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Commission

2003/774/EC:

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I

(Acts whose publication is obligatory)

COUNCIL REGULATION (EC) No 1905/2003

of 27 October 2003

imposing a definitive anti-dumping duty and collecting definitively the provisional duty imposed on imports of furfuryl alcohol originating in the People's Republic of China

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty establishing the European Community,

Having regard to Council Regulation (EC) No 384/96 of 22 December 1995 on protection against dumped imports from countries not members of the European Community [1] (the basic Regulation), and in particular Article 9 thereof,

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

Whereas:

A. PROCEDURE

1. Provisional measures

(1) The Commission, pursuant to Regulation (EC) No 781/2003 [2] (the provisional Regulation) imposed provisional anti-dumping duties on imports of furfuryl alcohol (FA) originating in the People's Republic of China (China), expressed as a specific duty amount ranging between EUR 21 and 181 per tonne, corresponding to the injury margins.

2. Subsequent procedure

(2) Following the imposition of provisional anti-dumping duties, parties received a disclosure of the facts and considerations on which the provisional Regulation was based. Some parties submitted comments in writing. All interested parties who so requested were granted an opportunity to be heard by the Commission. All parties were informed of the essential facts and considerations on the basis of which it was intended to recommend the imposition of definitive anti-dumping duties and the definitive collection of amounts secured by way of provisional duties. They were also granted a period within which to make representations subsequent to this disclosure.

(3) The oral and written comments submitted by the interested parties were considered and, where appropriate, taken into account for the definitive findings.

(4) The Commission continued to seek all information it deemed necessary for the purpose of its definitive findings. In addition to the verification visits undertaken at the premises of the companies mentioned in recitals 10 and 11 of the provisional Regulation, it should be noted that after the imposition of provisional measures, an on-the-spot visit was carried out at the premises of the following Community user:

— Bakelite AG, Iserlohn-Lethmate, Germany.

B. PRODUCT UNDER CONSIDERATION AND LIKE PRODUCT

(5) Since no comments were received regarding the product under consideration and like product, the contents and provisional conclusions of recitals 12 to 17 of the provisional Regulation are hereby confirmed.

C. DUMPING

1. Market economy treatment (MET)

(6) No further evidence was provided regarding the decision not to grant MET to the four cooperating Chinese exporters. The findings set out in recital 20 of the provisional Regulation are, therefore, confirmed.

2. Individual treatment (IT)

(7) In the provisional Regulation, IT was granted to three cooperating producers and refused to one. The reasons for granting or not granting IT reflected the conditions set out in Article 9(5) of the basic Regulation. It was questioned by the Community industry (CI) whether the Commission could rely on this Article as it came into force only after the initiation of the current proceeding.

[1] OJ L 56, 6.3.1996, p. 1. Regulation as last amended by Regulation (EC) No 1972/2002 (OJ L 305, 7.11.2002, p. 1).
[2] OJ L 114, 8.5.2003, p. 16.

(8) The determination on the question of IT was based upon the criteria applying when the current proceeding was initiated. These criteria are identical to those set out in Article 9(5) of the basic Regulation, and have been used over a number of years. Therefore, the provisional Regulation referred to Article 9(5) of the basic Regulation substantiating a long-standing practice.

(9) In its provisional determination, the Commission refused IT to one cooperating Chinese exporting producer, Henan Huilong Chemical Industry Co. Ltd (Huilong), which acted both as a producer and as a trader of FA, on the basis that it was not possible to determine the level of State interference in the business activities performed by Huilong. Nevertheless, recital 29 of the provisional Regulation provides for this issue to be further considered at the definitive stage.

(10) The exporter concerned contends that the provisional determination was incorrect and that it should indeed be granted IT. In support of its argument, the company points out that there was no evidence found of any direct State interference in the company itself, and that the traded volume of FA represented less than 5 % of its production during the investigation period (IP). Moreover, some of this traded product was purchased from another cooperating exporter to which IT has already been granted.

(11) Following the imposition of provisional measures, no further information has been found that would point to State interference in the business activities carried out by Huilong. Huilong has agreed to cease its trading activity in FA were it to be granted IT.

(12) Accordingly, it is now concluded that the level of State interference in the business dealings of Huilong, if any, cannot be significant and would in any case not be such as to permit circumvention of the measures. On this basis, it was decided to revise the provisional determination, and to grant IT to Huilong.

3. **Analogue country**

(13) The exporting producers have objected to the choice of the United States of America as the analogue country and repeated their assertion that Thailand would represent a better alternative. This claim is based on the arguments that (i) the production costs are lower in Thailand; (ii) Thailand is the principal source of FA imported into the EU; and (iii) the complainants accept that there is no evidence that imports from Thailand are being made at dumped prices.

(14) As outlined in recital 33 of the provisional Regulation, only one producer, in the United States of America, was prepared to cooperate in the investigation. Furthermore, it was provisionally established that the United States of America fulfilled the necessary criteria to constitute an appropriate analogue country.

(15) There are no indications that Thailand, nor indeed South Africa, would constitute a better alternative as analogue country. No evidence was submitted by the exporting producers as to the production costs of the FA producers in Thailand or South Africa, other than by making an extrapolation from the export prices reported in the complaint and on Eurostat. Moreover, the Thai producer refused to cooperate in the proceedings. Therefore, it was considered that these countries could not reasonably be used to construct a normal value due to the lack of any reliable and verifiable evidence upon which to base any findings.

(16) Accordingly, and in the absence of any new evidence to the contrary, the provisional conclusion reached in recital 33 of the provisional Regulation is confirmed.

4. **Dumping**

4.1. Normal value

(17) The exporting producers asserted that the constructed normal value is too high to be considered reasonable. In support of this claim they point to the lower prices of FA from Thailand, which are not alleged to be dumped, as well as to the lower normal value presented by the complainants prior to initiation of the proceeding.

(18) In this respect it should be noted that the normal value was established in accordance with Article 2(7)(a) of the basic Regulation, namely on the basis of the information obtained in the analogue country, i.e. the United States of America. It is furthermore confirmed that the constructed normal value was calculated on the basis of actual prices and costs duly verified during an on-the-spot investigation at the premises of the cooperating FA producer in the United States of America.

(19) Therefore, it is considered that, in the absence of verified information in respect of either South Africa or Thailand, the data available from the FA producer in the United States of America represent the best information available for the construction of the normal value. The findings of recital 34 of the provisional Regulation are thus confirmed.

4.2. Export price

(20) The export prices have been adjusted slightly, following comments, duly supported by evidence, on the freight charges used.

(21) The exporting producers also objected to the methodology used to calculate the export price for non-cooperating companies as outlined in recital 36 of the provisional Regulation.

(22) In this regard, it should be recalled that the level of cooperation in this case was low, and that the export prices therefore had to be based on facts available in accordance with Article 18(1) of the basic Regulation. For the provisional Regulation, prices and volumes of the cooperating producer to which IT was not granted, i.e. Huilong, were used.

(23) This producer has now been granted IT and has had its own dumping margin calculated on the basis of its own sales to the EU during the IP. In view of this, the value of the exports for non-cooperating companies had to be recalculated. This new calculation is based on a representative volume of the EU sales of the four cooperating exporters. In order to ensure that the transactions used could be considered reliable, a sample of 25 % by volume was used. This sample comprised those invoices of the four cooperating producers with the lowest average transaction prices. It was considered appropriate to use the lowest transaction prices, as there was no reason to believe that the sales made by non-cooperating companies would have been at prices higher than those made by the cooperating producers. The average price so calculated was then used to determine the residual dumping and injury margins.

4.3. Comparison

(24) In the absence of any comments, the provisional conclusion of recital 37 of the provisional Regulation is confirmed.

4.4. Dumping margin

(25) The dumping margins, which were reviewed in the light of the issues outlined above, are now as follows (expressed as a percentage on the cif import price at the Community border):

Company	*Margin*
Gaoping	93 %
Huilong	90 %
Linzi	78 %
Zhucheng	80 %
All others	112 %

D. **COMMUNITY INDUSTRY**

(26) The four cooperating exporters claimed that Transfurans Chemicals BVBA (TFC), Belgium and International Furan Chemicals BV, the Netherlands (IFC) do not constitute the 'Community industry' within the meaning of Articles 5(4) and 4(1) of the basic Regulation, because these companies are very small in view of the number of employees and are owned by a privately held company in the Dominican Republic, Central Romana Corporation (CRC).

(27) These arguments could not be accepted. First, small and medium-sized companies are clearly entitled to lodge a complaint and can constitute the CI within the meaning of Articles 5(4) and 4(1) of the basic Regulation.

(28) Second, the investigation has shown, as referred to in recital 43 of the provisional Regulation, that FA produced by TFC is of Community origin and that the manufacturing operations, the technological and capital investment for the manufacturing operations and the sales operations take place in the Community. Furthermore, the fact that TFC, IFC and CRC are related through common ownership, as established under recital 42 of the provisional Regulation, does not exclude the application of Articles 5(4) and 4(1) of the basic Regulation.

(29) Therefore, the arguments raised by the Chinese exporting producers were rejected and the findings set out in recital 44 of the provisional Regulation are confirmed.

E. **INJURY**

1. **Consumption of FA in the Community**

(30) In the absence of any new information on consumption, the provisional findings as described in recitals 46 to 48 of the provisional Regulation are confirmed.

2. **Imports of FA into the Community**

(31) In the absence of any new information on imports of FA into the Community, the provisional findings as described in recitals 49 to 63 of the provisional Regulation are confirmed.

3. **Economic situation of the Community industry**

(32) The four Chinese exporting producers claimed that the CI did not suffer injury, as most of the injury indicators (in particular sales volume, sales prices, stocks, profitability, cash flow and investments) established by the Commission could not be reconciled with the published audited accounts of IFC and/or TFC. They argued that some indicators, such as profitability, stocks and cash flow, contained in the audited accounts of IFC and/or TFC showed either increasing or stable trends.

(33) It should be noted that the published audited accounts of IFC and TFC also include activities other than the production of the product concerned. Moreover, the published audited accounts of IFC and TFC cover the period from October 2001 to September 2002 while the IP referred to in recital 4 of the provisional Regulation covered the period from 1 July 2001 to 30 June 2002. Furthermore, as mentioned in recitals 41 and 44 of the provisional Regulation, it was found that TFC is part of a single economic entity consisting of TFC, IFC and CRC. Therefore, in order to make a meaningful assessment of certain injury indicators, it was necessary also to take into account some data from CRC. In addition, it is recalled that IFC's own trading activity in the Community mentioned in recitals 105 and 106 of the provisional Regulation falls outside the scope of the investigation, but forms part of the audited accounts of IFC. Furthermore, the export sales of IFC mentioned in recitals 101 to 104 of the provisional Regulation are included in the audited accounts, whilst the investigation exclusively covered the economic situation of the CI as regards the Community market.

(34) These facts prevent the injury indicators from being adduced from the published accounts of IFC and TFC as the four Chinese exporting producers have proposed. It is also recalled that the Commission findings are in line with the information contained in the files for the inspection by interested parties.

(35) Therefore, the arguments raised by the Chinese exporting producers were rejected and the findings and the conclusion set out in recitals 86 to 91 of the provisional Regulation are confirmed.

F. **CAUSATION**

(36) The four Chinese exporting producers argued that because there was no injury there was no causation. If there is injury, it is not the Chinese imports but the imports from Thailand that contributed to the economic situation of the CI.

(37) The Chinese exporting producers did not provide any new evidence in support of this claim. It is recalled that in recitals 107 to 111 of the provisional Regulation, and in accordance with Article 3(7) of the basic Regulation, the Commission analysed the total imports of FA into the Community from other third countries as a known factor other than the dumped imports. This analysis also covered imports from Thailand in respect of volumes and prices.

(38) The Thai imports represent around 96 % of the imports of FA from third countries. The import volumes of FA into the Community from Thailand increased in line with the developments described in recital 109 of the provisional Regulation. Furthermore, it was found that import prices from Thailand were far above the level of those of Chinese exporting producers (over 24 % during the IP) and even above those of the CI (over 6 % during the IP).

(39) Therefore, the arguments raised by the Chinese exporting producers were rejected and the findings and conclusions set out in recitals 92 to 113 of the provisional Regulation are confirmed.

G. **COMMUNITY INTEREST**

(40) The Chinese exporting producers and one association claimed that the provisional measures have a larger impact on users and the foundry industry than the Commission findings suggested. In particular it was argued that the interest of the users should prevail given the low employment in the CI compared to the high employment in the foundry industry.

(41) With regard to the claim submitted by the Chinese exporting producers, it should be noted that these producers did not provide any new evidence which could have been relevant for the examination of the Community interest. In any event, the Chinese exporting producers may not qualify as an interested party for the purpose of the determination of the Community interest.

(42) As regards the claim of the association, it should be noted that this was examined, although the association did not cooperate during the investigation and did not provide new evidence in support of its arguments. To this end, the Commission carried out an additional on-the-spot verification visit at the premises of a German user. This more thorough investigation confirmed the result of the analysis made at provisional stage, as set out in recital 126 of the provisional Regulation, and that the overall impact of the proposed definitive measures will be negligible.

(43) Therefore, the arguments raised by the Chinese exporting producers and the association were rejected and the findings and conclusions set out in recitals 114 to 133 of the provisional Regulation are confirmed.

H. **DEFINITIVE MEASURES**

(44) In view of the conclusions reached regarding dumping, injury, causation and Community interest, it is considered that definitive anti-dumping measures should be imposed in order to prevent further injury being caused to the CI by dumped imports from China.

1. **Injury elimination level**

(45) It is recalled that it was provisionally found that a profit margin of 10 % on total turnover of FA could be regarded as an appropriate minimum which the CI could reasonably expect to obtain in the absence of injurious dumping. This profit margin would also allow the CI to make the necessary long-term investments.

(46) The CI claimed that the profit margin of 10 % as set out in recital 136 of the provisional Regulation did not reflect a return that it could reasonably expect to achieve in the absence of injurious dumping, and asked for a profit margin of at least 23,15 % on turnover, based on its performance in the previous years.

(47) In order to examine this claim, a further in-depth analysis was made of all the information available on the profit margin which could be regarded as an appropriate minimum which the CI could reasonably expect to obtain in the absence of injurious dumping. The profits realised in the years preceding the IP were re-analysed. It was found that in the previous years the profit rates were indeed much higher than 10 %. It was therefore concluded that a profit margin of 15,17 % based on the average actual profit achieved in the three years preceding the IP could be reasonably expected in view of the development of profitability of the CI and the presence of dumped imports on the Community market. This approach is fully in line with existing jurisprudence, in particular the ruling in the case of EFMA v Council [1].

(48) Consequently, the claim of the Community industry for a profit margin of 23,15 % has been rejected. In the light of the above, the Commission's calculations have been reviewed on the basis of the revised profit margin.

(49) Apart from this change in the profit margin, the injury elimination level was calculated using the same methodology as explained in recital 137 of the provisional Regulation. On this basis, a non-injurious level of prices was determined which would cover the CI's cost of production and allow a reasonable profit to be obtained in the absence of dumped imports from the country concerned. As a result of the revised calculations, injury margins of 8,9 % to 32,1 % were found.

2. **Form and level of the definitive duty**

(50) In accordance with Article 9(4) of the basic Regulation, as the injury margins were lower than the dumping margins found for all the exporting producers concerned, the definitive duty should be set at the level of the injury margins.

(51) The CI requested that the definitive measures take the form of a combined application of a specific duty (fixed amount EUR/tonne) and a variable duty (equal to the difference between the import price and a predetermined minimum price) or as a variable duty in the form of a minimum import price. Furthermore, the CI argued that the difference between the amounts of duty imposed on the exporters was so high that additional risks of circumvention, such as compensatory arrangements or absorption, could exist.

(52) In order to examine this claim, the different possible forms of measures were analysed in depth. In view of the need to ensure the efficiency of measures, it was considered that neither a combined application of a specific duty (fixed amount EUR/tonne) with a variable duty nor a variable duty alone would be sufficient to remove the injury caused by dumping. The former is only exceptionally used when the particular circumstances of a case, e.g. clear indications of price manipulation, so require, whilst the latter results in inherent problems of enforcement. As laid down in the provisional Regulation, the duty to be imposed should be in the form of a specific amount of EUR/tonne in order to ensure the efficiency of the measures and to minimise the existing risk of substituting the product concerned for products within the same general category of goods (e.g. furfural), especially as price manipulation has been observed in some previous proceedings involving furfural [2].

(53) However, in order further to minimise the risks of circumvention due to the substantial level of non-cooperation (40 %) and the high difference in the amounts of duty, it is considered that special provisions are needed in this case to ensure the proper application of the anti-dumping duties. These special provisions include the presentation to the customs authorities of the Member States of a valid commercial invoice, which is to conform to the requirements set out in the Annex. Only imports accompanied by such an invoice may be declared under the applicable TARIC additional codes of the producer in question. Imports not accompanied by such an invoice shall be made subject to the residual anti-dumping duty applicable to all other exporters. The companies concerned have also been invited to submit regular reports to the Commission in order to ensure a proper follow-up of their sales of FA to the Community. In cases where reports are not submitted, or where the reports disclose that the measures are not adequate to eliminate the effects of injurious dumping, it may be necessary to initiate an interim review in accordance with Article 11(3) of the basic Regulation.

(54) The calculation of the injury threshold related to cif import price results in duties ranging between EUR 84 and 250 per tonne.

[1] Judgement of the Court of First Instance of 28 October 1999 in Case T-210/95.

[2] OJ L 328, 22.12.1999, p. 1.

(55) The correction made to the dumping and injury margins had no effect on the application of the lesser duty rule. Therefore, the methodology used for establishing the anti-dumping duty rates as described in recital 138 of the provisional Regulation is hereby confirmed. The definitive duties will therefore be:

Company	*Ad valorem*	*Specific duty*
Gaoping	18,3 %	160 EUR/tonne
Huilong	17,9 %	156 EUR/tonne
Linzi	8,9 %	84 EUR/tonne
Zhucheng	10,3 %	97 EUR/tonne
All others	32,1 %	250 EUR/tonne

I. **DEFINITIVE COLLECTION OF THE PROVISIONAL DUTY**

(56) In view of the magnitude of the dumping margins found for the exporting producers in China and given the level of the injury caused to the Community industry, it is considered necessary that the amounts secured by way of provisional anti-dumping duty imposed by the provisional Regulation should be definitively collected to the extent of the amount of definitive duties imposed. As the definitive duties are higher than the provisional duties, only the amounts secured at the level of the provisional duties should be definitively collected.

(57) Any claim requesting the application of these individual company anti-dumping duty rates (e.g. following a change in the name of the entity or following the setting up of new production or sales entities) should be addressed to the Commission forthwith with all relevant information, in particular any modification in the company's activities linked to production, domestic sales and export sales associated with e.g. that name change or that change in the production and sales entities. If appropriate, the Regulation will accordingly be amended by updating the list of companies benefiting from individual duties,

HAS ADOPTED THIS REGULATION:

Article 1

1. A definitive anti-dumping duty is hereby imposed on imports of FA currently classifiable within CN code ex 2932 13 00 (TARIC code 2932 13 00 90), originating in the People's Republic of China.

2. The rate of the definitive anti-dumping duty applicable for the product originating in the People's Republic of China shall be as follows:

Companies	Rate of anti-dumping duty (EUR/tonne)	TARIC additional code
Gaoping Chemical Industry Co. Ltd	160	A442
Linzi Organic Chemical Inc.	84	A440
Zhucheng Huaxiang Chemical Co. Ltd	97	A441
Henan Huilong Chemical Industry Co. Ltd	156	A484
All other companies	250	A999

3. The application of the individual duty rates specified for the four companies mentioned in paragraph 2 shall be conditional upon presentation to the customs authorities of the Member States of a valid commercial invoice, which shall conform to the requirements set out in the Annex. If no such invoice is presented, the duty rate applicable to all other companies shall apply.

4. In cases where goods have been damaged before entry into free circulation and, therefore, the price actually paid or payable is apportioned for the determination of the customs value pursuant to Article 145 of Commission Regulation (EEC) No 2454/93 of 2 July 1993 laying down provisions for the implementation of Council Regulation (EEC) No 2913/92 establishing the Common Customs Code [1] the amount of anti-dumping duty, calculated on the basis of paragraph 2 above, shall be reduced by a percentage which corresponds to the apportioning of the price actually paid or payable.

5. Unless otherwise specified, the provisions in force concerning customs duties shall apply.

Article 2

The amounts secured by way of provisional anti-dumping duties pursuant to the provisional Regulation on imports of FA currently classifiable within CN code ex 2932 13 00 (TARIC code 2932 13 00 90), originating in the People's Republic of China shall be definitively collected as follows.

The amounts secured in excess of the definitive rate of anti-dumping duties shall be released. Where the definitive duties are higher than the provisional duties, only the amounts secured at the level of the provisional duties shall be definitively collected.

Article 3

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

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

Done at Luxembourg, 27 October 2003.

For the Council
The President
A. MATTEOLI

ANNEX

The valid commercial invoice referred to in Article 1(3) of this Regulation must include a declaration signed by an officer of the company, in the following format:

1. The name and function of the official of the company which has issued the commercial invoice.
2. The following declaration:

   'I, the undersigned, certify that the [volume] of furfuryl alcohol currently classifiable within CN code ex 2932 13 00 (TARIC code 2932 13 00 90) sold for export to the European Community covered by this invoice was manufactured by [company name and address] in the People's Republic of China; I declare that the information provided in this invoice is complete and correct.'
3. Date and signature

[1] OJ L 253, 11.10.1993, p. 1. Regulation as last amended by Commission Regulation (EC) No 1335/2003 (OJ L 187, 26.7.2003, p. 16).

COMMISSION REGULATION (EC) No 1906/2003

of 30 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 31 October 2003.

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

Done at Brussels, 30 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 30 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	67,9
	060	52,8
	096	52,0
	204	59,7
	999	58,1
0707 00 05	052	133,5
	999	133,5
0709 90 70	052	103,2
	204	73,9
	999	88,6
0805 50 10	052	84,7
	204	84,1
	388	58,4
	524	51,3
	528	82,0
	600	76,5
	999	72,8
0806 10 10	052	102,8
	400	198,0
	508	307,1
	999	202,6
0808 10 20, 0808 10 50, 0808 10 90	052	100,2
	060	37,8
	064	43,0
	388	77,2
	400	53,2
	404	83,8
	508	31,9
	720	53,5
	800	165,1
	804	98,6
	999	74,4
0808 20 50	052	108,9
	060	53,7
	064	60,3
	720	43,9
	999	66,7

(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 1907/2003
of 30 October 2003
fixing the representative prices and the additional import duties for molasses in the sugar sector

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Council Regulation (EC) No 1260/2001 of 19 June 2001 on the common organisation of the market in sugar [1], as amended by Commission Regulation (EC) No 680/2002 [2],

Having regard to Commission Regulation (EC) No 1422/95 of 23 June 1995 laying down detailed rules of application for imports of molasses in the sugar sector and amending Regulation (EEC) No 785/68 [3], as amended by Regulation (EC) No 79/2003 [4], and in particular Article 1(2) and Article 3(1) thereof,

Whereas:

(1) Regulation (EC) No 1422/95 stipulates that the cif import price for molasses, hereinafter referred to as the 'representative price', should be set in accordance with Commission Regulation (EEC) No 785/68 [5]. That price should be fixed for the standard quality defined in Article 1 of the above Regulation.

(2) The representative price for molasses is calculated at the frontier crossing point into the Community, in this case Amsterdam; that price must be based on the most favourable purchasing opportunities on the world market established on the basis of the quotations or prices on that market adjusted for any deviations from the standard quality. The standard quality for molasses is defined in Regulation (EEC) No 785/68.

(3) When the most favourable purchasing opportunities on the world market are being established, account must be taken of all available information on offers on the world market, on the prices recorded on important third-country markets and on sales concluded in international trade of which the Commission is aware, either directly or through the Member States. Under Article 7 of Regulation (EEC) No 785/68, the Commission may for this purpose take an average of several prices as a basis, provided that this average is representative of actual market trends.

(4) The information must be disregarded if the goods concerned are not of sound and fair marketable quality or if the price quoted in the offer relates only to a small quantity that is not representative of the market. Offer prices which can be regarded as not representative of actual market trends must also be disregarded.

(5) If information on molasses of the standard quality is to be comparable, prices must, depending on the quality of the molasses offered, be increased or reduced in the light of the results achieved by applying Article 6 of Regulation (EEC) No 785/68.

(6) A representative price may be left unchanged by way of exception for a limited period if the offer price which served as a basis for the previous calculation of the representative price is not available to the Commission and if the offer prices which are available and which appear not to be sufficiently representative of actual market trends would entail sudden and considerable changes in the representative price.

(7) Where there is a difference between the trigger price for the product in question and the representative price, additional import duties should be fixed under the conditions set out in Article 3 of Regulation (EC) No 1422/95. Should the import duties be suspended pursuant to Article 5 of Regulation (EC) No 1422/95, specific amounts for these duties should be fixed.

(8) Application of these provisions will have the effect of fixing the representative prices and the additional import duties for the products in question as set out in the Annex to this Regulation.

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

HAS ADOPTED THIS REGULATION:

Article 1

The representative prices and the additional duties applying to imports of the products referred to in Article 1 of Regulation (EC) No 1422/95 are fixed in the Annex hereto.

Article 2

This Regulation shall enter into force on 31 October 2003.

[1] OJ L 178, 30.6.2001, p. 1.
[2] OJ L 104, 20.4.2002, p. 26.
[3] OJ L 141, 24.6.1995, p. 12.
[4] OJ L 13, 18.1.2003, p. 4.
[5] OJ L 145, 27.6.1968, p. 12.

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

Done at Brussels, 30 October 2003.

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

ANNEX

to the Commission Regulation of 30 October 2003 fixing the representative prices and additional import duties to imports of molasses in the sugar sector

(in EUR)

CN code	Amount of the representative price in 100 kg net of the product in question	Amount of the additional duty in 100 kg net of the product in question	Amount of the duty to be applied to imports in 100 kg net of the product in question because of suspension as referred to in Article 5 of Regulation (EC) No 1422/95 (2)
1703 10 00 (1)	5,78	0,40	—
1703 90 00 (1)	8,73	—	0

(1) For the standard quality as defined in Article 1 of amended Regulation (EEC) No 785/68.
(2) This amount replaces, in accordance with Article 5 of Regulation (EC) No 1422/95, the rate of the Common Customs Tariff duty fixed for these products.

COMMISSION REGULATION (EC) No 1908/2003
of 30 October 2003
fixing the export refunds on white sugar and raw sugar exported in its unaltered state

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

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

Whereas:

(1) Article 27 of Regulation (EC) No 1260/2001 provides that the difference between quotations or prices on the world market for the products listed in Article 1(1)(a) of that Regulation and prices for those products within the Community may be covered by an export refund.

(2) Regulation (EC) No 1260/2001 provides that when refunds on white and raw sugar, undenatured and exported in its unaltered state, are being fixed account must be taken of the situation on the Community and world markets in sugar and in particular of the price and cost factors set out in Article 28 of that Regulation. The same Article provides that the economic aspect of the proposed exports should also be taken into account.

(3) The refund on raw sugar must be fixed in respect of the standard quality. The latter is defined in Annex I, point II, to Regulation (EC) No 1260/2001. Furthermore, this refund should be fixed in accordance with Article 28(4) of Regulation (EC) No 1260/2001. Candy sugar is defined in Commission Regulation (EC) No 2135/95 of 7 September 1995 laying down detailed rules of application for the grant of export refunds in the sugar sector [3]. The refund thus calculated for sugar containing added flavouring or colouring matter must apply to their sucrose content and, accordingly, be fixed per 1 % of the said content.

(4) The world market situation or the specific requirements of certain markets may make it necessary to vary the refund for sugar according to destination.

(5) In special cases, the amount of the refund may be fixed by other legal instruments.

(6) The refund must be fixed every two weeks. It may be altered in the intervening period.

(7) It follows from applying the rules set out above to the present situation on the market in sugar and in particular to quotations or prices for sugar within the Community and on the world market that the refund should be as set out in the Annex hereto.

(8) Regulation (EC) No 1260/2001 does not make provision to continue the compensation system for storage costs from 1 July 2001. This should accordingly be taken into account when fixing the refunds granted when the export occurs after 30 September 2001.

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

HAS ADOPTED THIS REGULATION:

Article 1

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

Article 2

This Regulation shall enter into force on 31 October 2003.

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

Done at Brussels, 30 October 2003.

For the Commission
Franz FISCHLER
Member of the Commission

[1] OJ L 178, 30.6.2001, p. 1.
[2] OJ L 104, 20.4.2002, p. 26.
[3] OJ L 214, 8.9.1995, p. 16.

ANNEX

REFUNDS ON WHITE SUGAR AND RAW SUGAR EXPORTED WITHOUT FURTHER PROCESSING

Product code	Destination	Unit of measurement	Amount of refund
1701 11 90 9100	S00	EUR/100 kg	45,72 (1)
1701 11 90 9910	S00	EUR/100 kg	45,72 (1)
1701 12 90 9100	S00	EUR/100 kg	45,72 (1)
1701 12 90 9910	S00	EUR/100 kg	45,72 (1)
1701 91 00 9000	S00	EUR/1 % of sucrose × 100 kg product net	0,4970
1701 99 10 9100	S00	EUR/100 kg	49,70
1701 99 10 9910	S00	EUR/100 kg	49,70
1701 99 10 9950	S00	EUR/100 kg	49,70
1701 99 90 9100	S00	EUR/1 % of sucrose × 100 kg of net product	0,4970

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

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

The other destinations are:

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

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

COMMISSION REGULATION (EC) No 1909/2003
of 30 October 2003
fixing the export refunds on syrups and certain other sugar products exported in the natural state

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

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

Whereas:

(1) Article 27 of Regulation (EC) No 1260/2001 provides that the difference between quotations or prices on the world market for the products listed in Article 1(1)(d) of that Regulation and prices for those products within the Community may be covered by an export refund.

(2) Article 3 of Commission Regulation (EC) No 2135/95 of 7 September 1995 laying down detailed rules of application for the grant of export refunds in the sugar sector [3], provides that the export refund on 100 kilograms of the products listed in Article 1(1)(d) of Regulation (EC) No 1260/2001 is equal to the basic amount multiplied by the sucrose content, including, where appropriate, other sugars expressed as sucrose; the sucrose content of the product in question is determined in accordance with Article 3 of Commission Regulation (EC) No 2135/95.

(3) Article 30(3) of Regulation (EC) No 1260/2001 provides that the basic amount of the refund on sorbose exported in the natural state must be equal to the basic amount of the refund less one hundredth of the production refund applicable, pursuant to Commission Regulation (EC) No 1265/2001 of 27 June 2001 laying down detailed rules for the application of Council Regulation (EC) No 1260/2001 as regards granting the production refund on certain sugar products used in the chemical industry [4] to the products listed in the Annex to the last mentioned Regulation;

(4) According to the terms of Article 30(1) of Regulation (EC) No 1260/2001, the basic amount of the refund on the other products listed in Article 1(1)(d) of the said Regulation exported in the natural state must be equal to one-hundredth of an amount which takes account, on the one hand, of the difference between the intervention price for white sugar for the Community areas without deficit for the month for which the basic amount is fixed and quotations or prices for white sugar on the world market and, on the other, of the need to establish a balance between the use of Community basic products in the manufacture of processed goods for export to third countries and the use of third country products brought in under inward-processing arrangements.

(5) According to the terms of Article 30(4) of Regulation (EC) No 1260/2001, the application of the basic amount may be limited to some of the products listed in Article 1(1)(d) of the said Regulation.

(6) Article 27 of Regulation (EC) No 1260/2001 makes provision for setting refunds for export in the natural state of products referred to in Article 1(1)(f) and (g) and (h) of that Regulation; the refund must be fixed per 100 kilograms of dry matter, taking account of the export refund for products falling within CN code 1702 30 91 and for products referred to in Article 1(1)(d) of Regulation (EC) No 1260/2001 and of the economic aspects of the intended exports; in the case of the products referred to in the said Article (1)(f) and (g), the refund is to be granted only for products complying with the conditions in Article 5 of Regulation (EC) No 2135/95; for the products referred to in Article 1(1)(h), the refund shall be granted only for products complying with the conditions in Article 6 of Regulation (EC) No 2135/95.

(7) The abovementioned refunds must be fixed every month; they may be altered in the intervening period.

(8) The first subparagraph of Article 27(5) of Regulation (EC) No 1260/2001 provides that refunds on the products referred to in Article 1 of that Regulation may vary according to destination, where the world market situation or the specific requirements of certain markets make this necessary.

(9) The significant and rapid increase in preferential imports of sugar from the western Balkan countries since the start of 2001 and in exports of sugar to those countries from the Community seems to be highly artificial in nature.

[1] OJ L 178, 30.6.2001, p. 1.
[2] OJ L 104, 20.4.2002, p. 26.
[3] OJ L 214, 8.9.1995, p. 16.
[4] OJ L 178, 30.6.2001, p. 63.

(10) In order to prevent any abuses associated with the reimportation into the Community of sugar sector products that have qualified for export refunds, refunds for the products covered by this Regulation should not be fixed for all the countries of the western Balkans.

(11) In view of the above, refunds for the products in question should be fixed at the appropriate amounts.

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

HAS ADOPTED THIS REGULATION:

Article 1

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

Article 2

This Regulation shall enter into force on 31 October 2003.

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

Done at Brussels, 30 October 2003.

For the Commission

Franz FISCHLER

Member of the Commission

ANNEX

EXPORT REFUNDS ON SYRUPS AND CERTAIN OTHER SUGAR PRODUCTS EXPORTED WITHOUT FURTHER PROCESSING

Product code	Destination	Unit of measurement	Amount of refund
1702 40 10 9100	S00	EUR/100 kg dry matter	49,70 (1)
1702 60 10 9000	S00	EUR/100 kg dry matter	49,70 (1)
1702 60 80 9100	S00	EUR/100 kg dry matter	94,43 (2)
1702 60 95 9000	S00	EUR/1 % sucrose × net 100 kg of product	0,4970 (3)
1702 90 30 9000	S00	EUR/100 kg dry matter	49,70 (1)
1702 90 60 9000	S00	EUR/1 % sucrose × net 100 kg of product	0,4970 (3)
1702 90 71 9000	S00	EUR/1 % sucrose × net 100 kg of product	0,4970 (3)
1702 90 99 9900	S00	EUR/1 % sucrose × net 100 kg of product	0,4970 (3) (4)
2106 90 30 9000	S00	EUR/100 kg dry matter	49,70 (1)
2106 90 59 9000	S00	EUR/1 % sucrose × net 100 kg of product	0,4970 (3)

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

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

The other destinations are defined as follows:

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

(1) Applicable only to products referred to in Article 5 of Regulation (EC) No 2135/95.
(2) Applicable only to products referred to in Article 6 of Regulation (EC) No 2135/95.
(3) The basic amount is not applicable to syrups which are less than 85 % pure (Regulation (EC) No 2135/95). Sucrose content is determined in accordance with Article 3 of Regulation (EC) No 2135/95.
(4) The basic amount is not applicable to the product defined under point 2 of the Annex to Commission Regulation (EEC) No 3513/92 (OJ L 355, 5.12.1992, p. 12).

COMMISSION REGULATION (EC) No 1910/2003

of 30 October 2003

fixing the maximum export refund for white sugar to certain third countries for the 12th partial invitation to tender issued within the framework of the standing invitation to tender provided for in Regulation (EC) No 1290/2003

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

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

Whereas:

(1) Commission Regulation (EC) No 1290/2003 of 18 July 2003 on a standing invitation to tender to determine levies and/or refunds on exports of white sugar [3], for the 2003/2004 marketing year, requires partial invitations to tender to be issued for the export of this sugar to certain third countries.

(2) Pursuant to Article 9(1) of Regulation (EC) No 1290/2003 a maximum export refund shall be fixed, as the case may be, account being taken in particular of the state and foreseeable development of the Community and world markets in sugar, for the partial invitation to tender in question.

(3) Following an examination of the tenders submitted in response to the 12th partial invitation to tender, the provisions set out in Article 1 should be adopted.

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

HAS ADOPTED THIS REGULATION:

Article 1

For the 12th partial invitation to tender for white sugar issued pursuant to Regulation (EC) No 1290/2003 the maximum amount of the export refund to certain third countries is fixed at 52,808 EUR/100 kg.

Article 2

This Regulation shall enter into force on 31 October 2003.

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

Done at Brussels, 30 October 2003.

For the Commission
Franz FISCHLER
Member of the Commission

[1] OJ L 178, 30.6.2001, p. 1.
[2] OJ L 104, 20.4.2002, p. 26.
[3] OJ L 181, 19.7.2003, p. 7.

COMMISSION REGULATION (EC) No 1911/2003

of 30 October 2003

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

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

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

Whereas:

(1) Article 27(1) and (2) of Regulation (EEC) No 1260/2001 provides that the differences between the prices in international trade for the products listed in Article 1(1)(a), (c), (d), (f), (g) and (h) of that Regulation and prices within the Community may be covered by an export refund where these products are exported in the form of goods listed in Annex V to that Regulation. Commission Regulation (EC) No 1520/2000 of 13 July 2000 laying down common implementing rules for granting export refunds on certain agricultural products exported in the form of goods not covered by Annex I to the Treaty and the criteria for fixing the amount of such refunds [3], as last amended by Regulation (EC) No 740/2003 [4], specifies the products for which a rate of refund should be fixed, to be applied where these products are exported in the form of goods listed in Annex I to Regulation (EC) No 1260/2001.

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

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

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

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

(6) In accordance with Council Regulation (EC) No 1039/2003 of 2 June 2003 adopting autonomous and transitional measures concerning the importation of certain processed agricultural products originating in Estonia and the exportation of certain agricultural products to Estonia [5], Council Regulation (EC) No 1086/2003 of 18 June 2003 adopting autonomous and transitional measures concerning the importation of certain processed agricultural products originating in Slovenia and the exportation of certain processed agricultural products to Slovenia [6], Council Regulation (EC) No 1087/2003 of 18 June 2003 adopting autonomous and transitional measures concerning the importation of certain processed agricultural products originating in Latvia and the exportation of certain processed agricultural products to Latvia [7], Council Regulation (EC) No 1088/2003 of 18 June 2003 adopting autonomous and transitional measures concerning the importation of certain processed agricultural products originating in Lithuania and the exportation of certain processed agricultural products to Lithuania [8], Council Regulation (EC) No 1089/2003 of 18 June 2003 adopting autonomous and transitional measures concerning the importation of certain processed agricultural products originating in the Slovak Republic and the exportation of certain processed agricultural products to the Slovak Republic [9] and Council Regulation (EC) No 1090/2003 of 18 June 2003 adopting autonomous and transitional measures concerning the importation of certain processed agricultural products originating in the Czech Republic and the exportation of certain processed agricultural products to the Czech Republic [10] with effect from 1 July 2003, processed agricultural products not listed in Annex I to the Treaty which are exported to Estonia, Slovenia, Latvia, Lithuania, Slovakia or the Czech Republic are not eligible for export refunds.

[1] OJ L 178, 30.6.2001, p. 1.
[2] OJ L 104, 20.4.2002, p. 26.
[3] OJ L 177, 15.7.2000, p. 1.
[4] OJ L 106, 29.4.2003, p. 12.
[5] OJ L 151, 19.6.2003, p. 1.
[6] OJ L 163, 1.7.2003, p. 1.
[7] OJ L 163, 1.7.2003, p. 19.
[8] OJ L 163, 1.7.2003, p. 38.
[9] OJ L 163, 1.7.2003, p. 56.
[10] OJ L 163, 1.7.2003, p. 73.

(7) In accordance with Council Regulation (EC) No 999/2003 of 2 June 2003 adopting autonomous and transitional measures concerning the import of certain processed agricultural products originating in Hungary and the export of certain processed agricultural products to Hungary [1], with effect from 1 July 2003, the goods referred to in its Article 1(2) which are exported to Hungary shall not be eligible for export refunds.

(8) In accordance with Council Regulation (EC) No 1890/2003 of 27 October 2003 adopting autonomous and transitional measures concerning the importation of certain processed agricultural products originating in Malta and the exportation of certain processed agricultural products to Malta [2] with effect from 1 November 2003, processed agricultural products not listed in Annex I to the Treaty which are exported to Malta, are not eligible for export refunds.

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

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

HAS ADOPTED THIS REGULATION:

Article 1

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

Article 2

This Regulation shall enter into force on 31 October 2003.

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

Done at Brussels, 30 October 2003.

For the Commission
Erkki LIIKANEN
Member of the Commission

[1] OJ L 146, 13.6.2003, p. 10.
[2] OJ L 278, 29.10.2003, p. 1.

ANNEX

Rates of refunds applicable from 31 October 2003 to certain products from the sugar sector exported in the form of goods not covered by Annex I to the Treaty

CN code	Description	Rate of refund in EUR/100 kg (1)	
		In case of advance fixing of refunds	Other
1701 99 10	White sugar	49,70	49,70

(1) With effect from 1 July 2003 these rates are not applicable to goods not covered by Annex I to the Treaty when exported to Estonia, Slovenia, Latvia, Lithuania, the Czech Republic or Slovakia and to the goods referred to in Article 1(2) of Regulation (EC) No 999/2003 when exported to Hungary. With effect from 1 November 2003 these rates are not applicable to goods not covered by Annex I to the Treaty when exported to Malta.

COMMISSION REGULATION (EC) No 1912/2003

of 30 October 2003

fixing the rates of the refunds applicable to certain cereal and rice-products exported in the form of goods not covered by Annex I to the Treaty

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Council Regulation (EEC) No 1766/92 of 30 June 1992 on the common organisation of the market in cereals ([1]), as last amended by Regulation (EC) No 1784/2003 ([2]), and in particular Article 13(3) thereof,

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

Whereas:

(1) Article 13(1) of Regulation (EEC) No 1766/92 and Article 13(1) of Regulation (EC) No 3072/95 provide that the difference between quotations of prices on the world market for the products listed in Article 1 of each of those Regulations and the prices within the Community may be covered by an export refund.

(2) Commission Regulation (EC) No 1520/2000 of 13 July 2000 laying down common implementing rules for granting export refunds on certain agricultural products exported in the form of goods not covered by Annex I to the Treaty, and the criteria for fixing the amount of such refunds ([5]), as last amended by Regulation (EC) No 740/2003 ([6]), specifies the products for which a rate of refund should be fixed, to be applied where these products are exported in the form of goods listed in Annex B to Regulation (EEC) No 1766/92 or in Annex B to Regulation (EC) No 3072/95 as appropriate.

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

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

(5) Taking into account the settlement between the European Community and the United States of America on Community exports of pasta products to the United States, approved by Council Decision 87/482/EEC ([7]), it is necessary to differentiate the refund on goods falling within CN codes 1902 11 00 and 1902 19 according to their destination.

(6) Pursuant to Article 4(3) and (5) of Regulation (EC) No 1520/2000, a reduced rate of export refund has to be fixed, taking account of the amount of the production refund applicable, pursuant to Council Regulation (EEC) No 1722/93 ([8]), as last amended by Commission Regulation (EC) No 1786/2001 ([9]), for the basic product in question, used during the assumed period of manufacture of the goods.

(7) Spirituous beverages are considered less sensitive to the price of the cereals used in their manufacture. However, Protocol 19 to the Act of Accession of the United Kingdom, Ireland and Denmark provides that the necessary measures must be decided to facilitate the use of Community cereals in the manufacture of spirituous beverages obtained from cereals. Accordingly, it is necessary to adapt the refund rate applying to cereals exported in the form of spirituous beverages.

(8) In accordance with Council Regulation (EC) No 1039/2003 of 2 June 2003 adopting autonomous and transitional measures concerning the importation of certain processed agricultural products originating in Estonia and the exportation of certain agricultural products to Estonia ([10]), Council Regulation (EC) No 1086/2003 of 18 June 2003 adopting autonomous and transitional measures concerning the importation of certain processed agricultural products originating in Slovenia and the exportation of certain processed agricultural products to Slovenia ([11]), Council Regulation (EC) No 1087/2003 of 18 June 2003 adopting autonomous and transitional measures concerning the importation of certain processed agricultural products originating in Latvia and the exportation of certain processed agricultural products to Latvia ([12]), Council Regulation (EC) No 1088/2003 of 18 June 2003 adopting autonomous and transitional measures concerning the importation of certain processed agricultural products originating in Lithuania and the exportation of certain processed agricultural products to Lithuania ([13]), Council Regulation (EC) No 1089/2003 of 18 June 2003 adopting autonomous and transitional measures concerning the importation of certain processed agricultural products originating in the Slovak Republic and the exportation of certain processed agricultural products to the Slovak

([1]) OJ L 181, 1.7.1992, p. 21.
([2]) OJ L 270, 21.10.2003, p. 78.
([3]) OJ L 329, 30.12.1995, p. 18.
([4]) OJ L 62, 5.3.2002, p. 27.
([5]) OJ L 117, 15.7.2000, p. 1.
([6]) OJ L 106, 29.4.2003, p. 12.
([7]) OJ L 275, 29.9.1987, p. 36.
([8]) OJ L 159, 1.7.1993, p. 112.
([9]) OJ L 242, 12.9.2001, p. 3.
([10]) OJ L 151, 19.6.2003, p. 1.
([11]) OJ L 163, 1.7.2003, p. 1.
([12]) OJ L 163, 1.7.2003, p. 19.
([13]) OJ L 163, 1.7.2003, p. 38.

Republic [1] and Council Regulation (EC) No 1090/2003 of 18 June 2003 adopting autonomous and transitional measures concerning the importation of certain processed agricultural products originating in the Czech Republic and the exportation of certain processed agricultural products to the Czech Republic [2] with effect from 1 July 2003, processed agricultural products not listed in Annex I to the Treaty which are exported to Estonia, Slovenia, Latvia, Lithuania, Slovakia or the Czech Republic are not eligible for export refunds.

(9) In accordance with Council Regulation (EC) No 999/2003 of 2 June 2003 adopting autonomous and transitional measures concerning the import of certain processed agricultural products originating in Hungary and the export of certain processed agricultural products to Hungary [3], with effect from 1 July 2003, the goods referred to in its Article 1(2) which are exported to Hungary are not eligible for export refunds.

(10) In accordance with Council Regulation (EC) No 1890/2003 of 27 October 2003 adopting autonomous and transitional measures concerning the importation of certain processed agricultural products originating in Malta and the exportation of certain processed agricultural products to Malta [4], with effect from 1 November 2003, processed agricultural products not listed in Annex I to the Treaty which are exported to Malta, are not eligible for export refunds.

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

(12) The Management Committee for Cereals has not delivered an opinion within the time limit set by its chairman,

HAS ADOPTED THIS REGULATION:

Article 1

The rates of the refunds applicable to the basic products listed in Annex A to Regulation (EC) No 1520/2000 and listed either in Article 1 of Regulation (EEC) No 1766/92 or in Article 1(1) of Regulation (EC) No 3072/95, exported in the form of goods listed in Annex B to Regulation (EEC) No 1766/92 or in Annex B to Regulation (EC) No 3072/95 respectively, are fixed as shown in the Annex to this Regulation.

Article 2

This Regulation shall enter into force on 31 October 2003.

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

Done at Brussels, 30 October 2003.

For the Commission
Erkki LIIKANEN
Member of the Commission

[1] OJ L 163, 1.7.2003, p. 56.
[2] OJ L 163, 1.7.2003, p. 73.
[3] OJ L 146, 13.6.2003, p. 10.
[4] OJ L 278, 29.10.2003, p. 1.

ANNEX

Rates of the refunds applicable from 31 October 2003 to certain cereals and rice products exported in the form of goods not covered by Annex I to the Treaty

(EUR/100 kg)

CN code	Description of products (1)	Rate of refund per 100 kg of basic product (2)	
		In case of advance fixing of refunds	Other
1001 10 00	Durum wheat:		
	– on exports of goods falling within CN codes 1902 11 and 1902 19 to the United States of America	—	—
	– in other cases	—	—
1001 90 99	Common wheat and meslin:		
	– on exports of goods falling within CN codes 1902 11 and 1902 19 to the United States of America	—	—
	– in other cases:		
	– – where Article 4(5) of Regulation (EC) No 1520/2000 applies (3)	—	—
	– – where goods falling within subheading 2208 (4) are exported	—	—
	– – in other cases	—	—
1002 00 00	Rye	—	—
1003 00 90	Barley		
	– where goods falling within subheading 2208 (4) are exported	—	—
	– in other cases	—	—
1004 00 00	Oats	—	—
1005 90 00	Maize (corn) used in the form of:		
	– starch:		
	– – where Article 4(5) of Regulation (EC) No 1520/2000 applies (3)	1,194	1,194
	– – where goods falling within subheading 2208 (4) are exported	—	—
	– – in other cases	2,100	2,100
	– glucose, glucose syrup, maltodextrine, maltodextrine syrup of CN codes 1702 30 51, 1702 30 59, 1702 30 91, 1702 30 99, 1702 40 90, 1702 90 50, 1702 90 75, 1702 90 79, 2106 90 55 (5):		
	– – where Article 4(5) of Regulation (EC) No 1520/2000 applies (3)	0,669	0,669
	– – where goods falling within subheading 2208 (4) are exported	—	—
	– – in other cases	1,575	1,575
	– where goods falling within subheading 2208 (4) are exported	—	—
	– other (including unprocessed)	2,100	2,100
	Potato starch of CN code 1108 13 00 similar to a product obtained from processed maize:		
	– where Article 4(5) of Regulation (EC) No 1520/2000 applies (3)	1,194	1,194
	– – where goods falling within subheading 2208 (4) are exported	—	—
	– in other cases	2,100	2,100

(EUR/100 kg)

CN code	Description of products (1)	Rate of refund per 100 kg of basic product (2)	
		In case of advance fixing of refunds	Other
ex 1006 30	Wholly milled rice:		
	– round grain	13,600	13,600
	– medium grain	13,600	13,600
	– long grain	13,600	13,600
1006 40 00	Broken rice	3,300	3,300
1007 00 90	Grain sorghum, other than hybrid for sowing	—	—

(1) As far as agricultural products obtained from the processing of a basic product or/and assimilated products are concerned, the coefficients shown in Annex E to Commission Regulation (EC) No 1520/2000 shall be applied (OJ L 177, 15.7.2000, p. 1).
(2) With effect from 1 July 2003 these rates are not applicable to goods not covered by Annex I to the Treaty when exported to the Czech Republic, Estonia, Latvia, Lithuania, Slovakia or Slovenia, and to the goods referred to in Article 1(2) of Regulation (EC) No 999/2003 when exported to Hungary. With effect from 1 November 2003 these rates are not applicable to goods not covered by Annex I to the Treaty when exported to Malta.
(3) The goods concerned fall under CN code 3505 10 50.
(4) Goods listed in Annex B to Regulation (EEC) No 1766/92 or referred to in Article 2 of Regulation (EEC) No 2825/93.
(5) For syrups of CN codes NC 1702 30 99, 1702 40 90 and 1702 60 90, obtained from mixing glucose and fructose syrup, the export refund may be granted only for the glucose syrup.

COMMISSION REGULATION (EC) No 1913/2003

of 30 October 2003

opening an invitation to tender for the allocation of A3 export licences for fruit and vegetables (tomatoes, oranges, lemons, table grapes and apples)

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Council Regulation (EC) No 2200/96 of 28 October 1996 on the common organisation of the market in fruit and vegetables [1], as last amended by Commission Regulation (EC) No 47/2003 [2], and in particular the third subparagraph of Article 35(3) thereof,

Whereas:

(1) Commission Regulation (EC) No 1961/2001 [3], as last amended by Regulation (EC) No 1176/2002 [4], lays down the detailed rules of application for export refunds on fruit and vegetables.

(2) Article 35(1) of Regulation (EC) No 2200/96 provides that, to the extent necessary for economically significant exports, the products exported by the Community may be covered by export refunds, within the limits resulting from agreements concluded in accordance with Article 300 of the Treaty.

(3) Under Article 35(2) of Regulation (EC) No 2200/96, care must be taken to ensure that the trade flows previously brought about by the refund scheme are not disrupted. For this reason and because exports of fruit and vegetables are seasonal in nature, the quantities scheduled for each product should be fixed, based on the agricultural product nomenclature for export refunds established by Commission Regulation (EEC) No 3846/87 [5], as last amended by Regulation (EC) No 118/2003 [6]. These quantities must be allocated taking account of the perishability of the products concerned.

(4) Article 35(4) of Regulation (EC) No 2200/96 provides that refunds must be fixed in the light of the existing situation and outlook for fruit and vegetable prices on the Community market and supplies available, on the one hand, and, on the other hand, prices on the international market. Account must also be taken of the transport and marketing costs and of the economic aspect of the exports planned.

(5) In accordance with Article 35(5) of Regulation (EC) No 2200/96, prices on the Community market are to be established in the light of the most favourable prices from the export standpoint.

(6) The international trade situation or the special requirements of certain markets may call for the refund on a given product to vary according to its destination.

(7) Tomatoes, oranges, lemons, table grapes and apples of classes Extra, I and II of the common quality standards can currently be exported in economically significant quantities.

(8) In order to ensure the best use of available resources and in view of the structure of Community exports, it is appropriate to proceed by an open invitation to tender and to set the indicative refund amount and the scheduled quantities for the period concerned.

(9) The Management Committee for Fresh Fruit and Vegetables has not delivered an opinion within the time limit set by its Chairman,

HAS ADOPTED THIS REGULATION:

Article 1

1. An invitation to tender for the allocation of A3 export licences is hereby opened. The products concerned, the tender submission period, the indicative refund rates and the scheduled quantities are laid down in the Annex hereto.

2. The licences issued in respect of food aid as referred to in Article 16 of Commission Regulation (EC) No 1291/2000 [7] shall not count against the eligible quantities in the Annex hereto.

3. Notwithstanding Article 5(6) of Regulation (EC) No 1961/2001, the term of validity of the A3 licences shall be two months.

Article 2

This Regulation shall enter into force on 4 November 2003.

[1] OJ L 297, 21.11.1996, p. 1.
[2] OJ L 7, 11.1.2003, p. 64.
[3] OJ L 268, 9.10.2001, p. 8.
[4] OJ L 170, 29.6.2002, p. 69.
[5] OJ L 366, 24.12.1987, p. 1.
[6] OJ L 20, 24.1.2003, p. 3.
[7] OJ L 152, 24.6.2000, p. 1.

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

Done at Brussels, 30 October 2003.

For the Commission
Franz FISCHLER
Member of the Commission

ANNEX

opening an invitation to tender for the allocation of A3 export licences for fruit and vegetables (tomatoes, oranges, lemons, table grapes and apples)

Tender submission period: 4 to 5 November 2003

Product code (1)	Destination (2)	Indicative refund amount (EUR/t net)	Scheduled quantity (t)
0702 00 00 9100	F08	25	2 915
0805 10 10 9100 0805 10 30 9100 0805 10 50 9100	F00	20	54 147
0805 50 10 9100	F00	28	11 869
0806 10 10 9100	F00	19	3 299
0808 10 20 9100 0808 10 50 9100 0808 10 90 9100	F04, F09	16	8 346

(1) The product codes are defined in Commission Regulation (EEC) No 3846/87 (OJ L 366, 24.12.1987, p. 1).
(2) The 'A' series destination codes are defined in Annex II to Regulation (EEC) No 3846/87. The numeric destination codes are set out in Commission Regulation (EC) No 2020/2001 (OJ L 273, 16.10.2001, p. 6). The other destinations are defined as follows:

F00: All destinations except Estonia,

F03: All destinations except Switzerland and Estonia,

F04: Hong Kong, Singapore, Malaysia, Sri Lanka, Indonesia, Thailand, Taiwan, Papua New Guinea, Laos, Cambodia, Vietnam, Japan, Uruguay, Paraguay, Argentina, Mexico, Costa Rica,

F08: All destinations except Slovakia, Latvia, Lithuania, Bulgaria and Estonia,

F09: The following destinations:

— Norway, Iceland, Greenland, Faeroe Islands, Poland, Hungary, Romania, Albania, Bosnia and Herzegovina, Croatia, Slovenia, Former Yugoslav Republic of Macedonia, Serbia and Montenegro, Malta, Armenia, Azerbaijan, Belarus, Georgia, Kazakhstan, Kyrgyzstan, Moldova, Russia, Tajikistan, Turkmenistan, Uzbekistan, Ukraine, Saudi Arabia, Bahrain, Qatar, Oman, United Arab Emirates (Abu Dhabi, Dubai, Sharjah, Ajman, Umm al Qalwain, Ras al Khaimah and Fujairah), Kuwait, Yemen, Syria, Iran, Jordan, Bolivia, Brazil, Venezuela, Peru, Panama, Ecuador and Colombia,

— African countries and territories except South Africa,

— destinations referred to in Article 36 of Commission Regulation (EC) No 800/1999 (OJ L 102, 17.4.1999, p. 11).

COMMISSION REGULATION (EC) No 1914/2003

of 30 October 2003

amending Regulation (EC) No 1488/2001 laying down rules for the application of Council Regulation (EC) No 3448/93 as regards the placement of certain quantities of certain basic products listed in Annex I to the Treaty establishing the European Community under the inward processing arrangements without prior examination of the economic conditions

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to Council Regulation (EC) No 3448/93 of 6 December 1993 laying down the trade arrangements applicable to certain goods resulting from the processing of agricultural products [1], as last amended by Regulation (EC) No 2580/2000 [2], and in particular the third subparagraph of Article 11(1) thereof,

Whereas:

(1) Article 11(1) of Regulation (EC) No 3448/93 provides that the economic conditions set out in Article 117(c) of Council Regulation (EEC) No 2913/92 of 12 October 1992 establishing the Community Customs Code [3], as last amended by Regulation (EC) No 2700/2000 of the European Parliament and of the Council [4], are to be considered fulfilled for the admission of certain quantities of certain basic products under the inward processing arrangements for use in the manufacture of goods. The detailed rules for application of that provision, making it possible to determine the basic agricultural products to be admitted under inward processing arrangements and check and plan the quantities thereof, are to be adopted in accordance with Article 16 of Regulation (EC) No 3448/93.

(2) Commission Regulation (EC) No 1488/2001 [5], should be amended to clarify that, for determining the basic agricultural products to be admitted under inward processing arrangements and for checking and planning the quantities thereof, the procedures set out in Article 16 of Regulation (EC) No 3448/93 are applicable.

(3) The measures provided for in this Regulation are in accordance with the opinion of the Management Committee on horizontal questions concerning trade in processed agricultural products not listed in Annex I to the Treaty,

HAS ADOPTED THIS REGULATION:

Article 1

Regulation (EC) No 1488/2001 is amended as follows:

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

   '2. If the estimated amount needed for refunds exceeds the funds available, the quantities of the various products, as identified by their eight-digit Combined Nomenclature code, shall be determined, in accordance with Article 11(1) of Regulation (EC) No 3448/93, with the aid of the balance.'

2. In Article 22, the second paragraph is replaced by the following:

   'Where the amount of refunds due is estimated to be greater than the financial resources available, and taking into account the quantities already granted with certificates and the unused quantities of which the Commission has been informed in accordance with Article 25 of this Regulation, the remaining quantity available for each basic product shall be determined in accordance with Article 11(1) of Regulation (EC) No 3448/93. That quantity shall be the subject of a second publication in the *Official Journal of the European Union* by no later than 31 January of each year and of a third publication by no later than 31 May of each year.'

3. Article 24 is replaced by the following:

   '*Article 24*

   Emergency issue of IP certificates

   Throughout the budget year, taking into account the quantities already granted with certificates and the unused quantities of which the Commission has been informed in accordance with Article 25 of this Regulation, the remaining quantity available for each basic product identified by its eight-digit nomenclature code may, as a matter of urgency, be determined in accordance with Article 11(1) of Regulation (EC) No 3448/93. That quantity shall be published in the *Official Journal of the European Union*. The provisions of Article 23(2) to (5) of this Regulation shall apply.'

Article 2

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

[1] OJ L 318, 20.12.1993, p. 18.
[2] OJ L 298, 25.11.2000, p. 5.
[3] OJ L 302, 19.10.1992, p. 1.
[4] OJ L 311, 12.12.2000, p. 17.
[5] OJ L 196, 20.7.2001, p. 9.

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

Done at Brussels, 30 October 2003.

For the Commission
Erkki LIIKANEN
Member of the Commission

COMMISSION REGULATION (EC) No 1915/2003

of 30 October 2003

amending Annexes VII, VIII and IX to Regulation (EC) No 999/2001 of the European Parliament and of the Council as regards the trade and import of ovine and caprine animals and the measures following the confirmation of transmissible spongiform encephalopathies in bovine, ovine and caprine animals

(Text with EEA relevance)

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Regulation (EC) No 999/2001 of the European Parliament and of the Council of 22 May 2001 laying down rules for the prevention, control and eradication of certain transmissible spongiform encephalopathies [1], as last amended by Commission Regulation (EC) No 1234/2003 [2] and in particular Article 23 thereof,

Whereas:

(1) Regulation (EC) No 999/2001 lays down rules for the prevention, control and eradication of transmissible spongiform encephalopathies (TSEs) in bovine, ovine and caprine animals. Article 13(1) and Annex VII to that Regulation provide for certain measures to be applied as soon as possible following the confirmation of the presence of a TSE. It is anticipated that the implementation of certain aspects of those measures will present practical difficulties.

(2) As regards ovine and caprine animals, rules for the tracing of progeny following the confirmation of a TSE should be restricted to cases confirmed in female animals, due to the practical difficulties and uncertain benefits of tracing progeny of TSE infected male animals.

(3) As regards bovine animals, under Regulation (EC) No 999/2001, in the case of confirmation of bovine spongiform encephalopathy (BSE), cohorts of BSE affected bovine animals are to be killed and completely destroyed.

(4) In its general session of May 2003, the World Animal Health Organisation (Office International des Epizooties (OIE)) decided that cohorts of BSE affected bovine animals may be kept alive until the end of their productive life, provided that they are completely destroyed following death.

(5) According to the OIE animal health code there is no need to restrict the use of bovine semen because of BSE. In its opinion of 18 and 19 March 1999 on the possible vertical transmission of BSE, updated on 16 May 2002, the Scientific Steering Committee (SSC) concluded that it is unlikely that bovine semen constitutes a risk factor for the transmission of BSE.

(6) In addition, bulls at semen collection centres are under official control, which makes it possible to ensure that they are completely destroyed following death.

(7) The conditions for ending restrictions on TSE infected ovine holdings should be broadened when implemented in combination with intensive TSE monitoring. The rules for the restocking with goats of mixed holdings should be amended accordingly.

(8) The movement of semi-resistant ewes between restricted holdings should be allowed, to alleviate certain regional difficulties in finding suitable replacement animals for infected flocks.

(9) To facilitate the transition to the new rules, the period during which a derogation regarding destruction of certain animals should be allowed in sheep breeds or holdings with a low level of the ARR allele should be extended from two to three breeding years.

(10) Annexes VIII and IX to Regulation (EC) No 999/2001 provide for the conditions for trade and import of ovine and caprine animals intended for breeding. Those conditions should be clarified.

(11) Regulation (EC) No 999/2001 should therefore be amended accordingly.

(12) 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

Annexes VII, VIII and IX to Regulation (EC) No 999/2001 are amended in accordance with the Annex to this Regulation.

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 147, 31.5.2001, p. 1.
[2] OJ L 173, 11.7.2003, p. 6.

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

Done at Brussels, 30 October 2003.

For the Commission
David BYRNE
Member of the Commission

ANNEX

Annexes VII, VIII and IX are amended as follows:

1. Annex VII is replaced by the following:

'*ANNEX VII*

ERADICATION OF TRANSMISSIBLE SPONGIFORM ENCEPHALOPATHY

1. The inquiry referred to in Article 13(1)(b) must identify:
   (a) in the case of bovine animals:
   — all other ruminants on the holding of the animal in which the disease was confirmed,
   — where the disease was confirmed in a female animal, its progeny born within two years prior to, or after, clinical onset of the disease,
   — all animals of the cohort of the animal in which the disease was confirmed,
   — the possible origin of the disease,
   — other animals on the holding of the animal in which the disease was confirmed or on other holdings, which may have become infected by the TSE agent or been exposed to the same feed or contamination source,
   — the movement of potentially contaminated feedingstuffs, of other material or any other means of transmission, which may have transmitted the TSE agent to or from the holding in question;

   (b) in the case of ovine and caprine animals:
   — all ruminants other than ovine and caprine animals on the holding of the animal in which the disease was confirmed,
   — in so far as they are identifiable, the parents, and in the case of females all embryos, ova and the last progeny of the female animal in which the disease was confirmed,
   — all other ovine and caprine animals on the holding of the animal in which the disease was confirmed in addition to those referred to in the second indent,
   — the possible origin of the disease and the identification of other holdings on which there are animals, embryos or ova which may have become infected by the TSE agent or been exposed to the same feed or contamination source,
   — the movement of potentially contaminated feedingstuffs, other material or any other means of transmission, which may have transmitted the BSE agent to or from the holding in question.

2. The measures laid down in Article 13(1)(c) shall comprise at least:
   (a) in the case of confirmation of BSE in a bovine animal, the killing and complete destruction of bovine animals identified by the inquiry referred to in the first, second and third indents of point 1(a); however, the Member State may decide:
   — not to kill and destroy all bovine animals on the holding of the animal in which the disease was confirmed as referred to in the first indent of point 1(a), depending upon the epidemiological situation and traceability of the animals on that holding,
   — to defer the killing and destruction of animals in the cohorts referred to in the third indent of point 1(a) until the end of their productive life, provided that they are bulls continuously kept at a semen collection centre and it can be ensured that they are completely destroyed following death;

   (b) in the case of confirmation of TSE in an ovine or caprine animal, from 1 October 2003, according to the decision of the competent authority:
   (i) either the killing and complete destruction of all animals, embryos and ova identified by the inquiry referred to in the second and third indents of point 1(b); or
   (ii) the killing and complete destruction of all animals, embryos and ova identified by the inquiry referred to in the second and third indents of point 1(b), with the exception of:
   — breeding rams of the ARR/ARR genotype,
   — breeding ewes carrying at least one ARR allele and no VRQ allele, and
   — sheep carrying at least one ARR allele which are intended solely for slaughter;

   (iii) if the infected animal has been introduced from another holding, a Member State may decide, based on the history of the case, to apply eradication measures in the holding of origin in addition to, or instead of, the holding in which the infection was confirmed. In the case of land used for common grazing by more than one flock, Member States may decide to limit the application of those measures to a single flock, based on a reasoned consideration of all the epidemiological factors;

   (c) In the case of confirmation of BSE in an ovine or caprine animal, killing and complete destruction of all animals, embryos and ova identified by the inquiry referred to in the second to fifth indents of point 1(b).

3.1. Only the following animals may be introduced to the holding(s) where destruction has been undertaken in accordance with point 2(b)(i) or (ii):

(a) male sheep of the ARR/ARR genotype;

(b) female sheep carrying at least one ARR allele and no VRQ allele;

(c) caprine animals, provided that:

— no breeding ovine animals other than those referred to in points (a) and (b) are present on the holding,

— thorough cleaning and disinfection of all animal housing on the premises has been carried out following destocking,

— the holding shall be subjected to intensified TSE monitoring, including the testing of all culled and dead-on-farm caprine animals over the age of 18 months.

3.2. Only the following ovine germinal products may be used in the holding(s) where destruction has been undertaken in accordance with point 2(b)(i) or (ii):

(a) semen from rams of the ARR/ARR genotype;

(b) embryos carrying at least one ARR allele and no VRQ allele.

4. During a transitional period until 1 January 2006 at the latest, and by way of derogation from the restriction set out in point 3.1(b), where it is difficult to obtain replacement ovine animals of a known genotype, Member States may decide to allow non-pregnant ewe lambs of an unknown genotype to be introduced to the holdings referred to in point 2(b)(i) and (ii).

5. Following the application on a holding of the measures referred to in point 2(b)(i) and (ii):

(a) movement of ARR/ARR sheep from the holding shall not be subject to any restriction;

(b) sheep carrying only one ARR allele may be moved from the holding only to go directly for slaughter for human consumption or for the purposes of destruction; however, ewes carrying one ARR allele and no VRQ allele may be moved to other holdings which are restricted following the application of measures in accordance with point 2(b)(ii);

(c) sheep of other genotypes may only be moved from the holding for the purposes of destruction.

6. The restrictions referred to in points 3.1, 3.2 and 5 shall continue to apply to the holding for a period of three years from:

(a) the date of attainment of ARR/ARR status by all ovine animals on the holding; or

(b) the last date when any ovine or caprine animal was kept on the premises; or

(c) in the case of point 3.1(c), the date when the intensified TSE monitoring commenced; or

(d) the date when all breeding rams on the holding are of ARR/ARR genotype and all breeding ewes carry at least one ARR allele and no VRQ allele, provided that TSE testing of all culled and dead-on-farm sheep over the age of 18 months is carried out during this period, with negative results.

7. Where the frequency of the ARR allele within the breed or holding is low, or where it is deemed necessary in order to avoid inbreeding, a Member State may decide to:

(a) delay the destruction of animals as referred to in point 2(b)(i) and (ii) for up to three breeding years;

(b) allow ovine animals other than those referred to in point 3 to be introduced to the holdings referred to in point 2(b)(i) and (ii), provided that they do not carry a VRQ allele.

8. Members States applying the derogations provided for in points 4 and 7 shall notify to the Commission an account of the conditions and criteria used for granting them.'

2. Point (a) of part I of chapter A of Annex VIII is replaced by the following:

'(a) ovine and caprine animals for breeding shall:

(i) either have been kept continuously since birth or for the last three years on a holding or holdings which have satisfied the following requirements for at least three years:

— it is subject to regular official veterinary checks,

— the animals are marked,

— no case of scrapie has been confirmed,

— checking by sampling of old female animals intended for culling is carried out on the holding,

— females are introduced into the holding only if they come from a holding which complies with the same requirements, or

(ii) from 1 October 2003, be sheep of the ARR/ARR prion protein genotype, as defined in Annex I of Commission Decision 2002/1003/EC (*).

If they are destined for a Member State which benefits, for all or part of its territory, from the provisions laid down in point (b) or (c), they shall comply with the additional guarantees, general or specific, which have been defined in accordance with the procedure referred to in Article 24(2).

(*) OJ L 349, 24.12.2002, p. 105.'

3. Chapter E of Annex IX is replaced by the following:

'CHAPTER E

Imports of ovine and caprine animals

Ovine and caprine animals imported into the Community after 1 October 2003 are to be subject to the presentation of an animal health certificate attesting that:

(a) either they were born in and continuously reared on holdings in which a case of scrapie has never been diagnosed, and, in the case of ovine and caprine animals for breeding, they satisfy the requirements of subparagraph (i) of point (a) of Chapter A(I) of Annex VIII;

(b) or they are sheep of the ARR/ARR prion protein genotype, as defined in Annex I to Commission Decision 2002/1003/EC, coming from a holding where no case of scrapie has been reported in the last six months.

If they are destined for a Member State which benefits, for all or part of its territory, from the provisions laid down in point (b) or (c) of Chapter A(I) of Annex VIII, they shall comply with the additional guarantees, general or specific, which have been defined in accordance with the procedure referred to in Article 24(2).'

COMMISSION REGULATION (EC) No 1916/2003

of 30 October 2003

amending Regulation (EC) No 1555/96 as regards the trigger levels for additional duties on cucumbers, artichokes, clementines, mandarins and oranges

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Council Regulation (EC) No 2200/96 of 28 October 1996 on the common organisation of the market in fruit and vegetables [1], as last amended by Commission Regulation (EC) No 47/2003 [2], and in particular Article 33(4) thereof,

Whereas:

(1) Commission Regulation (EC) No 1555/96 of 30 July 1996 on rules of application for additional import duties on fruit and vegetables [3], as last amended by Regulation (EC) No 1740/2003 [4], provides for surveillance of imports of the products listed in the Annex thereto. That surveillance is to be carried out in accordance with the rules laid down in Article 308d of Commission Regulation (EEC) No 2454/93 of 2 July 1993 laying down provisions for the implementation of Council Regulation (EEC) No 2913/92 establishing the Community Customs Code [5], as last amended by Regulation (EC) No 1335/2003 [6].

(2) For the purposes of Article 5(4) of the Agreement on agriculture [7] concluded during the Uruguay Round of multilateral trade negotiations and in the light of the latest data available for 2000, 2001 and 2002, the trigger levels for additional duties on cucumbers, artichokes, clementines, mandarins and oranges should be adjusted.

(3) The measures provided for in this Regulation are in accordance with the opinion of the Management Committee for Fresh Fruit and Vegetables,

HAS ADOPTED THIS REGULATION:

Article 1

The Annex to Regulation (EC) No 1555/96 is hereby replaced by the Annex hereto.

Article 2

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

It shall apply from 1 November 2003.

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

Done at Brussels, 30 October 2003.

For the Commission

Franz FISCHLER

Member of the Commission

[1] OJ L 297, 21.11.1996, p. 1.
[2] OJ L 7, 11.1.2003, p. 64.
[3] OJ L 193, 3.8.1996, p. 1.
[4] OJ L 249, 1.10.2003, p. 43.
[5] OJ L 253, 11.10.1993, p. 1.
[6] OJ L 187, 26.7.2003, p. 16.
[7] OJ L 336, 23.12.1994, p. 22.

ANNEX

'ANNEX

Without prejudice to the rules governing the interpretation of the Combined Nomenclature, the description of the products is deemed to be indicative only. The scope of the additional duties for the purposes of this Annex is determined by the scope of the CN codes as they exist at the time of the adoption of this Regulation. Where "ex" appears before the CN code, the scope of the additional duties is determined both by the scope of the CN code and the corresponding trigger period.

Serial No	CN code	Description	Trigger period	Trigger levels (in tonnes)
78.0015	ex 0702 00 00	Tomatoes	— 1 October to 31 March	182 801
78.0020			— 1 April to 30 September	25 438
78.0065	ex 0707 00 05	Cucumbers	— 1 May to 31 October	36 176
78.0075			— 1 November to 30 April	13 824
78.0085	ex 0709 10 00	Artichokes	— 1 November to 30 June	1 353
78.0100	0709 90 70	Courgettes	— 1 January to 31 December	50 201
78.0110	ex 0805 10 10 ex 0805 10 30 ex 0805 10 50	Oranges	— 1 December to 31 May	403 222
78.0120	ex 0805 20 10	Clementines	— 1 November to end of February	164 111
78.0130	ex 0805 20 30 ex 0805 20 50 ex 0805 20 70 ex 0805 20 90	Mandarins (including tangerines and satsumas); wilkings and similar citrus hybrids	— 1 November to end of February	89 273
78.0155	ex 0805 50 10	Lemons	— 1 June to 31 December	183 211
78.0160			— 1 January to 31 May	63 096
78.0170	ex 0806 10 10	Table grapes	— 21 July to 20 November	62 108
78.0175	ex 0808 10 20 ex 0808 10 50 ex 0808 10 90	Apples	— 1 January to 31 August	642 617
78.0180			— 1 September to 31 December	42 076
78.0220	ex 0808 20 50	Pears	— 1 January to 30 April	212 016
78.0235			— 1 July to 31 December	84 984
78.0250	ex 0809 10 00	Apricots	— 1 June to 31 July	24 312
78.0265	ex 0809 20 95	Cherries, other than sour cherries	— 21 May to 10 August	62 483
78.0270	ex 0809 30	Peaches, including nectarines	— 11 June to 30 September	113 101
78.0280	ex 0809 40 05	Plums	— 11 June to 30 September	18 236'

COMMISSION REGULATION (EC) No 1917/2003

of 30 October 2003

amending Regulation (EC) No 1834/2003 on import licences in respect of beef and veal products originating in Botswana, Kenya, Madagascar, Swaziland, Zimbabwe and Namibia

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Council Regulation (EC) No 2286/2002 of 10 December 2002 on the arrangements applicable to agricultural products and goods resulting from the processing of agricultural products originating in the African, Caribbean and Pacific States (ACP States) and repealing Regulation (EC) No 1706/98 ([1]), and in particular Article 5 thereof,

Having regard to Commission Regulation (EC) No 1918/98 of 9 September 1998 laying down detailed rules for the application in the beef and veal sector of Council Regulation (EC) No 1706/98 on the arrangements applicable to agricultural products and certain goods resulting from the processing of agricultural products originating in the African, Caribbean and Pacific States and repealing Regulation (EC) No 589/96 ([2]), and in particular Article 4 thereof,

Whereas:

As a result of an administrative error by the competent national agency on the notification of the quantities referred to in Article 3(3) of Regulation (EC) No 1918/98, Regulation (EC) No 1834/2003 on import licences in respect of beef and veal products originating in Botswana, Kenya, Madagascar, Swaziland, Zimbabwe and Namibia ([3]) should be amended as regards the import licences to be issued,

HAS ADOPTED THIS REGULATION:

Article 1

Article 1 of Regulation (EC) No 1834/2003 is hereby replaced by the following in respect of the United Kingdom:

'United Kingdom:

— 400 tonnes originating in Botswana,

— 590 tonnes originating in Namibia,

— 10 tonnes originating in Swaziland.'

Article 2

Exceptionally during the first three working days following the date of publication of this Regulation, the United Kingdom shall issue import licences in respect of the following products:

— 400 tonnes originating in Botswana,

— 500 tonnes originating in Namibia.

Article 3

Article 2 of Regulation (EC) No 1834/2003 is hereby replaced by the following:

'Licence applications may be submitted, pursuant to Article 3(2) of Regulation (EC) No 1918/98, during the first 10 days of November 2003 for the following quantities of boned beef and veal:

Botswana:	11 185,5 tonnes,
Kenya:	142 tonnes,
Madagascar:	7 579 tonnes,
Swaziland:	2 748 tonnes,
Zimbabwe:	9 100 tonnes,
Namibia:	3 320 tonnes.'

Article 4

This Regulation shall enter into force on 31 October 2003.

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

Done at Brussels, 30 October 2003.

For the Commission

J. M. SILVA RODRÍGUEZ

Agriculture Director-General

([1]) OJ L 348, 21.12.2002, p. 5.
([2]) OJ L 250, 10.9.1998, p. 16.
([3]) OJ L 268, 18.10.2003, p. 48.

COMMISSION REGULATION (EC) No 1918/2003
of 30 October 2003
fixing the export refunds on milk and milk products

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Council Regulation (EC) No 1255/1999 of 17 May 1999 on the common organisation of the market in milk and milk products [1], as last amended by Regulation (EC) No 1787/2003 [2], and in particular Article 31(3) thereof,

Whereas:

(1) Article 31 of Regulation (EC) No 1255/1999 provides that the difference between prices in international trade for the products listed in Article 1 of that Regulation and prices for those products within the Community may be covered by an export refund within the limits resulting from agreements concluded in accordance with Article 300 of the Treaty.

(2) Regulation (EC) No 1255/1999 provides that when the refunds on the products listed in Article 1 of the abovementioned Regulation, exported in the natural state, are being fixed, account must be taken of:

— the existing situation and the future trend with regard to prices and availabilities of milk and milk products on the Community market and prices for milk and milk products in international trade,

— marketing costs and the most favourable transport charges from Community markets to ports or other points of export in the Community, as well as costs incurred in placing the goods on the market of the country of destination,

— the aims of the common organisation of the market in milk and milk products which are to ensure equilibrium and the natural development of prices and trade on this market,

— the limits resulting from agreements concluded in accordance with Article 300 of the Treaty, and

— the need to avoid disturbances on the Community market, and

— the economic aspect of the proposed exports.

(3) Article 31(5) of Regulation (EC) No 1255/1999 provides that when prices within the Community are being determined account should be taken of the ruling prices which are most favourable for exportation, and that when prices in international trade are being determined particular account should be taken of:

(a) prices ruling on third country markets;

(b) the most favourable prices in third countries of destination for third country imports;

(c) producer prices recorded in exporting third countries, account being taken, where appropriate, of subsidies granted by those countries; and

(d) free-at-Community-frontier offer prices.

(4) Article 31(3) of Regulation (EC) No 1255/1999 provides that the world market situation or the specific requirements of certain markets may make it necessary to vary the refund on the products listed in Article 1 of the abovementioned Regulation according to destination.

(5) Article 31(3) of Regulation (EC) No 1255/1999 provides that the list of products on which export refunds are granted and the amount of such refunds should be fixed at least once every four weeks; the amount of the refund may, however, remain at the same level for more than four weeks.

(6) In accordance with Article 16 of Commission Regulation (EC) No 174/1999 of 26 January 1999 on specific detailed rules for the application of Council Regulation (EC) No 804/68 as regards export licences and export refunds on milk and milk products [3], as last amended by Regulation (EC) No 1392/2003 [4], the refund granted for milk products containing added sugar is equal to the sum of the two components; one is intended to take account of the quantity of milk products and is calculated by multiplying the basic amount by the milk products content in the product concerned; the other is intended to take account of the quantity of added sucrose and is calculated by multiplying the sucrose content of the entire product by the basic amount of the refund valid on the day of exportation for the products listed in Article 1(1)(d) of Council Regulation (EC) No 1260/2001 of 19 June 2001 on the common organisation of the markets in the sugar sector [5], as amended by Commission Regulation (EC) No 680/2002 [6], however, this second component is applied only if the added sucrose has been produced using sugar beet or cane harvested in the Community.

[1] OJ L 160, 26.6.1999, p. 48.
[2] OJ L 270, 21.10.2003, p. 121.
[3] OJ L 20, 27.1.1999, p. 8.
[4] OJ L 197, 5.8.2003, p. 3.
[5] OJ L 178, 30.6.2001, p. 1.
[6] OJ L 104, 20.4.2002, p. 26.

(7) Commission Regulation (EEC) No 896/84 [1], as last amended by Regulation (EEC) No 222/88 [2], laid down additional provisions concerning the granting of refunds on the change from one milk year to another; those provisions provide for the possibility of varying refunds according to the date of manufacture of the products.

(8) For the calculation of the refund for processed cheese provision must be made where casein or caseinates are added for that quantity not to be taken into account.

(9) It follows from applying the rules set out above to the present situation on the market in milk and in particular to quotations or prices for milk products within the Community and on the world market that the refund should be as set out in the Annex to this Regulation.

(10) The Management Committee for Milk and Milk Products has not delivered an opinion within the time limit set by its chairman,

HAS ADOPTED THIS REGULATION:

Article 1

The export refunds referred to in Article 31 of Regulation (EC) No 1255/1999 on products exported in the natural state shall be as set out in the Annex.

Article 2

This Regulation shall enter into force on 31 October 2003.

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

Done at Brussels, 30 October 2003.

For the Commission
Franz FISCHLER
Member of the Commission

[1] OJ L 91, 1.4.1984, p. 71.
[2] OJ L 28, 1.2.1988, p. 1.

ANNEX

to the Commission Regulation of 30 October 2003 fixing the export refunds on milk and milk products

Product code	Destination	Unit of measurement	Amount of refund
0401 10 10 9000	970	EUR/100 kg	1,911
0401 10 90 9000	970	EUR/100 kg	1,911
0401 20 11 9100	970	EUR/100 kg	0,000
0401 20 11 9500	970	EUR/100 kg	2,953
0401 20 19 9100	970	EUR/100 kg	0,000
0401 20 19 9500	970	EUR/100 kg	2,953
0401 20 91 9000	970	EUR/100 kg	3,737
0401 20 99 9000	970	EUR/100 kg	0,000
0401 30 11 9400	970	EUR/100 kg	8,624
0401 30 11 9700	970	EUR/100 kg	12,95
0401 30 19 9700	970	EUR/100 kg	0,00
0401 30 31 9100	L06	EUR/100 kg	31,46
0401 30 31 9400	L06	EUR/100 kg	49,14
0401 30 31 9700	L06	EUR/100 kg	54,20
0401 30 39 9100	L06	EUR/100 kg	31,46
0401 30 39 9400	L06	EUR/100 kg	49,14
0401 30 39 9700	L06	EUR/100 kg	54,20
0401 30 91 9100	L06	EUR/100 kg	61,77
0401 30 91 9500	L06	EUR/100 kg	0,00
0401 30 99 9100	L06	EUR/100 kg	61,77
0401 30 99 9500	L06	EUR/100 kg	90,78
0402 10 11 9000	L07	EUR/100 kg	57,00
0402 10 19 9000	L07	EUR/100 kg	57,00
0402 10 91 9000	L07	EUR/kg	0,5700
0402 10 99 9000	L07	EUR/kg	0,5700
0402 21 11 9200	L07	EUR/100 kg	57,00
0402 21 11 9300	L07	EUR/100 kg	88,11
0402 21 11 9500	L07	EUR/100 kg	91,96
0402 21 11 9900	L07	EUR/100 kg	98,00
0402 21 17 9000	L07	EUR/100 kg	57,00
0402 21 19 9300	L07	EUR/100 kg	88,11
0402 21 19 9500	L07	EUR/100 kg	91,96
0402 21 19 9900	L07	EUR/100 kg	98,00
0402 21 91 9100	L07	EUR/100 kg	98,61
0402 21 91 9200	L07	EUR/100 kg	99,19
0402 21 91 9350	L07	EUR/100 kg	100,21
0402 21 91 9500	L07	EUR/100 kg	107,70
0402 21 99 9100	L07	EUR/100 kg	98,61
0402 21 99 9200	L07	EUR/100 kg	99,19
0402 21 99 9300	L07	EUR/100 kg	100,21
0402 21 99 9400	L07	EUR/100 kg	105,76
0402 21 99 9500	L07	EUR/100 kg	107,70
0402 21 99 9600	L07	EUR/100 kg	115,29
0402 21 99 9700	L07	EUR/100 kg	119,59
0402 21 99 9900	L07	EUR/100 kg	124,57
0402 29 15 9200	L07	EUR/kg	0,5700
0402 29 15 9300	L07	EUR/kg	0,8811
0402 29 15 9500	L07	EUR/kg	0,9196
0402 29 15 9900	L07	EUR/kg	0,9800
0402 29 19 9300	L07	EUR/kg	0,8811
0402 29 19 9500	L07	EUR/kg	0,9196
0402 29 19 9900	L07	EUR/kg	0,9800
0402 29 91 9000	L07	EUR/kg	0,9861
0402 29 99 9100	L07	EUR/kg	0,9861
0402 29 99 9500	L07	EUR/kg	1,0576
0402 91 11 9370	L07	EUR/100 kg	6,804
0402 91 19 9370	L07	EUR/100 kg	6,804
0402 91 31 9300	L07	EUR/100 kg	8,058
0402 91 39 9300	L07	EUR/100 kg	8,058
0402 91 99 9000	L07	EUR/100 kg	37,96
0402 99 11 9350	L07	EUR/kg	0,1734
0402 99 19 9350	L07	EUR/kg	0,1734
0402 99 31 9150	L07	EUR/kg	0,1816
0402 99 31 9300	L07	EUR/kg	0,2271
0402 99 31 9500	L07	EUR/kg	0,0000
0402 99 39 9150	L07	EUR/kg	0,1816
0403 90 11 9000	L07	EUR/100 kg	56,20
0403 90 13 9200	L07	EUR/100 kg	56,20
0403 90 13 9300	L07	EUR/100 kg	87,33
0403 90 13 9500	L07	EUR/100 kg	91,14
0403 90 13 9900	L07	EUR/100 kg	97,13
0403 90 19 9000	L07	EUR/100 kg	97,72
0403 90 33 9400	L07	EUR/kg	0,8733
0403 90 33 9900	L07	EUR/kg	0,9713
0403 90 51 9100	970	EUR/100 kg	1,911
0403 90 59 9170	970	EUR/100 kg	12,95
0403 90 59 9310	L07	EUR/100 kg	31,46
0403 90 59 9340	L07	EUR/100 kg	46,03
0403 90 59 9370	L07	EUR/100 kg	46,03
0403 90 59 9510	L07	EUR/100 kg	46,03
0404 90 21 9120	L07	EUR/100 kg	48,62
0404 90 21 9160	L07	EUR/100 kg	57,00
0404 90 23 9120	L07	EUR/100 kg	57,00
0404 90 23 9130	L07	EUR/100 kg	88,11
0404 90 23 9140	L07	EUR/100 kg	91,96
0404 90 23 9150	L07	EUR/100 kg	98,00
0404 90 29 9110	L07	EUR/100 kg	98,61
0404 90 29 9115	L07	EUR/100 kg	99,19
0404 90 29 9125	L07	EUR/100 kg	100,21
0404 90 29 9140	L07	EUR/100 kg	107,70
0404 90 81 9100	L07	EUR/kg	0,5700
0404 90 83 9110	L07	EUR/kg	0,5700
0404 90 83 9130	L07	EUR/kg	0,8811
0404 90 83 9150	L07	EUR/kg	0,9196
0404 90 83 9170	L07	EUR/kg	0,9800
0404 90 83 9936	L07	EUR/kg	0,1734
0405 10 11 9500	L05	EUR/100 kg	173,66
0405 10 11 9700	L05	EUR/100 kg	178,00
0405 10 19 9500	L05	EUR/100 kg	173,66
0405 10 19 9700	L05	EUR/100 kg	178,00
0405 10 30 9100	L05	EUR/100 kg	173,66
0405 10 30 9300	L05	EUR/100 kg	178,00
0405 10 30 9700	L05	EUR/100 kg	178,00
0405 10 50 9300	L05	EUR/100 kg	178,00
0405 10 50 9500	L05	EUR/100 kg	173,66
0405 10 50 9700	L05	EUR/100 kg	178,00
0405 10 90 9000	L05	EUR/100 kg	184,52
0405 20 90 9500	L05	EUR/100 kg	162,82
0405 20 90 9700	L05	EUR/100 kg	169,32
0405 90 10 9000	L05	EUR/100 kg	222,55
0405 90 90 9000	L05	EUR/100 kg	178,00
0406 10 20 9100	A00	EUR/100 kg	—
0406 10 20 9230	L03	EUR/100 kg	—
	L04	EUR/100 kg	27,02
	075	EUR/100 kg	28,71
	400	EUR/100 kg	—
	A01	EUR/100 kg	33,77

Product code	Destination	Unit of measurement	Amount of refund
0406 10 20 9290	L03	EUR/100 kg	—
	L04	EUR/100 kg	25,14
	075	EUR/100 kg	26,70
	400	EUR/100 kg	—
	A01	EUR/100 kg	31,42
0406 10 20 9300	L03	EUR/100 kg	—
	L04	EUR/100 kg	11,03
	075	EUR/100 kg	11,71
	400	EUR/100 kg	—
	A01	EUR/100 kg	13,78
0406 10 20 9610	L03	EUR/100 kg	—
	L04	EUR/100 kg	36,65
	075	EUR/100 kg	38,94
	400	EUR/100 kg	—
	A01	EUR/100 kg	45,81
0406 10 20 9620	L03	EUR/100 kg	—
	L04	EUR/100 kg	37,17
	075	EUR/100 kg	39,49
	400	EUR/100 kg	—
	A01	EUR/100 kg	46,46
0406 10 20 9630	L03	EUR/100 kg	—
	L04	EUR/100 kg	41,50
	075	EUR/100 kg	44,08
	400	EUR/100 kg	—
	A01	EUR/100 kg	51,86
0406 10 20 9640	L03	EUR/100 kg	—
	L04	EUR/100 kg	60,97
	075	EUR/100 kg	64,79
	400	EUR/100 kg	—
	A01	EUR/100 kg	76,22
0406 10 20 9650	L03	EUR/100 kg	—
	L04	EUR/100 kg	50,81
	075	EUR/100 kg	53,98
	400	EUR/100 kg	—
	A01	EUR/100 kg	63,51
0406 10 20 9660	A00	EUR/100 kg	—
0406 10 20 9830	L03	EUR/100 kg	—
	L04	EUR/100 kg	18,85
	075	EUR/100 kg	20,03
	400	EUR/100 kg	—
	A01	EUR/100 kg	23,56
0406 10 20 9850	L03	EUR/100 kg	—
	L04	EUR/100 kg	22,85
	075	EUR/100 kg	24,28
	400	EUR/100 kg	—
	A01	EUR/100 kg	28,57
0406 10 20 9870	A00	EUR/100 kg	—
0406 10 20 9900	A00	EUR/100 kg	—
0406 20 90 9100	A00	EUR/100 kg	—
0406 20 90 9913	L03	EUR/100 kg	—
	L04	EUR/100 kg	42,13
	075	EUR/100 kg	44,76
	400	EUR/100 kg	15,39
	A01	EUR/100 kg	52,67
0406 20 90 9915	L03	EUR/100 kg	—
	L04	EUR/100 kg	55,61
	075	EUR/100 kg	59,09
	400	EUR/100 kg	20,59
	A01	EUR/100 kg	69,52
0406 20 90 9917	L03	EUR/100 kg	—
	L04	EUR/100 kg	59,10
	075	EUR/100 kg	62,80
	400	EUR/100 kg	21,80
	A01	EUR/100 kg	73,87
0406 20 90 9919	L03	EUR/100 kg	—
	L04	EUR/100 kg	66,03
	075	EUR/100 kg	70,18
	400	EUR/100 kg	24,32
	A01	EUR/100 kg	82,56
0406 20 90 9990	A00	EUR/100 kg	—
0406 30 31 9710	L03	EUR/100 kg	—
	L04	EUR/100 kg	5,56
	075	EUR/100 kg	11,05
	400	EUR/100 kg	—
	A01	EUR/100 kg	13,00
0406 30 31 9730	L03	EUR/100 kg	—
	L04	EUR/100 kg	8,14
	075	EUR/100 kg	16,22
	400	EUR/100 kg	—
	A01	EUR/100 kg	19,08
0406 30 31 9910	L03	EUR/100 kg	—
	L04	EUR/100 kg	5,56
	075	EUR/100 kg	11,05
	400	EUR/100 kg	—
	A01	EUR/100 kg	13,00
0406 30 31 9930	L03	EUR/100 kg	—
	L04	EUR/100 kg	8,14
	075	EUR/100 kg	16,22
	400	EUR/100 kg	—
	A01	EUR/100 kg	19,08
0406 30 31 9950	L03	EUR/100 kg	—
	L04	EUR/100 kg	11,84
	075	EUR/100 kg	23,59
	400	EUR/100 kg	—
	A01	EUR/100 kg	27,75
0406 30 39 9500	L03	EUR/100 kg	—
	L04	EUR/100 kg	8,14
	075	EUR/100 kg	16,22
	400	EUR/100 kg	—
	A01	EUR/100 kg	19,08
0406 30 39 9700	L03	EUR/100 kg	—
	L04	EUR/100 kg	11,84
	075	EUR/100 kg	23,59
	400	EUR/100 kg	—
	A01	EUR/100 kg	27,75
0406 30 39 9930	L03	EUR/100 kg	—
	L04	EUR/100 kg	11,84
	075	EUR/100 kg	23,59
	400	EUR/100 kg	—
	A01	EUR/100 kg	27,75
0406 30 39 9950	L03	EUR/100 kg	—
	L04	EUR/100 kg	13,39
	075	EUR/100 kg	26,67
	400	EUR/100 kg	—
	A01	EUR/100 kg	31,37
0406 30 90 9000	L03	EUR/100 kg	—
	L04	EUR/100 kg	14,04
	075	EUR/100 kg	27,97
	400	EUR/100 kg	—
	A01	EUR/100 kg	32,91
0406 40 50 9000	L03	EUR/100 kg	—
	L04	EUR/100 kg	64,53
	075	EUR/100 kg	68,57
	400	EUR/100 kg	—
	A01	EUR/100 kg	80,67
0406 40 90 9000	L03	EUR/100 kg	—
	L04	EUR/100 kg	66,27
	075	EUR/100 kg	70,40
	400	EUR/100 kg	—
	A01	EUR/100 kg	82,83
0406 90 13 9000	L03	EUR/100 kg	—
	L04	EUR/100 kg	72,87
	075	EUR/100 kg	88,65
	400	EUR/100 kg	29,31
	A01	EUR/100 kg	104,30

Product code	Destination	Unit of measurement	Amount of refund
0406 90 15 9100	L03	EUR/100 kg	—
	L04	EUR/100 kg	75,30
	075	EUR/100 kg	91,61
	400	EUR/100 kg	30,21
	A01	EUR/100 kg	100,78
0406 90 17 9100	L03	EUR/100 kg	—
	L04	EUR/100 kg	75,30
	075	EUR/100 kg	91,61
	400	EUR/100 kg	30,21
	A01	EUR/100 kg	107,78
0406 90 21 9900	L03	EUR/100 kg	—
	L04	EUR/100 kg	73,79
	075	EUR/100 kg	89,56
	400	EUR/100 kg	21,67
	A01	EUR/100 kg	105,36
0406 90 23 9900	L03	EUR/100 kg	—
	L04	EUR/100 kg	64,80
	075	EUR/100 kg	79,17
	400	EUR/100 kg	—
	A01	EUR/100 kg	93,15
0406 90 25 9900	L03	EUR/100 kg	—
	L04	EUR/100 kg	64,36
	075	EUR/100 kg	78,32
	400	EUR/100 kg	—
	A01	EUR/100 kg	92,14
0406 90 27 9900	L03	EUR/100 kg	—
	L04	EUR/100 kg	58,30
	075	EUR/100 kg	70,93
	400	EUR/100 kg	—
	A01	EUR/100 kg	83,45
0406 90 31 9119	L03	EUR/100 kg	—
	L04	EUR/100 kg	53,58
	075	EUR/100 kg	65,29
	400	EUR/100 kg	12,43
	A01	EUR/100 kg	76,82
0406 90 33 9119	L03	EUR/100 kg	—
	L04	EUR/100 kg	53,58
	075	EUR/100 kg	65,29
	400	EUR/100 kg	12,43
	A01	EUR/100 kg	76,82
0406 90 33 9919	L03	EUR/100 kg	—
	L04	EUR/100 kg	48,96
	075	EUR/100 kg	59,89
	400	EUR/100 kg	—
	A01	EUR/100 kg	70,45
0406 90 33 9951	L03	EUR/100 kg	—
	L04	EUR/100 kg	49,46
	075	EUR/100 kg	59,93
	400	EUR/100 kg	—
	A01	EUR/100 kg	70,50
0406 90 35 9190	L03	EUR/100 kg	—
	L04	EUR/100 kg	75,80
	075	EUR/100 kg	92,63
	400	EUR/100 kg	29,89
	A01	EUR/100 kg	108,97
0406 90 35 9990	L03	EUR/100 kg	—
	L04	EUR/100 kg	75,80
	075	EUR/100 kg	92,63
	400	EUR/100 kg	19,54
	A01	EUR/100 kg	108,97
0406 90 37 9000	L03	EUR/100 kg	—
	L04	EUR/100 kg	72,87
	075	EUR/100 kg	88,65
	400	EUR/100 kg	29,31
	A01	EUR/100 kg	104,30
0406 90 61 9000	L03	EUR/100 kg	—
	L04	EUR/100 kg	80,30
	075	EUR/100 kg	98,76
	400	EUR/100 kg	27,82
	A01	EUR/100 kg	116,19
0406 90 63 9100	L03	EUR/100 kg	—
	L04	EUR/100 kg	79,89
	075	EUR/100 kg	97,95
	400	EUR/100 kg	31,11
	A01	EUR/100 kg	115,23
0406 90 63 9900	L03	EUR/100 kg	—
	L04	EUR/100 kg	76,80
	075	EUR/100 kg	94,61
	400	EUR/100 kg	23,80
	A01	EUR/100 kg	111,30
0406 90 69 9100	A00	EUR/100 kg	—
0406 90 69 9910	L03	EUR/100 kg	—
	L04	EUR/100 kg	76,80
	075	EUR/100 kg	94,61
	400	EUR/100 kg	23,80
	A01	EUR/100 kg	111,30
0406 90 73 9900	L03	EUR/100 kg	—
	L04	EUR/100 kg	66,89
	075	EUR/100 kg	81,45
	400	EUR/100 kg	25,61
	A01	EUR/100 kg	95,83
0406 90 75 9900	L03	EUR/100 kg	—
	L04	EUR/100 kg	67,34
	075	EUR/100 kg	82,34
	400	EUR/100 kg	10,81
	A01	EUR/100 kg	96,86
0406 90 76 9300	L03	EUR/100 kg	—
	L04	EUR/100 kg	60,72
	075	EUR/100 kg	73,89
	400	EUR/100 kg	—
	A01	EUR/100 kg	86,93
0406 90 76 9400	L03	EUR/100 kg	—
	L04	EUR/100 kg	68,01
	075	EUR/100 kg	82,75
	400	EUR/100 kg	11,25
	A01	EUR/100 kg	97,36
0406 90 76 9500	L03	EUR/100 kg	—
	L04	EUR/100 kg	64,70
	075	EUR/100 kg	78,05
	400	EUR/100 kg	11,25
	A01	EUR/100 kg	91,83
0406 90 78 9100	L03	EUR/100 kg	—
	L08	EUR/100 kg	62,75
	075	EUR/100 kg	77,91
	092	EUR/100 kg	—
	400	EUR/100 kg	—
	A01	EUR/100 kg	91,66
0406 90 78 9300	L03	EUR/100 kg	—
	L08	EUR/100 kg	66,53
	075	EUR/100 kg	80,74
	092	EUR/100 kg	—
	400	EUR/100 kg	—
	A01	EUR/100 kg	94,99
0406 90 78 9500	L03	EUR/100 kg	—
	L08	EUR/100 kg	65,90
	075	EUR/100 kg	79,51
	092	EUR/100 kg	—
	400	EUR/100 kg	—
	A01	EUR/100 kg	93,54

Product code	Destination	Unit of measurement	Amount of refund
0406 90 79 9900	L03	EUR/100 kg	—
	L04	EUR/100 kg	53,80
	075	EUR/100 kg	65,72
	400	EUR/100 kg	—
	A01	EUR/100 kg	77,32
0406 90 81 9900	L03	EUR/100 kg	—
	L04	EUR/100 kg	68,01
	075	EUR/100 kg	82,75
	400	EUR/100 kg	23,15
	A01	EUR/100 kg	97,36
0406 90 85 9930	L03	EUR/100 kg	—
	L04	EUR/100 kg	73,45
	075	EUR/100 kg	89,82
	400	EUR/100 kg	28,85
	A01	EUR/100 kg	105,68
0406 90 85 9970	L03	EUR/100 kg	—
	L04	EUR/100 kg	67,34
	075	EUR/100 kg	82,34
	400	EUR/100 kg	25,24
	A01	EUR/100 kg	96,86
0406 90 85 9999	A00	EUR/100 kg	—
0406 90 86 9100	A00	EUR/100 kg	—
0406 90 86 9200	L03	EUR/100 kg	—
	L04	EUR/100 kg	61,79
	075	EUR/100 kg	77,90
	400	EUR/100 kg	15,15
	A01	EUR/100 kg	91,65
0406 90 86 9300	L03	EUR/100 kg	—
	L04	EUR/100 kg	62,68
	075	EUR/100 kg	78,72
	400	EUR/100 kg	16,61
	A01	EUR/100 kg	92,61
0406 90 86 9400	L03	EUR/100 kg	—
	L04	EUR/100 kg	66,59
	075	EUR/100 kg	82,75
	400	EUR/100 kg	18,79
	A01	EUR/100 kg	97,36
0406 90 86 9900	L03	EUR/100 kg	—
	L04	EUR/100 kg	73,45
	075	EUR/100 kg	89,82
	400	EUR/100 kg	22,00
	A01	EUR/100 kg	105,68
0406 90 87 9100	A00	EUR/100 kg	—
0406 90 87 9200	L03	EUR/100 kg	—
	L04	EUR/100 kg	51,50
	075	EUR/100 kg	64,89
	400	EUR/100 kg	13,55
	A01	EUR/100 kg	76,35
0406 90 87 9300	L03	EUR/100 kg	—
	L04	EUR/100 kg	57,55
	075	EUR/100 kg	72,30
	400	EUR/100 kg	15,30
	A01	EUR/100 kg	85,05
0406 90 87 9400	L03	EUR/100 kg	—
	L04	EUR/100 kg	59,06
	075	EUR/100 kg	73,39
	400	EUR/100 kg	16,76
	A01	EUR/100 kg	86,34
0406 90 87 9951	L03	EUR/100 kg	—
	L04	EUR/100 kg	66,79
	075	EUR/100 kg	81,27
	400	EUR/100 kg	23,16
	A01	EUR/100 kg	95,62
0406 90 87 9971	L03	EUR/100 kg	—
	L04	EUR/100 kg	66,79
	075	EUR/100 kg	81,27
	400	EUR/100 kg	18,79
	A01	EUR/100 kg	95,62
0406 90 87 9972	L03	EUR/100 kg	—
	L04	EUR/100 kg	28,46
	075	EUR/100 kg	34,77
	400	EUR/100 kg	—
	A01	EUR/100 kg	40,91
0406 90 87 9973	L03	EUR/100 kg	—
	L04	EUR/100 kg	65,59
	075	EUR/100 kg	79,80
	400	EUR/100 kg	13,19
	A01	EUR/100 kg	93,88
0406 90 87 9974	L03	EUR/100 kg	—
	L04	EUR/100 kg	71,18
	075	EUR/100 kg	86,23
	400	EUR/100 kg	13,19
	A01	EUR/100 kg	101,45
0406 90 87 9975	L03	EUR/100 kg	—
	L04	EUR/100 kg	72,60
	075	EUR/100 kg	87,19
	400	EUR/100 kg	17,48
	A01	EUR/100 kg	102,58
0406 90 87 9979	L03	EUR/100 kg	—
	L04	EUR/100 kg	64,80
	075	EUR/100 kg	79,17
	400	EUR/100 kg	13,19
	A01	EUR/100 kg	93,15
0406 90 88 9100	A00	EUR/100 kg	—
0406 90 88 9300	L03	EUR/100 kg	—
	L04	EUR/100 kg	50,84
	075	EUR/100 kg	63,62
	400	EUR/100 kg	16,61
	A01	EUR/100 kg	74,85

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:

L03 Ceuta, Melilla, Iceland, Norway, Switzerland, Liechtenstein, Andorra, Gibraltar, Holy See (often referred to as Vatican City), Malta, Turkey, Estonia, Latvia, Lithuania, Poland, Czech Republic, Slovakia, Hungary, Romania, Bulgaria, Canada, Cyprus, Australia and New Zealand,

L04 Albania, Slovenia, Croatia, Bosnia and Herzegovina, Serbia and Montenegro and the Former Yugoslav Republic of Macedonia,

L05 all destinations except Poland, Estonia, Latvia, Lithuania, Hungary, the Czech Republic, Slovakia and the United States of America,

L06 all destinations except Estonia, Latvia, Lithuania, Hungary and the United States of America,

L07 all destinations except Estonia, Latvia, Lithuania, Hungary, the Czech Republic, Slovakia and the United States of America,

L08 Albania, Slovenia, Bosnia and Herzegovina, Serbia and Montenegro and the Former Yugoslav Republic of Macedonia,

'970' includes the exports referred to in Articles 36(1)(a) and (c) and 44(1)(a) and (b) of Commission Regulation (EC) No 800/1999 (OJ L 102, 17.4.1999, p. 11) and exports under contracts with armed forces stationed on the territory of a Member State which do not come under its flag.

COMMISSION REGULATION (EC) No 1919/2003
of 30 October 2003
fixing the export refunds on products processed from cereals and rice

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Council Regulation (EEC) No 1766/92 of 30 June 1992 on the common organization of the market in cereals ([1]), as last amended by Regulation (EC) No 1104/2003 ([2]), and in particular Article 13(3) thereof,

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

Whereas:

(1) Article 13 of Regulation (EEC) No 1766/92 and Article 13 of Regulation (EC) No 3072/95 provide that the difference between quotations or prices on the world market for the products listed in Article 1 of those Regulations and prices for those products within the Community may be covered by an export refund.

(2) Article 13 of Regulation (EC) No 3072/95 provides that when refunds are being fixed account must be taken of the existing situation and the future trend with regard to prices and availabilities of cereals, rice and broken rice on the Community market on the one hand and prices for cereals, rice, broken rice and cereal products on the world market on the other. The same Articles provide that it is also important to ensure equilibrium and the natural development of prices and trade on the markets in cereals and rice and, furthermore, to take into account the economic aspect of the proposed exports, and the need to avoid disturbances on the Community market.

(3) Article 4 of Commission Regulation (EC) No 1518/95 ([5]), as amended by Regulation (EC) No 2993/95 ([6]), on the import and export system for products processed from cereals and from rice defines the specific criteria to be taken into account when the refund on these products is being calculated.

(4) The refund to be granted in respect of certain processed products should be graduated on the basis of the ash, crude fibre, tegument, protein, fat and starch content of the individual product concerned, this content being a particularly good indicator of the quantity of basic product actually incorporated in the processed product.

(5) There is no need at present to fix an export refund for manioc, other tropical roots and tubers or flours obtained therefrom, given the economic aspect of potential exports and in particular the nature and origin of these products. For certain products processed from cereals, the insignificance of Community participation in world trade makes it unnecessary to fix an export refund at the present time.

(6) The world market situation or the specific requirements of certain markets may make it necessary to vary the refund for certain products according to destination.

(7) The refund must be fixed once a month. It may be altered in the intervening period.

(8) Certain processed maize products may undergo a heat treatment following which a refund might be granted that does not correspond to the quality of the product; whereas it should therefore be specified that on these products, containing pregelatinized starch, no export refund is to be granted.

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

HAS ADOPTED THIS REGULATION:

Article 1

The export refunds on the products listed in Article 1(1)(d) of Regulation (EEC) No 1766/92 and in Article 1(1)(c) of Regulation (EC) No 3072/95 and subject to Regulation (EC) No 1518/95 are hereby fixed as shown in the Annex to this Regulation.

Article 2

This Regulation shall enter into force on 31 October 2003.

([1]) OJ L 181, 1.7.1992, p. 21.
([2]) OJ L 158, 27.6.2003, p. 1.
([3]) OJ L 329, 30.12.1995, p. 18.
([4]) OJ L 62, 5.3.2002, p. 27.
([5]) OJ L 147, 30.6.1995, p. 55.
([6]) OJ L 312, 23.12.1995, p. 25.

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

Done at Brussels, 30 October 2003.

For the Commission
Franz FISCHLER
Member of the Commission

ANNEX

to the Commission Regulation of 30 October 2003 fixing the export refunds on products processed from cereals and rice

Product code	Destination	Unit of measurement	Refunds
1102 20 10 9200 (1)	C11	EUR/t	29,40
1102 20 10 9400 (1)	C11	EUR/t	25,20
1102 20 90 9200 (1)	C11	EUR/t	25,20
1102 90 10 9100	C17	EUR/t	0,00
1102 90 10 9900	C17	EUR/t	0,00
1102 90 30 9100	C18	EUR/t	0,00
1103 19 40 9100	C16	EUR/t	0,00
1103 13 10 9100 (1)	C19	EUR/t	37,80
1103 13 10 9300 (1)	C19	EUR/t	29,40
1103 13 10 9500 (1)	C19	EUR/t	25,20
1103 13 90 9100 (1)	C14	EUR/t	25,20
1103 19 10 9000	C16	EUR/t	0,00
1103 19 30 9100	C14	EUR/t	0,00
1103 20 60 9000	C20	EUR/t	0,00
1103 20 20 9000	C17	EUR/t	0,00
1104 19 69 9100	C14	EUR/t	0,00
1104 12 90 9100	C13	EUR/t	0,00
1104 12 90 9300	C13	EUR/t	0,00
1104 19 10 9000	C13	EUR/t	0,00
1104 19 50 9110	C14	EUR/t	33,60
1104 19 50 9130	C14	EUR/t	27,30
1104 29 01 9100	C14	EUR/t	0,00
1104 29 03 9100	C14	EUR/t	0,00
1104 29 05 9100	C14	EUR/t	0,00
1104 29 05 9300	C14	EUR/t	0,00
1104 22 20 9100	C13	EUR/t	0,00
1104 22 30 9100	C13	EUR/t	0,00
1104 23 10 9100	C14	EUR/t	31,50
1104 23 10 9300	C14	EUR/t	24,15
1104 29 11 9000	C13	EUR/t	0,00
1104 29 51 9000	C13	EUR/t	0,00
1104 29 55 9000	C13	EUR/t	0,00
1104 30 10 9000	C13	EUR/t	0,00
1104 30 90 9000	C14	EUR/t	5,25
1107 10 11 9000	C21	EUR/t	0,00
1107 10 91 9000	C21	EUR/t	0,00
1108 11 00 9200	C10	EUR/t	0,00
1108 11 00 9300	C10	EUR/t	0,00
1108 12 00 9200	C10	EUR/t	33,60
1108 12 00 9300	C10	EUR/t	33,60
1108 13 00 9200	C10	EUR/t	33,60
1108 13 00 9300	C10	EUR/t	33,60
1108 19 10 9200	C10	EUR/t	50,16
1108 19 10 9300	C10	EUR/t	50,16
1109 00 00 9100	C10	EUR/t	0,00
1702 30 51 9000 (2)	C10	EUR/t	32,92
1702 30 59 9000 (2)	C10	EUR/t	25,20
1702 30 91 9000	C10	EUR/t	32,92
1702 30 99 9000	C10	EUR/t	25,20
1702 40 90 9000	C10	EUR/t	25,20
1702 90 50 9100	C10	EUR/t	32,92
1702 90 50 9900	C10	EUR/t	25,20
1702 90 75 9000	C10	EUR/t	34,49
1702 90 79 9000	C10	EUR/t	23,94
2106 90 55 9000	C10	EUR/t	25,20

(1) No refund shall be granted on products given a heat treatment resulting in pregelatinisation of the starch.
(2) Refunds are granted in accordance with Council Regulation (EEC) No 2730/75 (OJ L 281, 1.11.1975, p. 20), as amended.

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 Regulation (EC) No 1779/2002 (OJ L 269, 5.10.2002, p. 6).

The other destinations are as follows:

C10 All destinations except for Estonia,

C11 All destinations except for Estonia, Hungary, Poland and Slovenia,

C12 All destinations except for Estonia, Hungary, Latvia and Poland,

C13 All destinations except for Estonia, Hungary and Lithuania,

C14 All destinations except for Estonia and Hungary,

C15 All destinations except for Estonia, Hungary, Latvia, Lithuania and Poland,

C16 All destinations except for Estonia, Hungary, Latvia and Lithuania,

C17 All destinations except for Bulgaria, Estonia, Hungary, Poland and Slovenia,

C18 All destinations except for Bulgaria, Estonia, Hungary, Latvia, Lithuania, Poland and Slovenia,

C19 All destinations except for Estonia, Hungary and Slovenia,

C20 All destinations except for Estonia, Hungary, Latvia, Lithuania and Romania,

C21 All destinations except for Bulgaria, Estonia, Hungary, Lithuania, Romania and Slovenia.

COMMISSION REGULATION (EC) No 1920/2003
of 30 October 2003
fixing the export refunds on cereal-based compound feedingstuffs

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Council Regulation (EEC) No 1766/92 of 30 June 1992 on the common organisation of the market in cereals ([1]), as last amended by Regulation (EC) No 1104/2003 ([2]), and in particular Article 13(3) thereof,

Whereas:

(1) Article 13 of Regulation (EEC) No 1766/92 provides that the difference between quotations or prices on the world market for the products listed in Article 1 of that Regulation and prices for those products within the Community may be covered by an export refund.

(2) Commission Regulation (EC) No 1517/95 of 29 June 1995 laying down detailed rules for the application of Regulation (EEC) No 1766/92 as regards the arrangements for the export and import of compound feedingstuffs based on cereals and amending Regulation (EC) No 1162/95 laying down special detailed rules for the application of the system of import and export licences for cereals and rice ([3]) in Article 2 lays down general rules for fixing the amount of such refunds.

(3) That calculation must also take account of the cereal products content. In the interest of simplification, the refund should be paid in respect of two categories of 'cereal products', namely for maize, the most commonly used cereal in exported compound feeds and maize products, and for 'other cereals', these being eligible cereal products excluding maize and maize products. A refund should be granted in respect of the quantity of cereal products present in the compound feedingstuff.

(4) Furthermore, the amount of the refund must also take into account the possibilities and conditions for the sale of those products on the world market, the need to avoid disturbances on the Community market and the economic aspect of the export.

(5) The current situation on the cereals market and, in particular, the supply prospects mean that the export refunds should be abolished.

(6) The Management Committee for Cereals has not delivered an opinion within the time limit set by its chairman,

HAS ADOPTED THIS REGULATION:

Article 1

The export refunds on the compound feedingstuffs covered by Regulation (EEC) No 1766/92 and subject to Regulation (EC) No 1517/95 are hereby fixed as shown in the Annex to this Regulation.

Article 2

This Regulation shall enter into force on 31 October 2003.

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

Done at Brussels, 30 October 2003.

For the Commission
Franz FISCHLER
Member of the Commission

([1]) OJ L 181, 1.7.1992, p. 21.
([2]) OJ L 158, 27.6.2003, p. 1.
([3]) OJ L 147, 30.6.1995, p. 51.

ANNEX

to the Commission Regulation of 30 October 2003 fixing the export refunds on cereal-based compound feedingstuffs

Product codes benefiting from export refund:

2309 10 11 9000, 2309 10 13 9000, 2309 10 31 9000, 2309 10 33 9000, 2309 10 51 9000, 2309 10 53 9000, 2309 90 31 9000, 2309 90 33 9000, 2309 90 41 9000, 2309 90 43 9000, 2309 90 51 9000, 2309 90 53 9000

Cereal products	Destination	Unit of measurement	Amount of refunds
Maize and maize products: CN codes 0709 90 60, 0712 90 19, 1005, 1102 20, 1103 13, 1103 29 40, 1104 19 50, 1104 23, 1904 10 10	C10	EUR/t	0,00
Cereal products excluding maize and maize products	C10	EUR/t	0,00

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.

C10 All destinations except for Estonia.

COMMISSION REGULATION (EC) No 1921/2003
of 30 October 2003
fixing production refunds on cereals and rice

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Council Regulation (EEC) No 1766/92 of 30 June 1992, on the common organisation of the market in cereals ([1]), as last amended by Regulation (EC) No 1104/2003 ([2]), and in particular Article 7(3) thereof,

Having regard to Council Regulation (EC) No 3072/95 of 22 December 1995 on the common organisation of the market in rice ([3]), as last amended by Commission Regulation (EC) No 411/2002 ([4]), and in particular Article 7(2) thereof,

Having regard to Commission Regulation (EEC) No 1722/93 of 30 June 1993 laying down detailed rules for the arrangements concerning production refunds in the cereals and rice sectors ([5]), as last amended by Regulation (EC) No 1786/2001 ([6]), and in particular Article 3 thereof,

Whereas:

(1) Regulation (EEC) No 1722/93 establishes the conditions for granting the production refund. The basis for the calculation is established in Article 3 of the said Regulation. The refund thus calculated must be fixed once a month and may be altered if the price of maize and/or wheat changes significantly.

(2) The production refunds to be fixed in this Regulation should be adjusted by the coefficients listed in the Annex II to Regulation (EEC) No 1722/93 to establish the exact amount payable.

(3) The Management Committee for Cereals has not delivered an opinion within the time limit set by its chairman,

HAS ADOPTED THIS REGULATION:

Article 1

The refund referred to in Article 3(2) of Regulation (EEC) No 1722/93, expressed per tonne of starch extracted from maize, wheat, barley, oats, potatoes, rice or broken rice, shall be EUR 0,00/t.

Article 2

This Regulation shall enter into force on 31 October 2003.

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

Done at Brussels, 30 October 2003.

For the Commission
Franz FISCHLER
Member of the Commission

([1]) OJ L 181, 1.7.1992, p. 21.
([2]) OJ L 158, 27.6.2003, p. 1.
([3]) OJ L 329, 30.12.1995, p. 18.
([4]) OJ L 62, 5.3.2002, p. 27.
([5]) OJ L 159, 1.7.1993, p. 112.
([6]) OJ L 242, 12.9.2001, p. 3.

COMMISSION REGULATION (EC) No 1922/2003

of 30 October 2003

providing for the rejection of applications for export licences in relation to certain processed products and cereal-based compound feedingstuffs

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Council Regulation (EEC) No 1766/92 of 30 June 1992 on the common organisation of the market in cereals [1],

Having regard to Commission Regulation (EC) No 1342/2003 of 28 July 2003 laying down special detailed rules for the application of the system of import and export licences for cereals and rice [2], and in particular Article 8(1) thereof,

Whereas:

The quantity covered by applications for advance fixing of refunds on potato starch and maize-based products is of great importance and could give rise to speculation. It has therefore been decided to reject all applications for export licences of such products made on 29 and 30 October 2003,

HAS ADOPTED THIS REGULATION:

Article 1

In accordance with Article 8(1) of Regulation (EC) No 1342/2003, applications for export licences with advance fixing of refunds for products falling within CN codes 1102 20 10, 1102 20 90, 1103 13 10, 1103 13 90, 1104 23 10, 1108 12 00, 1108 13 00, 1702 30 51, 1702 30 91, 1702 30 99, 1702 40 90 and 1702 90 50 made on 29 and 30 October 2003 shall be rejected.

Article 2

This Regulation shall enter into force on 31 October 2003.

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

Done at Brussels, 30 October 2003.

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

[1] OJ L 181, 1.7.1992, p. 21. Regulation as last amended by Regulation (EC) No 1104/2003 (OJ L 158, 27.6.2003, p. 1).
[2] OJ L 189, 29.7.2003, p. 12.

COMMISSION REGULATION (EC) No 1923/2003

of 30 October 2003

fixing the maximum export refund on oats in connection with the invitation to tender issued in Regulation (EC) No 1814/2003

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

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

Having regard to Commission Regulation (EC) No 1501/95 of 29 June 1995 laying down certain detailed rules for the application of Council Regulation (EEC) No 1766/92 on the granting of export refunds on cereals and the measures to be taken in the event of disturbance on the market for cereals ([3]), as last amended by Regulation (EC) No 1431/2003 ([4]), and in particular Article 4 thereof,

Having regard to Commission Regulation (EC) No 1814/2003 of 15 October 2003 on a special intervention measure for cereals in Finland and Sweden for the marketing year 2003/04 ([5]), and in particular Article 9 thereof,

Whereas:

(1) An invitation to tender for the refund for the export of oats produced in Finland and Sweden for export from Finland or Sweden to all third countries except Bulgaria, Cyprus, Estonia, Hungary, Latvia, Lithuania, Malta, Poland, the Czech Republic, Romania, Slovakia and Slovenia was opened pursuant to Regulation (EC) No 1814/2003.

(2) Article 9 of Regulation (EC) No 1814/2003 provides that the Commission may, on the basis of the tenders notified, in accordance with the procedure laid down in Article 23 of Regulation (EEC) No 1766/92, decide to fix a maximum export refund taking account of the criteria referred to in Article 1 of Regulation (EC) No 1501/95. In that case a contract is awarded to any tenderer whose bid is equal to or lower than the maximum refund.

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

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

HAS ADOPTED THIS REGULATION:

Article 1

For tenders notified from 24 to 30 October 2003, pursuant to the invitation to tender issued in Regulation (EC) No 1814/2003, the maximum refund on exportation of oats shall be EUR 24,95/t.

Article 2

This Regulation shall enter into force on 31 October 2003.

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

Done at Brussels, 30 October 2003.

For the Commission

Franz FISCHLER

Member of the Commission

([1]) OJ L 181, 1.7.1992, p. 21.
([2]) OJ L 158, 27.6.2003, p. 1.
([3]) OJ L 147, 30.6.1995, p. 7.
([4]) OJ L 203, 12.8.2003, p. 16.
([5]) OJ L 265, 16.10.2003, p. 25.

COUNCIL DIRECTIVE 2003/96/EC

of 27 October 2003

restructuring the Community framework for the taxation of energy products and electricity

(Text with EEA relevance)

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,

Having regard to the opinion of the European Parliament,

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

Whereas:

(1) The scope of Council Directive 92/81/EEC of 19 October 1992 on the harmonisation of the structures of excise duties on mineral oils [1] and of Council Directive 92/82/EEC of 19 October 1992 on the approximation of the rates of excise duties on mineral oils [2] is restricted to mineral oils.

(2) The absence of Community provisions imposing a minimum rate of taxation on electricity and energy products other than mineral oils may adversely affect the proper functioning of the internal market.

(3) The proper functioning of the internal market and the achievement of the objectives of other Community policies require minimum levels of taxation to be laid down at Community level for most energy products, including electricity, natural gas and coal.

(4) Appreciable differences in the national levels of energy taxation applied by Member States could prove detrimental to the proper functioning of the internal market.

(5) The establishment of appropriate Community minimum levels of taxation may enable existing differences in the national levels of taxation to be reduced.

(6) In accordance with Article 6 of the Treaty, environmental protection requirements must be integrated into the definition and implementation of other Community policies.

(7) As a party to the United Nations Framework Convention on Climate Change, the Community has ratified the Kyoto Protocol. The taxation of energy products and, where appropriate, electricity is one of the instruments available for achieving the Kyoto Protocol objectives.

(8) The Council needs to examine the exemptions and reductions and the minimum levels of taxation periodically, taking into consideration the proper functioning of the internal market, the real value of the minimum levels of taxation, the competitiveness of Community businesses in the international framework and the wider objectives of the Treaty.

(9) Member States should be given the flexibility necessary to define and implement policies appropriate to their national circumstances.

(10) Member States wish to introduce or retain different types of taxation on energy products and electricity. To that end, Member States should be permitted to comply with the Community minimum taxation levels by taking into account the total charge levied in respect of all indirect taxes which they have chosen to apply (excluding VAT).

(11) Fiscal arrangements made in connection with the implementation of this Community framework for the taxation of energy products and electricity are a matter for each Member State to decide. In this regard, Member States might decide not to increase the overall tax burden if they consider that the implementation of such a principle of tax neutrality could contribute to the restructuring and the modernisation of their tax systems by encouraging behaviour conducive to greater protection of the environment and increased labour use.

(12) Energy prices are key elements of Community energy, transport and environment policies.

(13) Taxation partly determines the price of energy products and electricity.

(14) The minimum levels of taxation should reflect the competitive position of the different energy products and electricity. It would be advisable in this connection to base the calculation of these minimum levels as far as possible on the energy content of the products. However, this method should not be applied to motor fuels.

[1] OJ L 316, 31.10.1992, p. 12. Directive as last amended by Directive 94/74/EC (OJ L 365, 31.12.1994, p. 46).

[2] OJ L 316, 31.10.1992, p. 19. Directive as last amended by Directive 94/74/EC.

(15) The possibility of applying differentiated national rates of taxation to the same product should be allowed in certain circumstances or permanent conditions, provided that Community minimum levels of taxation and internal market and competition rules are respected.

(16) As heat is only subject to very limited intra-Community trade, output taxation of heat should remain outside the scope of this Community framework.

(17) It is necessary to establish different Community minimum levels of taxation according to the use of the energy products and electricity.

(18) Energy products used as a motor fuel for certain industrial and commercial purposes and those used as heating fuel are normally taxed at lower levels than those applicable to energy products used as a propellant.

(19) The taxation of diesel motor fuel used by hauliers, notably those engaging in intra-Community activities, requires a possibility for a specific treatment, including measures to allow for the introduction of a system of road user charges, in order to limit the distortion of competition operators might be confronted with.

(20) Member States may need to differentiate between commercial and non-commercial diesel. Member States may use this possibility to reduce the gap between the taxation of non-commercial gas oil used as propellant and petrol.

(21) Business use and non-business use of energy products and electricity may be treated differently for tax purposes.

(22) Energy products should essentially be subject to a Community framework when used as heating fuel or motor fuel. To that extent, it is in the nature and the logic of the tax system to exclude from the scope of the framework dual uses and non-fuel uses of energy products as well as mineralogical processes. Electricity used in similar ways should be treated on an equal footing.

(23) Existing international obligations and the maintaining of the competitive position of Community companies make it advisable to continue the exemptions of energy products supplied for air navigation and sea navigation, other than for private pleasure purposes, while it should be possible for Member States to limit these exemptions.

(24) Member States should be permitted to apply certain other exemptions or reduced levels of taxation, where that will not be detrimental to the proper functioning of the internal market and will not result in distortions of competition.

(25) In particular, combined heat and power generation and, in order to promote the use of alternative energy sources, renewable forms of energy may qualify for preferential treatment.

(26) It is desirable to establish a Community framework to allow Member States to exempt or reduce excise duties so as to promote biofuels, thereby contributing to the better functioning of the internal market and affording Member States and economic operators a sufficient degree of legal certainty. Distortions of competition should be limited and the incentive of a reduction in the basic costs for producers and distributors of biofuels should be maintained through, *inter alia*, the adjustments by Member States taking into account changes in raw material prices.

(27) This Directive shall be without prejudice to the application of the relevant provisions of Council Directive 92/12/EEC of 25 February 1992 on the general arrangements for products subject to excise duty and on the holding, movement and monitoring of such products [1], and Council Directive 92/83/EEC of 19 October 1992 on the harmonization of the structures of excise duties on alcohol and alcoholic beverages [2], when the product intended for use, offered for sale or used as motor fuel or fuel additive is ethyl alcohol as defined in Directive 92/83/EEC.

(28) Certain exemptions or reductions in the tax level may prove necessary; notably because of the lack of a stronger harmonisation at Community level, because of the risks of a loss of international competitiveness or because of social or environmental considerations.

(29) Businesses entering into agreements to significantly enhance environmental protection and energy efficiency deserve attention; among these businesses, energy intensive ones merit specific treatment.

(30) Transitional periods and arrangements may be required in order to allow Member States to smoothly adapt to the new levels of taxation, thus limiting possible negative side effects.

(31) It is necessary to provide for a procedure authorising the introduction by Member States, for a set period, of other exemptions or reduced levels of taxation. Such exemptions or reductions should be under regular review.

[1] OJ L 76, 23.3.1992, p. 1. Directive as last amended by Directive 2000/47/EC (OJ L 193, 29.7.2000, p. 73).
[2] OJ L 316, 31.10.1992, p. 21.

(32) Provision should be made for the Member States to notify the Commission of certain national measures. Such notification does not release Member States from the obligation, laid down in Article 88(3) of the Treaty, to notify certain national measures. This Directive does not prejudice the outcome of any future State aid procedure that may be undertaken in accordance with Articles 87 and 88 of the Treaty.

(33) The scope of Directive 92/12/EEC should, where appropriate, be extended to the products and indirect taxes covered by this Directive.

(34) The measures necessary for the implementation of this Directive 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 [1],

HAS ADOPTED THIS DIRECTIVE:

Article 1

Member States shall impose taxation on energy products and electricity in accordance with this Directive.

Article 2

1. For the purposes of this Directive, the term 'energy products' shall apply to products:

(a) falling within CN codes 1507 to 1518, if these are intended for use as heating fuel or motor fuel;

(b) falling within CN codes 2701, 2702 and 2704 to 2715;

(c) falling within CN codes 2901 and 2902;

(d) falling within CN code 2905 11 00, which are not of synthetic origin, if these are intended for use as heating fuel or motor fuel;

(e) falling within CN code 3403;

(f) falling within CN code 3811;

(g) falling within CN code 3817;

(h) falling within CN code 3824 90 99 if these are intended for use as heating fuel or motor fuel.

2. This Directive shall also apply to:

Electricity falling within CN code 2716.

3. When intended for use, offered for sale or used as motor fuel or heating fuel, energy products other than those for which a level of taxation is specified in this Directive shall be taxed according to use, at the rate for the equivalent heating fuel or motor fuel.

In addition to the taxable products listed in paragraph 1, any product intended for use, offered for sale or used as motor fuel, or as an additive or extender in motor fuels, shall be taxed at the rate for the equivalent motor fuel.

In addition to the taxable products listed in paragraph 1, any other hydrocarbon, except for peat, intended for use, offered for sale or used for heating purposes shall be taxed at the rate for the equivalent energy product.

4. This Directive shall not apply to:

(a) output taxation of heat and the taxation of products falling within CN-codes 4401 and 4402;

(b) the following uses of energy products and electricity:

— energy products used for purposes other than as motor fuels or as heating fuels,

— dual use of energy products

An energy product has a dual use when it is used both as heating fuel and for purposes other than as motor fuel and heating fuel. The use of energy products for chemical reduction and in electrolytic and metallurgical processes shall be regarded as dual use,

— electricity used principally for the purposes of chemical reduction and in electrolytic and metallurgical processes,

— electricity, when it accounts for more than 50 % of the cost of a product. 'Cost of a product' shall mean the addition of total purchases of goods and services plus personnel costs plus the consumption of fixed capital, at the level of the business, as defined in Article 11. This cost is calculated per unit on average. 'Cost of electricity' shall mean the actual purchase value of electricity or the cost of production of electricity if it is generated in the business,

— mineralogical processes

'Mineralogical processes' shall mean the processes classified in the NACE nomenclature under code DI 26 'manufacture of other non-metallic mineral products' in Council Regulation (EEC) No 3037/90 of 9 October 1990 on the statistical classification of economic activities in the European Community [2].

However, Article 20 shall apply to these energy products.

5. References in this Directive to codes of the combined nomenclature shall be to those of Commission Regulation (EC) No 2031/2001 of 6 August 2001, amending Annex I to Council Regulation (EEC) No 2658/87 on the tariff and statistical nomenclature and on the Common Customs Tariff [3].

[1] OJ L 184, 17.7.1999, p. 23.

[2] OJ L 293, 24.10.1990, p. 1. Regulation as last amended by Commission Regulation (EC) No 29/2002 (OJ L 6, 10.1.2002, p. 3).

[3] OJ L 279, 23.10.2001, p. 1.

A Decision to update the codes of the combined nomenclature for the products referred to in this Directive shall be taken once every year in accordance with the procedure laid down in Article 27. The Decision must not result in any changes in the minimum tax rates applied in this Directive or to the addition or removal of any energy products and electricity.

Article 3

References in Directive 92/12/EEC to 'mineral oils' and 'excise duty', insofar as it applies to mineral oils, shall be interpreted as covering all energy products, electricity and national indirect taxes referred to respectively in Articles 2 and 4(2) of this Directive.

Article 4

1. The levels of taxation which Member States shall apply to the energy products and electricity listed in Article 2 may not be less than the minimum levels of taxation prescribed by this Directive.

2. For the purpose of this Directive 'level of taxation' is the total charge levied in respect of all indirect taxes (except VAT) calculated directly or indirectly on the quantity of energy products and electricity at the time of release for consumption.

Article 5

Provided that they respect the minimum levels of taxation prescribed by this Directive and that they are compatible with Community law, differentiated rates of taxation may be applied by Member States, under fiscal control, in the following cases:

— when the differentiated rates are directly linked to product quality;

— when the differentiated rates depend on quantitative consumption levels for electricity and energy products used for heating purposes;

— for the following uses: local public passenger transport (including taxis), waste collection, armed forces and public administration, disabled people, ambulances;

— between business and non-business use, for energy products and electricity referred to in Articles 9 and 10.

Article 6

Member States shall be free to give effect to the exemptions or reductions in the level of taxation prescribed by this Directive either:

(a) directly,

(b) by means of a differentiated rate,

or

(c) by refunding all or part of the amount of taxation.

Article 7

1. As from 1 January 2004 and from 1 January 2010, the minimum levels of taxation applicable to motor fuels shall be fixed as set out in Annex I Table A.

Not later than 1 January 2012, the Council, acting unanimously after consulting the European Parliament, shall, on the basis of a report and a proposal from the Commission, decide upon the minimum levels of taxation applicable to gas oil for a further period beginning on 1 January 2013.

2. Member States may differentiate between commercial and non-commercial use of gas oil used as propellant, provided that the Community minimum levels are observed and the rate for commercial gas oil used as propellant does not fall below the national level of taxation in force on 1 January 2003, notwithstanding any derogations for this use laid down in this Directive.

3. 'Commercial gas oil used as propellant' shall mean gas oil used as propellant for the following purposes:

(a) the carriage of goods for hire or reward, or on own account, by motor vehicles or articulated vehicle combinations intended exclusively for the carriage of goods by road and with a maximum permissible gross laden weight of not less than 7,5 tonnes;

(b) the carriage of passengers, whether by regular or occasional service, by a motor vehicle of category M2 or category M3, as defined in Council Directive 70/156/EEC of 6 February 1970 on the approximation of the laws of the Member States relating to the type-approval of motor vehicles and their trailers [1].

4. Notwithstanding paragraph 2, Member States which introduce a system of road user charges for motor vehicles or articulated vehicle combinations intended exclusively for the carriage of goods by road may apply a reduced rate on gas oil used by such vehicles, that goes below the national level of taxation in force on 1 January 2003, as long as the overall tax burden remains broadly equivalent, provided that the Community minimum levels are observed and that the national level of taxation in force on 1 January 2003 for gas oil used as propellant is at least twice as high as the minimum level of taxation applicable on 1 January 2004.

Article 8

1. As from 1 January 2004, notwithstanding Article 7, the minimum levels of taxation applicable to products used as motor fuel for the purposes set out in paragraph 2 shall be fixed as set out in Annex I Table B.

[1] OJ L 42, 23.2.1970, p. 1.

2. This Article shall apply to the following industrial and commercial purposes:

(a) agricultural, horticultural or piscicultural works, and in forestry;

(b) stationary motors;

(c) plant and machinery used in construction, civil engineering and public works;

(d) vehicles intended for use off the public roadway or which have not been granted authorisation for use mainly on the public roadway.

Article 9

1. As from 1 January 2004, the minimum levels of taxation applicable to heating fuels shall be fixed as set out in Annex I Table C.

2. Member States, which on 1 January 2003 are authorised to apply a monitoring charge for heating gas oil, may continue to apply a reduced rate of EUR 10 per 1 000 litres for that product. This authorisation shall be repealed on 1 January 2007 if the Council, acting unanimously on the basis of a report and a proposal from the Commission, so decides, having noted that the level of the reduced rate is too low to avoid problems of trade distortion between the Member States.

Article 10

1. As from 1 January 2004, the minimum levels of taxation applicable to electricity shall be fixed as set out in Annex I Table C.

2. Above the minimum levels of taxation referred to in paragraph 1, Member States will have the option of determining the applicable tax base provided that they respect Directive 92/12/EEC.

Article 11

1. In this Directive, 'business use' shall mean the use by a business entity, identified in accordance with paragraph 2, which independently carries out, in any place, the supply of goods and services, whatever the purpose or results of such economic activities.

The economic activities comprise all activities of producers, traders and persons supplying services including mining and agricultural activities and activities of the professions.

States, regional and local government authorities and other bodies governed by public law shall not be considered as business entities in respect of the activities or transactions in which they engage as public authorities. However, when they engage in such activities or transactions, they shall be considered as a business in respect of these activities or transactions where treatment as non-business would lead to significant distortions of competition.

2. With respect to this Directive, the business entity cannot be considered as smaller than a part of an enterprise or a legal body that from an organisational point of view constitutes an independent business, that is to say an entity capable of functioning by its own means.

3. Where mixed use takes place, taxation shall apply in proportion to each type of use, although where either the business or non-business use is insignificant, it may be treated as nil.

4. Member States may limit the scope of the reduced level of taxation for business use.

Article 12

1. Member States may express their national levels of taxation in units other than those specified in Articles 7 to 10 provided that the corresponding levels of taxation, following conversion into those units, are not below the minimum levels specified in this Directive.

2. For energy products specified in Articles 7, 8 and 9, with levels of taxation based on volumes, the volume shall be measured at a temperature of 15° C.

Article 13

1. For Member States that have not adopted the euro, the value of the euro in national currencies to be applied to the value of the levels of taxation shall be fixed once a year. The rates to be applied shall be those obtaining on the first working day of October and published in the *Official Journal of the European Union* and shall have effect from 1 January of the following calendar year.

2. Member States may maintain the amounts of taxation in force at the time of the annual adjustment provided for in paragraph 1 if the conversion of the amounts of the level of taxation expressed in euro would result in an increase of less than 5 % or EUR 5, whichever is the lower amount, in the level of taxation expressed in national currency.

Article 14

1. In addition to the general provisions set out in Directive 92/12/EEC on exempt uses of taxable products, and without prejudice to other Community provisions, Member States shall exempt the following from taxation under conditions which they shall lay down for the purpose of ensuring the correct and straightforward application of such exemptions and of preventing any evasion, avoidance or abuse:

(a) energy products and electricity used to produce electricity and electricity used to maintain the ability to produce electricity. However, Member States may, for reasons of environmental policy, subject these products to taxation without having to respect the minimum levels of taxation laid down in this Directive. In such case, the taxation of these products shall not be taken into account for the purpose of satisfying the minimum level of taxation on electricity laid down in Article 10;

(b) energy products supplied for use as fuel for the purpose of air navigation other than in private pleasure-flying.

For the purposes of this Directive 'private pleasure-flying' shall mean the use of an aircraft by its owner or the natural or legal person who enjoys its use either through hire or through any other means, for other than commercial purposes and in particular other than for the carriage of passengers or goods or for the supply of services for consideration or for the purposes of public authorities.

Member States may limit the scope of this exemption to supplies of jet fuel (CN code 2710 19 21);

(c) energy products supplied for use as fuel for the purposes of navigation within Community waters (including fishing), other than private pleasure craft, and electricity produced on board a craft.

For the purposes of this Directive 'private pleasure craft' shall mean any craft used by its owner or the natural or legal person who enjoys its use either through hire or through any other means, for other than commercial purposes and in particular other than for the carriage of passengers or goods or for the supply of services for consideration or for the purposes of public authorities.

2. Member States may limit the scope of the exemptions provided for in paragraph 1(b) and (c) to international and intra-Community transport. In addition, where a Member State has entered into a bilateral agreement with another Member State, it may also waive the exemptions provided for in paragraph 1(b) and (c). In such cases, Member States may apply a level of taxation below the minimum level set out in this Directive.

Article 15

1. Without prejudice to other Community provisions, Member States may apply under fiscal control total or partial exemptions or reductions in the level of taxation to:

(a) taxable products used under fiscal control in the field of pilot projects for the technological development of more environmentally-friendly products or in relation to fuels from renewable resources;

(b) electricity:

— of solar, wind, wave, tidal or geothermal origin;

— of hydraulic origin produced in hydroelectric installations;

— generated from biomass or from products produced from biomass;

— generated from methane emitted by abandoned coalmines;

— generated from fuel cells;

(c) energy products and electricity used for combined heat and power generation;

(d) electricity produced from combined heat and power generation, provided that the combined generators are environmentally friendly. Member States may apply national definitions of 'environmentally-friendly' (or high efficiency) cogeneration production until the Council, on the basis of a report and a proposal from the Commission, unanimously adopts a common definition;

(e) energy products and electricity used for the carriage of goods and passengers by rail, metro, tram and trolley bus;

(f) energy products supplied for use as fuel for navigation on inland waterways (including fishing) other than in private pleasure craft, and electricity produced on board a craft;

(g) natural gas in Member States in which the share of natural gas in final energy consumption was less than 15 % in 2000;

The total or partial exemptions or reductions may apply for a maximum period of ten years after the entry into force of this Directive or until the national share of natural gas in final energy consumption reaches 25 %, whichever is the sooner. However, as soon as the national share of natural gas in final energy consumption reaches 20 %, the Member States concerned shall apply a strictly positive level of taxation, which shall increase on a yearly basis in order to reach at least the minimum rate at the end of the period referred to above.

The United Kingdom of Great Britain and Northern Ireland may apply the total or partial exemptions or reductions for natural gas separately for Northern Ireland;

(h) electricity, natural gas, coal and solid fuels used by households and/or by organisations recognised as charitable by the Member State concerned. In the case of such charitable organisations, Member States may confine the exemption or reduction to use for the purpose of non-business activities. Where mixed use takes place, taxation shall apply in proportion to each type of use. If a use is insignificant, it may be treated as nil;

(i) natural gas and LPG used as propellants;

(j) motor fuels used in the field of the manufacture, development, testing and maintenance of aircraft and ships;

(k) motor fuels used for dredging operations in navigable waterways and in ports;

(l) products falling within CN code 2705 used for heating purposes.

2. Member States may also refund to the producer some or all of the amount of tax paid by the consumer on electricity produced from products specified in paragraph 1(b).

3. Member States may apply a level of taxation down to zero to energy products and electricity used for agricultural, horticultural or piscicultural works, and in forestry.

On the basis of a proposal from the Commission, the Council shall before 1 January 2008 examine if the possibility of applying a level of taxation down to zero shall be repealed.

Article 16

1. Member States may, without prejudice to paragraph 5, apply an exemption or a reduced rate of taxation under fiscal control on the taxable products referred to in Article 2 where such products are made up of, or contain, one or more of the following products:

— products falling within CN codes 1507 to 1518;

— products falling within CN codes 3824 90 55 and 3824 90 80 to 3824 90 99 for their components produced from biomass;

— products falling within CN codes 2207 20 00 and 2905 11 00 which are not of synthetic origin;

— products produced from biomass, including products falling within CN codes 4401 and 4402.

Member States may also apply a reduced rate of taxation under fiscal control on the taxable products referred to in Article 2 where such products contain water (CN codes 2201 and 2851 00 10).

'Biomass' shall mean the biodegradable fraction of products, waste and residues from agriculture (including vegetal and animal substances), forestry and related industries, as well as the biodegradable fraction of industrial and municipal waste.

2. The exemption or reduction in taxation resulting from the application of the reduced rate laid down in paragraph 1 may not be greater than the amount of taxation payable on the volume of the products referred to in paragraph 1 present in the products eligible for the reduction.

The levels of taxation applied by Member States on the products made up of or containing the products referred to in paragraph 1 may be lower than the minimum levels specified in Article 4.

3. The exemption or reduction in taxation applied by Member States shall be adjusted to take account of changes in raw material prices to avoid over-compensating for the extra costs involved in the manufacture of the products referred to in paragraph 1.

4. Until 31 December 2003, Member States may exempt or continue to exempt products solely or almost solely made up of the products referred to in paragraph 1.

5. The exemption or reduction provided for the products referred to in paragraph 1 may be granted under a multiannual programme by means of an authorisation issued by an administrative authority to an economic operator for more than one calendar year. The exemption or reduction authorised may not be applied for a period of more than six consecutive years. This period may be renewed.

As part of a multiannual programme authorised by an administrative authority prior to 31 December 2012, Member States may apply the exemption or reduction under paragraph 1 after 31 December 2012 and until the end of the multiannual programme. The period may not be renewed.

6. Should Member States be required by Community law to comply with legally binding obligations to place on their markets a minimum proportion of the products referred to in paragraph 1, paragraphs 1 to 5 shall cease to apply as from the date when such obligations become binding on the Member States.

7. Member States shall communicate to the Commission the schedule of tax reductions or exemptions applied in accordance with this Article by 31 December 2004 and every 12 months thereafter.

8. No later than 31 December 2009, the Commission shall report to the Council on the fiscal, economic, agricultural, energy, industrial and environmental aspects of the reductions granted in accordance with this Article.

Article 17

1. Provided the minimum levels of taxation prescribed in this Directive are respected on average for each business, Member States may apply tax reductions on the consumption of energy products used for heating purposes or for the purposes of Article 8(2)(b) and (c) and on electricity in the following cases:

(a) in favour of energy-intensive business

An 'energy-intensive business' shall mean a business entity, as referred to in Article 11, where either the purchases of energy products and electricity amount to at least 3,0 % of the production value or the national energy tax payable amounts to at least 0,5 % of the added value. Within this definition, Member States may apply more restrictive concepts, including sales value, process and sector definitions.

'Purchases of energy products and electricity' shall mean the actual cost of energy purchased or generated within the business. Only electricity, heat and energy products that are used for heating purposes or for the purposes of Article 8(2)(b) and (c) are included. All taxes are included, except deductible VAT.

'Production value' shall mean turnover, including subsidies directly linked to the price of the product, plus or minus the changes in stocks of finished products, work in progress and goods and services purchased for resale, minus the purchases of goods and services for resale.

'Value added' shall mean the total turnover liable to VAT including export sales minus the total purchases liable to VAT including imports.

Member States, which currently apply national energy tax systems in which energy-intensive businesses are defined according to criteria other than energy costs in comparison with production value and national energy tax payable in comparison with value added, shall be allowed a transitional period until no later than 1 January 2007 to adapt to the definition set out in point (a) first subparagraph;

(b) where agreements are concluded with undertakings or associations of undertakings, or where tradable permit schemes or equivalent arrangements are implemented, as far as they lead to the achievement of environmental protection objectives or to improvements in energy efficiency.

2. Notwithstanding Article 4(1), Member States may apply a level of taxation down to zero to energy products and electricity as defined in Article 2, when used by energy-intensive businesses as defined in paragraph 1 of this Article.

3. Notwithstanding Article 4(1), Member States may apply a level of taxation down to 50 % of the minimum levels in this Directive to energy products and electricity as defined in Article 2, when used by business entities as defined in Article 11, which are not energy-intensive as defined in paragraph 1 of this Article.

4. Businesses that benefit from the possibilities referred to in paragraphs 2 and 3 shall enter into the agreements, tradable permit schemes or equivalent arrangements as referred to in paragraph 1(b). The agreements, tradable permit schemes or equivalent arrangements must lead to the achievement of environmental objectives or increased energy efficiency, broadly equivalent to what would have been achieved if the standard Community minimum rates had been observed.

Article 18

1. By way of derogation from the provisions of the present directive, Member States are hereby authorised to continue to apply the reductions in the levels of taxation or exemptions set out in Annex II.

Subject to a prior review by the Council, on the basis of a proposal from the Commission, this authorisation shall expire on 31 December 2006 or on the date specified in Annex II.

2. Notwithstanding the periods set out in paragraphs 3 to 12 and provided that this does not significantly distort competition, Member States with difficulties in implementing the new minimum levels of taxation will be allowed a transitional period of until 1 January 2007, particularly in order to avoid jeopardising price stability.

3. The Kingdom of Spain may apply a transitional period until 1 January 2007 to adjust its national level of taxation on gas oil used as propellant to the new minimum level of EUR 302 and until 1 January 2012 to reach EUR 330. Until 31 December 2009, it may furthermore apply a special reduced rate on commercial use of gas oil used as propellant, provided that this does not result in taxation at below EUR 287 per 1 000 l and that the national levels of taxation in force on 1 January 2003 are not reduced. From 1 January 2010 until 1 January 2012, it may apply a differentiated rate on commercial use of gas oil used as propellant, provided that it does not result in taxation at below EUR 302 per 1 000 l and that the national levels of taxation in force on 1 January 2010 are not reduced. The special reduced rate on commercial use of gas oil used as propellant may also be applied for taxis until 1 January 2012. With respect to Article 7(3)(a), it may apply, until 1 January 2008, a maximum permissible gross laden weight of not less than 3,5 tonnes in the definition of commercial purposes.

4. The Republic of Austria may apply a transitional period until 1 January 2007 to adjust its national level of taxation on gas oil used as propellant to the new minimum level of EUR 302 and until 1 January 2012 to reach EUR 330. Until 31 December 2009, it may furthermore apply a special reduced rate on commercial use of gas oil used as propellant, provided that this does not result in taxation at below EUR 287 per 1 000 l and that the national levels of taxation in force on 1 January 2003 are not reduced. From 1 January 2010 until 1 January 2012, it may apply a differentiated rate on commercial use of gas oil used as propellant, provided that it does not result in taxation at below EUR 302 per 1 000 l and that the national levels of taxation in force on 1 January 2010 are not reduced.

5. The Kingdom of Belgium may apply a transitional period until 1 January 2007 to adjust its national level of taxation on gas oil used as propellant to the new minimum level of EUR 302 and until 1 January 2012 to reach EUR 330. Until 31 December 2009, it may furthermore apply a special reduced rate on commercial use of gas oil used as propellant, provided that this does not result in taxation at below EUR 287 per 1 000 l and that the national levels of taxation in force on 1 January 2003 are not reduced. From 1 January 2010 until 1 January 2012, it may apply a differentiated rate on commercial use of gas oil used as propellant, provided that it does not result in taxation at below EUR 302 per 1 000 l and that the national levels of taxation in force on 1 January 2010 are not reduced.

6. The Grand Duchy of Luxembourg may apply a transitional period until 1 January 2009 to adjust its national level of taxation on gas oil used as propellant to the new minimum level of EUR 302 and until 1 January 2012 to reach EUR 330. Until 31 December 2009, it may furthermore apply a special reduced rate on commercial use of gas oil used as propellant, provided that this does not result in taxation at below EUR 272 per 1 000 l and that the national levels of taxation in force on 1 January 2003 are not reduced. From 1 January 2010 until 1 January 2012, it may apply a differentiated rate on commercial use of gas oil used as propellant, provided that this does not result in taxation at below EUR 302 per 1 000 l and that the national levels of taxation in force on 1 January 2010 are not reduced.

7. The Portuguese Republic may apply levels of taxation on energy products and electricity consumed in the Autonomous Regions of the Azores and Madeira lower than the minimum levels of taxation laid down in this Directive in order to compensate for the transport costs incurred as a result of the insular and dispersed nature of these regions.

The Portuguese Republic may apply a transitional period until 1 January 2009 to adjust its national level of taxation on gas oil used as propellant to the new minimum level of EUR 302 and until 1 January 2012 to reach EUR 330. Until 31 December 2009, it may furthermore apply a differentiated rate on commercial use of gas oil used as propellant, provided that this does not result in taxation at below EUR 272 per 1 000 l and that the national levels of taxation in force on 1 January 2003 are not reduced. From 1 January 2010 until 1 January 2012, it may apply a differentiated rate on commercial use of gas oil used as propellant, provided that this does not result in taxation at below EUR 302 per 1000 l and that the national levels of taxation in force on 1 January 2010 are not reduced. The differentiated rate on commercial use of gas oil used as propellant may also be applied for taxis until 1 January 2012. With respect to Article 7(3)(a) it may apply, until 1 January 2008, a maximum permissible gross laden weight of not less than 3,5 tonnes in the definition of commercial purposes.

The Portuguese Republic may apply total or partial exemptions in the level of taxation of electricity until 1 January 2010.

8. The Hellenic Republic may apply levels of taxation up to EUR 22 per 1 000 l lower than the minimum rates laid down in this Directive on gas oil used as propellant and on petrol consumed in the departments of Lesbos, Chios, Samos, the Dodecanese and the Cyclades and on the following islands in the Aegean: Thasos, North Sporades, Samothrace and Skiros.

The Hellenic Republic may apply a transitional period until 1 January 2010 to convert its current input electricity taxation system into an output taxation system and to reach the new minimum level of taxation for petrol.

The Hellenic Republic may apply a transitional period until 1 January 2010 to adjust its national level of taxation on gas oil used as propellant to the new minimum level of EUR 302 per 1 000 l and until 1 January 2012 to reach EUR 330. Until 31 December 2009 it may furthermore apply a differentiated rate on commercial use of gas oil used as propellant, provided that this does not result in taxation at below EUR 264 per 1 000 l and that the national levels of taxation in force on 1 January 2003 are not reduced. From 1 January 2010 until 1 January 2012, it may apply a differentiated rate on commercial use of gas oil used as propellant, provided that this does not result in taxation at below EUR 302 per 1 000 l and that the national levels of taxation in force on 1 January 2010 are not reduced. The differentiated rate on commercial use of gas oil used as propellant may also be applied for taxis until 1 January 2012. With respect to Article 7(3)(a) it may apply, until 1 January 2008, a maximum permissible gross laden weight of not less than 3,5 tonnes in the definition of commercial purposes.

9. Ireland may apply total or partial exemptions or reductions in the level of taxation of electricity until 1 January 2008.

10. The French Republic may apply total or partial exemptions or reductions for energy products and electricity used by the State, regional and local government authorities or other bodies governed by public law, in respect of the activities or transactions in which they engage as public authorities until 1 January 2009.

The French Republic may apply a transitional period until 1 January 2009 to adapt its current electricity taxation system to the provisions set out in this Directive. During this period, the global average level of the current local electricity taxation is to be taken into account to assess whether the minimum rates set out in this Directive are respected.

11. The Italian Republic may apply, until 1 January 2008, a maximum permissible gross laden weight of not less than 3,5 tonnes in the definition of commercial purposes as given in Article 7(3)(a).

12. The Federal Republic of Germany may apply, until 1 January 2008, a maximum permissible gross laden weight of 12 tonnes in the definition of commercial purposes as given in Article 7(3)(a).

13. The Kingdom of the Netherlands may apply, until 1 January 2008, a maximum permissible gross laden weight of 12 tonnes in the definition of commercial purposes as given in Article 7(3)(a).

14. Within the transitional periods established, Member States shall progressively reduce their respective gaps with respect to the new minimum levels of taxation. However, when the difference between the national level and the minimum level does not exceed 3 % of that minimum level, the Member State concerned may wait until the end of the period to adjust its national level.

Article 19

1. In addition to the provisions set out in the previous Articles, in particular in Articles 5, 15 and 17, the Council, acting unanimously on a proposal from the Commission, may authorise any Member State to introduce further exemptions or reductions for specific policy considerations.

A Member State wishing to introduce such a measure shall inform the Commission accordingly and shall also provide the Commission with all relevant and necessary information.

The Commission shall examine the request, taking into account, *inter alia*, the proper functioning of the internal market, the need to ensure fair competition and Community health, environment, energy and transport policies.

Within three months of receiving all relevant and necessary information, the Commission shall either present a proposal for the authorisation of such a measure by the Council or, alternatively, shall inform the Council of the reasons why it has not proposed the authorisation of such a measure.

2. The authorisations referred to in paragraph 1 shall be granted for a maximum period of 6 years, with the possibility of renewal in accordance with the procedure set out in paragraph 1.

3. If the Commission considers that the exemptions or reductions provided for in paragraph 1 are no longer sustainable, particularly in terms of fair competition or distortion of the operation of the internal market, or in terms of Community policy in the areas of health, protection of the environment, energy and transport, it shall submit appropriate proposals to the Council. The Council shall take a unanimous decision on these proposals.

Article 20

1. Only the following energy products shall be subject to the control and movement provisions of Directive 92/12/EEC:

(a) products falling within CN codes 1507 to 1518, if these are intended for use as heating fuel or motor fuel;

(b) products falling within CN codes 2707 10, 2707 20, 2707 30 and 2707 50;

(c) products falling within CN codes 2710 11 to 2710 19 69. However, for products falling within CN codes 2710 11 21, 2710 11 25 and 2710 19 29, the control and movement provisions shall only apply to bulk commercial movements;

(d) products falling within CN codes 2711 (except 2711 11, 2711 21 and 2711 29);

(e) products falling within CN code 2901 10;

(f) products falling within CN codes 2902 20, 2902 30, 2902 41, 2902 42, 2902 43 and 2902 44;

(g) products falling within CN code 2905 11 00, which are not of synthetic origin, if these are intended for use as heating fuel or motor fuel;

(h) products falling within CN code 3824 90 99 if these are intended for use as heating fuel or motor fuel.

2. If a Member State finds that energy products other than those referred to in paragraph 1 are intended for use, offered for sale or used as heating fuel, motor fuel or are otherwise giving rise to evasion, avoidance or abuse, it shall advise the Commission forthwith. This provision shall also apply for electricity. The Commission shall transmit the communication to the other Member States within one month of receipt. A Decision as to whether the products in question should be made subject to the control and movement provisions of Directive 92/12/EEC shall then be taken in accordance with the procedure laid down in Article 27(2).

3. Member States may, pursuant to bilateral arrangements, dispense with some or all of the control measures set out in Directive 92/12/EEC in respect of some or all of the products referred to in paragraph 1, insofar as they are not covered by Articles 7 to 9 of this Directive. Such arrangements shall not affect Member States which are not party to them. All such bilateral arrangements shall be notified to the Commission, which shall inform the other Member States.

Article 21

1. In addition to the general provisions defining the chargeable event and the provisions for payment set out in Directive 92/12/EEC, the amount of taxation on energy products shall also become due on the occurrence of one of the chargeable events mentioned in Article 2(3).

2. For the purpose of this Directive, the word 'production' in Article 4(c) and 5(1) of Directive 92/12/EEC shall be deemed to include 'extraction', when appropriate.

3. The consumption of energy products within the curtilage of an establishment producing energy products shall not be considered as a chargeable event giving rise to taxation, if the consumption consist of energy products produced within the curtilage of the establishment. Member States may also consider the consumption of electricity and other energy products not produced within the curtilage of such an establishment and the consumption of energy products and electricity within the curtilage of an establishment producing fuels to be used for generation of electricity as not giving rise to a chargeable event. Where the consumption is for purposes not related to the production of energy products and in particular for the propulsion of vehicles, this shall be considered a chargeable event, giving rise to taxation.

4. Member States may also provide that taxation on energy products and electricity shall become due when it is established that a final use condition laid down in national rules for the purpose of a reduced level of taxation or exemption is not, or is no longer, fulfilled.

5. For the purpose of applying Articles 5 and 6 of Directive 92/12/EEC, electricity and natural gas shall be subject to taxation and shall become chargeable at the time of supply by the distributor or redistributor. Where the delivery to consumption takes place in a Member State where the distributor or redistributor is not established, the tax of the Member States of delivery shall be chargeable to a company that has to be registered in the Member State of delivery. Tax shall in all cases be levied and collected according to procedures laid down by each Member State.

Notwithstanding the first subparagraph, Member States have the right to determine the chargeable event, in the case where there are no connections between their gas pipe lines and those of other Member States.

An entity producing electricity for its own use is regarded as a distributor. Notwithstanding Article 14(1)(a), Member States may exempt small producers of electricity provided that they tax the energy products used for the production of that electricity.

For the purpose of applying Articles 5 and 6 of Directive 92/12/EEC, coal, coke and lignite shall be subject to taxation and shall become chargeable at the time of delivery by companies, which have to be registered for that purpose by the relevant authorities. Those authorities may allow the producer, trader, importer or fiscal representative to substitute the registered company for the fiscal obligations imposed upon it. Tax shall be levied and collected according to procedures laid down by each Member State.

6. Member States need not treat as 'production of energy products':

(a) operations during which small quantities of energy products are obtained incidentally;

(b) operations by which the user of an energy product makes its reuse possible in his own undertaking provided that the taxation already paid on such product is not less than the taxation which would be due if the reused energy product were again to be liable to taxation;

(c) an operation consisting of mixing, outside a production establishment or a tax warehouse, energy products with other energy products or other materials, provided that:

  (i) taxation on the components has been paid previously; and

  (ii) the amount paid is not less than the amount of the tax which would be chargeable on the mixture.

  The condition under (i) shall not apply where the mixture is exempted for a specific use.

Article 22

When taxation rates are changed, stocks of energy products already released for consumption may be subject to an increase in, or a reduction of, the tax.

Article 23

Member States may refund the amounts of taxation already paid on contaminated or accidentally mixed energy products sent back to a tax warehouse for recycling.

Article 24

1. Energy products released for consumption in a Member State, contained in the standard tanks of commercial motor vehicles and intended to be used as fuel by those same vehicles, as well as in special containers, and intended to be used for the operation, during the course of transport, of the systems equipping those same containers shall not be subject to taxation in any other Member State.

2. For the purposes of this Article,

'standard tanks' shall mean:

— the tanks permanently fixed by the manufacturer to all motor vehicles of the same type as the vehicle in question and whose permanent fitting enables fuel to be used directly, both the purpose of propulsion and, where appropriate, for the operation, during transport, of refrigeration systems and other systems. Gas tanks fitted to motor vehicles designed for the direct use of gas as a fuel and tanks fitted to the other systems with which the vehicle may be equipped shall also be considered to be standard tanks;

— the tanks permanently fixed by the manufacturer to all containers of the same type as the container in question and whose permanent fitting enables fuel to be used directly for the operation, during transport, of the refrigeration systems and other systems with which special containers are equipped.

'Special container' shall mean any container fitted with specially designed apparatus for refrigeration systems, oxygenation systems, thermal insulation systems or other systems.

Article 25

1. Member States shall inform the Commission of the levels of taxation which they apply to the products listed in Article 2 on 1 January each year and following each change in national law.

2. Where the levels of taxation applied by the Member States are expressed in units of measurement other than those specified for each product in Articles 7 to 10, Member States shall also notify the corresponding levels of taxation following conversion into these units.

Article 26

1. Member States shall inform the Commission of measures taken pursuant to Articles 5, 14(2), 15 and 17.

2. Measures such as tax exemptions, tax reductions, tax differentiation and tax refunds within the meaning of this Directive might constitute State aid and in those cases have to be notified to the Commission pursuant to Article 88(3) of the Treaty.

Information provided to the Commission on the basis of this Directive does not free Member States from the notification obligation pursuant to Article 88(3) of the Treaty.

3. The obligation to inform the Commission pursuant to paragraph 1 of measures taken pursuant to Article 5 does not free Member States from any notification obligations pursuant to Directive 83/189/EEC.

Article 27

1. The Commission shall be assisted by the Committee on Excise Duties set up by Article 24(1) of Directive 92/12/EEC.

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

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 28

1. Member States shall adopt and publish the laws, regulations and administrative provisions necessary to comply with this Directive not later than 31 December 2003. They shall forthwith inform the Commission thereof.

2. They shall apply these provisions from 1 January 2004, except the provisions laid down in Articles 16 and 18(1), which may be applied by the Member States from 1 January 2003.

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

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

Article 29

The Council, acting on the basis of a report and, where appropriate, a proposal from the Commission, shall periodically examine the exemptions and reductions and the minimum levels of taxation laid down in this Directive and, acting unanimously after consulting the European Parliament, shall adopt the necessary measures. The report by the Commission and the consideration by the Council shall take into account the proper functioning of the internal market, the real value of the minimum levels of taxation and the wider objectives of the Treaty.

Article 30

Notwithstanding Article 28(2), Directives 92/81/EEC and 92/82/EEC shall be repealed as from 31 December 2003.

Article 31

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

Article 32

This Directive is addressed to the Member States.

Done at Luxembourg, 27 October 2003.

For the Council

The President

A. MATTEOLI

ANNEX I

Table A. — Minimum levels of taxation applicable to motor fuels

	1 January 2004	1 January 2010
Leaded petrol (in euro per 1 000 l) CN codes 2710 11 31, 2710 11 51 and 2710 11 59	421	421
Unleaded petrol (in euro per 1 000 l) CN codes 2710 11 31, 2710 11 41, 2710 11 45 and 2710 11 49	359	359
Gas oil (in euro per 1 000 l) CN codes 2710 19 41 to 2710 19 49	302	330
Kerosene (in euro per 1 000 l) CN codes 2710 19 21 and 2710 19 25	302	330
LPG (in euro per 1 000 kg) CN codes 2711 12 11 to 2711 19 00	125	125
Natural gas (in euro per gigajoule gross calorific value) CN codes 2711 11 00 and 2711 21 00	2,6	2,6

Table B. — Minimum levels of taxation applicable to motor fuels used for the purpose set out in Article 8(2)

Gas oil (in euro per 1 000 l) CN codes 2710 19 41 to 2710 19 49	21
Kerosene (in euro per 1 000 l) CN codes 2710 19 21 and 2710 19 25	21
LPG (in euro per 1 000 kg) CN codes 2711 12 11 to 2711 19 00	41
Natural gas (in euro per gigajoule gross calorific value) CN codes 2711 11 00 and 2711 21 00	0,3

Table C. — Minimum levels of taxation applicable to heating fuels and electricity

	Business use	Non-business use
Gas oil (in euro per 1 000 l) CN codes 2710 19 41 to 2710 19 49	21	21
Heavy fuel oil (in euro per 1 000 kg) CN codes 2710 19 61 to 2710 19 69	15	15
Kerosene (in euro per 1 000 l) CN codes 2710 19 21 and 2710 19 25	0	0
LPG (in euro per 1 000 kg) CN codes 2711 12 11 to 2711 19 00	0	0
Natural gas (in euro per gigajoule gross calorific value) CN codes 2711 11 00 and 2711 21 00	0,15	0,3
Coal and coke (in euro per gigajoule gross calorific value) CN codes 2701, 2702 and 2704	0,15	0,3
Electricity (in euro per MWh) CN code 2716	0,5	1,0

ANNEX II

Reduced rates of taxation and exemptions from such taxation referred to in Article 18(1)

1. BELGIUM:

— for liquid petroleum gas (LPG), natural gas and methane;

— for local public passenger transport vehicles;

— for air navigation other than that covered by Article 14(1)(b) of this Directive;

— for navigation in private pleasure craft;

— for a reduction in the rate of excise duty on heavy fuel oil to encourage the use of more environmentally friendly fuels. Such reduction shall be specifically linked to sulphur content and in no case can the reduced rate fall below EUR 6,5 per tonne;

— for waste oils which are reused as fuel, either directly after recovery or following a recycling process for waste oils, and where the reuse is subject to duty;

— for a differentiated rate of excise duty on low-sulphur (50 ppm) and low-aromatic (35 %) unleaded petrol;

— for a differentiated rate of excise duty on low-sulphur (50 ppm) diesel.

2. DENMARK:

— for a differentiated rate of excise duty, from 1 February 2002 to 31 January 2008, to heavy fuel oil and heating oil used by energy-intensive firms to produce heating and hot water. The maximum amount of the authorised differentiation in the excise duty is EUR 0,0095 per kg on heavy fuel oil and EUR 0,008 per litre on heating oil. The reductions in excise duty must comply with the terms of this Directive, and in particular the minimum rates;

— for a reduction in the rate of duty on diesel to encourage the use of more environmentally friendly fuels, provided that such incentives are linked to established technical characteristics including specific gravity, sulphur content, distillation point, cetane number and index and provided that such rates are in accordance with the obligations laid down in this Directive;

— for the application of differentiated rates of excise duty between petrol distributed from petrol stations equipped with a return system for petrol fumes and petrol distributed from other petrol stations, provided that the differentiated rates are in accordance with the obligations laid down in this Directive, and in particular the minimum rates of excise duty;

— for differentiated rates of excise duties on petrol, provided that the differentiated rates are in accordance with the obligations laid down in this Directive, and in particular the minimum levels of taxation provided for in Article 7 thereof;

— for local public passenger transport vehicles;

— for differentiated rates of excise duties on gas oil, provided that the differentiated rates are in accordance with the obligations laid down in this Directive, and in particular the minimum levels of taxation provided for in Article 7 thereof;

— for partial reimbursement to the commercial sector, provided that the taxes concerned are in conformity with Community law and provided that the amount of the tax paid and not reimbursed at all times respects the minimum rates of duty or monitoring charge on mineral oils as provided for in Community law;

— for air navigation other than that covered by Article 14(1)(b) of this Directive;

— for the application of a reduced rate of excise duty of a maximum of DKK 0,03 per litre on petrol distributed from petrol stations meeting more stringent standards of equipment and operation designed to reduce leakage of methyl tertiary butyl ether into ground water, provided that the differentiated rates are in accordance with the obligations laid down in this Directive, and in particular the minimum rates of excise duty.

3. GERMANY:

— for a differentiated rate on excise duty on fuels with a maximum sulphur content of 10 ppm from 1 January 2003 until 31 December 2005;

— for the use of waste hydrocarbon gases as heating fuel;

— for a differentiated rate of excise duty on mineral oils used as fuel in local public passenger transport vehicles, subject to compliance with the obligations laid down in Directive 92/82/EEC;

— for samples of mineral oils intended for analysis, tests on production or for other scientific purposes;

— for a differentiated rate of excise duty on heating oils used by manufacturing industries, provided that the differentiated rates are in accordance with the obligations laid down in this Directive;

— for waste oils which are reused as fuel, either directly after recovery or following a recycling process for waste oils, and where the reuse is subject to duty.

4. GREECE:

— for use by national armed forces;

— to grant relief from the excise duties on mineral oils for fuels intended to be used to power the official vehicles of the Ministry of the Presidency and the national police force;

— for local public passenger transport vehicles;

— for differentiated rates of tax on unleaded petrol to reflect different environmental categories, provided that the differentiated rates are in accordance with the obligations laid down in this Directive, and in particular the minimum levels of taxation provided for in Article 7 thereof;

— for LPG and methane used for industrial purposes.

5. SPAIN:

— for LPG used as fuel in local public transport vehicles;

— for LPG used as fuel in taxis;

— for differentiated rates of tax on unleaded petrol to reflect different environmental categories, provided that the differentiated rates are in accordance with the obligations laid down in this Directive, and in particular the minimum levels of taxation provided for in Article 7 thereof;

— for waste oils which are reused as fuel, either directly after recovery or following a recycling process for waste oils, and where the reuse is subject to duty.

6. FRANCE:

— for differential rates of tax on diesel used in commercial vehicles, until 1 January 2005, which cannot be less than EUR 380 per 1 000 l as from 1 March 2003;

— in the framework of certain policies aimed at assisting areas suffering from depopulation;

— for consumption on the island of Corsica, provided that the reduced rates at all times respect the minimum rates of duty on mineral oils as provided for under Community law;

— for a differentiated rate of excise duty on a new fuel composed of a water-and-antifreeze/diesel emulsion stabilised by surfactants, provided that the differentiated rates are in accordance with the obligations laid down in this Directive, and in particular the minimum rates of excise duty;

— for a differentiated rate of excise duty for premium-grade unleaded petrol containing a potassium-based additive to improve resistance to valve burn-out (or any other additive of equivalent effect);

— for fuel used in taxis, within the limits of an annual quota;

— for exemption from excise duty on gases used as fuel for public transport subject to an annual quota;

— for an exemption from excise duties for gases used as engine fuels in gas-powered refuse collection vehicles;

— for a reduction in the rate of taxation on heavy fuel oil to encourage the use of more environmentally friendly fuels; this reduction shall be specifically linked to sulphur content and the rate of duty charged on heavy fuel oil must correspond to the minimum rate of taxation on heavy fuel oil as provided for in Community law;

— for an exemption for heavy fuel oil used as fuel for the production of alumina in the region of Gardanne;

— for air navigation other than that covered by Article 14(1)(b) of this Directive;

— for gasoline delivered from the harbours of Corsica to private pleasure craft;

— for waste oils which are reused as fuel, either directly after recovery or following a recycling process for waste oils, and where the reuse is subject to duty;

— for local public passenger transport vehicles until 31 December 2005;

— for the granting of permits for the application of a differentiated rate of excise duty to the fuel mixture 'petrol/ethyl alcohol derivatives whose alcohol component is of agricultural origin' and for the application of a differentiated rate of excise duty to the fuel mixture 'diesel/vegetable oil esters'. To allow a reduction in excise duty on blends incorporating vegetable oil esters and ethyl alcohol derivatives which are used as fuel within the meaning of this Directive, the French authorities must issue the necessary permits to the biofuel production units concerned by 31 December 2003 at the latest. The authorisations will be valid for a maximum of six years from the date of issue. The reduction specified in the authorisation may be applied after 31 December 2003 until the expiry of the authorisation. The reductions in excise duties shall not exceed EUR 35,06/hl or EUR 396,64/t for vegetable oil esters and EUR 50,23/hl or EUR 297,35/t for ethyl alcohol derivatives used in the mixtures referred to. The reductions in excise duties shall be adjusted to take account of changes in the price of raw materials to avoid overcompensating for the extra costs involved in the manufacture of biofuels. This Decision shall apply with effect from 1 November 1997. It shall expire on 31 December 2003;

— for the granting of permits for the application of a differentiated rate of excise duty to the mixture 'domestic heating fuel/vegetable oil esters'. To allow a reduction in excise duty on mixtures incorporating vegetable oil esters and used as fuel within the meaning of this Directive, the French authorities must issue the necessary permits to the biofuel production units concerned by 31 December 2003 at the latest. The authorisations will be valid for a maximum of six years from the date of issue. The reduction specified in the authorisation may be applied after 31 December 2003 until the expiry of the authorisation, but may not be extended. The reductions in excise duties shall not exceed EUR 35,06/hl or EUR 396,64/t for the vegetable oil esters used in the mixtures referred to. The reductions in excise duty shall be adjusted to take account of changes in the price of raw materials to avoid overcompensating for the extra costs involved in the manufacture of biofuels. This Decision shall apply with effect from 1 November 1997. It shall expire on 31 December 2003.

7. IRELAND:

— for LPG, natural gas and methane used as motor fuel;

— in motor vehicles used by the disabled;

— for local public passenger transport vehicles;

— for differentiated rates of tax on unleaded petrol to reflect different environmental categories, provided that the differentiated rates are in accordance with the obligations laid down in this Directive, and in particular the minimum levels of taxation provided for in Article 7 thereof;

— for a differentiated rate of excise on low-sulphur diesel;

— for the production of alumina in the Shannon region;

— for air navigation other than that covered by Article 14(1)(b) of this Directive;

— for navigation in private pleasure craft;

— for waste oils which are reused as fuel, either directly after recovery or following a recycling process for waste oils, and where the reuse is subject to duty.

8. ITALY:

— for differentiated rates of excise duty on mixtures used as motor fuels containing 5 % or 25 % of biodiesel until 30 June 2004. The reduction in excise duty may not be greater than the amount of excise duty payable on the volume of biofuels present in the products eligible for the reduction. The reduction in excise duty shall be adjusted to take account of changes in the price of raw materials to avoid overcompensating for the extra costs involved in the manufacture of biofuels;

— for a reduction in the rate of excise duty used as fuel by road transport operators, until 1 January 2005, which cannot be less than EUR 370 per 1 000 l as from 1 January 2004;

— for waste hydrocarbon gases used as fuel;

— for a reduced rate of excise duty to water/diesel emulsions and water/heavy fuel oil emulsions from 1 October 2000 until 31 December 2005 provided that the reduced rate is in accordance with the obligations laid down in this Directive, and in particular with the minimum rates of excise duty;

— for methane used as fuel in motor vehicles;

— for the national armed forces;

— for ambulances;

— for local public passenger transport vehicles;

— for fuel used in taxis;

— in certain particularly disadvantaged geographical areas, for reduced rates of excise duty on domestic fuel and LPG used for heating and distributed through the networks of such areas, provided that the rates are in accordance with the obligations laid down in this Directive, and in particular the minimum rates of excise duty;

— for consumption in the regions of Val d'Aosta and Gorizia;

— for a reduction in the rate of excise duty on petrol consumed on the territory of Friuli-Venezia Giulia, provided that the rates are in accordance with the obligations laid down in this Directive, and in particular the minimum rates of excise duty;

— for a reduction in the rate of excise duty on mineral oils consumed in the regions of Udine and Trieste, provided that the rates are in accordance with the obligations laid down in this Directive;

— for an exemption from excise duty on mineral oils used as fuel for alumina production in Sardinia;

— for a reduction in the rate of excise duty on fuel oil, for the production of steam, and for gas oil, used in ovens for drying and 'activating' molecular sieves in Reggio Calabria, provided that the rates are in accordance with the obligations laid down in this Directive;

— for air navigation other than that covered by Article 14(1)(b) of this Directive;

— for waste oils which are reused as fuel, either directly after recovery or following a recycling process for waste oils, and where the reuse is subject to duty.

9. LUXEMBOURG:

— for LPG, natural gas and methane;

— for local public passenger transport vehicles;

— for a reduction in the rate of excise duty on heavy fuel oil to encourage the use of more environmentally friendly fuels. Such reduction shall be specifically linked to sulphur content and in no case can the reduced rate fall below EUR 6,5 per tonne;

— for waste oils which are reused as fuel, either directly after recovery or following a recycling process for waste oils, and where the reuse is subject to duty.

10. NETHERLANDS:

— for LPG, natural gas and methane;

— for samples of mineral oils intended for analysis, tests on production or for other scientific purposes;

— for use by the national armed forces;

— for the application of differentiated rates of excise duty on LPG used as fuel in public transport;

— for a differentiated rate of excise duty on LPG used as fuel for waste-collection, drain suction and by street-cleaning vehicles;

— for a differentiated rate of excise duty on low sulphur (50 ppm) diesel to 31 December 2004;

— for a differentiated rate of excise duty on low sulphur (50 ppm) petrol to 31 December 2004.

11. AUSTRIA:

— for natural gas and methane;

— for LPG used as fuel by local public transport vehicles;

— for waste oils which are reused as fuel, either directly after recovery or following a recycling process for waste oils, and where the reuse is subject to duty.

12. PORTUGAL:

— for differentiated rates of tax on unleaded petrol to reflect different environmental categories, provided that the differentiated rates are in accordance with the obligations laid down in this Directive, and in particular the minimum levels of taxation provided for in Article 7 thereof;

— for exemption from excise duty on LPG, natural gas and methane used as fuel in local public passenger transport;

— for a reduction in the rate of excise duty on fuel oil consumed in the autonomous region of Madeira; this reduction may not be greater than the additional costs incurred in transporting the fuel oil to that region;

— for a reduction in the rate of excise duty on heavy fuel oil to encourage the use of more environmentally friendly fuels; this reduction shall be specifically linked to sulphur content and the rate of duty charged on heavy fuel oil must correspond to the minimum rate of duty on heavy fuel oil as provided for in Community law;

— for air navigation other than that covered by Article 14(1)(b) of this Directive;

— for waste oils which are reused as fuel, either directly after recovery or following a recycling process for waste oils, and where the reuse is subject to duty.

13. FINLAND:

— for natural gas used as fuel;

— for an exemption from excise duty for methane and LPG for all purposes;

— for reduced excise duty rates on diesel fuel and heating gas oil, provided that the rates are in accordance with the obligations laid down in this Directive, and in particular the minimum levels of taxation provided for in Articles 7 to 9;

— for reduced excise duty rates on reformulated unleaded and leaded petrol, provided that the rates are in accordance with the obligations laid down in this Directive, and in particular the minimum levels of taxation provided for in Article 7 thereof;

— for air navigation other than that covered by Article 14(1)(b) of this Directive;

— for navigation in private pleasure craft;

— for waste oils which are reused as fuel, either directly after recovery or following a recycling process for waste oils, and where the reuse is subject to duty.

14. SWEDEN:

— for reduced tax rates for diesel in accordance with environmental classifications;

— for differentiated rates of tax on unleaded petrol to reflect different environmental categories, provided that the differentiated rates are in accordance with the obligations laid down in this Directive, and in particular the minimum rates of excise duty;

— for a differentiated rate of energy tax to alkylate-based petrol for two-stroke engines, until 30 June 2008, provided that the total excise duty applicable comply with the terms of this Directive;

— for an exemption from excise duty for biologically produced methane and other waste gases;

— for a reduced rate of excise duty on mineral oils used for industrial purposes, provided that the rates are in accordance with the obligations laid down in this Directive;

— for a reduced rate of excise duty on mineral oils used for industrial purposes by introducing both a rate which is lower than the standard rate and a reduced rate for energy-intensive enterprises, provided that the rates are in accordance with the obligations laid down in this Directive, and do not give rise to distortions of competition;

— for air navigation other than that covered by Article 14(1)(b) of the present Directive.

15. UNITED KINGDOM:

— for differentiated rates of excise duty for road fuel containing biodiesel and biodiesel used as pure road fuel, until 31 March 2007. Community minimum rates have to be respected and no overcompensation for the extra costs involved in the manufacture of biofuels can take place;

— for LPG, natural gas and methane used as motor fuel;

— for a reduction in the rate of excise duty on diesel to encourage the use of more environmentally friendly fuels;

— for differentiated rates of tax on unleaded petrol to reflect different environmental categories, provided that the differentiated rates are in accordance with the obligations laid down in this Directive, and in particular the minimum levels of taxation provided for in Article 7 thereof;

— for local public passenger transport vehicles;

— for a differentiated rate of excise duty on water/diesel emulsion provided that the differentiated rates are in accordance with the obligations laid down in this Directive, and in particular the minimum rates of excise duty;

— for air navigation other than that covered by Article 14(1)(b) of this Directive;

— for navigation in private pleasure craft;

— for waste oils which are reused as fuel, either directly after recovery or following a recycling process for waste oils, and where the reuse is subject to duty.

COMMISSION DIRECTIVE 2003/95/EC

of 27 October 2003

amending Directive 96/77/EC laying down specific purity criteria on food additives other than colours and sweeteners

(Text with EEA relevance)

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Council Directive 89/107/EEC of 21 December 1988 on the approximation of the laws of the Member States concerning food additives authorised for use in foodstuffs intended for human consumption [1], as amended by Directive 94/34/EC of the European Parliament and of the Council [2], and in particular Article 3(3)(a) thereof,

After consulting the Scientific Committee on Food,

Whereas:

(1) Directive 95/2/EC of the European Parliament and of the Council of 20 February 1995 on food additives other than colours and sweeteners [3], as last amended by Directive 2001/5/EC [4], lays down a list of substances which may be used as additives other than colours and sweeteners in foodstuffs.

(2) Commission Directive 96/77/EC [5], as last amended by Directive 2002/82/EC [6], sets out the purity criteria for the additives mentioned in Directive 95/2/EC.

(3) The Scientific Committee on Food concluded in its opinion of 6 May 2002 that the presence of ethylene oxide should be brought below the detection limit. Consequently, the relevant criterion of the existing purity criteria set out in Directive 96/77/EC needs to be adapted.

(4) It is necessary to adapt to technical progress the existing purity criteria for E 251 sodium nitrate and E 459 beta-cyclodextrin.

(5) It is necessary to take into account the specifications and analytical techniques for additives as set out in the Codex Alimentarius as drafted by the Joint FAO/WHO Expert Committee on Food Additives (JECFA).

(6) Directive 96/77/EC should therefore be amended accordingly.

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

HAS ADOPTED THIS DIRECTIVE:

Article 1

The Annex to Directive 96/77/EC is amended as set out in the Annex to this Directive.

Article 2

Member States shall bring into force the laws, regulations and administrative provisions necessary to comply with this Directive by 1 November 2004 at the latest. 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 reference on the occasion of their official publication. Member States shall determine how such reference is to be made.

Article 3

Products put on the market or labelled before 1 November 2004 which do not comply with this Directive may be marketed until stocks are exhausted.

Article 4

This Directive shall enter into force on the 20th day following that of its publication in the *Official Journal of the European Union*.

Article 5

This Directive is addressed to the Member States.

Done at Brussels, 27 October 2003.

For the Commission

David BYRNE

Member of the Commission

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[1] OJ L 40, 11.2.1989, p. 27.
[2] OJ L 237, 10.9.1994, p. 1.
[3] OJ L 61, 18.3.1995, p. 1.
[4] OJ L 55, 24.2.2001, p. 59.
[5] OJ L 339, 30.12.1996, p. 1.
[6] OJ L 292, 28.10.2002, p. 1.

ANNEX

The Annex to Directive 96/77/EC is amended as follows:

1. The text concerning E 251 sodium nitrate is replaced by the following:

'E 251 SODIUM NITRATE

1. ***SOLID SODIUM NITRATE***

Synonyms	Chile saltpetre
	Cubic or soda nitre
Definition	
Chemical name	Sodium nitrate
EINECS	231-554-3
Chemical formula	$NaNO_3$
Molecular weight	85,00
Assay	Content not less than 99 % after drying
Description	White crystalline, slightly hygroscopic powder
Identification	
A. Positive tests for nitrate and for sodium	
B. pH of a 5 % solution	Not less than 5,5 and not more than 8,3
Purity	
Loss on drying	Not more than 2 % after drying at 105 °C for four hours
Nitrites	Not more than 30 mg/kg expressed as $NaNO_2$
Arsenic	Not more than 3 mg/kg
Lead	Not more than 5 mg/kg
Mercury	Not more than 1 mg/kg

E 251 SODIUM NITRATE

2. ***LIQUID SODIUM NITRATE***

Definition	Liquid sodium nitrate is an aqueous solution of sodium nitrate as the direct result of the chemical reaction between sodium hydroxide and nitric acid in stoechiometric amounts, without subsequent crystallisation. Standardised forms prepared from liquid sodium nitrate meeting these specifications may contain nitric acid in excessive amounts, if clearly stated or labelled.
Chemical name	Sodium nitrate
EINECS	231-554-3
Chemical formula	$NaNO_3$
Molecular weight	85,00
Assay	Content between 33,5 % and 40,0 % of $NaNO_3$
Description	Clear colourless liquid
Identification	
A. Positive tests for nitrate and for sodium	
B. pH	Not less than 1,5 and not more than 3,5
Purity	
Free nitric acid	Not more than 0,01 %
Nitrites	Not more than 10 mg/kg expressed as $NaNO_2$
Arsenic	Not more than 1 mg/kg
Lead	Not more than 1 mg/kg
Mercury	Not more than 0,3 mg/kg
This specification refers to a 35 % aqueous solution.'	

2. The text concerning E 431 Polyoxyethylene (40) stearate, E 432 Polyoxyethylene sorbitan monolaurate (Polysorbate 20), E 433 Polyoxyethylene sorbitan monooleate (Polysorbate 80), E 434 Polyoxyethylene sorbitan monopalmitate (Polysorbate 40), E 435 Polyoxyethylene sorbitan monostearate (Polysorbate 60) and E 436 Polyoxyethylene sorbitan tristearate (Polysorbate 65) is replaced by the following:

'E 431 POLYOXYETHYLENE (40) STEARATE

Synonyms	Polyoxyl (40) stearate
	polyoxyethylene (40) monostearate
Definition	A mixture of the mono- and diesters of edible commercial stearic acid and mixed polyoxyethylene diols (having an average polymer length of about 40 oxyethylene units) together with free polyol
Assay	Content not less than 97,5 % on the anhydrous basis
Description	Cream-coloured flakes or waxy solid at 25 °C with a faint odour
Identification	
A. Solubility	Soluble in water, ethanol, methanol and ethyl acetate. Insoluble in mineral oil
B. Congealing range	39 °C — 44 °C
C. Infrared absorption spectrum	Characteristic of a partial fatty acid ester of a polyoxyethylated polyol
Purity	
Water	Not more than 3 % (Karl Fischer method)
Acid value	Not more than 1
Saponification value	Not less than 25 and not more than 35
Hydroxyl value	Not less than 27 and not more than 40
1,4-dioxane	Not more than 5 mg/kg
Ethylene oxide	Not more than 0,2 mg/kg
Ethylene glycols (mono- and di-)	Not more than 0,25 %
Arsenic	Not more than 3 mg/kg
Lead	Not more than 5 mg/kg
Mercury	Not more than 1 mg/kg
Cadmium	Not more than 1 mg/kg

E 432 POLYOXYETHYLENE SORBITAN MONOLAURATE (POLYSORBATE 20)

Synonyms	Polysorbate 20
	Polyoxyethylene (20) sorbitan monolaurate
Definition	A mixture of the partial esters of sorbitol and its mono- and dianhydrides with edible commercial lauric acid and condensed with approximately 20 moles of ethylene oxide per mole of sorbitol and its anhydrides
Assay	Content not less than 70 % of oxyethylene groups, equivalent to not less than 97,3 % of polyoxyethylene (20) sorbitan monolaurate on the anhydrous basis
Description	A lemon to amber-coloured oily liquid at 25 °C with a faint characteristic odour
Identification	
A. Solubility	Soluble in water, ethanol, methanol, ethyl acetate and dioxane. Insoluble in mineral oil and petroleum ether
B. Infrared absorption spectrum	Characteristic of a partial fatty acid ester of a polyoxyethylated polyol

Purity	
Water	Not more than 3 % (Karl Fischer method)
Acid value	Not more than 2
Saponification value	Not less than 40 and not more than 50
Hydroxyl value	Not less than 96 and not more than 108
1,4-dioxane	Not more than 5 mg/kg
Ethylene oxide	Not more than 0,2 mg/kg
Ethylene glycols (mono- and di-)	Not more than 0,25 %
Arsenic	Not more than 3 mg/kg
Lead	Not more than 5 mg/kg
Mercury	Not more than 1 mg/kg
Cadmium	Not more than 1 mg/kg

E 433 POLYOXYETHYLENE SORBITAN MONOOLEATE (POLYSORBATE 80)

Synonyms	Polysorbate 80
	Polyoxyethylene (20) sorbitan monooleate
Definition	A mixture of the partial esters of sorbitol and its mono- and dianhydrides with edible commercial oleic acid and condensed with approximately 20 moles of ethylene oxide per mole of sorbitol and its anhydrides
Assay	Content not less than 65 % of oxyethylene groups, equivalent to not less than 96,5 % of polyoxyethylene (20) sorbitan monooleate on the anhydrous basis
Description	A lemon to amber-coloured oily liquid at 25 °C with a faint characteristic odour
Identification	
A. Solubility	Soluble in water, ethanol, methanol, ethyl acetate and toluene. Insoluble in mineral oil and petroleum ether
B. Infrared absorption spectrum	Characteristic of a partial fatty acid ester of a polyoxyethylated polyol
Purity	
Water	Not more than 3 % (Karl Fischer method)
Acid value	Not more than 2
Saponification value	Not less than 45 and not more than 55
Hydroxyl value	Not less than 65 and not more than 80
1,4-dioxane	Not more than 5 mg/kg
Ethylene oxide	Not more than 0,2 mg/kg
Ethylene glycols (mono- and di-)	Not more than 0,25 %
Arsenic	Not more than 3 mg/kg
Lead	Not more than 5 mg/kg
Mercury	Not more than 1 mg/kg
Cadmium	Not more than 1 mg/kg

E 434 POLYOXYETHYLENE SORBITAN MONOPALMITATE (POLYSORBATE 40)

Synonyms	Polysorbate 40
	Polyoxyethylene (20) sorbitan monopalmitate
Definition	A mixture of the partial esters of sorbitol and its mono- and dianhydrides with edible commercial palmitic acid and condensed with approximately 20 moles of ethylene oxide per mole of sorbitol and its anhydrides
Assay	Content not less than 66 % of oxyethylene groups, equivalent to not less than 97 % of polyoxyethylene (20) sorbitan monopalmitate on the anhydrous basis
Description	A lemon to orange-coloured oily liquid or semi-gel at 25 °C with a faint characteristic odour
Identification	
A. Solubility	Soluble in water, ethanol, methanol, ethyl acetate and acetone. Insoluble in mineral oil
B. Infrared absorption spectrum	Characteristic of a partial fatty acid ester of a polyoxyethylated polyol
Purity	
Water	Not more than 3 % (Karl Fischer method)
Acid value	Not more than 2
Saponification value	Not less than 41 and not more than 52
Hydroxyl value	Not less than 90 and not more than 107
1,4-dioxane	Not more than 5 mg/kg
Ethylene oxide	Not more than 0,2 mg/kg
Ethylene glycols (mono- and di-)	Not more than 0,25 %
Arsenic	Not more than 3 mg/kg
Lead	Not more than 5 mg/kg
Mercury	Not more than 1 mg/kg
Cadmium	Not more than 1 mg/kg

E 435 POLYOXYETHYLENE SORBITAN MONOSTEARATE (POLYSORBATE 60)

Synonyms	Polysorbate 60
	Polyoxyethylene (20) sorbitan monostearate
Definition	A mixture of the partial esters of sorbitol and its mono- and dianhydrides with edible commercial stearic acid and condensed with approximately 20 moles of ethylene oxide per mole of sorbitol and its anhydrides
Assay	Content not less than 65 % of oxyethylene groups, equivalent to not less than 97 % of polyoxyethylene (20) sorbitan monostearate on the anhydrous basis
Description	A lemon to orange-coloured oily liquid or semi-gel at 25 °C with a faint characteristic odour
Identification	
A. Solubility	Soluble in water, ethyl acetate and toluene. Insoluble in mineral oil and vegetable oils
B. Infrared absorption spectrum	Characteristic of a partial fatty acid ester of a polyoxyethylated polyol

Purity	
Water	Not more than 3 % (Karl Fischer method)
Acid value	Not more than 2
Saponification value	Not less than 45 and not more than 55
Hydroxyl value	Not less than 81 and not more than 96
1,4-dioxane	Not more than 5 mg/kg
Ethylene oxide	Not more than 0,2 mg/kg
Ethylene glycols (mono- and di-)	Not more than 0,25 %
Arsenic	Not more than 3 mg/kg
Lead	Not more than 5 mg/kg
Mercury	Not more than 1 mg/kg
Cadmium	Not more than 1 mg/kg

E 436 POLYOXYETHYLENE SORBITAN TRISTEARATE (POLYSORBATE 65)

Synonyms	Polysorbate 65
	Polyoxyethylene (20) sorbitan tristearate
Definition	A mixture of the partial esters of sorbitol and its mono- and dianhydrides with edible commercial stearic acid and condensed with approximately 20 moles of ethylene oxide per mole of sorbitol and its anhydrides
Assay	Content not less than 46 % of oxyethylene groups, equivalent to not less than 96 % of polyoxyethylene (20) sorbitan tristearate on the anhydrous basis
Description	A tan-coloured, waxy solid at 25 °C with a faint characteristic odour
Identification	
A. Solubility	Dispersible in water. Soluble in mineral oil, vegetal oils, petroleum ether, acetone, ether, dioxane, ethanol and methanol
B. Congealing range	29 — 33 °C
C. Infrared absorption spectrum	Characteristic of a partial fatty acid ester of a polyoxyethylated polyol
Purity	
Water	Not more than 3 % (Karl Fischer method)
Acid value	Not more than 2
Saponification value	Not less than 88 and not more than 98
Hydroxyl value	Not less than 40 and not more than 60
1,4-dioxane	Not more than 5 mg/kg
Ethylene oxide	Not more than 0,2 mg/kg
Ethylene glycols (mono- and di-)	Not more than 0,25 %
Arsenic	Not more than 3 mg/kg
Lead	Not more than 5 mg/kg
Mercury	Not more than 1 mg/kg
Cadmium	Not more than 1 mg/kg'

3. The text concerning E 459 beta-cyclodextrin is replaced by the following:

'E 459 BETA-CYCLODEXTRIN

Definition	Beta-cyclodextrin is a non-reducing cyclic saccharide consisting of seven α-1,4-linked D-glucopyranosyl units. The product is manufactured by the action of the enzyme cyclo-glycosyltransferase (CGTase) obtained from *Bacillus circulans*, *Paenibacillus macerans* or recombinant *Bacillus licheniformis strain SJ1608* on partially hydrolysed starch.
Chemical name	Cycloheptaamylose
EINECS	231-493-2
Chemical formula	$(C_6H_{10}O_5)_7$
Molecular weight	1135
Assay	Content not less than 98,0 % of $(C_6H_{10}O_5)_7$ on an anhydrous basis
Description	Virtually odourless white or almost white crystalline solid
Identification	
A. Solubility	Sparingly soluble in water; freely soluble in hot water; slightly soluble in ethanol
B. Specific rotation	$[\alpha]\ ^{25}_{D}$: +160 ° to +164 ° (1 % solution)
Purity	
Water	Not more than 14 % (Karl Fischer method)
Other cyclodextrins	Not more than 2 % on an anhydrous basis
Residual solvents (toluene and trichloroethylene)	Not more than 1 mg/kg for each solvent
Sulphated ash	Not more than 0,1 %
Arsenic	Not more than 1 mg/kg
Lead	Not more than 1 mg/kg'

4. The text concerning Polyethylene glycol 6000 is replaced by the following:

'POLYETHYLENE GLYCOL 6000

Synonyms	PEG 6000
	Macrogol 6000
Definition	Polyethylene glycol 6000 is a mixture of polymers with the general formula H — (OCH_2 — CH) — OH corresponding to an average relative molecular mass of approximately 6 000
Chemical formula	$(C_2H_4O)_n\ H_2O$ (n = number of ethylene oxide units corresponding to a molecular weight of 6 000, about 140)
Molecular weight	5 600 — 7 000
Assay	Not less than 90,0 % and not more than 110,0 %
Description	A white or almost white solid with a waxy or paraffin-like appearance
Identification	
A. Solubility	Very soluble in water and in methylene chloride. Practically insoluble in alcohol, in ether and in fatty and mineral oils
B. Melting range	Between 55 °C and 61 °C
Purity	
Viscosity	Between 0,220 and 0,275 $kgm^{-1}s^{-1}$ at 20 °C
Hydroxyl value	Between 16 and 22
Sulphated ash	Not more than 0,2 %
Ethylene oxide	Not more than 0,2 mg/kg
Arsenic	Not more than 3 mg/kg
Lead	Not more than 5 mg/kg'

II

(Acts whose publication is not obligatory)

COMMISSION

COMMISSION DECISION

of 30 October 2003

approving certain treatments to inhibit the development of pathogenic micro-organisms in bivalve molluscs and marine gastropods

(notified under document number C(2003) 3984)

(Text with EEA relevance)

(2003/774/EC)

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Council Directive 91/493/EEC of 22 July 1991 laying down the health conditions for the production and the placing on the market of fishery products [1], as last amended by Regulation (EC) No 806/2003 [2], and in particular Chapter IV(IV)(2) of the Annex thereto,

Whereas:

(1) Commission Decision 93/25/EEC of 11 December 1992 approving certain treatments to inhibit the development of pathogenic micro-organisms in bivalve molluscs and marine gastropods [3] has been substantially amended [4]. In the interests of clarity and rationality the said Decision should be codified.

(2) Bivalve molluscs and marine gastropods harvested in the areas referred to in Chapter I(1)(b) and (c) of the Annex to Council Directive 91/492/EEC of 15 July 1991 laying down the health conditions for the production and the placing on the market of live bivalve molluscs [5], as last amended by Regulation (EC) No 806/2003, constitute a potential threat to consumers if they are not subjected to appropriate treatment.

(3) Spain, the United Kingdom and the Netherlands have put forward treatments to inhibit the development of pathogens in bivalve molluscs and marine gastropods.

(4) These processes are adequate to ensure the health of the products and it is not necessary therefore to subject them in advance to purification or relaying.

(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

The treatments set out in Annex I to this Decision for inhibiting the development of pathogenic micro-organisms in bivalve molluscs and marine gastropods which have been harvested in the areas referred to in Chapter I(1)(b) and (c) of the Annex to Directive 91/492/EEC and which have not been subjected to relaying or purification before being placed on the market are hereby approved.

Article 2

Decision 93/25/EEC is repealed.

References to the repealed Decision shall be construed as references to this Decision and shall be read in accordance with the correlation table in Annex III.

[1] OJ L 268, 24.9.1991, p. 15.
[2] OJ L 122, 16.5.2003, p. 1.
[3] OJ L 16, 25.1.1993, p. 22.
[4] See Annex II to this Decision.
[5] OJ L 268, 24.9.1991, p. 1.

Article 3

This Decision is addressed to the Member States.

Done at Brussels, 30 October 2003.

For the Commission
David BYRNE
Member of the Commission

ANNEX I

TREATMENTS

A. **Sterilisation**

Bivalve molluscs and marine gastropods may be subjected to sterilisation in hermetically sealed containers which comply with the requirements of Chapter IV(4) of the Annex to Directive 91/493/EEC.

B. **Other heat treatments**

Bivalve molluscs and marine gastropods in shell and not frozen may undergo one of the following processes:

1. immersion in boiling water for the period required to raise the internal temperature of the mollusc flesh to not less than 90 °C and maintenance of this minimum temperature for a period of not less than 90 seconds;
2. cooking for three to five minutes in an enclosed space, in which the temperature is between 120 and 160 °C and the pressure is between 2 and 5 kg/cm^2, followed by shelling and freezing of the flesh to a core temperature of - 20 °C;
3. steaming under pressure in an enclosed space, provided that the requirements relating to cooking time and the internal temperature of the mollusc flesh referred to in point 1 are met and the uniform distribution of heat in the enclosed space is guaranteed by validated methodology in the framework of the own-checks programme.

ANNEX II

Repealed Decision with its amendment

Decision 93/25/EEC (OJ L 16, 25.1.1993, p. 22)
Decision 97/275/EC (OJ L 108, 25.4.1997, p. 52)

ANNEX III

Correlation table

Decision 93/25/EEC	This Decision
Article 1	Article 1
—	Article 2
Article 2	Article 3
Annex	Annex I
—	Annex II
—	Annex III

EUROPEAN CENTRAL BANK

GUIDELINE OF THE EUROPEAN CENTRAL BANK

of 23 October 2003

for participating Member States' transactions with their foreign exchange working balances pursuant to Article 31.3 of the Statute of the European System of Central Banks and of the European Central Bank

(ECB/2003/12)

(2003/775/EC)

THE GOVERNING COUNCIL OF THE EUROPEAN CENTRAL BANK,

Having regard to the Statute of the European System of Central Banks and of the European Central Bank and in particular to Articles 31.2, 31.3 and 43.1 thereof,

Whereas:

(1) The transactions of participating Member States with their foreign exchange working balances shall, above a certain limit to be established within the framework of Article 31.3 of the Statute, be subject to approval by the European Central Bank (ECB) in order to ensure consistency with the exchange rate and monetary policies of the Community.

(2) Pursuant to Article 31.3 of the Statute, the Governing Council shall issue Guidelines with a view to facilitating such operations.

(3) Transactions carried out by the national central banks as agents on behalf of participating Member States and not recorded in the national central banks' financial accounts are covered by this Guideline whereas transactions by the national central banks in their own name and at their own risk are covered by the Guideline on the national central banks' operations pursuant to Article 31.3 of the Statute,

HAS ADOPTED THIS GUIDELINE:

Article 1

Definitions

For the purposes of this Guideline:

— 'participating Member States' shall mean all Member States which have adopted the single currency in accordance with the Treaty establishing the European Community,

— 'national central banks' shall mean the national central banks of participating Member States,

— 'transactions' shall mean all transactions listed in the second and third indents of Article 23 of the Statute, carried out in the market and involving exchange of non-euro assets for euro or for any other non-euro assets by participating Member States, including without limitation transactions carried out by the national central banks on behalf of participating Member States and not recorded in the national central banks' financial accounts,

— 'foreign exchange working balances' shall mean holdings of assets denominated in any unit of account or currency other than the euro that are maintained by participating Member States' public authorities directly or through their agents,

— 'non-euro assets' include securities and all other assets in the currency of any country outside the euro area or units of account in whatever form held,

— 'off-market' shall mean foreign exchange operations where neither contractual party is a participant in the interbank market for foreign exchange. This interbank market consists exclusively of commercial financial institutions. Central banks, international organisations, commercial non-financial organisations, participating Member States and the European Commission are deemed not to be part of the interbank market.

Article 2

Scope of application

This Guideline shall apply to the modalities of transactions carried out by all public authorities of participating Member States with their foreign exchange working balances. The procedures established for *ex ante* and *ex post* reporting by central governments differ from those established for other public authorities.

Article 3

Thresholds for prior notification

1. The thresholds at or below which participating Member States' public authorities may conduct transactions on any given trade day with their foreign exchange working balances without prior notification being given to the ECB, and above which various types of transactions on any given trade day with their foreign exchange working balances may not be conducted without prior notification to the ECB, are set out in Annex I.

2. The following foreign exchange transactions shall not be subject to the prior notification procedure:

— any transactions involving, on both sides, foreign exchange assets denominated in the same currency (for example substitution of a United States dollar Treasury note for a United States dollar Treasury bill),

— foreign exchange swaps,

— any transactions carried out with the national central banks.

Article 4

Organisational issues

1. Participating Member States shall put appropriate arrangements in place in order to ensure that transactions with foreign exchange working balances conducted by all participating Member States' public authorities, including those transactions carried out through the national central banks acting as agents on behalf of participating Member States, which are above the threshold levels set out in Annex I, are communicated to the ECB in accordance with the procedures set out in this Guideline.

2. Participating Member States' central governments shall provide the ECB on a monthly basis with estimates of all forthcoming transactions with foreign exchange working balances to be carried out by participating Member States' central governments, including those transactions carried out through the national central banks acting as agents on behalf of participating Member States. The standard format to be used for reporting such estimates is set out in Annex II.

3. All other public authorities shall provide the ECB with estimates of all forthcoming transactions, including those transactions carried out through the national central banks acting as agents on behalf of participating Member States, with foreign exchange working balances above the threshold levels established by the ECB, as set out in Annex III.

4. Responsibility for the reporting requirements set out in Articles 4 and 6 lies with the participating Member States, which shall collect all relevant data and provide such data to the ECB through their respective national central banks.

Article 5

Prior notification procedure and the ECB's approval of the way in which transactions are conducted

1. Participating Member States' public authorities, including the national central banks acting as agents on behalf of Member States, shall notify the ECB as far in advance as possible of all transactions with their foreign exchange working balances above the threshold levels set out in Article 3. The ECB shall receive such notifications no later than 11.30 ECB time on the trade date. The standard format to be used for any such notification is set out in Annex IV and shall be supplied to the ECB through the participating Member States' respective national central banks.

2. The ECB shall respond to prior notifications provided pursuant to paragraph 1 above as soon as possible, and in any case by no later than 13.00 ECB time on the envisaged trade date. In the event that, by such time, no response has been received from the ECB, the transaction shall be deemed to have been authorised according to the terms and conditions specified by the relevant participating Member State's public authority.

3. In the event that a notification is received by the ECB later than 11.30 ECB time, the consultation procedure described in paragraph 5 will apply.

4. The ECB shall consider prior notifications with a view to facilitating, as far as possible, transactions by participating Member States' public authorities. The ECB shall consider such transactions with a view to ensuring consistency with the monetary and exchange rate policies of the Community, having regard to the transactions' impact on the liquidity of the euro area banking system. In the light of these considerations, the ECB shall decide if a transaction may be performed within the time frame and in the manner envisaged by the participating Member State involved.

5. In exceptional circumstances, in relation to policy considerations, adverse market conditions, or late notification by participating Member States, the ECB may advise that the timing of a transaction, or the manner in which a transaction is to be performed, be modified. In such circumstances, the ECB shall initiate a consultation procedure with the parties involved, namely the national public authority concerned and the national central bank of the relevant participating Member State. The ECB may request that the transaction be performed off-market through the European System of Central Banks (ESCB), in which case the ECB may request that the transaction be performed either with the national central bank concerned or with the ECB. The ECB may also request that the overall amount of any such transaction be divided into two or more transactions. The ECB may also request a combination of partial performance off-market through the ESCB as set out above and partial division of the transaction into two or more transactions, as also set out above.

6. In very exceptional circumstances, the ECB may request that a transaction be delayed, in which case the postponement of such transaction shall be prescribed for as short a period of time as possible which shall not, under any circumstances, either be indefinite or prevent fulfilment of the terms and conditions of maturing obligations.

Article 6

Reporting of working balances

1. In order to ensure that the ECB has an adequate overview of the level of participating Member States' foreign exchange working balances, participating Member States shall report their foreign exchange working balances on a monthly *ex post* basis.

2. The standard format to be used by participating Member States' central governments for *ex post* reporting of foreign exchange working balances to the ECB is set out in Annex V.

3. All other public authorities of the participating Member States shall report their foreign exchange working balances above a threshold level established by the ECB, as set out in Annex VI.

Article 7

Confidentiality

All the information and data exchanged in the context of the procedures set out in this Guideline shall be treated confidentially.

Article 8

Repeal of Guideline ECB/2001/9

Guideline ECB/2001/9 is hereby repealed.

Article 9

Final provisions

1. This Guideline is addressed to the participating Member States.

2. This Guideline shall enter into force on 1 November 2003.

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

Done at Frankfurt am Main, 23 October 2003.

On behalf of the Governing Council of the ECB

The President

Willem F. DUISENBERG

ANNEX I

Thresholds for prior notification to the ECB of Member States' foreign exchange transactions pursuant to Article 3(1)

Types of transaction		Threshold applicable (reference: trade date)
Outright purchase or sales, spot and forward, of foreign exchange assets	Against the euro	— EUR 500 million (gross aggregate transactions)
	Against other foreign exchange assets ('cross-currency transactions')	— EUR 500 million equivalent (gross aggregate transactions per currency pair)

A gross aggregate transaction is defined as the total of purchases and the total of sales of foreign exchange assets on a given trade day.

These thresholds also apply to transactions carried out by the national central banks as agents on behalf of participating Member States and not recorded in the national central banks' financial accounts.

ANNEX II

Standard format for *ex ante* reporting of estimated forthcoming foreign exchange transactions by participating Member States pursuant to Article 4(2) and (3)

Participating Member States' central governments shall provide the ECB with estimates of their forthcoming foreign exchange transactions on a monthly basis. Those estimates shall cover all transactions carried out by central governments. All other public authorities shall report estimates of their forthcoming foreign exchange transactions above the thresholds set out in Annex III. The messages containing participating Member States' estimated forthcoming foreign exchange transactions should include the following data.

Breakdown: by currency pairs.

Frequency: monthly.

Deadline: 18.00 ECB time on the last business day of the preceding month.

Interpretation: total purchases and total sales in transactions against the euro or in cross-currency transactions. The currency to be purchased should be indicated in the first column/cell and the currency to be sold in the second column/cell. Trade and value dates should be specified for significant transactions.

Valuation: the 14.15 reference rates of the reporting day should be used in determining the amount for the uncertain amount.

Rounding: to the closest euro million equivalent.

The time frame of these messages is one calendar month. The thresholds are day-specific, which means that if the thresholds are expected to be exceeded on one or more days during the coming month, an *ex ante* report must be sent before the last business day preceding this month. The monthly *ex ante* report should cover the daily period(s) during which the thresholds are expected to be exceeded.

ANNEX III

Thresholds for *ex ante* reporting by participating Member States' public authorities other than central government pursuant to Article 4(3)

Participating Member States' public authorities other than central governments shall provide the ECB with monthly estimates of all forthcoming transactions with their foreign exchange working balances above the following threshold levels:

Types of transaction		Threshold applicable (reference: trade date)
Outright purchase or sales, spot and forward, of foreign exchange assets	Against the euro	— EUR 100 million (gross aggregate transactions)
	Against other foreign exchange assets ('cross-currency transactions')	— EUR 500 million equivalent (gross aggregate transactions per currency pair)

A gross aggregate transaction is defined as the total of purchases and the total of sales of foreign exchange assets on a given trade day.

ANNEX IV

Prior notification requests by participating Member States [1] **and the ECB's replies pursuant to Article 5(1)**

Prior notification messages should contain the following information:

— participating Member State notifying transactions,

— public authority responsible for the transaction,

— date and time of the notifications,

— trade date,

— value date,

— size of the transactions (in millions of euro or millions of euro equivalent),

— currencies involved (ISO codes),

— operation category,

— maturing contractual obligation (Y/N).

The ECB's reply to the prior notifications also contains the following data:

— date, time and content of the ECB reply.

Note: Participating Member States are requested to channel their notifications to the ECB via their respective national central bank.

[1] It should be recalled that only transactions conducted by the Member States in the market, i.e. not with their respective national central bank as counterparty, are subject to prior notification. Member States' transactions conducted with their respective national central bank as counterparty are covered by prior approval and reporting procedures applicable to national central banks' operations.

ANNEX V

Standard format for *ex post* reporting to the ECB of foreign exchange working balances held by participating Member States pursuant to Article 6(2)

The participating Member States' central governments are required to report their outstanding foreign currency working balances on a monthly basis. Other public authorities have to report only if the highest of either their monthly average holdings or end-of-month holdings exceeds the threshold set out in Annex VI.

Breakdown: all foreign currency working balances, no breakdown by currency. Monthly average, high of the month, end of the month and low of the month.

Frequency: monthly.

Deadline: 18.00 ECB time on the fifth business day following the reporting period.

Interpretation: participating Member States' total holdings of foreign currencies held outside the ESCB. Forward positions are also to be included in the data (i.e. forward positions should be added to the current holdings and only one figure per item should be reported). In addition, spot transactions which have been contracted but which have not yet been settled should be included in the data (i.e. the data should be compiled on a trade-date basis).

Valuation: the 14.15 reference rates should be used by the national central banks to convert the information received from participating Member States into euro (i.e. if the participating Member States report foreign currencies actually held). Securities should be valued at market prices, but for practical reasons a single reference source for prices is not required. Since the bulk of working balances are likely to be held in the form of deposits, the impact of slightly different market sources used for valuing securities should be very limited.

Rounding: to the closest euro million equivalent.

It should be noted that other public authorities are obliged to report only if the highest of either their monthly average holdings or end-of-month holdings exceeds the reporting threshold. However, if the reporting threshold is triggered, they should use the same data format as central governments (i.e. monthly average, high of the month, end of the month and low of the month).

The *ex post* reporting obligation contained in this Annex includes all foreign exchange transactions carried out by the national central banks as agents on behalf of public authorities of participating Member States.

ANNEX VI

Threshold for *ex post* reporting by participating Member States' public authorities other than central government pursuant to Article 6(3)

Participating Member States' public authorities other than central governments shall report to the ECB their foreign exchange working balances above the following threshold levels:

Types of assets	Threshold applicable (reference: trade date)
Holdings of foreign exchange assets (total of all currencies, in millions of euro equivalent): the figure reported shall be the higher of the following ones: — average of the month, — end of the month.	— EUR 50 million equivalent

DECISION OF THE EUROPEAN CENTRAL BANK

of 23 October 2003

amending Decision ECB/2002/12 of 19 December 2002 on the approval of the volume of coin issuance in 2003

(ECB/2003/13)

(2003/776/EC)

THE GOVERNING COUNCIL OF THE EUROPEAN CENTRAL BANK,

Having regard to the Treaty establishing the European Community, and in particular Article 106(2) thereof,

Whereas:

(1) Since 1 January 1999 the European Central Bank (ECB) has the exclusive right to approve the volume of euro coins that the Member States that have adopted the euro (hereinafter 'the participating Member States') may issue.

(2) Based on the estimates of the evolution of demand for euro coins in 2003 that the participating Member States submitted to the ECB, the ECB approved the total volume of euro coins intended for circulation and euro collector coins not intended for circulation in 2003 in Decision ECB/2002/12 of 19 December 2002 on the approval of the volume of coin issuance in 2003 ([1]).

(3) In some participating Member States the estimates underlying Decision ECB/2002/12 were insufficient due to unstable demand for euro coins after the 2002 cash changeover, as well as to unforeseen economic developments. As a result, these participating Member States now have to obtain the ECB's approval for the issuance of additional euro coins in 2003.

(4) On 3 September 2003 the French Ministry of Economics, Finance and Industry requested the ECB's approval of an increase of EUR 600 million in the volume of euro coins intended for circulation and that France may issue in 2003.

(5) On 11 September 2003 the Central Bank and Financial Services Authority of Ireland, as the appointed agent of the Irish Department of Finance, requested the ECB's approval of an increase of EUR 40 million in the volume of euro coins intended for circulation and that Ireland may issue in 2003.

(6) On 23 September 2003 the Italian Ministry of Economics and Finance requested the ECB's approval of an increase of EUR 40 million in the volume of euro coins intended for circulation and that Italy may issue in 2003.

(7) On 17 September 2003 the Oesterreichische Nationalbank requested the ECB's approval of an increase of EUR 40 million in the volume of euro coins intended for circulation and that Austria may issue in 2003.

(8) The ECB approves the abovementioned requests for increases in the volume of euro coins intended for circulation that France, Ireland, Italy and Austria may issue in 2003. As a result, the table in Article 1 of Decision ECB/2002/12 needs to be replaced,

HAS DECIDED AS FOLLOWS:

Article 1

Decision ECB/2002/12 is amended as follows:

The table in Article 1 is replaced with the following:

'*(million EUR)*

	Issuance of coins intended for circulation and issuance of collector coins (not intended for circulation) in 2003
Belgium	246,9
Germany	1 475,0
Greece	116,4
Spain	939,0
France	667,5
Ireland	140,6
Italy	155,6
Luxembourg	150,0
Netherlands	85,0
Austria	156,0
Portugal	278,0
Finland	300,0'

([1]) OJ L 358, 31.12.2002, p. 144.

Article 2

This Decision is addressed to the participating Member States.

This Decision will be published in the *Official Journal of the European Union*.

Done at Frankfurt am Main, 23 October 2003.

The President of the ECB
Willem F. DUISENBERG