

Official Journal

of the European Union

ISSN 1725-2555

L 70

Volume 47

9 March 2004

English edition

Legislation

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I

(Acts whose publication is obligatory)

COUNCIL REGULATION (EC) No 422/2004
of 19 February 2004
amending Regulation (EC) No 40/94 on the Community trade mark
(Text with EEA relevance)

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⁾,

Having regard to the opinion of the European Economic and Social Committee ⁽²⁾,

Whereas:

- (1) Council Regulation (EC) No 40/94 of 20 December 1993 on the Community trade mark ⁽³⁾, set up a unitary system of protection of trade marks throughout the Member States via Community registration. This system has generally fulfilled users' expectations satisfactorily. It has also had a positive effect on the effective achievement of the internal market.
- (2) The functioning of the system has made it possible to identify other aspects which could clarify and further supplement it, thereby making it possible to improve the effectiveness of the system, increase the value it adds and anticipate, as of now, the consequences of additional members in future, without it being necessary to change the substance of the system, which has proven itself to be perfectly valid with regard to the objectives set.
- (3) The Community trade mark system should be made accessible to all, without any requirement of reciprocity, equivalence and/or nationality. This would also encourage trade on the world market. Such requirements make the system complex, inflexible and ineffective. In addition, in the context of the new Community design system, the Council took a flexible line on this question.
- (4) In order to rationalise the procedure, the search system should be amended. It should remain compulsory for Community trade marks, but it should be made optional, subject to the payment of a fee, for searches in the trade mark registers of the Member States which notified their own decision to carry out such a search. Furthermore,

measures should be provided with a view to improving the quality of the search reports, ensuring greater uniformity by using a standard form and laying down their essential contents.

- (5) Certain measures should be taken in order to give the Boards of Appeal additional means of speeding up their decisions and improving their operation.
- (6) The experience acquired in the application of the system highlighted the possibility of improving certain aspects of the procedure. Consequently, certain points should be amended and others inserted in order to offer users a higher-quality product which is still competitive,

HAS ADOPTED THIS REGULATION:

Article 1

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

1. Article 5 shall be replaced by the following:

'Article 5

Persons who can be proprietors of Community trade marks

Any natural or legal person, including authorities established under public law, may be the proprietor of a Community trade mark.;

2. in Article 7(1), the following point shall be added:

'(k) trade marks which contain or consist of a designation of origin or a geographical indication registered in accordance with Regulation (EEC) No 2081/92 when they correspond to one of the situations covered by Article 13 of the said Regulation and regarding the same type of product, on condition that the application for registration of the trade mark has been submitted after the date of filing with the Commission of the application for registration of the designation of origin or geographical indication.;

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

⁽²⁾ OJ C 208, 3.9.2003, p. 7.

⁽³⁾ OJ L 11, 14.1.1994, p. 1. Regulation as last amended by Regulation (EC) No 1992/2003 (OJ L 296, 14.11.2003, p. 1).

3. In Article 8(4), the introductory subparagraph shall be replaced by the following:

'4. Upon opposition by the proprietor of a non-registered trade mark or of another sign used in the course of trade of more than mere local significance, the trade mark applied for shall not be registered where and to the extent that, pursuant to the Community legislation or the law of the Member State governing that sign:';

4. Article 21 shall be replaced by the following:

'Article 21

Insolvency proceedings

1. The only insolvency proceedings in which a Community trade mark may be involved are those opened in the Member State in the territory of which the debtor has his centre of main interests.

However, where the debtor is an insurance undertaking or a credit institution as defined in Directives 2001/17/EC (*) and 2001/24/EC (**), respectively, the only insolvency proceedings in which a Community trademark may be involved are those opened in the Member State where that undertaking or institution has been authorised.

2. In the case of joint proprietorship of a Community trade mark, paragraph 1 shall apply to the share of the joint proprietor.

3. Where a Community trade mark is involved in insolvency proceedings, on request of the competent national authority an entry to this effect shall be made in the Register and published in the Community Trade Marks Bulletin referred to in Article 85.

(*) Directive 2001/17/EC of the European Parliament and of the Council of 19 March 2001 on the reorganisation and winding-up of insurance undertakings (OJ L 110, 20.4.2001, p. 28).

(**) Directive 2001/24/EC of the European Parliament and of the Council of 4 April 2001 on the reorganisation and winding up of credit institutions (OJ L 125, 5.5.2001, p. 15).';

5. Article 25(3) shall be replaced by the following:

'3. Applications referred to in paragraph 2 which reach the Office more than two months after filing shall be deemed to have been filed on the date on which the application reached the Office.';

6. Article 35(1) shall be replaced by the following:

'1. The proprietor of a Community trade mark who is the proprietor of an earlier identical trade mark registered in a Member State, including a trade mark registered in the Benelux countries or of an earlier identical trade mark, with an international registration effective in a Member State, for goods or services which are identical to those for which the earlier trade mark has been registered, or

contained within them, may claim the seniority of the earlier trade mark in respect of the Member State in or for which it was registered.';

7. Article 36(1)(b) shall be replaced by the following:

'(b) the Community trade mark application complies with the conditions laid down in this Regulation and with the conditions laid down in the Implementing Regulation.';

8. Article 37 shall be deleted;

9. Article 39 shall be replaced by the following:

'Article 39

Search

1. Once the Office has accorded a date of filing, it shall draw up a Community search report citing those earlier Community trade marks or Community trade mark applications discovered which may be invoked under Article 8 against the registration of the Community trade mark applied for.

2. Where, at the time of filing a Community trade mark application, the applicant requests that a search report also be prepared by the central industrial property offices of the Member States and where the appropriate search fee has been paid within the time-limit for the payment of the filing fee, the Office shall, as soon as a Community trade mark application has been accorded a date of filing, transmit a copy thereof to the central industrial property office of each Member State which has informed the Office of its decision to operate a search in its own register of trade marks in respect of Community trade mark applications.

3. Each of the central industrial property offices referred to in paragraph 2 shall communicate to the Office within two months as from the date on which it received the Community trade mark application a search report which shall either cite those earlier national trade marks or trade mark applications discovered which may be invoked under Article 8 against the registration of the Community trade mark applied for, or state that the search has revealed no such rights.

4. The search reports referred to in paragraph 3 shall be prepared on a standard form drawn up by the Office, after consulting the Administrative Board. The essential contents of this form shall be set out in the Implementing Regulation provided for in Article 157(1).

5. An amount shall be paid by the Office to each central industrial property office for each search report provided by that office in accordance with paragraph 3. The amount, which shall be the same for each office, shall be fixed by the Budget Committee by means of a decision adopted by a majority of three-quarters of the representatives of the Member States.

6. The Office shall transmit without delay to the applicant for the Community trade mark the Community search report and any requested national search reports received within the time limit laid down in paragraph 3.

7. Upon publication of the Community trade mark application, which may not take place before the expiry of a period of one month as from the date on which the Office transmits the search reports to the applicant, the Office shall inform the proprietors of any earlier Community trade marks or Community trade mark applications cited in the Community search report of the publication of the Community trade mark application.;

10. Article 40 shall be replaced by the following:

'Article 40

Publication of the application

1. If the conditions which the application for a Community trade mark must satisfy have been fulfilled and if the period referred to in Article 39(7) has expired, the application shall be published to the extent that it has not been refused pursuant to Article 38.

2. Where, after publication, the application is refused under Article 38, the decision that it has been refused shall be published upon becoming final.;

11. in Title IV, the title of Section 5 shall be replaced by the following:

'WITHDRAWAL, RESTRICTION, AMENDMENT AND DIVISION OF THE APPLICATION';

12. the following Article shall be inserted:

'Article 44a

Division of the application

1. The applicant may divide the application by declaring that some of the goods or services included in the original application will be the subject of one or more divisional applications. The goods or services in the divisional application shall not overlap with the goods or services which remain in the original application or those which are included in other divisional applications.

2. The declaration of division shall not be admissible:

(a) if, where an opposition has been entered against the original application, such a divisional application has the effect of introducing a division amongst the goods or services against which the opposition has been directed, until the decision of the Opposition Division has become final or the opposition proceedings are finally terminated otherwise;

(b) during the periods laid down in the Implementing Regulation.

3. The declaration of division must comply with the provisions set out in the Implementing Regulation.

4. The declaration of division shall be subject to a fee. The application shall be deemed not to have been made until the fee has been paid.

5. The division shall take effect on the date on which it is recorded in the files kept by the Office concerning the original application.

6. All requests and applications submitted and all fees paid with regard to the original application prior to the date on which the Office receives the declaration of division are deemed also to have been submitted or paid with regard to the divisional application or applications. The fees for the original application which have been duly paid prior to the date on which the declaration of division is received shall not be refunded.

7. The divisional application shall preserve the filing date and any priority date and seniority date of the original application.;

13. the title of Title V shall be replaced by the following:

'DURATION, RENEWAL, ALTERATION AND DIVISION OF COMMUNITY TRADE MARKS';

14. the following Article shall be inserted:

'Article 48a

Division of the registration

1. The proprietor of the Community trade mark may divide the registration by declaring that some of the goods or services included in the original registration will be the subject of one or more divisional registrations. The goods or services in the divisional registration shall not overlap with the goods or services which remain in the original registration or those which are included in other divisional registrations.

2. The declaration of division shall not be admissible:

(a) if, where an application for revocation of rights or for a declaration of invalidity has been entered against the original registration, such a divisional declaration has the effect of introducing a division amongst the goods or services against which the application for revocation of rights or for a declaration of invalidity is directed, until the decision of the Cancellation Division has become final or the proceedings are finally terminated otherwise;

(b) if, where a counterclaim for revocation or for a declaration of invalidity has been entered in a case before a Community trade mark court, such a divisional declaration has the effect of introducing a division amongst the goods or services against which the counterclaim is directed, until the mention of the Community trade mark court's judgement is recorded in the Register pursuant to Article 96(6).

3. The declaration of division must comply with the provisions set out in the Implementing Regulation.

4. The declaration of division shall be subject to a fee. The declaration shall be deemed not to have been made until the fee has been paid.

5. The division shall take effect on the date on which it is entered in the Register.

6. All requests and applications submitted and all fees paid with regard to the original registration prior to the date on which the Office receives the declaration of division shall be deemed also to have been submitted or paid with regard to the divisional registration or registrations. The fees for the original registration which have been duly paid prior to the date on which the declaration of division is received shall not be refunded.

7. The divisional registration shall preserve the filing date and any priority date and seniority date of the original registration.;

15. in Article 50(1), point (d) shall be deleted;

16. Article 51(1)(a) shall be replaced by the following:

'(a) where the Community trade mark has been registered contrary to the provisions of Article 7;'

17. Article 52(2) shall be replaced by the following:

'2. A Community trade mark shall also be declared invalid on application to the Office or on the basis of a counterclaim in infringement proceedings where the use of such trade mark may be prohibited pursuant to another earlier right, and in particular:

(a) a right to a name;

(b) a right of personal portrayal;

(c) a copyright;

(d) an industrial property right;

under the Community legislation or national law governing the protection.;

18. Article 56(6) shall be replaced by the following:

'6. A record of the Office's decision on the application for revocation of rights or for a declaration of invalidity shall be entered in the Register once it has become final.;

19. Article 60 shall be replaced by the following:

'Article 60

Revision of decisions in *ex parte* cases

1. If the party which has lodged the appeal is the sole party to the procedure, and if the department whose decision is contested considers the appeal to be admissible and well founded, the department shall rectify its decision.

2. If the decision is not rectified within one month after receipt of the statement of grounds, the appeal shall be remitted to the Board of Appeal without delay, and without comment as to its merit.;

20. the following Article shall be inserted:

'Article 60a

Revision of decisions in *inter partes* cases

1. Where the party which has lodged the appeal is opposed by another party and if the department whose decision is contested considers the appeal to be admissible and well founded, it shall rectify its decision.

2. The decision may only be rectified if the department whose decision is contested notifies the other party of its intention to rectify it, and that party accepts it within two months of the date on which it received the notification.

3. If, within two months of receiving the notification referred to in paragraph 2, the other party does not accept that the contested decision is to be rectified and makes a declaration to that effect or does not make any declaration within the period laid down, the appeal shall be remitted to the Board of Appeal without delay, and without comment as to its merit.

4. However, if the department whose decision is contested does not consider the appeal to be admissible and well founded within one month after receipt of the statement of grounds, it shall, instead of taking the measures provided for in paragraphs 2 and 3, remit the appeal to the Board of Appeal without delay, and without comment as to its merit.;

21. the following Article shall be inserted:

'Article 77a

Revocation of decisions

1. Where the Office has made an entry in the Register or taken a decision which contains an obvious procedural error attributable to the Office, it shall ensure that the entry is cancelled or the decision is revoked. Where there is only one party to the proceedings and the entry or the act affects its rights, cancellation or revocation shall be determined even if the error was not evident to the party.

2. Cancellation or revocation as referred to in paragraph 1 shall be determined, *ex officio* or at the request of one of the parties to the proceedings, by the department which made the entry or took the decision. Cancellation or revocation shall be determined within six months from the date on which the entry was made in the Register or the decision was taken, after consultation with the parties to the proceedings and any proprietor of rights to the Community trade mark in question that are entered in the Register.

3. This Article shall be without prejudice to the right of the parties to submit an appeal under Articles 57 and 63, or to the possibility, under the procedures and conditions laid down by the Implementing Regulation referred to in Article 157(1), of correcting any linguistic errors or errors of transcription and obvious errors in the Office's decisions or errors attributable to the Office in registering the trade mark or in publishing its registration.;

22. Article 78(5) shall be replaced by the following:

'5. This Article shall not be applicable to the time limits referred to in paragraph 2 of this Article, Article 42(1) and (3) and Article 78a.;

23. the following Article shall be inserted:

'Article 78a

Continuation of proceedings

1. An applicant for or proprietor of a Community trade mark or any other party to proceedings before the Office who has omitted to observe a time limit vis-à-vis the Office may, upon request, obtain the continuation of proceedings, provided that at the time the request is made the omitted act has been carried out. The request for continuation of proceedings shall be admissible only if it is presented within two months following the expiry of the unobserved time limit. The request shall not be deemed to have been filed until the fee for continuation of the proceedings has been paid.

2. This Article shall not be applicable to the time limits laid down in Article 25(3), Article 27, Article 29(1), Article 33(1), Article 36(2), Article 42, Article 43, Article 47(3), Article 59, Article 60a, Article 63(5), Article 78, Article 108, or to the time limits laid down in this Article or the time limits laid down by the Implementing Regulation referred to in Article 157(1) for claiming priority within the meaning of Article 30, exhibition priority within the meaning of Article 33 or seniority within the meaning of Article 34 after the application has been filed.

3. The department competent to decide on the omitted act shall decide upon the application.

4. If the Office accepts the application, the consequences of having failed to observe the time limit shall be deemed not to have occurred.

5. If the Office rejects the application, the fee shall be refunded.;

24. Article 81(6) shall be replaced by the following:

'6. The Opposition Division or Cancellation Division or Board of Appeal shall fix the amount of the costs to be paid pursuant to the preceding paragraphs when the costs to be paid are limited to the fees paid to the Office and the representation costs. In all other cases, the registry of the Board of Appeal or a member of the staff of the Opposition Division or Cancellation Division shall fix the amount of the costs to be reimbursed on request. The request is admissible only within two months of the date on which the decision for which an application was made for the costs to be fixed became final. The amount so determined may be reviewed by a decision of the Opposition Division or Cancellation Division or Board of Appeal on a request filed within the prescribed period.;

25. Article 88 shall be amended as follows:

(a) the first sentence of paragraph 3 shall be replaced by the following:

'Natural or legal persons having their domicile or principal place of business or a real and effective industrial or commercial establishment in the Community may be represented before the Office by an employee.;

(b) the following paragraph shall be added:

'4. The Implementing Regulation shall specify whether and under what conditions an employee must file with the Office a signed authorisation for insertion on the file.;

26. Article 89 shall be amended as follows:

(a) in paragraph 1, point b shall be replaced by the following:

'(b) professional representatives whose names appear on the list maintained for this purpose by the Office. The Implementing Regulation shall specify whether and under what conditions the representatives before the Office must file with the Office a signed authorisation for insertion on the file.;

(b) in paragraph 2(c) the first sentence shall be replaced by the following:

'(c) he must be entitled to represent natural or legal persons in trade mark matters before the central industrial property office of a Member State.;

27. Article 96(5) shall be replaced by the following:

'5. Article 56(2) to (5) shall apply.;

28. in Article 108 paragraphs 4, 5 and 6 shall be replaced by the following:

'4. In cases where a Community trade mark application is deemed to be withdrawn, the Office shall send to the applicant a communication fixing a period of three months from the date of that communication in which a request for conversion may be filed.

5. Where the Community trade mark application is withdrawn or the Community trade mark ceases to have effect as a result of a surrender being recorded or of failure to renew the registration, the request for conversion shall be filed within three months after the date on which the Community trade mark application has been withdrawn or on which the Community trade mark ceases to have effect.

6. Where the Community trade mark application is refused by decision of the Office or where the Community trade mark ceases to have effect as a result of a decision of the Office or of a Community trade mark court, the request for conversion shall be filed within three months after the date on which that decision acquired the authority of a final decision.;

29. Article 109(3) shall be replaced by the following:

'3. The Office shall check whether the conversion requested fulfils the conditions set out in this Regulation, in particular Article 108(1), (2), (4), (5) and (6), and paragraph 1 of this Article, together with the formal conditions laid down in the Implementing Regulation. If these conditions are fulfilled, the Office shall transmit the request for conversion to the industrial property offices of the Member States specified therein.;

30. Article 110(1) shall be replaced by the following:

'1. Any central industrial property office to which the request for conversion is transmitted may obtain from the Office any additional information concerning the request enabling that office to make a decision regarding the national trade mark resulting from the conversion.;

31. in the second sentence of Article 118(3), the phrase 'within 15 days' shall be replaced by the phrase 'within one month' and, in the third sentence, the phrase 'within one month' shall be replaced by the phrase 'within three months';

32. Article 127(2) shall be replaced by the following:

'2. The decisions of the Opposition Divisions shall be taken by three-member groups. At least one member shall be legally qualified. In certain specific cases provided for in the Implementing Regulation, the decisions shall be taken by a single member.;

33. Article 129(2) shall be replaced by the following:

'2. The decisions of the Cancellation Divisions shall be taken by three-member groups. At least one member shall be legally qualified. In certain specific cases provided for in the Implementing Regulation, the decisions shall be taken by a single member.;

34. Article 130 shall be amended as follows:

(a) paragraph 2 shall be replaced by the following:

'2. The decisions of the Boards of Appeal shall be taken by three members, at least two of whom are legally qualified. In certain specific cases, decisions shall be taken by an enlarged Board chaired by the President of the Boards of Appeal or by a single member, who must be legally qualified.;

(b) the following paragraphs shall be added:

'3. In order to determine the special cases which fall under the jurisdiction of the enlarged Board, account should be taken of the legal difficulty or the importance of the case or of special circumstances which justify it. Such cases may be referred to the enlarged Board:

(a) by the authority of the Boards of Appeal set up in accordance with the rules of procedure of the Boards referred to in Article 157(3), or

(b) by the Board handling the case.

4. The composition of the enlarged Board and the rules on referrals to it shall be laid down pursuant to the rules of procedure of the Boards referred to in Article 157(3).

5. To determine which specific cases fall under the authority of a single member, account should be taken of the lack of difficulty of the legal or factual matters raised, the limited importance of the individual case or the absence of other specific circumstances. The decision to confer a case on one member in the cases referred to shall be adopted by the Board handling the case. Further details shall be laid down in the rules of procedure of the Boards referred to in Article 157(3).;

35. Article 131 shall be replaced by the following:

'Article 131

Independence of the members of the Boards of Appeal

1. The President of the Boards of Appeal and the chairmen of the Boards shall be appointed, in accordance with the procedure laid down in Article 120 for the appointment of the President of the Office, for a term of five years. They may not be removed from office during this term, unless there are serious grounds for such removal and the Court of Justice, on application by the institution which appointed them, takes a decision to this effect. The term of office of the President of Boards of Appeal and the chairmen of the Boards may be renewed for additional five-year periods, or until retirement age if this age is reached during the new term of office.

The President of the Boards of Appeal shall, *inter alia*, have managerial and organisational powers, principally to:

- (a) chair the authority of the Boards of Appeal responsible for laying down the rules and organising the work of the Boards, which authority is provided for in the rules of procedure of the Boards referred to in Article 157(3);
- (b) ensure the implementation of the authority's decisions;
- (c) allocate cases to a Board on the basis of objective criteria determined by the authority of the Boards of Appeal;
- (d) forward to the President of the Office the Boards' expenditure requirements, with a view to drawing up the expenditure estimates.

The President of the Boards of Appeal shall chair the enlarged Board.

Further details shall be laid down in the rules of procedure of the Boards referred to in Article 157(3).

2. The members of the Boards of Appeal shall be appointed by the Administrative Board for a term of five years. Their term of office may be renewed for additional five-year periods, or until retirement age if that age is reached during the new term of office.

3. The members of the Boards of Appeal may not be removed from office unless there are serious grounds for such removal and the Court of Justice, after the case has been referred to it by the Administrative Board on the recommendation of the President of the Boards of Appeal, after consulting the chairman of the Board to which the member concerned belongs, takes a decision to this effect.

4. The President of the Boards of Appeal and the chairmen and members of the Boards of Appeal shall be independent. In their decisions they shall not be bound by any instructions.

5. The President of the Boards of Appeal and the chairmen and members of the Boards of Appeal may not be examiners or members of the Opposition Divisions, Administration of Trade Marks and Designs and Legal Division or Cancellation Divisions.;

36. Article 142a shall become Article 159a;

37. in Article 150, paragraph 3 shall be replaced by the following:

'3. Article 39(3) to (6) shall apply *mutatis mutandis*.';

38. In Article 157(2), points (1) and (4) shall be deleted.

Article 2

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

2. Points 11 to 14, 21, 23 to 26 and 32 to 36 of Article 1 shall apply from a date which shall be laid down by the Commission and published in the *Official Journal of the European Union*, when the necessary implementing measures have been adopted.

3. Point 9 of Article 1 shall apply from 10 March 2008.

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

Done at Brussels, 19 February 2004.

For the Council

The President

M. McDOWELL

COUNCIL REGULATION (EC) No 423/2004
of 26 February 2004
establishing measures for the recovery of cod stocks

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty establishing the European Community, and in particular Article 37 thereof,

Having regard to the proposal from the Commission,

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

Whereas:

- (1) Recent scientific advice from the International Council for the Exploration of the Sea (ICES) has indicated that a number of cod stocks in Community waters have been subjected to levels of mortality by fishing which have eroded the quantities of mature fish in the sea to the point at which the stocks may not be able to replenish themselves by reproduction and that these stocks are therefore threatened with collapse.
- (2) These stocks are cod in the Kattegat, the North Sea, including the Skagerrak and the eastern Channel, to the west of Scotland and in the Irish Sea.
- (3) Measures need to be taken to establish multi-annual plans for the recovery of these stocks.
- (4) It is expected that recovery of these stocks under the conditions of this Regulation will take between five and 10 years.
- (5) The objective of the plan concerning such measures should be considered to be achieved for a stock when, for two consecutive years, the quantity of mature cod has been greater than that decided upon by managers as being within safe biological limits.
- (6) In order to achieve that objective, the fishing mortality rates should be controlled so that it is highly likely that the quantities of mature fish in the sea increase from year to year.
- (7) Such control of fishing mortality rates can be achieved by establishing an appropriate method for the establishment of the level of the total allowable catches (TACs) of the stocks concerned, and a system whereby fishing effort on those stocks is constrained to levels so that the TACs are unlikely to be exceeded.

(8) Once recovery has been achieved, the Commission should propose, and the Council should decide upon, follow-up measures in accordance with Article 6 of Council Regulation (EC) No 2371/2002 of 20 December 2002 on the conservation and sustainable exploitation of fisheries resources under the common fisheries policy ⁽²⁾.

(9) Control measures in addition to those laid down in Council Regulation (EEC) No 2847/93 of 12 October 1993 establishing a control system applicable to the common fisheries policy ⁽³⁾ are required to ensure compliance with the measures laid down in this Regulation,

HAS ADOPTED THIS REGULATION:

CHAPTER I

SUBJECT MATTER AND DEFINITIONS

Article 1

Subject-matter

This Regulation establishes a recovery plan for the following cod stocks (hereinafter referred to as 'depleted cod stocks'):

- (a) cod in the Kattegat;
- (b) cod in the North Sea, in the Skagerrak and the eastern Channel;
- (c) cod to the west of Scotland;
- (d) cod in the Irish Sea.

Article 2

Definitions of geographical areas

For the purposes of this Regulation, the following definitions of geographical areas shall apply:

- (a) 'Kattegat' means that part of division III a, as delineated by ICES, that is bounded on the north by a line drawn from the Skagen lighthouse to the Tistlarna lighthouse, and from this point to the nearest point on the Swedish coast, and on the south by a line drawn from Hasenore to Gribens Spids, from Korshage to Spodsbjerg and from Gilbjerg Hoved to Kullen;
- (b) 'North Sea' means ICES subarea IV and that part of ICES division III a not covered by the Skagerrak and that part of ICES division II a which lies within waters under the sovereignty or jurisdiction of Member States;

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

⁽²⁾ OJ L 358, 31.12.2002, p. 59.

⁽³⁾ OJ L 261, 20.10.1993, p. 1. Regulation as last amended by Regulation (EC) No 1954/2003 (OJ L 289, 7.11.2003, p. 1).

- (c) 'Skagerrak' means that part of ICES division III a bounded on the west by a line drawn from the Hanstholm lighthouse to the Lindesnes lighthouse and on the south by a line drawn from the Skagen lighthouse to the Tistlarna lighthouse and from that point to the nearest point on the Swedish coast;
- (d) 'eastern Channel' means ICES division VII d;
- (e) 'Irish Sea' means ICES division VII a;
- (f) 'west of Scotland' means ICES division VI a and that part of ICES division V b which lies within waters under the sovereignty or jurisdiction of Member States.

CHAPTER II

TARGET LEVELS

Article 3

Purpose of the recovery plan

The recovery plan referred to in Article 1 shall aim to increase the quantities of mature fish to values equal to or greater than the target levels specified in the following table:

Stock	Target levels in tonnes
Cod in the Kattegat	10 500
Cod in the North Sea, Skagerrak and eastern Channel	150 000
Cod to the west of Scotland	22 000
Cod in the Irish Sea	10 000

Article 4

Reaching of target levels

Where the Commission finds, on the basis of advice from ICES and following agreement on that advice by the Scientific Technical and Economic Committee for Fisheries (STECF), that for two consecutive years the target level for any cod stock concerned has been reached, the Council shall decide by qualified majority on a proposal from the Commission to remove that stock from the scope of this Regulation and to establish a management plan for that stock in accordance with Article 6 of Regulation (EC) No 2371/2002.

CHAPTER III

TOTAL ALLOWABLE CATCHES

Article 5

Setting of TACs

A TAC shall be set in accordance with Article 6 where the quantities of mature cod have been estimated by the STECF, in the light of the most recent report of ICES, to be equal to or above the minimum levels specified in the following table:

Stock	Minimum levels in tonnes
Cod in the Kattegat	6 400
Cod in the North Sea, Skagerrak and eastern Channel	70 000
Cod to the west of Scotland	14 000
Cod in the Irish Sea	6 000

Article 6

Procedure for setting TACs

1. Each year, the Council shall decide by qualified majority, on the basis of a proposal from the Commission, on a TAC for the following year for each of the depleted cod stocks.

2. The TACs shall not exceed a level of catches which a scientific evaluation, carried out by the STECF in the light of the most recent report of the ICES, has indicated will result in an increase of 30 % in the quantities of mature fish in the sea at the end of the year of their application, compared to the quantities estimated to have been in the sea at the start of that year.

3. The Council shall not adopt a TAC whose capture is predicted by the STECF, in the light of the most recent report of the ICES, to generate in its year of application a fishing mortality rate greater than the following values:

Concerned fish stock	Fishing mortality rate
Cod in the Kattegat	0,60
Cod in the North Sea, Skagerrak and eastern Channel	0,65
Cod to the west of Scotland	0,60
Cod in the Irish Sea	0,72

4. Where it is expected that application of paragraph 2 will result in a quantity of mature fish at the end of the year of application of the TAC in excess of the quantity indicated in Article 3, the Commission shall carry out a review of the recovery plan and propose any adjustments necessary on the basis of the latest scientific evaluations. Such a review shall in any event be carried out by 16 March 2007.

5. Except for the first year of application of this Article:

- (a) where the rules provided for in paragraphs 2 or 4 would lead to a TAC which exceeds the TAC of the preceding year by more than 15 %, the Council shall adopt a TAC which shall not be more than 15 % greater than the TAC of that year; or
- (b) where the rules provided for in paragraphs 2 or 4 would lead to a TAC which is more than 15 % less than the TAC of the preceding year, the Council shall adopt a TAC which is not more than 15 % less than the TAC of that year.

6. Paragraphs 4 or 5 shall not apply when their application would entail an exceeding of the values laid down in paragraph 3.

*Article 7***Setting TACs in exceptional circumstances**

Where the quantities of mature fish of any of the cod stocks concerned have been estimated by the STECF, in the light of the most recent report of the ICES, to be less than the quantities set out in Article 5, the following rules shall apply:

- (a) Article 6 shall apply where its application is expected to result in an increase in the quantities of mature fish at the end of the year of application of the TAC to a quantity equal to or greater than the quantity indicated in Article 5;
- (b) where the application of Article 6 is not expected to result in an increase in the quantities of mature fish at the end of the year of application of the TAC to a quantity equal to or greater than the quantity indicated in Article 5, the Council shall decide by a qualified majority, on a proposal from the Commission, on a TAC for the following year that is lower than the TAC resulting from the application of the method described in Article 6.

CHAPTER IV

FISHING EFFORT LIMITATION*Article 8***Fishing effort limitations and associated conditions**

1. The TACs referred to in Chapter III shall be complemented by a system of fishing effort limitation based on the geographical areas and groupings of fishing gear, and the associated conditions for the use of these fishing opportunities specified in Annex V to Council Regulation (EC) No 2287/2003 of 19 December 2003 fixing for 2004 the fishing opportunities and associated conditions for certain fish stocks and groups of fish stocks, applicable in Community waters and, for Community vessels, in waters where catch limitations are required⁽¹⁾.

2. Each year, the Council shall decide by a qualified majority, on the basis of a proposal from the Commission, on adjustments to the number of fishing days for vessels deploying gear of mesh size equal to or greater than 100 mm in direct proportion to the annual adjustments in fishing mortality that are estimated by ICES and STECF as being consistent with the application of the TACs established according to the method described in Article 6.

3. The Council may decide by a qualified majority, on a proposal from the Commission, on alternative arrangements for fishing effort limitations to be applied under the recovery plan in order to manage fishing effort consistently with the TACs established according to the method described in Article 6.

⁽¹⁾ OJ L 344, 31.12.2003, p. 1.

4. If no decision is taken according to paragraphs 2 and 3, the provisions of Annex V of Regulation (EC) No 2287/2003 shall continue to apply until a decision is adopted by the Council pursuant to Article 4.

CHAPTER V

MONITORING, INSPECTION AND SURVEILLANCE*Article 9***Fishing effort messages**

Notwithstanding Article 19a of Regulation (EEC) No 2847/93, Articles 19b, 19c, 19d and 19e and 19k of that Regulation shall apply to vessels operating in the geographical areas defined in Article 2 of this Regulation. However, vessels not authorised to keep on board and use fishing gear for catching species from stocks referred to in Article 1 of this Regulation shall be exempt from this requirement.

*Article 10***Alternative control measures**

Member States may implement alternative control measures to ensure compliance with reporting obligations referred in Article 9 which are as effective and transparent as these reporting obligations. Such alternative measures shall be notified to the Commission before being implemented.

*Article 11***Prior notification**

1. The master of a Community fishing vessel, or his/her representative, prior to any entry into port or any landing location of a Member State carrying more than one tonne of cod on board shall inform the competent authorities of that Member State, at least four hours in advance of such entry, of:

- (a) the name of the port or landing location;
- (b) the estimated time of arrival at that port or landing location;
- (c) the quantities in kg live weight of all species of which more than 50 kg is retained on board.

2. The competent authorities of a Member State in which a landing of more than one tonne of cod is to be made may require that the discharge of catch retained on board shall not commence until authorised by those authorities.

3. The master of a Community fishing vessel, or his/her representative, wishing to tranship or discharge at sea any quantity retained on board or to land in a port or landing location of a third country shall inform the competent authorities of the flag Member State, at least 24 hours prior to transhipping or discharging at sea or to landing in a third country, of the information referred to in paragraph 1.

*Article 12***Designated ports**

1. Where more than two tonnes of cod are to be landed in the Community from a Community fishing vessel, the master of the vessel shall ensure that such landings are made only at designated ports.
2. Each Member State shall designate ports into which any landing of cod in excess of two tonnes shall take place.
3. Each Member State shall transmit to the Commission by 31 March 2004 the list of designated ports and, within 30 days thereafter, associated inspection and surveillance procedures for those ports, including the terms and conditions for recording and reporting the quantities of cod within each landing.

The Commission shall transmit this information to all Member States.

*Article 13***Margin of tolerance in the estimation of quantities reported in the logbook**

By way of derogation from Article 5(2) of Commission Regulation (EEC) No 2807/83 of 22 September 1983 laying down detailed rules for recording information on Member States catches of fish ⁽¹⁾, the permitted margin of tolerance, in the estimation of quantities, in kg retained on board, shall be 8 % of the logbook figure.

*Article 14***Separate stowage of cod**

It shall be prohibited to retain on board a Community fishing vessel in any container any quantity of cod mixed with any other species of marine organisms. Containers with cod shall be stowed in the hold in such a way that they are kept separate from other containers.

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

Done at Brussels, 26 February 2004.

*Article 15***Transport of cod**

1. The competent authorities of a Member State may require that any quantity of cod caught in any of the geographical areas defined in Article 2 and first landed in that Member State is weighed in the presence of controllers before being transported elsewhere from the port of first landing. For cod first landed in a port designated pursuant to Article 12, representative samples, amounting to at least 20 % of the landings in number shall be weighed in the presence of controllers authorised by the Member States before they are offered for first sale and sold. To this end, the Member States shall submit to the Commission, within one month of the date of entry into force of this Regulation, details of the sampling regime to be employed.

2. By way of derogation from the conditions laid down in Article 13 of Regulation (EEC) No 2847/93, all quantities of cod greater than 50 kg which are transported to a place other than that of first landing or import shall be accompanied by a copy of one of the declarations provided for in Article 8(1) of that regulation pertaining to the quantities of cod transported. The exemption provided for in Article 13(4)(b) of that Regulation shall not apply.

*Article 16***Specific monitoring programme**

By way of derogation from Article 34c(1) of Regulation (EEC) No 2847/93, the specific monitoring programmes for the cod stocks concerned may last more than two years from their date of entry into force.

CHAPTER VI

FINAL PROVISIONS

*Article 17***Entry into force**

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

For the Council
The President
N. DEMPSEY

⁽¹⁾ OJ L 276, 10.10.1983, p. 1. Regulation as last amended by Regulation (EC) No 1965/2001 (OJ L 268, 9.10.2001, p. 23).

COMMISSION REGULATION (EC) No 424/2004
of 8 March 2004
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⁾, 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 9 March 2004.

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

Done at Brussels, 8 March 2004.

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

⁽¹⁾ OJ L 337, 24.12.1994, p. 66. Regulation as last amended by Regulation (EC) No 1947/2002 (OJ L 299, 1.11.2002, p. 17).

ANNEX

to the Commission Regulation of 8 March 2004 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	105,5
	204	61,0
	212	120,5
	999	95,7
0707 00 05	052	150,2
	068	106,2
	204	32,5
	999	96,3
0709 10 00	220	80,1
	999	80,1
0709 90 70	052	111,0
	204	54,1
	628	136,0
	999	100,4
0805 10 10, 0805 10 30, 0805 10 50	052	45,0
	204	48,2
	212	58,5
	220	50,6
	400	44,5
	624	59,5
	999	51,1
0805 50 10	052	50,0
	600	57,6
	999	53,8
0808 10 20, 0808 10 50, 0808 10 90	052	60,0
	060	36,5
	388	109,0
	400	109,2
	404	100,4
	508	82,5
	512	92,4
	524	80,9
	528	89,0
	720	81,0
	999	84,1
0808 20 50	060	66,7
	388	72,9
	400	84,3
	512	59,8
	528	75,5
	720	70,3
	999	71,6

⁽¹⁾ Country nomenclature as fixed by Commission Regulation (EC) No 2081/2003 (OJ L 313, 28.11.2003, p. 11). Code '999' stands for 'of other origin'.

**COMMISSION REGULATION (EC) No 425/2004
of 4 March 2004**

**fixing the Community withdrawal and selling prices for the fishery products listed in Annex I to
Council Regulation (EC) No 104/2000 for the 2004 fishing year**

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Council Regulation (EC) No 104/2000 of 17 December 1999 on the common organisation of the markets in fishery and aquaculture products ⁽¹⁾, and in particular Article 20(3) and Article 22 thereof,

Whereas:

- (1) Regulation (EC) No 104/2000 provides that the Community withdrawal and selling prices for each of the products listed in Annex I thereto are to be fixed on the basis of the freshness, size or weight and presentation of the product by applying the conversion factor for the product category concerned to an amount not more than 90 % of the relevant guide price.
- (2) The withdrawal prices may be multiplied by adjustment factors in landing areas which are very distant from main centres of consumption in the Community. The guide prices for the 2004 fishing year were fixed for all the products concerned by Council Regulation (EC) No 2326/2003 ⁽²⁾.
- (3) The measures provided for in this Regulation are in accordance with the opinion of the Management Committee for Fishery Products,

HAS ADOPTED THIS REGULATION:

Article 1

The conversion factors used for calculating the Community withdrawal and selling prices for the 2004 fishing year for the products listed in Annex I to Regulation (EC) No 104/2000 are set out in Annex I to this Regulation.

Article 2

The Community withdrawal and selling prices applicable for the 2004 fishing year and the products to which they relate are set out in Annex II.

Article 3

The withdrawal prices applicable for the 2004 fishing year in landing areas which are very distant from the main centres of consumption in the Community and the products to which those prices relate are set out in Annex III.

Article 4

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

It shall apply from 1 January 2004.

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

Done at Brussels, 4 March 2004.

For the Commission

Franz FISCHLER

Member of the Commission

⁽¹⁾ OJ L 17, 21.1.2000, p. 22.

⁽²⁾ OJ L 345, 31.12.2003, p. 27.

ANNEX I

Conversion factors for the products listed in points A, B and C of Annex I to Regulation (EC) No 104/2000

Species	Size (l)	Conversion factors	
		Gutted fish, with head (l)	Whole fish (l)
		Extra, A (l)	Extra, A (l)
Herring of the species <i>Clupea harengus</i>	1	0,00	0,47
	2	0,00	0,72
	3	0,00	0,68
	4a	0,00	0,43
	4b	0,00	0,43
	4c	0,00	0,90
	5	0,00	0,80
Sardines of the species <i>Sardina pilchardus</i>	6	0,00	0,40
	1	0,00	0,51
	2	0,00	0,64
	3	0,00	0,72
Dogfish (<i>Squalus acanthias</i>)	4	0,00	0,47
	1	0,60	0,60
	2	0,51	0,51
	3	0,28	0,28
Dogfish (<i>Scyliorhinus</i> spp.)	1	0,64	0,60
	2	0,64	0,56
	3	0,44	0,36
Redfish (<i>Sebastes</i> spp.)	1	0,00	0,81
	2	0,00	0,81
	3	0,00	0,68
Cod of the species <i>Gadus morhua</i>	1	0,72	0,52
	2	0,72	0,52
	3	0,68	0,40
	4	0,54	0,30
	5	0,38	0,22
Coalfish (<i>Pollachius virens</i>)	1	0,72	0,56
	2	0,72	0,56
	3	0,71	0,55
	4	0,61	0,30
Haddock (<i>Melanogrammus aeglefinus</i>)	1	0,72	0,56
	2	0,72	0,56
	3	0,62	0,43
	4	0,52	0,36
Whiting (<i>Merlangius merlangus</i>)	1	0,66	0,50
	2	0,64	0,48
	3	0,60	0,44
	4	0,41	0,30
Ling (<i>Molva</i> spp.)	1	0,68	0,56
	2	0,66	0,54
	3	0,60	0,48
Mackerel of the species <i>Scomber scombrus</i>	1	0,00	0,72
	2	0,00	0,71
	3	0,00	0,69
Spanish mackerel of the species <i>Scomber japonicus</i>	1	0,00	0,77
	2	0,00	0,77
	3	0,00	0,63
	4	0,00	0,47

Species	Size (l)	Conversion factors	
		Gutted fish, with head (l)	Whole fish (l)
		Extra, A (l)	Extra, A (l)
Anchovies (<i>Engraulis</i> spp.)	1	0,00	0,68
	2	0,00	0,72
	3	0,00	0,60
	4	0,00	0,25
Plaice (<i>Pleuronectes platessa</i>)	1	0,75	0,41
	2	0,75	0,41
	3	0,72	0,41
	4	0,52	0,34
Hake of the species <i>Merluccius merluccius</i>	1	0,90	0,71
	2	0,68	0,53
	3	0,68	0,52
	4	0,56	0,43
	5	0,52	0,41
Megrims (<i>Lepidorhombus</i> spp.)	1	0,68	0,64
	2	0,60	0,56
	3	0,54	0,49
	4	0,34	0,29
Dab (<i>Limanda limanda</i>)	1	0,71	0,58
	2	0,54	0,42
Flounder (<i>Platichthys flesus</i>)	1	0,66	0,58
	2	0,50	0,42
Albacore or longfinned tuna (<i>Thunnus alalunga</i>)	1	0,90	0,81
	2	0,90	0,77
Cuttlefishes (<i>Sepia officinalis</i> and <i>Rossia macrosoma</i>)	1	0,00	0,64
	2	0,00	0,64
	3	0,00	0,40
		Whole fish, gutted fish, with head (l)	Fish without head (l)
		Extra, A (l)	Extra, A (l)
Monkfish (<i>Lophius</i> spp.)	1	0,61	0,77
	2	0,78	0,72
	3	0,78	0,68
	4	0,65	0,60
	5	0,36	0,43
		All presentations	
		Extra, A (l)	
Shrimps of the species <i>Crangon crangon</i>	1	0,59	
	2	0,27	
		Cooked in water	Fresh or chilled
		Extra, A (l)	Extra, A (l)
Deep-water prawns (<i>Pandalus borealis</i>)	1	0,77	0,68
	2	0,27	—

Species	Size ⁽¹⁾	Conversion factor		
		Whole ⁽¹⁾		
Edible crabs (<i>Cancer pagurus</i>)	1	0,72		
	2	0,54		
		Whole ⁽¹⁾		Tails ⁽¹⁾
		E ⁽¹⁾	Extra, A ⁽¹⁾	Extra, A ⁽¹⁾
Norway lobster (<i>Nephrops norvegicus</i>)	1	0,86	0,86	0,81
	2	0,86	0,59	0,68
	3	0,77	0,59	0,50
	4	0,50	0,41	0,41
		Gutted fish, with head ⁽¹⁾	Whole fish ⁽¹⁾	
		Extra, A ⁽¹⁾	Extra, A ⁽¹⁾	
Sole (<i>Solea</i> spp.)	1	0,75	0,58	
	2	0,75	0,58	
	3	0,71	0,54	
	4	0,58	0,42	
	5	0,50	0,33	

⁽¹⁾ The freshness categories, sizes and presentations are those defined pursuant to Article 2 of Regulation (EC) No 104/2000.

ANNEX II

Withdrawal and selling prices in the Community of the products listed in points A, B and C of Annex I to Regulation (EC) No 104/2000

Species	Size (l)	Withdrawal price (EUR/t)	
		Gutted fish, with head (l)	Whole fish
		Extra, A (l)	Extra, A (l)
Herring of the species <i>Clupea harengus</i>	1	0	125
	2	0	192
	3	0	182
	4a	0	115
	4b	0	115
	4c	0	240
	5	0	214
Sardines of the species <i>Sardina pilchardus</i>	6	0	107
	1	0	296
	2	0	372
	3	0	418
Dogfish (<i>Squalus acanthias</i>)	4	0	273
	1	667	667
	2	567	567
Dogfish (<i>Scyliorhinus</i> spp.)	3	311	311
	1	486	455
Redfish (<i>Sebastes</i> spp.)	2	486	425
	3	334	273
	1	0	953
Cod of the species <i>Gadus morhua</i>	2	0	953
	3	0	800
	1	1 174	848
	2	1 174	848
	3	1 109	652
Coalfish (<i>Pollachius virens</i>)	4	881	489
	5	620	359
	1	552	429
	2	552	429
Haddock (<i>Melanogrammus aeglefinus</i>)	3	544	421
	4	467	230
	1	719	559
	2	719	559
Whiting (<i>Merlangius merlangus</i>)	3	619	429
	4	519	359
	1	609	462
	2	591	443
Ling (<i>Molva</i> spp.)	3	554	406
	4	378	277
	1	826	680
Mackerel of the species <i>Scomber scombrus</i>	2	801	656
	3	728	583
	1	0	222
Spanish mackerel of the species <i>Scomber japonicus</i>	2	0	219
	3	0	213
	4	0	239
	4	0	146

Species	Size (t)	Withdrawal price (EUR/t)	
		Gutted fish, with head (t)	Whole fish
		Extra, A (t)	Extra, A (t)
Anchovies (<i>Engraulis</i> spp.)	1	0	847
	2	0	896
	3	0	747
	4	0	311
Plaice (<i>Pleuronectes platessa</i>)	— 1 January to 30 April 2004		
	1	809	442
	2	809	442
	3	777	442
	4	561	367
	— 1 May to 31 December 2004		
	1	1 124	615
	2	1 124	615
3	1 079	615	
4	779	510	
Hake of the species <i>Merluccius merluccius</i>	1	3 358	2 649
	2	2 537	1 977
	3	2 537	1 940
	4	2 089	1 604
	5	1 940	1 530
Megrims (<i>Lepidorhombus</i> spp.)	1	1 661	1 563
	2	1 465	1 368
	3	1 319	1 197
	4	830	708
Dab (<i>Limanda limanda</i>)	1	623	509
	2	474	368
Flounder (<i>Platichthys flesus</i>)	1	350	307
	2	265	223
Albacore or longfinned tuna (<i>Thunnus alalunga</i>)	1	2 264	1 835
	2	2 264	1 744
Cuttlefishes (<i>Sepia officinalis</i> and <i>Rossia macrosoma</i>)	1	0	1 048
	2	0	1 048
	3	0	655
		Whole fish, gutted fish, with head (t)	Fish without head (t)
		Extra, A (t)	Extra, A (t)
Monkfish (<i>Lophius</i> spp.)	1	1 785	4 541
	2	2 282	4 247
	3	2 282	4 011
	4	1 902	3 539
	5	1 053	2 536
		All presentations	
		Extra, A (t)	
Shrimps of the species <i>Crangon crangon</i>	1	1 411	
	2	646	
		Cooked in water	Fresh or chilled
		Extra, A (t)	Extra, A (t)
Deep-water prawns (<i>Pandalus borealis</i>)	1	4 936	1 115
	2	1 731	—

Species	Whole (!)	Selling prices (EUR/t)		
		Whole		
Edible crabs (<i>Cancer pagurus</i>)	1	1 272		
	2	954		
		Whole		Tails (!)
		E (!)	Extra, A (!)	Extra, A (!)
Norway lobster (<i>Nephrops norvegicus</i>)	1	4 590	4 590	3 466
	2	4 590	3 149	2 910
	3	4 109	3 149	2 140
	4	2 669	2 188	1 754
		Gutted fish, with head (!)	Whole (!) fish	
		Extra, A (!)	Extra, A (!)	
Sole (<i>Solea</i> spp.)	1	5 061	3 914	
	2	5 061	3 914	
	3	4 791	3 644	
	4	3 914	2 834	
	5	3 374	2 227	

(!) The freshness categories, sizes and presentations are those defined pursuant to Article 2 of Regulation (EC) No 104/2000.

ANNEX III

Withdrawal prices in landing areas which are very distant from the main centres of consumption

Species	Landing area	Conversion factor	Size ⁽¹⁾	Withdrawal price (in EUR/tonne)	
				Gutted fish, with head ⁽¹⁾	Whole fish ⁽¹⁾
				Extra, A ⁽¹⁾	Extra, A ⁽¹⁾
Herring of the species <i>Clupea harengus</i>	Coastal regions and islands of Ireland	0,90	1	0	113
			2	0	173
			3	0	163
			4a	0	103
	Coastal regions of eastern England from Berwick to Dover	0,90	1	0	113
			2	0	173
			3	0	163
Coastal regions of Scotland from Portpatrick to Eyemouth and the islands located west and north of those regions	0,90	3	0	163	
Coastal regions of County Down (Northern Ireland)		4a	0	103	
Mackerel of the species <i>Scomber scombrus</i>	Coastal regions and islands of Ireland	0,96	1	0	213
			2	0	210
			3	0	204
	Coastal regions and islands of Cornwall and Devon in the United Kingdom	0,95	1	0	211
			2	0	208
			3	0	202
Hake of the species <i>Merluccius merluccius</i>	Coastal regions from Troon (in south-western Scotland) to Wick (in north-eastern Scotland) and the islands located west and north of those regions	0,75	1	2 518	1 987
			2	1 903	1 483
			3	1 903	1 455
			4	1 567	1 203
			5	1 455	1 147
Albacore or longfinned tuna (<i>Thunnus alalunga</i>)	Islands of the Azores and Maderia	0,48	1	1 086	881
			2	1 086	837
Sardines of the species <i>Sardina pilchardus</i>	Canary Islands	0,48	1	0	142
			2	0	178
			3	0	201
			4	0	131
	Coastal regions and islands of Cornwall and Devon in the United Kingdom	0,74	1	0	219
			2	0	275
			3	0	310
			4	0	202
	Atlantic coastal regions of Portugal	0,93 0,81	2	0	346
			3	0	339

⁽¹⁾ The freshness categories, sizes and presentations are those defined pursuant to Article 2 of Regulation (EC) No 104/2000.

**COMMISSION REGULATION (EC) No 426/2004
of 4 March 2004**

fixing the Community selling prices for the fishery products listed in Annex II to Council Regulation (EC) No 104/2000 for the 2004 fishing year

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Council Regulation (EC) No 104/2000 of 17 December 1999 on the common organisation of the markets in fishery and aquaculture products ⁽¹⁾, and in particular Article 25(1) and (6) thereof,

Whereas:

- (1) A Community selling price is to be fixed for each of the products listed in Annex II to Regulation (EC) No 104/2000 before the beginning of the fishing year, at a level at least equal to 70 % and not exceeding 90 % of the guide price.
- (2) Council Regulation (EC) No 2326/2003 ⁽²⁾ fixes the guide prices for the 2004 fishing year for all the products concerned.
- (3) Market prices vary considerably depending on the species and how the products are presented, particularly in the case of squid and hake.

(4) Conversion factors should therefore be fixed for the different species and presentations of frozen products landed in the Community in order to determine the price level that trigger the intervention measure provided for in Article 25(2) of Regulation (EC) No 104/2000.

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

HAS ADOPTED THIS REGULATION:

Article 1

The Community selling prices applicable during the 2004 fishing year for the products listed in Annex II to Regulation (EC) No 104/2000 and the presentations and conversion factors to which they relate are set out in the Annex to this Regulation.

Article 2

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

It shall apply from 1 January 2004.

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

Done at Brussels, 4 March 2004.

For the Commission

Franz FISCHLER

Member of the Commission

⁽¹⁾ OJ L 17, 21.1.2000, p. 22.

⁽²⁾ OJ L 345, 31.12.2003, p. 27.

ANNEX

Selling prices and conversion factors

Species	Presentation	Conversion factor	Intervention level	Selling price (EUR/tonne)
Greenland halibut (<i>Reinhardtius hippoglossoides</i>)	Whole, with or without head	1,0	0,85	1 663
Hake (<i>Merluccius</i> spp.)	Whole, with or without head	1,0	0,85	1 069
	Individual fillets			
	— with skin	1,0	0,85	1 274
	— skinless	1,1	0,85	1 402
Sea bream (<i>Dentex dentex</i> and <i>Pagellus</i> spp.)	Whole, with or without head	1,0	0,85	1 348
Swordfish (<i>Xiphias gladius</i>)	Whole, with or without head	1,0	0,85	3 416
Shrimps and prawns <i>Penaeidae</i> (a) <i>Parapenaeus Longirostris</i> (b) Other <i>Penaeidae</i>	Frozen			
		1,0	0,85	3 430
		1,0	0,85	6 921
Cuttlefish (<i>Sepia officinalis</i> , <i>Rossia macrosoma</i> and <i>Sepiola rondeletti</i>)	Frozen	1,0	0,85	1 705
Squid (<i>Loligo</i> spp.) (a) <i>Loligo patagonica</i> (b) <i>Loligo vulgaris</i>	— whole, not cleaned — cleaned — whole, not cleaned — cleaned			
		1,00	0,85	993
		1,20	0,85	1 191
		2,50	0,85	2 482
		2,90	0,85	2 879
Octopus (<i>Octopus</i> spp.)	Frozen	1,00	0,85	1 801
<i>Illex argentinus</i>	— whole, not cleaned	1,00	0,80	678
	— tube	1,70	0,80	1 153

Forms of commercial presentation:

- whole, not cleaned: product which has not undergone any treatment,
- cleaned: product which has at least been gutted,
- tube: squid body which has at least been gutted and had the head removed.

**COMMISSION REGULATION (EC) No 427/2004
of 4 March 2004**

fixing the reference prices for certain fishery products for the 2004 fishing year

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Council Regulation (EC) No 104/2000 of 17 December 1999 on the common organisation of the markets in fishery and aquaculture products ⁽¹⁾, and in particular Article 29(1) and (5) thereof,

Whereas:

- (1) Regulation (EC) No 104/2000 provides that reference prices valid for the Community may be fixed each year, by product category, for products that are the subject of a tariff suspension pursuant to Article 28(1). The same holds for products which, by virtue of being either the subject of a binding tariff reduction under the WTO or some other preferential arrangements, must comply with a reference price.
- (2) For the products listed in its Annex I(A) and (B) to Regulation (EC) No 104/2000, the reference price is the same as the withdrawal price fixed in accordance with Article 20(1) of that Regulation.
- (3) The Community withdrawal and selling prices for the products concerned are fixed for the 2004 fishing year by Commission Regulation (EC) No 425/2004 ⁽²⁾.
- (4) The reference price for products other than those listed in Annexes I and II to Regulation (EC) No 104/2000 is established on the basis of the weighted average of customs values recorded on the import markets or in the ports of import in the three years immediately preceding the date on which the reference price is fixed.
- (5) There is no need to fix reference prices for all the species covered by the criteria laid down in Regulation (EC) No 104/2000, and particularly not for those imported from third countries in insignificant volumes.
- (6) The measures provided for in this Regulation are in accordance with the opinion of the Management Committee for Fishery Products,

HAS ADOPTED THIS REGULATION:

Article 1

The reference prices for the 2004 fishing year of fishery products as provided for in accordance with Article 29 of Regulation (EC) No 104/2000 are set out in the Annex to this Regulation.

Article 2

This Regulation shall enter into force on the day following 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, 4 March 2004.

For the Commission

Franz FISCHLER

Member of the Commission

⁽¹⁾ OJ L 17, 21.1.2000, p. 22.

⁽²⁾ See page 14 of this Official Journal.

Product	Additional TARIC code	Presentation	Reference price (EUR/tonne)	
2. Cod (<i>Gadus morhua</i> , <i>Gadus ogac</i> and <i>Gadus macrocephalus</i>) and fish of the species <i>Boreogadus saida</i> ex 0303 60 11, ex 0303 60 19, ex 0303 60 90, ex 0303 79 41	F416	Whole, with or without head	1 084	
ex 0304 20 29	}	Fillets:		
		F417	— interleaved or in industrial blocks, with bones ('standard')	2 428
		F418	— interleaved or in industrial blocks, without bones	2 746
		F419	— individual or fully interleaved fillets, with skin	2 602
		F420	— individual or fully interleaved fillets, without skin	2 973
ex 0304 90 38	F421	— blocks in immediate packing weighing not more than 4 kg	2 932	
	F422	Pieces and other meat, except minced blocks	1 378	
3. Coalfish (<i>Pollachius virens</i>)		Fillets:		
ex 0304 20 31	}	F424	— interleaved or in industrial blocks, with bones ('standard')	1 518
		F425	— interleaved or in industrial blocks, without bones	1 672
		F426	— individual or fully interleaved fillets, with skin	1 476
		F427	— individual or fully interleaved fillets, without skin	1 715
		F428	— blocks in immediate packing weighing not more than 4 kg	1 769
ex 0304 90 38	F429	Pieces and other meat, except minced blocks	987	
4. Haddock (<i>Melanogrammus aeglefinus</i>)		Fillets:		
ex 0304 20 33	}	F431	— interleaved or in industrial blocks, with bones ('standard')	2 310
		F432	— interleaved or in industrial blocks, without bones	2 686
		F433	— individual or fully interleaved fillets, with skin	2 537
		F434	— individual or fully interleaved fillets, without skin	2 794
		F435	— blocks in immediate packing weighing not more than 4 kg	2 960
5. Alaska pollack (<i>Theragra chalcogramma</i>) ex 0304 20 85	F441	— interleaved or in industrial blocks, with bones ('standard')	1 159	
	F442	— interleaved or in industrial blocks, without bones	1 324	
6. Herring (<i>Clupea harengus</i> , <i>Clupea pallasii</i>) ex 0304 10 97 ex 0304 90 22	F450	Herring flaps — exceeding 80 g a piece	500	
	F450	— exceeding 80 g a piece	455	

COMMISSION REGULATION (EC) No 428/2004
of 4 March 2004

fixing the amount of the carry-over aid and the flat-rate aid for certain fishery products for the 2004 fishing year

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Council Regulation (EC) No 104/2000 of 17 December 1999 on the common organisation of the markets in fishery and aquaculture products ⁽¹⁾,

Having regard to Commission Regulation (EC) No 2814/2000 of 21 December 2000 laying down detailed rules for the application of Council Regulation (EC) No 104/2000 as regards the grant of carry-over aid for certain fishery products ⁽²⁾, and in particular Article 5 thereof,

Having regard to Commission Regulation (EC) No 939/2001 of 14 May 2001 laying down detailed rules for the application of Council Regulation (EC) No 104/2000 as regards the grant of flat-rate aid for certain fishery products ⁽³⁾, and in particular Article 5 thereof,

Whereas:

- (1) Regulation (EC) No 104/2000 provides that aid may be granted for quantities of certain fresh products withdrawn from the market and either processed to stabilise them and stored or preserved.
- (2) The purpose of that aid is to give suitable encouragement to producers' organisations to process or preserve products withdrawn from the market so that their destruction can be avoided.

- (3) The aid level should not be such as to disturb the balance of the market for the products in question or distort competition.
- (4) The aid level should not exceed the technical and financial costs associated with the operations essential to stabilising and storage recorded in the Community during the fishing year preceding the year in question.
- (5) The measures provided for in this Regulation are in accordance with the opinion of the Management Committee for Fishery Products,

HAS ADOPTED THIS REGULATION:

Article 1

For the 2004 fishing year, the amounts of the carry-over aid referred to in Article 23 of Regulation (EC) No 104/2000 and the amounts of the flat-rate aid referred to in Article 24(4) of that Regulation are set out in the Annex to this Regulation.

Article 2

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

It shall apply from 1 January 2004.

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

Done at Brussels, 4 March 2004.

For the Commission
Franz FISCHLER
Member of the Commission

⁽¹⁾ OJ L 17, 21.1.2000, p. 22.

⁽²⁾ OJ L 326, 22.12.2000, p. 34.

⁽³⁾ OJ L 132, 15.5.2001, p. 10.

ANNEX

1. Amount of the carry-over aid for products listed in Annex I(A) and (B) and for sole (*Solea spp.*) listed in Annex I(C) to Regulation (EC) No 104/2000

Processing methods listed in Article 23 of Regulation (EC) No 104/2000	Aid (EUR/tonne)
1	2
I. Freezing and storage of whole products, gutted and with head, or cut-up products — Sardines of the species <i>Sardina pilchardus</i> — Other species	330 270
II. Filleting, freezing and storage	350
III. Salting and/or drying and storage of whole products, gutted and with head, or cut-up or filleted products	260
IV. Marinating and storage	240

2. Amount of the carry-over aid for the other products listed in Annex I(C) to Regulation (EC) No 104/2000

Processing and/or preservation methods listed in Article 23 of Regulation (EC) No 104/2000	Products	Aid (EUR/tonne)
1	2	3
I. Freezing and storage	Norway lobster (<i>Nephrops norvegicus</i>)	300
	Norway lobster tails (<i>Nephrops norvegicus</i>)	225
II. Removing the head, freezing and storage	Norway lobster (<i>Nephrops norvegicus</i>)	280
III. Cooking, freezing and storage	Norway lobster (<i>Nephrops norvegicus</i>)	300
	Edible crabs (<i>Cancer pagurus</i>)	225
IV. Pasteurisation and storage	Edible crabs (<i>Cancer pagurus</i>)	350
V. Live storage in fixed tanks or cages	Edible crabs (<i>Cancer pagurus</i>)	210

3. Amount of the flat-rate aid for products listed in Annex IV to Regulation (EC) No 104/2000

Processing methods	Aid (EUR/tonne)
1	2
I. Freezing and storage of whole products, gutted and with head, or cut-up products	270
II. Filleting, freezing and storage	350

COMMISSION REGULATION (EC) No 429/2004
of 4 March 2004

fixing the amount of private storage aid for certain fishery products in the 2004 fishing year

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Council Regulation (EC) No 104/2000 of 17 December 1999 on the common organisation of the markets in fishery and aquaculture products ⁽¹⁾,

Having regard to Commission Regulation (EC) No 2813/2000 of 21 December 2000 laying down detailed rules for the application of Council Regulation (EC) No 104/2000 as regards the grant of private storage aid for certain fishery products ⁽²⁾, and in particular Article 1 thereof,

Whereas:

- (1) The aid should not exceed the sum of technical and financial costs recorded in the Community during the fishing year preceding the year in question.
- (2) To discourage long-term storage, to shorten payment times and to reduce the burden of controls, private storage aid should be paid in one single instalment.

- (3) The measures provided for in this Regulation are in accordance with the Management Committee for Fishery Products,

HAS ADOPTED THIS REGULATION:

Article 1

For the 2004 fishing year the amount of private storage aid for the products listed in Annex II to Regulation (EC) No 104/2000 shall be as follows:

- first month: EUR 200 per tonne,
- second month: EUR 0 per tonne.

Article 2

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

It shall apply from 1 January 2004.

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

Done at Brussels, 4 March 2004.

For the Commission
Franz FISCHLER
Member of the Commission

⁽¹⁾ OJ L 17, 21.1.2000, p. 22.

⁽²⁾ OJ L 326, 22.12.2000, p. 30.

COMMISSION REGULATION (EC) No 430/2004
of 4 March 2004

fixing the standard values to be used in calculating the financial compensation and the advance pertaining thereto in respect of fishery products withdrawn from the market during the 2004 fishing year

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Council Regulation (EC) No 104/2000 of 17 December 1999 on the common organisation of the markets in fishery and aquaculture products ⁽¹⁾, and in particular Article 21(5) and (8) thereof,

Whereas:

- (1) Regulation (EC) No 104/2000 provides for financial compensation to be paid to producer organisations which withdraw on certain conditions, the products listed in Annex I(A) and (B) to that Regulation. The amount of such financial compensation should be reduced by standard values in the case of products intended for purposes other than human consumption.
- (2) Commission Regulation (EC) No 2493/2001 of 19 December 2001 on the disposal of certain fishery products which have been withdrawn from the market ⁽²⁾ specifies the ways of disposing of the products withdrawn from the market. The value of such products should be fixed at a standard level for each of these modes of disposal, taking into account the average revenues which may be obtained from such disposal in the various Member States.
- (3) Pursuant to Article 7 of Commission Regulation (EC) No 2509/2000 of 15 November 2000 laying down detailed rules for the application of Council Regulation (EC) No 104/2000 as regards financial compensation for withdrawals of certain fishery products ⁽³⁾, special rules provide that, where a producer organisation or one of its members puts its products up for sale in a Member State other than the country in which it is recognised, that body responsible for granting the financial compen-

sation must be informed. This body is the one in the Member State in which the producer organisation is recognised. The standard value deductible should therefore be the value applied in that Member State.

- (4) The same method of calculation should be applied to advances on financial compensation as provided for in Article 6 of Regulation (EC) No 2509/2000.
- (5) The measures provided for in this Regulation are in accordance with the opinion of the Management Committee for Fishery Products,

HAS ADOPTED THIS REGULATION:

Article 1

For the 2004 fishing year, the standard values to be used in calculating financial compensation and associated advances for fishery products withdrawn from the market by producer organisations and intended for purposes other than human consumption, as referred to in Article 21(5) of Regulation (EC) No 104/2000 are set out in the Annex to this Regulation.

Article 2

The standard value to be deducted from financial compensation and associated advances shall be that applied in the Member State in which the producer organisation is recognised.

Article 3

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

It shall apply from 1 January 2004.

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

Done at Brussels, 4 March 2004.

For the Commission

Franz FISCHLER

Member of the Commission

⁽¹⁾ OJ L 17, 21.1.2000, p. 22.

⁽²⁾ OJ L 337, 20.12.2001, p. 20.

⁽³⁾ OJ L 289, 16.11.2000, p. 11.

ANNEX

Standard values

Use of products withdrawn from the market	EUR/tonne
1. Use following processing into meal (animal feed):	
(a) Herring of the species <i>Clupea harengus</i> and mackerel of the species <i>Scomber scombrus</i> and <i>Scomber japonicus</i> :	
— Denmark and Sweden	70
— United Kingdom	50
— other Member States	17
— France	1
(b) Shrimps of the species <i>Crangon crangon</i> and deep-water prawns (<i>Pandalus borealis</i>):	
— Denmark and Sweden	0
— other Member States	10
(c) Other products:	
— Denmark	40
— Sweden, Portugal and Ireland	17
— United Kingdom	28
— other Member States	1
2. Use fresh or preserved (animal feed):	
(a) Sardines of the species <i>Sardina pilchardus</i> and anchovies (<i>Engraulis</i> spp.):	
— all Member States	8
(b) Other products:	
— Sweden	0
— France	30
— other Member States	38
3. Use as bait:	
— France	50
— other Member States	10
4. Use for purposes other than animal feed	0

COMMISSION DIRECTIVE 2004/20/EC
of 2 March 2004
amending Council Directive 91/414/EEC to include chlorpropham as an active substance
(Text with EEA relevance)

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Council Directive 91/414/EEC of 15 July 1991 concerning the placing of plant protection products on the market ⁽¹⁾, and in particular Article 6(1) thereof,

Whereas:

- (1) Commission Regulation (EEC) No 3600/92 of 11 December 1992 laying down the detailed rules for the implementation of the first stage of the programme of work referred to in Article 8(2) of Council Directive 91/414/EEC concerning the placing of plant protection products on the market ⁽²⁾ establishes a list of active substances to be assessed, with a view to their possible inclusion in Annex I to Directive 91/414/EEC. That list includes chlorpropham.
- (2) For chlorpropham, the effects on human health and the environment have been assessed in accordance with the provisions laid down in Regulation (EEC) No 3600/92 for a range of uses proposed by the notifiers. Pursuant to Commission Regulation (EC) No 933/94 of 27 April 1994 laying down the active substances of plant protection products and designating the rapporteur Member State for the implementation of Commission Regulation (EEC) No 3600/92 ⁽³⁾, the Netherlands was designated as rapporteur Member State. The Netherlands submitted the relevant assessment report and recommendations to the Commission on 30 April 1996 in accordance with Article 7(1)(c) of Regulation (EEC) No 3600/92.
- (3) This assessment report has been reviewed by the Member States and the Commission within the Standing Committee on the Food Chain and Animal Health.
- (4) The review was finalised on 28 November 2003 in the format of the Commission review report for chlorpropham.
- (5) The review for chlorpropham did not reveal any open questions or concerns, which would have required a consultation of the Scientific Committee on Plants.
- (6) It has appeared from the various examinations made that plant protection products containing chlorpropham may be expected to satisfy, in general, the requirements laid down in Article 5(1)(a) and (b) of Directive 91/414/

EEC, in particular with regard to the uses which were examined and detailed in the Commission review report. It is therefore appropriate to include chlorpropham in Annex I, in order to ensure that in all Member States the authorisations of plant protection products containing chlorpropham can be granted in accordance with the provisions of that directive.

- (7) A reasonable period should be allowed to elapse before an active substance is included in Annex I in order to permit Member States and the interested parties to prepare themselves to meet the new requirements which will result from the inclusion.
- (8) After inclusion, Member States should be allowed a reasonable period within which to implement the provisions of Directive 91/414/EEC as regards plant protection products containing chlorpropham, and in particular, to review existing authorisations to ensure that the conditions regarding those active substances set out in Annex I to Directive 91/414/EEC are satisfied. A longer period should be provided for the submission and assessment of the complete dossier of each plant protection product in accordance with the uniform principles laid down in Directive 91/414/EEC.
- (9) It is therefore appropriate to amend Directive 91/414/EEC accordingly.
- (10) The measures provided for in this Directive are in accordance with the opinion of the Standing Committee on the Food Chain and Animal Health,

HAS ADOPTED THIS DIRECTIVE:

Article 1

Annex I to Directive 91/414/EEC is amended as set out in the Annex to this Directive.

Article 2

Member States shall adopt and publish by 31 July 2005 at the latest the laws, regulations and administrative provisions necessary to comply with this Directive. They shall forthwith communicate to the Commission the text of those provisions and a correlation table between those provisions and this Directive.

⁽¹⁾ OJ L 230, 19.8.1991, p. 1. Directive as last amended by Commission Directive 2003/119/EC (OJ L 325, 12.12.2003, p. 41).

⁽²⁾ OJ L 366, 15.12.1992, p. 10. Regulation as last amended by Regulation (EC) No 2266/2000 (OJ L 259, 13.10.2000, p. 10).

⁽³⁾ OJ L 107, 28.4.1994, p. 8. Regulation as last amended by Regulation (EC) No 2230/95 (OJ L 225, 22.9.1995, p. 1).

They shall apply those provisions from 1 August 2005.

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.

Article 3

1. Member States shall review the authorisation for each plant protection product containing chlorpropham to ensure that the conditions relating to chlorpropham set out in Annex I to Directive 91/414/EEC are complied with. Where necessary and by 31 July 2005 at the latest, they shall amend or withdraw the authorisation.

2. Member States shall, for each authorised plant protection product containing chlorpropham as either the only active substance or as one of several active substances, all of which were listed in Annex I to Directive 91/414/EEC by 31 January 2005 at the latest, re-evaluate the product in accordance with the uniform principles provided for in Annex VI to Directive 91/414/EEC, on the basis of a dossier satisfying the require-

ments of Annex III to that Directive. On the basis of that evaluation, they shall determine whether the product satisfies the conditions set out in Article 4(1)(b), (c), (d) and (e) of Directive 91/414/EEC. Where necessary and by 31 January 2009 at the latest, they shall amend or withdraw the authorisation.

Article 4

This Directive shall enter into force on 1 February 2005.

Article 5

This Directive is addressed to the Member States.

Done at Brussels, 2 March 2004.

For the Commission

David BYRNE

Member of the Commission

ANNEX

The following entry shall be added at the end of the table in Annex I to Directive 91/414/EEC:

No	Common name, identification numbers	IUPAC name	Purity ⁽¹⁾	Entry into force	Expiration of inclusion	Specific provisions
79	chlorpropham CAS No 101-21-3 CIPAC No 43	Isopropyl 3-chlorophenylcarbamate	975 g/kg	1 February 2005	31 January 2015	<p>Only uses as herbicide and sprout suppression may be authorised.</p> <p>For the implementation of the uniform principles of Annex VI, the conclusions of the review report on chlorpropham, and in particular Appendices I and II thereof, as finalised in the Standing Committee on the Food Chain and Animal Health on 28 November 2003 shall be taken into account. In this overall assessment Member States should pay particular attention to the protection of operators, consumers and non-target arthropods. Conditions of authorisation should include risk mitigation measures, where appropriate.</p>

⁽¹⁾ Further details on identity and specification of active substance are provided in the review report.'

II

(Acts whose publication is not obligatory)

COUNCIL

COUNCIL DECISION

of 26 February 2004

amending Decision 2002/736/EC authorising the Hellenic Republic to apply a measure derogating from Articles 2 and 28a of the Sixth Council Directive 77/388/EEC on the harmonisation of the laws of the Member States relating to turnover taxes

(2004/227/EC)

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty establishing the European Community,

Having regard to the Sixth Council Directive 77/388/EEC of 17 May 1977 on the harmonisation of the laws of the Member States relating to turnover taxes — Common system of value added tax: uniform basis of assessment⁽¹⁾, and in particular Article 27 thereof,

Having regard to the proposal from the Commission,

Whereas:

- (1) Pursuant to Article 27(1) of Directive 77/388/EEC, the Council, acting unanimously on a proposal from the Commission, may authorise any Member State to introduce or extend special measures for derogation from that Directive in order to simplify the procedure for charging the tax or to prevent certain types of tax evasion or avoidance.
- (2) By letter registered with the Secretariat-General of the Commission on 10 October 2003, the Greek Government requested the extension, until 31 December 2006, of Decision 2002/736/EC⁽²⁾ authorising it to apply special tax measures to the recyclable waste sector.
- (3) The other Member States were informed of Greece's request on 24 October 2003.

- (4) Decision 2002/736/EC, authorised the Hellenic Republic to apply, until 31 December 2003, the following measures:

- (a) to exempt intra-Community acquisitions and supplies of recyclable waste, such as scrap iron, waste of iron and steel, glass, paper and board, by taxable persons whose sales of such products in the previous year amounted to less than EUR 900 000;
- (b) to exempt intra-Community acquisitions and supplies of non-ferrous metal waste, regardless of the trader's gross turnover.

- (5) Taxable persons whose transactions are covered by the above exemptions may, subject to the conditions laid down by Greece, be authorised not to apply the exemptions to their transactions.

- (6) The derogating measure was needed because of the difficulty in dealing with fraud in this sector, where certain operators, mainly small dealers, did not comply with their obligations to pay to the authorities the tax they had charged for their supplies. Enforcing collection of the tax in this sector is especially difficult because of the complications of identifying and supervising the activities of non-compliant traders. Hence these arrangements constitute an effective fraud-prevention measure.

- (7) On 7 June 2000 the Commission published a strategy to improve the operation of the VAT system in the short term, in which it undertook to rationalise the large number of derogations currently in force. In some cases, however, this rationalisation could involve extending certain particularly effective derogations to all Member States. The Commission's communication of 20 October 2003 reiterates this compromise.

⁽¹⁾ OJ L 145, 13.6.1977, p. 1. Directive as last amended by Directive 2004/7/EC (OJ L 27, 30.1.2004, p. 44).

⁽²⁾ OJ L 233, 30.8.2002, p. 36.

- (8) It therefore seems advisable to grant the Hellenic Republic an extension for the current derogation until the date of entry into force of a special scheme for the application of VAT to the recycled waste sector, but not later than 31 December 2005.
- (9) The derogation has no adverse impact on the Communities' own resources accruing from VAT, nor does it have an effect on the amount of VAT charged at the final stage.
- (10) In order to ensure the continuous application of Decision 2002/736/EC, provision should be made for this Decision to apply retroactively,

date of entry into force of a special scheme for the application of VAT to the recycled waste sector amending Directive 77/388/EEC, but not later than 31 December 2005'.

Article 2

This Decision shall apply from 1 January 2004.

Article 3

This Decision is addressed to the Hellenic Republic.

HAS ADOPTED THIS DECISION:

Done at Brussels, 26 February 2004.

Article 1

In Article 1 of Decision 2002/736/EC, the date '31 December 2003' shall be replaced by the following wording: 'until the

For the Council

The President

N. DEMPSEY

COUNCIL DECISION

of 26 February 2004

authorising Spain to apply a measure derogating from Article 21 of the Sixth Council Directive 77/388/EEC on the harmonisation of the laws of the Member States relating to turnover taxes

(2004/228/EC)

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty establishing the European Community,

Having regard to the Sixth Council Directive 77/388/EEC of 17 May 1977 on the harmonisation of the laws of the Member States relating to turnover taxes — Common system of value added tax: uniform basis of assessment⁽¹⁾, and in particular Article 27 thereof,

Having regard to the proposal from the Commission,

Whereas:

- (1) Pursuant to Article 27(1) of Directive 77/388/EEC, the Council, acting unanimously on a proposal from the Commission, may authorise any Member State to introduce or extend special measures for derogation from that Directive in order to simplify the procedure for charging the tax or to prevent certain types of tax evasion or avoidance.
- (2) By letter registered with the Secretariat-General of the Commission on 27 October 2003, the Spanish Government requested authorisation to apply special tax measures to the waste sector.
- (3) The other Member States were informed of Spain's request on 7 November 2003.
- (4) The derogation in question is intended to allow Spain to designate the recipient of specific types of supplies in the waste sector, as the person liable to pay the tax. In accordance with Article 17(2)(a) of Directive 77/388/EEC, the recipient of the supplies in the waste sector will be able to deduct the tax due for such supplies. This will minimise the problems faced by tax authorities in collecting the VAT due in that sector.
- (5) The requested measure is to be considered first and foremost as a measure to prevent certain types of tax evasion in the waste recycling sector, such as the non-payment of invoiced VAT by traders engaged in the collection, sorting and basic transformation of waste material, who subsequently become untraceable. The measure also has the effect of simplifying the work of the tax authorities.

(6) The measure is proportionate to the objectives pursued, since it is not intended to apply to all taxable operations in the sector concerned but only to specific operations which pose considerable problems of tax evasion.

(7) On 7 June 2000 the Commission published a strategy to improve the operation of the VAT system in the short term, in which it undertook to rationalise the large number of derogations currently in force. In some cases, however, this rationalisation could involve extending certain particularly effective derogations to all Member States.

(8) The Commission's recent contacts with certain national administrations and representatives of the sector suggest that special rules specifically adapted to the sector might be necessary to ensure fairer taxation of the traders concerned across the Community. The Commission intends to prepare a proposal for a special scheme applying to the waste recycling sector.

(9) Consequently, this derogation should expire on the date of entry into force of a special scheme for the application of VAT to the recycled waste sector, but not later than 31 December 2005.

(10) The derogation has no adverse impact on the Communities' own resources accruing from VAT, nor does it have any effect on the amount of VAT charged at the final stage of consumption,

HAS ADOPTED THIS DECISION:

Article 1

By way of derogation from Article 21(1)(a) of Directive 77/388/EEC, as worded in Article 28(g) thereof, the Kingdom of Spain is hereby authorised to designate the recipient of the supplies of goods and services referred to in Article 2 of this Decision as the person liable to pay VAT.

⁽¹⁾ OJ L 145, 13.6.1977, p. 1; Directive as last amended by Directive 2003/92/EC (OJ L 260, 11.10.2003, p. 8).

Article 2

The recipient of the supply of goods or services may be designated as the person liable to pay VAT in the following instances:

- (a) supplies of industrial waste, ferrous waste and scrap, residues and other recyclable materials consisting of ferrous and non-ferrous metals, their alloys, slag, ash and industrial residues containing metals or their alloys, and the supply of selection, cutting, fragmenting and pressing services for these products;
- (b) supplies of waste material consisting of paper, paperboard or glass;
- (c) supplies of semi-finished products (e.g. ingots, blocks, sheets, bars, grains, granules, wire rod, etc.) resulting from the processing, manufacturing or melting down of non-ferrous metals, except those containing nickel.

Article 3

This Decision shall expire on the date of entry into force of a special scheme for the application of VAT to the recycled waste sector amending Directive 77/388/EEC, but not later than 31 December 2005.

Article 4

This Decision is addressed to the Kingdom of Spain.

Done at Brussels, 26 February 2004.

For the Council
The President
N. DEMPSEY

COMMISSION

COMMISSION DECISION

of 5 March 2004

on the list of establishments in Latvia approved for the purpose of importing fresh meat into the Community

(notified under document number C(2004) 662)

(Text with EEA relevance)

(2004/229/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 4(1) and Article 18(1)(a) and (b) thereof,

Whereas:

- (1) Establishments in third countries may only be authorised to export fresh meat to the Community if they satisfy the general and special conditions laid down in Directive 72/462/EEC.
- (2) Following a Community mission, it appears that the animal health situation in Latvia compares favourably with that in the Member States, particularly as regards disease transmission through meat, and that the operation of controls over the production of fresh meat is satisfactory.
- (3) For the purpose of Article 4(3) of Directive 72/462/EEC, Latvia has forwarded details of the establishments that should be authorised to export fresh meat to the Community.
- (4) The establishments put forward by Latvia meet all the requirements laid down in Directive 72/462/EC in order to be designated as slaughterhouses and approved cutting plants from which imports into the European Union may be permitted in accordance with Article 18 of the Directive.

- (5) A Community inspection has shown that the hygiene standards of those establishments are satisfactory and that they may therefore be included on the first list of establishments, to be drawn up in accordance with Directive 72/462/EEC, from which imports of fresh meat may be authorised.
- (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 establishments in Latvia as listed in the Annex are hereby approved for the purposes of exporting fresh meat to the Community pursuant to the conditions laid down in Directive 72/462/EEC, including points (a) and (b) of Article 18(1) thereof.

Article 2

This Decision shall apply from 12 March 2004.

Article 3

This Decision is addressed to the Member States.

Done at Brussels, 5 March 2004.

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.

ANNEX

Country: Latvia

Approval number	Establishment	Town/region	Category (*)							SR
			SL	CP	CS	B	S/G	P	SP	
A009143	JSC 'Ruks'	Cesis, Cesis district	x	x		x		x		
A000917	Farm 'Lankalni'	Dzeldas village, Nkraces, Kuldigas district	x	x		x		x		

(*) SL: Slaughterhouse
 CP: Cutting premises
 CS: Cold store
 B: Bovine meat
 S/G: Sheepmeat/goatmeat
 P: Pigmeat
 SP: Meat from solipeds
 SR: Special remarks

COMMISSION DECISION

of 5 March 2004

amending Decision 2003/467/EC as regards the declaration that certain provinces in Italy are free of bovine tuberculosis and bovine brucellosis*(notified under document number C(2004) 666)***(Text with EEA relevance)**

(2004/230/EC)

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Council Directive 64/432/EEC of 26 June 1964 on health problems affecting intra-Community trade in bovine animals and swine ⁽¹⁾, and in particular Annex A(I)(4) and Annex A(II)(7) thereto,

Whereas:

- (1) The lists of regions of Member States declared free of bovine tuberculosis and bovine brucellosis are set out in Commission Decision 2003/467/EC of 23 June 2003 establishing the official tuberculosis, brucellosis and enzootic-bovine-leukosis free status of certain Member States and regions of Member States as regards bovine herds ⁽²⁾.
- (2) Italy submitted to the Commission documentation demonstrating compliance with the appropriate conditions provided for in Directive 64/432/EEC as regards the province of Grosseto in the Region of Toscana in order that that province may be declared officially free of tuberculosis as regards bovine herds.
- (3) Italy also submitted to the Commission documentation demonstrating compliance with the appropriate conditions provided for in Directive 64/432/EEC as regards the provinces of Arezzo, Grosseto, Livorno, Lucca and Pisa in the Region of Toscana, in order that those provinces may be declared officially free of brucellosis as regards bovine herds.

- (4) Following evaluation of the documentation submitted by Italy, the province of Grosseto in the Region of Toscana should be declared officially free of bovine tuberculosis and the provinces of Arezzo, Grosseto, Livorno, Lucca and Pisa in the Region of Toscana should be declared officially free of bovine brucellosis.
- (5) Decision 2003/467/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

Annexes I and II to Decision 2003/467/EC are amended in accordance with the Annex to this Decision.

Article 2

This Decision is addressed to the Member States.

Done at Brussels, 5 March 2004.

For the Commission

David BYRNE

Member of the Commission

⁽¹⁾ OJ L 121, 29.7.1964, p. 1977/64. Directive as last amended by Regulation (EC) No 21/2004 (OJ L 5, 9.1.2004, p. 8).

⁽²⁾ OJ L 156, 25.6.2003, p. 74. Decision as amended by Decision 2004/63/EC (OJ L 13, 20.1.2004, p. 32).

ANNEX

Annexes I and II to Decision 2003/467/EC are amended as follows:

1. in Annex I, Chapter 2 is replaced by the following:

'CHAPTER 2**Officially tuberculosis-free regions of Member States**

In Italy:

- Lombardy region: Provinces of Bergamo, Lecco, Sondrio
- Marche region: Province of Ascoli Piceno
- Tuscany region: Province of Grosseto
- Trentino-Alto Adige region: Provinces of Bolzano, Trento';

2. in Annex II, Chapter 2 is replaced by the following:

'CHAPTER 2**Officially brucellosis-free regions of Member States**

In Italy:

- Emilia-Romagna region: Provinces of Bologna, Ferrara, Forli-Cesena, Modena, Parma, Piacenza, Ravenna, Reggio Emilia, Rimini
- Lombardy region: Provinces of Bergamo, Como, Cremona, Lecco, Lodi, Mantova, Pavia, Sondrio, Varese
- Marche region: Province of Ascoli Piceno
- Sardinia region: Provinces of Cagliari, Nuoro, Oristano, Sassari
- Tuscany region: Provinces of Arezzo, Grosseto, Livorno, Lucca, Pisa
- Trentino-Alto Adige region: Provinces of Bolzano, Trento

In Portugal:

- Autonomous Region of Azores: Islands of Pico, Graciosa, Flores, Corvo

In the United Kingdom:

- Great Britain: England, Scotland, Wales'
-

COMMISSION DECISION

of 8 March 2004

terminating the anti-dumping proceeding concerning imports of certain stainless steel cold-rolled flat products originating in the United States of America

(2004/231/EC)

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

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⁾, and in particular Article 9 thereof,

After consulting the Advisory Committee,

Whereas:

A. PROCEDURE

- (1) On 4 November 2002, the Commission received a complaint concerning the alleged injurious dumping by imports of certain stainless steel cold-rolled flat products originating in the United States of America.
- (2) The complaint was lodged by the European Confederation of Iron and Steel Industries (Eurofer) acting on behalf of Community producers representing a major proportion of the total Community production of certain stainless steel cold-rolled flat products pursuant to Article 4(1) and Article 5(4) of Regulation (EC) No 384/96 (the basic Regulation).
- (3) The complaint contained prima facie evidence of the existence of dumping and of material injury resulting therefrom, which was considered sufficient to justify the initiation of an anti-dumping proceeding.
- (4) The Commission, by a notice published in the *Official Journal of the European Communities*⁽²⁾, accordingly initiated an anti-dumping proceeding concerning imports into the Community of certain stainless steel cold-rolled flat products, i.e. chromium-ferritic steel, containing less than 0,15 % of carbon and 10,5 % or more and 18 % or less of chromium, flat-rolled, not further worked than cold-rolled, of stainless steel containing by weight less than 2,5 % of nickel in the standardised grades AISI 409/409L (EN 1.4512), AISI 441 (EN 1.4509) and AISI 439 (EN 1.4510) currently classifiable within CN codes ex 7219 31 00, ex 7219 32 90, ex 7219 33 90, ex 7219 34 90, ex 7219 35 90, ex 7220 20 29, ex 7220 20 49 and ex 7220 20 89 and originating in the United States of America.

- (5) The Commission, by Regulation (EC) No 1611/2003⁽³⁾ (the provisional Regulation), imposed a provisional anti-dumping duty amounting to 20,6 % for the sole cooperating exporting producer (exporting producer) and a residual duty of 25,0 % on imports of certain stainless steel cold-rolled flat products originating in the United States of America.

- (6) Following the imposition of provisional anti-dumping duties, the parties received a disclosure of the facts and considerations on which the provisional Regulation was based. They were also granted a period within which to make representations subsequent to this disclosure.

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

- (8) Additional verification visits were carried out at the premises of the following companies related to the cooperating USA exporting producer:

— AK Steel, SARL (France),

— AK Steel GmbH (Germany).

B. WITHDRAWAL OF THE COMPLAINT AND TERMINATION OF THE PROCEEDING

- (9) By a letter of 27 January 2004 to the Commission, Eurofer formally withdrew its complaint.

- (10) In accordance with Article 9(1) of the basic Regulation, the proceeding may be terminated where the complaint is withdrawn, unless such termination would not be in the Community interest.

- (11) The Commission considered that the present proceeding should be terminated since the investigation had not brought to light any considerations showing that such termination would not be in the Community interest. Interested parties were informed accordingly and were given the opportunity to comment. No comments were received indicating that such termination would not be in the Community interest.

- (12) The Commission therefore concludes that the anti-dumping proceeding concerning imports into the Community of certain stainless steel cold-rolled flat products originating in the United States of America should be terminated without the imposition of anti-dumping measures.

⁽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 C 314, 17.12.2002, p. 3.

⁽³⁾ OJ L 230, 16.9.2003, p. 9.

(13) Any duties provisionally secured on the basis of Commission Regulation (EC) No 1611/2003 should be released,

HAS DECIDED AS FOLLOWS:

Article 1

The anti-dumping proceeding concerning imports of certain stainless steel cold-rolled flat products, currently classifiable within CN codes ex 7219 31 00, ex 7219 32 90, ex 7219 33 90, ex 7219 34 90, ex 7219 35 90, ex 7220 20 29, ex 7220 20 49 and ex 7220 20 89 and originating in the United States of America, is hereby terminated.

Article 2

Regulation (EC) No 1611/2003 is hereby repealed.

Article 3

The amounts secured by way of the provisional anti-dumping duty imposed pursuant to Regulation (EC) No 1611/2003 shall be released.

Article 4

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

Done at Brussels, 8 March 2004.

For the Commission

Pascal LAMY

Member of the Commission
