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Legislation

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Council

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EN

[1] Text with EEA relevance

I

(Acts whose publication is obligatory)

COUNCIL REGULATION (EC) No 1992/2003

of 27 October 2003

amending Regulation (EC) No 40/94 on the Community trade mark to give effect to the accession of the European Community to the Protocol relating to the Madrid Agreement concerning the international registration of marks adopted at Madrid on 27 June 1989

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty establishing the European Community, and in particular Article 308 thereof,

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

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

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

Whereas:

(1) Regulation (EC) No 40/94 [4] (the Community trade mark Regulation), which is based on Article 308 of the Treaty, is designed to create a market which functions properly and offers conditions which are similar to those obtaining in a national market. In order to create a market of this kind and make it increasingly a single market, the said Regulation created the Community trade mark system whereby undertakings can, by means of one procedural system, obtain Community trade marks to which uniform protection is given and which produce their effects throughout the entire area of the European Community.

(2) The Diplomatic Conference for the conclusion of a Protocol relating to the Madrid Agreement concerning the international registration of marks adopted the Protocol relating to the Madrid Agreement concerning the international registration of marks (hereafter referred to as the Madrid Protocol) on 27 June 1989, at Madrid.

(3) The Madrid Protocol was adopted in order to introduce certain new features into the system of the international registration of marks existing under the Madrid Agreement concerning the international registration of marks of 14 April 1891 as amended (hereafter referred to as the Madrid Agreement) [5].

(4) As compared to the Madrid Agreement, the Madrid Protocol introduced, in its Article 14, as one of the main innovations the possibility that an intergovernmental organisation which has a regional office for the purpose of registering marks with effect in the territory of the organisation may become party to the Madrid Protocol.

(5) The Madrid Protocol entered into force on 1 December 1995 and became operational on 1 April 1996 and the Community trade mark system also became operational on the latter date.

(6) The Community trade mark system and the international registration system as established by the Madrid Protocol are complementary. Therefore, in order to enable firms to benefit from the advantages of the Community trade mark through the Madrid Protocol and vice versa, it is necessary to allow Community trade mark applicants and holders of such trade marks to apply for international protection of their trade marks through the filing of an international application under the Madrid Protocol and, conversely, holders of international registrations under the Madrid Protocol to apply for protection of their trade marks under the Community trade mark system.

(7) Moreover, the establishment of a link between the Community trade mark system and the international registration system under the Madrid Protocol would promote a harmonious development of economic activities, will eliminate distortions of competition, will be cost efficient and will increase the level of integration and functioning of the internal market. Therefore, the accession of the Community to the Madrid Protocol is necessary in order for the Community trade mark system to become more attractive.

(8) For the above reasons, the Council, acting on a proposal from the Commission [6], approved the Madrid Protocol and authorised the President of the Council to deposit the instrument of accession with the Director-General of the World Intellectual Property Organisation (WIPO) as from the date on which the Council has adopted the measures which are necessary to give effect to the accession of the European Community to the Madrid Protocol. This Regulation contains these measures.

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[1] OJ C 300, 10.10.1996, p. 11.
[2] OJ C 127, 2.6.1997, p. 251.
[3] OJ C 89, 19.3.1997, p. 14.
[4] OJ L 11, 14.1.1994, p. 1. Regulation as last amended by Regulation (EC) No 1653/2003 (OJ L 245, 29.9.2003, p. 36).
[5] The Madrid Agreement concerning the international registration of marks as revised last at Stockholm on 14 July 1967 and as amended on 2 October 1979.
[6] Commission proposal for a Council Decision approving the accession of the European Community to the Protocol relating to the Madrid Agreement concerning the international registration of marks, adopted at Madrid on June 27, 1989 (OJ C 293, 5.10.1996, p. 11).

(9) These measures should be incorporated in the Community trade mark Regulation through the inclusion of a new title on 'International registration of marks'. For this reason, the legal basis of this proposal should be the same as the legal basis of the Community trade mark Regulation, i.e. Article 308 of the Treaty.

(10) Furthermore, it is necessary to provide for rules applying to the filing of an international application at the International Bureau of WIPO through the intermediary of the Office for Harmonisation in the Internal Market (trade marks and designs) (the Office).

(11) Where an international application is filed, on the basis of a Community trade mark application, in a language other than one of the languages allowed under the Madrid Protocol for the filing of international applications, the Office should make its best efforts to arrange for the translation of the list of goods or services into the language indicated by the applicant in order for the application to be forwarded to the International Bureau in time to maintain the date of priority.

(12) There is nothing in the Madrid Protocol or in the Regulations adopted under the Madrid Protocol which would determine the language regime to be applied by the Office when processing an international application or an international registration.

(13) Finally, the rules and procedures relating to international registrations designating the European Community should, in principle, be the same as the rules and procedures which apply to Community trade mark applications and the protection of Community trade marks. According to this principle, international registrations designating the European Community should be subject to examination as to absolute grounds for refusal, searches in the Register of Community trade marks and the registers of trade marks of those Member States which have informed the Office of their decision to operate such a search and should be subject to opposition in the same way as published Community trade marks. Likewise international registrations designating the European Community should be subject to the same rules on use and invalidation as Community trade marks. Furthermore the designation of the European Community through international registrations may be converted into national trade mark applications or into the designation of Member States which are party to the Madrid Protocol or the Madrid Agreement where the designation of the European Community through such international registrations is refused or ceases to have effect,

HAS ADOPTED THIS REGULATION:

Article 1

Regulation (EC) No 40/94 is hereby amended as follows:

1. The following subparagraph shall be added to Article 8(2)(a):

'(iv) trade marks registered under international arrangements which have effect in the Community;'

2. Article 134(3) shall be replaced by the following:

'3. Revenue shall comprise, without prejudice to other types of income, total fees payable under the fees regulations, total fees payable under the Madrid Protocol referred to in Article 140 for an international registration designating the European Communities and other payments made to Contracting Parties to the Madrid Protocol, and, to the extent necessary, a subsidy entered against a specific heading of the general budget of the European Communities, Commission section.'

3. The following title shall be inserted after title XII:

'TITLE XIII

INTERNATIONAL REGISTRATION OF MARKS

SECTION I

GENERAL PROVISIONS

Article 140

Application of provisions

Unless otherwise specified in this title, this Regulation and any regulations implementing this Regulation adopted pursuant to Article 158 shall apply to applications for international registrations under the Protocol relating to the Madrid Agreement concerning the international registration of marks, adopted at Madrid on 27 June 1989 (hereafter referred to as "international applications" and "the Madrid Protocol" respectively), based on an application for a Community trade mark or on a Community trade mark and to registrations of marks in the international register maintained by the International Bureau of the World Intellectual Property Organisation (hereafter referred to as "international registrations" and "the International Bureau", respectively) designating the European Community.

SECTION 2

INTERNATIONAL REGISTRATION ON THE BASIS OF APPLICATIONS FOR A COMMUNITY TRADE MARK AND OF COMMUNITY TRADE MARKS

Article 141

Filing of an international application

1. International applications pursuant to Article 3 of the Madrid Protocol based on an application for a Community trade mark or on a Community trade mark shall be filed at the Office.

2. Where an international application is filed before the mark on which the international registration is to be based has been registered as a Community trade mark, the applicant for the international registration must indicate whether the international registration is to be based on a Community trade mark application or registration. Where the international registration is to be based on a Community trade mark once it is registered, the international application shall be deemed to have been received at the Office on the date of registration of the Community trade mark.

Article 142

Form and contents of the international application

1. The international application shall be filed in one of the official languages of the European Community, using a form provided by the Office. Unless otherwise specified by the applicant on that form when he files the international application, the Office shall correspond with the applicant in the language of filing in a standard form.

2. If the international application is filed in a language which is not one of the languages allowed under the Madrid Protocol, the applicant must indicate a second language from among those languages. This shall be the language in which the Office submits the international application to the International Bureau.

3. Where the international application is filed in a language other than one of the languages allowed under the Madrid Protocol for the filing of international applications, the applicant may provide a translation of the list of goods or services in the language in which the international application is to be submitted to the International Bureau pursuant to paragraph 2.

4. The Office shall forward the international application to the International Bureau as soon as possible.

5. The filing of an international application shall be subject to the payment of a fee to the Office. In the cases referred to in the second sentence of Article 141(2), the fee shall be due on the date of registration of the Community trade mark. The application shall be deemed not to have been filed until the required fee has been paid.

6. The international application must fulfil the relevant conditions laid down in the Implementing Regulation referred to in Article 157.

Article 143

Recordal in the files and in the Register

1. The date and number of an international registration based on a Community trade mark application, shall be recorded in the files of that application. When the application results in a Community trade mark, the date and number of the international registration shall be entered in the register.

2. The date and number of an international registration based on a Community trade mark shall be entered in the Register.

Article 144

Request for territorial extension subsequent to the international registration

A request for territorial extension made subsequent to the international registration pursuant to Article 3*ter*(2) of the Madrid Protocol may be filed through the intermediary of the Office. The request must be filed in the language in which the international application was filed pursuant to Article 142.

Article 145

International fees

Any fees payable to the International Bureau under the Madrid Protocol shall be paid direct to the International Bureau.

SECTION 3

INTERNATIONAL REGISTRATIONS DESIGNATING THE EUROPEAN COMMUNITY

Article 146

Effects of international registrations designating the European Community

1. An international registration designating the European Community shall, from the date of its registration pursuant to Article 3(4) of the Madrid Protocol or from the date of the subsequent designation of the European Community pursuant to Article 3*ter*(2) of the Madrid Protocol, have the same effect as an application for a Community trade mark.

2. If no refusal has been notified in accordance with Article 5(1) and (2) of the Madrid Protocol or if any such refusal has been withdrawn, the international registration of a mark designating the European Community shall, from the date referred to in paragraph 1, have the same effect as the registration of a mark as a Community trade mark.

3. For the purposes of applying Article 9(3), publication of the particulars of the international registration designating the European Community pursuant to Article 147(1) shall take the place of publication of a Community trade mark application, and publication pursuant to Article 147(2) shall take the place of publication of the registration of a Community trade mark.

Article 147

Publication

1. The Office shall publish the date of registration of a mark designating the European Community pursuant to Article 3(4) of the Madrid Protocol or the date of the subsequent designation of the European Community pursuant to Article 3*ter*(2) of the Madrid Protocol, the language of filing of the international application and the second language indicated by the applicant, the number of the international registration and the date of publication of such registration in the Gazette published by the International Bureau, a reproduction of the mark and the numbers of the classes of the goods or services in respect of which protection is claimed.

2. If no refusal of protection of an international registration designating the European Community has been notified in accordance with Article 5(1) and (2) of the Madrid Protocol or if any such refusal has been withdrawn, the Office shall publish this fact, together with the number of the international registration and, where applicable, the date of publication of such registration in the Gazette published by the International Bureau.

Article 148

Seniority

1. The applicant for an international registration designating the European Community may claim, in the international application, the seniority of an earlier trade mark registered in a Member State, including a trade mark registered in the Benelux countries, or registered under international arrangements having effect in a Member State, as provided for in Article 34.

2. The holder of an international registration designating the European Community may, as from the date of publication of the effects of such registration pursuant to Article 147(2), claim at the Office the seniority of an earlier trade mark registered in a Member State, including a trade mark registered in the Benelux countries, or registered under international arrangements having effect in a Member State, as provided for in Article 35. The Office shall notify the International Bureau accordingly.

Article 149

Examination as to absolute grounds for refusal

1. International registrations designating the European Community shall be subject to examination as to absolute grounds for refusal in the same way as applications for Community trade marks.

2. Protection of an international registration shall not be refused before the holder of the international registration has been allowed the opportunity to renounce or limit the protection in respect of the European Community or of submitting his observations.

3. Refusal of protection shall take the place of refusal of a Community trade mark application.

4. Where protection of an international registration is refused by a decision under this Article which has become final or where the holder of the international registration has renounced the protection in respect of the European Community pursuant to paragraph 2, the Office shall refund the holder of the international registration a part of the individual fee to be laid down in the implementing Regulation.

Article 150

Search

1. Once the Office has received a notification of an international registration designating the European Community, it shall draw up a Community search report as provided for in Article 39(1).

2. As soon as the Office has received a notification of an international registration designating the European Community, the Office shall transmit a copy thereof to the central industrial property office of each Member State which has informed the Office of its decision to operate a search in its own register of trade marks as provided for in Article 39(2).

3. Article 39(3), (4) and (5) shall apply *mutatis mutandis*.

4. The Office shall inform the proprietors of any earlier Community trade marks or Community trade mark applications cited in the Community search report of the publication of the international registration designating the European Community as provided for in Article 147(1).

Article 151

Opposition

1. International registration designating the European Community shall be subject to opposition in the same way as published Community trade mark applications.

2. Notice of opposition shall be filed within a period of three months which shall begin six months following the date of the publication pursuant to Article 147(1). The opposition shall not be treated as duly entered until the opposition fee has been paid.

3. Refusal of protection shall take the place of refusal of a Community trade mark application.

4. Where protection of an international registration is refused by a decision under this Article which has become final or where the holder of the international registration has renounced the protection in respect of the European Community prior to a decision under this Article which has become final, the Office shall refund the holder of the international registration a part of the individual fee to be laid down in the implementing Regulation.

Article 152

Replacement of a Community trade mark by an international registration

The Office shall, upon request, enter a notice in the Register that a Community trade mark is deemed to have been replaced by an international registration in accordance with Article 4*bis* of the Madrid Protocol.

Article 153

Invalidation of the effects of an international registration

1. The effects of an international registration designating the European Community may be declared invalid.

2. The application for invalidation of the effects of an international registration designating the European Community shall take the place of an application for a declaration of revocation as provided for in Article 50 or for invalidation as provided for in Article 51 or Article 52.

Article 154

Conversion of a designation of the European Community through an international registration into a national trade mark application or into a designation of Member States

1. Where a designation of the European Community through an international registration has been refused or ceases to have effect, the holder of the international registration may request the conversion of the designation of the European Community:

(a) into a national trade mark application pursuant to Articles 108 to 110 or

(b) into a designation of a Member State party to the Madrid Protocol or the Madrid Agreement concerning the international registration of marks, adopted at Madrid on 14 April 1891, as revised and amended (hereafter referred to as the Madrid Agreement), provided that on the date when conversion was requested it was possible to have designated that Member State directly under the Madrid Protocol or the Madrid Agreement. Articles 108 to 110 shall apply.

2. The national trade mark application or the designation of a Member State party to the Madrid Protocol or the Madrid Agreement resulting from the conversion of the designation of the European Community through an international registration shall enjoy, in respect of the Member State concerned, the date of the international registration pursuant to Article 3(4) of the Madrid Protocol or the date of the extension to the European Community pursuant to Article 3*ter*(2) of the Madrid Protocol if the latter was made subsequently to the international registration, or the date of priority of that registration and, where appropriate, the seniority of a trade mark of that State claimed under Article 148.

3. The request for conversion shall be published.

Article 155

Use of a mark subject of an international registration

For the purposes of applying Article 15(1), Article 43(2), Article 50(1)(a) and Article 56(2), the date of publication pursuant to Article 147(2) shall take the place of the date of registration for the purpose of establishing the date as from which the mark which is the subject of an international registration designating the European Community must be put to genuine use in the Community.

Article 156

Transformation

1. Subject to paragraph 2, the provisions applicable to Community trade mark applications shall apply *mutatis mutandis* to applications for transformation of an international registration into a Community trade mark application pursuant to Article 9*quinquies* of the Madrid Protocol.

2. When the application for transformation relates to an international registration designating the European Community the particulars of which have been published pursuant to Article 147(2), Articles 38 to 43 shall not apply.'

4. Title XIII becomes Title XIV.

5. Articles 140, 141, 142 and 143 shall be renumbered as follows:

Article 140 becomes Article 157

Article 141 becomes Article 158

Article 142 becomes Article 159

Article 143 becomes Article 160.

6. The reference to Article 140 in Article 26(3) shall be replaced by a reference to Article 157.

7. The reference to Article 141 in Article 139(3) and Article 140(3) shall be replaced by a reference to Article 158.

Article 2

This Regulation shall enter into force on the date on which the Madrid Protocol enters into force with respect to the European Community. The date of entry into force of this Regulation shall be published 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

COMMISSION REGULATION (EC) No 1993/2003

of 13 November 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 14 November 2003.

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

Done at Brussels, 13 November 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 13 November 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	39,4
	096	49,6
	204	53,1
	999	47,4
0707 00 05	052	138,6
	999	138,6
0709 90 70	052	111,0
	204	86,6
	999	98,8
0805 20 10	204	56,8
	512	116,3
	999	86,6
0805 20 30, 0805 20 50, 0805 20 70, 0805 20 90	052	74,5
	388	66,8
	464	146,8
	504	97,5
	528	66,8
	999	90,5
0805 50 10	052	85,6
	524	60,1
	528	81,9
	600	87,7
	999	78,8
0806 10 10	052	120,9
	400	225,8
	508	302,5
	999	216,4
0808 10 20, 0808 10 50, 0808 10 90	052	60,5
	060	37,4
	064	48,5
	096	84,1
	388	117,0
	400	73,2
	404	78,1
	720	49,7
	800	159,7
	999	78,7
0808 20 50	052	101,2
	060	51,7
	064	60,4
	720	43,2
	999	64,1

(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 1994/2003
of 13 November 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 14 November 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, 13 November 2003.

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

ANNEX

to the Commission Regulation of 13 November 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)	5,82	0,39	—
1703 90 00 (1)	8,79	—	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 1995/2003
of 13 November 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 14 November 2003.

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

Done at Brussels, 13 November 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	45,02 (1)
1701 12 90 9100	S00	EUR/100 kg	45,72 (1)
1701 12 90 9910	S00	EUR/100 kg	45,02 (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	48,94
1701 99 10 9950	S00	EUR/100 kg	48,94
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 1996/2003

of 13 November 2003

fixing the maximum export refund for white sugar to certain third countries for the 14th 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 14th 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 14th 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 52,042 EUR/100 kg.

Article 2

This Regulation shall enter into force on 14 November 2003.

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

Done at Brussels, 13 November 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 1997/2003
of 13 November 2003
prohibiting fishing for whiting by vessels flying the flag of Sweden

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

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

Whereas:

(1) Council Regulation (EC) No 2341/2002 of 20 December 2002 fixing for 2003 the fishing opportunities and associated conditions for certain fish stocks and groups of fish stocks, applicable in Community waters and, for Community vessels, in waters where catch limitations are required ([3]), as last amended by Commission Regulation (EC) No 1754/2003 ([4]), lays down quotas for whiting for 2003.

(2) In order to ensure compliance with the provisions relating to the quantity limits on catches of stocks subject to quotas, the Commission must fix the date by which catches made by vessels flying the flag of a Member State are deemed to have exhausted the quota allocated.

(3) According to the information received by the Commission, catches of whiting in the waters of ICES division IIIa Skagerrak and Kattegat, by vessels flying the flag of Sweden or registered in Sweden have exhausted the quota allocated for 2003. Sweden has prohibited fishing for this stock from 7 September 2003. This date should be adopted in this Regulation also,

HAS ADOPTED THIS REGULATION:

Article 1

Catches of whiting in the waters of ICES division IIIa Skagerrak and Kattegat, by vessels flying the flag of Sweden or registered in Sweden are hereby deemed to have exhausted the quota allocated to Sweden for 2003.

Fishing for whiting in the waters of ICES division IIIa Skagerrak and Kattegat, by vessels flying the flag of Sweden or registered in Sweden is hereby prohibited, as are the retention on board, transhipment and landing of this stock caught by the above vessels after the date of application of this Regulation.

Article 2

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

It shall apply from 7 September 2003.

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

Done at Brussels, 13 November 2003.

For the Commission
Jörgen HOLMQUIST
Director-General for Fisheries

([1]) OJ L 261, 20.10.1993, p. 1.
([2]) OJ L 122, 16.5.2003, p. 1.
([3]) OJ L 356, 31.12.2002, p. 12.
([4]) OJ L 252, 4.10.2003, p. 1.

COMMISSION REGULATION (EC) No 1998/2003
of 13 November 2003
prohibiting fishing for cod by vessels flying the flag of Sweden

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

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

Whereas:

(1) Council Regulation (EC) No 2341/2002 of 20 December 2002 fixing for 2003 the fishing opportunities and associated conditions for certain fish stocks and groups of fish stocks, applicable in Community waters and, for Community vessels, in waters where catch limitations are required [3], as last amended by Commission Regulation (EC) No 1754/2003 [4], lays down quotas for cod for 2003.

(2) In order to ensure compliance with the provisions relating to the quantity limits on catches of stocks subject to quotas, the Commission must fix the date by which catches made by vessels flying the flag of a Member State are deemed to have exhausted the quota allocated.

(3) According to the information received by the Commission, catches of cod in the waters of ICES division IIIa Kattegat, by vessels flying the flag of Sweden or registered in Sweden have exhausted the quota allocated for 2003. Sweden has prohibited fishing for this stock from 13 October 2003. This date should be adopted in this Regulation also,

HAS ADOPTED THIS REGULATION:

Article 1

Catches of cod in the waters of ICES division IIIa Kattegat, by vessels flying the flag of Sweden or registered in Sweden are hereby deemed to have exhausted the quota allocated to Sweden for 2003.

Fishing for cod in the waters of ICES division IIIa Kattegat, by vessels flying the flag of Sweden or registered in Sweden is hereby prohibited, as are the retention on board, transhipment and landing of this stock caught by the above vessels after the date of application of this Regulation.

Article 2

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

It shall apply from 13 October 2003.

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

Done at Brussels, 13 November 2003.

For the Commission
Jörgen HOLMQUIST
Director-General for Fisheries

[1] OJ L 261, 20.10.1993, p. 1.
[2] OJ L 122, 16.5.2003, p. 1.
[3] OJ L 356, 31.12.2002, p. 12.
[4] OJ L 252, 4.10.2003, p. 1.

COMMISSION REGULATION (EC) No 1999/2003

of 13 November 2003

fixing certain indicative quantities and individual ceilings for the issuing of licences for importing bananas into the Community under the tariff quotas for the first quarter of 2004

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Council Regulation (EEC) No 404/93 of 13 February 1993 on the common organisation of the market in bananas [1], and in particular Article 20 thereof,

Whereas:

(1) Article 14(1) of Commission Regulation (EC) No 896/2001 of 7 May 2001 laying down detailed rules for applying Council Regulation (EEC) No 404/93 as regards the arrangements for importing bananas into the Community [2] provides for the possibility of fixing an indicative quantity, expressed as the same percentage of quantities available under each of the tariff quotas A/B and C laid down under Article 18(1) of Regulation (EEC) No 404/93, for the purposes of issuing import licences for the first three quarters of the year.

(2) The data relating, on the one hand, to the quantities of bananas marketed in the Community in 2003, and in particular actual imports, especially during the first quarter, and, on the other hand, to the outlook for supply and consumption on the Community market in the same quarter of 2004 call for the fixing of indicative quantities for quotas A/B and C that ensure satisfactory supply to the Community as a whole and continuity of trade flows between the production and marketing sectors.

(3) On the basis of the same data, the ceiling on the quantities for which individual operators can submit licence applications in respect of the first quarter of 2004 should be fixed in accordance with Article 14(2) of Regulation (EC) No 896/2001.

(4) Since this Regulation must apply before the beginning of the period for the submission of licence applications in respect of the first quarter of 2004, it should enter into force immediately.

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

HAS ADOPTED THIS REGULATION:

Article 1

The indicative quantity provided for in Article 14(1) of Regulation (EC) No 896/2001 for banana imports under the tariff quotas provided for in Article 18 of Regulation (EEC) No 404/93 shall be equal to 27 % of the quantities available for traditional and non-traditional operators under tariff quotas A/B and C for the first quarter of 2004.

Article 2

For the first quarter of 2004, the quantity referred to in Article 14(2) of Regulation (EC) No 896/2001 that may be authorised for banana imports under the tariff quotas provided for in Article 18 of Regulation (EEC) No 404/93 shall be equal to:

(a) 27 % of the reference quantity established pursuant to Articles 4 and 5 of Regulation (EC) No 896/2001 for traditional operators under tariff quotas A/B and C;

(b) 27 % of the reference quantity established and notified pursuant to Article 9(3) of Regulation (EC) No 896/2001 for non-traditional operators under tariff quotas A/B and C.

Article 3

This Regulation shall enter into force on 14 November 2003.

[1] OJ L 47, 25.2.1993, p. 1; Regulation as last amended by Regulation (EC) No 2587/2001 (OJ L 345, 29.12.2001, p. 13).
[2] OJ L 126, 8.5.2001, p. 6; Regulation as last amended by Regulation (EC) No 1439/2003 (OJ L 204, 13.8.2003, p. 30).

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

Done at Brussels, 13 November 2003.

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

COMMISSION REGULATION (EC) No 2000/2003

of 13 November 2003

fixing, for 2004, the reduction percentages to be applied to applications for an allocation by non-traditional operators under the tariff quotas for imports of bananas

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Council Regulation (EC) No 404/93 of 13 February 1993 on the common organisation of the market in bananas [1],

Having regard to Commission Regulation (EC) No 896/2001 of 7 May 2001 laying down detailed rules for applying Council Regulation (EEC) No 404/93 as regards the arrangements for importing bananas into the Community [2], and in particular Article 9(2) thereof,

Whereas:

(1) Member States' notifications pursuant to Article 9(1) of Regulation (EC) No 896/2001 indicate that the sum of allocations applied for is 4 961 407,000 tonnes for all non-traditional operators A/B and 399 750,000 tonnes for all non-traditional operators C.

(2) The percentages to be applied for determining the allocations for non-traditional operators under the tariff quotas A/B and C for 2004 should therefore be fixed.

(3) It should be pointed out that the provisions of this Regulation are adopted without prejudice to measures that may be taken subsequently in connection with enlargement of the Union.

(4) So that the operators have sufficient time to lodge licence applications for the first quarter of 2004, this Regulation must enter into force immediately,

HAS ADOPTED THIS REGULATION:

Article 1

For the tariff quotas A/B and C provided for in Article 18 of Regulation (EEC) No 404/93, the allocation to be granted to each non-traditional operator for 2004 pursuant to Article 9(2) of Regulation (EC) No 896/2001 shall be the following percentage of the allocation applied for:

(a) for each non-traditional operator A/B: 9,09036 %,

(b) for each non-traditional operator C: 20,63789 %.

Article 2

This Regulation shall enter into force on 14 November 2003.

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

Done at Brussels, 13 November 2003.

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

[1] OJ L 47, 25.2.1993, p. 1; Regulation as last amended by Regulation (EC) No 2587/2001 (OJ L 345, 29.12.2001, p. 13).
[2] OJ L 126, 8.5.2001, p. 6; Regulation as last amended by Regulation (EC) No 1439/2003 (OJ L 204, 13.8.2003, p. 30).

COMMISSION REGULATION (EC) No 2001/2003

of 13 November 2003

concerning tenders notified in response to the invitation to tender for the import of maize issued in Regulation (EC) No 1620/2003

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]), and in particular Article 12(1) thereof,

Whereas:

(1) An invitation to tender for the maximum reduction in the duty on maize imported into Spain from third countries was opened pursuant to Commission Regulation (EC) No 1620/2003 ([3]).

(2) Article 5 of Commission Regulation (EC) No 1839/95 ([4]), as last amended by Regulation (EC) No 2235/2000 ([5]), allows the Commission to decide, in accordance with the procedure laid down in Article 23 of Regulation (EEC) No 1766/92 and on the basis of the tenders notified, to make no award.

(3) On the basis of the criteria laid down in Articles 6 and 7 of Regulation (EC) No 1839/95 a maximum reduction in the duty should not be fixed.

(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

No action shall be taken on the tenders notified from 7 to 13 November 2003 in response to the invitation to tender for the reduction in the duty on imported maize issued in Regulation (EC) No 1620/2003.

Article 2

This Regulation shall enter into force on 14 November 2003.

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

Done at Brussels, 13 November 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 231, 17.9.2003, p. 6.
([4]) OJ L 177, 28.7.1995, p. 4.
([5]) OJ L 256, 10.10.2000, p. 13.

COMMISSION REGULATION (EC) No 2002/2003

of 13 November 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 7 to 13 November 2003, pursuant to the invitation to tender issued in Regulation (EC) No 1814/2003, the maximum refund on exportation of oats shall be EUR 16,58/t.

Article 2

This Regulation shall enter into force on 14 November 2003.

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

Done at Brussels, 13 November 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.

II

(Acts whose publication is not obligatory)

COUNCIL

COUNCIL DECISION

of 27 October 2003

approving the accession of the European Community to the Protocol relating to the Madrid Agreement concerning the international registration of marks, adopted at Madrid on 27 June 1989

(2003/793/EC)

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty establishing the European Community, and in particular Article 308, in conjunction with Article 300(2), second sentence, and Article 300(3), first subparagraph, thereof,

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

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

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

Whereas:

(1) Council Regulation (EC) No 40/94 of 20 December 1993 on the Community trade mark [4], which is based on Article 308 of the Treaty, is designed to create a market which functions properly and offers conditions which are similar to those obtaining in a national market. In order to create a market of this kind and make it increasingly a single market, the said Regulation created the Community trade mark system whereby undertakings can by means of one procedural system obtain Community trade marks to which uniform protection is given and which produce their effects throughout the entire area of the European Community.

(2) Following preparations initiated and carried out by the World Intellectual Property Organisation with the participation of the Member States which are members of the Madrid Union, the Member States which are not members of the Madrid Union and the European Community, the Diplomatic Conference for the conclusion of a Protocol relating to the Madrid Agreement concerning the international registration of marks adopted the Protocol relating to the Madrid Agreement concerning the international registration of marks (hereafter referred to as 'the Madrid Protocol') on 27 June 1989, at Madrid.

(3) The Madrid Protocol was adopted in order to introduce certain new features into the system of the international registration of marks existing under the Madrid Agreement concerning the international registration of marks of 14 April 1891 as amended (hereafter referred to as 'the Madrid Agreement') [5].

(4) The objectives of the Madrid Protocol are to ease the way for certain States, and in particular the Member States which are not currently parties thereto, to accede to the system of international registration of marks.

(5) As compared to the Madrid Agreement, the Madrid Protocol introduced, in its Article 14, as one of the main innovations, the possibility that an intergovernmental organisation which has a regional office for the purpose of registering marks with effect in the territory of the organisation may become party to the Madrid Protocol.

(6) The possibility that an intergovernmental organisation which has a regional office for the purpose of registering marks may become a party to the Madrid Protocol was introduced in the Madrid Protocol in order to allow, in particular, for the European Community to accede to the said Protocol.

[1] OJ C 293, 5.10.1996, p. 11.
[2] OJ C 167, 2.6.1997, p. 252.
[3] OJ C 89, 19.3.1997, p. 14.
[4] OJ L 11, 14.1.1994, p. 1. Regulation as last amended by Regulation (EC) No 1653/2003, (OJ L 245, 29.9.2003, p. 36).

[5] The Madrid Agreement concerning the international registration of marks as revised last at Stockholm on 14 July 1967 and as amended on 2 October 1979.

(7) The Madrid Protocol entered into force on 1 December 1995 and became operational on 1 April 1996 and the Community trade mark system also became operational on the latter date.

(8) The Community trade mark system and the international registration system as established by the Madrid Protocol are complementary. Therefore, in order to enable firms to profit from the advantages of the Community trade mark through the Madrid Protocol and vice versa, it is necessary to allow Community trade mark applicants and holders of such trade marks to apply for international protection of their trade marks through the filing of an international application under the Madrid Protocol and, conversely, holders of international registrations under the Madrid Protocol to apply for protection of their trade marks under the Community trade mark system.

(9) Moreover, the establishment of a link between the Community trade mark system and the international registration system under the Madrid Protocol would promote a harmonious development of economic activities, will eliminate distortions of competition, will be cost efficient and will increase the level of integration and functioning of the internal market. Therefore, the accession of the Community to the Madrid Protocol is necessary in order for the Community trade mark system to become more attractive.

(10) The European Commission should be authorised to represent the European Community in the Assembly of the Madrid Union after the accession of the Community to the Madrid Protocol. The European Community will not express a view in the Assembly in matters relating solely to the Madrid Agreement.

(11) The competence of the European Community to conclude or accede to international agreements or treaties does not derive only from explicit conferral by the Treaty but may also derive from other provisions of the Treaty and from acts adopted pursuant to those provisions by Community institutions.

(12) This Decision does not affect the right of the Member States to participate in the Assembly of the Madrid Union with regard to their national trade marks,

HAS DECIDED AS FOLLOWS:

Article 1

The Protocol relating to the Madrid Agreement concerning the international registration of marks, adopted at Madrid on 27 June 1989 (hereafter referred to as the Madrid Protocol), is hereby approved on behalf of the Community with regard to matters within its competence.

The text of the Madrid Protocol is attached to this Decision.

Article 2

1. The President of the Council is hereby authorised to deposit the instrument of accession with the Director-General of the World Intellectual Property Organisation as from the date on which the Council has adopted the measures which are necessary for the establishment of a link between the Community trade mark and the Madrid Protocol.

2. The declarations and notification, which are attached to this Decision, shall be made in the instrument of accession.

Article 3

1. The Commission is hereby authorised to represent the European Community at the meetings of the Madrid Union Assembly held under the auspices of the World Intellectual Property Organisation.

2. On all matters within the sphere of competence of the Community with regard to the Community trade mark, the Commission shall negotiate in the Madrid Union Assembly on behalf of the Community in accordance with the following arrangements:

(a) the position which the Community may adopt within the Assembly shall be prepared by the relevant Council working party or, if this is not possible, at on-the-spot meetings convened in the course of the work within the framework of the World Intellectual Property Organisation;

(b) as regards decisions involving the amendment of Regulation (EC) No 40/94, or of any other act of the Council requiring unanimity, the Community position shall be adopted by the Council acting unanimously on a proposal from the Commission;

(c) as regards other decisions affecting the Community trade mark, the Community position shall be adopted by the Council acting by a qualified majority on a proposal from the Commission.

Done at Luxembourg, 27 October 2003.

For the Council

The President

A. MATTEOLI

PROTOCOL

relating to the Madrid Agreement concerning the international registration of marks, adopted at Madrid on 27 June 1989

Article 1

Membership in the Madrid Union

The States party to this Protocol (hereinafter referred to as the contracting States), even where they are not party to the Madrid Agreement concerning the international registration of marks as revised at Stockholm in 1967 and as amended in 1979 (hereinafter referred to as the Madrid (Stockholm) Agreement), and the organisations referred to in Article 14(1)(b) which are party to this Protocol (hereinafter referred to as the contracting organisations) shall be members of the same Union of which countries party to the Madrid (Stockholm) Agreement are members. Any reference in this Protocol to 'contracting parties' shall be construed as a reference to both contracting States and contracting organisations.

Article 2

Securing protection through international registration

1. Where an application for the registration of a mark has been filed with the office of a contracting party, or where a mark has been registered in the register of the office of a contracting party, the person in whose name that application (hereinafter referred to as the basic application) or that registration (hereinafter referred to as the basic registration) stands may, subject to the provisions of this Protocol, secure protection for his mark in the territory of the contracting parties, by obtaining the registration of that mark in the register of the International Bureau of the World Intellectual Property Organisation (hereinafter referred to as 'the international registration', 'the International Register', 'the International Bureau' and the 'Organisation', respectively), provided that:

(i) where the basic application has been filed with the office of a contracting State or where the basic registration has been made by such an office, the person in whose name that application or registration stands is a national of that contracting State, or is domiciled, or has a real and effective industrial or commercial establishment, in the said contracting State;

(ii) where the basic application has been filed with the office of a contracting organisation or where the basic registration has been made by such an office, the person in whose name that application or registration stands is a national of a State member of that contracting organisation, or is domiciled, or has a real and effective industrial or commercial establishment, in the territory of the said contracting organisation.

2. The application for international registration (hereinafter referred to as the international application) shall be filed with the International Bureau through the intermediary of the office with which the basic application was filed or by which the basic registration was made (hereinafter referred to as the office of origin), as the case may be.

3. Any reference in this Protocol to an 'office' or an 'office of a contracting party' shall be construed as a reference to the office that is in charge, on behalf of a contracting party, of the registration of marks, and any reference in this Protocol to 'marks' shall be construed as a reference to trade marks and service marks.

4. For the purposes of this Protocol, 'territory of a contracting party' means, where the contracting party is a State, the territory of that State and, where the contracting party is an intergovernmental organisation, the territory in which the constituting treaty of that intergovernmental organisation applies.

Article 3

International application

1. Every international application under this Protocol shall be presented on the form prescribed by the regulations. The office of origin shall certify that the particulars appearing in the international application correspond to the particulars appearing, at the time of the certification, in the basic application or basic registration, as the case may be. Furthermore, the said office shall indicate:

(i) in the case of a basic application, the date and number of that application;

(ii) in the case of a basic registration, the date and number of that registration as well as the date and number of the application from which the basic registration resulted. The office of origin shall also indicate the date of the international application.

2. The applicant must indicate the goods and services in respect of which protection of the mark is claimed and also, if possible, the corresponding class or classes according to the classification established by the Nice Agreement concerning the international classification of goods and services for the purposes of the registration of marks. If the applicant does not give such indication, the International Bureau shall classify the goods and services in the appropriate classes of the said classification. The indication of classes given by the applicant shall be subject to control by the International Bureau, which shall exercise the said control in association with the office of origin. In the event of disagreement between the said office and the International Bureau, the opinion of the latter shall prevail.

3. If the applicant claims colour as a distinctive feature of his mark, he shall be required:

(i) to state the fact, and to file with his international application a notice specifying the colour or the combination of colours claimed;

(ii) to append to his international application copies in colour of the said mark, which shall be attached to the notifications given by the International Bureau, the number of such copies shall be fixed by the regulations.

4. The International Bureau shall register immediately the marks filed in accordance with Article 2. The international registration shall bear the date on which the international application was received in the office of origin, provided that the international application has been received by the International Bureau within a period of two months from that date. If the international application has not been received within that period, the international registration shall bear the date on which the said international application was received by the International Bureau. The International Bureau shall notify the international registration without delay to the offices concerned. Marks registered in the International Register shall be published in a periodical gazette issued by the International Bureau, on the basis of the particulars contained in the international application.

5. With a view to the publicity to be given to marks registered in the International Register, each office shall receive from the International Bureau a number of copies of the said gazette free of charge and a number of copies at a reduced price, under the conditions fixed by the assembly referred to in Article 10 (hereinafter referred to as the assembly). Such publicity shall be deemed to be sufficient for the purposes of all the contracting parties, and no other publicity may be required of the holder of the international registration.

Article 3bis

Territorial effect

The protection resulting from the international registration shall extend to any contracting party only at the request of the person who files the international application or who is the holder of the international registration. However, no such request can be made with respect to the contracting party whose office is the office of origin.

Article 3ter

Request for 'territorial extension'

1. Any request for extension of the protection resulting from the international registration to any contracting party shall be specially mentioned in the international application.

2. A request for territorial extension may also be made subsequently to the international registration. Any such request shall be presented on the form prescribed by the regulations. It shall be immediately recorded by the International Bureau, which shall notify such recordal without delay to the office or offices concerned. Such recordal shall be published in the periodical gazette of the International Bureau. Such territorial extension shall be effective from the date on which it has been recorded in the International Register; it shall cease to be valid on the expiry of the international registration to which it relates.

Article 4

Effects of international registration

1. (a) From the date of the registration or recordal effected in accordance with the provisions of Articles 3 and 3*ter*, the protection of the mark in each of the contracting parties concerned shall be the same as if the mark had been deposited direct with the office of that contracting party. If no refusal has been notified to the International Bureau in accordance with Article 5(1) and (2) or if a refusal notified in accordance with the said Article has been withdrawn subsequently, the protection of the mark in the contracting party concerned shall, as from the said date, be the same as if the mark had been registered by the office of that contracting party.

(b) The indication of classes of goods and services provided for in Article 3 shall not bind the contracting parties with regard to the determination of the scope of the protection of the mark.

2. Every international registration shall enjoy the right of priority provided for by Article 4 of the Paris Convention for the protection of industrial property, without it being necessary to comply with the formalities prescribed in section D of that Article.

Article 4bis

Replacement of a national or regional registration by an international registration

1. Where a mark that is the subject of a national or regional registration in the office of a contracting party is also the subject of an international registration and both registrations stand in the name of the same person, the international registration is deemed to replace the national or regional registration, without prejudice to any rights acquired by virtue of the latter, provided that:

(i) the protection resulting from the international registration extends to the said contracting party under Article 3*ter*(1) or (2);

(ii) all the goods and services listed in the national or regional registration are also listed in the international registration in respect of the said contracting party;

(iii) such extension takes effect after the date of the national or regional registration.

2. The office referred to in paragraph 1 shall, upon request, be required to take note in its register of the international registration.

Article 5

Refusal and invalidation of effects of international registration in respect of certain contracting parties

1. Where the applicable legislation so authorises, any office of a contracting party which has been notified by the International Bureau of an extension to that contracting party, under Article 3*ter*(1) or (2), of the protection resulting from the international registration shall have the right to declare in a notification of refusal that protection cannot be granted in the said contracting party to the mark which is the subject of such extension. Any such refusal can be based only on the grounds which would apply, under the Paris Convention for the protection of industrial property, in the case of a mark deposited direct with the office which notifies the refusal. However, protection may not be refused, even partially, by reason only that the applicable legislation would permit registration only in a limited number of classes or for a limited number of goods or services.

2. (a) Any office wishing to exercise such right shall notify its refusal to the International Bureau, together with a statement of all grounds, within the period prescribed by the law applicable to that office and at the latest, subject to subparagraphs (b) and (c), before the expiry of one year from the date on which the notification of the extension referred to in paragraph 1 has been sent to that office by the International Bureau.

(b) Notwithstanding subparagraph (a), any contracting party may declare that, for international registrations made under this Protocol, the time limit of one year referred to in subparagraph (a) is replaced by 18 months.

(c) Such declaration may also specify that, when a refusal of protection may result from an opposition to the granting of protection, such refusal may be notified by the office of the said contracting party to the International Bureau after the expiry of the 18-month time limit. Such an office may, with respect to any given international registration, notify a refusal of protection after the expiry of the 18-month time limit, but only if:

(i) it has, before the expiry of the 18-month time limit, informed the International Bureau of the possibility that oppositions may be filed after the expiry of the 18-month time limit; and

(ii) the notification of the refusal based on an opposition is made within a time limit of not more than seven months from the date on which the opposition period begins; if the opposition period expires before this time limit of seven months, the notification must be made within a time limit of one month from the expiry of the opposition period.

(d) Any declaration under subparagraphs (b) or (c) may be made in the instruments referred to in Article 14(2), and the effective date of the declaration shall be the same as the date of entry into force of this Protocol with respect to the State or intergovernmental organisation having made the declaration. Any such declaration may also be made later, in which case the declaration shall have effect three months after its receipt by the Director-General of the organisation (hereinafter referred to as the Director-General), or at any later date indicated in the declaration, in respect of any international registration whose date is the same as or is later than the effective date of the declaration.

(e) Upon the expiry of a period of 10 years from the entry into force of this Protocol, the Assembly shall examine the operation of the system established by subparagraphs (a) to (d). Thereafter, the provisions of the said subparagraphs may be modified by a unanimous decision of the Assembly.

3. The International Bureau shall, without delay, transmit one of the copies of the notification of refusal to the holder of the international registration. The said holder shall have the same remedies as if the mark had been deposited by him direct with the office which has notified its refusal. Where the International Bureau has received information under paragraph 2(c)(i), it shall, without delay, transmit the said information to the holder of the international registration.

4. The grounds for refusing a mark shall be communicated by the International Bureau to any interested party who may so request.

5. Any office which has not notified, with respect to a given international registration, any provisional or final refusal to the International Bureau in accordance with paragraphs 1 and 2 shall, with respect to that international registration, lose the benefit of the right provided for in paragraph 1.

6. Invalidation, by the competent authorities of a contracting party, of the effects, in the territory of that contracting party, of an international registration may not be pronounced without the holder of such international registration having, in good time, been afforded the opportunity of defending his rights. Invalidation shall be notified to the International Bureau.

Article 5bis

Documentary evidence of legitimacy of use of certain elements of the mark

Documentary evidence of the legitimacy of the use of certain elements incorporated in a mark, such as armorial bearings, escutcheons, portraits, honorary distinctions, titles, trade names, names of persons other than the name of the applicant, or other like inscriptions, which might be required by the offices of the contracting parties, shall be exempt from any legalisation as well as from any certification other than that of the office of origin.

Article 5ter

Copies of entries in the International Register; searches for anticipations; extracts from the International Register

1. The International Bureau shall issue to any person applying therefor, upon the payment of a fee fixed by the regulations, a copy of the entries in the International Register concerning a specific mark.

2. The International Bureau may also, upon payment, undertake searches for anticipations among marks that are the subject of international registrations.

3. Extracts from the International Register requested with a view to their production in one of the contracting parties shall be exempt from any legalisation.

Article 6

Period of validity of international registration; dependence and independence of international registration

1. Registration of a mark at the International Bureau is effected for 10 years, with the possibility of renewal under the conditions specified in Article 7.

2. Upon expiry of a period of five years from the date of the international registration, such registration shall become independent of the basic application or the registration resulting therefrom, or of the basic registration, as the case may be, subject to the following provisions.

3. The protection resulting from the international registration, whether or not it has been the subject of a transfer, may no longer be invoked if, before the expiry of five years from the date of the international registration, the basic application or the registration resulting therefrom, or the basic registration, as the case may be, has been withdrawn, has lapsed, has been renounced or has been the subject of a final decision of rejection, revocation, cancellation or invalidation, in respect of all or some of the goods and services listed in the international registration. The same applies if:

(i) an appeal against a decision refusing the effects of the basic application;

(ii) an action requesting the withdrawal of the basic application or the revocation, cancellation or invalidation of the registration resulting from the basic application or of the basic registration; or

(iii) an opposition to the basic application

results, after the expiry of the five-year period, in a final decision of rejection, revocation, cancellation or invalidation, or ordering the withdrawal, of the basic application, or the registration resulting therefrom, or the basic registration, as the case may be, provided that such appeal, action or opposition had begun before the expiry of the said period. The same also applies if the basic application is withdrawn, or the registration resulting from the basic application or the basic registration is renounced, after the expiry of the five-year period, provided that, at the time of the withdrawal or renunciation, the said application or registration was the subject of a proceeding referred to in item (i), (ii) or (iii) and that such proceeding had begun before the expiry of the said period.

4. The office of origin shall, as prescribed in the regulations, notify the International Bureau of the facts and decisions relevant under paragraph 3, and the International Bureau shall, as prescribed in the regulations, notify the interested parties and effect any publication accordingly. The office of origin shall, where applicable, request the International Bureau to cancel, to the extent applicable, the international registration, and the International Bureau shall proceed accordingly.

Article 7

Renewal of international registration

1. Any international registration may be renewed for a period of 10 years from the expiry of the preceding period, by the mere payment of the basic fee and, subject to Article 8(7), of the supplementary and complementary fees provided for in Article 8(2).

2. Renewal may not bring about any change in the international registration in its latest form.

3. Six months before the expiry of the term of protection, the International Bureau shall, by sending an unofficial notice, remind the holder of the international registration and his representative, if any, of the exact date of expiry.

4. Subject to the payment of a surcharge fixed by the regulations, a period of grace of six months shall be allowed for renewal of the international registration.

Article 8

Fees for international application and registration

1. The office of origin may fix, at its own discretion, and collect, for its own benefit, a fee which it may require from the applicant for international registration or from the holder of the international registration in connection with the filing of the international application or the renewal of the international registration.

2. Registration of a mark at the International Bureau shall be subject to the advance payment of an international fee which shall, subject to the provisions of paragraph 7(a), include:

(i) a basic fee;

(ii) a supplementary fee for each class of the international classification, beyond three, into which the goods or services to which the mark is applied will fall;

(iii) a complementary fee for any request for extension of protection under Article 3*ter*.

3. However, the supplementary fee specified in paragraph 2(ii) may, without prejudice to the date of the international registration, be paid within the period fixed by the regulations if the number of classes of goods or services has been fixed or disputed by the International Bureau. If, upon expiry of the said period, the supplementary fee has not been paid or the list of goods or services has not been reduced to the required extent by the applicant, the international application shall be deemed to have been abandoned.

4. The annual product of the various receipts from international registration, with the exception of the receipts derived from the fees mentioned in paragraph 2(ii) and (iii), shall be divided equally among the contracting parties by the International Bureau, after deduction of the expenses and charges necessitated by the implementation of this Protocol.

5. The amounts derived from the supplementary fees provided for in paragraph 2(ii) shall be divided, at the expiry of each year, among the interested contracting parties in proportion to the number of marks for which protection has been applied for in each of them during that year, this number being multiplied, in the case of contracting parties which make an examination, by a coefficient which shall be determined by the regulations.

6. The amounts derived from the complementary fees provided for in paragraph 2(iii) shall be divided according to the same rules as those provided for in paragraph 5.

7. (a) Any contracting party may declare that, in connection with each international registration in which it is mentioned under Article 3*ter*, and in connection with the renewal of any such international registration, it wants to receive, instead of a share in the revenue produced by the supplementary and complementary fees, a fee (hereinafter referred to as the individual fee) whose amount shall be indicated in the declaration, and can be changed in further declarations, but may not be higher than the equivalent of the amount which the said contracting party's office would be entitled to receive from an applicant for a 10-year registration, or from the holder of a registration for a 10-year renewal of that registration, of the mark in the register of the said office, the said amount being diminished by the savings resulting from the international procedure. Where such an individual fee is payable:

(i) no supplementary fees referred to in paragraph 2(ii) shall be payable if only contracting parties which have made a declaration under this subparagraph are mentioned under Article 3*ter*; and

(ii) no complementary fee referred to in paragraph 2(iii) shall be payable in respect of any contracting party which has made a declaration under this subparagraph.

(b) Any declaration under subparagraph (a) may be made in the instruments referred to in Article 14(2), and the effective date of the declaration shall be the same as the date of entry into force of this Protocol with respect to the State or intergovernmental organisation having made the declaration. Any such declaration may also be made later, in which case the declaration shall have effect three months after its receipt by the Director-General, or at any later date indicated in the declaration, in respect of any international registration whose date is the same as or is later than the effective date of the declaration.

Article 9

Recordal of change in the ownership of an international registration

At the request of the person in whose name the international registration stands, or at the request of an interested office made ex officio or at the request of an interested person, the International Bureau shall record in the International Register any change in the ownership of that registration, in respect of all or some of the contracting parties in whose territories the said registration has effect and in respect of all or some of the goods and services has effect and in respect of all or some of the goods and services listed in the registration, provided that the new holder is a person who, under Article 2(1), is entitled to file international applications.

Article 9bis

Recordal of certain matters concerning an international registration

The International Bureau shall record in the International Register:

(i) any change in the name or address of the holder of the international registration;

(ii) the appointment of a representative of the holder of the international registration and any other relevant fact concerning such representative;

(iii) any limitation, in respect of all or some of the contracting parties, of the goods and services listed in the international registration;

(iv) any renunciation, cancellation or invalidation of the international registration in respect of all or some of the contracting parties;

(v) any other relevant fact, identified in the regulations, concerning the rights in a mark that is the subject of an international registration.

Article 9ter

Fees for certain recordals

Any recordal under Article 9 or under Article 9bis may be subject to the payment of a fee.

Article 9quater

Common office of several contracting States

1. If several contracting States agree to effect the unification of their domestic legislation on marks, they may notify the Director-General

(i) that a common office shall be substituted for the national office of each of them, and

(ii) that the whole of their respective territories shall be deemed to be a single State for the purposes of the application of all or part of the provisions preceding this Article as well as the provisions of Articles 9*quinquies* and 9*sexies*.

2. Such notification shall not take effect until three months after the date of the communication thereof by the Director-General to the other contracting parties.

Article 9quinquies

Transformation of an international registration into national or regional applications

Where, in the event that the international registration is cancelled at the request of the office of origin under Article 6(4), in respect of all or some of the goods and services listed in the said registration, the person who was the holder of the international registration files an application for the registration of the same mark with the office of any of the contracting parties in the territory of which the international registration had effect, that application shall be treated as if it had been filed on the date of the international registration according to Article 3(4) or on the date of recordal of the territorial extension according to Article 3*ter*(2) and, if the international registration enjoyed priority, shall enjoy the same priority, provided that:

(i) such application is filed within three months from the date on which the international registration was cancelled;

(ii) the goods and services listed in the application are in fact covered by the list of goods and services contained in the international registration in respect of the contracting party concerned; and

(iii) such application complies with all the requirements of the applicable law, including the requirements concerning fees.

Article 9sexies

Safeguard of the Madrid (Stockholm) Agreement

1. Where, with regard to a given international application or a given international registration, the office of origin is the office of a State that is party to both this Protocol and the Madrid (Stockholm) Agreement, the provisions of this Protocol shall have no effect in the territory of any other State that is also party to both this Protocol and the Madrid (Stockholm) Agreement.

2. The Assembly may, by a three-fourths majority, repeal paragraph 1, or restrict the scope of paragraph 1, after the expiry of a period of 10 years from the entry into force of this Protocol, but not before the expiry of a period of five years from the date on which the majority of the countries party to the Madrid (Stockholm) Agreement have become party to this Protocol. In the vote of the Assembly, only those States which are party to both the said Agreement and this Protocol shall have the right to participate.

Article 10

Assembly

1. (a) The contracting parties shall be members of the same Assembly as the countries party to the Madrid (Stockholm) Agreement.

(b) Each contracting party shall be represented in that Assembly by one delegate, who may be assisted by alternate delegates, advisors, and experts.

(c) The expenses of each delegation shall be borne by the contracting party which has appointed it, except for the travel expenses and the subsistence allowance of one delegate for each contracting party, which shall be paid from the funds of the Union.

2. The Assembly shall, in addition to the functions which it has under the Madrid (Stockholm) Agreement, also:

(i) deal with all matters concerning the implementation of this Protocol;

(ii) give directions to the International Bureau concerning the preparation for conferences of revision of this Protocol, due account being taken of any comments made by those countries of the Union which are not party to this Protocol;

(iii) adopt and modify the provisions of the regulations concerning the implementation of this Protocol;

(iv) perform such other functions as are appropriate under this Protocol.

3. (a) Each contracting party shall have one vote in the Assembly. On matters concerning only countries that are party to the Madrid (Stockholm) Agreement, contracting parties that are not party to the said Agreement shall not have the right to vote, whereas, on matters concerning only contracting parties, only the latter shall have the right to vote.

(b) One-half of the members of the Assembly which have the right to vote on a given matter shall constitute the quorum for the purposes of the vote on that matter.

(c) Notwithstanding the provisions of subparagraph (b), if, in any session, the number of the members of the Assembly having the right to vote on a given matter which are represented is less than one-half but equal to or more than one-third of the members of the Assembly having the right to vote on that matter, the Assembly may make decisions but, with the exception of decisions concerning its own procedure, all such decisions shall take effect only if the conditions set forth hereinafter are fulfilled. The International Bureau shall communicate the said decisions to the members of the Assembly having the right to vote on the said matter which were not represented and shall invite them to express in writing their vote or abstention within a period of three months from the date of the communication. If, at the expiry of this period, the number of such members having thus expressed their vote or abstention attains the number of the members which was lacking for attaining the quorum in the session itself, such decisions shall take effect provided that at the same time the required majority still obtains.

(d) Subject to the provisions of Articles 5(2)(e), 9*sexies*(2), Article 12 and Article 13(2), the decisions of the Assembly shall require two-thirds of the votes cast.

(e) Abstentions shall not be considered as votes.

(f) A delegate may represent, and vote in the name of, one member of the Assembly only.

4. In addition to meeting in ordinary sessions and extraordinary sessions as provided for by the Madrid (Stockholm) Agreement, the Assembly shall meet in extraordinary session upon convocation by the Director-General, at the request of one-fourth of the members of the Assembly having the right to vote on the matters proposed to be included in the agenda of the session. The agenda of such an extraordinary session shall be prepared by the Director-General.

Article 11

International Bureau

1. International registration and related duties, as well as all other administrative tasks, under or concerning this Protocol, shall be performed by the International Bureau.

2. (a) The International Bureau shall, in accordance with the directions of the Assembly, make the preparations for the conferences of revision of this Protocol.

(b) The International Bureau may consult with intergovernmental and international non-governmental organisations concerning preparations for such conferences of revision.

(c) The Director-General and persons designated by him shall take part, without the right to vote, in the discussions at such conferences of revision.

3. The International Bureau shall carry out any other tasks assigned to it in relation to this Protocol.

Article 12

Finances

As far as contracting parties are concerned, the finances of the Union shall be governed by the same provisions as those contained in Article 12 of the Madrid (Stockholm) Agreement, provided that any reference to Article 8 of the said Agreement shall be deemed to be a reference to Article 8 of this Protocol. Furthermore, for the purposes of Article 12(6)(b) of the said Agreement, contracting organisations shall, subject to a unanimous decision to the contrary by the Assembly, be considered to belong to contribution class 1 (one) under the Paris Convention for the protection of industrial property.

Article 13

Amendment of certain Articles of the Protocol

1. Proposals for the amendment of Articles 10, 11, 12, and the present Article, may be initiated by any contracting party, or by the Director-General. Such proposals shall be communicated by the Director-General to the contracting parties at least six months in advance of their consideration by the Assembly.

2. Amendments to the Articles referred to in paragraph 1 shall be adopted by the Assembly. Adoption shall require three-fourths of the votes cast, provided that any amendment to Article 10, and to the present paragraph, shall require four-fifths of the votes casts.

3. Any amendment to the Articles referred to in paragraph 1 shall enter into force one month after written notification of acceptance, effected in accordance with their respective constitutional processes, have been received by the Director-General from three-fourths of those States and intergovernmental organisations which, at the time the amendment was adopted, were members of the Assembly and had the right to vote on the amendment. Any amendment to the said Articles thus accepted shall bind all the States and intergovernmental organisations which are contracting parties at the time the amendment enters into force, or which become contracting parties at a subsequent date.

Article 14

Becoming party to the Protocol; entry into force

1. (a) Any State that is a party to the Paris Convention for the protection of industrial property may become party to this Protocol.

(b) Furthermore, any intergovernmental organisation may also become party to this Protocol where the following conditions are fulfilled:

(i) at least one of the member States of that organisation is a party to the Paris Convention for the protection of industrial property;

(ii) that organisation has a regional office for the purposes of registering marks with effect in the territory of the organisation, provided that such office is not the subject of a notification under Article 9*quater*.

2. Any State or organisation referred to in paragraph 1 may sign this Protocol. Any such State or organisation may, if it has signed this Protocol, deposit an instrument of ratification, acceptance or approval of this Protocol or, if it has not signed this Protocol, deposit an instrument of accession to this Protocol.

3. The instruments referred to in paragraph 2 shall be deposited with the Director-General.

4. (a) This Protocol shall enter into force three months after four instruments of ratification, acceptance, approval or accession have been deposited, provided that at least one of those instruments has been deposited by a country party to the Madrid (Stockholm) Agreement and at least one other of those instruments has been deposited by a State not party to the Madrid (Stockholm) Agreement or by any of the organisations referred to in paragraph 1(b).

(b) With respect to any other State or organisation referred to in paragraph 1, this Protocol shall enter into force three months after the date on which its ratification, acceptance, approval or accession has been notified by the Director-General.

5. Any State or organisation referred to in paragraph 1 may, when depositing its instrument of ratification, acceptance or approval of, or accession to, this Protocol, declare that the protection resulting from any international registration effected under this Protocol before the date of entry into force of this Protocol with respect to it cannot be extended to it.

Article 15

Denunciation

1. This Protocol shall remain in force without limitation as to time.

2. Any contracting party may denounce this Protocol by notification addressed to the Director-General.

3. Denunciation shall take effect one year after the day on which the Director-General has received the notification.

4. The right of denunciation provided for by this Article shall not be exercised by any contracting party before the expiry of five years from the date upon which this Protocol entered into force with respect to that contracting party.

5. (a) Where a mark is the subject of an international registration having effect in the denouncing State or intergovernmental organisation at the date on which the denunciation becomes effective, the holder of such registration may file an application for the registration of the same mark with the office of the denouncing State or intergovernmental organisation, which shall be treated as if it had been filed on the date of the international registration according to Article 3(4) or on the date of recordal of the territorial extension according to Article 3*ter*(2) and, if the international registration enjoyed priority, enjoy the same priority, provided that:

(i) such application is filed within two years from the date on which the denunciation became effective;

(ii) the goods and services listed in the application are in fact covered by the list of goods and services contained in the international registration in respect of the denouncing State or intergovernmental organisation; and

(iii) such application complies with all the requirements of the applicable law, including the requirements concerning fees.

(b) The provisions of subparagraph (a) shall also apply in respect of any mark that is the subject of an international registration having effect in contracting parties other than the denouncing State or intergovernmental organisation at the date on which denunciation becomes effective and whose holder, because of the denunciation, is no longer entitled to file international applications under Article 2(1).

Article 16

Signature; languages; depository functions

1. (a) This Protocol shall be signed in a single copy in the English, French and Spanish languages, and shall be deposited with the Director-General when it ceases to be open for signature at Madrid. The texts in the three languages shall be equally authentic.

(b) Official texts of this Protocol shall be established by the Director-General, after consultation with the interested governments and organisations, in the Arabic, Chinese, German, Italian, Japanese, Portuguese and Russian languages, and in such other languages as the Assembly may designate.

2. This Protocol shall remain open for signature at Madrid until 31 December 1989.

3. The Director-General shall transmit two copies, certified by the Government of Spain, of the signed texts of this Protocol to all States and intergovernmental organisations that may become party to this Protocol.

4. The Director-General shall register this Protocol with the Secretariat of the United Nations.

5. The Director-General shall notify all States and international organisations that may become or are party to this Protocol of signatures, deposits of instruments of ratification, acceptance, approval or accession, the entry into force of this protocol and any amendment thereto, any notification of denunciation and any declaration provided for in this Protocol.

DECLARATION

on the individual fee system

The President of the Council, when depositing this instrument of accession with the Director-General of WIPO, shall attach the following declaration to the instrument of accession:

'The European Community declares that, in connection with each international registration in which it is mentioned under Article 3*ter*(1) or (2) of the Madrid Protocol, and in connection with the renewal of any such international registration, it wants to receive, instead of a share in the revenue produced by the supplementary fee and complementary fee,

for an individual mark:

— a designation fee of EUR 1 875 plus, where applicable, EUR 400 for each class of goods or services exceeding three, or, where applicable,

— a renewal fee of EUR 2 300 plus, where applicable, EUR 500 for each class of goods or services exceeding three;

for a collective mark:

— a designation fee of EUR 3 675 plus, where applicable, EUR 800 for each class of goods or services exceeding three, or where applicable,

— a renewal fee of EUR 4 800 plus, where applicable, EUR 1 000 for each class of goods or services exceeding three.'

NOTIFICATION

on the conversion of a designation of the European Community into designations of its Member States

The President of the Council, when depositing this instrument of accession with the Director-General of WIPO, shall attach the following notification to the instrument of accession:

'The European Community declares that, where a designation of the European Community has been recorded in the International Register, that designation may, to the extent that it has been refused or ceases to have effect, be converted into the designation of any of its Member States, provided that the conditions as set out in Article 154 of the Regulation on the Community trade mark, as amended and the relevant provisions under the Madrid Agreement and Protocol are met.'

DECLARATION

from the European Community to the International Bureau on the period for the notification of the refusal of protection in the territory of a contracting party [1]

The European Community hereby declares that, pursuant to Article 5(2)(b) of the Protocol relating to the Madrid Agreement concerning the international registration of marks (1989), the period of one year to exercise the right to notify the refusal of protection referred to in Article 5(2)(a) thereof is replaced by a period of 18 months.

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[1] The European Community notes that its intention is that the present declaration be of a temporary nature only. It will be withdrawn when the elements which justify it have come to an end.

COUNCIL DECISION

of 6 November 2003

appointing a Swedish member and three Swedish alternate members of the Committee of the Regions

(2003/794/EC)

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty establishing the European Community, and in particular Article 263 thereof,

Having regard to the proposal of the Swedish Government,

Whereas:

(1) On 22 January 2002 the Council adopted Decision 2002/60/EC [1] appointing the members and alternate members of the Committee of the Regions.

(2) A seat as a member of the Committee of the Regions has become vacant following the resignation of Mr Rune HJÄLM and two seats as alternate members of the Committee of the Regions have become vacant following the resignation of Mr Hans KLINTBOM and Mr Bengt-Anders JOHANSSON, notified to the Council on 6 October 2003, and one seat as an alternate member has become vacant following the proposal of Ms Mona-Lisa NORRMAN as member,

HAS DECIDED AS FOLLOWS:

Sole Article

(a) The following person is hereby appointed a member of the Committee of the Regions:

Ms Mona-Lisa NORRMAN

in place of Mr Rune HJÄLM.

(b) The following persons are hereby appointed alternate members of the Committee of the Regions:

1. Ms Ulla NORGREN
   in place of Mr Bengt-Anders JOHANSSON,
2. Ms Ewa-May KARLSSON
   in place of Mr Hans KLINTBOM,
3. Mr Kent PERSSON
   in place of Ms Mona-Lisa NORRMAN,

for the remainder of their term of office, which runs until 25 January 2006.

Done at Brussels, 6 November 2003.

For the Council

The President

G. PISANU

[1] OJ L 24, 26.1.2002, p. 38.

COMMISSION

COMMISSION DECISION

of 10 November 2003

providing for the temporary marketing of certain seed of the species *Vicia faba* L., not satisfying the requirements of Council Directive 66/401/EEC

(notified under document number C(2003) 4113)

(Text with EEA relevance)

(2003/795/EC)

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Council Directive 66/401/EEC of 14 June 1966 on the marketing of fodder plant seed [1], as last amended by Directive 2003/61/EC [2], and in particular Article 17, paragraph 1 thereof,

Whereas:

(1) In the United Kingdom the quantity of available seed of winter varieties of field beans (*Vicia faba* L.) suitable to the national climatic conditions and which satisfies the germination capacity requirements of Directive 66/401/EEC is insufficient and is therefore not adequate to meet the needs of that Member State.

(2) It is not possible to meet the demand for seed of that species satisfactorily with seed from other Member States or from third countries which satisfies all the requirements laid down in Directive 66/401/EEC.

(3) Accordingly, the United Kingdom should be authorised to permit the marketing of seed of that species subject to less stringent requirements for a period expiring on 30 November 2003.

(4) In addition, other Member States irrespective of whether the seed was harvested in a Member State or in a third country covered by the Council Decision 2003/17/EC of 16 December 2002 on the equivalence of field inspections carried out in third countries on seed-producing crops and on the equivalence of seed produced in third countries [3], as last amended by Decision 2003/403/EC [4], which are in a position to supply the United Kingdom with seed of that species, should be authorised to permit the marketing of such seed.

(5) It is appropriate that the United Kingdom act as coordinator in order to ensure that the total amount of seed authorised pursuant to this Decision does not exceed the maximum quantity covered by this Decision.

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

HAS ADOPTED THIS DECISION:

Article 1

The marketing in the Community of seed of winter field beans (*Vicia faba* L.) which does not satisfy the minimum germination capacity requirements laid down in Directive 66/401/EEC shall be permitted, for a period expiring on 30 November 2003, in accordance with the terms set out in the Annex to this Decision and subject to the following conditions:

(a) the germination capacity must be at least that set out in the Annex to this Decision;

(b) the official label must state the germination ascertained in the official examination carried out pursuant to Article 2(1)(C)(d) of Directive 66/401/EEC;

(c) the seed must have been first placed on the market in accordance with Article 2 of this Decision.

Article 2

Any seed supplier wishing to place on the market the seeds referred to in Article 1 shall apply for authorisation to the Member State in which he is established or importing.

[1] OJ 125, 11.7.1966, p. 2298/66.
[2] OJ L 165, 3.7.2003, p. 23.
[3] OJ L 8, 14.1.2003, p. 10.
[4] OJ L 141, 7.6.2003, p. 23.

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

(a) there is sufficient evidence to doubt as to whether the supplier is able to place on the market the amount of seed for which he has applied for authorisation; or

(b) the total quantity authorised to be marketed pursuant to the derogation concerned would exceed the maximum quantity specified in the Annex.

Article 3

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

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

Any Member State receiving an application under Article 2 shall immediately notify the coordinating Member State of the amount covered by the application. The coordinating Member State shall immediately inform the notifying Member State as to whether authorisation would result in the maximum quantity being exceeded.

Article 4

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

Article 5

This Decision is addressed to the Member States.

Done at Brussels, 10 November 2003.

For the Commission

David BYRNE

Member of the Commission

ANNEX

Species	Type of variety	Maximum quantity (tonnes)	Minimum germination (% of pure seed)
Vicia faba L.	Clipper, Target, Wizard	2 891	75

COMMISSION DECISION
of 11 November 2003
on establishing the European Regulators Group for Electricity and Gas

(Text with EEA relevance)

(2003/796/EC)

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Whereas:

(1) Directive 2003/54/EC of the European Parliament and of the Council of 26 June 2003 concerning common rules for the internal market in electricity and repealing Directive 96/92/EC [1], Directive 2003/55/EC of the European Parliament and of the Council of 26 June 2003 concerning common rules for the internal market in natural gas and repealing Directive 98/30/EC [2] and Regulation (EC) No 1228/2003 of the European Parliament and of the Council of 26 June 2003 on conditions for access to the network for cross-border exchanges in electricity [3] establish a new regulatory framework for the internal markets for electricity and gas.

(2) Directives 2003/54/EC and 2003/55/EC require Member States to designate one or more competent bodies with the function of regulatory authorities, to carry out the regulatory tasks specified in those directives. These regulatory authorities have to be wholly independent from the interests of the electricity and gas industry.

(3) The detailed responsibilities and tasks of the national regulatory authorities are likely to differ between Member States, but all Member State will have to designate at least one regulatory agency to apply the rules of the new regulatory framework once they have been transposed into national law, in particular those concerning day-to-day supervision of the market.

(4) Directives 2003/54/EC and 2003/55/EC establish objectives to be achieved and provide a framework for action at the national level, but give flexibility in certain areas to apply the rules in the light of national conditions. Consistent application of the relevant rules in all Member States is essential for the successful development of a single European energy market.

(5) As regards common approaches to issues relevant for cross-border transactions the European Electricity Regulatory Forum and the European Gas Regulatory Forum have made important contributions. Whilst the two Forums will remain important as comprehensive discussion platforms involving all players from government, regulators and industry, it is now necessary to give regulatory cooperation and coordination a more formal status, in order to facilitate the completion of the internal energy market and in view of the forthcoming accession of new Member States.

(6) In those circumstances, a 'European Regulatory Group for Electricity and Gas' should be established to facilitate consultation, coordination and cooperation between the regulatory bodies in Member States, and between these bodies and the Commission, with a view to consolidating the internal market and ensuring the consistent application in all Member States of Directives 2003/54/EC and 2003/55/EC and Regulation (EC) No 1228/2003.

(7) The members of the European Regulatory Group for Electricity and Gas should comprise the heads of the national authorities competent in the field of electricity and gas regulation in the Member States. The Commission should be represented at a high level.

(8) The European Regulatory Group for Electricity and Gas should maintain close cooperation with the Committees established under Article 30 of Directive 2003/55/EC and Article 13 of Regulation (EC) No 1228/2003. Its work should not interfere with the work of those Committees.

(9) It is appropriate to repeal Commission Decisions 95/539/EC [4] and 92/167/EEC [5] since these Decisions set up Committees in the context of Directives 91/296/EEC [6] and 90/547/EEC [7] on transit of natural gas and electricity, respectively, which were repealed by Directives 2003/54/EC and 2003/55/EC,

HAS DECIDED AS FOLLOWS:

Article 1

Subject matter and activities

1. An independent advisory group on electricity and gas, called the 'European Regulators Group for Electricity and Gas' (hereinafter referred to as the 'Group'), is hereby established by the Commission.

[1] OJ L 176, 15.7.2003, p. 37.
[2] OJ L 176, 15.7.2003, p. 57.
[3] OJ L 176, 15.7.2003, p. 1.
[4] OJ L 304, 16.12.1995, p. 57.
[5] OJ L 74, 20.3.1992, p. 43.
[6] OJ L 147, 12.6.1991, p. 37.
[7] OJ L 313, 13.11.1990, p. 30.

2. The Group, at its own initiative or at the request of the Commission, shall advise and assist the Commission in consolidating the internal energy market, in particular with respect to the preparation of draft implementing measures in the field of electricity and gas, and on any matters related to the internal market for gas and electricity. The Group shall facilitate consultation, coordination and cooperation of national regulatory authorities, contributing to a consistent application, in all Member States, of the provisions set out in Directive 2003/54/EC, Directive 2003/55/EC and Regulation (EC) No 1228/2003, as well as of possible future Community legislation in the field of electricity and gas.

Article 2

Membership of the Group

1. The Group shall be composed of the heads of the national regulatory authorities or their representatives.

2. For the purpose of this Decision 'national regulatory authority' means a public authority established in a Member State pursuant to Directives 2003/54/EC and 2003/55/EC, according to which Member States shall designate one or more competent bodies with the function of regulatory authorities, to ensure non-discrimination, effective competition and the efficient functioning of the gas and electricity market and in particular to oversee the day-to-day application of the provisions of Directives 2003/54/EC and 2003/55/EC and Regulation (EC) No 1228/2003 in that respect.

3. Until 1 July 2004, if a Member State has not designated one or more competent bodies with the function of regulatory authorities, that Member State shall be represented in the Group by a representative of another competent public authority.

4. The Commission shall be present at the meetings of the Group and shall designate a high-level representative to participate in all its debates.

Article 3

Organisation of the Group

1. The Group shall elect a chairperson from among its members.

2. The Group may set up expert working groups to study specific subjects, on the basis of a mandate and as it deems appropriate.

3. The Commission may attend all meetings of such expert working groups.

4. Experts from EEA States and States which are candidates for accession to the European Union may attend the meeting of the Group as observers. The Group and the Commission may invite other experts and observers to attend its meetings.

5. The Group shall adopt its Rules of Procedure by consensus or, in the absence of consensus, by a two-thirds majority vote, one vote being expressed per Member State, subject to the approval of the Commission.

6. The Commission shall provide the secretariat of the Group.

7. Travel and subsistence expenses incurred by members, observers and experts, in connection with the activities of the Group, shall be reimbursed by the Commission in accordance with the provisions in force within the Commission.

8. The Group shall submit an annual report of its activities to the Commission. The Commission shall transmit the annual report to the European Parliament and to the Council, where appropriate with comments.

Article 4

Consultation

The Group shall consult extensively and at an early stage with market participants, consumers and end-users in an open and transparent manner.

Article 5

Confidentiality

Without prejudice to the provisions of Article 287 of the Treaty, where the Commission informs the Group that the advice requested or the question raised is of a confidential nature, members of the Group as well as observers and any other person shall be under an obligation not to disclose information which has come to their knowledge through the work of the Group or its working groups. The Commission may decide in such cases that only members of the Group may be present at meetings.

Article 6

Repeal

Decisions 95/539/EC and 92/167/EEC are repealed.

Article 7

Entry into force

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

2. The Group shall take up its duties on the date of entry into force of this Decision.

Done at Brussels, 11 November 2003.

For the Commission

Loyola DE PALACIO

Vice-President