

English edition

Legislation

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⁽¹⁾ Text with EEA relevance

I

(Acts whose publication is obligatory)

COUNCIL REGULATION (EC) No 1798/2003
of 7 October 2003
on administrative cooperation in the field of value added tax and repealing Regulation (EEC) No 218/92

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty establishing the European Community, and in particular Article 93 thereof,

Having regard to the proposal from the Commission ⁽¹⁾,

Having regard to the opinion of the European Parliament ⁽²⁾,

Having regard to the opinion of the European Economic and Social Committee ⁽³⁾,

Whereas:

- (1) Tax evasion and tax avoidance extending across the frontiers of Member States lead to budget losses and violations of the principle of fair taxation and are liable to bring about distortions of capital movements and of the conditions of competition. They therefore affect the operation of the internal market.
- (2) Combating value added tax (VAT) evasion calls for close cooperation between the administrative authorities in each Member State responsible for the application of the provisions in that field.
- (3) The tax harmonisation measures taken to complete the internal market should therefore include the establishment of a common system for the exchange of information between the Member States whereby the Member States' administrative authorities are to assist each other and cooperate with the Commission in order to ensure the proper application of VAT on supplies of goods and services, intra-Community acquisition of goods and importation of goods.
- (4) Electronic storage and transmission of certain data for VAT control purposes is indispensable for the proper functioning of the VAT system.

(5) The conditions for the exchange of, and direct access of Member States to, electronically stored data in each Member State should be clearly defined. Operators should have access to certain of such data where required for the fulfilment of their obligations.

(6) The Member State of consumption has primary responsibility for assuring that non-established suppliers comply with their obligations. To this end, the application of the temporary special scheme for electronically supplied services that is provided for in Article 26c of Sixth Council Directive 77/388/EEC of 17 May 1977 on the harmonisation of the laws of Member States relating to turnover taxes, Common system of value added tax: uniform basis of assessment ⁽⁴⁾, requires the definition of rules concerning the provision of information and transfer of money between the Member State of identification and the Member State of consumption.

(7) Council Regulation (EEC) No 218/92 of 27 January 1992 on administrative cooperation in the field of indirect taxation (VAT) ⁽⁵⁾ established in this respect a system of close cooperation amongst the Member States' administrative authorities and between those authorities and the Commission.

(8) Regulation (EEC) No 218/92 supplements Council Directive 77/799/EEC of 19 December 1977 concerning mutual assistance by the competent authorities of the Member States in the field of direct and indirect taxation ⁽⁶⁾.

(9) Those two legal instruments have proved to be effective but are no longer able to meet the new requirements of administrative cooperation resulting from the ever closer integration of economies within the internal market.

⁽¹⁾ OJ C 270 E, 25.9.2001, p. 87.

⁽²⁾ OJ C 284 E, 21.11.2002, pp. 121 and 191.

⁽³⁾ OJ C 80, 3.4.2002, p. 76.

⁽⁴⁾ OJ L 145, 13.6.1977, p. 1. Directive as last amended by Directive 2002/92/EC (OJ L 331, 7.12.2002, p. 27).

⁽⁵⁾ OJ L 24, 1.2.1992, p. 1. Regulation as last amended by Regulation (EC) No 792/2002 (OJ L 128, 15.5.2002, p. 1).

⁽⁶⁾ OJ L 336, 27.12.1977, p. 15. Directive as last amended by the 1994 Act of Accession.

- (10) The existence of two separate instruments for cooperation on VAT has, moreover, hampered effective cooperation between tax administrations.
- (11) The rights and obligations of all parties concerned are currently ill-defined. Clearer and binding rules governing cooperation between Member States are therefore necessary.
- (12) There is not enough direct contact between local or national anti-fraud offices, with communication between central liaison offices being the rule. This leads to inefficiency, under-use of the arrangements for administrative cooperation and delays in communication. Provision should therefore be made to bring about more direct contacts between services with a view to making cooperation more efficient and faster.
- (13) Cooperation is also not intensive enough, in that, apart from the VAT information exchange system (VIES), there are not enough automatic or spontaneous exchanges of information between Member States. Exchanges of information between the respective administrations as well as between administrations and the Commission should be made more intensive and swifter in order to combat fraud more effectively.
- (14) The provisions on VAT administrative cooperation of Regulation (EEC) No 218/92 and of Directive 77/799/EEC should therefore be joined and strengthened. For reasons of clarity this should be done in a single new instrument which replaces Regulation (EEC) No 218/92.
- (15) This Regulation should not affect other Community measures which contribute to combating VAT fraud.
- (16) For the purposes of this Regulation, it is appropriate to consider limitations of certain rights and obligations laid down by 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 ⁽¹⁾ in order to safeguard the interests referred to in Article 13(1)(e) of that Directive.
- (17) The measures necessary for the implementation of this Regulation should be adopted in accordance with Council Decision 1999/468/EC of 28 June 1999 laying down the procedures for the exercise of implementing powers conferred on the Commission ⁽²⁾.
- (18) This Regulation respects the fundamental rights and observes the principles which are recognised in particular by the Charter of Fundamental Rights of the European Union,

HAS ADOPTED THIS REGULATION:

CHAPTER I

GENERAL PROVISIONS

Article 1

1. This Regulation lays down the conditions under which the administrative authorities in the Member States responsible for the application of the laws on VAT on supplies of goods and services, intra-Community acquisition of goods and importation of goods are to cooperate with each other and with the Commission to ensure compliance with those laws.

To that end, it lays down rules and procedures to enable the competent authorities of the Member States to cooperate and to exchange with each other any information that may help them to effect a correct assessment of VAT.

This Regulation also lays down rules and procedures for the exchange of certain information by electronic means, in particular as regards VAT on intra-Community transactions.

For the period provided for in Article 4 of Directive 2002/38/EC ⁽³⁾, it also lays down rules and procedures for the exchange by electronic means of value added tax information on services supplied electronically in accordance with the special scheme provided for in Article 26c of Directive 77/388/EEC, and also for any subsequent exchange of information and, as far as services covered by that special scheme are concerned, for the transfer of money between Member States' competent authorities.

2. This Regulation shall not affect the application in the Member States of the rules on mutual assistance in criminal matters.

Article 2

For the purposes of this Regulation:

1. 'competent authority of a Member State', means:

— in Belgium:

Le ministre des finances

De Minister van financiën,

— in Denmark:

Skatteministeren,

— in Germany:

Bundesministerium der Finanzen,

— in Greece:

Υπουργείο Οικονομίας και Οικονομικών,

— in Spain:

El Secretario de Estado de Hacienda,

⁽¹⁾ OJ L 281, 23.11.1995, p. 31.

⁽²⁾ OJ L 184, 17.7.1999, p. 23.

⁽³⁾ OJ L 128, 15.5.2002, p. 41.

- in France:
le ministre de l'économie, des finances et de l'industrie,
- in Ireland:
The Revenue Commissioners,
- in Italy:
il Capo del Dipartimento delle Politiche Fiscali,
- in Luxembourg:
L'Administration de l'Enregistrement et des Domaines,
- in the Netherlands:
De minister van Financiën,
- in Austria:
Bundesminister für Finanzen,
- in Portugal:
O Ministro das Finanças,
- in Finland:
Valtiovarainministeriö
Finansministeriet,
- in Sweden:
Chefen för Finansdepartementet,
- in the United Kingdom:
The Commissioners of Customs and Excise;
2. 'central liaison office', means the office which has been designated under Article 3(2) with principal responsibility for contacts with other Member States in the field of administrative cooperation;
3. 'liaison department', means any office other than the central liaison office with a specific territorial competence or a specialised operational responsibility which has been designated by the competent authority pursuant to Article 3(3) to exchange directly information on the basis of this Regulation;
4. 'competent official', means any official who can directly exchange information on the basis of this Regulation for which he has been authorised pursuant to Article 3(4);
5. 'requesting authority', means the central liaison office, a liaison department or any competent official of a Member State who makes a request for assistance on behalf of the competent authority;
6. 'requested authority', means the central liaison office, a liaison department or any competent official of a Member State who receives a request for assistance on behalf of the competent authority;
7. 'intra-Community transactions', means the intra-Community supply of goods or services;
8. 'intra-Community supply of goods', means any supply of goods which must be declared in the recapitulative statement provided for in Article 22(6)(b) of Directive 77/388/EEC;
9. 'intra-Community supply of services', means any supply of services covered by Article 28b(C), (D), (E) and (F) of Directive 77/388/EEC;
10. 'intra-Community acquisition of goods', means acquisition of the right to dispose as owner of movable tangible property under Article 28a(3) of Directive 77/388/EEC;
11. 'VAT identification number', means the number provided for in Article 22(1)(c), (d) and (e) of Directive 77/388/EEC;
12. 'administrative enquiry', means all the controls, checks and other action taken by Member States in the performance of their duties with a view to ensuring proper application of VAT legislation;
13. 'automatic exchange', means the systematic communication of predefined information to another Member State, without prior request, at pre-established regular intervals;
14. 'structured automatic exchange', means the systematic communication of predefined information to another Member State, without prior request, as and when that information becomes available;
15. 'spontaneous exchange', means the irregular communication without prior request of information to another Member State;
16. 'person', means:
- a natural person;
 - a legal person; or
 - where the legislation in force so provides, an association of persons recognised as having the capacity to perform legal acts but lacking the legal status of a legal person;
17. 'to grant access', means to authorise access to the relevant electronic database and to obtain data by electronic means;
18. 'by electronic means', means using electronic equipment for the processing (including digital compression) and storage of data, and employing wires, radio transmission, optical technologies or other electromagnetic means;
19. 'CCN/CSI network', means the common platform based on the common communication network (CCN) and common system interface (CSI), developed by the Community to ensure all transmissions by electronic means between competent authorities in the area of customs and taxation.

Article 3

1. The competent authorities referred to in point 1 of Article 2 are the authorities in whose name this Regulation is to be applied, whether directly or by delegation.

2. Each Member State shall designate a single central liaison office to which principal responsibility shall be delegated for contacts with other Member States in the field of administrative cooperation. It shall inform the Commission and the other Member States thereof.

3. The competent authority of each Member State may designate liaison departments. The central liaison office shall be responsible for keeping the list of those departments up to date and making it available to the central liaison offices of the other Member States concerned.

4. The competent authority of each Member State may in addition designate, under the conditions laid down by it, competent officials who can directly exchange information on the basis of this Regulation. When it does so, it may limit the scope of such designation. The central liaison office shall be responsible for keeping the list of those officials up to date and making it available to the central liaison offices of the other Member States concerned.

5. The officials exchanging information under Articles 11 and 13 shall in any case be deemed to be competent officials for this purpose, in accordance with conditions laid down by the competent authorities.

6. Where a liaison department or a competent official sends or receives a request or a reply to a request for assistance, it shall inform the central liaison office of its Member State under the conditions laid down by the latter.

7. Where a liaison department or a competent official receives a request for assistance requiring action outside its territorial or operational area, it shall forward such request without delay to the central liaison office of its Member State and inform the requesting authority thereof. In such a case, the period laid down in Article 8 shall start the day after the request for assistance has been forwarded to the central liaison office.

Article 4

1. The obligation to give assistance as provided for in this Regulation shall not cover the provision of information or documents obtained by the administrative authorities referred to in Article 1 acting with the authorisation or at the request of the judicial authority.

2. However, where a competent authority has the powers in accordance with national law to communicate the information referred to in paragraph 1, it may be communicated as a part

of the administrative cooperation provided for in this Regulation. Any such communication must have the prior authorisation of the judicial authority if the necessity of such authorisation derives from national law.

CHAPTER II

EXCHANGE OF INFORMATION ON REQUEST

Section 1

Request for information and for administrative enquiries*Article 5*

1. At the request of the requesting authority, the requested authority shall communicate the information referred to in Article 1, including any information relating to a specific case or cases.

2. For the purpose of forwarding the information referred to in paragraph 1, the requested authority shall arrange for the conduct of any administrative enquiries necessary to obtain such information.

3. The request referred to in paragraph 1 may contain a reasoned request for a specific administrative enquiry. If the Member State takes the view that no administrative enquiry is necessary, it shall immediately inform the requesting authority of the reasons thereof.

4. In order to obtain the information sought or to conduct the administrative enquiry requested, the requested authority or the administrative authority to which it has recourse shall proceed as though acting on its own account or at the request of another authority in its own Member State.

Article 6

Requests for information and for administrative enquiries pursuant to Article 5 shall, as far as possible, be sent using a standard form adopted in accordance with the procedure referred to in Article 44(2).

Article 7

1. At the request of the requesting authority, the requested authority shall communicate to it any pertinent information it obtains or has in its possession as well as the results of administrative enquiries, in the form of reports, statements and any other documents, or certified true copies or extracts thereof.

2. Original documents shall be provided only where this is not contrary to the provisions in force in the Member State in which the requested authority is established.

Section 2

Time limit for providing information*Article 8*

The requested authority shall provide the information referred to in Articles 5 and 7 as quickly as possible and no later than three months following the date of receipt of the request.

However, where the requested authority is already in possession of that information, the time limit shall be reduced to a maximum period of one month.

Article 9

In certain special categories of cases, time limits different from the ones provided for in Article 8 may be agreed between the requested and the requesting authorities.

Article 10

Where the requested authority is unable to respond to the request by the deadline, it shall inform the requesting authority in writing forthwith of the reasons for its failure to do so, and when it considers it would be likely to be able to respond.

Section 3

Presence in administrative offices and participation in administrative enquiries*Article 11*

1. By agreement between the requesting authority and the requested authority and in accordance with the arrangements laid down by the latter, officials authorised by the requesting authority may, with a view to exchanging the information referred to in Article 1, be present in the offices where the administrative authorities of the Member State in which the requested authority is established carry out their duties. Where the requested information is contained in documentation to which the officials of the requested authority have access, the officials of the requesting authority shall be given copies of the documentation containing the requested information.

2. By agreement between the requesting authority and the requested authority, and in accordance with the arrangements laid down by the latter, officials designated by the requesting authority may, with a view to exchanging the information referred to in Article 1, be present during the administrative enquiries. Administrative enquiries shall be carried out exclusively by the officials of the requested authority. The requesting authority's officials shall not exercise the powers of inspection conferred on officials of the requested authority. They may, however, have access to the same premises and documents as the latter, through their intermediary and for the sole purpose of the administrative enquiry being carried out.

3. The officials of the requesting authority present in another Member State in accordance with paragraphs 1 and 2 must at all times be able to produce written authority stating their identity and their official capacity.

Section 4

Simultaneous controls*Article 12*

With a view to exchanging the information referred to in Article 1, two or more Member States may agree to conduct simultaneous controls, in their own territory, of the tax situation of one or more taxable persons who are of common or complementary interest, whenever such controls would appear to be more effective than controls carried out by only one Member State.

Article 13

1. A Member State shall identify independently the taxable persons whom it intends to propose for a simultaneous control. The competent authority of that Member State shall notify the competent authority in the other Member States concerned of the cases proposed for simultaneous controls. It shall give reasons for its choice, as far as possible, by providing the information which led to its decision. It shall specify the period of time during which such controls should be conducted.

2. The Member States concerned shall then decide whether they wish to take part in the simultaneous controls. On receipt of a proposal for a simultaneous control, the competent authority of the Member State shall confirm its agreement or communicate its reasoned refusal to its counterpart authority.

3. Each competent authority of the Member States concerned shall appoint a representative to be responsible for supervising and coordinating the control operation.

CHAPTER III

REQUEST FOR ADMINISTRATIVE NOTIFICATION*Article 14*

The requested authority shall, at the request of the requesting authority and in accordance with the rules governing the notification of similar instruments in the Member State in which it is established, notify the addressee of all instruments and decisions which emanate from the administrative authorities and concern the application of VAT legislation in the territory of the Member State in which the requesting authority is established.

Article 15

Requests for notification, mentioning the subject of the instrument or decision to be notified, shall indicate the name, address and any other relevant information for identifying the addressee.

Article 16

The requested authority shall inform the requesting authority immediately of its response to the request for notification and notify it, in particular, of the date of notification of the decision or instrument to the addressee.

CHAPTER IV

EXCHANGE OF INFORMATION WITHOUT PRIOR REQUEST*Article 17*

Without prejudice to the provisions of Chapters V and VI, the competent authority of each Member State shall, by automatic or structured automatic exchange, forward the information referred to in Article 1 to the competent authority of any other Member State concerned, in the following cases:

1. where taxation is deemed to take place in the Member State of destination and the effectiveness of the control system necessarily depends on the information provided by the Member State of origin;
2. where a Member State has grounds to believe that a breach of VAT legislation has been committed or is likely to have been committed in the other Member State;
3. where there is a risk of tax loss in the other Member State.

Article 18

The following shall be determined in accordance with the procedure referred to in Article 44(2):

1. the exact categories of information to be exchanged;
2. the frequency of the exchanges;
3. the practical arrangements for the exchange of information.

Each Member State shall determine whether it will take part in the exchange of a particular category of information, as well as whether it will do so in an automatic or structured automatic way.

Article 19

The competent authorities of the Member States may, in any case by spontaneous exchange, forward to each other, any information referred to in Article 1 of which they are aware.

Article 20

Member States shall take the necessary administrative and organisational measures to facilitate the exchanges provided for in this Chapter.

Article 21

A Member State cannot be obliged, for the purposes of implementing the provisions of this Chapter, to impose new obligations on persons liable for VAT with a view to collecting information nor to bear disproportionate administrative burdens.

CHAPTER V

STORAGE AND EXCHANGE OF INFORMATION SPECIFIC TO INTRA-COMMUNITY TRANSACTIONS*Article 22*

1. Each Member State shall maintain an electronic database in which it shall store and process the information that it collects in accordance with Article 22(6)(b) in the version given in Article 28h of Directive 77/388/EEC.

To enable that information to be used in the procedures provided for in this Regulation, the information shall be stored for at least five years from the end of the calendar year in which access to the information is to be granted.

2. Member States shall ensure that their databases are kept up to date, and are complete and accurate.

Criteria shall be defined, in accordance with the procedure referred to in Article 44(2), to determine which changes are not pertinent, essential or useful and therefore need not be made.

Article 23

On the basis of the data stored in accordance with Article 22, the competent authority of a Member State shall have communicated to it automatically and without delay by any other Member State the following information, to which it may also have direct access:

1. VAT identification numbers issued by the Member State receiving the information;
2. the total value of all intra-Community supplies of goods to persons holding a VAT identification number by all operators identified for the purposes of VAT in the Member State providing the information.

The values referred to in point 2 shall be expressed in the currency of the Member State providing the information and shall relate to calendar quarters.

Article 24

On the basis of the data stored in accordance with Article 22 and solely in order to prevent a breach of VAT legislation, the competent authority of a Member State shall, wherever it considers it necessary for the control of intra-Community acquisitions of goods, obtain directly and without delay, or have direct access to by electronic means, any of the following information:

1. the VAT identification numbers of the persons who effected the supplies referred to in point 2 of Article 23; and
2. the total value of such supplies from each such person to each person holding a VAT identification number referred to in point 1 of Article 23.

The values referred to in point 2 shall be expressed in the currency of the Member State providing the information and shall relate to calendar quarters.

Article 25

1. Where the competent authority of a Member State is obliged to grant access to information under Articles 23 and 24, it shall do so as soon as possible and within three months at the latest of the end of the calendar quarter to which the information relates.

2. By way of derogation from paragraph 1, where information is added to a database in the circumstances provided for in Article 22, access to such additional information shall be granted as quickly as possible and no later than three months from the end of the quarter in which it was collected.

3. The conditions under which access to the corrected information may be granted shall be laid down in accordance with the procedure referred to in Article 44(2).

Article 26

Where, for the purposes of Articles 22 to 25, the competent authorities of the Member States store information in electronic databases and exchange such information by electronic means, they shall take all measures necessary to ensure compliance with Article 41.

Article 27

1. Each Member State shall maintain an electronic database containing a register of persons to whom VAT identification numbers have been issued in that Member State.

2. At any time the competent authority of a Member State may obtain directly or have communicated to it, from the data stored in accordance with Article 22, confirmation of the

validity of the VAT identification number under which a person has effected or received an intra-Community supply of goods or services.

On specific request, the requested authority shall also communicate the date of issue and, where appropriate, the expiry date of the VAT identification number.

3. On request, the competent authority shall also provide without delay the name and address of the person to whom the number has been issued, provided that such information is not stored by the requesting authority with a view to possible use at some future time.

4. The competent authorities of each Member State shall ensure that persons involved in the intra-Community supply of goods or of services and, for the period provided for in Article 4 of Directive 2002/38/EC, persons supplying services referred to in the last indent of Article 9(2)e of Directive 77/388/EEC are allowed to obtain confirmation of the validity of the VAT identification number of any specified person.

For the period provided for in Article 4 of Directive 2002/38/EC Member States shall, in particular, provide such confirmation by electronic means in accordance with the procedure referred to in Article 44(2).

5. Where, for the purposes of paragraphs 1 to 4, the competent authorities of the Member States store information in electronic databases and exchange such information by electronic means, they shall take all measures necessary to ensure compliance with Article 41.

CHAPTER VI

PROVISIONS CONCERNING THE SPECIAL SCHEME IN ARTICLE 26C OF DIRECTIVE 77/388/EEC

Article 28

The following provisions shall apply concerning the special scheme provided for in Article 26c in Directive 77/388/EEC. The definitions contained in point A of that Article shall also apply for the purpose of this Chapter.

Article 29

1. The information from the non-established taxable person to the Member State of identification when his activities commence set out in the second subparagraph of Article 26c(B)(2) of Directive 77/388/EEC is to be submitted in an electronic manner. The technical details, including a common electronic message, shall be determined in accordance with the procedure provided for in Article 44(2).

2. The Member State of identification shall transmit this information by electronic means to the competent authorities of the other Member States within 10 days from the end of the month during which the information was received from the non-established taxable person. In the same manner the competent authorities of the other Member States shall be informed of the allocated identification number. The technical details, including a common electronic message, by which this information is to be transmitted, shall be determined in accordance with the procedure provided for in Article 44(2).

3. The Member State of identification shall without delay inform by electronic means the competent authorities of the other Member States if a non-established taxable person is excluded from the identification register.

Article 30

The return with the details set out in the second subparagraph of Article 26c(B)(5) of Directive 77/388/EEC is to be submitted in an electronic manner. The technical details, including a common electronic message, shall be determined in accordance with the procedure provided for in Article 44(2).

The Member State of identification shall transmit this information by electronic means to the competent authority of the Member State concerned at the latest 10 days after the end of the month that the return was received. Member States which have required the tax return to be made in a national currency other than euro, shall convert the amounts into euro using the exchange rate valid for the last date of the reporting period. The exchange shall be done following the exchange rates published by the European Central Bank for that day, or, if there is no publication on that day, on the next day of publication. The technical details by which this information is to be transmitted shall be determined in accordance with the procedure provided for in Article 44(2).

The Member State of identification shall transmit by electronic means to the Member State of consumption the information needed to link each payment with a relevant quarterly tax return.

Article 31

The provisions in Article 22 shall apply also to information collected by the Member State of identification in accordance with Article 26c(B)(2) and (5) of Directive 77/388/EEC.

Article 32

The Member State of identification shall ensure that the amount the non-established taxable person has paid is transferred to the bank account denominated in euro, which has been designated by the Member State of consumption to which the payment is due. Member States which required the

payments in a national currency other than euro, shall convert the amounts into euro using the exchange rate valid for the last date of the reporting period. The exchange shall be done following the exchange rates published by the European Central Bank for that day, or, if there is no publication on that day, on the next day of publication. The transfer shall take place at the latest 10 days after the end of the month that the payment was received.

If the non-established taxable person does not pay the total tax due, the Member State of identification shall ensure that the payment is transferred to the Member States of consumption in proportion to the tax due in each Member State. The Member State of identification shall inform by electronic means the competent authorities of the Member States of consumption thereof.

Article 33

Member States shall notify by electronic means the competent authorities of the other Member States of the relevant bank account numbers for receiving payments according to Article 32.

Member States shall without delay notify by electronic means the competent authorities of the other Member States and the Commission of changes in the standard tax rate.

Article 34

Articles 28 to 33 shall apply for a period provided for in Article 4 of Directive 2002/38/EC.

CHAPTER VII

RELATIONS WITH THE COMMISSION

Article 35

1. The Member States and the Commission shall examine and evaluate how the arrangements for administrative cooperation provided for in this Regulation are working. The Commission shall pool the Member States' experience with the aim of improving the operation of those arrangements.

2. The Member States shall communicate to the Commission any available information relevant to their application of this Regulation.

3. A list of statistical data needed for evaluation of this Regulation shall be determined in accordance with the procedure referred to in Article 44(2). The Member States shall communicate these data to the Commission in so far as they are available and the communication is not likely to involve administrative burdens which would be unjustified.

4. With a view to evaluating the effectiveness of this system of administrative cooperation in combating tax evasion and tax avoidance, Member States may communicate to the Commission any other information referred to in Article 1.

5. The Commission shall forward the information referred to in paragraphs 2, 3 and 4 to the other Member States concerned.

CHAPTER VIII

RELATIONS WITH THIRD COUNTRIES

Article 36

1. When the competent authority of a Member State receives information from a third country, that authority may pass the information on to the competent authorities of Member States which might be interested in it and, in any event, to all those which request it, in so far as permitted by assistance arrangements with that particular third country.

2. Provided the third country concerned has given an undertaking to provide the assistance required to gather evidence of the irregular nature of transactions which appear to contravene VAT legislation, information obtained under this Regulation may be communicated to that third country, with the consent of the competent authorities which supplied the information, in accordance with their domestic provisions applying to the communication of personal data to third countries.

CHAPTER IX

CONDITIONS GOVERNING THE EXCHANGE OF INFORMATION

Article 37

Information communicated pursuant to this Regulation shall, as far as possible, be provided by electronic means under arrangements to be adopted in accordance with the procedure referred to in Article 44(2).

Article 38

Requests for assistance, including requests for notification, and attached documents may be made in any language agreed between the requested and requesting authority. The said requests shall only be accompanied by a translation into the official language or one of the official languages of the Member State in which the requested authority is established, in special cases when the requested authority gives a reason for asking for such a translation.

Article 39

For the period provided for in Article 4 of Directive 2002/38/EC, the Commission and the Member States shall ensure that such existing or new communication and information exchange systems which are necessary to provide for the exchanges of information described in Articles 29 and 30 are operational. The Commission will be responsible for whatever development of the common communication network/common system interface (CCN/CSI) is necessary to permit the exchange of this information between Member States. Member States will be responsible for whatever development of their systems is necessary to permit this information to be exchanged using the CCN/CSI.

Member States shall waive all claims for the reimbursement of expenses incurred in applying this Regulation except, where appropriate, in respect of fees paid to experts.

Article 40

1. The requested authority in one Member State shall provide a requesting authority in another Member State with the information referred to in Article 1 provided that:

- (a) the number and the nature of the requests for information made by the requesting authority within a specific period do not impose a disproportionate administrative burden on that requested authority;
- (b) that requesting authority has exhausted the usual sources of information which it could have used in the circumstances to obtain the information requested, without running the risk of jeopardising the achievement of the desired end.

2. This Regulation shall impose no obligation to have enquiries carried out or to provide information if the laws or administrative practices of the Member State which would have to supply the information do not authorise the Member State to carry out those enquiries or collect or use that information for that Member State's own purposes.

3. The competent authority of a Member State may refuse to provide information where the Member State concerned is unable, for legal reasons, to provide similar information. The Commission shall be informed of the grounds of the refusal by the requested Member State.

4. The provision of information may be refused where it would lead to the disclosure of a commercial, industrial or professional secret or of a commercial process, or of information whose disclosure would be contrary to public policy.

5. The requested authority shall inform the requesting authority of the grounds for refusing a request for assistance.

6. A minimum threshold triggering a request for assistance may be adopted in accordance with the procedure referred to in Article 44(2).

Article 41

1. Information communicated in any form pursuant to this Regulation shall be covered by the obligation of official secrecy and enjoy the protection extended to similar information under both the national law of the Member State which received it and the corresponding provisions applicable to Community authorities.

Such information may be used for the purpose of establishing the assessment base or the collection or administrative control of tax for the purpose of establishing the assessment base.

The information may also be used for the assessment of other levies, duties, and taxes covered by Article 2 of Council Directive 76/308/EEC of 15 March 1976 on mutual assistance for the recovery of claims relating to certain levies, duties, taxes and other measures ⁽¹⁾.

In addition, it may be used in connection with judicial proceedings that may involve penalties, initiated as a result of infringements of tax law without prejudice to the general rules and legal provisions governing the rights of defendants and witnesses in such proceedings.

2. Persons duly accredited by the Security Accreditation Authority of the European Commission may have access to this information only in so far as it is necessary for care, maintenance and development of the CCN/CSI network.

3. By way of derogation from paragraph 1, the competent authority of the Member State providing the information shall permit its use for other purposes in the Member State of the requesting authority, if, under the legislation of the Member State of the requested authority, the information can be used for similar purposes.

4. Where the requesting authority considers that information it has received from the requested authority is likely to be useful to the competent authority of a third Member State, it may transmit it to the latter authority. It shall inform the requested authority thereof in advance. The requested authority may require that the transmission of the information to a third party be subject to its prior agreement.

5. Member States shall, for the purpose of the correct application of this Regulation, restrict the scope of the obligations and rights provided for in Article 10, Article 11(1), Articles 12 and 21 of Directive 95/46/EC to the extent required in order to safeguard the interests referred to in Article 13(e) of that Directive.

⁽¹⁾ OJ L 73, 19.3.1976, p. 18. Directive as last amended by Directive 2001/44/EC (OJ L 175, 28.6.2001, p. 17).

Article 42

Reports, statements and any other documents, or certified true copies or extracts thereof, obtained by the staff of the requested authority and communicated to the requesting authority under the assistance provided for by this Regulation may be invoked as evidence by the competent bodies of the Member State of the requesting authority on the same basis as similar documents provided by another authority of that country.

Article 43

1. For the purpose of applying this Regulation, Member States shall take all necessary measures to:

- (a) ensure effective internal coordination between the competent authorities referred to in Article 3;
- (b) establish direct cooperation between the authorities authorised for the purposes of such coordination;
- (c) ensure the smooth operation of the information exchange arrangements provided for in this Regulation.

2. The Commission shall communicate to each Member State, as quickly as possible, any information which it receives and which it is able to provide.

CHAPTER X

GENERAL AND FINAL PROVISIONS*Article 44*

1. The Commission shall be assisted by the Standing Committee on Administrative Cooperation, (hereinafter referred to as the Committee).

2. Where reference is made to this paragraph, Articles 5 and 7 of Decision 1999/468/EC shall apply, having regard to the provisions of Article 8 thereof.

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

3. The Committee shall adopt its rules of procedure.

Article 45

1. Every three years from the date of entry into force of this Regulation, the Commission shall report to the European Parliament and the Council on the application of this Regulation.

2. Member States shall communicate to the Commission the text of any provisions of national law, which they adopt in the field covered by this Regulation.

Article 46

1. The provisions of this Regulation shall be without prejudice to the fulfilment of any wider obligations in relation to mutual assistance ensuing from other legal acts, including bilateral or multilateral agreements.

2. Where the Member States conclude bilateral arrangements on matters covered by this Regulation other than to deal with individual cases, they shall inform the Commission without delay. The Commission shall in turn inform the other Member States.

Article 47

Regulation (EEC) No 218/92 is hereby repealed.

References made to the repealed Regulation shall be construed as references to this Regulation.

Article 48

This Regulation shall enter into force on 1 January 2004.

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

Done at Luxembourg, 7 October 2003.

For the Council

The President

G. TREMONTI

**COUNCIL REGULATION (EC) No 1799/2003
of 13 October 2003**

amending Regulation (EC) No 1210/2003 concerning certain specific restrictions on economic and financial relations with Iraq

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty establishing the European Community, and in particular Articles 60 and 301 thereof,

Having regard to Council Common Position 2003/495/CFSP of 7 July 2003 on Iraq ⁽¹⁾, as amended by Common Position 2003/735/CFSP ⁽²⁾,

Having regard to the proposal from the Commission,

Whereas:

- (1) Further to Resolution 1483 (2003) of the UN Security Council of 22 May 2003, the Council has adopted Regulation (EC) No 1210/2003 of 7 July 2003 concerning certain specific restrictions on economic and financial relations with Iraq ⁽³⁾, which, *inter alia*, makes provision for freezing measures targeting the former Government of Iraq and other State entities. These measures entered into force on 9 July 2003.
- (2) A review of the relevant texts has led to the conclusion that the Resolution does not require that the freezing measures be applied to funds and economic resources of ministries and other public entities that were not located outside Iraq on the date of 22 May 2003, but left Iraq after that date.
- (3) In view of this, the ban on making funds and economic resources available to public entities in Iraq, which impairs the functioning of such entities and unnecessarily hampers the reconstruction of Iraq, should be reconsidered. As a result, the clarification concerning export-related incoming payments made through public banks listed in the relevant Annex of Regulation (EC) No 1210/2003 becomes redundant.
- (4) Resolution 1483 (2003) presents the freezing of funds and economic resources as the first step in a process leading to the transfer thereof to the Development Fund for Iraq. It also exempts funds and economic resources being the subject of a lien or judgment established or rendered prior to 22 May 2003 from that process. Maintaining the freezing measures is, therefore, not suitable, if the funds and economic resources concerned are explicitly exempt from the requirement to cause their transfer to that Fund.

- (5) It is noted that the absence of a freezing requirement should be without prejudice to the applicability of the normal rules on recognition and enforcement of arbitral and foreign judgments. Moreover, no exemption should be granted in respect of any judgment rendered in breach of Council Regulation (EC) No 3541/92 of 7 December 1992 prohibiting the satisfying of Iraqi claims with regard to contracts and transactions, the performance of which was affected by United Nations Security Council Resolution 661 (1990) and related resolutions ⁽⁴⁾.
- (6) Since these amendments relate to the interpretation of Resolution 1483(2003), it is appropriate to give them retroactive effect to the date on which Regulation (EC) No 1210/2003 entered into force,

HAS ADOPTED THIS REGULATION:

Article 1

Regulation (EC) No 1210/2003 is hereby amended as follows:

1. Article 4 shall be replaced by the following:

'Article 4

1. All funds and economic resources of the previous Government of Iraq, or of any of the public bodies, corporations, including companies established under private law in which the public authorities have a majority or controlling stake, or agencies of that Government, identified by the Sanctions Committee and listed in Annex III, shall be frozen, if they were located outside Iraq on the date of 22 May 2003.
2. All funds and economic resources belonging to, or owned or held by the following persons, identified by the Sanctions Committee and listed in Annex IV, shall be frozen:
- former President Saddam Hussein;
 - senior officials of his regime;
 - immediate members of their families; or
 - legal persons, bodies or entities owned or controlled directly or indirectly by the persons referred to in (a), (b) and (c) or by any natural or legal person acting on their behalf or at their direction.

⁽¹⁾ OJ L 169, 8.7.2003, p. 72.

⁽²⁾ See page 40 of this Official Journal.

⁽³⁾ OJ L 169, 8.7.2003, p. 6.

⁽⁴⁾ OJ L 361, 10.12.1992, p. 1.

3. No funds shall be made available, directly or indirectly to, or for the benefit of, a natural or legal person, body or entity listed in Annex IV.
4. No economic resources shall be made available, directly or indirectly to, or for the benefit of, a natural or legal person, body or entity listed in Annex IV, so as to enable that person, body or entity to obtain funds, goods or services.’;
2. in Article 5, paragraph 2 shall be deleted;
3. Article 6 shall be replaced by the following:
‘Article 6
1. 1. By way of derogation from Article 4, the competent authorities of the Member States, as listed in Annex V, may authorise the release of frozen funds or economic resources, if all of the following conditions are met:
(a) the funds or economic resources are the subject of a judicial, administrative or arbitral lien established prior to 22 May 2003 or of a judicial, administrative or arbitral judgment rendered prior to that date;
(b) the funds or economic resources will be used exclusively to satisfy claims secured by such a lien or recognised as valid in such a judgment, within the limits set by applicable laws and regulations governing the rights of persons having such claims;
- (c) satisfying the claim is not in breach of Regulation (EC) No 3541/92; and
- (d) recognising the lien or judgment is not contrary to public policy in the Member State concerned.
2. In all other circumstances, funds, economic resources and proceeds of economic resources frozen pursuant to Article 4 shall only be unfrozen for the purpose of their transfer to the Development Fund for Iraq held by the Central Bank of Iraq, under the conditions set out in UNSC Resolution 1483 (2003).’;
4. the title of Annex V shall be replaced by the following:
‘List of competent authorities referred to in Articles 6, 7 and 8.’.

Article 2

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

It shall apply from 9 July 2003.

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

Done at Luxembourg, 13 October 2003.

For the Council
The President
F. FRATTINI

COMMISSION REGULATION (EC) No 1800/2003
of 14 October 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 15 October 2003.

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

Done at Brussels, 14 October 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 14 October 2003 establishing the standard import values for determining the entry price of certain fruit and vegetables

(EUR/100 kg)

CN code	Third country code ⁽¹⁾	Standard import value
0702 00 00	052	100,0
	060	95,1
	068	67,7
	096	66,2
	204	125,5
	999	90,9
0707 00 05	052	101,8
	999	101,8
0709 90 70	052	89,1
	999	89,1
0805 50 10	052	90,9
	388	53,8
	524	82,8
	528	55,3
	999	70,7
0806 10 10	052	105,2
	400	192,8
	508	301,7
	624	230,3
	999	207,5
0808 10 20, 0808 10 50, 0808 10 90	060	38,7
	096	41,3
	388	74,0
	400	73,9
	508	108,4
	512	36,1
	720	48,9
	800	168,8
	804	97,1
	999	76,4
0808 20 50	052	87,4
	064	54,7
	720	85,2
	999	75,8

⁽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 1801/2003
of 14 October 2003
provisionally authorising the new use of a certain micro-organism in feedingstuffs
(Text with EEA relevance)

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Council Directive 70/524/EEC of 23 November 1970 concerning additives in feedingstuffs ⁽¹⁾, as last amended by Commission Directive 2003/7/EC ⁽²⁾, and in particular Article 3 and Article 9e(1) thereof,

Whereas:

- (1) Directive 70/524/EEC requires that no additive may be put into circulation unless a Community authorisation has been granted.
- (2) In the case of additives referred to in Part II of Annex C to Directive 70/524/EEC, which include micro-organisms, provisional authorisation of a new use of an additive in feedingstuffs may be given if the conditions laid down that Directive are satisfied and, if it is reasonable to assume, in view of the available results, that when used in animal nutrition, it has one of the effects referred to in Article 2(a) of that Directive. Such provisional authorisation may be given for a period not exceeding four years.
- (3) This additive has already been authorised by Commission Regulation No 1411/1999/EC ⁽³⁾ for piglets, and by Commission Regulation (EC) No 1636/1999 ⁽⁴⁾ for calves and chickens for fattening.
- (4) New data were submitted in support of an application to extend the authorisation of the use to turkeys for fattening.
- (5) The assessment of the application for authorisation submitted in respect of the micro-organism specified in the Annex to this Regulation, shows that the conditions referred to in Article 9e(1) of Directive 70/524/EEC are satisfied.

- (6) The use of the *Enterococcus faecium*, specified in the Annex, should therefore be authorised on a provisional basis for a period of four years and be included in Chapter IV of the list of authorised additives.
- (7) The Scientific Committee for Animal Nutrition has delivered a favourable opinion on the safety of the use of that *Enterococcus faecium*, which is to be used in feedingstuffs for turkeys, under the conditions set out in the Annex to this Regulation.
- (8) The assessment of the application shows that certain procedures are required to protect workers from exposure to the additives set out in the Annex. However, such protection is assured by the application of Council Directive 89/391/EEC of 12 June 1989 on the introduction of measures to encourage improvements in the safety and health of workers at work ⁽⁵⁾.
- (9) The measures provided for in this Regulation are in accordance with the opinion of the Standing Committee on the Food Chain and Animal Health,

HAS ADOPTED THIS REGULATION:

Article 1

The additive belonging to the group 'Micro-organisms' referred to in the Annex is authorised for use as an additive in feedingstuffs under the conditions laid down in the Annex.

Article 2

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

⁽¹⁾ OJ L 270, 14.12.1970, p. 1.

⁽²⁾ OJ L 22, 25.1.2003, p. 28.

⁽³⁾ OJ L 164, 30.6.1999, p. 56.

⁽⁴⁾ OJ L 194, 27.7.1999, p. 17.

⁽⁵⁾ OJ L 183, 29.6.1989, p. 1.

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

Done at Brussels, 14 October 2003.

For the Commission
David BYRNE
Member of the Commission

ANNEX

No (or EC No)	Additive	Chemical formula, description	Species or category of animal	Maximum age	Minimum content	Maximum content	Other provisions	Period of authorisation
					CFU/kg of complete feedingstuff			
Micro-organisms								
13	<i>Enterococcus faecium</i> DSM 10.663/NCIMB 10 415	Preparation of <i>Enterococcus faecium</i> containing minimum of: Powder and granulated forms: $3,5 \times 10^{10}$ CFU/g additive Coated form: $2,0 \times 10^{10}$ CFU/g additive Liquid form: 1×10^{10} CFU/ml additive	Turkeys for fattening	—	1×10^7	1×10^9	1. In the directions for use of the additive and premixture, indicate the storage temperature, storage stability to pelleting. 2. May be used in compound feed containing the permitted coccidiostats: diclazuril, lasalocid sodium, maduramicin ammonium monensin sodium, halofuginone, robenidine.	From 18.10.2003 to 18.10.2007'

COMMISSION REGULATION (EC) No 1802/2003
of 14 October 2003
fixing representative prices in the poultrymeat and egg sectors and for egg albumin, and amending
Regulation (EC) No 1484/95

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Council Regulation (EEC) No 2771/75 of 29 October 1975 on the common organisation of the market in eggs ⁽¹⁾, as last amended by Regulation (EC) No 806/2003 ⁽²⁾, and in particular Article 5(4) thereof,

Having regard to Council Regulation (EEC) No 2777/75 of 29 October 1975 on the common organisation of the market in poultrymeat ⁽³⁾, as last amended by Regulation (EC) No 806/2003, and in particular Article 5(4) thereof,

Having regard to Council Regulation (EEC) No 2783/75 of 29 October 1975 on the common system of trade for ovalbumin and lactalbumin ⁽⁴⁾, as last amended by Commission Regulation (EC) No 2916/95 ⁽⁵⁾, and in particular Article 3(4) thereof,

Whereas:

- (1) Commission Regulation (EC) No 1484/95 ⁽⁶⁾, as last amended by Regulation (EC) No 1631/2003 ⁽⁷⁾, fixes detailed rules for implementing the system of additional import duties and fixes representative prices in the poultrymeat and egg sectors and for egg albumin.

- (2) It results from regular monitoring of the information providing the basis for the verification of the import prices in the poultrymeat and egg sectors and for egg albumin that the representative prices for imports of certain products should be amended taking into account variations of prices according to origin. Therefore, representative prices should be published.
- (3) It is necessary to apply this amendment as soon as possible, given the situation on the market.
- (4) The measures provided for in this Regulation are in accordance with the opinion of the Management Committee for Poultrymeat and Eggs,

HAS ADOPTED THIS REGULATION:

Article 1

Annex I to Regulation (EC) No 1484/95 is hereby replaced by the Annex hereto.

Article 2

This Regulation shall enter into force on 15 October 2003.

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

Done at Brussels, 14 October 2003.

For the Commission

J. M. SILVA RODRÍGUEZ
Agriculture Director-General

⁽¹⁾ OJ L 282, 1.11.1975, p. 49.

⁽²⁾ OJ L 122, 16.5.2003, p. 1.

⁽³⁾ OJ L 282, 1.11.1975, p. 77.

⁽⁴⁾ OJ L 282, 1.11.1975, p. 104.

⁽⁵⁾ OJ L 305, 19.12.1995, p. 49.

⁽⁶⁾ OJ L 145, 29.6.1995, p. 47.

⁽⁷⁾ OJ L 232, 18.9.2003, p. 55.

ANNEX

to the Commission Regulation of 14 October 2003 fixing representative prices in the poultrymeat and egg sectors and for egg albumin, and amending Regulation (EC) No 1484/95

‘ANNEX I

CN code	Description	Representative price (EUR/100 kg)	Security referred to in Article 3(3) (EUR/100 kg)	Origin ⁽¹⁾
0207 12 90	Chickens, plucked and drawn, without heads and feet and without necks, hearts, livers and gizzards, known as “65 % chickens”, or otherwise presented, frozen	85,9	10	01
0207 14 10	Boneless cuts of fowl of the species <i>Gallus domesticus</i> , frozen	169,5	45	01
		171,4	44	02
		216,3	25	03
		199,4	30	04
0207 27 10	Boneless cuts of turkey, frozen	230,3	20	01
		275,0	7	04
0207 36 15	Boneless cuts of duck and guinea fowl, frozen	268,7	15	05
1602 32 11	Preparations of uncooked fowl of the species <i>Gallus domesticus</i>	201,2	26	01
		201,2	26	02
		180,8	34	03

⁽¹⁾ Origin of imports:

- 01 Brazil
- 02 Thailand
- 03 Argentina
- 04 Chile
- 05 China.’

COMMISSION REGULATION (EC) No 1803/2003
of 14 October 2003
fixing the export refunds on poultrymeat

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Council Regulation (EEC) No 2777/75 of 29 October 1975 on the common organization of the market in poultrymeat ⁽¹⁾, as last amended by Regulation (EC) No 806/2003 ⁽²⁾, and in particular Article 8(3) thereof,

Whereas:

- (1) Article 8 of Regulation (EEC) No 2777/75 provides that the difference between prices on the world market for the products listed in Article 1(1) of that Regulation and prices for those products within the Community may be covered by an export refund.
- (2) It follows from applying these rules and criteria to the present situation on the market in poultrymeat that the refund should be fixed at an amount which would

permit Community participation in world trade and would also take account of the nature of these exports and their importance at the present time.

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

HAS ADOPTED THIS REGULATION:

Article 1

The list of product codes for which, when they are exported, the export refund referred to in Article 8 of Regulation (EEC) No 2777/75 is granted, and the amount of that refund shall be as shown in the Annex hereto.

Article 2

This Regulation shall enter into force on 15 October 2003.

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

Done at Brussels, 14 October 2003.

For the Commission
Franz FISCHLER
Member of the Commission

⁽¹⁾ OJ L 282, 1.11.1975, p. 77.

⁽²⁾ OJ L 122, 16.5.2003, p. 1.

ANNEX

to the Commission Regulation of 14 October 2003 fixing the export refunds on poultrymeat

Product code	Destination	Unit of measurement	Amount of refund
0105 11 11 9000	V04	EUR/100 pcs	0,80
0105 11 19 9000	V04	EUR/100 pcs	0,80
0105 11 91 9000	V04	EUR/100 pcs	0,80
0105 11 99 9000	V04	EUR/100 pcs	0,80
0105 12 00 9000	V04	EUR/100 pcs	1,70
0105 19 20 9000	V04	EUR/100 pcs	1,70
0207 12 10 9900	V01	EUR/100 kg	40,00
0207 12 10 9900	A24	EUR/100 kg	40,00
0207 12 90 9190	V01	EUR/100 kg	40,00
0207 12 90 9190	A24	EUR/100 kg	40,00
0207 12 90 9990	V01	EUR/100 kg	40,00
0207 12 90 9990	A24	EUR/100 kg	40,00

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

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

The other destinations are defined as follows:

V01 Angola, Saudi Arabia, Kuwait, Bahrain, Qatar, Oman, United Arab Emirates, Jordan, Yemen, Lebanon, Iraq and Iran.

V04 All destinations except the United States of America and Estonia.

COUNCIL DIRECTIVE 2003/93/EC
of 7 October 2003

amending Council Directive 77/799/EEC concerning mutual assistance by the competent authorities of the Member States in the field of direct and indirect taxation

THE COUNCIL OF THE EUROPEAN UNION,

HAS ADOPTED THIS DIRECTIVE:

Having regard to the Treaty establishing the European Community, and in particular Articles 93 and 94 thereof,

Article 1

Having regard to the proposal from the Commission ⁽¹⁾,

Directive 77/799/EEC is hereby amended as follows:

Having regard to the opinion of the European Parliament ⁽²⁾,

1. the title shall be replaced by the following:

Having regard to the opinion of the European Economic and Social Committee ⁽³⁾,

‘Council Directive 77/799/EEC of 19 December 1977 concerning mutual assistance by the competent authorities of the Member States in the field of direct taxation, certain excise duties and taxation of insurance premiums’;

Whereas:

(1) In order to combat value added tax (VAT) evasion it is necessary to strengthen cooperation between tax administrations within the Community and between the latter and the Commission in accordance with common principles.

2. in Article 1(1), the first indent shall be replaced by the following:

‘— taxation of insurance premiums referred to in the sixth indent of Article 3 of Council Directive 76/308/EEC’;

(2) To that end, Council Regulation (EEC) No 218/92 ⁽⁴⁾, which supplemented, as regards VAT, the system of cooperation established by Council Directive 77/799/EEC of 19 December 1977 concerning mutual assistance by the competent authorities of the Member States in the field of direct and indirect taxation ⁽⁵⁾, has been replaced by Council Regulation (EC) No 1798/2003 of 7 October 2003 on administrative cooperation in the field of value added tax and repealing Regulation (EEC) No 218/92 ⁽⁶⁾. The latter Regulation sets out all the provisions relating to administrative cooperation in the field of VAT, with the exception of mutual assistance as provided for by Council Directive 76/308/EEC of 15 March 1976 on mutual assistance for the recovery of claims relating to certain levies, duties, taxes and other measures ⁽⁷⁾.

2(a) in Article 1(5), the wording under the heading ‘in the United Kingdom’ shall be replaced by the following:

‘The Commissioners of Customs and Excise or an authorised representative for information required concerning taxes on insurance premiums and excise duty.

The Commissioners of Inland Revenue or an authorised representative for all other information.’;

2(b) in Article 1(5) the wording under ‘in Italy’ shall be replaced by the following:

‘Il ministro dell’economia e delle finanze or an authorised representative.’

(3) The scope of mutual assistance laid down by Directive 77/799/EEC must be extended to taxation of the insurance premiums referred to in Directive 76/308/EEC so as to better protect the financial interests of the Member States and the neutrality of the internal market.

3. Article 7(1), shall replaced by the following:

‘1. All information made known to a Member State under this Directive shall be kept secret in that State in the same manner as information received under its national legislation. In any case, such information:

— may be made available only to the persons directly involved in the assessment of the tax or in the administrative control of this assessment,

— may be made known only in connection with judicial proceedings or administrative proceedings involving sanctions undertaken with a view to, or relating to, the making or reviewing the tax assessment and only to persons who are directly involved in such proceedings; such information may, however, be disclosed during public hearings or in judgements if the competent authority of the Member State supplying the information raises no objection,

(4) Directive 77/799/EEC should therefore be amended accordingly,

⁽¹⁾ OJ C 270, E, 25.9.2001, p. 96.

⁽²⁾ OJ C 284 E, 21.11.2002, p. 121.

⁽³⁾ OJ C 80, 3.4.2002, p. 76.

⁽⁴⁾ OJ L 24, 1.2.1992, p. 1. Regulation as last amended by Regulation (EC) No 792/2002 (OJ L 128, 15.5.2002, p. 1).

⁽⁵⁾ OJ L 336, 27.1.1977, p. 15. Directive as last amended by the 1994 Act of Accession.

⁽⁶⁾ See page 1 of this Official Journal.

⁽⁷⁾ OJ L 73, 19.3.1976, p. 18. Directive as last amended by Directive 2001/44/EC (OJ L 175, 28.6.2001, p. 17).

— shall in no circumstances be used other than for taxation purposes or in connection with judicial proceedings or administrative proceedings involving sanctions undertaken with a view to, or in relation to, the making or reviewing of the tax assessment.

In addition, Member States may provide for the information referred to in the first subparagraph to be used for assessment of other levies, duties and taxes covered by Article 2 of Directive 76/308/EEC (*).

(*) OJ L 73, 19.3.1976, p. 18.

Article 2

References made to Directive 77/799/EEC in relation to value added tax (VAT) shall be construed as references to Regulation (EC) No 1798/2003.

Article 3

1. Member States shall bring into force the laws, regulations and administrative provisions necessary to comply with this Directive on 31 December 2003. They shall forthwith inform the Commission thereof.

When Member States adopt those provisions, they shall contain a reference to this Directive or shall be accompanied by such a reference on the occasion of their official publication. Member States shall determine how such reference is to be made.

2. Member States shall communicate to the Commission the texts of the provisions of national law which they adopt in the field covered by this Directive.

Article 4

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

Article 5

This Directive is addressed to the Member States.

Done at Luxembourg, 7 October 2003.

For the Council
The President
G. TREMONTI

II

(Acts whose publication is not obligatory)

COMMISSION

COMMISSION DECISION

of 13 December 2000

on State aid which the Netherlands is planning to implement in the form of development assistance for two general cargo vessels and two pulp and paper carriers to be built by Bodewes/Pattje for use in Indonesia

(notified under document number C(2000) 4185)

(Only the Dutch text is authentic)

(Text with EEA relevance)

(2003/730/EC)

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

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

Having regard to Council Regulation (EC) No 1540/98 of 18 July 1998 establishing new rules on aid to shipbuilding ⁽¹⁾, and in particular Article 3(5) thereof,

Having called on interested parties to submit their comments pursuant to those provisions ⁽²⁾,

Whereas:

I. PROCEDURE

- (1) By two letters dated 14 April 1999, the Dutch authorities notified the Commission of their plan to grant aid in the form of development assistance to Indonesia for the purchase of two general cargo vessels and two pulp and paper carriers. By letters dated 7 May and 11 October 1999, the Commission requested additional information that was supplied by letters dated 15 September 1999 and 3 December 1999.
- (2) By letter SG (2000)D/101519 dated 16 February 2000, the Commission informed the Dutch Government that it had decided to initiate the procedure provided for in Article 88(2) of the EC Treaty.

- (3) The Commission decision to initiate the procedure was published in the *Official Journal of the European Communities* ⁽³⁾. The Commission called on interested parties to submit their comments.

- (4) The Commission received no comments from third parties.

II. DETAILED DESCRIPTION OF THE AID

- (5) The proposed aid is to be granted under a general export financing scheme for Dutch exports to Indonesia in the form of subsidised loans or grants for projects that are not commercially viable.
- (6) The two general cargo vessels (each 8 600 gt) are destined for Bagasuna Samudera Gemilang, a small independent chartering and transport company based in Jakarta. The pulp and paper carriers (each 9 000 gt) are destined for PT Riau Lintas Samudera, a small privately owned shipping company in Sumatra. In both cases, the ships will be built by Pattje Shipyards bv, which submitted a bid in response to a private, restricted international invitation to tender issued by the buyers. The total contract value in each case is NLG 60 million. The development assistance in each case takes the form of a grant of NLG 15 million, corresponding to an aid intensity of 25 %. According to the Dutch authorities, the Indonesian companies would not be able to buy the vessels without the grants. The projects will help to improve the quality, size and capacity of the Indonesian fleet and thus contribute towards the country's economic development.

⁽¹⁾ OJ L 202, 18.7.1998, p. 1.

⁽²⁾ OJ C 101, 8.4.2000, p. 11.

⁽³⁾ See footnote 2.

- (7) The Commission decided to initiate the Article 88(2) procedure because it had doubts whether the condition in Article 3(5) of Regulation (EC) No 1540/98 requiring offers of development assistance to be open to bids from different yards had been respected.

III. COMMENTS FROM THE NETHERLANDS

- (8) The Netherlands submitted comments by letters dated 7 April, 3 July and 3 October 2000, with the last letter confirming information provided at bilateral meetings held with the Commission departments on 25 July, 4 September and 15 September 2000.
- (9) In their comments, the Dutch authorities reiterated that the relevant Dutch scheme had been published and was well known to Dutch shipyards. The scheme has been officially notified in the Dutch State Gazette and has been published in both Dutch and English by means of brochures that have been widely distributed at home and abroad and on Ministry websites. Regular information meetings about developing-country markets are also organised by the Ministry of Economic Affairs.
- (10) The Dutch authorities have also reiterated that, under their development assistance scheme, support is available to all Dutch companies but that the developing-country buyer is responsible for issuing tenders and awarding contracts. They emphasised that yards generally identify projects themselves and then apply for development assistance and that it is not the role of the authorities to interfere in commercial negotiating procedures.

However, in order to allay the Commission's concerns, the Dutch authorities have undertaken to make some changes to their internal procedures so as to provide greater transparency regarding practical projects in the shipbuilding sector while, at the same time, preserving their non-interventionist role in the identification of projects and in the buyer's decision-making process.

- (11) In future cases, they will take active steps to draw the attention of different yards to the possibility of development assistance for particular shipbuilding projects. Under the new procedure (which cannot be applied retroactively to the present cases), a shipyard would be required to inform the Dutch authorities of a possible application for aid at least one month in advance of submitting the formal application. Within 48 hours of receiving this 'pre-notification', the authorities would fax summary details of the project (type of vessel, indicative contract value and name and address of developing-country buyer) to all shipyards in the Netherlands that had the necessary shipbuilding capacity. Upon receipt of

the formal aid application, the Dutch Ministry of Foreign Affairs will forward a confirmation of receipt to the developing-country buyer. This letter will expressly state that aid is available to all Dutch shipyards. It will also enclose a copy of the English version of the brochure explaining the Dutch scheme. Finally, the Dutch authorities have undertaken that no decision on an application will be taken within two months of receipt of the formal application.

- (12) As regards the two specific projects, the Dutch authorities explained that the aid should not be regarded as hidden operating aid to Pattje. The yard is part of the Bodewes shipbuilding group, which is profit-making (with profits equivalent to between 2,5 % and 5 % of turnover) and is working at full capacity (with a full orderbook until the end of 2001). The Dutch authorities have verified that the contract price is in line with market prices by comparing these prices with those of similar Dutch-built ships for EEA buyers which have been granted normal contract-related production aid.
- (13) The Dutch authorities also argued that there had not been any distortion of competition. In evidence, they pointed out that there had been no reactions to the notification of the aid to the OECD or to the Commission's initiation of the Article 88(2) procedure. Furthermore, they provided documentary evidence showing that there had been both Dutch and international competition for the projects. In that context, they pointed out that Bodewes/Pattje are members of Conoship, the joint sales and market organisation for a number of Dutch shipyards which were thus all aware of the aid possibilities for the projects.

Assessment of the aid

- (14) The aid granted for the vessels in question must be assessed under Article 3(5) of Regulation (EC) No 1540/98 establishing new rules on aid to shipbuilding as it concerns aid granted as development assistance to a developing country.
- (15) According to Article 3(5) of the Regulation, aid granted as development assistance to a developing country may be deemed compatible with the common market if it complies with the terms laid down for that purpose by OECD Working Party 6 in its agreement concerning the interpretation of Articles 6 to 8 of the Understanding on export credits for ships, hereinafter referred to as the 'OECD criteria'. The Commission must verify the particular development content of the proposed aid and satisfy itself that it falls within the scope of the OECD criteria.

- (16) As indicated when the procedure was initiated, the Commission considers that the projects comply with the OECD criteria and have a genuine development content. In particular, it notes that:
- requirement that the flag must not be a flag of convenience is met,
 - Indonesia is on the list of countries eligible for development assistance,
 - the owners of the vessels are registered in Indonesia and are not non-operational subsidiaries of a foreign company,
 - the vessels will be used only in Indonesian waters and cannot be resold without the approval of the Dutch government,
 - the aid intensity is not less than 25 %.
- (17) However, Article 3(5) also stipulates that the Commission should also satisfy itself that the offer of development assistance for the particular project is open to bids from different yards. The Commission had doubts whether this condition was respected and therefore decided to initiate the procedure laid down in Article 88(2).
- (18) Those doubts have, however, now been allayed.
- (19) The information provided by the Dutch authorities as part of the procedure gave the impression that other yards were not informed about the particular projects since such action was not in line with general Dutch procedures for development assistance. Nevertheless, it is clear from the additional information made available to the Commission that several other Dutch shipyards were aware of the projects to be assisted through their membership of Conoship. This joint sales and market organisation of 10 yards located in the north of Holland informs all members about possible projects and assists

them with their grant applications. Conoship has confirmed in writing that all members were made fully aware of this particular project. It can therefore be concluded that the development assistance was effectively open to bids from different yards.

Conclusion

- (20) In the light of the above, it can be concluded that the proposed aid fulfils all the conditions laid down in Article 3(5) of Regulation (EC) No 1540/98 and is therefore compatible with the common market,

HAS ADOPTED THIS DECISION:

Article 1

The State aid which the Netherlands is planning to implement as development assistance for developing countries in the form of grants with an aid intensity of 25 % in connection with the sale by Bodewes/Pattje bv of two general cargo vessels and two pulp and paper carriers to Indonesia is compatible with the common market.

Implementation of the aid is accordingly authorised.

Article 2

This Decision is addressed to the Kingdom of the Netherlands.

Done at Brussels, 13 December 2000.

For the Commission

Mario MONTI

Member of the Commission

COMMISSION DECISION
of 13 November 2002
on the State aid implemented by Italy for Pertusola Sud

(notified under document number C(2002) 4360)

(Only the Italian text is authentic)

(Text with EEA relevance)

(2003/731/EC)

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

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

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

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

Whereas:

I. PROCEDURE

- (1) By letter dated 18 September 2000, Italy notified a draft contract to the Commission concerning the sale of Pertusola Sud SpA in liquidation to Zincocalabra SpA, a private group of companies headed by Cogefin SpA. The contract was notified in accordance with Article 3(1)(a) of Commission Decision 98/212/EC of 16 April 1997 on the aid granted by Italy to Enirisorse SpA ⁽²⁾ as the contract contained a suspensive clause that requires the Commission's approval in order to be valid.
- (2) By letter of 13 February 2001 the Commission notified Italy of its decision to initiate proceedings under Article 88(2).
- (3) The Commission decision to initiate proceedings was published in the *Official Journal of the European Communities* ⁽³⁾. The Commission invited interested parties to submit their comments.
- (4) The Commission received comments from the United Kingdom as well as from Union Minière, Metaleurop and Nuova Solmine. The comments were forwarded to Italy for its views and its response was received on 22 October 2001.

II. DESCRIPTION

- (5) By Decision 98/212/EC the Commission authorised Italy to grant aid totalling ITL 1 819 billion to Enirisorse SpA for the restructuring of some of its subsidiaries,

including Pertusola Sud SpA. The aid for Pertusola Sud SpA amounted to ITL 280 million and covered the period 1992 to 1996. Article 2 of the Decision required Italy to comply with its commitments as set out in the restructuring plan, i.e. to privatise the remaining companies and production sites of Enirisorse SpA by 31 December 1998. One of the two firms in question was Pertusola Sud.

- (6) The Decision also required Pertusola Sud to have been shut down and dismantled by the end of 1997, or to be sold to an interested buyer. In any event the firm could no longer produce zinc. The Commission had also taken the view that the 45 % cut in Enirisorse's zinc production capacity resulting from the closure of Pertusola Sud was an adequate counterpart to the aid granted to Pertusola. It had therefore concluded that the aid did not affect competition to an extent contrary to the common interest.
- (7) On 24 July 1997 Enirisorse invited offers for Pertusola Sud. On 31 March 1998 Pertusola entered into liquidation, and ceased production in February 1999. It had a capital of ITL 22 billion, wholly owned by Enirisorse.
- (8) In August 2000 Enirisorse SpA agreed to sell its entire share capital in Pertusola Sud to Zincocalabra.
- (9) Zincocalabra SpA is a new company owned by a private group of firms headed by Cogefin SpA, an Italian group whose companies operate chiefly in the zinc sector. Zincocalabra SpA planned to increase Pertusola's zinc output to 185 000 tonnes a year and carry out an investment programme costing ITL 500 billion, to which it would contribute ITL 250 billion. The remaining 50 % would be granted in the form of regional aid, which would be notified to the Commission under the multisectoral framework. Another clause in the contract provided for the payment by Enirisorse SpA of the cost of making good past environmental damage, up to a maximum of ITL 180 million, a payment to which Enirisorse had already agreed.

⁽¹⁾ OJ C 149, 19.5.2001, p. 13.

⁽²⁾ OJ L 80, 18.3.1998, p. 32.

⁽³⁾ See footnote 1.

- (10) The Italian authorities also informed the Commission that Pertusola Sud entered into liquidation on 31 March 1998 and that Enirisorse had therefore ceased contributing capital although it was continuing to cover Pertusola's financial requirements to allow its liquidation as a solvent company.
- (11) The Commission initiated proceedings for the following reasons:
- possible misuse of the aid approved under the 1997 decision on Pertusola Sud,
 - the payments made by Enirisorse to cover Pertusola's financial commitments in order to ensure that it remained solvent even though it was in liquidation could be regarded as State aid and possibly as incompatible with the common market,
 - the payment by Enirisorse of the environmental costs borne by Pertusola Sud could be regarded as State aid and possibly as incompatible with the common market.

III. COMMENTS FROM INTERESTED PARTIES

- (12) The United Kingdom as well as Union Minière, Meta-leurop and Nuova Solmine sent comments in support of the Commission's preliminary assessment.

IV. COMMENTS FROM ITALY

- (13) By letter of 28 March 2001, Italy informed the Commission that the contract concluded with Zincocalabra had been rescinded.
- (14) By letters dated 5 April 2001 and 22 October 2001, Italy expressed its disagreement with the preliminary assessment made by the Commission as well as with the comments submitted by the interested parties.
- (15) By letter of 1 August 2002, Italy informed the Commission that:
- on 14 December 2001 a contract for the dismantling of Pertusola's plant had been concluded. The dismantling was to be completed within 16 months of the start of work, as provided for in the contract,
 - at 31 December 2001 Pertusola was employing 24 persons to carry out the liquidation (dismantling, safety and administration), of whom nine would leave the firm in 2002,
 - on 1 February 2002 Pertusola merged with Singea SpA in liquidation (which is the current name of Enirisorse).

V. CONCLUSIONS

- (16) The Commission concludes that the dismantling of the plant imposed by the 1997 decision, although delayed, will be completed.
- (17) The Commission also concludes that, following the cessation of activity and the ensuing dismantling of the plant, there are no longer any potential distortions of competition due to the measures that Italy would have implemented unlawfully for Pertusola Sud in liquidation, in breach of Article 88(3) of the EC Treaty.

The Commission accordingly concludes that the formal investigation procedure initiated under Article 88(2) of the EC Treaty in respect of the measure in question thus no longer serves any purpose, although Italy is still subject to the obligation in Article 3 of Decision 98/212/EC to provide the Commission with six-monthly reports between 1 October and 1 April of each year, until the dismantling of the plant at Pertusola Sud is completed,

HAS ADOPTED THIS DECISION:

Article 1

The formal investigation procedure initiated under Article 88(2) of the Treaty on 13 February 2001 against the measures implemented by Italy for Pertusola Sud (State aid C 8/2001) is closed.

Article 2

Italy shall send the Commission the six-monthly reports provided for in Article 3 of Decision 98/212/EC until the dismantling of the Pertusola Sud plant has been completed.

Article 3

This Decision is addressed to the Italian Republic.

Done at Brussels, 13 November 2002.

For the Commission

Mario MONTI

Member of the Commission

COMMISSION DECISION

of 10 October 2003

amending Decision 93/52/EEC as regards the recognition of certain Italian provinces as officially free of brucellosis

(notified under document number C(2003) 3562)

(Text with EEA relevance)

(2003/732/EC)

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Commission Directive 91/68/EEC of 28 January 1991 on animal health conditions governing intra-Community trade in ovine and caprine animals ⁽¹⁾, as last amended by Council Directive 2003/50/EC ⁽²⁾, and in particular Annex A(1)(II) thereto,

Whereas:

- (1) In Italy, in the region of Lombardia (provinces of Bergamo, Brescia, Como, Cremona, Lecco, Lodi, Mantua, Milan, Pavia, Sondrio and Varese) and in the province of Trento, brucellosis (*Brucella melitensis*) has been a notifiable disease for at least five years.
- (2) In the provinces of Bergamo, Brescia, Como, Cremona, Lecco, Lodi, Mantua, Milan, Pavia, Sondrio, Varese and Trento, at least 99,8 % of the ovine or caprine holdings are officially brucellosis-free holdings. These provinces undertake, furthermore, to comply with Annex A(1)(II)(2) to Directive 91/68/EEC.
- (3) The provinces of Bergamo, Brescia, Como, Cremona, Lecco, Lodi, Mantua, Milan, Pavia, Sondrio, Varese and Trento should consequently be recognised as officially free of brucellosis (*Brucella melitensis*).

(4) Commission Decision 93/52/EEC ⁽³⁾, as last amended by Decision 2003/237/EC ⁽⁴⁾, should therefore be amended accordingly.

(5) The measures provided for in this Decision are in accordance with the opinion of the Standing Committee on the Food Chain and Animal Health,

HAS ADOPTED THIS DECISION:

Article 1

Annex II to Decision 93/52/EEC is replaced by the text in the Annex to this Decision.

Article 2

This Decision is addressed to the Member States.

Done at Brussels, 10 October 2003.

For the Commission

David BYRNE

Member of the Commission

⁽¹⁾ OJ L 46, 19.2.1991, p. 19.
⁽²⁾ OJ L 169, 8.7.2003, p. 51.

⁽³⁾ OJ L 13, 21.1.1993, p. 14.
⁽⁴⁾ OJ L 87, 4.4.2003, p. 13.

ANNEX

'ANNEX II

In France:

Ain, Aisne, Allier, Ardèche, Ardennes, Aube, Aveyron, Cantal, Charente, Charente-Maritime, Cher, Corrèze, Côte-d'Or, Côtes-d'Armor, Creuse, Deux-Sèvres, Dordogne, Doubs, Essonne, Eure, Eure-et-Loir, Finistère, Gers, Gironde, Hauts-de-Seine, Haute-Loire, Haute-Vienne, Ille-et-Vilaine, Indre, Indre-et-Loire, Jura, Loir-et-Cher, Loire, Loire-Atlantique, Loiret, Lot-et-Garonne, Lot, Lozère, Maine-et-Loire, Manche, Marne, Mayenne, Morbihan, Nièvre, Nord, Oise, Orne, Pas-de-Calais, Puy-de-Dôme, Rhône, Haute-Saône, Saône-et-Loire, Sarthe, Seine-Maritime, Seine-Saint-Denis, Territoire de Belfort, Val-de-Marne, Val-d'Oise, Vendée, Vienne, Yonne, Yvelines, Ville de Paris, Vosges.

In Italy:

- Lombardy region: provinces of Bergamo, Brescia, Como, Cremona, Lecco, Lodi, Mantua, Milan, Pavia, Sondrio, Varese.
- Sardinia region: Cagliari, Nuoro, Oristano and Sassari.
- Trentino-Alto Adige region: provinces of Bolzano and Trento.
- Tuscany region: province of Arezzo.

In Portugal:

Autonomous Region of the Azores.

In Spain:

Santa Cruz de Tenerife, Las Palmas.'

COMMISSION DECISION
of 10 October 2003
amending Decision 97/222/EC as regards imports of meat products from Estonia, Lithuania and Slovakia

(notified under document number C(2003) 3566)

(Text with EEA relevance)

(2003/733/EC)

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Council Directive 72/462/EEC of 12 December 1972 on health and veterinary inspection problems upon importation of bovine, ovine and caprine animals and swine, fresh meat or meat products from third countries ⁽¹⁾, as last amended by Regulation (EC) No 807/2003 ⁽²⁾, and in particular Article 21a(2) thereof,

Whereas:

- (1) Commission Decision 97/222/EC ⁽³⁾, as last amended by Decision 2002/464/EC ⁽⁴⁾, established a list of third countries or parts of third countries from which the importation of meat products is authorised.
- (2) The epidemiological situation concerning classical swine fever in Estonia, Lithuania, and Slovakia has recently been assessed so that Member States should authorise the importation of fresh pigmeat from those third countries into the Community.
- (3) The list of third countries or parts of third countries from which the Member States authorise the importation of meat products, as laid down in Decision 97/222/EC, should be updated with a view to including those third countries, taking into account the health situation in order to be consistent with Community rules for the importation of fresh meat as relevant for the different treatment categories of meat products.

- (4) The opportunity has been taken to update the names of certain countries and add additional footnotes. For the sake of clarity, Parts I and II of the Annex to Decision 97/222/EC should be replaced in their entirety.
- (5) Decision 97/222/EC should therefore be amended accordingly.
- (6) The measures provided for in this Decision are in accordance with the opinion of the Standing Committee on the Food Chain and Animal Health,

HAS ADOPTED THIS DECISION:

Article 1

The Annex to Decision 97/222/EC is amended in accordance with the Annex to this Decision.

Article 2

This Decision is addressed to the Member States.

Done at Brussels, 10 October 2003.

For the Commission

David BYRNE

Member of the Commission

⁽¹⁾ OJ L 302, 31.12.1972, p. 28.

⁽²⁾ OJ L 122, 16.5.2003, p. 36.

⁽³⁾ OJ L 89, 4.4.1997, p. 39.

⁽⁴⁾ OJ L 161, 19.6.2002, p. 16.

ANNEX

Parts I and II of the Annex to Decision 97/222/EC are replaced by the following:

PART I**Description of regionalised territories as laid down for the countries listed in parts II and III**

Country	Territory		Description of territory
	Code	Version	
Argentina	AR-1	1/2002	As described in Annex I to Commission Decision 93/402/EC ⁽¹⁾ (as last amended)
	AR-3	1/2002	As described in Annex I to Commission Decision 93/402/EC (as last amended)
Bulgaria	BG		Whole country
	BG-1	—	As described in Annex I to Commission Decision 98/371/EC ⁽²⁾ (as last amended)
	BG-2	—	As described in Annex I to Commission Decision 98/371/EC (as last amended)
	BG-3	—	As described in Annex I to Commission Decision 98/371/EC (as last amended)
Brazil	BR		Whole country
	BR-1	—	As described in Annex I to Commission Decision 94/984/EC ⁽³⁾ (as last amended)
Czech Republic	CZ		Whole country
	CZ-1	—	As described in Annex I to Commission Decision 98/371/EC (as last amended)
	CZ-2	—	As described in Annex I to Commission Decision 98/371/EC (as last amended)
Serbia and Montenegro	YU		Whole country
	YU-1	—	As described in Annex I to Commission Decision 98/371/EC (as last amended)
	YU-2	—	As described in Annex I to Commission Decision 98/371/EC (as last amended)
Malaysia	MY		Whole country
	MY-1	95/1	Peninsular (Western) Malaysia only
Slovakia	SK		Whole country
	SK-1	1/2003	As described in Annex I to Commission Decision 98/371/EC (as last amended)
	SK-2	1/2003	As described in Annex I to Commission Decision 98/371/EC (as last amended)

⁽¹⁾ OJ L 179, 22.7.1993, p. 11.

⁽²⁾ OJ L 110, 28.4.1999, p. 16.

⁽³⁾ OJ L 378, 31.12.1994, p. 11.

PART II

Third countries or parts thereof from where meat products are authorised for importation into the European Community

Code ISO	Country of origin or part thereof	1. Domestic bovine 2. Farmed cloven-hoofed game-(excluding swine)	Domestic ovine/caprine	1. Domestic porcine 2. Farmed cloven-hoofed game (swine)	Domestic soliped	1. Domestic poultry 2. Farmed feathered game	Domestic rabbit and farmed leporidae	Wild cloven hoofed game (excluding swine)	Wild swine	Wild soliped	Wild leporidae (rabbits and hares)	Wild game birds	Wild land mammalian game (excluding ungulates, solipeds and leporidae)
AR	Argentina AR-1 ⁽¹⁾	C	C	C	A	A	A	C	C	—	A	D	—
	Argentina AR-3 ⁽¹⁾	A ⁽⁴⁾	A ⁽⁴⁾	C	A	A	A	C	C	—	A	D	
AU	Australia	A	A	A	A	A	A	A	A	—	A	A	A
BG	Bulgaria BG	D	D	D	A	D	A	D	D	—	A	D	—
	Bulgaria BG-1	A	A	D	A	D	A	A	D	—	A	D	—
	Bulgaria BG-2	A	A	D	A	D	A	A	D	—	A	D	—
	Bulgaria BG-3	D	D	D	A	D	A	D	D	—	A	D	—
BH	Bahrain	B	B	B	B	—	A	C	C	—	A	—	—
BR	Brazil	C	C	C	A	D	A	C	C	—	A	D	—
	Brazil BR-1	C	C	C	A	A	A	C	C	—	A	A	—
BW	Botswana	B	B	B	B	—	A	B	B	A	A	—	—
BY	Belarus	C	C	C	B	—	A	C	C	—	A	—	—
CA	Canada	A	A	A	A	A	A	A	A	—	A	A	A
CH	Switzerland	A	A	A	A	A	A	A	D	—	A	A	—
CL	Chile	A	A	A	A	A	A	B	B	—	A	A	—
CN	People's Republic of China	B	B	B	B	B	A	B	B	—	A	B	—
CO	Colombia	B	B	B	B	—	A	B	B	—	A	—	—

Code ISO	Country of origin or part thereof	1. Domestic bovine 2. Farmed cloven-hoofed game-(excluding swine)	Domestic ovine/caprine	1. Domestic porcine 2. Farmed cloven-hoofed game (swine)	Domestic soliped	1. Domestic poultry 2. Farmed feathered game	Domestic rabbit and farmed leporidae	Wild cloven hoofed game (excluding swine)	Wild swine	Wild soliped	Wild leporidae (rabbits and hares)	Wild game birds	Wild land mammalian game (excluding ungulates, solipeds and leporidae)
CY	Cyprus	C	C	C	A	A	A	C	C	—	A	A	—
CZ	Czech Republic CZ	A	A	A	A	A	A	A	D	—	A	A	—
	Czech Republic CZ-1	A	A	A	A	A	A	A	A	—	A	A	—
	Czech Republic CZ-2	A	A	A	A	A	A	A	D	—	A	A	—
EE	Estonia	C	C	A ⁽²⁾ D ⁽³⁾	A	—	A	C	C	—	A	—	A
ET	Ethiopia	B	B	B	B	—	A	B	B	—	A	—	—
GL	Greenland	—	—	—	—	—	A	—	—	—	A	A	A
HK	Hong Kong	B	B	B	B	D	A	B	B	—	A	—	—
HR	Croatia	A	A	D	A	A	A	A	D	—	A	A	—
HU	Hungary	A	A	A	A	A	A	A	A	—	A	A	—
IL	Israel	B	B	B	B	D	A	B	B	—	A	D	—
IN	India	B	B	B	B	—	A	B	B	—	A	—	—
IS	Iceland	B	B	B	A	—	A	B	B	—	A	—	—
KE	Kenya	B	B	B	B	—	A	B	B	—	A	—	—
KR	Korea (Republic)	—	—	—	—	D	A	—	—	—	A	D	—
LT	Lithuania	C	C	A ⁽²⁾ D ⁽³⁾	A	D	A	C	C	—	A	D	A
LV	Latvia	C	C	A	A	D	A	C	C	—	A	—	A

Code ISO	Country of origin or part thereof	1. Domestic bovine 2. Farmed cloven-hoofed game-(excluding swine)	Domestic ovine/caprine	1. Domestic porcine 2. Farmed cloven-hoofed game (swine)	Domestic soliped	1. Domestic poultry 2. Farmed feathered game	Domestic rabbit and farmed leporidae	Wild cloven hoofed game (excluding swine)	Wild swine	Wild soliped	Wild leporidae (rabbits and hares)	Wild game birds	Wild land mammalian game (excluding ungulates, solipeds and leporidae)
MA	Morocco	B	B	B	B	—	A	B	B	—	A	—	—
MG	Madagascar	B	B	B	B	D	A	B	B	—	A	D	—
MK	Former Yugoslav Republic of Macedonia (*)	A	A	B	A	—	A	B	B	—	A	—	—
MT	Malta	—	—	—	—	A	A	—	—	—	A	—	—
MU	Mauritius	B	B	B	B	—	A	B	B	—	A	—	—
MX	Mexico	A	D	D	A	D	A	D	D	—	A	D	—
MY	Malaysia MY	—	—	—	—	—	—	—	—	—	—	—	—
	Malaysia MY-1	—	—	—	—	D	A	—	—	—	A	D	—
NA	Namibia (1)	B	B	B	B	D	A	B	B	A	A	D	—
NZ	New Zealand	A	A	A	A	A	A	A	A	—	A	A	A
PL	Poland	A	A	A (2) D (3)	A	A	A	A	D	—	A	A	—
PY	Paraguay	C	C	C	B	—	A	C	C	—	A	—	—
RO	Romania	A	A	D	A	A	A	A	D	—	A	A	A
RU	Russia	C	C	C	B	—	A	C	C	—	A	—	A
SG	Singapore	B	B	B	B	D	A	B	B	—	A	—	—
SI	Slovenia	A	A	D	A	D	A	A	D	—	A	D	—

Code ISO	Country of origin or part thereof	1. Domestic bovine 2. Farmed cloven-hoofed game-(excluding swine)	Domestic ovine/caprine	1. Domestic porcine 2. Farmed cloven-hoofed game (swine)	Domestic soliped	1. Domestic poultry 2. Farmed feathered game	Domestic rabbit and farmed leporidae	Wild cloven hoofed game (excluding swine)	Wild swine	Wild soliped	Wild leporidae (rabbits and hares)	Wild game birds	Wild land mammalian game (excluding ungulates, solipeds and leporidae)
SK	Slovakia	A	A	—	A	A	A	A	D	—	A	A	—
	Slovakia SK-1	A	A	D	A	A	A	A	D	—	A	A	—
	Slovakia SK-2	A	A	A ⁽²⁾ D ⁽³⁾	A	A	A	A	D	—	A	A	—
SZ	Swaziland	B	B	B	B	—	A	B	B	A	A	—	—
TH	Thailand	B	B	B	B	A	A	B	B	—	A	D	—
TN	Tunisia	C	C	B	B	A	A	B	B	—	A	D	—
TR	Turkey	—	—	—	—	D	A	—	—	—	A	D	—
UA	Ukraine	—	—	—	—	—	A	—	—	—	A	—	—
US	United States of America	A	A	A	A	A	A	A	A	—	A	A	—
UY	Uruguay	C	C	B	A	D	A	—	—	—	A	D	—
YU	Serbia and Montenegro	D	D	D	A	D	A	C	C	—	A	—	—
	Serbia and Montenegro YU-1	D	D	D	A	D	A	C	D	—	A	—	—
	Serbia and Montenegro YU-2	D	D	D	A	D	A	C	C	—	A	—	—
ZA	South Africa ⁽¹⁾	C	C	C	A	D	A	C	C	A	A	D	—
ZW	Zimbabwe ⁽¹⁾	C	C	B	A	D	A	B	B	—	A	D	—

(*) Former Yugoslav Republic of Macedonia: provisional code that does not affect the definitive denomination of the country to be attributed after the conclusion of the negotiations currently taking place in the United Nations.

⁽¹⁾ See Part III for minimum treatment requirements for pasteurised meat products and biltong.

⁽²⁾ For meat products prepared from fresh meat of domestic porcines in accordance with Decision 98/371/EC as last amended.

⁽³⁾ For meat products prepared from fresh meat of farmed cloven-hoofed game (swine).

⁽⁴⁾ For meat products prepared from fresh meat obtained from animals slaughtered after 1 March 2002.

— No certificate laid down and meat products are not authorised.

COMMISSION RECOMMENDATION

of 29 September 2003

on a common practice for changes to the design of national obverse sides of euro circulation coins ⁽¹⁾*(notified under document number C(2003) 3388)***(Only the Dutch, English, Finnish, French, German, Greek, Italian, Portuguese, Spanish and Swedish texts are authentic)**

(2003/734/EC)

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community, and in particular Article 211 thereof,

Whereas:

- (1) According to Article 106(2) of the Treaty, Member States may issue coins subject to approval by the European Central Bank of the volume of the issue.
- (2) The Council has, in accordance with the second sentence of Article 106(2) of the Treaty, adopted harmonising measures in this field, by way of Council Regulation (EC) No 975/98 of 3 May 1998 on denominations and technical specifications of euro coins intended for circulation ⁽²⁾, as amended by Regulation (EC) No 423/1999. ⁽³⁾
- (3) According to Article 11 of Council Regulation (EC) No 974/98 of 3 May 1998 on the introduction of the euro ⁽⁴⁾, as amended by Regulation (EC) No 2596/2000 ⁽⁵⁾, coins denominated in euro and cent and complying with the denominations and technical specifications are to be the only coins which have the status of legal tender in all 'participating' Member States as defined in that Regulation. Since being brought into circulation on 1 January 2002, these coins have circulated throughout the whole euro area.
- (4) The informal Economic and Finance Ministers Council of Verona agreed in April 1996 that euro coins should have a common European reverse side and a distinctive national obverse side. The common designs for the different denominations were chosen by the Heads of State or Government of the Member States at the European Council in Amsterdam in December 1997, following a competition organised by the Commission. The designs on the national sides of the euro coins were decided by each Member State.
- (5) The Council agreed on 23 November 1998 that 'there should be a moratorium on issues of commemorative coins intended for circulation in the early years of the new notes and coins.' Commemorative euro coins are specific circulation coins and comply with the technical specifications laid down in Regulation (EC) No 975/98, but the standard national obverse design is replaced by a different national design in order to commemorate a specific event or personality.
- (6) An agreed common practice for changes to the design of national obverse sides of euro circulation coins would help, in particular, to ensure that parties handling coins on a professional basis and the public at large are informed sufficiently far in advance of future changes of that nature.
- (7) The Member States have been consulted on the common practice set out in this Recommendation, in order to take account of their different national traditions and preferences in this particular area. The common practice should provide sufficient leeway for Member States to maintain their traditions in this field.
- (8) Issues of commemorative euro circulation coins should only commemorate events or personalities of the highest relevance, since such coins will circulate throughout the euro area. Less important themes should rather be celebrated by way of collector coins, coins which are not intended for circulation and which must be easily distinguishable from circulation coins.
- (9) Limiting commemorative circulation coin issues to a single denomination corresponds to existing practice in a number of Member States and creates an appropriate framework for such issues. The 2-euro coin constitutes the most suitable denomination for this purpose, principally on account of the large diameter of the coin and its technical characteristics offering adequate protection against counterfeiting.
- (10) Certain volume limits for commemorative circulation coins are necessary, in order to ensure that such coins remain a small percentage of the total number of 2-euro coins in circulation. At the same time, the ceilings should allow for the issuance of sufficient coins to ensure that commemorative coins can circulate effectively, at least for a certain period.

⁽¹⁾ See also a communication by the Commission concerning this Recommendation (OJ C 247, 15.10.2003).

⁽²⁾ OJ L 139, 11.5.1998, p. 6.

⁽³⁾ OJ L 52, 27.2.1999, p. 2.

⁽⁴⁾ OJ L 139, 11.5.1998, p. 1.

⁽⁵⁾ OJ L 300, 29.11.2000, p. 2.

(11) The Community has concluded monetary agreements with the Principality of Monaco, the Republic of San Marino and the Vatican City State, allowing them to issue certain quantities of euro circulation coins. The common practice should also be applicable to the circulation coins issued by those States,

HEREBY RECOMMENDS:

Article 1

Changes to the national sides of the normal euro circulation coins

Without prejudice to Article 2 of this Recommendation, the designs used for the national obverse sides of the circulation coins denominated in euro or in cent should not be modified until the end of 2008, except in those cases where a Head of State depicted on a coin changes. Before the end of this period, the Commission should prepare a review examining whether this moratorium should be extended or whether a different practice should be introduced.

Article 2

Issuance of commemorative euro circulation coins

As from 2004, the issuance of commemorative euro circulation coins showing a different national obverse design from that of the normal euro circulation coins should comply with the following rules:

- (a) the number of issues should be limited to one per issuing State per year, without prejudice to point (c)(i). This limit would not apply to possible commemorative euro circulation coins collectively issued by all euro-area countries;
- (b) the 2-euro coin should be the sole denomination used for such issues;
- (c) the total number of coins put into circulation for each individual issue should not exceed the higher of the following two ceilings:
 - (i) 0,1 % of the total number of 2-euro coins brought into circulation by all issuing States up to the beginning of the year preceding the year of issuance of the commemorative coin, this ceiling being raised to 2,0 % of the total circulation of 2-euro coins of all issuing States if a truly global and highly symbolic event is commemorated, in which case the issuer should refrain from launching another similar commemorative circu-

lation coin issue during the subsequent four years and should, moreover, set out the reasons for choosing the raised ceiling in the context of the prior-information rules provided for in Article 3(b);

- (ii) 5,0 % of the total number of 2-euro coins brought into circulation by the issuing State concerned up to the beginning of the year preceding the year of issuance of the commemorative coin.

Article 3

Design of the national sides and publication of future changes

The following rules should apply to all circulation coins denominated in euro or in cent:

- (a) in accordance with established practice, the national side should bear 12 stars surrounding the design and the year mark;
- (b) the Commission should be informed about intended changes to the national obverse designs of euro coins at least six months before the coins are issued; it will refer to the Economic and Financial Committee for approval of all commemorative circulation coin issues having an envisaged issuing volume exceeding the 0,1 % ceiling referred to in Article 2(c)(i);
- (c) all relevant information on new national coin designs will be published in the *Official Journal of the European Union*.

Article 4

Addressees

This Recommendation is addressed to the Kingdom of Belgium, the Federal Republic of Germany, the Hellenic Republic, the Kingdom of Spain, the French Republic, Ireland, the Italian Republic, the Grand Duchy of Luxembourg, the Kingdom of the Netherlands, the Republic of Austria, the Portuguese Republic and the Republic of Finland.

Done at Brussels, 29 September 2003.

For the Commission

Pedro SOLBES MIRA

Member of the Commission

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

**COUNCIL COMMON POSITION 2003/735/CFSP
of 13 October 2003
amending Common Position 2003/495/CFSP on Iraq**

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty on European Union, and in particular Article 15 thereof,

Whereas:

- (1) On 7 July 2003, the Council adopted Common Position 2003/495/CFSP on Iraq⁽¹⁾ implementing the United Nations Security Council Resolution 1483 (2003), which repeals all prohibitions related to trade with Iraq and the provision of financial and economic resources to Iraq established by Security Council Resolution 661 (1990) and subsequent relevant resolutions including Resolution 778 (1992), with the exception of prohibitions related to the sale or supply to Iraq of arms and related material other than those arms and related material required by the United States of America and the United Kingdom of Great Britain and Northern Ireland as occupying powers under unified command (hereinafter called 'the Authority'), and imposing new measures.
- (2) Clarity is needed concerning certain provisions of Common Position 2003/495/CFSP.
- (3) Action by the Community is needed in order to implement certain measures,

(b) that have been removed from Iraq, or acquired by Saddam Hussein or other senior officials of the former Iraqi regime and their immediate family members, including entities owned or controlled directly or indirectly by them or by persons acting on their behalf or at their direction, as designated by the Committee established pursuant to Security Council Resolution 661 (1990),

shall be frozen without delay and, unless these funds or other financial assets or economic resources are themselves the subject of a prior judicial, administrative or arbitral lien or judgement, in which case they may be used to satisfy such lien or judgement, Member States shall immediately cause their transfer to the Development Fund for Iraq under the conditions set out in Security Council Resolution 1483 (2003).'

Article 2

This Common Position shall take effect on the date of its adoption.

Article 3

This Common Position shall be published in the *Official Journal of the European Union*.

HAS ADOPTED THIS COMMON POSITION:

Article 1

Article 2 of Common Position 2003/495/CFSP shall be replaced as follows:

'Article 2

All funds or other financial assets or economic resources:

- (a) of the previous Government of Iraq or its State bodies, corporations or agencies located outside Iraq on the date of 22 May 2003, as designated by the Committee established pursuant to Security Council Resolution 661 (1990) or

Done at Luxembourg, 13 October 2003.

For the Council
The President
F. FRATTINI

⁽¹⁾ OJ L 169, 8.7.2003, p. 72.