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I

(Acts whose publication is obligatory)

COMMISSION REGULATION (EC) No 374/2003
of 28 February 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 1 March 2003.

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

Done at Brussels, 28 February 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 28 February 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 | 107,3 |
| | 204 | 67,9 |
| | 212 | 127,0 |
| | 999 | 100,7 |
| 0707 00 05 | 052 | 162,8 |
| | 068 | 140,4 |
| | 204 | 65,8 |
| | 220 | 221,4 |
| | 628 | 151,4 |
| 0709 10 00 | 999 | 148,4 |
| | 220 | 144,7 |
| 0709 90 70 | 999 | 144,7 |
| | 052 | 151,1 |
| 0805 10 10, 0805 10 30, 0805 10 50 | 204 | 216,5 |
| | 388 | 197,8 |
| | 999 | 188,5 |
| | 052 | 61,1 |
| 0805 50 10 | 204 | 42,4 |
| | 212 | 56,8 |
| | 220 | 27,3 |
| | 600 | 40,4 |
| | 624 | 59,2 |
| | 999 | 47,9 |
| | 052 | 59,0 |
| 0808 10 20, 0808 10 50, 0808 10 90 | 600 | 70,4 |
| | 999 | 64,7 |
| | 039 | 115,6 |
| | 388 | 91,3 |
| | 400 | 111,3 |
| | 404 | 94,8 |
| | 512 | 114,5 |
| | 524 | 75,1 |
| | 528 | 97,8 |
| | 720 | 101,1 |
| 999 | 100,2 | |
| 0808 20 50 | 388 | 79,1 |
| | 400 | 105,7 |
| | 512 | 67,6 |
| | 528 | 65,2 |
| | 720 | 58,6 |
| | 999 | 75,2 |

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

COMMISSION REGULATION (EC) No 375/2003
of 28 February 2003

fixing the minimum selling prices for butter and the maximum aid for cream, butter and concentrated butter for the 114th individual invitation to tender under the standing invitation to tender provided for in Regulation (EC) No 2571/97

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Council Regulation (EC) No 1255/1999 of 17 May 1999 on the common organisation of the market in milk and milk products ⁽¹⁾, as last amended by Commission Regulation (EC) No 509/2002 ⁽²⁾, and in particular Article 10 thereof,

Whereas:

- (1) The intervention agencies are, pursuant to Commission Regulation (EC) No 2571/97 of 15 December 1997 on the sale of butter at reduced prices and the granting of aid for cream, butter and concentrated butter for use in the manufacture of pastry products, ice-cream and other foodstuffs ⁽³⁾, as last amended by Regulation (EC) No 635/2000 ⁽⁴⁾, to sell by invitation to tender certain quantities of butter that they hold and to grant aid for cream, butter and concentrated butter. Article 18 of that Regulation stipulates that in the light of the tenders received in response to each individual invitation to tender a minimum selling price shall be fixed for butter and maximum aid shall be fixed for cream, butter and concentrated butter. It is further stipulated that the price

or aid may vary according to the intended use of the butter, its fat content and the incorporation procedure, and that a decision may also be taken to make no award in response to the tenders submitted. The amount(s) of the processing securities must be fixed accordingly.

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

HAS ADOPTED THIS REGULATION:

Article 1

The minimum selling prices and the maximum aid and processing securities applying for the 114th individual invitation to tender, under the standing invitation to tender provided for in Regulation (EC) No 2571/97, shall be fixed as indicated in the Annex hereto.

Article 2

This Regulation shall enter into force on 1 March 2003.

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

Done at Brussels, 28 February 2003.

For the Commission

Franz FISCHLER

Member of the Commission

⁽¹⁾ OJ L 160, 26.6.1999, p. 48.

⁽²⁾ OJ L 79, 22.3.2002, p. 15.

⁽³⁾ OJ L 350, 20.12.1997, p. 3.

⁽⁴⁾ OJ L 76, 25.3.2000, p. 9.

ANNEX

to the Commission Regulation of 28 February 2003 fixing the minimum selling prices for butter and the maximum aid for cream, butter and concentrated butter for the 114th individual invitation to tender under the standing invitation to tender provided for in Regulation (EC) No 2571/97

(EUR/100 kg)

| Formula | | | A | | B | |
|-------------------------|---------------------|--------------|--------------|-----------------|--------------|-----------------|
| Incorporation procedure | | | With tracers | Without tracers | With tracers | Without tracers |
| Minimum selling price | Butter \geq 82 % | Unaltered | — | — | — | — |
| | | Concentrated | — | — | — | — |
| Processing security | | Unaltered | — | — | — | — |
| | | Concentrated | — | — | — | — |
| Maximum aid | Butter \geq 82 % | | 85 | 81 | 85 | 81 |
| | Butter $<$ 82 % | | 83 | 79 | — | 79 |
| | Concentrated butter | | 105 | 101 | 105 | 101 |
| | Cream | | — | — | 36 | 34 |
| Processing security | Butter | | 94 | — | 94 | — |
| | Concentrated butter | | 116 | — | 116 | — |
| | Cream | | — | — | 40 | — |

**COMMISSION REGULATION (EC) No 376/2003
of 28 February 2003**

**fixing the maximum purchasing price for butter for the 67th invitation to tender carried out under
the standing invitation to tender governed by Regulation (EC) No 2771/1999**

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Council Regulation (EC) No 1255/1999 of 17 May 1999 on the common organisation of the market in milk and milk products ⁽¹⁾, as last amended by Commission Regulation (EC) No 509/2002 ⁽²⁾, and in particular Article 10 thereof,

Whereas:

- (1) Article 13 of Commission Regulation (EC) No 2771/1999 of 16 December 1999 laying down detailed rules for the application of Council Regulation (EC) No 1255/1999 as regards intervention on the market in butter and cream ⁽³⁾, as last amended by Regulation (EC) No 1614/2001 ⁽⁴⁾, provides that, in the light of the tenders received for each invitation to tender, a maximum buying-in price is to be fixed in relation to the intervention price applicable and that it may also be decided not to proceed with the invitation to tender.

- (2) As a result of the tenders received, the maximum buying-in price should be fixed as set out below.
- (3) The measures provided for in this Regulation are in accordance with the opinion of the Management Committee for Milk and Milk Products,

HAS ADOPTED THIS REGULATION:

Article 1

For the 67th invitation to tender issued under Regulation (EC) No 2771/1999, for which tenders had to be submitted not later than 25 February 2003, the maximum buying-in price is fixed at 295,38 EUR/100 kg.

Article 2

This Regulation shall enter into force on 1 March 2003.

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

Done at Brussels, 28 February 2003.

For the Commission
Franz FISCHLER
Member of the Commission

⁽¹⁾ OJ L 160, 26.6.1999, p. 48.

⁽²⁾ OJ L 79, 22.3.2002, p. 15.

⁽³⁾ OJ L 333, 24.12.1999, p. 11.

⁽⁴⁾ OJ L 214, 8.8.2001, p. 20.

COMMISSION REGULATION (EC) No 377/2003
of 28 February 2003

fixing the maximum aid for concentrated butter for the 286th special invitation to tender opened under the standing invitation to tender provided for in Regulation (EEC) No 429/90

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Council Regulation (EC) No 1255/1999 of 17 May 1999 on the common organisation of the market in milk and milk products ⁽¹⁾, as last amended by Commission Regulation (EC) No 509/2002 ⁽²⁾, and in particular Article 10 thereof,

Whereas:

- (1) In accordance with Commission Regulation (EEC) No 429/90 of 20 February 1990 on the granting by invitation to tender of an aid for concentrated butter intended for direct consumption in the Community ⁽³⁾, as last amended by Regulation (EC) No 124/1999 ⁽⁴⁾, the intervention agencies are opening a standing invitation to tender for the granting of aid for concentrated butter; Article 6 of that Regulation provides that in the light of the tenders received in response to each special invitation to tender, a maximum amount of aid is to be fixed for concentrated butter with a minimum fat content of 96 % or a decision is to be taken to make no award; the end-use security must be fixed accordingly.

- (2) In the light of the tenders received, the maximum aid should be fixed at the level specified below and the end-use security determined accordingly.

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

HAS ADOPTED THIS REGULATION:

Article 1

For the 286th special invitation to tender under the standing invitation to tender opened by Regulation (EEC) No 429/90, the maximum aid and the amount of the end-use security shall be as follows:

- | | |
|---------------------|-----------------|
| — maximum aid: | EUR 105/100 kg, |
| — end-use security: | EUR 116/100 kg. |

Article 2

This Regulation shall enter into force on 1 March 2003.

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

Done at Brussels, 28 February 2003.

For the Commission

Franz FISCHLER

Member of the Commission

⁽¹⁾ OJ L 160, 26.6.1999, p. 48.

⁽²⁾ OJ L 79, 22.3.2002, p. 15.

⁽³⁾ OJ L 45, 21.2.1990, p. 8.

⁽⁴⁾ OJ L 16, 21.1.1999, p. 19.

COMMISSION REGULATION (EC) No 378/2003
of 28 February 2003
suspending the buying-in of butter in certain Member States

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

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

Having regard to Commission Regulation (EC) No 2771/1999 of 16 December 1999 laying down detailed rules for the application of Council Regulation (EC) No 1255/1999 as regards intervention on the market in butter and cream ⁽³⁾, as last amended by Regulation (EC) No 1614/2001 ⁽⁴⁾, and in particular Article 2 thereof,

Whereas:

- (1) Article 2 of Regulation (EC) No 2771/1999 lays down that buying-in by invitation to tender is to be opened or suspended by the Commission in a Member State, as appropriate, once it is observed that, for two weeks in succession, the market price in that Member State is below or equal to or above 92 % of the intervention price.

- (2) Commission Regulation (EC) No 239/2003 suspending the buying-in of butter in certain Member States ⁽⁵⁾ establishes the most recent list of Member States in which intervention is suspended. This list must be adjusted as a result of the market prices communicated by Sweden under Article 8 of Regulation (EC) No 2771/1999. In the interests of clarity, the list in question should be replaced and Regulation (EC) No 239/2003 should be repealed,

HAS ADOPTED THIS REGULATION:

Article 1

Buying-in of butter by invitation to tender as provided for in Article 6(1) of Regulation (EC) No 1255/1999 is hereby suspended in Belgium, Denmark, Greece, the Netherlands, Austria, Luxembourg, Finland and Sweden.

Article 2

Regulation (EC) No 239/2003 is hereby repealed.

Article 3

This Regulation shall enter into force on 1 March 2003.

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

Done at Brussels, 28 February 2003.

For the Commission

Franz FISCHLER

Member of the Commission

⁽¹⁾ OJ L 160, 26.6.1999, p. 48.

⁽²⁾ OJ L 79, 22.3.2002, p. 15.

⁽³⁾ OJ L 333, 24.12.1999, p. 11.

⁽⁴⁾ OJ L 214, 8.8.2001, p. 20.

⁽⁵⁾ OJ L 33, 8.2.2003, p. 23.

COMMISSION REGULATION (EC) No 379/2003
of 28 February 2003
altering the export refunds on white sugar and raw sugar exported in the natural state

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

HAS ADOPTED THIS REGULATION:

Having regard to the Treaty establishing the European Community,

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

Whereas:

- (1) The refunds on white sugar and raw sugar exported in the natural state were fixed by Commission Regulation (EC) No 368/2003 ⁽³⁾.
- (2) It follows from applying the detailed rules contained in Regulation (EC) No 368/2003 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,

Article 1

The export refunds on the products listed in Article 1(1)(a) of Regulation (EC) No 1260/2001, undenatured and exported in the natural state, as fixed in the Annex to Regulation (EC) No 368/2003 are hereby altered to the amounts shown in the Annex hereto.

Article 2

This Regulation shall enter into force on 1 March 2003.

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

Done at Brussels, 28 February 2003.

For the Commission
Franz FISCHLER
Member of the Commission

⁽¹⁾ OJ L 178, 30.6.2001, p. 1.

⁽²⁾ OJ L 104, 20.4.2002, p. 26.

⁽³⁾ OJ L 53, 28.2.2003, p. 30.

ANNEX

to the Commission Regulation of 28 February 2003 altering the export refunds on white sugar and raw sugar exported in its unaltered state

| Product code | Destination | Unit of measurement | Amount of refund |
|-----------------|-------------|--|----------------------|
| 1701 11 90 9100 | A00 | EUR/100 kg | 40,25 ⁽¹⁾ |
| 1701 11 90 9910 | A00 | EUR/100 kg | 40,25 ⁽¹⁾ |
| 1701 12 90 9100 | A00 | EUR/100 kg | 40,25 ⁽¹⁾ |
| 1701 12 90 9910 | A00 | EUR/100 kg | 40,25 ⁽¹⁾ |
| 1701 91 00 9000 | A00 | EUR/1 % of sucrose × net 100 kg of product | 0,4375 |
| 1701 99 10 9100 | A00 | EUR/100 kg | 43,75 |
| 1701 99 10 9910 | A00 | EUR/100 kg | 43,75 |
| 1701 99 10 9950 | A00 | EUR/100 kg | 43,75 |
| 1701 99 90 9100 | A00 | EUR/1 % of sucrose × net 100 kg of product | 0,4375 |

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

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

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

COMMISSION REGULATION (EC) No 380/2003
of 28 February 2003

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

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

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

Whereas:

- (1) Article 27 of Regulation (EC) No 1260/2001 provides that the difference between quotations or prices on the world market for the products listed in Article 1(1)(d) of that Regulation and prices for those products within the Community may be covered by an export refund.
- (2) Article 3 of Commission Regulation (EC) No 2135/95 of 7 September 1995 laying down detailed rules of application for the grant of export refunds in the sugar sector ⁽³⁾, provides that the export refund on 100 kilograms of the products listed in Article 1(1)(d) of Regulation (EC) No 1260/2001 is equal to the basic amount multiplied by the sucrose content, including, where appropriate, other sugars expressed as sucrose; the sucrose content of the product in question is determined in accordance with Article 3 of Commission Regulation (EC) No 2135/95.
- (3) Article 30(3) of Regulation (EC) No 1260/2001 provides that the basic amount of the refund on sorbose exported in the natural state must be equal to the basic amount of the refund less one hundredth of the production refund applicable, pursuant to Commission Regulation (EC) No 1265/2001 of 27 June 2001 laying down detailed rules for the application of Council Regulation (EC) No 1260/2001 as regards granting the production refund on certain sugar products used in the chemical industry ⁽⁴⁾ to the products listed in the Annex to the last mentioned Regulation;
- (4) According to the terms of Article 30(1) of Regulation (EC) No 1260/2001, the basic amount of the refund on the other products listed in Article 1(1)(d) of the said

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

- (5) According to the terms of Article 30(4) of Regulation (EC) No 1260/2001, the application of the basic amount may be limited to some of the products listed in Article 1(1)(d) of the said Regulation.
- (6) Article 27 of Regulation (EC) No 1260/2001 makes provision for setting refunds for export in the natural state of products referred to in Article 1(1)(f) and (g) and (h) of that Regulation; the refund must be fixed per 100 kilograms of dry matter, taking account of the export refund for products falling within CN code 1702 30 91 and for products referred to in Article 1(1)(d) of Regulation (EC) No 1260/2001 and of the economic aspects of the intended exports; in the case of the products referred to in the said Article (1)(f) and (g), the refund is to be granted only for products complying with the conditions in Article 5 of Regulation (EC) No 2135/95; for the products referred to in Article 1(1)(h), the refund shall be granted only for products complying with the conditions in Article 6 of Regulation (EC) No 2135/95.
- (7) The refunds referred to above must be fixed every month; they may be altered in the intervening period.
- (8) Application of these quotas results in fixing refunds for the products in question at the levels given in the Annex to this Regulation.
- (9) The measures provided for in this Regulation are in accordance with the opinion of the Management Committee for Sugar,

⁽¹⁾ OJ L 178, 30.6.2001, p. 1.

⁽²⁾ OJ L 104, 20.4.2002, p. 26.

⁽³⁾ OJ L 214, 8.9.1995, p. 16.

⁽⁴⁾ OJ L 178, 30.6.2001, p. 63.

HAS ADOPTED THIS REGULATION:

Article 1

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

Article 2

This Regulation shall enter into force on 1 March 2003.

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

Done at Brussels, 28 February 2003.

For the Commission
Franz FISCHLER
Member of the Commission

ANNEX

to the Commission Regulation of 28 February 2003 fixing the export refunds on syrups and certain other sugar products exported in the natural state

| Product code | Destination | Unit of measurement | Amount of refund |
|-----------------|-------------|---|--------------------------------------|
| 1702 40 10 9100 | A00 | EUR/100 kg dry matter | 43,75 ⁽²⁾ |
| 1702 60 10 9000 | A00 | EUR/100 kg dry matter | 43,75 ⁽²⁾ |
| 1702 60 80 9100 | A00 | EUR/100 kg dry matter | 83,13 ⁽⁴⁾ |
| 1702 60 95 9000 | A00 | EUR/1 % sucrose × net 100 kg of product | 0,4375 ⁽¹⁾ |
| 1702 90 30 9000 | A00 | EUR/100 kg dry matter | 43,75 ⁽²⁾ |
| 1702 90 60 9000 | A00 | EUR/1 % sucrose × net 100 kg of product | 0,4375 ⁽¹⁾ |
| 1702 90 71 9000 | A00 | EUR/1 % sucrose × net 100 kg of product | 0,4375 ⁽¹⁾ |
| 1702 90 99 9900 | A00 | EUR/1 % sucrose × net 100 kg of product | 0,4375 ⁽¹⁾ ⁽³⁾ |
| 2106 90 30 9000 | A00 | EUR/100 kg dry matter | 43,75 ⁽²⁾ |
| 2106 90 59 9000 | A00 | EUR/1 % sucrose × net 100 kg of product | 0,4375 ⁽¹⁾ |

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

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

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

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

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

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

COMMISSION REGULATION (EC) No 381/2003
of 28 February 2003

fixing the production refund on white sugar used in the chemical industry

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

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

Whereas:

- (1) Pursuant to Article 7(3) of Regulation (EC) No 1260/2001, production refunds may be granted on the products listed in Article 1(1)(a) and (f) of that Regulation, on syrups listed in Article 1(1)(d) thereof and on chemically pure fructose covered by CN code 1702 50 00 as an intermediate product, that are in one of the situations referred to in Article 23(2) of the Treaty and are used in the manufacture of certain products of the chemical industry.
- (2) Commission Regulation (EC) No 1265/2001 of 27 June 2001 laying down detailed rules for the application of Council Regulation (EC) No 1260/2001 as regards granting the production refund on certain sugar products used in the chemical industry ⁽³⁾ lays down the rules for determining the production refunds and specifies the chemical products the basic products used in the manufacture of which attract a production refund. Articles 5, 6 and 7 of Regulation (EC) No 1265/2001 provide that the production refund applying to raw sugar, sucrose syrups and unprocessed isoglucose is to be derived from the refund fixed for white sugar in accordance with a method of calculation specific to each basic product.
- (3) Article 9 of Regulation (EC) No 1265/2001 provides that the production refund on white sugar is to be fixed at monthly intervals commencing on the first day of

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

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

HAS ADOPTED THIS REGULATION:

Article 1

The production refund on white sugar referred to in Article 4 of Regulation (EC) No 1265/2001 shall be equal to 39,525 EUR/100 kg net.

Article 2

This Regulation shall enter into force on 1 March 2003.

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

Done at Brussels, 28 February 2003.

For the Commission

Franz FISCHLER

Member of the Commission

⁽¹⁾ OJ L 178, 30.6.2001, p. 1.

⁽²⁾ OJ L 104, 20.4.2002, p. 26.

⁽³⁾ OJ L 178, 30.6.2001, p. 63.

**COMMISSION REGULATION (EC) No 382/2003
of 28 February 2003**

**derogating from Regulations (EC) No 1371/95 and (EC) No 1372/95 in 2003 as regards the dates
for issuing export licences in the egg and poultrymeat sectors**

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Council Regulation (EEC) No 2771/75 of 29 October 1975 on the common organisation of the market in eggs ⁽¹⁾, as last amended by Commission Regulation (EC) No 493/2002 ⁽²⁾, and in particular Article 3(2), Article 8(13) and Article 15 thereof,

Having regard to Council Regulation (EEC) No 2777/75 of 29 October 1975 on the common organisation of the market in poultrymeat ⁽³⁾, as last amended by Commission Regulation (EC) No 493/2002, and in particular Article 3(2), Article 8(12) and Article 15 thereof,

Whereas:

- (1) Article 3(3) of Commission Regulation (EC) No 1371/95 ⁽⁴⁾, as last amended by Regulation (EC) No 2260/2001 ⁽⁵⁾, and of Commission Regulation (EC) No 1372/95 ⁽⁶⁾, as last amended by Regulation (EC) No 1383/2001 ⁽⁷⁾, laying down detailed rules for implementing the system of export licences in the egg and poultrymeat sectors respectively, provides that export licences are to be issued on the Wednesday following the week in which the licence applications are lodged provided that no particular measures have been taken by the Commission in the meantime.

- (2) Because of public holidays in 2003 and the irregular publication of the *Official Journal of the European Union* during those holidays, the period for consideration will be too brief to guarantee proper administration of the market. It should therefore be extended.

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

HAS ADOPTED THIS REGULATION:

Article 1

Notwithstanding Article 3(3) of Regulations (EC) No 1371/95 and (EC) No 1372/95, licences shall be issued on the dates given in the table below provided that no particular measures, as provided for in paragraph 4 of that Article, have been taken prior to those dates:

| Period for lodging licence applications | Date of issue |
|---|---------------|
| From 14 to 18 April 2003 | 24 April 2003 |
| From 2 to 6 June 2003 | 12 June 2003 |
| From 14 to 18 July 2003 | 24 July 2003 |

Article 2

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

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

Done at Brussels, 28 February 2003.

For the Commission

Franz FISCHLER

Member of the Commission

⁽¹⁾ OJ L 282, 1.11.1975, p. 49.

⁽²⁾ OJ L 77, 20.3.2002, p. 7.

⁽³⁾ OJ L 282, 1.11.1975, p. 77.

⁽⁴⁾ OJ L 133, 17.6.1995, p. 16.

⁽⁵⁾ OJ L 305, 22.11.2001, p. 11.

⁽⁶⁾ OJ L 133, 17.6.1995, p. 26.

⁽⁷⁾ OJ L 186, 7.7.2001, p. 26.

**COMMISSION REGULATION (EC) No 383/2003
of 28 February 2003**

**derogating for 2003 from Regulation (EC) No 1370/95 regarding the date of issue of export
licences in the pigmeat sector**

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Council Regulation (EEC) No 2759/75 of 29 October 1975 on the common organisation of the market in pigmeat ⁽¹⁾, as last amended by Regulation (EC) No 1365/2000 ⁽²⁾, and in particular Article 8(2), Article 13(12) and Article 22 thereof,

Whereas:

- (1) Article 3(3) of Commission Regulation (EC) No 1370/95 laying down detailed rules for implementing the system of export licences in the pigmeat sector ⁽³⁾, as last amended by Regulation (EC) No 505/2002 ⁽⁴⁾, provides that export licences are to be issued on the Wednesday following the week during which the licence applications have been lodged, provided that no special measures have since been taken by the Commission.
- (2) In view of the public holidays in 2003 and the irregular publication of the *Official Journal of the European Union* during those holidays, the period for reflection will be too brief to guarantee proper administration of the market and should be extended.

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

HAS ADOPTED THIS REGULATION:

Article 1

As an exception to Article 3(3) of Regulation (EC) No 1370/95, export licences shall be issued on the dates set out in the table below, provided that none of the special measures referred to in paragraph 4 of that Article are taken before the dates concerned.

| Period for submission of licence applications | Dates of issue |
|---|----------------|
| From 14 to 18 April 2003 | 24 April 2003 |
| From 2 to 6 June 2003 | 12 June 2003 |
| From 14 to 18 July 2003 | 24 July 2003 |

Article 2

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

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

Done at Brussels, 28 February 2003.

For the Commission
Franz FISCHLER
Member of the Commission

⁽¹⁾ OJ L 282, 1.11.1975, p. 1.

⁽²⁾ OJ L 156, 29.6.2000, p. 5.

⁽³⁾ OJ L 133, 17.6.1995, p. 15.

⁽⁴⁾ OJ L 79, 22.3.2002, p. 9.

COMMISSION REGULATION (EC) No 384/2003
of 26 February 2003

amending Council Regulation (EC) No 32/2000 to take account of Commission Regulation (EC) No 1832/2002 amending Annex I to Council Regulation (EEC) No 2658/87 on the tariff and statistical nomenclature and on the Common Customs Tariff

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Council Regulation (EC) No 32/2000 of 17 December 1999 opening and providing for the administration of Community tariff quotas bound in GATT and certain other Community tariff quotas and establishing detailed rules for adjusting the quotas and repealing Council Regulation (EC) No 1808/95 ⁽¹⁾, as last amended by Commission Regulation (EC) No 811/2002 ⁽²⁾, and in particular Article 9(1)(a) thereof,

Whereas:

- (1) Commission Regulation (EC) No 1832/2002 of 1 August 2002, amending Annex I to Council Regulation (EEC) No 2658/87 on the tariff and statistical nomenclature and on the Common Customs Tariff ⁽³⁾, introduces an exemption from duties from 1 January 2003 for rum and tafia. The tariff quotas opened for these products in Annex I to Regulation (EC) No 32/2000 have therefore become redundant and must be closed from 31 December 2002. That Annex must therefore be amended.

- (2) For reasons of clarity, Annexes I to IV to Regulation (EC) No 32/2000 should be replaced.
- (3) This Regulation must apply from the date of entry into force of Regulation (EC) No 1823/2002.
- (4) Whereas the measures provided for in this Regulation are in accordance with the opinion of the Customs Code Committee,

HAS ADOPTED THIS REGULATION:

Article 1

Annexes I to IV to Regulation (EC) No 32/2000 are replaced by the text in the Annex to this Regulation.

Article 2

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

It shall apply from 1 January 2003.

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

Done at Brussels, 26 February 2003.

For the Commission
Frederik BOLKESTEIN
Member of the Commission

⁽¹⁾ OJ L 5, 8.1.2000, p. 1.

⁽²⁾ OJ L 132, 17.5.2002, p. 13.

⁽³⁾ OJ L 290, 28.10.2002, p. 1.

ANNEX I

LIST OF COMMUNITY TARIFF QUOTAS BOUND IN GATT

Notwithstanding the rules for the interpretation of the Combined Nomenclature, the wording for the description of the products is to be considered as having no more than an indicative value, the preferential scheme being determined, within the context of this Annex, by the coverage of the CN codes. Where ex CN codes are indicated, the preferential scheme is to be determined by application of the CN code and corresponding description taken together.

| Serial number | CN code | Taric subdivision | Description of goods | Quota period | Quota volume | Rate of duty (%) |
|---------------|--|--|--|---|---------------------------------------|------------------|
| 09.0006 | 0302 40 0303 50 0304 10 97 ex 0304 10 98 0304 90 22 | 12 | Herring, subject to compliance with the reference prices | From 1.1. 2003 to 14.2.2003 and from 16.6. to 14.2. | (¹) 34 000 tonnes | 0 |
| 09.0007 | ex 0305 51 10 ex 0305 51 10 ex 0305 51 90 ex 0305 51 90 0305 59 11 0305 59 19 ex 0305 62 00 ex 0305 62 00 ex 0305 62 00 ex 0305 62 00 0305 69 10 | 10 20 10 20 20 25 50 60 | Cod of the species <i>Gadus morhua</i> and <i>Gadus ogac</i> and fish of the species <i>Boreogadus saida</i> : — dried, whether or not salted but not smoked — salted but not dried or smoked and in brine | From 1.1. to 31.12. | 25 000 tonnes | 0 |
| 09.0009 | ex 0302 69 68 ex 0303 78 19 | 10 10 | Silver hake (<i>Merluccius bilinearis</i>), fresh, chilled or frozen | From 1.1. to 31.12. | 2 000 tonnes | 8 |
| 09.0013 | ex 4412 19 00 ex 4412 92 99 ex 4412 99 80 | 10 10 10 | Plywood of coniferous species, without the addition of other substances: — of a thickness greater than 8,5 mm, the faces of which are not further prepared than the peeling process — or sanded, and of a thickness greater than 18,5 mm | From 1.1. to 31.12. | 650 000 m ³ | 0 |
| 09.0019 | 7202 21 7202 29 | | Ferro-silicon | From 1.1. to 31.12. | 12 600 tonnes | 0 |
| 09.0021 | 7202 30 00 | | Ferro-silicon-manganese | From 1.1. to 31.12. | 18 550 tonnes | 0 |
| 09.0023 | ex 7202 49 10 ex 7202 49 50 | 11 11 | Ferro-chromium containing not more than 0,10 % by weight of carbon and more than 30 % but not more than 90 % of chromium (super-refined ferrochromium) | From 1.1. to 31.12. | 2 950 tonnes | 0 |
| 09.0045 | ex 0303 29 00 | 20 | Fish, frozen, of the genus <i>Coregonus</i> | From 1.1. to 31.12. | 1 000 tonnes | 5,5 |

| Serial number | CN code | Taric subdivision | Description of goods | Quota period | Quota volume | Rate of duty (%) |
|---------------|---|-------------------|--|---|--------------------------------|------------------|
| 09.0046 | ex 1605 40 00 | 30 | Freshwater crayfish cooked with dill, frozen | From 1.1. to 31.12. | 3 000 tonnes | 0 |
| 09.0047 | ex 1605 20 10 ex 1605 20 91 ex 1605 20 99 | 40 40 40 | Shrimps and prawns of the species <i>Pandalus borealis</i> , shelled, boiled and frozen, but not otherwise prepared | From 1.1. to 31.12. | 500 tonnes | |
| 09.0048 | ex 0304 20 95 | 20 | Fillets of fish, frozen, of the species <i>Allocyttus</i> spp. and <i>Pseudocyttus maculatus</i> | From 1.1. to 31.12. | 200 tonnes | 0 |
| 09.0050 | ex 5306 10 10 ex 5306 10 30 | 10 10 | Unbleached flax yarn (other than tow yarn), not put up for retail sail, measuring 333,3 decitex or more (not exceeding 30 metric numbers), intended for the manufacture of multiple or cabled yarn for the footwear industry or for whipping cables ⁽²⁾ | From 1.1. to 31.12. | 400 tonnes | 1,8 |
| 09.0051 | 7018 10 90 | | Similar glass smallwares other than glass beads, imitation pearls and imitation precious or semi-precious stones | From 1.1. to 31.12. | 52 tonnes | 0 |
| 09.0091 | 1702 50 00 | | Chemically pure fructose | From 1.1.2003 to 30.6.2003 and from 1.1. to 30.6 | ⁽³⁾ 4 504 tonnes | ⁽⁴⁾ |

⁽¹⁾ Remaining volume of quota period 2002/2003 in accordance with Regulation (EC) No 32/2000.

⁽²⁾ Control of the usage for this end use shall be carried out pursuant to the relevant Community provisions.

⁽³⁾ Remaining volume of quota period 2002/2003 in accordance with Regulation (EC) No 32/2000.

⁽⁴⁾ Suspension of specific duty as from 1 July 1995; the *ad valorem* duty to be taken into account is the duty in force appearing in Council Regulation (EEC) No 2658/87 of 23 July 1987 on the tariff and statistical nomenclature and on the Common Customs Tariff (OJ L 256, 7.9.1987), as amended.

ANNEX II

COMMUNITY TARIFF QUOTA FOR THE COMMUNITY OUTWARD PROCESSING OF CERTAIN TEXTILE PRODUCTS ⁽¹⁾

Notwithstanding the rules for the interpretation of the Combined Nomenclature, the wording for the description of the products is to be considered as having no more than an indicative value, the preferential scheme being determined, within the context of this Annex, by the coverage of the CN codes. Where ex CN codes are indicated, the preferential scheme is to be determined by application of the CN code and corresponding description taken together.

| Serial number | CN code | Description of goods | Quota period | Quota volume (in EUR) | Rate of duty (%) |
|---------------|---------|---|---|--|---------------------|
| 09.2501 | | <p>Goods resulting from processing work as provided for in the arrangement with Switzerland ⁽²⁾ on processing traffic in textiles as follows:</p> <p>(a) processing work on woven fabrics falling within Chapters 50 to 55 and CN code 5809 00 00</p> <p>(b) twisting or throwing, cabling and texturising (whether or not combined with other processing work) of yarns falling within Chapters 50 to 55 and CN code 5605 00 00</p> <p>(c) processing work on products falling within the following CN codes:</p> <p>Gimped yarn, and strip and the like of heading No 5404 or 5405, gimped (other than those of heading No 5605 and gimped horsehair yarn); chenille yarn (including flock chenille yarn); loop wale-yarn:</p> <p>– Other:</p> <p>5606 00 91 – – Gimped yarn</p> <p>5606 00 99 – – Other</p> <p>Woven pile fabrics and chenille fabrics, other than fabrics of heading No 5802 or 5806:</p> <p>5801 10 00 – Of wool or fine animal hair</p> <p>– Of cotton:</p> <p>5801 22 00 – – Cut corduroy</p> <p>5801 23 00 – – Other weft pile fabrics</p> <p>5801 24 00 – – Warp pile fabrics, épinglé (uncut)</p> <p>5801 25 00 – – Warp pile fabrics, cut</p> <p>5801 26 00 – – Chenille fabrics</p> <p>– Of man-made fibres:</p> <p>5801 32 00 – – Cut corduroy</p> <p>5801 33 00 – – Other weft pile fabrics</p> <p>5801 34 00 – – Warp pile fabrics, épinglé (uncut)</p> <p>5801 35 00 – – Warp pile fabrics, cut</p> <p>5801 36 00 – – Chenille fabrics</p> <p>5801 90 – Of other textile materials</p> | From 1.1.2003 to 31.8. 2003 and from 1.9. to 31.8 | ⁽³⁾ 1 870 000 of value added | 0 |

| Serial number | CN code | Description of goods | Quota period | Quota volume (in EUR) | Rate of duty (%) |
|---------------------|-----------------|---|--------------|---------------------------|---------------------|
| 09.2501 (cont'd) | 5802 | Terry towelling and similar woven terry fabrics, other than narrow fabrics of heading No 5806; tufted textile fabrics, other than products of heading No 5703 | | | |
| | 5804 | Tulles and other net fabrics, not including woven, knitted or crocheted fabrics; lace in the piece, in strips or in motifs, other than fabrics of heading No 6002 | | | |
| | 5806 | Narrow woven fabrics, other than goods of heading No 5807; narrow fabrics consisting of warp without weft assembled by means of an adhesive (bolducs) | | | |
| | 5808 | Braids in the piece; ornamental trimmings in the piece, without embroidery other than knitted or crocheted; tassels, pompoms and similar articles | | | |
| | 6001 | Pile fabrics, including 'long pile' fabrics and terry fabrics, knitted or crocheted | | | |
| | 6002 to 6006 | Other knitted or crocheted fabrics | | | |

(¹) For the purposes of applying this tariff quota, the following definitions shall apply:

(a) 'processing work' shall mean:

- for the purposes of paragraphs (a) and (c) of the third column: bleaching, dyeing, printing, flocking, impregnating, dressing and other work which changes the appearance or quality of the goods without however changing their nature,
- for the purposes of paragraph (b) of the third column: twisting or throwing, cabling and texturing, whether or not combined with reeling, dyeing or other work which changes the appearance, quality or finish of the goods, without however changing their nature;

(b) 'value added' shall mean:

the difference between the customs value, as defined in Community legislation on the subject, at the time of reimportation and the customs value which would be established if the products were reimported in the state in which they were exported.

(²) Council Decision 69/304/EEC of 28 July 1969 (OJ L 240 of 24.9.1969, p. 5).

(³) Remaining volume of quota period 2002/2003 in accordance with Regulation (EC) No 32/2000.

ANNEX III

LIST OF COMMUNITY TARIFF QUOTAS FOR JUTE AND COCONUT-FIBRE PRODUCTS

Notwithstanding the rules for the interpretation of the Combined Nomenclature, the wording for the description of the products is to be considered as having no more than an indicative value, the preferential scheme being determined, within the context of this Annex, by the coverage of the CN codes. Where ex CN codes are indicated, the preferential scheme is to be determined by application of the CN code and corresponding description taken together.

| Serial number | CN code | TARIC subdivision | Description of goods | Quota period | Quota volume | Rate of duty (%) |
|---------------|---------------|-------------------|--|---|---------------|------------------|
| 09.0107 | 5310 | | Woven fabrics of jute or of other textile bast fibres of heading No 5303 | From 1.1. to 31.12.2003 and from 1.1. to 31.12.2004 | 68 000 tonnes | 0 |
| | 5607 10 00 | | Twine, cordage, ropes and cables, whether or not plaited or braided and whether or not impregnated, coated, covered or sheathed with rubber or plastics: – Of jute or other textile bast fibres of heading No 5303 | | | |
| | ex 5702 39 90 | 10 | Carpets and other textile floor coverings, woven, not tufted or flopped, whether or not made up, including 'Kelem', 'Schumacks', 'Karamanie' and similar hand-woven rugs: – Floor coverings, of pile construction, not made up, of jute or of other textile bast fabrics of heading No 5303 | | | |
| | ex 5702 49 90 | 10 | – Floor coverings, of pile construction, made up, of jute or of other textile bast fabrics of heading No 5303 | | | |
| | ex 5702 59 00 | 10 | – Floor coverings, not of pile construction, not made up, of jute or of other textile bast fabrics of heading No 5303 | | | |
| | ex 5702 99 00 | 10 | – Floor coverings, not of pile construction, made up, of jute or of other textile bast fabrics of heading No 5303 | | | |
| | ex 5703 90 00 | 10 | Carpets and other textile floor coverings, tufted, whether or not made up: – Of jute or of other textile bast fibres of heading No 5303 | | | |
| | ex 5806 39 00 | 10 | Narrow woven fabrics, other than goods of heading No 5807; narrow fabrics consisting of warp without weft assembled by means of an adhesive (bolducs): – Other woven fabrics, of jute or of other textile bast fibres of heading No 5303 | | | |
| | ex 5806 40 00 | 10 | – Fabrics consisting of warp without weft assembled by means of an adhesive (bolducs), of jute or of other textile bast fabrics of heading No 5303 | | | |
| | 5905 00 50 | | Textile wall coverings: – Other: | | | |
| | ex 5905 00 90 | 10 | – – Of jute – – Of other textile bast fibres of heading No 5303 | | | |

| Serial number | CN code | TARIC sub-division | Description of goods | Quota period | Quota volume | Rate of duty (%) |
|---------------|------------|--------------------|---|---|---------------|------------------|
| 09.0109 | 5702 20 00 | | Floor coverings of coconut fibres (coir) | From 1.1. to 31.12.2003 and from 1.1. to 31.12.2004 | 9 000 tonnes | 0 |
| 09.0111 | 6305 10 90 | | Sacks and bags of a kind used for the packing of goods, of jute or of other textile bast fibres of heading No 5303, other than used | From 1.1. to 31.12.2003 and from 1.1. to 31.12.2004 | 98 000 tonnes | 0 |

ANNEX IV

LIST OF COMMUNITY TARIFF QUOTAS FOR CERTAIN HAND-MADE PRODUCTS ⁽¹⁾

Notwithstanding the rules for the interpretation of the Combined Nomenclature, the wording for the description of the products is to be considered as having no more than an indicative value, the preferential scheme being determined, within the context of this Annex, by the coverage of the CN codes. Where ex CN codes are indicated, the preferential scheme is to be determined by application of the CN code and corresponding description taken together.

Access to these tariff quotas is restricted to the following countries:

Argentina, Bangladesh, Bolivia, Brazil, Chile, Ecuador, El Salvador, Guatemala, Honduras, India, Indonesia, Iran, Laos, Malaysia, Mexico, Pakistan, Panama, Paraguay, Peru, Philippines, Sri Lanka, Thailand, Uruguay ⁽²⁾

| Serial number | CN code ⁽³⁾ | Description of goods | Quota period | Quota volume (in EUR) | Rate of duty (%) |
|---------------|------------------------|---|---------------------|-----------------------|------------------|
| 09.0104 | ex 4201 00 00 | Saddlery and harness for any animal (including traces, leads, knee pads, muzzles, saddle cloths, saddle bags, dog coats and the like), of any material: | From 1.1. to 31.12. | 1 800 000 | 0 |
| | | – Riding saddles, of leather | | | |
| | | – Trunks, suit-cases, vanity cases, executive-cases, brief-cases, school satchels and similar containers: | | | |
| | 4202 11 | – – With outer surface of leather, of composition leather or of patent leather | | | |
| | | – – With outer surface of plastics or of textile materials: | | | |
| | 4202 12 91 | – – – Of materials other than plastic sheeting or moulded plastic material, including vulcanised fibre | | | |
| | 4202 12 99 | | | | |
| | 4202 19 90 | – – Of other materials than of aluminium | | | |
| | | – Handbags, whether or not with shoulder strap, including those without handle: | | | |
| | 4202 21 00 | – – With outer surface of leather, of composition leather or of patent leather | | | |
| | 4202 22 90 | – – With outer surface of textile materials | | | |
| | | – Articles of a kind normally carried in the pocket or in the handbag: | | | |
| | 4202 31 00 | – – With outer surface of leather, of composition leather or of patent leather | | | |
| | 4202 32 90 | – – With outer surface of textile materials | | | |
| | 4202 39 00 | – – Other | | | |
| | | – Other: | | | |
| | 4202 91 | – – With outer surface of leather, of composition leather or of patent leather | | | |
| | 4202 92 91 | – – With outer surface of textile materials | | | |
| | 4202 92 98 | | | | |
| | ex 4202 99 00 | – – Musical instrument cases | | | |
| | 4203 30 00 | Belts and bandoliers, of leather or of composition leather | | | |
| | 4203 40 00 | Other clothing accessories, of leather or of composition leather | | | |
| | | Wood marquetry and inlaid wood; caskets and cases for jewellery or cutlery, and similar articles, of wood; statuettes and other ornaments, of wood; wooden articles of furniture not falling in Chapter 94: | | | |

| Serial number | CN code (*) | Description of goods | Quota period | Quota volume (in EUR) | Rate of duty (%) |
|---------------|-------------|--|--------------|-----------------------|------------------|
| 09.0104 | 4420 10 11 | - Statuettes and other ornaments, of tropical wood | | | |
| (cont'd) | 4420 90 91 | - Other, other than wood marquetry and inlaid wood, of tropical wood Basketwork, wickerwork and other articles, made directly to shape from plaiting materials or made up from goods of heading No 4601; articles of loofah: - Of vegetable materials: -- Other than straw envelopes for bottles: | | | |
| | 4602 10 91 | --- Basketwork, wickerwork and other articles, made directly to shape from plaiting materials | | | |
| | 4602 10 99 | --- Other Toilet paper and similar paper, cellulose wadding or webs of cellulose fibres, of a kind used for household or sanitary purposes, in rolls of a width not exceeding 36 cm, or cut to size or shape; handkerchiefs, cleansing tissues, towels, tablecloths, serviettes, napkins for babies, tampons, bed sheets and similar household, sanitary or hospital articles, articles of apparel and clothing accessories, of paper pulp, paper, cellulose wadding or webs of cellulose fibres: | | | |
| | 4818 20 | - Handkerchiefs, cleansing or facial tissues and towels | | | |
| | 4818 30 00 | - Tablecloths and serviettes | | | |
| | 4818 50 00 | - Articles of apparel and clothing accessories - Other: | | | |
| | 4818 90 10 | -- Articles of a kind used for surgical, medical or hygienic purposes, not put up for retail sale | | | |
| | 4818 90 90 | -- Other | | | |
| | 4819 30 00 | Sacks and bags, having a base of a width of 40 cm or more Other paper, paperboard, cellulose wadding and webs of cellulose fibres, cut to shape; other articles of paper pulp, paper, paperboard, cellulose wadding or webs of cellulose fibres: | | | |
| | 4823 60 | - Trays, dishes, plates, cups and the like, of paper or paperboard | | | |
| | 4823 70 | - Moulded or pressed articles of paper pulp: | | | |
| | 4823 70 90 | -- Other than moulded trays and boxes for packing eggs | | | |
| | 4823 90 90 | -- Other | | | |
| | 6403 30 00 | Footwear with outer soles of rubber, plastics, leather or composition leather and uppers of leather: - Footwear made on a base or platform of wood, not having an inner sole or a protective metal toecap Parts of footwear (including uppers whether of not attached to soles other than outer soles); removable in-soles, heel cushions and similar articles; gaiters, leggings and similar articles, and parts thereof: | | | |

| Serial number | CN code (*) | Description of goods | Quota period | Quota volume (in EUR) | Rate of duty (%) |
|---------------------|--|--|--------------|-----------------------|------------------|
| 09.0104 (cont'd) | 6406 10 | - Uppers and parts thereof, other than stiffeners | | | |
| | 6406 20 | - Outer soles and heels, of rubber or plastics | | | |
| | | - Other | | | |
| | 6406 91 00 | -- Of wood | | | |
| | | -- Of materials other than wood: | | | |
| | 6406 99 30 | --- Assemblies of uppers affixed to inner soles or to other sole components, but without outer soles | | | |
| | 6406 99 50 | --- Removable insoles and other removable accessories | | | |
| | 6406 99 60 | --- Outer soles of leather or composition leather | | | |
| | 6406 99 80 | --- Other | | | |
| | ex 6505 90 10 | Woollen berets | | | |
| | 6602 00 00 | Walking-sticks, seat-sticks, whips, riding-crops and the like | | | |
| | ex 6802 91 90 | Marble, travertine and alabaster, carved | | | |
| | ex 6802 92 90 | Other calcareous stone, carved | | | |
| | ex 6802 93 90 | Granite, carved | | | |
| | ex 6802 99 00 | Other stone, carved | | | |
| | | Ceramic tableware, kitchenware, other household articles and toilet articles, other than of porcelain or china: | | | |
| | 6912 00 10 | - Of common pottery | | | |
| | 6913 | Statuettes and other ornamental ceramic articles | | | |
| | 6914 90 10 | Other ceramic articles, of common pottery | | | |
| | | Glassware of a kind used for table, kitchen, toilet, office, indoor decoration or similar purposes (other than that of heading No 7010 or 7018): | | | |
| | 7013 21 11 | - Drinking glasses other than of glass-ceramics, of lead crystal | | | |
| | 7013 21 19 | | | | |
| | 7013 29 51 | - Drinking glasses other than of glass-ceramics, other than of lead crystal, other than of toughened glass | | | |
| | 7013 29 59 | | | | |
| | | - Other glassware of a kind used for table or kitchen purposes: | | | |
| | 7013 31 10 | -- Of lead crystal | | | |
| | 7013 39 91 | -- Of glass other than of toughened glass | | | |
| | 7013 91 10 | -- Other glassware, of lead crystal | | | |
| | ex 7013 99 00 | -- Glassware other than of lead crystal | | | |
| | 7018 10 19 | Glass beads, other than cut and mechanically polished | | | |
| | | Imitation jewellery, of base metal, whether or not plated with precious metal: | | | |
| | 7117 19 91 | - Other than cuff-links and studs, without parts of glass | | | |
| | 7117 19 99 | | | | |
| 7418 | Table, kitchen or other household articles and parts thereof, of copper; pot scourers and scouring or polishing pads, gloves and the like, of copper; sanitary ware and parts thereof, of copper | | | | |
| 7419 | Other articles of copper | | | | |
| | Other articles of aluminium: | | | | |

| Serial number | CN code ⁽³⁾ | Description of goods | Quota period | Quota volume (in EUR) | Rate of duty (%) |
|---------------------|---|--|--------------|--------------------------|---------------------|
| 09.0104 (cont'd) | 7616 99 90 | - Other | | | |
| | ex 8308 90 00 | Beads and spangles, of base metal | | | |
| | 9113 90 10 | Watch straps, watch bands and watch bracelets, and parts thereof, of leather or of composition leather | | | |
| | ex 9113 90 90 | Watch straps, watch bands and watch bracelets, and parts thereof, of fabric | | | |
| | 9403 40 | Wooden furniture of the kind used in the kitchen | | | |
| | 9403 80 00 | Furniture of other materials, including cane, osier, bamboo or similar materials | | | |
| | 9403 90 | Parts of furniture | | | |
| | | Lamps and lighting fittings including searchlights and spotlights and parts thereof, not elsewhere specified or included; illuminated signs, illuminated name-plates and the like, having a permanently fixed light source, and parts thereof not elsewhere specified or included: | | | |
| | | - Chandeliers and other electric ceiling or wall lighting fittings, excluding those of a kind used for lighting public open spaces or thoroughfares: | | | |
| | 9405 10 91 | -- Of materials other than plastics, ceramic or glass | | | |
| | 9405 10 99 | - Electric table, desk, bedside or floor-standing lamps: | | | |
| | | -- Of materials other than plastics, ceramic or glass: | | | |
| | 9405 20 99 | --- Of a kind used for filament lamps | | | |
| | | - Other electric lamps and lighting fittings: | | | |
| | | -- Other than searchlights and spotlights: | | | |
| | | --- Of materials other than plastics: | | | |
| | 9405 40 99 | ---- Other than of a kind used for filament lamps and tubular fluorescent lamps | | | |
| | 9405 50 00 | - Non-electrical lamps and lighting fittings | | | |
| | | - Illuminated signs, illuminated name-plates and the like: | | | |
| | | -- Other: | | | |
| | 9405 60 99 | --- Of materials other than plastics | | | |
| | 9405 99 90 | -- Other parts of lamps and lighting fittings, other than of glass or of plastics | | | |
| | ex 9502 10 | Ornamental dolls dressed so as to reflect the folklore characteristic of the country of origin | | | |
| 9503 30 10 | Other construction sets and constructional toys, of wood | | | | |
| ex 9503 49 10 | Toys representing animals or non-human creatures, other than stuffed, of wood | | | | |
| ex 9503 50 00 | Toy musical instruments and apparatus, of wood | | | | |

| Serial number | CN code (*) | Description of goods | Quota period | Quota volume (in EUR) | Rate of duty (%) |
|---------------------|---|---|---------------------|-----------------------|------------------|
| 09.0104 (cont'd) | 9503 60 10 ex 9503 90 10 ex 9503 90 99 9601 10 00 9602 00 00 | Puzzles, of wood Toy weapons, of wood Other toys, of wood Worked ivory and articles of ivory Worked vegetable or mineral carving material and articles of these materials; moulded or carved articles of wax, of stearin, of natural gums or natural resins or of modelling pastes, and other moulded or carved articles, not elsewhere specified or included; worked, unhardened gelatin (except gelatin of heading No 3503 and articles of unhardened gelatin | | | |
| 09.0106 | ex 5208 51 00 to ex 5208 59 00 ex 5209 51 00 to ex 5209 59 00 ex 5212 15 10 to ex 5212 15 90 ex 5212 25 10 to ex 5212 25 90 ex 5608 90 00 5701 10 10 5701 90 5704 90 00 5705 00 5810 ex 6101 10 10 ex 6102 10 10 ex 6110 12 10 ex 6110 19 10 | Woven fabrics of cotton, containing 85 % or more by weight of cotton, weighing not more than 200 g/m ² : – Hand-dyed or hand-printed by the 'batik' method Woven fabrics of cotton, containing 85 % or more by weight of cotton, weighing more than 200 g/m ² : – Hand-dyed or hand-printed by the 'batik' method Other woven fabrics of cotton: – weighing not more than 200 g/m ² : – – Hand-dyed or hand-printed by the 'batik' method – weighing not more than 200 g/m ² – – hand-dyed or hand-printed by the 'batik' method Hammocks, of cotton Carpets and other textile floor coverings, knotted, whether or not made up: – Of wool or fine animal hair: – – Containing a total of more than 10 % by weight of silk or of waste silk other than noil – Of other textile materials Carpets and other textile floor coverings, of felt, not tufted or flocked, whether or not made up: – Other than tiles having a maximum surface area of 0,3 m ² Other carpets and other textile floor coverings, whether or not made up Embroidery in the piece, in strips or in motifs Mens' and boys' ponchos of fine animal hair Womens' and girls' ponchos of fine animal hair Mens' or boys' jerseys, pullovers and slipovers, of fine animal hair of Kashmir goats Other mens' or boys' jerseys, pullovers and slipovers, of other fine animal hair | From 1.1. to 31.12. | 11 067 000 | 0 |

| Serial number | CN code ⁽³⁾ | Description of goods | Quota period | Quota volume (in EUR) | Rate of duty (%) |
|---------------------|--|--|--------------|--------------------------|---------------------|
| 09.0106 (cont'd) | ex 6110 12 90 | Womens' or girls' jerseys, pullovers and slippers, of fine animal hair of Kashmir goats | | | |
| | ex 6110 19 90 | Other womens' or girls' jerseys, pullovers and slippers | | | |
| | | Articles hand-dyed or hand-printed by the 'batik' method: | | | |
| | | Mens' or boys' overcoats, car-coats, capes, cloaks, anoraks (including ski-jackets), wind-cheaters, wind-jackets and similar articles, other than those of heading No 6203: | | | |
| | 6201 92 00 | – Other than overcoats, raincoats, car-coats, capes, cloaks and similar articles, of cotton | | | |
| | 6201 99 00 | – Other than overcoats, raincoats, car-coats, capes, cloaks and similar articles, of other textile materials | | | |
| | | Womens' or girls' overcoats, car-coats, capes, cloaks, anoraks (including ski-jackets), wind-cheaters, wind-jackets and similar articles, other than those of heading No 6204: | | | |
| | 6202 92 00 | – Other than overcoats, raincoats, car-coats, capes, cloaks and similar articles, of cotton | | | |
| | 6202 99 00 | – Other than overcoats, raincoats, car-coats, capes, cloaks and similar articles, of other textile materials | | | |
| | | Womens' or girls' suits, ensembles, jackets, blazers, dresses, skirts, divided skirts, trousers, bib and brace overalls, breeches and shorts (other than swimwear): | | | |
| | 6204 12 00 | – Suits, of cotton | | | |
| | 6204 22 80 | – Ensembles, of cotton, other than industrial and occupational | | | |
| | 6204 29 90 | – Ensembles, of other textile materials, other than of artificial fibres | | | |
| | 6204 32 90 | – Jackets and blazers, of cotton, other than industrial and occupational | | | |
| | 6204 39 90 | – Jackets and blazers, of other textile materials, other than of artificial fibres | | | |
| | 6204 42 00 | – Dresses, of cotton | | | |
| | 6204 44 00 | – Dresses, of artificial fibres | | | |
| | 6204 49 90 | – Dresses, of other textile materials, other than of silk or silk waste | | | |
| | | – Womens' or girls' skirts and divided skirts: | | | |
| | 6204 52 00 | – – Of cotton | | | |
| | 6204 53 00 | – – Of synthetic fibres | | | |
| | 6204 59 | – – Of other textile materials | | | |
| | 6204 62 31 6204 62 33 6204 62 39 | – Trousers and breeches, of cotton, other than industrial and occupational | | | |
| | 6204 62 59 | – Bib and brace overalls, of cotton, other than industrial and occupational | | | |

| Serial number | CN code ⁽³⁾ | Description of goods | Quota period | Quota volume (in EUR) | Rate of duty (%) | |
|---------------------|------------------------|--|--------------|--------------------------|---------------------|--|
| 09.0106 (cont'd) | 6204 62 90 | - Shorts, of cotton | | | | |
| | 6204 63 18 | - Trousers and breeches, of synthetic fibres, other than industrial and occupational | | | | |
| | 6204 63 39 | - Bib and brace overalls, of synthetic fibres, other than industrial and occupational | | | | |
| | 6204 63 90 | - Shorts, of synthetic fibres | | | | |
| | 6204 69 18 | - Trousers and breeches, of artificial fibres, other than industrial and occupational | | | | |
| | 6204 69 39 | - Bib and brace overalls, of artificial fibres, other than industrial and occupational | | | | |
| | 6204 69 50 | - Shorts, of artificial fibres | | | | |
| | 6204 69 90 | - Trousers, bib and brace overalls, breeches and shorts, of other textile materials, other than of artificial fibres | | | | |
| | | Mens' or boys' shirts: | | | | |
| | 6205 20 00 | - Of cotton | | | | |
| | 6205 90 10 | - Of flax or ramie | | | | |
| | | Womens' or girls' blouses, shirts and shirt-blouses: | | | | |
| | 6206 30 00 | - Of cotton | | | | |
| | 6206 90 10 | - Of flax or ramie | | | | |
| | 6207 91 90 | Mens' or boys' singlets and other vests, bathrobes, dressing gowns and similar articles, other than bathrobes, dressing gowns and similar articles of terry towelling and similar woven terry fabrics, of cotton | | | | |
| | 6207 99 00 | Mens' or boys' singlets and other vests, bathrobes, dressing gowns and similar articles, of textile materials other than cotton or man-made fibres | | | | |
| | 6208 91 19 | Womens' or girls' negligés, bathrobes, dressing gowns and similar articles, of cotton, other than of terry towelling and similar woven terry fabrics | | | | |
| | 6208 99 00 | Womens' or girls' singlets and other vests, slips, negligés, bathrobes, dressing gowns and similar articles, of textile materials other than cotton or man-made fibres | | | | |
| | | Bed linen, table linen, toilet linen and kitchen linen: | | | | |
| | 6302 21 00 | - Bed linen, not knitted or crocheted, of cotton | | | | |
| | 6302 51 | - Table linen, not knitted or crocheted, of cotton | | | | |
| | 6302 91 | - Other, of cotton | | | | |

| Serial number | CN code ⁽²⁾ | Description of goods | Quota period | Quota volume (in EUR) | Rate of duty (%) |
|---------------------|---|--|--------------|-----------------------|------------------|
| 09.0106 (cont'd) | | Curtains (including drapes) and interior blinds; curtain or bed valances: | | | |
| | 6303 91 00 | - Not knitted or crocheted, of cotton | | | |
| | | Other furnishing articles, excluding those of heading No 9404 | | | |
| | 6304 19 10 | - Bedspreads, not knitted or crocheted, of cotton | | | |
| | 6304 92 00 | - Other than bedspreads, not knitted or crocheted, of cotton | | | |
| | | Other articles of apparel: | | | |
| | ex 6201 11 00 | Mens' and girls' ponchos of wool or fine animal hair | | | |
| | ex 6202 11 00 | Womens' and girls' ponchos of wool or fine animal hair, capes of wool | | | |
| | ex 6204 51 00 | Womens' and girls' skirts and divided skirts, of wool | | | |
| | 6213 20 00 | Handkerchiefs, of cotton | | | |
| | 6214 | Shawls, scarves, mufflers, mantillas, veils and the like | | | |
| | 6215 | Ties, bow ties and cravats | | | |
| | 6217 17 00 | Made-up clothing accessories | | | |
| | | Blankets (other than electric blankets) and travelling rugs, of wool or of fine animal hair: | | | |
| | | - Not knitted or crocheted: | | | |
| | 6301 20 91 | - Wholly of wool or fine animal hair | | | |
| | 6301 20 99 | - Other | | | |
| | | Blankets (other than electric blankets) and travelling rugs, of cotton: | | | |
| | 6301 30 90 | - Not knitted or crocheted | | | |
| | 6301 40 90 | - Blankets (other than electric blankets) and travelling rugs, of synthetic fibres, not knitted or crocheted | | | |
| | 6301 90 90 | - Other blankets and travelling rugs, not knitted or crocheted | | | |
| | ex 6303 99 90 | Double curtains, other than knitted or crocheted, of wool | | | |
| | ex 6306 91 00 | Hammocks, of cotton | | | |
| | Other made-up articles, including dress patterns: | | | | |
| | Floor-cloths, dish-cloths, dusters and similar cleaning cloths: | | | | |
| 6307 10 90 | - Not knitted or crocheted and not non-wovens | | | | |
| | - Other than floor-cloths, dish-cloths, dusters and similar cleaning cloths, life-jackets and life-belts: | | | | |
| 6307 90 99 | - Not knitted or crocheted or of felt | | | | |

(¹) The following shall be considered hand-made products:

(a) cottage industry products made entirely by hand;

(b) cottage industry products which have the character of products made by hand;

(c) garments or other textile products obtained manually from fabrics woven on looms operated solely by hand or foot and essentially sewn by hand or sewn by sewing-machines operated solely by hand or foot.

(²) The list of the competent authorities in the beneficiary countries was last published in OJ C 122, 4.5.1999, p. 3.

(³) See attached list for Taric codes.

| Número de orden Løbenummer Laufende Nummer Αύξων αριθμός Order No Numéro d'ordre Numero d'ordine Volgnummer Número de ordem Järjestysnumero Löpnummer | Código NC KN-kode KN-Code Κωδικός ΣΟ CN code Code NC Codice NC GN-code Código NC CN-koodi KN-nr | Código Taric Taric-kode Taric-Code Κωδικός Taric Taric-code Code TARIC Codice TARIC Taric-code Código Taric Taric-koodi TARIC-nr |
|---|---|--|
| 09.0104 | 4201 00 00 | 10 |
| | 4202 11 10 | 10 |
| | 4202 11 90 | 10 |
| | 4202 12 91 | 10 |
| | 4202 12 99 | 10 |
| | 4202 19 90 | 10 |
| | 4202 21 00 | 10 |
| | 4202 22 90 | 10 |
| | 4202 31 00 | 10 |
| | 4202 32 90 | 10 |
| | 4202 39 00 | 10 |
| | 4202 91 10 | 10 |
| | 4202 91 80 | 10 |
| | 4202 92 91 | 10 |
| | 4202 92 98 | 10 |
| | 4202 99 00 | 10 |
| | 4203 30 00 | 10 |
| | 4203 40 00 | 10 |
| | 4420 10 11 | 10 |
| | 4420 90 91 | 10 |
| | 4602 10 91 | 10 |
| | 4602 10 99 | 10 |
| | 4818 20 10 | 10 |
| | 4818 20 91 | 10 |
| | 4818 20 99 | 10 |
| | 4818 30 00 | 10 |
| | 4818 50 00 | 10 |
| | 4818 90 10 | 10 |
| | 4818 90 90 | 10 |
| | 4819 30 00 | 10 |
| | 4823 60 10 | 10 |
| | 4823 60 90 | 10 |
| | 4823 70 90 | 10 |
| | 4823 90 90 | 20 |
| | 6403 30 00 | 20 |
| | 6406 10 11 | 10 |
| | 6406 10 19 | 10 |
| | 6406 10 90 | 10 |
| | 6406 20 10 | 10 |

| Número de orden Løbenummer Laufende Nummer Αύξων αριθμός Order No Numéro d'ordre Numero d'ordine Volgnummer Número de ordem Järjestysnumero Löpnummer | Código NC KN-kode KN-Code Κωδικός ΣΟ CN code Code NC Codice NC GN-code Código NC CN-koodi KN-nr | Código Taric Taric-kode Taric-Code Κωδικός Taric Taric-code Code TARIC Codice TARIC Taric-code Código Taric Taric-koodi TARIC-nr |
|---|---|--|
| 09.0104 (cont'd) | 6406 20 90 | 10 |
| | 6406 91 00 | 10 |
| | 6406 99 30 | 10 |
| | 6406 99 50 | 10 |
| | 6406 99 60 | 10 |
| | 6406 99 80 | 10 |
| | 6505 90 10 | 10 |
| | 6602 00 00 | 10 |
| | 6802 91 90 | 10 |
| | 6802 92 90 | 10 |
| | 6802 93 90 | 10 |
| | 6802 99 90 | 10 |
| | 6912 00 10 | 10 |
| | 6913 10 00 | 10 |
| | 6913 90 10 | 10 |
| | 6913 90 91 | 10 |
| | 6913 90 93 | 10 |
| | 6913 90 99 | 10 |
| | 6914 90 10 | 10 |
| | 7013 99 00 | 10 |
| | 7018 10 19 | 10 |
| | 7117 19 91 | 10 |
| | 7117 19 99 | |
| | 7418 11 00 | 10 |
| | 7418 19 00 | 10 |
| | 7418 20 00 | 10 |
| | 7419 10 00 | 10 |
| | 7419 91 00 | 10 |
| | 7419 99 00 | 10 |
| | 7616 99 90 | 05 |
| | 8308 90 00 | 10 |
| | 9113 90 10 | 10 |
| | 9113 90 90 | 10 |
| | 9403 40 10 | 10 |
| | 9403 40 90 | 10 |
| | 9403 80 00 | 10 |
| | 9403 90 10 | 10 |
| | 9403 90 30 | 10 |
| | 9403 90 90 | 10 |

| Número de orden Løbenummer Laufende Nummer Αύξων αριθμός Order No Numéro d'ordre Numero d'ordine Volgnummer Número de ordem Järjestysnumero Löpnummer | Código NC KN-kode KN-Code Κωδικός ΣΟ CN code Code NC Codice NC GN-code Código NC CN-koodi KN-nr | Código Taric Taric-kode Taric-Code Κωδικός Taric Taric-code Code TARIC Codice TARIC Taric-code Código Taric Taric-koodi TARIC-nr |
|---|---|--|
| 09.0106 | 5608 90 00 | 10 |
| <i>(cont'd)</i> | 5701 10 10 | 10 |
| | 5701 90 10 | 10 |
| | 5701 90 90 | 10 |
| | 5704 90 00 | 10 |
| | 5705 00 10 | 10 |
| | 5705 00 30 | 10 |
| | 5705 00 90 | 11 |
| | | 31 |
| | | 91 |
| | 5810 10 10 | 10 |
| | 5810 10 90 | 10 |
| | 5810 91 10 | 10 |
| | 5810 91 90 | 10 |
| | 5810 92 10 | 10 |
| | 5810 92 90 | 10 |
| | 5810 99 10 | 10 |
| | 5810 99 90 | 10 |
| | 6101 10 10 | 10 |
| | 6102 10 10 | 10 |
| | 6110 12 10 | 10 |
| | 6110 19 10 | 10 |
| | 6110 12 90 | 10 |
| | 6110 19 90 | 10 |
| | 6201 11 00 | 10 |
| | 6201 92 00 | 10 |
| | 6201 99 00 | 10 |
| | 6202 11 00 | 10 |
| | | 20 |
| | 6202 92 00 | 10 |
| | 6202 99 00 | 10 |
| | 6204 12 00 | 10 |
| | 6204 22 80 | 10 |
| | 6204 29 90 | 10 |
| | 6204 32 90 | 10 |
| | 6204 39 90 | 10 |
| | 6204 42 00 | 10 |
| | 6204 44 00 | 10 |
| | 6204 49 90 | 10 |
| | 6204 51 00 | 10 |

| Número de orden Løbenummer Laufende Nummer Αύξων αριθμός Order No Numéro d'ordre Numero d'ordine Volgnummer Número de ordem Järjestysnumero Löpnummer | Código NC KN-kode KN-Code Κωδικός ΣΟ CN code Code NC Codice NC GN-code Código NC CN-koodi KN-nr | Código Taric Taric-kode Taric-Code Κωδικός Taric Taric-code Code TARIC Codice TARIC Taric-code Código Taric Taric-koodi TARIC-nr |
|---|---|--|
| 09.0106 (cont'd) | 6204 52 00 | 10 |
| | 6204 53 00 | 10 |
| | 6204 59 10 | 10 |
| | 6204 59 90 | 10 |
| | 6204 62 31 | 10 |
| | 6204 62 33 | 10 |
| | 6204 62 39 | 10 |
| | 6204 62 59 | 10 |
| | 6204 62 90 | 10 |
| | 6204 63 18 | 10 |
| | 6204 63 39 | 10 |
| | 6204 63 90 | 10 |
| | 6204 69 18 | 10 |
| | 6204 69 39 | 10 |
| | 6204 69 50 | 10 |
| | 6204 69 90 | 10 |
| | 6205 20 00 | 10 |
| | 6205 90 10 | 10 |
| | 6206 30 00 | 10 |
| | 6206 90 10 | 10 |
| | 6207 91 90 | 10 |
| | 6207 99 00 | 91 |
| | 6208 91 19 | 10 |
| | 6208 99 00 | 91 |
| | 6213 20 00 | 10 |
| | 6214 10 00 | 10 |
| | 6214 20 00 | 10 |
| | 6214 30 00 | 10 |
| | 6214 40 00 | 10 |
| | 6214 90 10 | 10 |
| | 6214 90 90 | 11 |
| | | 19 |
| | 6215 10 00 | 10 |
| | 6215 20 00 | 10 |
| | 6215 90 00 | 10 |
| | 6217 10 00 | 10 |
| | 6301 20 91 | 10 |
| 6301 20 99 | 10 | |
| 6301 30 90 | 10 | |

| Número de orden Løbenummer Laufende Nummer Αύξων αριθμός Order No Numéro d'ordre Numero d'ordine Volgnummer Número de ordem Järjestysnumero Löpnummer | Código NC KN-kode KN-Code Κωδικός ΣΟ CN code Code NC Codice NC GN-code Código NC CN-koodi KN-nr | Código Taric Taric-kode Taric-Code Κωδικός Taric Taric-code Code TARIC Codice TARIC Taric-code Código Taric Taric-koodi TARIC-nr |
|---|---|--|
| 09.0106 (cont'd) | 6301 40 90 | 91 |
| | 6301 90 90 | 21 |
| | | 29 |
| | 6302 21 00 | 21 |
| | | 81 |
| | 6302 51 10 | 10 |
| | 6302 51 90 | 10 |
| | 6302 91 10 | 10 |
| | 6302 91 90 | 10 |
| | 6303 91 00 | 91 |
| | 6303 99 90 | 31 |
| | 6304 19 10 | 10 |
| | 6304 92 00 | 10 |
| | 6306 91 00 | 10 |
| | 6307 10 90 | 10 |
| | 6307 90 99 | 91 |

**COMMISSION REGULATION (EC) No 385/2003
of 28 February 2003**

**fixing the maximum export refund on wholly milled long grain B rice to certain third countries in
connection with the invitation to tender issued in Regulation (EC) No 1898/2002**

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Council Regulation (EC) No 3072/95 of 22 December 1995 on the common organisation of the market in rice ⁽¹⁾, as last amended by Commission Regulation (EC) No 411/2002 ⁽²⁾, and in particular Article 13(3) thereof,

Whereas:

(1) An invitation to tender for the export refund on rice was issued pursuant to Commission Regulation (EC) No 1898/2002 ⁽³⁾.

(2) Article 5 of Commission Regulation (EEC) No 584/75 ⁽⁴⁾, as last amended by Regulation (EC) No 1948/2002 ⁽⁵⁾, allows the Commission to fix, in accordance with the procedure laid down in Article 22 of Regulation (EC) No 3072/95 and on the basis of the tenders submitted, a maximum export refund. In fixing this maximum, the criteria provided for in Article 13 of Regulation (EC) No 3072/95 must be taken into account. A contract is awarded to any tenderer whose tender is equal to or less than the maximum export refund.

(3) The application of the abovementioned criteria to the current market situation for the rice in question results in the maximum export refund being fixed at the amount specified in Article 1.

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

HAS ADOPTED THIS REGULATION:

Article 1

The maximum export refund on wholly milled long grain B rice to be exported to certain third countries pursuant to the invitation to tender issued in Regulation (EC) No 1898/2002 is hereby fixed on the basis of the tenders submitted from 24 to 27 February 2003 at 285,00 EUR/t.

Article 2

This Regulation shall enter into force on 1 March 2003.

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

Done at Brussels, 28 February 2003.

For the Commission

Franz FISCHLER

Member of the Commission

⁽¹⁾ OJ L 329, 30.12.1995, p. 18.

⁽²⁾ OJ L 62, 5.3.2002, p. 27.

⁽³⁾ OJ L 287, 25.10.2002, p. 11.

⁽⁴⁾ OJ L 61, 7.3.1975, p. 25.

⁽⁵⁾ OJ L 299, 1.11.2002, p. 18.

COMMISSION REGULATION (EC) No 386/2003
of 28 February 2003
concerning tenders submitted in response to the invitation to tender for the export of husked long grain B rice to the island of Réunion referred to in Regulation (EC) No 1895/2002

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Council Regulation (EC) No 3072/95 of 22 December 1995 on the common organisation of the market in rice ⁽¹⁾, as last amended by Commission Regulation (EC) No 411/2002 ⁽²⁾, and in particular Article 10(1) thereof,

Having regard to Commission Regulation (EEC) No 2692/89 of 6 September 1989 laying down detailed rules for exports of rice to Réunion ⁽³⁾, as amended by Regulation (EC) No 1453/1999 ⁽⁴⁾, and in particular Article 9(1) thereof,

Whereas:

- (1) Commission Regulation (EC) No 1895/2002 ⁽⁵⁾ opens an invitation to tender for the subsidy on rice exported to Réunion.
- (2) Article 9 of Regulation (EEC) No 2692/89 allows the Commission to decide, in accordance with the procedure laid down in Article 22 of Regulation (EC) No 3072/95 and on the basis of the tenders submitted, to make no award.

(3) On the basis of the criteria laid down in Articles 2 and 3 of Regulation (EEC) No 2692/89, a maximum subsidy should not be fixed.

(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

No action shall be taken on the tenders submitted from 24 to 27 February 2003 in response to the invitation to tender referred to in Regulation (EC) No 1895/2002 for the subsidy on exports to Réunion of husked long grain B rice falling within CN code 1006 20 98.

Article 2

This Regulation shall enter into force on 1 March 2003.

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

Done at Brussels, 28 February 2003.

For the Commission
Franz FISCHLER
Member of the Commission

⁽¹⁾ OJ L 329, 30.12.1995, p. 18.

⁽²⁾ OJ L 62, 5.3.2002, p. 27.

⁽³⁾ OJ L 261, 7.9.1989, p. 8.

⁽⁴⁾ OJ L 167, 2.7.1999, p. 19.

⁽⁵⁾ OJ L 299, 1.11.2002, p. 18.

COMMISSION REGULATION (EC) No 387/2003
of 28 February 2003

fixing the maximum export refund on wholly milled round grain rice to certain third countries in connection with the invitation to tender issued in Regulation (EC) No 1896/2002

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Council Regulation (EC) No 3072/95 of 22 December 1995 on the common organisation of the market in rice ⁽¹⁾, as last amended by Commission Regulation (EC) No 411/2002 ⁽²⁾, and in particular Article 13(3) thereof,

Whereas:

(1) An invitation to tender for the export refund on rice was issued pursuant to Commission Regulation (EC) No 1896/2002 ⁽³⁾.

(2) Article 5 of Commission Regulation (EEC) No 584/75 ⁽⁴⁾, as last amended by Regulation (EC) No 1948/2002 ⁽⁵⁾, allows the Commission to fix, in accordance with the procedure laid down in Article 22 of Regulation (EC) No 3072/95 and on the basis of the tenders submitted, a maximum export refund. In fixing this maximum, the criteria provided for in Article 13 of Regulation (EC) No 3072/95 must be taken into account. A contract is awarded to any tenderer whose tender is equal to or less than the maximum export refund.

(3) The application of the abovementioned criteria to the current market situation for the rice in question results in the maximum export refund being fixed at the amount specified in Article 1.

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

HAS ADOPTED THIS REGULATION:

Article 1

The maximum export refund on wholly milled round grain rice to be exported to certain third countries pursuant to the invitation to tender issued in Regulation (EC) No 1896/2002 is hereby fixed on the basis of the tenders submitted from 24 to 27 February 2003 at 160,00 EUR/t.

Article 2

This Regulation shall enter into force on 1 March 2003.

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

Done at Brussels, 28 February 2003.

For the Commission

Franz FISCHLER

Member of the Commission

⁽¹⁾ OJ L 329, 30.12.1995, p. 18.

⁽²⁾ OJ L 62, 5.3.2002, p. 27.

⁽³⁾ OJ L 287, 25.10.2002, p. 5.

⁽⁴⁾ OJ L 61, 7.3.1975, p. 25.

⁽⁵⁾ OJ L 299, 1.11.2002, p. 18.

COMMISSION REGULATION (EC) No 388/2003
of 28 February 2003

fixing the maximum export refund on wholly milled round grain, medium grain and long grain A rice to be exported to certain third countries in connection with the invitation to tender issued in Regulation (EC) No 1897/2002

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Council Regulation (EC) No 3072/95 of 22 December 1995 on the common organisation of the market in rice ⁽¹⁾, as last amended by Commission Regulation (EC) No 411/2002 ⁽²⁾, and in particular Article 13(3) thereof,

Whereas:

- (1) An invitation to tender for the export refund on rice was issued pursuant to Commission Regulation (EC) No 1897/2002 ⁽³⁾.
- (2) Article 5 of Commission Regulation (EEC) No 584/75 ⁽⁴⁾, as last amended by Regulation (EC) No 1948/2002 ⁽⁵⁾, allows the Commission to fix, in accordance with the procedure laid down in Article 22 of Regulation (EC) No 3072/95 and on the basis of the tenders submitted, a maximum export refund. In fixing this maximum, the criteria provided for in Article 13 of Regulation (EC) No 3072/95 must be taken into account. A contract is awarded to any tenderer whose tender is equal to or less than the maximum export refund.

(3) The application of the abovementioned criteria to the current market situation for the rice in question results in the maximum export refund being fixed at the amount specified in Article 1.

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

HAS ADOPTED THIS REGULATION:

Article 1

The maximum export refund on wholly milled grain, medium grain and long grain A rice to be exported to certain third countries pursuant to the invitation to tender issued in Regulation (EC) No 1897/2002 is hereby fixed on the basis of the tenders submitted from 24 to 27 February 2003 at 165,00 EUR/t.

Article 2

This Regulation shall enter into force on 1 March 2003.

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

Done at Brussels, 28 February 2003.

For the Commission

Franz FISCHLER

Member of the Commission

⁽¹⁾ OJ L 329, 30.12.1995, p. 18.

⁽²⁾ OJ L 62, 5.3.2002, p. 27.

⁽³⁾ OJ L 287, 25.10.2002, p. 8.

⁽⁴⁾ OJ L 61, 7.3.1975, p. 25.

⁽⁵⁾ OJ L 299, 1.11.2002, p. 18.

**COMMISSION REGULATION (EC) No 389/2003
of 27 February 2003**

fixing the rates of refunds applicable to certain products from the sugar sector exported in the form of goods not covered by Annex I to the Treaty

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Council Regulation (EC) No 1260/2001 of 19 June 2001 on the common organisation of the market in sugar ⁽¹⁾, as amended by Commission Regulation (EC) No 680/2002 ⁽²⁾, and in particular Article 27(5)(a) and (15),

Whereas:

(1) Article 27(1) and (2) of Regulation (EEC) No 1260/2001 provides that the differences between the prices in international trade for the products listed in Article 1(1)(a), (c), (d), (f), (g) and (h) of that Regulation and prices within the Community may be covered by an export refund where these products are exported in the form of goods listed in the Annex to that Regulation. Commission Regulation (EC) No 1520/2000 of 13 July 2000 laying down common implementing rules for granting export refunds on certain agricultural products exported in the form of goods not covered by Annex I to the Treaty and the criteria for fixing the amount of such refunds ⁽³⁾, as last amended by Regulation (EC) No 1052/2002 ⁽⁴⁾, specifies the products for which a rate of refund should be fixed, to be applied where these products are exported in the form of goods listed in Annex I to Regulation (EC) No 1260/2001.

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

(3) Article 27(3) of Regulation (EC) No 1260/2001 and Article 11 of the Agreement on Agriculture concluded under the Uruguay Round lay down that the export refund for a product contained in a good may not exceed the refund applicable to that product when exported without further processing.

(4) The refunds fixed under this Regulation may be fixed in advance as the market situation over the next few months cannot be established at the moment.

(5) The commitments entered into with regard to refunds which may be granted for the export of agricultural products contained in goods not covered by Annex I to the Treaty may be jeopardised by the fixing in advance of high refund rates. It is therefore necessary to take precautionary measures in such situations without, however, preventing the conclusion of long-term contracts. The fixing of a specific refund rate for the advance fixing of refunds is a measure which enables these various objectives to be met.

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

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

HAS ADOPTED THIS REGULATION:

Article 1

The rates of the refunds applicable to the basic products appearing in Annex A to Regulation (EC) No 1520/2000 and listed in Article 1(1) and (2) of Regulation (EC) No 1260/2001, exported in the form of goods listed in Annex V to Regulation (EC) No 1260/2001, are fixed as shown in the Annex hereto.

Article 2

⁽¹⁾ OJ L 178, 30.6.2001, p. 1.

⁽²⁾ OJ L 104, 20.4.2002, p. 26.

⁽³⁾ OJ L 177, 15.7.2000, p. 1.

⁽⁴⁾ OJ L 160, 18.6.2002, p. 16.

This Regulation shall enter into force on 1 March 2003.

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

Done at Brussels, 27 February 2003.

For the Commission
Erkki LIIKANEN
Member of the Commission

ANNEX

to the Commission Regulation of 27 February 2003 fixing the rates of refunds applicable to certain products from the sugar sector exported in the form of goods not covered by Annex I to the Treaty

| Product | Rate of refund in EUR/100 kg | |
|--------------|--------------------------------------|-------|
| | In case of advance fixing of refunds | Other |
| White sugar: | 43,75 | 43,75 |

**COMMISSION REGULATION (EC) No 390/2003
of 27 February 2003**

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

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Council Regulation (EC) No 1255/1999 of 15 May 1999 on the common organisation of the market in milk and milk products ⁽¹⁾, as last amended by Commission Regulation (EC) No 509/2002 ⁽²⁾, and in particular Article 31(3) thereof,

Whereas:

(1) Article 31(1) of Regulation (EC) No 1255/1999 provides that the difference between prices in international trade for the products listed in Article 1(a), (b), (c), (d), (e), and (g) of that Regulation and prices within the Community may be covered by an export refund. Whereas Commission Regulation (EC) No 1520/2000 of 13 July 2000 laying down common implementing rules for granting export refunds on certain agricultural products exported in the form of goods not covered by Annex I to the Treaty, and criteria for fixing the amount of such refunds ⁽³⁾, as last amended by Regulation (EC) No 1052/2002 ⁽⁴⁾, specifies the products for which a rate of refund should be fixed, to be applied where these products are exported in the form of goods listed in the Annex to Regulation (EC) No 1255/1999.

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

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

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

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

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

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

HAS ADOPTED THIS REGULATION:

Article 1

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

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

Article 2

This Regulation shall enter into force on 1 March 2003.

⁽¹⁾ OJ L 160, 26.6.1999, p. 48.

⁽²⁾ OJ L 79, 22.3.2002, p. 15.

⁽³⁾ OJ L 177, 15.7.2000, p. 1.

⁽⁴⁾ OJ L 160, 18.6.2002, p. 16.

⁽⁵⁾ OJ L 350, 20.12.1997, p. 3.

⁽⁶⁾ OJ L 76, 25.3.2000, p. 9.

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

Done at Brussels, 27 February 2003.

For the Commission
Erkki LIIKANEN
Member of the Commission

ANNEX

to the Commission Regulation of 27 February 2003 fixing the rates of the refunds applicable to certain milk products exported in the form of goods not covered by Annex I to the Treaty

(EUR/100 kg)

| CN code | Description | Rate of refund |
|---------------|---|----------------|
| ex 0402 10 19 | Powdered milk, in granules or other solid forms, not containing added sugar or other sweetening matter, with a fat content not exceeding 1,5 % by weight (PG 2): | |
| | (a) On exportation of goods of CN code 3501 | — |
| | (b) On exportation of other goods | 51,00 |
| ex 0402 21 19 | Powdered milk, in granules or other solid forms, not containing added sugar or other sweetening matter, with a fat content of 26 % by weight (PG 3): | |
| | (a) Where goods incorporating, in the form of products assimilated to PG 3, reduced-price butter or cream obtained pursuant to Regulation (EC) No 2571/97 are exported | 69,45 |
| | (b) On exportation of other goods | 93,00 |
| ex 0405 10 | Butter, with a fat content by weight of 82 % (PG 6): | |
| | (a) Where goods containing reduced-price butter or cream which have been manufactured in accordance with the conditions provided for in Regulation (EC) No 2571/97 are exported | 100,00 |
| | (b) On exportation of goods of CN code 2106 90 98 containing 40 % or more by weight of milk fat | 192,25 |
| | (c) On exportation of other goods | 185,00 |

**COMMISSION REGULATION (EC) No 391/2003
of 28 February 2003**

fixing the refunds applicable to cereal and rice sector products supplied as Community and national food aid

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

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

Having regard to Council Regulation (EC) No 3072/95 of 22 December 1995 on the common organisation of the market in rice ⁽³⁾, as last amended by Commission Regulation (EC) No 411/2002 ⁽⁴⁾, and in particular Article 13(3) thereof,

Whereas:

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

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

HAS ADOPTED THIS REGULATION:

Article 1

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

Article 2

This Regulation shall enter into force on 1 March 2003.

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

Done at Brussels, 28 February 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 329, 30.12.1995, p. 18.

⁽⁴⁾ OJ L 62, 5.3.2002, p. 27.

⁽⁵⁾ OJ L 288, 25.10.1974, p. 1.

ANNEX

to the Commission Regulation of 28 February 2003 fixing the refunds applicable to cereal and rice sector products supplied as Community and national food aid

(EUR/t)

| Product code | Refund |
|-----------------|--------|
| 1001 10 00 9400 | 0,00 |
| 1001 90 99 9000 | 10,00 |
| 1002 00 00 9000 | 23,50 |
| 1003 00 90 9000 | 12,00 |
| 1005 90 00 9000 | 20,00 |
| 1006 30 92 9100 | 165,00 |
| 1006 30 92 9900 | 165,00 |
| 1006 30 94 9100 | 165,00 |
| 1006 30 94 9900 | 165,00 |
| 1006 30 96 9100 | 165,00 |
| 1006 30 96 9900 | 165,00 |
| 1006 30 98 9100 | 165,00 |
| 1006 30 98 9900 | 165,00 |
| 1006 30 65 9900 | 165,00 |
| 1007 00 90 9000 | 20,00 |
| 1101 00 15 9100 | 13,70 |
| 1101 00 15 9130 | 12,80 |
| 1102 10 00 9500 | 30,25 |
| 1102 20 10 9200 | 33,43 |
| 1102 20 10 9400 | 28,66 |
| 1103 11 10 9200 | 0,00 |
| 1103 13 10 9100 | 42,98 |
| 1104 12 90 9100 | 0,00 |

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

COMMISSION REGULATION (EC) No 392/2003
of 28 February 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 1 March 2003.

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

Done at Brussels, 28 February 2003.

For the Commission

J. M. SILVA RODRÍGUEZ

Agriculture Director-General

⁽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 | 28,56 |
| 1005 10 90 | Maize seed other than hybrid | 50,32 |
| 1005 90 00 | Maize other than seed ⁽³⁾ | 50,32 |
| 1007 00 90 | Grain sorghum other than hybrids for sowing | 28,56 |

⁽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 14 February 2003 to 27 February 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 (**) | USbarley 2 |
| Quotation (EUR/t) | 129,61 | 85,56 | 211,66 (***) | 201,66 (***) | 181,66 (***) | 121,17 (***) |
| Gulf premium (EUR/t) | 33,67 | 13,84 | — | — | — | — |
| 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: 14,52 EUR/t; Great Lakes–Rotterdam: 22,52 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 393/2003
of 28 February 2003
amending the corrective amount applicable to the refund on cereals

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Council Regulation (EEC) No 1766/92 of 30 June 1992 on the common organisation of the market in cereals⁽¹⁾, as last amended by Regulation (EC) No 1666/2000⁽²⁾, and in particular Article 13(8) thereof,

Whereas:

- (1) The corrective amount applicable to the refund on cereals was fixed by Commission Regulation (EC) No 277/2003⁽³⁾.
- (2) On the basis of today's cif prices and cif forward delivery prices, taking foreseeable developments on the market into account, the corrective amount at present applicable to the refund on cereals should be altered.

- (3) The corrective amount must be fixed according to the same procedure as the refund. It may be altered in the period between fixings,

HAS ADOPTED THIS REGULATION:

Article 1

The corrective amount referred to in Article 1(1)(a), (b) and (c) of Regulation (EEC) No 1766/92 which is applicable to the export refunds fixed in advance in respect of the products referred to, except for malt, is hereby altered to the amounts set out in the Annex hereto.

Article 2

This Regulation shall enter into force on 1 March 2003.

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

Done at Brussels, 28 February 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 41, 14.2.2003, p. 24.

ANNEX

to the Commission Regulation of 28 February 2003 altering the corrective amount applicable to the refund on cereals

| Product code | Destination | (EUR/t) | | | | | | |
|-----------------|-------------|--------------|-----------------|-----------------|-----------------|-----------------|-----------------|-----------------|
| | | Current 3 | 1st period 4 | 2nd period 5 | 3rd period 6 | 4th period 7 | 5th period 8 | 6th period 9 |
| 1001 10 00 9200 | — | — | — | — | — | — | — | — |
| 1001 10 00 9400 | — | — | — | — | — | — | — | — |
| 1001 90 91 9000 | — | — | — | — | — | — | — | — |
| 1001 90 99 9000 | A00 | 0 | 0 | 0 | 0 | -10,00 | — | — |
| 1002 00 00 9000 | C03 | - 20,00 | - 20,00 | - 20,00 | - 20,00 | - 20,00 | — | — |
| | A05 | 0 | 0 | 0 | 0 | -20,00 | — | — |
| 1003 00 10 9000 | — | — | — | — | — | — | — | — |
| 1003 00 90 9000 | A00 | 0 | 0 | 0 | 0 | -12,00 | — | — |
| 1004 00 00 9200 | — | — | — | — | — | — | — | — |
| 1004 00 00 9400 | A00 | 0 | - 0,93 | - 1,86 | - 1,86 | — | — | — |
| 1005 10 90 9000 | — | — | — | — | — | — | — | — |
| 1005 90 00 9000 | A00 | 0 | 0 | 0 | 0 | 0 | — | — |
| 1007 00 90 9000 | — | — | — | — | — | — | — | — |
| 1008 20 00 9000 | — | — | — | — | — | — | — | — |
| 1101 00 11 9000 | — | — | — | — | — | — | — | — |
| 1101 00 15 9100 | A00 | 0 | 0 | 0 | 0 | -13,70 | — | — |
| 1101 00 15 9130 | A00 | 0 | 0 | 0 | 0 | - 12,80 | — | — |
| 1101 00 15 9150 | A00 | 0 | 0 | 0 | 0 | -11,80 | — | — |
| 1101 00 15 9170 | A00 | 0 | 0 | 0 | 0 | -10,90 | — | — |
| 1101 00 15 9180 | A00 | 0 | 0 | 0 | 0 | - 10,20 | — | — |
| 1101 00 15 9190 | — | — | — | — | — | — | — | — |
| 1101 00 90 9000 | — | — | — | — | — | — | — | — |
| 1102 10 00 9500 | A00 | 0 | 0 | 0 | 0 | -30,25 | — | — |
| 1102 10 00 9700 | A00 | 0 | 0 | 0 | 0 | -23,75 | — | — |
| 1102 10 00 9900 | — | — | — | — | — | — | — | — |
| 1103 11 10 9200 | A00 | 0 | 0 | 0 | 0 | — | — | — |
| 1103 11 10 9400 | A00 | 0 | 0 | 0 | 0 | — | — | — |
| 1103 11 10 9900 | — | — | — | — | — | — | — | — |
| 1103 11 90 9200 | A00 | 0 | 0 | 0 | 0 | — | — | — |
| 1103 11 90 9800 | — | — | — | — | — | — | — | — |

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

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

The other destinations are as follows:

C03 Switzerland, Liechtenstein, Poland, Czech Republic, Slovak Republic, Norway, Faroe Islands, Iceland, Russia, Belarus, Bosnia and Herzegovina, Croatia, Slovenia, former Republic of Yugoslavia with the exception of Slovenia, Croatia and Bosnia and Herzegovina, Albania, Romania, Bulgaria, Armenia, Georgia, Azerbaijan, Moldova, Ukraine, Kazakhstan, Kyrgyzstan, Uzbekistan, Tajikistan, Turkmenistan, Morocco, Algeria, Tunisia, Libya, Egypt, Malta, Cyprus and Turkey.

COMMISSION REGULATION (EC) No 394/2003
of 28 February 2003
determining the world market price for unginning cotton

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

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

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

Whereas:

- (1) In accordance with Article 4 of Regulation (EC) No 1051/2001, a world market price for unginning cotton is to be determined periodically from the price for ginned cotton recorded on the world market and by reference to the historical relationship between the price recorded for ginned cotton and that calculated for unginning cotton. That historical relationship has been established in Article 2(2) of Commission Regulation (EC) No 1591/2001 of 2 August 2001 ⁽³⁾, as amended by Regulation (EC) No 1486/2002 ⁽⁴⁾. Where the world market price cannot be determined in this way, it is to be based on the most recent price determined.
- (2) In accordance with Article 5 of Regulation (EC) No 1051/2001, the world market price for unginning cotton is to be determined in respect of a product of specific characteristics and by reference to the most favourable

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

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

HAS ADOPTED THIS REGULATION:

Article 1

The world price for unginning cotton as referred to in Article 4 of Regulation (EC) No 1051/2001 is hereby determined as equalling EUR 27,972/100 kg.

Article 2

This Regulation shall enter into force on 1 March 2003.

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

Done at Brussels, 28 February 2003.

For the Commission

J. M. SILVA RODRÍGUEZ

Agriculture Director-General

⁽¹⁾ OJ L 148, 1.6.2001, p. 1.

⁽²⁾ OJ L 148, 1.6.2001, p. 3.

⁽³⁾ OJ L 210, 3.8.2001, p. 10.

⁽⁴⁾ OJ L 223, 20.8.2002, p. 3.

II

(Acts whose publication is not obligatory)

COUNCIL

**COUNCIL DECISION
of 18 February 2003
appointing a member of the Committee of the Regions**

(2003/142/EC)

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty establishing the European Community, and in particular Article 263 thereof,

Having regard to the proposal from the Austrian Government,

Whereas:

- (1) On 22 January 2002 the Council adopted Decision 2002/60/EC ⁽¹⁾ appointing the members and alternate members of the Committee of the Regions.
- (2) The seat of a member of the Committee of the Regions has become vacant following the resignation of Mr Wendeling WEINGARTNER, of which the Council was notified on 28 January 2003,

HAS DECIDED AS FOLLOWS:

Sole Article

Mr Herwig VAN STAA is hereby appointed a member of the Committee of the Regions in place of Mr Wendeling WEINGARTNER for the remainder of his term of office, which expires on 25 January 2006.

Done at Brussels, 18 February 2003.

For the Council
The President
N. CHRISTODOULAKIS

⁽¹⁾ OJ L 24, 26.1.2002, p. 38.

COUNCIL DECISION
of 18 February 2003
appointing an alternate member of the Committee of the Regions

(2003/143/EC)

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty establishing the European Community, and in particular Article 263 thereof,

Having regard to the proposal from the Austrian Government,

Whereas:

- (1) On 22 January 2002 the Council adopted Decision 2002/60/EC ⁽¹⁾ appointing the members and alternate members of the Committee of the Regions,
- (2) The seat of an alternate member of the Committee of the Regions has become vacant following the resignation of Mr Peter SCHACHNER-BLAZIZEK, of which the Council was notified on 12 November 2002,

HAS DECIDED AS FOLLOWS:

Sole Article

Mr Franz VOVES is hereby appointed an alternate member of the Committee of the Regions in place of Mr Peter SCHACHNER-BLAZIZEK for the remainder of his term of office, which expires on 25 January 2006.

Done at Brussels, 18 February 2003.

For the Council
The President
N. CHRISTODOULAKIS

⁽¹⁾ OJ L 24, 26.1.2002, p. 38.

COUNCIL DECISION
of 18 February 2003
appointing a member of the Committee of the Regions

(2003/144/EC)

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty establishing the European Community, and in particular Article 263 thereof,

Having regard to the proposal from the Portuguese Government,

Whereas:

- (1) On 22 January 2002 the Council adopted Decision 2002/60/EC ⁽¹⁾ appointing the members and alternate members of the Committee of the Regions.
- (2) The seat of a member of the Committee of the Regions has become vacant following the resignation of Mr Isaltino MORAIS, of which the Council was notified on 28 January 2003,

HAS DECIDED AS FOLLOWS:

Sole Article

Mr António Paulino SILVA PAIVA is hereby appointed a member of the Committee of the Regions in place of Mr Isaltino MORAIS for the remainder of his term of office, which expires on 25 January 2006.

Done at Brussels, 18 February 2003.

For the Council
The President
N. CHRISTODOULAKIS

⁽¹⁾ OJ L 24, 26.1.2002, p. 38.

COUNCIL DECISION
of 18 February 2003
appointing an alternate member of the Committee of the Regions

(2003/145/EC)

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty establishing the European Community, and in particular Article 263 thereof,

Having regard to the proposal from the Portuguese Government,

Whereas:

- (1) On 22 January 2002 the Council adopted Decision 2002/60/EC ⁽¹⁾ appointing the members and alternate members of the Committee of the Regions.
- (2) The seat of an alternate member of the Committee of the Regions has become vacant following the resignation of Mr António PAIVA, of which the Council was notified on 4 February 2003,

HAS DECIDED AS FOLLOWS:

Sole Article

Ms Teresa Maria da SILVA PAIS ZAMBUJO is hereby appointed an alternate member of the Committee of the Regions in place of Mr António PAIVA for the remainder of his term of office, which expires on 25 January 2006.

Done at Brussels, 18 February 2003.

For the Council
The President
N. CHRISTODOULAKIS

⁽¹⁾ OJ L 24, 26.1.2002, p. 38.

COMMISSION

COMMISSION DECISION

of 22 August 2002

on the tax measures for banking foundations implemented by Italy

C 54/2000/EC (ex NN 70/2000)

(notified under document number C(2002) 3118)

(Only the Italian text is authentic)

(Text with EEA relevance)

(2003/146/EC)

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community, and in particular the first subparagraph of Article 88(2) thereof,

Having called on interested parties to submit their comments pursuant to the provision cited above and having regard to their comments ⁽¹⁾,

Whereas:

- (2) By letter dated 25 October 2000, the Commission informed the Italian Government that it had decided to initiate the procedure laid down in Article 88(2) of the EC Treaty in respect of the aid.
- (3) The Commission decision to initiate the procedure was published in the *Official Journal of the European Communities* ⁽²⁾. The Commission invited interested parties to submit their comments on the measure.
- (4) The Commission received comments from interested parties. On 18 June 2001 it forwarded them to the Italian authorities, which were given the opportunity to react; their comments were received by letter dated 25 July 2001.

I. PROCEDURE

(1) By letter dated 24 March 1999, the Commission, after receiving a Parliamentary question on the subject, asked the Italian authorities to provide information in order to assess the scope and effects of Law No 461 of 23 December 1998 (hereinafter Law No 461/98). By letters dated 24 June and 2 July 1999, the Italian authorities provided the Commission with information on the Law and on Legislative Decree No 153 of 17 May 1999, which followed it (hereinafter Decree No 153/99). Having examined the information received, the Commission advised the Italian authorities on 23 March 2000 that the aforementioned Law and Decree were likely to contain aid elements and asked them to halt implementation of the measures. By letter dated 12 April 2000, the Italian authorities informed the Commission that they had suspended the implementation of the measures. Further information was provided to the Commission by letter of 14 June 2000.

II. DETAILED DESCRIPTION OF THE AID

- (5) Law No 461/98 and Decree No 153/99 introduced the following tax advantages for banking foundations:
 1. Foundations that alter their statutes in line with the Decree will be designated as non-commercial bodies (Article 12(1) of Decree No 153/99). They will then be entitled to the 50 % reduction in corporation tax (IRPEG) provided for in Article 6 of Presidential Decree No 601 of 29 September 1973 for bodies active in the social assistance, health, education or similar sectors (Article 12(2) of Decree No 153/99).

⁽¹⁾ OJ C 44, 10.2.2001, p. 2.

⁽²⁾ See footnote 1.

2. Capital gains arising from the transfer of holdings in banks are not counted for the purposes of corporation tax (IRPEG) or the regional tax on production (IRAP) where the transfers are made by the foundations themselves or by the companies to which they transfer their holdings pursuant to Law No 218 of 30 July 1990. This measure applies provided that the transfer is made within four years of the date on which the Decree came into force (Article 13 of Decree No 153/99).
3. Tax neutrality of transactions by which goods and holdings in ancillary banking activities transferred to banks or other companies pursuant to Law No 218 of 30 July 1990 are returned to the transferring body, and fixed amount payments of certain indirect taxes (Articles 16(4), (5) and (6) and 17 of Decree No 153/99).
4. Tax neutrality of transactions by which holdings in the capital of the Banca d'Italia transferred to banks or other companies pursuant to Law No 218 of 30 July 1990 are returned to the transferring body (Article 27(2) of Decree No 153/99).
- (6) Law No 461/98 and Decree No 153/99 also introduce tax advantages for bank mergers and restructuring operations. The measures applying to banks are dealt with in the Commission Decision of 11 December 2001 in Case C 54/A/2000/EC.
- (7) Formerly State-owned banks in Italy which did not have the status of public limited companies were gradually converted into public limited companies (this was made compulsory in 1993). Their shares were either placed on the market or transferred to non-profit bodies called 'banking foundations'. The measures described in recital 5(2) above lay down the conditions under which foundations may transfer over a four-year period the holdings they still have in banks. Foundations are obliged eventually to give up control of commercial banks.
- (8) Law No 218 of 30 July 1990 introduced special tax rules whereby the banking foundations that owned or controlled the newly created banks could transfer certain assets to the banks. The measures described in recital 5(3) and (4) above refer to those same assets and lay down the conditions under which they may be returned to the banking foundation.
- (9) The Commission found that tax advantages granted by Law No 461/98 and Decree No 153/99 to banking foundations may constitute State aid within the meaning of Article 87 of the Treaty, for the following reasons:
- Law No 461/98 and Decree No 153/99 grant tax advantages specifically to banking foundations. This is a selective measure which confers an economic advantage by forgoing tax revenue, i.e. through State resources,
 - although banking foundations are non-profit-making bodies bound by corporate objectives laid down by law and cannot pass on tax advantages to their members or to others, they can still be described as economic actors exercising an activity in commercial sectors and may therefore fall within the scope of Article 87 of the Treaty,
 - since they are able to keep their holdings in banks or to become shareholders in other undertakings, foundations operate in the market for the ownership and control of undertakings. The aid could therefore bring about distortions in that market. In addition, it cannot be ruled out that the tax advantages might eventually benefit the banks and the undertakings in which they have holdings. This could constitute State aid to these undertakings, in particular where the foundations in question are subject to the influence of the public authorities, with distortions thus being caused in the markets in which they operate,
 - the Italian authorities state that the tax advantages apply only if the foundations decide to cede control of their banks. This is likely to facilitate the privatisation process, which is in the general interest. Nevertheless, it can be argued, as the Italian Competition and Market Authority (Autorità garante della concorrenza e del mercato) has done, that the definition of control laid down by Article 6 of Decree No 153/99 is too narrow and will enable foundations to retain de facto control of their banks. A wider definition of control, as provided for in banking legislation, would be more in line with the general interest.
- On these grounds, the Commission initiated the procedure laid down in Article 88(2) of the EC Treaty.
- ### III. COMMENTS FROM INTERESTED PARTIES
- (10) The Commission has received a number of comments from beneficiaries of the aid mainly repeating the arguments put forward by the Italian authorities.
- (11) The point is made that, if the problem is distortion of the market for the control of undertakings, then all differential tax arrangements granted to different categories of investor, including other non-profit bodies, should be called into question.

- (12) It is also pointed out that the tax benefits are aimed at offsetting the effect of a policy which forced on the foundations a radical change in their statutes, a withdrawal from banking activity and the sale of controlling shareholdings in commercial companies.
- (13) The tax advantages granted to foundations cannot in any way be transferred to the transferee banks or to commercial undertakings, but only have the effect of increasing the resources that the foundations can devote to pursuing their social goals. As such, these advantages do not distort competition.
- (14) As for the reduced rate of corporation tax, similar tax advantages are very common in the Member States for associations and foundations.
- (15) If the measures did constitute aid (an assumption that is contested), then they would be compatible under Article 87(3)(d). Information on the foundations in 1998 shows that 56 % of their activities are devoted to cultural and environmental promotion and conservation. In fact, this is one of the few areas in which foundations are allowed and indeed obliged to operate.
- (16) It is also pointed out that the Commission did not contest Law No 218 of 30 July 1990, which granted similar benefits. The Commission was aware of the content of Law No 218/90, having dealt with it — albeit indirectly — in the cases of aid to Banco di Napoli, Banco di Sicilia and Sicilcassa⁽³⁾. Should the measures in Decree No 153/99 be considered as incompatible aid, this would breach the principle of equal treatment. The Court of Justice has ruled that: 'for the Commission to be accused of discrimination, it must be shown to have treated like cases differently, thereby subjecting some to disadvantages as opposed to others, without such differentiation being justified by the existence of substantial objective differences'⁽⁴⁾. This would be the case if Decree No 153/99 were to be assessed differently from Law No 218/90.
- (17) Furthermore, the fact that the Commission did not find Law No 218/90 incompatible has created a legitimate expectation on the part of the recipients, which means that, even if the aid were judged to be incompatible, it could not be recovered.

IV. COMMENTS FROM ITALY

- (18) In its response to the initiation of the procedure, the Italian Government replied that banking foundations cannot be considered 'undertakings' for the purposes of the competition rules. Legislative Decree No 356 of 20 November 1990 (hereinafter Decree No 356/90) introduced precise limits on the activities of foundations, which had to be in the public interest, have a social function and could operate only in certain well-identified areas. Decree No 356/90 further required foundations to treat their holdings in banks as a purely financial investment. The Court of Justice has ruled that the mere acquisition and holding of shares in a company is not to be regarded as an economic activity⁽⁵⁾.
- (19) Decree No 153/99 confirms this approach. Article 1(d) identifies the sectors (relevant sectors) in which foundations can operate: scientific research, education, art, environmental and cultural promotion and conservation, health care and assistance for socially vulnerable groups. Article 6(1) stipulates that foundations can control or directly manage only undertakings active in those sectors (instrumental undertakings). Article 3(2) prohibits foundations from financing in any way, directly or indirectly, bodies operating for profit or undertakings of any kind, except for 'instrumental' undertakings. Instrumental undertakings must have a field of activity and statutory objective consistent with those of the foundation and may not pursue a purely 'commercial' policy.
- (20) In fact, foundations can only donate funds or perform activities in the social interest and must devote not less than 50 % of their annual income to those activities. The Italian authorities refer to the judgment by the Court in *Poucet and Pistre*, which states that: 'Sickness funds, and the organisations involved in the management of the public social security system, fulfil an exclusively social function. That activity is based on the principle of national solidarity and is entirely non-profit-making. The benefits paid are statutory benefits bearing no relation to the amount of the contributions. Accordingly, that activity is not an economic activity and, therefore, the organisations to which it is entrusted are not undertakings within the meaning of Articles 85 and 86 of the Treaty'⁽⁶⁾. The Italian authorities believe that similar arguments should apply to foundations.

⁽³⁾ Commission notice pursuant to Article 93(2) of the EC Treaty to other Member States and interested parties concerning aid granted to Banco di Napoli (Case C 40/96; OJ C 328, 1.11.1996, page 23), Commission Decision 99/288/EC of 29 July 1998 (OJ L 116, 4.5.1999, p. 5) and Commission Decision 2000/600/EC (OJ L 256, 10.10.2000, p. 21).

⁽⁴⁾ Case 250/83 *Finsider v Commission* [1985] ECR 131, paragraph 8.

⁽⁵⁾ Case C-80/95 *Harnas & Helm CV v Staatssecretaris van Financiën* [1997] ECR I-745, paragraph 15.

⁽⁶⁾ Joined Cases C-159/91 and C-160/91 *Poucet and Pistre* [1993] ECR I-637, paragraphs 18 and 19.

- (21) Foundations cannot be considered undertakings on the grounds of their shareholdings in banks. Decree No 153/99 obliges foundations to withdraw from control within four years. The concept of control is wider than that laid down in the Civil Code because it also covers control exercised via agreements with other shareholders. It is also wider than the concept of control used in Commission Directive 80/723/EEC of 25 June 1980 on the transparency of financial relations between Member States and public undertakings ⁽⁷⁾. Moreover, Decree No 153/99 stipulates that managerial positions in the foundation are incompatible with managerial positions in the 'transferee' bank.
- (22) As in the case of foundations, 'instrumental undertakings' cannot be considered undertakings within the meaning of Article 87(1) since they have to operate exclusively in the relevant sectors and be directly involved in pursuing the statutory object of the foundation.
- (23) The measure described in recital 5(1) does not represent a derogation from the normal tax rules, but simply confirms the application to foundations of a general provision in Italian tax legislation. Presidential Decree No 601 of 29 September 1973 grants a reduction in corporation tax to all legal persons operating in the social assistance, health, education or similar sectors.
- (24) The measures described in recital 5(2) do not confer an advantage on foundations, but merely prevent them from being further penalised by the forced sale of shares. Indeed, any capital gains would not arise from an ordinary transaction decided by the operator but from an event imposed by law: application of the ordinary tax rules would not be justified.
- (25) The measures described in recital 5(3) and (4) concern goods and holdings in instrumental activities transferred to banks pursuant to Law No 218 of 30 July 1990. When the public banks were converted into public limited companies owned by banking foundations, operators transferred those assets to the banks rather than the foundations in order to avoid taxation on revaluation of the assets. In the case of holdings in the capital of the Banca d'Italia, the choice of placing them in the foundation was not even available. Under Law No 141 of 7 March 1938, the newly created foundations were not among the bodies eligible to be shareholders in the Banca d'Italia. Decree No 153/99 modified those rules and allowed foundations to hold shares in the Banca d'Italia.
- (26) According to the Italian authorities, the measures described in recital 5(3) and (4) do not involve the use of state resources. The tax advantage is not automatic but conditional upon the carrying out of specific transactions. If those transactions had attracted tax, it is unlikely that they would have taken place.
- (27) It is also argued that the measures described in recital 5(3) and (4) introduce a derogation from the normal rules only in some instances. Demergers already benefited from tax neutrality as regards all companies in all sectors, whereas certain indirect taxes were already calculated on a fixed basis in a number of instances.
- (28) Furthermore, the measures do not necessarily confer an economic advantage. They provide for a tax-neutral transfer of the assets in question to the foundations, which means that any capital losses would not give rise to a tax credit. Moreover, tax neutrality is not a tax exemption: the tax burden is shifted onto the new owner of the assets who, in the cases laid down by tax law, will have to pay the tax on the total amount of capital gains.
- (29) In any event, even if the measures resulted in exemption from a tax that should have otherwise been paid, the particular nature of the transactions justifies special tax treatment. These are not ordinary sales of assets but transactions that correct the effects of previous non-voluntary transfers. The assets involved should have remained in the foundations but were temporarily transferred to the 'transferee' companies, either because of a legal obligation (in the case of holdings in the Banca d'Italia) or in order to avoid tax payments (in the case of instrumental assets).
- (30) The measures under Decree Law No 153/99 do not distort competition in a market where there is trade between Member States. The sale of shareholdings must take place in a non-discriminatory fashion and is subject to control by the supervisory authority, which assesses the fairness of the selling price with a view to preserving the assets of the foundation. Accordingly, the tax advantages for the foundations do not alter the conditions of competition in the market for company shareholdings.
- (31) The tax advantages cannot benefit, either directly or indirectly, any body other than the foundation itself or the instrumental undertakings. The latter must pursue the same statutory objective as the foundations and do not operate according to normal market criteria. They cannot be considered 'undertakings' within the meaning of Article 87(1). In any event, their activity is local in nature: 93,8 % of the projects financed by foundations take place in the foundation's own region. Foundations respond to needs that are typically of a local nature and would not be satisfied by operators in other Member States. Moreover, in the fields of scientific research, education, art, cultural and environmental promotion and conservation, health care and assistance for socially vulnerable groups, there are few market operators.

⁽⁷⁾ OJ L 195, 29.7.1980, p. 35. Last amended by Directive 2000/52/EC (OJ L 193, 29.7.2000, p. 75).

- (32) If the measures did constitute State aid (an assumption that is contested), they would have to be declared compatible with Article 87(3)(c). The measures do not adversely affect trading conditions to an extent contrary to the common interest and are aimed at facilitating a process, the reduction of State involvement in the economy, which has on many occasions been supported and encouraged by the EU.

V. ASSESSMENT OF THE MEASURES

The rules on banking foundations

- (33) Banking foundations are subject to supervision by a specific authority that is aimed at ensuring compliance with the law and statutes, sound and prudent management, adequate return on investments and protection of actual and potential beneficiaries. To this end, the supervisory authority can enact administrative provisions laying down in particular rules on asset management, investments, use of revenue and annual accounts. Where serious and repeated irregularities are found, the supervisory authority can dissolve the statutory bodies of a foundation and appoint a special administrator; where a foundation is no longer able to pursue its objectives the authority may order it to be wound up. In special cases the supervisory authority may also prescribe the forced administrative liquidation (*liquidazione coatta amministrativa*) of a foundation⁽⁸⁾. Lastly, the supervisory authority can exercise powers with regard to the divestment of controlling shareholdings.
- (34) Banking foundations are allowed to operate only in the so-called 'admitted sectors'. The admitted sectors are listed in Article 1(1)(c-bis) of Legislative Decree No 153 of 17 May 1999 (Decree No 153/99), as amended by Law No 448 of 28 December 2001 (Law No 448/01)⁽⁹⁾. The list is divided into four broad areas: 1. protection and development of individuals; 2. social security; 3. scientific and technological research, environmental protection; 4. art, preservation of cultural heritage and promotion of cultural activities⁽¹⁰⁾. However, banking foundations are required to concentrate their activity in

⁽⁸⁾ 'Forced administrative liquidation' (*liquidazione coatta amministrativa*) is a special winding-up procedure that replaces application of the ordinary rules on bankruptcy.

⁽⁹⁾ Law No 448/01 introduced the distinction between 'admitted' and 'relevant' sectors. Originally, Decree No 153/99 covered only 'relevant sectors', more generally defined as scientific research, education, art, health, cultural and environmental promotion and conservation, and assistance for vulnerable social groups. The difference between the past and the present rules is that the new provisions tend to force banking foundations to define more accurately their scope of activity. Some new areas of activity can now be chosen as 'relevant sectors'.

⁽¹⁰⁾ Within the area of protection and development of individuals, the Law lists: family and related values, growth and development of young people, education and training, including the acquisition of publications for schools, voluntary and charity work, religion and spiritual development, assistance to the elderly and civil rights. The area of social security includes: crime prevention, public safety, food security and high-quality agriculture, local development and public housing, consumer protection, civil protection, public health, preventive and rehabilitative medicine, sport, prevention of drug addiction and rehabilitation of addicts, and psychological and mental conditions.

the so-called 'relevant sectors'. 'Relevant sectors' are the 'admitted sectors' in which each foundation actually chooses to operate. Foundations are required to select up to three relevant sectors every three years. Relevant sectors are the priority area of activity of banking foundations, who must devote to these sectors at least 50 % of their annual net income.

- (35) 'Relevant sectors' also restrict the areas in which banking foundations are authorised to carry out business activities and hold controlling stakes in commercial companies. Article 3(1) of Decree No 153/99 states that banking foundations may run commercial undertakings only where they are directly 'instrumental' to their statutory objectives and operate exclusively in the relevant sectors. Article 3(2) stipulates that banking foundations may not finance or subsidise, directly or indirectly, bodies or undertakings of any other kind.
- (36) Controlling shareholdings in other companies must be sold or divested. Article 6 of Decree No 153/99 states that control must be established in accordance with Article 2359, first and second subparagraphs, of the Civil Code. Hence, control exists when a foundation:
- (a) by way of agreements of any kind with other shareholders, has the right to appoint the majority of the executives or holds the majority of the voting rights at the ordinary general meeting;
 - (b) by way of agreements of any kind with other shareholders, may make the appointment or dismissal of the majority of members of the executive conditional on its approval;
 - (c) by way of financial or organisational links, is able to exercise the rights described in (a) and (b).

In addition, Law No 448/01 stipulates that a bank is deemed to be controlled by a foundation even where control can be traced back, directly or indirectly, to more than one foundation, in whatever way this is determined.

(37) Banking foundations are allowed to retain shareholdings in banks for a period of four years from the entry into force of Decree No 153/99. Law No 448/01 has now stipulated that banking foundations may retain controlling shareholdings in banks for a further period of three years provided that management of shareholdings in transferee banks is entrusted to an independent asset management company (società di gestione del risparmio — SGR). The asset management company would exercise in its own name all the shareholding rights, except for voting at extraordinary general meetings (i.e. meetings called to approve structural changes). The supervisory authority should adopt special provisions aimed at ensuring transparency and fairness in the choice of asset management companies and avoiding conflicts of interest.

(38) Other, non-authorised controlling shareholdings must be divested by the deadline set by the supervisory authority and, in any case, within four years from the entry into force of Decree No 153/99. If foundations do not meet these deadlines, the supervisory authority will take direct measures to ensure divestment of controlling shareholdings, possibly by appointing a special officer.

(39) Members of the internal bodies and executives of banking foundations must satisfy the requirements of professional integrity and experience. These requirements are established by the supervisory authority and are taken to mean the experience and ethical standards required to perform planning, administrative, managerial and supervisory duties in not-for-profit bodies. Banking foundations cannot distribute profits to members of internal bodies, executives or employees. Law No 448/01 provides that members of internal bodies and executives cannot perform administrative, managerial or supervisory duties in the 'transferee' bank or any other undertaking operating in the banking, financial or insurance sector. Decree No 153/99, in its original wording, simply prohibited members of the management body of a foundation from being on the board of directors of the transferee bank.

(40) The assets of banking foundations are devoted entirely to the pursuit of their statutory objectives and are managed in a manner consistent with their status as

non-profit bodies operating in accordance with principles of transparency and morality. In managing their assets, foundations must observe prudential risk criteria in order to preserve their value and obtain an adequate return. In addition, they are required to diversify their investments with a view to avoiding risk arising from investment concentration and to invest their assets in a manner consistent with their institutional aims and, in particular, with the promotion of local development.

(41) Article 4(1)(c) of Decree No 153/99, as amended by Law No 448/01, states that the local authorities must appoint a majority of the members of the governing body of foundations.

Economic activity

(42) To sum up, the activity of banking foundations consists in directing the revenue they obtain from their assets to the promotion of actions in the social field. There are four main aspects to this activity: (i) the management and investment of their assets; (ii) the giving of grants to not-for-profit bodies operating in the social field; (iii) the carrying out of activities in the social field, and (iv) the control of 'instrumental undertakings'.

Management and investment of own assets

(43) As to the first activity, Decree No 153/99 specifies that the assets of the foundations are tied entirely to the pursuit of their statutory objectives. Foundations have to seek an adequate return on their investments but must also respect prudential risk criteria in order to preserve their value⁽¹⁾. They cannot use their capital to acquire control of commercial undertakings: Decree No 153/99 introduced specific safeguards in this respect (see recitals 36 and 39). Law No 448/01 has further strengthened these safeguards with regard to banks by explicitly ruling out the possibility of joint control and widening the scope of the ban on the cumulation of responsibilities. Law No 448/01 has, therefore, reinforced the separation between foundations and financial institutions. In so doing, it has helped to allay the corresponding concerns expressed in the decision to initiate the procedure.

⁽¹⁾ Law No 448 of 28 December 2001 has added that the capital has to be managed in a way that is consistent with the nature of the foundations as non-profit bodies that operate according to principles of transparency and morality.

(44) The management of capital, when performed by the foundation itself ⁽¹²⁾, does not result in the provision of a service on the market. In the field of VAT, the Court has consistently held that a holding company whose sole purpose is to acquire holdings in other undertakings, without involving itself directly or indirectly in the management of those undertakings, without prejudice to its rights as a shareholder, does not perform an economic activity. This is not the case where the holding is accompanied by direct or indirect involvement in the management of the companies in which a holding has been acquired, without prejudice to the rights held by the holding company as shareholder. Involvement of that kind in the management of controlled undertakings must be regarded as an economic activity in so far as it results in the sale of goods or the provision of services ⁽¹³⁾. The Commission considers that these principles are relevant in assessing whether foundations exercise an economic activity and can therefore be considered as undertakings within the meaning of Article 87(1).

(45) In addition, the management of capital cannot be seen as an activity independent of, and separate from, that of using its proceeds to promote measures in the social field. The profits derived from the management of assets cannot be distributed to the foundations' members or associates and can be used only for making grants. Accordingly, the in-house management of a foundation's assets cannot be described as an 'economic activity' in itself but has to be seen in the context of its overall activity.

The making of grants to not-for-profit bodies operating in the social field

(46) The revenue that foundations derive from their assets is used to make grants to non-profit bodies operating in the fields laid down by law (see recital 34). Decree No 153/99 expressly prohibits banking activity and foundations cannot receive any form of compensation for their grants. Quoting some of the wording used by the Court of Justice in its judgment in Poucet and Pistre (see recital 19) this type of activity 'fulfils an exclusively social func-

tion', 'is based on the solidarity principle' and 'is entirely non-profit-making'. In addition, benefits granted by foundations have nothing to do with any possible return for the foundations themselves: the foundations do not operate according to normal market criteria, and a market does not exist for this particular type of activity.

(47) Accordingly, the Commission considers that the management of own assets and use of the proceeds for making grants to not-for-profit entities operating in the social field is not an economic activity and therefore does not make foundations undertakings within the meaning of Article 87(1) of the Treaty.

Activities in the social field and control of 'instrumental undertakings'

(48) Banking foundations are not authorised to have controlling stakes in undertakings or to fund commercial activities in any way, except in the circumstances stipulated by law. These are cases where foundations directly carry out an activity in the 'relevant' sectors or control bodies operating in those fields (*instrumental undertakings*). In any event, neither the foundations nor the instrumental undertakings can operate for profit.

(49) In assessing whether the activities in the fields indicated by law are to be considered 'economic', it should be reminded that, according to established case law, 'the concept of an undertaking covers any entity engaged in an economic activity, regardless of its legal status and the way in which it is financed, and that any activity consisting in offering goods and services on a given market is an economic activity' ⁽¹⁴⁾. The Court of Justice has also held, in the case of a sectoral pension fund, that the fact that it is non-profit-making, the pursuit of a social objective, manifestations of solidarity and restrictions or controls on investments do not prevent the activity engaged in by the fund from being regarded as an economic activity ⁽¹⁵⁾. Indeed, for an activity consisting in offering goods or services to be considered as not economic, it must be possible to rule out the existence of a market for comparable goods or services. In most of the fields indicated by law (education, culture,

⁽¹²⁾ Law No 448 of 28 December 2001 allows foundations to entrust their holdings in the 'transferee' bank to an outside company specialised in investment management (*società di gestione risparmio* — SGR). They can thus delay the sale of their controlling stake in the bank by three years. A foundation cannot interfere in the management of its assets and, regarding its shareholding rights, can only give indications regarding the decisions of the extraordinary general meeting where provided for under Article 2365 of the Italian Civil Code.

⁽¹³⁾ See Cases C-60/90 *Polysar Investments Netherlands v Inspecteur der Invoerrechten* [1991] ECR I-3111, C-333/91 *Sofitam* [1993] ECR I-3513 and C-142/99 *Floridienne and Berginvest* [2000] ECR I-9567.

⁽¹⁴⁾ Case C-35/96 *Commission of the European Communities v Italian Republic* [1998] ECR I-3851, paragraph 36.

⁽¹⁵⁾ Joined cases C-115/97 to C-117/97 *Brentjens' Handelsonderneming BV v Stichting Bedrijfspensioenfonds voor de Handel in Bouwmaterialen* [1999] ECR I-6025, paragraphs 85 and 86.

health care, conservation, scientific research and assistance for vulnerable social groups) it is possible to find operators exercising a similar activity for profit purposes. Unlike the activity of making outright grants, for which a 'market' does not exist, the activity of providing the services of a clinic, an art gallery or a care agency involves economic transactions. In those markets the direct presence of foundations or their ability to control undertakings is liable to distort competition and their activities cannot be entirely immune to competition control.

- (50) This is not to say that all the activities performed in the 'relevant sectors' are of an 'economic nature'. Similarly, some of the activities, although 'economic', might not be such as to affect trade between Member States. The exact identification of the activities for the purpose of State aid control can take place only on a case-by-case basis.
- (51) The Italian authorities have stated that, for the time being, none of the foundations is taking advantage of the possibility, provided for by law, of directly carrying out an activity in the 'relevant' sectors⁽¹⁶⁾. It would therefore appear that none of the foundations can be described as an 'undertaking' for the purposes of Article 87(1) by virtue of activities carried out directly in the 'relevant' sectors. If they did carry out such activities, Article 9(3) of Decree No 153/99 requires foundations to keep separate accounts.
- (52) As to the possibility of acquiring control of instrumental undertakings, this would not make foundations undertakings in so far as it does not imply direct involvement in the activity of the controlled undertaking. Legal separation, as well as accounting separation, exists between the foundations and the 'instrumental undertakings' they are authorised to control.
- (53) Accordingly, the Commission considers that banking foundations which are not directly involved in activities in the 'relevant' sectors are not undertakings for the purposes of Article 87(1). On the other hand, foundations are to be considered undertakings when directly involved in activities of an economic nature, even within the 'relevant' sectors.
- (54) The information provided by the Italian authorities to the effect that foundations carry out no direct activities in the 'relevant' sectors has, therefore, led the Commission to revise its preliminary view, as expressed in its decision to initiate the procedure, regarding the nature of foundations as undertakings.

Possible presence of aid elements

- (55) If foundations are directly involved in economic activities, even in the 'relevant' sectors, where there is trade between Member States, any tax advantage that may benefit these activities is likely to constitute State aid and must therefore be notified pursuant to Article 88(3).

⁽¹⁶⁾ Letter of 16 January 2001 in reply to the Commission's letter of 25 October 2000 informing the Italian Government that it had decided to initiate the procedure laid down in Article 88(2) of the EC Treaty.

- (56) Similarly, because the majority of members of the foundations' governing bodies are appointed by the local authorities (see recital 41), foundations are to be considered publicly controlled bodies. The public authorities control their resources and the way in which they are used. Accordingly, whenever banking foundations grant funds or other forms of support to undertakings, even in the 'relevant' sectors, this is likely to constitute State aid in so far as it distorts or threatens to distort competition and affects trade between Member States. Such aid must be notified pursuant to Article 88(3).

Other transferee companies established pursuant to Law No 218 of 30 July 1990

- (57) Decree No 153/99 grants the tax advantages described in recital 5(2) and (3) to other transferee companies (established pursuant to Law No 218/90) to which foundations transferred their holdings in banks. Where these companies carry out banking activities, they are excluded from the scope of the present decision and are caught by the Commission Decision of 11 December 2001 in Case C 54/A/2000/EC. However, Article 16(6) of Decree No 153/99 explicitly provides for the case of transferee companies which do not carry out banking activities and are entirely owned by foundations. In so far as these companies merely administer the financial holdings of foundations, do not offer any service to third parties and are entirely owned by foundations, the tax advantages described in recital 5(2) and (3) will ultimately accrue to the foundations. As long as the foundations that own the conferee companies in question are not undertakings within the meaning of Article 87(1), the measures in recital 5(2) and (3) will not confer advantages on any undertaking.
- (58) Accordingly, the Commission considers that tax advantages granted under Articles 13 and 16 of Decree No 153/99 to transferee companies which do not carry out banking activities and are entirely owned by foundations do not constitute State aid within the meaning of Article 87(1).

VI. CONCLUSIONS

- (59) The Commission considers that the management of own assets and the use of the proceeds for making grants to not-for-profit bodies operating in the social field is not an economic activity and therefore does not make foundations undertakings within the meaning of Article 87(1) of the Treaty.

- (60) The Italian authorities have stated that no foundation is directly engaged in activities of an economic nature in the fields where this possibility is granted by law.
- (61) Accordingly, the measures intended for foundations under Article 12(2), Article 13, Article 16(4) and (5) and Article 27(2) of Decree No 153/99 do not constitute State aid since they are not intended for undertakings within the meaning of Article 87(1) of the Treaty.
- (62) The measures introduced under Article 13, Article 16(6) and Article 17 of Decree No 153/99 for transferee companies that do not carry out banking activities, do not offer any service to third parties and are entirely owned by foundations, do not constitute State aid since they are not intended for undertakings within the meaning of Article 87(1).
- (63) If foundations are directly involved in an economic activity, even in the 'relevant' sectors, where there is trade between Member States, any tax advantage that may benefit this activity is likely to constitute State aid and must therefore be notified pursuant to Article 88(3). Similarly, because the majority of members of foundations' governing bodies are appointed by the local authorities, the public authorities control their resources and the way in which they are used. Accordingly, whenever foundations grant funds or other forms of support to undertakings, this is likely to constitute State aid in so far as it distorts or threatens to distort competition and affects trade between Member States. Such aid has to be notified pursuant to Article 88(3). Lastly, if transferee companies offer services to third parties, any tax advantage granted to them is likely to constitute State aid and has therefore to be notified pursuant to Article 88(3),

HAS ADOPTED THIS DECISION:

Article 1

The measure which Italy has implemented under Article 12(2), Article 13, Article 16(4) and (5) and Article 27(2) of Legislative Decree No 153 of 17 May 1999 for foundations which do not

directly carry out activities in the sectors listed in Article 1(1)(c-bis) of that Decree, as amended by Law No 448 of 28 December 2001, does not constitute aid within the meaning of Article 87(1) of the Treaty.

Article 2

The measure which Italy has implemented under Article 13, Article 16(6) and Article 17 of Legislative Decree No 153 of 17 May 1999 for transferee companies which do not carry out banking activities, do not offer any service to third parties and are entirely owned by the foundations referred to in Article 1 of the present decision does not constitute aid within the meaning of Article 87(1) of the Treaty.

Article 3

If foundations are directly involved in an economic activity, even in the 'relevant' sectors, where there is trade between Member States, any tax advantage that may benefit these activities is likely to constitute State aid and must therefore be notified pursuant to Article 88(3) of the EC Treaty. Where the majority of members of foundations' governing bodies are appointed by the local authorities, any funds or other forms of support granted to undertakings is likely to constitute State aid and must therefore be notified pursuant to Article 88(3) of the EC Treaty. Where transferee companies offer services to third parties, any tax advantage granted to them is likely to constitute State aid and must therefore be notified pursuant to Article 88(3) of the EC Treaty.

Article 4

This Decision is addressed to the Italian Republic.

Done at Brussels, 22 August 2002.

For the Commission

Mario MONTI

Member of the Commission

COMMISSION DECISION
of 16 October 2002
on the State aid implemented by Portugal for Opel Portugal Comércio e Indústria de Veículos

(notified under document number C(2002) 3742)

(Only the Portuguese text is authentic)

(Text with EEA relevance)

(2003/147/EC)

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community, and in particular the first subparagraph of Article 88(2) thereof,

Having regard to the Agreement on the European Economic Area, and in particular Article 62(1)(a) thereof,

Having called on interested parties to submit their comments pursuant to the provisions cited above ⁽¹⁾ and having regard to their comments,

Whereas:

I. PROCEDURE

(1) By letters dated 2 March, 10 April and 31 May 2001, the Portuguese authorities notified a plan to grant training aid and regional aid to Opel Portugal Comércio e Indústria de Veículos, SA (hereinafter Opel Portugal). The Commission requested further information on 19 July 2001 and the Portuguese authorities replied on 3 October. It carried out an on-site visit to the plant in Azambuja on 26 November 2001 and sent a request for further information on 30 November, to which the Portuguese authorities replied on 28 January 2002.

(2) The Commission decided on 27 March 2002 to initiate the procedure laid down in Article 88(2) of the Treaty (decision to open the formal investigation procedure) since it found that there were doubts as to the compatibility with the common market. Portugal submitted its comments on the opening of the procedure on 24 May 2002.

(3) The Commission decision to initiate the procedure was published in the *Official Journal of the European Communities* ⁽²⁾, with an invitation to interested parties to submit

their comments on the aid. The Commission received comments from interested parties. It forwarded them to Portugal, which was given the opportunity to react; its comments were received by letter dated 30 May 2002.

II. DETAILED DESCRIPTION OF THE AID

(4) Opel Portugal is a subsidiary of the United States automotive group General Motors (hereinafter GM) that manufactures motor vehicles at its Azambuja plant, in the Lisbon region. The notified project concerns the production of a new small passenger and commercial vehicle, the Corsa Combo, based on the Opel Corsa platform. The vehicle, production of which started in 2001, replaces ageing models based on the old Corsa platform.

(5) Two distinct measures relating to training aid and regional aid are planned in favour of Opel Portugal.

(a) **Training aid**

The project

(6) The training project in question is Opel Portugal's vocational training programme for its workforce (the programme), which runs from 2000 to 2003. The Portuguese authorities have provided the Commission with detailed information concerning the training to be provided and the costs involved.

(7) According to the information provided by the Portuguese authorities, the programme includes 327 365 hours of training, of which 253 099 are general training and 74 266 specific training. The training is provided by Opel Portugal directly, as well as by other training institutions accredited by the public body Inofor (Instituto para a Inovação na Formação).

⁽¹⁾ OJ C 151, 25.6.2002, p. 2.

⁽²⁾ See footnote 1.

- (8) The eligible training costs as notified to the Commission are as follows (amounts expressed in euro):

(in EUR)

| TYPE OF EXPENDITURE | General training | Specific training | Total costs |
|---|------------------|-------------------|-------------|
| Trainee costs (including travel expenses) | [...] (*) | [...] (*) | [...] (*) |
| Trainer costs | [...] (*) | [...] (*) | [...] (*) |
| Non-teaching staff | [...] (*) | [...] (*) | [...] (*) |
| Preparatory work | [...] (*) | [...] (*) | [...] (*) |
| Operating expenses | [...] (*) | [...] (*) | [...] (*) |
| Equipment rental and depreciation | [...] (*) | [...] (*) | [...] (*) |
| Monitoring and evaluation | [...] (*) | [...] (*) | [...] (*) |
| External training | [...] (*) | [...] (*) | [...] (*) |
| Total | 5 506 584 | 1 284 628 | 6 791 212 |

(*) Business secret.

- (9) According to the Portuguese authorities, there are two types of course: courses providing general training, and courses providing a mix of general and specific training. Courses involving only general training provide the recipients with general skills that can be useful in a range of employment areas and are, therefore, transferable. Examples are production team leadership, quality and process skills, basic manufacturing skills, IT training, leadership, health and safety, language and plant-based training.

- (10) Courses involving both general and specific training focus on qualifications that are more directly linked to specific tasks that the workers have to perform in their current job, e.g. training concerning assembly operations, specific machine functioning and painting processes. According to the Portuguese authorities, these courses involve a general training component in so far as they develop transferable qualifications in the realm of 'technical and relational know-how'. The Portuguese authorities mention as examples of general skills developed through these courses the ability to interpret instructions, the ability to follow a given sequence of tasks, safety awareness, quality awareness and problem-solving.

(Decreto Regulamentar) No 12-A/2000 of 15 September 2000 and Legislative Order (Despacho Normativo) No 42-B/2000 of 20 September 2000.

- (12) The Portuguese authorities plan to grant to Opel Portugal training aid amounting to EUR 3 414 010, of which EUR 3 028 621 (or 55 % of the eligible costs) is considered to be aid to general training and EUR 385 389 (or 30 % of eligible costs) as aid to specific training.

Grounds for initiating the procedure

- (13) In its decision of 19 December 2001 to initiate the procedure⁽⁴⁾, the Commission expressed doubts as to whether the courses notified by the Portuguese authorities as providing both general and specific training ranked as general training. It asked for further information on these courses and for a more detailed breakdown of eligible costs for the courses notified as providing both general and specific training.

(b) Regional investment aid

The project

Legal basis and amounts of aid

- (11) The legal basis for the proposed aid is provided by Commission Regulation (EC) No 68/2001⁽³⁾ and by the following Portuguese acts: Order in Council (Portaria) No 229/2001 of 19 March 2001; Implementing Decree

- (14) The investment project is located at the Azambuja plant, in the Lisbon region. Azambuja is an Article 87(3)(c) area whose regional aid ceiling in 2000 was 47,68 % net grant equivalent (approximately 65,80 % gross grant equivalent). In 2001 and 2002 the corresponding figures were 40,76 % nge (approximately 56,25 % gge) and 33,84 % nge (approximately 46,70 % gge).

⁽³⁾ OJ L 10, 13.1.2001, p. 20.

⁽⁴⁾ See footnote 1.

- (15) The project is in two phases. In the first phase (from August 1998 to end 1999) a new water-based paintshop was installed to replace the previous one, which did not meet the required quality and environmental standards. In the second phase (from 2000 to December 2003) the production lines for the production of the new Corsa Combo model are being installed. Capacity at the Azambuja plant will increase from some 60 000 to some 70 000 units per year. However, GM's capacity at European level will decrease in the relevant period, also as a result of the ongoing 'Olympia' restructuring plan.
- (16) According to the Portuguese authorities, the project is mobile, and the GM group has considered an alternative site in Gliwice, Poland, as a viable alternative.
- (17) Opel intends to invest EUR 124 299 613 in nominal terms (EUR 108 701 829 in present-value terms, base year 1998, discount rate 6,42 %). The entire investment has been considered eligible by the Portuguese authorities.
- (18) The Portuguese authorities have provided a comparison of the costs and benefits of the location in Azambuja with those of the alternative location in Gliwice. The cost benefit analysis (hereinafter CBA) indicates a net cost handicap of EUR 40 449 401 for the location in Azambuja as compared with the location in Gliwice, resulting in a 'handicap intensity' for the project of 37,21 %.

Legal basis and amounts of aid

- (19) The notified aid is granted under approved schemes provided for in the following legislation: PEDIP II (Legislative Decree No 177/94) ⁽⁵⁾, PEDIP-TRANSIÇÃO (Legislative Decree No 348-A/99) and the tax benefit scheme (RBF: Legislative Decree No 409/99) ⁽⁶⁾.
- (20) Total aid of EUR 38 333 000 gge in nominal terms is planned. It includes: (i) a repayable loan of EUR 18 471 000, which the Portuguese authorities have notified as a direct grant since they retain the option of converting the loan into a grant in the future; (ii) a contribution to interest-rate payments on a loan of up to EUR 2 460 000; (iii) tax benefits in the form of reduced tax on profits of up to EUR 17 402 000. The actual value of the total regional aid amounts to EUR 35 297 017. The resulting aid intensity of the regional aid measure is 32,5 % gge.

⁽⁵⁾ Approved by Commission Decision of 29 March 1994 in Case N 1/94.

⁽⁶⁾ Approved by Commission Decision of 8 September 1999 in Case N 97/99.

Grounds for initiating the procedure

- (21) In its decision of 19 December 2001 to initiate the procedure ⁽⁷⁾, the Commission expressed doubts as to the mobility of the project. In order to allay these doubts, it asked for additional clarification and documents on the timing of the approval of the project in Azambuja.
- (22) The Commission also expressed doubts about the CBA in connection with the following points:
- the need for additional investments in the old paintshop in Azambuja [...]^(*), in the event of the alternative option of carrying out the project in Gliwice being taken up: these additional investments should have been accounted for in the CBA as additional costs under that alternative option,
 - the estimate of the land sale revenue for the Azambuja site under the alternative option: the Commission doubted that Opel Portugal could have obtained a net income of EUR 8 083 469 in 2002 from the sale.

III. COMMENTS FROM INTERESTED PARTIES

- (23) The Commission received comments from the company Duarte & Marques LDA on 19 April 2002 which referred to alleged utilisation by Opel Portugal for industrial purposes (a vehicle park) of an area of approximately 12 hectares intended for agricultural and environmental use. According to Duarte & Marques LDA, this fact constituted sufficient grounds to question the legitimacy of the State aid for Opel Portugal. The Commission forwarded these comments to Portugal on 23 April 2002.

IV. COMMENTS FROM PORTUGAL

- (24) The Portuguese authorities sent their comments on the opening of the procedure on 24 May 2002 and their views on the comments from interested parties on 30 May. The Commission has taken these comments and information into account.

(a) **Training aid**

- (25) As regards the training aid, the Portuguese authorities provided information on the criteria for distinguishing between specific and general training. These criteria define specific training in a residual way: a course, or a module within a course, is defined as specific if none of the criteria that define general training is met.

⁽⁷⁾ See footnote 1.

- (26) The Portuguese authorities provided a detailed list of the criteria applied in identifying general training elements within courses notified as providing both general and specific training. The criteria are: ability to interpret instructions and to communicate information/instructions; ability to follow a defined work sequence; awareness of on-the-job safety and safety for customers; compliance with quality standards; attention in handling products; ability to control one's own work; ability to detect problems and avoid mistakes; creativity in formulating work-improvement proposals; ability to rectify mistakes on the spot; collaboration with colleagues and willingness to help whenever necessary; active participation in team work with a view to improving standards; speed of execution of tasks in line with quality standards; understanding of the importance of standards to attain the objectives set; awareness of working time and cycle times.
- (27) According to the Portuguese authorities, these criteria indicate that the courses can be ranked in part as general training because they develop 'technical and relational know-how' that is not exclusively geared to the worker's current position and can be transferred to other enterprises or fields of work.
- (28) Lastly, the Portuguese authorities provided a breakdown of eligible costs highlighting, on the one hand, the costs imputed to courses notified as providing general training only and, on the other, the costs imputed to courses notified as providing both general and specific training.

(b) Regional investment aid

- (29) Regarding the regional investment aid, the Portuguese authorities first reaffirmed that the project was mobile. To support this claim, they provided a document proving that the decision to build the new paintshop in Azambuja was taken by GM in October 1997.
- (30) Secondly, the Portuguese authorities provided additional information on the investments made in the period 1996-98 to improve the emission levels in the old paintshop. They also gave a figure of EUR 2 882 331,52 for the maximum additional investment necessary for the paintshop to comply with the statutory emission limits. According to them, the government could have financed 50 % of this amount as State aid for the investment necessary to attain environmental goals, in accordance with the 1994 Community guidelines on State aid for environmental protection⁽⁸⁾.

- (31) Thirdly, the Portuguese authorities provided additional evidence and information regarding the valuation of the land where the Azambuja plant is located, including an explanatory note from the independent consultant who gave a valuation of the former Ford Lusitania site, a valuation of the site carried out in 2002 by another independent consultant and reports by independent companies assessing the environmental conditions at the Opel site.

(c) Comments from interested parties

- (32) On 30 May the Portuguese authorities sent their views on the comments from interested parties. They claimed that the site referred to in those comments was not the site on which the project notified to the Commission would be carried out. To prove this point, they provided a layout of the plant indicating the relevant areas. They also stated that the matter had been referred to a national court and that no judgment had yet been given.

V. ASSESSMENT OF THE AID

- (33) The measure notified by Portugal in favour of Opel Portugal constitutes State aid within the meaning of Article 87(1) of the Treaty. It would be financed by the State or through state resources. Furthermore, as it constitutes a significant proportion of the project funding, the aid is liable to distort competition in the Community by giving Opel Portugal an advantage over competitors not receiving aid. Lastly, there is extensive trade between Member States in the automobile market.
- (34) Article 87(2) of the EC Treaty lists certain types of aid that are compatible with the EC Treaty. In view of the nature and purpose of the aid and the geographical location of the firm, subparagraphs (a), (b) and (c) are not applicable to the project in question. Article 87(3) specifies other forms of aid which may be regarded as compatible with the common market. The Commission notes that the project is located at Azambuja, in the Lisbon region, which qualifies for assistance under Article 87(3)(c).
- (35) The aid in question is intended for Opel Portugal, which manufactures and assembles motor vehicles. The firm is therefore part of the motor vehicle industry within the meaning of the Community framework on State aid to the motor vehicle industry (hereinafter the motor vehicle framework)⁽⁹⁾.

⁽⁸⁾ OJ C 72, 10.3.1994, p. 3.

⁽⁹⁾ OJ C 279, 15.9.1997.

- (36) The motor vehicle framework specifies that all aid which the public authorities plan to grant to an individual project under authorised aid schemes for a firm operating in the motor vehicle industry must, in accordance with Article 88(3) of the Treaty, be notified before being granted if either of the following thresholds is reached: (i) total cost of the project: EUR 50 000 000, or (ii) total gross aid for the project, whether State aid or aid from Community instruments: EUR 5 000 000.
- (37) Both the total cost of the project and the amount of aid exceed the respective notification threshold. Thus, in notifying both the training aid and the regional aid proposed for Opel Portugal, the Portuguese authorities have complied with Article 88(3) of the Treaty.
- (38) At the outset, the Commission considers that the fact that Opel Portugal is allegedly using for industrial purposes an area intended for agricultural and environmental use is not relevant to the assessment of the case. This is because the layout of the plant demonstrates that the area whose use is being disputed is clearly distinct from the area where the project under examination is located. Consequently, the Commission concludes that the two measures, training aid and regional aid, are to be assessed in the light of the relevant rules.
- (41) The Commission points out that the distinction between specific training and general training actions is laid down in Article 4 of the Regulation. Specific training is defined in Article 2 as training involving tuition directly and principally applicable to the employee's present or future position in the assisted firm and providing qualifications which are not, or only to a limited extent, transferable to other firms or fields of work.
- (42) General training is defined in Article 2 as training involving tuition which is not applicable only or principally to the employees' present or future position in the assisted firm but which provides qualifications that are largely transferable to other firms or fields of work and thereby substantially improve the employability of the employee.
- (43) The eligible costs in the context of the training aid project are listed in Article 4(7) of the Regulation. The Commission notes that, as required by Article 4, the Portuguese authorities have provided documentary evidence in the form of a costed training plan which has enabled the Commission to identify the total amount of eligible costs. It also notes that the total eligible cost of the notified training programme is EUR 6 791 212, of which total eligible personnel costs (excluding travel expenses) are EUR 3 118 560.

(a) **Training aid**

- (39) Pursuant to point 3.6. of the motor vehicle framework, training aid to companies in the motor vehicle sector must be assessed under Commission Regulation (EC) No 68/2001 of 12 January 2001 on the application of Articles 87 and 88 of the EC Treaty to training aid⁽¹⁰⁾ (hereinafter, the Regulation). According to Article 5 of the Regulation, training aid fulfilling the conditions of the Regulation is not automatically exempted if the amount of aid granted to one enterprise for a single training project exceeds EUR 1 000 000. As a consequence, this aid must be notified and assessed under that Regulation. The Commission notes that the proposed aid in this case amounts to EUR 3 414 010, that it is to be paid to one enterprise and that the training project is a single project. It therefore considers that the notification requirement applies to the proposed aid and that the aid has to be assessed in the light of the Regulation.
- (44) Under Article 4(2) and (3), training aid is compatible with the common market if it complies with the aid intensities set out therein, in relation to eligible costs. Under the terms of the Regulation, the maximum aid intensities that can be authorised for the project in question, which is carried out by a large firm in an Article 87(3)(c) area, are 30 % for specific training and 55 % for general training.
- (45) The Commission notes that the Portuguese authorities have distinguished between two types of course: courses providing general training and courses providing a mix of general and specific training.
- (40) Under Article 3(1) of the Regulation, individual aid is compatible with the common market within the meaning of Article 87(3)(c) if it fulfils all the conditions of the Regulation.
- (46) After assessing the information provided by the Portuguese authorities, the Commission considers that the courses notified by them as providing exclusively general training (amounting to 183 040 hours of training) have to be regarded as general training within the meaning of the Regulation.

⁽¹⁰⁾ OJ L 10, 13.1.2001, p. 20.

- (47) As for the courses providing a mix of general and specific training (amounting to 70 059 hours of general training and 74 266 hours of specific training), the Commission cannot accept the definition of general training proposed by the Portuguese authorities. They argued that, although the focus of the training is to provide qualifications that are directly applicable to the employee's present position within the company, such courses provide at the same time transferable qualifications that could be used in other firms or fields of work. However, this element is not sufficient for such courses to be regarded as providing general training.
- (48) Firstly, the Commission notes that specific training may help to enhance the general qualifications of employees. Indeed, it is very likely that training involving tuition directly and principally applicable to the employee's present position within the company also contributes indirectly to an improvement in general knowledge of, say, production processes, safety and quality awareness and team work. However, these qualifications are incidental to the main content of the training, which provides qualifications that are not, or only to a limited extent, transferable to other firms or fields of work.
- (49) Secondly, according to Article 4(5) of the Regulation, in cases where the aid project involves both specific and general training components which cannot be separated for the calculation of the aid intensity and in cases where the specific or general character of the training aid project cannot be established, the intensities applicable to specific training apply.
- (50) The Commission notes that, according to the information provided, the Portuguese authorities have identified general training components within the courses notified as providing both general and specific training, by ascertaining whether a particular module within a course provided elements of general training. It was only if no general training elements were identified that the module was classified as specific training.
- (51) The Commission considers that the mere presence of a general training component within a module does not rule out the possibility that the module provides mainly training of a specific nature. By defining specific training only in a residual manner, the Portuguese authorities have regarded as general training modules that provide qualifications which are transferable to other firms or fields of work only to a limited extent and that involve tuition directly and principally applicable to the employee's present position.
- (52) The Commission concludes therefore that the criteria for distinguishing between general and specific training components proposed by the Portuguese authorities do not identify the different training components as required by the Regulation. Since the courses notified by the Portuguese authorities as providing both general and specific training involve tuition directly and principally applicable to the employee's present position and provide qualifications which are not, or only to a limited extent, transferable to other firms or fields of work, the Commission concludes that such courses cannot qualify for training aid in respect of general training.
- (53) On the basis of the information provided by the Portuguese authorities in their letter of 24 May 2002, the Commission has calculated that eligible training costs are as follows:

(in EUR)

| TYPE OF EXPENDITURE | General training | Specific training | Total costs |
|---|------------------|-------------------|--------------|
| Trainees' costs (including travel expenses) | [...] (*) | [...] (*) | [...] (*) |
| Trainer costs | [...] (*) | [...] (*) | [...] (*) |
| Non-teaching staff | [...] (*) | [...] (*) | [...] (*) |
| Preparatory work | [...] (*) | [...] (*) | [...] (*) |
| Operating expenses | [...] (*) | [...] (*) | [...] (*) |
| Equipment rental and depreciation | [...] (*) | [...] (*) | [...] (*) |
| Monitoring and evaluation | [...] (*) | [...] (*) | [...] (*) |
| External training | [...] (*) | [...] (*) | [...] (*) |
| Total | 3 760 103,82 | 3 031 108,19 | 6 791 212,01 |

(54) The allowable aid intensity for general training is equal to 55 % of eligible costs, resulting in allowable aid for general training of EUR 2 068 057. The allowable aid intensity for specific training is equal to 30 % of eligible costs, resulting in allowable aid for specific training of EUR 909 332.

(b) Regional investment aid

(55) According to the motor vehicle framework, the Commission is to ensure that the aid granted is both necessary for the realisation of the project and in proportion to the gravity of the problems it is intended to resolve. Both tests, necessity and proportionality, must be satisfied if the Commission is to authorise State aid in the motor vehicle industry.

(56) Under point 3(2)(a) of the framework, in order to demonstrate the necessity for regional aid, the aid recipient must clearly prove that it has an economically viable alternative location for its project. If there were no other industrial site, whether new or in existence, capable of receiving the investment in question within the group, the undertaking would be compelled to carry out its project in the sole plant available, even in the absence of aid. Therefore, no regional aid may be authorised for a project that is not geographically mobile.

(57) The Commission has, with the help of its external automotive expert, assessed the documentation and information provided by Portugal with a view to establishing whether the project is mobile.

(58) Internal GM documents indicate that in April and May 1997 the possible closure of the Azambuja plant in 2001 (end of life of the old Combo model) was considered by GM's top management. Capacity for the planned 55 000 new Combo models per year could have been made available at the Gliwice plant (built between October 1996 and August 1998) by adapting the existing facilities and introducing a third shift.

(59) In June 1997 the GM group considered the option of not closing the Azambuja plant and investing in a new paintshop and the production of the new Combo model as from 2001. Internal GM documents indicate that State aid was deemed crucial in securing the investment for Azambuja. Negotiations with the Portuguese authorities on the new investment project started in the summer of 1997.

(60) GM approved the plan for a new paintshop in Azambuja in October 1997. At that stage, it was clear that the project would receive public support from the Portu-

guese authorities. Among the documents provided by the Portuguese authorities is a letter dated December 1997 from the Portuguese Economics Minister to Opel Portugal confirming the interest of the Portuguese government in supporting the investment project.

(61) The paintshop investment started in August 1998, while the offer of support from the Portuguese authorities was finalised in October 1999/February 2000, the contract being signed in June 2000.

(62) In view of the above information, the Commission concludes that Gliwice was effectively considered as a viable alternative to Azambuja for the project under consideration.

(63) Regional aid intended for modernisation and rationalisation, which are generally not mobile, is not authorised in the motor vehicle sector. However, an expansion or transformation involving a radical change in production structures on the existing site could be eligible for regional aid.

(64) During the on-site visit to the Azambuja plant on 26 November 2001, the Commission, aided by its external automotive expert, was able to verify that the investment project in question involved a radical renovation of an existing plant, together with the complete renewal of a model. The paintshop is completely new, and the level of change in the bodywork and assembly lines is significantly higher than what is common for normal retooling for a new model. For example, production is now much more automated than with the old model, involving a fourfold increase in the number of robots employed. As a consequence, the Commission considers that the project in question is a transformation within the meaning of the motor vehicle framework.

(65) Accordingly, the Commission concludes that the project is mobile in character and can therefore be considered eligible for regional aid since the aid is necessary to attract the investment to the assisted region.

(66) Regarding eligible costs, the Commission notes that they amount to EUR 108 701 829 at 1998 prices, with a discount rate of 6,42 %, as communicated by the Portuguese authorities.

(67) According to point 3(2)(c) of the motor vehicle framework, the Commission needs to satisfy itself that the planned aid is in proportion to the regional problems it is intended to resolve. For that, a CBA is used.

- (68) A CBA compares, with regard to the mobile elements, the costs which an investor would bear in order to carry out the project in the region in question with those it would bear for an identical project in a different location, which makes it possible to determine the specific handicaps of the assisted region concerned. The Commission authorises regional aid within the limit of the regional handicaps resulting from the investment in the comparator plant.
- (69) In accordance with point 3(2)(c) of the motor vehicle framework, the operational handicaps of Azambuja as compared with Gliwice are assessed over three years in the CBA since the project in question is an expansion project, not a greenfield site. The period covered by the CBA is 2001 to 2003, i.e. three years from the beginning of production in compliance with point 3(3) of Annex I to the motor vehicle framework.
- (70) The CBA provided by the Portuguese authorities in their letter of 28 January 2002 indicates a net cost handicap of EUR 40 449 401 for the location in Azambuja in comparison with the location in Gliwice, with a resulting 'handicap intensity' of 37,21 %.
- (71) The Commission has, with the help of its external automotive expert, evaluated the notified CBA with a view to ascertaining to what extent the proposed regional aid is in proportion to the regional problems it is intended to resolve. Taking into account the additional information received from Portugal following the opening of the procedure, the CBA was modified with respect to some elements detailed below.
- (72) As regards the additional investment that would have been necessary in the old paintshop in Azambuja, if the project had been carried out in Gliwice, the Commission considers that the figure of EUR 2 882 331,52 is acceptable [...](*).
- (73) The Commission cannot, however, accept the Portuguese claim that only half of this figure should be taken into account in the CBA because 50 % of the investment would have been financed through State aid. Indeed, it is the Commission's standard practice not to include possible subsidies in the calculation of the regional handicap for the purposes of the CBA. Therefore, the Commission concludes that an additional investment of EUR 2 882 331,52 should be taken into account in the CBA as an additional cost in the alternative option (Gliwice).
- (74) As regards the land where the Azambuja plant is located, the Commission has assessed the additional information provided by the Portuguese authorities after the opening of the procedure. Among the new information, there is an explanatory note from the consultant who carried out the valuation of the site that is located next to the plant and was formerly owned by the car producer Ford Lusitania. The consultant affirms that the estimation of the residual value of the land reported in the study was carried out as a theoretical exercise in order to demonstrate that it would not have been profitable to demolish the existing building and to divide the site into different plots for subsequent development.
- (75) The consultant also affirms that, in his opinion, the estimate best representing the market value of the land was that in a second scenario presented in the study, referring to the sale of the land on the open market to a buyer who would not use the existing installations. In their letter of 24 May 2002, the Portuguese authorities affirm that the estimates of the land revenues have been based on this second scenario. In line with principles of prudence, the Portuguese authorities have reduced by 30 % the values per square metre reported in the study for the purposes of the CBA.
- (76) Given the new information, the Commission considers that the estimate of a net income of EUR 8 083 469 in 2002 for the sale of the land where the plant is located is acceptable and that it has been calculated on the basis of market criteria and in line with the necessary principles of prudence.
- (77) Against this, the Commission cannot accept the estimate of the value of the land in September 2001 that is contained in a different study dated 18 April 2002. The result of this study was clearly not available to Opel Portugal when the decision to locate the project in Azambuja was taken. In its assessment, the Commission must take into account as far as possible all the relevant information available to Opel Portugal at the time of the location decision. However, subsequent events that affected the price of the land are not relevant for the assessment of the case.
- (78) As for the possible impact of environmental damage on the land value, the Portuguese authorities assert that no decontamination of the site would be necessary if the land were sold. The plant possesses up-to-date systems for ensuring the environmental protection of the land, including since 1993 two stations for the treatment of residual water. An independent report dated December 2001 and provided by the Portuguese authorities states that the level of contamination of the area previously used for stocking residuals is well below the 'Dutch standards'. The Commission concludes, therefore, that the costs of decontaminating the land in the event of its sale would not be relevant.
- (79) The modifications included in the analysis produce cost-benefit results that differ from those initially notified by Portugal. The modified CBA indicates a net cost handicap for Azambuja of EUR 37 567 069 at 1998

prices (compared with the figure initially notified of EUR 40 449 401). The resulting handicap ratio for the project is 34,56 % (compared with the 37,21 % initially notified).

- (80) Lastly, the Commission considered the question of a 'top-up', which is an increase in the allowable aid intensity intended as a further incentive to the investor to invest in the region in question. The documentation provided shows that the capacity of GM Europe will decrease in the period 1998 to 2003. The group is undergoing a restructuring process (the Olympia plan) that involves capacity reduction at European level. Consequently, the 'regional handicap ratio' resulting from the CBA is increased by two percentage points (negligible impact on competition for an investment project in an Article 87(3)(c) region), resulting in a final ratio of 36,56 %.

VI. CONCLUSION

- (81) The Commission considers that the training aid for the project in question is compatible with the common market since it does not exceed EUR 2 977 389, of which EUR 2 068 057 corresponds to an aid intensity of 55 % of EUR 3 760 104 of eligible costs for general training and EUR 909 332 corresponds to an aid intensity of 30 % of EUR 3 031 108 of eligible costs for specific training.
- (82) It takes the view that the regional aid which Portugal plans to grant to Opel Portugal therefore fulfils the criteria necessary for it to be considered compatible with the common market under Article 87(3)(a) of the Treaty. The aid intensity of the project (32,5 % gge) is less than both the disadvantage identified by the cost-benefit/top-up analysis (36,56 %) and the regional aid ceiling.
- (83) Any additional State aid for the investment project in question is incompatible with the common market.

HAS ADOPTED THIS DECISION:

Article 1

The State aid which Portugal is planning to implement for Opel Portugal Comércio e Indústria de Veículos in respect of the project relating to the production of the Corsa Combo

passenger and commercial vehicle is compatible with the common market within the meaning of Article 87 of the Treaty:

- as regards the training aid, up to a maximum of EUR 2 977 389, of which EUR 2 068 057 corresponds to an aid intensity of 55 % of EUR 3 760 104 of eligible costs for general training and EUR 909 332 to an aid intensity of 30 % of EUR 3 031 108 of eligible costs for specific training;
- as regards the regional aid, for the amount of EUR 35 297 017 gross grant equivalent at present values, with a base year of 1998 and a discount rate of 6,42 % (EUR 38 333 000 gross grant equivalent in nominal terms). This amount corresponds to an aid intensity of 32,5 % of the eligible investment of EUR 108 701 829 at present values (EUR 124 299 613 in nominal terms).

Article 2

Any State aid in addition to that referred to in Article 1 that Portugal plans to grant to Opel Portugal Comércio e Indústria de Veículos for the project relating to the production of the Opel Corsa Combo model shall be incompatible with the common market.

Article 3

Portugal shall inform the Commission, within two months of notification of this Decision, of the measures taken to comply with it.

Article 4

This Decision is addressed to the Portuguese Republic.

Done at Brussels, 16 October 2002.

For the Commission

Mario MONTI

Member of the Commission

DECISION No 185**of 27 June 2002****amending Decision No 153 of 7 October 1993 (form E 108) and Decision No 170 of 11 June 1998 (compilation of the lists provided for in Article 94(4) and Article 95(4) of Council Regulation (EEC) No 574/72 of 21 March 1972****(Text with EEA relevance)**

(2003/148/EC)

THE ADMINISTRATIVE COMMISSION OF THE EUROPEAN COMMUNITIES ON SOCIAL SECURITY FOR MIGRANT WORKERS,

Having regard to Article 81(a) of Council Regulation (EEC) No 1408/71 of 14 June 1971 on the application of social security schemes to employed persons, to self-employed persons and to members of their family moving within the Community ⁽¹⁾, pursuant to which it is the duty of the Administrative Commission to deal with all administrative matters arising from Regulation (EEC) No 1408/71 and subsequent regulations,

Having regard to Article 2(1) of Council Regulation (EEC) No 574/72 ⁽²⁾, pursuant to which it is the duty of the Administrative Commission to draw up models of certificates, certified statements, declarations, applications and other documents necessary for the application of the regulations,

Having regard to Decision No 153 ⁽³⁾ on the model forms necessary for the application of these Regulations (E 001, E 103 to E 127),

Having regard to Decision No 170 ⁽⁴⁾ concerning the compilation of the lists provided for in Article 94(4) and Article 95(4) of Council Regulation (EEC) No 574/72,

Whereas:

- (1) It is necessary to update the forms to take account of changes to national legislation in the Member States.
- (2) The current structure of form E 108 as shown in Decision No 153 does not allow the institution in the place of residence to notify the competent institution of the cessation of entitlement to health benefits affecting both the pensioner and any members of his or her family residing in a Member State other than the competent State.
- (3) The amendment of form E 108 requires certain amendments to Decision No 170 to adapt it to the new function of form E 108.
- (4) The one-year validity of form E 121 issued by German, French, Italian and Portuguese institutions can only relate to the application of Article 30, and not Article 29, of Regulation (EEC) No 574/72,

HAS DECIDED AS FOLLOWS:

1. The model form E 108 as set out in Decision No 153 shall be replaced by the model appended hereto.
2. Decision No 170 is amended in accordance with the Annex to this Decision.
3. This Decision shall be published in the *Official Journal of the European Union*. It shall be applicable from the date of its adoption by the Administrative Commission of the European Communities on Social Security for Migrant Workers.

*The Chairman of the Administrative
Commission*

Carlos GARCÍA DE CORTÁZAR

⁽¹⁾ OJ L 149, 5.7.1971, p. 2.

⁽²⁾ OJ L 74, 27.3.1972, p. 1.

⁽³⁾ OJ L 244, 19.9.1994, p. 22.

⁽⁴⁾ OJ L 275, 10.10.1998, p. 40.

ANNEX

Decision No 170 is amended as follows:

- (a) Article 1, section 'I. LIST PROVIDED FOR IN ARTICLE 94(4), Families of employed or self-employed persons' is amended as follows:
- (i) point 3 is replaced by the following:

'3. The competent institution or the institution of the place of residence, as the case may be, shall inform the institution of the place of residence or the competent institution of the suspension or withdrawal of entitlement to benefits in kind by sending it two copies of form E 108, with part A completed. The receiving institution, after completing part B of the form, must return one copy to the sending institution.'
 - (ii) in point 4 the existing paragraphs (c) and (d) are renumbered (d) and (e), and a new paragraph (c) is added as follows:

'(c) the date of suspension or withdrawal of entitlement notified by the institution of the place of residence to the competent institution. This date shall be stated on form E 108 and shall be the date on which form E 109 ceases to apply.'
 - (iii) point 5 is replaced by the following:

'5. The institution of the place of residence shall keep the list up to date, by taking as a basis its own information or that provided by the competent institution concerning acquisition of entitlement (form E 109) or suspension or withdrawal of such entitlement (form E 108), and taking account of the one-year validity of E 109 forms issued by German, French, Italian and Portuguese institutions, though without prejudice to the form with which it is possible to end validity of this entitlement as soon as facts occur which, under the legislation of these Member States, justify the withdrawal or suspension of entitlement to benefits.'
- (b) Article 1, section 'II. LIST PROVIDED FOR IN ARTICLE 95(4), Pensioners and/or members of their families' is amended as follows:
- (i) point 3 is replaced by the following:

'The competent institution or the institution of the place of residence, as the case may be, shall inform the competent institution or the institution of the place of residence of the suspension or withdrawal of entitlement to benefits in kind by forwarding two copies of form E 108, with part A completed. After completing part B, the receiving institution shall return one of these copies to the sending institution.

Where the E 108 form suspends or cancels an E 121 form, it shall, like the E 121 form, be issued in respect of a particular individual; in the event of the suspension or cancellation of a number of E 121 forms for members of the same family, as many E 108 forms must be issued as there are E 121 forms involved, even if the suspension or cancellation dates are identical or if all the persons concerned are registered with the same institution of the place of residence.'
 - (ii) in point 4 the existing paragraphs (c) and (d) are renumbered (d) and (e), and a new paragraph (c) is added as follows:

'(c) the date of suspension or withdrawal of entitlement notified by the institution of the place of residence to the competent institution. This date shall be stated on form E 108 and shall be the date on which form E 121 ceases to apply.'
 - (iii) point 5 is replaced by the following:

'5. The institution of the place of residence shall keep the list up to date by taking as a basis its own information or that supplied by the institution responsible for the pension, or the competent sickness insurance organisation of the Member State responsible for the pension, concerning acquisition of entitlement (form E 121) or the suspension or withdrawal of entitlement to benefits (form E 108), and taking account of the one-year validity period of E 121 forms issued by the German, French, Italian and Portuguese institutions concerning cases in which pensioners' family members reside in a Member State other than the competent Member State where the pensioner resides (Article 30 of Regulation (EEC) No 574/72), though without prejudice to the form with which it is possible to end validity of this entitlement as soon as facts occur which, under the legislation of these Member States, justify the withdrawal or suspension of entitlement to benefits.'
-



NOTIFICATION OF SUSPENSION OR WITHDRAWAL OF THE RIGHT TO SICKNESS AND MATERNITY INSURANCE BENEFITS IN KIND

Persons residing in a country other than the competent country

*Regulation (EEC) No 1408/71: Art. 19.1.a and 2; Art. 25.3.i; Art. 26.1; Art. 28.1.a; Art. 29.1.a
Regulation (EEC) No 574/72: Art. 17.2 and 3; Art. 27; Art. 28; Art. 29.5; Art. 30; Art. 94.4; Art. 95.4*

The competent institution or the institution in the place of residence should complete part A of the form and send two copies to the institution in the place of residence or to the competent institution (where appropriate through the liaison body). The receiving institution should complete part B and return one copy to the sending institution.

A. Notification

| | |
|------|--|
| 1. | Institution to which the form is addressed |
| 1.1. | Name |
| 1.2. | Address ⁽²⁾ |

| | | | |
|------|--|---|------------------------|
| 2. | <input type="checkbox"/> Employed person | <input type="checkbox"/> Unemployed person | |
| | <input type="checkbox"/> Self-employed person | <input type="checkbox"/> Pension claimant | |
| | <input type="checkbox"/> Frontier worker (employed) | <input type="checkbox"/> Pensioner (scheme for employed persons) | |
| | <input type="checkbox"/> Frontier worker (self-employed) | <input type="checkbox"/> Pensioner (scheme for self-employed persons) | |
| 2.1. | Surname ^(2a) | | |
| 2.2. | Forenames | Previous names ^(2a) | Date of birth |
| 2.3. | Address in the country of residence ⁽²⁾ | | |
| 2.4. | Identification No ^(2b) | | |

| | | | |
|------|---|---|------------------------|
| 3. | Member of the family ⁽³⁾ | | |
| 3.1. | Surname ^(2a) | | |
| 3.2. | Forenames | Previous names ^(2a) | Date of birth |
| 3.3. | Address in the country of residence ⁽²⁾ | | |
| 3.4. | Identification No ^(2b) | | |

4 Entitlement to benefits certified on our your form of (date) has been suspended or withdrawn for the following reason:

4.1. The insurance of the abovementioned worker ended on

- 4.2. None of the registered family members of the worker has resided in our your country since
- 4.3. The pension of the abovementioned pensioner has been suspended or withdrawn since
- 4.4. The person entitled to benefits named in 2
or
 The family member named in 3
 has not resided in our your country since (date)
 died on (date)
- 4.5. The family member named in 3 has not met the requirements of the legislation of the
State of residence since
- 4.6. (4)

| | | |
|------|--|--|
| 5. | <input type="checkbox"/> Competent institution | <input type="checkbox"/> Institution in the place of residence |
| 5.1. | Name | Code number (5) |
| 5.2. | Address (2) | |
| 5.3. | Stamp | |
| | | 5.4. Date |
| | | 5.5. Signature |

B. Acknowledgement of receipt

6. We received the above notification (part A) on
7. The registration of the person(s) indicated in part A ended on
- We confirm the suspension or withdrawal of entitlement to benefits as notified in section 4, which will take effect on

| | | |
|------|--|--|
| 8. | <input type="checkbox"/> Institution in the place of residence | <input type="checkbox"/> Competent institution |
| 8.1. | Name | |
| 8.2. | Address (2) | |
| 8.3. | Stamp | |
| | | 8.4. Date: |
| | | 8.5. Signature: |

INSTRUCTIONS

Please complete this form in block letters, writing on the dotted lines only.

NOTES

- (*) EEA Agreement on the European Economic Area, Annex VI, Social Security. For the purpose of this Agreement the present form shall also apply to Iceland, Liechtenstein and Norway.
- (1) Symbol of the country to which the institution completing part A of the form belongs: B = Belgium; DK = Denmark; D = Germany; GR = Greece; E = Spain; F = France; IRL = Ireland; I = Italy; L = Luxembourg; NL = the Netherlands; P = Portugal; GB = United Kingdom; A = Austria; FIN = Finland; IS = Iceland; FL = Liechtenstein; N = Norway; S = Sweden.
- (2) Street, number, post code, town, country.
- (2^a) In the case of Spanish nationals, state both names at birth.
In the case of Portuguese nationals, state all names (forenames, surname, maiden name) in the order of civil status as they appear on the identity card or passport.
- (2^b) Indicate the identification number at the competent institution. For Italian nationals indicate, if possible, insurance number and/or the 'codice fiscale'.
- (3) Complete when the suspension or withdrawal of the entitlement to benefits affects family members. Complete individual form E 108 for each member of the pensioner's family.
- (4) If completing section 4.6, the reason for suspension/withdrawal must be specified using one of the letters below:
- (a) The pension holder has taken up a professional activity in the country of residence.
 - (b) The family member has taken up a professional activity in the country of residence.
 - (c) Non-payment of contributions.
 - (d) ...
- (5) To be completed where this exists.
-

DECISION No 186
of 27 June 2002
on the model forms necessary for the application of Council Regulations (EEC) No 1408/71 and (EEC) No 574/72 (E 101)

(Text with EEA relevance)

(2003/149/EC)

THE ADMINISTRATIVE COMMISSION OF THE EUROPEAN COMMUNITIES ON SOCIAL SECURITY FOR MIGRANT WORKERS,

Having regard to Article 81(a) of Council Regulation (EEC) No 1408/71 of 14 June 1971 on the application of social security schemes to employed persons, to self-employed persons and to members of their families moving within the Community ⁽¹⁾, under which it is the duty of the Administrative Commission to deal with all administrative questions arising from Regulation (EEC) No 1408/71 and subsequent regulations,

Having regard to Article 2(1) of Council Regulation (EEC) No 574/72 ⁽²⁾ under which it is the duty of the Administrative Commission to draw up models of certificates, certified statements, declarations, applications and other documents necessary for the application of the regulations,

Having regard to Decision No 172 of 9 December 1998 on the model forms necessary for the application of Council Regulations (EEC) No 1408/71 and (EEC) No 574/72 (E 101) ⁽³⁾,

Whereas:

- (1) Form E 101 should be adapted in order that the legislation applicable to paid workers in international transport undertakings is certified by the competent institution.
- (2) The Agreement on the European Economic Area of 2 May 1992, amended by the Protocol of 17 March 1993, Annex VI, implements Regulations (EEC) No 1408/71 and (EEC) No 574/72 within the European Economic Area.
- (3) By Decision of the EEA Joint Committee, the model forms necessary to implement Regulations (EEC) No 1408/71 and (EEC) No 574/72 are to be adapted and used within the European Economic Area.
- (4) For practical reasons, identical forms should be used within the Community and within the European Economic Area.
- (5) The language in which the forms should be drawn up is dealt with by Recommendation No 15 of the Administrative Commission,

HAS DECIDED AS FOLLOWS:

1. The model form E 101 reproduced in Decision No 172 shall be replaced by the model appended hereto.
2. The competent authorities of the Member States shall make available to those involved (rightful claimants, institutions, employers, etc.) the form according to the attached model.
3. The form shall be available in the official languages of the Community and laid out in such manner that the different versions are perfectly superposable, thereby making it possible for each person or body to which a form is addressed (rightful claimant, institution, employer, etc.) to receive the form printed in their own language.
4. This Decision shall be applicable from the first day of the month following its publication in the *Official Journal of the European Union*.

The Chairman of the Administrative Commission
Carlos GARCÍA DE CORTÁZAR Y NEBREDÁ

⁽¹⁾ OJ L 149, 5.7.1971, p. 2.

⁽²⁾ OJ L 74, 27.3.1972, p. 1.

⁽³⁾ OJ L 143, 8.6.1999, p. 13.



CERTIFICATE CONCERNING THE LEGISLATION APPLICABLE

*Regulation (EEC) No 1408/71: Article 13.2.d; Article 14.1.a; Article 14.2.a; Article 14.2.b; Article 14 a.1.(a), 2 and 4;
Article 14b.1, 2 and 4; Article 14 c (a); Article 14e; Article 17
Regulation (EEC) No 574/72: Article 11.1; Article 11a.1; Article 12a.2(a), 5.(c) and 7(a); Article 12b*

| | | | | |
|------|--|-----------------------------|---|--|
| 1. | <input type="checkbox"/> Employed person | | <input type="checkbox"/> Self-employed person | |
| 1.1. | Surname (2) | | | |
| 1.2. | Forename(s) | Previous names (2) | | |
| 1.3. | Date of birth (3) | Nationality | DNI (4) | |
| 1.4. | Permanent address | | | |
| | Street | No | PO box | |
| | Town | Postal code | Country | |
| 1.5. | Insurance No (5) | | | |

| | | | | |
|------|--------------------------------------|------------------------------|---|--|
| 2. | <input type="checkbox"/> Employer | | <input type="checkbox"/> Activity as a self-employed person | |
| 2.1. | Name of employer or firm | | | |
| 2.2. | Identification No (6) | | | |
| 2.3. | The employer is a recruitment agency | Yes <input type="checkbox"/> | No <input type="checkbox"/> | |
| 2.4. | Address | | | |
| | Telephone | Fax | E-mail | |
| | Street | No | PO box | |
| | Town | Postal code | Country | |

3. The abovementioned insured person
- 3.1. has been employed by the employer mentioned above since
- has been pursuing an activity as a self-employed person since
- in
- 3.2. is being posted or will pursue an activity as a self-employed person for a period probably lasting from to
- 3.3. to the firm(s) mentioned below on the ship mentioned below

| | | | | |
|------|----------------------------------|-------------------|---------------|--|
| 3.4. | Name(s) of firm or ship | | | |
| 3.5. | Address(es) | | | |
| | Street | No | PO box | |
| | Town | Postal code | Country | |
| | Street | No | PO box | |
| | Town | Postal code | Country | |
| 3.6. | Identification No (6) | | | |

4. Who pays the wage of the employed posted person? Who pays the social security contributions of the posted employee?

4.1. The employer referred to in point 2

4.2. The firm referred to in point 3.4

4.3. Other if so, give the

Name and

Address:

Street No PO box

Town Postal code Country

5. The insured person remains subject to the legislation of the country ⁽¹⁾

5.1. in accordance with Article

13.2.d

14.1.a

14.2.a

14.2.b

14a.1(a)

14a.2

14a.4

14b.1

14b.2

14b.4

14c(a)

14e

17

of Regulation (EEC) No 1408/71

5.2. from to

5.3. for the duration of the activity (see the letter from the competent authority or designated body in the country of employment which entitles the insured person to remain subject to the legislation of the sending State

of reference)

6.

 Competent institution whose legislation will be applicable

6.1. Name Code number ⁽⁷⁾

6.2. Address

Phone Fax E-mail

Street No PO box

Town Postal code Country

6.3. Stamp

6.4. Date
.....

6.5. Signature
.....

INSTRUCTIONS

Please complete this form in block letters, writing on the dotted lines only. It consists of 4 pages, none of which may be left out even if they do not contain any relevant information.

The designated institution of the Member State to whose legislation the worker is subject should fill in the form at the request of the worker or his employer and return it to the person involved. Where the worker is posted to Belgium, the Netherlands, Finland, Sweden or Iceland, the institution should also send a copy to, in Belgium: in the case of employed persons to the 'Office national de sécurité sociale/Rijksdienst voor Sociale Zekerheid' (National Social Security Office), Brussels; in the case of self-employed persons to the 'Institut national d'assurances sociales pour travailleurs indépendants/Rijksinstituut voor de Sociale Verzekering der Zelfstandigen' (National Social Insurance Institute for the Self-Employed), Brussels; in the case of seamen to the 'Caisse de secours et de prévoyance en faveur des marins/Hulp- en Voorzorgskas voor Zeevarenden' (Relief and Welfare Fund for Mariners), Antwerp; or in the case of civil servants to the 'Service des Relations internationales du Ministère des Affaires sociales/Dienst Internationale Betrekkingen van het Ministerie van Sociale Zaken' (International Relations Department, Social Affairs Ministry); in the Netherlands, to the 'Sociale Verzekeringsbank' (Social Security Bank), Amstelveen; in Finland, to the 'Eläketurvakeskus' (Central Pension Security Institute), Helsinki; in Sweden, to the 'Riksförsäkringsverket' (National Social Insurance Board), Stockholm; in Iceland, to the 'Tryggingastofnun Ríkisins' (National Social Security Institute), Reykjavik.

Information for the insured person

Before you leave the country where you are insured to go to another Member State to work, you should ask your sickness and maternity insurance institution for an E 128 form or E 106 form, as appropriate. If you or a member of your family require benefits in kind (e.g. medical treatment, medicines, hospital treatment, etc.) in the country where you are working, you should follow the instructions given on the appropriate form. If you have an E 106 form you should submit it as soon as possible to the sickness and maternity insurance institution of the place where you go in order to work. If you have an E 128 form, you should keep it until you require medical treatment. If you are not in possession of the said form, the latter institution should request it from the institution with which you are insured.

Information for employers

A Member State which receives a request for the application of the aforementioned Article 14(1), Article 14b(1) or Article 17 of Regulation (EEC) No 1408/71 shall duly inform the employer and the worker concerned of the conditions under which the posted worker may continue to be subject to its legislation.

The employer shall be informed of the possibility of checks throughout the period of posting so as to ascertain that this period has not come to an end. Such checks may relate, in particular, to the payment of contributions and the maintenance of the direct relationship. Moreover, the employer of the posted worker shall inform the competent institution of the sending State of any change that has occurred during the period of posting, in particular:

- if the posting applied for has not taken place or if the extension of the posting applied for has not taken place,
- if the posting has been interrupted, unless this interruption of the worker's activities on behalf of the undertaking in the country of employment is of a purely temporary nature,
- if the posted worker has been assigned by his employer to another undertaking in the State of employment.

In the first two cases, he/she shall return this form to the competent institution of the sending State.

Information for the institution of the place of stay

If the person involved produces the proper certificate (E 128 or E 106), the insurance institution in the country of stay will also provide him provisionally with benefits in the event of an accident at work or an occupational disease. If in such a case the institution requires certificate E 123, it should apply as soon as possible:

in **Belgium**, for employed persons and as regards an occupational disease, to the 'Fonds des maladies professionnelles/Fonds voor Beroepsziekten' (Occupational Diseases Fund), Brussels, and as regards accidents at work to the insurance company designated by the employer

in **Denmark**, to the 'Arbejdsskadestyrelsen' (National Office for Accidents at Work and Occupational Diseases), Copenhagen

in **Germany**, to the competent 'Berufsgenossenschaft' (institution for accident insurance)

in **Spain**, to the 'Dirección Provincial del Instituto Nacional de Seguridad Social' (Provincial Directorate of the National Social Security Institution)

in **Ireland**, to the Department of Health and Children, Planning Unit, Hawkins House, Dublin 2

in **Italy**, to the competent provincial office of the 'Istituto nazionale per l'assicurazione contro gli infortuni sul lavoro' (INAIL, National Institute for Insurance against Accidents at Work)

in **Luxembourg**, to the 'Association d'assurance contre les accidents' (Accident Insurance Association)

in the **Netherlands**, to the 'Sociale Verzekeringsbank' (Social Security Bank), Amstelveen

in **Austria**, to the competent institution for accident insurance

in **Portugal**, to the 'Centro Nacional de Protecção contra os Riscos Profissionais' (National Centre for Protection against Occupational Risks), Lisbon

in **Finland**, to the 'Tapaturmavakuutuslaitosten Liitto' (Federation of Accident Insurance Institutions), Bulevardi 28, 00120 Helsinki

in **Sweden**, to the 'Försäkringskassan' (Social Insurance Office)

in **all other Member States**, to the competent sickness insurance institution

in **Iceland**, to the 'Tryggingastofnun Ríkisins' (State Social Security Institute), Reykjavik

in **Liechtenstein**, to the 'Amt für Volkswirtschaft' (Office of National Economy), Vaduz

in **Norway**, to the 'Folketrygdkontoret for Utenlandssaker' (National Office for Social Insurance Abroad), Oslo.

Where the worker is covered by the French social security scheme, the fund which is competent to recognise entitlement to benefits is his insurance fund, which may not be the one appearing on form E 101. It will be necessary, where appropriate, to request forms E 128 or E 123 from the fund of the worker's place of habitual residence.

Where a self-employed person is covered by a Finnish or Icelandic social security scheme it will always be necessary to request form E 123.

Where a worker covered by an Icelandic social security scheme suffers an accident at work or contracts an occupational disease, the employer must always duly notify the competent institution.

NOTES

- (*) EEA = Agreement on the European Economic Area, Annex VI, Social Security. For the purpose of this agreement, this form shall also apply to Iceland, Liechtenstein and Norway.
- (1) Symbol of the Member State to whose legislation the worker is subject: B = Belgium; DK = Denmark; D = Germany; GR = Greece; E = Spain; F = France; IRL = Ireland; I = Italy; L = Luxembourg; NL = the Netherlands; A = Austria; P = Portugal; FIN = Finland; S = Sweden; GB = United Kingdom; IS = Iceland; FL = Liechtenstein; N = Norway.
- (2) In the case of Spanish nationals, state both names at birth.
In the case of Portuguese nationals, state all names (forenames, surname, maiden name) in the order of civil status in which they appear on the identity card or passport.
- (3) The day and the month should be shown by two digits each and the year by four digits (for example: 1 August 1921 = 01.08.1921).
- (4) In the case of Spanish nationals, state the number appearing on the national identity card (DNI), if it exists, even if the identity card is out of date. Failing this, indicate 'None'.
- (5) For workers subject to Belgian law, indicate the national social security number (NISS).
For workers subject to Danish law, indicate the CPR-number.
For workers subject to Dutch law, indicate the SOFI-number.
- (6) Please give as much information as possible to facilitate identification of the employer or the firm of the self-employed person:
In the case of a ship, indicate its name and its registration number.
For Belgium, indicate in the case of employed persons the employer's ONSS/RSZ registration number and in the case of self-employed persons the TVA/BTW-number.
For Denmark, indicate the SE-number.
For Germany, indicate the 'Betriebsnummer des Arbeitgebers'.
For France, indicate the SIRET-number.
For Spain, indicate the 'Código de Cuenta De Cotización Del Empresario CCC' (Employer's Contribution Account Number).
For workers subject to Finnish work accident legislation, please indicate the name of the competent accident insurance institution.
For Norway, indicate the organisation number.
- (7) To be filled in where available.
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