Official Journal

of the European Union

ISSN 1725-2555

L 309

Volume 46

26 November 2003

English edition

Legislation

Contents

(Continued overleaf)

EN

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

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

Contents (continued)

I

(Acts whose publication is obligatory)

REGULATION (EC) No 2065/2003 OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL of 10 November 2003 on smoke flavourings used or intended for use in or on foods

THE EUROPEAN PARLIAMENT AND THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty establishing the European Community, and in particular Article 95 thereof,

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

Having regard to the opinion of the European Economic and Social Committee [2],

Acting in accordance with the procedure laid down in Article 251 of the Treaty [3],

Whereas:

(1) Council Directive 88/388/EEC of 22 June 1988 on the approximation of the laws of the Member States relating to flavourings for use in foodstuffs and to source materials for their production [4], and in particular Article 5(1), seventh indent thereof, provides for the adoption of appropriate provisions concerning source materials used for the production of smoke flavourings and reaction conditions under which they are prepared.

(2) The free movement of safe and wholesome food is an essential aspect of the internal market and contributes significantly to the health and well-being of citizens, and to their social and economic interests.

(3) A high level of protection of human life and health should be assured in the pursuit of Community policies.

(4) In order to protect human health, smoke flavourings should undergo a safety assessment through a Community procedure before being placed on the market or used in or on foods within the Community.

(5) Differences between national laws, regulations and administrative provisions concerning the assessment and authorisation of smoke flavourings may hinder their free movement, creating conditions of unequal and unfair competition. An authorisation procedure should therefore be established at Community level.

(6) The chemical composition of smoke is complex and depends among other things on the types of wood used, the method used for developing smoke, the water content of the wood and the temperature and oxygen concentration during smoke generation. Smoked foods in general give rise to health concerns, especially with respect to the possible presence of polycyclic aromatic hydrocarbons. Because smoke flavourings are produced from smoke which is subjected to fractionation and purification processes, the use of smoke flavourings is generally considered to be of less health concern than the traditional smoking process. However, the possibility of wider applications of smoke flavourings in comparison to conventional smoking has to be taken into account in safety assessments.

(7) This Regulation covers smoke flavourings as defined in Directive 88/388/EEC. The production of these smoke flavourings starts with the condensation of smoke. The condensed smoke is normally separated by physical processes into a water-based primary smoke condensate, a water-insoluble high-density tar phase and a water-insoluble oily phase. The water-insoluble oily phase is a by-product and unsuitable for the production of smoke flavourings. The primary smoke condensates and fractions of the water-insoluble high-density tar phase, the 'primary tar fractions', are purified to remove components of smoke which are most harmful to human health. They may then be suitable for use as such in or on foods or for the production of derived smoke flavourings made by further appropriate physical processing such as extraction procedures, distillation, concentration by evaporation, absorption or membrane separation and the addition of food ingredients, other flavourings, food additives or solvents, without prejudice to more specific Community legislation.

[1] OJ C 262 E, 29.10.2002, p. 523.
[2] OJ C 85, 8.4.2003, p. 32.
[3] Opinion of the European Parliament of 5 June 2003 (not yet published in the Official Journal) and the Council Decision of 9 October 2003.
[4] OJ L 184, 15.7.1988, p. 61; Directive as amended by Commission Directive 91/71/EEC (OJ L 42, 15.2.1991, p. 25).

(8) The Scientific Committee on Food concluded that because of the wide physical and chemical differences in smoke flavourings used for flavouring food, it is not possible to design a common approach to their safety assessment and, accordingly, toxicological evaluation should focus on the safety of individual smoke condensates. Following this advice, this Regulation should provide for the scientific evaluation of primary smoke condensates and primary tar fractions, hereinafter referred to as 'primary products', in terms of the safety of their use as such and/or for the production of derived smoke flavourings intended for use in or on foods.

(9) As regards conditions of production, this Regulation reflects the findings set out by the Scientific Committee on Food in its report on smoke flavourings of 25 June 1993 ([1]), in which it specified various production conditions and the information necessary to evaluate smoke flavourings used or intended for use in or on foods. That report was based, in turn, on the report of the Council of Europe on health aspects of using smoke flavours as food ingredients ([2]). It also contains a non-exhaustive list of types of wood which may be regarded as an indicative list of woods suitable for the production of smoke flavourings.

(10) Provision should be made for the establishment, on the basis of the safety assessment, of a list of primary products authorised for use as such in or on foods and/or for the production of smoke flavourings for use in or on foods within the Community. That list should clearly describe the primary products, specifying conditions of their uses and the dates from which the authorisations are valid.

(11) In order to ensure harmonisation, safety assessments should be carried out by the European Food Safety Authority ('the Authority'), established by Regulation (EC) No 178/2002 of the European Parliament and of the Council of 28 January 2002 laying down the general principles and requirements of food law, establishing the European Food Safety Authority and laying down procedures in matters of food safety ([3]).

(12) The safety assessment of a specific primary product should be followed by a risk-management decision as to whether the product should be entered on the Community list of authorised primary products. That decision should be adopted in accordance with the regulatory procedure so as to ensure close cooperation between the Commission and the Member States.

(13) It is appropriate that the person ('the applicant') who intends to place on the market primary products or derived smoke flavourings should submit all the information necessary for the safety assessment. The applicant should also propose a validated method of sampling and detection for the primary products to be used for control of compliance with the provisions of this Regulation. If necessary, the Commission should adopt quality criteria for those analytical methods after having consulted the Authority for scientific and technical assistance.

(14) Since many smoke flavourings are already on the market in the Member States, provision should be made to ensure that the transition to a Community authorisation procedure is smooth and does not disturb the existing smoke flavourings market. Sufficient time should be allowed for the applicant to make available to the Authority the information necessary for the safety assessment of these products. Therefore, a certain time period, hereinafter referred to as the 'first phase', should be fixed during which the information for existing primary products should be submitted by the applicant to the Authority. Applications for authorisation of new primary products may also be submitted during the first phase. The Authority should evaluate without delay all applications for existing as well as new primary products for which sufficient information has been submitted during the first phase.

(15) The Community positive list should be established by the Commission after the completion of the safety assessment of all primary products for which sufficient information was submitted during the first phase. In order to ensure fair and equal conditions for all applicants, this initial establishment of the list should be done in a single step. After the initial establishment of the list of authorised primary products, it should be possible for additional primary products to be added thereto by decision of the Commission, following the safety assessment by the Authority.

(16) Whenever the evaluation by the Authority indicates that an existing smoke flavouring already on the market in the Member States constitutes a serious risk to human health, this product should be removed from the market without delay.

(17) Articles 53 and 54 of Regulation (EC) No 178/2002 establish procedures for taking emergency measures in relation to food of Community origin or imported from a third country. They allow the Commission to adopt such measures in situations where food is likely to constitute a serious risk to human health, animal health or the environment and where such risk cannot be contained satisfactorily by measures taken by the Member State(s) concerned.

([1]) Reports of the Scientific Committee for Food, 34th series, pp. 1 to 7.

([2]) Council of Europe Publishing, 1992, reprinted 1998, ISBN 92-871-2189-3.

([3]) OJ L 31, 1.2.2002, p. 1.

(18) It is necessary that food business operators using primary products or derived smoke flavourings be required to establish procedures in accordance with which it is possible, at all stages of placing a primary product or derived smoke flavouring on the market, to verify whether it is authorised by this Regulation and whether the conditions of use are respected.

(19) In order to ensure equal access of existing and new primary products to the market, an interim period should be established during which national measures continue to apply in the Member States.

(20) Provision should be made for the Annexes to this Regulation to be adapted to scientific and technical progress.

(21) The measures necessary for the implementation of this Regulation should be adopted in accordance with Council Decision 1999/468/EC of 28 June 1999 laying down the procedures for the exercise of implementing powers conferred on the Commission [1],

HAVE ADOPTED THIS REGULATION:

Article 1

Subject matter

1. The purpose of this Regulation is to ensure the effective functioning of the internal market in relation to smoke flavourings used or intended for use in or on foods, whilst providing the basis for securing a high level of protection for human health and the interests of consumers.

2. To this end, this Regulation lays down:

(a) a Community procedure for the evaluation and authorisation of primary smoke condensates and primary tar fractions for use as such in or on foods or in the production of derived smoke flavourings for use in or on foods;

(b) a Community procedure for the establishment of a list of primary smoke condensates and primary tar fractions authorised to the exclusion of all others in the Community and their conditions of use in or on foods.

Article 2

Scope

This Regulation shall apply to:

1. smoke flavourings used or intended for use in or on foods;

2. source materials for the production of smoke flavourings;

3. the conditions under which smoke flavourings are prepared;

4. foods in or on which smoke flavourings are present.

Article 3

Definitions

For the purposes of this Regulation, the definitions laid down in Directive 88/388/EEC and Regulation (EC) No 178/2002 shall apply.

The following definitions shall also apply:

1. 'primary smoke condensate' shall refer to the purified water-based part of condensed smoke and shall fall within the definition of 'smoke flavourings';

2. 'primary tar fraction' shall refer to the purified fraction of the water-insoluble high-density tar phase of condensed smoke and shall fall within the definition of 'smoke flavourings';

3. 'primary products' shall refer to primary smoke condensates and primary tar fractions;

4. 'derived smoke flavourings' shall refer to flavourings produced as a result of the further processing of primary products and which are used or intended to be used in or on foods in order to impart smoke flavour to those foods.

Article 4

General use and safety requirements

1. The use of smoke flavourings in or on foods shall only be authorised if it is sufficiently demonstrated that

— it does not present risks to human health,

— it does not mislead consumers.

Each authorisation may be subject to specific conditions of use.

2. No person shall place on the market a smoke flavouring or any food in or on which such a smoke flavouring is present if the smoke flavouring is not a primary product authorised in accordance with Article 6, or if is not derived therefrom, and if the conditions of use laid down in the authorisation in accordance with this Regulation are not adhered to.

Article 5

Conditions of production

1. The wood used for the production of primary products shall not have been treated, whether intentionally or unintentionally, with chemical substances during the six months immediately preceding felling or subsequent thereto, unless it can be demonstrated that the substance used for the treatment does not give rise to potentially toxic substances during combustion.

The person who places on the market primary products must be able to demonstrate by appropriate certification or documentation that the requirements laid down in the first subparagraph have been met.

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

2. The conditions for the production of primary products are laid down in Annex I. The water-insoluble oily phase which is a by-product of the process shall not be used for the production of smoke flavourings.

3. Without prejudice to other Community legislation, primary products may be further processed by appropriate physical processes for the production of derived smoke flavourings. Where opinions differ as to whether a particular physical process is appropriate, a decision may be reached in accordance with the procedure referred to in Article 19(2).

Article 6

Community list of authorised primary products

1. A list of the primary products authorised to the exclusion of all others in the Community for use as such in or on foods and/or for the production of derived smoke flavourings shall be established in accordance with the procedure referred to in Article 19(2).

2. In respect of each authorised primary product, the list referred to in paragraph 1 shall give a unique code for that product, the name of the product, the name and address of the authorisation holder, a clear description and characterisation of the product, the conditions of its use in or on specific foods or food categories and the date from which the product is authorised.

3. Following the establishment of the list referred to in paragraph 1, primary products may be added to that list in accordance with the procedure referred to in Article 19(2).

Article 7

Application for authorisation

1. To obtain the inclusion of a primary product in the list referred to in Article 6(1), an application shall be submitted in accordance with the following provisions.

2. (a) The application shall be sent to the competent authority of a Member State.

(b) The competent authority:

(i) shall acknowledge receipt of the application in writing to the applicant within 14 days of its receipt. The acknowledgement shall state the date of receipt of the application;

(ii) shall inform without delay the European Food Safety Authority (hereinafter referred to as the 'Authority'); and

(iii) shall make the application and any supplementary information supplied by the applicant available to the Authority.

(c) The Authority shall inform without delay the other Member States and the Commission of the application and shall make the application and any supplementary information supplied by the applicant available to them.

3. The application shall be accompanied by the following:

(a) the name and address of the applicant;

(b) the information listed in Annex II;

(c) a reasoned statement affirming that the product complies with Article 4(1), first indent;

(d) a summary of the dossier.

4. The Authority shall publish detailed guidance concerning the preparation and the submission of the application [1].

Article 8

Opinion of the Authority

1. The Authority shall give an opinion within six months of the receipt of a valid application as to whether the product and its intended use complies with Article 4(1). The Authority may extend the said period. In such a case it shall provide an explanation for the delay to the applicant, the Commission and the Member States.

2. The Authority may, where appropriate, request the applicant to supplement the particulars accompanying the application within a time limit specified by the Authority which in no event shall exceed 12 months. Where the Authority requests supplementary information, the time limit laid down in paragraph 1 shall be suspended until such time that this information has been provided. Likewise, this time limit shall be suspended for the time allowed to the applicant to prepare oral or written explanations.

3. In order to prepare its opinion, the Authority shall:

(a) verify that the particulars and documents submitted by the applicant are in accordance with Article 7(3) in which case the application shall be regarded as valid;

(b) inform the applicant, the Commission and the Member States if an application is not valid.

4. In the event of an opinion in favour of authorising the evaluated product, the opinion shall include:

(a) any conditions or restrictions which should be attached to the use of the evaluated primary product either as such and/or as derived smoke flavourings in or on specific foods or food categories;

(b) an assessment as to whether the analytical method proposed in accordance with point 4 of Annex II is appropriate for the intended control purposes.

5. The Authority shall forward its opinion to the Commission, the Member States and the applicant.

6. The Authority shall make its opinion public, after deletion of any information identified as confidential in accordance with Article 15.

[1] Until publication, applicants shall follow the 'Guidance on submissions for food additive evaluations' by the Scientific Committee on Food, of 11 July 2001 or its latest update: http://europa.eu.int/comm/food/fs/sc/scf/out98_en.pdf

Article 9

Community authorisation

1. Within three months of receiving the opinion of the Authority, the Commission shall prepare a draft of the measure to be taken in respect of the application for inclusion of a primary product in the list referred to in Article 6(1), taking into account the requirements of Article 4(1), Community law and other legitimate factors relevant to the matter under consideration. Where the draft measure is not in accordance with the opinion of the Authority, the Commission shall provide an explanation for the reasons for the differences.

The measure referred to in the first subparagraph shall be

(a) a draft regulation amending the list referred to in Article 6(1), by including the primary product on the list of authorised products, in accordance with the requirements under Article 6(2); or

(b) a draft decision, addressed to the applicant, refusing authorisation.

2. The measure shall be adopted in accordance with the procedure referred to in Article 19(2). The Commission shall inform the applicant of its adoption without delay.

3. Without prejudice to Article 11, the authorisation granted in accordance with the procedure laid down in this Regulation shall be valid throughout the Community for 10 years and shall be renewable in accordance with Article 12.

4. After an authorisation has been issued in accordance with this Regulation, the authorisation holder or any other food business operator using the authorised primary product or derived smoke flavourings shall comply with any condition or restriction attached to such authorisation.

5. The authorisation holder shall inform the Commission immediately of any new scientific or technical information which might affect the assessment of the safety of the authorised primary product or derived smoke flavourings in relation to human health. If necessary, the Authority shall then review the assessment.

6. The granting of an authorisation shall not diminish the general civil and criminal liability of any food business operator in respect of the authorised primary product, derived smoke flavouring or food containing the authorised primary product or derived smoke flavouring.

Article 10

Initial establishment of the Community list of authorised primary products

1. During the 18 months following the entry into force of this Regulation, business operators shall submit an application in accordance with Article 7 with a view to the establishment of an initial Community list of authorised primary products. Without prejudice to Article 9(1), this initial list shall be established after the Authority has issued an opinion on each primary product for which a valid application has been submitted during this period.

Applications for which the Authority could not issue an opinion owing to the applicant's failure to comply with the time limits specified for submission of supplementary information in accordance with Article 8(2) shall be excluded from consideration for inclusion in the initial Community list.

2. Within three months of receiving all the opinions referred to in paragraph 1, the Commission shall prepare a draft regulation for the initial establishment of the list referred to in Article 6(1), having regard to the requirements of Article 6(2).

Article 11

Modification, suspension and revocation of authorisations

1. The authorisation holder may, in accordance with the procedure laid down in Article 7, apply for a modification of the existing authorisation.

2. On its own initiative or following a request from a Member State or the Commission, the Authority shall deliver an opinion on whether an authorisation is still in accordance with this Regulation, following the procedure laid down in Article 8, where applicable.

3. The Commission shall examine the opinion of the Authority without delay and prepare a draft of the decision to be taken.

4. A draft measure modifying an authorisation shall specify any necessary changes in the conditions of use and, if any, in the restrictions attaching to that authorisation.

5. The final measure, i.e. the modification, suspension or revocation of the authorisation, shall be adopted in accordance with the procedure referred to in Article 19(2).

6. The Commission shall without delay inform the authorisation holder of the measure taken.

Article 12

Renewal of authorisations

1. Without prejudice to Article 11, authorisations under this Regulation shall be renewable for 10-year periods on application to the Commission by the authorisation holder, at the latest 18 months before the expiry date of the authorisation.

2. The application shall be accompanied by the following particulars and documents:

(a) a reference to the original authorisation;

(b) any available information concerning the points listed in Annex II which supplements the information already provided to the Authority in the course of the previous evaluation(s) and updates this in the light of the most recent scientific and technical developments;

(c) a reasoned statement affirming that the product complies with Article 4(1), first indent.

3. Articles 7 to 9 shall apply *mutatis mutandis*.

4. Where, for reasons beyond the control of the authorisation holder, no decision is taken on the renewal of an authorisation until one month before its expiry date, the period of authorisation of the product shall automatically be extended by six months. The Commission shall inform the authorisation holder and the Member States about the delay.

Article 13

Traceability

1. At the first stage of the placing on the market of an authorised primary product or smoke flavouring derived from the authorised products specified in the list referred to in Article 6(1), food business operators shall ensure that the following information is transmitted to the food business operator receiving the product:

(a) the code of the authorised product as given in the list referred to in Article 6(1);

(b) the conditions of use of the authorised product as set out in the list referred to in Article 6(1);

(c) in the case of a derived smoke flavouring, the quantitative relation to the primary product; this shall be expressed in clear and easily understandable terms so that the receiving food business operator can use the derived smoke flavouring in compliance with the conditions of use set out in the list referred to in Article 6(1).

2. At all subsequent stages of the placing on the market of products referred to in paragraph 1, food business operators shall ensure that the information received in accordance with paragraph 1 is transmitted to the food business operators receiving the products.

3. Food business operators shall have in place systems and procedures making it possible to identify the person from whom and to whom the products mentioned in paragraph 1 have been made available.

4. Paragraphs 1 to 3 shall be without prejudice to other specific requirements under Community legislation.

Article 14

Public access

1. Applications for authorisation, supplementary information from applicants and opinions from the Authority, excluding confidential information, shall be made accessible to the public in accordance with Articles 38, 39 and 41 of Regulation (EC) No 178/2002.

2. The Authority shall apply the principles of Regulation (EC) No 1049/2001 of the European Parliament and of the Council of 30 May 2001 regarding public access to European Parliament, Council and Commission documents [1] when handling applications for access to documents held by the Authority.

3. Member States shall handle applications for access to documents received under this Regulation in accordance with Article 5 of Regulation (EC) No 1049/2001.

Article 15

Confidentiality

1. The applicant may indicate which information submitted under Article 7 should be treated as confidential because disclosure may significantly harm his or her competitive position. Verifiable justification must be given in such cases.

2. Without prejudice to paragraph 3, the Commission shall determine, after consultation with the applicant, which information should be kept confidential and shall inform the applicant and the Authority of its decision.

3. Without prejudice to Article 39(3) of Regulation (EC) No 178/2002, information relating to the following shall not be considered confidential:

(a) the name and address of the applicant and the name of the product;

(b) in the case of an opinion in favour of authorising the evaluated product, the particulars mentioned in Article 6(2);

(c) information of direct relevance to the assessment of the safety of the product;

(d) the analytical method referred to in point 4 of Annex II.

4. Notwithstanding paragraph 2, the Authority shall on request supply the Commission and the Member States with all information in its possession.

5. The Commission, the Authority and the Member States shall take the necessary measures to ensure appropriate confidentiality of the information received by them under this Regulation except for information which must be made public if circumstances so require in order to protect human health.

6. If an applicant withdraws or has withdrawn an application, the Authority, the Commission and the Member States shall respect the confidentiality of the commercial and industrial information provided, including research and development information as well as information on which the Commission and the applicant disagree as to its confidentiality.

Article 16

Data protection

The information in the application submitted according to Article 7 may not be used for the benefit of another applicant, unless the other applicant has agreed with the authorisation holder that such information may be used.

[1] OJ L 145, 31.5.2001, p. 43.

Article 17

Inspection and control measures

1. Member States shall ensure that inspections and other control measures, as appropriate, are carried out to ensure compliance with this Regulation.

2. Where necessary and at the request of the Commission, the Authority shall assist in developing technical guidance on sampling and testing to facilitate a coordinated approach for the implementation of paragraph 1.

3. If necessary, the Commission shall, after having requested scientific and technical assistance from the Authority, adopt quality criteria for validated analytical methods proposed in accordance with point 4 of Annex II, including substances to be measured, in accordance with the procedure referred to in Article 19(2).

Article 18

Amendments

Amendments to the Annexes to this Regulation and to the list referred to in Article 6(1) shall be adopted in accordance with the procedure referred to in Article 19(2), following consultation of the Authority for scientific and/or technical assistance.

Article 19

Committee procedure

1. The Commission shall be assisted by the Committee referred to in Article 58(1) of Regulation (EC) No 178/2002.

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

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

3. The Committee shall adopt its Rules of Procedure.

Article 20

Transitional measures

Without prejudice to Article 4(2), trade in and use of the following primary products and derived smoke flavourings, as well as foods containing any of those products, already on the market on the date of entry into force of this Regulation, shall be permitted for the following periods:

(a) primary products for which a valid application is submitted in accordance with Article 7 and Article 8(3) before 16 June 2005 and derived smoke flavourings: until the establishment of the list referred to in Article 10(1);

(b) foods containing primary products for which a valid application is submitted in accordance with Article 7 and Article 8(3) before 16 June 2005 and/or containing derived smoke flavourings: until 12 months after the establishment of the list referred to in Article 10(1);

(c) foods containing primary products for which a valid application is not submitted in accordance with Article 7 and Article 8(3) before 16 June 2005 and/or derived smoke flavourings: until 16 June 2006.

Foods that have been lawfully placed on the market before the end of the periods referred to in (b) and (c) may be marketed until stocks are exhausted.

Article 21

Entry into force

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

Article 4(2) shall apply from 16 June 2005. Until this date, national provisions in force concerning smoke flavourings and their use in and on foods continue to apply in the Member States.

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

Done at Brussels, 10 November 2003.

For the European Parliament
The President
P. COX

For the Council
The President
A. MARZANO

ANNEX I

Conditions for the production of primary products

1. Smoke is generated from the wood referred to in Article 5(1). Herbs, spices, twigs of juniper and twigs, needles and cones of *picea* may be added if they are free of residues of intentional or unintentional chemical treatment or if they comply with more specific Community legislation. The source material is subjected to controlled burning, dry distillation or treatment with superheated steam in a controlled oxygen environment with a maximum temperature of 600 °C.

2. The smoke is condensed. Water and/or, without prejudice to other Community legislation, solvents may be added to achieve phase separation. Physical processes may be used for isolation, fractionation and/or purification to obtain the following phases:

   (a) a water-based 'primary smoke condensate' mainly containing carboxylic acids, carbonylic and phenolic compounds, having a maximum content of:

benzo[a]pyrene	10 µg/kg
benz[a]anthracene	20 µg/kg

   (b) a water-insoluble high-density tar phase which during the phase separation will precipitate, and which cannot be used as such for the production of smoke flavourings but only after appropriate physical processing to obtain fractions from this water-insoluble tar phase which are low in polycyclic aromatic hydrocarbons, already defined as 'primary tar fractions', having a maximum content of:

benzo[a]pyrene	10 µg/kg
benz[a]anthracene	20 µg/kg

   (c) a 'water-insoluble oily phase'.

   If no phase separation has occurred during or after the condensation, the smoke condensate obtained must be regarded as a water-insoluble high-density tar phase, and must be processed by appropriate physical processing to obtain primary tar fractions which stay within the specified limits.

ANNEX II

Information necessary for the scientific evaluation of primary products

The information should be compiled in accordance with the guidelines referred to in Article 7(4) and should be submitted as described therein. Without prejudice to Article 8(2), the following information should be included in the application for authorisation referred to in Article 7:

1. the type of wood used for the production of the primary product;
2. detailed information on the production methods of the primary products and the further processing in the production of derived smoke flavourings;
3. the qualitative and quantitative chemical composition of the primary product and the characterisation of the portion which has not been identified. Of major importance are the chemical specifications of the primary product and information on the stability and the degree of variability of the chemical composition. The portions which have not been identified, i.e. the amount of substances whose chemical structure is not known, should be as small as possible and should be characterised by appropriate analytical methods, e.g. chromatographic or spectrometric methods;
4. a validated analytical method for sampling, identification and characterisation of the primary product;
5. information on the intended use levels in or on specific foods or food categories;
6. toxicological data following the advice of the Scientific Committee on Food given in its report on smoke flavourings of 25 June 1993 or its latest update.

DECISION No 2066/2003/EC OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL

of 10 November 2003

on the continued application of areal-survey and remote-sensing techniques to the agricultural statistics for 2004 to 2007 and amending Decision 1445/2000/EC

THE EUROPEAN PARLIAMENT AND THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty establishing the European Community, and in particular Article 285 thereof,

Having regard to the proposal by the Commission,

In accordance with the procedure provided for in Article 251 of the Treaty [1],

Whereas:

(1) Decision No 1445/2000/EC of the European Parliament and of the Council of 22 May 2000 on the application of areal-survey and remote-sensing techniques to the agricultural statistics for 1999 to 2003 [2] will lapse on 31 December 2003.

(2) The need to have adequate information on land use and on the condition of crops is especially felt in the context of new developments in the common agricultural policy and with a view to enlargement, particularly for the analysis of interactions between agriculture, the environment and rural areas.

(3) The Commission's report to the European Parliament and the Council on the implementation of these measures over the period from 1999 to 2003 shows that it would be useful to continue them for a further four years.

(4) The procedures for implementing the measures contained in Decision 1445/2000/EC should be continued and enhanced in the light of the experience gained and the results achieved.

(5) The remote-sensing activities requiring further research and development in the period 2004 to 2007 are covered by the Sixth Framework Programme in the field of research and development [3].

(6) This Decision lays down, for the entire duration of the programme, a financial framework constituting, for the budgetary authority, the principal point of reference within the meaning of point 33 of the Interinstitutional Agreement between the European Parliament, the Council and the Commission of 6 May 1999 [4] on budgetary discipline and improvement of the budgetary procedure, for the budgetary authority during the annual budgetary procedure,

HAVE DECIDED AS FOLLOWS:

Article 1

Decision 1445/2000/EC shall be amended as follows:

1. the following shall be added at the end of Article 1(1):

   'These measures shall be continued for a period of four years beginning on 1 January 2004';

2. Article 3 shall be replaced by the following:

   '*Article 3*

   The financial framework for the implementation of this programme for the period 2004 to 2007 is hereby set at EUR 7,85 million.

   The annual appropriations shall be authorised by the budgetary authority within the limits of the financial perspective.';

3. in Article 6, '31 July 2003' shall be replaced by '31 July 2007';

4. in Article 7, '31 December 2003' shall be replaced by '31 December 2007'.

Article 2

This Decision shall take effect on the 20th day following the date of its publication in the *Official Journal of the European Union*.

Done at Brussels, 10 November 2003.

For the European Parliament	*For the Council*
The President	*The President*
P. COX	A. MARZANO

[1] Opinion of the European Parliament of 1 July 2003 (not yet published in the Official Journal) and Council Decision of 29 September 2003 (not yet published in the Official Journal).

[2] OJ L 163, 4.7.2000, p. 1.

[3] OJ L 232, 29.8.2002, p. 1.

[4] OJ C 172, 18.6.1999, p. 1.

COMMISSION REGULATION (EC) No 2067/2003

of 25 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 26 November 2003.

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

Done at Brussels, 25 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 25 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	64,5
	096	54,2
	204	45,6
	999	54,8
0707 00 05	052	164,5
	220	139,2
	999	151,9
0709 90 70	052	113,8
	204	39,5
	999	76,7
0805 20 10	204	63,1
	999	63,1
0805 20 30, 0805 20 50, 0805 20 70, 0805 20 90	052	68,8
	388	48,7
	464	140,7
	999	86,1
0805 50 10	052	74,0
	400	46,9
	528	81,9
	600	82,8
	999	71,4
0808 10 20, 0808 10 50, 0808 10 90	060	40,7
	064	48,5
	388	87,1
	400	78,5
	404	92,1
	720	57,9
	800	148,7
	999	79,1
0808 20 50	052	101,2
	060	52,4
	064	59,8
	400	95,3
	720	48,4
	999	71,4

(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 2068/2003

of 25 November 2003

concerning applications for export licences for rice and broken rice with advance fixing of the refund

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

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

Having regard to Commission Regulation (EC) No 1342/2003 of 28 July 2003, laying down special detailed rules for the application of the system of import and export licences for cereals and rice [3], and in particular the second subparagraph of Article 8(3) thereof,

Whereas:

(1) Article 8(3) of Regulation (EC) No 1342/2003 provides, where this paragraph is specifically referred to when an export refund is fixed, for an interval of three working days between the day of submission of applications and the granting of export licences with advance fixing of the refund and provides that the Commission is to fix a uniform percentage reduction in the quantities if applications for export licences exceed the quantities which may be exported. Commission Regulation (EC) No 1961/2003 [4] fixes refunds under the procedure provided for in the abovementioned paragraph for 2 000 tonnes for destination R01 defined in the Annex to that Regulation.

(2) For destination R01, quantities applied for on 24 November 2003 are in excess of the available quantity; a percentage reduction should therefore be fixed for export licence applications submitted on 24 November 2003.

(3) In view of its purpose, this Regulation should take effect from the day of its publication in the Official Journal,

HAS ADOPTED THIS REGULATION:

Article 1

For destination R01 defined in the Annex to Regulation (EC) No 1961/2003, applications for export licences for rice and broken rice with advance fixing of the refund submitted under that Regulation on 24 November 2003 shall give rise to the issue of licences for the quantities applied for to which a percentage reduction of 99,87 % has been applied.

Article 2

For destination R01 defined in the Annex to Regulation (EC) No 1961/2003, applications for export licences for rice and broken rice submitted from 25 November 2003 shall not give rise to the issue of export licences under that Regulation.

Article 3

This Regulation shall enter into force on 26 November 2003.

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

Done at Brussels, 25 November 2003.

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

[1] OJ L 329, 30.12.1995, p. 18.
[2] OJ L 62, 5.3.2002, p. 27.
[3] OJ L 189, 29.7.2003, p. 12.
[4] OJ L 289, 7.11.2003, p. 18.

COMMISSION REGULATION (EC) No 2069/2003

of 25 November 2003

correcting Regulation (EC) No 2058/2003 fixing the maximum export refund on wholly milled medium grain and long grain A rice to be exported to certain third countries in connection with the invitation to tender issued in Regulation (EC) No 1876/2003

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Council Regulation (EC) No 3072/95 of 22 December 1995 on the common organisation of the market in rice [1], as last amended by Commission Regulation (EC) No 411/2002 [2], and in particular Article 13(3) thereof,

Whereas:

(1) Commission Regulation (EC) No 2058/2003 [3] set the maximum export refund for wholly milled medium grain and long grain A rice to be exported to certain third countries in connection with the invitation to tender issued in Commission Regulation (EC) No 1876/2003 [4].

(2) A check has shown that as a result of an error the above Regulation does not correspond to the measures presented for the opinion of the Management Committee, which, for the sake of more balanced management of the quantities exported with a refund, had provided for an allocation coefficient of 75 % for tenders presented at the level of the maximum refund. The Regulation in question should be corrected by setting such an allocation coefficient,

HAS ADOPTED THIS REGULATION:

Article 1

In Regulation (EC) No 2058/2003, the following paragraph is added to Article 1:

'For tenders at the level of the maximum refund the allocation coefficient shall be 75 %.'

Article 2

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

It shall apply from 22 November 2003.

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

Done at Brussels, 25 November 2003.

For the Commission
Franz FISCHLER
Member of the Commission

[1] OJ L 329, 30.12.1995, p. 18.
[2] OJ L 62, 5.3.2002, p. 27.
[3] OJ L 305, 22.11.2003, p. 10.
[4] OJ L 275, 25.10.2003, p. 17.

II

(Acts whose publication is not obligatory)

COUNCIL

COUNCIL DECISION
of 17 November 2003
on the accession of the European Community to the Codex Alimentarius Commission

(2003/822/EC)

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty establishing the European Community, and in particular Articles 37, 95, 133 and 152(4) in conjunction with the first subparagraph of Article 300(3) thereof,

Having regard to the proposal from the Commission,

Having regard to the opinion of the European Parliament [1],

Whereas:

(1) The object of the Codex Alimentarius Commission is, *inter alia*, to develop and harmonise world-wide health standards and to issue guidelines and recommendations on agricultural and fishery products, foodstuffs, food additives and contaminants, feedstuffs, veterinary drugs, pesticides, including labelling, methods of analysis and sampling, codes of ethics and good agricultural practice and guidelines of hygiene practice, in view of protecting consumers' health and ensuring fair practices in international trade. These objectives are in line with the objectives of the European Community as regards measures taken to protect human, animal or plant life or health or the environment and related international trade measures, and harmonisation of national legislation, in particular as regards foodstuffs, food additives and contaminants, including labelling and methods of analysis and sampling, with a view to ensuring free circulation in the internal market and imports from third countries.

(2) Since 1994, with the entry into force of the WTO Agreements, in particular the Agreement on the application of Sanitary and Phytosanirary Measures (SPS Agreement) and the Agreement on Technical Barriers to Trade (TBT Agreement), Codex Alimentarius standards, guidelines and recommendations have acquired increased legal relevance by virtue of the reference made to the Codex Alimentarius in the WTO Agreements and the presumption of conformity which is conferred on relevant national measures when they are based on such standards, guidelines or recommendations adopted by the Codex Alimentarius Commission.

(3) The European Community should be able to exercise its competence and play its role during the preparation, negotiation and adoption of standards, guidelines or recommendations by the Codex Alimentarius Commission and its subsidiary bodies. Accession of the European Community as a full member of Codex Alimentarius, alongside its Member States, is essential in order to ensure that the primary health and other interests of the European Community and its Member States are taken into consideration during the preparation, negotiation and adoption of such standards, guidelines or recommendations and other provisions by the Codex Alimentarius Commission.

(4) The accession of the European Community as a full member of the Codex Alimentarius should help reinforce coherence between the standards, guidelines or recommendations and other provisions adopted by the Codex Alimentarius Commission and other relevant international obligations of the European Community.

(5) On 26 November 1991, the European Community became a Member, alongside the Member States, of the Food and Agriculture Organisation (FAO).

[1] Opinion dated 7 November 2001 (not yet published in the Official Journal).

(6) Article 2 of the Statutes of the Codex Alimentarius Commission entitles the European Community, as a Member of FAO, also to become a full Member of the Codex Alimentarius Commission.

(7) By Decision of 21 December 1993, the Council authorised the Commission to negotiate the conditions and modalities for the accession of the European Community as a full member to the Codex Alimentarius Commission on the basis of the competence of the European Community, its situation in the FAO and taking into account the object and particular features of the Codex Alimentarius Commission.

(8) The rights and obligations of Member Organisations of the FAO can be applied, *mutatis mutandis*, to the membership of the European Community of the Codex Alimentarius Commission, and the appropriate decisions regarding the required adaptations of the relevant provisions of the rules of procedure of the Codex Alimentarius Commission and its subsidiary bodies have already been undertaken.

(9) The outcome of the negotiations conducted by the European Commission is considered to be satisfactory taking into account the interests of the European Community and its Member States and the specific features of the Codex Alimentarius Commission.

(10) It is necessary to provide for practical modalities concerning the participation of the European Community and its Member States in the work of the Codex Alimentarius Commission and its subsidiary bodies in a way that is likely to ensure the highest possible benefit for the European Community and its Member States from the Community's accession to the Codex Alimentarius.

(11) In view of the above considerations it is now appropriate that the European Community accedes to the Codex Alimentarius Commission.

(12) The Directors-General of FAO and WHO have approved the amendments to the Rules of Procedure adopted by the 26th Session of the Codex Alimentarius Commission on 30 June 2003, allowing Regional Economic Integration Organisations to become members of Codex,

HAS DECIDED AS FOLLOWS:

Article 1

1. The European Community shall submit a request for accession to the Codex Alimentarius Commission, accompanied by a formal instrument according to which it accepts the obligations of the statutes of the Codex Alimentarius Commission as in force at the time of accession (Annex I hereto) and a single Declaration on exercise of competence (Annex II hereto).

2. The President of the Council shall be responsible for completing the necessary procedures to this end.

Article 2

The Arrangement between the Council and the Commission regarding preparation for Codex Alimentarius meetings and statements and exercise of voting rights, attached as Annex III hereto, will apply between the Commission, the Council and the Member States.

Done at Brussels, 17 November 2003.

For the Council

The President

G. ALEMANNO

ANNEX I

Instrument of accession to the Codex Alimentarius Commission

Dear Sir,

I have the honour to inform you that the European Community, as a Member of FAO, has decided to request accession to the Codex Alimentarius Commission. I, therefore, request you to accept this instrument, by which the European Community accepts the modified Rules of Procedure of the Codex Alimentarius Commission, in accordance with Rule II thereof, and the single Declaration by the European Community on the exercise of competence.

The European Community formally and without reservation accepts the obligations arising from its membership of the Codex Alimentarius Commission, as set out in the Statutes of the Codex Alimentarius Commission, and solemnly undertakes to fulfil the obligations in force at the time of its admission in all loyalty and conscience.

I have the honour to be, Sir, yours faithfully,

Alessandro PIGNATTI

President-in-Office of the Council of the European Union
Chair, Committee of Permanent Representatives
(Part 1)

Mr Diouf
Director General
United Nations Food and Agriculture Organisation
Via delle Terme di Caracalla
I-00100 Rome

ANNEX II

Single Declaration by the European Community on the exercise of competence according to Rule VI of the Rules of Procedure of the Codex Alimentarius Commission

This Declaration specifies the exercise of competence between the European Community and its Member States in matters covered by the instruments establishing the Codex Alimentarius Commission. It does not affect the speaking arrangement regarding the Community and its Member States.

This Declaration applies to all meetings of the Codex Alimentarius Commission and any of its subsidiary bodies, unless the European Community decides or another Codex Alimentarius member requests in respect of any particular agenda item before the meeting to make a specific statement.

Should the scope of the division of competence described below between the European Community and its Member States change, this Declaration will be updated accordingly.

1. EUROPEAN COMMUNITY'S COMPETENCE

As a general rule, the European Community has exclusive competence for agenda items dealing with harmonisation of standards on certain agricultural products, foodstuffs, food additives, contaminants, veterinary drug, pesticides, fish and fishery products, including labelling, methods of analysis and sampling, as well as codes and guidelines of hygiene practice, insofar as the Community legislation has harmonised either completely or to a large extent the relevant fields in these areas, as well as issues of international trade to the extent that they are related to the objectives of the Codex Alimentarius Commission, notably to protecting the health of the consumers and ensuring fair practices in the food trade.

2. MEMBER STATES' COMPETENCE

As a general rule, the Member States of the European Community have competence for agenda items dealing with organisational matters (e.g. legal or budgetary issues) and procedural issues (e.g. election of chairpersons, adoption of the agenda, adoption of reports).

3. MEMBER STATE AND COMMUNITY COMPETENCE

The European Community and its Member States both have *a priori* competence in the following areas, to the extent that the measures envisaged in those areas fall within the scope of action of the Codex Alimentarius and where the Community has the power to harmonise but such areas have been harmonised in part only:

(a) agricultural policy in general, including the harmonisation of standards for animal or plant life and health (Articles 32 to 38 of EC Treaty);

(b) approximation of provisions laid down by laws, regulation or administrative action by the Member States in the areas of human, animal or plant life or health (Articles 94 and 95 of EC Treaty);

(c) public health policy measures (Article 152 of EC Treaty) and consumer protection measures (Article 153 of EC Treaty);

(d) policy on research and technological development (Articles 163 to 173 of EC Treaty);

(e) environmental policy (Articles 174 to 176 of EC Treaty);

(f) development policy (Articles 177 to 181 of EC Treaty);

(g) other policies of the European Community that may concern even partially the specific activities of the Codex Alimentarius Commission.

ANNEX III

Arrangement between the Council and the Commission regarding preparation for Codex Alimentarius Meetings and statements and exercise of voting rights

1. **Scope of application of the coordination procedure**

These coordination procedures will apply to any meeting of the Codex Alimentarius Commission or any of its subsidiary bodies, including working groups and to replies to Circular Letters.

2. **Codex Alimentarius Circular Letters**

2.1. With the aim of respecting the deadline for replying to the Codex Circular Letters, the Commission shall send, at regular intervals not exceeding two months, to the Member States a table listing, separately, all outstanding, announced and anticipated Circular Letters, identifying those Circular Letters for which it intends to prepare a draft common reply on behalf of the Community and the time frame in which this will be done and giving as far as possible its opinion on the competence status for each of them.

2.2. When the Commission indicates that a common reply is to be prepared, the Member States will refrain from answering directly the identified Codex Circular Letters but can point out to the Commission the specific issues or points that pose them a problem and the orientation they suggest to adopt in the reply.

2.3. The Commission will prepare a draft common reply taking into account the indication of the Member States and will communicate the draft rapidly to the Member States for further comments through the national Codex Points of Contact or any specific point designated by Member States. The Commission, on the basis of the received comments, will prepare a revision of the common reply, indicating the received comments and explaining where applicable why some of them were not taken into consideration.

2.4. A Member State may also indicate to the Commission that a particular Circular Letter needs a common reply. In such a case the Commission will prepare a draft reply with the technical assistance of this Member State.

2.5. When the Commission considers that it is not necessary to prepare a common reply, the Member States are entitled to answer directly the Codex Circular Letters for which no common reply is foreseen. However, in this case, the Member States which intend to send comments directly will circulate a draft among the other Member States and the Commission before sending it to Codex in order to verify that there is no opposition from the Commission or any other Member State.

2.6. The Commission and the Member States will make a serious effort to reach a common position as soon as possible. If the draft common reply is acceptable to the Member States, it will be sent to the secretariat of the Codex Alimentarius. But if there is still a substantial amount of divergence of opinion, the Commission will send the draft to the Council Secretariat for the purpose of organising a coordinating meeting to resolve the remaining differences, and the relevant procedure set out in section 3 below will apply.

3. **Coordination procedure in the Council**

3.1. To prepare for any Codex Alimentarius meeting, coordination meetings will be held:

— in Brussels, within the competent Council Working Party (usually Codex Alimentarius Working Party), as early as possible and as many times as necessary ahead of the Codex Alimentarius meeting, and, in addition,

— on-the-spot, particularly at the beginning and, if necessary, during and at the end of the Codex Alimentarius meeting, with further coordination meetings being called whenever necessary throughout the series of meetings.

3.2. The coordination meetings will agree on statements to be made on behalf of only the Community or on behalf of the Community and its Member States. Statements to be made on behalf of the Member States only do not form part of the Community coordination as such, but may of course also be subject to coordination at these meetings if so agreed by the Member States.

The Community or common positions are usually agreed upon in the form of a negotiating position, a statement or an outline of a statement. When reference is made in this arrangement to a 'statement', it should be considered to refer also to other forms in which the Community or common position is agreed.

3.3. The Commission will on receipt send any Codex Alimentarius meeting agenda to the Council Secretariat for circulation to Member States together with an indication of the agenda items on which it is intended that a statement be made and whether this statement will be made on behalf of the Community or the Community and its Member States.

In the case of agenda items which may necessitate taking a decision by consensus or by a vote in a Codex Alimentarius meeting, the Commission will give an indication on whether it is the Community or its Member States who should vote.

3.4. The Commission will send draft statements and position papers to the Council Secretariat for circulation to Member States as soon as possible but at least one week before the coordination meeting. For the preparation of draft statements or position papers, the Commission will rely on the technical expertise of the Member States. The Council Secretariat will ensure that the draft statements are transmitted promptly through the national Codex Points of Contact or any specific point designated by Member States.

3.5. The coordination meetings will decide on the exercise of responsibilities with respect to statements and voting in relation to each item of the Codex Alimentarius meeting agenda, on which a statement may be made or a vote is expected.

3.6. The Commission will inform Member States in advance of coordination meetings, through the Council Secretariat, of:

(a) its proposals regarding the exercise of responsibilities on a particular topic;

(b) its proposals in regard to statements on a particular topic.

3.7. If the Commission and the Member States in coordination meetings within the competent Council Working Party or on the spot cannot agree a common position, including for reasons of disagreement on the repartition of competence, with regard to questions referred to in points 3.6(a) and (b), the matter will be referred to the Permanent Representatives Committee which shall decide on the basis of the majority laid down in the relevant Community law dealing with the subject matter under consideration.

3.8. Decisions referred to in paragraph 3.7 are without prejudice to the respective competence of the Community and its Member States in the areas under consideration.

3.9. Should it prove impossible on the part of the Commission to prepare statements in time for the coordination meeting (due to the non-availability of the Codex Alimentarius documentation), the Commission will outline to the Member States, at least one week before the Codex Alimentarius meeting, the main elements of a Community or common position and the statement to be made accordingly. When necessary in exceptional circumstances, an on-the-spot coordination meeting will examine again these elements and the statement with the representatives of the Commission and of the Member States present in the meeting.

3.10. When during Codex Alimentarius meetings the need arises for a statement to be made, in order to respond to the evolution or the dynamics of the negotiations, by the Community representative on behalf of the Community or on behalf of the Community and its Member States, a draft statement will be coordinated on the spot and the relevant part of paragraph 3.9 will apply.

3.11. During Codex discussions, in order to react to proposals not covered by the agreed Community position, Member States and the Commission after due coordination where possible shall be able to propose an initial response and explore alternative options without giving a formal commitment. The Commission and Member States shall pay full regard to the established Community position and its underlying rationale, and will coordinate on the spot as soon as possible to confirm or change the provisional positions.

4. **Statements and voting in the Codex Alimentarius meetings**

4.1. Where an agenda item deals with matters of exclusive Community competence, the Commission shall speak and vote for the Community. After due coordination, the Member States may also speak in order to support and/or develop the Community position.

4.2. Where an agenda item deals with matters of exclusive national competence, Member States shall speak and vote.

4.3. Where an agenda item deals with matters containing elements of both national and Community competence, the Presidency and the Commission shall express the common position. After due coordination, Members States may speak to support and/or develop the common position. The Member States or the Commission, as appropriate, will vote on behalf of the Community and its Member States in accordance with the common position. The decision on who will be voting is made in the light of where the preponderance of the competence lies (e.g. mainly Member State or mainly Community competence).

4.4. Where an agenda item deals with matters containing elements both of national and of Community competence and the Commission and the Member States have not been able to agree a common position as referred to in point paragraph 3.7, Member States may speak and vote on matters falling clearly within their competence. In accordance with the Codex Alimentarius rules of procedure, the Commission may speak and vote on matters falling clearly within Community competence and for which a Community position has been adopted.

4.5. On matters for which there is no agreement between the Commission and the Member States on repartition of competence, or where it has not been possible to obtain the majority needed for a Community position, a maximum effort will be made to clarify the situation or achieve a Community position. Pending this, and after due coordination, the Member States and/or the Commission, as appropriate, would be entitled to speak on condition that the position expressed will be coherent with Community policies and previous Community positions, and in conformity with Community law.

4.6. During the first two years from the Community's accession to the Codex Alimentarius Commission, the results of the coordination meetings in the competent Council Working Party on the exercise of responsibilities with respect to statements and voting in relation to each item of the Codex Alimentarius meeting agenda will be communicated to the Codex Alimentarius Secretariat. After the initial period of two years, the single, general Declaration made will be considered applicable, unless there is a specific request for clarification from another Codex Alimentarius member or it is decided otherwise in the competent Council Working Party.

4.7. Within the framework of paragraph 4.1 or 4.3, where a Member State has particular important concerns in respect of a dependent territory, and this concern cannot be accommodated in a common or Community position, that Member State shall retain the right to vote and speak in respect of its dependent territory, bearing in mind the interests of the Community.

5. **Drafting and working groups**

5.1. The Member States and the Commission are entitled to participate voluntarily and speak in the drafting and working groups of the Codex Alimentarius which are technical informal meetings attended only by some members of the Codex Alimentarius and where no formal decisions are taken. The representatives of the Member States and the Commission will make a serious effort to reach an agreed position and to defend this during the discussions in drafting and working groups.

5.2. The Commission and the Member State representatives participating in Codex drafting and working groups, without prejudice to the question of the competence, notify the other Member States promptly of draft reports drawn up by the group's rapporteur and coordinate with Member States regarding the position to be taken. In the absence of specific coordination on the draft reports, the Commission or Member State representatives on the drafting and working groups will use as orientation the coordinated statements and the coordination meeting discussions, as indicated in section 4.

6. **Review of the arrangement**

At the request of a Member State or the Commission, the arrangement will be reviewed, taking account of experience gained from its operation.

CORRIGENDA

Corrigendum to Commission Regulation (EC) No 2029/2003 of 18 November 2003 on periodical sales by tender of beef held by certain intervention agencies

(Official Journal of the European Union L 301 of 19 November 2003)

On page 7, in the Annex, against point b):

for:

'b) **Carne deshuesada — Udbenet kød — Fleisch ohne Knochen — Κρέατα χωρίς κόκαλα — Boneless beef — Viande désossée — Carni senza osso — Vlees zonder been — Carne desossada — Luuton naudanliha — Benfritt kött**		
ESPAÑA	— Babilla de intervención (INT 12)	0,024 (2)
	— Falda del costillar de intervención (INT 18)	0,023 (1)
	— Entrecot de intervención (INT 19)	0,041 (1)'

read:

'b) **Carne deshuesada — Udbenet kød — Fleisch ohne Knochen — Κρέατα χωρίς κόκαλα — Boneless beef — Viande désossée — Carni senza osso — Vlees zonder been — Carne desossada — Luuton naudanliha — Benfritt kött**		
ESPAÑA	— Babilla de intervención (INT 12)	0,024 (2)
	— Falda del costillar de intervención (INT 18)	0,023 (2)
	— Entrecot de intervención (INT 19)	0,041 (2)'

Corrigendum to Commission Regulation (EC) No 2046/2003 of 20 November 2003 fixing the rates of refunds applicable to certain cereal and rice-products exported in the form of goods not covered by Annex I to the Treaty

(Official Journal of the European Union L 303 of 21 November 2003)

On page 14, in the title of the Annex:

for: '… 20 November 2003 …',

read: '… 21 November 2003 …'.