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## Legislation

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## I

(Acts whose publication is obligatory)

**REGULATION (EC) No 460/2004 OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL  
of 10 March 2004  
establishing the European Network and Information Security Agency  
(Text with EEA relevance)**

THE EUROPEAN PARLIAMENT AND THE COUNCIL OF THE EUROPEAN UNION,

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

Having regard to the proposal from the Commission,

Having regard to the opinion of the European Economic and Social Committee <sup>(1)</sup>,

After consulting the Committee of the Regions,

Acting in accordance with the procedure laid down in Article 251 of the Treaty <sup>(2)</sup>,

Whereas:

- (1) Communication networks and information systems have become an essential factor in economic and societal development. Computing and networking are now becoming ubiquitous utilities in the same way as electricity or water supply already are. The security of communication networks and information systems, in particular their availability, is therefore of increasing concern to society not least because of the possibility of problems in key information systems, due to system complexity, accidents, mistakes and attacks, that may have consequences for the physical infrastructures which deliver services critical to the well-being of EU citizens.
- (2) The growing number of security breaches has already generated substantial financial damage, has undermined user confidence and has been detrimental to the development of e-commerce. Individuals, public administrations and businesses have reacted by deploying security technologies and security management procedures. Member States have taken several supporting measures, such as information campaigns and research projects, to enhance network and information security throughout society.

- (3) The technical complexity of networks and information systems, the variety of products and services that are interconnected, and the huge number of private and public actors that bear their own responsibility risk undermining the smooth functioning of the Internal Market.
- (4) Directive 2002/21/EC of the European Parliament and of the Council of 7 March 2002 on a common regulatory framework for electronic communications networks and services (the Framework Directive) <sup>(3)</sup> lays down the tasks of national regulatory authorities, which include cooperating with each other and the Commission in a transparent manner to ensure the development of consistent regulatory practice, contributing to ensuring a high level of protection of personal data and privacy, and ensuring that the integrity and security of public communications networks are ensured.
- (5) Present Community legislation also includes Directive 2002/20/EC <sup>(4)</sup>, Directive 2002/22/EC <sup>(5)</sup>, Directive 2002/19/EC <sup>(6)</sup>, Directive 2002/58/EC <sup>(7)</sup>, Directive 1999/93/EC <sup>(8)</sup>, Directive 2000/31/EC <sup>(9)</sup>, as well as the Council Resolution of 18 February 2003 on the implementation of the eEurope 2005 Action Plan <sup>(10)</sup>.

<sup>(3)</sup> OJ L 108, 24.4.2002, p. 33.

<sup>(4)</sup> Directive 2002/20/EC of the European Parliament and of the Council of 7 March 2002 on the authorisation of electronic communications networks and services (Authorisation Directive) (OJ L 108, 24.4.2002, p. 21).

<sup>(5)</sup> Directive 2002/22/EC of the European Parliament and of the Council of 7 March 2002 on universal service and users' rights relating to electronic communications networks and services (Universal Service Directive) (OJ L 108, 24.4.2002, p. 51).

<sup>(6)</sup> Directive 2002/19/EC of the European Parliament and of the Council of 7 March 2002 on access to, and interconnection of, electronic communications networks and associated facilities (Access Directive) (OJ L 108, 24.4.2002, p. 7).

<sup>(7)</sup> Directive 2002/58/EC of the European Parliament and of the Council of 12 July 2002 concerning the processing of personal data and the protection of privacy in the electronic communications sector (Directive on privacy and electronic communications) (OJ L 201, 31.7.2002, p. 37).

<sup>(8)</sup> Directive 1999/93/EC of the European Parliament and of the Council of 13 December 1999 on a Community framework for electronic signatures (OJ L 13, 19.1.2000, p. 12).

<sup>(9)</sup> Directive 2000/31/EC of the European Parliament and of the Council of 8 June 2000 on certain legal aspects of information society services, in particular electronic commerce, in the Internal Market (Directive on electronic commerce) (OJ L 178, 17.7.2000, p. 1).

<sup>(10)</sup> OJ C 48, 28.2.2003, p. 2.

<sup>(1)</sup> OJ C 220, 16.9.2003, p. 33.

<sup>(2)</sup> Opinion of the European Parliament of 19 November 2003 (not yet published in the Official Journal) and Council Decision of 19 February 2004.

- (6) Directive 2002/20/EC entitles Member States to attach to the general authorisation, conditions regarding the security of public networks against unauthorised access in accordance with Directive 97/66/EC<sup>(1)</sup>.
- (7) Directive 2002/22/EC requires that Member States take necessary steps to ensure the integrity and availability of the public telephone networks at fixed locations and that undertakings providing publicly available telephone services at fixed locations take all reasonable steps to ensure uninterrupted access to emergency services.
- (8) Directive 2002/58/EC requires a provider of a publicly available electronic communications service to take appropriate technical and organisational measures to safeguard security of its services and also requires the confidentiality of the communications and related traffic data. Directive 95/46/EC of the European Parliament and of the Council of 24 October 1995 on the protection of individuals with regard to the processing of personal data and on the free movement of such data<sup>(2)</sup>, requires Member States to provide that the controller must implement appropriate technical and organisational measures to protect personal data against accidental or unlawful destruction or accidental loss, alteration, unauthorised disclosure or access, in particular where the processing involves the transmission of data over a network and against all other unlawful forms of processing.
- (9) Directive 2002/21/EC and Directive 1999/93/EC contain provisions on standards that are to be published in the *Official Journal of the European Union*. Member States also use standards from international bodies as well as de facto standards developed by the global industry. It is necessary for the Commission and the Member States to be able to track those standards which meet the requirements of Community legislation.
- (10) These internal market measures require different forms of technical and organisational applications by the Member States and the Commission. These are technically complex tasks with no single, self-evident solutions. The heterogeneous application of these requirements can lead to inefficient solutions and create obstacles to the internal market. This calls for the creation of a centre of expertise at European level providing guidance, advice, and when called upon, with assistance within its objectives, which may be relied upon by the European Parliament, the Commission or competent bodies appointed by the Member States. National Regulatory Authorities, designated under Directive 2002/21/EC, can be appointed by a Member State as a competent body.
- (11) The establishment of a European agency, the European Network and Information Security Agency, hereinafter referred to as 'the Agency', operating as a point of reference and establishing confidence by virtue of its independence, the quality of the advice it delivers and the information it disseminates, the transparency of its procedures and methods of operation, and its diligence in performing the tasks assigned to it, would respond to these needs. The Agency should build on national and Community efforts and therefore perform its tasks in full cooperation with the Member States and be open to contacts with industry and other relevant stakeholders. As electronic networks, to a large extent, are privately owned, the Agency should build on the input from and cooperation with the private sector.
- (12) The exercise of the Agency's tasks should not interfere with the competencies and should not pre-empt, impede or overlap with the relevant powers and tasks conferred on:
- the national regulatory authorities as set out in the Directives relating to the electronic communications networks and services, as well as on the European Regulators Group for Electronic Communications Networks and Services established by Commission Decision 2002/627/EC<sup>(3)</sup> and the Communications Committee referred to in Directive 2002/21/EC,
  - the European standardisation bodies, the national standardisation bodies and the Standing Committee as set out in Directive 98/34/EC of the European Parliament and of the Council of 22 June 1998 laying down a procedure for the provision of information in the field of technical standards and regulations and of rules on Information Society Services<sup>(4)</sup>,
  - the supervisory authorities of the Member States relating to the protection of individuals with the regard to the processing of personal data and on the free movement of such data.
- (13) To understand better the challenges in the network and information security field, there is a need for the Agency to analyse current and emerging risks and for that purpose the Agency may collect appropriate information, in particular through questionnaires, without imposing new obligations on the private sector or the Member States to generate data. Emerging risks should be understood as issues already visible as possible future risks to network and information security.

<sup>(1)</sup> Directive 97/66/EC of the European Parliament and of the Council of 15 December 1997 concerning the processing of personal data and the protection of privacy in the telecommunications sector (OJ L 24, 30.1.1998, p. 1). Directive repealed and replaced by Directive 2002/58/EC.

<sup>(2)</sup> OJ L 281, 23.11.1995, p. 31. Directive as amended by Regulation (EC) No 1882/2003 (OJ L 284, 31.10.2003, p. 1).

<sup>(3)</sup> OJ L 200, 30.7.2002, p. 38.

<sup>(4)</sup> OJ L 204, 21.7.1998, p. 37. Directive as amended by Directive 98/48/EC (OJ L 217, 5.8.1998, p. 18).

- (14) Ensuring confidence in networks and information systems requires that individuals, businesses and public administrations are sufficiently informed, educated and trained in the field of network and information security. Public authorities have a role in increasing awareness by informing the general public, small and medium-sized enterprises, corporate companies, public administrations, schools and universities. These measures need to be further developed. An increased information exchange between Member States will facilitate such awareness raising actions. The Agency should provide advice on best practices in awareness-raising, training and courses.
- (15) The Agency should have the task of contributing to a high level of network and information security within the Community and of developing a culture of network and information security for the benefit of citizens, consumers, businesses and public sector organisations in the European Union, thus contributing to the smooth functioning of the internal market.
- (16) Efficient security policies should be based on well-developed risk assessment methods, both in the public and private sector. Risk assessment methods and procedures are used at different levels with no common practice on their efficient application. The promotion and development of best practices for risk assessment and for interoperable risk management solutions within public and private sector organisations will increase the security level of networks and information systems in Europe.
- (17) The work of the Agency should utilise ongoing research, development and technological assessment activities, in particular those carried out by the different Community research initiatives.
- (18) Where appropriate and useful for fulfilling its scope, objectives and tasks, the Agency could share experience and general information with bodies and agencies created under European Union law and dealing with network and information security.
- (19) Network and information security problems are global issues. There is a need for closer cooperation at global level to improve security standards, improve information, and promote a common global approach to network and information security issues, thereby contributing to the development of a culture of network and information security. Efficient cooperation with third countries and the global community has become a task also at European level. To this end, the Agency should contribute to Community efforts to cooperate with third countries and, where appropriate, with international organisations.
- (20) In its activities the Agency should pay attention to small and medium-sized enterprises.
- (21) In order effectively to ensure the accomplishment of the tasks of the Agency, the Member States and the Commission should be represented on a Management Board entrusted with the necessary powers to establish the budget, verify its execution, adopt the appropriate financial rules, establish transparent working procedures for decision making by the Agency, approve the Agency's work programme, adopt its own rules of procedure and the Agency's internal rules of operation, appoint and remove the Executive Director. The Management Board should ensure that the Agency carries out its tasks under conditions which enable it to serve in accordance with this Regulation.
- (22) A Permanent Stakeholders' Group would be helpful, in order to maintain a regular dialogue with the private sector, consumers organisations and other relevant stakeholders. The Permanent Stakeholders' Group, established and chaired by the Executive Director, should focus on issues relevant to all stakeholders and bring them to the attention of the Executive Director. The Executive Director may, where appropriate and according to the agenda of the meetings, invite representatives of the European Parliament and from other relevant bodies to take part in the meetings of the Group.
- (23) The smooth functioning of the Agency requires that its Executive Director is appointed on the grounds of merit and documented administrative and managerial skills, as well as competence and experience relevant for network and information security and that he/she performs his/her duties with complete independence and flexibility as to the organisation of the internal functioning of the Agency. To this end, the Executive Director should prepare a proposal for the Agency's work programme, after prior consultation of the Commission and of the Permanent Stakeholders' Group, and take all necessary steps to ensure the proper accomplishment of the working programme of the Agency, should prepare each year a draft general report to be submitted to the Management Board, should draw up a draft statement of estimates of revenue and expenditure of the Agency and should implement the budget.
- (24) The Executive Director should have the possibility to set up ad hoc Working Groups to address in particular scientific and technical matters. In establishing the ad hoc Working Groups the Executive Director should seek input from and mobilise the relevant expertise of private sector. The ad hoc Working Groups should enable the

Agency to have access to the most updated information available in order to be able to respond to the security challenges posed by the developing information society. The Agency should ensure that its ad hoc Working Groups are competent and representative and that they include, as appropriate according to the specific issues, representation of the public administrations of the Member States, of the private sector including industry, of the users and of academic experts in network and information security. The Agency may, if necessary, add to the Working Groups independent experts recognised as competent in the field concerned. The experts who participate in the ad hoc Working Groups organised by the Agency should not belong to the Agency's staff. Their expenses should be met by the Agency in accordance with its internal rules and in conformity with the existing Financial Regulations.

- (25) The Agency should apply the relevant Community legislation concerning public access to documents as set out in Regulation (EC) No 1049/2001<sup>(1)</sup> of the European Parliament and of the Council and the protection of individuals with regard to the processing of personal data as set out in Regulation (EC) No 45/2001<sup>(2)</sup> of the European Parliament and of the Council.
- (26) Within its scope, its objectives and in the performance of its tasks, the Agency should comply in particular with the provisions applicable to the Community institutions, as well as the national legislation regarding the treatment of sensitive documents.
- (27) In order to guarantee the full autonomy and independence of the Agency, it is considered necessary to grant it an autonomous budget whose revenue comes essentially from a contribution from the Community. The Community budgetary procedure remains applicable as far as any subsidies chargeable to the general budget of the European Union are concerned. Moreover, the Court of Auditors should undertake the auditing of accounts.
- (28) Where necessary and on the basis of arrangements to be concluded, the Agency may have access to the interpretation services provided by the Directorate General for Interpretation (DGI) of the Commission, or by Interpretation Services of other Community institutions.
- (29) The Agency should be initially established for a limited period and its operations evaluated in order to determine whether the duration of its operations should be extended,

<sup>(1)</sup> Regulation (EC) No 1049/2001 of the European Parliament and of the Council of 30 May 2001 regarding public access to European Parliament, Council and Commission documents (OJ L 145, 31.5.2001, p. 43).

<sup>(2)</sup> Regulation (EC) No 45/2001 of the European Parliament and of the Council of 18 December 2000 on the protection of individuals with regard to the processing of personal data by the Community institutions and bodies and on the free movement of such data (OJ L 8, 12.1.2001, p. 1).

HAVE ADOPTED THIS REGULATION:

## SECTION 1

### SCOPE, OBJECTIVES AND TASKS

#### Article 1

#### Scope

1. For the purpose of ensuring a high and effective level of network and information security within the Community and in order to develop a culture of network and information security for the benefit of the citizens, consumers, enterprises and public sector organisations of the European Union, thus contributing to the smooth functioning of the internal market, a European Network and Information Security Agency is hereby established, hereinafter referred to as 'the Agency'.

2. The Agency shall assist the Commission and the Member States, and in consequence cooperate with the business community, in order to help them to meet the requirements of network and information security, thereby ensuring the smooth functioning of the internal market, including those set out in present and future Community legislation, such as in the Directive 2002/21/EC.

3. The objectives and the tasks of the Agency shall be without prejudice to the competencies of the Member States regarding network and information security which fall outside the scope of the EC Treaty, such as those covered by Titles V and VI of the Treaty on European Union, and in any case to activities concerning public security, defence, State security (including the economic well-being of the State when the issues relate to State security matters) and the activities of the State in areas of criminal law.

#### Article 2

#### Objectives

1. The Agency shall enhance the capability of the Community, the Member States and, as a consequence, the business community to prevent, address and to respond to network and information security problems.

2. The Agency shall provide assistance and deliver advice to the Commission and the Member States on issues related to network and information security falling within its competencies as set out in this Regulation.

3. Building on national and Community efforts, the Agency shall develop a high level of expertise. The Agency shall use this expertise to stimulate broad cooperation between actors from the public and private sectors.

4. The Agency shall assist the Commission, where called upon, in the technical preparatory work for updating and developing Community legislation in the field of network and information security.

## Article 3

**Tasks**

In order to ensure that the scope and objectives set out in Articles 1 and 2 are complied with and met, the Agency shall perform the following tasks:

- (a) collect appropriate information to analyse current and emerging risks and, in particular at the European level, those which could produce an impact on the resilience and the availability of electronic communications networks and on the authenticity, integrity and confidentiality of the information accessed and transmitted through them, and provide the results of the analysis to the Member States and the Commission;
- (b) provide the European Parliament, the Commission, European bodies or competent national bodies appointed by the Member States with advice, and when called upon, with assistance within its objectives;
- (c) enhance cooperation between different actors operating in the field of network and information security, *inter alia*, by organising, on a regular basis, consultation with industry, universities, as well as other sectors concerned and by establishing networks of contacts for Community bodies, public sector bodies appointed by the Member States, private sector and consumer bodies;
- (d) facilitate cooperation between the Commission and the Member States in the development of common methodologies to prevent, address and respond to network and information security issues;
- (e) contribute to awareness raising and the availability of timely, objective and comprehensive information on network and information security issues for all users by, *inter alia*, promoting exchanges of current best practices, including on methods of alerting users, and seeking synergy between public and private sector initiatives;
- (f) assist the Commission and the Member States in their dialogue with industry to address security-related problems in the hardware and software products;
- (g) track the development of standards for products and services on network and information security;
- (h) advise the Commission on research in the area of network and information security as well as on the effective use of risk prevention technologies;
- (i) promote risk assessment activities, interoperable risk management solutions and studies on prevention management solutions within public and private sector organisations;
- (j) contribute to Community efforts to cooperate with third countries and, where appropriate, with international organisations to promote a common global approach to

network and information security issues, thereby contributing to the development of a culture of network and information security;

- (k) express independently its own conclusions, orientations and give advice on matters within its scope and objectives.

## Article 4

**Definitions**

For the purposes of this Regulation the following definitions shall apply:

- (a) 'network' means transmission systems and, where applicable, switching or routing equipment and other resources which permit the conveyance of signals by wire, by radio, by optical or by other electromagnetic means, including satellite networks, fixed (circuit- and packet-switched, including Internet) and mobile terrestrial networks, electricity cable systems, to the extent that they are used for the purpose of transmitting signals, networks used for radio and television broadcasting, and cable TV networks, irrespective of the type of information conveyed;
- (b) 'information system' means computers and electronic communication networks, as well as electronic data stored, processed, retrieved or transmitted by them for the purposes of their operation, use, protection and maintenance;
- (c) 'network and information security' means the ability of a network or an information system to resist, at a given level of confidence, accidental events or unlawful or malicious actions that compromise the availability, authenticity, integrity and confidentiality of stored or transmitted data and the related services offered by or accessible via these networks and systems;
- (d) 'availability' means that data is accessible and services are operational;
- (e) 'authentication' means the confirmation of an asserted identity of entities or users;
- (f) 'data integrity' means the confirmation that data which has been sent, received, or stored are complete and unchanged;
- (g) 'data confidentiality' means the protection of communications or stored data against interception and reading by unauthorised persons;
- (h) 'risk' means a function of the probability that a vulnerability in the system affects authentication or the availability, authenticity, integrity or confidentiality of the data processed or transferred and the severity of that effect, consequential to the intentional or non-intentional use of such a vulnerability;



- (i) 'risk assessment' means a scientific and technologically based process consisting of four steps, threats identification, threat characterisation, exposure assessment and risk characterisation;
- (j) 'risk management' means the process, distinct from risk assessment, of weighing policy alternatives in consultation with interested parties, considering risk assessment and other legitimate factors, and, if need be, selecting appropriate prevention and control options;
- (k) 'culture of network and information security' has the same meaning as that set out in the OECD Guidelines for the security of Information Systems and Networks of 25 July 2002 and the Council Resolution of 18 February 2003 on a European approach towards a culture of network and information security <sup>(1)</sup>.

## SECTION 2

### ORGANISATION

#### Article 5

#### **Bodies of the Agency**

The Agency shall comprise:

- (a) a Management Board;
- (b) an Executive Director, and
- (c) a Permanent Stakeholders' Group.

#### Article 6

#### **Management Board**

1. The Management Board shall be composed of one representative of each Member State, three representatives appointed by the Commission, as well as three representatives, proposed by the Commission and appointed by the Council, without the right to vote, each of whom represents one of the following groups:

- (a) information and communication technologies industry;
- (b) consumer groups;
- (c) academic experts in network and information security.

2. Board members shall be appointed on the basis of their degree of relevant experience and expertise in the field of network and information security. Representatives may be replaced by alternates, appointed at the same time.

3. The Management Board shall elect its Chairperson and a Deputy Chairperson from among its members for a two-and-a-half-year period, which shall be renewable. The Deputy Chairperson shall ex-officio replace the Chairperson in the event of the Chairperson being unable to attend to his/her duties.

4. The Management Board shall adopt its rules of procedure, on the basis of a proposal by the Commission. Unless otherwise provided, the Management Board shall take its decisions by a majority of its members with the right to vote.

A two-thirds majority of all members with the right to vote is required for the adoption of its rules of procedure, the Agency's internal rules of operation, the budget, the annual work programme, as well as the appointment and the removal of the Executive Director.

5. Meetings of the Management Board shall be convened by its Chairperson. The Management Board shall hold an ordinary meeting twice a year. It shall also hold extraordinary meetings at the instance of the Chairperson or at the request of at least a third of its members with the right to vote. The Executive Director shall take part in the meetings of the Management Board, without voting rights, and shall provide the Secretariat.

6. The Management Board shall adopt the Agency's internal rules of operation on the basis of a proposal by the Commission. These rules shall be made public.

7. The Management Board shall define the general orientations for the operation of the Agency. The Management Board shall ensure that the Agency works in accordance with the principles laid down in Articles 12 to 14 and 23. It shall also ensure consistency of the Agency's work with activities conducted by Member States as well as at Community level.

8. Before 30 November each year, the Management Board, having received the Commission's opinion shall adopt the Agency's work programme for the following year. The Management Board shall ensure that the work programme is consistent with the Agency's scope, objectives and tasks as well as with the Community's legislative and policy priorities in the area of network and information security.

9. Before 31 March each year, the Management Board shall adopt the general report on the Agency's activities for the previous year.

10. The financial rules applicable to the Agency shall be adopted by the Management Board after the Commission has been consulted. They may not depart from Commission Regulation (EC, Euratom) No 2343/2002 of 19 November 2002 on the framework Financial Regulation for the bodies referred to in Article 185 of the Council Regulation (EC, Euratom) No 1605/2002 on the Financial Regulation applicable to the general budget of the European Communities <sup>(2)</sup>, unless such departure is specifically required for the Agency's operation and the Commission has given its prior consent.

<sup>(1)</sup> OJ C 48, 28.2.2003, p. 1.

<sup>(2)</sup> OJ L 357, 31.12.2002, p. 72.

## Article 7

**Executive Director**

1. The Agency shall be managed by its Executive Director, who shall be independent in the performance of his/her duties.
2. The Executive Director shall be appointed by the Management Board on the basis of a list of candidates proposed by the Commission after an open competition following publication in the *Official Journal of the European Union* and elsewhere of a call for expressions of interest. The Executive Director shall be appointed on the grounds of merit and documented administrative and managerial skills, as well as competence and experience relevant for network and information security. Before appointment the candidate nominated by the Management Board shall be invited without delay to make a statement before the European Parliament and to answer questions put by members of that institution. The European Parliament or the Council may also ask at any time for a hearing with the Executive Director on any subject related to the Agency's activities. The Executive Director may be removed from office by the Management Board.
3. The term of office of the Executive Director shall be up to five years.
4. The Executive Director shall be responsible for:
  - (a) the day-to-day administration of the Agency;
  - (b) drawing up a proposal for the Agency's work programmes after prior consultation of the Commission and of the Permanent Stakeholders Group;
  - (c) implementing the work programmes and the decisions adopted by the Management Board;
  - (d) ensuring that the Agency carries out its tasks in accordance with the requirements of those using its services, in particular with regard to the adequacy of the services provided;
  - (e) the preparation of the Agency's draft statement of estimates of revenue and expenditure and the execution of its budget;
  - (f) all staff matters;
  - (g) developing and maintaining contact with the European Parliament and for ensuring a regular dialogue with its relevant committees;
  - (h) developing and maintaining contact with the business community and consumers organisations for ensuring a regular dialogue with relevant stakeholders;
  - (i) chairing the Permanent Stakeholders' Group.
5. Each year, the Executive Director shall submit to the Management Board for approval:
  - (a) a draft general report covering all the activities of the Agency in the previous year;
  - (b) a draft work programme.

6. The Executive Director shall, following adoption by the Management Board, forward the work programme to the European Parliament, the Council, the Commission and the Member States and shall have it published.

7. The Executive Director shall, following adoption by the Management Board, transmit the Agency's general report to the European Parliament, the Council, the Commission, the Court of Auditors, the European Economic and Social Committee and the Committee of the Regions and shall have it published.

8. Where necessary and within the Agency's scope, objectives and tasks, the Executive Director may establish, in consultation with the Permanent Stakeholders' Group, ad hoc Working Groups composed of experts. The Management Board shall be duly informed. The procedures regarding in particular the composition, the appointment of the experts by the Executive Director and the operation of the ad hoc Working Groups shall be specified in the Agency's internal rules of operation.

Where established, the ad hoc Working Groups shall address in particular technical and scientific matters.

Members of the Management Board may not be members of the ad hoc Working Groups. Representatives of the Commission shall be entitled to be present in their meetings.

## Article 8

**Permanent Stakeholders' Group**

1. The Executive Director shall establish a Permanent Stakeholders' Group composed of experts representing the relevant stakeholders, such as information and communication technologies industry, consumer groups and academic experts in network and information security.

2. The procedures regarding in particular the number, the composition, the appointment of the members by the Executive Director and the operation of the Group shall be specified in the Agency's internal rules of operation and shall be made public.

3. The Group shall be chaired by the Executive Director. The term of office of its members shall be two-and-a-half years. Members of the Group may not be members of the Management Board.

4. Representatives of the Commission shall be entitled to be present in the meetings and participate in the work of the Group.

5. The Group may advise the Executive Director in the performance of his/her duties under this Regulation, in drawing up a proposal for the Agency's work programme, as well as in ensuring communication with the relevant stakeholders on all issues related to the work programme.

## SECTION 3

## Article 12

## OPERATION

## Transparency

## Article 9

**Work programme**

The Agency shall base its operations on carrying out the work programme adopted in accordance with Article 6(8). The work programme shall not prevent the Agency from taking up unforeseen activities that fall within its scope and objectives and within the given budget limitations.

## Article 10

**Requests to the Agency**

1. Requests for advice and assistance falling within the Agency's scope, objectives and tasks shall be addressed to the Executive Director and accompanied by background information explaining the issue to be addressed. The Executive Director shall inform the Commission of the received requests. If the Agency refuses a request, justification shall be given.

2. Requests referred to in paragraph 1 may be made by:

- (a) the European Parliament;
- (b) the Commission;
- (c) any competent body appointed by a Member State, such as a national regulatory authority as defined in Article 2 of Directive 2002/21/EC.

3. The practical arrangements for the application of paragraphs 1 and 2, regarding in particular the submission, the prioritisation, the follow up as well as the information of the Management Board on the requests to the Agency shall be laid down by the Management Board in the Agency's internal rules of operation.

## Article 11

**Declaration of interests**

1. The Executive Director, as well as officials seconded by Member States on a temporary basis shall make a declaration of commitments and a declaration of interests indicating the absence of any direct or indirect interests, which might be considered prejudicial to their independence. Such declarations shall be made in writing.

2. External experts participating in ad hoc Working Groups, shall declare at each meeting any interests, which might be considered prejudicial to their independence in relation to the items on the agenda.

1. The Agency shall ensure that it carries out its activities with a high level of transparency and in accordance with Article 13 and 14.

2. The Agency shall ensure that the public and any interested parties are given objective, reliable and easily accessible information, in particular with regard to the results of its work, where appropriate. It shall also make public the declarations of interest made by the Executive Director and by officials seconded by Member States on a temporary basis, as well as the declarations of interest made by experts in relation to items on the agendas of meetings of the ad hoc Working Groups.

3. The Management Board, acting on a proposal from the Executive Director, may authorise interested parties to observe the proceedings of some of the Agency's activities.

4. The Agency shall lay down in its internal rules of operation the practical arrangements for implementing the transparency rules referred to in paragraphs 1 and 2.

## Article 13

**Confidentiality**

1. Without prejudice to Article 14, the Agency shall not divulge to third parties information that it processes or receives for which confidential treatment has been requested.

2. Members of the Management Board, the Executive Director, the members of the Permanent Stakeholders Group, external experts participating in ad hoc Working Groups, and members of the staff of the Agency including officials seconded by Member States on a temporary basis, even after their duties have ceased, are subject to the requirements of confidentiality pursuant to Article 287 of the Treaty.

3. The Agency shall lay down in its internal rules of operation the practical arrangements for implementing the confidentiality rules referred to in paragraphs 1 and 2.

## Article 14

**Access to documents**

1. Regulation (EC) No 1049/2001 shall apply to documents held by the Agency.

2. The Management Board shall adopt arrangements for implementing the Regulation (EC) No 1049/2001 within six months of the establishment of the Agency.

3. Decisions taken by the Agency pursuant to Article 8 of Regulation (EC) No 1049/2001 may form the subject of a complaint to the Ombudsman or of an action before the Court of Justice of the European Communities, under Articles 195 and 230 of the Treaty respectively.

## SECTION 4

**FINANCIAL PROVISIONS***Article 15***Adoption of the budget**

1. The revenues of the Agency shall consist of a contribution from the Community and any contribution from third countries participating in the work of the Agency as provided for by Article 24.
2. The expenditure of the Agency shall include the staff, administrative and technical support, infrastructure and operational expenses, and expenses resulting from contracts entered into with third parties.
3. By 1 March each year at the latest, the Executive Director shall draw up a draft statement of estimates of the Agency's revenue and expenditure for the following financial year, and shall forward it to the Management Board, together with a draft establishment plan.
4. Revenue and expenditure shall be in balance.
5. Each year, the Management Board, on the basis of a draft statement of estimates of revenue and expenditure drawn up by the Executive Director, shall produce a statement of estimates of revenue and expenditure for the Agency for the following financial year.
6. This statement of estimates, which shall include a draft establishment plan together with the provisional work programme, shall by 31 March at the latest, be transmitted by the Management Board to the Commission and the States with which the Community has concluded agreements in accordance with Article 24.
7. This statement of estimates shall be forwarded by the Commission to the European Parliament and the Council (both hereinafter referred to as the 'budgetary authority') together with the preliminary draft general budget of the European Union.
8. On the basis of this statement of estimates, the Commission shall enter in the preliminary draft general budget of the European Union the estimates it deems necessary for the establishment plan and the amount of the subsidy to be charged to the general budget, which it shall submit to the budgetary authority in accordance with Article 272 of the Treaty.
9. The budgetary authority shall authorise the appropriations for the subsidy to the Agency.

The budgetary authority shall adopt the establishment plan for the Agency.

10. The Management Board shall adopt the Agency's budget. It shall become final following final adoption of the general budget of the European Union. Where appropriate, the Agency's budget shall be adjusted accordingly. The Management Board shall forward it without delay to the Commission and the budgetary authority.

11. The Management Board shall, as soon as possible, notify the budgetary authority of its intention to implement any project which may have significant financial implications for the funding of the budget, in particular any projects relating to property such as the rental or purchase of buildings. It shall inform the Commission thereof.

Where a branch of the budgetary authority has notified its intention to deliver an opinion, it shall forward its opinion to the Management Board within a period of six weeks from the date of notification of the project.

*Article 16***Combating fraud**

1. In order to combat fraud, corruption and other unlawful activities the provisions of Regulation (EC) No 1073/1999 of the European Parliament and of the Council of 25 May 1999 concerning investigations conducted by the European Anti-fraud Office (OLAF) <sup>(1)</sup> shall apply without restriction.
2. The Agency shall accede to the Interinstitutional Agreement of 25 May 1999 between the European Parliament and the Council of the European Union and the Commission of the European Communities concerning internal investigations by the European Anti-fraud Office (OLAF) <sup>(2)</sup> and shall issue, without delay, the appropriate provisions applicable to all the employees of the Agency.

*Article 17***Implementation of the budget**

1. The Executive Director shall implement the Agency's budget.
2. The Commission's internal auditor shall exercise the same powers over the Agency as over Commission departments.
3. By 1 March at the latest following each financial year, the Agency's accounting officer shall communicate the provisional accounts to the Commission's accounting officer together with a report on the budgetary and financial management for that financial year. The Commission's accounting officer shall consolidate the provisional accounts of the institutions and decentralised bodies in accordance with Article 128 of Council Regulation (EC, Euratom) No 1605/2002 of 25 June 2002 on the Financial Regulation applicable to the general budget of the European Communities <sup>(3)</sup> (hereinafter referred to as the general Financial Regulation).
4. By 31 March at the latest following each financial year, the Commission's accounting officer shall transmit the Agency's provisional accounts to the Court of Auditors, together with a report on the budgetary and financial management for that financial year. The report on the budgetary and financial management for the financial year shall also be transmitted to the budgetary authority.

<sup>(1)</sup> OJ L 136, 31.5.1999, p. 1.

<sup>(2)</sup> OJ L 136, 31.5.1999, p. 15.

<sup>(3)</sup> OJ L 248, 16.9.2002, p. 1.

5. On receipt of the Court of Auditor's observations on the Agency's provisional accounts, pursuant to Article 129 of the general Financial Regulation, the Executive Director shall draw up the Agency's final accounts under his/her own responsibility and transmit them to the Management Board for an opinion.

6. The Management Board shall deliver an opinion on the Agency's final accounts.

7. The Executive Director shall, by 1 July at the latest following each financial year, transmit the final accounts to the European Parliament, the Council, the Commission and the Court of Auditors, together with the Management Board's opinion.

8. The final accounts shall be published.

9. The Executive Director shall send the Court of Auditors a reply to its observations by 30 September at the latest. He/she shall also send this reply to the Management Board.

10. The Executive Director shall submit to the European Parliament, at the latter's request, all information necessary for the smooth application of the discharge procedure for the financial year in question, as laid down in Article 146(3) of the general Financial Regulation.

11. The European Parliament, on a recommendation from the Council acting by a qualified majority, shall, before 30 April of year N+2 give a discharge to the Executive Director in respect of the implementation of the budget for the year N.

## SECTION 5

### GENERAL PROVISIONS

#### Article 18

#### Legal status

1. The Agency shall be a body of the Community. It shall have legal personality.

2. In each of the Member States the Agency shall enjoy the most extensive legal capacity accorded to legal persons under their laws. It may in particular, acquire and dispose of movable and immovable property and be a party to legal proceedings.

3. The Agency shall be represented by its Executive Director.

#### Article 19

#### Staff

1. The staff of the Agency, including its Executive Director, shall be subject to the rules and regulations applicable to officials and other staff of the European Communities.

2. Without prejudice to Article 6, the powers conferred on the appointing authority by the Staff Regulations and on the authority authorised to conclude contracts by the Conditions of employment of other servants, shall be exercised by the Agency in respect of its own staff.

The Agency may also employ officials seconded by Member States on a temporary basis and for a maximum of five years.

#### Article 20

#### Privileges and immunities

The Protocol on the Privileges and Immunities of the European Communities shall apply to the Agency and its staff.

#### Article 21

#### Liability

1. The contractual liability of the Agency shall be governed by the law applicable to the contract in question.

The Court of Justice of the European Communities shall have jurisdiction to give judgment pursuant to any arbitration clause contained in a contract concluded by the Agency.

2. In the case of non-contractual liability, the Agency shall, in accordance with the general principles common to the laws of the Member States, make good any damage caused by it or its servants in the performance of their duties.

The Court of Justice shall have jurisdiction in any dispute relating to compensation for such damage.

3. The personal liability of its servants towards the Agency shall be governed by the relevant conditions applying to the staff of the Agency.

#### Article 22

#### Languages

1. The provisions laid down in Regulation No 1 of 15 April 1958 determining the languages to be used in the European Economic Community<sup>(1)</sup> shall apply to the Agency. The Member States and the other bodies appointed by them may address the Agency and receive a reply in the Community language of their choice.

2. The translation services required for the functioning of the Agency shall be provided by the Translation Centre for the Bodies of the European Union<sup>(2)</sup>.

<sup>(1)</sup> OJ L 17, 6.10.1958, p. 385/58. Regulation as last amended by the 1994 Act of Accession.

<sup>(2)</sup> Council Regulation (EC) No 2965/94 of 28 November 1994 setting up a Translation Centre for bodies of the European Union (OJ L 314, 7.12.1994, p. 1). Regulation as last amended by Regulation (EC) No 1645/2003 (OJ L 245, 29.9.2003, p. 13).

*Article 23***Protection of personal data**

When processing data relating to individuals, the Agency shall be subject to the provisions of Regulation (EC) No 45/2001.

*Article 24***Participation of third countries**

1. The Agency shall be open to the participation of countries, which have concluded agreements with the European Community by virtue of which they have adopted and applied Community legislation in the field covered by this Regulation.

2. Arrangements shall be made under the relevant provisions of those agreements, specifying in particular the nature, extent and manner in which these countries will participate in the Agency's work, including provisions relating to participation in the initiatives undertaken by the Agency, financial contributions and staff.

## SECTION 6

**FINAL PROVISIONS***Article 25***Review clause**

1. By 17 March 2007, the Commission, taking into account the views of all relevant stakeholders, shall carry out an evaluation on the basis of the terms of reference agreed with the Management Board. The Commission shall undertake the

evaluation, notably with the aim to determine whether the duration of the Agency should be extended beyond the period specified in Article 27.

2. The evaluation shall assess the impact of the Agency on achieving its objectives and tasks, as well as its working practices and envisage, if necessary, the appropriate proposals.

3. The Management Board shall receive a report on the evaluation and issue recommendations regarding eventual appropriate changes to this Regulation to the Commission. Both the evaluation findings and recommendations shall be forwarded by the Commission to the European Parliament and the Council and shall be made public.

*Article 26***Administrative control**

The operations of the Agency are subject to the supervision of the Ombudsman in accordance with the provisions of Article 195 of the Treaty.

*Article 27***Duration**

The Agency shall be established from 14 March 2004 for a period of five years.

*Article 28***Entry into force**

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

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

Done at Strasbourg, 10 March 2004.

*For the European Parliament*

*The President*

P. COX

*For the Council*

*The President*

D. ROCHE

**COUNCIL REGULATION (EC) No 461/2004  
of 8 March 2004**

**amending Regulation (EC) No 384/96 on protection against dumped imports from countries not members of the European Community and Regulation (EC) No 2026/97 on protection against subsidised imports from countries not members of the European Community**

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty establishing the European Community, and in particular Article 133 thereof,

Having regard to the proposal from the Commission,

Whereas:

- (1) By Regulation (EC) No 384/96<sup>(1)</sup> (the Basic Anti-dumping Regulation) and Regulation (EC) No 2026/97<sup>(2)</sup> (the Basic Anti-subsidy Regulation) the Council adopted common rules for protection against dumped, and, respectively, subsidised imports from countries which are not members of the European Communities (the Basic Anti-Dumping Regulation and the Basic Anti-Subsidy Regulation are hereinafter jointly referred to as the Basic Regulations).
- (2) The Basic Regulations provide, for the imposition of definitive anti-dumping and countervailing measures, a procedure under which the Council, acting by simple majority on a proposal by the Commission, imposes definitive measures.
- (3) In the light of recent experience of the application of the Basic Regulations and in order to preserve the transparency and efficiency of the trade defence instruments, it is considered necessary to revisit the way Community institutions work together in the process of the imposition of definitive anti-dumping and countervailing measures.
- (4) Under the current approach, a Commission proposal will only be adopted if a simple majority of Member

States votes in favour of such a proposal. This has the effect that abstentions count effectively against the Commission proposal. This in turn can result in a situation where a Commission proposal will not be adopted by the Council due to the number of abstentions.

- (5) In order to address this problem effectively, the Basic Regulations have to be amended by requiring a simple majority of Member States in the Council to reject a Commission proposal for imposing definitive measures. Under this procedure, measures shall be adopted by the Council unless the Council decides by a simple majority to reject the proposal, within a period of one month after submission of the proposal by the Commission.
- (6) It is expedient to apply such a procedure in order to facilitate the Community's decision-making process without changing the respective roles of the Commission and the Council in the application of the Basic Regulations, and without implying any changes for the decision-making procedures in other areas of the common commercial policy or other sectors.
- (7) For reasons of consistent application of decision-making procedures under the Basic Regulations, the procedures for other decisions by the Council under the Basic Regulations which provide essentially the same procedure as for the imposition of definitive measures should be aligned as well. Accordingly, the above approach should be adopted also for the procedures regarding reviews, reinvestigation, circumvention and suspension of measures.
- (8) The Basic Anti-dumping Regulation establishes mandatory time limits for the completion of investigation procedures initiated pursuant to Article 5(9) of the Basic Anti-dumping Regulation while review investigations, initiated pursuant to Articles 11(2), (3) and (4) and reinvestigations pursuant to Article 12 of the Basic Anti-dumping Regulation, are subject to an indicative time limit only.

<sup>(1)</sup> 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).

<sup>(2)</sup> OJ L 288, 21.10.1997, p. 1. Regulation as last amended by Regulation (EC) No 1973/2002 (OJ L 305, 7.11.2002, p. 4).

- (9) Anti-dumping measures remain in force pending the outcome of a review pursuant to Article 11(2) of the Basic Anti-dumping Regulation. Consequently, unusually lengthy review investigations pursuant to such Article may undermine legal certainty and cause adverse effects for interested parties. Similar non desirable effects may result from overly lengthy investigations in the context of reviews pursuant to Articles 11(3) and (4) and reinvestigations pursuant to Article 12 of the Basic Anti-dumping Regulation.
- (10) It is therefore appropriate to introduce mandatory time limits also for the completion of review investigations pursuant to Articles 11(2), (3) and (4) and reinvestigations pursuant to Article 12 of the Basic Anti-dumping Regulation.
- (11) The various types of review investigations have different potential scopes and degrees of complexity. Due account should be given to these differences when setting the appropriate time limits for completion.
- (12) First, reviews pursuant to Articles 11(2) and (3) of the Basic Anti-dumping Regulation may, in certain circumstances, present the same complexity as new proceedings pursuant to Article 5(9), for instance in terms of the scope of the investigation or the number of interested parties concerned. Consequently, while these review investigations should normally be completed within the existing indicative time limit of 12 months, the mandatory time limit for completion should be equal, but not longer, than that of the 15-month period set for the completion of new proceedings.
- (13) Second, reviews pursuant to Article 11(4) and reinvestigations pursuant to Article 12 of the Basic Anti-dumping Regulation present a lesser degree of complexity than reviews pursuant to Articles 11(2) and (3) of the Basic Anti-dumping Regulation. Accordingly, the time limit for the completion of such reviews should be shorter. For review investigations pursuant to Article 11(4), it is considered that the time limit for completion should be set at nine months. This limit is in line with the maximum period allowed for registration of imports under Article 14(5) of the Basic Anti-dumping Regulation. As imports are registered pending the completion of a review pursuant to Article 11(4), the time limit for the completion of such a review should not be longer than the time frame during which the imports concerned by the review may be subject to registration.
- (14) Third, while reinvestigations pursuant to Article 12 should normally be completed within the existing indicative time limit of six months, it is considered appropriate to set the mandatory time limit at nine months, as a longer period may be necessary to complete the investigation if revised normal values have to be considered. In addition, imports subject to reinvestigation pursuant to Article 12 may, like imports subject to 11(4) reviews, also be subject to registration pursuant to Article 14(5). Consequently, the same maximum time limit of nine months as for registration should apply to reinvestigations pursuant to Article 12.
- (15) Recitals 8 to 14 apply, *mutatis mutandis*, to reviews under Articles 18, 19 and 20 of the Basic Anti-subsidy Regulation.
- (16) It is considered prudent to provide for a phase-in of deadlines in reviews, in view of the resulting demands for the meeting of such deadlines on human resources. Such a phase-in period will facilitate the appropriate allocation of resources over time.
- (17) Information provided to Member States in the Advisory Committee is often of a highly technical nature and involves an elaborate economic and legal analysis. In order to provide Member States with sufficient time to consider this information, it should be sent at the latest 10 days before the date of a meeting set by the Chairman of the Advisory Committee.
- (18) Article 8(9) of the Basic Anti-Dumping Regulation stipulates, *inter alia*, that in case of withdrawal of undertakings by any party, a definitive duty is to be imposed in accordance with Article 9 on the basis of the facts established within the context of the investigation which led to the undertakings. This provision has led to a time-consuming double-proceeding consisting of both a Commission Decision withdrawing the acceptance of the undertaking and a Council Regulation re-imposing the duty. Taking into account that this provision does not leave any discretion to the Council as to the introduction of a duty to be imposed following the breach or withdrawal of an undertaking or as to its level, it is considered appropriate to modify the provisions in Articles 8(1), (5) and (9) in order to clarify the Commission's responsibility and to allow withdrawal of an undertaking and application of the duty by one single legal act. It is also necessary to ensure that the withdrawal procedure is terminated within a time limit of normally six months and in no case more than nine months in order to ensure a proper enforcement of the measure in force.
- (19) Recital 18 applies, *mutatis mutandis*, to undertakings under Article 13 of the Basic Anti-subsidy Regulation.



- (20) Article 12(1) of the Basic Anti-Dumping Regulation indicates that reinvestigations pursuant to that Article are initiated on the basis of evidence submitted by the Community industry. Other interested parties may equally have an interest in such reinvestigations which are aiming at correcting the effects of the absorption of the duty by the exporter. It is therefore necessary to amend that Article in order to extend the possibility of requesting the initiation of anti-absorption investigations to any other interested party. It is also necessary, in order to assess whether absorption exists or not, to include into the notion of movement of prices the decrease of export prices since this is one of the possible situations in which, by lowering the price level on the Community market, the remedial effect of the measure may be undermined.
- (21) Recital 20 applies, *mutatis mutandis*, to Article 19(3) of the Basic Anti-subsidy Regulation.
- (22) Moreover, it has to be clarified that the increase in the amount of the anti-dumping duty imposed following a reinvestigation pursuant to Article 12(2) of the Basic Anti-dumping Regulation has to be limited to the maximum amount that could have possibly been absorbed, which is the amount of the duty in force prior to that reinvestigation.
- (23) Given that Article 13(3) of the Basic Anti-Dumping Regulation does not expressly mention the parties who have the right to request the initiation of anti-circumvention investigations, it is desirable to clarify which parties have this right.
- (24) Past experience has shown that it is also desirable to clarify which practices constitute circumvention of the measures in place. Circumvention practices may take place either inside or outside the Community. It is consequently necessary to provide that exemptions from the extended duties which may already be granted to importers under the current Basic Anti-dumping Regulation may also be granted to exporters when duties are being extended to address circumvention taking place outside the Community.
- (25) In order to ensure proper enforcement of measures, it is advisable to amend the terms of Article 19(6) of the Basic Anti-Dumping Regulation as regards the use of information gathered in the context of an investigation, for the purposes of initiating another investigation within the same proceeding.
- (26) Recitals 23 to 25 above apply, *mutatis mutandis*, to Articles 23 and 29(6) of the Basic Anti-subsidy Regulation.
- (27) In order to ensure a better enforcement of measures, it is necessary to provide, in a new paragraph of Article 14 of the Basic Anti-dumping Regulation, for the possibility for the Commission to request Member States to supply, subject to the respect of confidentiality rules contained

in the Basic Regulations, information to be used for monitoring price undertakings and verifying the level of effectiveness of the measures in force. Similar provisions need also be introduced by a new paragraph within Article 24 of the Basic Anti-subsidy Regulation,

HAS ADOPTED THIS REGULATION:

#### Article 1

Regulation (EC) No 384/96 is hereby amended as follows:

##### 1. Article 8(1) shall be replaced by the following:

'1. Upon condition that a provisional affirmative determination of dumping and injury has been made, the Commission may accept satisfactory voluntary undertaking offers submitted by any exporter to revise its prices or to cease exports at dumped prices, if, after specific consultation of the Advisory Committee, it is satisfied that the injurious effect of the dumping is thereby eliminated. In such a case and as long as such undertakings are in force, the provisional duties imposed by the Commission in accordance with Article 7(1) or the definitive duties imposed by the Council in accordance with Article 9(4) as the case may be shall not apply to the relevant imports of the product concerned manufactured by the companies referred to in the Commission decision accepting undertakings, as subsequently amended. Price increases under such undertakings shall not be higher than necessary to eliminate the margin of dumping and they should be less than the margin of dumping if such increases would be adequate to remove the injury to the Community industry.;

##### 2. Article 8(9) shall be replaced by the following:

'9. In case of breach or withdrawal of undertakings by any party to the undertaking, or in case of withdrawal of acceptance of the undertaking by the Commission, the acceptance of the undertaking shall, after consultation, be withdrawn by Commission Decision or Commission Regulation, as appropriate, and the provisional duty which has been imposed by the Commission in accordance with Article 7 or the definitive duty which has been imposed by the Council in accordance with Article 9(4) shall automatically apply, provided that the exporter concerned has, except where he himself has withdrawn the undertaking, been given an opportunity to comment.

Any interested party or Member State may submit information showing *prima facie* evidence of a breach of an undertaking. The subsequent assessment of whether or not a breach of an undertaking has occurred shall normally be concluded within six months, but in no case later than nine months following a duly substantiated request. The Commission may request the assistance of the competent authorities of the Member States in the monitoring of undertakings.;

3. Article 9(4) shall be replaced by the following:

'4. Where the facts as finally established show that there is dumping and injury caused thereby, and the Community interest calls for intervention in accordance with Article 21, a definitive anti-dumping duty shall be imposed by the Council, acting on a proposal submitted by the Commission after consultation of the Advisory Committee. The proposal shall be adopted by the Council unless it decides by a simple majority to reject the proposal, within a period of one month after its submission by the Commission. Where provisional duties are in force, a proposal for definitive action shall be submitted not later than one month before the expiry of such duties. The amount of the anti-dumping duty shall not exceed the margin of dumping established but it should be less than the margin if such lesser duty would be adequate to remove the injury to the Community industry.;

4. Article 11(5) shall be replaced by the following:

'5. The relevant provisions of this Regulation with regard to procedures and the conduct of investigations, excluding those relating to time limits, shall apply to any review carried out pursuant to paragraphs 2, 3 and 4 of this Article. Reviews carried out pursuant to paragraphs 2 and 3 shall be carried out expeditiously and shall normally be concluded within 12 months of the date of initiation of the review. In any event, reviews pursuant to paragraphs 2 and 3 shall in all cases be concluded within 15 months of initiation. Reviews pursuant to paragraph 4 shall in all cases be concluded within nine months of the date of initiation. If a review carried out pursuant to paragraph 2 is initiated while a review under paragraph 3 is ongoing in the same proceeding, the review pursuant to paragraph 3 shall be concluded at the same time as foreseen above for the review pursuant to paragraph 2.

The Commission shall submit a proposal for action to the Council not later than one month before the expiry of the above deadlines.

If the investigation is not completed within the above deadlines, the measures shall:

- expire in investigations pursuant to paragraph 2 of this Article,
- expire in the case of investigations carried out pursuant to paragraphs 2 and 3 of this Article in parallel, where either the investigation pursuant to paragraph 2 was initiated while a review under paragraph 3 was ongoing in the same proceeding or where such reviews were initiated at the same time, or
- remain unchanged in investigations pursuant to paragraphs 3 and 4 of this Article.

A notice announcing the actual expiry or maintenance of the measures pursuant to this paragraph shall then be published in the *Official Journal of the European Union*.;

5. Article 12(1) shall be replaced by the following:

'1. Where the Community industry or any other interested party submit, normally within two years from the entry into force of the measures, sufficient information showing that, after the original investigation period and prior to or following the imposition of measures, export prices have decreased or that there has been no movement, or insufficient movement in the resale prices or subsequent selling prices of the imported product in the Community, the investigation may, after consultation, be reopened to examine whether the measure has had effects on the abovementioned prices.

The investigation may also be reopened, under the conditions set out above, at the initiative of the Commission or at the request of a Member State.;

6. Article 12(2), last sentence, shall be replaced by the following:

'Where it is considered that the conditions of Article 12(1) are met due to a fall in export prices which has occurred after the original investigation period and prior to or following the imposition of measures, dumping margins may be recalculated to take account of such lower export prices.;

7. Article 12(3) shall be replaced by the following:

'3. Where a reinvestigation pursuant to this Article shows increased dumping, the measures in force may, after consultation, be amended by the Council, acting on a proposal from the Commission in accordance with the new findings on export prices. The proposal shall be adopted by the Council unless it decides by a simple majority to reject the proposal, within a period of one month after its submission by the Commission. The amount of the anti-dumping duty imposed pursuant to this Article shall not exceed twice the amount of the duty imposed initially by the Council.;

8. Article 12(4) shall be replaced by the following:

'4. The relevant provisions of Article 5 and 6 shall apply to any reinvestigation carried out pursuant to this Article, except that such reinvestigation shall be carried out expeditiously and shall normally be concluded within six months of the date of initiation of the reinvestigation. In any event, such reinvestigations shall in all cases be concluded within nine months of initiation of the reinvestigation.

The Commission shall submit a proposal for action to the Council not later than one month before the expiry of the above deadline.

If the reinvestigation is not completed within the above deadlines, measures shall remain unchanged. A notice announcing the maintenance of the measures pursuant to this paragraph shall be published in the *Official Journal of the European Union*.;

9. Article 13(1) shall be replaced by the following:

'1. Anti-dumping duties imposed pursuant to this Regulation may be extended to imports from third countries, of the like product, whether slightly modified or not; or to imports of the slightly modified like product from the country subject to measures; or parts thereof, when circumvention of the measures in force is taking place. Anti-dumping duties not exceeding the residual anti-dumping duty imposed in accordance with Article 9(5) of this Regulation may be extended to imports from companies benefiting from individual duties in the countries subject to measures when circumvention of the measures in force is taking place. Circumvention shall be defined as a change in the pattern of trade between third countries and the Community or between individual companies in the country subject to measures and the Community, which stems from a practice, process or work for which there is insufficient due cause or economic justification other than the imposition of the duty, and where there is evidence of injury or that the remedial effects of the duty are being undermined in terms of the prices and/or quantities of the like product, and where there is evidence of dumping in relation to the normal values previously established for the like product, if necessary in accordance with the provisions of Article 2.

The practice, process or work referred to in paragraph 1 includes, *inter alia*, the slight modification of the product concerned to make it fall under customs codes which are normally not subject to the measures, provided that the modification does not alter its essential characteristics; the consignment of the product subject to measures via third countries; the reorganisation by exporters or producers of their patterns and channels of sales in the country subject to measures in order to eventually have their products exported to the Community through producers benefiting from an individual duty rate lower than that applicable to the products of the manufacturers; and, in the circumstances indicated below under Article 13(2), the assembly of parts by an assembly operation in the Community or a third country.;

10. Article 13(3) shall be replaced by the following:

'3. Investigations shall be initiated pursuant to this Article on the initiative of the Commission or at the request of a Member State or any interested party on the basis of sufficient evidence regarding the factors set out in paragraph 1. Initiations shall be made, after consultation of the Advisory Committee, by Commission Regulation

which may also instruct the customs authorities to make imports subject to registration in accordance with Article 14(5) or to request guarantees. Investigations shall be carried out by the Commission, which may be assisted by customs authorities and shall be concluded within nine months. When the facts as finally ascertained justify the extension of measures, this shall be done by the Council, acting on a proposal submitted by the Commission, after consultation of the Advisory Committee. The proposal shall be adopted by the Council unless it decides by a simple majority to reject the proposal, within a period of one month after its submission by the Commission. The extension shall take effect from the date on which registration was imposed pursuant to Article 14(5) or on which guarantees were requested. The relevant procedural provisions of this Regulation with regard to initiations and the conduct of investigations shall apply pursuant to this Article.;

11. Article 13(4) shall be replaced by the following:

'4. Imports shall not be subject to registration pursuant to Article 14(5) or measures where they are traded by companies which benefit from exemptions. Requests for exemptions duly supported by evidence shall be submitted within the time limits established in the Commission Regulation initiating the investigation. Where the circumventing practice, process or work takes place outside the Community, exemptions may be granted to producers of the product concerned that can show that they are not related to any producer subject to the measures and that are found not to be engaged in circumvention practices as defined in Article 13(1) and 13(2). Where the circumventing practice, process or work takes place inside the Community, exemptions may be granted to importers that can show that they are not related to producers subject to the measures.

These exemptions are granted by decision of the Commission after consultation of the Advisory Committee or decision of the Council imposing measures and shall remain valid for the period and under the conditions set down therein.

Provided that the conditions set in Article 11(4) are met, exemptions may also be granted after the conclusion of the investigation leading to the extension of the measures.

Provided that at least one year has lapsed from the extension of the measures, and in case the number of parties requesting or potentially requesting an exemption is significant, the Commission may decide to initiate a review of the extension of the measures. Any such review shall be conducted in accordance with the provisions of Article 11(5) as applicable to reviews pursuant to Article 11(3).;

12. Article 14(4) shall be replaced by the following:

'4. In the Community interest, measures imposed pursuant to this Regulation may, after consultation of the Advisory Committee, be suspended by a decision of the Commission for a period of nine months. The suspension may be extended for a further period, not exceeding one year, if the Council so decides, acting on a proposal from the Commission. The proposal shall be adopted by the Council unless it decides by a simple majority to reject the proposal, within a period of one month after its submission by the Commission. Measures may only be suspended where market conditions have temporarily changed to an extent that injury would be unlikely to resume as a result of the suspension, and provided that the Community industry has been given an opportunity to comment and these comments have been taken into account. Measures may, at any time and after consultation, be reinstated if the reason for suspension is no longer applicable.'

13. in Article 14 the following paragraph shall be added:

'7. Without prejudice to paragraph 6, the Commission may request Member States, on a case by case basis, to supply information necessary to monitor efficiently the application of measures. In this respect, the provisions of Articles 6(3) and 6(4) shall apply. Any data submitted by Member States pursuant to this Article shall be covered by the provisions of Article 19(6).'

14. Article 15(2) shall be replaced by the following:

'2. The Committee shall meet when convened by its chairman. He shall provide the Member States, as promptly as possible, but no later than 10 working days before the meeting, with all relevant information.'

15. Article 19(6) shall be replaced by the following:

'6. Information received pursuant to this Regulation shall be used only for the purpose for which it was requested. This provision shall not preclude the use of information received in the context of one investigation for the purpose of initiating other investigations within the same proceeding in relation to the product concerned.'

#### Article 2

Regulation (EC) No 2026/97 is hereby amended as follows:

1. Article 13(1) shall be replaced by the following:

'1. Upon condition that a provisional affirmative determination of subsidisation and injury has been made, the Commission may accept satisfactory voluntary undertakings offers under which:

- (a) the country of origin and/or export agrees to eliminate or limit the subsidy or take other measures concerning its effects; or

- (b) any exporter undertakes to revise its prices or to cease exports to the area in question as long as such exports benefit from countervailable subsidies, so that the Commission, after specific consultation of the Advisory Committee, is satisfied that the injurious effect of the subsidies is thereby eliminated.

In such a case and as long as such undertakings are in force, the provisional duties imposed by the Commission in accordance with Article 12(3) and the definitive duties imposed by the Council in accordance with Article 15(1) shall not apply to the relevant imports of the product concerned manufactured by the companies referred to in the Commission decision accepting undertakings and in any subsequent amendment of such decision.

Price increases under such undertakings shall not be higher than is necessary to offset the amount of countervailable subsidies, and should be less than the amount of countervailable subsidies if such increases would be adequate to remove the injury to the Community industry.'

2. Article 13(9) shall be replaced by the following:

'9. In case of breach or withdrawal of undertakings by any party to the undertaking, or in case of withdrawal of acceptance of the undertaking by the Commission, the acceptance of the undertaking shall, after Consultation, be withdrawn by Commission Decision or Commission Regulation, as appropriate, and the provisional duty which has been imposed by the Commission in accordance with Article 12 or the definitive duty which has been imposed by the Council in accordance with Article 15(1), shall apply, provided that the exporter concerned, or the country of origin and/or export has, except in the case of withdrawal of the undertaking by the exporter or such country, been given an opportunity to comment.

Any interested party or Member State may submit information, showing prima facie evidence of a breach of an undertaking. The subsequent assessment of whether or not a breach of an undertaking has occurred shall normally be concluded within six months, but in no case later than nine months following a duly substantiated request. The Commission may request the assistance of the competent authorities of the Member States in the monitoring of undertakings.'

3. Article 15(1) shall be replaced by the following:

'1. Where the facts as finally established show the existence of countervailable subsidies and injury caused thereby, and the Community interest calls for intervention in accordance with Article 31, a definitive countervailing duty shall be imposed by the Council, acting on a proposal submitted by the Commission after consultation of the Advisory Committee. The proposal shall be adopted by the Council unless it decides by a simple majority to reject the proposal, within a period of one month after its submission by the Commission. Where provisional duties are in force, a proposal regarding definitive action shall be submitted not later than one month before the expiry of such duties. No measures shall be imposed if the subsidy or subsidies are withdrawn or it has been demonstrated that the subsidies no longer confer any benefit on the exporters involved. The amount of the countervailing duty shall not exceed the amount of countervailable subsidies established but it should be less than the total amount of countervailable subsidies if such lesser duty would be adequate to remove the injury to the Community industry.;

4. Article 19(3) shall be replaced by the following:

'3. Where the countervailing duties imposed are less than the amount of countervailable subsidies found, an interim review may be initiated if the Community producers or any other interested party submit, normally within two years from the entry into force of the measures, sufficient evidence that, after the original investigation period and prior to or following the imposition of measures, export prices have decreased or that there has been no movement, or insufficient movement of resale prices of the imported product in the Community. If the investigation proves the allegations to be correct, countervailing duties may be increased to achieve the price increase required to remove injury; however, the increased duty level shall not exceed the amount of the countervailable subsidies.

The interim review may also be initiated, under the conditions set out above, at the initiative of the Commission or at the request of a Member State.;

5. Article 22(1) shall be replaced by the following:

'1. The relevant provisions of this Regulation with regard to procedures and the conduct of investigations, excluding those relating to time limits, shall apply to any review carried out pursuant to Article 18, 19 and 20. Reviews carried out pursuant to Articles 18 and 19 shall be carried out expeditiously and shall normally be concluded within 12 months of the date of initiation of the review. In any event, reviews pursuant to Article 18 and 19 shall in all cases be concluded within 15 months of

initiation. Reviews pursuant to Article 20 shall in all cases be concluded within nine months of the date of initiation. If a review carried out pursuant to Article 18 is initiated while a review under Article 19 is ongoing in the same proceeding, the review pursuant to Article 19 shall be concluded at the same time as foreseen above for the review pursuant to Article 18.

The Commission shall submit a proposal for action to the Council not later than one month before the expiry of the above deadlines.

If the investigation is not completed within the above deadlines, the measures shall:

- expire in investigations pursuant to Article 18,
- expire in the case of investigations carried out pursuant to Articles 18 and 19 in parallel, where either the investigation pursuant to Article 18 was initiated while a review under Article 19 was ongoing in the same proceeding or where such reviews were initiated at the same time, or
- remain unchanged in investigations pursuant to Articles 19 and 20.

A notice announcing the actual expiry or maintenance of the measures pursuant to this paragraph shall be published in the *Official Journal of the European Union*.;

6. Article 23(1) shall be replaced by the following:

'1. Countervailing duties imposed pursuant to this Regulation may be extended to imports from third countries, of the like product, whether slightly modified or not; or to imports of the slightly modified like product from the country subject to measures; or parts thereof, when circumvention of the measures in force is taking place. Countervailing duties not exceeding the residual countervailing duty imposed in accordance with Article 15(2) of this Regulation may be extended to imports from companies benefiting from individual duties in the countries subject to measures when circumvention of the measures in force is taking place. Circumvention shall be defined as a change in the pattern of trade between third countries and the Community or between individual companies in the country subject to measures and the Community, which stems from a practice, process or work for which there is insufficient due cause or economic justification other than the imposition of the duty, and where there is evidence of injury or that the remedial effects of the duty are being undermined in terms of the prices and/or quantities of the like product and that the imported like product and/or parts thereof still benefit from the subsidy.

The practice, process or work referred to in paragraph 1 includes, *inter alia*, the slight modification of the product concerned to make it fall under customs codes which are normally not subject to the measures, provided that the modification does not alter its essential characteristics; the consignment of the product subject to measures via third countries; and the reorganisation by exporters or producers of their patterns and channels of sales in the country subject to measures in order to eventually have their products exported to the Community through producers benefiting from an individual duty rate lower than that applicable to the products of the manufacturers.’;

7. Article 23(2) and (3) shall be replaced by the following:

‘2. Investigations shall be initiated pursuant to this Article on the initiative of the Commission or at the request of a Member State or of any interested party on the basis of sufficient evidence regarding the factors set out in paragraph 1. Initiations shall be made, after consultation of the Advisory Committee, by Commission Regulation which may also instruct the customs authorities to make imports subject to registration in accordance with Article 24(5) or to request guarantees. Investigations shall be carried out by the Commission, which may be assisted by customs authorities and shall be concluded within nine months. When the facts as finally ascertained justify the extension of measures, this shall be done by the Council, acting on a proposal submitted by the Commission after consultation of the Advisory Committee. The proposal shall be adopted by the Council unless it decides by a simple majority to reject the proposal, within a period of one month after its submission by the Commission. The extension shall take effect from the date on which registration was imposed pursuant to Article 24(5) or on which guarantees were requested. The relevant procedural provisions of this Regulation with regard to initiations and the conduct of investigations shall apply pursuant to this Article.

3. Imports shall not be subject to registration pursuant to Article 24(5) or measures where they are traded by companies which benefit from exemptions. Requests for exemptions duly supported by evidence shall be submitted within the time limits established in the Commission Regulation initiating the investigation. Where the circumventing practice, process or work takes place outside the Community, exemptions may be granted to producers of the product concerned that can show that they are not related to any producer subject to the measures and that are found not to be engaged in circumvention practices as defined in Article 23(1). Where the circumventing practice, process or work takes place inside the Community, exemptions may be granted to importers that can show that they are not related to producers subject to the measures.

These exemptions are granted by decision of the Commission after consultation of the Advisory Committee or decision of the Council imposing measures and shall remain valid for the period and under the conditions set down therein.

Provided that the conditions set in Article 20 are met, exemptions may also be granted after the conclusion of the investigation leading to the extension of the measures.

Provided that at least one year has lapsed from the extension of the measures, and in case the number of parties requesting or potentially requesting an exemption is significant, the Commission may decide to initiate a review of the extension of the measures. Any such review shall be conducted in accordance with the provisions of Article 22(1) as applicable to reviews under Article 19.’;

8. Article 24(4) shall be replaced by the following:

‘4. In the Community interest, measures imposed pursuant to this Regulation may, after consultation of the Advisory Committee, be suspended by a decision of the Commission for a period of nine months. The suspension may be extended for a further period, not exceeding one year, if the Council so decides, acting on a proposal from the Commission. The proposal shall be adopted by the Council unless it decides by a simple majority to reject the proposal, within a period of one month after its submission by the Commission. Measures may only be suspended where market conditions have temporarily changed to an extent that injury would be unlikely to resume as a result of the suspension, and provided that the Community industry has been given an opportunity to comment and these comments have been taken into account. Measures may, at any time and after consultation, be reinstated if the reason for suspension is no longer applicable.’;

9. In Article 24 the following paragraph shall be added:

‘7. Without prejudice to paragraph 6, the Commission may request Member States, on a case by case basis, to supply information necessary to monitor efficiently the application of measures. In this respect, the provisions of Articles 11(3) and (4) shall apply. Any data submitted by Member States pursuant to this Article shall be covered by the provisions of Article 29(6).’;

10. Article 25(2) shall be replaced by the following:

‘2. The Committee shall meet when convened by its chairman. He shall provide the Member States, as promptly as possible, but no later than 10 working days before the meeting, with all relevant information.’

11. Article 29(6) shall be replaced by the following:

‘6. Information received pursuant to this Regulation shall be used only for the purpose for which it was requested. This provision shall not preclude the use of information received in the context of one investigation for the purpose of initiating other investigations within the same proceeding concerning the same like product.’

*Article 3*

This Regulation shall apply to all investigations initiated pursuant to Regulation (EC) No 384/96 and Regulation (EC) No 2026/97 after the entry into force of this Regulation with the exception of:

- (a) Article 1(3), (7), (10), (12) and (14) and Article 2(3), (7), (8) and (10) of this Regulation which shall apply also to pending investigations; and
- (b) Article 1(4) and (8) and Article 2(5) of this Regulation which shall only apply two years after the entry into force of this Regulation to investigations initiated pursuant to Articles 11(3), 11(4) and 12 of Regulation (EC) No 384/96 and Articles 19 and 20 of Regulation (EC) No 2026/97.

*Article 4*

This Regulation shall enter into force on the 7th day following that of its publication in the *Official Journal of the European Union*.

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

Done at Brussels, 8 March 2004.

*For the Council*  
*The President*  
D. AHERN

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**COMMISSION REGULATION (EC) No 462/2004**  
**of 12 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 <sup>(1)</sup>, 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 13 March 2004.

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

Done at Brussels, 12 March 2004.

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

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<sup>(1)</sup> 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 12 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 <sup>(1)</sup>	Standard import value
0702 00 00	052	100,6
	204	79,3
	212	121,4
	999	100,4
0707 00 05	052	134,2
	068	141,1
	204	26,1
	999	100,5
0709 10 00	220	80,1
	999	80,1
0709 90 70	052	113,2
	204	63,4
	999	88,3
0805 10 10, 0805 10 30, 0805 10 50	052	42,9
	204	49,7
	212	60,5
	220	46,3
	400	45,5
	624	63,0
	999	51,3
0805 50 10	052	53,0
	999	53,0
0808 10 20, 0808 10 50, 0808 10 90	060	28,7
	388	112,0
	400	106,6
	404	94,3
	508	70,1
	512	97,4
	524	74,0
	528	97,8
	720	78,6
	800	99,6
	999	85,9
	0808 20 50	060
388		75,1
512		70,1
528		71,6
999		70,9

<sup>(1)</sup> 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 463/2004  
of 12 March 2004**

**amending Regulation (EC) No 823/2000 on the application of Article 81(3) of the Treaty to certain categories of agreements, decisions and concerted practices between liner shipping companies (consortia)**

(Text with EEA relevance)

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Council Regulation (EEC) No 479/92 of 25 February 1992 on the application of Article 85(3) of the Treaty to certain categories of agreements, decisions and concerted practices between liner shipping companies (consortia) <sup>(1)</sup>, and in particular Article 2(2) thereof,

Having published a draft of this Regulation <sup>(2)</sup>,

After consulting the Advisory Committee on Restrictive Practices and Dominant Positions in Maritime Transport,

Whereas:

- (1) Regulation (EEC) No 479/92 empowers the Commission to apply Article 81(3) of the Treaty by regulation to certain categories of agreements, decisions and concerted practices between shipping companies (consortia) relating to the joint operation of liner transport services.
- (2) Commission Regulation (EC) No 823/2000 <sup>(3)</sup> grants a general exemption to liner shipping consortia from the prohibition contained in Article 81(1) of the Treaty, subject to certain conditions and obligations.
- (3) One of the conditions concerns the market share held by the consortium on each market upon which it operates. Any consortium with a market share below 30 % (if the consortium operates within a conference) or 35 % (if the consortium operates outside a conference) is automatically exempt if it fulfils the other conditions of the Regulation. A consortium with a market share above that ceiling but below 50 % may still benefit from the block exemption if the agreement is notified to the Commission and the Commission does not oppose the exemption within six months.
- (4) Regulation (EC) No 1/2003 introduces a directly applicable exception system in which the competition authorities and the courts of the Member States have the power to apply Article 81(3) of the Treaty, in addition to Article 81(1) and Article 82. Undertakings no longer have the obligation or option to notify agreements to the Commission with a view to obtaining an exemption decision. Under the new system, agreements that fulfil

the conditions of Article 81(3) are legally valid and enforceable without the adoption of an administrative decision. Undertakings will be able to invoke the exception from the prohibition on agreements which restrict competition laid out in Article 81(3) as a defence in all proceedings.

- (5) The provisions of Regulation (EC) No 823/2000 should be aligned with those of Regulation (EEC) No 479/92 and Council Regulation (EC) No 4056/86 of 22 December 1986 laying down detailed rules for the application of Articles 85 and 86 of the Treaty to maritime transport <sup>(4)</sup>. In particular the opposition procedure should be abolished and references to notification of consortia deleted. Transitional provisions should be introduced in respect of notifications already made under the opposition procedure. It is also necessary to introduce references to the new powers of the national competition authorities.
- (6) Regulation (EC) No 823/2000 should therefore be amended accordingly,

HAS ADOPTED THIS REGULATION:

*Article 1*

Regulation (EC) No 823/2000 is amended as follows:

1. Article 7 is deleted.
2. Article 9 is amended as follows:
  - (a) paragraph 4 is deleted;
  - (b) paragraph 5 is replaced by the following:

'5. Any consortium claiming the benefit of this Regulation must be able, on being given a period of notice which the Commission or the Member States' competition authorities shall determine on a case-by-case basis and which shall be not less than one month, to demonstrate at the request of the Commission or the Member States' competition authorities that the conditions and obligations imposed by Articles 5 to 8 and paragraphs 2 and 3 of this Article are met. It must submit the consortium agreement in question to the Commission or the Member States' competition authorities as appropriate within that period.'

<sup>(1)</sup> OJ L 55, 29.2.1992, p. 3. Regulation as last amended by Regulation (EC) No 1/2003 (OJ L 1, 4.1.2003, p. 1).

<sup>(2)</sup> OJ C 233, 30.9.2003, p. 8.

<sup>(3)</sup> OJ L 100, 20.4.2000, p. 24. Regulation as amended by the 2003 Act of Accession.

<sup>(4)</sup> OJ L 378, 31.12.1986, p. 4. Regulation as last amended by Regulation (EC) No 1/2003 (OJ L 1, 4.1.2003, p. 1).

3. In Article 11, paragraph 1 is replaced by the following:

'1. Information acquired as a result of the application of Article 9(5) shall be used only for the purposes of this Regulation.'

4. Article 12 is replaced by the following:

*Article 12*

**Withdrawal in individual cases**

1. The Commission may withdraw the benefit of this Regulation, in accordance with Article 29 of Council Regulation (EC) No 1/2003 (\*), where it finds in a particular case that an agreement, decision by an association of undertakings or concerted practice to which Article 3 or Article 13(1) of this Regulation apply nevertheless has certain effects which are incompatible with Article 81(3) in particular where:

- (a) in a given trade, competition from outside the conference within which the consortium operates or from outside a particular consortium is not effective;
- (b) a consortium fails repeatedly to comply with the obligations provided for in Article 9 of this Regulation;

(c) such effects result from an arbitration award.

2. Where, in any particular case, an agreement, decision by an association of undertakings or concerted practice referred to in paragraph 1 has effects which are incompatible with Article 81(3) of the Treaty in the territory of a Member State, or in a part thereof, which has all the characteristics of a distinct geographic market, the competition authority of that Member State may withdraw the benefit of this Regulation in respect of that territory.

(\*) OJ L 1, 4.1.2003, p. 1.'

5. In Article 13, paragraph 2 is replaced by the following:

'2. A notification made pursuant to Article 7 in respect of which the period of six months referred to in the second subparagraph of paragraph 1 of that Article has not expired shall lapse as from 1 May 2004.'

*Article 2*

This Regulation shall enter into force on 1 May 2004.

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

Done at Brussels, 12 March 2004.

*For the Commission*

Mario MONTI

*Member of the Commission*

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**COMMISSION REGULATION (EC) No 464/2004**  
**of 12 March 2004**

**amending the specification for a name appearing in the Annex to Regulation (EC) No 1107/96 on the registration of geographical indications and designations of origin (Nocciola del Piemonte)**

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Council Regulation (EEC) No 2081/92 of 14 July 1992 on the protection of geographical indications and designations of origin for agricultural products and foodstuffs<sup>(1)</sup>, and in particular Article 9 thereof,

Whereas:

- (1) Under Article 9 of Regulation (EEC) No 2081/92, for the name Nocciola de Piemonte, registered as a protected geographical indication by Commission Regulation (EC) No 1107/96 of 12 June 1996 on the registration of geographical indications and designations of origin under the procedure laid down in Article 17 of Council Regulation (EEC) No 2081/92<sup>(2)</sup>, Italy has requested changes in the name itself and in the description, method of production, labelling and national requirements.
- (2) Scrutiny of the request has shown that the amendments proposed are not minor.
- (3) Under the said Article 9 the Article 6 procedure accordingly should be applied *mutatis mutandis*.

(4) It is considered that the amendments proposed are consonant with Regulation (EEC) No 2081/92. Following their publication in the *Official Journal of the European Union*<sup>(3)</sup> the Commission has received no objection under Article 7 of that Regulation.

(5) The amendments should therefore be registered and be published in the *Official Journal of the European Union*,

HAS ADOPTED THIS REGULATION:

*Article 1*

The amendments annexed to this Regulation are hereby registered and are published as required by Article 6(4) of Regulation (EEC) No 2081/92.

*Article 2*

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

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

Done at Brussels, 12 March 2004.

*For the Commission*  
Franz FISCHLER  
*Member of the Commission*

<sup>(1)</sup> OJ L 208, 24.7.1999, p. 1. Regulation as last amended by Regulation (EC) No 806/2003 (OJ L 122, 16.5.2003, p. 1).

<sup>(2)</sup> OJ L 148, 21.6.1996, p. 1. Regulation as last amended by Regulation (EC) No 1660/2003 (OJ L 234, 20.9.2003, p. 10).

<sup>(3)</sup> OJ C 144, 20.6.2003, p. 2 (Nocciola del Piemonte).

## ANNEX

## ITALY

**Nocciola del Piemonte***Name*

- Nocciola Piemonte is added as a second form of the PGI.

*Description*

- It is specified that Nocciola del Piemonte/Nocciola Piemonte is reserved for unshelled, shelled and semi-processed nuts. It is also specified that the PGI can be used in describing, presenting and promoting foodstuffs containing, as an improving ingredient raising their quality, Nocciola del Piemonte/Nocciola Piemonte but no other product of the same type.
- There is a formal change in the description of the production area: its boundaries are not changed but following recognition of the new Province of Biella the list of communes has been rearranged.

*Method of production*

- Planting density is altered from 250 to 400 to 200 to 420 bushes per hectare. Densities of up to 500 per hectare are authorised only for plantations dating from before entry into force of the Decree of recognition of 2 December 1993.
- Annual notification by Piedmont Region of average production per hectare and the date of commencement of the harvest (to take account of factors varying from year to year) is withdrawn.
- Plantations must be listed in a special register held by the approved inspection agency instead of in a register held by the local chamber of commerce.
- Unshelled fruit can be sold unpackaged but only when sold for the first time, i.e. by the grower to the operator of a packaging or processing unit.
- Packaging requirements for shelled, semi-processed and processed nuts (packaging suitable for food use) and also for nuts that have undergone processing exploiting their quality are more clearly specified. The marketed product must be prepackaged or it must be packaged at the moment of sale.

*Labelling*

- The information to be given on the labelling is more clearly indicated, as are certain labelling requirements allowing traceability to be guaranteed. In particular the information that must be given on the labelling of processed products containing Nocciola del Piemonte/Nocciola Piemonte as sole ingredient are specified.
- For both unshelled and shelled nuts the harvest year must be shown on the label.
- Some labelling requirements considered to be already included in the general food product labelling requirements are withdrawn.

*National requirements*

- Reference to the national penalties applicable for infringement of the specification provisions is withdrawn, since they are applicable without any such reference.
  - Article 9 is inserted specifying rules for the inspection body's work.
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**COMMISSION REGULATION (EC) No 465/2004**  
**of 12 March 2004**

**supplementing the Annex to Regulation (EC) No 2400/96 on the entry of certain names in the Register of protected designations of origin and protected geographical indications (Carciofo di Paestum and Farina di Neccio della Garfagnana)**

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Council Regulation (EEC) No 2081/92 of 14 July 1992 on the protection of geographical indications and designations of origin for agricultural products and foodstuffs<sup>(1)</sup>, and in particular Article 6(3) and (4) thereof;

Whereas:

- (1) Under Article 5 of Regulation (EEC) No 2081/92, Italy has sent the Commission an application for the registration of the name 'Carciofo di Paestum' as a geographical indication and an application for the registration of the name 'Farina di Neccio della Garfagnana' as a designation of origin.
- (2) In accordance with Article 6(1) of that Regulation, the applications have been found to meet all the requirements laid down therein and in particular to contain all the information required in accordance with Article 4 thereof.
- (3) No statement of objection, within the meaning of Article 7 of Regulation (EEC) No 2081/92, has been sent to the Commission following the publication in the *Official Journal of the European Union*<sup>(2)</sup> of the two names listed in the Annex to this Regulation.

(4) The names consequently qualify for inclusion in the 'Register of protected designations of origin and protected geographical indications' and to be protected at Community level as a protected designation of origin.

(5) The Annex to this Regulation supplements the Annex to Commission Regulation (EC) No 2400/96<sup>(3)</sup>,

HAS ADOPTED THIS REGULATION:

*Article 1*

The names listed in the Annex to this Regulation are hereby added to the Annex to Regulation (EC) No 2400/96 and entered as a protected geographical indication (PGI) and as a protected designation of origin (PDO) in the 'Register of protected designations of origin and protected geographical indications' provided for in Article 6(3) of Regulation (EEC) No 2081/92.

*Article 2*

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

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

Done at Brussels, 12 March 2004.

*For the Commission*

Franz FISCHLER

*Member of the Commission*

<sup>(1)</sup> OJ L 208, 24.7.1992, p. 1. Regulation as last amended by Regulation (EC) No 806/2003 (OJ L 122, 16.5.2003, p. 1).

<sup>(2)</sup> OJ C 153, 1.7.2003, p. 72 (Carciofo di Paestum).  
OJ C 153, 1.7.2003, p. 76 (Farina di Neccio della Garfagnana).

<sup>(3)</sup> OJ L 327, 18.12.1996, p. 11. Regulation as last amended by Regulation (EC) No 297/2004 (OJ L 50, 20.2.2004, p. 18).

## ANNEX

## PRODUCTS LISTED IN ANNEX I TO THE TREATY INTENDED FOR HUMAN CONSUMPTION

**Fresh or processed fruit, vegetables and cereals**

ITALY

Carciofo di Paestum (PGI)

Farina di Neccio della Garfagnana (PDO).

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**COMMISSION REGULATION (EC) No 466/2004**  
**of 12 March 2004**  
**amending Regulation (EC) No 2125/2003 as regards the deadline for decisions by the competent national authorities on operational programmes and funds**

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Council Regulation (EC) No 2200/96 of 28 October 1996 on the common organisation of the market in fruit and vegetables <sup>(1)</sup>, and in particular Article 48 thereof,

Whereas:

(1) Commission Regulation (EC) No 2125/2003 of 3 December 2003 derogating from Regulation (EC) No 1433/2003 with regard to decisions by the competent national authorities on operational programmes and funds <sup>(2)</sup> waives, for 2003, the deadline of 15 December laid down in Articles 13 and 14 of Commission Regulation (EC) No 1433/2003 of 11 August 2003 laying down detailed rules for the application of Council Regulation (EC) No 2200/96 as regards operational funds, operational programmes and financial assistance <sup>(3)</sup>, and permits Member States to take the decisions provided for in Articles 13 and 14 no later than 31 January 2004.

(2) On account of excessive administrative work, some Member States were unable to draw up all their programmes and take decisions relating to them by the new deadline of 31 January 2004. In order to avoid

harming operators and to enable the national authorities to continue drawing up the programmes, this deadline should be postponed until 15 March 2004.

(3) Given the urgency of the situation, it is essential that this Regulation take effect immediately.

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

HAS ADOPTED THIS REGULATION:

*Article 1*

Article 1(1) of Regulation (EC) No 2125/2003, is replaced by the following:

‘1. For 2003 only, by way of derogation from Article 13(2) and Article 14(3) of Regulation (EC) No 1433/2003, Member States may take decisions on operational programmes and funds or on requests for amendments to operational programmes no later than 15 March 2004.’

*Article 2*

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

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

Done at Brussels, 12 March 2004.

*For the Commission*

Franz FISCHLER

*Member of the Commission*

<sup>(1)</sup> OJ L 297, 21.11.1996, p. 1. Regulation last amended by Commission Regulation (EC) No 47/2003 (OJ L 7, 11.1.2003, p. 64).

<sup>(2)</sup> OJ L 319, 4.12.2003, p. 3.

<sup>(3)</sup> OJ L 203, 12.8.2003, p. 25. Regulation amended by Regulation (EC) No 1582/2003 (OJ L 227, 11.9.2003, p. 3).



**COMMISSION REGULATION (EC) No 467/2004**  
**of 12 March 2004**  
**amending Regulation (EC) No 279/2004 providing for a further allocation of import rights under**  
**Regulation (EC) No 977/2003 for young male bovine animals for fattening**

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Council Regulation (EC) No 1254/1999 of 17 May 1999 on the common organisation of the market in beef and veal <sup>(1)</sup>,

Having regard to Commission Regulation (EC) No 977/2003 of 6 June 2003 opening and providing for the administration of an import tariff quota for young male bovine animals for fattening (1 July 2003 to 30 June 2004) <sup>(2)</sup>, and in particular Article 9(3) thereof,

Whereas:

As a result of an administrative error made by a competent national body when notifying the quantity referred to in Article 9(1) of Regulation (EC) No 977/2003, Commission Regulation (EC) No 279/2004 <sup>(3)</sup> should be amended accordingly,

HAS ADOPTED THIS REGULATION:

*Article 1*

Article 1 of Regulation (EC) No 279/2004 is replaced by the following:

‘The number of animals referred to in Article 9(1) of Regulation (EC) No 977/2003 is 11 519.’

*Article 2*

This Regulation shall enter into force on 13 March 2004.

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

Done at Brussels, 12 March 2004.

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

<sup>(1)</sup> OJ L 160, 26.6.1999, p. 21. Regulation as last amended by Regulation (EC) No 1782/2003 (OJ L 270, 21.10.2003, p. 1).

<sup>(2)</sup> OJ L 141, 7.6.2003, p. 5. Regulation as corrected by Regulation (EC) No 1361/2003 (OJ L 194, 1.8.2003, p. 38).

<sup>(3)</sup> OJ L 47, 18.2.2004, p. 25.

**COMMISSION REGULATION (EC) No 468/2004**  
**of 12 March 2004**

**fixing the minimum selling prices for butter for the 137th individual invitation to tender under the standing invitation to tender provided for in Regulation (EC) No 2571/97**

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Council Regulation (EC) No 1255/1999 of 17 May 1999 on the common organisation of the market in milk and milk products <sup>(1)</sup>, and in particular Article 10 thereof,

Whereas:

- (1) The intervention agencies are, pursuant to Commission Regulation (EC) No 2571/97 of 15 December 1997 on the sale of butter at reduced prices and the granting of aid for cream, butter and concentrated butter for use in the manufacture of pastry products, ice-cream and other foodstuffs <sup>(2)</sup>, to sell by invitation to tender certain quantities of butter from intervention stocks that they hold and to grant aid for cream, butter and concentrated butter. Article 18 of that Regulation stipulates that in the light of the tenders received in response to each individual invitation to tender a minimum selling price shall be fixed for butter and maximum aid shall be fixed for cream, butter and concentrated butter. It is further stipulated that the price or aid may vary according to the

intended use of the butter, its fat content and the incorporation procedure, and that a decision may also be taken to make no award in response to the tenders submitted. The amount(s) of the processing securities must be fixed accordingly.

- (2) The measures provided for in this Regulation are in accordance with the opinion of the Management Committee for Milk and Milk Products,

HAS ADOPTED THIS REGULATION:

*Article 1*

The minimum selling prices of butter from intervention stocks and processing securities applying for the 137th individual invitation to tender, under the standing invitation to tender provided for in Regulation (EC) No 2571/97, shall be fixed as indicated in the Annex hereto.

*Article 2*

This Regulation shall enter into force on 13 March 2004.

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

Done at Brussels, 12 March 2004.

*For the Commission*

Franz FISCHLER

*Member of the Commission*

<sup>(1)</sup> OJ L 160, 26.6.1999, p. 48. Regulation as last amended by Commission Regulation (EC) No 186/2004 (OJ L 29, 3.2.2004, p. 6).

<sup>(2)</sup> OJ L 350, 20.12.1997, p. 3. Regulation as last amended by Regulation (EC) No 186/2004 (OJ L 29, 3.2.2004, p. 6).

## ANNEX

to the Commission Regulation of 12 March 2004 fixing the minimum selling prices for butter for the 137th individual invitation to tender under the standing invitation to tender provided for in Regulation (EC) No 2571/97

(EUR/100 kg)

Formula		A		B		
Incorporation procedure		With tracers	Without tracers	With tracers	Without tracers	
Minimum selling price	Butter ≥ 82 %	Unaltered	215	215,1	—	—
		Concentrated	—	—	—	—
Processing security		Unaltered	129	129	—	—
		Concentrated	—	—	—	—

**COMMISSION REGULATION (EC) No 469/2004**  
**of 12 March 2004**

**fixing the maximum aid for cream, butter and concentrated butter for the 137th individual invitation to tender under the standing invitation to tender provided for in Regulation (EC) No 2571/97**

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Council Regulation (EC) No 1255/1999 of 17 May 1999 on the common organisation of the market in milk and milk products <sup>(1)</sup>, and in particular Article 10 thereof,

Whereas:

- (1) The intervention agencies are, pursuant to Commission Regulation (EC) No 2571/97 of 15 December 1997 on the sale of butter at reduced prices and the granting of aid for cream, butter and concentrated butter for use in the manufacture of pastry products, ice-cream and other foodstuffs <sup>(2)</sup>, to sell by invitation to tender certain quantities of butter of intervention stocks that they hold and to grant aid for cream, butter and concentrated butter. Article 18 of that Regulation stipulates that in the light of the tenders received in response to each individual invitation to tender a minimum selling price shall be fixed for butter and maximum aid shall be fixed for cream, butter and concentrated butter. It is further stipulated that the price or aid may vary according to the

intended use of the butter, its fat content and the incorporation procedure, and that a decision may also be taken to make no award in response to the tenders submitted. The amount(s) of the processing securities must be fixed accordingly.

- (2) The measures provided for in this Regulation are in accordance with the opinion of the Management Committee for Milk and Milk Products,

HAS ADOPTED THIS REGULATION:

*Article 1*

The maximum aid and processing securities applying for the 137th individual invitation to tender, under the standing invitation to tender provided for in Regulation (EC) No 2571/97, shall be fixed as indicated in the Annex hereto.

*Article 2*

This Regulation shall enter into force on 13 March 2004.

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

Done at Brussels, 12 March 2004.

*For the Commission*

Franz FISCHLER

*Member of the Commission*

<sup>(1)</sup> OJ L 160, 26.6.1999, p. 48. Regulation as last amended by Commission Regulation (EC) No 186/2004 (OJ L 29, 3.2.2004, p. 6).

<sup>(2)</sup> OJ L 350, 20.12.1997, p. 3. Regulation as last amended by Regulation (EC) No 186/2004.

## ANNEX

**to the Commission Regulation of 12 March 2004 fixing the maximum aid for cream, butter and concentrated butter for the 137th individual invitation to tender under the standing invitation to tender provided for in Regulation (EC) No 2571/97**

(EUR/100 kg)

Formula		A		B	
		With tracers	Without tracers	With tracers	Without tracers
Incorporation procedure					
Maximum aid	Butter $\geq$ 82 %	79	75	—	71
	Butter < 82 %	77	72	—	72
	Concentrated butter	98	91	97	89
	Cream	—	—	34	31
Processing security	Butter	87	—	—	—
	Concentrated butter	108	—	107	—
	Cream	—	—	37	—

**COMMISSION REGULATION (EC) No 470/2004**  
**of 12 March 2004**

**fixing the maximum aid for concentrated butter for the 309th special invitation to tender opened under the standing invitation to tender provided for in Regulation (EEC) No 429/90**

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Council Regulation (EC) No 1255/1999 of 17 May 1999 on the common organisation of the market in milk and milk products <sup>(1)</sup>, and in particular Article 10 thereof,

Whereas:

- (1) In accordance with Commission Regulation (EEC) No 429/90 of 20 February 1990 on the granting by invitation to tender of an aid for concentrated butter intended for direct consumption in the Community <sup>(2)</sup>, the intervention agencies are opening a standing invitation to tender for the granting of aid for concentrated butter; Article 6 of that Regulation provides that in the light of the tenders received in response to each special invitation to tender, a maximum amount of aid is to be fixed for concentrated butter with a minimum fat content of 96 % or a decision is to be taken to make no award; the end-use security must be fixed accordingly.

- (2) In the light of the tenders received, the maximum aid should be fixed at the level specified below and the end-use security determined accordingly.

- (3) The measures provided for in this Regulation are in accordance with the opinion of the Management Committee for Milk and Milk Products,

HAS ADOPTED THIS REGULATION:

*Article 1*

For the 309th special invitation to tender under the standing invitation to tender opened by Regulation (EEC) No 429/90, the maximum aid and the amount of the end-use security shall be as follows:

- |                     |                 |
|---------------------|-----------------|
| — maximum aid:      | EUR 97/100 kg,  |
| — end-use security: | EUR 107/100 kg. |

*Article 2*

This Regulation shall enter into force on 13 March 2004.

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

Done at Brussels, 12 March 2004.

*For the Commission*  
Franz FISCHLER  
*Member of the Commission*

<sup>(1)</sup> OJ L 160, 26.6.1999, p. 48. Regulation as last amended by Commission Regulation (EC) No 186/2004 (OJ L 29, 3.2.2004, p. 6).

<sup>(2)</sup> OJ L 45, 21.2.1990, p. 8. Regulation as last amended by Regulation (EC) No 124/1999 (OJ L 16, 21.1.1999, p. 19).

**COMMISSION REGULATION (EC) No 471/2004**  
**of 12 March 2004**  
**amending the rates of refunds applicable to certain products from the sugar sector exported in the form of goods not covered by Annex I to the Treaty**

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Council Regulation (EC) No 1260/2001 of 19 June 2001 on the common organisation of the markets in the sugar sector<sup>(1)</sup>, and in particular Article 27(5)(a) and (15) thereof,

Whereas:

- (1) The rates of the refunds applicable from 20 February 2004 to the products listed in the Annex, exported in the form of goods not covered by Annex I to the Treaty, were fixed by Commission Regulation (EC) No 300/2004<sup>(2)</sup>.

- (2) It follows from applying the rules and criteria contained in Regulation (EC) No 300/2004 to the information at present available to the Commission that the export refunds at present applicable should be altered as shown in the Annex hereto,

HAS ADOPTED THIS REGULATION:

*Article 1*

The rates of refund fixed by Regulation (EC) No 300/2004 are hereby altered as shown in the Annex hereto.

*Article 2*

This Regulation shall enter into force on 13 March 2004.

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

Done at Brussels, 12 March 2004.

*For the Commission*

Erkki LIIKANEN

*Member of the Commission*

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<sup>(1)</sup> OJ L 178, 30.6.2001, p. 1. Regulation as last amended by Commission Regulation (EC) No 39/2004 (OJ L 6, 10.1.2004, p. 16).

<sup>(2)</sup> OJ L 20, 20.2.2004, p. 22.

## ANNEX

**Rates of refunds applicable from 13 March 2004 to certain products from the sugar sector exported in the form of goods not covered by Annex I to the Treaty**

CN code	Description	Rate of refund in EUR/100 kg <sup>(1)</sup>	
		In case of advance fixing of refunds	Other
1701 99 10	White sugar	46,97	46,97

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



**COMMISSION REGULATION (EC) No 472/2004**  
**of 12 March 2004**  
**fixing the export refunds on beef and veal**

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

refunds for pure-bred breeding animals should be limited to heifers and cows of no more than 30 months of age.

Having regard to the Treaty establishing the European Community,

Having regard to Council Regulation (EC) No 1254/1999 of 17 May 1999 on the common organisation of the market in beef and veal <sup>(1)</sup>, and in particular Article 33(12) thereof,

- (5) Export refunds should be granted for certain destinations on some fresh or chilled meat listed in the Annex under CN code 0201, on some frozen meat listed in the Annex under CN code 0202, on some meat or offal listed in the Annex under CN code 0206 and on some other prepared or preserved meat or offal listed in the Annex under CN code 1602 50 10.

Whereas:

(1) Article 33 of Regulation (EC) No 1254/1999 provides that the difference between prices on the world market for the products listed in Article 1 of that Regulation and prices for those products within the Community may be covered by an export refund.

- (6) In the case of meat of bovine animals, boned or boneless, salted and dried, there are traditional trade flows to Switzerland. To allow this trade to continue, the refund should be set to cover the difference between prices on the Swiss market and export prices in the Member States.

(2) Commission Regulations (EEC) No 32/82 <sup>(2)</sup>, (EEC) No 1964/82 <sup>(3)</sup>, (EEC) No 2388/84 <sup>(4)</sup>, (EEC) No 2973/79 <sup>(5)</sup> and (EC) No 2051/96 <sup>(6)</sup>, lay down the conditions for granting special export refunds on certain cuts of beef and veal and certain preserved beef and veal products, and for certain destinations.

- (7) In the case of certain other cuts and preserves of meat or offal shown in the Annex under CN codes 1602 50 31 to 1602 50 80, the Community presence of international trade may be maintained by granting a refund corresponding to that at present available.

(3) It follows from applying those rules and criteria to the foreseeable situation on the market in beef and veal that the refund should be as set out below.

(4) With regard to live animals, for reasons of simplification export refunds should no longer be granted for categories with insignificant trade with third countries. Moreover, in the light of the general concern of animal welfare, export refunds for live animals for slaughter should be limited as much as possible. Consequently, export refunds for such animals should only be granted for third countries which for cultural and/or religious reasons traditionally import substantial numbers of animals for domestic slaughter. As to live animals for reproduction, in order to prevent any abuse, export

- (8) In the case of other beef and veal products, a refund need not be fixed since the Community's share of world trade is not significant.

- (9) Commission Regulation (EEC) No 3846/87 <sup>(7)</sup> establishes the agricultural product nomenclature for the purposes of export refunds. The refunds are set on the basis of the product codes as defined in that nomenclature.

<sup>(1)</sup> OJ L 160, 26.6.1999, p.21. Regulation as last amended by Regulation (EC) No 1782/2003 (OJ L 270, 21.10.2003, p. 1).

<sup>(2)</sup> OJ L 4, 8.1.1982, p. 11. Regulation as last amended by Regulation (EC) No 744/2000 (OJ L 89, 11.4.2000, p. 3).

<sup>(3)</sup> OJ L 212, 21.7.1982, p. 48. Regulation as last amended by Regulation (EC) No 2772/2000 (OJ L 321, 19.12.2000, p. 35).

<sup>(4)</sup> OJ L 221, 18.8.1984, p. 28. Regulation as last amended by Regulation (EC) No 3661/92 (OJ L 370, 19.12.1992, p. 16).

<sup>(5)</sup> OJ L 336, 29.12.1979, p. 44. Regulation as last amended by Regulation (EC) No 3434/87 (OJ L 327, 18.11.1987, p. 7).

<sup>(6)</sup> OJ L 274, 26.10.1996, p. 18. Regulation as last amended by Regulation (EC) No 2333/96 (OJ L 317, 6.12.1996, p. 13).

- (10) In order to simplify customs export formalities for operators, the refunds on all frozen cuts should be brought into line with those on fresh or chilled cuts other than those from adult male bovine animals.

<sup>(7)</sup> OJ L 366, 24.12.1987, p. 1. Regulation as last amended by Regulation (EC) No 118/2003 (OJ L 20, 24.1.2003, p. 3).

(11) Checks on products covered by CN code 1602 50 should be stepped up by making the granting of refunds on these products conditional on manufacture under the arrangements provided for in Article 4 of Council Regulation (EEC) No 565/80 of 4 March 1980 on the advance payment of export refunds in respect of agricultural products <sup>(1)</sup>.

(12) Refunds should be granted only on products that are allowed to move freely in the Community. Therefore, to be eligible for a refund, products should be required to bear the health mark laid down in Council Directive 64/433/EEC <sup>(2)</sup>, Council Directive 94/65/EC <sup>(3)</sup> and Council Directive 77/99/EEC <sup>(4)</sup>, respectively.

(13) Pursuant to Article 6(2) of Regulation (EEC) No 1964/82, the special refund is to be reduced if the quantity of boned meat to be exported amounts to less than 95 %, but not less than 85 %, of the total weight of cuts produced by boning.

(14) The negotiations on the adoption of additional concessions, held within the framework of the Europe Agreements between the European Community and the associated central and eastern European Countries, aim in particular to liberalise trade in products covered by the common organisation of the market in beef and veal. To this end, it was decided to abolish export refunds on products intended for export to Estonia, Latvia, Lithuania, Hungary, Romania and Slovakia. These countries should therefore be excluded from the list of destinations giving rise to the grant of a refund, while ensuring that the abolition of refunds for these countries may not lead to the creation of a differentiated refund for exports to other countries.

(15) In view of the accession on 1 May 2004 of 10 new Member States to the European Union, and in order to avoid speculation involving refunds on beef and veal exports to some of those countries which have not been excluded from the list of destinations eligible for refunds as a result of the abovementioned Europe Agreements, refunds for exports to those countries should be abolished. The Czech Republic, Slovenia, Poland, Malta and

Cyprus should therefore be completely excluded from the list of destinations giving rise to the grant of refunds. The abolition of the refunds for those countries should not lead to the creation of a differentiated refund for exports to other countries.

(16) The measures provided for in this Regulation are in accordance with the opinion of the Management Committee for Beef and Veal,

HAS ADOPTED THIS REGULATION:

#### Article 1

1. The list of products on which export refunds as referred to in Article 33 of Regulation (EC) No 1254/1999 are granted and the amount thereof and the destinations shall be as set out in the Annex to this Regulation.

2. The products must meet the relevant health marking requirements of:

- Chapter XI of Annex I to Directive 64/433/EEC,
- Chapter VI of Annex I to Directive 94/65/EC,
- Chapter VI of Annex B to Directive 77/99/EEC.

#### Article 2

In the case referred to in the third subparagraph of Article 6(2) of Regulation (EEC) No 1964/82 the rate of the refund on products falling within product code 0201 30 00 9100 shall be reduced by EUR 14,00/100 kg.

#### Article 3

The fact of not setting an export refund for Estonia, Lithuania, Latvia, Hungary, Romania, Slovakia, the Czech Republic, Slovenia, Poland, Malta and Cyprus shall not be deemed to constitute a differentiation of the refund.

#### Article 4

This Regulation shall enter into force on 15 March 2004.

<sup>(1)</sup> OJ L 62, 7.3.1980, p. 5. Regulation as last amended by Commission Regulation (EC) No 444/2003 (OJ L 67, 12.3.2003, p. 3).

<sup>(2)</sup> OJ L 121, 29.7.1964, p. 2012/64. Directive as last amended by Directive 95/23/EC (OJ L 243, 11.10.1995, p. 7).

<sup>(3)</sup> OJ L 368, 31.12.1994, p. 10. Directive as amended by Regulation (EC) No 806/2003 (OJ L 122, 16.5.2003, p. 1).

<sup>(4)</sup> OJ L 26, 31.1.1977, p. 85. Directive as last amended by Regulation (EC) No 807/2003 (OJ L 122, 16.5.2003, p. 36).

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

Done at Brussels, 12 March 2004.

*For the Commission*  
Franz FISCHLER  
*Member of the Commission*

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## ANNEX

## to the Commission Regulation of 12 March 2004 fixing export refunds on beef

Product code	Destination	Unit of measurement	Refunds (7)
0102 10 10 9140	B00	EUR/100 kg live weight	53,00
0102 10 30 9140	B00	EUR/100 kg live weight	53,00
0102 90 71 9000	B11	EUR/100 kg live weight	41,00
0201 10 00 9110 (1)	B02	EUR/100 kg net weight	71,50
	B03	EUR/100 kg net weight	43,00
	039	EUR/100 kg net weight	23,50
0201 10 00 9120	B02	EUR/100 kg net weight	33,50
	B03	EUR/100 kg net weight	10,00
	039	EUR/100 kg net weight	11,50
0201 10 00 9130 (1)	B02	EUR/100 kg net weight	97,00
	B03	EUR/100 kg net weight	56,50
	039	EUR/100 kg net weight	33,50
0201 10 00 9140	B02	EUR/100 kg net weight	46,00
	B03	EUR/100 kg net weight	14,00
	039	EUR/100 kg net weight	16,00
0201 20 20 9110 (1)	B02	EUR/100 kg net weight	97,00
	B03	EUR/100 kg net weight	56,50
	039	EUR/100 kg net weight	33,50
0201 20 20 9120	B02	EUR/100 kg net weight	46,00
	B03	EUR/100 kg net weight	14,00
	039	EUR/100 kg net weight	16,00
0201 20 30 9110 (1)	B02	EUR/100 kg net weight	71,50
	B03	EUR/100 kg net weight	43,00
	039	EUR/100 kg net weight	23,50
0201 20 30 9120	B02	EUR/100 kg net weight	33,50
	B03	EUR/100 kg net weight	10,00
	039	EUR/100 kg net weight	11,50
0201 20 50 9110 (1)	B02	EUR/100 kg net weight	123,00
	B03	EUR/100 kg net weight	71,50
	039	EUR/100 kg net weight	41,00
0201 20 50 9120	B02	EUR/100 kg net weight	58,50
	B03	EUR/100 kg net weight	17,50
	039	EUR/100 kg net weight	19,50
0201 20 50 9130 (1)	B02	EUR/100 kg net weight	71,50
	B03	EUR/100 kg net weight	43,00
	039	EUR/100 kg net weight	23,50
0201 20 50 9140	B02	EUR/100 kg net weight	33,50
	B03	EUR/100 kg net weight	10,00
	039	EUR/100 kg net weight	11,50
0201 20 90 9700	B02	EUR/100 kg net weight	33,50
	B03	EUR/100 kg net weight	10,00
	039	EUR/100 kg net weight	11,50
0201 30 00 9050	400 (3)	EUR/100 kg net weight	23,50
	404 (4)	EUR/100 kg net weight	23,50

Product code	Destination	Unit of measurement	Refunds (7)
0201 30 00 9060 (6)	B02	EUR/100 kg net weight	46,00
	B03	EUR/100 kg net weight	13,00
	039	EUR/100 kg net weight	15,00
	809, 822	EUR/100 kg net weight	37,00
0201 30 00 9100 (2) (6)	B08, B09	EUR/100 kg net weight	172,00
	B03	EUR/100 kg net weight	102,00
	039	EUR/100 kg net weight	60,00
	809, 822	EUR/100 kg net weight	152,50
	220	EUR/100 kg net weight	205,00
0201 30 00 9120 (2) (6)	B08	EUR/100 kg net weight	94,50
	B09	EUR/100 kg net weight	88,00
	B03	EUR/100 kg net weight	56,50
	039	EUR/100 kg net weight	33,00
	809, 822	EUR/100 kg net weight	83,50
	220	EUR/100 kg net weight	123,00
0202 10 00 9100	B02	EUR/100 kg net weight	33,50
	B03	EUR/100 kg net weight	10,00
	039	EUR/100 kg net weight	11,50
0202 10 00 9900	B02	EUR/100 kg net weight	46,00
	B03	EUR/100 kg net weight	14,00
	039	EUR/100 kg net weight	16,00
0202 20 10 9000	B02	EUR/100 kg net weight	46,00
	B03	EUR/100 kg net weight	14,00
	039	EUR/100 kg net weight	16,00
0202 20 30 9000	B02	EUR/100 kg net weight	33,50
	B03	EUR/100 kg net weight	10,00
	039	EUR/100 kg net weight	11,50
0202 20 50 9100	B02	EUR/100 kg net weight	58,50
	B03	EUR/100 kg net weight	17,50
	039	EUR/100 kg net weight	19,50
0202 20 50 9900	B02	EUR/100 kg net weight	33,50
	B03	EUR/100 kg net weight	10,00
	039	EUR/100 kg net weight	11,50
0202 20 90 9100	B02	EUR/100 kg net weight	33,50
	B03	EUR/100 kg net weight	10,00
	039	EUR/100 kg net weight	11,50
0202 30 90 9100	400 (3)	EUR/100 kg net weight	23,50
	404 (4)	EUR/100 kg net weight	23,50
0202 30 90 9200 (6)	B02	EUR/100 kg net weight	46,00
	B03	EUR/100 kg net weight	13,00
	039	EUR/100 kg net weight	15,00
	809, 822	EUR/100 kg net weight	37,00

Product code	Destination	Unit of measurement	Refunds (7)
0206 10 95 9000	B02	EUR/100 kg net weight	46,00
	B03	EUR/100 kg net weight	13,00
	039	EUR/100 kg net weight	15,00
	809, 822	EUR/100 kg net weight	37,00
0206 29 91 9000	B02	EUR/100 kg net weight	46,00
	B03	EUR/100 kg net weight	13,00
	039	EUR/100 kg net weight	15,00
	809, 822	EUR/100 kg net weight	37,00
0210 20 90 9100	039	EUR/100 kg net weight	23,00
1602 50 10 9170 (8)	B02	EUR/100 kg net weight	22,50
	B03	EUR/100 kg net weight	15,00
	039	EUR/100 kg net weight	17,50
1602 50 31 9125 (5)	B00	EUR/100 kg net weight	88,50
1602 50 31 9325 (5)	B00	EUR/100 kg net weight	79,00
1602 50 39 9125 (5)	B00	EUR/100 kg net weight	88,50
1602 50 39 9325 (5)	B00	EUR/100 kg net weight	79,00
1602 50 39 9425 (5)	B00	EUR/100 kg net weight	30,00
1602 50 39 9525 (5)	B00	EUR/100 kg net weight	30,00
1602 50 80 9535 (8)	B00	EUR/100 kg net weight	17,50

(1) Entry under this subheading is subject to the submission of the certificate appearing in the Annex to amended Commission Regulation (EEC) No 32/82.

(2) The refund is granted subject to compliance with the conditions laid down in amended Regulation (EEC) No 1964/82.

(3) Carried out in accordance with amended Regulation (EEC) No 2973/79.

(4) Carried out in accordance with amended Regulation (EC) No 2051/96.

(5) The refund is granted subject to compliance with the conditions laid down in amended Regulation (EEC) No 2388/84.

(6) The lean bovine meat content excluding fat is determined in accordance with the procedure described in the Annex to Commission Regulation (EEC) No 2429/86 (OJ L 210, 1.8.1986, p. 39).

The term 'average content' refers to the sample quantity as defined in Article 2(1) of Regulation (EC) No 765/2002 (OJ L 117, 4.5.2002, p. 6). The sample is to be taken from that part of the consignment presenting the highest risk.

(7) Article 33(10) of amended Regulation (EC) No 1254/1999 provides that no export refunds shall be granted on products imported from third countries and re-exported to third countries.

(8) The refund is granted only on products manufactured under the arrangement provided for in Article 4 of amended Council Regulation (EEC) No 565/80.

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

The numeric destination codes are set out in Commission Regulation (EC) No 2081/2003 (OJ L 313, 28.11.2003, p. 11).

The other destinations are defined as follows:

B00: all destinations (third countries, other territories, victualling and destinations treated as exports from the Community) with the exception of Estonia, Lithuania, Latvia, Hungary, Romania, Slovakia, the Czech Republic, Slovenia, Poland, Cyprus and Malta.

B02: B08, B09 and destination 220.

B03: Ceuta, Melilla, Iceland, Norway, Faroe Islands, Andorra, Gibraltar, Vatican City, Bulgaria, Albania, Croatia, Bosnia and Herzegovina, Serbia and Montenegro, former Yugoslav Republic of Macedonia, the communes of Livigno and Campione d'Italia, Helgoland, Greenland, stores and provisions (destinations referred to in Articles 36 and 45, and if appropriate in Article 44, of Commission Regulation (EC) No 800/1999, as amended (OJ L 102, 17.4.1999, p. 11)).

B08: Turkey, Ukraine, Belarus, Moldova, Russia, Georgia, Armenia, Azerbaijan, Kazakhstan, Turkmenistan, Uzbekistan, Tajikistan, Kyrgyzstan, Morocco, Algeria, Tunisia, Libya, Lebanon, Syria, Iraq, Iran, Israel, West Bank/Gaza Strip, Jordan, Saudi Arabia, Kuwait, Bahrain, Qatar, United Arab Emirates, Oman, Yemen, Pakistan, Sri Lanka, Myanmar (Burma), Thailand, Vietnam, Indonesia, Philippines, China, North Korea, Hong Kong.

B09: Sudan, Mauritania, Mali, Burkina Faso, Niger, Chad, Cape Verde, Senegal, Gambia, Guinea-Bissau, Guinea, Sierra Leone, Liberia, Côte d'Ivoire, Ghana, Togo, Benin, Nigeria, Cameroon, Central African Republic, Equatorial Guinea, São Tomé and Príncipe, Gabon, Congo, Congo (Democratic Republic), Rwanda, Burundi, Saint Helena and dependencies, Angola, Ethiopia, Eritrea, Djibouti, Somalia, Uganda, Tanzania, Seychelles and dependencies, British Indian Ocean Territory, Mozambique, Mauritius, Comoros, Mayotte, Zambia, Malawi, South Africa, Lesotho.

B11: Lebanon and Egypt.

**COMMISSION REGULATION (EC) No 473/2004**  
**of 12 March 2004**  
**amending representative prices and additional duties for the import of certain products in the**  
**sugar sector**

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Council Regulation (EC) No 1260/2001 of 19 June 2001 on the common organisation of the markets in the sugar sector <sup>(1)</sup>,

Having regard to Commission Regulation (EC) No 1423/95 of 23 June 1995 laying down detailed implementing rules for the import of products in the sugar sector other than molasses <sup>(2)</sup>, and in particular the second subparagraph of Article 1(2), and Article 3(1) thereof,

Whereas:

- (1) The amounts of the representative prices and additional duties applicable to the import of white sugar, raw sugar and certain syrups are fixed by Commission Regulation (EC) No 1166/2003 <sup>(3)</sup>.

- (2) It follows from applying the general and detailed fixing rules contained in Regulation (EC) No 1423/95 to the information known to the Commission that the representative prices and additional duties at present in force should be altered to the amounts set out in the Annex hereto,

HAS ADOPTED THIS REGULATION:

*Article 1*

The representative prices and additional duties on imports of the products referred to in Article 1 of Regulation (EC) No 1423/95 shall be as set out in the Annex hereto.

*Article 2*

This Regulation shall enter into force on 13 March 2004.

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

Done at Brussels, 12 March 2004.

*For the Commission*

J. M. SILVA RODRÍGUEZ

*Agriculture Director-General*

<sup>(1)</sup> OJ L 178, 30.6.2001, p. 1. Regulation as last amended by Commission Regulation (EC) No 39/2004 (OJ L 6, 10.1.2004, p. 16).

<sup>(2)</sup> OJ L 141, 24.6.1995, p. 16. Regulation as last amended by Regulation (EC) No 624/98 (OJ L 85, 20.3.1998, p. 5).

<sup>(3)</sup> OJ L 162, 1.7.2003, p. 57. Regulation as last amended by Regulation (EC) No 421/2004 (OJ L 68, 5.3.2004, p. 18).

## ANNEX

**to the Commission Regulation of 12 March 2004 altering representative prices and the amounts of additional duties applicable to imports of white sugar, raw sugar and products covered by CN code 1702 90 99**

(EUR)

CN code	Amount of representative prices per 100 kg net of product concerned	Amount of additional duty per 100 kg net of product concerned
1701 11 10 <sup>(1)</sup>	16,71	7,95
1701 11 90 <sup>(1)</sup>	16,71	14,25
1701 12 10 <sup>(1)</sup>	16,71	7,76
1701 12 90 <sup>(1)</sup>	16,71	13,73
1701 91 00 <sup>(2)</sup>	18,61	17,38
1701 99 10 <sup>(2)</sup>	18,61	11,93
1701 99 90 <sup>(2)</sup>	18,61	11,93
1702 90 99 <sup>(3)</sup>	0,19	0,45

<sup>(1)</sup> For the standard quality as defined in Annex I, point II, to Council Regulation (EC) No 1260/2001 (OJ L 178, 30.6.2001, p. 1).

<sup>(2)</sup> For the standard quality as defined in Annex I, point I, to Council Regulation (EC) No 1260/2001 (OJ L 178, 30.6.2001, p. 1).

<sup>(3)</sup> By 1 % sucrose content.



**COMMISSION REGULATION (EC) No 474/2004  
of 12 March 2004**

**altering the export refunds on white sugar and raw sugar exported in the natural state**

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Council Regulation (EC) No 1260/2001 of 19 June 2001 on the common organisation of the markets in the sugar sector <sup>(1)</sup>, and in particular the third subparagraph of Article 27(5) thereof,

Whereas:

- (1) The refunds on white sugar and raw sugar exported in the natural state were fixed by Commission Regulation (EC) No 404/2004 <sup>(2)</sup>.
- (2) It follows from applying the detailed rules contained in Regulation (EC) No 404/2004 to the information known to the Commission that the export refunds at

present in force should be altered to the amounts set out in the Annex hereto,

HAS ADOPTED THIS REGULATION:

*Article 1*

The export refunds on the products listed in Article 1(1)(a) of Regulation (EC) No 1260/2001, undenatured and exported in the natural state, as fixed in the Annex to Regulation (EC) No 404/2004 are hereby altered to the amounts shown in the Annex hereto.

*Article 2*

This Regulation shall enter into force on 13 March 2004.

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

Done at Brussels, 12 March 2004.

*For the Commission*

Franz FISCHLER

*Member of the Commission*

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<sup>(1)</sup> OJ L 178, 30.6.2001, p. 1. Regulation as last amended by Commission Regulation (EC) No 39/2004 (OJ L 6, 10.1.2004, p. 16).

<sup>(2)</sup> OJ L 67, 5.3.2004, p. 7.

## ANNEX

REFUNDS ON WHITE SUGAR AND RAW SUGAR EXPORTED WITHOUT FURTHER PROCESSING  
APPLICABLE FROM 13 MARCH 2004

Product code	Destination	Unit of measurement	Amount of refund
1701 11 90 9100	S00	EUR/100 kg	43,20 <sup>(1)</sup>
1701 11 90 9910	S00	EUR/100 kg	42,85 <sup>(1)</sup>
1701 12 90 9100	S00	EUR/100 kg	43,20 <sup>(1)</sup>
1701 12 90 9910	S00	EUR/100 kg	42,85 <sup>(1)</sup>
1701 91 00 9000	S00	EUR/1 % of sucrose × 100 kg product net	0,4697
1701 99 10 9100	S00	EUR/100 kg	46,97
1701 99 10 9910	S00	EUR/100 kg	46,97
1701 99 10 9950	S00	EUR/100 kg	46,97
1701 99 90 9100	S00	EUR/1 % of sucrose × 100 kg of net product	0,4697

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

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

The other destinations are:

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

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

**COMMISSION REGULATION (EC) No 475/2004**  
**of 12 March 2004**  
**amending the export refunds on syrups and certain other sugar sector products exported in the natural state**

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

HAS ADOPTED THIS REGULATION:

Having regard to the Treaty establishing the European Community,

Having regard to Council Regulation (EC) No 1260/2001 of 19 June 2001 on the common organisation of the markets in the sugar sector <sup>(1)</sup>, and in particular the third indent of Article 27(5) thereof,

*Article 1*

The refunds to be granted on the products listed in Article 1(1)(d), (f) and (g) of Regulation (EC) No 1260/2001, exported in the natural state, as fixed in the Annex to Regulation (EC) No 292/2004 are hereby altered to the amounts shown in the Annex hereto.

Whereas:

- (1) The refunds on syrups and certain other sugar products were fixed by Commission Regulation (EC) No 292/2004 <sup>(2)</sup>.
- (2) It follows from applying the rules, criteria and other provisions contained in Regulation (EC) No 292/2004 to the information at present available to the Commission that the export refunds at present in force should be altered as shown in the Annex hereto,

*Article 2*

This Regulation shall enter into force on 13 March 2004.

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

Done at Brussels, 12 March 2004.

*For the Commission*  
Franz FISCHLER  
*Member of the Commission*

<sup>(1)</sup> OJ L 178, 30.6.2001, p. 1. Regulation as last amended by Commission Regulation (EC) No 39/2004 (OJ L 6, 10.1.2004, p. 16).

<sup>(2)</sup> OJ L 50, 20.2.2004, p. 8.

## ANNEX

**EXPORT REFUNDS ON SYRUPS AND CERTAIN OTHER SUGAR PRODUCTS EXPORTED WITHOUT FURTHER PROCESSING APPLICABLE FROM 13 MARCH 2004**

Product code	Destination	Unit of measurement	Amount of refund
1702 40 10 9100	S00	EUR/100 kg dry matter	46,97 <sup>(1)</sup>
1702 60 10 9000	S00	EUR/100 kg dry matter	46,97 <sup>(1)</sup>
1702 60 80 9100	S00	EUR/100 kg dry matter	89,24 <sup>(2)</sup>
1702 60 95 9000	S00	EUR/1 % sucrose × net 100 kg of product	0,4697 <sup>(3)</sup>
1702 90 30 9000	S00	EUR/100 kg dry matter	46,97 <sup>(1)</sup>
1702 90 60 9000	S00	EUR/1 % sucrose × net 100 kg of product	0,4697 <sup>(3)</sup>
1702 90 71 9000	S00	EUR/1 % sucrose × net 100 kg of product	0,4697 <sup>(3)</sup>
1702 90 99 9900	S00	EUR/1 % sucrose × net 100 kg of product	0,4697 <sup>(3)</sup> <sup>(4)</sup>
2106 90 30 9000	S00	EUR/100 kg dry matter	46,97 <sup>(1)</sup>
2106 90 59 9000	S00	EUR/1 % sucrose × net 100 kg of product	0,4697 <sup>(3)</sup>

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

The numeric destination codes are set out in Commission Regulation (EC) No 2081/2003 (OJ L 313, 28.11.2003, p. 11).

The other destinations are defined as follows:

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

<sup>(1)</sup> Applicable only to products referred to in Article 5 of Regulation (EC) No 2135/95.

<sup>(2)</sup> Applicable only to products referred to in Article 6 of Regulation (EC) No 2135/95.

<sup>(3)</sup> The basic amount is not applicable to syrups which are less than 85 % pure (Regulation (EC) No 2135/95). Sucrose content is determined in accordance with Article 3 of Regulation (EC) No 2135/95.

<sup>(4)</sup> The basic amount is not applicable to the product defined under point 2 of the Annex to Commission Regulation (EEC) No 3513/92 (OJ L 355, 5.12.1992, p. 12).

**COMMISSION DIRECTIVE 2004/30/EC**  
**of 10 March 2004**  
**amending Council Directive 91/414/EEC to include benzoic acid, flazasulfuron and pyraclostrobin**  
**as active substances**  
 (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 <sup>(1)</sup>, and in particular Article 6(1) thereof,

Whereas:

- (1) In accordance with Article 6(2) of Directive 91/414/EEC Germany received on 25 May 1998 an application from Menno Chemie Vertriebs-Ges. for the inclusion of the active substance benzoic acid in Annex I to Directive 91/414/EEC. Commission Decision 98/676/EC <sup>(2)</sup> confirmed that the dossier was 'complete' in the sense that it could be considered as satisfying, in principle, the data and information requirements of Annexes II and III to Directive 91/414/EEC.
- (2) Spain received an application under Article 6(2) of Directive 91/414/EEC on 16 December 1996 from ISK Biosciences Europe SA concerning flazasulfuron. This application was declared complete by Commission Decision 97/865/EC <sup>(3)</sup>.
- (3) Germany received an application under Article 6(2) of Directive 91/414/EEC on 28 February 2000 from BASF AG concerning pyraclostrobin (former name: BAS 500F). This application was declared complete by Commission Decision 2000/540/EC <sup>(4)</sup>.
- (4) For those active substances, the effects on human health and the environment have been assessed, in accordance with the provisions of Article 6(2) and (4) of Directive 91/414/EEC, for the uses proposed by the applicants. The designated rapporteur Member States submitted draft assessment reports concerning the substances to the Commission on 22 November 2000 (benzoic acid), 1 August 1999 (flazasulfuron) and 23 November 2001 (pyraclostrobin).
- (5) The draft assessment reports have been reviewed by the Member States and the Commission within the Standing Committee on the Food Chain and Animal Health. The review was finalised on 3 October 2003 in the format of the Commission review report for benzoic acid, flazasulfuron and pyraclostrobin.

- (6) The review of benzoic acid, flazasulfuron and pyraclostrobin did not reveal any open questions or concerns, which would have required a consultation of the Scientific Committee on Plants.
- (7) It has appeared from the various examinations made that plant protection products containing the active substances concerned may be expected to satisfy, in general, the requirements laid down in Article 5(1)(a) and (b) and Article 5(3) 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 benzoic acid, flazasulfuron and pyraclostrobin in Annex I, in order to ensure that in all Member States the authorisations of plant protection products containing these active substances may be granted in accordance with the provisions of that Directive.
- (8) After inclusion, Member States should be allowed a reasonable period to implement the provisions of Directive 91/414/EEC as regards plant protection products containing benzoic acid, flazasulfuron or pyraclostrobin and in particular to review existing provisional authorisations and, by the end of this period at the latest, to transform those authorisations into full authorisations, to amend them or to withdraw them in accordance with the provisions of 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*

1. Member States shall adopt and publish by 30 November 2004 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.

<sup>(1)</sup> 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).

<sup>(2)</sup> OJ L 317, 26.11.1998, p. 47.

<sup>(3)</sup> OJ L 351, 23.12.1997, p. 67.

<sup>(4)</sup> OJ L 230, 12.9.2000, p. 14.

They shall apply those provisions from 1 December 2004.

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

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

#### *Article 3*

1. Member States shall review the authorisation for each plant protection product containing benzoic acid, flazasulfuron or pyraclostrobin to ensure that the conditions relating to these active substances set out in Annex I to Directive 91/414/EEC are complied with. Where necessary, they shall amend or withdraw authorisations in accordance with Directive 91/414/EEC by 30 November 2004 at the latest.

2. For each authorised plant protection product containing benzoic acid, flazasulfuron or pyraclostrobin as the only active substance, Member States shall 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 requirements of Annex III thereto. 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 30 November 2005 at the latest, they shall amend or withdraw the authorisation for each such plant protection product.

3. For each plant protection product containing benzoic acid, flazasulfuron or pyraclostrobin together with one or more active substances which are all listed in Annex I to Directive 91/414/EEC, Member States shall re-evaluate the product in accordance with the uniform principles provided for in Annex VI to that Directive, on the basis of a dossier satisfying the requirements of Annex III thereto. 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, they shall amend or withdraw the authorisation for each such plant protection product, by the deadline defined for such an amendment or withdrawal in the respective Directives which amended Annex I so as to add the relevant substances to it. Where the respective Directives set different deadlines, the deadline shall be the latest of the dates defined.

#### *Article 4*

This Directive shall enter into force on 1 June 2004.

#### *Article 7*

This Directive is addressed to the Member States.

Done at Brussels, 10 March 2004.

*For the Commission*

David BYRNE

*Member of the Commission*

## ANNEX

In Annex I to Directive 91/414/EEC the following rows are added at the end of the table

No	Common name, identification numbers	IUPAC name	Purity (%)	Entry into force	Expiration of inclusion	Specific provisions
'80	Benzoic acid CAS No 65-85-0 CIPAC No 622	benzoic acid	990 g/kg	1 June 2004	31 May 2014	Only uses as disinfectant may be authorised. For the implementation of the uniform principles of Annex VI, the conclusions of the review report on benzoic acid, 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.
81	Flazasulfuron CAS No 104040-78-0 CIPAC No 595	1-(4,6-dimethoxypyrimidin-2-yl)- 3-(3-trifluoromethyl-2-pyridyl- sulphonyl)urea	940 g/kg	1 June 2004	31 May 2014	Only uses as herbicide may be authorised. For the implementation of the uniform principles of Annex VI, the conclusions of the review report on flazasulfuron, and in particular Appendices I and II thereto, 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 potential for groundwater contamination, when the active substance is applied in regions with vulnerable soil and/or climate conditions, — should pay particular attention to the protection of aquatic plants. Risk mitigation measures should be applied where appropriate. The Member States shall inform the Commission in accordance with Article 13(5) on the specification of the technical material as commercially manufactured.

No	Common name, identification numbers	IUPAC name	Purity <sup>(1)</sup>	Entry into force	Expiration of inclusion	Specific provisions
82	Pyraclostrobin CAS No 175013-18-0 CIPAC No 657	methyl N-(2-[[1-(4-chloro-phenyl)-1H-pyrazol-3-yl]oxy-methyl]phenyl) N-methoxy carbamate	975 g/kg The manufacturing impurity dimethylsulfate (DMS) is considered to be of toxicological concern and must not exceed a concentration of 0,0001 % in the technical product	1 June 2004	31 May 2014	<p>Only uses as fungicide may be authorised.</p> <p>For the implementation of the uniform principles of Annex VI, the conclusions of the review report on pyraclostrobin, and in particular Appendices I and II thereto, 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</p> <ul style="list-style-type: none"> <li>— should pay particular attention to the protection of aquatic organisms, especially fish,</li> <li>— should pay particular attention to the protection of terrestrial arthropods and earthworms.</li> </ul> <p>Risk mitigation measures should be applied where appropriate.</p> <p>The Member States shall inform the Commission in accordance with Article 13(5) on the specification of the technical material as commercially manufactured.</p>

<sup>(1)</sup> Further details on identity and specification of active substances are provided in the review report.



## II

(Acts whose publication is not obligatory)

## COMMISSION

## COMMISSION DECISION

of 11 June 2003

on the State aid implemented by Spain for Volkswagen Navarra SA

(notified under document number C(2003) 1745)

(Only the Spanish text is authentic)

(Text with EEA relevance)

(2004/244/EC)

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community, and in particular the first subparagraph of Article 88(2) thereof,

Having regard to the Agreement on the European Economic Area, and in particular Article 62(1)(a) thereof,

Having called on interested parties to submit their comments pursuant to the provisions cited above <sup>(1)</sup>,

Whereas:

(3) By letter dated 19 December 2001, the Commission requested anew for an on-site visit to the plant in Arazuri, and the Spanish authorities agreed to the date of 31 January 2002, by e-mail of 17 January 2002. After the visit, a further request for information was sent on 13 February 2002, to which Spain responded on 20 March 2002.

(4) The Commission decided on 22 May 2002 to initiate proceedings pursuant to Article 88(2) of the Treaty, decision to open the formal investigation procedure, as it found that doubts were raised as to the compatibility of the aid with the common market. Spain submitted its comments to the opening of proceedings on 26 June 2002.

#### I. PROCEDURE

(1) By letter dated 2 February 2001, the Spanish authorities notified a plan to grant regional aid to Volkswagen Navarra SA (hereinafter referred to as 'VW Navarra'). The Commission requested further information on 2 April 2001. After requesting an extension of the deadline for reply on 10 April and on 29 May 2001, the Spanish authorities submitted additional information by letter dated 31 August 2001.

(2) The Commission requested on site visits to the chosen site of Arazuri (near Pamplona, in the Navarre region), and the alternative site of Bratislava. The Spanish authorities proposed no date for the visit to the Bratislava site. A visit to the Arazuri site agreed for 8 November 2001 was cancelled by the Spanish authorities by letter dated 5 November 2001. The Commission addressed new questions to Spain by letter dated 8 November 2001, to which Spain responded on 11 December 2001.

(5) The Commission decision to initiate the procedure was published in the *Official Journal of the European Communities* <sup>(2)</sup>, with an invitation to interested parties to submit their comments on the aid. The Commission did not receive any comments from interested parties.

(6) An on-site visit to the Bratislava plant took place on 11 October 2002, after which the Commission addressed a new request of information to Spain on 22 October. After requesting an extension of the deadline for reply on 13 December 2002, the Spanish authorities submitted additional information by letter dated 20 December 2002. On 13 March 2003, the Commission requested further information, that was provided by Spain with a letter dated 31 March 2003.

<sup>(1)</sup> OJ C 161, 5.7.2002, p. 9.

<sup>(2)</sup> See footnote 1.

## II. DETAILED DESCRIPTION OF THE AID

(7) VW Navarra is a Spanish subsidiary of the German automotive group Volkswagen AG (hereinafter referred to as 'VW group'). The notified project concerns production of the latest generation of the VW Polo model, code-named VW 24X. The overall project started in May 2000 and will terminate in December 2004. Investments include a new press shop to manufacture sides, roofs and wings of the new car, a second body work production line, a new paint shop, and a second assembly line.

(8) According to the notified project, production of the new model would amount to 1 800 cars/day. Of this, 1 000 cars/day were initially destined for production in Arazuri (Navarra) and 300 cars/day at a Volkswagen plant in Bratislava (Slovakia). The remaining 500 cars/day, for which new lines would have to be built, constitute, according to Spain, the mobile project, for which the alternative sites of Arazuri and Bratislava have been considered. A study conducted by VW in February 2000 showed that Bratislava was a more attractive site than Arazuri for the project. According to the notification, the possibility of obtaining State aid to partially compensate for the higher costs led VW to the decision of favouring Arazuri for the location of the mobile 500 cars/day. The allocation of the project to Arazuri allows the Spanish plant to maintain its capacity constant at 1 500 cars/day after the model changeover.

(9) Production in Arazuri of the new Polo on the first new (not mobile project) production line for 750 cars/day started in July 2001. The existing Polo was produced on the old line until September 2001. The old line was then dismantled to make space for the construction of the new second line for 750 cars/day (of which 500 of the mobile project), in production since the end of 2001.

### Legal basis; investment and aid amounts

(10) The notified aid is granted under the approved schemes provided for by Law: Decreto Foral 361/2000 'Nuevo régimen de ayudas a la Inversión y el Empleo' of 20.11.2000<sup>(3)</sup>.

(11) According to the notification, total investment for the mobile project in Arazuri will amount to EUR 368 500 000 in nominal terms, equal to EUR 335 300 000 in actualised values (base year 2001, discount rate 6,33 %).

(12) The planned aid in nominal values amounts to EUR 72 200 000 gross grant equivalent (gge), with an actual value of EUR 61 850 000. Therefore, the aid intensity would be 18,45 % gge. Arazuri (Navarra) is in a 87(3)(c) area with a regional ceiling of 20 % net grant equivalent (nge) for the period 2000 to 2006.

(13) No other Community aid or financing has been allocated to the project.

## III. GROUNDS FOR INITIATING THE PROCEDURE

(14) In its decision of 22 May 2002 to initiate proceedings<sup>(4)</sup>, the Commission expressed doubts on the necessity and proportionality of the proposed aid. In order to allay these doubts, the Commission asked for additional clarifications and documents, as well as for the possibility to visit the Bratislava plant.

(15) Regarding the necessity of the aid, the Commission doubted that Bratislava had been considered as a viable alternative to Arazuri for the project. Firstly, the Commission found that the information provided did not prove that Bratislava was actively pursued as an alternative location for the mobile 500 cars/day. Secondly, the Commission doubted that the mobile 500 cars/day could have been allocated to Bratislava in the period immediately before November 2000 (when the VW group officially chose Arazuri for the project). Indeed, the Bratislava site had already in September 1999 been chosen by VW for another project (production of the SUV 'Tuareg' model).

(16) Regarding the proportionality of the aid, the Commission expressed doubts on: (a) whether investment into 'supplier tooling' had been considered mobile; (b) whether all of the EUR [...] (\*) investment in the pre-treatment installation in Arazuri that was considered mobile by Spain could be taken into account for the establishment of the 'eligible costs' basis and for the calculation of the regional handicap; and (c) whether redundancy costs in Arazuri had been properly accounted for in the cost benefit analysis.

(17) Finally, the Commission expressed the need to verify the notified capacity figures, in order to assess the impact of the project on the capacity problems facing the motor vehicle industry.

<sup>(3)</sup> The project of the scheme was approved by the Commission on 3 May 2000, case number N 141/2000, OJ C 284, 7.10.2000, p. 4.

<sup>(4)</sup> See footnote 1.

(\*) Confidential information.

## IV. COMMENTS FROM SPAIN

- (18) On 26 June 2002, the Spanish authorities sent their comments to the opening of proceedings. Further information and documents were provided to the Commission during the visit to the Bratislava plant on 11 October 2002 and with the letter dated 13 December 2002. The Commission has taken the comments and information into account.
- (19) Regarding the viability of Bratislava as an alternative plant, the Spanish authorities have submitted evidence detailing the various steps of the decision-making process that led to the choice of Arazuri for the project.
- (20) On the timing of the decision to locate the project in Arazuri, the Spanish authorities affirmed that the project to build the mobile 500 Polo/day in Bratislava was not incompatible with the project to build the SUV 'Tuareg' model at the same plant. According to Spain, the increase in Polo production in Bratislava would have been accommodated within the plant by building the production lines for the Tuareg to a piece of land next to the existing plant perimeter.
- (21) Spain maintained that, although the land in question was not property of Volkswagen at the end of 2000, it could have been easily purchased. The land was already destined for industrial use, and Volkswagen could have made recourse to the Slovak law N. 175/99 on large investment projects, that foresees swift and effective procedures for land acquisition for major industrial projects.
- (22) Spain provided information documenting that the Tuareg and Polo projects could have been carried out at the same time, and that the Tuareg model could have been completed in the programmed time-frame (July 2002), and with acceptable additional costs. Spain estimated that carrying out the Tuareg project outside the plant's current perimeter would have involved additional costs of EUR [...] million, mostly for the acquisition of the land and for basic infrastructure. All other costs (buildings, machinery) were independent of the exact location within the Bratislava site. However, Spain did not insert these extra costs in the cost benefit analysis, as they do not relate directly to the decision on the location of the mobile 500 Polo/day.
- (23) The Spanish authorities also provided additional information on the doubts expressed by the Commission in the opening of procedure for what regards the proportionality of the aid.
- (24) Firstly, the Spanish authorities clarified that no investment into 'supplier tooling' was considered 'mobile' in the CBA.
- (25) Secondly, regarding the investments in the new pre-treatment facilities in the Arazuri paint shop, the Spanish authorities argued that the VW group never considered the possibility to construct a pre-treatment hall for 1 000 cars/day, and therefore it was not possible to provide figures for this investment. The VW group was faced with the following two alternatives: (a) adapt the existing line for 1 000 cars/day (cost of EUR [...]) and construct a new additional line for 500 cars/day (cost of EUR [...]), giving rise to two distinct pre-treatment processes; (b) construct a new pre-treatment line for 1 500 cars/day (cost EUR [...]) with one single pre-treatment process.
- (26) The VW group chose the latter option, because it makes it possible to operate one single process, using a single technology and standardised quality, and because it requires fewer resources for maintenance. These advantages compensate in the long run for the greater investment cost.
- (27) The Spanish authorities conclude that the mobile investment to be accounted for in the CBA should be of EUR [...]. This figure is equal to EUR [...] for new pre-treatment line for 1 500 cars/day minus EUR [...] for the transformation of the existing line for 1 000 cars/day that would have been necessary in the event of the project being carried out in Bratislava. The Spanish authorities affirm that this is in line with the method applied throughout the CBA, that consists in calculating the investment required to manufacture 1 000 cars and then 1 500 cars, and taking the difference as the mobile investment volume.
- (28) Secondly, the Spanish authorities provided a detailed breakdown of the redundancy costs for the [...] workers that would have lost their job, had the alternative location been chosen. The figure of total costs of EUR [...] million has been computed according to Article 51 of Statute of Workers Rights (*Estatuto de los Trabajadores*), that sets the indemnity in the event of collective lay-offs at 20 calendar days per year worked. Redundancy costs have been calculated for the workers with less seniority in the company, that were hired in 1998. The Spanish government also affirmed that VW Navarra does not have a redundancy plan, but a voluntary early retirement plan, that cannot be considered as reflecting the normal practice as regards major workforce lay-offs.
- (29) Finally, the Spanish authorities confirmed that, according to the latest annual planning round (in 2002 for the 2003 to 2007 period) no capacity increases are foreseen at the level of the VW group in Europe until 2004.

## V. ASSESSMENT OF THE AID

- (30) The measure notified by Spain in favour of VW Navarra constitutes State aid within the meaning of Article 87(1) of the Treaty. It would be financed by the State or through State resources. Furthermore, as it constitutes a significant proportion of the funding of the project, the aid is liable to distort competition in the Community by giving VW Navarra an advantage over competitors not receiving aid. Lastly, there is extensive trade between Member States in the automobile market.
- (31) Article 87(2) of the Treaty lists certain types of aid that are compatible with the Treaty. In view of the nature and purpose of the aid, and the geographical location of the firm, subparagraphs (a), (b) and (c) are not applicable to the plan in question. Article 87(3) specifies other forms of aid, which may be regarded as compatible with the common market. The Commission notes that the project is located in Arazuri, Navarre region, which qualifies for assistance under Article 87(3)(c) with a regional aid ceiling of 20 % net grant equivalent.
- (32) The aid in question is intended for VW Navarra, which manufactures and assembles motor vehicles. The firm is therefore part of the motor vehicle industry within the meaning of the Community framework on State aid to the motor vehicle industry<sup>(5)</sup> (hereinafter 'the car framework').
- (33) The car framework specifies that all aid which the public authorities plan to grant to an individual project under authorised aid schemes for a firm operating in the motor vehicle industry must, in accordance with Article 88(3) of the Treaty, be notified before being granted if either of the following thresholds is reached: (i) total cost of the project equalling EUR 50 million, (ii) total gross aid for the project, whether State aid or aid from Community instruments equalling EUR 5 million.
- (34) Both the total cost of the project and the amount of aid exceed the notification thresholds. Thus, in notifying both the training aid and the regional aid proposed for VW Navarra, the Spanish authorities have complied with the requirements of Article 88(3) of the Treaty.
- (35) According to the car framework, the Commission shall ensure that the aid granted is both necessary for the realisation of the project and proportional to the gravity of the problems it intends to solve. Both tests, necessity and proportionality, must be satisfied if the Commission is to authorise State aid in the motor vehicle industry.
- (36) According to point 3.2.(a) of the car framework, in order to demonstrate the necessity for regional aid, the aid recipient must clearly prove that it has an economically viable alternative location for its project. If there were no other industrial site, whether new or in existence, capable of receiving the investment in question within the group, the undertaking would be compelled to carry out its project in the sole plant available, even in the absence of aid. Therefore, no regional aid may be authorised for a project that is not geographically mobile.
- (37) The Commission has, with the help of its external automotive expert, assessed the documentation and information provided by Spain, with the view to establish whether the project is mobile.
- (38) Regarding the question whether Bratislava was a viable alternative for the project, the Commission is satisfied with the evidence provided by the Spanish authorities. The documents provided demonstrate that the VW group set an initial target for 1998 of [...] cars/day for the new Polo model, that were to be built at the Arazuri, Bratislava, and Martorell (Spain) plants. Plans to build the car in Martorell were subsequently dropped, and the initial forecasts were lowered in June 1999 to [...] cars/day, of which [...] cars/day in Arazuri and the rest in Bratislava. At the same time, the VW group held contacts with the government of Navarre regarding possible State aid to secure the investment in Arazuri. In this phase, the VW group studied the technical feasibility and the necessary investment under the various hypotheses for the two sites. The formal decision to build 1 500 cars/day in Arazuri, and 300 cars/day in Bratislava was finally taken by the VW group in November 2000, after having received assurance from the government of Navarre regarding the possibility to aid the project.
- (39) Regarding the possibility of carrying out the Polo project in Bratislava at the same time as the Tuareg project already earmarked for the Slovak site, the documentary evidence provided by the Spanish authorities and the on-site visit to the plant, demonstrate that such possibility effectively existed. Indeed, there was sufficient land readily available for an expansion to accommodate the Tuareg project in the immediate proximity of the plant, and no specific technical obstacles would have hindered its implementation.

<sup>(5)</sup> OJ C 279, 15.9.1997, p. 1.

- (40) However, the Commission considers that the extra costs related to the implementation of the Tuareg project outside the current plant perimeter, that Spain quantified in EUR [...] million, are to be considered as an additional cost to the alternative of locating the mobile 500 Polo/day in Bratislava. Indeed, these costs would have been incurred as a direct consequence of the decision not to carry out the project in Arazuri, and did not arise thanks to the eventual decision to locate the project in Arazuri.
- (41) Based on the above information, the Commission concludes that Bratislava was effectively considered as a viable alternative to Azambuja for the project under consideration.
- (42) Regional aid intended for modernisation and rationalisation, which is generally not mobile, is not authorised in the motor vehicle sector. However, an expansion or transformation, involving a radical change in production structures on the existing site could be eligible for regional aid.
- (43) During the on-site visit to the Arazuri plant, the Commission, aided by an external automotive expert, could establish that the investment project in question concerns the transformation of an existing plant, on the occasion of the complete renewal of a model. The press shop and paint shop are completely new, and the level of change in the bodywork and assembly lines, together with the addition of a second bodywork production line and a second assembly line, indicate that the project concerns a radical refurbishment of an existing site. The Commission considers that the project in question could be regarded as a transformation.
- (44) Based on the considerations above, the Commission concludes that the project is mobile in character and can therefore be considered eligible for regional aid, since the aid is necessary to attract the investment to the assisted region.
- (45) According to point 3.2.(b) of the car framework, the Commission determines whether or not costs relating to the mobile aspects of the project are eligible. Consequently, non-mobile aspects of the project are not eligible for aid. Regarding this point, the Commission firstly takes note that no investment in vendor tooling was considered eligible for aid by Spain. Secondly, the Commission notes that Spain claimed in its comments to the opening of procedure that EUR [...] <sup>(6)</sup> of the investment in the pre-treatment hall of the Arazuri paint shop should be considered mobile investment, and part of the eligible costs. The Commission however cannot agree with the estimation of the eligible costs for the pre-treatment installation proposed by Spain.
- (46) The Commission considers that, for what concerns the pre-treatment installation, the Spanish authorities did not make the correct comparison between the investment volumes required to manufacture 1 000 cars/day (with the mobile project to Bratislava) and 1 500 cars/day (with the mobile project to Arazuri). In the former case the investments accounted for are those for the adaptation of an old installation for the non-mobile 1 000 cars/day. In the latter, the investments accounted for are those for a brand new installation for the non-mobile 1 000 cars/day, as well as for the mobile 500 car/day. Taking the difference between these two estimates inflates the costs of the investment for 500 mobile cars/day, by attributing to them also costs that are instead pertaining to the non-mobile 1 000 cars/day.
- (47) In order to make a meaningful comparison, the Spanish authorities should have instead calculated the cost of a brand new pre-treatment installation for 1 000 cars/day, the cost of a brand new pre-treatment installation for 1 500 cars/day, and calculated the difference between the two.
- (48) However, the Spanish authorities did not provide information on the investment necessary for a brand new pre-treatment installation for 1 000 cars/day, affirming that the VW group never considered this an option. The Commission finds that, even if the VW group did not consider this option, the fact that the Spanish authorities consider as mobile some costs that are in fact to be attributed to non-mobile aspects of the project is unchanged. By constructing as new pre-treatment installation in Arazuri, VW Navarra will benefit from a state-of-the-art facility, that will ensure higher quality standards, will lower maintenance costs, and will have a longer productive life than an adaptation of the old installation. These positive effects benefit to all the production of the new model, and not just the mobile portion of this production.
- (49) For these reasons, the Commission concludes that only the investments truly pertaining to the 500 mobile cars/day can be considered as eligible costs. The Commission has therefore to ascertain which portion of the EUR [...] investment in the pre-treatment installation pertains to the 500 mobile cars/day. This portion will then be considered as part of the eligible costs.

<sup>(6)</sup> That is, EUR [...] for new pre-treatment line for 1 500 cars/day minus EUR [...] for the adaptation of the existing line for 1 000 cars/day. See recital 27.

- (50) In their comments to the opening of procedure, the Spanish authorities affirm that the cost of a new additional line for 500 cars/day would amount to EUR [...]. However, the Commission considers that this figure would overestimate the true cost of the mobile investment. Indeed, this figure implies that the cost for the pre-treatment installation for the non-mobile 1 000 cars/day amounted to EUR [...], or 31 % of the costs for 66 % of the cars produced. This is equivalent to imputing all the fixed costs of the new pre-treatment installation in Arazuri to the mobile part of the investment.
- (51) The Commission, with the aid of its automotive expert, considers that, as the new pre-treatment installation will benefit equally the mobile and the non-mobile portion of the production, the investment costs should be in this case divided proportionally between the two parts. Consequently, the Commission considers that one third of the investment costs in the pre-treatment facility in Arazuri (or EUR [...] in nominal amounts) can be considered mobile. This corresponds to EUR [...] in actualised values, if the specific investment is carried out with the same timing as the rest of the project.
- (52) The Commission therefore concludes that total eligible costs for the project amount to EUR 299 335 000 in actualised values.
- (53) According to point 3.2.(c) of the car framework the Commission needs to ensure that the planned aid is in proportion to the regional problems it is intended to resolve. For that, a cost benefit analysis (CBA) is used.
- (54) A CBA compares, with regard to the mobile elements, the investment and operating costs which an investor would bear in order to carry out the project in the region in question with those it would bear for an identical project in a different location. The comparison allows the identification of the specific handicaps of the assisted region concerned. The Commission authorises regional aid within the limit of the regional handicaps resulting from the investment in the comparator plant.
- (55) Operating handicaps of Arazuri as compared to Bratislava are assessed over three years in the CBA since the project in question is an expansion project, not a green-field site. The time period covered by the submitted CBA is 2002 to 2004, that is three years from the beginning of production in compliance with point 3.3 of Annex I to the car framework.
- (56) The CBA provided by the Spanish authorities indicates a net cost handicap of EUR 61 020 000 for the location in Arazuri in comparison with the location in Bratislava, with a resulting 'handicap intensity' of 18,2 %.
- (57) The Commission has, with the help of its external automotive expert, evaluated the notified CBA with a view to ascertaining to what extent the proposed regional aid is in proportion to the regional problems it seeks to solve. Taking into account the additional information received from Spain following the opening of procedure, the CBA was modified with respect to some elements detailed below.
- (58) Firstly, the Commission has inserted as an extra cost to the Bratislava option the additional EUR [...] that would have been necessary to carry out the Tuareg project outside the plant's current perimeter. Indeed, the Commission considers that these costs relate directly to the decision on the location of the mobile 500 Polo/day. These costs did not materialise because the Polo project was carried out in Arazuri and not in Bratislava. Consequently, the VW group must have considered them as a direct advantage of carrying out the project in Spain.
- (59) Secondly, the Commission excluded from the comparison in the CBA the costs that do not pertain to mobile aspects of the pre-treatment installation (i.e the costs imputed to the non-mobile 1 000 cars/day). As detailed above, this led to the reduction of the costs for the pre-treatment installation from nominal EUR [...] to nominal EUR [...]. If the specific investment is carried out with the same timing as the rest of the project, this corresponds to a decrease of the investment costs in Arazuri of EUR [...] in actualised values, and to a decrease of EUR [...], also in actualised values, of the handicap for Arazuri with respect to Bratislava (7).
- (60) Thirdly, as regards the redundancy costs, the Commission has assessed the additional information provided by the Spanish authorities after the opening of procedure. The new information details the rules for collective layoffs justified by economic, technical, organisational or production causes in Spain, as well as the seniority profile of the workers that would have been affected by the decision to carry out the project in Bratislava. Based on this information, the Commission considers that the redundancy costs' estimate of EUR [...] is acceptable.

(7) This figure results by taking the actualised value of the difference between the eligible costs proposed by Spain (EUR [...]) and the eligible costs calculated by the Commission (EUR [...]).

- (61) The modifications introduced in the analysis produce cost-benefit results that differ from those notified by Spain. The modified CBA indicates a net cost handicap for Arazuri of EUR 16 235 000 at 2001 values (compared to initially notified EUR 61 020 000). The resulting handicap ratio of the project is 5,42 % (compared to initially notified 18,20 %).
- (62) Finally, in accordance with point 3.2.(d) of the car framework the Commission considered the question of a 'top-up', which is an increase in the allowable aid intensity intended as a further incentive to the investor to invest in the region in question. The documentation provided shows that the capacity at the level of VW group in Europe is set to remain virtually constant in the 2000 to 2004 period, with a decrease from 4 257 300 to 4 247 700 vehicles/year. According to the car framework, the 'regional handicap ratio' resulting from the CBA is therefore increased by one percentage point ('moderate' impact on competition for an investment project in an 87(3)(c) region), resulting in a final ratio of 6,42 %.
- (63) The Commission notes however that a small increase in the European capacity of the VW group at the end of the project from the levels foreseen would lead to a 'high' impact on competition<sup>(8)</sup>. In such a case, the 'regional handicap ratio' resulting from the CBA would be decreased by two percentage points, resulting in a final ratio of 5,42 %. In view of the potential distortion of competition resulting from an increase in capacity at the group level, the Commission considers it necessary that the Spanish authorities should monitor the evolution of the capacity situation of the VW group. The motor vehicle framework foresees that the Commission may require *ex post* monitoring and assessment of aid granted, the amount of detail varying according to the case and the potential distortion of competition. Accordingly, the Commission requests the Spanish authorities to send to it, by April 2005, a report on the outcome of the monitoring regarding the capacity situation at the level of VW group in Europe in December 2004.

## VI. CONCLUSION

- (64) The Commission finds that the regional aid that Spain plans to grant for VW Navarra for the project in question is compatible with the common market insofar as it does not exceed an aid intensity of 6,42 % of the eligible costs. The Commission finds that the eligible costs for

<sup>(8)</sup> According to point 3.2.(d) of the car framework, the impact on competition is high when the ratio between the capacity of the group after and before the investment is higher or equal to 1,01. In this case, the impact on competition would be high if VW's capacity were, at the end of the project, of 4 299 873 vehicles/year or more.

the project in question amount to EUR 299 335 000 in 2001 values (discount rate 6,33 %). Therefore, the Commission finds that the regional aid that Spain plans to grant for VW Navarra for the project in question is compatible with the common market insofar as it does not exceed EUR 19 228 000 gge (at 2001 values, discount rate 6,33 %).

- (65) Any additional State aid for the investment projects in question is incompatible with the common market.
- (66) Although the Commission does not have doubts on the plausibility of the estimates provided, the Spanish authorities are requested to send to the Commission by April 2005 a report indicating the European capacity at the level of the VW group in December 2004. Should the capacity situation deviate from the notified data, the Commission reserves the right to reduce accordingly the amount of compatible aid,

HAS ADOPTED THIS DECISION:

### Article 1

The regional investment aid which Spain has planned to implement for Volkswagen Navarra SA for the amount of EUR 19 228 000 gross grant equivalent in actualised values, base year 2001, discount rate 6,33 %, for the project relating to the production of the new VW Polo model in Arazuri is compatible with the common market within the meaning of Article 87 of the Treaty. This amount corresponds to an aid intensity of 6,42 % of the eligible investment of EUR 299 335 000 in actualised values.

### Article 2

Any State aid in addition to the aid amount referred to in Article 1 that Spain plans to grant to Volkswagen Navarra SA for the project under scrutiny shall be incompatible with the common market.

### Article 3

Spain shall inform the Commission, within two months of the date of notification of this decision, of the measures it has taken to comply with it.

Additionally, Spain will provide by April 2005 a report indicating the European capacity at the level of the VW group in December 2004.

*Article 4*

This Decision is addressed to the Kingdom of Spain.

Done at Brussels, 11 June 2003.

*For the Commission*  
Mario MONTI  
*Member of the Commission*

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## COMMISSION DECISION

of 9 March 2004

**amending Decisions 2000/585/EC and 97/222/EC as regards imports of wild and farmed game meat and certain game meat products from Iceland***(notified under document number C(2004) 701)***(Text with EEA relevance)**

(2004/245/EC)

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Whereas:

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<sup>(1)</sup>, and in particular Article 21b(4)(b) thereof,

Having regard to Council Directive 91/494/EEC of 26 June 1991 on animal health conditions governing intra-Community trade in and imports from third countries of fresh poultry meat<sup>(2)</sup>, and in particular Articles 9(1) and 11(1)(a) thereof.

Having regard to Council Directive 92/118/EEC of 17 December 1992 laying down animal health and public health requirements governing trade in and imports into the Community of products not subject to the said requirements laid down in specific Community rules referred to in Annex A(1) to Directive 89/662/EEC and, as regards pathogens, to Directive 90/425/EEC<sup>(3)</sup>, and in particular Article 10 thereof,

Having regard to Council Directive 92/45/EEC of 16 June 1992 on public health and animal health problems relating to the killing of wild game and the placing on the market of wild game meat<sup>(4)</sup>, and in particular Article 16(3) thereof,

Having regard to Council Directive 2002/99/EC of 16 December 2002 laying down the animal health rules governing the production, processing, distribution and introduction of products of animal origin for human consumption<sup>(5)</sup>, and in particular Article 8(1) and (4) thereof,

- (1) Commission Decision 2000/585/EC<sup>(6)</sup> lays down animal and public health conditions and veterinary certifications for import of wild and farmed game meat and rabbit meat from third countries.
- (2) Iceland has requested to be authorised by Member States for the importation of farmed and wild game meat and meat products thereof.
- (3) Iceland has a satisfactory animal health situation and is authorised for importation of meat from bovine, ovine, caprine and porcine species and meat from solipeds and is already listed in the Annex to Commission Decision 94/85/EC<sup>(7)</sup> for fresh poultry meat.
- (4) Commission Decision 97/222/EC<sup>(8)</sup> establishes a list of third countries or parts of third countries from which the importation of meat products is authorised.
- (5) Iceland should be authorised so that Member States can import farmed and wild game meat and meat products thereof.
- (6) In addition the ISO-code for Serbia and Montenegro needs to be updated where relevant.
- (7) Therefore, Decisions 2000/585/EC and 97/222/EC should be amended accordingly.
- (8) 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*

Annex II to Decision 2000/585/EC is replaced by Annex I to this Decision.

<sup>(1)</sup> OJ L 302, 31.12.1972, p. 28. Directive as last amended by Regulation (EC) No 807/2003 (OJ L 122, 16.5.2003, p. 36).

<sup>(2)</sup> OJ L 268, 24.9.1991, p. 35. Directive as last amended by Directive 1999/89/EC (OJ L 300, 23.11.1999, p. 17).

<sup>(3)</sup> OJ L 62, 15.3.1993, p. 49. Directive as last amended by Commission Decision 2003/721/EC (OJ L 260, 11.10.2003, p. 21).

<sup>(4)</sup> OJ L 268, 14.9.1992, p. 35. Directive as last amended by Regulation (EC) No 806/2003 (OJ L 122, 16.5.2003, p. 1).

<sup>(5)</sup> OJ L 18, 23.1.2001, p. 11.

<sup>(6)</sup> OJ L 251, 6.10.2000, p. 1. Decision as last amended by Decision 2004/118/EC (OJ 36, 7.2.2004, p. 34).

<sup>(7)</sup> OJ L 44, 17.2.1994, p. 31. Decision as last amended by Decision 2004/118/EC.

<sup>(8)</sup> OJ L 89, 4.4.1997, p. 39. Decision as last amended by Decision 2004/118/EC.

*Article 2*

Part II of the Annex to Decision 97/222/EC is replaced by Annex II to this Decision.

*Article 3*

This Decision shall apply from 20 March 2004.

*Article 4*

This Decision is addressed to the Member States.

Done at Brussels, 9 March 2004.

*For the Commission*

David BYRNE

*Member of the Commission*

\_\_\_\_\_

ANNEX I  
amending Decision 2000/585/EC

‘ANNEX II

**Animal health guarantees to be requested on certification of wild and farmed game meat and rabbit meat**

Country	Code of territory	Cloven-hoofed game, excluding wild swine				Wild swine				Game birds				Wild solipeds		Leporidae (rabbit and hare)				Other wild landmammals		
		Wild		Farmed		Wild		Farmed		Wild		Farmed				Wild		Domestic rabbit				
		MC (1)	SC (2)	MC (1)	SC (2)	MC (1)	SC (2)	MC (1)	SC (2)	MC (1)	SC (2)	MC (1)	SC (2)	MC (1)	SC (2)	MC (1)	SC (2)	MC (1)	SC (2)	MC (1)	SC (2)	
AR	Argentina	AR	—		—		—		—		D	8	I		—		C		H		—	
AU	Australia	AU	A	9	F		J	9	G		D	8	I		—		C		H		E	
BG	Bulgaria	BG	—		—		—		—		D		I		—		C		H		—	
		BG-1	A		F		—		—		D		I		—		C		H		—	
		BG-2	A		F		—		—		D		I		—		C		H		—	
		BG-3	—		—		—		—		D		I		—		C		H		—	
BR	Brazil	BR	—		—		—		—		—		—		—		C		H		—	
		BR-1	—		—		—		—		D	8	I		—		C		H		—	
BW	Botswana	BW	—		—		—		—		—		—		B		C		H		—	
		BW-01	A (*)	1, 2	F (*)	2, 3	—		—		—		—		B		C		H		—	
		BW-02	A (*)	1, 2	F (*)	2, 3	—		—		—		—		B		C		H		—	
CA	Canada	CA	A	9	F		J	9	G		D	8	I		—		C		H		E	
CH	Switzerland	CH	A		F		J		G		D		I		—		C		H		—	
CL	Chile	CL	A	9	F		—		—		D	8	I		—		C		H		—	
CY (*)	Cyprus (*)	CY	A		F		J		G		D		I		—		C		H		E	
CZ (*)	Czech Republic (*)	CZ	A		F		J	7	G		D		I		—		C		H		E	

Country		Code of territory	Cloven-hoofed game, excluding wild swine				Wild swine				Game birds				Wild solipeds		Leporidae (rabbit and hare)				Other wild landmammals	
			Wild		Farmed		Wild		Farmed		Wild		Farmed				Wild		Domestic rabbit			
			MC (1)	SC (2)	MC (1)	SC (2)	MC (1)	SC (2)	MC (1)	SC (2)	MC (1)	SC (2)	MC (1)	SC (2)	MC (1)	SC (2)	MC (1)	SC (2)	MC (1)	SC (2)	MC (1)	SC (2)
EE (*)	Estonia (*)	EE	A		F		J	7	G		D		I		—		C		H		E	
GL	Greenland	GL	A		F		—		—		D		—		—		C		H		E	
HR	Croatia	HR	A		F		—		—		D		I		—		C		H		—	
HU (*)	Hungary (*)	HU	A		F		J	7	G		D		I		—		C		H		E	
IL	Israel	IL	—		—		—	—	—		D	8	I		—		C		H		—	
IS	Iceland	IS	A		F		—		—		D		I				—		H		—	
LT (*)	Lithuania (*)	LT	A		F		J	7	G		D		I		—		C		H		E	
LV (*)	Latvia (*)	LV	A		F		J	7	G		D		I		—		C		H		E	
MT (*)	Malta (*)	MT	A		F		J		G		D		I				C		H		E	
NA	Namibia	NA	—		—		—		—		—		—		B		C		H		—	
		NA-01	A	1, 2	F	2, 3	—		—		—		—		B		C		H		—	
NC	New Caledonia	NC	A		F		—		—		—		—		—		C		H		—	
NZ	New Zealand	NZ	A	9	F		J	9	G		D	8	I		—		C		H		E	
PL (*)	Poland (*)	PL	A		F		J	7	G		D		I		—		C		H		E	
RO	Romania	RO	A		F		—		—		D		I		—		C		H		E	
RU	Russia	RU	—		—	—	—		—		—		—	—	—		C		H		E	
		RU-1	—	—	F	5			—		—						C		H		E	
SI (*)	Slovenia (*)	SI	A		F		J	7	G		D		I		—		C		H		E	
SK (*)	Slovak Republic (*)	SK-1	A		F		—		—		D		I		—		C		H		E	
		SK-2	A		F		J	7	G		D		I		—		C		H		E	

Country	Code of territory	Cloven-hoofed game, excluding wild swine				Wild swine				Game birds				Wild solipeds		Leporidae (rabbit and hare)				Other wild landmammals		
		Wild		Farmed		Wild		Farmed		Wild		Farmed				Wild		Domestic rabbit				
		MC <sup>(1)</sup>	SC <sup>(2)</sup>	MC <sup>(1)</sup>	SC <sup>(2)</sup>	MC <sup>(1)</sup>	SC <sup>(2)</sup>	MC <sup>(1)</sup>	SC <sup>(2)</sup>	MC <sup>(1)</sup>	SC <sup>(2)</sup>	MC <sup>(1)</sup>	SC <sup>(2)</sup>	MC <sup>(1)</sup>	SC <sup>(2)</sup>	MC <sup>(1)</sup>	SC <sup>(2)</sup>	MC <sup>(1)</sup>	SC <sup>(2)</sup>	MC <sup>(1)</sup>	SC <sup>(2)</sup>	
SZ	Swaziland	SZ	—		—		—		—		—		—		B		C		H		—	
		SZ-01	A	1, 2	F	2, 3	—		—		—		—		B		C		H		—	
TH	Thailand	TH	—		—		—		—		D	8	I		—		C		H		—	
TN	Tunisia	TN	—		—		—		—		D	8	I		—		C		H		—	
US	United States of America	US	A	9	F		J	9	G		D	8	I		—		C		H		—	
UY	Uruguay	UY	—		—		—		—		—		—		—		C		H		—	
ZA	South Africa	ZA	—		—		—		—		—		—		B		C		H		—	
		ZA-01	A	1, 2	F	2, 3	—		—						B		C		H		—	
ZW	Zimbabwe	ZW	—		—		—		—		—		—				C		H		—	
		ZW-01	—		—		—		—								C		H		—	
Third countries, other than those above, appearing on the list of the first part of the Annex to Decision 79/542/EEC as last amended			—		—		—		—		—		—		—		C		H		—	

(\*) Only applicable until this Acceding State becomes a Member State of the Community.

<sup>(1)</sup> MC: model certificate to be completed. The letters (A, B, C, D, etc.) appearing in the tables refer to the models of animal health guarantees, as described in Annex III to the present Decision, to be applied for each category of fresh meat and origin in accordance with Article 2 of this Decision. A dash “—” indicates that imports are not authorised.

<sup>(2)</sup> SC: specific conditions. The numbers (1, 2, 3, etc.) appearing in the table refer to the special conditions to be provided by the exporting country as described in Annex IV. These supplementary guarantees must be inserted by the exporting country in section V of each model of certificate set down in Annex III.

NB:

<sup>(3)</sup> Meat produced from animals slaughtered after 7 July 2002 and before 23 December 2002 and meat produced from animals slaughtered after 7 June 2003 can be imported into the Community.

<sup>(4)</sup> Meat produced from animals slaughtered after 7 March 2002 can be imported into the Community.

## ANNEX II

## amending Decision 97/222/EC

## PART II

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

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

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

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



Code ISO	Country of origin or part thereof	1. Domestic bovine 2. Farmed cloven-hoofed game (excluding swine)	Domestic ovine/caprine	1. Domestic porcine 2. Farmed cloven-hoofed game (swine)	Domestic soliped	1. Domestic poultry 2. Farmed feathered game	Domestic rabbit and farmed <i>leporidae</i>	Wild cloven-hoofed game (excluding swine)	Wild swine	Wild soliped	Wild leporidae (rabbits and hares)	Wild game birds	Wild land mammalian game (excluding ungulates, solipeds and leporidae)
SG	Singapore	B	B	B	B	D	A	B	B	—	A	—	—
SI (*)	Slovenia (*)	A	A	A	A	A	A	A	A	—	A	A	A
SK (*)	Slovak (*) Republic	A	A	—	A	A	A	A	—	—	A	A	A
	Slovak Republic SK-1 (*)	A	A	D	A	A	A	A	D	—	A	A	A
	Slovak Republic SK-2 (*)	A	A	A	A	A	A	A	A	—	A	A	A
SZ	Swaziland	B	B	B	B	—	A	B	B	A	A	—	—
TH	Thailand	B	B	B	B	A	A	B	B	—	A	D	—
TN	Tunisia	C	C	B	B	A	A	B	B	—	A	D	—
TR	Turkey	—	—	—	—	D	A	—	—	—	A	D	—
UA	Ukraine	—	—	—	—	—	A	—	—	—	A	—	—
US	United States of America	A	A	A	A	A	A	A	A	—	A	A	—
UY	Uruguay	C	C	B	A	D	A	—	—	—	A	D	—
ZA	South Africa <sup>(1)</sup>	C	C	C	A	D	A	C	C	A	A	D	—
ZW	Zimbabwe <sup>(1)</sup>	C	C	B	A	D	A	B	B	—	A	D	—

(\*) Only applicable until this Acceding State becomes a Member State of the Community.

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

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

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

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

<sup>(4)</sup> For meat products prepared from fresh meat obtained from animals slaughtered after 1st of March 2002.

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

## CORRIGENDA

**Corrigendum to Commission Regulation (EC) No 1360/2002 of 13 June 2002 adapting for the seventh time to technical progress Council Regulation (EEC) No 3821/85 on recording equipment in road transport**

(Official Journal of the European Communities L 207 of 5 August 2002)

On page 33, in requirement 172, line FR, second column:

*for:* 'CARTE DE CONTROLEUR',

*read:* 'CARTE DE CONTRÔLEUR'.

On page 33, in requirement 172, line FI, first column:

*for:* 'KULJETTAJA KORTILLA',

*read:* 'KULJETTAJAKORTTI'.

On page 33, in requirement 172, line FI, second column:

*for:* 'VALVONTA KORTILLA',

*read:* 'VALVONTAKORTTI'.

On page 33, in requirement 172, line FI, third column:

*for:* 'TESTAUSASEMA KORTILLA',

*read:* 'KORJAAMOKORTTI'.

On page 33, in requirement 172, line FI, fourth column:

*for:* 'YRITYSKORTILLA',

*read:* 'YRITYSKORTTI'.

On page 34, in requirement 175, second line, rightmost column:

*for:* 'Company or workshop card',

*read:* 'Company or workshop name'.

On page 35, in requirement 178, column FRONT, DRIVER CARD, background printing:

*for:* 'KULJETTAJAKORTILLA',

*read:* 'KULJETTAJAKORTTI'.

On page 35, in requirement 178, column FRONT, CONTROL CARD, background printing:

*for:* 'CARTE DE CONTROLEUR',

*read:* 'CARTE DE CONTRÔLEUR'.

On page 35, in requirement 178, column FRONT, CONTROL CARD, background printing:

*for:* 'VALVONTAKORTILLA',

*read:* 'VALVONTAKORTTI'.

On page 35, in requirement 178, column FRONT, WORKSHOP CARD, background printing:

*replace bold printing:* 'CARTA DELL'OFFICINA',

*by background printing:* 'CARTA DELL'OFFICINA'.

On page 35, in requirement 178, column FRONT, WORKSHOP CARD, background printing:

*replace bold printing:* 'WERKPLAATSKAART',

*by background printing:* 'WERKPLAATSKAART'.

On page 35, in requirement 178, column FRONT, WORKSHOP CARD, background printing:

*for:* 'TESTAUSASEMAKORTILLA',

*read:* 'KORJAAMOKORTTI'.

On page 35, in requirement 178, column FRONT, COMPANY CARD, background printing:

*for:* 'YRITYKORTILLA',

*read:* 'YRITYSKORTTI'.

On page 57, in point 2.5 CardActivityDailyRecord:

*after:*

'activityPreviousrecordLength            INTEGER (0.. CardActivityLengthRange)',

*insert new line:*

'activityRecordLength            INTEGER (0.. CardActivityLengthRange)'.

On page 62, in point 2.22 CardPlaceDailyWorkPeriod:

*for:*

```
CardPlaceDailyWorkPeriod ::= SEQUENCE {
    placePointerNewestRecord  INTEGER(0..NoOfCardPlaceRecords-1),
    placeRecords SET
        SIZE (NoOfCardPlaceRecords) OF PlaceRecord};
```

*read:*

```
CardPlaceDailyWorkPeriod ::= SEQUENCE {
    placePointerNewestRecord  INTEGER(0..NoOfCardPlaceRecords-1),
    placeRecords
        SET SIZE (NoOfCardPlaceRecords) OF PlaceRecord};
```

On pages 75 and 76, in point 2.71 NationAlpha:

for:

**'Value assignment:**

' '	No information available
'A'	Austria
'AL'	Albania
'AND'	Andorra
'ARM'	Armenia
'AZ'	Azerbaijan
'B'	Belgium
'BG'	Bulgaria
'BIH'	Bosnia and Herzegovina
'BY'	Belarus
'CH'	Switzerland
'CY'	Cyprus
'CZ'	Czech Republic
'D'	Germany
'DK'	Denmark
'E'	Spain
'EST'	Estonia
'F'	France
'FIN'	Finland
'FL'	Liechtenstein
'FR'	Faeroe Islands
'UK'	United Kingdom, Alderney, Guernsey, Jersey, Isle of Man, Gibraltar
'GE'	Georgia
'GR'	Greece
'H'	Hungary
'HR'	Croatia
'I'	Italy
'IRL'	Ireland
'IS'	Iceland
'KZ'	Kazakhstan
'L'	Luxembourg
'LT'	Lithuania
'LV'	Latvia
'M'	Malta
'MC'	Monaco
'MD'	Republic of Moldova
'MK'	Macedonia
'N'	Norway
'NL'	The Netherlands
'P'	Portugal
'PL'	Poland
'RO'	Romania
'RSM'	San Marino
'RUS'	Russian Federation
'S'	Sweden
'SK'	Slovakia
'SLO'	Slovenia
'TM'	Turkmenistan
'TR'	Turkey
'UA'	Ukraine
'V'	Vatican City
'YU'	Yugoslavia
'UNK'	Unknown
'EC'	European Community
'EUR'	Rest of Europe
'WLD'	Rest of the world',

read:

**Value assignment:**

' '	No information available
'A '	Austria
'AL '	Albania
'AND'	Andorra
'ARM'	Armenia
'AZ '	Azerbaijan
'B '	Belgium
'BG '	Bulgaria
'BIH'	Bosnia and Herzegovina
'BY '	Belarus
'CH '	Switzerland
'CY '	Cyprus
'CZ '	Czech Republic
'D '	Germany
'DK '	Denmark
'E '	Spain
'EST'	Estonia
'F '	France
'FIN'	Finland
'FL '	Liechtenstein
'FR '	Faeroe Islands
'UK '	United Kingdom, Alderney, Guernsey, Jersey, Isle of Man, Gibraltar
'GE '	Georgia
'GR '	Greece
'H '	Hungary
'HR '	Croatia
'I '	Italy
'IRL'	Ireland
'IS '	Iceland
'KZ '	Kazakhstan
'L '	Luxembourg
'LT '	Lithuania
'LV '	Latvia
'M '	Malta
'MC '	Monaco
'MD '	Republic of Moldova
'MK '	Macedonia
'N '	Norway
'NL '	The Netherlands
'P '	Portugal
'PL '	Poland
'RO '	Romania
'RSM'	San Marino
'RUS'	Russian Federation
'S '	Sweden
'SK '	Slovakia
'SLO'	Slovenia
'TM '	Turkmenistan
'TR '	Turkey
'UA '	Ukraine
'V '	Vatican City
'YU '	Yugoslavia
'UNK'	Unknown
'EC '	European Community
'EUR'	Rest of Europe
'WLD'	Rest of the world.'

On page 79, in point 2.87 Region Alpha:

for:

```
'Value assignment:
\ '      No information available
Spain:
\AN'     Andalucía
\AR'     Aragón
\AS'     Asturias
\C'      Cantabria
\CAT'    Cataluña
\CL'     Castilla-León
\CM'     Castilla-La-Mancha
\CV'     Valencia
\EXT'    Extremadura
\G'      Galicia
\IB'     Baleares
\IC'     Canarias
\LR'     La Rioja
\M'      Madrid
\MU'     Murcia
\NA'     Navarra
\PV'     País Vasco',
```

read:

```
'Value assignment:
\ '      No information available
Spain:
\AN '    Andalucía
\AR '    Aragón
\AST'    Asturias
\C '     Cantabria
\CAT'    Cataluña
\CL '   Castilla-León
\CM '   Castilla-La-Mancha
\CV '   Valencia
\EXT'   Extremadura
\G '    Galicia
\IB '   Baleares
\IC '   Canarias
\LR '   La Rioja
\M '    Madrid
\MU '   Murcia
\NA '   Navarra
\PV '   País Vasco'.
```

On page 85, in point 2.119 VuCardIWData:

for:

```
'VuCardIWData ::= SEQUENCE {
    noOfIWRecords      INTEGER(0..216-1),
    vuCardIWRecords SET SIZE(noOfIWRecords) OF
                        VuCardIWRecord '.
```

read:

```
'VuCardIWData ::= SEQUENCE {
    noOfIWRecords      INTEGER(0..216-1),
    vuCardIWRecords SET SIZE(noOfIWRecords) OF
                        VuCardIWRecord '.
```

On page 93, in point 2.153 VuTimeAdjustmentRecord, first and second columns, first line:

delete:

```
'oldTimeValue      TimeReal'.
```

On page 100, in requirement TCS\_203, first line:

```
for: 'The card shall work with  $V_{CC} = 3 \text{ V} (+/- 0,3 \text{ V})$  o  $V_{CC} = 5 \text{ V} (+/- 0,5 \text{ V})$ ',
read: 'The card shall work with  $V_{CC} = 3 \text{ V} (\pm 0,3 \text{ V})$  or with  $V_{CC} = 5 \text{ V} (\pm 0,5 \text{ V})$ '.
```

On page 102, in requirement TCS\_307, second column, sixth line:

for: 'mind.'

read: 'at least'.

On page 114, in requirement TCS\_357:

for: 'The input cryptogram is carries the second element for session key agreement K2'.

read: 'The input cryptogram carries the second element for session key agreement K2'.

On page 123, in requirement TCS\_409:

for: 'The following values, used to provide sizes in the table above, are the minimum and maximum record number values the workshop card data structure must use:

		Min	Max
n <sub>1</sub>	NoOfEventsPerType	3	3
n <sub>2</sub>	NoOfFaultsPerType	6	6
n <sub>3</sub>	NoOfCardVehicleRecords	4	8
n <sub>4</sub>	NoOfCardPlaceRecords	6	8
n <sub>6</sub>	CardActivityLengthRange	88	255
n <sub>5</sub>	NoOfCalibrationRecords	198 bytes (1 day * 93 activity changes)	492 bytes (1 day * 240 activity changes)

read: 'The following values, used to provide sizes in the table above, are the minimum and maximum record number values the workshop card data structure must use:

		Min	Max
n <sub>1</sub>	NoOfEventsPerType	3	3
n <sub>2</sub>	NoOfFaultsPerType	6	6
n <sub>3</sub>	NoOfCardVehicleRecords	4	8
n <sub>4</sub>	NoOfCardPlaceRecords	6	8
n <sub>5</sub>	NoOfCalibrationRecords	88	255
n <sub>6</sub>	CardActivityLengthRange	198 bytes (1 day * 93 activity changes)	492 bytes (1 day * 240 activity changes)

On page 126, in requirement TCS\_418:

delete:

CardNumberInformation			
CardType	1	1	{00}
CardIssuingMemberState	1	1	{00}
CardNumber	16	16	{20..20}

On page 135, in requirement PRT\_006, point 11.8:

for: '11.8 Activity totals (per driver both slots included)

Total driving duration, distance travelled  
 Total driving duration, distance travelled  
 Total resting duration  
 Total duration of crew activities

⊕ hhmm x xxx km
* hhmm ⊕ hhmm
▣ hhmm
⊕⊕ hhmm

When a daily printout is required for the current day, daily summary information is computed with available data at the time of the printout.'

read: '11.8 Activity totals (per driver both slots included)

Total driving duration, distance travelled  
 Total working and availability duration  
 Total resting duration  
 Total duration of crew activities

⊕ hhmm x xxx km
* hhmm ⊕ hhmm
▣ hhmm
⊕⊕ hhmm

When a daily printout is required for the current day, daily summary information is computed with available data at the time of the printout.'

On page 153, in point 2.2.2 Message types, table, ninth column, ninth line starting with '38400 Bd':

*for:* 'ED',

*read:* 'EE'.

On page 156, in point 2.2.3 Message flow, table, rightmost column, first line:

*for:* 'FE',

*read:* 'VU'.

On page 156, in point 2.2.3 Message flow, table, rightmost column, fifth line:

*for:* 'Positive response transfer',

*read:* 'Positive response'.

On page 163, in requirement DDP\_032, rightmost box:

*for:*

'All time adjustment events stored in the VU (outside the frame of a full calibration). If the section is empty, only noOfVuTimeAdjRecords = 0 is sent.'
--

RSA signature of all data starting from noOfVuFaults down to last byte of last time adjustment record.'
---

*read:*

'All detailed speed stored in the VU (one speed block per minute during which the vehicle has been moving) 60 speed values per minute (one per second).'
---

RSA signature of all data starting from noOfSpeedBlocks down to last byte of last speed block.'
---

On page 172, in requirement CPR\_017, third indent:

*for:* '— After stopping communication by time-out P3 max,  $T_{idle} = 0$ ',

*read:* '— After stopping communication by time-out P3 max,  $T_{idle} = 0$ '.

On page 181, in requirement CPR\_051, table 25, second column, seventh line:

*for:* 'recordDataIdentifier = (a valor from Table 8)',

*read:* 'recordDataIdentifier = (a value from Table 8)'.



On page 188, in point 8.2 dataRecords formats:

*for:* 'Table 40 to Table 44 below detail the formats that shall be used via the ReadDataByIdentifier and WriteDataByIdentifier Services.'

*read:* 'Tables 39 to 42 below detail the formats that shall be used via the ReadDataByIdentifier and WriteDataByIdentifier Services.'

On page 188, in requirement CPR\_074, heading:

*for:* 'Table 40 provides the length, resolution and operating range for each parameter identified by its recordDataIdentifier',

*read:* 'Table 39 provides the length, resolution and operating range for each parameter identified by its recordDataIdentifier'.

On page 188, in requirement CPR\_074, Table 39, fourth column, fifth line:

*for:* '0 to 8 031 m',

*read:* '0 to 8,031 m'.

On page 188, in requirement CPR\_074, Table 39, fourth column, ninth line:

*for:* '0 to 250 996 km/h',

*read:* '0 to 250,996 km/h'.

On page 188, in requirement CPR\_074, Table 39, rightmost box, 11th line:

*for:* 'See details in Table 44',

*read:* 'See details in Table 42'.

On page 189, in requirement CPR\_075, Table 40, third column (Resolution), ninth line:

*for:* '— 125 offset',

*read:* '— 125 h offset'.

On page 189, in requirement CPR\_075, Table 40, fourth column, fifth line:

*for:* '1 to a 12 month',

*read:* '1 to 12 month'.

On page 192, point 1.2 References:

*for:* 'ISO 7637-2:

Road vehicles — Electrical disturbance by conduction and coupling — Part 1: Passenger cars and light commercial vehicles with nominal 12 V supply voltage — Electrical transient conduction along supply lines only. Edition 2: 1990',

*read:* 'ISO 7637-2:

Road vehicles — Electrical disturbance by conduction and coupling — Part 2: Commercial vehicles with nominal 24 V supply voltage — Electrical transient conduction along supply lines only. First edition: 1990'.





	Threats														IT Objectives													
	Access	Identification	Faults	Tests	Design	Calibration_Parameters	Card_Data_Exchange	Clock	Environment	Fake_Devices	Hardware	Motion_Data	Non_Activated	Output_Data	Power_Supply (intentionally left blank)	Security_Data	Software	Stored_Data	Access	Accountability	Audit	Authentication	Integrity	Output	Processing	Reliability	Secured_Data_Exchange	
<b>Accuracy</b>																												
ACR_201	Information flow control policy					x			x	x																x	x	
ACR_202	Internal transfers													x										x	x	x		
ACR_203	Internal transfers													x						x								
ACR_204	Stored data integrity																	x				x				x		
ACR_205	Stored data integrity																	x		x								
<b>Reliability</b>																												
RLB_201	Manufacturing tests			x	x																							x
RLB_202	Self tests		x							x				x			x											x
RLB_203	Self tests									x				x			x			x								
RLB_204	Software analysis				x												x										x	
RLB_205	Software input																x						x	x	x			
RLB_206	Case opening				x			x		x				x		x	x	x					x			x		
RLB_207	Hardware sabotage									x																		x
RLB_208	Hardware sabotage									x										x								
RLB_209	Power supply interruptions													x														x
RLB_210	Power supply interruptions													x						x								
RLB_211	Reset		x																									x
RLB_212	Data Availability																								x	x		
RLB_213	Card release																											x
RLB_214	card session not correctly closed																				x							
RLB_215	Multiple Applications																											x
<b>Data exchange</b>																												
DEX_201	Secured motion data import												x															x
DEX_202	Secured motion data import											x						x										
DEX_203	Secured card data import					x																						x
DEX_204	Secured card data import					x															x							
DEX_205	Secured data export to cards					x																						x
DEX_206	Evidence of origin													x										x				
DEX_207	Evidence of origin													x										x				
DEX_208	Secured export to external media													x										x				







		Threats														IT Objectives													
		Access	Identification	Faults	Tests	Design	Calibration_Parameters	Card_Data_Exchange	Clock	Environment	Fake_Devices	Hardware	Motion_Data	Non_Activated	Output_Data	Power_Supply (intentionally left blank)	Security_Data	Software	Stored_Data	Access	Accountability	Audit	Authentication	Integrity	Output	Processing	Reliability	Secured_Data_Exchange	
<b>Accuracy</b>																													
ACR_201	Information flow control policy						x			x		x														x	x		
ACR_202	Internal transfers														x										x	x	x		
ACR_203	Internal transfers														x							x							
ACR_204	Stored data integrity																		x				x				x		
ACR_205	Stored data integrity																		x			x							
<b>Reliability</b>																													
RLB_201	Manufacturing tests				x	x																							x
RLB_202	Self tests		x								x				x			x											x
RLB_203	Self tests										x				x			x				x							
RLB_204	Software analysis					x												x										x	
RLB_205	Software input																	x						x	x	x			
RLB_206	Case opening					x				x	x				x			x	x	x					x		x		
RLB_207	Hardware sabotage										x																		x
RLB_208	Hardware sabotage										x											x							
RLB_209	Power supply interruptions															x													x
RLB_210	Power supply interruptions															x						x							
RLB_211	Reset			x																									x
RLB_212	Data availability																									x	x		
RLB_213	Card release																												x
RLB_214	Card session not correctly closed																					x							
RLB_215	Multiple applications																												x
<b>Data exchange</b>																													
DEX_201	Secured motion data import											x																	x
DEX_202	Secured motion data import											x										x							
DEX_203	Secured card data import						x																						x
DEX_204	Secured card data import						x															x							
DEX_205	Secured data export to cards						x																						x
DEX_206	Evidence of origin														x										x				
DEX_207	Evidence of origin														x										x				
DEX_208	Secured export to external media														x										x				



		Threats														IT Objectives														
		Access	Identification	Faults	Tests	Design	Calibration_Parameters	Card_Data_Exchange	Clock	Environment	Fake_Devices	Hardware	Motion_Data	Non_Activated	Output_Data	Power_Supply	(intentionally left blank)	Security_Data	Software	Stored_Data	Access	Accountability	Audit	Authentication	Integrity	Output	Processing	Reliability	Secured_Data_Exchange	
<b>Cryptographic support</b>																														
CSP_201	Algorithms																												x	x
CSP_202	key generation																												x	x
CSP_203	key distribution																												x	x
CSP_204	key access																												x	x
CSP_205	key destruction																												x	x'

On page 233, point 4.2.1 User Identification, second, third and fourth line:

for: 'Assignment (FIA\_ATD.1.1) List of security attributes:

USER\_GROUP VEHICLE\_UNIT, NON\_VEHICLE\_UNIT,

USER\_ID Vehicle Registration Number (VRN) and registering Member State Code (USER\_ID is known for USER\_GROUP = VEHICLE\_UNIT only).';

read: 'Assignment (FIA\_ATD.1.1) List of security attributes:

— USER\_GROUP: VEHICLE\_UNIT, NON\_VEHICLE\_UNIT,

— USER\_ID: Vehicle Registration Number (VRN) and registering Member State code (USER\_ID is known for USER\_GROUP = VEHICLE\_UNIT only).';

On page 244, requirement CSM\_017, note 5.1, second table, third column, third line:

for: 'mm jj BCD coding',

read: 'mm yy BCD coding'.

On page 249, in requirement CSM\_025:

for: 'PB = padding bytes (80.. 00) in accordance with ISO-IEC 7816-4 and ISO 9797 method 1',

read: 'PB = padding bytes (80.. 00) in accordance with ISO-IEC 7816-4 and ISO 9797 method 2'.

**Corrigendum to Commission Regulation (EC) No 442/2004 of 10 March 2004 fixing the unit amounts in respect of the production levies in the sugar sector for the 2002/2003 marketing year**

*(Official Journal of the European Union L 72 of 11 March 2004)*

In the title on the cover page and on page 51, and in the first paragraph of Article 1:

*for:* '... 2002/2003 marketing year...';

*read:* '... 2003/04 marketing year...';

and in Article 1 points b and e:

*for:* '... EUR 86,50 per tonne...';

*read:* '... EUR 96,83 per tonne...'.  

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