

English edition

## Legislation

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## I

(Acts whose publication is obligatory)

**REGULATION (EC) No 631/2004 OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL  
of 31 March 2004**

**amending Council Regulation (EEC) No 1408/71 on the application of social security schemes to employed persons, to self-employed persons and to members of their families moving within the Community, and Council Regulation (EEC) No 574/72 laying down the procedure for implementing Regulation (EEC) No 1408/71, in respect of the alignment of rights and the simplification of procedures**

(Text with relevance for the EEA and for Switzerland)

THE EUROPEAN PARLIAMENT AND THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty establishing the European Community, and in particular Articles 42 and 308 thereof,

Having regard to the Conclusions of the Barcelona European Council of 15 and 16 March 2002 concerning the creation of a European Health Insurance Card,

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) According to the conclusions of the Barcelona European Council of 15 and 16 March 2002 a European Health Insurance Card would replace the current paper forms needed for health treatment in another Member State. The Commission was called on to present a proposal to that effect before the Spring European Council of 2003. Such a card would simplify procedures.

(2) To attain and even surpass this objective by optimising the advantages offered by the European Health Insurance Card for insured persons and institutions, certain changes to Council Regulation (EEC) No 1408/71 of 14 June 1971 on the application of social security schemes to employed persons, self-employed persons and their families moving within the Community <sup>(3)</sup> are necessary.

(3) Regulation (EEC) No 1408/71 currently provides for access to different types of benefits in kind during a temporary stay in a Member State other than the competent State or the State of residence, depending on the category to which the insured person belongs, and draws a distinction between 'immediately necessary care' and 'necessary care'. For greater protection for insured persons, provision should be made to bring into line the rights of all insured persons in respect of access to benefits in kind during a temporary stay in a Member State other than the State in which the person concerned is insured or resident. In these conditions, all insured persons shall be entitled to the benefits in kind which become necessary on medical grounds during their stay in the territory of another Member State, taking account of the nature of the benefits and the expected length of the stay.

(4) It is essential that all measures be taken to ensure the proper implementation of Article 22(1)(a)(i) in all Member States with particular reference to care providers.

(5) For certain types of continuous treatment requiring a specific infrastructure, such as dialysis, it is essential for the patient that the treatment be available during his stay in another Member State. In this connection, the Administrative Commission establishes a list of the benefits in kind that are subject to prior agreement between the insured person and the institution providing the treatment in order to guarantee the availability of the care and the insured person's freedom to stay temporarily in another Member State.

<sup>(1)</sup> OJ C 32, 5.2.2004, p. 78.

<sup>(2)</sup> Opinion of the European Parliament of 4 December 2003 and Decision of the Council of 4 March 2004.

<sup>(3)</sup> OJ L 149, 5.7.1971, p. 2. Regulation as consolidated by Regulation (EC) No 118/97 (OJ L 28, 30.1.1997, p. 1) and last amended by Regulation (EC) No 1386/2001 of the European Parliament and of the Council (OJ L 187, 10.7.2001, p. 1).

- (6) Access to benefits in kind during a temporary stay in another Member State is granted, in principle, on presentation of the appropriate form provided for by Regulation (EEC) No 574/72 of the Council of 21 March 1972 laying down the procedure for implementing Regulation (EEC) No 1408/71<sup>(1)</sup>. Certain Member States still require — formally, even if not in practice — the completion of extra formalities on arrival in their territory. These requirements, specifically the obligation to submit systematically and in advance a certified statement to the institution of the place of stay certifying entitlement to benefits in kind, appear today to be needlessly restrictive and of a nature to hamper the free movement of the persons concerned.
- (7) Member States should ensure that appropriate information is provided regarding changes in rights and obligations introduced by this Regulation.
- (8) For the effective and fair implementation of Regulation (EEC) No 1408/71, cooperation between the institutions and the persons covered by the said Regulation is indispensable. This cooperation presupposes, on the part of both institutions and insured persons, the provision of complete information on any changes that could affect entitlement to benefits, such as any cessation or change of the employment or self-employment of the insured person, any transfer of the residence or place of stay of that person or of a member of his family, changes in the family situation or amendments to legislation.
- (9) Given the complexity of certain individual situations involving the movement of persons, provision should be made for a mechanism allowing institutions to rule on individual cases in which differing interpretations of Regulation (EEC) No 1408/71 and its implementing Regulation could jeopardise the rights of the person concerned. If a solution cannot be found whereby all the rights of the individual concerned are observed, provision should be made for the option of referring the matter to the Administrative Commission.
- (10) In order to bring the Regulation into line with developments in data processing, in which the European Health Insurance Card is an essential element as it is intended in the long term to constitute an electronic medium readable in all Member States, certain Articles of Regulation (EEC) No 574/72 should be amended to cover the concept of document as any content whatever its medium, written on paper or stored in electronic form or as a sound or visual or audiovisual recording,

HAVE ADOPTED THIS REGULATION:

#### Article 1

Regulation (EEC) No 1408/71 is hereby amended as follows:

1. Article 22 shall be amended as follows:

(a) subparagraph 1(a) shall be replaced by the following:

‘(a) whose condition requires benefits in kind which become necessary on medical grounds during a stay in the territory of another Member State, taking into account the nature of the benefits and the expected length of the stay;’

(b) the following paragraph shall be inserted:

‘1a. The Administrative Commission shall establish a list of benefits in kind which, in order to be provided during a stay in another Member State, require, for practical reasons, a prior agreement between the person concerned and the institution providing the care;’

(c) in paragraph 3, the first subparagraph shall be replaced by the following:

‘Paragraphs 1, 1a and 2 shall apply by analogy to members of the family of an employed or self-employed person.’

2. Article 22a shall be replaced by the following:

‘Article 22a

#### Special rules for certain categories of persons

Notwithstanding Article 2, Article 22(1)(a) and (c) and (1a) shall also apply to persons who are nationals of one of the Member States and who are insured under the legislation of a Member State and to the members of their families residing with them.’

3. Article 22b shall be deleted;

4. Article 25 shall be amended as follows:

(a) paragraph 1 shall be replaced by the following:

‘1. An unemployed person who was formerly employed or self-employed and to whom the provisions of Article 69(1) or Article 71(1)(b)(ii), second sentence apply and who satisfies the conditions laid down in the legislation of the competent State for entitlement to benefits in kind and cash benefits, taking account where necessary of the provisions of Article 18, shall receive for the period of time referred to in Article 69(1)(c):’

<sup>(1)</sup> OJ L 74, 27.3.1972, p. 1. Regulation as consolidated by Regulation (EC) No 118/97 and last amended by Commission Regulation (EC) No 1851/2003 (OJ L 271, 22.10.2003, p. 3).

(a) benefits in kind which become necessary on medical grounds for this person during his stay in the territory of the Member State where he is seeking employment, taking account of the nature of the benefits and the expected length of the stay. These benefits in kind shall be provided on behalf of the competent institution by the institution of the Member State in which the person is seeking employment, in accordance with the provisions of the legislation which the latter institution administers, as if he were insured with it;

(b) cash benefits provided by the competent institution in accordance with the provisions of the legislation which it administers. However, by agreement between the competent institution and the institution of the Member State in which the unemployed person seeks employment, benefits may be provided by the latter institution on behalf of the former institution in accordance with the provisions of the legislation of the competent State. Unemployment benefits under Article 69(1) shall not be granted for the period during which cash benefits are received.

(b) the following paragraph shall be inserted:

‘1a. Article 22(1a) shall apply by analogy.’;

5. Article 31 shall be replaced by the following:

‘Article 31

#### **Stay of a pensioner and/or members of his family in a Member State other than the State in which they reside**

1. A pensioner entitled to a pension or pensions under the legislation of one Member State or to pensions under the legislation of two or more Member States who is entitled to benefits under the legislation of one of those States shall, with members of his family who are staying in the territory of a Member State other than the State in which they reside, receive:

(a) benefits in kind which become necessary on medical grounds during a stay in the territory of the Member State other than the State of residence, taking into account the nature of the benefits and the expected length of the stay. These benefits in kind shall be provided by the institution of the place of stay, in accordance with the provisions of the legislation which it administers, on behalf of the institution of the place of residence of the pensioner or of the members of his family;

(b) cash benefits provided, where appropriate, by the competent institution as determined by Article 27 or 28(2), in accordance with the provisions of the legislation which it administers. However, upon agreement between the competent institution and the institution of

the place of stay, these benefits may be provided by the latter institution on behalf of the former, in accordance with the provisions of the legislation of the competent State.

2. Article 22(1a) shall apply by analogy.’

6. Article 34a shall be replaced by the following:

‘Article 34a

#### **Special provisions for students and members of their families**

Articles 18, 19, 22(1)(a) and (c) and (1a), 22(2), second subparagraph, 22(3), 23 and 24 and sections 6 and 7 shall apply by analogy to students and the members of their families as required.’

7. Article 34b shall be deleted;

8. the following Article shall be inserted:

‘Article 84a

#### **Relations between the institutions and the persons covered by this Regulation.**

1. The institutions and persons covered by this Regulation shall have a duty of mutual information and cooperation to ensure the correct implementation of this Regulation.

The institutions, in accordance with the principle of good administration, shall respond to all queries within a reasonable period of time and shall in this connection provide the persons concerned with any information required for exercising the rights conferred on them by this Regulation.

The persons concerned shall inform the institutions of the competent State and of the State of residence as soon as possible of any changes in their personal or family situation which affect their right to benefits under this Regulation.

2. Failure to respect the obligation of information referred to in paragraph 1, third subparagraph, may result in the application of proportionate measures in accordance with national law. Nevertheless, these measures shall be equivalent to those applicable to similar situations under domestic law and shall not make it impossible or excessively difficult in practice for claimants to exercise the rights conferred on them by this Regulation.

3. In the event of difficulties in the interpretation or application of this Regulation which could jeopardise the rights of a person covered by it, the institution of the competent State or of the State of residence of the person involved shall contact the institution(s) of the Member State(s) concerned. If a solution cannot be found within a reasonable period, the authorities concerned may call on the Administrative Commission to intervene.’

## Article 2

Regulation (EEC) No 574/72 is hereby amended as follows:

1. in Article 2, paragraph 1 shall be replaced by the following:

'1. Models of the documents necessary for application of the Regulation and of the implementing Regulation shall be drawn up by the Administrative Commission.

These documents may be transferred between institutions either in paper or other form or by means of telematic services as standardised electronic messages in accordance with Title VIa. The exchange of information by means of telematic services shall be subject to agreement between the competent authorities or the bodies designated by the competent authorities of the sending Member State and those of the receiving Member State.'

2. in Article 17, paragraphs 6 and 7 shall be deleted;

3. in Article 19a, paragraph 2 shall be replaced by the following:

'2. Article 17(9) of the implementing Regulation shall apply by analogy.'

4. Article 20 shall be deleted;

5. Article 21 is replaced by the following:

'Article 21

**Benefits in kind in the case of a stay in a Member State other than the competent State**

1. In order to receive benefits in kind under Article 22(1)(a)(i) of the Regulation, an employed or self-employed person shall submit to the care provider a document issued by the competent institution certifying that he is entitled to benefits in kind. That document shall be drawn up in accordance with Article 2. If the person concerned is not able to submit that document, he shall contact the institution of the place of stay which shall request from the competent institution a certified statement testifying that the person concerned is entitled to benefits in kind.

A document issued by the competent institution for entitlement to benefits in accordance with Article 22(1)(a)(i) of the Regulation, in each individual case concerned, shall have the same effect with regard to the care provider as national evidence of the entitlements of the persons insured with the institution of the place of stay.

2. Article 17(9) of the implementing Regulation shall apply by analogy.'

6. in Article 22, paragraph 2 shall be replaced by the following:

'2. Article 17(9) of the implementing Regulation shall apply by analogy.'

7. in Article 23, the second paragraph shall be replaced by the following:

'However, in the cases referred to in the second subparagraph of Article 22(3) of the Regulation, the institution of the place of residence and the legislation of the country of residence of the members of the family shall be considered, respectively, as the competent institution and as the legislation of the competent State for the purposes of Articles 17(9), 21 and 22 of the implementing Regulation.'

8. Article 26 is amended as follows:

- (a) paragraph 1 shall be replaced by the following:

'1. In order to receive benefits in kind under Article 25(1)(a) and (1a) of the Regulation, an unemployed person or a family member accompanying him shall submit to the care provider a document issued by the competent institution certifying that he is entitled to benefits in kind. That document shall be drawn up in accordance with the provisions of Article 2. If the person concerned is not able to submit that document, he shall contact the institution of the place of stay which shall request from the competent institution a certified statement testifying that the person concerned is entitled to benefits in kind.

A document issued by the competent institution for entitlement to benefits in accordance with Article 25(1)(a) of the Regulation, in each individual case concerned, shall have the same effect with regard to the care provider as national evidence of the entitlements of persons insured with the institution of the place to which the unemployed person has gone.'

- (b) the following paragraph shall be inserted:

'1a. In order to receive benefits in cash under Article 25(1)(b) of the Regulation for himself and for members of his family, an unemployed person shall submit to the insurance institution of the place where he has gone a certified statement for which, prior to his departure, he shall have applied to the competent insurance institution. If the unemployed person does not submit that certified statement, the institution of the place to which he has gone shall obtain it from the competent institution. That certified statement must testify the existence of the right to the benefits in question under the conditions set out in Article 69(1) (a) of the Regulation, indicate the duration of such right taking into account the provisions of Article 69(1)(c) of the Regulation and, in the case of incapacity for work or hospitalisation, specify the amount of cash benefits to be provided, where appropriate, by way of sickness insurance during the abovementioned period.'

(c) paragraph 3 shall be replaced by the following:

'3. Article 17(9) of the implementing Regulation shall apply by analogy.'

9. Article 31 shall be replaced by the following:

*'Article 31*

**Benefits in kind for pensioners and members of their families staying in a Member State other than the one in which they reside**

1. In order to receive benefits in kind under Article 31 of the Regulation, a pensioner shall submit to the care provider a document issued by the institution of the place of residence certifying that he is entitled to the benefits in kind. That document shall be drawn up in accordance with Article 2. If the person concerned is not able to submit that document, he shall contact the institution of the place of stay which shall request from the institution of the place of residence a certified statement testifying that the person concerned is entitled to benefits in kind.

A document issued by the competent institution for entitlement to benefits in accordance with Article 31 of the Regulation, in each individual case concerned, shall have the same effect with regard to the care provider as national evidence of the entitlements of persons insured with the institution of the place of stay.

2. Article 17(9) of the implementing Regulation shall apply by analogy.

3. Paragraphs 1 and 2 shall apply by analogy in respect of the granting of benefits in kind to the members of the family covered by Article 31 of the Regulation. If these family members reside in the territory of a Member State

other than that of the pensioner, the document referred to in paragraph 1 shall be issued by the institution of their place of residence.;

10. in Article 117, paragraph 1 shall be replaced by the following:

'1. Based on the research and proposals of the Technical Commission referred to in Article 117c of the implementing Regulation, the Administrative Commission shall adapt to new data processing techniques the models of documents as well as the routing channels and the data transmission procedures necessary for applying the Regulation and the implementing Regulation.'

*Article 3*

Member States shall ensure that appropriate information is provided regarding the changes in rights and obligations introduced by this Regulation.

*Article 4*

For the purpose of the implementation of this Regulation, the institutions in the State of stay shall ensure that all care providers are fully aware of the criteria set out in Article 22(1)(a)(i) of Regulation (EEC) No 1408/71.

*Article 5*

This Regulation shall enter into force on 1 June 2004.

Direct access to care providers shall be guaranteed by 1 July 2004 at the latest.

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

Done at Strasbourg, 31 March 2004.

*For the European Parliament*

*The President*

P. COX

*For the Council*

*The President*

D. ROCHE

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**COMMISSION REGULATION (EC) No 632/2004**  
**of 5 April 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 6 April 2004.

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

Done at Brussels, 5 April 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 5 April 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	89,0
	204	48,3
	212	113,1
	624	124,3
	999	93,7
0707 00 05	052	134,4
	096	88,7
	204	132,9
	999	118,7
0709 10 00	220	131,3
	999	131,3
0709 90 70	052	146,0
	204	117,7
	999	131,9
0805 10 10, 0805 10 30, 0805 10 50	052	40,1
	204	44,1
	212	58,3
	220	46,8
	388	44,2
	400	47,2
	600	40,0
	624	59,3
	999	47,5
	0805 50 10	052
999		40,0
0808 10 20, 0808 10 50, 0808 10 90	060	50,7
	388	78,7
	400	88,1
	404	104,3
	508	77,6
	512	73,8
	524	62,9
	528	68,1
	720	78,7
	804	111,2
	999	79,4
0808 20 50	388	73,8
	512	78,1
	524	80,3
	528	75,2
	720	35,3
	999	68,5

<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 633/2004**  
**of 30 March 2004**

**laying down detailed rules for implementing the system of export licences in the poultrymeat sector**

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Council Regulation (EEC) No 2777/75 of 29 October 1975 on the common organisation of the market in poultrymeat <sup>(1)</sup>, as last amended by Commission Regulation (EC) No 493/2002 <sup>(2)</sup>, and in particular Articles 3(2), 8(12) and 15 thereof,

Having regard to Council Regulation (EC) No 3290/94 of 22 December 1994 on the adjustments and transitional arrangements required in the agricultural sector in order to implement the agreements concluded during the Uruguay Round of multilateral trade negotiations <sup>(3)</sup>, as last amended by Regulation (EC) No 1340/98 <sup>(4)</sup>, and in particular Article 3(1) thereof,

Whereas:

(1) Commission Regulation (EC) No 1372/95 of 16 June 1995 laying down detailed rules for implementing the system of export licences in the poultrymeat sector <sup>(5)</sup> has been substantially amended several times <sup>(6)</sup>. In the interest of clarity and rationality the said Regulation should be codified.

(2) Regulation (EEC) No 2777/75 provides that all exports for which export refunds are requested, with the exception of exports of day-old chicks, shall be subject to the presentation of an export licence with advance fixing of the refund. Therefore specific implementing rules should be laid down for the poultrymeat sector which should, in particular, include provisions for the submission of the applications and the information which must appear on the applications and licences, in addition to those contained in Commission Regulation (EC) No 1291/2000 of 9 June 2000 laying down common detailed rules for the application of the system of import and export licences and advance fixing certificates for agricultural products <sup>(7)</sup>, as last amended by Regulation (EC) No 325/2003 <sup>(8)</sup>.

(3) In order to assure proper administration of the system, the rate of the security for export licences under the said system should be fixed. In view of the risk of speculation inherent in the system in the poultrymeat sector, export licences should not be transferable and precise conditions governing access by traders to the said system should be laid down. It is necessary for particular conditions of access in the case of export licences for certain traditional markets in order to limit speculative applications which could put at risk the production which is specifically destined for those markets for a transitional period.

(4) Article 8(11) of Regulation (EEC) No 2777/75 provides that compliance with the obligations arising from agreements concluded during the Uruguay Round of multilateral trade negotiations regarding the export volume shall be ensured on the basis of the export licences. Therefore a detailed schedule for the lodging of applications and for the issuing of licences should be laid down.

(5) In addition, the decision regarding applications for export licences should be communicated only after a period of consideration. This period would allow the Commission to appreciate the quantities applied for as well as the expenditure involved and, if appropriate, to take specific measures applicable in particular to the applications which are pending. It is in the interest of traders to allow the licence application to be withdrawn after the acceptance coefficient has been fixed.

(6) In the case of applications concerning quantities equal to or less than 25 tonnes, the export licence should be issued immediately if the trader requests it. However, such licences should be restricted to short-term commercial transactions in order to prevent the mechanism provided for in this Regulation from being circumvented.

(7) In order to ensure an exact follow up of the quantities to be exported, a derogation from the rules regarding the tolerances laid down in Regulation (EC) No 1291/2000 should be laid down.

<sup>(1)</sup> OJ L 282, 1.11.1975, p. 77.

<sup>(2)</sup> OJ L 77, 20.3.2002, p. 7.

<sup>(3)</sup> OJ L 349, 31.12.1994, p. 105.

<sup>(4)</sup> OJ L 184, 27.6.1998, p. 1.

<sup>(5)</sup> OJ L 133, 17.6.1995, p. 26.

<sup>(6)</sup> See Annex V.

<sup>(7)</sup> OJ L 152, 24.6.2000, p. 1.

<sup>(8)</sup> OJ L 47, 21.2.2003, p. 21.

- (8) The Commission should dispose of precise information concerning applications for licences and of the use of licences issued, in order to be able to manage this system. In the interests of efficient administration, the notifications from Member States to the Commission should be made according to a uniform model.
- (9) Article 8(6) of Regulation (EEC) No 2777/75 provides that for day-old chicks export refunds may be granted on the basis of an *ex post* export licence. Therefore implementing rules for such a system should be laid down with the aim of ensuring efficient verification that the obligations arising from the agreements concluded in the framework of the Uruguay Round negotiations are complied with. However, it would appear unnecessary to require the lodging of a security in the case of licences applied for after exportation.
- (10) The measures provided for in this Regulation are in accordance with the opinion of the Management Committee for Poultrymeat and Eggs,

- Κανονισμός (ΕΚ) αριθ. 633/2004
- Regulation (EC) No 633/2004
- Règlement (CE) n° 633/2004
- Regolamento (CE) n. 633/2004
- Verordening (EG) nr. 633/2004
- Regulamento (CE) n.º 633/2004
- Asetus (EY) N:o 633/2004
- Förordning (EG) nr 633/2004.

5. By way of derogation from paragraph 1, licences for category 6(a) referred to in Annex I shall be valid 15 days from the actual date of issue within the meaning of Article 23(2) of Regulation (EC) No 1291/2000. In this case, notwithstanding Article 29(5) of Commission Regulation (EC) No 800/1999 <sup>(1)</sup>, the period during which the products may remain covered by the arrangements provided for in Article 5 of Council Regulation (EEC) No 565/80 <sup>(2)</sup> shall be equal to the remainder of the term of validity of the export licence.

6. In the case of licences for products of category 6(a) referred to in Annex I it is obligatory to export to the country of destination indicated in case 7 or to any country referred to in Annex IV.

HAS ADOPTED THIS REGULATION:

#### Article 1

All exports of products in the poultrymeat sector for which an export refund is requested, with the exception of chicks falling within CN codes 0105 11, 0105 12 and 0105 19, shall be subject to the presentation of an export licence with advance fixing of the refund, in accordance with the provisions of Articles 2 to 8.

#### Article 2

1. Export licences shall be valid for 90 days from their actual day of issue within the meaning of Article 23(2) of Regulation (EC) No 1291/2000.

2. Applications for licences and licences shall bear, in section 15, the description of the product and, in section 16, the 12-digit product code of the agricultural product nomenclature for export refunds.

3. The categories of products referred to in the second paragraph of Article 14 of Regulation (EC) No 1291/2000, as well as the rate of the security for export licences, are set out in Annex I.

4. Applications for licences and licences shall bear, in section 20, at least one of the following:

- Reglamento (CE) n° 633/2004
- Forordning (EF) nr. 633/2004
- Verordnung (EG) Nr. 633/2004

To this end, licence applications and licences shall contain at least one of the following:

(a) text missing

- Categoría 6 a)
- Kategori 6 a)
- Kategorie 6a
- Κατηγορία 6α)
- Category 6(a)
- Catégorie 6 a)
- Categoria 6 a)
- Kategorie 6 a)
- Kategorie 6 a)
- Tuoteluokka 6a)
- Kategori 6 a)

(b) in section 22:

- Exportación obligatoria a los países mencionados en el anexo IV del Reglamento (CE) n° 633/2004
- Udførsel obligatorisk til lande, der er anført i bilag IV til forordning (EF) nr. 633/2004
- Ausfuhr nach den in Anhang IV der Verordnung (EG) Nr. 633/2004 genannten Länder ist verbindlich
- Υποχρεωτική εξαγωγή σε χώρες που αναφέρονται στο παράρτημα IV του κανονισμού (ΕΚ) αριθ. 633/2004

<sup>(1)</sup> OJ L 102, 17.4.1999, p. 11.

<sup>(2)</sup> OJ L 62, 7.3.1980, p. 5.

- Export obligatory to countries referred to in Annex IV to Regulation (EC) No 633/2004
- Exportation obligatoire vers les pays visés à l'annexe IV du règlement (CE) n° 633/2004
- Esportazione obbligatoria verso paesi elencati nell'allegato IV del regolamento (CE) n. 633/2004
- Verplichte uitvoer naar landen die zijn vermeld in bijlage IV bij Verordening (EG) nr. 633/2004
- Exportação obrigatória para países referidos no anexo IV do Regulamento (CE) n.º 633/2004
- Velvoittaa viemään asetuksen (EY) N:o 633/2004 liitteessä IV tarkoitettuihin maihin
- Export obligatorisk till länderna i bilaga IV till förordning (EG) nr 633/2004.
- Exportation obligatoire vers les pays autres que ceux visés à l'annexe IV du règlement (CE) n° 633/2004
- Esportazione obbligatoria verso paesi non elencati nell'allegato IV del regolamento (CE) n. 633/2004
- Verplichte uitvoer naar landen die niet zijn vermeld in bijlage IV bij Verordening (EG) nr. 633/2004
- Exportação obrigatória para países não referidos no anexo IV do Regulamento (CE) n.º 633/2004
- Velvoittaa viemään muihin kuin asetuksen (EY) N:o 633/2004 liitteessä IV tarkoitettuihin maihin
- Export obligatorisk till länder som inte anges i bilaga IV till förordning (EG) nr 633/2004.

7. In the case of licences for products of category 6(b) referred to in Annex I it is obligatory to export to the country of destination indicated in case 7 or to any other country not referred to in Annex IV.

To this end, licence applications and licences shall contain at least one of the following:

(a) text missing

- Categoría 6 b)
- Kategori 6 b)
- Kategorie 6b
- Κατηγορία 6β)
- Category 6(b)
- Catégorie 6 b)
- Categoria 6 b)
- Kategorie 6 b)
- Categoria 6 b)
- Tuoteluokka 6b)
- Kategori 6 b)

(b) in section 22:

- Exportación obligatoria a los países no mencionados en el anexo IV del Reglamento (CE) n° 633/2004
- Udførsel obligatorisk til lande, der ikke er anført i bilag IV til forordning (EF) nr. 633/2004
- Ausfuhr nach einem der nicht in Anhang IV der Verordnung (EG) Nr. 633/2004 genannten Länder ist verbindlich
- Υποχρεωτική εξαγωγή σε χώρες που δεν αναφέρονται στο παράρτημα IV του κανονισμού (ΕΚ) αριθ. 633/2004
- Export obligatory to countries not referred to in Annex IV to Regulation (EC) No 633/2004

*Article 3*

1. Applications for export licences may be lodged with the competent authorities from Monday to Friday of each week.

2. Applicants for export licences shall be natural or legal persons who, at the time applications are submitted, are able to prove to the satisfaction of the competent authorities in the Member States that they have been engaged in trade in the poultrymeat sector for at least 12 months. However, retail establishments or restaurants selling their products to end consumers may not lodge applications.

3. Export licences are issued on the Wednesday following the period referred to in paragraph 1, provided that none of the particular measures referred to in paragraph 4 have since been taken by the Commission.

4. Where applications for export licences concern quantities and/or expenditure which exceed the normal trade patterns or where there is a risk that they will be exceeded, taking account of the limits referred to in Article 8(11) of Regulation (EEC) No 2777/75 and/or the corresponding expenditure during the period in question, the Commission may:

- (a) set a single percentage by which the quantities applied for are accepted;
- (b) refuse the applications for which export licences have not yet been awarded;
- (c) suspend the lodging of applications for export licences for a maximum of five working days. A suspension for a longer period may be decided in accordance with the procedure provided for in Article 17 of Regulation (EEC) No 2777/75. In these cases, applications for export licences lodged during the suspension period shall be inadmissible.

These measures may be adjusted according to the category of product and to destination.

5. Where quantities applied for are rejected or reduced, the security shall be released immediately for all quantities for which an application was not satisfied.

6. Notwithstanding paragraph 3, where a single percentage of acceptance less than 80 per cent is set, the licence shall be issued at the latest by the 11th working day following publication of that percentage in the *Official Journal of the European Union*. During the 10 working days following its publication, the operator may:

- either withdraw his application, in which case the security is released immediately,
- or request immediate issuing of the licence, in which case the competent authority shall issue it without delay but no sooner than the normal issue date for the relevant week.

7. By way of derogation from paragraph 3, the Commission can set a day other than Wednesday for the issuing of export licences when it is not possible to respect this day.

#### Article 4

1. On application by the operator, licence applications for up to 25 tonnes of products shall not be subject to any special measures as referred to in Article 3(4) and the licences applied for shall be issued immediately.

In such cases, notwithstanding Article 2(1) and (5), the term of validity of the licences shall be limited to five working days from their actual day of issue within the meaning of Article 23(2) of Regulation (EC) No 1291/2000 and section 20 of licence applications and of licences shall show at least one of the following:

- Certificado válido durante cinco días hábiles y no utilizable para la aplicación del artículo 5 del Reglamento (CEE) n.º 565/80.
- Licens, der er gyldig i fem arbejdsdage, og som ikke kan benyttes til at anvende artikel 5 i forordning (EØF) nr. 565/80.
- Fünf Werkstage gültige und für die Anwendung von Artikel 5 der Verordnung (EWG) Nr. 565/80 nicht verwendbare Lizenz.
- Πιστοποιητικό που ισχύει για πέντε εργάσιμες ημέρες και δεν χρησιμοποιείται για την εφαρμογή του άρθρου 5 του κανονισμού (ΕΟΚ) αριθ. 565/80.
- Licence valid for five working days and not useable for the application of Article 5 of Regulation (EEC) No 565/80.
- Certificat valable 5 jours ouvrables et non utilisable pour l'application de l'article 5 du règlement (CEE) n.º 565/80.
- Titolo valido cinque giorni lavorativi e non utilizzabile ai fini dell'applicazione dell'articolo 5 del regolamento (CEE) n. 565/80.

— Certificaat met een geldigheidsduur van vijf werkdagen en niet te gebruiken voor de toepassing van artikel 5 van Verordening (EEG) Nr. 565/80.

— Certificado de exportação válido durante cinco dias úteis, não utilizável para a aplicação do artigo 5.º do Regulamento (CEE) n.º 565/80.

— Todistus on voimassa viisi työpäivää eikä sitä voi käyttää sovellettaessa asetuksen (ETY) N:o 565/80 5 artiklaa.

— Licensen är giltig fem arbetsdagar men gäller inte vid tillämpning av artikel 5 i förordning (EEG) nr 565/80.

2. The Commission may, where necessary, suspend the application of this Article.

#### Article 5

Export licences shall not be transferable.

#### Article 6

1. The quantity exported within the tolerance referred to in Article 8(4) of Regulation (EC) No 1291/2000 shall not give entitlement to payment of the refund.

2. In section 22 of the licence, at least one of the following shall be indicated:

- Restitución válida por [...] toneladas (cantidad por la que se expida el certificado).
- Restitutionen omfatter [...] t (den mængde, licensen vedrører).
- Erstattung gültig für [...] Tonnen (Menge, für welche die Lizenz ausgestellt wurde).
- Επιστροφή ισχύουσα για [...] τόνους (ποσότητα για την οποία έχει εκδοθεί το πιστοποιητικό).
- Refund valid for [...] tonnes (quantity for which the licence is issued).
- Restitution valable pour [...] tonnes (quantité pour laquelle le certificat est délivré).
- Restituzione valida per [...] t (quantitativo per il quale il titolo è rilasciato).
- Restitutie geldig voor [...] ton (hoeveelheid waarvoor het certificaat wordt afgegeven).
- Restituição válida para [...] toneladas (quantidade relativamente à qual é emitido o certificado).
- Tuki on voimassa (...) tonnille (määrä, jolle todistus on myönnetty).
- Ger rätt till exportbidrag för [...] ton (den kvantitet för vilken licensen utfärdats).

### Article 7

1. Each Friday from 13.00 hours, Member States shall send the Commission the following by fax in respect of the preceding period:

- (a) the applications for export licences as referred to in Article 1 lodged from Monday to Friday of the same week, stating whether they fall within the scope of Article 4 or not;
- (b) the quantities covered by export licences issued on the preceding Wednesday, not including those issued immediately under Article 4;
- (c) the quantities covered by export licence applications withdrawn pursuant to Article 3(6) during the preceding week.

2. The notification of the applications referred to in point (a) of paragraph 1 shall specify:

- (a) the quantity in product weight for each category referred to in Article 2(3);
- (b) the breakdown by destination of the quantity for each category in the case where the rate of refund varies according to the destination;
- (c) the rate of refund applicable;
- (d) the total amount of refund prefixed in euro per category.

3. Member States shall communicate to the Commission on a monthly basis following the expiry of validity of export licences the quantity of unused export licences.

4. Applications referred to in paragraphs 1 and 3, including 'nil' notifications, shall be made in accordance with the model set out in Annex II.

### Article 8

1. For chicks falling within CN codes 0105 11, 0105 12 and 0105 19, operators shall declare at the time when customs formalities for exports are fulfilled, that they intend to claim an export refund.

2. Not later than two working days after exporting, operators shall lodge with the competent authority the application for an *ex post* export licence for the chicks exported. In section 20 of the licence application and of the licence, shall be indi-

cated the term *ex post* together with the customs office where customs formalities have been fulfilled as well as the date of export within the meaning of Article 5(1) of Regulation (EC) No 800/1999.

By derogation from Article 15(2) of Regulation (EC) No 1291/2000 no security shall be required.

3. Member States shall communicate to the Commission, each Friday from 13.00 hours, by fax, the number of *ex post* export licences applied for or the absence of such applications, during the current week. The notifications shall be made in accordance with the model set out in Annex II and shall specify, where applicable, the details referred to in Article 7(2).

4. *Ex post* export licences shall be issued each following Wednesday, provided that none of the particular measures referred to in Article 3(4) are taken by the Commission after the export concerned. Where such measures are taken they shall apply to the exports already carried out.

This licence accords entitlement to payment of the refund applicable on the day of export within the meaning of Article 5(1) of Regulation (EC) No 800/1999.

5. Article 24 of Regulation (EC) No 1291/2000 shall not apply to the *ex post* licences referred to in paragraphs 1 to 4.

The licences shall be presented directly by the interested party to the agency in charge of the payment of export refunds. This agency shall attribute and stamp the licence.

### Article 9

Regulation (EC) No 1372/95 is repealed.

References to the repealed Regulation shall be construed as references to this Regulation and shall be read in accordance to the correlation table in Annex VI.

### Article 10

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

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

Done at Brussels, 30 March 2004.

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

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## ANNEX I

Product code of the agricultural product nomenclature for export refunds <sup>(1)</sup>	Category	Rate of the security (EUR/100 kg net weight)
0105 11 11 9000 0105 11 19 9000 0105 11 91 9000 0105 11 99 9000	1	—
0105 12 00 9000 0105 19 20 9000	2	—
0207 12 10 9900 0207 12 90 9990 0207 12 90 9190	3	6 <sup>(2)</sup> 6 <sup>(3)</sup> 6 <sup>(4)</sup>
0207 25 10 9000 0207 25 90 9000	5	3
0207 14 20 9900 0207 14 60 9900 0207 14 70 9190 0207 14 70 9290	6(a) <sup>(4)</sup>	2
0207 14 20 9900 0207 14 60 9900 0207 14 70 9190 0207 14 70 9290	6(b) <sup>(5)</sup>	2
0207 27 10 9990	7	3
0207 27 60 9000 0207 27 70 9000	8	3

<sup>(1)</sup> Commission Regulation (EEC) No 3846/87 (OJ L 366, 24.12.1987, p. 1), part 7.

<sup>(2)</sup> For destinations shown in Annex III.

<sup>(3)</sup> Destinations other than those shown in Annexes III and IV.

<sup>(4)</sup> Destinations shown in Annex IV.

<sup>(5)</sup> Destinations other than those shown in Annex IV.



## ANNEX II

Application of Regulation (EC) No 633/2004

COMMISSION OF THE EUROPEAN COMMUNITIES — DG AGRI/D/2 , Poultrymeat sector

**Application for export licences — Poultrymeat**

Sender:

Date:

Period: Monday ... to Friday ...

Member State:

Person to contact:

Telephone

Fax

Addressee: DG AGRI/D/2 — fax (32-2) 298 87 86  
(e-mail: AGRI-POULTRY-EXPORT@cec.eu.int)

— Part A — Weekly notification (to be completed separately for each category)

Category	Quantity		Geonomenclature code	Rate of refund (EUR/100 kg or 100 pieces)	Total amount of prefixed refunds
	Article 4	Other			
Total per category					

Category	Total quantities applied for by categories and by destination

— Part B — Weekly notification

Category	Total quantities issued by categories and by destination on Wednesday

## — Part C — Weekly notification

Category	Total quantities withdrawn by categories and by destination during the previous week

## — Part D — Monthly notification

Category	Unused quantities by categories and by destination

## ANNEX III

Angola  
Bahrain  
Iran  
Iraq  
Jordan  
Kuwait  
Lebanon  
Oman  
Qatar  
Saudi Arabia  
United Arab Emirates  
Yemen, Republic of

—

## ANNEX IV

Armenia  
Azerbaijan  
Belarus  
Georgia  
Kazakhstan  
Kyrgyzstan  
Moldova  
Russia  
Tajikistan  
Turkmenistan  
Ukraine  
Uzbekistan

## ANNEX V

**Repealed Regulation with its successive amendments**

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Commission Regulation (EC) No 1372/95	(OJ L 133, 17.6.1995, p. 26)
Commission Regulation (EC) No 2523/95	(OJ L 258, 28.10.1995, p. 40)
Commission Regulation (EC) No 2841/95	(OJ L 296, 9.12.1995, p. 8)
Commission Regulation (EC) No 180/96	(OJ L 25, 1.2.1996, p. 27)
Commission Regulation (EC) No 1158/96	(OJ L 153, 27.6.1996, p. 25)
Commission Regulation (EC) No 2238/96	(OJ L 299, 23.11.1996, p. 16)
Commission Regulation (EC) No 2370/96	(OJ L 323, 13.12.1996, p. 12)
Commission Regulation (EC) No 1009/98	(OJ L 145, 15.5.1998, p. 8)
Commission Regulation (EC) No 2581/98	(OJ L 322, 1.12.1998, p. 33)
Commission Regulation (EC) No 2337/1999	(OJ L 281, 4.11.1999, p. 21)
Commission Regulation (EC) No 1383/2001	(OJ L 186, 7.7.2001, p. 26)

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## ANNEX VI

## CORRELATION TABLE

Regulation (EC) No 1372/95	This Regulation
Article 1	Article 1
Article 2(1) to (5)	Article 2(1) to (5)
Article 2(6) first indent	Article 2(6)(a)
Article 2(6) second indent	Article 2(6)(b)
Article 2(7) first indent	Article 2(7)(a)
Article 2(7) second indent	Article 2(7)(b)
Article 3(1)	Article 3(1)
Article 3(2) first subparagraph	Article 3(2)
Article 3(2) second subparagraph	—
Article 3(3)	Article 3(3)
Article 3(4) first indent	Article 3(4)(a)
Article 3(4) second indent	Article 3(4)(b)
Article 3(4) third indent	Article 3(4)(c)
Article 3(5) to (7)	Article 3(5) to (7)
Article 4 first and second subparagraphs	Article 4(1)
Article 4 third subparagraph	Article 4(2)
Article 5	Article 5
Article 6 first subparagraph	Article 6(1)
Article 6 second subparagraph	Article 6(2)
Article 7(1)	Article 7(1)
Article 7(2) first indent	Article 7(2)(a)
Article 7(2) second indent	Article 7(2)(b)
Article 7(2) third indent	Article 7(2)(c)
Article 7(2) fourth indent	Article 7(2)(d)
Article 7(3) and (4)	Article 7(3) and (4)
Article 8	—
Article 9	Article 8
Article 10	—
—	Article 9
Article 11	Article 10
Annexes I to IV	Annexes I to IV
—	Annex V
—	Annex VI

## COMMISSION REGULATION (EC) No 634/2004

of 5 April 2004

**laying down transitional measures for the application of Council Regulation (EC) No 2202/96 and Regulation (EC) No 2111/2003 by reason of the accession of the Czech Republic, Estonia, Cyprus, Latvia, Lithuania, Hungary, Malta, Poland, Slovenia and Slovakia to the European Union**

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

HAS ADOPTED THIS REGULATION:

Having regard to the Treaty establishing the European Community,

*Article 1*

Having regard to the Treaty of Accession of the Czech Republic, the Republic of Estonia, the Republic of Cyprus, the Republic of Latvia, the Republic of Lithuania, the Republic of Hungary, the Republic of Malta, the Republic of Poland, the Republic of Slovenia and the Slovak Republic, and in particular Article 2(3) thereof,

For the 2004/05 marketing year, for the Czech Republic, Estonia, Cyprus, Latvia, Lithuania, Hungary, Malta, Poland, Slovenia and Slovakia (hereafter 'the new Member States') only, the amount of aid fixed in Article 3(2) of Regulation (EC) No 2202/96 and indicated in Tables 1, 2 and 3 in Annex I to that regulation shall be fixed as indicated in Tables 1, 2 and 3 in the Annex to this Regulation, respectively.

Having regard to the Act of Accession of the Czech Republic, the Republic of Estonia, the Republic of Cyprus, the Republic of Latvia, the Republic of Lithuania, the Republic of Hungary, the Republic of Malta, the Republic of Poland, the Republic of Slovenia and the Slovak Republic, and in particular the first paragraph of Article 41 thereof,

*Article 2*

Whereas:

- (1) Transitional measures should be adopted to allow producers and processors in the Czech Republic, Estonia, Cyprus, Latvia, Lithuania, Hungary, Malta, Poland, Slovenia and Slovakia (hereafter 'the new Member States') to benefit from Council Regulation (EC) No 2202/96 of 28 October 1996 introducing a Community aid scheme for producers of certain citrus fruits <sup>(1)</sup>.
- (2) The mechanism for calculating compliance with the national and Community processing thresholds provided for in Article 5 of Regulation (EC) No 2202/96 and Article 37 of Commission Regulation (EC) No 2111/2003 of 1 December 2003 laying down detailed rules for the application of Council Regulation (EC) No 2202/96 introducing a Community aid scheme for producers of certain citrus fruits <sup>(2)</sup> does not immediately apply to the new Member States. Transitional measures for its application should therefore be laid down. For the first marketing year of application, for which there are no data for calculation, the aid should be paid in full. However, as a precautionary measure, a prior reduction should be made, to be reimbursed if there is no overrun at the end of the marketing year. For subsequent marketing years, provision should be made for the gradual application of the system for examining compliance with the threshold.
- (3) The measures provided for in this Regulation are in accordance with the opinion of the Management Committee for Fresh Fruit and Vegetables,

1. Where the examination of compliance with the processing threshold for the purpose of fixing the aid for the 2005/06 marketing year shows that the Community threshold has not been exceeded, an additional amount equal to 25 % of the aid provided for in Article 3(2) of Regulation (EC) No 2202/96 shall be paid in all the new Member States after the end of the 2004/05 marketing year.

2. Where the examination of compliance with the processing threshold for the purpose of fixing the aid for the 2005/06 marketing year shows that the Community threshold has been exceeded, in those new Member States in which the threshold has not been exceeded or in which the threshold has been exceeded by less than 25 %, an additional amount shall be paid after the end of the 2004/05 marketing year.

The additional amount referred to in the first subparagraph shall be based on the amount by which the national threshold concerned has been exceeded, up to a maximum of 25 % of the aid fixed in Article 3(2) of Regulation (EC) No 2202/96.

*Article 3*

In examining compliance with the national processing thresholds for oranges, lemons and grapefruit and for the product group comprising mandarins, clementines and satsumas, for the new Member States only, the calculation shall be based:

- (a) for the 2005/06 marketing year, on a comparison between the national processing threshold and the quantities processed with aid during the marketing year or equivalent period preceding that marketing year;
- (b) for the 2006/07 marketing year, on a comparison between the national processing threshold and the average quantities processed with aid during the two marketing years or equivalent periods preceding that marketing year;

<sup>(1)</sup> OJ L 297, 21.11.1996, p. 49. Regulation as last amended by Regulation (EC) No 2699/2000 (OJ L 311, 12.12.2000, p. 9).

<sup>(2)</sup> OJ L 317, 2.12.2003, p. 5.

The amount obtained when examining compliance with the national processing threshold for each of the products concerned shall be added to the amounts for all the other Member States for the purposes of examining compliance with the Community threshold.

*Article 4*

This Regulation shall enter into force subject to and on the date of entry into force of the Treaty of Accession of the Czech Republic, the Republic of Estonia, the Republic of Cyprus, the Republic of Latvia, the Republic of Lithuania, the Republic of Hungary, the Republic of Malta, the Republic of Poland, the Republic of Slovenia and the Slovak Republic.

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

Done at Brussels, 5 April 2004.

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

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## ANNEX

**Amounts of aid provided for in Article 3(2) of Regulation (EC) No 2202/96 for the 2004/05 marketing year, for the new Member States only**

TABLE 1

*(EUR/100 kg)*

	2004/05 marketing year
Lemons	6,82
Grapefruit	6,82
Oranges	7,35
Mandarins	6,82
Clementines	6,82
Satsumas	6,82

TABLE 2

*(EUR/100 kg)*

	2004/05 marketing year
Lemons	7,85
Grapefruit	7,85
Oranges	8,45
Mandarins	7,85
Clementines	7,85
Satsumas	7,85

TABLE 3

*(EUR/100 kg)*

	2004/05 marketing year
Lemons	6,14
Grapefruit	6,14
Oranges	6,61
Mandarins	6,14
Clementines	6,14
Satsumas	6,14

**COMMISSION REGULATION (EC) No 635/2004  
of 5 April 2004**

**fixing the exchange rates applicable to certain direct aids and structural or environmental measures  
in 2004**

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Council Regulation (EC) No 2799/98 of 15 December 1998 establishing agrimonetary arrangements for the euro <sup>(1)</sup>,

Having regard to Commission Regulation (EC) No 1410/1999 of 29 June 1999 amending Regulation (EC) No 2808/98 laying down detailed rules for the application of the agrimonetary system for the euro in agriculture and amending the definition of certain operative events provided for in Regulations (EEC) No 3889/87, (EEC) No 3886/92, (EEC) No 1793/93 and (EEC) No 2700/93 and (EC) No 293/98 <sup>(2)</sup>, and in particular Article 2 thereof,

Having regard to Commission Regulation (EC) No 2808/98 of 22 December 1998 laying down detailed rules for the application of the agrimonetary system for the euro in agriculture <sup>(3)</sup>, and in particular the second sentence of Article 4(3) thereof,

Having regard to Commission Regulation (EC) No 2550/2001 of 21 December 2001 laying down detailed rules for the application of Council Regulation (EC) No 2529/2001 on the common organisation of the market in sheepmeat and goatmeat as regards premium schemes and amending Regulation (EC) No 2419/2001 <sup>(4)</sup>, and in particular the second paragraph of Article 18a thereof,

Having regard to Commission Regulation (EC) No 2342/1999 of 28 October 1999 laying down detailed rules for the application of Council Regulation (EC) No 1254/1999 on the common organisation of the market in beef and veal as regards premium schemes <sup>(5)</sup>, and in particular Article 43 thereof,

Whereas:

- (1) In accordance with the second subparagraph of Article 4(1) of Regulation (EC) No 2808/98, the operative event for the exchange rate for aid for energy crops referred to in Title IV, Chapter 5 of Council Regulation (EC) No 1782/2003 <sup>(6)</sup> is 1 January of the year in respect of which the aid is granted.
- (2) In accordance with Article 4(2) of Regulation (EC) No 2808/98, the operative event for the exchange rate for amounts of a structural or environmental character is 1 January of the year in which the decision to grant the aid is taken.
- (3) In accordance with Article 4(3) of Regulation (EC) No 2808/98, the exchange rate to be used is the average of the exchange rates applicable during the month preceding the date of the operative event, calculated *pro rata temporis*.
- (4) In accordance with Article 12 of Commission Regulation (EC) No 293/98 of 4 February 1998 determining the operative events applicable to products in the fruit and vegetables sector, to processed fruit and vegetable products and partly to live plants and floricultural products and to certain products listed in Annex II to the EC Treaty, and repealing Regulation (EEC) No 1445/93 <sup>(7)</sup>, the exchange rate applicable for the conversion each year into national currency of the maximum aid per hectare to improve the quality and marketing of nuts and locust beans is the average of the exchange rates applicable during the month before 1 January of the annual reference period, calculated *pro rata temporis*.
- (5) In accordance with Article 18a of Regulation (EC) No 2550/2001, the operative event for the exchange rate to be applied to the premiums and payments in the sheepmeat and goatmeat sector is established at the start of the calendar year in respect of which the premium or payment is granted. The exchange rate to be used corresponds to the average of the exchange rates applicable in the month of December preceding the date of the operative event, calculated *pro rata temporis*.
- (6) In accordance with Article 42 of Regulation (EC) No 2342/1999, the date of submission of the application is the operative event for determining the year in respect of which the special premium, the suckler cow payment, the deseasonalisation premium and the extensification payment are to be allocated. In the case of the slaughter premium the year of allocation is the year of slaughter or export. In accordance with Article 43 of that regulation, premiums and payments in the beef sector are converted into national currency on the basis of the average of the exchange rates applicable in the month of December preceding the year of allocation, calculated *pro rata temporis*.
- (7) OJ L 30, 5.2.1998, p. 16. Regulation as last amended by Regulation (EC) No 1410/1999 (OJ L 164, 30.6.1999, p. 53).

<sup>(1)</sup> OJ L 349, 24.12.1998, p. 1.

<sup>(2)</sup> OJ L 164, 30.6.1999, p. 53.

<sup>(3)</sup> OJ L 349, 24.12.1998, p. 36. Regulation as last amended by Regulation (EC) No 2304/2003 (OJ L 342, 30.12.2003, p. 6).

<sup>(4)</sup> OJ L 341, 22.12.2001, p. 105. Regulation as last amended by Regulation (EC) No 2307/2003 (OJ L 342, 30.12.2003, p. 11).

<sup>(5)</sup> OJ L 281, 4.11.1999, p. 30. Regulation as last amended by Regulation (EC) No 1473/2003 (OJ L 211, 21.8.2003, p. 12).

<sup>(6)</sup> OJ L 270, 21.10.2003, p. 30. Regulation as last amended by Regulation (EC) No 21/2004 (OJ L 5, 9.1.2004, p. 8).



(7) The exchange rate applicable in 2004 to the amounts and aid concerned should therefore be set on the basis of the average of the exchange rates applicable in the month of December 2003, calculated *pro rata temporis*,

HAS ADOPTED THIS REGULATION:

*Article 1*

In 2004, the exchange rates shown in the Annex shall apply to the following:

- (a) the aid for energy crops referred to in Title IV, Chapter 5 of Regulation (EC) No 1782/2003;
- (b) amounts of a structural or environmental character referred to in Article 4(2) of Regulation (EC) No 2808/98;

- (c) the maximum amount per hectare of the aid for marketing in the nuts and locust beans sector set in Article 2 of Council Regulation (EEC) No 790/89 <sup>(1)</sup>;
- (d) the premiums and payments in the sheepmeat and goatmeat sector provided for in Articles 4, 5 and 11 of Council Regulation (EC) No 2529/2001 <sup>(2)</sup>;
- (e) the premiums and payments in the beef sector provided for in Articles 4, 5, 6, 11, 13 and 14 of Council Regulation (EC) No 1254/1999 <sup>(3)</sup>.

*Article 2*

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

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

Done at Brussels, 5 April 2004.

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

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<sup>(1)</sup> OJ L 85, 30.3.1989, p. 6.

<sup>(2)</sup> OJ L 341, 22.12.2001, p. 3.

<sup>(3)</sup> OJ L 160, 26.6.1999, p. 21.

## ANNEX

**Exchange rates referred to in Article 1**

EUR 1 = (average for 1 December 2003 to 31 December 2003)

7,44173	Danish krone
9,02775	Swedish krona
0,701706	pounds sterling

## COMMISSION REGULATION (EC) No 636/2004

of 5 April 2004

## adapting Regulation (EC) No 1291/2000 by reason of the accession to the European Union of the Czech Republic, Estonia, Cyprus, Latvia, Lithuania, Hungary, Malta, Poland, Slovenia and Slovakia

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to the Treaty of Accession of the Czech Republic, the Republic of Estonia, the Republic of Cyprus, the Republic of Latvia, the Republic of Lithuania, the Republic of Hungary, the Republic of Malta, the Republic of Poland, the Republic of Slovenia and the Slovak Republic, and in particular Article 2(3) thereof,

Having regard to the Act of Accession of the Czech Republic, the Republic of Estonia, the Republic of Cyprus, the Republic of Latvia, the Republic of Lithuania, the Republic of Hungary, the Republic of Malta, the Republic of Poland, the Republic of Slovenia and the Slovak Republic and in particular Article 57(2) thereof,

Whereas:

- (1) In view of the accession to the Community on 1 May 2004 of the Czech Republic, Estonia, Cyprus, Latvia, Lithuania, Hungary, Malta, Poland, Slovenia and Slovakia, technical and linguistic adaptations are required to Commission Regulation (EC) No 1291/2000 of 9 June 2000 laying down common detailed rules for the application of the system of import and export licences and advance-fixing certificates for agricultural products <sup>(1)</sup>.
- (2) Regulation (EC) No 1291/2000 should therefore be amended,

HAS ADOPTED THIS REGULATION:

*Article 1*

Regulation (EC) No 1291/2000 is hereby amended as follows:

1. The second subparagraph of Article 9(2) is replaced by the following:

'In such cases, one of the following entries shall be made by the issuing agency in section 6 of the licence or certificate:

- Retrocesión al titular el ...
- Zpětný převod držiteli dne ...
- tilbageføring til indehaveren den ...
- Rückübertragung auf den Lizenzinhaber am ...
- õiguste tagasiandmine litsentsi/sertifikaadi omanikule ...
- εκ νέου παραχώρηση στο δικαιούχο στις ...
- rights transferred back to the titular holder on [date]
- rétrocession au titulaire le ...
- Visszát ruházás az eredeti engedélyesre ...-án/-én

- retrocessione al titolare in data ...
- teisēs perleidžiamos savininkui [data]...
- tiesības nodotas atpakaļ to nominālam īpašniekam [datums]
- Retrocessjoni għas-sid il-
- aan de titularis geretrocedeerd op ...
- Retrocesja na właściciela tytularnego
- retrocessão ao titular em ...
- spätný prevod na oprávněného držitel'a dña ...
- Ponoven odstop nosilcu pravic dne ...
- palautus todistuksenhaltijalle ...
- återbördad till licensinnehavaren den ...'

2. The first paragraph of Article 16 is replaced by the following:

'Applications for licences and licences with advance fixing of the refund which are drawn up in connection with a food-aid operation within the meaning of Article 10(4) of the Agreement on Agriculture, concluded as part of the Uruguay Round of multilateral trade negotiations, shall contain in section 20 at least one of the following wordings:

- Certificado GATT — Ayuda alimentaria
- Licence GATT — potravinová pomoc
- GATT-licens — fødevarehjælp
- GATT-Lizenz, Nahrungsmittelhilfe
- GATTi alusel välja antud litsents — toiduabi
- Πιστοποιητικό GATT — επισιτιστική βοήθεια
- Licence under GATT — food aid
- Certificat GATT — aide alimentaire
- GATT-engedély — élelmiszersegély
- Titolo GATT — Aiuto alimentare
- GATT licencija — pagalba maistu
- Licence saskaņā ar GATT — pārtikas palīdzība
- Čertifikat GATT — għajjnuna alimentari
- GATT-certificaat — Voedselhulp
- Świadectwo GATT — pomoc żywnościowa
- Certificado GATT — ajuda alimentar
- Licencia pod'l'a GATT — potravinová pomoc
- Licenca za GATT — pomoč v hrani
- GATT-todistus — elintarvikeapu
- GATT-licens — livsmedelsbistånd.'

<sup>(1)</sup> OJ L 152, 24.6.2000, p. 1. Regulation as last amended by Regulation (EC) No 325/2003 (OJ L 47, 20.2.2003, p. 21).

3. The first subparagraph of Article 18(4) is replaced by the following:

'4. Member States shall be responsible for having the forms printed. The forms may also be printed by printers appointed by the Member State in which they are established. In the latter case, reference to the approval by the Member State must appear on each form. Each form shall bear an indication of the printer's name and address or a mark enabling the printer to be identified and, except for the application form and extension pages, an individual serial number. The number shall be preceded by the following letters according to the Member State issuing the document: "AT" for Austria, "BE" for Belgium, "CZ" for the Czech Republic, "CY" for Cyprus, "DE" for Germany, "DK" for Denmark, "EE" for Estonia, "EL" for Greece, "ES" for Spain, "FI" for Finland, "FR" for France, "HU" for Hungary, "IE" for Ireland, "IT" for Italy, "LU" for Luxembourg, "LT" for Lithuania, "LV" for Latvia, "MT" for Malta, "NL" for the Netherlands, "PL" for Poland, "PT" for Portugal, "SE" for Sweden, "SI" for Slovenia, "SK" for Slovakia and "UK" for the United Kingdom.'

4. Article 33 is amended as follows:

(a) the second subparagraph of paragraph 2(a) is replaced by the following:

'— Where the sole purpose of the T 5 control copy is the release of the security, the T 5 control copy shall contain in section 106 one of the following entries:

- Se utilizará para liberar la garantía
- K použití pro uvolnění záruky
- Til brug ved frigivelse af sikkerhed
- Zu verwenden für die Freistellung der Sicherheit
- Kasutada tagatise vabastamiseks
- Προς χρησιμοποίηση για την αποδέσμευση της εγγύησης
- To be used to release the security
- À utiliser pour la libération de la garantie
- A biztosíték feloldására használandó
- Da utilizzare per lo svincolo della cauzione
- Naudotinas užstatui grąžinti
- Izmantojams drošības naudas atbrīvošanai
- Biex tiġi użata għar-rilaxx tal-garanzija
- Te gebruiken voor vrijgave van de zekerheid
- Do wykorzystania w celu zwolnienia zabezpieczenia
- A utilizar para liberar a garantia
- Použit' na uvol'nenie záruky
- Uporabiti za sprostitvev jamstva
- Käyttäväksi vakuuden vapauttamiseen

— Att användas för frisläppande av säkerhet'

(b) The first subparagraph of paragraph 3 is replaced by the following:

'3. Where, after acceptance of the export declaration as referred to in the first indent of Article 24(1)(b), a product is placed under one of the simplified arrangements provided for in Part II, Title II, Chapter 7, section 3, of Regulation (EEC) No 2454/93 or in Title X, Chapter I, of Appendix I to the Convention of 20 May 1987 on a common transit procedure for carriage to a station-of-destination or delivery to a consignee outside the Community's customs territory, the T 5 control copy required under according to 2(b) shall be sent through official channels to the issuing body. One of the following forms of wording shall be entered in section "J" of the T 5 control copy under the heading "Remarks":

- Salida del territorio aduanero de la Comunidad bajo el régimen de tránsito comunitario simplificado por ferrocarril o en contenedores grandes
- Opuštění celního území Společenství ve zjednodušeném tranzitním režimu Společenství pro přepravu po železnici nebo ve velkých kontejnerech
- Udgang fra Fællesskabets toldområde i henhold til ordningen for den forenkede procedure for fællesskabsforsendelse med jernbane eller store containere
- Ausgang aus dem Zollgebiet der Gemeinschaft im Rahmen des vereinfachten gemeinschaftlichen Versandverfahrens mit der Eisenbahn oder in Großbehältern
- Ühenduse tolliterritooriumilt väljaviimine ühenduse lihtsustatud transiidiprotseduuri kohaselt raudteed mööda või suurtes konteinerites
- Έξοδος από το τελωνειακό έδαφος της Κοινότητας υπό το απλοποιημένο καθεστώς της κοινοτικής διαμετακόμησης με σιδηρόδρομο ή μεγάλα εμπορευματοκιβώτια
- Exit from the customs territory of the Community under the simplified Community transit procedure for carriage by rail or large containers
- Sortie du territoire douanier de la Communauté sous le régime du transit communautaire simplifié par chemin de fer ou par grands conteneurs
- A Közösség vámterületét elhagyta egyszerűsített közösségi szállítási eljárás keretében vasúton vagy konténerben
- Uscita dal territorio doganale della Comunità in regime di transito comunitario semplificato per ferrovia o grandi contenitori
- Išvežama iš Bendrijos muitų teritorijos pagal supaprastintą Bendrijos tranzito geležinkelio arba didelėse talpyklose tvarką

- Izvešana no Kopienas muitas teritorijas, izmantojot Kopienas vienkāršoto tranzīta procedūru pārvadājumiem pa dzelzceļu vai lielos konteineros
  - Hierğa mit-territorju tad-dwana tal-Komunità taht ir-reġim tat-transitu komunitarju simplifikat bil-ferroviji jew b' kontejners kbar
  - Vertrek uit het douanegebied van de Gemeenschap onder de regeling vereenvoudigd communautair douanevervoer per spoor of in grote containers
  - Opuszczenie obszaru celnego Wspólnoty zgodnie z uproszczoną procedurą tranzytu wspólnotowego w przewozie kolejną lub w wielkich kontenerach
  - Saída do território aduaneiro da Comunidade ao abrigo do regime do trânsito comunitário simplificado por caminho-de-ferro ou em grandes contentores
  - Opustenie colného územia spoločenstva na základe zjednodušeného postupu spoločenstva pri tranzite v prípade prepravy po železnici alebo vo veľkých kontajneroch
  - Izstop iz carinskega območja Skupnosti pod skupnostnim poenostavljenim tranzitnim režimom po železnici ali z velikimi zabojniki
  - Vienti yhteisön tullialueelta yhteisön yksinkertaistussa passitusmenettelyssä rautateitse tai suurissa konteissa
  - Utförsel från gemenskapens tullområde enligt det förenklade transiteringssförfarandet för järnvägs-transporter eller transporter i stora containrar.
5. The second subparagraph of Article 36(4) is replaced by the following:
- 'One of the following endorsements, underlined in red, shall be entered in section 22 of replacement licences, certificates or extracts:
- Certificado (o extracto) de sustitución de un certificado (o extracto) perdido — número del certificado inicial ...
  - Náhradní licence (osvědčení nebo výpis) za ztracenou licenci (osvědčení nebo výpis) číslo původní licence ...
  - Erstatningslicens/-attest (eller erstatningspartiallicens) for bortkommen licens/attest (eller partiallicens) — Oprindeligt licens/attest (eller partiallicens) nr. ...
  - Ersatzlizenz (oder Teillizenz) einer verlorenen Lizenz (oder Teillizenz) — Nummer der ursprünglichen Lizenz ...
  - Kaotatud litsentsi/sertifikaati (või väljavõtet) asendav litsents/sertifikaat (või väljavõte) — esialgse litsentsi/sertifikaadi number ...
  - Πιστοποιητικό (ή απόσπασμα) αντικατάστασης του απωλεσθέντος πιστοποιητικού (ή αποσπάσματος πιστοποιητικού) αριθ. ...
- Replacement licence (certificate or extract) of a lost licence (certificate or extract) — Number of original licence (certificate) ...
  - Certificat (ou extrait) de remplacement d'un certificat (ou extrait de) perdu — numéro du certificat initial ...
  - Helyettesítő engedély (vagy kivonat) elveszett engedély (vagy kivonat) pótlására – az eredeti engedély száma
  - Titolo (o estratto) sostitutivo di un titolo (o estratto) smarrito — numero del titolo originale ...
  - Pamesto sertifikato (licencijos, išrašo) pakaitinis sertifikatas (licencija, išrašas) — sertifikato (licencijos, išrašo) originalo numeris ...
  - Nozaudētās licences (sertifikāta vai izraksta) aizstājēja licence (sertifikāts vai izraksts). Licences (sertifikāta) oriģināla numurs
  - Ćertifikat (jew estratt) tas-sostituzzjoni ta' ċertifikat (jew estratt) mitluf – numru ta'l-ewwel ċertifikat
  - Certificaat (of uittreksel) ter vervanging van een verloren gegaan certificaat (of uittreksel) — nummer van het oorspronkelijke certificaat ...
  - Świadectwo zastępcze (lub wyciąg) świadectwa (lub wyciągu) utraconego numer świadectwa początkowego
  - Certificado (ou extracto) de substituição de um certificado (ou extracto) perdido — número do certificado inicial
  - Náhradná licencia (certifikát alebo výpis) za stratenú licenci (certifikát alebo výpis) — číslo pôvodnej licence (certifikátu) ...
  - Nadomestna licenca (ali delna licenca) za izgubljeno licenco (ali delno licenco) — številka izvirne licence ...
  - Kadonneen todistuksen (tai otteen) korvaava todistus (tai ote). Alkuperäisen todistuksen numero ...
  - Ersättningslicens (licens eller dellicens) för förlorad licens (licens eller dellicens). Nummer på ursprungslicensen ...'
6. In Article 42(1), the second indent is replaced by the following:
- '— section 20 thereof shall contain one of the following entries:
- Certificado emitido en las condiciones del artículo 42 del Reglamento (CE) nº 1291/2000; certificado inicial nº ...
  - Licence vydaná podle článku 42 nařízení (ES) č. 1291/2000; č. původní licence ...
  - Licens udstedt på de i artikel 42 i forordning (EF) nr. 1291/2000 fastsatte betingelser; oprindeligt licens nr. ...

- Unter den Bedingungen von Artikel 42 der Verordnung (EG) Nr. 1291/2000 erteilte Lizenz; ursprüngliche Lizenz Nr. ...
  - Määruse (EÜ) nr 1291/2000 artikli 42 kohaselt väljaantud litsents; esialgne litsents nr ...
  - Πιστοποιητικό που εκδίδεται υπό τους όρους του άρθρου 42 του κανονισμού (ΕΚ) αριθ. 1291/2000 αρχικό πιστοποιητικό αριθ. ...
  - License issued in accordance with Article 42 of Regulation (EC) No 1291/2000; original licence No ...
  - Certificat émis dans les conditions de l'article 42 du règlement (CE) n° 1291/2000; certificat initial n° ...
  - Az 1291/2000/EK rendelet 42. cikkében foglalt feltételek szerint kiállított engedély; az eredeti engedély száma: ...
  - Titolo rilasciato alle condizioni dell'articolo 42 del regolamento (CEE) n. 1291/2000; titolo originale n. ...
  - Licencija išduota Reglamentas (EB) Nr. 1291/2000 42 straipsnyje nustatytomis sąlygomis; licencijos originalo Nr. ...
  - Licence, kas ir izsniegta saskaņā ar Regulas (EK) Nr. 1291/2000 42. pantu; licences oriģināla Nr. ...
  - Ċertifikat maħruġ taħt il-kundizzjonijiet ta' l-artikolu 42 tar-regolament (CE) nru 1291/2000; l-ewwel ċertifikat nru...
  - Certificaat afgegeven overeenkomstig artikel 42 van Verordening (EG) nr. 1291/2000; oorspronkelijk certificaat nr. ...
  - Świadectwo wydane zgodnie z warunkami art. 42 rozporządzenia (WE) nr 1291/2000; Pierwsze świadectwo nr..
  - Certificado emitido nas condições previstas no artigo 42g do Regulamento (CE) n.º 1291/2000; certificado inicial n.º ...
  - Licencia vydaná v súlade s článkom 42 nariadenia (ES) č. 1291/2000; číslo pôvodnej licencie ...
  - Licenca, izdana pod pogoji člena 42 Uredbe (ES) št. 1291/2000; izvorna licenca št. ...
  - Todistus myönnetty asetuksen (EY) N:o 1291/2000 42 artiklan mukaisesti; alkuperäinen todistus N:o ...
  - Licens utfärdad i enlighet med artikel 42 i förordning (EG) nr 1291/2000; ursprunglig licens nr ...
7. Article 43(1)(a) is replaced by the following:
- '(a) if export was effected without an export licence or advance-fixing certificate, then where the information sheet INF 3 as provided for in Article 850 of Regulation (EEC) No 2454/93 is used it must bear one of the following endorsements in section A:
    - Exportación realizada sin certificado
    - Vývoz bez licence nebo bez osvědčení
    - Udførsel uden licens/attest
    - Ausfuhr ohne Ausfuhrlizenz oder Vorausfestsetzungsbescheinigung
    - Eksportituid ilma litsentsita/sertifikaadita
    - Εξαγωγή πραγματοποιούμενη άνευ αδειας ή πιστοποιητικού
    - Exported without licence or certificate
    - Exportation réalisée sans certificat
    - Kiviteli engedély használatá nélküli export
    - Esportazione realizzata senza titolo
    - Eksportuota be licencijos ar sertifikato
    - Eksportēts bez licences vai sertifikāta
    - Esportazzjoni magħmula mingħajr ċertifikat
    - Uitvoer zonder certificaat
    - Wywóz dokonany bez świadectwa
    - Exportação efectuada sem certificado
    - Vyvezené bez licencie alebo certifikátu
    - Izvoz, izpeljan brez licence
    - Viety ilman todistusta
    - Exporterad utan licens;
8. The first subparagraph of Article 45(3)(a) is replaced by the following:
- '(a) the declaration of export of the equivalent products or a copy or photocopy thereof certified as such by the competent authorities and bearing one of the following endorsements:
    - Condiciones previstas en el artículo 45 del Reglamento (CE) n° 1291/2000 cumplidas
    - Byly dodrženy podmínky stanovené v článku 45 nařízení (ES) č. 1291/2000
    - Betingelserne i artikel 45 i forordning (EF) nr. 1291/2000 er opfyldt
    - Bedingungen von Artikel 45 der Verordnung (EG) Nr. 1291/2000 wurden eingehalten
    - Määruse (EÜ) nr 1291/2000 artiklis 45 ettenähtud tingimused on täidetud

- Τηρουμένων των προϋποθέσεων του άρθρου 45 του κανονισμού (ΕΚ) αριθ. 1291/2000
  - Conditions laid down in Article 45 of Regulation (EC) No 1291/2000 fulfilled
  - Conditions prévues à l'article 45 du règlement (CE) n° 1291/2000 respectées
  - Az 1291/2000/EK rendelet 45. cikkében foglalt feltételek teljesítve
  - Condizioni previste dall'articolo 45 del regolamento (CE) n. 1291/2000 ottemperate
  - Įvykdytos Reglamentas (EB) Nr. 1291/2000 45 straipsnyje numatytos sąlygos
  - Regulas (EK) Nr. 1291/2000 45. pantā paredzētie nosacījumi ir izpildīti
  - Kundizzjonijiet previsti fl-artikolu 45 tar-regolament (CE) nru 1291/2000 rispettivamente
  - in artikel 45 van Verordening (EG) nr. 1291/2000 bedoelde voorwaarden nageleefd
  - Warunki przewidziane w art. 45 rozporządzenia (WE) nr 1291/2000 spełnione
  - Condições previstas no artigo 45.º do Regulamento (CE) n.º 1291/2000 cumpridas.
  - Podmienky ustanovené v článku 45 nariadenia (ES) č. 1291/2000 boli splnené
  - Pogoji, predvideni v členu 45 Uredbe (ES) št. 1291/2000, spoštovani
  - Asetuksen (EY) N:o 1291/2000 45 artiklassa säädetyt edellytykset on täytetty
  - Villkoren i artikel 45 i förordning (EG) nr 1291/2000 är uppfyllda.'
9. The second subparagraph of Article 50(1) is replaced by the following:
- 'Save where the regulations in particular sectors require special wording, section 24 of licences and certificates shall indicate one of the following:
- Régimen preferencial aplicable a la cantidad indicada en las casillas 17 y 18
  - Preferenční režim na množství uvedená v kolonkách 17 a 18
  - Präferenzordning gældende for mængden anført i rubrik 17 og 18
- Präferenzregelung, anwendbar auf die in den Feldern 17 und 18 genannte Menge
  - Lahtrites 17 ja 18 osutatud koguse suhtes kohaldatav sooduskord
  - Προτιμησιακό καθεστώς εφαρμόζόμενο για την ποσότητα που αναγράφεται στα τετραγωνίδια 17 και 18
  - Preferential arrangements applicable to the quantity given in Sections 17 and 18
  - Régime préférentiel applicable pour la quantité indiquée dans les cases 17 et 18
  - Kedvezményes eljárás hatálya alá tartozó, a 17-es és 18-as mezőn feltüntetett mennyiség
  - Regime preferenziale applicabile per la quantità indicata nelle caselle 17 e 18
  - Taikomos lengvatinės sąlygos 17 ir 18 skiltyse įrašytiems kiekiams
  - Labvēlības režīms, kas piemērojams 17. un 18. iedaļā dotajam daudzumam
  - Regim preferenzjali applikabbli għall-kwantità indikata fil-każi 17 u 18
  - Preferentiële regeling van toepassing voor de in de vakken 17 en 18 vermelde hoeveelheid
  - Porozumienie preferencyjne stosowane dla ilości wskazanych w polach 17 i 18
  - Regime preferencial aplicável em relação à quantidade indicada nas casais 17 e 18,
  - Preferenčné opatrenia platia pre množstvo uvedené v oddieloch 17 a 18
  - Preferenčni režim, uporabljen za količine, navedene v okencih 17 in 18
  - Etuuskohtelu, jota sovelletaan kohdissa 17 ja 18 esitettyihin määriin
  - Preferensordning tillämplig för den kvantitet som anges i fält 17 och 18.'
- Article 2*
- This Regulation shall enter into force on 1 May 2004 subject to the entry into force of the Treaty of Accession of the Czech Republic, the Republic of Estonia, the Republic of Cyprus, the Republic of Latvia, the Republic of Lithuania, the Republic of Hungary, the Republic of Malta, the Republic of Poland, the Republic of Slovenia and the Slovak Republic.

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

Done at Brussels, 5 April 2004.

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

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## COMMISSION REGULATION (EC) No 637/2004

of 5 April 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 (Agneau de Pauillac and Agneau du Poitou-Charentes)**

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) According to Article 5 of Regulation (EEC) No 2081/92, France has sent the Commission an application for the registration of the names 'Agneau de Pauillac' and 'Agneau du Poitou-Charentes' as protected geographical indications.
- (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 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 protected geographical indications.

- (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 in the Annex hereto are added to the Annex to Regulation (EC) No 2400/96 and entered as protected geographical indications (PGI) 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 20th 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, 5 April 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 170, 19.7.2003, p. 4 (Agneau de Pauillac).  
OJ C 170, 19.7.2003, p. 6 (Agneau de Poitou-Charentes).

<sup>(3)</sup> OJ L 327, 18.12.1996, p. 11. Regulation as last amended by Regulation (EC) No 465/2004 (OJ L 77, 13.3.2004, p. 27).

## ANNEX

**PRODUCTS LISTED IN ANNEX I TO THE TREATY, INTENDED FOR HUMAN CONSUMPTION****Fresh meat and offal**

FRANCE

Agneau de Pauillac (PGI)

Agneau du Poitou-Charentes (PGI)  
  

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## II

(Acts whose publication is not obligatory)

## COUNCIL

## COUNCIL DECISION

of 30 March 2004

**granting the Czech Republic, Estonia, Hungary, Latvia, Lithuania, Slovakia and Slovenia certain temporary derogations from Directive 2002/96/EC on waste electrical and electronic equipment**

(2004/312/EC)

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty concerning the accession of the Czech Republic, the Republic of Estonia, the Republic of Cyprus, the Republic of Latvia, the Republic of Lithuania, the Republic of Hungary, the Republic of Malta, the Republic of Poland, the Republic of Slovenia and the Slovak Republic to the European Union and in particular Article 2(3) thereof,

Having regard to the Act concerning the conditions of accession of the Czech Republic, the Republic of Estonia, the Republic of Cyprus, the Republic of Latvia, the Republic of Lithuania, the Republic of Hungary, the Republic of Malta, the Republic of Poland, the Republic of Slovenia and the Slovak Republic and the adjustments to the Treaties on which the European Union is founded, hereinafter '2003 Act of Accession', and in particular Article 55 thereof,

Having regard to the requests of the Czech Republic, Estonia, Hungary, Latvia, Lithuania, Slovakia and Slovenia,

Having regard to the proposal from the Commission,

Whereas:

- (1) According to the first subparagraph of Article 5(5) of Directive 2002/96/EC of the European Parliament and of the Council of 27 January 2003 on waste electrical and electronic equipment (WEEE) <sup>(1)</sup>, Member States are to ensure that by 31 December 2006 at the latest a rate of separate collection of at least four kilograms on average per inhabitant per year of waste electrical and electronic equipment from private households is achieved.

- (2) Article 7(2) of Directive 2002/96/EC lays down certain minimum targets for the recovery of waste electrical and electronic equipment and for component, material and substance reuse and recycling. The Member States have to ensure that producers meet these targets by 31 December 2006.

- (3) In accordance with Article 17(1) of Directive 2002/96/EC, Member States are to bring into force the laws, regulations and administrative provisions necessary to comply with that Directive by 13 August 2004. However, Article 17(4)(a) of Directive 2002/96/EC provides that Greece and Ireland which, because of their overall recycling infrastructure deficit, geographical circumstances such as the large number of small islands and the presence of rural and mountain areas, low population density and low level of consumption of electrical and electronic equipment are unable to reach either the collection target mentioned in the first subparagraph of Article 5(5) of Directive 2002/96/EC or the recovery targets mentioned in Article 7(2) thereof and which, under the third subparagraph of Article 5(2) of Council Directive 1999/31/EC of 26 April 1999 on the landfill of waste <sup>(2)</sup>, may apply for an extension of the deadline mentioned in that Article, may extend the periods referred to in Articles 5(5) and 7(2) of Directive 2002/96/EC by up to 24 months.

<sup>(1)</sup> OJ L 37, 13.2.2003, p. 24. Directive as amended by Directive 2003/108/EC (OJ L 345, 31.12.2003, p. 106).

<sup>(2)</sup> OJ L 182, 16.7.1999, p. 1. Directive as amended by Regulation (EC) No 1882/2003 of the European Parliament and of the Council (OJ L 284, 31.10.2003, p. 1).

- (4) On the basis of Article 55 of the 2003 Act of Accession the Czech Republic, Estonia, Hungary, Latvia, Lithuania, Slovakia and Slovenia have requested temporary derogations from the time limits laid down in the first subparagraph of Article 5(5) and Article 7(2) of Directive 2002/96/EC, stating as their reasons their recycling infrastructure deficit, low population density and low level of consumption of electrical and electronic equipment and geographical circumstances, such as the presence of rural areas.
- (5) Those reasons justify an extension of the abovementioned time limits for the Czech Republic, Estonia, Hungary, Latvia, Lithuania and Slovakia by 24 months, and for Slovenia by 12 months,

Slovenia may extend the time limits referred to in the first subparagraph of Article 5(5) and Article 7(2) of Directive 2002/96/EC by 12 months.

*Article 2*

This Decision is addressed to the Member States and the Czech Republic, the Republic of Estonia, the Republic of Hungary, the Republic of Latvia, the Republic of Lithuania, the Republic of Slovenia and the Slovak Republic.

HAS ADOPTED THIS DECISION:

*Article 1*

The Czech Republic, Estonia, Hungary, Latvia, Lithuania and Slovakia may extend the time limits referred to in the first subparagraph of Article 5(5) and Article 7(2) of Directive 2002/96/EC by 24 months.

Done at Brussels, 30 March 2004.

*For the Council*  
*The President*  
M. McDOWELL

# COMMISSION

## COMMISSION DECISION

of 23 July 2003

on State aid granted by Germany to Graphischer Maschinenbau GmbH (Berlin)

(notified under document number C(2003) 2517)

(Only the German text is authentic)

(Text with EEA relevance)

(2004/313/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 those provisions,

Whereas:

(4) By judgment delivered on 14 May 2002 in Case T-126/99 (Graphischer Maschinenbau GmbH v Commission) <sup>(1)</sup>, the Court of First Instance of the European Communities annulled the negative part of Commission Decision 1999/690/EC.

(5) Following the judgment, the Commission requested additional information from Germany on 10 January 2003; it received the information on 24 February 2003.

### I. PROCEDURE

(1) By letter dated 21 January 1998, Germany notified the Commission of restructuring aid for Graphischer Maschinenbau GmbH (GMB), Berlin. By letters dated 17 March, 30 April and 18 June 1998, it provided the Commission with further information.

(2) By letter dated 17 August 1998, published in the *Official Journal of the European Communities* <sup>(1)</sup>, the Commission informed Germany that it had decided to initiate the procedure laid down in Article 93(2) (now Article 88(2)) of the EC Treaty. The Commission called on interested parties to submit their comments, but received none.

(3) In Decision 1999/690/EC <sup>(2)</sup>, the Commission found that part of the aid for GMB was incompatible with the common market. Out of a total planned grant of DEM 9,31 million, the amount which exceeded DEM 4,435 million was held to be incompatible.

### II. DESCRIPTION OF THE MEASURE

#### Aid recipient: Graphischer Maschinenbau GmbH

(6) The recipient of the aid, GMB, is based in Berlin and is a wholly-owned subsidiary of Koenig & Bauer-Albert AG (KBA), based in Würzburg. GMB manufactures parts for newspaper printing machinery and sells components to KBA, whose main activity is the manufacture of printing presses.

#### The measure

(7) To prevent the closing down of GMB's facility in Berlin, which had run into difficulties, the *Land* of Berlin granted restructuring aid on 11 September 1997 for the period 1998 to 2000 in the form of a grant amounting to DEM 9,31 million (EUR 4,77 million).

<sup>(1)</sup> OJ C 336, 4.11.1998, p. 13.

<sup>(2)</sup> OJ L 272, 22.10.1999, p. 16.

<sup>(3)</sup> [2002] ECR II-2427.

### The restructuring plan

#### Background

- (8) Due to a drastic decline in demand for printing machines, KBA decided in November 1996 to shut down GMB's factory in Berlin at the end of June 1997. Faced with the impending loss of jobs, the *Land* of Berlin and the relevant trade unions entered into negotiations with GMB and KBA in January/February 1997. The negotiations led to the signing on 24 February 1997 of an 'Alliance for employment', based on a restructuring plan drawn up earlier in collaboration with the Berlin authorities.
- (9) Through the restructuring plan, GMB sought to modernise and reduce its range of products by discontinuing non-profitable products and by organising the production cycle more efficiently. Financially the plan was based on the private investor contribution by KBA of DEM 13,62 million (takeover of operating losses and capital injection) and the aid of DEM 9,31 million (EUR 4,76 million), corresponding to overall restructuring costs of DEM 22,93 million. The restructuring costs included costs for the development of modernised products amounting to DEM 4,875 million.
- (10) Since GMB did not have its own facilities for the necessary development work, this was carried out by KBA. The development work commenced after 24 February 1997. On 11 September 1997, the Berlin Senate formally decided to grant GMB the aid in the amount of DEM 9,31 million. By letter dated 21 January 1998, Germany notified the aid to the Commission.

#### Reasons for the annulment of the Decision

- (11) In its partially negative Decision 1999/690/EC, the Commission deducted from the 'eligible restructuring costs' the whole of the costs of DEM 4,875 million for the development of modernised products. It found that these costs were not induced by the aid and that the real beneficiary of this part of the aid was KBA and not GMB and, therefore, considered this part of the aid incompatible with the common market.
- (12) The Court of First Instance annulled the negative part of the Decision on two legal grounds, holding that the Commission did not correctly interpret the incentive or inducement criterion and that the Commission's definition of the aid beneficiary was erroneous.
- (13) The so-called incentive criterion requires that the State aid must have induced the restructuring. If the relevant entity would have undertaken the restructuring irrespective of the State aid, the incentive criterion would not be met and the aid would be incompatible. In this respect, the Court of First Instance held that it was crucial to

establish at which point in time the beneficiary could fairly assume that it would receive the aid in order to assess whether the incentive criterion was fulfilled. The Court stated that this was clearly before the notification of the aid to the Commission and also the formal granting decision of the German authorities.

- (14) Determining the real beneficiary of the aid for the development activities required an analysis of the economic interests of the companies involved. The Court of First Instance said that it is not automatically in the interest of a parent company to carry out development work for its subsidiary, as the Decision had assumed.

### III. ASSESSMENT OF THE MEASURE

- (15) In the light of the judgment and on the basis of additional facts provided by Germany, the Commission must reassess the case. This Decision is based on the facts and the law at the time of the notification of the aid.

#### Existence of State aid

- (16) The aid is provided from State resources and serves to keep GMB, a company experiencing difficulties, in business. It could therefore have adverse effects on the position of competitors. Thus the firm benefits from a selective advantage which could have adverse effects on the position of its competitors. Consequently, since the product is internationally traded, the State support may distort competition or threaten to distort it and affect trade between Member States.
- (17) The planned State support therefore constitutes State aid within the meaning of Article 87(1) (formerly Article 92) of the EC Treaty because it enables the recipient company to carry out restructuring without having to bear the full costs, as any other firm in a normal market situation would have to do.

#### Compatibility of the aid with the EC Treaty

- (18) Restructuring aid may be deemed compatible with the common market under the Community guidelines on state aid for rescuing and restructuring firms in difficulty (the guidelines)<sup>(1)</sup>, which require essentially that a company in difficulty must present a viable restructuring plan.

#### Conditions governing approval of restructuring aid

- (19) Restructuring aid may be deemed compatible with the common market under the exemption provided for in Article 87(3)(c) only if such aid can help to promote economic activity without trade being affected in a way that runs counter to the common interest, provided that the conditions set out in the guidelines are met.

<sup>(1)</sup> OJ C 368, 23.12.1994, p. 12.

- (20) Under the guidelines, restructuring must take place on the basis of a viable, coherent and far-reaching plan to restore a firm's long-term viability within a reasonable timescale based on realistic assumptions as to its future operating conditions. This must include a substantial private investor contribution. After the restructuring, the company must be able to operate on the strength of its own resources without requiring further State assistance.
- (21) The judgment annulled Decision 1999/690/EC on only two grounds, relating to the incentive criterion and the definition of the beneficiary. The other conditions for granting the aid stipulated in the Decision were confirmed i.e. full implementation of the restructuring plan and the avoidance of undue distortions of competition. The State aid measure contributes to the development of certain activities that do not adversely affect trading conditions to an extent contrary to the common market. Since GMB's market shares were relatively small, there was no evidence of excess capacity and the production of the new products could not lead to an overall increase of capacity. Therefore, undue distortions of competition could be excluded.

#### **Aid in proportion to the restructuring costs and benefits**

- (22) All other conditions being fulfilled, it has to be examined whether the aid is limited to the minimum needed for the company's restructuring. The amount specified for the development costs is induced by the aid and benefits fully GMB.

#### *The incentive effect (timing of the inducement)*

- (23) In Decision 1999/690/EC, the Commission stressed the chronological aspect of the case, i.e. the fact that the development work was commenced before notification of the aid on 21 January 1998. The Commission held that once an undertaking carries out development work without being in receipt of aid, as GMB/KBA did, the restructuring aid subsequently granted cannot be deemed necessary in order to attain that objective.
- (24) As the judgment of the Court of Justice in Case 730/79 (Philip Morris v Commission) makes clear, State aid cannot be granted under one of the derogations set out in Article 87(3) of the EC Treaty unless it is necessary in order to induce one or more undertakings to act in a manner which assists attainment of the objective envisaged by the relevant derogation<sup>(1)</sup>. The Commission must consider aid incompatible where that aid did not induce the recipient undertakings to adopt conduct likely to assist attainment of one of the objectives mentioned in Article 87(3) of the EC Treaty.
- (25) An undertaking whose financial situation is such that it needs to receive restructuring aid in order to ensure its viability cannot always wait until it is absolutely certain of payment of that aid in order to implement its restruc-

turing programme. On the contrary, it may in certain cases be necessary to implement the programme within a short period of time so as to satisfy the criterion of restoration to viability provided for in the guidelines.

- (26) It is for the Commission to assess the circumstances of each case in order to determine whether the prospect of the grant of the aid is sufficiently likely to satisfy the criterion as to inducement. Thus, in order to assess whether the element of inducement was present, the Commission must take into account the precise form and nature of the communications and acts emanating from the competent national authorities, in particular the urgency due to the company's difficult financial situation.
- (27) As to the possible timescale within which inducement can be inferred, two points can be made. On the one hand, no inducement is to be assumed for work in relation to restructuring which has been started by the undertaking before the national authorities have even given the slightest indication as to their intention to grant aid.
- (28) On the other hand, there is certainly inducement if the Commission has given a positive decision. An undertaking which may potentially be the recipient of new State aid can have no certainty of actually receiving it before the authorities of the Member State have notified that aid to the Commission and the Commission has declared it to be compatible with the common market. The fact that aid is notified has no effect, in itself, in terms of its compatibility with the common market.
- (29) Thus, notification of the aid in no way removes the uncertainty as to its approval at Community level. So long as the Commission has not taken a decision approving it and so long as the period for bringing an action against that decision has not expired, the recipient cannot be certain as to the lawfulness of the proposed aid, which is the only basis for a legitimate expectation on the part of the recipient. In those circumstances, it must be held that the absence of absolute certainty as to the grant of aid and, hence, of legitimate expectations, at the time when the potential beneficiary decides to proceed with restructuring, does not mean that the assurances given previously by national or regional authorities had no effect as an inducement.
- (30) Under certain circumstances, the political decision taken by the regional authority could be considered a sufficient inducement. However, the circumstances of each case under the guidelines are different and it is for the Commission to determine the element of inducement by taking account of all the relevant facts, including the non-binding undertakings which may have been given by the political authorities at national level or, as in the present case, at regional level.

<sup>(1)</sup> [1980] ECR 2671, paragraphs 16 and 17.

- (31) Following this line of reasoning, GMB could, on a legal basis, safely assume that by 11 September 1997 at the latest, it would receive the aid, since at this date the Senate of Berlin granted the aid in a formally binding legal way.
- (32) However, even as early as the negotiations in January and February 1997 and certainly with the conclusion of the 'alliance for employment' on 24 February 1997 GMB had a sufficient political basis for the necessary incentive criterion to be met. The Court of First Instance considered the assurances given by the political authorities in February 1997 sufficient as an incentive to induce GMB to carry out its investment.
- (33) Since those political assurances were not legally binding, GMB was taking a risk in relying on them. Nonetheless, even if GMB may have doubted that the undertakings given by the public authorities would be honoured, it placed sufficient reliance on them to go ahead with the restructuring as from February 1997.
- (34) Moreover, at the beginning of 1997 GMB had to act swiftly in order to prevent the closure of the production site and, therefore, had to use KBA's development capacities as the closest and most readily available. The Commission had acknowledged the correctness of this analysis by pointing out in Decision 1999/690/EC that 'GMB's capacities would not have allowed for developing, on a short-term basis, the requisite competitive and innovative products and that GMB therefore had to have recourse to KBA's capacities' (p. 24). Thus, a significant part of the development expenditure in connection with the restructuring plan had already taken place before notification of the aid in September 1997.
- (35) The Commission had also acknowledged, at least implicitly, that the assurances and undertakings given by the *Land* of Berlin in the course of 1997 concerning the grant of aid induced GMB and KBA to carry out the conversion work at the production site.
- (36) Consequently, the incentive criterion may be considered to have been met by February 1997, when it became clear that the political authorities in Berlin would provide financial assistance in order to prevent the closure of GMB's production site. Accordingly, any investment undertaken after this date must be considered to be induced by the aid.
- The aid recipient*
- (37) In Decision 1999/690/EC, the Commission took the view that the part of the aid relating to the design and development work benefited KBA with the result that KBA and not its subsidiary GMB was the main recipient of the aid. In the reassessment of the facts and adopting the test required by the Court, however, no direct or indirect financial interest of KBA can be identified.
- (38) The Court of First Instance requested, as a test to ascertain whether aid was given to KBA, that a financial or commercial interest on the part of KBA in assuming the burden of the development work must be demonstrated. Decision 1999/690/EC found this criterion fulfilled insofar as the design and development work financed by the aid directly benefited KBA, which had a strategic interest in the production of supplies within its own group.
- (39) However, the Commission's refusal to approve the aid in respect of DEM 4,875 million meant, in practice, that the KBA group had to bear an additional burden in carrying out the work without financial compensation in order to enable the restructuring plan to be implemented, since GMB was not in a position to make that financial contribution. The price for the development work invoiced by KBA was on a cost basis and without the profit that an external design and development firm would necessarily have had to achieve. It is therefore lower than the best price which GMB could have obtained on the open market for such services. Consequently, GMB spent the amount of aid in its own interest. KBA was just the cheapest and best available provider of the development services required.
- (40) In the light of all these circumstances, and of the fact that KBA could have avoided taking over GMB's losses by closing its factory in June 1997, the close relations between KBA and GMB do not demonstrate that the payment of aid to the latter necessarily benefited KBA.
- (41) Nor did KBA have any other financial reason or indirect financial interest which might have induced KBA to finance the development work. The fact that the restructuring plan provided for KBA to do the design and development work, subject to remuneration by GMB, is not in itself sufficient to support the conclusion that KBA had an interest in that work. The payment was remuneration for actual work which had necessarily occasioned real costs to the KBA group's design and development departments and which KBA could not cover in the absence of that payment.
- (42) Moreover, KBA's design and development departments were already occupied to 100 % of their capacity by other projects whose completion had to be deferred in order to enable them to carry out the work in question within the short period dictated by GMB's financial difficulties. Those design and development departments were not underemployed, but working profitably. Thus, the restructuring plan did not particularly benefit KBA, since it had to invoice the development work to GMB at cost price without any profit margin.
- (43) The assumption that a parent company necessarily has a commercial interest in having parts of its production process carried out internally within the group is not warranted. The pertinence of this analysis depends on the specific circumstances of the case and, specifically, the state of supply on the component markets concerned, as well as on the question whether the subsidiary can profitably engage in the manufacture of those products, regard being had to all the costs which it has to bear in that connection.



- (44) Internal production has to be compared with the possibility of obtaining from outside suppliers, in a reliable manner and at reasonable prices, products equivalent to those developed internally. Outsourcing may be more efficient than building the whole supply chain internally.
- (45) Since there existed outside manufacturers, KBA had no commercial interest in carrying out the design and development work on the basis that that work would enable it to create a reliable source of supply of the parts necessary for the manufacture of its machines later on. Other reliable sources of supply already existed, so that, in those circumstances, KBA did not need to ensure the development of those products and their manufacture by GMB.
- (46) The development work which was to be financed with part of the aid was necessary for the survival of GMB. Without this development work being done, GMB could not start its modernised production, which was the basis of the restructuring plan. KBA had neither a financial nor a 'strategic' interest in carrying out the development work itself. As the Court of First Instance said, KBA could have simply closed GMB, as originally intended. Consequently, the money spent by GMB on the development activities benefited GMB as a necessary condition for its new product line and GMB is the only beneficiary.

#### IV. CONCLUSION

- (47) Germany notified the proposed State aid in accordance with Article 88(3) of the EC Treaty and therefore complied with its obligation to notify aid individually in the absence of an approved aid scheme. The Commission also notes that it is the first time that GMB, a company in difficulty, has applied for restructuring aid.

- (48) The aid meets the conditions laid down in the guidelines since the restructuring plan restores the long-term viability of the company, does not adversely affect trading conditions and is supported by a substantial private investor contribution. The aid is therefore compatible with the common market.
- (49) In view of the above, the Commission considers that the notified State aid consisting of a grant amounting to DEM 9,31 million (EUR 4,77 million) provided by Germany for GMB fulfils the criteria for being considered compatible with the common market,

HAS ADOPTED THIS DECISION:

#### *Article 1*

The State aid of DEM 9,31 million (EUR 4,77 million) which Germany has granted to Graphischer Maschinenbau GmbH for the restructuring of its production facility in Berlin is compatible with the common market.

#### *Article 2*

This Decision is addressed to the Federal Republic of Germany.

Done at Brussels, 23 July 2003.

*For the Commission*

Mario MONTI

*Member of the Commission*

**COMMISSION DECISION**  
**of 17 September 2003**  
**on the State aid which Italy is planning to implement for Aquafil Technopolymers SpA**

(notified under document number C(2003) 3240)

(Only the Italian text is authentic)

(Text with EEA relevance)

(2004/314/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> and having regard to their comments,

Whereas:

**I. PROCEDURE**

- (1) By letter dated 28 February 2002, the Italian authorities notified a plan to grant investment aid to Aquafil Technopolymers SpA, a producer of polymers, a chemical product used for the production of synthetic fibres.
- (2) By letter dated 5 June 2002, the Commission informed Italy that it had decided to initiate the procedure laid down in Article 88(2) of the EC Treaty in respect of the aid.
- (3) The Commission decision to initiate the procedure was published in the *Official Journal of the European Communities* <sup>(2)</sup>. The Commission invited interested parties to submit their comments on the aid.
- (4) The Commission received comments from interested parties. It forwarded them to Italy, which was given the opportunity to react.

**II. DETAILED DESCRIPTION OF THE AID**

- (5) Aquafil Technopolymers SpA is a wholly owned subsidiary of Aquafil SpA, which is itself part of Gruppo Bonazzi SpA, the holding company of the Bonazzi family. The group, which is a major producer of synthetic fibres, has recently carried out a vertical integration of its production chain, setting up new companies for the production of the different chemical raw materials it needs for its internal use.
- (6) The new investment is part of this strategy. Aquafil Technopolymers SpA, which was founded recently, groups together the chemical compounding activities and the production of base polymers for compounding.

The new plant is to produce two main types of compounds: 'masterbatch', initially only for the group's self-consumption, and compounds of polyamide 6,66 and 12, mainly for sale outside the group, with 60 % to be placed on the Italian market and the remainder in the rest of Europe. The investment costs relate to the acquisition of an existing industrial building (EUR 6.2 million) and the installation therein of the necessary equipment (EUR 1,3 million).

- (7) Aquafil's main competitors at European level are Nyltech, Radici Novacips, Lati, Basf, Bayer, Dupont General Electronics, Ems, Huels.
- (8) The notified aid consists of a grant equal to 10 % of the investments costing EUR 7 457 000,30 to be undertaken by Aquafil Technopolymers SpA. The grant is to be awarded by the Autonomous Province of Trento under Provincial Law No 6 of 13 December 1999, hereinafter referred to as 'Law No 6/1999', governing all aid granted by the Province to businesses.
- (9) The Italian authorities base their notification on two provisions of Law No 6/1999. Article 2(3) provides that large firms are eligible for aid under the Law for purposes other than horizontal objectives, subject to prior notification and approval of individual grants by the Commission. This would be the case where the aid is necessary for the firm to remain on the market, in competitive terms, or to safeguard jobs. Article 9(4) of the Law states that in the case of a replacement activity, aid for investment can be increased by 10 % in relation to the aid intensity laid down in the Community rules. Replacement activity is defined therein as the creation or expansion of a company that reabsorbs a significant proportion of previously lost jobs.
- (10) The Italian authorities consider that the investment planned by Aquafil Technopolymers SpA is necessary to safeguard jobs and qualifies as a replacement activity, because the building acquired with this investment and where the new plant is to be installed belongs to Komarek SpA, a company in liquidation, from which Aquafil Technopolymers SpA will also be taking some employees. Out of the extra 20 new jobs to be created at this new plant, the company has undertaken to fill at least nine with former employees of Komarek SpA.

<sup>(1)</sup> OJ C 170, 16.7.2002, p. 7.

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

### III. GROUNDS FOR INITIATING THE PROCEDURE

- (11) In its decision initiating proceedings, the Commission doubted that any of the exceptions provided for in Article 87 could be applicable to the notified aid. It could not be regarded as aid for a company to remain on the market or to safeguard jobs, or, in other words, as rescue and restructuring aid. The Commission noted that the investment was not part of a restructuring process but, on the contrary, it was an investment for expansion/consolidation in the market of the company and of the group it belonged to. The Italian authorities had not provided any restructuring plan, nor did they claim that the investment formed part of a restructuring plan for the company. Moreover, Aquafil Technopolymers SpA was established at Arco in the Province of Trento, and Trento was not eligible for regional investment aid.

### IV. COMMENTS FROM INTERESTED PARTIES

- (12) The only interested party that submitted comments is the beneficiary of the planned aid. Aquafil claimed that it carried out the investment trusting that it would receive the aid provided for in Law No 6/1999. It also maintained that it was not rescue or restructuring aid but aid for a replacement activity as provided for in Law No 6/1999. It claimed that the size of the workforce had been maintained, since it had taken over some of Komarek's workers and had hired new ones, so that the employment level had remained basically the same. Finally, it maintained that the investment had a favourable impact on the environment (reduction of waste, since the plant used as raw material waste produced in another plant; reduction of transport, since the plant was located close to another plant which was to use the final product; refurbishment of the roof of the building in order to prevent asbestos dust escaping into the air).

### V. COMMENTS FROM ITALY

- (13) The Italian authorities maintained that the aid could not be classed as rescue or restructuring aid. It involved an increase of 10 % in the allowable aid intensity for investments concerning a replacement activity making it possible to take over some of the workers of a company that had ceased trading within the meaning of Article 9 of the Regional Law, which had been approved by the Commission. Italy requested the Commission not to call into question the provisions of Law No 6/1999 when it examined individual projects notified to it and to evaluate the planned aid to Aquafil, where appropriate making its approval subject to conditions.

### VI. ASSESSMENT OF THE AID

- (14) In accordance with Article 87(1) of the EC Treaty, any aid granted by a Member State or through state resources in any form whatsoever which distorts or

threatens to distort competition by favouring certain undertakings or the production of certain goods shall, insofar as it affects trade between Member States, be incompatible with the common market.

- (15) The proposed aid to Aquafil Technopolymers SpA consists of an outright grant to be financed by State resources from the Autonomous Province of Trento. The production of Aquafil Technopolymers SpA in particular and of Aquafil in general is widely traded throughout Europe. The proposed grant to Aquafil Technopolymers SpA therefore constitutes State aid within the meaning of Article 87(1) of the Treaty.

- (16) The notification was made under Article 2(3) of the Regional Law, which provides that, except for *de minimis* aid, aid for environmental protection and R & D aid, large undertakings qualify for the aid measures provided for in the Law only where the aid is necessary for them to remain on the market, in competitive terms, or to safeguard jobs, subject to prior notification and approval of the individual grants by the Commission.

- (17) The notified aid to Aquafil Technopolymers SpA cannot be regarded as aid to enable a company to remain on the market or safeguard employment or, in other words, as rescue and restructuring aid. The company is not in difficulty and the investment is not part of a restructuring process; on the contrary, it is an investment for expansion/consolidation in the market of the company and of the group it belongs to, Gruppo Bonazzi SpA. This group, one of the largest in Italy in the synthetic fibres sector, has been implementing in recent years an industrial strategy of vertical integration. The Italian authorities have not provided any restructuring plan, nor have they (or the beneficiary) claimed that the investment forms part of a restructuring plan for the company.

- (18) Neither can the aid be regarded as aid to safeguard jobs. In accordance with Article 9(5) of Commission Regulation (EC) No 2204/2002 of 12 December 2002 on the application of Articles 87 and 88 of the EC Treaty to State aid for employment (hereinafter the employment aid regulation)<sup>(3)</sup>, aid to maintain jobs consists of financial support given to an undertaking to retain workers who would otherwise be laid off. In the present case, however, the Commission notes that the aid is for investment for the company's expansion/consolidation in the market which has entailed the creation of jobs.

- (19) The Commission therefore considers that the aid is not covered by the approved scheme and that, accordingly, the provisions of Article 9(4) of Law No 6/1999 are not applicable.

<sup>(3)</sup> OJ L 337, 13.12.2002, p. 3.

- (20) In these circumstances, the Commission must examine whether the aid can be considered to be compatible with the common market under the provisions of Article 87(3)(a) or (c) of the Treaty.
- (21) The Commission has decided, on proposals from the Member States, which areas in each of the Member States qualify for the geographical exceptions under the abovementioned provisions; such areas are indicated on the 'regional aid maps'. Aquafil Technopolymers SpA is located in Arco, Trento. According to the regional aid map for Italy <sup>(4)</sup>, Trento is not eligible for regional investment aid. The Commission therefore considers that the proposed aid cannot qualify for the regional exception to the general ban laid down in Article 87(1).
- (22) The Commission has also set out in different communications, guidelines and regulations, the rules it applies when assessing and approving State aid with horizontal objectives which qualifies for an exception pursuant to the first sentence of Article 87(3)(c). Such aid is for environmental protection, research and development, employment and vocational training.
- (23) The Commission notes that, under Article 4(2) of the employment aid regulation, large firms located outside areas or sectors eligible for regional aid do not qualify for aid to create employment. Moreover, in accordance with Article 9(5) of the regulation, firms located outside areas eligible for the derogation under Article 87(3)(a) are not eligible for aid to maintain jobs. The Commission also notes that the Italian authorities have not considered the investment eligible for aid for environmental protection and therefore have not provided any information allowing the Commission to examine it under the Community guidelines on State aid for environmental protection <sup>(5)</sup>.

- (24) In these circumstances the Commission considers that the notified aid is not eligible for the exception provided for in the first sentence of Article 87(3)(c).

#### VII. CONCLUSION

- (25) In view of the foregoing, the Commission finds that the State aid that Italy intends to implement in favour of Aquafil is incompatible with the common market,

HAS ADOPTED THIS DECISION:

#### *Article 1*

The State aid which Italy is planning to implement for Aquafil Technopolymers SpA, amounting to EUR 745 700, is incompatible with the common market.

The aid may accordingly not be implemented.

#### *Article 2*

Italy shall inform the Commission, within two months of notification of this Decision, of the measures taken to comply with it.

#### *Article 3*

This Decision is addressed to the Italian Republic.

Done at Brussels, 17 September 2003.

*For the Commission*

Mario MONTI

*Member of the Commission*

<sup>(4)</sup> Approved by the Commission on 1 March 2000 (OJ C 175, 24.6.2000) and 20 June 2001 (letter SG 2001 D/289334).

<sup>(5)</sup> OJ C 37, 3.2.2001, p. 3.

## COMMISSION DECISION

of 26 March 2004

**recognising the system of surveillance networks for bovine holdings implemented in Member States or regions of Member States under Directive 64/432/EEC***(notified under document number C(2004) 986)***(Text with EEA relevance)**

(2004/315/EC)

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Council Directive 64/432/EEC of 26 June 1964 on animal health problems affecting intra-Community trade in bovine animals and swine <sup>(1)</sup>, and in particular the first subparagraph of Article 14(5) thereof,

Whereas:

(1) Under Directive 64/432/EEC, bovine animals for breeding and production intended for trade must undergo individual testing for tuberculosis, brucellosis and enzootic leucosis respectively, unless they originate or come from a Member State or region thereof recognised officially free of the respective disease or an approved system of surveillance networks is implemented in the territory of that Member State.

(2) France is recognised officially free of bovine tuberculosis and enzootic bovine leucosis in accordance with Commission Decision 2003/467/EC <sup>(2)</sup> and 97,33 % of bovine herds were officially free from bovine brucellosis at 31 December 2002.

(3) Commission Decision 2002/907/EC <sup>(3)</sup> temporarily recognises the surveillance network system for bovine holdings introduced in France under Directive 64/432/EEC. That Decision requires that the provisional approval of the surveillance network system is to be reviewed before 30 April 2004.

(4) An audit by Commission experts and the appropriate documentation supplied by the French competent authorities demonstrate the progress made to ensure the fully operational character of the system of surveillance networks for bovine holdings implemented in France.

(5) The system of surveillance networks for bovine holdings implemented in France should therefore be approved.

(6) Commission Decision 2002/544/EC <sup>(4)</sup> recognises the system of surveillance networks for bovine holdings implemented in Belgium in accordance with Directive 64/432/EEC.

(7) It is appropriate to list in a single decision the Member States or regions of Member States where a system of surveillance networks for bovine holdings is implemented and approved in accordance with Directive 64/432/EEC.

(8) Decisions 2002/544/EC and 2002/907/EC should therefore be repealed and replaced by this Decision.

(9) The measures provided for in this Decision are in accordance with the opinion of the Standing Committee on the Food Chain and Animal Health,

HAS ADOPTED THIS DECISION:

*Article 1*

The systems of surveillance networks for bovine holdings implemented in accordance with Article 14 of Directive 64/432/EEC in the Member States or regions of Member States listed in the Annex to this Decision are approved.

*Article 2*

Decisions 2002/544/EC and 2002/907/EC are repealed.

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

<sup>(2)</sup> OJ L 156, 25.6.2003, p. 77. Decision as last amended by Decision 2004/230/EC (OJ L 70, 9.3.2004, p. 41).

<sup>(3)</sup> OJ L 313, 16.11.2002, p. 32. Decision as amended by Decision 2004/88/EC (OJ L 24, 29.1.2004, p. 72).

<sup>(4)</sup> OJ L 176, 5.7.2002, p. 46.

*Article 3*

This Decision is addressed to the Member States.

Done at Brussels, 26 March 2004.

*For the Commission*  
David BYRNE  
*Member of the Commission*

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*ANNEX*

**Member States or regions thereof where a system of surveillance networks for bovine holdings is implemented  
in accordance with Article 14 of Directive 64/432/EEC**

ISO code	Member State	Regions
BE	Belgium	Whole territory
FR	France	Whole territory

## COMMISSION DECISION

of 5 April 2004

**terminating the investigation into the alleged circumvention of anti-dumping measures imposed by Council Regulation (EC) No 2320/97, as last amended by Council Regulation (EC) No 235/2004, on imports of certain seamless pipes and tubes of iron or non-alloy steel originating in Russia and of anti-dumping measures imposed by Council Regulation (EC) No 348/2000, as last amended by Council Regulation (EC) No 1515/2002 on imports of certain seamless pipes and tubes of iron or non-alloy steel originating in Ukraine by wrong declaration of imports of the same product and by imports of certain seamless pipes and tubes of alloy steel, other than stainless steel, originating in Russia and Ukraine and terminating the registration of such imports imposed by Commission Regulation (EC) No 1264/2003**

(2004/316/EC)

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Council Regulation (EC) No 384/96 of 22 December 1995 on protection against dumped imports from countries not members of the European Community <sup>(1)</sup>, as last amended by Regulation (EC) No 461/2004 <sup>(2)</sup>, and in particular Article 9 thereof,

After consulting the Advisory Committee,

Whereas:

## A. PROCEDURE

## 1. Existing measures

(1) By Council Regulation (EC) No 2320/97 <sup>(3)</sup>, as last amended by Council Regulation (EC) No 235/2004 <sup>(4)</sup>, and by Regulation (EC) No 348/2000 <sup>(5)</sup>, as last amended by Regulation (EC) No 1515/2002 <sup>(6)</sup>, (the original Regulations), the Council imposed definitive anti-dumping duties of 26,8 % on imports of certain seamless pipes and tubes of iron or non-alloy steel originating, *inter alia*, in Russia and of 38,5 % on imports of certain seamless pipes and tubes of iron or non-alloy steel originating, *inter alia*, in Ukraine.

(2) On 23 November 2002, the Commission initiated an interim and expiry review of the abovementioned measures concerning imports from Russia <sup>(7)</sup> pursuant to Articles 11(2) and 11(3) of Regulation (EC) No 384/96 (the basic Regulation) and an interim review of the abovementioned measures concerning imports from Ukraine <sup>(8)</sup> pursuant to Article 11(3) of the basic Regulation. These investigations are still ongoing.

## 2. Request

(3) On 2 June 2003, the Commission received a request pursuant to Article 13(3) of the basic Regulation to investigate the alleged circumvention of the anti-dumping measures imposed on imports of certain seamless pipes and tubes of iron or non-alloy steel originating in Russia and Ukraine. The request was submitted by the Defence Committee of the Seamless Steel Tube Industry of the European Union (the Applicant) on behalf of producers representing a major proportion, i.e. over 50 % of the Community production of certain seamless pipes and tubes of iron or non-alloy steel.

(4) The request contained sufficient *prima facie* evidence that there had been a significant change in the pattern of trade, as imports of certain seamless pipes and tubes of iron or non-alloy steel originating in Russia and Ukraine have decreased substantially following the imposition of measures on the products concerned, while certain seamless pipes and tubes of alloy steel, other than stainless steel, declared under Combined Nomenclature <sup>(9)</sup> (CN) codes 7304 59 91 and 7304 59 93 and originating in Russia and Ukraine had increased during the same time span.

<sup>(1)</sup> OJ L 56, 6.3.1996, p. 1.

<sup>(2)</sup> OJ L 77, 13.3.2004, p. 12.

<sup>(3)</sup> OJ L 322, 25.11.1997, p. 1.

<sup>(4)</sup> OJ L 40, 12.2.2004, p. 11.

<sup>(5)</sup> OJ L 45, 17.2.2000, p. 1.

<sup>(6)</sup> OJ L 228, 24.8.2002, p. 8.

<sup>(7)</sup> OJ C 288, 23.11.2002, p. 2.

<sup>(8)</sup> OJ C 288, 23.11.2002, p. 11.

<sup>(9)</sup> OJ L 290, 28.10.2002, p. 1.

- (5) This change in the pattern of trade was alleged to stem either from the practice that minimal quantities of other substances are being added to the product concerned, so that they fall outside the CN codes corresponding to the definition of the products subject to the measures (CN codes ex 7304 10 10, ex 7304 10 30, 7304 31 99, 7304 39 91 and 7304 39 93), notwithstanding the fact that the basic characteristics and uses of the products remain unchanged, or from the practice of wrongly declaring the product concerned under CN codes outside the scope of the anti-dumping measures. It was further alleged that there was insufficient due cause or economic justification for these practices other than the existence of the anti-dumping duties on certain seamless pipes and tubes of iron or non-alloy steel originating in Russia and Ukraine.
- (6) Finally, the Applicant alleged that the remedial effects of the existing anti-dumping duties on imports of certain seamless pipes and tubes of iron or non-alloy steel originating in Russia and Ukraine were being undermined, both in terms of quantities and prices, and that dumping was taking place in relation to the normal values previously established.

### 3. Initiation

- (7) By Commission Regulation (EC) No 1264/2003<sup>(1)</sup> (the initiating Regulation), the Commission initiated an investigation into the alleged circumvention of the anti-dumping measures imposed on imports of certain seamless pipes and tubes of iron or non-alloy steel originating in Russia and Ukraine and, pursuant to Articles 13(3) and 14(5) of the basic Regulation, directed the customs authorities to register imports of certain seamless pipes and tubes of iron or non-alloy steel, and of certain seamless pipes and tubes of alloy steel, other than stainless steel declared under CN codes 7304 59 91 and 7304 59 93 and originating in Russia and Ukraine as from 17 July 2003.

### 4. Investigation

- (8) The Commission advised the authorities of Russia and Ukraine of the initiation of the investigation. Questionnaires were sent to the producers and exporters in Russia and Ukraine as well as to the importers in the Community named in the request or known to the Commission from the previous investigations. Interested parties were given the opportunity to make their views known in writing and to request a hearing within the time limit set in the initiating Regulation.

- (9) Replies to the questionnaires were submitted by five producers in Russia, three producers in Ukraine, one exporter in Russia, two exporters in Ukraine and one trader in Switzerland. Replies to the questionnaire were also submitted by eight traders/importers in the Community. The Commission carried out verification visits at the premises of the following companies:

#### *Russian producers:*

- Taganrog Metallurgical Works, Taganrog, Russia,
- OJSC Volzhsky Pipe Works, Volzskhy, Russia;

#### *Russian exporter:*

- CJSC Trade House TMK, Moscow, Russia;

#### *Ukrainian producers:*

- Dnepropetrovsk Tube Works, Dnepropetrovsk, Ukraine,
- Nizhnedneprovsky Tube Rolling Plant, Dnepropetrovsk, Ukraine,
- Nikopolsky Seamless Tubes Plant, Dnepropetrovsk, Ukraine;

#### *Ukrainian exporters:*

- Scientific Production Investment Group, Dnepropetrovsk, Ukraine;
- AACS, Dnepropetrovsk, Ukraine;

#### *Trader related to the Ukrainian company Scientific Production Investment Group:*

- Sepco S.A, Lugano, Switzerland;

#### *Unrelated importers/traders in the Community:*

- RWH, Germany,
- Eurosinara SRL, Italy,
- Merigo SPA, Italy.

### 5. Investigation period

- (10) The investigation period covered the period from 1 July 2002 to 30 June 2003 (the IP). Data was collected from the year 2000 up to the IP to investigate the change in the pattern of trade.

### B. WITHDRAWAL OF THE REQUEST AND TERMINATION OF THE INVESTIGATION

- (11) By a letter of 9 February 2004, the applicant formally withdrew its request to investigate the alleged circumvention of the anti-dumping measures imposed on imports of certain seamless pipes and tubes of iron or non-alloy steel originating in Russia and Ukraine.

<sup>(1)</sup> OJ L 178, 17.7.2003, p. 9.



- (12) An investigation of alleged circumvention of anti-dumping measures may, in cases where the request for investigation has been withdrawn, be terminated. By the analogous application of the provisions of Article 9(1) of the basic Regulation, such termination may take place unless such termination would not be in the Community interest.
- (13) The Commission considered that, in the absence of information showing that termination of the investigation would not be in the Community interest, the present investigation should be terminated. Interested parties were informed accordingly and were given the opportunity to comment. No comments were received indicating that such termination would not be in the Community interest.
- (14) The Commission therefore concludes that the anti-circumvention investigation concerning imports of certain seamless pipes and tubes of iron or non-alloy steel originating in Russia and Ukraine by imports of certain seamless pipes and tubes of alloy steel, other than stainless steel, normally declared under CN codes 7304 59 91 and 7304 59 93 or by wrong customs declarations, should be terminated.
- (15) The registration of imports of certain seamless pipes and tubes of iron or non-alloy steel, and of certain seamless pipes and tubes of alloy steel, other than stainless steel declared under CN codes 7304 59 91 and 7304 59 93 and originating in Russia and Ukraine, introduced by the initiating Regulation should therefore be discontinued and that Regulation be repealed,

HAS DECIDED AS FOLLOWS:

*Article 1*

The investigation initiated by Commission Regulation (EC) No 1264/2003 concerning the alleged circumvention of anti-dumping measures imposed by Council Regulation (EC) No 2320/97, as last amended by Council Regulation (EC) No 235/2004, on imports of certain seamless pipes and tubes of iron or non-alloy steel originating in Russia and of anti-dumping measures imposed by Council Regulation (EC) No 348/2000, as last amended by Council Regulation (EC) No 1515/2002 on imports of certain seamless pipes and tubes of iron or non-alloy steel originating in Ukraine by wrong declaration of imports of the same product and by imports of certain seamless pipes and tubes of alloy steel, other than stainless steel, declared under CN codes 7304 59 91 and 7304 59 93 and originating in Russia and Ukraine, and making such imports subject to registration, is hereby terminated.

*Article 2*

Commission Regulation (EC) No 1264/2003 is hereby repealed.

*Article 3*

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

Done at Brussels, 5 April 2004.

*For the Commission*

Pascal LAMY

*Member of the Commission*

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