

English edition

Legislation

Contents

I Acts whose publication is obligatory

Commission Regulation (EC) No 1559/2003 of 4 September 2003 establishing the standard import values for determining the entry price of certain fruit and vegetables	1
* Commission Regulation (EC) No 1560/2003 of 2 September 2003 laying down detailed rules for the application of Council Regulation (EC) No 343/2003 establishing the criteria and mechanisms for determining the Member State responsible for examining an asylum application lodged in one of the Member States by a third-country national	3
* Commission Regulation (EC) No 1561/2003 of 4 September 2003 derogating from Regulation (EC) No 708/98 on the taking over of paddy rice by the intervention agencies and fixing the corrective amounts and the price increases and reductions to be applied as regards the time limit for delivery into intervention for the 2002/2003 marketing year	24
* Commission Regulation (EC) No 1562/2003 of 4 August 2003 prohibiting fishing for haddock by vessels flying the flag of Sweden	25
* Commission Regulation (EC) No 1563/2003 of 4 September 2003 prohibiting fishing for cod by vessels flying the flag of Sweden	26
Commission Regulation (EC) No 1564/2003 of 4 September 2003 altering the export refunds on white sugar and raw sugar exported in the natural state	27
Commission Regulation (EC) No 1565/2003 of 4 September 2003 fixing the maximum export refund for white sugar to certain third countries for the fourth partial invitation to tender issued within the framework of the standing invitation to tender provided for in Regulation (EC) No 1290/2003	29
Commission Regulation (EC) No 1566/2003 of 4 September 2003 amending the import duties in the cereals sector	30

Commission

2003/637/EC:

- * **Commission Decision of 30 April 2003 on State aid C 65/2002 (formerly N 262/2002) from Austria to Austrian air carriers ⁽¹⁾ (notified under document number C(2003) 1307)** 33

I

(Acts whose publication is obligatory)

COMMISSION REGULATION (EC) No 1559/2003
of 4 September 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 5 September 2003.

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

Done at Brussels, 4 September 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 4 September 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	060	66,6
	096	45,5
	999	56,0
0707 00 05	052	106,9
	096	16,4
	999	61,7
0709 90 70	052	65,0
	999	65,0
0805 50 10	388	50,5
	524	54,8
	528	55,1
	999	53,5
0806 10 10	052	74,8
	064	64,8
	999	69,8
0808 10 20, 0808 10 50, 0808 10 90	388	77,4
	400	78,7
	508	70,7
	512	93,3
	720	49,8
	800	198,9
	804	83,7
	999	93,2
0808 20 50	052	99,2
	388	88,8
	999	94,0
0809 30 10, 0809 30 90	052	107,8
	999	107,8
0809 40 05	052	78,6
	060	63,5
	064	63,6
	066	71,5
	093	70,3
	094	54,9
	624	129,3
	999	76,0

⁽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 1560/2003
of 2 September 2003**

laying down detailed rules for the application of Council Regulation (EC) No 343/2003 establishing the criteria and mechanisms for determining the Member State responsible for examining an asylum application lodged in one of the Member States by a third-country national

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Council Regulation (EC) No 343/2003 of 18 February 2003 establishing the criteria and mechanisms for determining the Member State responsible for examining an asylum application lodged in one of the Member States by a third-country national ⁽¹⁾, and in particular Article 15(5), Article 17(3), Article 18(3), Article 19(3) and (5), Article 20(1), (3) and (4) and Article 22(2) thereof,

Whereas:

- (1) A number of specific arrangements must be established for the effective application of Regulation (EC) No 343/2003. Those arrangements must be clearly defined so as to facilitate cooperation between the authorities in the Member States competent for implementing that Regulation as regards the transmission and processing of requests for the purposes of taking charge and taking back, requests for information and the carrying out of transfers.
- (2) To ensure the greatest possible continuity between the Convention determining the State responsible for examining applications for asylum lodged in one of the Member States of the European Communities ⁽²⁾, signed in Dublin on 15 June 1990, and Regulation (EC) No 343/2003, which replaces that Convention, this Regulation should be based on the common principles, lists and forms adopted by the committee set up by Article 18 of that Convention, with the inclusion of amendments necessitated by the introduction of new criteria, the wording of certain provisions and of the lessons drawn from experience.
- (3) The interaction between the procedures laid down in Regulation (EC) No 343/2003 and the application of Council Regulation (EC) No 2725/2000 of 11 December 2000 concerning the establishment of 'Eurodac' for the comparison of fingerprints for the effective application of the Dublin Convention ⁽³⁾ must be taken into account.

- (4) It is desirable, both for the Member States and the asylum seekers concerned, that there should be a mechanism for finding a solution in cases where Member States differ over the application of the humanitarian clause in Article 15 of Regulation (EC) No 343/2003.
- (5) The establishment of an electronic transmission network to facilitate the implementation of Regulation (EC) No 343/2003 means that rules must be laid down relating to the technical standards applicable and the practical arrangements for using the network.
- (6) Directive 95/46/EC of the European Parliament and of the Council of 24 October 1995 on the protection of individuals with regard to the processing of personal data and on the free movement of such data ⁽⁴⁾ applies to processing carried out pursuant to the present Regulation in accordance with Article 21 of Regulation (EC) No 343/2003.
- (7) In accordance with Articles 1 and 2 of the Protocol on the position of Denmark annexed to the Treaty on European Union and to the Treaty establishing the European Community, Denmark, which is not bound by Regulation (EC) No 343/2003, is not bound by the present Regulation or subject to its application, until such time as an agreement allowing it to participate in Regulation (EC) No 343/2003 is reached.
- (8) In accordance with Article 4 of the Agreement of 19 January 2001 between the European Community and the Republic of Iceland and the Kingdom of Norway concerning the criteria and mechanisms for establishing the State responsible for examining an application for asylum lodged in a Member State or in Iceland or Norway ⁽⁵⁾, this Regulation is to be applied by Iceland and Norway as it is applied by the Member States of the European Community. Consequently, for the purposes of this Regulation, Member States also include Iceland and Norway.
- (9) It is necessary for the present Regulation to enter into force as quickly as possible to enable Regulation (EC) No 343/2003 to be applied.

⁽¹⁾ OJ L 50, 25.2.2003, p. 1.

⁽²⁾ OJ C 254, 19.8.1997, p. 1.

⁽³⁾ OJ L 316, 15.12.2000, p. 1.

⁽⁴⁾ OJ L 281, 23.11.1995, p. 31.

⁽⁵⁾ OJ L 93, 3.4.2001, p. 40.

- (10) The measures set out in this Regulation are in accordance with the opinion of the Committee set up by Article 27 of Regulation (EC) No 343/2003,

HAS ADOPTED THIS REGULATION:

TITLE I

PROCEDURES

CHAPTER I

PREPARATION OF REQUESTS

Article 1

Preparation of requests for taking charge

1. Requests for taking charge shall be made on a standard form in accordance with the model in Annex I. The form shall include mandatory fields which must be duly filled in and other fields to be filled in if the information is available. Additional information may be entered in the field set aside for the purpose.

The request shall also include:

- (a) a copy of all the proof and circumstantial evidence showing that the requested Member State is responsible for examining the application for asylum, accompanied, where appropriate, by comments on the circumstances in which it was obtained and the probative value attached to it by the requesting Member State, with reference to the lists of proof and circumstantial evidence referred to in Article 18(3) of Regulation (EC) No 343/2003, which are set out in Annex II to the present Regulation;
- (b) where necessary, a copy of any written declarations made by or statements taken from the applicant.

2. Where the request is based on a positive result (hit) transmitted by the Eurodac Central Unit in accordance with Article 4(5) of Regulation (EC) No 2725/2000 after comparison of the asylum seeker's fingerprints with fingerprint data previously taken and sent to the Central Unit in accordance with Article 8 of that Regulation and checked in accordance with Article 4(6) of that Regulation, it shall also include the data supplied by the Central Unit.

3. Where the requesting Member State asks for an urgent reply in accordance with Article 17(2) of Regulation (EC) No 343/2003, the request shall describe the circumstances of the application for asylum and shall state the reasons in law and in fact which warrant an urgent reply.

Article 2

Preparation of requests for taking back

Requests for taking back shall be made on a standard form in accordance with the model in Annex III, setting out the nature of the request, the reasons for it and the provisions of Regulation (EC) No 343/2003 on which it is based.

The request shall also include the positive result (hit) transmitted by the Eurodac Central Unit, in accordance with Article 4(5) of Regulation (EC) No 2725/2000, after comparison of the applicant's fingerprints with fingerprint data previously taken and sent to the Central Unit in accordance with Article 4(1) and (2) of that Regulation and checked in accordance with Article 4(6) of that Regulation.

For requests relating to applications dating from before Eurodac became operational, a copy of the fingerprints shall be attached to the form.

CHAPTER II

REACTION TO REQUESTS

Article 3

Processing requests for taking charge

1. The arguments in law and in fact set out in the request shall be examined in the light of the provisions of Regulation (EC) No 343/2003 and the lists of proof and circumstantial evidence which are set out in Annex II to the present Regulation.

2. Whatever the criteria and provisions of Regulation (EC) No 343/2003 that are relied on, the requested Member State shall, within the time allowed by Article 18(1) and (6) of that Regulation, check exhaustively and objectively, on the basis of all information directly or indirectly available to it, whether its responsibility for examining the application for asylum is established. If the checks by the requested Member State reveal that it is responsible under at least one of the criteria of that Regulation, it shall acknowledge its responsibility.

Article 4

Processing of requests for taking back

Where a request for taking back is based on data supplied by the Eurodac Central Unit and checked by the requesting Member State, in accordance with Article 4(6) of Regulation (EC) No 2725/2000, the requested Member State shall acknowledge its responsibility unless the checks carried out reveal that its obligations have ceased under the second subparagraph of Article 4(5) or under Article 16(2), (3) or (4) of Regulation (EC) No 343/2003. The fact that obligations have ceased on the basis of those provisions may be relied on only on the basis of material evidence or substantiated and verifiable statements by the asylum seeker.

*Article 5***Negative reply**

1. Where, after checks are carried out, the requested Member State considers that the evidence submitted does not establish its responsibility, the negative reply it sends to the requesting Member State shall state full and detailed reasons for its refusal.

2. Where the requesting Member State feels that such a refusal is based on a misappraisal, or where it has additional evidence to put forward, it may ask for its request to be re-examined. This option must be exercised within three weeks following receipt of the negative reply. The requested Member State shall endeavour to reply within two weeks. In any event, this additional procedure shall not extend the time limits laid down in Article 18(1) and (6) and Article 20(1)(b) of Regulation (EC) No 343/2003.

*Article 6***Positive reply**

Where the Member State accepts responsibility, the reply shall say so, specifying the provision of Regulation (EC) No 343/2003 that is taken as a basis, and shall include practical details regarding the subsequent transfer, such as contact particulars of the department or person to be contacted.

CHAPTER III

TRANSFERS

*Article 7***Practical arrangements for transfers**

1. Transfers to the Member State responsible may be carried out in one of the following ways:

- (a) at the request of the asylum seeker, by a certain specified date;
- (b) by supervised departure, with the asylum seeker being accompanied to the point of embarkation by an official of the requesting Member State, the responsible Member State being notified of the place, date and time of the asylum seeker's arrival within an agreed time limit;
- (c) under escort, the asylum seeker being accompanied by an official of the requesting Member State or by a representative of an agency empowered by the requesting Member State to act in that capacity and handed over to the authorities in the responsible Member State.

2. In the cases referred to in paragraph 1(a) and (b), the applicant shall be supplied with the laissez-passer referred to in Article 19(3) and Article 20(1)(e) of Regulation (EC) No 343/2003, a model of which is set out in Annex IV to the present Regulation, to allow him to enter the Member State responsible and to identify himself on his arrival at the place and time indicated to him at the time of notification of the decision on taking charge or taking back by the Member State responsible.

In the case referred to in paragraph 1(c), a laissez-passer shall be issued if the asylum seeker is not in possession of identity documents. The time and place of transfer shall be agreed in advance by the Member States concerned in accordance with the procedure set out in Article 8.

3. The Member State making the transfer shall ensure that all the asylum seeker's documents are returned to him before his departure, given into the safe keeping of members of the escort to be handed to the competent authorities of the Member State responsible, or sent by other appropriate means.

*Article 8***Cooperation on transfers**

1. It is the obligation of the Member State responsible to allow the asylum seeker's transfer to take place as quickly as possible and to ensure that no obstacles are put in his way. That Member State shall determine, where appropriate, the location on its territory to which the asylum seeker will be transferred or handed over to the competent authorities, taking account of geographical constraints and modes of transport available to the Member State making the transfer. In no case may a requirement be imposed that the escort accompany the asylum seeker beyond the point of arrival of the international means of transport used or that the Member State making the transfer meet the costs of transport beyond that point.

2. The Member State organising the transfer shall arrange the transport for the asylum seeker and his escort and decide, in consultation with the Member State responsible, on the time of arrival and, where necessary, on the details of the handover to the competent authorities. The Member State responsible may require that three working days' notice be given.

*Article 9***Postponed and delayed transfers**

1. The Member State responsible shall be informed without delay of any postponement due either to an appeal or review procedure with suspensive effect, or physical reasons such as ill health of the asylum seeker, non-availability of transport or the fact that the asylum seeker has withdrawn from the transfer procedure.

2. A Member State which, for one of the reasons set out in Article 19(4) and Article 20(2) of Regulation (EC) No 343/2003, cannot carry out the transfer within the normal time limit of six months provided for in Article 19(3) and Article 20(1)(d) of that Regulation, shall inform the Member State responsible before the end of that time limit. Otherwise, the responsibility for processing the application for asylum and the other obligations under Regulation (EC) No 343/2003 falls to the former Member State, in accordance with Article 19(4) and Article 20(2) of that Regulation.

3. When, for one of the reasons set out in Article 19(4) and Article 20(2) of Regulation (EC) No 343/2003, a Member State undertakes to carry out the transfer after the normal time limit of six months, it shall make the necessary arrangements in advance with the Member State responsible.

Article 10

Transfer following an acceptance by default

1. Where, pursuant to Article 18(7) or Article 20(1)(c) of Regulation (EC) No 343/2003 as appropriate, the requested Member State is deemed to have accepted a request to take charge or to take back, the requesting Member State shall initiate the consultations needed to organise the transfer.

2. If asked to do so by the requesting Member State, the Member State responsible must confirm in writing, without delay, that it acknowledges its responsibility as a result of its failure to reply within the time limit. The Member State responsible shall take the necessary steps to determine the asylum seeker's place of arrival as quickly as possible and, where applicable, agree with the requesting Member State the time of arrival and the practical details of the handover to the competent authorities.

CHAPTER IV

HUMANITARIAN CLAUSE

Article 11

Situations of dependency

1. Article 15(2) of Regulation (EC) No 343/2003 shall apply whether the asylum seeker is dependent on the assistance of a relative present in another Member State or a relative present in another Member State is dependent on the assistance of the asylum seeker.

2. The situations of dependency referred to in Article 15(2) of Regulation (EC) No 343/2003 shall be assessed, as far as possible, on the basis of objective criteria such as medical certi-

ificates. Where such evidence is not available or cannot be supplied, humanitarian grounds shall be taken as proven only on the basis of convincing information supplied by the persons concerned.

3. The following points shall be taken into account in assessing the necessity and appropriateness of bringing together the persons concerned:

- (a) the family situation which existed in the country of origin;
- (b) the circumstances in which the persons concerned were separated;
- (c) the status of the various asylum procedures or procedures under the legislation on aliens under way in the Member States.

4. The application of Article 15(2) of Regulation (EC) No 343/2003 shall, in any event, be subject to the assurance that the asylum seeker or relative will actually provide the assistance needed.

5. The Member State in which the relatives will be reunited and the date of the transfer shall be agreed by the Member States concerned, taking account of:

- (a) the ability of the dependent person to travel;
- (b) the situation of the persons concerned as regards residence, preference being given to the bringing the asylum seeker together with his relative where the latter already has a valid residence permit and resources in the Member State in which he resides.

Article 12

Unaccompanied minors

1. Where the decision to entrust the care of an unaccompanied minor to a relative other than the mother, father or legal guardian is likely to cause particular difficulties, particularly where the adult concerned resides outside the jurisdiction of the Member State in which the minor has applied for asylum, cooperation between the competent authorities in the Member States, in particular the authorities or courts responsible for the protection of minors, shall be facilitated and the necessary steps taken to ensure that those authorities can decide, with full knowledge of the facts, on the ability of the adult or adults concerned to take charge of the minor in a way which serves his best interests.

Options now available in the field of cooperation on judicial and civil matters shall be taken account of in this connection.

2. The fact that the duration of procedures for placing a minor may lead to a failure to observe the time limits set in Article 18(1) and (6) and Article 19(4) of Regulation (EC) No 343/2003 shall not necessarily be an obstacle to continuing the procedure for determining the Member State responsible or carrying out a transfer.

Article 13

Procedures

1. The initiative of requesting another Member State to take charge of an asylum seeker on the basis of Article 15 of Regulation (EC) No 343/2003 shall be taken either by the Member State where the application for asylum was made and which is carrying out a procedure to determine the Member State responsible, or by the Member State responsible.

2. The request to take charge shall contain all the material in the possession of the requesting Member State to allow the requested Member State to assess the situation.

3. The requested Member State shall carry out the necessary checks to establish, where applicable, humanitarian reasons, particularly of a family or cultural nature, the level of dependency of the person concerned or the ability and commitment of the other person concerned to provide the assistance desired.

4. In all events, the persons concerned must have given their consent.

Article 14

Conciliation

1. Where the Member States cannot resolve a dispute, either on the need to carry out a transfer or to bring relatives together on the basis of Article 15 of Regulation (EC) No 343/2003, or on the Member State in which the persons concerned should be reunited, they may have recourse to the conciliation procedure provided for in paragraph 2 of this Article.

2. The conciliation procedure shall be initiated by a request from one of the Member States in dispute to the Chairman of the Committee set up by Article 27 of Regulation (EC) No 343/2003. By agreeing to use the conciliation procedure, the Member States concerned undertake to take the utmost account of the solution proposed.

The Chairman of the Committee shall appoint three members of the Committee representing three Member States not connected with the matter. They shall receive the arguments of the parties either in writing or orally and, after deliberation, shall propose a solution within one month, where necessary after a vote.

The Chairman of the Committee, or his deputy, shall chair the discussion. He may put forward his point of view but he may not vote.

Whether it is adopted or rejected by the parties, the solution proposed shall be final and irrevocable.

CHAPTER V

COMMON PROVISIONS

Article 15

Transmission of requests

1. Requests, replies and all written correspondence between Member States concerning the application of Regulation (EC) No 343/2003 shall where possible be sent through the 'DubliNet' electronic communications network, set up under Title II of the present Regulation.

By way of derogation from the first subparagraph, correspondence between the departments responsible for carrying out transfers and competent departments in the requested Member State regarding the practical arrangements for transfers, time and place of arrival, particularly where the asylum seeker is under escort, may be transmitted by other means.

2. Any request, reply or correspondence emanating from a National Access Point, as referred to in Article 19, shall be deemed to be authentic.

3. The acknowledgement issued by the system shall be taken as proof of transmission and of the date and time of receipt of the request or reply.

Article 16

Language of communication

The language or languages of communication shall be chosen by agreement between the Member States concerned.

Article 17

Consent of the persons concerned

1. For the application of Articles 7 and 8, Article 15(1) and Article 21(3) of Regulation (EC) No 343/2003, which require the persons concerned to express a desire or give consent, their approval must be given in writing.

2. In the case of Article 21(3) of Regulation (EC) No 343/2003, the applicant must know for what information he is giving his approval.

TITLE II

ESTABLISHMENT OF THE 'DUBLINET' NETWORK

CHAPTER I

TECHNICAL STANDARDS*Article 18***Establishment of 'DubliNet'**

1. The secure electronic means of transmission referred to in Article 22(2) of Regulation (EC) No 343/2003 shall be known as 'DubliNet'.
2. DubliNet is based on the use of the generic IDA services referred to in Article 4 of Decision No 1720/1999/EC⁽¹⁾.

*Article 19***National Access Points**

1. Each Member State shall have a single designated National Access Point.
2. The National Access Points shall be responsible for processing incoming data and transmitting outgoing data.
3. The National Access Points shall be responsible for issuing an acknowledgement of receipt for every incoming transmission.
4. The forms of which the models are set out in Annexes I and III and the form for the request of information set out in Annex V shall be sent between National Access Points in the format supplied by the Commission. The Commission shall inform the Member States of the technical standards required.

CHAPTER II

RULES FOR USE*Article 20***Reference number**

1. Each transmission shall have a reference number making it possible unambiguously to identify the case to which it relates and the Member State making the request. That number must also make it possible to determine whether the transmission relates to a request for taking charge (type 1), a request for taking back (type 2) or a request for information (type 3).

⁽¹⁾ OJ L 203, 3.8.1999, p. 9.

2. The reference number shall begin with the letters used to identify the Member State in Eurodac. This code shall be followed by the number indicating the type of request, according to the classification set out in paragraph 1.

If the request is based on data supplied by Eurodac, the Eurodac reference number shall be included.

*Article 21***Continuous operation**

1. The Member States shall take the necessary steps to ensure that their National Access Points operate without interruption.
2. If the operation of a National Access Point is interrupted for more than seven working hours the Member State shall notify the competent authorities designated pursuant to Article 22(1) of Regulation (EC) No 343/2003 and the Commission and shall take all the necessary steps to ensure that normal operation is resumed as soon as possible.

3. If a National Access Point has sent data to a National Access Point that has experienced an interruption in its operation, the acknowledgement of transmission generated by the IDA generic services shall be used as proof of the date and time of transmission. The deadlines set by Regulation (EC) No 343/2003 for sending a request or a reply shall not be suspended for the duration of the interruption of the operation of the National Access Point in question.

TITLE III

TRANSITIONAL AND FINAL PROVISIONS*Article 22***Laissez-passer produced for the purposes of the Dublin Convention**

Laissez-passer printed for the purposes of the Dublin Convention shall be accepted for the transfer of applicants for asylum under Regulation (EC) No 343/2003 for a period of no more than 18 months following the entry into force of the present Regulation.

*Article 23***Entry into force**

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 Brussels, 2 September 2003.

For the Commission
António VITORINO
Member of the Commission

ANNEX I

STANDARD FORM FOR DETERMINING THE MEMBER STATE (1) RESPONSIBLE OR EXAMINING AN APPLICATION FOR ASYLUM

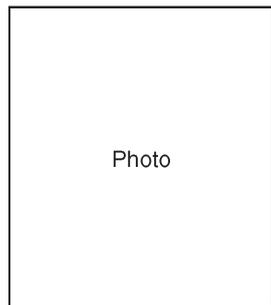
Request for taking charge presented on the basis of the following Article of Council Regulation (EC) No 343/2003:

- Article 6 (unaccompanied minor):
- Article 7 (family member resident in the Member State as a refugee):
- Article 8 (family member applying for asylum in a Member State):
- Article 9(1) or (3) (valid residence document):
- Article 9(2) or (3) (valid visa):
- Article 9(4) (residence document which expired less than two years previously or visa which expired less than six months previously):
- Article 10(1) (illegal entry at external frontier less than 12 months ago):
- Article 10(2) (residence of at least 5 months in the Member State):
- Article 11(1) (visa requirement waived for entry):
- Article 14 (keeping family groups together):
- Article 15 (humanitarian grounds):

Eurodac data: Eurodac No:

Reply requested urgently: No later than:

Reason for urgency:
.....



File number:

Personal particulars of applicant

- 1. Surname (*)
Maiden name
- 2. Forename(s)
- 3. Does the applicant use/has he/she used other names? Yes No
What are/were they?
- 4. Date of birth
- 5. Place of birth
- District/region
- Country
- 6. Nationality(ies)
- (indicate all)
- (a) current
- (b) previous
- (c) none/stateless
- 7. Sex Male Female
- 8. Name of father
- 9. Name of mother

10. Marital status
- Single Married Widowed
 Divorced Cohabitee
11. Language(s) of origin
-
.....
.....
.....

Personal particulars of family members

12. Spouse Surname (*), maiden name, forename(s), sex, date of birth, place of birth, place of residence
(if the spouse is seeking asylum a separate form should be completed; in this case include the reference number of the other member of the couple on all forms).
-
.....
- Reference number of spouse (if necessary):

13. Children Surname(*), forename(s), sex, date of birth, place of birth, place of residence
(indicate all children; a separate form should be completed for children over 16 years of age if asylum is sought)
- (a)
(b)
(c)
(d)
(e)

14. Place and date of the application for asylum in the country of residence:
-

Previous asylum procedures

15. Has the asylum applicant ever previously applied for asylum or recognition of refugee status in the country of residence or in another country?
- Yes No
- When and where?
- Was any decision taken on the application?
- When was the decision taken?

Identity papers

16. National passport
- Number
Issued on
By
Valid until
- Yes No
17. Document replacing passport
- Number
Issued on
By
Valid until
- Yes No
18. Other document
- Number
Issued on
By
Valid until
- Yes No

19. In the absence of documents: (specify whether they may have contained a valid visa or residence permit and, if so, indicate the issuing authority and date of issue as well as the period of validity)

Residence documents/visas

20. Does the asylum applicant possess a residence document/visa for the country of residence?

Type of document

Issued on

By

Valid until

21. Does the asylum applicant possess a residence document/visa for another EU Member State? (2)

Which State?

Type of document

Issued on

By

Valid until

Travel route

22. Country in which the journey was begun (country of origin or of provenance)

— Route followed from country where journey was begun to point of entry into country in which asylum is requested

— Dates and times of travel

— Crossed border on

— At the authorised crossing point

or

— Avoided border controls (entered illegally)

— Means of transport used

23. Did the asylum applicant enter via another European Union Member State? (3)

— Which was the first EU Member State entered?

— Crossed border at authorised crossing point,

or

— Avoided border controls at

— When?

Residence in another EU Member State (4)

24. Residence in another EU Member State or States after leaving country in which journey was begun (country of origin/provenance)

— In which State or States?

— From — to

— Place/exact address

— Residence was

— Period of validity of residence permit

— Purpose of residence

Left without documents Documents lost Documents stolen (When? where?)

Other reasons (Please specify)

Yes No Residence permit Entry visa Transit visa

Yes No Residence permit Entry visa Transit visa

Public transport (what form?) Own vehicle Other means (how?)

Yes No

Yes No Authorised Unauthorised

Particulars of family members living in EU Member States ⁽⁵⁾

25. (a) Is any family member residing in a Member State?

— Name of family member

— Date of birth

— Marital status

— Relationship

— Member State

— Address in that State

— Residence status

(b) Do any of those concerned object to the examination of the application for asylum in that Member State?

Other useful information

Yes No

Single Married Widowed

Divorced

spouse father

mother child

brother sister

guardian other (please specify)

recognised refugee resident

asylum applicant illegal

Yes No

(1) Note: Pursuant to the Agreement of 19 January 2001 between the European Community and the Republic of Iceland and the Kingdom of Norway, the words 'Member States' include Iceland and Norway.

(2) Including Iceland and Norway.

(3) Including Iceland and Norway.

(4) Including Iceland and Norway.

(5) Including Iceland and Norway.

(*) In block capitals.

ANNEX II

(References are to Articles of Council Regulation (EC) No 343/2003)

LIST A

MEANS OF PROOF

I. Process of determining the State responsible for examining an application for asylum

1. Presence of a family member (father, mother, guardian) of an asylum applicant who is an unaccompanied minor (Article 6)

Probative evidence

- written confirmation of the information by the other Member State,
- extracts from registers,
- residence permits issued to the family member,
- evidence that the persons are related, if available,
- failing this, and if necessary, a DNA or blood test.

2. Legal residence in a Member State of a family member recognised as having refugee status (Article 7)

Probative evidence

- written confirmation of the information by the other Member State,
- extracts from registers,
- residence permits issued to the individual with refugee status,
- evidence that the persons are related, if available,
- consent of the persons concerned.

3. Presence of a family member applying for asylum whose application has not yet been the subject of a first decision regarding the substance in a Member State (Article 8)

Probative evidence

- written confirmation of the information by the other Member State,
- extracts from registers,
- temporary residence authorisations issued to the individual while the asylum application is being examined,
- evidence that the persons are related, if available,
- failing this, if necessary, a DNA or blood test,
- consent of the persons concerned.

4. Valid residence documents (Article 9(1) and (3) or residence documents which expired less than two years previously (and date of entry into force) (Article 9(4))

Probative evidence

- residence document,
- extracts from the register of aliens or similar registers,
- reports/confirmation of the information by the Member State which issued the residence document.

5. Valid visas (Article 9(2) and(3)) and visas which expired less than six months previously (and date of entry into force) (Article 9(4))

Probative evidence

- visa issued (valid or expired, as appropriate),
- extracts from the register of aliens or similar registers,
- reports/confirmation of the information by the Member State which issued the visa.

6. Legal entry into the territory at an external frontier (Article 11)

Probative evidence

- entry stamp in a passport,
- exit stamp from a country bordering on a Member State, bearing in mind the route taken by the asylum-seeker and the date the frontier was crossed,
- tickets conclusively establishing entry at an external frontier,
- entry stamp or similar endorsement in passport.

7. Illegal entry at an external frontier (Article 10(1))

Probative evidence

- positive match by Eurodac from a comparison of the fingerprints of the applicant with fingerprints taken pursuant to Article 8 of the 'Eurodac' Regulation,
- entry stamp in a forged or falsified passport,
- exit stamp from a country bordering on a Member State, bearing in mind the route taken by the asylum-seeker and the date the frontier was crossed,
- tickets conclusively establishing entry at an external frontier,
- entry stamp or similar endorsement in passport.

8. Residence in a Member State for at least five months (Article 10(2))

Probative evidence

- residence authorisations issued while the application for a residence permit is being examined,
- requests to leave the territory or expulsion order issued on dates at least five months apart or that have not been enforced,
- extracts from the records of hospitals, prisons, detention centres.

9. Departure from the territory of the Member States (Article 16(3))

Probative evidence

- exit stamp,
- extracts from third-country registers (substantiating residence),
- tickets conclusively establishing departure from or entry at an external frontier,
- report/confirmation by the Member State from which the asylum-seeker left the territory of the Member States,
- stamp of third country bordering on a Member State, bearing in mind the route taken by the asylum-seeker and the date the frontier was crossed.

II. Obligation on the Member State responsible for examining the application for asylum to readmit or take back the asylum-seeker

1. Process of determining the Member State responsible is under way in the Member State where the asylum application was lodged (Article 4(5))

Probative evidence

- positive match by Eurodac from a comparison of the fingerprints of the applicant with fingerprints taken pursuant to Article 4 of the 'Eurodac' Regulation,
- form submitted by the asylum-seeker,
- official report drawn up by the authorities,
- fingerprints taken in connection with an asylum application,
- extracts from relevant registers and files,
- written report by the authorities attesting that an application has been made.

2. Application for asylum is under examination or was lodged previously (Article 16(1)(c)(d) and (e))

Probative evidence

- positive match by Eurodac from a comparison of the fingerprints of the applicant with fingerprints taken pursuant to Article 4 of the 'Eurodac' Regulation,
- form submitted by the asylum-seeker,
- official report drawn up by the authorities,
- fingerprints taken in connection with an asylum application,
- extracts from relevant registers and files,
- written report by the authorities attesting that an application has been made.

3. Departure from the territory of the Member States (Article 4(5), Article 16(3))

Probative evidence

- exit stamp,
- extracts from third-country registers (substantiating residence),
- exit stamp from a third country bordering on a Member State, bearing in mind the route taken by the asylum-seeker and the date on which the frontier was crossed,
- written proof from the authorities that the alien has actually been expelled.

4. Expulsion from the territory of the Member States (Article 16(4))

Probative evidence

- written proof from the authorities that the alien has actually been expelled,
- exit stamp,
- confirmation of the information regarding expulsion by the third country.

LIST B

CIRCUMSTANTIAL EVIDENCE

I. Process of determining the State responsible for examining an application for asylum

1. Presence of a family member (father, mother, guardian) of an asylum applicant who is an unaccompanied minor (Article 6)

Indicative evidence ⁽¹⁾

- verifiable information from the asylum applicant,
- statements by the family members concerned,
- reports/confirmation of the information by an international organisation, such as UNHCR.

2. Legal residence in a Member State of a family member recognised as having refugee status (Article 7)

Indicative evidence

- verifiable information from the asylum applicant,
- reports/confirmation of the information by an international organisation, such as UNHCR.

3. Presence of a family member applying for asylum whose application has not yet been the subject of a first decision regarding the substance in a Member State (Article 8)

Indicative evidence

- verifiable information from the asylum applicant,
- reports/confirmation of the information by an international organisation, such as UNHCR.

4. Valid residence documents (Article 9(1) and (3)) or residence documents which expired less than two years previously (and date of entry into force) (Article 9(4))

Indicative evidence

- detailed and verifiable statements by the asylum applicant,
- reports/confirmation of the information by an international organisation, such as UNHCR,
- reports/confirmation of the information by the Member State which did not issue the residence permit,
- reports/confirmation of the information by family members, travelling companions, etc.

5. Valid visas (Article 9(2) and (3)) and visas which expired less than six months previously (and date of entry into force) (Article 9(4))

Indicative evidence

- detailed and verifiable statements by the asylum applicant,
- reports/confirmation of the information by an international organisation, such as UNHCR,
- reports/confirmation of the information by the Member State which did not issue the residence permit,
- reports/confirmation of the information by family members, travelling companions, etc.

⁽¹⁾ This indicative evidence must always be followed by an item of probative evidence as defined in list A.

6. Legal entry into the territory at an external frontier (Article 11)

Indicative evidence

- detailed and verifiable statements by the asylum applicant,
- reports/confirmation of the information by an international organisation, such as UNHCR,
- reports/confirmation of the information by another Member State or third country,
- reports/confirmation of the information by family members, travelling companions, etc.
- fingerprints, except in cases where the authorities decided to take fingerprints when the alien crossed the external frontier. In such cases, they constitute probative evidence as defined in list A,
- tickets,
- hotel bills,
- entry cards for public or private institutions in the Member States,
- appointment cards for doctors, dentists, etc.,
- information showing that the asylum applicant has used the services of a travel agency,
- other circumstantial evidence of the same kind.

7. Illegal entry into the territory at an external frontier (Article 10(1))

Indicative evidence

- detailed and verifiable statements by the asylum applicant,
- reports/confirmation of the information by an international organisation, such as UNHCR,
- reports/confirmation of the information by another Member State or third country,
- reports/confirmation of the information by family members, travelling companions, etc.,
- fingerprints, except in cases where the authorities decided to take fingerprints when the alien crossed the external frontier. In such cases, they constitute probative evidence as defined in list A,
- tickets,
- hotel bills,
- entry cards for public or private institutions in the Member States,
- appointment cards for doctors, dentists, etc.,
- information showing that the asylum applicant has used the services of a courier or a travel agency,
- other circumstantial evidence of the same kind.

8. Residence in a Member State for at least five months (Article 10(2))

Indicative evidence

- detailed and verifiable statements by the asylum applicant,
- reports/confirmation of the information by an international organisation, such as UNHCR,
- reports/confirmation of the information by a non-governmental organisation, such as an organisation providing accommodation for those in need,
- reports/confirmation of the information by family members, travelling companions, etc.,
- fingerprints,
- tickets,
- hotel bills,
- entry cards for public or private institutions in the Member States,
- appointment cards for doctors, dentists, etc.,
- information showing that the asylum applicant has used the services of a courier or a travel agency,
- other circumstantial evidence of the same kind.

9. Departure from the territory of the Member States (Article 16(3))

Indicative evidence

- detailed and verifiable statements by the asylum applicant,
- reports/confirmation of the information by an international organisation, such as UNHCR,
- reports/confirmation of the information by another Member State,
- re Article 3(7) and Article 10(3): exit stamp where the asylum applicant concerned has left the territory of the Member States for a period of at least three months,
- reports/confirmation of the information by family members, travelling companions, etc.,
- fingerprints, except in cases where the authorities decided to take fingerprints when the alien crossed the external frontier. In such cases, they constitute probative evidence as defined in list A,
- tickets,
- hotel bills,
- appointment cards for doctors, dentists, etc. in a third country,
- information showing that the asylum applicant has used the services of a courier or a travel agency,
- other circumstantial evidence of the same kind.

II. Obligation on the Member State responsible for examining the application for asylum to readmit or take back the asylum-seeker

1. Process of determining the Member State responsible is under way in the Member State where the asylum application was lodged (Article 4(5))

Indicative evidence

- verifiable statements by the asylum applicant,
- reports/confirmation of the information by an international organisation, such as UNHCR,
- reports/confirmation of the information by family members, travelling companions, etc.,
- reports/confirmation of the information by another Member State.

2. Application for asylum is under examination or was lodged previously (Article 16(1) (c)(d)(e))

Indicative evidence

- verifiable statements by the asylum applicant,
- reports/confirmation of the information by an international organisation, such as UNHCR,
- reports/confirmation of the information by another Member State.

3. Departure from the territory of the Member States (Article 4(5), Article 16(3))

Indicative evidence

- detailed and verifiable statements by the asylum applicant,
- reports/confirmation of the information by an international organisation, such as UNHCR,
- reports/confirmation of the information by another Member State,
- exit stamp where the asylum applicant concerned has left the territory of the Member States for a period of at least three months,
- reports/confirmation of the information by family members, travelling companions, etc.,
- fingerprints, except in cases where the authorities decided to take fingerprints when the alien crossed the external frontier. In such cases, they constitute probative evidence as defined in list A,
- tickets,
- hotel bills,
- appointment cards for doctors, dentists, etc. in a third country,
- information showing that the asylum applicant has used the services of a courier or a travel agency,
- other circumstantial evidence of the same kind.

4. Expulsion from the territory of the Member States (Article 16(4))

Indicative evidence

- verifiable statements by the asylum applicant,
 - reports/confirmation of the information by an international organisation, such as UNHCR,
 - exit stamp where the asylum applicant concerned has left the territory of the Member States for a period of at least three months,
 - reports/confirmation of the information by family members, travelling companions, etc.,
 - fingerprints, except in cases where the authorities decided to take fingerprints when the alien crossed the external frontier. In such cases, they constitute probative evidence as defined in list A,
 - tickets,
 - hotel bills,
 - appointment cards for doctors, dentists, etc.,
 - information showing that the asylum applicant has used the services of a courier or a travel agency,
 - other circumstantial evidence of the same kind.
-

ANNEX III

STANDARD FORM FOR REQUESTS FOR TAKING BACK

Request for taking back presented on the basis of the following Article of Council Regulation (EC) No 343/2003:

Article 4(5) (process of determining the Member State responsible is under way in the Member State where the application was lodged):

Article 16(1)(c) (applicant is in the Member State without permission and his application is being examined in the Member State responsible):

Article 16(1)(d) (applicant has made an application after withdrawing his application in the Member State responsible):

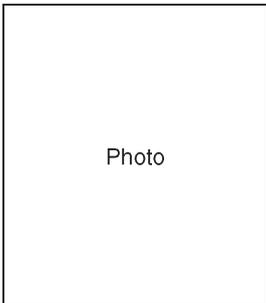
Article 16(1)(e) (applicant is in the Member State without permission and his application has been rejected in the Member State responsible):

Eurodac data: Eurodac No:

Reply requested urgently: No later than:

Reason for urgency:

.....



File number:

Personal particulars of applicant

- 1. Surname (*)
Maiden name
- 2. Forename(s)
- 3. Does the applicant use/has he/she used other names?
What are/were they? Yes No
- 4. Date of birth
- 5. Place of birth
District/region
Country
- 6. Nationality(ies)
(indicate all)
(a) current
(b) previous
(c) none/stateless
- 7. Sex Male Female
- 8. Name of father
- 9. Name of mother
- 10. Marital status Single Married Widowed
 Divorced Cohabitee

(*) In block capitals.

Previous asylum procedures

11. Has the applicant ever previously applied for asylum or recognition of refugee status in the country of residence or in another country?

When and where?

Yes No

.....
.....

Was any decision taken on the application?

When was the decision taken

No Don't know Yes, application rejected

.....
.....

12. Does the applicant state that he left the territory of the Member States?

If yes:

Yes No

Date of departure:

Date of return:

.....
.....
.....
.....

Which country(ies) did he go to?

Travel route:

13. Documents submitted by the applicant

Please enclose a list:

.....
.....
.....
.....
.....
.....

Comments:

ANNEX IV

Specimen laissez-passer for transfer of asylum applicants

LAISSEZ-PASSER

Reference No (*):

Issued pursuant to Articles 19 and 20 of Council Regulation (EC) No 343/2003 of 18 February 2003 establishing the criteria and mechanisms for determining the Member State responsible for examining an asylum application lodged in one of the Member States (1) by a third-country national.

Valid only for transfer from (2) to (3) with the asylum applicant required to present him/herself at (4) by (5).

Issued at:

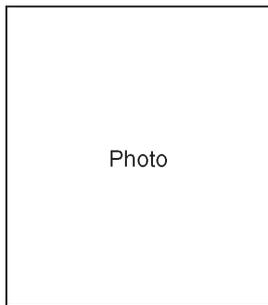
SURNAME:

FORENAMES:

PLACE AND DATE OF BIRTH:

NATIONALITY:

Date of issue:



For the Ministry for the Interior:

Seal

The bearer of this laissez-passer has been identified by the authorities (6) (7).

This document is issued pursuant to Articles 19 and 20 of Regulation (EC) No 343/2003 only and cannot under any circumstances be regarded as equivalent to a travel document permitting the external frontier to be crossed or to a document proving the individual's identity.

(*) Reference number to be given by the country from which the transfer takes place.

(1) NB. Pursuant to the Agreement of 19 January 2001 between the European Community and the Republic of Iceland and the Kingdom of Norway, the words 'Member States' include Iceland and Norway.

(2) Member State from which transferred.

(3) Member State to which transferred.

(4) Place where the asylum applicant has to present him/herself upon arrival in the Member State responsible.

(5) Deadline by which the asylum applicant has to present him/herself upon arrival in the Member State responsible.

(6) On the basis of the following travel or identity documents presented to the authorities.

(7) On the basis of a statement by the asylum applicant or of documents other than a travel or identity document.

ANNEX V

REQUEST FOR INFORMATION PURSUANT TO ARTICLE 21 OF COUNCIL REGULATION (EC) No 343/2003

Date: ___/___/_____

Reference No:

Individual concerned:

— Surname:

— Forename:

— Date of birth:

— Place of birth:

— Nationality:

Indicative evidence enclosed: Yes: No

(please specify)
.....
.....

This request for information concerns:

- | | | | |
|-------------------------|--------------------------|------------|--------------------------|
| residence document: | <input type="checkbox"/> | appeal: | <input type="checkbox"/> |
| travel document: | <input type="checkbox"/> | decision: | <input type="checkbox"/> |
| visa: | <input type="checkbox"/> | expulsion: | <input type="checkbox"/> |
| application for asylum: | <input type="checkbox"/> | other: | <input type="checkbox"/> |

Details:
.....
.....
.....
.....
.....
.....

**COMMISSION REGULATION (EC) No 1561/2003
of 4 September 2003**

derogating from Regulation (EC) No 708/98 on the taking over of paddy rice by the intervention agencies and fixing the corrective amounts and the price increases and reductions to be applied as regards the time limit for delivery into intervention for the 2002/2003 marketing year

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Council Regulation (EC) No 3072/95 of 22 December 1995 on the common organisation of the market in rice ⁽¹⁾, as last amended by Commission Regulation (EC) No 411/2002 ⁽²⁾, and in particular Article 8(b) thereof,

Whereas:

- (1) The conditions governing the taking over of paddy rice by the intervention agencies are laid down in Commission Regulation (EC) No 708/98 ⁽³⁾, as last amended by Regulation (EC) No 610/2001 ⁽⁴⁾. Article 6(1) of that Regulation stipulates that delivery must take place by the end of the second month following receipt of the offer and in any case not later than 31 August of the current marketing year.
- (2) As a result of the exceptionally large quantities of paddy rice currently offered for buying in, it is difficult for the intervention agencies to meet the time limit for the delivery of the products. Consequently, Commission Regulation (EC) No 1045/2003 ⁽⁵⁾ provides for a derogation from the delivery deadline at the end of the second

month. In addition, because of the technical difficulties caused by the recent heatwave conditions, there should also be a derogation, for the current 2002/2003 marketing year, from the time limit requiring delivery by 31 August.

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

HAS ADOPTED THIS REGULATION:

Article 1

Notwithstanding Article 6(1) of Regulation (EC) No 708/98, the delivery of paddy rice for taking over by the intervention agency in respect of the 2002/2003 marketing year must take place no later than 30 September 2003.

Article 2

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

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

Done at Brussels, 4 September 2003.

For the Commission

Franz FISCHLER

Member of the Commission

⁽¹⁾ OJ L 329, 30.12.1995, p. 18.

⁽²⁾ OJ L 62, 5.3.2002, p. 27.

⁽³⁾ OJ L 98, 31.3.1998, p. 21.

⁽⁴⁾ OJ L 90, 30.3.2001, p. 17.

⁽⁵⁾ OJ L 151, 19.6.2003, p. 34.

COMMISSION REGULATION (EC) No 1562/2003
of 4 August 2003
prohibiting fishing for haddock by vessels flying the flag of Sweden

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Council Regulation (EEC) No 2847/93 of 12 October 1993 establishing a control system applicable to the common fisheries policy ⁽¹⁾, as last amended by Regulation (EC) No 806/2003 ⁽²⁾, and in particular Article 21(3) thereof,

Whereas:

- (1) Council Regulation (EC) No 2341/2002 of 20 December 2002 fixing for 2003 the fishing opportunities and associated conditions for certain fish stocks and groups of fish stocks, applicable in Community waters and, for Community vessels, in waters where limitations in catch are required ⁽³⁾, as last amended by Regulation (EC) No 1407/2003 ⁽⁴⁾, lays down quotas for haddock for 2003.
- (2) In order to ensure compliance with the provisions relating to the quantity limits on catches of stocks subject to quotas, the Commission must fix the date by which catches made by vessels flying the flag of a Member State are deemed to have exhausted the quota allocated.
- (3) According to the information received by the Commission, catches of haddock in the waters of ICES division IIa (EC waters), North Sea, by vessels flying the flag of

Sweden or registered in Sweden have exhausted the quota allocated for 2003. Sweden has prohibited fishing for this stock from 7 June 2003. This date should be adopted in this Regulation also,

HAS ADOPTED THIS REGULATION:

Article 1

Catches of haddock in the waters of ICES division IIa (EC waters), North Sea, by vessels flying the flag of Sweden or registered in Sweden are hereby deemed to have exhausted the quota allocated to Sweden for 2003.

Fishing for haddock in the waters of ICES division IIa (EC waters), North Sea, by vessels flying the flag of Sweden or registered in Sweden is hereby prohibited, as are the retention on board, transshipment and landing of this stock caught by the above vessels after the date of application of this Regulation.

Article 2

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

It shall apply from 7 June 2003.

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

Done at Brussels, 4 August 2003.

For the Commission
Jörgen HOLMQUIST
Director-General for Fisheries

⁽¹⁾ OJ L 261, 20.10.1993, p. 1.

⁽²⁾ OJ L 122, 16.5.2003, p. 1.

⁽³⁾ OJ L 356, 31.12.2002, p. 12.

⁽⁴⁾ OJ L 201, 8.8.2003, p. 3.

COMMISSION REGULATION (EC) No 1563/2003
of 4 September 2003
prohibiting fishing for cod by vessels flying the flag of Sweden

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Council Regulation (EEC) No 2847/93 of 12 October 1993 establishing a control system applicable to the common fisheries policy ⁽¹⁾, as last amended by Regulation (EC) No 806/2003 ⁽²⁾, and in particular Article 21(3) thereof,

Whereas:

- (1) Council Regulation (EC) No 2341/2002 of 20 December 2002 fixing for 2003 the fishing opportunities and associated conditions for certain fish stocks and groups of fish stocks, applicable in Community waters and, for Community vessels, in waters where catch limitations are required ⁽³⁾, as last amended by Commission Regulation (EC) No 1407/2003 ⁽⁴⁾, lays down quotas for cod for 2003.
- (2) In order to ensure compliance with the provisions relating to the quantity limits on catches of stocks subject to quotas, the Commission must fix the date by which catches made by vessels flying the flag of a Member State are deemed to have exhausted the quota allocated.
- (3) According to the information received by the Commission, catches of cod in the waters of ICES division IIa (EC waters), North Sea, by vessels flying the flag of

Sweden or registered in Sweden have exhausted the quota allocated for 2003. Sweden has prohibited fishing for this stock from 2 June 2003. This date should be adopted in this Regulation also,

HAS ADOPTED THIS REGULATION:

Article 1

Catches of cod in the waters of ICES division IIa (EC waters), North Sea, by vessels flying the flag of Sweden or registered in Sweden are hereby deemed to have exhausted the quota allocated to Sweden for 2003.

Fishing for cod in the waters of ICES division IIa (EC waters), North Sea, by vessels flying the flag of Sweden or registered in Sweden is hereby prohibited, as are the retention on board, transshipment and landing of this stock caught by the above vessels after the date of application of this Regulation.

Article 2

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

It shall apply from 2 June 2003.

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

Done at Brussels, 4 September 2003.

For the Commission
Jörgen HOLMQUIST
Director-General for Fisheries

⁽¹⁾ OJ L 261, 20.10.1993, p. 1.

⁽²⁾ OJ L 122, 16.5.2003, p. 1.

⁽³⁾ OJ L 356, 31.12.2002, p. 12.

⁽⁴⁾ OJ L 201, 8.8.2003, p. 3.

COMMISSION REGULATION (EC) No 1564/2003
of 4 September 2003
altering the export refunds on white sugar and raw sugar exported in the natural state

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

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

Whereas:

- (1) The refunds on white sugar and raw sugar exported in the natural state were fixed by Commission Regulation (EC) No 1507/2003 ⁽³⁾, as amended by Regulation (EC) No 1532/2003 ⁽⁴⁾.
- (2) It follows from applying the detailed rules contained in Regulation (EC) No 1507/2003 to the information known to the Commission that the export refunds at

present in force should be altered to the amounts set out in the Annex hereto,

HAS ADOPTED THIS REGULATION:

Article 1

The export refunds on the products listed in Article 1(1)(a) of Regulation (EC) No 1260/2001, undenatured and exported in the natural state, as fixed in the Annex to Regulation (EC) No 1507/2003 are hereby altered to the amounts shown in the Annex hereto.

Article 2

This Regulation shall enter into force on 5 September 2003.

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

Done at Brussels, 4 September 2003.

For the Commission
Franz FISCHLER
Member of the Commission

⁽¹⁾ OJ L 178, 30.6.2001, p. 1.

⁽²⁾ OJ L 104, 20.4.2002, p. 26.

⁽³⁾ OJ L 217, 29.8.2003, p. 5.

⁽⁴⁾ OJ L 218, 30.8.2003, p. 8.

ANNEX

REFUNDS ON WHITE SUGAR AND RAW SUGAR EXPORTED WITHOUT FURTHER PROCESSING

Product code	Destination	Unit of measurement	Amount of refund
1701 11 90 9100	S00	EUR/100 kg	43,10 ⁽¹⁾
1701 11 90 9910	S00	EUR/100 kg	43,28 ⁽¹⁾
1701 12 90 9100	S00	EUR/100 kg	43,10 ⁽¹⁾
1701 12 90 9910	S00	EUR/100 kg	43,28 ⁽¹⁾
1701 91 00 9000	S00	EUR/1 % of sucrose × 100 kg product net	0,4685
1701 99 10 9100	S00	EUR/100 kg	46,85
1701 99 10 9910	S00	EUR/100 kg	47,05
1701 99 10 9950	S00	EUR/100 kg	47,05
1701 99 90 9100	S00	EUR/1 % of sucrose × 100 kg of net product	0,4685

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

The numeric destination codes are set out in Commission Regulation (EC) No 1779/2002 (OJ L 269, 5.10.2002, p. 6).

The other destinations are:

S00: all destinations (third countries, other territories, victualling and destinations treated as exports from the Community) with the exception of Albania, Croatia, Bosnia and Herzegovina, Serbia and Montenegro (including Kosovo, as defined in UN Security Council Resolution 1244 of 10 June 1999) and the former Yugoslav Republic of Macedonia, save for sugar incorporated in the products referred to in Article 1(2)(b) of Council Regulation (EC) No 2201/96 (OJ L 297, 21.11.1996, p. 29).

⁽¹⁾ This amount is applicable to raw sugar with a yield of 92 %. Where the yield for exported raw sugar differs from 92 %, the refund amount applicable shall be calculated in accordance with Article 28(4) of Regulation (EC) No 1260/2001.

**COMMISSION REGULATION (EC) No 1565/2003
of 4 September 2003**

fixing the maximum export refund for white sugar to certain third countries for the fourth partial invitation to tender issued within the framework of the standing invitation to tender provided for in Regulation (EC) No 1290/2003

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

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

Whereas:

- (1) Commission Regulation (EC) No 1290/2003 of 18 July 2003 on a standing invitation to tender to determine levies and/or refunds on exports of white sugar ⁽³⁾, for the 2003/2004 marketing year, requires partial invitations to tender to be issued for the export of this sugar to certain third countries.
- (2) Pursuant to Article 9(1) of Regulation (EC) No 1290/2003 a maximum export refund shall be fixed, as the case may be, account being taken in particular of the state and foreseeable development of the Community and world markets in sugar, for the partial invitation to tender in question.

(3) Following an examination of the tenders submitted in response to the fourth partial invitation to tender, the provisions set out in Article 1 should be adopted.

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

HAS ADOPTED THIS REGULATION:

Article 1

For the fourth partial invitation to tender for white sugar issued pursuant to Regulation (EC) No 1290/2003 the maximum amount of the export refund to certain third countries is fixed at 50,351 EUR/100 kg.

Article 2

This Regulation shall enter into force on 5 September 2003.

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

Done at Brussels, 4 September 2003.

For the Commission
Franz FISCHLER
Member of the Commission

⁽¹⁾ OJ L 178, 30.6.2001, p. 1.

⁽²⁾ OJ L 104, 20.4.2002, p. 26.

⁽³⁾ OJ L 181, 19.7.2003, p. 7.

COMMISSION REGULATION (EC) No 1566/2003
of 4 September 2003
amending the import duties in the cereals sector

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Council Regulation (EEC) No 1766/92 of 30 June 1992 on the common organisation of the market in cereals ⁽¹⁾, as last amended by Regulation (EC) No 1104/2003 ⁽²⁾,

Having regard to Commission Regulation (EC) No 1249/96 of 28 June 1996 laying down detailed rules for the application of Council Regulation (EEC) No 1766/92 as regards import duties in the cereals sector ⁽³⁾, as last amended by Regulation (EC) No 1110/2003 ⁽⁴⁾, and in particular Article 2(1) thereof,

Whereas:

- (1) The import duties in the cereals sector are fixed by Commission Regulation (EC) No 1545/2003 ⁽⁵⁾.

- (2) Article 2(1) of Regulation (EC) No 1249/96 provides that if during the period of application, the average import duty calculated differs by EUR 5 per tonne from the duty fixed, a corresponding adjustment is to be made. Such a difference has arisen. It is therefore necessary to adjust the import duties fixed in Regulation (EC) No 1545/2003,

HAS ADOPTED THIS REGULATION:

Article 1

Annexes I and II to the amended Regulation (EC) No 1545/2003 are hereby replaced by Annexes I and II to this Regulation.

Article 2

This Regulation shall enter into force on 5 September 2003.

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

Done at Brussels, 4 September 2003.

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

⁽¹⁾ OJ L 181, 1.7.1992, p. 21.

⁽²⁾ OJ L 158, 27.6.2003, p. 1.

⁽³⁾ OJ L 161, 29.6.1996, p. 125.

⁽⁴⁾ OJ L 158, 27.6.2003, p. 12.

⁽⁵⁾ OJ L 218, 30.8.2003, p. 46.

ANNEX I

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

CN code	Description	Import duty ⁽¹⁾ (EUR/tonne)
1001 10 00	Durum wheat high quality	0,00
	medium quality	0,00
	low quality	0,00
1001 90 91	Common wheat seed	0,00
ex 1001 90 99	Common high quality wheat other than for sowing	0,00
1002 00 00	Rye	4,44
1005 10 90	Maize seed other than hybrid	48,48
1005 90 00	Maize other than seed ⁽²⁾	48,48
1007 00 90	Grain sorghum other than hybrids for sowing	14,53

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

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

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

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

ANNEX II

Factors for calculating duties

(period from 29 August to 3 September 2003)

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

Exchange quotations	Minneapolis	Chicago	Minneapolis	Minneapolis	Minneapolis	Minneapolis
Product (% proteins at 12 % humidity)	HRS2. 14 %	YC3	HAD2	Medium quality (*)	Low quality (**)	US barley 2
Quotation (EUR/t)	141,53 (****)	85,07	177,21 (***)	167,21 (***)	147,21 (***)	124,10 (***)
Gulf premium (EUR/t)	—	14,91	—	—	—	—
Great Lakes premium (EUR/t)	21,81	—	—	—	—	—

(*) A discount of 10 EUR/t (Article 4(3) of Regulation (EC) No 1249/96).

(**) A discount of 30 EUR/t (Article 4(3) of Regulation (EC) No 2378/2002).

(***) Fob Duluth.

(****) Premium of 14 EUR/t incorporated (Article 4(3) of Regulation (EC) No 1249/96).

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

Freight/cost: Gulf of Mexico–Rotterdam: 18,66 EUR/t; Great Lakes–Rotterdam: 28,49 EUR/t.

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

II

(Acts whose publication is not obligatory)

COMMISSION

COMMISSION DECISION

of 30 April 2003

on State aid C 65/2002 (formerly N 262/2002) from Austria to Austrian air carriers

(notified under document number C(2003) 1307)

(Only the German text is authentic)

(Text with EEA relevance)

(2003/637/EC)

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

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

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

Having invited interested parties to submit their comments in accordance with the said Articles ⁽¹⁾,

Whereas:

(2) By letter of 16 October 2002, the Commission informed Austria of its decision to consider part of the notified scheme, in respect of four measures amounting to a maximum of EUR 1 419 000, as compatible with the common market and to initiate the procedure provided for in Article 88(2) of the Treaty in respect of the other measures envisaged in the aid scheme ⁽²⁾.

(3) The Commission Decision to initiate the procedure was published in the *Official Journal of the European Communities*. The Commission has invited interested parties to submit their comments on the aid in question.

(4) The Commission has not received any comments on this subject from interested parties.

I. PROCEDURE

(1) In accordance with Article 88(3) of the EC Treaty, Austria informed the European Commission, by letter dated 5 April 2002, registered on 10 April 2002 under No SG(2002) A/3826, of a scheme to grant compensation to airlines. On 2 May 2002 an initial request for additional information was sent to the Austrian authorities (letter DG TREN D(2002) 7022). A reply was received from Austria by letter dated 24 May 2002, registered by the Commission under No TREN A/59420. The Commission sent a second request for additional information on 5 July 2002 (letter DG TREN D(2002) 11286). Austria replied by letter of 7 August 2002, registered on 13 August 2002 under No SG (2002) A/8235.

II. DESCRIPTION OF THE AID

Background

(5) As a result of the terrorist attacks in the United States of America on 11 September 2002, some parts of airspace were closed for several days, in particular US airspace, which was completely closed between 11 and 14 September 2002, and was only gradually reopened to air traffic from 15 September 2001. Other States saw fit to take similar measures for all or part of their own airspace.

⁽¹⁾ OJ C 309, 12.12.2002, p. 5.

⁽²⁾ See footnote 1.

- (6) During this period, air carriers had to cancel flights affected by the closure of the airspace concerned. In addition, they suffered losses due to the disruption of other traffic and the fact that some passengers were unable to travel to their final destinations.
- (7) The extent and suddenness of these events as well as the costs sustained by air carriers prompted the Member States to consider special compensation schemes.

The scheme notified

- (8) In this connection, Austria proposed to introduce a scheme to compensate Austrian air carriers for operational losses sustained during the period between 11 and 14 September 2001.
- (9) All air carriers which hold an air carrier's licence issued by the Austrian authorities in accordance with Council Regulation (EEC) No 2407/92 of 23 July 1992 on licensing of air carriers⁽³⁾ are eligible for compensation. The measures notified are solely in respect of losses notified to the Austrian authorities by companies of the Austrian Airlines group, i.e. Austrian Airlines, Tyrolean Airlines, Lauda Air and Rheintalflug. However, Austria has confirmed to the Commission that other air carriers which hold a licence issued by the Austrian authorities are eligible for compensation under the scheme.
- (10) The maximum amount of compensation may not under any circumstances exceed four 365ths of the company's total annual turnover.
- (11) The eligible losses determined in this manner must be verified and certified by the accountants of the company concerned on the basis of the specified eligibility criteria.
- (12) Austria has assured the Commission that it will submit a report on payments made during the six months following the approval of the scheme.
- (13) On 16 October 2001 the Commission decided that a scheme providing for compensation for losses sustained during the period between 11 and 14 September 2001 was partly compatible with the common market. This decision is based on Article 87(2)(b) of the Treaty and the guidelines defined in the Communication from the Commission to the European Parliament and the Council 'The repercussions of the terrorist attacks in the United States on the air transport industry'⁽⁴⁾ (hereinafter the

Communication of 10 October 2001). Austria was authorised to pay the sum of EUR 1 419 000 for this purpose.

- (14) The notified scheme to which this Decision refers provides for two further measures in respect of which a formal investigation was opened by the decision of 16 October 2002:

— the first, referred to as Measure 2b in the abovementioned decision, provides for compensation for the cancelled transatlantic flight on 15 September 2001 (amount notified: EUR 55 727);

— the second, referred to as Measure 3, is intended to provide compensation for loss of revenue on all flights except those to the USA. For this purpose, the average number of passengers per day and route between 11 and 14 September 2001 was compared with the number for the period between 1 and 10 September. The deficit of 8 630 passengers was multiplied by the average income per passenger on these routes to obtain the sum concerned. The amount notified was EUR 1 908 128.

- (15) The Commission decided to open a formal investigation since it doubts whether this aid scheme is compatible with the common market. With regard to Measure 2b, which covers 15 September 2001, its doubts concern not only the fact that the period referred to in point 35 of the Communication of 10 October 2001 was exceeded, but also and above all the fact that there were no special events and that the nature of the eligible losses changes after 14 September 2001. With regard to Measure 3, which involves the greatest amount financially, the Commission doubts whether this measure is compatible with the common market concern in particular since Austria has failed to demonstrate the direct link which, according to point 35 of the abovementioned Communication, must exist between the eligible costs and the closure of airspace, as well as the fact that the measure obviously concerns geographical areas which were not affected by the closure.

III. COMMENTS FROM INTERESTED PARTIES

- (16) The Commission has not received any comments from third parties within the period of one month.

⁽³⁾ OJ L 240, 24.8.1992, p. 1.

⁽⁴⁾ COM(2001) 574 final, 10.10.2001, available on: http://europa.eu.int/eur-lex/de/com/cnc/2001/com2001_0574de01.pdf

IV. COMMENTS BY AUSTRIA

- (17) Austria sent the Commission further comments by letter of 16 December 2002, registered by the Commission under No TREN (2002) A/72621.
- (18) With regard to Austrian Airlines' transatlantic flight cancelled on 15 September (Measure 2b), Austria stated that this flight was cancelled following its original decision to put armed security guards on the flight. Authorisation could not be obtained from the US authorities in good time, and so the necessary preparations for the flight could not be made. Austria further stated that, in its view, flights restarted only gradually, which the Commission itself recognised in its decision, and that such cancellations show that the situation remained chaotic even after 14 September 2001.
- (19) Finally, Austria confirmed that it intends to pay the sum of EUR 55 727, which was already disputed when the investigation started, pursuant to Measure 2b.
- (20) Austria has justified the general compensation scheme for the entire network of routes (Measure 3), to which the Commission had raised objections, by reference to its interpretation of the Communication from the Commission of 10 October 2001 and the letters from Commission departments to the Member States of 14 November 2001, and not by reference to previous decisions taken by the Commission in respect of other Member States⁽⁵⁾, to which the Commission had drawn Austria's attention. Austria also made other statements about the proposed compensation scheme.
- (21) Austria first of all calculated the actual losses, based on the averages for August 2001, for transfer passengers in the Austrian Airlines' network who did not board their onward flight because the company's transatlantic flights were cancelled between 11 and 14 September 2001. These losses amount to EUR [...].
- (22) Austria furthermore calculated that about [...] % of passengers on Austrian Airlines' transatlantic flights cancelled between 11 and 14 September 2001, for which compensation for losses was approved by the
- decision of 16 October, were on the outward part of their journey, and that these passengers' return flights were also cancelled. Austria confirmed that this component had not been taken into consideration in its first notification and provided an exact estimate based on figures for the previous month, putting the loss at EUR 1 235 700.
- (23) Further losses relating to passengers who were similarly in transfer on the other parts of Austrian Airlines' network and whose return flights were cancelled were calculated as described in recital 21 and estimated at EUR [...].
- (24) Finally, the Austrian Airlines group sustained similar losses of EUR [...] for transfer passengers arriving for transatlantic flights by other air carriers which had to be cancelled on the same days.
- (25) Finally, Austria confirmed that, instead of the amount of EUR 1 908 128 stated in the original notification, it planned to pay the sum of EUR 1 983 333 under this measure, the total of the four amounts indicated in recitals 21 to 24.

V. ASSESSMENT OF THE AID

Existence of the aid

- (26) Article 87(1) of the Treaty states that 'save as otherwise provided in this Treaty, any aid granted by a Member State or through State resources [...] which distorts or threatens to distort competition by favouring certain undertakings or the production of certain goods shall, insofar as it affects trade between Member States, be incompatible with the common market'.
- (27) The aid to the air carriers is being granted from State resources and therefore gives them an economic advantage.
- (28) The scheme for air carriers to which this Decision refers is selective in nature. Furthermore, the four air carriers for which the aid is primarily intended are expressly named (see recital 9).

⁽⁵⁾ See similar Decisions concerning France (N 806/2001 of 30 January 2002), the United Kingdom (N 854/2001 of 12 March 2002) and Germany (N 269/2002 of 2 July 2002), available at: http://europa.eu.int/comm/secretariat_general/sgb/state_aids/transports.htm

(29) Since the opening up of the air transport market on 1 January 1993 following the entry into force of Council Regulation (EEC) No 2407/92 and Council Regulation (EEC) No 2408/92 of 23 July 1992 on access for Community air carriers to intra-Community air routes⁽⁶⁾, as amended by the Act of Accession of Austria, Finland and Sweden, air carriers in the individual Member States are in competition with each other. The four air carriers for which the aid is intended operate in the Community market. The proposed aid and the resulting advantages for the undertakings concerned affect trade between the Member States and could distort competition.

(30) These measures, which constitute State aid, are only compatible with the common market if they are covered by one of the four proposed derogations.

Legal basis for assessment of the aid

(31) The derogations provided for in Article 87(2)(a) and (c) of the Treaty do not apply since the aid concerned is neither aid having a social character, granted to individual consumers, or aid granted to the economy of certain areas of the Federal Republic of Germany.

(32) The derogations provided for in Article 87(3)(a) and (c) of the Treaty also do not apply since the aid is neither to promote the economic development of areas where the standard of living is abnormally low or where there is serious underemployment, nor is it to facilitate the development of certain economic activities or of certain economic areas.

(33) Similarly, the provisions of Article 87(3)(b) and (d) of the Treaty also do not apply, since these concern aid to promote important projects of common European interest or to remedy a serious disturbance in the economy of a Member State and aid to promote culture and heritage conservation.

(34) In accordance with Article 87(2)(b) of the Treaty, aid to make good the damage caused by natural disasters or exceptional circumstances is compatible with the common market. In paragraph 33 of its Communication of 10 October 2001, the Commission expresses the view

that the events of 11 September 2001 can be regarded as exceptional occurrences within the meaning of Article 87(2)(b) of the Treaty.

(35) In paragraph 35 of its Communication of 10 October 2001, the Commission explains the conditions which it believes must be fulfilled for compensation relating to such events to be compatible with Article 87(2)(b) of the Treaty:

'The Commission considers that the costs arising directly from the closure of American airspace between 11 and 14 September 2001 are a direct consequence of the events of 11 September. They may therefore give rise to compensation by Member States in accordance with Article 87(2)(b) of the Treaty on the following conditions:

— compensation is paid in a non-discriminatory manner to all airlines in the given Member States,

— it concerns only the costs incurred during the days 11 to 14 September 2001 following the grounding of air traffic decided by the American authorities,

— the amount of compensation is calculated accurately and objectively by comparing the traffic recorded by each airline during the four days in question with that recorded by the same airline in the preceding week, adjusted to take account of the development in the corresponding period of 2000. The maximum amount of compensation, which must take account in particular both of the actual costs incurred and those avoided, is equal to the loss of revenue duly recorded during these four days. It must of course be less than four 365ths of the airline's turnover.'

Compatibility in accordance with Article 87(2)(b) of the Treaty

(a) *Measure 2b (Transatlantic flight on 15 September 2001)*

(36) The notified scheme clearly surpasses the framework considered permissible in the Communication of 10 October 2001 as regards the application of Article 87(2)(b) of the Treaty, namely a restriction to the period between 11 and 14 September 2001 and to losses which arose during this period and have been approved and which are due to the closure of airspace.

⁽⁶⁾ OJ L 240, 24.8.1992, p. 8.

- (37) In paragraph 35 of its Communication of 10 October 2001, the Commission did state that the closure of American airspace between 11 and 14 September 2001 was an 'exceptional occurrence' and that compensation for losses due to this closure is permissible, but in the Commission's view this does not apply to losses which are only indirectly related to the closure of the airspace. This applies in particular to losses sustained by air carriers following the reopening of airspace on 15 September.
- (38) In its Communication of 10 October 2001, the Commission explained that compensation may be paid 'only for the costs incurred following the grounding of air traffic decided by the American authorities'. The explanations given by the Austrian authorities, however, make it quite clear that the flight concerned was unable to be operated due to its own decision to take a special measure and to use armed personnel. That measure required the approval of the US authorities, which Austria failed to receive in good time. The Austrian authorities therefore recognise that the decisive factor after 14 September 2001 was not the grounding of air traffic, but more restrictive operations on the air routes concerned.
- (39) The Commission is therefore unable to share the view that the indirect effects of the attacks of 11 September, such as operational difficulties faced by air carriers after 15 September, can be considered to be the same as the direct effects, by which is meant the complete closure of certain parts of airspace until 14 September which made it impossible to operate on the routes concerned. The indirect effects of the attacks were felt for a longer or shorter time in many sectors of the global economy, and even continue to be felt, but these difficulties, as serious as they may be, can no more be regarded as exceptional occurrences justifying the application of Article 87(2)(b) of the Treaty than other economic or political crises.
- (40) The Commission would also draw attention to the fact that, as part of its task of ensuring the equal treatment of undertakings, it has not authorised compensation in any of its relevant decisions ⁽⁷⁾ for a period after 14 September 2001.
- (41) The Commission therefore concludes that Measure 2b for an amount of EUR 55 727 as compensation for losses incurred after 14 September 2001 is not compatible with the common market, and in particular that it does not fall within the scope of the derogation provided for in Article 87(2)(b) of the Treaty, according to the interpretation made in the Communication of 10 October 2001.
- (b) *Measure 3 (other planned compensation)*
- (42) The Commission notes that all air carriers which hold an air carrier's licence issued by the Member State concerned are eligible for compensation. It is therefore obviously a non-discriminatory measure.
- (43) The Communication of 10 October 2001 approves the principle of compensation for the direct consequences of the closure of airspace by the US authorities. The detailed arrangements for the application of the Commission Communication were set out in letters dated 14 November 2001 from the relevant Commission departments to the Member States. These letters referred in particular to the direct link which must exist between the closure of the entire US airspace and the resulting disturbances in European airspace. In this context, this measure provides, in accordance with the information given by Austria in its reply to the initiation of the procedure, for compensation only for networks and routes which were affected by the closure of airspace and by the resulting disturbances in other networks, such as passengers not being able to be carried to their final destination. The Commission takes the view that this measure therefore corresponds to the position laid down in its Communication of 10 October 2001, in particular as regards the direct link which must exist between the costs eligible for compensation and the closure of airspace.
- (44) This measure applies only for the period between 11 and 14 September 2001 and is confined to losses arising during this period which are directly due to the closure of airspace. It therefore complies with the restrictions laid down by the Commission in this respect.
- (45) The method used to calculate the operational losses for which compensation may be paid is based on the method laid down by the Commission in its Communication, the details of which were explained in the letters of 14 November 2001 from the Commission departments to the Member States. The loss of revenue during the four days in question was determined on the basis of the companies' most recent figures at the time of the attacks. In particular, Austria considered only losses of revenue due to the actual cancellation of transatlantic flights or the corresponding transfers.

⁽⁷⁾ In addition to the decisions referred to in footnote 5, see also the final negative Decision 2003/196/EC (OJ L 77, 24.3.2003, p. 61) concerning State aid C 42/2002 which France proposed to implement and which was intended to extend beyond 14 September 2001 the compensation for costs incurred initially authorised by Decision N 806/2001.

With regard to the loss of revenue per passenger, Austria made it clear in its reply that no variable costs had to be deducted for these flights since they were all operated in the normal manner.

Lastly, the maximum amount of four 365ths of turnover applied by the Member State corresponds to the maximum laid down by the Commission.

The Commission therefore considers that this calculation is within the framework of the maximum amount it laid down in its Communication of 10 October 2001, corresponding to the net loss of revenue on these four days.

- (46) In accordance with the detailed rules of application indicated in the abovementioned letters of 14 November 2001 from the Commission departments, the Member State has undertaken to inform the Commission, following the initial notification, of the conditions for the application of this aid scheme within six months of its approval.
- (47) The Commission therefore concludes that the supplementary measure taken by Austria in respect of air carriers following the closure of airspace between 11 and 14 September 2001 for the sum of EUR 1 983 333 corresponds to the rules laid down in its Communication of 10 October 2001, and can therefore be regarded as compatible with Article 87(2)(b) of the Treaty.

VI. CONCLUSIONS

- (48) The Commission concludes that the notified measure for an amount of EUR 55 727 as compensation for losses after 14 September 2001 is not compatible with the common market and in particular does not fall under the derogation provided for in Article 87(2)(b) of the Treaty, as interpreted in the Commission Communication of 10 October 2001. However, the Commission takes the view that the additional measure taken by Austria in respect of air carriers following the closure of airspace between 11 and 14 September 2001 amounting to EUR 1 983 333 complies with the rules laid down in

its Communication of 20 October 2001 and can therefore be regarded as compatible with the common market in accordance with Article 87(2)(b) of the Treaty,

HAS ADOPTED THIS DECISION:

Article 1

The State aid amounting to EUR 55 727 which Austria intends to pay to an Austrian air carrier as compensation for losses sustained after 14 September 2001 following the closure of certain parts of airspace is not compatible with the common market.

The aid concerned may therefore not be paid.

Article 2

However, the aid amounting to EUR 1 983 333 which Austria intends to pay to Austrian Airlines is compatible with the common market in accordance with Article 87(2)(b) of the Treaty.

Payment of this aid is therefore approved.

Article 3

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

Article 4

This Decision is addressed to the Republic of Austria.

Done at Brussels, 30 April 2003.

For the Commission
Loyola DE PALACIO
Vice-President