shall submit detailed provisional accounts of all revenue and expenditure for the previous financial year to the Steering Committee, which shall forward them, by 1 March at the latest, to the Commission's accounting officer and to the Court of Auditors;

(b) the final accounts shall be sent to the Commission's accounting officer and the Court of Auditors by 1 July of the following year at the latest.

3. The European Parliament, acting on a recommendation from the Council, shall grant a discharge to the executive agency for the implementation of its budget no later than 29 April of year n+2 after examination of the report by the Court of Auditors.

Such discharge shall be granted together with that relating to implementation of the general budget of the European Union.

Article 15

Financial Regulation applicable to the operating budget

The standard financial regulation applicable to the operating budget of an executive agency shall be adopted by the Commission. That standard regulation may deviate from the financial Regulation applicable to the general budget of the European Communities only if the specific operating requirements of the executive agencies so require.

Article 16

Financial Regulation applicable to the operational appropriations

1. Where the Commission has delegated tasks to the executive agency relating to the budget implementation of operational appropriations for Community programmes in accordance with Article 6(2)(b), such appropriations shall be entered in the general budget of the European Union and shall be implemented by direct charging to that budget under the responsibility of the Commission.

2. The director shall act as the executive agency's authorising officer by delegation as regards implementation of these operational appropriations and shall comply to that end with the obligations laid down in the financial Regulation applicable to the general budget of the European Communities.

3. Discharge in respect of implementation of the operational appropriations shall be given within the framework of the discharge given in respect of the general budget of the European Union, in accordance with Article 276, of which it is an integral part.

Article 17

Programmes financed from sources other than the general budget of the European Union

Articles 13 and 16 shall apply without prejudice to specific provisions laid down in the basic instruments relating to programmes financed from sources other than the general budget of the European Union.

Article 18

Staff

1. The executive agency's staff shall consist of Community officials seconded as temporary staff members by the institutions to positions of responsibility in the executive agency, and of other temporary staff members directly recruited by the executive agency, as well as of other servants recruited by the executive agency on renewable contracts. The nature of the contract, governed by either private law or public law, its duration and the extent of the servants' obligations vis-à-vis the agency, and the appropriate eligibility criteria shall be determined on the basis of the specific nature of the tasks to be performed, and shall comply with the Staff Regulations as well as with current national legislation.

2. Subject to permanent activities and regardless of the type of secondment of the official, the institution of origin:

(a) shall not, for the duration of the secondment, fill the posts vacated by that secondment;

(b) shall take into account in the standard abatement the expenses of the officials transferred to the executive agencies.

Nevertheless, the total number of posts concerned by paragraph 1 and the first subparagraph of paragraph 2 shall not exceed the number of posts necessary for performance of the tasks conferred upon the executive agency by the Commission.

3. The Steering Committee, in agreement with the Commission, shall adopt the necessary implementing rules for personnel management within the executive agency, if necessary.

Article 19

Privileges and immunities

The Protocol of 8 April 1965 on the privileges and immunities of the European Communities shall apply to both the executive agency and its staff, insofar as it is subject to the Staff Regulations.

Article 20

Supervision

1. Implementation of the Community programmes entrusted to executive agencies shall be supervised by the Commission. Such supervision shall follow the procedures it shall adopt in accordance with Article 6(3).

2. The function of internal auditor shall be performed in the executive agencies by the internal auditor of the Commission.

3. The Commission and the executive agency shall implement the recommendations of the internal auditors, each according to their respective powers.

4. The European Anti-Fraud Office (OLAF) set up by Commission Decision 1999/352/EC, ECSC, Euratom of 28 April 1999 [1] shall enjoy the same powers in respect of executive agencies and their staff as it enjoys in respect of Commission departments. As soon as the executive agency is set up, it shall subscribe to the Interinstitutional Agreement of 25 May 1999 between the European Parliament, the Council of the European Union and the Commission of the European Communities concerning internal investigations by the

[1] OJ L 136, 31.5.1999, p. 20.

European Anti-Fraud Office (OLAF) [1]. The Steering Committee shall formalise this acceptance and adopt the provisions needed to facilitate internal inquiries conducted by OLAF.

5. The Court of Auditors shall examine the executive agency's accounts in accordance with Article 248 of the Treaty.

6. All acts of the executive agency, and in particular all decisions adopted and contracts concluded by it, must provide explicitly that the Commission's internal auditor, OLAF and the Court of Auditors may conduct on-the-spot inspections of the documents of all contractors and sub-contractors which have received Community funds, including at the premises of the final beneficiaries.

Article 21

Liability

1. The contractual liability of the executive agency shall be governed by the law applicable to the contract in question.

2. In the case of non-contractual liability, the executive agency shall make good any damage caused by the agency or its servants in the performance of their duties, in accordance with the general principles common to the laws of the Member States. The Court of Justice shall have jurisdiction in disputes relating to compensation for any such damage.

3. The personal liability of staff towards the executive agency shall be governed by the rules applicable to them.

Article 22

Legality of acts

1. Any act of an executive agency which injures a third party may be referred to the Commission by any person directly or individually concerned or by a Member State for a review of its legality.

Administrative proceedings shall be referred to the Commission within one month of the day on which the interested party or Member State concerned learnt of the act challenged.

After hearing the arguments adduced by the interested party or by the Member State concerned and those of the executive agency, the Commission shall take a decision on the administrative proceedings within two months of the date on which proceedings were instituted. Without prejudice to the Commission's obligation to reply in writing giving grounds for its decision, the failure by the Commission to reply within that deadline shall be taken as implicit rejection of the proceedings.

2. On its own initiative the Commission may review any act of an executive agency. It shall decide within two months of the day on which that review, after having heard the arguments adduced by the agency.

3. Where an act is referred to the Commission in accordance with paragraphs 1 or 2, the Commission may suspend implementation of the act at issue or prescribe interim measures. In its final decision the Commission may uphold the executive agency's act or decide that the agency must modify it either in whole or in part.

4. Executive agencies must take the necessary measures within a reasonable period to comply with the Commission's decision.

5. An action for annulment of the Commission's explicit or implicit decision to reject the administrative appeal may be brought before the Court of Justice, in accordance with Article 230 of the Treaty.

Article 23

Access to documents and confidentiality

1. Executive agencies shall be subject to Regulation (EC) No 1049/2001 of the European Parliament and of the Council of 30 May 2001 on public access to European Parliament, Council and Commission documents [2] when it receives a request for access to a document in its possession.

The Steering Committee shall adopt any special rules needed to implement these provisions no later than six months after the setting-up of the executive agency.

2. The members of the Steering Committee, the director and members of staff and all persons involved in the activities of the executive agency shall be required, even after their duties have ceased, not to disclose information of the kind covered by the obligation of professional secrecy.

Article 24

Committee

1. The Commission shall be assisted by a committee, hereinafter referred to as the 'Committee for Executive Agencies'.

2. Where reference is made to this paragraph, Articles 5 and 7 of Decision 1999/468/EC shall apply.

The period laid down in Article 5(6) of Decision 1999/468/EC shall be set at three months.

3. The Committee shall adopt its rules of procedure.

Article 25

Evaluation

1. An external evaluation report on the first three years of operation of each executive agency shall be drawn up by the Commission and submitted to the steering committee of the executive agency, to the European Parliament, to the Council and to the Court of Auditors. It shall include a cost-benefit analysis as referred to in Article 3(1).

2. The evaluation shall subsequently be repeated every three years under the same conditions.

3. Further to the evaluation reports, the executive agency and the Commission shall take all appropriate steps to resolve any problems identified.

[1] OJ L 136, 31.5.1999, p. 15.

[2] OJ L 145, 31.5.2001, p. 43.

4. If, further to an evaluation, the Commission finds that the very existence of an executive agency is no longer justified with a view to sound financial management, the Commission shall decide to wind up that agency.

Article 26

Interim measures

As far as executive agencies have already been set up:

(a) the annual activity report referred to in Article 9(7) shall be drawn up for the first time for the 2003 financial year;

(b) the deadline referred to in Article 14(2)(b) for transmission of the final accounts shall apply for the first time to the 2005 financial year;

(c) for the financial years prior to 2005 the deadline for transmission of the final accounts shall be 15 September.

Article 27

Entry into force

This Regulation shall enter into force on the 10th 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, 19 December 2002.

For the Council

The President

L. ESPERSEN

COMMISSION REGULATION (EC) No 59/2003

of 15 January 2003

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

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Commission Regulation (EC) No 3223/94 of 21 December 1994 on detailed rules for the application of the import arrangements for fruit and vegetables [1], as last amended by Regulation (EC) No 1947/2002 [2], and in particular Article 4(1) thereof,

Whereas:

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

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

HAS ADOPTED THIS REGULATION:

Article 1

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

Article 2

This Regulation shall enter into force on 16 January 2003.

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

Done at Brussels, 15 January 2003.

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

[1] OJ L 337, 24.12.1994, p. 66.
[2] OJ L 299, 1.11.2002, p. 17.

ANNEX

to the Commission Regulation of 15 January 2003 establishing the standard import values for determining the entry price of certain fruit and vegetables

(EUR/100 kg)

CN code	Third country code (1)	Standard import value
0702 00 00	052	92,5
	204	47,2
	212	104,8
	999	81,5
0707 00 05	052	131,8
	220	166,2
	628	139,2
	999	145,7
0709 10 00	220	84,8
	999	84,8
0709 90 70	052	129,4
	204	144,5
	999	136,9
0805 10 10, 0805 10 30, 0805 10 50	052	45,6
	204	51,3
	212	57,6
	220	55,4
	999	52,5
0805 20 10	204	83,3
	999	83,3
0805 20 30, 0805 20 50, 0805 20 70, 0805 20 90	052	63,2
	204	64,6
	220	54,6
	464	142,2
	624	76,8
	999	80,3
0805 50 10	052	48,2
	220	80,7
	600	71,5
	999	66,8
0808 10 20, 0808 10 50, 0808 10 90	060	42,4
	400	98,5
	404	104,7
	720	120,1
	999	91,4
0808 20 50	400	116,4
	528	82,9
	720	48,6
	999	82,6

(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 60/2003

of 15 January 2003

opening an invitation to tender for the reduction in the duty on maize imported into Portugal from third countries

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

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

Whereas:

(1) Pursuant to the Agreement on Agriculture concluded during the Uruguay Round of multilateral trade negotiations, the Community has undertaken to import a certain quantity of maize into Portugal.

(2) Commission Regulation (EC) No 1839/95 of 26 July 1995 laying down detailed rules for the application of tariff quotas for imports of maize and sorghum into Spain and imports of maize into Portugal [3], as last amended by Regulation (EC) No 2235/2000 [4], lays down the rules governing the administration of those special arrangements. This Regulation lays down the special additional detailed rules necessary for implementing the invitation to tender, in particular those relating to the lodging and release of the security to be lodged by operators to ensure compliance with their obligations and, in particular, the obligation to process or use the imported product on the Portuguese market.

(3) In the light of current market needs in Portugal, an invitation to tender for the reduction in the duty on imports of maize should be opened in the framework of these special arrangements for imports.

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

HAS ADOPTED THIS REGULATION:

Article 1

1. An invitation to tender is hereby opened for the reduction in the import duty referred to in Article 10(2) of Regulation (EEC) No 1766/92 on maize to be imported into Portugal.

2. The invitation to tender shall be open until 13 March 2003. During that period, weekly invitations shall be issued with quantities and closing dates as shown in the notice of invitation to tender.

3. Regulation (EC) No 1839/95 shall apply save as otherwise provided for in this Regulation.

Article 2

Import licences issued under these invitations to tender shall be valid 50 days from the date they are issued within the meaning of Article 10(4) of Regulation (EC) No 1839/95.

Article 3

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

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

Done at Brussels, 15 January 2003.

For the Commission

Franz FISCHLER

Member of the Commission

[1] OJ L 181, 1.7.1992, p. 21.
[2] OJ L 193, 29.7.2000, p. 1.
[3] OJ L 177, 28.7.1995, p. 4.
[4] OJ L 256, 10.10.2000, p. 13.

COMMISSION REGULATION (EC) No 61/2003

of 15 January 2003

amending Annexes I and II to Council Regulation (EEC) No 2377/90 laying down a Community procedure for the establishment of maximum residue limits of veterinary medicinal products in foodstuffs of animal origin

(Text with EEA relevance)

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Council Regulation (EEC) No 2377/90 of 26 June 1990 laying down a Community procedure for the establishment of maximum residue limits of veterinary medicinal products in foodstuffs of animal origin [1], as last amended by Commission Regulation (EC) No 1937/2002 [2], and in particular Articles 6, 7 and 8 thereof,

Whereas:

(1) In accordance with Regulation (EEC) No 2377/90, maximum residue limits must be established progressively for all pharmacologically active substances which are used within the Community in veterinary medicinal products intended for administration to food-producing animals.

(2) Maximum residue limits should be established only after the examination within the Committee for Veterinary Medicinal Products of all the relevant information concerning the safety of residues of the substance concerned for the consumer of foodstuffs of animal origin and the impact of residues on the industrial processing of foodstuffs.

(3) In establishing maximum residue limits for residues of veterinary medicinal products in foodstuffs of animal origin, it is necessary to specify the animal species in which residues may be present, the levels which may be present in each of the relevant meat tissues obtained from the treated animal (target tissue) and the nature of the residue which is relevant for the monitoring of residues (marker residue).

(4) For the control of residues, as provided for in appropriate Community legislation, maximum residue limits should usually be established for the target tissues of liver or kidney. However, the liver and kidney are frequently removed from carcasses moving in international trade, and maximum residue limits should therefore also always be established for muscle or fat tissues.

(5) In the case of veterinary medicinal products intended for use in laying birds, lactating animals or honey bees, maximum residue limits must also be established for eggs, milk or honey.

(6) Cefalonium and Permethrin should be inserted into Annex I to Regulation (EEC) No 2377/90.

(7) Trichlormethiazide should be inserted into Annex II to Regulation (EEC) No 2377/90.

(8) An adequate period should be allowed before the entry into force of this Regulation in order to allow Member States to make any adjustment which may be necessary to the authorisations to place the veterinary medicinal products concerned on the market which have been granted in accordance with Directive 2001/82/EC [3] of the European Parliament and of the Council to take account of the provisions of this Regulation.

(9) The measures provided for in this Regulation are in accordance with the opinion of the Standing Committee on Veterinary Medicinal Products,

HAS ADOPTED THE FOLLOWING REGULATION:

Article 1

Annexes I and II to Regulation (EEC) No 2377/90 are hereby amended as set out in the Annex hereto.

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 from the 60th day following its publication.

[1] OJ L 224, 18.8.1990, p. 1.
[2] OJ L 297, 31.10.2002, p. 3.
[3] OJ L 311, 28.11.2001, p. 1.

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

Done at Brussels, 15 January 2003.

For the Commission
Erkki LIIKANEN
Member of the Commission

ANNEX

A. The following substance(s) is(are) inserted in Annex I (List of pharmacologically active substances for which maximum residue limits have been fixed).

1. Anti-infectious agents

1.2. Antibiotics

1.2.2. Cephalosporins

Pharmacologically active substance(s)	Marker residue	Animal species	MRLs	Target tissues
'Cefalonium	Cefalonium	Bovine	20 µg/kg	Milk'

2. Antiparasitic agents

2.2. Agents acting against ectoparasites

2.2.3. Pyrethroids

Pharmacologically active substance(s)	Marker residue	Animal species	MRLs	Target tissues
'Permethrin	Permethrin (sum of isomers)	Bovine	50 µg/kg 500 µg/kg 50 µg/kg 50 µg/kg 50 µg/kg	Muscle Fat Liver Kidney Milk (*)

(*) Further provisions in Commission Directive 98/82/EC are to be observed (OJ L 290, 29.10.1998, p. 25).'

B. The following substance(s) is(are) inserted in Annex II (List of substances not subject to maximum residue limits).

2. Organic compounds

Pharmacologically active substance(s)	Animal species
'Trichlormethiazide	All mammalian food producing species'

COMMISSION REGULATION (EC) No 62/2003

of 14 January 2003

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 [1], as last amended by Regulation (EC) No 2700/2000 of the European Parliament and of the Council [2],

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 [3], as last amended by Regulation (EC) No 444/2002 [4], 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 17 January 2003.

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

Done at Brussels, 14 January 2003.

For the Commission
Erkki LIIKANEN
Member of the Commission

[1] OJ L 302, 19.10.1992, p. 1.
[2] OJ L 311, 12.12.2000, p. 17.
[3] OJ L 253, 11.10.1993, p. 1.
[4] 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	43,61	323,96	398,51	28,49
1.30	Onions (other than seed) 0703 10 19	6,92	51,39	63,22	4,52
1.40	Garlic 0703 20 00	133,79	993,95	1 222,67	87,42
1.50	Leeks ex 0703 90 00	95,91	712,52	876,47	62,67
1.60	Cauliflowers 0704 10 00	—	—	—	—
1.80	White cabbages and red cabbages 0704 90 10	110,92	824,02	1 013,64	72,48
1.90	Sprouting broccoli or calabrese (*Brassica oleracea L. convar. botrytis (L.) Alef* var. *italica Plenck*) ex 0704 90 90	61,43	456,36	561,38	40,14
1.100	Chinese cabbage ex 0704 90 90	50,84	377,69	464,60	33,22
1.110	Cabbage lettuce (head lettuce) 0705 11 00	—	—	—	—
1.130	Carrots ex 0706 10 00	29,39	218,34	268,58	19,20
1.140	Radishes ex 0706 90 90	89,92	668,01	821,72	58,75
1.160	Peas *(Pisum sativum)* 0708 10 00	406,90	3 022,84	3 718,43	265,87
1.170	Beans:				
1.170.1	Beans (*Vigna* spp., *Phaseolus* spp.) ex 0708 20 00	116,57	865,98	1 065,25	76,17
1.170.2	Beans (*Phaseolus* ssp. *vulgaris* var. *Compressus Savi*) ex 0708 20 00	54,23	402,87	495,58	35,43
1.180	Broad beans ex 0708 90 00	—	—	—	—
1.190	Globe artichockes 0709 10 00	—	—	—	—
1.200	Asparagus:				
1.200.1	— green ex 0709 20 00	299,32	2 223,66	2 735,36	195,58
1.200.2	— other ex 0709 20 00	327,41	2 432,35	2 992,06	213,93
1.210	Aubergines (eggplants) 0709 30 00	114,49	850,55	1 046,27	74,81

Code	Description	Amount of unit values per 100 kg			
	Species, varieties, CN code	EUR	DKK	SEK	GBP
1.220	Ribbed celery (*Apium graveolens L.*, var. *dulce (Mill.) Pers.*) ex 0709 40 00	110,51	820,96	1 009,87	72,21
1.230	Chantarelles 0709 59 10	809,36	6 012,74	7 396,34	528,84
1.240	Sweet peppers 0709 60 10	93,60	695,36	855,37	61,16
1.270	Sweet potatoes, whole, fresh (intended for human consumption) 0714 20 10	80,32	596,69	733,99	52,48
2.10	Chestnuts (*Castanea* spp.), fresh ex 0802 40 00	—	—	—	—
2.30	Pineapples, fresh ex 0804 30 00	106,84	793,70	976,33	69,81
2.40	Avocados, fresh ex 0804 40 00	185,11	1 375,18	1 691,63	120,95
2.50	Guavas and mangoes, fresh ex 0804 50 00	82,90	615,87	757,59	54,17
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 (*Citrus aurantifolia, Citrus latifolia*), fresh 0805 50 90	120,54	895,48	1 101,54	78,76
2.90	Grapefruit, fresh:				
2.90.1	— white ex 0805 40 00	54,32	403,55	496,41	35,49
2.90.2	— pink ex 0805 40 00	59,77	444,02	546,19	39,05

Code	Description	Amount of unit values per 100 kg			
	Species, varieties, CN code	EUR	DKK	SEK	GBP
2.100	Table grapes 0806 10 10	183,20	1 360,98	1 674,15	119,70
2.110	Water melons 0807 11 00	27,81	206,60	254,14	18,17
2.120	Melons (other than water melons):				
2.120.1	— Amarillo, cuper, honey dew (including cantalene), onteniente, piel de sapo (including verde liso), rochet, tendral, futuro ex 0807 19 00	47,81	355,18	436,91	31,24
2.120.2	— Other ex 0807 19 00	94,25	700,16	861,27	61,58
2.140	Pears				
2.140.1	Pears — nashi *(Pyrus pyrifolia)*, Pears — Ya *(Pyrus bretscheideri)* ex 0808 20 50	—	—	—	—
2.140.2	Other ex 0808 20 50	—	—	—	—
2.150	Apricots 0809 10 00	88,93	660,66	812,69	58,11
2.160	Cherries 0809 20 95 0809 20 05	465,53	3 458,43	4 254,25	304,18
2.170	Peaches 0809 30 90	150,58	1 118,67	1 376,09	98,39
2.180	Nectarines ex 0809 30 10	173,45	1 288,53	1 585,03	113,33
2.190	Plums 0809 40 05	127,78	949,29	1 167,73	83,49
2.200	Strawberries 0810 10 00	396,00	2 941,88	3 618,84	258,75
2.205	Raspberries 0810 20 10	361,18	2 683,21	3 300,64	236,00
2.210	Fruit of the species *Vaccinium myrtillus* 0810 40 30	1 967,64	14 617,60	17 981,28	1 285,66
2.220	Kiwi fruit *(Actinidia chinensis Planch.)* 0810 50 00	172,39	1 280,69	1 575,39	112,64
2.230	Pomegranates ex 0810 90 95	167,25	1 242,50	1 528,41	109,28
2.240	Khakis (including sharon fruit) ex 0810 90 95	111,55	828,73	1 019,43	72,89
2.250	Lychees ex 0810 90 30	220,81	1 640,40	2 017,87	144,28

COMMISSION REGULATION (EC) No 63/2003
of 15 January 2003
fixing the import duties in the cereals sector

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

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

Having regard to Commission Regulation (EC) No 1249/96 of 28 June 1996 laying down detailed rules for the application of Council Regulation (EEC) No 1766/92 as regards import duties in the cereals sector [3], as last amended by Regulation (EC) No 1900/2002 [4], and in particular Article 2(1) thereof,

Whereas:

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

(2) Pursuant to Article 10(3) of Regulation (EEC) No 1766/92, the cif import prices are calculated on the basis of the representative prices for the product in question on the world market.

(3) Regulation (EC) No 1249/96 lays down detailed rules for the application of Council Regulation (EEC) No 1766/92 as regards import duties in the cereals sector.

(4) The import duties are applicable until new duties are fixed and enter into force. They also remain in force in cases where no quotation is available for the reference exchange referred to in Annex II to Regulation (EC) No 1249/96 during the two weeks preceding the next periodical fixing.

(5) In order to allow the import duty system to function normally, the representative market rates recorded during a reference period should be used for calculating the duties.

(6) Application of Regulation (EC) No 1249/96 results in import duties being fixed as set out in the Annex to this Regulation,

HAS ADOPTED THIS REGULATION:

Article 1

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

Article 2

This Regulation shall enter into force on 16 January 2003.

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

Done at Brussels, 15 January 2003.

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

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[1] OJ L 181, 1.7.1992, p. 21.
[2] OJ L 193, 29.7.2000, p. 1.
[3] OJ L 161, 29.6.1996, p. 125.
[4] OJ L 287, 25.10.2002, p. 15.

ANNEX I

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

CN code	Description	Import duty (1) (EUR/tonne)
1001 10 00	Durum wheat high quality	0,00
	medium quality	0,00
	low quality	0,00
1001 90 91	Common wheat seed	0,00
1001 90 99	Common high quality wheat other than for sowing (2)	0,00
1002 00 00	Rye	32,62
1005 10 90	Maize seed other than hybrid	42,72
1005 90 00	Maize other than seed (3)	42,72
1007 00 90	Grain sorghum other than hybrids for sowing	32,62

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

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

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

(2) Importers are entitled to a flat-rate reduction of EUR 14 per tonne.

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

ANNEX II

Factors for calculating duties

(period from 31 December 2002 to 14 January 2003)

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

Exchange quotations	Minneapolis	Chicago	Minneapolis	Minneapolis	Minneapolis	Minneapolis
Product (% proteins at 12 % humidity)	HRS2. 14 %	YC3	HAD2	Medium quality (*)	Low quality (**)	US barley 2
Quotation (EUR/t)	132,50	89,07	218,25 (***)	208,25 (***)	188,25 (***)	113,99 (***)
Gulf premium (EUR/t)	36,27	14,82	—	—	—	—
Great Lakes premium (EUR/t)	—	—	—	—	—	—

(*) A discount of 10 EUR/t (Article 4(1) of Regulation (EC) No 1249/96).
(**) A discount of 30 EUR/t (Article 3 of Regulation (EC) No 2378/2002).
(***) Fob Gulf.

2. Freight/cost: Gulf of Mexico–Rotterdam: 14,75 EUR/t; Great Lakes–Rotterdam: 23,15 EUR/t.

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

COMMISSION REGULATION (EC) No 64/2003
of 15 January 2003
altering the export refunds on cereals and on wheat or rye flour, groats and meal

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Council Regulation (EEC) No 1766/92 of 30 June 1992 on the common organisation of the market in cereals [1], as last amended by Regulation (EC) No 1666/2000 [2], and in particular the fourth subparagraph of Article 13(2) thereof,

Whereas:

(1) The export refunds on cereals and on wheat or rye flour, groats and meal were fixed by Commission Regulation (EC) No 37/2003 [3].

(2) It follows from applying the detailed rules contained in Regulation (EC) No 37/2003 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(a), (b) and (c) of Regulation (EEC) No 1766/92, exported in the natural state, as fixed in the Annex to Regulation (EC) No 37/2003 are hereby altered as shown in the Annex to this Regulation in respect of the products set out therein.

Article 2

This Regulation shall enter into force on 16 January 2003.

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

Done at Brussels, 15 January 2003.

For the Commission
Franz FISCHLER
Member of the Commission

[1] OJ L 181, 1.7.1992, p. 21.
[2] OJ L 193, 29.7.2000, p. 1.
[3] OJ L 5, 10.1.2003, p. 7.

ANNEX

to the Commission Regulation of 15 January 2003 altering the export refunds on cereals and on wheat or rye flour, groats and meal

Product code	Destination	Unit of measurement	Amount of refunds
1001 10 00 9200	—	EUR/t	—
1001 10 00 9400	—	EUR/t	—
1001 90 91 9000	—	EUR/t	—
1001 90 99 9000	C05	EUR/t	0
1002 00 00 9000	C06	EUR/t	0
1003 00 10 9000	—	EUR/t	—
1003 00 90 9000	C07	EUR/t	0
1004 00 00 9200	—	EUR/t	—
1004 00 00 9400	C06	EUR/t	0
1005 10 90 9000	—	EUR/t	—
1005 90 00 9000	C08	EUR/t	0
1007 00 90 9000	—	EUR/t	—
1008 20 00 9000	—	EUR/t	—
1101 00 11 9000	—	EUR/t	—
1101 00 15 9100	C09	EUR/t	11,00
1101 00 15 9130	C09	EUR/t	10,25
1101 00 15 9150	C09	EUR/t	9,50
1101 00 15 9170	C09	EUR/t	8,75
1101 00 15 9180	C09	EUR/t	8,25
1101 00 15 9190	—	EUR/t	—
1101 00 90 9000	—	EUR/t	—
1102 10 00 9500	C10	EUR/t	24,75
1102 10 00 9700	C10	EUR/t	19,50
1102 10 00 9900	—	EUR/t	—
1103 11 10 9200	C11	EUR/t	0 [1]
1103 11 10 9400	C11	EUR/t	0 [1]
1103 11 10 9900	—	EUR/t	—
1103 11 90 9200	C11	EUR/t	0 [1]
1103 11 90 9800	—	EUR/t	—

[1] No refund is granted when this product contains compressed meal.

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

The other destinations are as follows:

C05 All destinations except for Bulgaria, Estonia, Hungary, Latvia, Lithuania, Poland, the Czech Republic, Romania, Slovakia and Slovenia.

C06 All destinations except for Bulgaria, Estonia, Hungary, Latvia, Lithuania, the Czech Republic, Slovakia and Slovenia.

C07 All destinations except for Bulgaria, Estonia, Hungary, Latvia, the Czech Republic, Slovakia and Slovenia.

C08 All destinations except for Bulgaria, Estonia, Hungary, the Czech Republic, Romania, Slovakia and Slovenia.

C09 All destinations except for Estonia, Hungary, Latvia, Lithuania, Poland and Romania.

C10 All destinations except for Bulgaria, Estonia, Hungary, Latvia, Lithuania, Poland and Slovenia.

C12 All destinations except for Estonia, Hungary, Latvia, Lithuania and Romania.

COMMISSION REGULATION (EC) No 65/2003
of 15 January 2003
altering the export refunds on malt

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Council Regulation (EEC) No 1766/92 of 30 June 1992 on the common organisation of the market in cereals [1], as last amended by Regulation (EC) No 1666/2000 [2], and in particular, the fourth subparagraph of Article 13(2) thereof,

Whereas:

(1) The export refunds on malt were fixed by Commission Regulation (EC) No 1136/2002 [3].

(2) It follows from applying the rules, criteria and other provisions contained in Regulation (EC) No 1136/2002 to the information at present available 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 malt listed in Article 1(1)(c) of Regulation (EEC) No 1766/92 are hereby altered to the amounts set out in the Annex hereto, in respect of the products set out therein.

Article 2

This Regulation shall enter into force on 16 January 2003.

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

Done at Brussels, 15 January 2003.

For the Commission
Franz FISCHLER
Member of the Commission

[1] OJ L 181, 1.7.1992, p. 21.
[2] OJ L 193, 29.7.2000, p. 1.
[3] OJ L 169, 28.6.2002, p. 39.

ANNEX

to the Commission Regulation of 15 January 2003 altering the export refunds on malt

Product code	Destination	Unit of measurement	Amount of refunds
1107 10 19 9000	C12	EUR/t	0,00
1107 10 99 9000	C13	EUR/t	0,00
1107 20 00 9000	C12	EUR/t	0,00

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

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

The other destinations are as follows:

C12 All destinations except for Bulgaria, Estonia, Hungary, Lithuania, the Czech Republic, Romania and Slovenia.

C13 All destinations except for Bulgaria, Estonia, Hungary, Lithuania, the Czech Republic, Romania, Slovakia and Slovenia.

II

(Acts whose publication is not obligatory)

EUROPEAN PARLIAMENT AND COUNCIL

DECISION OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL

of 21 November 2002

on the mobilisation of the EU Solidarity Fund according to point 3 of the Interinstitutional Agreement of 7 November 2002 between the European Parliament, the Council and the Commission on the financing of the European Union Solidarity Fund, supplementing the Interinstitutional Agreement of 6 May 1999 on budgetary discipline and improvement of the budgetary procedure

(2003/32/EC)

THE EUROPEAN PARLIAMENT AND THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Interinstitutional Agreement of 7 November 2002 between the European Parliament, the Council and the Commission on the financing of the European Union Solidarity Fund, supplementing the Interinstitutional Agreement of 6 May 1999 on budgetary discipline and improvement of the budgetary procedure [1], and in particular point 3 thereof,

Having regard to Council Regulation (EC) No 2012/2002 of 11 November 2002 establishing the European Union Solidarity Fund [2],

Having regard to the proposal from the Commission,

Whereas:

(1) Following the disastrous floods which occurred in August and September 2002 in some Member States and candidate countries whose accession to the European Union is currently under negotiation, the European Union has decided to create a European Union Solidarity Fund (EUSF) to face disasters.

(2) The Interinstitutional Agreement of 7 November 2002 allows the mobilisation of the Fund within the annual ceiling of EUR 1 billion.

(3) Regulation (EC) No 2012/2002 contains a specific provision whereby the Fund may retroactively be mobilised for disasters since August this year.

(4) The countries concerned have transmitted to the Commission their estimate of the damages caused by the August and September 2002 floods,

HAVE ADOPTED THIS DECISION:

Article 1

For the general budget of the European Union for the financial year 2002, the EU Solidarity Fund shall be mobilised to provide the sum of EUR 728 million in commitment appropriations.

Article 2

This Decision shall be published in the *Official Journal of the European Communities*.

Done at Strasbourg, 21 November 2002.

For the European Parliament	*For the Council*
The President	*The President*
P. COX	P. S. MØLLER

[1] OJ C 283, 20.11.2002, p. 1.
[2] OJ L 311, 14.11.2002, p. 3.

COUNCIL

COUNCIL DECISION

of 19 December 2002

establishing criteria and procedures for the acceptance of waste at landfills pursuant to Article 16 of and Annex II to Directive 1999/31/EC

(2003/33/EC)

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty establishing the European Community,

Having regard to Council Directive 1999/31/EC of 26 April 1999 on the landfill of waste [1], and in particular Article 16 thereof and Annex II thereto,

Whereas:

(1) Pursuant to Article 16 of Directive 1999/31/EC, the Commission is to adopt specific criteria and/or test methods and associated limit values for each class of landfill.

(2) A procedure should be laid down to determine the acceptability of waste at landfills.

(3) Limit values and other criteria should be set for waste acceptable at the different classes of landfills.

(4) The test methods to be used for determining the acceptability of waste at landfills should be determined.

(5) It is appropriate from a technical point of view to exempt from the criteria and procedures set out in the Annex to this Decision those wastes generated by the extractive industry that are deposited on-site.

(6) A suitably short transition period should be granted to Member States to develop the necessary system to apply this Decision and a further brief transition period may be necessary for Member States to ensure the application of the limit values.

(7) The measures provided for in this Decision are not in accordance with the opinion of the Committee established by Article 18 of Council Directive 75/442/EEC of 15 July 1975 on waste [2]. They therefore have to be adopted by the Council in accordance with Article 18(4) of that Directive,

HAS ADOPTED THIS DECISION:

Article 1

This Decision establishes the criteria and procedures for the acceptance of waste at landfills in accordance with the principles set out in Directive 1999/31/EC and in particular Annex II thereto.

Article 2

Member States shall apply the procedure as set out in section 1 of the Annex to this Decision to determine the acceptability of waste at landfills.

Article 3

Member States shall ensure that waste is accepted at a landfill only if it fulfils the acceptance criteria of the relevant landfill class as set out in section 2 of the Annex to this Decision.

Article 4

The sampling and testing methods listed in section 3 of the Annex to this Decision shall be used for determining the acceptability of waste at landfills.

[1] OJ L 182, 16.7.1999, p. 1.

[2] OJ L 194, 25.7.1975, p. 39. Directive as last amended by Commission Decision 96/350/EC (OJ L 135, 6.6.1996, p. 32).

Article 5

Without prejudice to existing Community legislation, the criteria and procedures as set out in the Annex to this Decision shall not apply to waste resulting from prospecting, extraction, treatment and storage of mineral resources nor from the working of quarries, when they are deposited on-site. In the absence of specific Community legislation, Member States shall apply national criteria and procedures.

Article 6

Any amendments necessary for future updating of this Decision to scientific and technical progress shall be adopted by the Commission, assisted by the Committee established under Article 18 of Directive 75/442/EEC, for example adjustment of the parameters in the lists of limit values and/or development of acceptance criteria and limit values for additional subcategories of landfills for non-hazardous waste.

Article 7

1. This Decision shall take effect on 16 July 2004.

2. Member States shall apply the criteria set out in section 2 of the Annex to this Decision by 16 July 2005.

Article 8

This Decision is addressed to the Member States.

Done at Brussels, 19 December 2002.

For the Council

The President

M. FISCHER BOEL

ANNEX

CRITERIA AND PROCEDURES FOR THE ACCEPTANCE OF WASTE AT LANDFILLS

Introduction

This Annex lays down the uniform waste classification and acceptance procedure according to Annex II to Directive 1999/31/EC on the landfill of waste (the 'Landfill Directive').

In accordance with Article 176 of the Treaty, Member States are not prevented from maintaining or introducing more stringent protective measures than those established in this Annex, provided that such measures are compatible with the Treaty. Such measures shall be notified to the Commission. This could be of particular relevance with reference to the limit values for cadmium and mercury in section 2. Member States may also introduce limit values for components not included in section 2.

Section 1 of this Annex lays down the procedure to determine the acceptability of waste at landfills. This procedure consists of the basic characterisation, compliance testing and on-site verification as defined in section 3 of Annex II to the Landfill Directive.

Section 2 of this Annex lays down the acceptance criteria for each landfill class. Waste may be accepted at a landfill only if it fulfils the acceptance criteria of the relevant landfill class as laid down in section 2 of this Annex.

Section 3 of this Annex lists the methods to be used for the sampling and testing of waste.

Appendix A defines the safety assessment to be carried out for underground storage.

Appendix B is an informative Annex providing an overview of the landfill options available within the Directive and examples of possible subcategorisation of landfills' non-hazardous waste.

1. PROCEDURE FOR THE ACCEPTANCE OF WASTE AT LANDFILLS

1.1. Basic characterisation

Basic characterisation is the first step in the acceptance procedure and constitutes a full characterisation of the waste by gathering all the necessary information for a safe disposal of the waste in the long term. Basic characterisation is required for each type of waste.

1.1.1. *Functions of basic characterisation*

(a) Basic information on the waste (type and origin, composition, consistency, leachability and — where necessary and available — other characteristic properties)

(b) Basic information for understanding the behaviour of waste in landfills and options for treatment as laid out in Article 6(a) of the Landfill Directive

(c) Assessing waste against limit values

(d) Detection of key variables (critical parameters) for compliance testing and options for simplification of compliance testing (leading to a significant decrease of constituents to be measured, but only after demonstration of relevant information). Characterisation may deliver ratios between basic characterisation and results of simplified test procedures as well as frequency for compliance testing.

If the basic characterisation of waste shows that the waste fulfils the criteria for a landfill class as laid down in section 2 of this Annex, the waste is deemed to be acceptable at this landfill class. If this is not the case, the waste is not acceptable at this landfill class.

The producer of the waste or, in default, the person responsible for its management, is responsible for ensuring that the characterisation information is correct.

The operator shall keep records of the required information for a period to be defined by the Member State.

1.1.2. *Fundamental requirements for basic characterisation of the waste*

(a) Source and origin of the waste

(b) Information on the process producing the waste (description and characteristics of raw materials and products)

(c) Description of the waste treatment applied in compliance with Article 6(a) of the Landfill Directive, or a statement of reasons why such treatment is not considered necessary

(d) Data on the composition of the waste and the leaching behaviour, where relevant

(e) Appearance of the waste (smell, colour, physical form)

(f) Code according to the European waste list (Commission Decision 2001/118/EC) [1]

(g) For hazardous waste in case of mirror entries: the relevant hazard properties according to Annex III to Council Directive 91/689/EEC of 12 December 1991 on hazardous waste [2]

(h) Information to prove that the waste does not fall under the exclusions of Article 5(3) of the Landfill Directive

(i) The landfill class at which the waste may be accepted

(j) If necessary, additional precautions to be taken at the landfill

(k) Check if the waste can be recycled or recovered.

1.1.3. *Testing*

As a general rule waste must be tested to obtain the above information. In addition to the leaching behaviour, the composition of the waste must be known or determined by testing. The tests used for basic characterisation must always include those to be used for compliance testing.

The content of the characterisation, the extent of laboratory testing required and the relationship between basic characterisation and compliance checking depends on the type of waste. A differentiation can be made between:

(a) wastes that are regularly generated in the same process;

(b) wastes that are not regularly generated.

The characterisations outlined in points (a) and (b) will provide information that can be directly compared with acceptance criteria for the relevant class of landfill and, in addition, descriptive information can be supplied (e.g. the consequences of depositing with municipal waste).

(a) Wastes regularly generated in the same process

These are individual and consistent wastes regularly generated in the same process, where:

— the installation and the process generating the waste are well known and the input materials to the process and the process itself are well defined,

— the operator of the installation provides all necessary information and informs the operator of the landfill of changes to the process (especially changes to the input material).

The process will often be at a single installation. The waste can also be from different installations, if it can be identified as single stream with common characteristics within known boundaries (e.g. bottom ash from the incineration of municipal waste).

For these wastes the basic characterisation will comprise the fundamental requirements listed in section 1.1.2 and especially the following:

— compositional range for the individual wastes,

— range and variability of characteristic properties,

— if required, the leachability of the wastes determined by a batch leaching test and/or a percolation test and/or a pH dependence test,

— key variables to be tested on a regular basis.

[1] OJ L 47, 16.2.2001, p. 1.
[2] OJ L 377, 31.12.1991, p. 20. Directive as last amended by Directive 31/1994/EC (OJ L 168, 2.7.1994, p. 28).

If the waste is produced in the same process in different installations, information must be given on the scope of the evaluation. Consequently, a sufficient number of measurements must be taken to show the range and variability of the characteristic properties of the waste. The waste can then be considered characterised and shall subsequently be subject to compliance testing only, unless significant change in the generation processes occur.

For wastes from the same process in the same installation, the results of the measurements may show only minor variations of the properties of the waste in comparison with the appropriate limit values. The waste can then be considered characterised, and shall subsequently be subject to compliance testing only, unless significant changes in the generation process occur.

Waste from facilities for the bulking or mixing of waste, from waste transfer stations or mixed waste streams from waste collectors, can vary considerably in their properties. This must be taken into consideration in the basic characterisation. Such wastes may fall under case (b).

(b) Wastes that are not regularly generated

These wastes are not regularly generated in the same process in the same installation and are not part of a well-characterised waste stream. Each batch produced of such waste will need to be characterised. The basic characterisation shall include the fundamental requirements for basic characterisation. As each batch produced has to be characterised, no compliance testing is needed.

1.1.4. *Cases where testing is not required*

Testing for basic characterisation can be dispensed with in the following cases:

(a) the waste is on a list of wastes not requiring testing as laid down in section 2 of this Annex;

(b) all the necessary information, for the basic characterisation, is known and duly justified to the full satisfaction of the competent authority;

(c) certain waste types where testing is impractical or where appropriate testing procedures and acceptance criteria are unavailable. This must be justified and documented, including the reasons why the waste is deemed acceptable at this landfill class.

1.2. **Compliance testing**

When waste has been deemed acceptable for a landfill class on the basis of a basic characterisation pursuant to section 1, it shall subsequently be subject to compliance testing to determine if it complies with the results of the basic characterisation and the relevant acceptance criteria as laid down in section 2.

The function of compliance testing is periodically to check regularly arising waste streams.

The relevant parameters to be tested are determined in the basic characterisation. Parameters should be related to basic characterisation information; only a check on critical parameters (key variables), as determined in the basic characterisation, is necessary. The check has to show that the waste meets the limit values for the critical parameters.

The tests used for compliance testing shall be one or more of those used in the basic characterisation. The testing shall consist at least of a batch leaching test. For this purpose the methods listed under section 3 shall be used.

Wastes that are exempted from the testing requirements for basic characterisation in section 1.1.4(a) and section 1.1.4(c) are also exempted from compliance testing. They will, however, need checking for compliance with basic characterisation information other than testing.

Compliance testing shall be carried out at least once a year and the operator must, in any event, ensure that compliance testing is carried out in the scope and frequency determined by basic characterisation.

Records of the test results shall be kept for a period that will be determined by the Member State.

1.3. **On-site verification**

Each load of waste delivered to a landfill shall be visually inspected before and after unloading. The required documentation shall be checked.

For waste deposited by the waste producer at a landfill in his control, this verification may be made at the point of dispatch.

The waste may be accepted at the landfill, if it is the same as that which has been subjected to basic characterisation and compliance testing and which is described in the accompanying documents. If this is not the case, the waste must not be accepted.

Member States shall determine the testing requirements for on-site verification, including where appropriate rapid test methods.

Upon delivery, samples shall be taken periodically. The samples taken shall be kept after acceptance of the waste for a period that will be determined by the Member State (not less than one month; see Article 11(b) of the Landfill Directive.

2. WASTE ACCEPTANCE CRITERIA

This section sets out the criteria for the acceptance of waste at each landfill class, including criteria for underground storage.

In certain circumstances, up to three times higher limit values for specific parameters listed in this section (other than dissolved organic carbon (DOC) in sections 2.1.2.1, 2.2.2, 2.3.1 and 2.4.1, BTEX, PCBs and mineral oil in section 2.1.2.2, total organic carbon (TOC) and pH in section 2.3.2 and loss on ignition (LOI) and/or TOC in section 2.4.2, and restricting the possible increase of the limit value for TOC in section 2.1.2.2 to only two times the limit value) are acceptable, if

— the competent authority gives a permit for specified wastes on a case-by-case basis for the recipient landfill, taking into account the characteristics of the landfill and its surroundings, and

— emissions (including leachate) from the landfill, taking into account the limits for those specific parameters in this section, will present no additional risk to the environment according to a risk assessment.

Member States shall report to the Commission on the annual number of permits issued under this provision. The reports shall be sent to the Commission at intervals of three years as part of the reporting on the implementation of the Landfill Directive in accordance with the specifications laid down in Article 15 thereof.

Member States shall define criteria for compliance with the limit values set out in this section.

2.1. **Criteria for landfills for inert waste**

2.1.1. *List of wastes acceptable at landfills for inert waste without testing*

Wastes on the following short list are assumed to fulfil the criteria as set out in the definition of inert waste in Article 2(e) of the Landfill Directive and the criteria listed in section 2.1.2. The wastes can be admitted without testing at a landfill for inert waste.

The waste must be a single stream (only one source) of a single waste type. Different wastes contained in the list may be accepted together, provided they are from the same source.

In case of suspicion of contamination (either from visual inspection or from knowledge of the origin of the waste) testing should be applied or the waste refused. If the listed wastes are contaminated or contain other material or substances such as metals, asbestos, plastics, chemicals, etc. to an extent which increases the risk associated with the waste sufficiently to justify their disposal in other classes of landfills, they may not be accepted in a landfill for inert waste.

If there is a doubt that the waste fulfils the definition of inert waste according to Article 2(e) of the Landfill Directive and the criteria listed in section 2.1.2 or about the lack of contamination of the waste, testing must be applied. For this purpose the methods listed under section 3 shall be used.

EWC code	Description	Restrictions
1011 03	Waste glass-based fibrous materials	Only without organic binders
1501 07	Glass packagingGlas	
1701 01	Concrete	Selected C & D waste only (*)
1701 02	Bricks	Selected C & D waste only (*)
1701 03	Tiles and ceramics	Selected C & D waste only (*)
1701 07	Mixtures of concrete, bricks, tiles and ceramics	Selected C & D waste only (*)
1702 02	Glass	
1705 04	Soil and stones	Excluding topsoil, peat; excluding soil and stones from contaminated sites
1912 05	Glass	
2001 02	Glass	Separately collected glass only
2002 02	Soil and stones	Only from garden and parks waste; Excluding top soil, peat

(*) Selected construction and demolition waste (C & D waste): with low contents of other types of materials (like metals, plastic, soil, organics, wood, rubber, etc). The origin of the waste must be known.

— No C & D waste from constructions, polluted with inorganic or organic dangerous substances, e.g. because of production processes in the construction, soil pollution, storage and usage of pesticides or other dangerous substances, etc., unless it is made clear that the demolished construction was not significantly polluted.

— No C & D waste from constructions, treated, covered or painted with materials, containing dangerous substances in significant amounts.

Waste not appearing on this list must be subject to testing as laid down under section 1 to determine if it fulfils the criteria for waste acceptable at landfills for inert waste as set out in section 2.1.2.

2.1.2. *Limit values for waste acceptable at landfills for inert waste*

2.1.2.1. Leaching limit values

The following leaching limit values apply for waste acceptable at landfills for inert waste, calculated at liquid to solid ratios (L/S) of 2 l/kg and 10 l/kg for total release and directly expressed in mg/l for C_0 (the first eluate of percolation test at L/S = 0,1 l/kg). Member States shall determine which of the test methods (see section 3) and corresponding limit values in the table should be used.

Component	L/S = 2 l/kg	L/S = 10 l/kg	C_0 (percolation test)
	mg/kg dry substance	mg/kg dry substance	mg/l
As	0,1	0,5	0,06
Ba	7	20	4
Cd	0,03	0,04	0,02
Cr total	0,2	0,5	0,1

Component	L/S = 2 l/kg	L/S = 10 l/kg	C_0 (percolation test)
	mg/kg dry substance	mg/kg dry substance	mg/l
Cu	0,9	2	0,6
Hg	0,003	0,01	0,002
Mo	0,3	0,5	0,2
Ni	0,2	0,4	0,12
Pb	0,2	0,5	0,15
Sb	0,02	0,06	0,1
Se	0,06	0,1	0,04
Zn	2	4	1,2
Chloride	550	800	460
Fluoride	4	10	2,5
Sulphate	560 (*)	1 000 (*)	1 500
Phenol index	0,5	1	0,3
DOC (**)	240	500	160
TDS (***)	2 500	4 000	—

(*) If the waste does not meet these values for sulphate, it may still be considered as complying with the acceptance criteria if the leaching does not exceed either of the following values: 1 500 mg/l as C0 at L/S = 0,1 l/kg and 6 000 mg/kg at L/S = 10 l/kg. It will be necessary to use a percolation test to determine the limit value at L/S = 0,1 l/kg under initial equilibrium conditions, whereas the value at L/S = 10 l/kg may be determined either by a batch leaching test or by a percolation test under conditions approaching local equilibrium.

(**) If the waste does not meet these values for DOC at its own pH value, it may alternatively be tested at L/S = 10 l/kg and a pH between 7,5 and 8,0. The waste may be considered as complying with the acceptance criteria for DOC, if the result of this determination does not exceed 500 mg/kg. (A draft method based on prEN 14429 is available).

(***) The values for total dissolved solids (TDS) can be used alternatively to the values for sulphate and chloride.

2.1.2.2. Limit values for total content of organic parameters

In addition to the leaching limit values under section 2.1.2.1, inert wastes must meet the following additional limit values:

Parameter	Value mg/kg
TOC (total organic carbon)	30 000 (*)
BTEX (benzene, toluene, ethylbenzene and xylenes)	6
PCBs (polychlorinated biphenyls, 7 congeners)	1
Mineral oil (C10 to C40)	500
PAHs (polycyclic aromatic hydrocarbons)	Member States to set limit value

(*) In the case of soils, a higher limit value may be admitted by the competent authority, provided the DOC value of 500 mg/kg is achieved at L/S = 10 l/kg, either at the soil's own pH or at a pH value between 7,5 and 8,0.

2.2. **Criteria for landfills for non-hazardous waste**

Member States may create subcategories of landfills for non-hazardous waste.

In this Annex limit values are laid down only for non-hazardous waste, which is landfilled in the same cell with stable, non-reactive hazardous waste.

2.2.1. *Wastes acceptable at landfills for non-hazardous waste without testing*

Municipal waste as defined in Article 2(b) of the Landfill Directive that is classified as non-hazardous in Chapter 20 of the European waste list, separately collected non-hazardous fractions of household wastes and the same non-hazardous materials from other origins can be admitted without testing at landfills for non-hazardous waste.

The wastes may not be admitted if they have not been subjected to prior treatment according to Article 6(a) of the Landfill Directive, or if they are contaminated to an extent which increases the risk associated with the waste sufficiently to justify their disposal in other facilities.

They may not be accepted in cells, where stable, non-reactive hazardous waste is accepted pursuant to Article 6(c)(iii) of the Landfill Directive.

2.2.2. *Limit values for non-hazardous waste*

The following limit values apply to granular non-hazardous waste accepted in the same cell as stable, non-reactive hazardous waste, calculated at L/S = 2 and 10 l/kg for total release and directly expressed in mg/l for C_0 (in the first eluate of percolation test at L/S = 0,1 l/kg). Granular wastes include all wastes that are not monolithic. Member States shall determine which of the test methods (see section 3) and corresponding limit values in the table should be used.

Components	L/S = 2 l/kg	L/S = 10 l/kg	C_0 (percolation test)
	mg/kg dry substance	mg/kg dry substance	mg/l
As	0,4	2	0,3
Ba	30	100	20
Cd	0,6	1	0,3
Cr total	4	10	2,5
Cu	25	50	30
Hg	0,05	0,2	0,03
Mo	5	10	3,5
Ni	5	10	3
Pb	5	10	3
Sb	0,2	0,7	0,15
Se	0,3	0,5	0,2
Zn	25	50	15
Chloride	10 000	15 000	8 500

Components	L/S = 2 l/kg	L/S = 10 l/kg	C_0 (percolation test)
	mg/kg dry substance	mg/kg dry substance	mg/l
Fluoride	60	150	40
Sulphate	10 000	20 000	7 000
DOC (*)	380	800	250
TDS (**)	40 000	60 000	—

(*) If the waste does not meet these values for DOC at its own pH, it may alternatively be tested at L/S = 10 l/kg and a pH of 7,5-8,0. The waste may be considered as complying with the acceptance criteria for DOC, if the result of this determination does not exceed 800 mg/kg (A draft method based on prEN 14429 is available).
(**) The values for TDS can be used alternatively to the values for sulphate and chloride.

Member States shall set criteria for monolithic waste to provide the same level of environmental protection given by the above limit values.

2.2.3. *Gypsum waste*

Non-hazardous gypsum-based materials should be disposed of only in landfills for non-hazardous waste in cells where no biodegradable waste is accepted. The limit values for TOC and DOC given in sections 2.3.2 and 2.3.1 shall apply to wastes landfilled together with gypsum-based materials.

2.3. **Criteria for hazardous waste acceptable at landfills for non-hazardous waste pursuant to Article 6(c)(iii)**

Stable, non-reactive means that the leaching behaviour of the waste will not change adversely in the long-term, under landfill design conditions or foreseeable accidents:

— in the waste alone (for example, by biodegradation),

— under the impact of long-term ambient conditions (for example, water, air, temperature, mechanical constraints),

— by the impact of other wastes (including waste products such as leachate and gas).

2.3.1. *Leaching limit values*

The following leaching limit values apply to granular hazardous waste acceptable at landfills for non-hazardous waste, calculated at L/S = 2 and 10 l/kg for total release and directly expressed in mg/l for C_0 (the first eluate of percolation test at L/S = 0,1 l/kg). Granular wastes include all wastes that are not monolithic. Member States shall determine which of the test methods and corresponding limit values should be used.

Components	L/S = 2 l/kg	L/S = 10 l/kg	C_0 (percolation test)
	mg/kg dry substance	mg/kg dry substance	mg/l
As	0,4	2	0,3
Ba	30	100	20
Cd	0,6	1	0,3
Cr total	4	10	2,5

Components	L/S = 2 l/kg	L/S = 10 l/kg	C_0 (percolation test)
	mg/kg dry substance	mg/kg dry substance	mg/l
Cu	25	50	30
Hg	0,05	0,2	0,03
Mo	5	10	3,5
Ni	5	10	3
Pb	5	10	3
Sb	0,2	0,7	0,15
Se	0,3	0,5	0,2
Zn	25	50	15
Chloride	10 000	15 000	8 500
Fluoride	60	150	40
Sulphate	10 000	20 000	7 000
DOC (*)	380	800	250
TDS (**)	40 000	60 000	—

(*) If the waste does not meet these values for DOC at its own pH, it may alternatively be tested at L/S = 10 l/kg and a pH of 7,5-8,0. The waste may be considered as complying with the acceptance criteria for DOC, if the result of this determination does not exceed 800 mg/kg (A draft method based on prEN 14429 is available).
(**) The values for TDS can be used alternatively to the values for sulphate and chloride.

Member States shall set criteria for monolithic waste to provide the same level of environmental protection given by the above limit values.

2.3.2. *Other criteria*

In addition to the leaching limit values under section 2.3.1, granular wastes must meet the following additional criteria:

Parameter	Value
TOC (total organic carbon)	5 % (*)
pH	Minimum 6
ANC (acid neutralisation capacity)	Must be evaluated

(*) If this value is not achieved, a higher limit value may be admitted by the competent authority, provided that the DOC value of 800 mg/kg is achieved at L/S = 10 l/kg, either at the material's own pH or at a pH value between 7,5 and 8,0.

Member States must set criteria to ensure that the waste will have sufficient physical stability and bearing capacity.

Member States shall set criteria to ensure that hazardous monolithic wastes are stable and non-reactive before acceptance in landfills for non-hazardous waste.

2.3.3. *Asbestos waste*

Construction materials containing asbestos and other suitable asbestos waste may be landfilled at landfills for non-hazardous waste in accordance with Article 6(c)(iii) of the Landfill Directive without testing.

For landfills receiving construction materials containing asbestos and other suitable asbestos waste the following requirements must be fulfilled:

— the waste contains no other hazardous substances than bound asbestos, including fibres bound by a binding agent or packed in plastic,

— the landfill accepts only construction material containing asbestos and other suitable asbestos waste. These wastes may also be landfilled in a separate cell of a landfill for non-hazardous waste, if the cell is sufficiently self-contained,

— in order to avoid dispersion of fibres, the zone of deposit is covered daily and before each compacting operation with appropriate material and, if the waste is not packed, it is regularly sprinkled,

— a final top cover is put on the landfill/cell in order to avoid the dispersion of fibres,

— no works are carried out on the landfill/cell that could lead to a release of fibres (e.g. drilling of holes),

— after closure a plan is kept of the location of the landfill/cell indicating that asbestos wastes have been deposited,

— appropriate measures are taken to limit the possible uses of the land after closure of the landfill in order to avoid human contact with the waste.

For landfills receiving only construction material containing asbestos, the requirements set out in Annex I, point 3.2 and 3.3 of the Landfill Directive can be reduced, if the above requirements are fulfilled.

2.4. **Criteria for waste acceptable at landfills for hazardous waste**

2.4.1. *Leaching limit values*

The following leaching limit values apply for granular waste acceptable at landfills for hazardous waste, calculated at L/S = 2 and 10 l/kg for total release and directly expressed in mg/l for C_0 (in the first eluate of percolation test at L/S = 0,1 l/kg). Granular wastes include all wastes that are not monolithic. Member States shall determine which of the test methods and corresponding limit values in the table should be used.

Components	L/S = 2 l/kg	L/S = 10 l/kg	C_0 (percolation test)
	mg/kg dry substance	mg/kg dry substance	mg/l
As	6	25	3
Ba	100	300	60
Cd	3	5	1,7
Cr total	25	70	15
Cu	50	100	60
Hg	0,5	2	0,3
Mo	20	30	10
Ni	20	40	12
Pb	25	50	15

Components	L/S = 2 l/kg	L/S = 10 l/kg	C_0 (percolation test)
	mg/kg dry substance	mg/kg dry substance	mg/l
Sb	2	5	1
Se	4	7	3
Zn	90	200	60
Chloride	17 000	25 000	15 000
Fluoride	200	500	120
Sulphate	25 000	50 000	17 000
DOC (*)	480	1 000	320
TDS (**)	70 000	100 000	—

(*) If the waste does not meet these values for DOC at its own pH, it may alternatively be tested at L/S = 10 l/kg and a pH of 7,5-8,0. The waste may be considered as complying with the acceptance criteria for DOC, if the result of this determination does not exceed 1 000 mg/kg. (A draft method based on prEN 14429 is available.)
(**) The values for TDS can be used alternatively to the values for sulphate and chloride.

Member States shall set criteria for monolithic waste to provide the same level of environmental protection given by the above limit values.

2.4.2. *Other criteria*

In addition to the leaching limit values under section 2.4.1, hazardous wastes must meet the following additional criteria:

Parameter	Value
LOI (*)	10 %
TOC (*)	6 % (**)
ANC (acid neutralisation capacity)	Must be evaluated

(*) Either LOI or TOC must be used.
(**) If this value is not achieved, a higher limit value may be admitted by the competent authority, provided that the DOC value of 1 000 mg/kg is achieved at L/S = 10 l/kg, either at the material's own pH or at a pH value between 7,5 and 8,0.

2.5. **Criteria for underground storage**

For the acceptance of waste in underground storage sites, a site-specific safety assessment as defined in Annex A must be carried out. Waste may be accepted only if it is compatible with the site-specific safety assessment.

At underground storage sites for inert waste, only waste that fulfils the criteria set out in section 2.1 may be accepted.

At underground storage sites for non-hazardous waste, only waste that fulfils the criteria set out in section 2.2 or in section 2.3 may be accepted.

At underground storage sites for hazardous waste, waste may be accepted only if it is compatible with the site-specific safety assessment. In this case, the criteria set out in section 2.4 do not apply. However, the waste must be subject to the acceptance procedure as set out in section 1.

3. SAMPLING AND TEST METHODS

Sampling and testing for basic characterisation and compliance testing shall be carried out by independent and qualified persons and institutions. Laboratories shall have proven experience in waste testing and analysis and an efficient quality assurance system.

Member States may decide that:

1. the sampling may be carried out by producers of waste or operators under the condition that sufficient supervision of independent and qualified persons or institutions ensures that the objectives set out in this Decision are achieved;
2. the testing of the waste may be carried out by producers of waste or operators if they have set up an appropriate quality assurance system including periodic independent checking.

As long as a CEN standard is not available as formal EN, Member States will use either national standards or procedures or the draft CEN standard, when it has reached the prEN stage.

The following methods shall be used.

Sampling

For the sampling of waste — for basic characterisation, compliance testing and on-site verification testing — a sampling plan shall be developed according to part 1 of the sampling standard currently developed by CEN.

General waste properties

EN 13137	Determination of TOC in waste, sludge and sediments
prEN 14346	Calculation of dry matter by determination of dry residue or water content

Leaching tests

prEN 14405	Leaching behaviour test - Up-flow percolation test (Up-flow percolation test for inorganic constituents)
EN 12457/1-4	Leaching — Compliance test for leaching of granular waste materials and sludges:
	part 1: L/S = 2 l/kg, particle size < 4 mm
	part 2: L/S = 10 l/kg, particle size < 4 mm
	part 3: L/S = 2 and 8 l/kg, particle size < 4 mm
	part 4: L/S = 10 l/kg, particle size < 10 mm

Digestion of raw waste

EN 13657	Digestion for subsequent determination of aqua regia soluble portion of elements (partial digestion of the solid waste prior to elementary analysis, leaving the silicate matrix intact)
EN 13656	Microwave-assisted digestion with hydrofluoric (HF), nitric (HNO_3) and hydrochloric (HCl) acid mixture for subsequent determination of elements (total digestion of the solid waste prior to elementary analysis)

Analysis

ENV 12506	Analysis of eluates — Determination of pH, As, Ba, Cd, Cl, Co, Cr, CrVI, Cu, Mo, Ni, NO_2, Pb, total S, SO_4, V and Zn (analysis of inorganic constituents of solid waste and/or its eluate; major, minor and trace elements)
ENV 13370	Analysis of eluates — Determination of ammonium, AOX, conductivity, Hg, phenol index, TOC, easily liberatable CN, F (analysis of inorganic constituents of solid waste and/or its eluate (anions))
prEN 14039	Determination of hydrocarbon content in the range of C10 to C40 by gas chromatography

This list will be amended when more CEN standards are available.

For tests and analyses, for which CEN methods are not (yet) available, the methods used must be approved by the competent authorities.

Appendix A

SAFETY ASSESSMENT FOR ACCEPTANCE OF WASTE IN UNDERGROUND STORAGE

1. SAFETY PHILOSOPHY FOR UNDERGROUND STORAGE: ALL TYPES

1.1. **The importance of the geological barrier**

Isolation of wastes from the biosphere is the ultimate objective for the final disposal of wastes in underground storage. The wastes, the geological barrier and the cavities, including any engineered structures constitute a system that together with all other technical aspects must fulfil the corresponding requirements.

The requirements of the Water Framework Directive (2000/60/EC) can be fulfilled only by demonstrating the long-term safety of the installation (see section 1.2.7). Article 11(3)(j) of Directive 2000/60/EC generally prohibits the direct discharge of pollutants into groundwater. Article 4(1)(b)(i) of Directive 2000/60/EC requires Member States to take measures to prevent the deterioration of the status of all bodies of groundwater.

1.2. **Site-specific risk assessment**

The assessment of risk requires the identification of:

— the hazard (in this case the deposited wastes),

— the receptors (in this case the biosphere and possibly groundwater),

— the pathways by which substances from the wastes may reach the biosphere, and

— the assessment of impact of substances that may reach the biosphere.

Acceptance criteria for underground storage are to be derived from, *inter alia*, the analysis of the host rock, so it must be confirmed that no site-related conditions specified in Annex I to the Landfill Directive (with an exemption of Annex I(2), (3), (4) and (5)) are of relevance.

The acceptance criteria for underground storage can be obtained only by referring to the local conditions. This requires a demonstration of the suitability of the strata for establishing a storage, i.e. an assessment of the risks to containment, taking into account the overall system of the waste, engineered structures and cavities and the host rock body.

The site specific risk assessment of the installation must be carried out for both the operational and post-operational phases. From these assessments, the required control and safety measures can be derived and the acceptance criteria can be developed.

An integrated performance assessment analysis shall be prepared, including the following components:

1. geological assessment;

2. geomechanical assessment;

3. hydrogeological assessment;

4. geochemical assessment;

5. biosphere impact assessment;

6. assessment of the operational phase;

7. long-term assessment;

8. assessment of the impact of all the surface facilities at the site.

1.2.1. *Geological assessment*

A thorough investigation or knowledge of the geological setting of a site is required. This includes investigations and analyses of kind of rocks, soils and the topography. The geological assessment should demonstrate the suitability of the site for underground storage. The location, frequency and structure of any faulting or fracturing in surrounding geological strata and the potential impact of seismic activity on these structures should be included. Alternative site locations should be considered.

1.2.2. *Geomechanical assessment*

The stability of the cavities must be demonstrated by appropriate investigations and predictions. The deposited waste must be part of this assessment. The processes should be analysed and documented in a systematic way.

The following should be demonstrated:

1. that during and after the formation of the cavities, no major deformation is to be expected either in the cavity itself or at the earth surface which could impair the operability of the underground storage or provide a pathway to the biosphere;

2. that the load-bearing capacity of the cavity is sufficient to prevent its collapse during operation;

3. that the deposited material must have the necessary stability compatible with the geo-mechanical properties of the host rock.

1.2.3. *Hydrogeological assessment*

A thorough investigation of the hydraulic properties is required to assess the groundwater flow pattern in the surrounding strata based on information on the hydraulic conductivity of the rock mass, fractures and the hydraulic gradients.

1.2.4. *Geochemical assessment*

A thorough investigation of the rock and the groundwater composition is required to assess the present groundwater composition and its potential evolution over time, the nature and abundance of fracture filling minerals, as well as a quantitative mineralogical description of the host rock. The impact of variability on the geochemical system should be assessed.

1.2.5. *Biosphere impact assessment*

An investigation of the biosphere that could be impacted by the underground storage is required. Baseline studies should be performed to define local natural background levels of relevant substances.

1.2.6. *Assessment of the operational phase*

For the operational phase, the analysis should demonstrate the following:

1. the stability of the cavities as in section 1.2.2;

2. no unacceptable risk of a pathway developing between the wastes and the biosphere;

3. no unacceptable risks affecting the operation of the facility.

When demonstrating operational safety, a systematic analysis of the operation of the facility must be made on the basis of specific data on the waste inventory, facility management and the scheme of operation. It is to be shown that the waste will not react with the rock in any chemical or physical way, which could impair the strength and tightness of the rock and endanger the storage itself. For these reasons, in addition to wastes that are banned by Article 5(3) of the Landfill Directive, wastes that are liable to spontaneous combustion under the storage conditions (temperature, humidity), gaseous products, volatile wastes, wastes coming from collections in the form of unidentified mixtures should not be accepted.

Particular incidents that might lead to the development of a pathway between the wastes and the biosphere in the operational phase should be identified. The different types of potential operational risks should be summarised in specific categories. Their possible effects should be evaluated. It should be shown that there is no unacceptable risk that the containment of the operation will be breached. Contingency measures should be provided.

1.2.7. *Long-term assessment*

In order to comply with the objectives of sustainable landfilling, risk assessment should cover the long-term. It must be ascertained that no pathways to the biosphere will be generated during the long-term post-operation of the underground storage.

The barriers of the underground storage site (e.g. the waste quality, engineered structures, back filling and sealing of shafts and drillings), the performance of the host rock, the surrounding strata and the overburden should be quantitatively assessed over the long-term and evaluated on the basis of site-specific data or sufficiently conservative assumptions. The geochemical and geohydrological conditions such as groundwater flow (see sections 1.2.3 and 1.2.4), barrier efficiency, natural attenuation as well as leaching of the deposited wastes should be taken into consideration.

The long-term safety of an underground storage should be demonstrated by a safety assessment comprising a description of the initial status at a specified time (e.g. time of closure) followed by a scenario outlining important changes that are expected over geological time. Finally, the consequences of the release of relevant substances from the underground storage should be assessed for different scenarios reflecting the possible long-term evolution of the biosphere, geosphere and the underground storage.

Containers and cavity lining should not be taken into account when assessing the long-term risks of waste deposits because of their limited lifetime.

1.2.8. *Impact assessment of the surface reception facilities*

Although the wastes taken at the site may be destined for subsurface disposal, wastes will be unloaded, tested and possibly stored on the surface, before reaching their final destination. The reception facilities must be designed and operated in a manner that will prevent harm to human health and the local environment. They must fulfil the same requirements as any other waste reception facility.

1.2.9. *Assessment of other risks*

For reasons of protection of workers, wastes should be deposited only in an underground storage securely separated from mining activities. Waste should not be accepted if it contains, or could generate, hazardous substances which might harm human health, e.g. pathogenic germs of communicable diseases.

2. ACCEPTANCE CRITERIA FOR UNDERGROUND STORAGE: ALL TYPES

2.1. **Excluded wastes**

In the light of sections 1.2.1 to 1.2.8, wastes that may undergo undesired physical, chemical or biological transformation after they have been deposited must not be disposed of in underground storage. This includes the following:

(a) wastes listed in Article 5(3) of the Landfill Directive;

(b) wastes and their containers which might react with water or with the host rock under the storage conditions and lead to:

— a change in the volume,

— generation of auto-flammable or toxic or explosive substances or gases, or

— any other reactions which could endanger the operational safety and/or the integrity of the barrier.

Wastes which might react with each other must be defined and classified in groups of compatibility; the different groups of compatibility must be physically separated in the storage;

(c) wastes that are biodegradable;

(d) wastes that have a pungent smell;

(e) wastes that can generate a gas-air mixture which is toxic or explosive. This particularly refers to wastes that:

— cause toxic gas concentrations due to the partial pressures of their components,

— form concentrations when saturated within a container, which are higher than 10 % of the concentration which corresponds to the lower explosive limit;

(f) wastes with insufficient stability to correspond to the geomechanical conditions;

(g) wastes that are auto-flammable or liable to spontaneous combustion under the storage conditions, gaseous products, volatile wastes, wastes coming from collections in the form of unidentified mixtures;

(h) wastes that contain, or could generate, pathogenic germs of communicable diseases (already provided for by Article 5(3)(c) of the Landfill Directive).

2.2. **Lists of waste suitable for underground storage**

Inert wastes, hazardous and non-hazardous wastes, not excluded by sections 2.1 and 2.2 may be suitable for underground storage.

Member States may produce lists of wastes acceptable at underground storage facilities in accordance with the classes given in Article 4 of the Landfill Directive.

2.3. **Site-specific risk assessment**

Acceptance of waste at a specific site must be subject to site-specific risk assessment.

The site-specific assessments outlined in section 1.2 for the wastes to be accepted at an underground storage should demonstrate that the level of isolation from the biosphere is acceptable. The criteria have to be fulfilled under storage conditions.

2.4. **Acceptance conditions**

Wastes can be deposited only in an underground storage securely separated from mining activities.

Wastes that might react with each other must be defined and classified in groups of compatibility; the different groups of compatibility must be physically separated in the storage.

3. ADDITIONAL CONSIDERATIONS: SALT MINES

3.1. **Importance of the geological barrier**

In the safety philosophy for salt mines, the rock surrounding the waste has a two-fold role:

— it acts as host rock in which the wastes are encapsulated;

— together with the overlying and underlying impermeable rock strata (e.g. anhydrite), it acts as a geological barrier intended to prevent groundwater entering the landfill and, where necessary, effectively to stop liquids or gases escaping from the disposal area. Where this geological barrier is pierced by shafts and boreholes, these must be sealed during operation to secure against ingress of water, and must be hermetically closed after the underground landfill ceases to operate. If mineral extraction continues longer than the landfill operation, the disposal area must, after the landfill has ceased operating, be sealed with a hydraulically impermeable dam which is constructed according to the calculated hydraulically operative pressure corresponding to the depth, so that water which may seep into the still operating mine cannot penetrate through to the landfill area;

— in salt mines, the salt is considered to provide total containment. The wastes will only make contact with the biosphere in the case of an accident or an event in geological time such as earth movement or erosion (for example, associated with sea-level rise). The waste is unlikely to change in storage, and the consequences of such failure scenarios must be considered.

3.2. **Long-term assessment**

The demonstration of long-term safety of underground disposal in a salt rock should be principally undertaken by designating the salt rock as the barrier rock. Salt rock fulfils the requirement of being impermeable to gases and liquids, of being able to encase the waste because of its convergent behaviour and of confining it entirely at the end of the transformation process.

The convergent behaviour of the salt rock thus does not contradict the requirement to have stable cavities in the operation phase. The stability is important, in order to guarantee the operational safety and in order to maintain the integrity of the geological barrier over unlimited time, so that there is continued protection of the biosphere. The wastes should be isolated permanently from the biosphere. Controlled subsidence of the overburden or other defects over long time are acceptable only if it can be shown, that only rupture-free transformations will occur, the integrity of the geological barrier is maintained and no pathways are formed by which water would be able to contact the wastes or the wastes or components of the waste migrate to the biosphere.

4. ADDITIONAL CONSIDERATIONS: HARD ROCK

Deep storage in hard rock is here defined as an underground storage at several hundred metres depth, where hard rock includes various igneous rocks, e.g. granite or gneiss, it may also include sedimentary rocks, e.g. limestone and sandstone.

4.1. **Safety philosophy**

A deep storage in hard rock is a feasible way to avoid burdening future generations with the responsibility of the wastes since it should be constructed to be passive and with no need for maintenance. Furthermore, the construction should not obstruct recovery of the wastes or the ability to undertake future corrective measures. It should also be designed to ensure that negative environmental effects or liabilities resulting from the activities of present generations do not fall upon future generations.

In the safety philosophy of underground disposal of wastes, the main concept is isolation of the waste from the biosphere, as well as natural attenuation of any pollutants leaking from the waste. For certain types of hazardous substances and waste, a need has been identified to protect the society and the environment against sustained exposure over extended periods of time. An extended period of time implies several thousands of years. Such levels of protection can be achieved by deep storage in hard rock. A deep storage for waste in hard rock can be located either in a former mine, where the mining activities have come to an end, or in a new storage facility.

In the case of hard-rock storage, total containment is not possible. In this case, an underground storage needs to be constructed so that natural attenuation of the surrounding strata mediates the effect of pollutants to the extent that they have no irreversible negative effects on the environment. This means that the capacity of the near environment to attenuate and degrade pollutants will determine the acceptability of a release from such a facility.

The requirements of the EU Water Framework Directive (2000/60/EC) can only be fulfilled by demonstrating the long-term safety of the installation (see section 1.2.7). The performance of a deep storage system must be assessed in a holistic way, accounting for the coherent function of different components of the system. In a deep storage in hard rock, the storage will reside below the groundwater table. Article 11(3)(j) of the Directive generally prohibits the direct discharge of pollutants into groundwater. Article 4(1)(b)(i) of the Directive requires Member States to take measures to prevent the deterioration of the status of all bodies of groundwater. For a deep storage in the hard rock, this requirement is respected in that any discharges of hazardous substances from the storage will not reach the biosphere, including the upper parts of the groundwater system accessible for the biosphere, in amounts or concentrations that will cause adverse effects. Therefore the water flow paths to and in the biosphere should be evaluated. The impact of variability on the geohydraulic system should assessed.

Gas formation may occur in deep storage in hard rock due to long-term deterioration of waste, packaging and engineered structures. Therefore, this must be considered in the design of premises for a deep storage in hard rock.

Appendix B

OVERVIEW OF LANDFILLING OPTIONS PROVIDED BY THE LANDFILL DIRECTIVE

Introduction

Figure 1 gives an overview of the landfilling possibilities for waste provided by the Landfill Directive together with some examples of subcategories of the main classes of landfills. The starting point (upper left corner) is a waste which should be landfilled. In accordance with Article 6(a) of the Landfill Directive, some treatment is required prior to landfilling for most wastes. The general definition of 'treatment' is relatively broad and to a large extent left to the competent authorities in the Member States. It is assumed that the waste does not belong to any of the categories listed in Article 5(3) of the Landfill Directive.

Inert-waste landfill

The first question to ask could be whether or not the waste is classified as hazardous. If the waste is not hazardous (according to the Hazardous Waste Directive (91/689/EC) and the current waste list), the next question could be whether or not the waste is inert. If it meets the criteria for waste to be landfilled at an inert landfill (class A, see figure 1 and table 1), the waste may be placed at an inert landfill.

Inert waste may alternatively be placed in landfills for non-hazardous waste provided it fulfils the appropriate criteria (which it generally should).

Non-hazardous waste landfill, including subcategories

If the waste is neither hazardous nor inert, then it must be non-hazardous, and it should go to a landfill for non-hazardous waste. Member States may define subcategories of landfills for non-hazardous waste in accordance with their national waste management strategies as long as the requirements of the Landfill Directive are met. Three major subcategories of non-hazardous waste landfills are shown in figure 1: landfill for inorganic waste with low organic/biodegradable content (B1), landfill for organic waste (B2), and landfill for mixed non-hazardous waste with substantial contents of both organic/biodegradable and inorganic materials. Category B1 sites can be subdivided further into sites for wastes that do not meet the criteria set out in section 2.2.2 for inorganic non-hazardous wastes that may be co-disposed with stable, non reactive hazardous wastes (B1a) and sites for wastes that do meet those criteria (B1b). Category B2 sites may, for example, be further subdivided into bioreactor landfills and landfills for less reactive, biologically treated waste. Further subclassification of non-hazardous landfills may be desired by some Member States, and monofills and landfills for solidified/monolithic waste may be defined within each subcategory (see the footnote below table 1). National acceptance criteria may be developed by the Member States to ensure proper allocation of non-hazardous waste to the various subcategories of non-hazardous waste landfills. If sub-classification of non-hazardous waste landfills is not desired, all non-hazardous waste (subject of course to the provisions of Articles 3 and 5 of the Landfill Directive) may go to a landfill for mixed non-hazardous waste (class B3).

Placement of stable, non-reactive hazardous waste in landfill for non-hazardous waste

If the waste is hazardous (according to Directive 91/689/EC and the current waste list), the treatment may have enabled the waste to meet the criteria for placement of stable, non-reactive hazardous waste in non-hazardous waste landfills within cells for inorganic waste with low organic/biodegradable content that meet the criteria in section 2.2.2 (class B1b). The waste may be granular (rendered chemically stable) or solidified/monolithic.

Hazardous waste landfill

If the hazardous waste does not meet the criteria for placement in a class B1b landfill or cell for non-hazardous waste, the next question could be whether or not it meets the criteria for acceptance at a landfill for hazardous waste (class C). If the criteria are met, then the waste may be placed at a hazardous waste landfill.

If the criteria for acceptance at a hazardous waste landfill are not met, the waste may be subjected to further treatment and tested again against the criteria, until they are met.

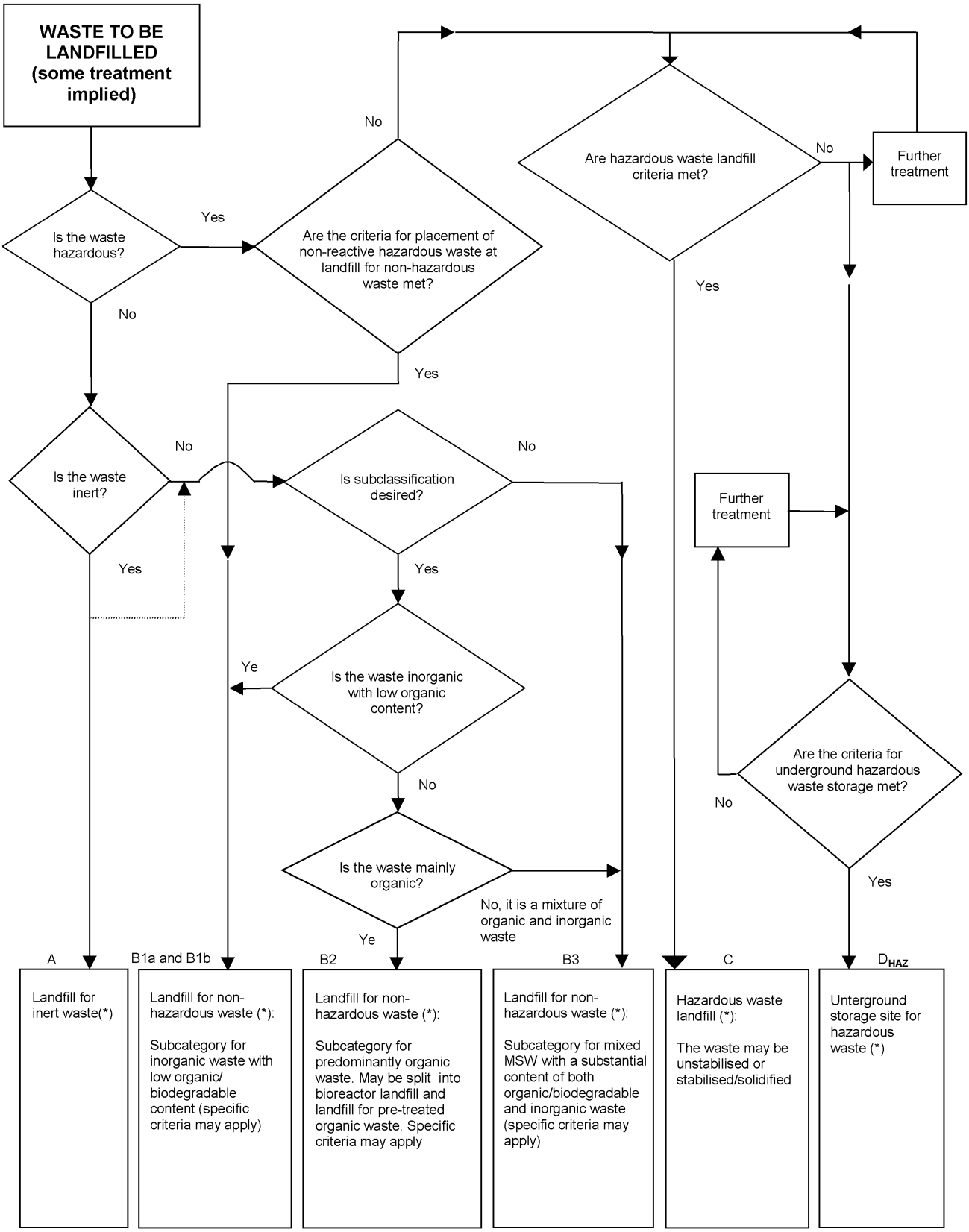
Underground storage

Alternatively, the waste may be tested against the criteria for underground storage. If the criteria are met, the waste may go to an underground storage facility for hazardous waste (landfill class D_{HAZ}). If the underground storage criteria are not met, the waste may be subjected to further treatment and tested again.

Although underground storage is likely to be reserved for special hazardous wastes, this subcategory may in principle be used also for inert waste (class D_{INERT}) and non-hazardous waste (class $D_{NON-HAZ}$).

Figure 1

Diagram showing the landfilling options provided by the Landfill Directive



(*) In principle, underground storage is also possible for inert and non-hazardous waste.

Table 1

Overview of landfill classes and examples of subcategories

Landfill class	Major subcategories (underground storage facilities, monofills and landfills for solidified, monolithic (*) waste possible for all landfill classes)	ID	Acceptance criteria
Landfill for inert waste	Landfill accepting inert waste	A	Criteria for leaching and for content of organic components are set at EU level (section 2.1.2). Criteria for content of inorganic components may be set at Member State level.
Landfill for non-hazardous waste	Landfill for inorganic non-hazardous waste with a low content of organic/biodegradable matter, where the wastes do not meet the criteria set out in section 2.2.2. for those inorganic non-hazardous wastes that may be landfilled together with stable, non-reactive hazardous waste	B1a	Criteria for leaching and total content are not set at EU level
	Landfill for inorganic non-hazardous waste with a low content of organic/biodegradable matter	B1b	Criteria for leaching and content of organics (TOC) and other properties are set at EU level, common for granular non-hazardous waste and for stable, non-reactive hazardous waste (section 2.2). Additional stability criteria for the latter are to be set at Member State level. Criteria for monolithic waste must be set at Member State level
	Landfill for organic non-hazardous waste	B2	Criteria for leaching and total content are not set at EU level
	Landfill for mixed non-hazardous waste with substantial contents of both organic/biodegradable waste and inorganic waste.	B3	Criteria for leaching and total content are not set at EU level
Landfill for hazardous waste	Surface landfill for hazardous waste	C	Criteria for leaching for granular hazardous waste and total content of certain components have been laid down at EU level (section 2.4). Criteria for monolithic waste must be set at Member State level Additional criteria on content of contaminants can be set at MS level
	Underground storage site	D_{HAZ}	Special requirements at EU level are listed in Annex A

(*) Monolithic waste subcategories are only relevant for B1, C and D_{HAZ}, and possibly A.

COMMISSION

COMMISSION DECISION

of 10 January 2003

refusing to grant a derogation from Council Decision 2001/822/EC, as regards the rules of origin for sugar from the Netherlands Antilles

(notified under document number C(2002) 5501)

(2003/34/EC)

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Council Decision 2001/822/EC of 27 November 2001 on the association of the overseas countries and territories with the European Community [1], and in particular Article 37 of Annex III thereto,

Whereas:

(1) Annex III to Decision 2001/822/EC concerns the definition of the concept of 'originating products' and methods of administrative cooperation. Article 37(1) thereof provides that derogations from those rules of origin may be adopted where justified by the development of existing industries or the creation of new industries in a country or territory, while Article 37(4) stipulates that, in every case, an examination shall be made to ascertain whether the rules relating to cumulation of origin do not provide a solution to the problem.

(2) On 20 February 2002 the Netherlands requested a derogation from the rule of origin in respect of an annual quantity of 3 000 tonnes of non-ACP sugar, imported from Colombia into the Netherlands Antilles, for processing and subsequent exportation to the Community over a period of five years and expected to have a positive impact on the development of the existing industry. The Netherlands requested that this derogation be applied within the annual quantity of 28 000 tonnes provided for the ACP/EC-OCT cumulation of origin under Article 6(4) of Annex III to Decision 2001/822/EC.

(3) On 13 May 2002, the Netherlands withdrew the request, pending the outcome of an additional examination of the possibilities to supply ACP sugar to the producer concerned.

(4) On 4 October 2002, the Netherlands submitted additional information, according to which sugar producers in five different ACP States had refused, in May and June 2002, to supply the producer with the sugar required, while one sugar producer in Guyana was willing to supply the quantity and quality requested but offered a price (USD 450/tonne fob Georgetown) that was much higher than the price of the Colombian sugar (USD 275/tonne franco warehouse of the purchaser). The Netherlands asked for the request for a derogation from the rule of origin to be reconsidered, in particular on the basis of that information.

(5) In particular the Netherlands indicate that the labour and overheads in the Antilles represents an amount of EUR 1 095 570 for 3 000 tonnes of finished products. The value of the finished products represents EUR 3 241 200.

(6) An examination of the information supplied shows that the value added of the transaction, as defined by Article 1(i), exceeds 45 % of the ex-works price of the finished product, in both cases of supply of Colombian and Guyana sugar.

(7) According to the information supplied by the Netherlands on the occasion of the request of 20 February 2002, the producer obtained, under the annual quota of 28 000 tonnes for 2002, an import licence for a quantity of 6 222 tonnes. Consequently, the application by the producer for 2002, pursuant to Article 6 of Regulation (EC) No 192/2002, amounted to a quantity of 10 000 tonnes. In accordance with the provisions of Article 6(1) of Regulation (EC) No 192/2000, the producer had to submit its application for 2002 to the national authorities in the first ten working days of February of that year. The producer concerned has submitted its application for an import licence prior to the introduction by the Netherlands of the initial request for a derogation from the rules of origin. When introducing its request for an import license, the producer concerned was not in a position to assume that a derogation from the rules of origin would be granted and therefore took a risk as to whether any or all of the certificates could be used with the possible consequence of the loss of the guarantee.

[1] OJ L 314, 30.11.2001, p. 1.

(8) In the light of all these elements, the requested derogation is not justified with regard to Article 37(1) of Annex III. The information provided indicates that the rules relating to cumulation of origin can provide a solution to the problem. In particular no information has been supplied to the effect that the transaction using Guyana sugar would be so uneconomical as to cause the producer to cease its activities. Moreover, given that the value added represented by the transaction in the case of supply of both Colombian and Guyana sugar exceeds 45 % of the ex-works price of the finished product, Article 37(7) does not apply.

(9) The measures provided for in this Decision are in accordance with the opinion of the Customs Code Committee,

HAS ADOPTED THIS DECISION:

Article 1

The request initially submitted on 20 February 2002 by the Netherlands, and completed on 4 October 2002, for a derogation from Council Decision 2001/822/EC, as regards the rules of origin for sugar from the Netherlands Antilles, is hereby rejected.

Article 2

This Decision is addressed to the Member States.

Done at Brussels, 10 January 2003.

For the Commission

Frederik BOLKESTEIN

Member of the Commission

COMMISSION DECISION

of 10 January 2003

recognising in principle the completeness of the dossiers submitted for detailed examination in view of the possible inclusion of benalaxyl-M, benthiavalicarb, 1-methylcyclopropene, prothioconazole and fluoxastrobin in Annex I to Council Directive 91/414/EEC concerning the placing of plant-protection products on the market

(notified under document number C(2002) 5575)

(Text with EEA relevance)

(2003/35/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 [1], as last amended by Commission Directive 2002/81/EC [2], and in particular Article 6(3) thereof,

Whereas:

(1) Directive 91/414/EEC provides for the development of a Community list of active substances authorised for incorporation in plant protection products.

(2) A dossier for the active substance benalaxyl-M was submitted by Isagro, Italy, to the Portuguese authorities on 22 February 2002 with an application to obtain its inclusion in Annex I to Directive 91/414/EEC. A dossier for the active substance benthiavalicarb was submitted by Kumiai Chemicals Industry Co Ltd to the authorities of Belgium on 19 April 2002. A dossier for the active substance 1-methylcyclopropene was submitted by Rohm and Haas, to the authorities of the United Kingdom on 28 February 2002. A dossier for the active substance prothioconazole was submitted by Bayer Crop Science, to the authorities of the United Kingdom on 25 March 2002. A dossier for the active substance fluoxastrobin was submitted by Bayer Crop Science, to the authorities of the United Kingdom on 25 March 2002.

(3) The authorities of the Portugal, Belgium and the United Kingdom have indicated to the Commission that, on preliminary examination, the dossiers for the active substances concerned appear to satisfy the data and information requirements of Annex II to Directive 91/414/EEC. The dossiers submitted appear to satisfy also the data and information requirements of Annex III to Directive 91/414/EEC in respect of one plant protection product containing the active substance concerned. In accordance with Article 6(2) of Directive 91/414/EC, the dossiers were subsequently forwarded by the respective applicants to the Commission and other Member States, and were referred to the Standing Committee on the Food Chain and Animal Health.

(4) By this Decision it should be formally confirmed at Community level that the dossiers are considered as satisfying in principle the data and information requirements provided for in Annex II and, for at least one plant protection product containing the active substance concerned, the requirements of Annex III to Directive 91/414/EEC.

(5) This Decision should not prejudice the right of the Commission to request the applicant to submit further data or information to the Member State designated as Rapporteur in respect of a given substance in order to clarify certain points in the dossier.

(6) 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

The dossiers concerning the active substances identified in the Annex to this Decision, which were submitted to the Commission and the Member States with a view to obtaining the inclusion of those substances in Annex I to Directive 91/414/EEC, satisfy in principle the data and information requirements set out in Annex II to Directive 91/414/EEC.

The dossiers also satisfy the data and information requirements set out in Annex III to Directive 91/414/EEC in respect of one plant protection product containing the active substance, taking into account the uses proposed.

Article 2

The rapporteur Member States shall pursue the detailed examination for the dossiers concerned and shall report the conclusions of their examinations accompanied by any recommendations on the inclusion or non-inclusion of the active substance concerned in Annex I of Directive 91/414/EEC and any conditions related thereto to the Commission as soon as possible and at the latest within a period of one year from the date of publication of this Decision in the *Official Journal of the European Communities*.

[1] OJ L 230, 19.8.1991, p. 1.
[2] OJ L 276, 12.10.2002, p. 28.

Article 3

This Decision is addressed to the Member States.

Done at Brussels, 10 January 2003.

For the Commission
David BYRNE
Member of the Commission

ANNEX

ACTIVE SUBSTANCES CONCERNED BY THIS DECISION

No	Common name, CIPAC identification No	Applicant	Date of application	Rapporteur Member State
1	Benalaxyl-M not allocated	Isagro, Italy	22.2.2002	PT
2	Benthiavalicarb CIPAC No 744	Kumiai Chemicals Industry Co Ltd	19.4.2002	BE
3	1-methylcyclopropene not allocated	Rohm and Haas	28.2.2002	UK
4	Prothioconazole CIPAC No 745	Bayer AG	25.3.2002	UK
5	Fluoxastrobin CIPAC No 746	Bayer AG	25.3.2002	UK