

English edition

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⁽¹⁾ Text with EEA relevance

EN

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

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

I

(Acts whose publication is obligatory)

COMMISSION REGULATION (EC) No 776/2003
of 6 May 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 7 May 2003.

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

Done at Brussels, 6 May 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 6 May 2003 establishing the standard import values for determining the entry price of certain fruit and vegetables

<i>(EUR/100 kg)</i>		
CN code	Third country code ⁽¹⁾	Standard import value
0702 00 00	052	86,8
	212	110,8
	999	98,8
0707 00 05	052	99,4
	999	99,4
0709 90 70	052	92,7
	204	101,8
	999	97,3
0805 10 10, 0805 10 30, 0805 10 50	052	102,5
	204	40,8
	220	46,6
	600	50,6
	624	79,1
	999	63,9
0805 50 10	052	27,8
	999	27,8
0808 10 20, 0808 10 50, 0808 10 90	060	64,5
	388	92,0
	400	142,7
	404	98,9
	508	76,6
	512	80,1
	528	77,0
	720	97,8
	804	120,1
	999	94,4

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

COMMISSION REGULATION (EC) No 777/2003
of 6 May 2003
amending representative prices and additional duties for the import of certain products in the
sugar sector

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⁾,

Having regard to Commission Regulation (EC) No 1423/95 of 23 June 1995 laying down detailed implementing rules for the import of products in the sugar sector other than molasses ⁽³⁾, as last amended by Regulation (EC) No 624/98 ⁽⁴⁾, and in particular the second subparagraph of Article 1(2), and Article 3(1) thereof,

Whereas:

- (1) The amounts of the representative prices and additional duties applicable to the import of white sugar, raw sugar and certain syrups are fixed by Commission Regulation (EC) No 1153/2002 ⁽⁵⁾, as last amended by Regulation (EC) No 653/2003 ⁽⁶⁾.

- (2) It follows from applying the general and detailed fixing rules contained in Regulation (EC) No 1423/95 to the information known to the Commission that the representative prices and additional duties at present in force should be altered to the amounts set out in the Annex hereto,

HAS ADOPTED THIS REGULATION:

Article 1

The representative prices and additional duties on imports of the products referred to in Article 1 of Regulation (EC) No 1423/95 shall be as set out in the Annex hereto.

Article 2

This Regulation shall enter into force on 7 May 2003.

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

Done at Brussels, 6 May 2003.

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

⁽¹⁾ OJ L 178, 30.6.2001, p. 1.

⁽²⁾ OJ L 104, 20.4.2002, p. 26.

⁽³⁾ OJ L 141, 24.6.1995, p. 16.

⁽⁴⁾ OJ L 85, 20.3.1998, p. 5.

⁽⁵⁾ OJ L 170, 29.6.2002, p. 27.

⁽⁶⁾ OJ L 95, 11.4.2003, p. 25.

ANNEX

to the Commission Regulation of 6 May 2003 altering representative prices and the amounts of additional duties applicable to imports of white sugar, raw sugar and products covered by CN code 1702 90 99

(EUR)

CN code	Amount of representative prices per 100 kg net of product concerned	Amount of additional duty per 100 kg net of product concerned
1701 11 10 ⁽¹⁾	16,80	7,90
1701 11 90 ⁽¹⁾	16,80	14,19
1701 12 10 ⁽¹⁾	16,80	7,71
1701 12 90 ⁽¹⁾	16,80	13,67
1701 91 00 ⁽²⁾	20,62	15,97
1701 99 10 ⁽²⁾	20,62	10,52
1701 99 90 ⁽²⁾	20,62	10,52
1702 90 99 ⁽³⁾	0,21	0,43

⁽¹⁾ For the standard quality as defined in Annex I, point II, to Council Regulation (EC) No 1260/2001 (OJ L 178, 30.6.2001, p. 1).

⁽²⁾ For the standard quality as defined in Annex I, point I, to Council Regulation (EC) No 1260/2001 (OJ L 178, 30.6.2001, p. 1).

⁽³⁾ By 1 % sucrose content.

II

(Acts whose publication is not obligatory)

COMMISSION

COMMISSION DECISION

of 2 May 2003

providing for the temporary marketing of certain seed of the species *Lupinus angustifolius* and *Linum usitatissimum* not satisfying the requirements of Council Directives 66/401/EEC and 2002/57/EC respectively

(notified under document number C(2003) 1414)

(Text with EEA relevance)

(2003/307/EC)

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Council Directive 66/401/EEC of 14 June 1966 on the marketing of fodder plant seed ⁽¹⁾, as last amended by Directive 2001/64/EC ⁽²⁾, and in particular Article 17 thereof,

Having regard to Council Directive 2002/57/EC of 13 June 2002 on the marketing of seed of oil and fibre plants ⁽³⁾, as last amended by Directive 2002/68/EC ⁽⁴⁾, and in particular Article 21 thereof,

Whereas:

- (1) In the United Kingdom, the quantity of available seed of varieties of blue lupin (*Lupinus angustifolius*) suitable to the national climatic conditions and satisfying the germination capacity requirements of Directive 66/401/EEC is insufficient and is therefore not adequate to meet the needs of that Member State.
- (2) It is not possible to meet the demand for seed of that species satisfactorily with seed from other Member States or from third countries which satisfies all the requirements laid down in Directive 66/401/EEC.
- (3) Accordingly, the United Kingdom should be authorised to permit the marketing of seed of that species subject to less stringent requirements for a period expiring on 30 June 2003.

- (4) In Finland, the quantity of available seed of varieties of linseed (*Linum usitatissimum*) suitable to national climatic conditions and satisfying the germination capacity requirements of Directive 2002/57/EC is insufficient and is therefore not adequate to meet the needs of that Member State.
- (5) It is not possible to meet the demand for seed of that species satisfactorily with seed from other Member States or from third countries which satisfies all the requirements laid down in Directive 2002/57/EC.
- (6) Accordingly, Finland should be authorised to permit the marketing of seed of that species subject to less stringent requirements for a period expiring on 30 June 2003.
- (7) In addition, other Member States which are in a position to supply the United Kingdom or Finland with seed of those species, should be authorised to permit the marketing of such seed.
- (8) It is appropriate that the United Kingdom acts as coordinator in order to ensure that the total amount of seed of *Lupinus angustifolius* authorised pursuant to this Decision does not exceed the maximum quantity covered by this Decision.
- (9) It is appropriate that Finland acts as coordinator in order to ensure that the total amount of seed of *Linum usitatissimum* authorised pursuant to this Decision does not exceed the maximum quantity covered by this Decision.

⁽¹⁾ OJ 125, 11.7.1966, p. 2298/66.

⁽²⁾ OJ L 234, 1.9.2001, p. 60.

⁽³⁾ OJ L 193, 20.7.2002, p. 74.

⁽⁴⁾ OJ L 195, 24.7.2002, p. 32.

- (10) The measures provided for in this Decision are in accordance with the opinion of the Standing Committee on Seeds and Propagating Material for Agriculture, Horticulture and Forestry,

HAS ADOPTED THIS DECISION:

Article 1

The marketing in the Community of seed of blue lupin (*Lupinus angustifolius*) which does not satisfy the minimum germination capacity requirements laid down in Directive 66/401/EEC shall be permitted, for a period expiring on 30 June 2003, in accordance with the terms set out in the Annex to this Decision and subject to the following conditions:

- (a) the germination capacity must be at least 60 % of pure seed;
- (b) the official label must state the germination ascertained in the official examination carried out pursuant to Article 2(1)(Ca)(d) and 2(1)(Cb)(d) of Directive 66/401/EEC;
- (c) the seed must have been first placed on the market in accordance with Article 3 of this Decision.

Article 2

The marketing in the Community of seed of linseed (*Linum usitatissimum*) which does not satisfy the minimum germination capacity requirements laid down in Directive 2002/57/EC shall be permitted, for a period expiring on 30 June 2003, in accordance with the terms set out in the Annex to this Decision and subject to the following conditions:

- (a) the germination capacity must be at least 70 % of pure seed;
- (b) the official label must state the germination ascertained in the official examination carried out pursuant to Article 2(1)(e)(iv) and 2(1)(f)(iv) of Directive 2002/57/EC;
- (c) the seed must have been first placed on the market in accordance with Article 3 of this Decision.

Article 3

Any seed supplier wishing to place on the market the seeds referred to in Articles 1 and 2 shall apply to the Member State in which he is established for such authorisation.

The Member State concerned shall authorise the supplier to place that seed on the market, unless:

- (a) there is sufficient evidence to doubt as to whether the supplier is able to place on the market the amount of seed for which he has applied for authorisation; or
- (b) the total quantity authorised to be marketed pursuant to the derogation concerned would exceed the maximum quantity specified in the Annex.

Article 4

The Member States shall assist each other administratively in the application of this Decision.

The United Kingdom shall act as coordinating Member State in respect of Article 1 and Finland in respect of Article 2 in order to ensure that the total amount authorised does not exceed the maximum quantities specified in the Annex.

Any Member State receiving an application under Article 3 shall immediately notify the coordinating Member State of the amount covered by the application. The coordinating Member State shall immediately inform the notifying Member State as to whether authorisation would result in the maximum quantity being exceeded.

Article 5

Member States shall immediately notify the Commission and the other Member States of the quantities in respect of which they have granted marketing authorisation pursuant to this Decision.

Article 6

This Decision is addressed to the Member States.

Done at Brussels, 2 May 2003.

For the Commission

David BYRNE

Member of the Commission

ANNEX

Species	Type of variety	Maximum quantity (tonnes)
In respect of Article 1		
<i>Lupinus angustifolius</i>	Prima, Sonet	59
In respect of Article 2		
<i>Linum usitatissimum</i>	Helmi	35

COMMISSION DECISION

of 2 May 2003

concerning the non-inclusion of metalaxyl in Annex I to Council Directive 91/414/EEC and the withdrawal of authorisations for plant-protection products containing this active substance*(notified under document number C(2003) 1421)***(Text with EEA relevance)**

(2003/308/EC)

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Council Directive 91/414/EEC of 15 July 1991 concerning the placing of plant-protection products on the market ⁽¹⁾, as last amended by Commission Directive 2003/23/EC ⁽²⁾, and in particular the fourth subparagraph of Article 8(2) thereof,

Having regard to Commission Regulation (EEC) No 3600/92 of 11 December 1992 laying down the detailed rules for the implementation of the first stage of the programme of work referred to in Article 8(2) of Council Directive 91/414/EEC concerning the placing of plant protection products on the market ⁽³⁾, as last amended by Regulation (EC) No 2266/2000 ⁽⁴⁾, and in particular Article 7(3A)(b) thereof,

Whereas:

(1) Article 8(2) of Directive 91/414/EEC provided for the Commission to carry out a programme of work for the examination of the active substances used in plant-protection products which were already on the market on 25 July 1993. Detailed rules for the carrying out of this programme were established in Regulation (EEC) No 3600/92.

(2) Commission Regulation (EC) No 933/94 of 27 April 1994 laying down the active substances of plant-protection products and designating the rapporteur Member States for the implementation of Regulation (EEC) No 3600/92 ⁽⁵⁾, as last amended by Regulation (EC) No 2230/95 ⁽⁶⁾, designated the active substances which should be assessed in the framework of Regulation (EEC) No 3600/92, designated a Member State to act as rapporteur in respect of the assessment of each substance and identified the producers of each active substance who submitted a notification in due time.

(3) Metalaxyl is one of the 89 active substances designated in Regulation (EC) No 933/94.

(4) The main notifier (Novartis, now Syngenta) informed the Commission and the rapporteur Member State that it no longer wished to participate in the programme of work for this active substance and, therefore, would not submit further information.

(5) Nonetheless, in accordance with Article 7(1)(c) of Regulation 3600/92, Portugal, being the designated rapporteur Member State, submitted on 26 January 2001 to the Commission the report of its assessment of the information submitted by the notifiers in accordance with Article 6(1) of that Regulation.

(6) On receipt of the report of the rapporteur Member State, the Commission undertook consultations with the Member States in the framework of the Standing Committee on the Food Chain and Animal Health as well as with the remaining notifier (Industrias Químicas del Vallés sa (IQV)) as provided for in Article 7(3) of Regulation (EEC) No 3600/92.

(7) The remaining notifier did not submit a full dossier in relation to metalaxyl within the time limit referred to in Article 6(1) of Regulation 3600/92. Thus continued evaluation of metalaxyl could only proceed on the basis of the dossier submitted by Syngenta. However, since IQV did not have access to that dossier, it was neither in a position to submit information in relation to matters arising from evaluation of it nor to complete its own dossier within a reasonable period. Therefore it is not possible to organise an efficient peer review of metalaxyl. For that reason it is not possible to conclude on the basis of the data submitted for metalaxyl, that it may be expected that, under the proposed conditions of use, plant-protection products containing metalaxyl satisfy in general the requirements laid down in Article 5(1)(a) and (b) of Directive 91/414/EEC.

(8) Metalaxyl should therefore not be included in Annex I to Directive 91/414/EEC.

(9) The review was finalised on 18 October 2002 in the format of the Commission review report for metalaxyl, in accordance with Article 7(6) of Regulation (EEC) No 3600/92.

⁽¹⁾ OJ L 230, 19.8.1991, p. 1.

⁽²⁾ OJ L 81, 28.3.2003, p. 39.

⁽³⁾ OJ L 366, 15.12.1992, p. 10.

⁽⁴⁾ OJ L 259, 13.10.2000, p. 27.

⁽⁵⁾ OJ L 107, 28.4.1994, p. 8.

⁽⁶⁾ OJ L 225, 22.9.1995, p. 1.

- (10) Measures should be taken to ensure that existing authorisations for plant-protection products containing metalaxyl are withdrawn within a prescribed period and will not be renewed and that no new authorisations for such products are granted.
- (11) Any period of grace for disposal, storage, placing on the market and use of existing stocks of plant-protection products containing metalaxyl allowed by Member State, in accordance with Article 4(6) of Directive 91/414/EEC should be limited to a period no longer than 12 months to allow existing stocks to be used in no more than one further growing season.
- (12) This Decision does not prejudice any action the Commission may undertake at a later stage for this active substance within the framework of Council Directive 79/117/EEC of 21 December 1978 prohibiting the placing on the market and use of plant-protection products containing certain active substances⁽¹⁾, as last amended by the Act of Accession of Austria, Finland and Sweden.
- (13) The measures provided for in this Decision are in accordance with the opinion of the Standing Committee on the Food Chain and Animal Health,

HAS ADOPTED THIS DECISION:

Article 1

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

Article 2

Member States shall ensure that:

- (a) authorisations for plant-protection products containing metalaxyl are withdrawn within a period of six months from the date of adoption of the present Decision;
- (b) from the date of adoption of the present Decision, no authorisations for plant-protection products containing metalaxyl are granted or renewed under the derogation provided for in Article 8(2) of Directive 91/414/EEC.

Article 3

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

Article 4

This Decision is addressed to the Member States.

Done at Brussels, 2 May 2003.

For the Commission

David BYRNE

Member of the Commission

⁽¹⁾ OJ L 33, 8.2.1979, p. 36.

EUROPEAN CENTRAL BANK

GUIDELINE OF THE EUROPEAN CENTRAL BANK

of 4 April 2003

amending Guideline ECB/2001/3 on a Trans-European Automated Real-time Gross settlement Express Transfer system (TARGET), as amended on 27 February 2002

(ECB/2003/6)

(2003/309/EC)

THE GOVERNING COUNCIL OF THE EUROPEAN CENTRAL BANK,

Having regard to the Statute of the European System of Central Banks and of the European Central Bank, and in particular to Article 3.1, Article 12.1, Article 14.3 and Articles 17, 18 and 22 thereof,

Whereas:

- (1) The fourth indent of Article 105(2) of the Treaty establishing the European Community and the fourth indent of Article 3.1 of the Statute empower the European Central Bank (ECB) and the national central banks (NCBs) to promote the smooth operation of payment systems.
- (2) In accordance with Article 22 of the Statute, the ECB and the NCBs may provide facilities to ensure efficient and sound clearing and payment systems within the Community and with other countries.
- (3) The Governing Council of the ECB (the Governing Council) decided on 27 November 2002 that the TARGET reimbursement scheme contained in Article 3(h) of Guideline ECB/2001/3⁽¹⁾ of 26 April 2001 on a Trans-European Automated Real-Time Gross Settlement Express Transfer System (TARGET), as amended by Guideline ECB/2002/1⁽²⁾ of 27 February 2002 (the TARGET Guideline) should be replaced by a new TARGET Compensation Scheme that better reflects existing market practices than the present TARGET reimbursement scheme.

Since the Governing Council decided that compensation offered under the TARGET Compensation Scheme is to be the common compensation offered by the European System of Central Banks (ESCB) in cases of a TARGET malfunctioning, the TARGET Compensation Scheme should be incorporated as a common rule for all national RTGS systems in a separate Article of the

TARGET Guideline and not, as in the case of the TARGET reimbursement scheme, in an Article determining minimum common features of national RTGS systems.

- (4) In accordance with the principle decision taken by the Governing Council on 29 August 2002 to phase out the use of collateral that may be used to collateralise intraday credit for each NCB, which has declared its intention to use certain collateral located in a Member State that has not adopted the single currency, Article 3(g) of and Annex V to the TARGET Guideline have to be deleted and Article 3(f)5 of the TARGET Guideline has to be amended.
- (5) In accordance with Articles 12.1 and 14.3 of the Statute, ECB Guidelines form an integral part of Community law,

HAS ADOPTED THIS GUIDELINE:

Article 1

The TARGET Guideline shall be amended as follows:

1. in Article 1(1), in the definition of 'indirect participant' the wording between brackets shall be amended to read as follows: '(as defined in this Article)';
2. in Article 1(1), the definitions of 'TARGET reimbursement scheme' or the 'reimbursement scheme' or the 'scheme' shall be deleted;
3. in Article 1(1), the following definitions shall be added:
 - "deposit facility" shall mean the deposit facility organised by the Eurosystem;
 - "marginal lending facility" shall mean the marginal lending facility organised by the Eurosystem;

⁽¹⁾ OJ L 140, 24.5.2001, p. 72.

⁽²⁾ OJ L 67, 9.3.2002, p. 74.

4. the definitions contained in Article 1(1) shall be rearranged in alphabetical order;
5. Article 3(f)5 shall be amended as follows:
 - '5. Intraday credit provided in accordance with Article 3(f) shall be free of interest.');
6. Article 3(g) shall be deleted;
7. Article 3(h) shall be deleted;
8. a new Article 8 shall be inserted as follows:

'Article 8

TARGET Compensation Scheme

1. General principles

- (a) In the event of a malfunctioning of TARGET, direct and indirect participants (for the purposes of this Article hereinafter referred to as TARGET participants) shall be entitled to submit claims for compensation in accordance with the rules laid down in this Article.
- (b) The TARGET Compensation Scheme shall apply to all national RTGS systems and to the ECB payment mechanism (EPM) and shall be available for all TARGET participants (including TARGET participants of national RTGS systems of participating Member States that are not counterparties to the Eurosystem monetary policy operations and TARGET participants of national RTGS systems of non-participating Member States) in relation to all TARGET payments (without distinguishing between domestic payments and cross-border payments). The TARGET Compensation Scheme shall not apply to customers in the EPM in accordance with the Terms and Conditions governing the use of the EPM, which are available on the ECB's web site (www.ecb.int) and are updated from time to time.
- (c) Unless otherwise decided by the Governing Council of the ECB, the TARGET Compensation Scheme shall not apply where the malfunctioning of TARGET is caused by:
 - (i) external events beyond the control of the ESCB; or
 - (ii) the failure of a third party other than the operator of the national RTGS system where the malfunctioning occurred.
- (d) Offers under the TARGET Compensation Scheme (compensation offers) shall be the only compensation offered by the ESCB in cases of a malfunctioning. The TARGET Compensation Scheme does not exclude the possibility for TARGET participants to avail themselves of other legal means to claim compensation in case of a malfunctioning of TARGET. However, the acceptance of a compensation offer by a TARGET participant shall constitute its irrevocable agreement that it thereby waives all claims (including any claims for consequential damages) it may have against any member of the ESCB, in accordance with national laws or otherwise, and that the receipt by it of the corresponding compensation payment shall be in full and final settlement of all such claims. The TARGET participant shall

indemnify the ESCB up to the amount received under the TARGET Compensation Scheme from any further compensation which might be claimed by any other TARGET participant concerning the respective payment order.

- (e) The making of any compensation offers and/or payments shall not constitute an admission of liability by any NCB or the ECB in respect of a malfunctioning.

2. Conditions for compensation

- (a) With respect to a sending TARGET participant, a claim for compensation shall be considered if due to a malfunctioning:
 - (i) the same day processing of a payment order was not completed; or
 - (ii) such TARGET participant can show that it had the intention to enter a payment order into TARGET but was unable to do so due to a stop-sending status of a national RTGS system.
- (b) With respect to a receiving TARGET participant, a claim for compensation shall be considered if due to a malfunctioning:
 - (i) such TARGET participant did not receive a TARGET payment that it was expecting to receive on the day of malfunctioning; and
 - (ii) such TARGET participant had recourse to the marginal lending facility or, if a TARGET participant does not have access to the marginal lending facility, such TARGET participant was left with a debit balance or had a spill-over from intraday credit into overnight credit on its RTGS account at the close of business of TARGET or had to borrow amounts from the respective NCB; and
 - (iii) either the NCB of the national RTGS system where the malfunctioning occurred (the malfunctioning NCB) was the receiving NCB, or the malfunctioning occurred so late in the TARGET operating day that it was technically impossible or impracticable for the receiving TARGET participant to have recourse to the money market.

3. Calculation of compensation

3.1. Compensation of sending TARGET participants

- (a) The compensation offer under the TARGET Compensation Scheme shall consist of an administration fee only or an administration fee and an interest compensation.
- (b) The administration fee shall be determined at EUR 100 for the first payment order not completed on the processing date and, in case of multiple payment adjustments, EUR 50 for each of the next four payment orders and EUR 25 for each payment order thereafter. The administration fee shall be determined by reference to each receiving TARGET participant.

- (c) The interest compensation shall be determined by applying the rate (the reference rate), from day-to-day whichever is the lower of the EONIA rate (the euro overnight index average) and the marginal lending rate, to the amount of the payment order not processed as a result of a malfunctioning for each day in the period starting on the date of the entering or the intended entering of the payment order into TARGET and ending on the date that the payment order was or could have been successfully completed (the period of malfunctioning). When calculating the interest compensation, the proceeds of any actual use of funds by having recourse to the deposit facility (or, in the case of TARGET participants of national RTGS systems of participating Member States that are not counterparties to the Eurosystem monetary policy operations, the remuneration received on excess funds in the settlement account, or, in the case of TARGET participants of national RTGS systems of non-participating Member States, the remuneration received for incurring additional positive end-of-day balances on the RTGS account) shall be deducted from the amount of compensation.
- (d) In the case of the placing of funds in the market or using the funds for the fulfilment of minimum reserve requirements, the TARGET participant shall not receive any interest compensation.
- (e) With respect to sending TARGET participants of national RTGS systems of non-participating Member States, any limit to the remuneration on the aggregate amount of overnight deposits on the RTGS accounts of such TARGET participants shall be disregarded to the extent that such amount can be attributed to the malfunctioning.

3.2. Compensation of receiving TARGET participants

- (a) The compensation offer under the TARGET Compensation Scheme shall consist of an interest compensation only.
- (b) The calculation method for the interest compensation as referred to in 3.1(c) above shall apply, except that the interest compensation shall be based on the difference between the marginal lending rate and the reference rate, and shall be calculated on the amount of the recourse to the marginal lending facility as a result of the malfunctioning.
- (c) With respect to receiving TARGET participants of (i) national RTGS systems of participating Member States that are not counterparties to the Eurosystem monetary policy operations, and (ii) national RTGS systems of non-participating Member States, to the extent that a debit balance or a spill-over from intraday credit into overnight credit or the need to borrow amounts from the respective NCB can be attributed to the malfunctioning, that part of the applicable penalty rate (as stipulated by the applicable RTGS rules in such cases) which is above the marginal lending rate, shall be waived (and disregarded in future cases of spill-over) and for TARGET participants of national RTGS systems referred to in (ii) above, it shall be ignored for the purpose of access to intraday credit and/or continued participation in the national RTGS system concerned.

4. Procedural rules

- (a) Any claim for compensation shall be submitted on a claim form (the content and form of which shall be as determined and made public by the ECB from time to time) together with any relevant information and evidence required thereby. A sending TARGET participant shall submit one separate claim form in respect of each receiving TARGET participant. A receiving TARGET participant shall submit one separate claim form in respect of each sending TARGET participant. Claims in relation to a specific TARGET payment can be submitted only once, either by a direct or an indirect participant on their own behalf or by a direct participant on behalf of an indirect participant.
- (b) TARGET participants shall submit their claim form(s) to the NCB where the RTGS account that has or should have been debited or credited is maintained (the home NCB) within two weeks of the date of the malfunctioning. Any additional information and evidence requested by the home NCB shall be supplied within two weeks of such request being made.
- (c) The Governing Council of the ECB shall carry out the assessment of all claims received and decide whether compensation offers shall be made. Unless otherwise decided by the Governing Council of the ECB and communicated to the TARGET participants, such assessment shall be made no later than twelve weeks after the malfunctioning.
- (d) The malfunctioning NCB shall communicate the result of the assessment referred to in (c) above to the relevant TARGET participants. If the assessment comprises a compensation offer, the TARGET participants concerned shall, within four weeks of the communication of such offer, either reject the offer or accept it, in respect of each payment order comprised within each claim, by signing a standard letter of acceptance (the content and form of which shall be determined and made public by the ECB from time to time). If such letter has not been received by the malfunctioning NCB within that four week period, the TARGET participants concerned shall be treated as having rejected the compensation offer.
- (e) Compensation payments shall be made by the malfunctioning NCB upon receipt of the TARGET participant's letter of acceptance. There shall be no interest payable on any compensation payment.'

9. Articles 8, 9 and 10 shall be renumbered as Articles 9, 10 and 11 respectively;
10. Annex V shall be deleted.

3. This Guideline shall be published in the *Official Journal of the European Union*.

Article 2

Final provisions

1. This Guideline is addressed to the national central banks of participating Member States.
2. This Guideline shall enter into force on 1 July 2003.

Done at Frankfurt am Main, 4 April 2003.

On behalf of the Governing Council of the ECB
The President
Willem F. DUISENBERG



Freedom – Security – Justice Building Europe without borders

Directorate-General
for Justice and Home Affairs



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