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# Legislation

Contents





(Continued overleaf)

EN

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

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

Contents (continued)



EN

[1] Text with EEA relevance

I

*(Acts whose publication is obligatory)*

# COUNCIL REGULATION (EC) No 985/2003

## of 5 June 2003

## amending the anti-dumping measures imposed by Council Regulation (EC) No 1334/1999 on imports of magnesium oxide originating in the People's Republic of China

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty establishing the European Community,

Having regard to Council Regulation (EC) No 384/96 of 22 December 1995 on protection against dumped imports from countries not members of the European Community [1] (basic Regulation), and in particular Article 11(3) thereof,

Having regard to the proposal submitted by the Commission after consulting the Advisory Committee,

Whereas:

### A. PROCEDURE

### 1. Measures in force

(1) In June 1999, the Council, by Regulation (EC) No 1334/1999 [2], imposed definitive anti-dumping duties on imports of magnesium oxide originating in the People's Republic of China (the PRC). The duties took the form of a minimum import price (MIP).

### 2. Initiation

(2) On 13 June 2002, the Commission announced by a notice (Notice of Initiation) published in the *Official Journal of the European Communities* [3], the initiation of a partial interim review of the anti-dumping measures applicable to imports into the Community of magnesium oxide originating in the PRC pursuant to Article 11(3) of the basic Regulation.

(3) The review was initiated on the initiative of the Commission in order to examine the appropriateness of the form of the measures in force. The current measures in the form of an MIP do not differentiate between sales made to related parties and sales made to unrelated parties, or between direct sales to the Community and indirect sales, i.e. sales not made directly from an exporter in the country concerned to an importer in the Community. This lack of differentiation between different types of sales possibly leads to circumvention problems. Indeed, parties could set the import price at an artificially high level when entering the Community, in order to avoid the payment of anti-dumping duties. This artificially high level may be attained through an agreement between related parties or because the price was inflated due to successive sales before customs clearance.

(4) Consequently, the existing measures do not appear sufficient to counteract the dumping which is causing injury.

(5) Furthermore, the current measures do not cater for situations in which imported goods have been damaged before entry into free circulation into the Community. In this respect it should be noted that, since the measures should not go beyond what is necessary for the removal of injury, due account should be taken of the possible value reduction in cases of damage before the goods enter into free circulation into the Community.

### 3. Investigation

(6) The Commission officially advised exporting producers, the importers, the users known to be concerned and their associations, the representatives of the exporting country concerned and the Community producers about the initiation of the proceeding.

(7) Interested parties were given the opportunity to make their views known in writing and to request a hearing within the time limit set out in the Notice of Initiation.

(8) One chamber of commerce in the country concerned, as well as an association of Community producers and Community importers/traders, made their views known in writing. All parties who so requested within the set time limit and who demonstrated that there were particular reasons why they should be heard were granted the opportunity to be heard.

[1] OJ L 56, 6.3.1996, p. 1. Regulation as last amended by Regulation (EC) No 1972/2002 (OJ L 305, 7.11.2002, p. 1).
[2] OJ L 159, 25.6.1999, p. 1.
[3] OJ C 140, 13.6.2002, p. 6.

(9) The Commission sought and verified all the information it deemed necessary for the purpose of a determination of the appropriateness of the measures in force.

B. **SALES MADE TO RELATED AND UNRELATED PARTIES**

(10) When they export to related companies in the Community, exporters subject to measures are in a position to invoice at a price above the MIP, and to subsequently compensate such a price after customs declaration. This may render the MIP ineffective, as it may mean that the product concerned is effectively still exported below the MIP to the Community. Accordingly, this could lead to subsequent resale prices in the Community which prevent that the intended effects of the measure, i.e. to remove the injurious effects of dumping, are achieved.

(11) If, however, sales made by exporters located in the PRC to related importers in the Community were subject to an *ad valorem* duty, the serious risk of such a duty evasion between related parties would be considerably reduced and any possible price manipulation would be more easily detected. Indeed, an *ad valorem* duty would be assessed in relation to the value in view of the existing rules on the determination of the customs value of goods imported into the Community as set out in the Community Customs Code [1]. For transactions made between unrelated parties, the Community Customs Code assumes that the value of imported goods for customs purposes is normally the transaction value. In order for a transaction value between related parties to be accepted by customs, the exporter must demonstrate that this value closely approximates to one of the transaction values as defined in Article 30 of the Community Customs Code. It is part of the daily activity of customs authorities to detect possible underestimates of the transaction values so determined. Indeed, if the customs authorities detect an artificially low transfer price between related parties, they will calculate a new customs value that would then be higher. The Community customs legislation [2] provides an exhaustive definition of 'related parties' for customs purposes. It is therefore part of the routine activity of the customs authorities to determine if a transaction is made between related parties, and hence the customs authorities are well equipped to identify the status of parties dealing with the product concerned. As a result, should an *ad valorem* duty be applied, customs authorities would be in a position to detect any irregular value declaration between related parties, thus making circumvention more difficult.

(12) A duty will have to be paid based on the amount of the transaction value. Should parties reduce the transaction value, this will have consequences in subsequent reviews, including anti-absorption investigations, since these low transaction values will be taken as a basis for the determination of the new export price with the potential of an increase of the dumping margin. In this context, in the case of an *ad valorem* duty, the (low) transaction values are evidenced in the relevant shipping documents.

(13) Finally, it should also be considered that the incentive for related parties to manipulate prices is higher in case of an MIP. Indeed with an MIP, price manipulations could lead to avoiding the anti-dumping duty completely. In the case of an *ad valorem* duty, on the other hand, possible price manipulations will only lead to a lower duty, as the duty is a percentage of whatever price is being charged. The risk of manipulation is therefore higher when an MIP applies than when an *ad valorem* duty applies.

(14) Community producers requested that no change in the form of the measures should be applied for transactions between related importers. They argued that there is a risk that national customs authorities will not properly identify the status of related importers. As a consequence, it is claimed that unrelated importers might hold themselves out to be related importers, thus benefiting from the *ad valorem* duty as opposed to the MIP in an unjustified manner. In this respect, as mentioned above, customs authorities are in a position to identify the status of the parties involved. Moreover, whatever its form, i.e. whether a minimum import price or an *ad valorem* duty, the effect of the duty is the same, namely to remove the effects of injurious dumping. For these reasons, even in the unlikely event that importers wrongly hold themselves out to be related, the duty will still have the same effect, whilst the overall risk of circumvention is considered to be lessened.

(15) Given the above, it is also concluded that if sales made by exporters located in the PRC to related parties in the Community were subject to an *ad valorem* duty, the risks of circumvention of the duty would be much reduced. The request by Community producers not to change the form of the measures for related importers is therefore rejected.

(16) Community producers also argued that the definition of price in the operative part of Regulation (EC) No 1334/1999 'net, free-at-Community-frontier' still allows the importer to clear the goods at the end-customer's warehouse, including all logistics costs incurred from 'cif free out' to 'franco end-customer' and that thereby the import price may be artificially high. It was therefore requested to change the wording to 'free-at-Community-port'.

[1] OJ L 302, 19.10.1992, p. 1.
[2] Commission Regulation (EEC) No 2454/93 of 2 July 1993 laying down provisions for the implementation of Council Regulation (EEC) No 2913/92 establishing the Community Customs Code (OJ L 253, 11.10.1993, p. 1). Regulation as last amended by Regulation (EC) No 444/2002 (OJ L 68, 12.3.2002, p. 11).

(17) However, the customs value arrived at by the definition 'net, free-at-Community-frontier' includes only the cost of transport and insurance of the imported goods, and loading and handling charges associated with the transport of the imported goods to the place of import into the Community customs territory. Consequently, costs incurred after import from the frontier to the end-customer are not included and the request is therefore rejected as unfounded.

(18) The Community industry also argued that in order to avoid any absorption of measures, the form of the measure should be a double duty, i.e. an MIP or an *ad valorem* duty, whichever is the higher in order to avoid a possible manipulation of prices. The argument was not substantiated and is therefore rejected.

(19) One chamber of commerce finally argued that any transaction at a price which is at or above the MIP level should be enough to remove the injury, regardless if such transaction is destined to a related or unrelated party. If an *ad valorem* duty were applied to a price which is at or above the MIP level, the protection would go beyond the level necessary to remove injury.

(20) In this respect, it is stressed that whatever its form, i.e. whether a minimum import price or an *ad valorem* duty, the effect of the duty is the same, namely to remove the effects of injurious dumping. On the other hand, it is not proposed that the *ad valorem* duty should be applied in addition to the MIP, but instead of the MIP. In addition, as pointed out above, exporters of products for which anti-dumping measures are in place could easily invoice at an artificially high price (i.e. above the MIP) when they export to related companies in the Community, and subsequently compensate such a price after customs declaration. This may render the MIP meaningless and subsequent resale prices in the Community may not achieve the intended effects of the measure. For these reasons, and considering the serious risk of price manipulation in sales between related parties, the argument made by the chamber of commerce is rejected.

## C. **DIRECT/INDIRECT SALES BETWEEN UNRELATED PARTIES**

(21) As regards sales between unrelated parties, a further distinction should be made between direct sales (i.e. between an importer in the Community and an exporter in the country concerned) and indirect sales (i.e. not made directly from an exporter in the country concerned to an importer in the Community), since in the latter case the same risk of price manipulation exists.

(22) One importer argued that there should be no differentiation between direct and indirect sales to the Community as this would lead to an unequal treatment of different importers. For instance, importers buying the products via traders in third countries would be disadvantaged compared to importers buying the product directly from an exporter in the country concerned, even if all companies involved were unrelated.

(23) First it should be borne in mind that the two types of duty have the effect of removing the effects of injurious dumping, and thus represent the same level of duty. Furthermore, the distinction between direct and indirect sales is motivated by the necessity to limit the risk of price manipulation. It is considered that this risk is prevalent in all cases where sales are not made directly from an exporter located in the PRC to an unrelated importer in the Community, as a consequence of the higher number of parties involved and the difficulty for the customs authorities to verify the full chain of events when sales are made via traders in third countries. The seriousness of these risks is underscored by the findings of the European Court of Auditors in its 2000 Annual Report [1]. Due to the serious risk of price manipulation in indirect sales, which is considered to outweigh the potential disadvantage to importers sourcing from third countries, the importer's argument is rejected.

(24) It is therefore concluded that sales made by exporters located in the PRC directly to an unrelated party in the Community shall remain subject to the MIP, which was found to be the appropriate measure in the original investigation. However, in order to avoid the risk of price manipulation, in all other cases an *ad valorem* duty rate of 27,1 % as previously established [2] shall apply.

## D. **DAMAGED GOODS**

(25) Article 145 of Commission Regulation (EEC) No 2454/93 foresees that, for the determination of the customs value, an apportioning of the price actually paid or payable in situations where goods have been damaged before entry into free circulation takes place. Consequently *ad valorem* duties on damaged goods follow the decrease in prices paid or payable when a good has been damaged, and the duty payable is automatically reduced.

(26) In the case of damaged goods for which an MIP is in place, the duty payable, i.e. the difference between the MIP and the net, free-at-Community-frontier price, before customs clearance, is not automatically adjusted downwards. As a consequence, if the same MIP applicable to non-damaged goods would also apply to damaged goods, the measures could go beyond what is necessary for the removal of injury.

[1] OJ C 359, 15.12.2001, p. 1, recitals 1.31 and 1.35.
[2] Council Regulation (EEC) No 1473/93 (OJ L 145, 17.6.1993, p. 1).

(27) In order to avoid the situation described the MIP should, in case of damaged goods, be reduced by a percentage which corresponds to the apportioning of the price actually paid or payable. The duty payable will then be equal to the difference between the reduced MIP and the reduced net, free-at-Community-frontier price, before customs clearance.

(28) Community producers argued that, in order to avoid fraud, the determination of the customs value for damaged goods should be assessed by an independent expert.

(29) The valuation of goods, damaged or not, is carried out by the customs authorities according to the well-established rules set out in the Community Customs Code. In view of these rules, which ensure a sufficient degree of impartiality, it is considered that there is no need for further specific provisions. The request is therefore rejected.

(30) In the absence of any substantiated argument from interested parties, it is concluded that in cases where goods have been damaged before entry into free circulation, the duty payable should be equal to the difference between the reduced minimum import price and the reduced net, free-at-Community-frontier price, before customs clearance,

HAS ADOPTED THIS REGULATION:

*Article 1*

Article 1(2) of Regulation (EC) No 1334/1999 shall be replaced by the following paragraphs:

'2. The amount of the anti-dumping duty shall be:

(a) the difference between the minimum import price of EUR 112 per tonne and the net, free-at-Community-frontier price, before duty, in all cases where the latter is:
— less than the minimum import price, and
— established on the basis of an invoice issued by an exporter located in the People's Republic of China directly to an unrelated party in the Community (TARIC additional code A420);

(b) zero, if the net, free-at-Community-frontier price, before duty, is established on the basis of an invoice issued by an exporter located in the People's Republic of China directly to an unrelated party in the Community and equal to or higher than the minimum import price of EUR 112 per tonne (TARIC additional code A420);

(c) equal to an *ad valorem* duty of 27,1 % in all other cases not falling under subparagraph (a) and (b) (TARIC additional code A999).

In cases where the anti-dumping duty is established according to subparagraph 2(a) of Article 1 and where goods have been damaged before entry into free circulation and, therefore, the price actually paid or payable is apportioned for the determination of the customs value pursuant to Article 145 of Commission Regulation (EEC) No 2454/93, the minimum import price set out above shall be reduced by a percentage which corresponds to the apportioning of the price actually paid or payable. The duty payable will then be equal to the difference between the reduced minimum import price and the reduced net, free-at-Community-frontier price, before customs clearance.'

*Article 2*

This Regulation shall enter into force on the day following that of 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 Luxembourg, 5 June 2003.

*For the Council*
*The President*
M. STRATAKIS

# COUNCIL REGULATION (EC) No 986/2003

## of 5 June 2003

## amending the anti-dumping measures imposed by Regulation (EC) No 360/2000 on imports of dead-burned (sintered) magnesia originating in the People's Republic of China

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty establishing the European Community,

Having regard to Council Regulation (EC) No 384/96 of 22 December 1995 on protection against dumped imports from countries not members of the European Community [1] (basic Regulation), and in particular Article 11(3) thereof,

Having regard to the proposal submitted by the Commission after consulting the Advisory Committee,

Whereas:

### A. PROCEDURE

#### 1. Measures in force

(1) In February 2000, the Council, by Regulation (EC) No 360/2000 [2], imposed definitive anti-dumping duties on imports of dead-burned (sintered) magnesia (DBM) originating in the People's Republic of China (PRC). The duties took the form of a minimum import price (MIP).

#### 2. Initiation

(2) On 13 June 2002, the Commission announced by a notice published in the *Official Journal of the European Communities* [3] (Notice of Initiation), the initiation of a partial interim review of the anti-dumping measures applicable to imports into the Community of DBM originating in the PRC pursuant to Article 11(3) of the basic Regulation.

(3) The review was initiated on the initiative of the Commission in order to examine the appropriateness of the form of the measures in force. The current measures in the form of an MIP do not differentiate between sales made to related parties and sales made to unrelated parties, or between direct sales to the Community and indirect sales, i.e. sales not made directly from an exporter in the country concerned to an importer in the Community. This lack of differentiation between different types of sales possibly leads to circumvention problems. Indeed, parties could set the import price at an artificially high level when entering the Community, in order to avoid the payment of anti-dumping duties. This artificially high level may be attained through an agreement between related parties or because the price was inflated due to successive sales before customs clearance.

(4) Consequently, the existing measures do not appear sufficient to counteract the dumping which is causing injury.

(5) Furthermore, the current measures do not cater for situations in which imported goods have been damaged before entry into free circulation into the Community. In this respect it should be noted that, since the measures should not go beyond what is necessary for the removal of injury, due account should be taken of the possible value reduction in cases of damage before the goods enter into free circulation into the Community.

#### 3. Investigation

(6) The Commission officially advised exporting producers, the importers, the users known to be concerned and their associations, the representatives of the exporting country concerned and the Community producers about the initiation of the proceeding.

(7) Interested parties were given the opportunity to make their views known in writing and to request a hearing within the time limit set out in the Notice of Initiation.

(8) One chamber of commerce in the country concerned, as well as Community producers and Community importers/traders made their views known in writing. All parties who so requested within the time limit, and who demonstrated that there were particular reasons why they should be heard, were granted the opportunity to be heard.

(9) The Commission sought and verified all the information it deemed necessary for the purpose of a determination of the appropriateness of the measures in force.

### B. SALES MADE TO RELATED AND UNRELATED PARTIES

(10) When they export to related companies in the Community, exporters subject to measures are in a position to invoice at a price above the MIP, and to subsequently compensate such a price after customs declaration. This may render the MIP ineffective, as it may mean that the product concerned is effectively still exported below the MIP to the Community. Accordingly, this could lead to subsequent resale prices in the Community which prevent that the intended effects of the measure, i.e. to remove the injurious effects of dumping, are achieved.

[1] OJ L 56, 6.3.1996, p. 1. Regulation as last amended by Regulation (EC) No 1972/2002 (OJ L 305, 7.11.2002, p. 1).
[2] OJ L 46, 18.2.2000, p. 1.
[3] OJ C 140, 13.6.2002, p. 4.

(11) If, however, sales made by exporters located in the PRC to related importers in the Community were subject to an *ad valorem* duty, the serious risk of such a duty evasion between related parties would be considerably reduced and any possible price manipulation would be more easily detected. Indeed, an *ad valorem* duty would be assessed in relation to the value in view of the existing rules on the determination of the customs value of goods imported into the Community as set out in the Community Customs Code [1]. For transactions made between unrelated parties, the Community Customs Code assumes that the value of imported goods for customs purposes is normally the transaction value. In order for a transaction value between related parties to be accepted by customs, the exporter must demonstrate that this value closely approximates to one of the transaction values as defined in Article 30 of the Community Customs Code. It is part of the daily activity of customs authorities to detect possible underestimates of the transaction values so determined. Indeed, if the customs authorities detect an artificially low transfer price between related parties, they will calculate a new customs value that would then be higher. The Community customs legislation [2] provides an exhaustive definition of 'related parties' for customs purposes. It is therefore part of the routine activity of the customs authorities to determine if a transaction is made between related parties, and hence the customs authorities are well equipped to identify the status of parties dealing with the product concerned. As a result, should an *ad valorem* duty be applied, customs authorities would be in a position to detect any irregular value declaration between related parties, thus making circumvention more difficult.

(12) A duty will have to be paid based on the amount of the transaction value. Should parties reduce the transaction value, this will have consequences in subsequent reviews, including anti-absorption investigations, since these low transaction values will be taken as a basis for the determination of the new export price with the potential of an increase of the dumping margin. In this context, in the case of an *ad valorem* duty, the (low) transaction values are evidenced in the relevant shipping documents.

(13) Finally, it should also be considered that the incentive for related parties to manipulate prices is higher in case of an MIP. Indeed with an MIP, price manipulations could lead to avoiding the anti-dumping duty completely. In the case of an *ad valorem* duty, on the other hand, possible price manipulations will only lead to a lower duty, as the duty is a percentage of whatever price is being charged. The risk of manipulation is therefore higher when an MIP applies than when an *ad valorem* duty applies.

(14) Community producers requested that no change in the form of the measures should be applied for transactions between related importers. They argued that there is a risk that national customs authorities will not properly identify the status of related importers. As a consequence, it is claimed that unrelated importers might hold themselves out to be related importers, thus benefiting from the *ad valorem* duty as opposed to the MIP in an unjustified manner. In this respect, as mentioned above, customs authorities are in a position to identify the status of the parties involved. Moreover, whatever its form, i.e. whether a minimum import price or an *ad valorem* duty, the effect of the duty is the same, namely to remove the effects of injurious dumping. For these reasons, even in the unlikely event that importers wrongly hold themselves out to be related, the duty will still have the same effect, whilst the overall risk of circumvention is considered to be lessened.

(15) Given the above, it is also concluded that if sales made by exporters located in the PRC to related parties in the Community were subject to an *ad valorem* duty, the risks of circumvention of the duty would be much reduced. The request by Community producers not to change the form of the measures for related importers is therefore rejected.

(16) Community producers also argued that the definition of price in the operative part of Regulation (EC) No 360/2000 'net, free-at-Community-frontier' still allows the importer to clear the goods at the end-customer's warehouse, including all logistics costs incurred from 'cif free out' to 'franco end-customer' and that thereby the import price may be artificially high. It was therefore requested to change the wording into 'free-at-Community-port'.

(17) However, the customs value arrived at by the definition 'net, free-at-Community-frontier' includes only the cost of transport and insurance of the imported goods, and loading and handling charges associated with the transport of the imported goods to the place of import into the Community customs territory. Consequently, costs incurred after import from the frontier to the end-customer are not included and the request is therefore rejected as unfounded.

[1] OJ L 302, 19.10.1992, p. 1.
[2] Commission Regulation (EEC) No 2454/93 of 2 July 1993 laying down provisions for the implementation of Council Regulation (EEC) No 2913/92 establishing the Community Customs Code (OJ L 253, 11.10.1993, p. 1). Regulation as last amended by Regulation (EC) No 444/2002 (OJ L 68, 12.3.2002, p. 11).

(18) The Community industry also argued that in order to avoid any absorption of measures, the form of the measure should be a double duty, i.e. an MIP or an *ad valorem* duty, whichever is the higher in order to avoid a possible manipulation of prices. The argument was not substantiated and is therefore rejected.

(19) One Chamber of Commerce finally argued that any transaction at a price which is at or above the MIP level should be enough to remove the injury, regardless if such transaction is destined to a related or unrelated party. If an *ad valorem* duty were applied to a price which is at or above the MIP level, the protection would go beyond the level necessary to remove injury.

(20) In this respect, it is stressed that whatever its form, i.e. whether a minimum import price or an *ad valorem* duty, the effect of the duty is the same, namely to remove the effects of injurious dumping. On the other hand, it is not proposed that the *ad valorem* duty should be applied in addition to the MIP, but instead of the MIP. In addition, as pointed out above, exporters of products for which anti-dumping measures are in place could easily invoice at an artificially high price (i.e. above the MIP) when they export to related companies in the Community, and subsequently compensate such a price after customs declaration. This may render the MIP meaningless and subsequent resale prices in the Community may not achieve the intended effects of the measure. For these reasons, and considering the serious risk of price manipulation in sales between related parties, the argument made by the Chamber of Commerce is rejected.

## C. **DIRECT/INDIRECT SALES BETWEEN UNRELATED PARTIES**

(21) As regards sales between unrelated parties, a further distinction should be made between direct sales (i.e. between an importer in the Community and an exporter in the country concerned) and indirect sales (i.e. not made directly from an exporter in the country concerned to an importer in the Community), since in the latter case the same risk of price manipulation exists.

(22) One importer argued that there should be no differentiation between direct and indirect sales to the Community as this would lead to an unequal treatment of different importers. For instance, importers buying the products via traders in third countries would be disadvantaged compared to importers buying the product directly from an exporter in the country concerned, even if all companies involved were unrelated.

(23) First it should be borne in mind that the two types of duty have the effect of removing the effects of injurious dumping, and thus represent the same level of duty. Furthermore, the distinction between direct and indirect sales is motivated by the necessity to limit the risk of price manipulation. It is considered that this risk is prevalent in all cases where sales are not made directly from an exporter located in the PRC to an unrelated importer in the Community, as a consequence of the higher number of parties involved and the difficulty for the customs authorities to verify the full chain of events when sales are made via traders in third countries. The seriousness of these risks is underscored by the findings of the European Court of Auditors in its 2000 Annual Report ([1]). Due to the serious risk of price manipulation in indirect sales, which is considered to outweigh the potential disadvantage to importers sourcing from third countries, the importer's argument is rejected.

(24) It is therefore concluded that sales made by exporters located in the PRC directly to an unrelated party in the Community shall remain subject to the MIP, which was found to be the appropriate measure in the original investigation. However, in order to avoid the risk of price manipulation, in all other cases an *ad valorem* duty rate of 63,3 % as previously established ([2]) shall apply.

## D. **DAMAGED GOODS**

(25) Article 145 of Commission Regulation (EEC) No 2454/93 foresees that, for the determination of the customs value, an apportioning of the price actually paid or payable in situations where goods have been damaged before entry into free circulation takes place. Consequently *ad valorem* duties on damaged goods follow the decrease in prices paid or payable when a good has been damaged, and the duty payable is automatically reduced.

(26) In the case of a damaged good for which an MIP is in place, the duty payable, i.e. the difference between the MIP and the net, free-at-Community-frontier price, before customs clearance, is not automatically adjusted downwards. As a consequence, if the same MIP applicable to non-damaged goods would also apply to damaged goods, the measures could go beyond what is necessary for the removal of injury.

([1]) OJ C 359, 15.12.2001, p. 1, recitals 1.31 and 1.35.
([2]) Council Regulation (EC) No 3386/93 (OJ L 306, 11.12.1993, p. 16).

(27) In order to avoid the above described situation the MIP should, in case of damaged goods, be reduced by a percentage which corresponds to the apportioning of the price actually paid or payable. The duty payable will then be equal to the difference between the reduced MIP and the reduced net, free-at-Community-frontier price, before customs clearance.

(28) Community producers argued that, in order to avoid fraud, the determination of the customs value for damaged goods should be assessed by an independent expert.

(29) The valuation of goods, damaged or not, is carried out by the customs authorities according to the well-established rules set out in the Community Customs Code. In view of these rules, which ensure a sufficient degree of impartiality, it is considered that there is no need of having further specific provisions. The request is therefore rejected.

(30) In the absence of any substantiated argument from interested parties, it is concluded that in cases where goods have been damaged before entry into free circulation, the duty payable should be equal to the difference between the reduced minimum import price and the reduced net, free-at-Community-frontier price, before customs clearance,

HAS ADOPTED THIS REGULATION:

*Article 1*

Article 1(2) of Regulation (EC) No 360/2000 shall be replaced by the following:

'2. The amount of the anti-dumping duty shall be:

(a) the difference between the minimum import price of EUR 120 per tonne and the net, free-at-Community-frontier price, before duty, in all cases where the latter is:

— less than the minimum import price, and

— established on the basis of an invoice issued by an exporter located in the People's Republic of China directly to an unrelated party in the Community (Taric additional code A439).

(b) zero, if the net, free-at-Community-frontier price, before duty, is established on the basis of an invoice issued by an exporter located in the People's Republic of China directly to an unrelated party in the Community and equal to or higher than the minimum import price of EUR 120 per tonne (Taric additional code A439).

(c) equal to an *ad valorem* duty of 63,3 % in all other cases not falling under subparagraph (a) and (b) above (Taric additional code A999).

In cases where the anti-dumping duty is established according to subparagraph 2(a) of Article 1 and where goods have been damaged before entry into free circulation and, therefore, the price actually paid or payable is apportioned for the determination of the customs value pursuant to Article 145 of Regulation (EEC) No 2454/93, the minimum import price set out above shall be reduced by a percentage which corresponds to the apportioning of the price actually paid or payable. The duty payable will then be equal to the difference between the reduced minimum import price and the reduced net, free-at-Community-frontier price, before customs clearance.'

*Article 2*

This Regulation shall enter into force on the day following that of 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 Luxembourg, 5 June 2003.

*For the Council*

*The President*

M. STRATAKIS

# COMMISSION REGULATION (EC) No 987/2003

## of 10 June 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 11 June 2003.

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

Done at Brussels, 10 June 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 10 June 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 | 83,4 |
| | 096 | 83,0 |
| | 999 | 83,2 |
| 0707 00 05 | 052 | 109,0 |
| | 999 | 109,0 |
| 0709 90 70 | 052 | 92,0 |
| | 999 | 92,0 |
| 0805 50 10 | 382 | 63,8 |
| | 388 | 57,5 |
| | 528 | 42,0 |
| | 999 | 54,4 |
| 0808 10 20, 0808 10 50, 0808 10 90 | 388 | 80,6 |
| | 400 | 117,1 |
| | 404 | 89,5 |
| | 508 | 80,8 |
| | 512 | 85,6 |
| | 528 | 67,9 |
| | 720 | 107,6 |
| | 800 | 224,9 |
| | 804 | 111,7 |
| | 999 | 107,3 |
| 0809 10 00 | 052 | 322,6 |
| | 999 | 322,6 |
| 0809 20 95 | 064 | 261,1 |
| | 068 | 156,6 |
| | 400 | 280,1 |
| | 999 | 232,6 |

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

# COMMISSION REGULATION (EC) No 988/2003
## of 10 June 2003
## opening tendering procedure No 45/2003 EC for the sale of wine alcohol for new industrial uses

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Council Regulation (EC) No 1493/1999 of 17 May 1999 on the common organisation of the market in wine ([1]), as last amended by Regulation (EC) No 806/2003 ([2]),

Having regard to Commission Regulation (EC) No 1623/2000 of 25 July 2000 laying down detailed rules for implementing Regulation (EC) No 1493/1999 on the common organisation of the market in wine with regard to market mechanisms ([3]), as last amended by Regulation (EC) No 625/2003 ([4]), and in particular Article 80 thereof,

Whereas:

(1) Regulation (EC) No 1623/2000 lays down, *inter alia*, the detailed rules for disposing of stocks of alcohol arising from distillation under Articles 27, 28 and 30 of Regulation (EC) No 1493/1999 held by intervention agencies.

(2) Tendering procedures should be organised for the sale of wine alcohol for new industrial uses with a view to reducing the stocks of wine alcohol in the Community and enabling small-scale industrial projects to be carried out and such alcohol to be processed into goods intended for export for industrial uses. The wine alcohol of Community origin in storage in the Member States consists of quantities produced from distillation under Articles 35 and 39 of Council Regulation (EEC) No 822/87 of 16 March 1987 on the common organisation of the market in wine ([5]), as last amended by Regulation (EC) No 1677/1999 ([6]), and under Article 27 of Regulation (EC) No 1493/1999.

(3) Since the adoption of Council Regulation (EC) No 2799/98 of 15 December 1998 establishing agrimonetary arrangements for the euro ([7]), the prices offered in tenders and securities must be expressed in euro and payments must be made in euro.

(4) Minimum prices should be fixed for the submission of tenders, broken down according to the type of end-use.

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

HAS ADOPTED THIS REGULATION:

*Article 1*

Tendering procedure No 45/2003 EC is hereby opened for the sale of wine alcohol for new industrial uses. The alcohol concerned has been produced from distillation under Articles 35 and 39 of Regulation (EEC) No 822/87 and Article 27 of Regulation (EC) No 1493/1999 and is held by the French intervention agency.

The volume put up for sale is 130 000 hectolitres of alcohol at 100 % vol. The vat numbers, places of storage and the volume of alcohol at 100 % vol contained in each vat are detailed in the Annex hereto.

*Article 2*

The sale shall be conducted in accordance with Articles 79, 81, 82, 83, 84, 85, 95, 96, 97, 100 and 101 of Regulation (EC) No 1623/2000 and Article 2 of Regulation (EC) No 2799/98.

*Article 3*

Tenders must be submitted to the intervention agency holding the alcohol concerned:

Onivins-Libourne, Délégation nationale, 17 avenue de la Ballastière, boîte postale 231, F-33505 Libourne Cedex (tel. (33-5) 57 55 20 00; telex: 57 20 25; fax (33-5) 57 55 20 59)

or sent by registered mail to that address.

Tenders shall be submitted in a sealed double envelope, the inside envelope marked: 'Tender under procedure No 45/2003 EC for new industrial uses', the outer envelope bearing the address of the intervention agency concerned.

Tenders must reach the intervention agency concerned not later than 12 noon Brussels time on 30 June 2003.

All tenders must be accompanied by proof that a tendering security of EUR 4 per hectolitre of alcohol at 100 % vol has been lodged with the intervention agency concerned.

([1]) OJ L 179, 14.7.1999, p. 1.
([2]) OJ L 122, 16.5.2003, p. 1.
([3]) OJ L 194, 31.7.2000, p. 45.
([4]) OJ L 90, 8.4.2003, p. 4.
([5]) OJ L 84, 27.3.1987, p. 1.
([6]) OJ L 199, 30.7.1999, p. 8.
([7]) OJ L 349, 24.12.1998, p. 1.

*Article 4*

The minimum prices which may be offered are EUR 7 per hectolitre of alcohol at 100 % vol intended for the manufacture of baker's yeast, EUR 26 per hectolitre of alcohol at 100 % vol intended for the manufacture of amine- and chloral-type chemical products for export, EUR 32 per hectolitre of alcohol at 100 % vol intended for the manufacture of eau de Cologne for export and EUR 7,5 per hectolitre of alcohol at 100 % vol intended for other industrial uses.

*Article 5*

The formalities for sampling shall be as set out in Article 98 of Regulation (EC) No 1623/2000. The price of samples shall be EUR 10 per litre.

The intervention agency shall provide all the necessary information on the characteristics of the alcohol put up for sale.

*Article 6*

The performance guarantee shall be EUR 30 per hectolitre of alcohol at 100 % vol.

*Article 7*

This Regulation shall enter into force on the day of 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, 10 June 2003.

*For the Commission*

Franz FISCHLER

*Member of the Commission*

*ANNEX*

**INVITATION TO TENDER No 45/2003 EC FOR THE SALE OF ALCOHOL FOR NEW INDUSTRIAL USES**

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

| Member State | Location | Vat No | Volume in hectolitres of alcohol at 100% vol | Regulations (EEC) No 822/87 and (EC) No 1493/1999 Article | Type of alcohol | Alcoholic strength (in % vol) |
|---|---|---|---|---|---|---|
| France | Onivins-Longuefuye<br>F-53200 Longuefuye | 8 | 22 345 | 27 | Raw | + 92 |
| | | 7 | 22 530 | 27 | Raw | + 92 |
| | | 12 | 22 380 | 27 | Raw | + 92 |
| | | 13 | 22 360 | 27 | Raw | + 92 |
| | | 19 | 13 225 | 27 | Raw | + 92 |
| | | 16 | 3 490 | 39 | Raw | + 92 |
| | | 13 | 160 | 35 | Raw | + 92 |
| | Onivins-Port La Nouvelle<br>Av. Adolphe Turrel<br>BP 62<br>F-11210 Port La Nouvelle | 7 | 23 510 | 27 | Raw | + 92 |
| | Total | | 130 000 | | | |

# COMMISSION REGULATION (EC) No 989/2003

## of 10 June 2003

## amending Regulation (EC) No 668/2001 increasing the quantity of barley held by the German intervention agency for which a standing invitation to tender for export has been opened

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 5 thereof,

Whereas:

(1) Commission Regulation (EEC) No 2131/93 [3], as last amended by Regulation (EC) No 1630/2000 [4], lays down the procedures and conditions for the disposal of cereals held by the intervention agencies.

(2) Commission Regulation (EC) No 668/2001 [5], as last amended by Regulation (EC) No 937/2003 [6], opened a standing invitation to tender for the export of 3 800 088 tonnes of barley held by the German intervention agency.

(3) Germany informed the Commission of the intention of its intervention agency to increase by 499 361 tonnes the quantity for which a standing invitation to tender for export has been opened. In view of the market situation, the German request should be granted.

(4) This increase in the quantity put out to tender makes it necessary to alter the list of regions and quantities in store without delay.

(5) Regulation (EC) No 668/2001 should be amended accordingly.

(6) 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*

Regulation (EC) No 668/2001 is hereby amended as follows:

1. Article 2 is replaced by the following:

   '*Article 2*

   1. The invitation to tender shall cover a maximum of 4 299 449 tonnes of barley to be exported to all third countries with the exception of Bulgaria, Canada, the Czech Republic, Cyprus, Estonia, Hungary, Latvia, Lithuania, Malta, Mexico, Poland, Romania, the Slovak Republic, Slovenia and the United States of America.

   2. The regions in which the 4 299 449 tonnes of barley are stored are stated in Annex I to this Regulation.'

2. Annex I is replaced by the Annex hereto.

*Article 2*

This Regulation shall enter into force on the day of 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, 10 June 2003.

*For the Commission*

Franz FISCHLER

*Member of the Commission*

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[1] OJ L 181, 1.7.1992, p. 21.
[2] OJ L 193, 29.7.2000, p. 1.
[3] OJ L 191, 31.7.1993, p. 76.
[4] OJ L 187, 26.7.2000, p. 24.
[5] OJ L 93, 3.4.2001, p. 20.
[6] OJ L 133, 29.5.2003, p. 51.

*ANNEX*

*'ANNEX I*

*(tonnes)*

| Place of storage | Quantity |
|---|---|
| Schleswig-Holstein/Hamburg/Lower Saxony/Bremen/Mecklenburg-Western Pomerania | 1 592 818 |
| North Rhine-Westphalia/Hessen/Rhineland-Palatinate/Saarland/Baden-Württemberg/ Bavaria | 399 022 |
| Berlin/Brandenburg/Saxony-Anhalt/Saxony/Thuringia | 2 307 609' |

# COMMISSION REGULATION (EC) No 990/2003

## of 10 June 2003

## amending Regulation (EC) No 968/2002 increasing the quantity of barley held by the intervention agency of the United Kingdom for which a standing invitation to tender for export has been opened

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 5 thereof,

Whereas:

(1) Commission Regulation (EEC) No 2131/93 [3], as last amended by Regulation (EC) No 1630/2000 [4], lays down the procedures and conditions for the disposal of cereals held by the intervention agencies.

(2) Commission Regulation (EC) No 968/2002 [5], as last amended by Regulation (EC) No 937/2003 [6], opened a standing invitation to tender for the export of 88 011 tonnes of barley held by the intervention agency of the United Kingdom.

(3) The United Kingdom informed the Commission of the intention of its intervention agency to increase by 34 501 tonnes the quantity for which a standing invitation to tender for export has been opened. In view of the market situation, the request of the United Kingdom should be granted.

(4) This increase in the quantity put out to tender makes it necessary to alter the list of regions and quantities in store without delay.

(5) Regulation (EC) No 968/2002 should be amended accordingly.

(6) 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*

Regulation (EC) No 968/2002 is hereby amended as follows:

1. Article 2 is replaced by the following:

'*Article 2*

1. The invitation to tender shall cover a maximum of 122 512 tonnes of barley to be exported to all third countries with the exception of Bulgaria, Canada, the Czech Republic, Cyprus, Estonia, Hungary, Latvia, Lithuania, Malta, Mexico, Poland, Romania, the Slovak Republic, Slovenia and the United States of America.

2. The regions in which the 122 512 tonnes of barley are stored are stated in Annex I to this Regulation.'

2. Annex I is replaced by the Annex hereto.

*Article 2*

This Regulation shall enter into force on the day of 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, 10 June 2003.

*For the Commission*

Franz FISCHLER

*Member of the Commission*

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[1] OJ L 181, 1.7.1992, p. 21.
[2] OJ L 193, 29.7.2000, p. 1.
[3] OJ L 191, 31.7.1993, p. 76.
[4] OJ L 187, 26.7.2000, p. 24.
[5] OJ L 149, 7.6.2002, p. 15.
[6] OJ L 133, 29.5.2003, p. 51.

*ANNEX*

*'ANNEX I*

*(tonnes)*

| Place of storage | Quantity |
|---|---|
| England | 50 441 |
| Scotland | 72 071' |

# COMMISSION REGULATION (EC) No 991/2003

## of 10 June 2003

## fixing the allocation coefficients for the applications for import licences lodged in May 2003 for certain milk products under certain tariff quotas opened by Regulation (EC) No 2535/2001

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 2535/2001 of 14 December 2001 laying down detailed rules for applying Council Regulation (EC) No 1255/1999 as regards the import arrangements for milk and milk products and opening tariff quotas [3], as last amended by Regulation (EC) No 787/2003 [4], and in particular Article 16(2) thereof,

Whereas:

In order to implement the concessions in the form of Community tariff quotas for Poland, the Czech Republic and Slovakia, Commission Regulation (EC) No 787/2003 of 8 May 2003 amending Regulation (EC) No 2535/2001 laying down detailed rules for applying Council Regulation (EC) No 1255/1999 as regards the import arrangements for milk and milk products and opening tariff quotas, and derogating from that Regulation, provides for the lodging of applications for import licences from 1 to 25 May 2003 for certain products referred to in Annex I to Regulation (EC) No 2535/2001. As the applications for import licences lodged in May 2003 relate to quantities in excess of those available, allocation coefficients should be fixed for the quantities applied for,

HAS ADOPTED THIS REGULATION:

*Article 1*

The allocation coefficients set out in the Annex to this Regulation shall be applied to the quantities for which import licences have been sought under Article 2 of Regulation (EC) No 787/2003 for the products falling within the quotas referred to in points 1, 2 and 3 of Annex I.B to Regulation (EC) No 2535/2001.

*Article 2*

This Regulation shall enter into force on 11 June 2003.

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

Done at Brussels, 10 June 2003.

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

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[1] OJ L 160, 26.6.1999, p. 48.
[2] OJ L 79, 22.3.2002, p. 15.
[3] OJ L 341, 22.12.2001, p. 29.
[4] OJ L 115, 9.5.2003, p. 18.

*ANNEX*

**Applications submitted for the quotas referred to in points 1, 2 and 3 of Annex I.B to Regulation (EC) No 2535/2001 and opened in May 2003**

| Quota number | Allocation coefficient |
|---|---|
| 1. **Poland** | |
| 09.4813 | 0,0092 |
| 09.4814 | 0,0091 |
| 09.4815 | 0,0112 |
| 2. **Czech Republic** | |
| 09.4611 | 0,0132 |
| 09.4636 | — |
| 09.4637 | 1,0000 |
| 09.4612 | 0,0095 |
| 3. **Slovakia** | |
| 09.4641 | 0,0114 |
| 09.4645 | — |
| 09.4643 | 0,0253 |

# COMMISSION REGULATION (EC) No 992/2003
## of 10 June 2003
## on the issue of import licences for high-quality fresh, chilled or frozen beef and veal

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Commission Regulation (EC) No 936/97 of 27 May 1997 opening and providing for the administration of tariff quotas for high-quality fresh, chilled and frozen beef and for frozen buffalo meat [1], as last amended by Regulation (EC) No 649/2003 [2],

Whereas:

(1) Regulation (EC) No 936/97 provides in Articles 4 and 5 the conditions for applications and for the issue of import licences for meat referred to in Article 2(f).

(2) Article 2(f) of Regulation (EC) No 936/97 fixes the amount of high-quality fresh, chilled or frozen beef and veal originating in and imported from the United States of America and Canada which may be imported on special terms for the period 1 July 2002 to 30 June 2003 at 11 500 t.

(3) It should be recalled that licences issued pursuant to this Regulation will, throughout the period of validity, be open for use only in so far as provisions on health protection in force permit,

HAS ADOPTED THIS REGULATION:

*Article 1*

All applications for import licences from 1 to 5 June 2003 for high-quality fresh, chilled or frozen beef and veal as referred to in Article 2(f) of Regulation (EC) No 936/97 shall be granted in full.

*Article 2*

This Regulation shall enter into force on 11 June 2003.

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

Done at Brussels, 10 June 2003.

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

[1] OJ L 137, 28.5.1997, p. 10.
[2] OJ L 95, 11.4.2003, p. 13.

# COMMISSION REGULATION (EC) No 993/2003

## of 10 June 2003

## fixing Community producer and import prices for carnations and roses with a view to the application of the arrangements governing imports of certain floricultural products originating in Cyprus, Israel, Jordan, Morocco and the West Bank and the Gaza Strip

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Council Regulation (EEC) No 4088/87 of 21 December 1987 fixing conditions for the application of preferential customs duties on imports of certain flowers originating in Cyprus, Israel, Jordan, Morocco and the West Bank and the Gaza Strip [1], as last amended by Regulation (EC) No 1300/97 [2], and in particular Article 5(2)(a) thereof,

Whereas:

Pursuant to Article 2(2) and Article 3 of abovementioned Regulation (EEC) No 4088/87, Community import and producer prices are fixed each fortnight for uniflorous (bloom) carnations, multiflorous (spray) carnations, large-flowered roses and small-flowered roses and apply for two-weekly periods. Pursuant to Article 1b of Commission Regulation (EEC) No 700/88 of 17 March 1988 laying down detailed rules for the application of the arrangements for the import into the Community of certain floricultural products originating in Cyprus, Israel, Jordan, Morocco and the West Bank and the Gaza Strip [3], as last amended by Regulation (EC) No 2062/97 [4], those prices are determined for fortnightly periods on the basis of weighted prices provided by the Member States. Those prices should be fixed immediately so the customs duties applicable can be determined. To that end, provision should be made for this Regulation to enter into force immediately,

HAS ADOPTED THIS REGULATION:

*Article 1*

The Community producer and import prices for uniflorous (bloom) carnations, multiflorous (spray) carnations, large-flowered roses and small-flowered roses as referred to in Article 1b of Regulation (EEC) No 700/88 for a fortnightly period shall be as set out in the Annex.

*Article 2*

This Regulation shall enter into force on 11 June 2003.

It shall apply from 11 to 24 June 2003.

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

Done at Brussels, 10 June 2003.

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

[1] OJ L 382, 31.12.1987, p. 22.
[2] OJ L 177, 5.7.1997, p. 1.
[3] OJ L 72, 18.3.1988, p. 16.
[4] OJ L 289, 22.10.1997, p. 1.

*ANNEX*

**to the Commission Regulation of 10 June 2003 fixing Community producer and import prices for carnations and roses with a view to the application of the arrangements governing imports of certain floricultural products originating in Cyprus, Israel, Jordan, Morocco and the West Bank and the Gaza Strip**

*(EUR/100 pieces)*

Period: from 11 to 24 June 2003

| Community producer price | Uniflorous (bloom) carnations | Multiflorous (spray) carnations | Large-flowered roses | Small-flowered roses |
|---|---|---|---|---|
| | 12,47 | 12,02 | 22,87 | 12,09 |
| Community import prices | Uniflorous (bloom) carnations | Multiflorous (spray) carnations | Large-flowered roses | Small-flowered roses |
| Israel | 4,66 | — | 11,52 | 10,24 |
| Morocco | 12,52 | 11,45 | — | — |
| Cyprus | — | — | — | — |
| Jordan | — | — | — | — |
| West Bank and Gaza Strip | — | — | — | — |

# COUNCIL DIRECTIVE 2003/43/EC

## of 26 May 2003

## amending Directive 88/407/EEC laying down the animal health requirements applicable to intra-Community trade in and imports of semen of domestic animals of the bovine species

THE COUNCIL OF THE EUROPEAN UNION,

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

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

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

Having regard to the opinion of the European Economic and Social Committee [3],

After consulting the Committee of the Regions,

Whereas:

(1) Directive 88/407/EEC [4] lays down the animal health requirements applicable to intra-Community trade in and imports of semen of domestic animals of the bovine species.

(2) In the light of the new scientific data available, it is necessary to amend the animal health conditions applying to entry of bulls into artificial insemination centres, in particular concerning infectious bovine rhinotracheitis/infectious pustular vulvovaginitis (IBR/IPV) and bovine viral diarrhoea/mucosal diarrhoea (BVD/MD).

(3) The same requirements for storage should apply to all establishments whether or not they are associated with a production unit.

(4) The procedure for updating the list of semen collection or storage centres in third countries from which the importation of semen is authorised should be simplified.

(5) Necessary measures should be adopted for the implementation of Directive 88/407/EEC in accordance with Council Decision 1999/468/EC of 28 June 1999 laying down the procedures for the exercise of implementing powers conferred on the Commission [5],

HAS ADOPTED THIS DIRECTIVE:

*Article 1*

Directive 88/407/EEC is hereby amended as follows:

1. the following subparagraph shall be added to Article 1:

   'This Directive shall not affect Community and/or national zootechnical provisions governing the organisation of artificial insemination in general and the distribution of semen in particular.';

2. Article 2(b) is replaced by the following:

   '(b) — "Semen collection centre" means an officially approved and officially supervised establishment situated in the territory of a Member State or third country, in which semen is produced for use in artificial insemination;

   — "Semen storage centre" means an officially approved and officially supervised establishment situated in the territory of a Member State or third country in which semen is stored for use in artificial insemination;'

3. Article 3(a) shall be replaced by the following:

   '(a) it must have been collected and processed and/or stored if need be in a collection or storage centre or centres approved for the purpose in accordance with Article 5(1), with a view to artificial insemination and for the purposes of intra-Community trade;'

4. Article 4(1) and (2) shall be deleted;

5. in Articles 5, 9(2) and 9(3), the words 'semen collection centre(s)' shall be replaced by the words 'semen collection or storage centre(s)';

6. Article 9(1) shall be replaced by the following:

   '1. The lists of semen collection and storage centres from which Member States shall authorise the importation of semen originating in third countries shall be prepared and updated in accordance with this Article.

   An establishment may be placed on such a list only if the competent authority of the third country of origin guarantees that the conditions referred to in paragraphs 2 and 3(b) to (e) are met.

   The competent authorities of the third countries appearing on lists drawn up and updated in accordance with Article 8 shall guarantee that lists of semen collection and storage centres from which the semen may be dispatched to the Community are drawn up, kept up-to-date and communicated to the Commission.

[1] OJ C 20 E, 28.1.2003, p. 46.
[2] Opinion delivered on 8 April 2003 (not yet published in the Official Journal).
[3] Opinion delivered on 11 December 2002 (not yet published in the Official Journal).
[4] OJ L 194, 22.7.1988, p. 10. Directive as last amended by the 1994 Act of Accession.
[5] OJ L 184, 17.7.1999, p. 23.

The Commission shall provide the contact points designated by Member States with regular notifications concerning new or updated lists that it has received from the competent authorities of the third countries concerned in accordance with subparagraph 3.

If no Member State objects to the new or updated list within 20 working days of the Commission's notification, imports shall be authorised from establishments appearing on the list 10 working days after the day on which the Commission makes it available to the public.

Where written comments are made by at least one Member State or whenever it considers that amendments to a list are necessary in the light of relevant information such as Community inspection reports or the results of the controls carried out under Article 12, the Commission shall inform all Member States and include the matter on the agenda for the relevant sector at the next meeting of the Standing Committee on the Food Chain and Animal Health for decision in accordance with the procedure referred to in Article 18(2).

The Commission shall arrange for up-to-date versions of all lists to be made available to the public.';

7. Article 17 shall be replaced by:

'*Article 17*

Annex A shall be amended by the Council, acting by qualified majority on a proposal from the Commission, in particular to adapt it to advances in technology.

Annexes B, C and D shall be amended in accordance with the procedure laid down in Article 18(2).';

8. Article 18 shall be replaced by:

'*Article 18*

1. The Commission shall be assisted by the Standing Committee on the Food Chain and Animal Health set up by Regulation (EC) No 178/2002 (*).

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

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

3. The Committee shall adopt its rules of procedure.

(*) OJ L 31, 1.2.2002, p. 1.
(**) OJ L 184, 17.7.1999, p. 23.';

9. Article 19 shall be deleted;

10. in Articles 5, 8, and 10, the words 'the procedure laid down in Article 18' shall be replaced by the words 'the procedure referred to in Article 18(2)';

11. in Articles 8, 11 and 16, the words 'the procedure laid down in Article 19' shall be replaced by the words 'the procedure referred to in Article 18(2)';

12. Annexes A, B, C and D to Directive 88/407/EEC shall be replaced by the text in the Annex to this Directive.

*Article 2*

1. Member States shall bring into force the laws, regulations and administrative provisions necessary in order to comply with this Directive by 1 July 2004. They shall forthwith inform the Commission thereof.

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

2. However, up until 31 December 2004, Member States shall authorise intracommunity trade in and imports of semen that have been collected, processed and stored according to the former provisions of Directive 88/407/EEC and that are accompanied by the former specimen certificate.

After that date, Member States shall not authorise intra-Community trade in and imports of semen in accordance with the provisions formerly in force unless it was collected, processed and stored before 31 December 2004.

3. Member States shall inform the Commission of the text of the main provisions of national law which they adopt in the area governed by this Directive.

*Article 3*

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

*Article 4*

This Directive is addressed to the Member States.

Done at Brussels, 26 May 2003.

*For the Council*
*The President*
G. DRYS

*ANNEX*

*'ANNEX A*

CHAPTER I

**CONDITIONS FOR THE OFFICIAL APPROVAL OF CENTRES**

1. Semen collection centres must:

   (a) be placed under the permanent supervision of a centre veterinarian authorised by the competent authority;

   (b) have at least:

      (i) animal housing, including isolation facilities;

      (ii) semen collection facilities, including a separate room for the cleaning and disinfection or sterilisation of equipment;

      (iii) a semen processing room which need not necessarily be on the same site;

      (iv) a semen storage room which need not necessarily be on the same site;

   (c) be so constructed or isolated that contact with livestock outside is prevented;

   (d) be so constructed that the animal housing and the semen collecting, processing and storage facilities can be readily cleaned and disinfected;

   (e) have isolation accommodation which has no direct communication with the normal animal accommodation;

   (f) be so designed that the animal accommodation is physically separated from the semen processing room and both are separated from the semen storage room.

2. Semen storage centres must:

   (a) be placed under the permanent supervision of a centre veterinarian authorised by the competent authority;

   (b) be so constructed or isolated that contact with livestock outside is prevented;

   (c) be so constructed that the storage facilities can be readily cleaned and disinfected.

CHAPTER II

**CONDITIONS RELATING TO THE OFFICIAL SUPERVISION OF CENTRES**

1. Collection centres must:

   (a) be so supervised that they contain only animals of the species whose semen is to be collected. Other domestic animals which are strictly necessary for the normal operation of the collection centre may nonetheless also be admitted, provided that they present no risk of infection to those species whose semen is to be collected, and that they fulfil the conditions laid down by the centre veterinarian;

   (b) be so supervised that a record is kept of all bovine animals at the centre, giving details of the breed, date of birth and identification of each of the animals, and also a record of all checks for diseases and all vaccinations carried out for each animal;

   (c) be regularly inspected by an official veterinarian, at least twice a year, in the context of standing checks on the conditions of approval and supervision;

   (d) be so supervised that the entry of unauthorised persons is prevented. Furthermore, authorised visitors must be required to comply with the conditions laid down by the centre veterinarian;

   (e) employ technically competent staff suitably trained in disinfection procedures and hygiene techniques relevant to the control of the spread of disease;

   (f) be so supervised that:

      (i) only semen collected at an approved centre is processed and stored in approved centres, without coming into contact with any other consignment of semen. However, semen not collected in an approved centre may be processed in approved collection centres provided that:

         — such semen is produced from bovine animals which fulfil the conditions laid down in Chapter I.1(d) of Annex B,

— processing is carried out with separate equipment or at a different time from semen intended for intra-Community trade, the equipment in the latter case being cleaned and sterilised after use,

— such semen may not be the subject of intra-Community trade and cannot at any time come into contact with, or be stored with, semen intended for intra-Community trade,

— such semen is identifiable by a marking different from that provided for in point (vii);

Deep-frozen embryos may also be stored in approved centres provided that:

— such storage is authorised by the competent authority,

— the embryos meet the requirements of Council Directive 89/556/EEC of 25 September 1989 on animal health conditions governing intra-Community trade in and importation from third countries of embryos of domestic animals of the bovine species [1],

— the embryos are stored in separate storage containers in the premises for storing approved semen;

(ii) collection, processing and storage of semen takes place only on the premises set aside for the purpose and under the strictest conditions of hygiene;

(iii) all instruments which come into contact with the semen or the donor animal during collection and processing are properly disinfected or sterilised prior to use, except for single-use instruments;

(iv) products of animal origin used in the processing of semen — including additives or a diluent — are obtained from sources which present no animal health risk or are so treated prior to use that such risk is prevented;

(v) storage containers and transport containers are either properly disinfected or sterilised before the commencement of each filling operation, except for single-use containers;

(vi) the cryogenic agent used has not been previously used for other products of animal origin;

(vii) each individual dose of semen is clearly marked in such a way that the date of collection of the semen, the breed and identification of the donor animal and the approval number of the centre can be readily established; each Member State shall communicate to the Commission and other Member States the characteristics and form of the marking used in its territory;

(viii) the storage unit must comply with specific conditions relating to the supervision of semen storage centres provided for in point 2.

2. Storage centres must:

(a) be so supervised that a record is kept of all movement of semen (in and out the centre) and of the status of the donor bulls whose semen is stored there, and which must comply with the requirements of this Directive;

(b) be regularly inspected by an official veterinarian, at least twice a year, in the context of the standing checks on the conditions of approval and supervision;

(c) be so supervised that the entry of unauthorised persons is prevented. Furthermore, authorised visitors must be required to comply with the conditions laid down by the centre veterinarian;

(d) employ technically competent staff suitably trained in disinfection procedures and hygiene techniques relevant to the control of the spread of disease;

(e) be so supervised that:

(i) only semen collected at collection centres approved in accordance with this Directive is stored in approved storage centres, without coming into contact with any other semen.

In addition, only semen coming from an approved collection or storage centre and transported in conditions offering every possible health guarantee, having had no contact with any other semen, may be brought into an approved storage centre.

Deep-frozen embryos may also be stored in approved centres provided that:

— such storage is authorised by the competent authority,

— the embryos meet the requirements of Council Directive 89/556/EEC of 25 September 1989 on animal health conditions governing intra-Community trade in and importation from third countries of embryos of domestic animals of the bovine species,

— the embryos are stored in separate storage containers in the premises for storing approved semen;

[1] OJ L 302, 19.10.1989, p. 1. Directive as last amended by Commission Decision 94/113/EC (OJ L 53, 24.2.1994, p. 23).

(ii) storage of semen takes place only on the premises set aside for the purpose and under the strictest conditions of hygiene;

(iii) all instruments which come into contact with the semen are properly disinfected or sterilised prior to use, except for single-use instruments;

(iv) storage containers and transport containers are either properly disinfected or sterilised before the commencement of each filling operation, except for single-use containers;

(v) the cryogenic agent used has not been previously used for other products of animal origin;

(vi) each individual dose of semen is clearly marked in such a way that the date of collection of the semen, the breed and identification of the donor animal and the approval number of the collection centre can be readily established; each Member State shall communicate to the Commission and other Member States the characteristics and form of the marking used in its territory.

*ANNEX B*

CHAPTER I

**CONDITIONS APPLYING TO THE MOVEMENT OF ANIMALS INTO APPROVED SEMEN COLLECTION CENTRES**

1. For all bovine animals admitted to a semen collection centre the following requirements shall apply:

(a) they must have been subjected to a period of quarantine of at least 28 days in accommodation specifically approved for the purpose by the competent authority of the Member State, and where only other cloven-hoofed animals having at least the same health status are present;

(b) prior to their stay in the quarantine accommodation described in (a), they must have belonged to a herd which is officially tuberculosis free and officially brucellosis free in accordance with Directive 64/432/EEC. The animals shall not previously have been kept in a herd of a lower status;

(c) they must come from a herd officially free of enzootic bovine leukosis as defined in Directive 64/432/EEC, or have been produced by dams which have been subjected, with negative results, to a test carried out in accordance with Annex D (Chapter II) to Directive 64/432/EEC, after removal of the animals from their dam. In the case of animals derived by embryo transfer, "dam" means the recipient of the embryo;

If this requirement cannot be fulfilled, the semen shall not be the subject of trade until the donor has reached the age of two years and has been tested in accordance with Chapter II.1(c) with a negative result;

(d) within the 28 days preceding the period of quarantine specified in (a), they have been subjected to the following tests with negative results in each case, except for the BVD/MD antibody test mentioned in (v):

(i) for bovine tuberculosis, an intradermal tuberculin test carried out in accordance with the procedure laid down in Annex B to Directive 64/432/EEC;

(ii) for bovine brucellosis, a serological test carried out in accordance with the procedure described in Annex C to Directive 64/432/EEC;

(iii) for enzootic bovine leukosis, a serological test carried out in accordance with the procedure laid down in Annex D (Chapter II) to Directive 64/432/EEC;

(iv) for IBR/IPV, a serological test (whole virus) on a blood sample if the animals do not come from an IBR/IPV free herd as defined in Article 2.3.5.3. of the International Animal Health Code;

(v) for BVD/MD,

— a virus isolation test or a test for virus antigen, and

— a serological test to determine the presence or absence of antibodies.

The competent authority may give authorisation for the tests referred to in (d) to be carried out on samples collected in the quarantine station. In this case, the period of quarantine referred to in (a) may not commence before the date of sampling. However, should any of the tests listed in (a) prove positive, the animal concerned shall be immediately removed from the isolation unit. In the event of group isolation, the quarantine period referred to in (a) may not commence for the remaining animals until the animal which tested positive has been removed.

(e) within the period of quarantine specified in (a), and at least 21 days after being admitted to quarantine (at least seven days after being admitted to quarantine to search for *Campylobacter fetus* ssp. *venerealis* and *Trichomonas foetus*), they have been subjected to the following tests with negative results in each case, except for the BVD/MD antibody test (see point (iii) below):

(i) for bovine brucellosis, a serological test carried out in accordance with the procedure described in Annex C to Directive 64/432/EEC;

(ii) for IBR/IPV, a serological test (whole virus) on a blood sample;

If any animals test positive, these animals shall be removed immediately from the quarantine station and the other animals of the same group shall remain in quarantine and be retested, with negative results, not less than 21 days after removal of the positive animal(s).

(iii) for BVD/MD,

— a virus isolation test or a test for virus antigen, and

— a serological test to determine the presence or absence of antibodies.

Any animal (seronegative or seropositive) may only be allowed entry to the semen collection facilities if no sero-conversion occurs in animals which tested seronegative before entry into the quarantine station.

If sero-conversion occurs, all animals that remain seronegative shall be kept in quarantine over a prolonged time, until there is no more sero-conversion in the group for a period of three weeks. Serologically positive animals may be allowed entry into the semen collection facilities;

(iv) for *Campylobacter fetus* ssp. *venerealis*:

— in the case of animals less than six months old or kept since that age in a single sex group prior to quarantine, a single test on a sample of artificial vagina washings or preputial specimen;

— in the case of animals aged six months or older that could have had contact with females prior to quarantine, a test three times at weekly intervals on a sample of artificial vagina washings or preputial specimen;

(v) for *Trichomonas foetus*:

— in the case of animals less than six months old or kept since that age in a single sex group prior to quarantine, a single test on a sample of preputial specimen;

— in the case of animals aged six months or older that could have had contact with females prior to quarantine, a test three times at weekly intervals on a sample of preputial specimen.

If any of the above tests is positive, the animal must be removed forthwith from the isolation accommodation. In the case of group isolation, the competent authority must take all necessary measures to re-establish the eligibility of the remaining animals for entry into the collection centre in accordance with the Annex.

(f) prior to the initial dispatch of semen from BVD/MD serologically positive bulls, a semen sample from each animal shall be subjected to a virus isolation or virus antigen ELISA test for BVD/MD. In the event of a positive result, the bull shall be removed from the centre and all of its semen destroyed.

2. All tests must be carried out in a laboratory approved by the Member State.

3. Animals may only be admitted to the semen collection centre with the express permission of the centre veterinarian. All movements, both in and out, must be recorded.

4. No animal admitted to the semen collection centre may show any clinical sign of disease on the day of admission. All animals must, without prejudice to paragraph 5, have come from isolation accommodation, as referred to in paragraph 1(a), which on the day of consignment officially fulfils the following conditions:

(a) is situated in the centre of an area of 10 kilometres radius in which there has been no case of foot-and-mouth disease for at least 30 days;

(b) has for at least three months been free from foot-and-mouth disease and brucellosis;

(c) has for at least 30 days been free from those bovine diseases which are compulsorily notifiable in accordance with Annex E to Directive 64/432/EEC.

5. Provided that the conditions laid down in paragraph 4 are satisfied and the routine tests referred to in Chapter II have been carried out during the previous 12 months, animals may be transferred from one approved semen collection centre to another of equal health status, without isolation or testing if transfer is direct. The animal in question must not come into direct or indirect contact with cloven-hoofed animals of a lower health status and the means of transport used must have been disinfected before use. If the movement from one semen collection centre to another takes place between Member States it must take place in accordance with Directive 64/432/EEC.

## CHAPTER II

## ROUTINE TESTS WHICH MUST BE APPLIED TO ALL BOVINE ANIMALS IN AN APPROVED SEMEN COLLECTION CENTRE

1. All bovine animals kept at an approved semen collection centre must be subjected at least once a year to the following tests, with negative results:

(a) for bovine tuberculosis, an intradermal tuberculin test, carried out in accordance with the procedure laid down in Annex B to Directive 64/432/EEC;

(b) for bovine brucellosis, a serological test carried out in accordance with the procedure described in Annex C to Directive 64/432/EEC;

(c) for enzootic bovine leukosis, a serological test carried out in accordance with the procedure described in Annex D (Chapter II) to Directive 64/432/EEC;

(d) for IBR/IPV, a serological test (whole virus) on a blood sample;

(e) for BVD/MD, a serological antibody which is applied only to seronegative animals;

Should an animal become serologically positive, every ejaculate of that animal collected since the last negative test shall be either discarded or tested for virus with negative results.

(f) for *Campylobacter fetus* ssp. *venerealis*, a test on a sample of preputial specimen. Only bulls on semen production or having contact with bulls on semen production need to be tested. Bulls returning to collection after a lay-off of more than six months shall be tested not more than 30 days prior to resuming production;

(g) for *Trichomonas foetus*, a test on a sample of preputial specimen. Only bulls on semen production or having contact with bulls on semen production need to be tested. Bulls returning to collection after a lay-off of more than six months shall be tested not more than 30 days prior to resuming production.

2. All tests must be carried out in a laboratory approved by the Member State.

3. If any of the above tests is positive, the animal must be isolated and the semen collected from it since the last negative test may not be the subject of intra-Community trade with the exception, for BVD/MD, of semen from every ejaculate which has been tested BVD/MD virus negative.

Semen collected from all other animals at the centre since the date when the positive test was carried out shall be held in separate storage and may not be the subject of intra-Community trade until the health status of the centre has been restored.

*ANNEX C*

**CONDITIONS WHICH SEMEN FOR INTRA-COMMUNITY TRADE OR IMPORTED INTO THE COMMUNITY MUST SATISFY**

1. Semen must be obtained from animals which:

   (a) show no clinical signs of disease on the day the semen is collected;

   (b) (i) have not been vaccinated against foot-and-mouth disease during the 12 months prior to collection, or

   (ii) have been vaccinated against foot-and-mouth disease during the 12 months prior to collection, in which case 5 % (with a minimum of five straws) of each collection shall be submitted to a virus isolation test for foot-and-mouth disease with negative results;

   (c) have not been vaccinated against foot-and-mouth disease within 30 days immediately prior to collection;

   (d) have been kept at an approved semen collection centre for a continuous period of at least 30 days immediately prior to the collection of the semen in the case of collections of fresh semen;

   (e) are not allowed to serve naturally;

   (f) are kept in semen collection centres which have been free from foot-and-mouth disease for at least three months prior to collection of the semen and 30 days after collection or, in the case of fresh semen, until the date of dispatch, and which are situated in the centre of an area of 10 kilometres radius in which there has been no case of foot-and-mouth disease for at least 30 days;

   (g) have been kept in semen collection centres which, during the period commencing 30 days prior to collection and ending 30 days after collection of the semen or, in the case of fresh semen, until the date of dispatch, have been free from those bovine diseases which are compulsorily notifiable in accordance with Annex E(I) to Directive 64/432/EEC.

2. Antibiotics as listed below must be added to produce these concentrations in the final diluted semen:

   not less than:

   — 500 µg streptomycin per ml final dilution,
   — 500 IU penicillin per ml final dilution,
   — 150 µg lincomycin per ml final dilution,
   — 300 µg spectinomycin per ml final dilution.

   An alternative combination of antibiotics with an equivalent effect against campylobacters, leptospires and mycoplasmas may be used.

   Immediately after their addition the diluted semen must be kept at a temperature of at least 5 °C for a period of not less than 45 minutes.

3. Semen for intra-Community trade must:

   (a) be stored in approved conditions for a minimum period of 30 days prior to dispatch. This requirement shall not apply to fresh semen.

   (b) be transported to the Member State of destination in containers which have been cleaned and disinfected or sterilised before use and which have been sealed and numbered prior to dispatch from the approved storage facilities.

*ANNEX D*

**HEALTH CERTIFICATE FOR INTRA-COMMUNITY TRADE IN SEMEN OF DOMESTIC ANIMALS OF THE BOVINE SPECIES IN ACCORDANCE WITH COUNCIL DIRECTIVE 88/407/EEC**

| 1. Member State of provenance and competent authority | 2. Health certificate No |
|---|---|
| | |

A. ORIGIN OF SEMEN

| 3. Approval number of the centre of origin/provenance (1) of the consignment: collection/storage (1) | |
|---|---|
| 4. Name and address of centre of origin/provenance (1) of the consignment: collection/storage (1) | 5. Name and address of the consignor |
| 6. Country and place of loading | 7. Means of transport |

B. DESTINATION OF SEMEN

| 8. Member State of destination | 9. Name and address of the consignee |
|---|---|
| | |

C. IDENTIFICATION OF SEMEN

| 10. Identification mark of the doses (2) | 11. Number of doses | 12. Approval number of the collection centre of origin |
|---|---|---|
| | | |
| | | |
| | | |
| | | |
| | | |

D. HEALTH INFORMATION

I, the undersigned official veterinarian, certify that:

(a) the semen described above was collected, processed and/or stored under conditions which comply with the standards laid down in Directive 88/407/EEC;

(b) the semen described above was sent to the place of loading in a sealed container under conditions which comply with Directive 88/407/EEC and bearing the number ……. ;

(c) the semen described above was collected from bulls:

(i) which have not been vaccinated against foot-and-mouth disease within 12 months prior to collection (1) ,

or

(ii) which have been vaccinated against foot-and-mouth disease within 12 months prior to collection, in which case 5 % (with a minimum of five straws) of each collection shall be submitted to a virus isolation test for foot-and-mouth disease in …….laboratory (3) with negative results (1);

(d) the semen was stored in approved conditions for a minimum period of 30 days prior to dispatch (4).

E. VALIDITY

| 13. Date and place …… | 14. Name and qualification of the official veterinarian | 15. Signature and stamp of the official veterinarian |
|---|---|---|
| | | |

(1) Delete as necessary.
(2) Corresponding to the identification of the donor animals and date of collection.
(3) Name of the laboratory specified in accordance with Article 4(3) of Directive 88/407/EEC.
(4) May be deleted for fresh semen.'

II

*(Acts whose publication is not obligatory)*

# COMMISSION

## COMMISSION DECISION

**of 20 May 2003**

**on suspending the examination procedure concerning obstacles to trade, consisting of trade practices maintained by the Republic of Colombia in relation to imports of motor vehicles**

(2003/421/EC)

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Council Regulation (EC) No 3286/94 of 22 December 1994 laying down Community procedures in the field of the common commercial policy in order to ensure the exercise of the Community's rights under international trade rules, in particular those established under the auspices of the World Trade Organisation [1], as amended by Regulation (EC) No 356/95 [2], and in particular Article 11(2) thereof,

Whereas:

(1) On 7 July 2000 Volkswagen AG lodged a complaint pursuant to Article 4 of Regulation (EC) No 3286/94 (hereinafter referred to as the 'Regulation'.

(2) Volkswagen AG alleged that Community exports of motor vehicles to the Republic of Colombia are hindered by an obstacle to trade within the meaning of Article 2(1) of the Regulation.

(3) The alleged obstacle to trade was constituted by the general Colombian tax law of 1996 (as amended) (*Estatuto Tributario*), which provides for a distinction between vehicles assembled or manufactured in Colombia and those manufactured or assembled outside Colombia for the purposes of the application of VAT. This law stipulated that the vehicles in the category up to 1 400 cc manufactured or assembled in Colombia are subject to a VAT rate of 20 % compared with a VAT rate of 35 % for imported cars.

(4) The Commission decided, after consultation of the Advisory Committee established by the Regulation, that the complaint contained sufficient evidence to justify the initiation of an examination procedure. Consequently, an examination procedure was initiated on 18 August 2000 [3].

(5) The investigation provided sufficient evidence for assessing that:

— the Republic of Colombia is in breach of its obligations deriving from Article III.2 of GATT 1994. Therefore, the practice contested by the complainant appeared to be an obstacle to trade within the meaning of Article 2(1) of the Trade barriers Regulation,

— the above described discriminatory VAT regime imposed by Colombia on imported cars causes adverse trade effects within the meaning of Article 2(4) of the Trade barriers Regulation.

(6) Accordingly, as a result of the examination procedure, it was found that action was necessary, in the interests of the Community, to remove the adverse trade effects resulting from obstacles to trade maintained by Colombia.

(7) In order to ensure the exercise of the Community's rights under international trade rules, it appeared reasonable to explore with the Colombian side the possibility for an amicable solution, also in consideration of the difficult political and economic situation of Colombia.

(8) In December 2001, the European Commission and Colombia reached an understanding according to which Colombia committed itself not to increase the present tax differential vis-à-vis imported motor cars up to 1 400 cc and to eliminate the abovementioned VAT differential by 1 July 2005. Under these conditions, the Commission committed itself not to initiate WTO dispute settlement procedures as regards the measures covered by the Trade barriers Regulation investigation. The arrangement stated that it remained without prejudice to the legal position of the European Community and Colombia.

[1] OJ L 349, 31.12.1994, p. 71.
[2] OJ L 41, 23.2.1995, p. 3.
[3] OJ C 236, 18.8.2000, p. 4.

(9) The arrangement provided that the Commission would suspend the examination procedure on this matter, as soon as legislation was adopted by the Colombian parliament to implement the agreement.

(10) A draft law providing for the above gradual elimination of the VAT differential was presented by the Colombian Government to the Colombian parliament on 20 May 2002 and it was adopted on 27 December 2002.

(11) The examination procedure should therefore be suspended.

(12) The measures provided for in this Decision are in accordance with the opinion of the Advisory Committee established by the Regulation,

HAS ADOPTED THIS DECISION:

*Sole Article*

The examination procedure concerning obstacles to trade, consisting of trade practices maintained by Colombia in relation to imports of motor vehicles initiated on 18 August 2000 is hereby suspended.

Done at Brussels, 20 May 2003.

*For the Commission*

Pascal LAMY

*Member of the Commission*

# COMMISSION DECISION

## of 26 May 2003

## approving an African swine fever diagnostic manual

*(notified under document number C(2003) 1696)*

**(Text with EEA relevance)**

(2003/422/EC)

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Council Directive 2002/60/EC of 27 June 2002 laying down specific provisions for the control of African swine fever and amending Directive 92/119/EEC as regards Teschen disease and African swine fever [1], and in particular Article 18(3) thereof,

Whereas:

(1) It is necessary pursuant to Directive 2002/60/EC to lay down uniform diagnostic procedures, sampling methods and criteria for the evaluation of the results of laboratory tests for the confirmation of African swine fever.

(2) In accordance with that Directive, the Community Reference Laboratory for African swine fever is to coordinate, in consultation with the Commission, the methods employed in the Member States for diagnosing the disease, by organising, *inter alia*, periodic comparative tests and the supplying of standard reagents at Community level.

(3) African swine fever virus is not considered to be a hazard for human health.

(4) Laboratory tests have been developed to ensure rapid confirmation of African swine fever.

(5) The experience gained in the control of African swine fever in recent years has resulted in the identification of the most suitable sampling procedures and criteria for evaluation of laboratory test results for a proper diagnosis of this disease in different situations.

(6) It is therefore appropriate to approve the manual laying down those procedures and criteria.

(7) The national diagnostic laboratories should be authorised to modify the approved laboratory tests or use different tests, provided that equal sensitivity and specificity can be demonstrated.

(8) 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*

1. The African swine fever diagnostic manual in the Annex is approved.

2. Member States shall ensure that the confirmation of African swine fever is carried out in accordance with the procedures, sampling methods and criteria for evaluation of laboratory test results laid down in the manual and based on:

(a) the detection of clinical signs and post-mortem lesions of disease;

(b) the detection of the virus, antigen or genome in samples of pig tissues, organs, blood or excreta;

(c) the demonstration of a specific antibody response in blood samples.

3. By way of derogation from paragraph 2, the national diagnostic laboratories referred to in Annex IV to Directive 2002/60/EC may apply modifications to the laboratory tests referred to in the manual, or use different tests, provided that an equal sensitivity and specificity can be demonstrated.

If modified or different tests are applied, their sensitivity and specificity must be evaluated in the framework of the periodic comparative tests organised by the Community Reference Laboratory for African swine fever.

*Article 2*

This Decision shall apply from 1 July 2003.

*Article 3*

This Decision is addressed to the Member States.

Done at Brussels, 26 May 2003.

*For the Commission*

David BYRNE

*Member of the Commission*

[1] OJ L 192, 20.7.2002, p. 27.

*ANNEX*

# AFRICAN SWINE FEVER DIAGNOSTIC MANUAL

*Chapter I*

## *Introduction, objectives and definitions*

1. In order to ensure uniform procedures to diagnose African swine fever (hereinafter 'ASF'), this manual:

   (a) provides guidelines and minimum requirements on diagnostic procedures, sampling methods and criteria for the evaluation of the results of clinical and post-mortem examinations and laboratory tests for a correct diagnosis of ASF ([1]);

   (b) establishes minimum bio-safety requirements and quality standards to be observed by the ASF diagnostic laboratories and for transport of samples;

   (c) establishes the laboratory tests to be used for the diagnosis of ASF and the laboratory techniques to be used for the genetic typing of ASF virus isolates.

2. This manual is principally directed towards the authorities responsible for the control of ASF. Therefore, emphasis is on the principles and applications of laboratory tests and evaluation of their results and not on detailed laboratory techniques.

3. For the purpose of this manual, in addition to the definitions referred to in Article 2 of Directive 2002/60/EC, the following definitions shall apply:

   (a) 'suspected holding' means any pig holding which contains one or more pigs suspected of being infected with the ASF virus or a contact holding as defined in Article 2(k) of Directive 2002/60/EC;

   (b) 'epidemiological subunit' or 'subunit' means the building, place or land nearby where groups of pigs within a holding are kept in such a way that they have frequent direct or indirect contact with one another but, at the same time, they are kept separate from other pigs in the same holding;

   (c) 'in-contact pigs' means the pigs which lived in a holding in direct contact with one or more pigs suspected to be infected with the ASF virus within the previous 21 days.

*Chapter II*

## *Description of ASF with emphasis on differential diagnosis*

A. INTRODUCTION

1. ASF is caused by an enveloped DNA virus which belongs to the genus *Asfivirus* of the family *Asfarviridae*. ASF virus strains differ in virulence, although different serotypes cannot be identified.

2. The ASF virus is very stable in excretions of infected pigs, pig carcases and fresh pig meat and some pig meat products. Appropriate disinfectants must be used to ensure its inactivation in the environment.

3. The main natural route of infection of pigs in Europe is oro-nasal by direct or indirect contact with infected pigs or by feeding of virus-contaminated feed. However, in those areas where vectors ([2]) exist, transmission via these vectors plays a very important role in virus persistence and spread. ASF may also spread via indirect contact with contaminated materials and via biting insects which mechanically transport the ASF virus. Disease transmission may also occur via semen of infected boars.

4. The incubation period in individual animals is about five to 15 days, but under field conditions clinical symptoms may only become evident in a holding several weeks after virus introduction or even more if mild strains of the virus are concerned.

([1]) When deciding the number of samples to be taken for laboratory testing, the sensitivity of the tests that will be used shall also be considered. The number of animals to be sampled shall be higher than the one indicated in this manual, if the sensitivity of the test to be used is not very high.

([2]) As defined in Article 2(r) of Directive 2002/60/EC.

5. Acute, subacute and chronic forms of ASF occur, the difference depending mainly on virus virulence.

6. In pigs which clinically recover after infection, viraemia persists for 40 to 60 days and these pigs become virus carriers. The ASF virus has been isolated from carrier pigs up to six months after infection.

B. ACUTE FORM

1. The development of high fever (more than 40 °C) is usually the first clinical sign of the disease, which is accompanied by depression, loss of appetite, rapid and difficult breathing, and discharges from the nose and eyes. Pigs show uncoordinated movements and huddle together. Sows may abort at all stages of pregnancy. Some pigs may show vomiting and constipation, while others may develop bloody diarrhoea. Congested or haemorrhagic subcutaneous areas become evident, in particular at the extremities and ears. A coma may develop before death, which occurs one to seven days after development of clinical signs. The morbidity and mortality rate within a holding may be 100 %.

   Post-mortem findings indicate a typical haemorrhagic syndrome, with generalised congestion of the carcase, bloody fluid in the chest and abdominal cavities, enlarged dark spleen, haemorrhagic lymph nodes which resemble blood clots, especially renal and gastrohepatic lymph nodes, petechial haemorrhages in the kidneys (cortical and medullary pyramids and renal pelvis), abdominal serosae, gastric and intestinal mucosa and heart (epicardium and endocardium), hydrothorax and petechial haemorrhages of the pleura.

2. In general the acute form of classical swine fever leads to a clinical and pathological picture very similar to that of African swine fever. When present, haemorrhages on the skin and ears are quite easy to detect and lead to suspicion of acute classical or African swine fever. Few other diseases cause similar lesions.

   Acute African swine fever must also be considered in cases of suspected erysipelas, porcine reproductive and respiratory syndrome, coumarin poisoning, purpura haemorragica, post-weaning multisystemic wasting syndrome, porcine dermatitis and nephropathy syndrome, salmonella or *Pasteurella* infections or any enteric or respiratory syndromes with fever which do not respond to antibiotic treatment.

C. SUBACUTE FORMS

Subacute forms of the disease are more common in endemic areas. Subacute infection is characterised by fluctuating fever, depression and pneumonia. Death may occur due to heart failure. Lesions in subacute forms are similar to those in the acute form but milder. Characteristic lesions are large haemorrhages in the lymph nodes, kidneys and spleen, pulmonary congestion and oedema and in some cases interstitial pneumonia.

D. CHRONIC FORMS

Chronic forms of the disease are rare. In chronic forms, secondary bacterial infections can be observed. As clinical signs of chronic ASF are rather non-specific, many other diseases must be considered for differential diagnosis. Increased body temperature is not necessarily present in every animal, but in an infected holding fever can be detected at least in some pigs.

Clinical symptoms of chronic ASF may include respiratory problems, abortions, arthritis, chronic skin ulcers or necrosis, not resembling the typical clinical picture of ASF virus infections. The lesions may be minimal or absent. Histopathological findings are characterised by enlarged lymph nodes and spleen, pleuritis and fibrinous pericarditis and infiltrated pneumonitis. Focal caseous necrosis and mineralisation of the lung have also been described.

*Chapter III*

***Guidelines on main criteria to be considered for the recognition of a holding as an ASF suspected holding***

1. The decision to recognise a holding as a suspected holding will be taken on the basis of the following findings, criteria and grounds:

   (a) clinical and pathological findings in pigs. The main clinical and pathological findings to be considered are:

   — fever with morbidity and mortality in pigs of all ages,

   — fever with haemorrhagic syndrome; petechial and ecchymotic haemorrhages, especially in the lymph nodes, kidneys, spleen (which is enlarged and dark, particularly in the acute forms) and urinary bladder and ulcerations on the gall bladder;

(b) epidemiological findings. The main epidemiological findings to be considered are:

— where pigs had direct or indirect contact with a pig holding proven to have been infected with the ASF virus,

— where a holding has supplied pigs that were subsequently shown to be infected with the ASF virus,

— where sows have been artificially inseminated with semen originating from a suspect source,

— where there has been indirect or direct contact with feral pigs in a population where ASF occurs,

— where pigs are kept outdoors in a region where feral pigs are infected with the ASF virus,

— where pigs have been fed with swill and there is the suspicion that this swill has not been treated in such a way as to inactivate the ASF virus,

— where possible exposure might have occurred, for example due to persons entering the holding, transports, etc. coming from holdings suspected to be infected or infected with the ASF virus,

— where vectors occur in the area of the holding.

2. In any case, a holding must be considered as a suspected holding if a suspicion of classical swine fever has been raised in the holding due to clinical or pathological findings but clinical, epidemiological and laboratory investigations have not led to the confirmation of this disease or to the identification of other disease sources or agents in the holding in question.

*Chapter IV*

***Checking and sampling procedures***

A. GUIDELINES AND PROCEDURES FOR CLINICAL EXAMINATION OF AND SAMPLING ON PIGS IN SUSPECTED HOLDINGS

1. Member States shall ensure that appropriate clinical examinations, sampling and laboratory investigations are carried out in suspected holdings to confirm or exclude ASF, in accordance with the guidelines and procedures laid down in points 2 to 6.

Irrespective of the adoption of the measures referred to in Article 4(2) of Directive 2002/60/EC in the holding in question, these guidelines and procedures shall also apply in cases of disease whenever ASF is considered in the differential diagnosis. This will include occasions when the clinical signs and epidemiological pattern of disease that are observed in pigs suggest a very low probability of occurrence of ASF.

In all other cases where one or more pigs are suspected of being infected with the ASF virus, the measures referred to in Article 4(2) of Directive 2002/60/EC shall be adopted in the suspected holding in question.

In case of suspicion of ASF in pigs in a slaughterhouse or means of transport, the guidelines and procedures laid down in points 2 to 6 shall also apply *mutatis mutandis*.

2. When an official veterinarian visits a suspected holding to confirm or rule out ASF:

— a check of the production and health records of the holding must be carried out, if these records are available; an inspection in each subunit of the holding must be carried out to select the pigs to be clinically examined.

The clinical examination must include taking the body temperature and must primarily concern the following pigs or group of pigs:

— sick or anorexic pigs,

— pigs recently introduced from confirmed outbreaks or from other suspected sources,

— pigs kept in subunits recently visited by external visitors who had recent close contact with ASF-suspected or infected pigs or for whom other particularly risky contacts with a potential source of the ASF virus have been identified,

— pigs already sampled and serologically tested for ASF, in case the results of these tests do not allow ASF to be ruled out, and in-contact pigs,

— pigs recently recovered from the disease.

If the inspection in the suspected holding has not indicated the presence of the pigs or group of pigs referred to in the above subparagraph, the competent authority, without prejudice to other measures that may be applied in the holding in question in accordance with Directive 2002/60/EC and taking into account the epidemiological situation, shall:

— carry out further examinations in the holding in question in accordance with point 3, or

— ensure that blood samples for laboratory tests are taken from the pigs in the holding in question (in this case the sampling procedures laid down in point 5, and in section F(2) shall be used for guidance purposes), or

— adopt or maintain the measures laid down in Article 4(2) of Directive 2002/60/EC, pending further investigations in the holding in question, or

— rule out the suspicion of ASF.

3. When reference is made to this paragraph, the clinical examination in the holding in question must be carried out on pigs selected at random in the subunits for which a risk of introduction of the ASF virus has been identified or is suspected.

The minimum number of pigs to be examined must allow for the detection of fever if it occurs at a prevalence of 10 % with 95 % confidence in these subunits.

4. If dead or moribund pigs are detected in a suspected holding, post-mortem examinations must be carried out, preferably on at least five of these pigs and in particular on pigs that have:

— shown very evident signs of disease before death,

— high fever,

— died recently.

If these examinations have not shown lesions suggesting ASF but, due to the epidemiological situation, further investigations are deemed necessary:

— a clinical examination, as laid down in point 3, and blood sampling, as laid down in point 5 must be carried out in the subunit where the dead or moribund pigs were kept, and

— post-mortem examinations may be carried on three to four in-contact pigs, particularly if these pigs are showing clinical signs.

Irrespective of the presence or absence of lesions suggesting ASF, samples of the organs or tissues from pigs that have been subjected to post-mortem examination must be collected for virological tests in accordance with Chapter V(B)(1). These samples must preferably be collected from recently dead pigs.

When post-mortem examinations are carried out the competent authority must ensure that:

— the necessary precautions and hygiene measures are taken to prevent any disease spread, and,

— in case of moribund pigs, they are killed in a humane way in accordance with Council Directive 93/119/EEC of 22 December 1993 on the protection of animals at the time of slaughter or killing [1], as last amended by Regulation (EC) No 806/2003 [2].

5. If further clinical signs or lesions that may suggest ASF are detected in a suspected holding, but the competent authority deems that these findings are not sufficient to confirm an outbreak of ASF and that laboratory tests are therefore necessary, blood samples for laboratory tests must be taken from the suspected pigs and from other pigs in each subunit in which the suspected pigs are kept, in accordance with the following procedures:

(a) the minimum number of samples to be taken for serological tests must allow for the detection of 10 % seroprevalence with 95 % confidence in the subunit in question;

(b) the number of samples to be taken for virological tests will be in accordance with the instructions of the competent authority, which will take into account the range of tests that can be performed, the sensitivity of the laboratory tests that will be used and the epidemiological situation.

[1] OJ L 340, 31.12.1993, p. 21.
[2] OJ L 122, 16.5.2003, p. 1.

6. If, after the examination carried out in a suspected holding, clinical signs or lesions suggestive of ASF are not detected, but further laboratory tests are deemed necessary by the competent authority to rule out ASF, the sampling procedures laid down in point 5 shall be used for guidance purposes.

B. SAMPLING PROCEDURES IN A HOLDING WHEN PIGS ARE KILLED FOLLOWING CONFIRMATION OF DISEASE

1. In order that the manner of introduction of the ASF virus into an infected holding and the length of time elapsed since its introduction may be established, when pigs are killed on a holding following confirmation of an outbreak in accordance with Article 5(1)(a) of Directive 2002/60/EC, blood samples for serological tests must be taken at random from the pigs when they are killed.

2. The minimum number of pigs to be sampled must allow for the detection of 10 % seroprevalence with 95 % confidence in pigs in each subunit of the holding ([1]).

   Samples for virological tests must also be taken in accordance with the instructions of the competent authority, which will take into account the range of tests that can be performed, the sensitivity of the laboratory tests that will be used and the epidemiological situation.

   In those areas where the presence of vectors infected with the ASF virus has been previously demonstrated, appropriate collections of soft ticks for virological tests must also be taken in accordance with the instructions of the competent authority and Annex III to Directive 2002/60/EC.

3. However, in case of secondary outbreaks, the competent authority may decide to derogate from points 1 and 2 and establish other sampling procedures, taking into account the epidemiological information already available on the source and means of virus introduction into the holding and the potential spread of disease from the holding.

C. SAMPLING PROCEDURES WHEN PIGS ARE KILLED AS A PREVENTIVE MEASURE ON A SUSPECTED HOLDING

1. In order that ASF may be confirmed or ruled out and additional epidemiological information is gained, when pigs are killed as a preventive measure on a suspected holding in accordance with the provisions of Article 4(3)(a) or 7 (2) of Directive 2002/60/EC, blood samples for serological tests as well as blood samples for virological tests must be taken in accordance with the procedure laid down in point 2.

2. Sampling must primarily concern:

   — pigs showing signs or post-mortem lesions suggesting ASF and their in-contact pigs,

   — other pigs which might have had risky contacts with infected or suspected pigs or which are suspected to have been contaminated with the ASF virus. These pigs must be sampled in accordance with the instructions of the competent authority, which will take into account the epidemiological situation.

   Furthermore, pigs proceeding from each of the subunits of the holding must be sampled at random ([2]). In this case, the minimum number of samples to be taken for serological tests must allow for the detection of 10 % seroprevalence with 95 % confidence in the subunit in question.

   The type of samples to be taken for virological tests and the test to be used will be in accordance with the instructions of the competent authority, which will take into account the range of tests that can be performed, the sensitivity of these tests and the epidemiological situation.

([1]) However, if the derogation provided in Article 6(1) of Directive 2002/60/EC has been applied, sampling must concern the subunits of the holding where pigs have been killed, without prejudice to the further examinations and sampling to be carried out on the remaining pigs in the holding, which shall be carried out in accordance with the instructions of the competent authority.

([2]) However, if the competent authority has limited the application of preventive killing only to the part of the holding where the pigs suspected of being infected or contaminated with ASF virus were kept, in accordance with Article 4(3)(a) of Directive 2002/60/EC, sampling must concern the subunits of the holding where this measure has been applied, without prejudice to the further examinations and sampling to be carried out on the remaining pigs in the holding, which will be carried out in accordance with the instructions of the competent authority.

D. CHECKING AND SAMPLING PROCEDURES BEFORE AUTHORISATION IS GIVEN TO MOVE PIGS FROM HOLDINGS LOCATED IN PROTECTION OR SURVEILLANCE ZONES AND IN CASE THESE PIGS ARE SLAUGHTERED OR KILLED (ARTICLES 10 AND 11 OF DIRECTIVE 2002/60/EC)

1. Without prejudice to the provisions of Article 11(1)(f), second subparagraph, of Directive 2002/60/EC, in order that authorisation may be given to move pigs from holdings located in protection or surveillance zones in accordance with Article 10(3) of the said Directive, the clinical examination to be carried by an official veterinarian must:

   — be carried out within the 24-hour period before moving the pigs,

   — be in accordance with the provisions laid down in A(2).

2. In the case of pigs to be moved to another holding, in addition to the investigations to be carried out in accordance with point 1, a clinical examination of pigs, including taking the temperature of a proportion of pigs, must be carried out in each subunit of the holding in which the pigs to be moved are kept.

   The minimum number of pigs to be checked must allow for the detection of fever if it occurs at a prevalence of 10 % with 95 % confidence in these subunits.

3. In case of pigs to be moved to a slaughterhouse, to a processing plant or to other places to be then killed or slaughtered, in addition to the investigations to be carried out in accordance with point 1, a clinical examination of pigs must be carried out in each subunit in which the pigs to be moved are kept. In case of pigs older than three to four months, this examination must include taking the temperature of a proportion of pigs.

   The minimum number of the pigs to be checked must allow for the detection of fever if it occurs at a prevalence of 20 % with 95 % confidence in the subunits in question.

4. When the pigs referred to in point 3 are slaughtered or killed, blood samples for serological tests or blood or organ samples such as tonsil, spleen or lymph nodes for virological tests must be taken from pigs proceeding from each of the subunits from which pigs have been moved.

   The minimum number of samples to be taken must allow for the detection of 10 % seroprevalence or virus prevalence with 95 % confidence in each subunit.

   The type of samples to be taken and the test to be used will be in accordance with the instructions of the competent authority, which will take into account the range of tests that can be performed, the sensitivity of these tests and the epidemiological situation.

5. However, if clinical signs or post-mortem lesions suggesting ASF are detected when the pigs are slaughtered or killed, by way of derogation from point 4, the provisions for sampling laid down in section C shall apply.

6. The derogation provided for in Article 10(5) and Article 11(4) of Directive 2002/60/EC may be granted if the competent authorities ensure that an intensive sampling and testing scheme is also applied on the groups of pigs to be checked or sampled referred to in points 2, 3 and 4. In the context of this scheme, the minimum number of blood samples to be taken must allow for the detection of 5 % seroprevalence with 95 % confidence in the group of pigs in question.

E. CHECKING AND SAMPLING PROCEDURES IN A HOLDING IN RELATION TO REPOPULATION

1. When pigs are reintroduced into a holding in accordance with Article 13(3) of Directive 2002/60/EC, the following sampling procedures must be applied:

   — blood samples must be collected at the earliest 45 days after the reintroduction of the pigs,

   — in case sentinel pigs are reintroduced, blood samples for serological tests must be taken at random from a number of pigs that allow for the detection of 10 % seroprevalence with 95 % confidence in each subunit of the holding,

   — in case of total repopulation, blood samples for serological tests must be taken at random from a number of pigs that allow for the detection of 20 % seroprevalence with 95 % confidence in each subunit of the holding.

2. When pigs are reintroduced into a holding in accordance with Article 13(4) of Directive 2002/60/EC, the following sampling procedures must be applied:

   — blood samples must be collected at the earliest 45 days after the reintroduction of the pigs,

   — in case sentinel pigs are reintroduced, blood samples for serological tests must be taken at random from a number of pigs that allow for the detection of 5 % seroprevalence with 95 % confidence in each subunit of the holding,

   — in case of total repopulation, blood samples for serological tests must be taken at random from a number of pigs that allow for the detection of 10 % seroprevalence with 95 % confidence in each subunit of the holding.

   Then, the procedure laid down in the third indent above must be repeated at the earliest 60 days after total repopulation.

3. After any reintroduction of pigs, the competent authority shall ensure that in case of any disease or death of the pigs in the holding due to unknown reasons, the pigs in question are immediately tested for ASF.

   These provisions shall apply until the restrictions to pig movements referred to in Article 13(3)(a), (b) and (4) of Directive 2002/60/EC are lifted in the holding in question.

F. SAMPLING PROCEDURES IN HOLDINGS IN THE PROTECTION ZONE BEFORE LIFTING RESTRICTIONS

1. In order that the measures referred to in Article 10 of Directive 2002/60/EC may be lifted in a protection zone, in all holdings in the zone:

   — a clinical examination must be carried out in accordance with the procedures laid down in section A(2) and (3),

   — blood samples for serological tests must be taken as laid down in point 2.

2. The minimum number of blood samples to be taken must allow for the detection of 10 % seroprevalence with 95 % confidence in pigs in each subunit in the holding.

   However, the derogation provided for in Article 10(5) and Article 11(4) of Directive 2002/60/EC may only be granted if the competent authority ensures that the number of blood samples taken allow for the detection of 5 % seroprevalence with 95 % confidence in each subunit in the holding.

G. SAMPLING PROCEDURES IN HOLDINGS IN THE SURVEILLANCE ZONE BEFORE LIFTING RESTRICTIONS

1. In order that the measures referred to in Article 11 of Directive 2002/60/EC may be lifted in a surveillance zone, a clinical examination must be carried out in all holdings in the zone in accordance with the procedures laid down in section A(2).

   In addition, blood samples for serological tests must be taken from pigs:

   — in any other holding where sampling is deemed necessary by the competent authority,

   — in all semen collection centres.

2. Whenever blood sampling for serological tests is carried out in holdings located in the surveillance zone, the number of blood samples to be taken in these holdings must be in accordance with section F(2), first sentence.

   However, the derogation provided for in Article 10(5) and Article 11(4) of Directive 2002/60/EC may only be granted if the competent authority ensures that in each holding in the zone blood samples for serological tests are taken. The minimum number of blood samples to be taken must allow for the detection of 5 % seroprevalence with 95 % confidence in each subunit in the holding.

H. SEROLOGICAL MONITORING AND SAMPLING PROCEDURES IN AREAS WHERE ASF IS SUSPECTED TO OCCUR OR HAS BEEN CONFIRMED IN FERAL PIGS

1. In case of serological monitoring in feral pigs in areas where ASF has been confirmed or is suspected to occur, the size and the geographical area of the target population to be sampled should be previously defined in order to establish the number of samples to be taken. Sample size must be established as a function of the estimated number of living animals and not as a function of the number of animals shot.

2. If data on population density and size are not available, the geographic area within which to sample must be identified taking into account the continuous presence of feral pigs and the presence of natural or artificial barriers that will efficiently prevent large and continuous movement of the animals. When such circumstances do not occur, or in case of large areas, it is recommended to identify sampling areas of about 200 $km^2$, where a population of about 400 to 1 000 feral pigs may usually live.

3. Without prejudice to the provisions of Article 15(2)(c) of Directive 2002/60/EC, the minimum number of pigs to be sampled within the defined sampling area must allow for the detection of 5 % seroprevalence with 95 % confidence. For this purpose at least 56 animals must be sampled in each area which has been identified.

4. Collection of samples for virological tests from feral pigs shot or found dead must be carried out as laid down in Chapter V(B)(1).

   When virological monitoring on shot feral pigs is deemed necessary, it must be primarily carried out on animals less than one year old.

5. All samples to be sent to the laboratory must be accompanied by the questionnaire referred to in Article 16(3)(h) of Directive 2002/60/EC.

*Chapter V*

***General procedures and criteria for collection and transport of samples***

A. GENERAL PROCEDURES AND CRITERIA

1. Before sampling is carried out in a suspected holding, a map of the holding must be prepared and the epidemiological subunits of the holding must be identified.

2. Each time that it is deemed that re-sampling of pigs might be necessary, all pigs which are sampled must be uniquely marked in such a way that they can be easily re-sampled.

3. All samples must be sent to the laboratory accompanied by the appropriate forms, in accordance with the requirements established by the competent authority. These forms will include details of the history of the pigs sampled and the clinical signs or post-mortem lesions observed.

   In case of pigs kept in holdings, clear information on age, category and holding of origin of the pigs sampled must be provided. It is recommended that the location of each pig sampled in the holding be recorded together with its unique identification mark.

B. COLLECTION OF SAMPLES FOR VIROLOGICAL TESTS

1. For detection of the ASF virus, antigen or genome from dead or humanely destroyed pigs, tonsils, lymph nodes (gastrohepatic, renal, submandibular and retropharyngeal), spleen, kidney and lung tissues are the most suitable samples ([1]). In case of autolysed carcases, an entire long bone or the sternum is the specimen of choice.

2. Anticoagulated blood and/or clotted blood samples must be collected from pigs showing signs of fever or other signs of disease, in accordance with the instructions of the competent authority.

([1]) It is recommended to collect also samples of ileum, as they may be useful for the diagnosis of classical swine fever.

C. TRANSPORT OF SAMPLES

1. It is recommended that all samples:

   — are properly identified,

   — are transported and stored in leak-proof containers,

   — are kept cool at refrigerator temperature; however, if it is expected that the samples arrive at the laboratory in more than 48 hours, the laboratory should be contacted to obtain instructions regarding the most appropriate temperature conditions during transport,

   — are delivered to the laboratory as quickly as possible,

   — are kept in a package containing ice packs or dry ice to keep them cool,

   — of tissues or organs are placed in separate sealed plastic containers and properly labelled. They must be then placed in larger containers and packed with sufficient absorbent material to protect them from damage and absorb any leakage,

   — whenever possible, are directly transported to the laboratory by a competent person in order that rapid and reliable transport is ensured.

2. The outside of the package must be labelled with the address of the recipient laboratory and the following message should be prominently displayed:

   'Animal pathological material; perishable; fragile; do not open outside an ASF laboratory.'

3. The responsible person in the laboratory receiving the samples must be informed in due time of the arrival of the samples.

4. For air transport of samples to the Community Reference Laboratory for ASF [1] the package must be labelled according to IATA regulations.

*Chapter VI*

***Principles and use of virological tests and evaluation of their results***

A. DETECTION OF VIRUS ANTIGENS

1. Direct immuno fluorescent test (DIFT)

   The principle of the test is the microscopic detection of viral antigens on impression smears or thin cryosections of organ material from pigs suspected of being infected with the ASF virus. Intracellular antigens are detected using FIT-conjugated [2] specific antibodies. Fluorescent inclusion bodies or granules appear in the cytoplasm of infected cells.

   Suitable organs are kidney, spleen, and various lymph nodes. A smear of bone marrow cells might also be used for feral pigs, if their organs are not available or are autolysed.

   The test can be performed within two hours. As organ samples can only be obtained from dead animals its use for screening purposes is limited.

   This is a highly sensitive test for cases of acute ASF. For subacute or chronic forms, the DIFT presents only a sensitivity of approximately 40 %, probably due to the presence of antigen-antibody complexes, which block the reaction with the ASF-conjugated antibody. Confidence in the test result may be limited by doubtful staining, particularly where considerable experience in performing the test has not been acquired or if the organs tested are autolysed.

2. ELISA for antigen detection

   Viral antigens can be also detected using ELISA techniques, but it is only recommended for acute forms of the disease because of its low sensitivity when antigen-antibody complexes are present. The sensitivity of the antigen ELISA should be high enough to score a positive result from animals showing clinical signs of acute ASF. In any case it is recommended to use this test only as a 'herd' test and in conjunction with other virological tests.

[1] The Community Reference Laboratory has an open licence to receive diagnostic samples and ASF virus isolates from any other Member State. If the sample proceeds from outside the EU, a copy of the import permit may be requested from this laboratory before transport and attached in an envelope to the outside of the package.

[2] Fluorescein isothiocyanate.

B. VIRUS ISOLATION AND IDENTIFICATION BY THE HAEMADSORPTION TEST (HAD)

1. Virus isolation is based on the inoculation of sample material on susceptible primary cell cultures of porcine origin, monocytes and macrophages cells. The preferred samples for isolation of the ASF virus are whole blood and leucocytes obtained from non-coagulated blood samples or the organs referred to in section A(1). If the ASF virus is present in the sample, it will replicate in the cells and a characteristic cytopathic effect will be produced in the infected cells.

2. The HAD technique is recommended for the identification of ASF virus isolates due to its high sensitivity and specificity. HAD is based on the capability of the ASF virus to replicate in pig macrophages and induce haemadsorption in the presence of pig erythrocytes. A characteristic 'rosette' of erythrocytes develops around the infected macrophages. However, a small number of field ASF virus strains may not induce haemadsorption, but they produce a cytopathic effect. These strains may be specifically identified using the DIF test on the sediments of the cell cultures or by PCR.

3. Virus isolation is best suited for the investigation of samples from small numbers of animals rather than mass surveillance. The virus isolation procedure is labour-intensive and requires one to three days before results are available. Two further cell culture passages may be necessary in order to detect small amounts of the virus in the sample. This may lead to an investigation time of up to 10 days before a final result is obtained. Autolysed samples can be cytotoxic to the cell culture and consequently of limited use.

4. Virus isolation and identification by HAD are recommended as a reference test for the confirmation of positive results of a prior ELISA, PCR or DIFT. They are also recommended when ASF has already been confirmed by other methods, particularly in case of a primary outbreak or case of ASF.

   ASF viruses isolated in pig macrophages can be used for virus characterisation and molecular epidemiology.

5. All ASF virus isolates from all primary outbreaks, primary cases in feral pigs or cases in slaughterhouses or means of transport must be characterised by a National Reference Laboratory in the Member States, or by any other laboratory authorised by the Member State in question or by the Community Reference Laboratory, in accordance with section E.

   In any case, these virus isolates must be sent to the Community Reference Laboratory for virus collection without delay.

C. DETECTION OF THE VIRUS GENOME

1. The polymerase chain reaction (PCR) is applied to detect the virus genome in blood, serum, tissues or organ samples. Small fragments of viral DNA are amplified by PCR to detectable quantities. A wide range of isolates belonging to all the known virus genotypes, including both non-haemadsorbing viruses and isolates of low virulence, can be detected by using primers from a highly conserved region of the genome. Since this test detects only a genome sequence of the virus, the PCR may be positive, even when no infectious virus is detected by virus isolation (e.g. in autolysed tissues or samples from convalescent pigs or from pigs which have recovered and become clinically normal).

2. PCR can be used on a limited number of samples which have been carefully selected from suspected animals. It is the recommended method for organ samples which are cytotoxic, where virus isolation is therefore not possible (for example, samples from feral pigs).

3. Suitable sample material for the PCR are the organs described for virus isolation and serum. Tick homogenates may also be analysed by PCR.

4. The PCR can be performed within a working day. It requires appropriate laboratory equipment, separated facilities and skilled staff. An advantage is that the infectious virus need not be replicated in the laboratory. The PCR is highly sensitive, but contamination may easily occur, which leads to false positive results. Therefore stringent quality control procedures are essential.

D. RECOMMENDED VIROLOGICAL TESTS AND EVALUATION OF THE RESULTS

Virological tests are essential for the confirmation of ASF.

Virus isolation and HAD must be considered as the reference virological tests and must be used as confirmatory tests when necessary. Their use is particularly recommended where positive DIF or PCR results are not associated with the detection of clinical signs or lesions of disease and in any other doubtful cases.

However, a primary outbreak of ASF can be confirmed if clinical signs or lesions of disease have been detected in the pigs in question and at least two distinct antigen, genome or antibody detection tests have given a positive result on samples taken from the same suspected pig.

A secondary outbreak of ASF can be confirmed if, in addition to the epidemiological link to a confirmed outbreak or case, clinical signs or lesions of disease have been detected in the pigs in question and an antigen, genome or antibody detection test has given a positive result.

A primary case of ASF in feral pigs can be confirmed by virus isolation or when at least two antigen, genome or antibody detection tests have given a positive result. Further cases of ASF in feral pigs for which an epidemiological link with previously confirmed cases has been found can be confirmed if an antigen, genome or antibody detection test has given a positive result.

E. GENETIC CHARACTERISATION OF ASF VIRUS ISOLATES

1. Genetic characterisation of ASF virus isolates is achieved by determining restriction enzyme patterns and nucleotide sequences of portions of the virus genome. The similarity of these restriction patterns or sequences with those already obtained from previous virus isolates may indicate whether outbreaks of the disease are caused by viruses that follow a European or an African molecular model.

   Genetic characterisation of ASF virus isolates is of major importance to improve the current knowledge on the molecular epidemiology of ASF and the genetic variation of viruses. The molecular data allow new isolates to be classified and provide information on their possible origin.

2. If virus molecular characterisation cannot be performed in a national laboratory or in any other laboratory authorised to diagnose ASF within a short delay, the original sample or the virus isolate must be sent to the Community Reference Laboratory for molecular characterisation as soon as possible.

   The data from restriction enzyme analysis and sequencing of ASF virus isolates available to the laboratories authorised to diagnose ASF must be forwarded to the Community Reference Laboratory so that this information can be put onto the database kept by this Laboratory.

   The information included in this database must be available to all national reference laboratories in the Member States. However, for the purpose of publication in scientific journals, if requested by the laboratory in question, the Community Reference Laboratory shall guarantee confidentiality of these data until they are published.

*Chapter VII*

***Principles and use of serological tests and evaluation of their results***

A. BASIC PRINCIPLES AND DIAGNOSTIC VALUE

1. ASF-specific antibody detection is recommended for subacute and chronic forms as well as for large-scale testing and ASF eradication programmes, for several reasons:

   (i) antibodies are rapidly produced in the infected pig. In these pigs antibodies are usually detectable in serum samples from seven to ten days after infection;

   (ii) no vaccines are available against ASF. This means that ASF-specific antibodies are only induced by ASF virus infection;

   (iii) the long-lasting antibodies response. In pigs that have recovered from the disease, specific antibodies can be detected at high levels for many months or even for the lifetime of some of these pigs.

Specific ASF antibodies of maternal origin can be detected in piglets during the first weeks of life. The half-life of maternal antibodies in piglets is about three weeks. If found in piglets older than three months, ASF antibodies are very unlikely to be of maternal origin.

2. The detection of antibodies against the ASF virus in serum or plasma exudates from organs submitted is carried out to assist the diagnosis of ASF in suspected holdings, to estimate the date of introduction of the infection in case of a confirmed outbreak and for monitoring and surveillance purposes.

   The location of seropositive pigs on the holding can provide valuable information on how and where the ASF virus entered the holding.

   However, an accurate evaluation of the results of the serological tests must be carried out, taking into account all the clinical, virological and epidemiological findings, in the framework of the enquiry to be carried out in case of suspicion or confirmation of ASF, in accordance with Article 8 of Directive 2002/60/EC.

B. RECOMMENDED SEROLOGICAL TESTS

1. The ELISA, indirect immunofluorescence test (IIFT) and immunoblotting (IB) tests are the tests of choice for the serological confirmation of ASF.

   The quality and efficiency of the serological diagnosis performed by the national laboratories must be regularly checked in the framework of the inter-laboratory comparison test periodically organised by the Community Reference Laboratory.

2. The ELISA test is the most reliable and useful test for large-scale serological studies. It is based on the detection of ASF virus antibodies bound to the viral proteins which are attached to a solid phase by addition of protein A conjugated with an enzyme that produces a visible colour reaction when it reacts with the appropriate substrate.

3. Quality control on sensitivity and specificity of each batch of ELISA reagents must be regularly performed by the national laboratories, making use of the panel of reference sera provided by the Community Reference Laboratory. This panel shall include:

   — sera from pigs in the early phase of ASF virus infection (less than 17 days post infection),

   — sera from convalescent pigs (more than 17 days post infection).

   The ELISA to be used for the serological diagnosis of ASF must detect all reference sera from the convalescent pigs. All results obtained with the reference sera must be reproducible. It is recommended all positive sera from the early phase are also detected. The results obtained with the reference sera from pigs in the early phase of infection give an indication of the sensitivity of the ELISA.

4. The IIFT is a rapid technique with high sensitivity and specificity for the detection of ASF antibodies from either sera or tissue exudates. It is based on the detection of ASF antibodies that bind to a monolayer of MS cells infected with an adapted ASF virus. The antibody-antigen reaction is detected by a labelled fluorescein A-protein. Positive samples show specific fluorescence near the nucleus of the infected cells.

   DIFT and IIFT used in combination to test organ, blood and exudates collected from animals showing clinical signs of the ASF may lead to a rapid and reliable confirmation of the disease.

5. The IB test is a highly specific and sensitive technique based on the use of nitrocellulose strips containing viral proteins as antigens. The specific antibody-antigen reaction is detected by addition of a protein A-peroxidase conjugate and an appropriate substrate. It is very useful to test sera that are inconclusive in the ELISA test.

*Chapter VIII*

***Minimum safety requirements for ASF laboratories***

1. The requirements laid down in table 1 must be fulfilled in any laboratory where the ASF virus is to be amplified by replication in cell cultures. However, post-mortem examinations, processing of tissues for DIFT or PCR and serology using inactivated antigens, may be carried out at a lower containment level, provided that the minimum requirements of table 1 are fulfilled, basic hygiene is used and post-operational disinfection with safe disposal of carcases, tissues and sera are carried out.

2. The requirements laid down in table 2 must be fulfilled by any laboratory where animals are inoculated with the ASF virus.

3. All stocks of the ASF virus must be kept in secure storage, whether frozen or freeze-dried. All individual ampoules must be clearly labelled, and comprehensive records maintained of virus stocks together with dates and results of quality control checks. Records must also be kept of viruses added to stock, with details of the source, and of viruses issued to other laboratories.

4. It is recommended that the biosecurity unit for ASF virus work should be supported by areas where the ASF virus is not manipulated. These other areas should be available for the preparation of glassware and media, the maintenance and preparation of non-infected cell cultures, the processing of sera and serological testing (other than methods using live ASF virus), and the provision of administrative and clerical support.

*Table 1*

Principles of biological containment appropriate for diagnostic laboratories

| | Minimum requirements | Additional requirements |
|---|---|---|
| General environment | Normal atmospheric pressure.<br>Dedicated rooms limited to defined procedures. | Normal atmospheric pressure. One HEPA filtration of exhaust air.<br>Dedicated rooms, used exclusively for classical swine fever or ASF diagnostic procedures.<br>Potentially contaminated effluents treated to inactivate ASF virus (heat or chemical). |
| Laboratory clothing | Dedicated outer clothing used only in the ASF virus unit.<br>Disposable gloves for all manipulations of infected material.<br>Outer clothing sterilised before removal from unit, or washed at a high temperature within unit. | Complete change of clothes on entry. Laboratory clothing used only in the ASF virus unit.<br>Disposable gloves for all manipulations of infected material.<br>Clothing sterilised before removal from unit, or washed at a high temperature within unit. |
| Control of personnel | Entry to unit limited to named, trained personnel.<br>Wash and disinfect hands on leaving unit.<br>Personnel not permitted to visit premises with pigs for 48 hours after leaving unit. | Entry to unit limited to named, trained personnel.<br>Wash and disinfect hands on leaving unit.<br>Personnel not permitted to visit premises with pigs for 48 hours after leaving unit. |
| Equipment | Biological safety cabinet (class I or II) used for all manipulations of live virus. Cabinet should have double HEPA filtration of exhaust air.<br>All equipment needed for laboratory procedures to be available within the dedicated laboratory suite. | |

*Table 2*

Bio-safety requirements for experimental animal rooms

| | Requirements |
|---|---|
| General environment | Negative-pressure-controlled ventilation.<br>One HEPA filtration of exhaust air.<br>Facility for complete decontamination or fumigation at end of experiment.<br>All solid and liquid waste effluents treated to inactivate ASF virus (heat/incineration or chemical). |

| | Requirements |
|---|---|
| Laboratory clothing | Complete change of clothes on entry.<br>Clothing sterilised before removal from unit, or washed at a high temperature within unit. |
| Control of personnel | Entry to unit limited to named, trained personnel.<br>Leave clothes inside before shower. Full shower on exit from unit.<br>Personnel not permitted to visit premises with pigs for 48 hours after leaving unit. |
| Equipment | All equipment required for animal procedures to be available within the unit.<br>All materials to be sterilised on removal from unit or, in the case of animal samples, to be double-wrapped in leakproof container which is surface disinfected for transport to the ASF laboratory. |
| Animals | All animals to be slaughtered before leaving the unit, post-mortem examinations to be completed within the bio-safe area, and carcases incinerated on completion of examinations. |

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

# COUNCIL JOINT ACTION 2003/423/CFSP
## of 5 June 2003
## on the European Union military operation in the Democratic Republic of Congo

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty on European Union and, in particular, Article 14, Article 18, fifth paragraph, Article 25, third paragraph, Article 26 and Article 28, third paragraph, thereof,

Whereas:

(1) On 8 May 2003, the Council adopted Council Common Position 2003/319/CFSP concerning European Union support for the implementation of the Lusaka Ceasefire Agreement and the peace process in the Democratic Republic of Congo and repealing Common Position 2002/203/CFSP [1].

(2) On 10 December 2002, the Council adopted Joint Action 2002/962/CFSP amending and extending the mandate of the European Union Special Representative for the African Great Lakes Region [2].

(3) On 19 May 2003, the Council requested the Secretary-General/High Representative to study the feasibility of a European Union military operation in the Democratic Republic of Congo.

(4) The Secretary-General of the United Nations has requested UN Member States to provide a temporary stabilisation force in the Ituri Region in implementation of the mandate provided in United Nations Security Council Resolution 1484 (2003) of 30 May 2003.

(5) In accordance with the EU Framework Nation Concept endorsed on 24 July 2002 as a conceptual basis for the conduct of autonomous EU-led Crisis-Management Operations with recourse to a Framework Nation, a Member State should be designated as a Framework Nation.

(6) In order to plan for and prepare the deployment of an EU force in the Democratic Republic of Congo, the location of the Operation Headquarters should be designated and an Operation Commander and a Force Commander should be appointed.

(7) The Political and Security Committee (PSC) should exercise political control of and provide strategic direction to the EU-led operation and take the relevant decisions in accordance with Article 25, third paragraph of the Treaty on European Union.

(8) In conformity with the guidelines of the European Council meeting at Nice on 7 to 9 December 2000, this Joint Action should determine the role of the Secretary-General/High Representative in accordance with Articles 18 and 26 of the Treaty on European Union in the implementation of measures falling within the political control and strategic direction exercised by the PSC, in accordance with Article 25 of the Treaty on European Union.

(9) Third States could participate in the operation upon invitation by the Council.

(10) In accordance with Article 28(3) of the Treaty on European Union, the operational expenditure arising from this Joint Action having military implications shall be charged to the Member States consistent with the general framework laid down in the Council Decision of 17 June 2002.

(11) Article 14(1) of the Treaty on European Union calls for the indication of the means to be made available to the Union for the whole period of implementation of the Joint Action; in this context, a financial reference amount should be indicated.

(12) The financial reference amount for the common costs of the operation constitutes the best current estimate and is without prejudice to the final figures that will be included in a budget to be approved in accordance with the principles laid down in the general Framework Decision of 17 June 2002.

(13) In conformity with Article 6 of the Protocol on the position of Denmark annexed to the Treaty on European Union and to the Treaty establishing the European Community, Denmark does not participate in the elaboration and implementation of decisions and actions of the European Union which have defence implications. Denmark does not participate in the financing of the operation,

[1] OJ L 115, 9.5.2003, p. 87.
[2] OJ L 334, 11.12.2002, p. 5.

HAS ADOPTED THIS JOINT ACTION:

*Article 1*

**Mission**

1. The European Union shall conduct a European Union military operation in the Democratic Republic of Congo, named Artemis in accordance with the mandate set out in UNSCR 1484 (2003).

2. The forces deployed to that effect shall operate in accordance with the objectives set out in the 'Framework for EU action in response to the crisis in Bunia' approved by the Council.

*Article 2*

**Designation of a Framework Nation**

France will act as the Framework Nation for the operation.

*Article 3*

**Appointment of the Operation Commander**

Major General Neveux is appointed EU Operation Commander.

*Article 4*

**Designation of the location of the Operation Headquarters**

The Operation Headquarters shall be located at the Centre de planification et de conduite des opérations (CPCO) in Paris, France.

*Article 5*

**Designation of the Force Commander**

Brigadier General Thonier is appointed EU Force Commander.

*Article 6*

**Planning and launching of the operation**

The Council shall approve the operation plan (OPLAN) and authorise the Rules of Engagement (RoE) and shall decide on the launching of the operation.

*Article 7*

**Political control and strategic direction**

1. The Political and Security Committee (PSC) shall exercise under the responsibility of the Council the political control and strategic direction of the operation. The Council hereby authorises the PSC to take the relevant decisions in accordance with Article 25 of the Treaty on European Union. This authorisation shall include the powers to amend the OPLAN, the Chain of Command and the RoE. The powers of decision with respect to the objectives and termination of the operation shall remain vested in the Council, assisted by the Secretary-General/High Representative.

2. The PSC shall report to the Council at regular intervals.

3. The PSC shall receive reports by the Chairman of the European Union Military Committee (CEUMC) regarding the conduct of the military operation at regular intervals. The PSC may invite the Operation Commander to its meetings as appropriate.

*Article 8*

**Military direction**

1. The European Union Military Committee (EUMC) shall monitor the proper execution of the military operation conducted under the responsibility of the Operation Commander.

2. The EUMC shall receive reports from the Operation Commander at regular intervals. It may invite the Operation Commander to its meetings as necessary.

3. The CEUMC acts as the primary point of contact with the Operation Commander.

*Article 9*

**Relations with the United Nations, the Democratic Republic of Congo and other participants in the peace process**

1. The Presidency, the Secretary-General/High Representative, the Operation Commander and the EU Special Representative for the Great Lakes Region shall ensure close coordination of their respective activities with respect to the implementation of this Joint Action.

2. The Secretary-General/High Representative, assisted by the EU Special Representative for the Great Lakes Region shall, in close coordination with the Presidency, act as a primary point of contact with the United Nations, with the authorities of the Democratic Republic of Congo and neighbouring countries, as well as with other participants in the peace process.

3. The Force Commander shall maintain contact with local authorities, the United Nations Organisation Mission in the Democratic Republic of Congo (MONUC) and other international actors, as appropriate, on issues relevant to his mission.

*Article 10*

**Participation of third States**

1. Without prejudice to the decision-making autonomy of the European Union and to the Single Institutional Framework, third States may be invited to participate in the operation.

2. The PSC shall take appropriate action with regard to participation arrangements and shall, if required, submit those to Council, including on possible financial participation from third States in the common costs.

3. The Council hereby authorises the PSC to take, upon the recommendation of the Operation Commander and the EUMC, the relevant decisions on acceptance of the proposed contributions.

4. The Council hereby authorises the PSC to take relevant decisions on the setting up of a Committee of Contributors, in case that the third States provide significant military contributions.

*Article 11*

**Financial arrangements**

1. The Council shall establish the procedures for post settlement of costs [1] in order to finance the common costs of the operation referred to in Article 1.

2. For the purposes of this operation, barracks and lodging for the forces as a whole, as well as expenditure related to transportation of the forces as a whole, shall not be eligible for payment as common costs.

3. The financial reference amount shall be EUR 7 000 000.

*Article 12*

**Release of information to third States and international organisations**

1. The Secretary-General/High Representative is authorised to release to third parties associated with this Joint Action EU classified information and documents generated for the purposes of the operation in accordance with the Council Security Regulations.

2. The Secretary-General/High Representative is authorised to release to third parties associated with this Joint Action EU non-classified documents related to the deliberations of the Council with regard to the operation covered by the obligation of professional secrecy pursuant to Article 6, paragraph 1 of the Council Rules of Procedure.

*Article 13*

**Status of the EU-led forces**

If required, the status of the EU-led forces in the Democratic Republic of Congo shall be the subject of an agreement with the Government of the Democratic Republic of Congo to be concluded on the basis of Article 24 of the Treaty on European Union.

*Article 14*

**Community action**

The Council notes the intention of the Commission to direct, where appropriate, its action towards achieving the objectives of this Joint Action.

*Article 15*

**Entry into force**

This Joint Action shall enter into force on 5 June 2003. It shall expire on 1 September 2003.

*Article 16*

**Publication**

This Joint Action shall be published in the *Official Journal of the European Union*.

Done at Luxembourg, 5 June 2003.

*For the Council*

*The President*

M. CHRISOCHOÏDIS

[1] On the basis of the specimen Council Decision establishing pre-financing procedures for the financing of an EU operation having military or defence implications (approved by the Council on 27 January 2003).