

English edition

Legislation

Contents

I	<i>Acts whose publication is obligatory</i>	
★	Council Regulation (EC) No 2070/2003 of 24 November 2003 terminating the partial interim review of the anti-dumping measures applicable to imports of fluorspar originating in the People's Republic of China	1
	Commission Regulation (EC) No 2071/2003 of 26 November 2003 establishing the standard import values for determining the entry price of certain fruit and vegetables	3
	Commission Regulation (EC) No 2072/2003 of 26 November 2003 fixing the definitive rate of refund and the percentage of system B export licences to be issued in the fruit and vegetables sector (tomatoes, oranges, lemons, table grapes and apples)	5
	Commission Regulation (EC) No 2073/2003 of 26 November 2003 determining the world market price for unginned cotton	7
	Commission Regulation (EC) No 2074/2003 of 26 November 2003 fixing the import duties in the rice sector	8
	Commission Regulation (EC) No 2075/2003 of 26 November 2003 concerning applications for export licences for rice and broken rice with advance fixing of the refund	11
★	Commission Directive 2003/111/EC of 26 November 2003 amending Annex II to Directive 92/34/EEC on the marketing of fruit plant propagating material and fruit plants intended for fruit production ⁽¹⁾	12
<hr/>		
II	<i>Acts whose publication is not obligatory</i>	
	Council	
	2003/823/EC:	
★	Decision No 1/2003 of the EU-Tunisia Association Council of 30 September 2003 setting up subcommittees of the Association Committee	14

2003/824/EC:	
★ Decision No 4/2002 of the EC-Mexico Joint Council of 6 November 2003 adopting rules of procedure of the EC-Mexico special committees	24
2003/825/EC:	
★ Council Decision of 25 November 2003 amending Decision 2002/882/EC providing further macro-financial assistance to the Federal Republic of Yugoslavia with regard to additional macro-financial assistance to Serbia and Montenegro	28
Commission	
2003/826/EC:	
★ Commission Decision of 18 November 2003 amending Decision 97/222/EC as regards imports of meat products from Australia and Slovenia ⁽¹⁾ (notified under document number C(2003) 4205)	29
2003/827/EC:	
★ Commission Decision of 18 November 2003 amending Decision 98/371/EC as regards the import of fresh pigmeat from Slovenia ⁽¹⁾ (notified under document number C(2003) 4208)	36
2003/828/EC:	
★ Commission Decision of 25 November 2003 on protection and surveillance zones in relation to bluetongue ⁽¹⁾ (notified under document number C(2003) 4335)	41
2003/829/EC:	
★ Commission Decision of 25 November 2003 concerning national provisions on the use of azodyes notified by Germany under Article 95(4) of the EC Treaty ⁽¹⁾ (notified under document number C(2003) 4356)	46

I

(Acts whose publication is obligatory)

COUNCIL REGULATION (EC) No 2070/2003

of 24 November 2003

terminating the partial interim review of the anti-dumping measures applicable to imports of fluorspar originating in the People's Republic of China

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty establishing the European Community,

Having regard to Council Regulation (EC) No 384/96 of 22 December 1995 on protection against dumped imports from countries not members of the European Community ⁽¹⁾ (basic Regulation), and in particular Article 11(3) thereof,

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

Whereas:

A. PROCEDURE

1. Measures in force

(1) In September 2000, the Council, by Regulation (EC) No 2011/2000 ⁽²⁾, imposed a definitive anti-dumping duty on imports of fluorspar originating in the People's Republic of China (PRC). The duty took the form of a minimum import price (MIP).

2. Initiation

(2) On 13 June 2002, the Commission announced by a notice published in the *Official Journal of the European Communities* ⁽³⁾ (notice of initiation) the initiation of a partial interim review of the anti-dumping measures applicable to imports into the Community of fluorspar originating in the PRC pursuant to Article 11(3) of the basic Regulation.

(3) The review was initiated on the initiative of the Commission in order to examine the appropriateness of the form of the measures in force, currently an MIP, as it does not differentiate between sales made to related parties and sales made to unrelated parties, or between first sales and successive sales to the Community and it had become apparent that this could lead to enforcement problems. Consequently, the existing measures did not appear sufficient to counteract the dumping which is causing injury.

⁽¹⁾ OJ L 56, 6.3.1996, p. 1. Regulation as last amended by Regulation (EC) No 1972/2002 (OJ L 305, 7.11.2002, p. 1).

⁽²⁾ OJ L 241, 26.9.2000, p. 5.

⁽³⁾ OJ C 140, 13.6.2002, p. 16.

3. Investigation

(4) The Commission officially advised the importers, the users known to be concerned and their associations, the representatives of the exporting country concerned and the Community producers about the initiation of the proceeding. Interested parties were given the opportunity to make their views known in writing and to request a hearing within the time limit set out in the notice of initiation.

(5) An association of Community producers, a chamber of commerce in the PRC, eight users, one importer in the Community and one trader in the United States of America made their views known in writing. All parties which so requested within the time limit, and which demonstrated that there were particular reasons why they should be heard, were granted the opportunity to be heard.

(6) The Commission sought and verified all the information it deemed necessary for the purpose of a determination of the appropriateness of the measures in force.

B. FINDINGS OF THE INVESTIGATION AND TERMINATION OF THE PARTIAL INTERIM REVIEW

(7) The initiation of an interim review was motivated by the necessity to limit the risk of duty avoidance. Such duty avoidance can occur in different circumstances. When exporters, currently subject to the measures, export to the Community, they are in a position to invoice at a price above the MIP, and to subsequently compensate such a price after customs declaration by an agreement with the importers. This may render the MIP ineffective, as it may mean that the product concerned is effectively still exported below the MIP to the Community. Accordingly, this could lead to subsequent resale prices in the Community which prevent that the intended effects of the measure, i.e. to remove the injurious effects of dumping, are achieved. The substantial general risk of price manipulation when duties take the form of an MIP was highlighted by the findings of the European Court of Auditors in its 2000 Annual Report (recitals 1.31 and 1.35) ⁽⁴⁾. In order to address this problem, it was initially envisaged to replace the MIP by an *ad valorem* duty.

⁽⁴⁾ OJ C 359, 15.12.2001, p. 1.

- (8) Although in general an *ad valorem* duty is considered to be more appropriate to avoid the risk of price manipulation, it was found that, in the specific circumstances of the current case, the risk of price manipulation is very low, if not non-existent, since, over a sustained period of time, import prices have been well above the MIP. Therefore, exporters would not have any reason to manipulate prices in the way set out in recital 7. This was also confirmed by the comments from all interested parties which made their views known, including the Community industry, which all considered that the form of the measure should not be changed.
- (9) It is therefore concluded that, due to the particular and very specific circumstances of the present case, there are currently no reasons to change the form of the measure concerning imports of fluorspar originating in the PRC and the current partial interim review should be termi-

nated without any amendment to the anti-dumping measures imposed by Council Regulation (EC) No 2011/2000,

HAS ADOPTED THIS REGULATION:

Article 1

The partial interim review of the anti-dumping measures applicable to imports of fluorspar originating in the People's Republic of China, initiated pursuant to Article 11(3) of Regulation (EC) No 384/96, is hereby terminated without amending the anti-dumping duty in force.

Article 2

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

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

Done at Brussels, 24 November 2003.

For the Council
The President
G. MAGRI

COMMISSION REGULATION (EC) No 2071/2003
of 26 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 27 November 2003.

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

Done at Brussels, 26 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 26 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	70,3
	096	54,2
	204	42,8
	999	55,8
0707 00 05	052	52,3
	220	139,2
	628	139,2
	999	110,2
0709 90 70	052	104,2
	204	36,3
	999	70,3
0805 20 10	204	59,8
	999	59,8
0805 20 30, 0805 20 50, 0805 20 70, 0805 20 90	052	70,6
	388	48,7
	999	59,7
0805 50 10	052	74,3
	528	81,9
	600	81,7
	999	79,3
0808 10 20, 0808 10 50, 0808 10 90	060	40,8
	064	51,2
	388	87,1
	400	74,5
	404	92,8
	720	48,1
	800	158,9
999	79,1	
0808 20 50	052	61,4
	060	50,7
	064	60,8
	400	76,9
	720	48,4
	999	59,6

⁽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 2072/2003
of 26 November 2003**

**fixing the definitive rate of refund and the percentage of system B export licences to be issued in
the fruit and vegetables sector (tomatoes, oranges, lemons, table grapes and apples)**

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

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

Having regard to Commission Regulation (EC) No 1961/2001 of 8 October 2001 on detailed rules for implementing Council Regulation (EC) No 2200/96 as regards export refunds on fruit and vegetables ⁽³⁾, as amended by Regulation (EC) No 1176/2002 ⁽⁴⁾, and in particular Article 6(7) thereof,

Whereas:

- (1) Commission Regulation (EC) No 1482/2003 ⁽⁵⁾ fixed the indicative quantities for the issue of B system export licences.
- (2) In the light of information now available to the Commission, the indicative quantities have been exceeded in the case of lemons, table grapes and apples.

- (3) These overruns are without prejudice to compliance with the limits resulting from the agreements concluded in accordance with Article 300 of the Treaty. The definitive rate of refund for tomatoes, oranges, lemons, table grapes and apples covered by licences applied for under system B between 17 September and 14 November 2003 should be fixed at the indicative rate, and the percentage of licences to be issued for the quantities applied for should be laid down,

HAS ADOPTED THIS REGULATION:

Article 1

For applications for B system export licences submitted under Article 1 of Regulation (EC) No 1482/2003 between 17 September and 14 November 2003, the percentages of licences to be issued and the rates of refund applicable are fixed in the Annex hereto.

Article 2

This Regulation shall enter into force on 28 November 2003.

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

Done at Brussels, 26 November 2003.

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

⁽¹⁾ OJ L 297, 21.11.1996, p. 1.

⁽²⁾ OJ L 7, 11.1.2003, p. 64.

⁽³⁾ OJ L 268, 9.10.2001, p. 8.

⁽⁴⁾ OJ L 170, 29.6.2002, p. 69.

⁽⁵⁾ OJ L 212, 22.8.2003, p. 41.

ANNEX

Percentages for the issuing of licences and rates of refund applicable to system B licences applied for between 17 September and 14 November 2003 (tomatoes, oranges, lemons, table grapes and apples)

Product	Rate of refund (EUR/t net)	Percentages of licences to be issued for the quantities applied for
Tomatoes	25,0	100 %
Oranges	21,0	100 %
Lemons	21,0	100 %
Table grapes	18,0	100 %
Apples	17,0	100 %

COMMISSION REGULATION (EC) No 2073/2003
of 26 November 2003
determining the world market price for unginnged cotton

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Protocol 4 on cotton, annexed to the Act of Accession of Greece, as last amended by Council Regulation (EC) No 1050/2001 ⁽¹⁾,

Having regard to Council Regulation (EC) No 1051/2001 of 22 May 2001 on production aid for cotton ⁽²⁾, and in particular Article 4 thereof,

Whereas:

- (1) In accordance with Article 4 of Regulation (EC) No 1051/2001, a world market price for unginnged cotton is to be determined periodically from the price for ginned cotton recorded on the world market and by reference to the historical relationship between the price recorded for ginned cotton and that calculated for unginnged cotton. That historical relationship has been established in Article 2(2) of Commission Regulation (EC) No 1591/2001 of 2 August 2001 ⁽³⁾, as amended by Regulation (EC) No 1486/2002 ⁽⁴⁾. Where the world market price cannot be determined in this way, it is to be based on the most recent price determined.
- (2) In accordance with Article 5 of Regulation (EC) No 1051/2001, the world market price for unginnged cotton is to be determined in respect of a product of specific characteristics and by reference to the most favourable

offers and quotations on the world market among those considered representative of the real market trend. To that end, an average is to be calculated of offers and quotations recorded on one or more European exchanges for a product delivered cif to a port in the Community and coming from the various supplier countries considered the most representative in terms of international trade. However, there is provision for adjusting the criteria for determining the world market price for ginned cotton to reflect differences justified by the quality of the product delivered and the offers and quotations concerned. Those adjustments are specified in Article 3(2) of Regulation (EC) No 1591/2001.

- (3) The application of the above criteria gives the world market price for unginnged cotton determined hereinafter,

HAS ADOPTED THIS REGULATION:

Article 1

The world price for unginnged cotton as referred to in Article 4 of Regulation (EC) No 1051/2001 is hereby determined as equalling EUR 32,712/100 kg.

Article 2

This Regulation shall enter into force on 27 November 2003.

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

Done at Brussels, 26 November 2003.

For the Commission

J. M. SILVA RODRÍGUEZ

Agriculture Director-General

⁽¹⁾ OJ L 148, 1.6.2001, p. 1.

⁽²⁾ OJ L 148, 1.6.2001, p. 3.

⁽³⁾ OJ L 210, 3.8.2001, p. 10.

⁽⁴⁾ OJ L 223, 20.8.2002, p. 3.

COMMISSION REGULATION (EC) No 2074/2003
of 26 November 2003
fixing the import duties in the rice sector

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 1503/96 of 29 July 1996 laying down detailed rules for the application of Council Regulation (EC) No 3072/95 as regards import duties in the rice sector ⁽³⁾, as last amended by Regulation (EC) No 1298/2002 ⁽⁴⁾, and in particular Article 4(1) thereof,

Whereas:

- (1) Article 11 of Regulation (EC) No 3072/95 provides that the rates of duty in the Common Customs Tariff are to be charged on import of the products referred to in Article 1 of that Regulation. However, in the case of the products referred to in paragraph 2 of that Article, the import duty is to be equal to the intervention price valid for such products on importation and increased by a certain percentage according to whether it is husked or milled rice, minus the cif import price provided that duty does not exceed the rate of the Common Customs Tariff duties.
- (2) Pursuant to Article 12(3) of Regulation (EC) No 3072/95, the cif import prices are calculated on the basis of the representative prices for the product in question on the world market or on the Community import market for the product.
- (3) Regulation (EC) No 1503/96 lays down detailed rules for the application of Regulation (EC) No 3072/95 as regards import duties in the rice sector.

- (4) The import duties are applicable until new duties are fixed and enter into force. They also remain in force in cases where no quotation is available from the source referred to in Article 5 of Regulation (EC) No 1503/96 during the two weeks preceding the next periodical fixing.
- (5) In order to allow the import duty system to function normally, the market rates recorded during a reference period should be used for calculating the duties.
- (6) Application of the second subparagraph of Article 4(1) of Regulation (EC) No 1503/96 results in an adjustment of the import duties that have been fixed as from 15 May 2003 by Commission Regulation (EC) No 832/2003 ⁽⁵⁾ as set out in the Annexes to this Regulation,

HAS ADOPTED THIS REGULATION:

Article 1

The import duties in the rice sector referred to in Article 11(1) and (2) of Regulation (EC) No 3072/95 shall be adjusted in compliance with Article 4 of Regulation (EC) No 1503/96 and fixed in Annex I to this Regulation on the basis of the information given in Annex II.

Article 2

This Regulation shall enter into force on 27 November 2003.

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

Done at Brussels, 26 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, 30.7.1996, p. 71.

⁽⁴⁾ OJ L 189, 18.7.2002, p. 8.

⁽⁵⁾ OJ L 120, 15.5.2003, p. 15.

ANNEX I

Import duties on rice and broken rice

(EUR/t)

CN code	Duties ⁽⁵⁾				
	Third countries (except ACP and Bangla- desh) ⁽⁷⁾	ACP ⁽¹⁾ ⁽²⁾ ⁽³⁾	Bangladesh ⁽⁴⁾	Basmati India and Pakistan ⁽⁶⁾	Egypt ⁽⁸⁾
1006 10 21	(7)	69,51	101,16		158,25
1006 10 23	(7)	69,51	101,16		158,25
1006 10 25	(7)	69,51	101,16		158,25
1006 10 27	(7)	69,51	101,16		158,25
1006 10 92	(7)	69,51	101,16		158,25
1006 10 94	(7)	69,51	101,16		158,25
1006 10 96	(7)	69,51	101,16		158,25
1006 10 98	(7)	69,51	101,16		158,25
1006 20 11	176,32	57,37	83,82		132,24
1006 20 13	176,32	57,37	83,82		132,24
1006 20 15	176,32	57,37	83,82		132,24
1006 20 17	264,00	88,06	127,66	14,00	198,00
1006 20 92	176,32	57,37	83,82		132,24
1006 20 94	176,32	57,37	83,82		132,24
1006 20 96	176,32	57,37	83,82		132,24
1006 20 98	264,00	88,06	127,66	14,00	198,00
1006 30 21	358,88	113,22	164,53		269,16
1006 30 23	358,88	113,22	164,53		269,16
1006 30 25	358,88	113,22	164,53		269,16
1006 30 27	(7)	133,21	193,09		312,00
1006 30 42	358,88	113,22	164,53		269,16
1006 30 44	358,88	113,22	164,53		269,16
1006 30 46	358,88	113,22	164,53		269,16
1006 30 48	(7)	133,21	193,09		312,00
1006 30 61	358,88	113,22	164,53		269,16
1006 30 63	358,88	113,22	164,53		269,16
1006 30 65	358,88	113,22	164,53		269,16
1006 30 67	(7)	133,21	193,09		312,00
1006 30 92	358,88	113,22	164,53		269,16
1006 30 94	358,88	113,22	164,53		269,16
1006 30 96	358,88	113,22	164,53		269,16
1006 30 98	(7)	133,21	193,09		312,00
1006 40 00	(7)	41,18	(7)		96,00

⁽¹⁾ The duty on imports of rice originating in the ACP States is applicable, under the arrangements laid down in Council Regulation (EC) No 2286/2002 (OJ L 348, 21.12.2002, p. 5) and amended Commission Regulation (EC) No 638/2003 (OJ L 93, 10.4.2003, p. 3).

⁽²⁾ In accordance with Regulation (EC) No 1706/98, the duties are not applied to products originating in the African, Caribbean and Pacific States and imported directly into the overseas department of Réunion.

⁽³⁾ The import levy on rice entering the overseas department of Réunion is specified in Article 11(3) of Regulation (EC) No 3072/95.

⁽⁴⁾ The duty on imports of rice not including broken rice (CN code 1006 40 00), originating in Bangladesh is applicable under the arrangements laid down in Council Regulation (EEC) No 3491/90 (OJ L 337, 4.12.1990, p. 1) and amended Commission Regulation (EEC) No 862/91 (OJ L 88, 9.4.1991, p. 7).

⁽⁵⁾ No import duty applies to products originating in the OCT pursuant to Article 101(1) of amended Council Decision 91/482/EEC (OJ L 263, 19.9.1991, p. 1).

⁽⁶⁾ For husked rice of the Basmati variety originating in India and Pakistan, a reduction of EUR/t 250 applies (Article 4a of amended Regulation (EC) No 1503/96).

⁽⁷⁾ Duties fixed in the Common Customs Tariff.

⁽⁸⁾ The duty on imports of rice originating in and coming from Egypt is applicable under the arrangements laid down in Council Regulation (EC) No 2184/96 (OJ L 292, 15.11.1996, p. 1) and Commission Regulation (EC) No 196/97 (OJ L 31, 1.2.1997, p. 53).

ANNEX II

Calculation of import duties for rice

	Paddy	Indica rice		Japonica rice		Broken rice
		Husked	Milled	Husked	Milled	
1. Import duty (EUR/tonne)	(¹)	264,00	416,00	176,32	358,88	(¹)
2. Elements of calculation:						
(a) Arag cif price (EUR/tonne)	—	269,38	195,23	384,58	437,71	—
(b) fob price (EUR/tonne)	—	—	—	359,08	412,21	—
(c) Sea freight (EUR/tonne)	—	—	—	25,50	25,50	—
(d) Source	—	USDA and operators	USDA and operators	Operators	Operators	—

(¹) Duties fixed in the Common Customs Tariff.

COMMISSION REGULATION (EC) No 2075/2003
of 26 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 4 000 tonnes for all the destinations 064 and 066 defined in the Annex to that Regulation.

- (2) For all the destinations 064 and 066, quantities applied for on 25 November 2003 are in excess of the available quantity. A percentage reduction should therefore be fixed for export licence applications submitted on 25 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 all the destinations 064 and 066 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 25 November 2003 shall give rise to the issue of licences for the quantities applied for to which a percentage reduction of 77,39 % has been applied.

Article 2

For all the destinations 064 and 066 defined in the Annex to Regulation (EC) No 1961/2003, applications for export licences for rice and broken rice submitted from 26 November 2003 shall not give rise to the issue of export licences under that Regulation.

Article 3

This Regulation shall enter into force on 27 November 2003.

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

Done at Brussels, 26 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 DIRECTIVE 2003/111/EC
of 26 November 2003
amending Annex II to Directive 92/34/EEC on the marketing of fruit plant propagating material
and fruit plants intended for fruit production
(Text with EEA relevance)

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Council Directive 92/34/EEC of 28 April 1992 on the marketing of fruit plant propagating material and fruit plants intended for fruit production⁽¹⁾, and in particular Article 1(3) thereof,

Whereas:

- (1) Directive 92/34/EEC establishes Community provisions for the marketing of fruit plant propagating material and fruit plants intended for fruit production within the Community. It applies to the genera and species listed in Annex II to that Directive.
- (2) Certain fruit genera and species which are not currently included in Annex II to Directive 92/34/EEC have increased in economical importance. Accordingly, it is appropriate that they be now included in the genera and species listed in Annex II to that Directive. The following genera and species should be included: *Castanea sativa* Mill., *Ficus carica* L., *Fortunella* Swingle, *Poncirus* Raf. and *Vaccinium* L. In addition, the *Citrus* species, the *Fragaria* species, the *Pyrus* species, the *Ribes* species, and the *Rubus* species should be added to *Citrus sinensis* (L.) Osbeck, *C. limon* (L) Burm. f., *C. reticulata* Blanco, *C. paradisi* Macf., *C. aurantifolia* (Christm.) Swing, *Fragaria x ananassa* Duch. (strawberry), *Pyrus communis* L., *Ribes* (redcurrant) and *Rubus* (blackberry), and *Cydonia* Mill. should be replaced by *Cydonia oblonga* Mill.
- (3) In the interests of clarity, the list in Annex II to Directive 92/34/EEC should be replaced by a new list including all the genera and species in alphabetical order with their botanical name.
- (4) Directive 92/34/EEC should therefore be amended accordingly.
- (5) The measures provided for in this Directive are in accordance with the opinion of the Standing Committee on Propagating Material and Plant of Fruit Genera and Species,

HAS ADOPTED THIS DIRECTIVE:

Article 1

Annex II to Directive 92/34/EEC is replaced by the text in the Annex to this Directive.

Article 2

1. Member States shall bring into force the laws, regulations and administrative provisions necessary to comply with this Directive by 31 October 2004 at the latest. They shall forthwith communicate to the Commission the text of those provisions and a correlation table between those provisions and this Directive.

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

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

Article 3

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

Article 4

This Directive is addressed to the Member States.

Done at Brussels, 26 November 2003.

For the Commission

David BYRNE

Member of the Commission

⁽¹⁾ OJ L 157, 10.6.1992, p. 10. Directive as last amended by Directive 2003/61/EC (OJ L 165, 3.7.2003, p. 23).

ANNEX

'ANNEX II

LIST OF GENERA AND SPECIES TO WHICH THIS DIRECTIVE APPLIES

<i>Castanea sativa</i> Mill.	<i>Prunus amygdalus</i> Batsch
<i>Citrus</i> L.	<i>Prunus armeniaca</i> L.
<i>Corylus avellana</i> L.	<i>Prunus avium</i> (L.) L.
<i>Cydonia oblonga</i> Mill.	<i>Prunus cerasus</i> L.
<i>Ficus carica</i> L.	<i>Prunus domestica</i> L.
<i>Fortunella</i> Swingle	<i>Prunus persica</i> (L.) Batsch
<i>Fragaria</i> L.	<i>Prunus salicina</i> Lindley
<i>Juglans regia</i> L.	<i>Pyrus</i> L.
<i>Malus</i> Mill.	<i>Ribes</i> L.
<i>Olea europaea</i> L.	<i>Rubus</i> L.
<i>Pistacia vera</i> L.	<i>Vaccinium</i> L.'
<i>Poncirus</i> Raf.	

II

(Acts whose publication is not obligatory)

COUNCIL

**DECISION No 1/2003 OF THE EU-TUNISIA ASSOCIATION COUNCIL
of 30 September 2003
setting up subcommittees of the Association Committee**

(2003/823/EC)

THE EU-TUNISIA ASSOCIATION COUNCIL,

Having regard to the Euro-Mediterranean Agreement establishing an Association between the European Communities and their Member States, of the one part, and the Republic of Tunisia, of the other part,

Whereas:

- (1) A free trade area is to be established between the EU and Tunisia by 28 February 2010.
- (2) The EU's relations with the southern Mediterranean countries are becoming increasingly complex as a result of the implementation of the Euro-Mediterranean agreements and the continuation of the Euro-Mediterranean partnership.
- (3) Subcommittees of the Association Committees of the other associated countries have been set up in order to monitor the implementation of the partnership priorities and the approximation of legislation.
- (4) There is a need to integrate the environment in sectoral policies, the objective being sustainable development.
- (5) Article 84 of the Agreement provides for the setting up of the working groups or bodies necessary for the implementation of the Agreement,

HAS DECIDED AS FOLLOWS:

Sole Article

The subcommittees of the EU-Tunisia Association Committee listed in Annex 1 are hereby set up and the rules of procedure of those subcommittees in Annex 2 hereby adopted.

The subcommittees shall work under the authority of the Association Committee, to which they shall report after each of their meetings. The subcommittees shall have no decision-making power.

The Association Committee shall take any other action needed to ensure that they operate properly and inform the Association Council accordingly.

The Association Council may decide to set up further subcommittees or groups or to abolish existing subcommittees or groups.

This Decision shall enter into force on the day of its adoption.

Done at Brussels, 30 September 2003.

For the Association Council

H. BEN YAHIA

ANNEX 1

**EU-TUNISIA ASSOCIATION AGREEMENT
SUBCOMMITTEES ATTACHED TO THE ASSOCIATION COMMITTEE**

1. Internal market
2. Industry, trade and services
3. Transport, environment and energy
4. Research and innovation
5. Agriculture and fisheries
6. Justice and security

These subcommittees are additional to those directly set up by the Association Agreement in the fields of social and cultural affairs, customs cooperation and economic and monetary questions.

In view of their importance as an essential element of the Association Agreement, issues relating to democratic principles and human rights will be afforded due attention in the various forums set up under the Agreement. Should the parties so decide in the context of reinforcing their cooperation, these issues may also be discussed within a subcommittee of the Association Committee or within a specific Working Party.

ANNEX 2

Rules of procedure**EU-Tunisia Subcommittee No 1****Internal market****1. Composition and chair**

The subcommittee shall be composed of representatives of the European Community and its Member States and representatives of the Government of Tunisia and shall be chaired alternately by the two parties.

2. Role

The subcommittee shall work under the authority of the Association Committee, to which it shall report after each meeting. The subcommittee shall have no decision-making power. It may, however, submit proposals to the Association Committee.

3. Subject matter

The subcommittee shall discuss the implementation of the Association Agreement in the areas listed below. In particular, it shall assess progress as regards law approximation, implementation and enforcement. Where relevant, cooperation in public administration matters shall be discussed. The subcommittee shall examine any problems that may arise in the sectors listed below and shall suggest possible steps to be undertaken:

- (a) technical regulation, metrology, accreditation, standardisation, certification, conformity assessment and market surveillance;
- (b) competition and State aid;
- (c) intellectual, industrial and commercial property rights;
- (d) public procurement.

The above list is not exhaustive and other subjects, including horizontal matters, e.g. statistics, may be added by the Association Committee.

A subcommittee meeting may deal with matters relating to one, several or all of the above sectors.

4. Secretariat

An official of the European Commission and an official of the Government of Tunisia shall act jointly as permanent secretaries of the subcommittee.

All communications concerning the subcommittee shall be forwarded to the secretaries.

5. Meetings

The subcommittee shall meet whenever circumstances require. A meeting may be convened at the request of either party, channelled through its secretary, who will pass the request on to the other party. Upon receipt of a request for a subcommittee meeting, the secretary of the other party shall reply within 15 working days.

In cases of particular urgency, the subcommittee may be convened at shorter notice subject to the agreement of both parties. All requests to convene meetings should be in writing.

Each meeting of the subcommittee shall be held at a time and place agreed by both parties.

The meetings shall be convened for each party by its secretary, in agreement with the chair. Before each meeting, the chair will be informed of the intended composition of the delegation of each party.

If both parties agree, the subcommittee may invite experts to its meetings to provide specific information.

6. Agenda of the meetings

All requests for items to be included in the subcommittee agenda shall be forwarded to the secretaries of the subcommittee.

A provisional agenda will be drawn up by the chair for each meeting. It shall be forwarded by the secretary of the subcommittee to the other party not later than 10 days before the beginning of the meeting.

The provisional agenda shall include the items in respect of which the secretaries have received a request for inclusion in the agenda no later than 15 days before the beginning of the meeting. Supporting documentation must be received by both parties at least seven days ahead of the meeting. To take account of particular and/or urgent matters, these time limits may be shortened provided both parties agree.

The agenda shall be adopted by the subcommittee at the beginning of each meeting.

7. Minutes

Minutes shall be taken and agreed by both secretaries after each meeting. The secretaries of the subcommittee shall forward to the secretaries and chair of the Association Committee a copy of the minutes, including the subcommittee's proposals.

8. Publicity

Unless otherwise decided, the meetings of the subcommittee shall not be public.

Rules of procedure

EU-Tunisia Subcommittee No 2

Industry, trade and services

1. Composition and chair

The subcommittee shall be composed of representatives of the European Community and its Member States and representatives of the Government of Tunisia and shall be chaired alternately by the two parties.

2. Role

The subcommittee shall work under the authority of the Association Committee, to which it shall report after each meeting. The subcommittee shall have no decision-making power. It may, however, submit proposals to the Association Committee.

3. Subject matter

The subcommittee shall discuss the implementation of the Association Agreement in the areas listed below. In particular, it shall assess progress as regards law approximation, implementation and enforcement. Where relevant, cooperation in public administration matters shall be discussed. The subcommittee shall examine any problems that may arise in the sectors listed below and shall suggest possible steps to be undertaken:

- (a) industrial cooperation, including the administrative, regulatory and financial framework for investment and the development of SMEs, industrial modernisation and innovation policy;
- (b) trade issues;
- (c) services, including financial (banking, insurance, investment) and postal services;
- (d) tourism;
- (e) right of establishment;
- (f) data protection.

The above list is not exhaustive and other subjects, including horizontal matters, e.g. statistics, may be added by the Association Committee.

A subcommittee meeting may deal with matters relating to one, several or all of the above sectors.

4. Secretariat

An official of the European Commission and an official of the Government of Tunisia shall act jointly as permanent secretaries of the subcommittee.

All communications concerning the subcommittee shall be forwarded to the secretaries.

5. Meetings

The subcommittee shall meet whenever circumstances require. A meeting may be convened at the request of either party, channelled through its secretary, who will pass the request on to the other party. Upon receipt of a request for a subcommittee meeting, the secretary of the other party shall reply within 15 working days.

In cases of particular urgency, the subcommittee may be convened at shorter notice subject to the agreement of both parties. All requests to convene meetings should be in writing.

Each meeting of the subcommittee shall be held at a time and place agreed by both parties.

The meetings shall be convened for each party by its secretary, in agreement with the chair. Before each meeting, the chair will be informed of the intended composition of the delegation of each party.

If both parties agree, the subcommittee may invite experts to its meetings to provide specific information.

6. Agenda of the meetings

All requests for items to be included in the subcommittee agenda shall be forwarded to the secretaries of the subcommittee.

A provisional agenda will be drawn up by the chair for each meeting. It shall be forwarded by the secretary of the subcommittee to the other party not later than 10 days before the beginning of the meeting.

The provisional agenda shall include the items in respect of which the secretaries have received a request for inclusion in the agenda no later than 15 days before the beginning of the meeting. Supporting documentation must be received by both parties at least seven days ahead of the meeting. To take account of particular and/or urgent matters, these time limits may be shortened provided both parties agree.

The agenda shall be adopted by the subcommittee at the beginning of each meeting.

7. Minutes

Minutes shall be taken and agreed by both secretaries after each meeting. The secretaries of the subcommittee shall forward to the secretaries and chair of the Association Committee a copy of the minutes, including the subcommittee's proposals.

8. Publicity

Unless otherwise decided, the meetings of the subcommittee shall not be public.

Rules of procedure

EU-Tunisia Subcommittee No 3

Transport, environment and energy

1. Composition and chair

The subcommittee shall be composed of representatives of the European Community and its Member States and representatives of the Government of Tunisia and shall be chaired alternately by the two parties.

2. Role

The subcommittee shall work under the authority of the Association Committee, to which it shall report after each meeting. The subcommittee shall have no decision-making power. It may, however, submit proposals to the Association Committee.

3. Subject matter

The subcommittee shall discuss the implementation of the Association Agreement in the areas listed below. In particular, it shall assess progress as regards law approximation, implementation and enforcement and the integration of environment policy in all areas of the Association Agreement. In order to do so, the subcommittee will, insofar as it is possible, foster regular working relationships with other subcommittees. Where relevant, cooperation in public administration matters shall be discussed. The subcommittee shall examine any problems that may arise in the sectors listed below and shall suggest possible steps to be undertaken:

- (a) transport: including the modernisation and development of infrastructure (in particular interconnection), the opening-up of markets, security and safety in maritime and air transport, control and management of ports and airports, improvements to the multimodal system and the strengthening of regional cooperation;
- (b) environment: including building environmental protection capacity in the priority areas specified in the Short- and Medium-Term Priority Environmental Action Programme (SMAP) and integration of the environment dimension in the priority sectors of the Euro-Mediterranean Partnership with a view to sustainable development;
- (c) energy: including the modernisation and development of infrastructure (in particular interconnection), the opening-up of markets, the integration of the Maghreb's electricity market, reforms and the establishment of regulatory bodies, security and safety of energy infrastructure, demand management, promotion of renewable energies, research and cooperation on data exchange.

The above list is not exhaustive and other subjects, including horizontal matters, e.g. statistics, may be added by the Association Committee.

A subcommittee meeting may deal with matters relating to one, several or all of the above sectors.

4. Secretariat

An official of the European Commission and an official of the Government of Tunisia shall act jointly as permanent secretaries of the subcommittee.

All communications concerning the subcommittee shall be forwarded to the secretaries.

5. Meetings

The subcommittee shall meet whenever circumstances require. A meeting may be convened at the request of either party, channelled through its secretary, who will pass the request on to the other party. Upon receipt of a request for a subcommittee meeting, the secretary of the other party shall reply within 15 working days.

In cases of particular urgency, the subcommittee may be convened at shorter notice subject to the agreement of both parties. All requests to convene meetings should be in writing.

Each meeting of the subcommittee shall be held at a time and place agreed by both parties.

The meetings shall be convened for each party by its secretary, in agreement with the chair. Before each meeting, the chair will be informed of the intended composition of the delegation of each party.

If both parties agree, the subcommittee may invite experts to its meetings to provide specific information.

6. Agenda of the meetings

All requests for items to be included in the subcommittee agenda shall be forwarded to the secretaries of the subcommittee.

A provisional agenda will be drawn up by the chair for each meeting. It shall be forwarded by the secretary of the subcommittee to the other party not later than 10 days before the beginning of the meeting.

The provisional agenda shall include the items in respect of which the secretaries have received a request for inclusion in the agenda no later than 15 days before the beginning of the meeting. Supporting documentation must be received by both parties at least seven days ahead of the meeting. To take account of particular and/or urgent matters, these time limits may be shortened provided both parties agree.

The agenda shall be adopted by the subcommittee at the beginning of each meeting.

7. Minutes

Minutes shall be taken and agreed by both secretaries after each meeting. The secretaries of the subcommittee shall forward to the secretaries and chair of the Association Committee a copy of the minutes, including the subcommittee's proposals.

8. Publicity

Unless otherwise decided, the meetings of the subcommittee shall not be public.

Rules of procedure

EU-Tunisia Subcommittee No 4

Research and innovation

1. Composition and chair

The subcommittee shall be composed of representatives of the European Community and its Member States and representatives of the Government of Tunisia and shall be chaired alternately by the two parties.

2. Role

The subcommittee shall work under the authority of the Association Committee, to which it shall report after each meeting. The subcommittee shall have no decision-making power. It may, however, submit proposals to the Association Committee.

3. Subject matter

The subcommittee shall discuss the implementation of the Association Agreement in the areas listed below. In particular, it shall assess progress as regards law approximation, implementation and enforcement. Where relevant, cooperation in public administration matters shall be discussed. The subcommittee shall examine any problems that may arise in the sectors listed below and shall suggest possible steps to be undertaken:

- (a) development of Tunisia's material and institutional capacities in the matter of science and technology, including the use of the results of scientific and technological research by the countries' industries and SMEs;
- (b) innovation, the dissemination of knowledge and technology transfer;
- (c) electronic communication networks and services;
- (d) information technologies;
- (e) vocational training, education and young people;
- (f) cultural cooperation and audio-visual policy.

The above list is not exhaustive and other subjects, including horizontal matters, e.g. statistics, may be added by the Association Committee.

A subcommittee meeting may deal with matters relating to one, several or all of the above sectors.

4. Secretariat

An official of the European Commission and an official of the Government of Tunisia shall act jointly as permanent secretaries of the subcommittee.

All communications concerning the subcommittee shall be forwarded to the secretaries.

5. Meetings

The subcommittee shall meet whenever circumstances require. A meeting may be convened at the request of either party, channelled through its secretary, who will pass the request on to the other party. Upon receipt of a request for a subcommittee meeting, the secretary of the other party shall reply within 15 working days.

In cases of particular urgency, the subcommittee may be convened at shorter notice subject to the agreement of both parties. All requests to convene meetings should be in writing.

Each meeting of the subcommittee shall be held at a time and place agreed by both parties.

The meetings shall be convened for each party by its secretary, in agreement with the chair. Before each meeting, the chair will be informed of the intended composition of the delegation of each party.

If both parties agree, the subcommittee may invite experts to its meetings to provide specific information.

6. Agenda of the meetings

All requests for items to be included in the subcommittee agenda shall be forwarded to the secretaries of the subcommittee.

A provisional agenda will be drawn up by the chair for each meeting. It shall be forwarded by the secretary of the subcommittee to the other party not later than 10 days before the beginning of the meeting.

The provisional agenda shall include the items in respect of which the secretaries have received a request for inclusion in the agenda no later than 15 days before the beginning of the meeting. Supporting documentation must be received by both parties at least seven days ahead of the meeting. To take account of particular and/or urgent matters, these time limits may be shortened provided both parties agree.

The agenda shall be adopted by the subcommittee at the beginning of each meeting.

7. Minutes

Minutes shall be taken and agreed by both secretaries after each meeting. The secretaries of the subcommittee shall forward to the secretaries and chair of the Association Committee a copy of the minutes, including the subcommittee's proposals.

8. Publicity

Unless otherwise decided, the meetings of the subcommittee shall not be public.

Rules of procedure

EU-Tunisia Subcommittee No 5

Agriculture and fisheries

1. Composition and chair

The subcommittee shall be composed of representatives of the European Community and its Member States and representatives of the Government of Tunisia and shall be chaired alternately by the two parties.

2. Role

The subcommittee shall work under the authority of the Association Committee, to which it shall report after each meeting. The subcommittee shall have no decision-making power. It may, however, submit proposals to the Association Committee.

3. Subject matter

The subcommittee shall discuss the implementation of the Association Agreement in the areas listed below. In particular, it shall assess progress as regards law approximation, implementation and enforcement. Where relevant, cooperation in public administration matters shall be discussed. The subcommittee shall examine any problems that may arise in the sectors listed below and shall suggest possible steps to be undertaken:

- (a) agricultural and fisheries products;
- (b) agricultural cooperation and rural development;
- (c) processed agricultural products;
- (d) veterinary and phytosanitary matters;
- (e) Legislation applicable to trade.

The above list is not exhaustive and other subjects, including horizontal matters, e.g. statistics, may be added by the Association Committee.

A subcommittee meeting may deal with matters relating to one, several or all of the above sectors.

4. Secretariat

An official of the European Commission and an official of the Government of Tunisia shall act jointly as permanent secretaries of the subcommittee.

All communications concerning the subcommittee shall be forwarded to the secretaries.

5. Meetings

The subcommittee shall meet whenever circumstances require. A meeting may be convened at the request of either party, channelled through its secretary, who will pass the request on to the other party. Upon receipt of a request for a subcommittee meeting, the secretary of the other party shall reply within 15 working days.

In cases of particular urgency, the subcommittee may be convened at shorter notice subject to the agreement of both parties. All requests to convene meetings should be in writing.

Each meeting of the subcommittee shall be held at a time and place agreed by both parties.

The meetings shall be convened for each party by its secretary, in agreement with the chair. Before each meeting, the chair will be informed of the intended composition of the delegation of each party.

If both parties agree, the subcommittee may invite experts to its meetings to provide specific information.

6. Agenda of the meetings

All requests for items to be included in the subcommittee agenda shall be forwarded to the secretaries of the subcommittee.

A provisional agenda will be drawn up by the chair for each meeting. It shall be forwarded by the secretary of the subcommittee to the other party not later than 10 days before the beginning of the meeting.

The provisional agenda shall include the items in respect of which the secretaries have received a request for inclusion in the agenda no later than 15 days before the beginning of the meeting. Supporting documentation must be received by both parties at least seven days ahead of the meeting. To take account of particular and/or urgent matters, these time limits may be shortened provided both parties agree.

The agenda shall be adopted by the subcommittee at the beginning of each meeting.

7. Minutes

Minutes shall be taken and agreed by both secretaries after each meeting. The secretaries of the subcommittee shall forward to the secretaries and chair of the Association Committee a copy of the minutes, including the subcommittee's proposals.

8. Publicity

Unless otherwise decided, the meetings of the subcommittee shall not be public.

Rules of procedure

EU-Tunisia Subcommittee No 6

Justice and security

1. Composition and chair

The subcommittee shall be composed of representatives of the European Community and its Member States and representatives of the Government of Tunisia and shall be chaired alternately by the two parties.

2. Role

The subcommittee shall work under the authority of the Association Committee, to which it shall report after each meeting. The subcommittee shall have no decision-making power. It may, however, submit proposals to the Association Committee.

3. Subject matter

The subcommittee shall discuss the implementation of the Association Agreement in the areas listed below. In particular, it shall assess progress as regards law approximation, implementation and enforcement. Where relevant, cooperation in public administration matters shall be discussed. The subcommittee shall examine any problems that may arise in the sectors listed below and shall suggest possible steps to be undertaken:

- (a) cooperation on justice;
- (b) drugs;
- (c) judicial cooperation in civil and criminal matters;
- (d) cooperation on combating organised crime, including trafficking in human beings, terrorism, corruption and money-laundering.

The above list is not exhaustive and other subjects, including horizontal matters, e.g. statistics, may be added by the Association Committee, particularly as regards implementation of the regional programme.

A subcommittee meeting may deal with matters relating to one, several or all of the above sectors.

4. Secretariat

An official of the European Commission and an official of the Government of Tunisia shall act jointly as permanent secretaries of the subcommittee.

All communications concerning the subcommittee shall be forwarded to the secretaries.

5. Meetings

The subcommittee shall meet whenever circumstances require. A meeting may be convened at the request of either party, channelled through its secretary, who will pass the request on to the other party. Upon receipt of a request for a subcommittee meeting, the secretary of the other party shall reply within 15 working days.

In cases of particular urgency, the subcommittee may be convened at shorter notice subject to the agreement of both parties. All requests to convene meetings should be in writing.

Each meeting of the subcommittee shall be held at a time and place agreed by both parties.

The meetings shall be convened for each party by its secretary, in agreement with the chair. Before each meeting, the chair will be informed of the intended composition of the delegation of each party.

If both parties agree, the subcommittee may invite experts to its meetings to provide specific information.

6. Agenda of the meetings

All requests for items to be included in the subcommittee agenda shall be forwarded to the secretaries of the subcommittee.

A provisional agenda will be drawn up by the chair for each meeting. It shall be forwarded by the secretary of the subcommittee to the other party not later than 10 days before the beginning of the meeting.

The provisional agenda shall include the items in respect of which the secretaries have received a request for inclusion in the agenda no later than 15 days before the beginning of the meeting. Supporting documentation must be received by both parties at least seven days ahead of the meeting. To take account of particular and/or urgent matters, these time limits may be shortened provided both parties agree.

The agenda shall be adopted by the subcommittee at the beginning of each meeting.

7. Minutes

Minutes shall be taken and agreed by both secretaries after each meeting. The secretaries of the subcommittee shall forward to the secretaries and chair of the Association Committee a copy of the minutes, including the subcommittee's proposals.

8. Publicity

Unless otherwise decided, the meetings of the subcommittee shall not be public.

DECISION No 4/2002 OF THE EC-MEXICO JOINT COUNCIL
of 6 November 2003
adopting rules of procedure of the EC-Mexico special committees

(2003/824/EC)

THE JOINT COUNCIL,

Having regard to the Economic Partnership, Political Coordination and Cooperation Agreement between the European Community and its Member States, of the one part, and the United Mexican States, of the other part, signed in Brussels on 8 December 1997, hereinafter referred to as the 'Agreement', and in particular Article 49 thereof,

Whereas:

- (1) By Decision No 2/2000, adopted on 23 March 2000, the EC-Mexico Joint Council set up a special committee on customs cooperation and rules of origin, a special committee on standards and technical regulations, a special committee on sanitary and phytosanitary measures, a special committee on steel products, a special committee on government procurement and a special committee on intellectual property matters.

In addition, by Decision No 2/2001, adopted on 27 February 2001, the EC-Mexico Joint Council set up a Special Committee on Financial Services.

- (2) In accordance with Article 49 of the Agreement, the EC-Mexico Joint Council is to determine in its rules of procedure how the special committees are to function,

HAS DECIDED AS FOLLOWS:

Article 1

The rules of procedure of the EC-Mexico special committees are hereby established as set out in the Annex to this Decision, which shall become an Appendix to the rules of procedure of the EC-Mexico Joint Council annexed to Decision No 1/2001 of the EC-Mexico Joint Council ⁽¹⁾.

Article 2

This Decision shall enter into force on 6 November 2003

Done at Brussels, 6 November 2003.

For the Joint Council

The President

L. E. DERBEZ

⁽¹⁾ OJ L 70, 12.3.2001, p. 1.

ANNEX

'Appendix

RULES OF PROCEDURE OF THE EC-MEXICO SPECIAL COMMITTEES

Article 1

Presidency

Every meeting of the EC-Mexico special committees (hereinafter referred to as "special committees") shall be presided alternately by a representative of the Commission of the European Communities and by a representative of the Mexican Government, normally at senior civil servant level.

Article 2

Meetings

The special committees shall meet in accordance with the respective Articles of Decision No 2/2000 of the EC-Mexico Joint Council of 23 March 2000 and Decision No 2/2001 of the EC-Mexico Joint Council of 27 February 2001 implementing Articles 6, 9 12(2)(b) and 50 of the Economic Partnership, Political Coordination and Cooperation Agreement, which set up each of them.

Article 3

Delegations

Before each meeting, the chairman of the special committees shall be informed of the intended composition and the head of the delegation of each party.

Article 4

Secretariat

1. An official of the Commission of the European Communities, of the one part, and an official of the Government of Mexico, of the other part, shall act jointly as secretaries of the special committees.

2. All correspondence to and from the chairman of the special committees provided for in these rules of procedure shall be forwarded to the secretaries of the special committees and to the Secretaries and the chairman of the EC-Mexico Joint Committee and, where appropriate, to the members of the EC-Mexico Joint Committee.

Article 5

Documents

When the deliberations of the special committees are based on written supporting documents, such documents shall be numbered and circulated as documents of the special committee by the two secretaries.

Article 6

Publicity

Unless otherwise decided, the meetings of the special committees shall not be public.

*Article 7***Agendas for meetings**

1. A provisional agenda for each meeting shall be drawn up by the secretaries of the special committees no later than 30 days before the meeting, together with the supporting documentation. The agenda shall be forwarded to the chairman, secretaries and members of the EC-Mexico Joint Committee not later than 15 days before the beginning of the meeting.

The agenda shall be adopted by the special committees at the beginning of each meeting. Items not on the provisional agenda may be added with the agreement of both parties.

2. With the agreement of the parties, the time limits specified in paragraph 1 may be shortened in order to take account of the requirements of a particular case.

*Article 8***Minutes**

Minutes shall be taken for each meeting in accordance with the following procedure, and shall be based on a summing up by the chairman of the conclusions arrived at by the special committees:

- (a) the parties will draft and agree on a first version of the minutes directly after the special committee meeting;
- (b) the parties will then have 20 working days to circulate the minutes internally and compare the versions cleared internally;
- (c) upon adoption by the special committees, the minutes shall be signed by the chairman and by the secretaries within 10 working days after the end of the internal clearance procedure referred to in (b);
- (d) a copy of the minutes shall be forwarded to the chairman and secretaries of the EC-Mexico Joint Committee.

*Article 9***Recommendations**

1. In those cases where the special committee is empowered to make recommendations in accordance with Decision No 2/2000 or Decision No 2/2001, those acts shall be entitled "recommendation", followed by a serial number, by the date of their adoption and by a description of their subject.

2. Where the special committee makes a recommendation, the provisions of Articles 10, 11 and 12 of Decision No 1/2001 of the EC-Mexico Joint Council that establish the rules of procedure of the Joint Council shall apply *mutatis mutandis*.

3. The recommendations of the special committee shall be forwarded to the secretaries of the EC-Mexico Joint Committee.

*Article 10***Expenses**

1. The United Mexican States and the European Community shall each defray the expenses they incur by reason of their participation in meetings of the special committees, both with regard to staff, travel and subsistence expenditure and with regard to postal and telecommunications expenditure.

2. Expenditure in connection with the material organisation of meetings, interpretation at meetings, and the translation and reproduction of documents shall be borne by the party which hosts the meetings.

*Article 11***Annual report**

The special committees shall report annually to the EC-Mexico Joint Committee.

*Article 12***Other special committee**

These rules of procedure shall apply to any other special committee or body set up, in accordance with Article 49 of the Agreement, to assist the EC-Mexico Joint Council in the performance of its duties.'

COUNCIL DECISION
of 25 November 2003

amending Decision 2002/882/EC providing further macro-financial assistance to the Federal Republic of Yugoslavia with regard to additional macro-financial assistance to Serbia and Montenegro

(2003/825/EC)

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,

Having regard to the opinion of the European Parliament ⁽¹⁾,

Whereas:

- (1) The Commission consulted the Economic and Financial Committee before submitting its proposal.
- (2) Decision 2002/882/EC ⁽²⁾ provides for further macro-financial assistance to be made available to the Federal Republic of Yugoslavia with a view to ensuring a sustainable balance of payments situation and strengthening the country's reserve position.
- (3) On 4 February 2003, there was a constitutional change and the country is now called Serbia and Montenegro.
- (4) Following the assassination of the Serbian Prime Minister on 11 March 2003, the external outlook of the country appears to be more uncertain, in particular with respect to the size of private capital inflows, including foreign direct investments, while important financing needs continue to put a heavy strain on the economy.
- (5) Additional balance of payments needs in 2003 and possibly in 2004 have been identified in the context of the current IMF programme and Serbia and Montenegro will require significant additional external financing in 2003 and possibly in 2004 over and above official financing which could be provided by the International Monetary Fund, the World Bank and other donors, including the Community.
- (6) An increase in Community macro-financial assistance to Serbia and Montenegro is an appropriate measure to help, with other donors, ease the country's financial constraints.
- (7) The grant component of this assistance is without prejudice to the powers of the budgetary authority and its implementation will be subject to the availability of appropriations under the corresponding budget heading.

(8) The increase of macro-financial assistance to Serbia and Montenegro should not be to the detriment of foreseen macro-financial assistance for other countries covered by the same budget heading.

(9) The Treaty provides for no powers, other than those in Article 308 thereof, for the adoption of this Decision,

HAS DECIDED AS FOLLOWS:

Article 1

Decision 2002/882/EC is hereby amended as follows:

1. In Articles 1, 2, 3 and 4, the term 'FRY' shall be replaced by the term 'Serbia and Montenegro'.
2. In Article 1, paragraphs 2 and 3 shall be replaced by the following:
 - '2. The loan component of this assistance shall amount to a maximum principal of EUR 80 million with a maximum maturity of 15 years. To this end, the Commission is empowered to borrow, on behalf of the Community, the necessary resources that will be placed at the disposal of Serbia and Montenegro in the form of a loan.
 3. The grant component of this assistance shall amount to a maximum of EUR 120 million.'
3. In Article 3(1), the first phrase shall be replaced by the following:
 - '1. The loan and grant components of this assistance shall be made available to Serbia and Montenegro in at least three instalments.'

Article 2

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

Done at Brussels, 25 November 2003.

For the Council
The President
G. TREMONTI

⁽¹⁾ Opinion delivered on 23 October 2003 (not yet published in the Official Journal).

⁽²⁾ OJ L 308, 9.11.2002, p. 25.

COMMISSION

COMMISSION DECISION of 18 November 2003

amending Decision 97/222/EC as regards imports of meat products from Australia and Slovenia

(notified under document number C(2003) 4205)

(Text with EEA relevance)

(2003/826/EC)

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

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

Whereas:

- (1) Commission Decision 97/222/EC ⁽³⁾, as last amended by Decision 2003/733/EC ⁽⁴⁾, established a list of third countries or parts of third countries from which the importation of meat products is authorised.
- (2) The epidemiological situation concerning classical swine fever in Slovenia has recently been assessed and found to be satisfactory. Member States should therefore authorise the importation of fresh pig meat from Slovenia into the Community.
- (3) The list of third countries or parts of third countries from which the Member States authorise the importation of meat products, as laid down in Decision 97/222/EC, should be updated with regard to Slovenia in order to be consistent with Community rules for the importation of fresh meat as relevant for the different treatment categories of meat products.
- (4) As regards Australia, only fresh poultrymeat and live poultry, in particular ratite meat and ratites, may be imported subject to certain specific testing requirements

due to the use of Newcastle disease vaccines that do not comply with Community legislation, and the importation of wild and farmed game meat products should be restricted to treated products until the situation can be further assessed as regards those categories of birds.

- (5) Decision 97/222/EC should therefore be amended accordingly.
- (6) The measures provided for in this Decision are in accordance with the opinion of the Standing Committee on the Food Chain and Animal Health,

HAS ADOPTED THIS DECISION:

Article 1

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

Article 2

This Decision is addressed to the Member States.

Done at Brussels, 18 November 2003.

For the Commission

David BYRNE

Member of the Commission

⁽¹⁾ OJ L 302, 31.12.1972, p. 28.

⁽²⁾ OJ L 122, 16.5.2003, p. 36.

⁽³⁾ OJ L 89, 4.4.1997, p. 39.

⁽⁴⁾ OJ L 264, 15.10.2003, p. 32.

ANNEX

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

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

Country	Territory		Description of territory
	Code	Version	
AR Argentina	AR-1	01/2002	As described in Annex I to Commission Decision 93/402/EC ⁽¹⁾ (as last amended)
	AR-3	01/2002	As described in Annex I to Commission Decision 93/402/EC (as last amended)
BG Bulgaria	BG		Whole country
	BG-1	—	As described in Annex I to Commission Decision 98/371/EC ⁽²⁾ (as last amended)
	BG-2	—	As described in Annex I to Commission Decision 98/371/EC (as last amended)
	BG-3	—	As described in Annex I to Commission Decision 98/371/EC (as last amended)
BR Brazil	BR		Whole country
	BR-1	—	As described in Annex I to Commission Decision 94/984/EC ⁽³⁾ (as last amended)
CZ Czech Republic	CZ		Whole country
	CZ-1	—	As described in Annex I to Commission Decision 98/371/EC (as last amended)
	CZ-2	—	As described in Annex I to Commission Decision 98/371/EC (as last amended)
MY Malaysia	MY		Whole country
	MY-1	95/1	Peninsular (Western) Malaysia only
Serbia and Montenegro	CS		Whole country
	CS-1	—	As described in Annex I to Commission Decision 98/371/EC (as last amended)
	CS-2	—	As described in Annex I to Commission Decision 98/371/EC (as last amended)
SK Slovakia	SK		Whole country
	SK-1	1/2003	As described in Annex I to Commission Decision 98/371/EC (as last amended)
	SK-2	1/2003	As described in Annex I to Commission Decision 98/371/EC (as last amended)

⁽¹⁾ OJ L 179, 22.7.1993, p. 11.

⁽²⁾ OJ L 110, 28.4.1999, p. 16.

⁽³⁾ OJ L 378, 31.12.1994, p. 11.

PART II

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

Code ISO	Country of origin or part thereof	1. Domestic bovine 2. Farmed cloven-hoofed game-(excluding swine)	Domestic ovine/caprine	1. Domestic porcine 2. Farmed cloven-hoofed game (swine)	Domestic soliped	1. Domestic poultry 2. Farmed feathered game	Domestic rabbit and farmed leporidae	Wild cloven hoofed game (excluding swine)	Wild swine	Wild soliped	Wild leporidae (rabbits and hares)	Wild game birds	Wild land mammalian game (excluding ungulates, solipeds and leporidae)
AR	Argentina AR-1 (1)	C	C	C	A	A	A	C	C	—	A	D	—
	Argentina AR-3 (1)	A (4)	A (4)	C	A	A	A	C	C	—	A	D	—
AU	Australia	A	A	A	A	A (5) D (6)	A	A	A	—	A	D	A
	Bulgaria BG	D	D	D	A	D	A	D	D	—	A	D	—
	Bulgaria BG-1	A	A	D	A	D	A	A	D	—	A	D	—
BG	Bulgaria BG-2	A	A	D	A	D	A	A	D	—	A	D	—
	Bulgaria BG-3	D	D	D	A	D	A	D	D	—	A	D	—
	Bahrain	B	B	B	B	—	A	C	C	—	A	—	—
BR	Brazil	C	C	C	A	D	A	C	C	—	A	D	—
	Brazil BR-1	C	C	C	A	A	A	C	C	—	A	A	—
BW	Botswana	B	B	B	B	—	A	B	B	A	A	—	—
BY	Belarus	C	C	C	B	—	A	C	C	—	A	—	—
CA	Canada	A	A	A	A	A	A	A	A	—	A	A	A
CH	Switzerland	A	A	A	A	A	A	A	D	—	A	A	—
CL	Chile	A	A	A	A	A	A	B	B	—	A	A	—

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

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

Code ISO	Country of origin or part thereof	1. Domestic bovine 2. Farmed cloven-hoofed game-(excluding-ing swine)	Domestic ovine/capraine	1. Domestic porcine 2. Farmed cloven-hoofed game (swine)	Domestic soliped	1. Domestic poultry 2. Farmed feathered game	Domestic rabbit and farmed leporidae	Wild cloven hoofed game (excluding swine)	Wild swine	Wild soliped	Wild leporidae (rabbits and hares)	Wild game birds	Wild land mammalian game (excluding ungulates, solipeds and leporidae)
CS	Serbia and Montenegro	D	D	D	A	D	A	C	C	—	A	—	—
	Serbia and Montenegro CS-1	D	D	D	A	D	A	C	D	—	A	—	—
	Serbia and Montenegro CS-2	D	D	D	A	D	A	C	C	—	A	—	—
SG	Singapore	B	B	B	B	D	A	B	B	—	A	—	—
SI	Slovenia	A	A	A ⁽²⁾ D ⁽³⁾	A	D	A	A	D	—	A	D	—
	Slovakia	A	A	—	A	A	A	A	D	—	A	A	—
	Slovakia SK-1	A	A	D	A	A	A	A	D	—	A	A	—
Slovakia SK-2	Slovakia SK-2	A	A	A ⁽²⁾ D ⁽³⁾	A	A	A	A	D	—	A	A	—
	Swaziland	B	B	B	B	—	A	B	B	A	A	—	—
TH	Thailand	B	B	B	B	A	A	B	B	—	A	D	—
TN	Tunisia	C	C	B	B	A	A	B	B	—	A	D	—
TR	Turkey	—	—	—	—	D	A	—	—	—	A	D	—
UA	Ukraine	—	—	—	—	—	A	—	—	—	A	—	—

Code ISO	Country of origin or part thereof	1. Domestic bovine 2. Farmed cloven-hoofed game- (excluding swine)	Domestic ovine/capraine	1. Domestic porcine 2. Farmed cloven-hoofed game (swine)	Domestic soliped	1. Domestic poultry 2. Farmed feathered game	Domestic rabbit and farmed leporidae	Wild cloven hoofed game (excluding swine)	Wild swine	Wild soliped	Wild leporidae (rabbits and hares)	Wild game birds	Wild land mammalian game (excluding ungulates, solipeds and leporidae)
US	United States of America	A	A	A	A	A	A	A	A	—	A	A	—
UY	Uruguay	C	C	B	A	D	A	—	—	—	A	D	—
ZA	South Africa (1)	C	C	C	A	D	A	C	C	A	A	D	—
ZW	Zimbabwe (1)	C	C	B	A	D	A	B	B	—	A	D	—

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

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

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

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

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

(5) For meat products only from poultrymeat.

(6) For meat products only from meat of farmed feathered game.

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

COMMISSION DECISION
of 18 November 2003
amending Decision 98/371/EC as regards the import of fresh pigmeat from Slovenia

(notified under document number C(2003) 4208)

(Text with EEA relevance)

(2003/827/EC)

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Council Directive 72/462/EEC of 12 December 1972 on health and veterinary inspection problems upon importation of bovine, ovine and caprine animals and swine, fresh meat or meat products from third countries ⁽¹⁾, as last amended by Regulation (EC) No 807/2003 ⁽²⁾, and in particular Articles 14, 15 and 16 thereof,

Whereas:

- (1) Commission Decision 98/371/EC ⁽³⁾, as last amended by Decision 2003/742/EC ⁽⁴⁾, governs animal health conditions and veterinary certification for imports of fresh meat from certain European countries.
- (2) For animal health reasons, and in particular to control classical swine fever, imports of fresh pigmeat for human consumption from Slovenia were not authorised.
- (3) Slovenia has requested authorisation to export pigmeat to the Community supporting this request with information on the health status of swine in Slovenia and the control of classical swine fever.
- (4) In May 2003 the Commission carried out a veterinary mission to assess the animal health situation in Slovenia.
- (5) On the basis of the mission report and further information provided by Slovenia, the health status of swine in Slovenia appears to be satisfactory as regards classical swine fever.

- (6) The import of pigmeat for human consumption from Slovenia into the Community should therefore be authorised subject to certain conditions relating to the use of catering waste for feeding to swine.
- (7) For the purpose of exporting pigmeat, Slovenia has undertaken to draw up a list of pig holdings subject to regular veterinary supervisions and appropriate controls to exclude any use of catering waste for feeding to swine.
- (8) Decision 98/371/EC should be amended accordingly.
- (9) The measures provided for in this Decision are in accordance with the opinion of the Standing Committee on the Food Chain and Animal Health,

HAS ADOPTED THIS DECISION:

Article 1

Annexes I and II to Decision 98/371/EC are replaced by the text in the Annexes to this Decision.

Article 2

This Decision is addressed to the Member States.

Done at Brussels, 18 November 2003.

For the Commission

David BYRNE

Member of the Commission

⁽¹⁾ OJ L 302, 31.12.1972, p. 28.

⁽²⁾ OJ L 122, 16.5.2003, p. 36.

⁽³⁾ OJ L 170, 16.6.1998, p. 16.

⁽⁴⁾ OJ L 268, 18.10.2003, p. 73.

ANNEX I

ANNEX I

Description of territories of certain European countries established for animal health certification purposes

Country	Code of territory	Version	Description of territory
Albania	AL	1/98	Whole country
Bosnia-Herzegovina	BA	1/98	Whole country
Bulgaria	BG	1/98	Whole country
	BG-1	1/98	The provinces of Yarna, Dobrich, Solistra, Choumen, Targovichte, Razgrad, Rousse, V.Tarnovo, Gabrovo, Pleven, Lovetch, Plovdiv, Smolian, Pasardjik, Sofia district, Sofia city, Pernik, Kustendil, Blagoevgrad, Vratza, Montana and Vidin
	BG-2	1/99	The provinces of Bourgas, Jambol, Sliven, Starazagora, Hasskovo and Kardjali, except the 20-kilometre-wide corridor on the border with Turkey
	BG-3	1/99	The 20-kilometre-wide corridor to the border with Turkey
Belarus	BY	1/98	Whole country
Czech Republic	CZ	1/98	Whole country
	CZ-1	1/99	Whole country excluding the provinces of Kroměřiz, Vyškov, Hodonín, Uherské Hradiště, Zlín and Vsetín
	CZ-2	1/99	The provinces of Kroměřiz, Vyškov, Hodonín, Uherské Hradiště, Zlín and Vsetín
Estonia	EE	1/98	Whole country
Serbia and Montenegro	CS	1/98	Whole country
	CS-1	1/98	Serbia and Montenegro excluding the region of Kosovo (as defined by the United Nations Security Council Resolution 1244 of 10 June 1999) and Metohija
	CS-2	1/98	The region of Kosovo (as defined by the United Nations Security Council Resolution 1244 of 10 June 1999) and Metohija
Croatia	HR	1/98	Whole country
Hungary	HU	1/98	Whole country
Lithuania	LI	1/98	Whole country

Country	Code of territory	Version	Description of territory
Latvia	LV	1/98	Whole country
Poland	PL	1/98	Whole country
Romania	RO	1/98	Whole country
Russia	RU	1/98	Whole country
Slovenia	SI	1/2003	Whole country
Slovakia	SK	1/98	Whole country
	SK-1	1/2003	The District Veterinary and Food Administrations (DVFA) of Trnava (comprising Piešťany, Hlohovec and Trnava districts); Levice (comprising Levice district); Nitra (comprising Nitra and Zlaté Moravce districts); Topoľčany (comprising Topoľčany district); Nové Mesto nad Váhom (comprising Nové Mesto nad Váhom district); Trenčín (comprising Trenčín and Bánovce nad Bebravou districts); Prievidza (comprising Prievidza and Partizánske districts); Púchov (comprising Púchov and Ilava districts); Žiar nad Hronom (comprising Žiar nad Hronom, Zarnovica and Banská Štiavnica districts); Zvolen (comprising Zvolen and Detva districts); Banská Bystrica (comprising Banská Bystrica and Brezno districts).
	SK-2	1/2003	The District Veterinary and Food Administrations (DVFA) of Bratislava mesto (comprising Bratislava I, II, III, IV and V districts); Senec (comprising Senec, Pezinok and Malacky districts); Dunajská Streda (comprising Dunajská Streda district); Galanta (comprising Galanta district); Senica (comprising Senica and Skalica districts); Nové Mesto nad Váhom (comprising Mýjava district); Púchov (comprising Považská Bystrica district); Nové Zámky (comprising Nové Zámky district); Komárno (comprising Komárno district); Šaľa (comprising Šaľa district); Žilina (comprising Žilina and Bytča district); Dolný Kubín (comprising Dolný Kubín, Tvrdosín and Námestovo districts); Martin (comprising Martin and Turčianske Teplice districts); Liptovský Mikuláš (comprising Liptovský Mikuláš and Ružomberok districts); Lučenec (comprising Lučenec and Poltár districts); Veľký Krtíš (comprising Veľký Krtíš district); Rimavská Sobota (comprising Rimavská Sobota and Revúca districts); Zvolen (comprising Krupina district); Poprad (comprising Poprad, Kežmarok and Levoča districts); Prešov (comprising Prešov and Sabinov districts); Bardejov (comprising Bardejov district); Vranov nad Topľou (comprising Vranov nad Topľou district); Svidník (comprising Svidník and Stropkov districts); Humenné (comprising Humenné, Medzilaborce and Slna districts); Stará Ľubovňa (comprising Stará Ľubovňa district); Košice — mesto (comprising Košice I, II, III and IV districts); Košice — okolie (comprising Košice — okolie district); Michalovce (comprising Michalovce and Sobrance districts); Rožňava (comprising Rožňava district); Spišská Nová Ves (comprising Spišská Nová Ves and Gelnica districts) and Trebišov (comprising Trebišov district).

ANNEX II

ANNEX II

Animal health guarantees to be requested on certification of fresh meat

Country	Code	Fresh meat for human consumption								Fresh meat intended for purposes other than human consumption
		Bovine		Swine		Ovine/Caprine		Solipeds		
		MC (1)	SG (2)	MC (1)	SG (2)	MC (1)	SG (2)	MC (1)	SG (2)	
Albania	AL	—		—		—		—	—	—
Bosnia-Herzegovina	BA	—		—		—		—	—	—
Bulgaria	BG	—		—		—		D	—	E
	BG-1	A		—		C		D	—	E
	BG-2	—		—		—		D	—	E
Belarus	BY	—		—		—		—	—	E
Czech Republic	CZ	A		B		C		D	—	E
	CZ-1	A		B		C		D	—	E
	CZ-2	A		B		C		D	—	E
Estonia	EE	—		B	a	—		—	—	E
Croatia	HR	A		—		C		D	—	E
Hungary	HU	A		B		C		D	—	E
Lithuania	LT	A		B	a	C		D	—	E
Latvia	LV	—		—		—		—	—	E
Former Yugoslav Republic of Macedonia (3)	MK	—		—		C		D	—	E
Poland	PL	A		B	a	C		D	—	E
Romania	RO	A		—		C		D	—	E
Russia	RU	—		—		—		—	—	E
Serbia and Montenegro	CS	—		—		—		D	—	E
	CS-1	A		—		C		D	—	E
	CS-2	—		—		—		D	—	E

Country	Code	Fresh meat for human consumption								Fresh meat intended for purposes other than human consumption
		Bovine		Swine		Ovine/Caprine		Solipeds		
		MC ⁽¹⁾	SG ⁽²⁾	MC ⁽¹⁾	SG ⁽²⁾	MC ⁽¹⁾	SG ⁽²⁾	MC ⁽¹⁾	SG ⁽²⁾	
Slovenia	SI	A		B	a	C		D	—	E
Slovakia	SK	A		—		C		D	—	E
	SK-1	A		—		C		D	—	E
	SK-2	A		B	a	C		D	—	E

NB: Imports of fresh meat for human consumption are not allowed unless a programme of control of residues in the exporting third country has been approved by the Commission.

- ⁽¹⁾ MC: model of certificate to be completed. The letters (A, B, C, D, etc.) appearing on the tables refer to the models of animal health guarantees, as described in Annex III to Decision 98/371/EC, to be applied for each product and origin in accordance with Article 2 of this Decision. A dash "-" indicates that imports are not authorised.
- ⁽²⁾ SG: supplementary guarantees. The letters (a, b, c, d etc.) appearing on the tables are referring to the supplementary guarantees to be provided by the exporting country as described in Annex IV. These supplementary guarantees must be inserted by the exporting country in the section V of each model of certificate laid down in Annex III.
- ⁽³⁾ Provisional code that does not affect the definitive denomination of the country to be attributed after the conclusion of the negotiations currently taking place in the United Nations.'

COMMISSION DECISION
of 25 November 2003
on protection and surveillance zones in relation to bluetongue

(notified under document number C(2003) 4335)

(Text with EEA relevance)

(2003/828/EC)

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Council Directive 2000/75/EC of 20 November 2000 laying down specific provisions for the control and eradication of bluetongue⁽¹⁾, and in particular Article 8(2)(d), Article 8(3), Article 9(1)(c), and the third paragraph of Article 19 thereof,

Whereas:

- (1) Commission Decision 2003/218/EC of 27 March 2003 on protection and surveillance zones in relation to bluetongue and on rules applicable to movements of animals in and from those zones and repealing Decision 2001/783/EC⁽²⁾, as amended by Decision 2003/535/EC⁽³⁾, was adopted in the light of the bluetongue situation prevailing in the early months of 2003. That Decision demarcates protection and surveillance zones corresponding to specific epidemiological situations and lays down the conditions for providing exemptions from the ban on the movements of animals in and from those zones.
- (2) In view of the evolution of the situation, and in particular the isolation of a new serotype in Sardinia and Corsica (serotype 4) and a new incursion of serotype 2 in the Balearic Islands, the global geographic areas where protection and surveillance zones are to be established should be reconsidered.
- (3) Five global 'restriction zones' should be distinguished on the basis of the serotype(s) isolated: Balearic Islands and northern continental Italy (serotype 2 only), Sardinia and Corsica (serotypes 2 and 4), southern continental Italy (serotypes 2 and 9 and to a lesser extent 4 and 16), and two zones for Greece where different serotypes have been isolated in different localities during the previous years.
- (4) Pursuant to a request made by Greece, it is appropriate to establish a distinction between the continental part of the territory of that Member State, from which exemptions from the exit ban may be implemented with regard to intra-Community trade, and the rest of the territory where such exemptions should be limited to domestic movements only.

- (5) In view of the prohibition of vaccination in surveillance zones laid down in Directive 2000/75/EC, and of the evolution of the epidemiological situation on the ground, it is appropriate to leave the demarcation between protection and surveillance zones to be decided by the competent authority of the Member States concerned.
- (6) Exemptions from the exit ban applicable to movements of animals from protection and surveillance zones should be authorised on a risk-analysis approach taking into account the data collected through the surveillance programme on the virus activity at the place of origin, the destination of the animals, and their vaccination status.
- (7) It is appropriate to provide for the conditions under which the transit of animals through the protection and surveillance zones should take place.
- (8) For the sake of clarity of Community legislation it is appropriate to repeal Decision 2003/218/EC and to replace it by this Decision.
- (9) The measures provided for in this Decision are in accordance with the opinion of the Standing Committee on the Food Chain and Animal Health,

HAS ADOPTED THIS DECISION:

Article 1

Subject matter

The purpose of this Decision is to demarcate the global geographic areas where protection and surveillance zones ('restricted zones') shall be established by the Member states as provided for in Article 8(1) of Directive 2000/75/EC.

Its purpose is also to set out the conditions for exempting from the exit ban laid down in Article 9(1)(c) and Article 10(1) of Directive 2000/75/EC (the exit ban) certain movements of animals, their sperm, ova and embryos, from those zones and through those zones (transit).

This Decision does not affect movements inside a restricted zone as laid down in Article 2.

⁽¹⁾ OJ L 327, 22.12.2000, p. 74.

⁽²⁾ OJ L 82, 29.3.2003, p. 35.

⁽³⁾ OJ L 184, 23.7.2003, p. 40.

Article 2

Demarcation of restricted zones

1. Restricted zones A, B, C, D and E shall be demarcated as set out in Annex I.

Exemptions from the exit ban for those zones shall only take place in accordance with the conditions laid down in this Decision.

2. In the case of Greece, the exit ban shall apply for domestic movements from zone E to zone D only as set out in Annex I.

Article 3

Exemption from the exit ban for domestic movements

1. Domestic dispatches of animals, their sperm ova and embryos, from a restricted zone set out in Annex I shall be exempted from the exit ban only if the animals, their sperm ova and embryos comply with the conditions set out in Annex II or, in the case of France and Italy that they comply with paragraph 2 or in the case of Greece that they comply with paragraph 3.

2. In France and Italy, for the areas where the vaccination has been completed according to the programme adopted by the competent authority of the Member State concerned, as identified in Annex I, domestic dispatches as provided for in paragraph 1 shall be also exempted from the exit ban by the competent authority, if:

- (a) the surveillance programme in an epidemiologically relevant area of origin has proved the cessation of bluetongue virus circulation for more than 100 days before the date of dispatch; or
- (b) the vector surveillance programme in an epidemiologically relevant area of destination has proved the cessation of adult *Culicoides* activity;

and

- (c) the animals have been vaccinated more than 30 days and less than a year before the date of dispatch against the serotype(s) circulating in an epidemiologically relevant area of origin.

3. In Greece domestic dispatches as provided for in paragraph 1 shall also be exempted from the exit ban by the competent authority if:

- (a) the animals have been serologically tested (BT ELISA or AGID) with a negative result within 72 hours prior to time of dispatch; and
- (b) the animals have been sprayed with insect repellent with a remnant effect of more than four days on the occasion of the sampling.

4. A channelling procedure shall be set up, under the control of the competent authority, preventing any further movement to another Member State of animals moved under the conditions provided for in this Article.

Article 4

Exemption from the exit ban for domestic movements for slaughter

Dispatches of animals from a restricted zone for immediate slaughter within one Member State may be exempted from the exit ban by the competent authority if:

- (a) a case-by-case risk assessment on the possible contact between animals and the vectors during transport to the slaughterhouse is made, taking into consideration:
 - (i) the data available through the surveillance programme on the vector's activity;
 - (ii) the distance from the point of entry in the non-restricted zone to the slaughterhouse;
 - (iii) the entomological data on the route referred to in point (ii);
 - (iv) the period of the day during which the transport takes place in relation to the hours of activity of the vectors;
 - (v) the possible use of insecticides in compliance with Council Directive 96/23/EC⁽¹⁾;
- (b) the animals to be moved do not show any sign of bluetongue on the day of transport;
- (c) the animals are transported in vehicles sealed by the competent authority and directly to the slaughterhouse for the purpose of immediate slaughter, under official supervision;
- (d) the competent authority responsible for the slaughterhouse is informed of the intention to send animals to it and notifies the dispatching competent authority of their arrival.

Article 5

Exemption from the exit ban for animals leaving the restricted zones for intra-Community trade

1. Dispatches of animals, their sperm ova and embryos, from restricted zones A, B, C and D as set out in Annex I shall be exempted from the exit ban for intra-Community trade by the competent authority only if:

- (a) the animals, their sperm ova and embryos comply with the conditions laid down in Article 3; and
- (b) the Member State of destination gives its prior approval.

⁽¹⁾ OJ L 125, 23.5.1996, p. 10.

2. The Member State of origin availing itself of the exemption provided for in paragraph 1 shall ensure that the following additional wording is added to the corresponding health certificates laid down in Council Directives 64/432/EEC ⁽¹⁾, 88/407/EEC ⁽²⁾, 89/556/EEC ⁽³⁾, 91/68/EEC ⁽⁴⁾ and 92/65/EEC ⁽⁵⁾:

'animals/semen/ova/embryos (*) in compliance with Decision 2003/828/EC.

(*) Delete as appropriate.'

Article 6

Transit of animals through a restricted zone

1. The transit of animals dispatched from an area of the Community outside the restricted zones set out in Annex I through a restricted zone set out in that Annex, shall be authorised if an insecticide treatment of the animals and of the means of transport be carried out at the place of loading or in any case prior to entering the restricted zone.

When during transit through a restricted zone, a rest period is foreseen in a staging post, an insecticide treatment shall be carried out in order to protect animals from any attack by vectors.

2. In case of intra-Community trade, the transit shall be subject to the authorisation of the competent authorities of the Member State of transit and the Member State of destination, and the following additional wording shall be added to the corresponding health certificates laid down in Directives 64/432/EEC, 91/68/EEC and 92/65/EEC:

'Insecticide treatment with (name of the product) on (date) at (time) in conformity with Decision 2003/828/EC.'

Article 7

Implementation measures

The Member States shall amend the measures they apply to trade so as to bring them into compliance with this Decision and they shall give immediate appropriate publicity to the measures adopted. They shall immediately inform the Commission thereof.

Article 8

Repeal

Decision 2003/218/EC is repealed. References made to the repealed Decision shall be construed as references to this Decision.

Article 9

Applicability

This Decision shall apply from 17 December 2003.

Article 10

Addressees

This Decision is addressed to the Member States.

Done at Brussels, 25 November 2003.

For the Commission

David BYRNE

Member of the Commission

⁽¹⁾ OJ L 121, 29.7.1964, p. 1977.

⁽²⁾ OJ L 194, 22.7.1988, p. 10.

⁽³⁾ OJ L 302, 19.10.1989, p. 1.

⁽⁴⁾ OJ L 46, 19.2.1991, p. 19.

⁽⁵⁾ OJ L 268, 14.9.1992, p. 54.

ANNEX I

(Restricted zones: geographic areas where protection and surveillance zones shall be established by the Member States)

Zone A (serotypes 2 and 9, and to a lesser extent 4 and 16)**Areas where Article 3(2) is applicable**

Sicily:	Ragusa, Enna
Molise:	Isernia, Campobasso
Abruzzi:	Chieti, all municipalities belonging to the local health unit of Avezzano-Sulmona
Lazio:	Frosinone, Latina
Campania:	all municipalities belonging to the local health unit of Caserta I

Areas where Article 3(2) is not applicable

Sicily:	Agrigente, Catania, Caltanissetta, Palermo, Mesine, Siracusa e Trapani
Calabria:	Catanzaro, Cosenza, Crotona, Reggio Calabria, Vibo Valentia
Basilicata:	Matera, Potenza
Apulia:	Foggia, Bari, Lecce, Taranto, Brindisi
Campania:	Caserta with the exception of all municipalities belonging to the local health unit of Caserta I, Benevento, Avellino, Napoli, Salerno
Abruzzi:	L'Aquila with the exception of all municipalities belonging to the local health unit of Avezzano-Sulmona

Zone B (serotype 2)**Areas where Article 3(2) is applicable**

Italy:	
Lazio:	Viterbo, Rome, Rieti
Tuscany:	Massa Carrara, Pisa, Grosseto, Livorno
Umbria:	Terni

Areas where Article 3(2) is not applicable

Spain:	
Balearic Islands	

Zone C (serotypes 2 and 4)

France:	
South Corsica, Upper Corsica	

Italy:	
Sardinia:	Cagliari, Nuoro, Sassari, Oristano

Zone D

The entire Greek territory with the exception of prefectorates listed in Zone E

Zone E

Dodecanese, Samos, Chios and Lesbos prefectorates

ANNEX II

- A. Live animals must have been:
1. protected from *Culicoides* attack for at least 100 days prior to shipment; or
 2. protected from *Culicoides* attack for at least 28 days prior to shipment, and subjected during that period to a serological test to detect antibodies to the BTV group, such as the BT competition ELISA or the BT AGID test, with negative results on two occasions, with an interval of not less than seven days between each test, the first test being carried out at least 21 days after introduction into the quarantine station; or
 3. protected from *Culicoides* attack for at least 14 days prior to shipment, and subjected during that period to a BTV isolation test or polymerase chain reaction test, with negative results, on blood samples taken on two occasions, with an interval of not less than seven days between each test, the first test being carried out at least seven days after introduction into the quarantine station; and
 4. protected from *Culicoides* attack during transportation to the place of shipment.
- B. Semen must have been obtained from donors, which have been:
1. protected from *Culicoides* attack for at least 100 days before commencement of, and during, collection of the semen; or
 2. subjected to a serological test to detect antibodies to the BTV group such as the BT competition ELISA or the BT AGID test, with negative results, at least every 60 days throughout the collection period and between 28 and 60 days after the final collection for this consignment; or
 3. subjected to a virus isolation test or polymerase chain reaction (PCR) test on blood samples collected at commencement and conclusion of, and at least every seven days (virus isolation test) or at least every 28 days (PCR test) during, semen collection for this consignment, with negative results.
- C. Ova and embryos must have been obtained from donors, which have been:
1. protected from *Culicoides* attack for at least 100 days before commencement of and during, collection of the embryos/ova; or
 2. subjected to a serological test to detect antibodies to the BTV group such as the BT competition ELISA or the BT AGID test, between 28 and 60 days after collection with negative results; or
 3. subjected to a BTV isolation test or polymerase chain reaction test on a blood sample taken on the day of collection, with negative results.
-

COMMISSION DECISION**of 25 November 2003****concerning national provisions on the use of azodyes notified by Germany under Article 95(4) of the EC Treaty***(notified under document number C(2003) 4356)***(Only the German text is authentic)****(Text with EEA relevance)**

(2003/829/EC)

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

1.2. Directive 2002/61/EC

Having regard to the Treaty establishing the European Community, and in particular Article 95(6) thereof,

Whereas:

I. FACTS

(1) By letter of the Permanent Representation of the Federal Republic of Germany to the European Union of 21 May 2003, the German Government, referring to Article 95(4) of the EC Treaty, notified to the Commission its national provisions on the use of azodyes that it deems necessary to maintain after the adoption of Directive 2002/61/EC of the European Parliament and of the Council of 19 July 2002 amending for the nineteenth time Council Directive 76/769/EEC relating to restrictions on the marketing and use of certain dangerous substances and preparations (azocolourants) ⁽¹⁾.

1. Community legislation**1.1. Article 95(4) and (6) of the EC Treaty**

(2) Article 95(4) of the EC Treaty provides that 'If, after the adoption by the Council or by the Commission of a harmonisation measure, a Member State deems it necessary to maintain national provisions on grounds of major needs referred to in Article 30, or relating to the protection of the environment or the working environment, it shall notify the Commission of these provisions as well as the grounds for maintaining them.'

(3) According to Article 95(6), the Commission shall, within six months of the notification, approve or reject the national provisions involved after having verified whether or not they are a means of arbitrary discrimination or a disguised restriction on trade between Member States and whether or not they shall constitute an obstacle to the functioning of the internal market.

(4) Council Directive 76/769/EEC of 27 July 1976 on the approximation of the laws, regulations and administrative provisions of the Member States relating to restrictions on the marketing and use of certain dangerous substances and preparations ⁽²⁾, as last amended by Directive 2003/53/EC of the European Parliament and of the Council ⁽³⁾, establishes rules restricting the marketing and use of certain dangerous substances and preparations. According to Article 1(1), the Directive applies to the dangerous substances and preparations listed in Annex I.

(5) Article 2 provides that Member States shall take all necessary measures to ensure that the dangerous substances and preparations listed in Annex I may only be placed on the market or used subject to the conditions specified therein.

(6) Directive 76/769/EEC has been amended on several occasions, *inter alia*, to add new dangerous substances and preparations to Annex I thereto, thereby introducing the restrictions on their marketing or use that are necessary to protect human health or the environment. In certain cases, restrictions are also placed on the marketing or use of products treated with or containing those substances and preparations.

(7) Adopted on the legal basis of Article 95 of the EC Treaty, Directive 2002/61/EC of the European Parliament and of the Council has inserted in Annex I to Directive 76/769/EEC a new point 43 concerning azocolourants, laying down rules on the marketing and use of these substances.

⁽¹⁾ OJ L 243, 11.9.2002, p. 15.

⁽²⁾ OJ L 262, 27.9.1976, p. 201.

⁽³⁾ OJ L 178, 17.7.2003, p. 24.

- (8) Recitals 2 to 4 of the Directive recall the background of the Directive, stating that 'Textile and leather articles containing certain azodyes have the capacity to release certain arylamines, which may pose cancer risks' ⁽¹⁾, that 'Limitations already adopted or planned by certain Member States on the use of azodyed textile and leather articles concern the completion and functioning of the internal market. It is therefore necessary to approximate the laws of the Member States in this field and, consequently, to amend Annex I to Council Directive 76/769/EEC' ⁽²⁾ and that 'The Scientific Committee on Toxicity, Ecotoxicity and the Environment (SCTEE), after being consulted by the Commission, has confirmed that cancer risks posed by textile and leather goods coloured by certain azodyes, give cause for concern' ⁽³⁾.
- (9) Consequently, as stated in recital 5, 'In order to protect human health, the use of dangerous azodyes and the placing on the market of some articles coloured with such dyes should be prohibited'.
- (10) According to point 43.1, azodyes which, by reductive cleavage of one or more azo groups, may release one or more of the aromatic amines listed in the Appendix ⁽⁴⁾, in detectable concentrations, i.e. above 30 ppm in the finished articles or in the dyed parts thereof, according to the testing method established in accordance with Article 2a of this Directive, may not be used in textile and leather articles which may come into direct and prolonged contact with the human skin or oral cavity, such as:
- clothing, bedding, towels, hairpieces, wigs, hats, nappies and other sanitary items, sleeping-bags,
 - footwear, gloves, wristwatch straps, handbags, purses/wallets, briefcases, chair covers, purses worn round the neck,
 - textile or leather toys and toys which include textile or leather garments,
 - yarn and fabric intended for use by the final consumer ⁽⁵⁾.
- (11) Point 43.2 states that 'Furthermore, the textile and leather articles referred to in point 1 above may not be placed on the market unless they conform to the requirements set out in that point', while providing for a time-limited exemption for textile articles made of recycled fibres previously dyed with azodyes.
- (12) In addition, point 43.3 provides that not later than 11 September 2005, the Commission shall, in the light of new scientific knowledge, review the provisions on azocolourants, in accordance with recital 9 stating that 'In the light of new scientific knowledge, the provisions on certain azocolourants should be reviewed, in particular with regard to the need to include other materials not covered by this Directive, as well as other aromatic amines. Special attention should be paid to possible risks to children'.
- (13) Article 3(1) of the Directive provides that Member States shall adopt and publish, not later than 11 September 2003, the laws, regulations and administrative provisions necessary to comply with this Directive, they shall forthwith inform the Commission thereof and shall apply these provisions from 11 September 2003.

2. National provisions notified

- (14) The national provisions notified by the Federal Government of Germany were introduced by the second ordinance amending the Consumer Goods Ordinance [Bedarfsgegenständeverordnung] of 15 July 1994. The ban of the use of harmful azodyes in eight groups of articles, which are in prolonged contact with the body, was introduced to protect the consumer against health risks, given the fact that these dyes can break down into substances which are potentially carcinogenic.
- (15) Subsection 3 of the Consumer Goods Ordinance headed 'Prohibited substances' states that 'The commercial manufacture or treatment of the materials and articles set out in Annex 1 may not employ substances mentioned therein'. Annex 1 deals with the substances which may not be used in the manufacture or processing of certain articles. Point 7 of Annex 1 lists among the prohibited substances 'Azodyes which can form one of the following amines ⁽⁶⁾ by breaking down into one or more azo groups, with the exception of pigments in which none of the amines specified below can be detected using the methods in accordance with the procedure given in Annex 10(7)'. These azodyes may not be employed in the manufacture or treatment of the following categories of products, listed in Annex 1:

1. Clothing, materials for the manufacture of clothing;
2. Bed linen, blankets, pillows, sleeping bags;

⁽¹⁾ See recital 2 of Directive 2002/61/EC.

⁽²⁾ See recital 3 of Directive 2002/61/EC.

⁽³⁾ See recital 4 of Directive 2002/61/EC.

⁽⁴⁾ Directive 2002/61/EC introduced in the Appendix to Directive 76/769/EEC, under 'Point 43 — Azocolourants' a list of 22 aromatic amines.

⁽⁵⁾ Point 43.1 provides for a non-exhaustive list of articles.

⁽⁶⁾ Point 7 of Annex 1 includes thereafter a list of 20 amines.

3. Hand towels, beach mats, air mattresses;
4. Masks, hair-pieces, wigs, artificial eyelashes;
5. Articles of jewellery which are worn on the skin, armbands;
6. Money bags, rucksacks;
7. Crawling mats, covers for seats and loungers for infants and small children;
8. Nappies, sanitary towels, panty liners, tampons.

II. PROCEDURE

- (16) By letter of 21 May 2003, the German Permanent Representation to the European Union informed the Commission that, in accordance with Article 95(4) of the EC Treaty, the Federal Republic of Germany intended to maintain its national provisions regarding the use of azodyes which deviate from those provided for in Directive 2002/61/EC amending Directive 76/769/EEC regarding the marketing and use of azocolourants. The Commission received the letter on 26 May 2003.
- (17) By letter of 12 June 2003, the Commission informed the German Government that it had received the notification under Article 95(4) of the EC Treaty and that the six-month period for its examination under Article 95(6) started on 27 May 2003, the day following the day on which the notification was received.
- (18) By letter of 1 August 2003, the Commission informed the other Member States of the notification received from the Federal Republic of Germany. The Commission also published a notice regarding the notification in the *Official Journal of the European Union* ⁽¹⁾ in order to inform other interested parties of the national provisions that Germany intended to maintain as well as the grounds invoked to that effect.

III. LEGAL ASSESSMENT

1. Consideration of admissibility

- (19) Article 95(4) concerns cases in which the national provisions are notified in relation to a Community harmonisation measure where these provisions were adopted and entered into force before the adoption of the latter and the maintenance of which would be incompatible with it.
- (20) The German notification received by the Commission on 26 May 2003 is intended to obtain approval for the maintenance of national provisions derogating from those of Directive 2002/61/EC, which constitutes a measure concerning the approximation of the laws,

regulations and administrative provisions of the Member States, aiming at the establishment and operation of the Internal Market, adopted on the basis of Article 95 of the EC Treaty. In addition, these national provisions were adopted and entered into force in 1994, therefore before the adoption of that Directive.

- (21) The need for harmonisation in the field of azocolourants arose from the cancer risks posed by textile and leather goods coloured by certain azodyes, giving cause for concern, as confirmed by the SCTEE in its opinion of 18 January 1999, and from the national legislations banning certain carcinogenic azocolourants introduced or notified by several Member States. Therefore, Directive 2002/61/EC introduced restrictions on the use of azocolourants by banning certain azodyes in articles containing dangerous substances that have clearly been shown, on the basis of sufficient data, to pose risks, i.e. articles made of textiles or leather.
- (22) According to a well-established case law, a Community measure has to be interpreted in the light of the objectives pursued. Directive 2002/61/EC is based on Article 95(1) of the Treaty, which is the legal basis for the adoption of harmonisation measures having as their object the establishing and functioning of the internal market. It is clear from recital 3 of that Directive that its main objective is to remove the obstacles to the completion and the functioning of the internal market resulting from the limitations already adopted or planned by certain Member States on the use of certain azocolourants.
- (23) The Commission therefore considers that Directive 2002/61/EC has to be interpreted as having introduced a harmonisation of all the current uses of azodyes, thus preventing Member States from introducing or maintaining national restrictions on the use of azodyes going further than those laid down in that Directive.
- (24) When comparing the provisions of Directive 2002/61/EC and the national measures notified by Germany, it emerges that the national ban on the use of azodyes considered as harmful to health in certain articles, differs from the requirements of Directive 2002/61/EC. The German provisions (Subsection 3 together with Annex 1(7)) ban the use of azodyes in eight groups of articles without limiting these to textile and leather as required by Directive 2002/61/EC.
- (25) Furthermore Article 95(4) requires that the notification of the national provisions be accompanied by a description of the grounds relating to one or more of the major needs referred to in Article 30 or to the protection of the environment or the working environment.

⁽¹⁾ OJ C 185, 5.8.2003, p. 3.

- (26) As required by Article 95(4) of the EC Treaty, Germany notified the Commission of the exact wording of the provisions going beyond those set out in Directive 2002/61/EC, including with the application a short explanation of the reasons relating to the protection of consumer health which, in its opinion, justify the maintenance of those provisions.
- (27) In the light of the foregoing, the Commission considers that the application submitted by Germany with a view to obtaining authorisation to maintain its national provisions on azodyes is admissible under Article 95(4) of the EC Treaty.

2. Assessment of merits

- (28) In accordance with Article 95(4) and (6), first subparagraph, of the EC Treaty, the Commission must ascertain that all the conditions enabling a Member State to maintain its national provisions derogating from a Community harmonisation measure provided for in that Article are fulfilled. In particular, the national provisions have to be justified by the major needs referred to in Article 30 of the Treaty or relating to the protection of the environment or the working environment, must not be a means of arbitrary discrimination or a disguised restriction on trade between Member States and must not constitute an obstacle to the functioning of the internal market.
- (29) It should be pointed out that the Court's case law is consistent in requiring that the conditions for granting a derogation from the fundamental rules of Community law must be interpreted restrictively. As the provision in question creates an exception to the principles of uniform application of Community law and the unity of the market, Article 95(4) of the EC Treaty must, as with all measures relating to derogations, be interpreted in such a way that its scope is not extended beyond the cases expressly foreseen. As Article 95 is precisely the expression of such a derogation, it must be interpreted strictly and only be applied under strict conditions with regard to the justification required.

2.1. The burden of proof

- (30) It has to be noted that, in the light of the time frame established by Article 95(6) of the EC Treaty, the Commission, when examining whether the national measures notified under Article 95(4) are justified, has to take as a basis 'the grounds' put forward by the notifying Member State. This means that, according to the provisions of the EC Treaty, the responsibility of proving that the national measures are justified lies with the

requesting Member State which seeks to maintain them. Given the procedural framework established by Article 95 of the EC Treaty, including in particular a strict deadline for a decision to be adopted, the Commission normally has to limit itself to examining the relevance of the elements which are submitted by the requesting Member State, without having to seek itself possible reasons of justifications.

- (31) It is up to the notifying Member State to provide enough grounds, facts and scientific evidence so that it can be given authorisation to make a derogation ⁽¹⁾. It is thus in the Member State's interest to attach to the notification any substantive or legal elements which could support the application ⁽²⁾. Failure to include in the notification to maintain or introduce national provisions such elements shall lead the Commission to consider the notification not founded.

- (32) In their letter of notification, the German authorities invoke the objective of safeguarding consumer health. The Commission therefore must check whether the national provisions are commensurate with the aim, i.e. necessary and proportionate to the objective pursued, given that the harmonisation measure already adopted, i.e. Directive 2002/61/EC, has itself taken as its basis a high level of protection in accordance with Article 95(3) and pursues this objective in a proportionate way.

2.2. Justification on grounds of major needs referred to in Article 30 or relating to the protection of the environment or the working environment

2.2.1. German position

- (33) The Federal Government intends to retain the national ban on certain azodyes for the eight groups of articles which come into direct and prolonged contact with the body, in so far as these do not consist of textile or leather thereby going beyond the restrictions contained in Directive 2002/61/EC which is limited to articles made of textile and leather.

- (34) To justify the maintenance of their national provisions, the German authorities have submitted an explanatory statement which provides the following justifications.

⁽¹⁾ See, in relation to Article 30 of the EC Treaty, the European Court of Justice judgment of 23 September 2003 in case C-192/01, *Commission v. Kingdom of Denmark*, paragraph 46.

⁽²⁾ See the 'Communication from the Commission concerning Article 95 (paragraphs 4, 5 and 6) of the Treaty establishing the European Community' (COM(2002)760 final, 23.12.2002), in particular its paragraph 13.

- (35) The German authorities point out that 'the ban on azodyes which are harmful to health in certain articles which have prolonged contact with the body, enacted in the Federal Republic of Germany in 1994, was for the protection of consumer health'. The German authorities state that 'even at this point in time it was known that certain azodyes could break down into carcinogenic amines'. They consider that 'consequently, any direct contact with the body with these azodyes should be prevented, regardless of the material of which the article, with which the consumer comes into prolonged contact, is made'.
- (36) The Federal Government takes the view that the danger to health from azodyes, which can break down into harmful amines, applies regardless of whether the dyed objects are produced from textiles, leather or another material.
- (37) As scientific data, Germany simply mentions two opinions of the SCTEE (Scientific Committee for Toxicity, Ecotoxicity and the Environment): the opinion on 'Risk of cancer caused by textiles and leather goods coloured with azodyes' of 18 January 1999 and the opinion on the Report (final draft) on 'Assessment of the risks to human health posed by azocolourants in toys, writing inks and paper products, and analysis of the advantages and drawbacks of restrictions on their marketing and use' of 12 June 2001.
- (38) In the following, the statements and positions of the German authorities will be evaluated in the light of the criteria established by Article 95(4). In particular the two opinions of the SCTEE on which Germany bases its request will be analysed.

2.2.2. The SCTEE opinion of 1999

- (39) The Commission would like to recall that the effects of azodyes have been assessed both in the study commissioned by the Commission and in the opinion of the SCTEE of 1999 during the preparation of Directive 2002/61/EC.
- (40) On 18 January 1999, the Scientific Committee on Toxicity, Ecotoxicity and the Environment (SCTEE) delivered its opinion ⁽¹⁾, concluding that the cancer risks associated with the use of certain azodyes give cause for concern ⁽²⁾. The Committee confirmed that azodyes which on cleavage form any of the carcinogenic amines classified as carcinogenic category 1 or 2, and in addition 8 amines on the German MAK list, were of special

⁽¹⁾ Opinion on Risk of cancer caused by textiles and leather goods coloured with azodyes expressed at the seventh SCTEE plenary meeting, Brussels, 18 January 1999.

⁽²⁾ The concern from the point of view of carcinogenic risks arises from the potential of azodyes to undergo in vivo reductive cleavage to aromatic amines, including the 22 amines classified by the EU or the MAK Commission as proven or suspected human carcinogens.

concern. The SCTEE considered that the report commissioned by the Commission adequately reviewed the situation regarding the risk of cancer for consumers as a result of the use of fabrics dyed with azo compounds and that its conclusions were in general acceptable. The Committee supported the report's recommendation that use of azodyes should be restricted without distinguishing between the 14 amines classified by the EU as category I or II carcinogens and the eight amines classified by the MAK Commission, and considered that the restriction should not be subject to prior development of validated analytical methodology.

- (41) Therefore, in line with these recommendations, Directive 2002/61/EC has banned the use of dangerous azocolourants and the placing on the market of textiles and leather articles coloured with such substances that have clearly been shown, on the basis of sufficient data, to pose risks. Therefore Germany cannot rely on the SCTEE opinion of 1999 for restricting the use of azodyes in materials other than textiles and leather.

2.2.3. The SCTEE opinion of 2001

- (42) The SCTEE, in its opinion of June 2001 ⁽³⁾ stated that even if some products made of other materials dyed with azodyes could be possible sources of exposure to azodyes, there is a serious lack of quantitative data. Germany therefore cannot rely on this opinion for justifying its restriction of azodyes in materials other than textiles and leather.
- (43) This second SCTEE opinion was known before Directive 2002/61/EC was adopted.
- (44) To extend the scope of the ban to other materials, which have not clearly been shown by sufficient data to pose risks, would therefore not be justified.

2.2.4. Further considerations

- (45) In this context, the Commission would also like to stress that even if a Member State may base an application to maintain its already existing national provisions on an assessment of the risk to public health different from that accepted by the Community legislature when it adopted the harmonisation measure from which the national provisions derogate, it falls to the applicant Member State to prove the necessity and proportionality of the national provisions in question.

⁽³⁾ Opinion on: Report (final draft) on 'Assessment of the risks to human health posed by azocolourants in toys, writing inks and paper products, and analysis of the advantages and drawbacks of restrictions on their marketing and use'. Opinion expressed at the 24th SCTEE plenary meeting, Brussels, 12 June 2001.

(46) The German authorities have not provided any element to demonstrate the existence of a known risk to human health going beyond the risk already identified by the Community legislature, nor have they demonstrated that the national measures concerned do not go beyond what is necessary to attain the objective foreseen ⁽¹⁾.

(47) As demonstrated above, the material and data submitted by the German authorities in support to their request for application of Article 95(4) is very limited. In their explanatory statement, the German authorities justify the maintenance of their national provisions on the ground of consumer protection. However, no further information or data is provided to substantiate their arguments. They have not submitted any scientific data on the risks which would demonstrate the inadequacy of the Community harmonisation measure, nor any evaluation of the risks for health — such as an estimation of the consumer exposure — enabling them to justify the maintenance of their national provision. They have not even provided any information on the use of such azodyes in the manufacture of products with materials other than textile and leather.

(48) Concerning the remaining arguments put forward by the German authorities, the Commission would like to recall that a ban on products constitutes a restriction to trade in the internal market and thus a serious impediment to the fundamental objective of the free circulation of goods. Any restriction of that kind would therefore have to be based on very solid grounds, and the examination of the German application has shown that no such grounds have been presented.

(49) Overall it can be seen that the documentation and arguments submitted by the German authorities in support of their request for a derogation under Article 95(4) do not allow to conclude that the national measures are justified by a major need referred to in Article 30 of the EC Treaty. Consequently, the request from Germany for maintaining its national measures does not fulfil all the conditions set out in Article 95(4) of the EC Treaty.

2.3. *Absence of any arbitrary discrimination, any disguised restriction of trade between Member States or any obstacle to the functioning of the internal market*

(50) Pursuant to Article 95(6) of the EC Treaty, the Commission shall approve or reject the national provisions involved after having verified whether or not they are a means of arbitrary discrimination or a disguised restriction

on trade between Member States and whether or not they shall constitute an obstacle to the functioning of the internal market.

(51) It should be recalled that an application under Article 95(4) of the EC Treaty must be assessed in the light of the conditions laid down in both that paragraph and paragraph 6 of that Article. If any one of those conditions is not met, the application must be rejected without there being a need to examine the others.

(52) Since the request made by Germany does not fulfil the basic conditions set out in Article 95(4) (see Part III, section 2.2, of this Decision), the Commission is not obliged to verify whether or not the notified national provisions are a means of arbitrary discrimination or a disguised restriction on trade between Member States, and whether or not they constitute an obstacle to the functioning of the internal market.

IV. CONCLUSION

(53) In light of the elements which it had available to assess the merits of the justifications put forward for the national measures notified, and in light of the considerations set out above, the Commission considers that the request of Germany for maintaining national provisions derogating from Directive 2002/61/EC amending Directive 76/769/EEC with regard to the marketing and use of certain azodyes, submitted on 21 May 2003:

— is admissible,

— does not fulfil all the conditions set out in Article 95(4) of the EC Treaty, as Germany did not justify the maintenance of its national provisions by the major need to protect consumer health.

(54) The Commission therefore has grounds to consider that the national provisions notified cannot be approved in accordance with Article 95(6) of the EC Treaty,

HAS ADOPTED THIS DECISION:

Article 1

The national provisions on restriction on the use and marketing of azodyes notified by the Federal Republic of Germany pursuant to Article 95(4) of the EC Treaty are rejected.

⁽¹⁾ See the European Court of Justice judgment of 20 March 2003 in case C-3/00, paragraphs 63 and 64.

Article 2

This Decision is addressed to the Federal Republic of Germany.

Done at Brussels, 25 November 2003.

For the Commission
Erkki LIIKANEN
Member of the Commission
