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Legislation

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I

(Acts whose publication is obligatory)

**REGULATION (EC) No 868/2004 OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL
of 21 April 2004
concerning protection against subsidisation and unfair pricing practices causing injury to
Community air carriers in the supply of air services from countries not members of the European
Community**

THE EUROPEAN PARLIAMENT AND THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty establishing the European Community, and in particular Article 80(2) thereof,

Having regard to the proposal from the Commission ⁽¹⁾,

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

Acting in accordance with the procedure laid down in Article 251 of the Treaty ⁽³⁾,

Whereas:

- | | |
|---|---|
| <p>(1) The competitive position of Community air carriers when providing air services to, via or from the Community could be adversely affected by unfair and discriminatory practices of non-Community air carriers providing like air services.</p> <p>(2) Such unfair and discriminatory practices may result from subsidisation or other forms of aid granted by a government or regional body or other public organisation of a country not being a member of the Community or from certain pricing practices by a non-Community air carrier which benefit from non-commercial advantages.</p> <p>(3) It is necessary to define the redressive measures to be taken against such unfair practices.</p> <p>(4) Within the Community there are strict rules regarding the granting of State aid to air carriers, and for Community air carriers not to be placed at a competitive disadvantage and suffer injury there is a need for an instrument to offer protection against non-Community air carriers who are subsidised or receive other benefits from governments.</p> | <p>(5) This Regulation is not intended to replace air services agreements with third countries that can be used to deal effectively with practices covered by this Regulation; where a legal instrument exists at Member State level which would enable a satisfactory response to be made within a reasonable period of time, that instrument would take precedence over this Regulation for that period.</p> <p>(6) The Community should be able to take action to redress such unfair practices resulting from subsidies granted by the government of a country which is not a member of the Community; the Community should also be able to address unfair pricing practices.</p> <p>(7) It should be determined when a subsidy shall be deemed to exist and according to which principles it should be countervailable, in particular whether the subsidy has been targeted at certain enterprises or sectors or is contingent upon air service supply to third countries.</p> <p>(8) In determining the existence of a subsidy, it is necessary to demonstrate that there has been a financial contribution by a government or regional body or other public organisation via a transfer of funds or that debts of any kind representing government revenue that are otherwise due are foregone or not collected, and that a benefit has thereby been conferred on the recipient enterprise.</p> <p>(9) It should be determined when an unfair pricing practice shall be deemed to exist; an examination of the pricing practices of a third-country air carrier should be restricted to those limited number of cases where the air carrier is benefiting from a non-commercial advantage which cannot be clearly identified as a subsidy.</p> |
|---|---|

⁽¹⁾ OJ C 151 E, 25.6.2002, p. 285.

⁽²⁾ OJ C 61, 14.3.2003, p. 29.

⁽³⁾ Opinion of the European Parliament of 14 January 2003 (OJ C 38 E, 12.2.2004, p. 75), Council Common Position of 18 December 2003 (OJ C 66 E, 16.3.2004, p. 14). Position of the European Parliament of 11 March 2004 (not yet published in the Official Journal) and Council Decision of 30 March 2004.

(10) It should be made clear that an unfair pricing practice can be deemed to exist only in cases where that practice is clearly distinguishable from normal competitive pricing practices; the Commission should develop a detailed methodology for determining the existence of unfair pricing practices.

- (11) It is furthermore desirable to lay down clear and detailed guidance as to the factors which may be relevant for the determination of whether the subsidised or unfairly priced air services provided by non-Community air carriers have caused injury or are threatening to cause injury; in order to demonstrate that the pricing practices related to the supply of such air services cause injury to the Community industry, attention should be given to the effect of other factors, and consideration should be given to all relevant and known factors and economic indicators which have a bearing on the state of the industry, and in particular prevailing market conditions in the Community.
- (12) It is essential to define the terms 'Community air carrier', 'Community industry', and 'like air service'.
- (13) It is necessary to specify who may lodge a complaint and the information that such a complaint should contain; a complaint should be rejected where there is insufficient evidence of injury to proceed.
- (14) It is desirable to lay down the procedure to be followed in the investigation of unfair practices by non-Community carriers; this procedure should be limited in time.
- (15) It is necessary to lay down the manner in which interested parties should be given notice of the information which the authorities require; interested parties should have ample opportunity to present all relevant evidence and to defend their interests; it is also necessary to set out the rules and procedures to be followed during the investigation, in particular the rules whereby interested parties are to make themselves known, present their views and submit information within specified time limits, if such views and information are to be taken into account; whilst respecting commercial confidentiality, it is necessary to allow interested parties access to all information pertaining to the investigation which is relevant to the presentation of their case; it is necessary to provide that, where parties do not cooperate satisfactorily, other information may be used to establish findings and that such information may be less favourable to the parties than if they had cooperated.
- (16) It is necessary to lay down the conditions under which provisional measures may be imposed; such measures may in all cases be imposed by the Commission only for a six-month period.
- (17) An investigation or proceeding should be terminated whenever there is no need to impose measures, for example if the amount of subsidisation, the degree of unfair pricing or the injury is negligible; a proceeding should not be terminated unless the termination decision is accompanied by a statement of the reasons therefor; those measures should be less than the amount of countervailable subsidies or the degree of unfair pricing, if such lesser amount would remove the injury.
- (18) It is necessary to provide that the level of measures should not exceed the value of subsidies or the non-commercial advantages granted as the case may be or the sum corresponding to the injury caused, where this is lower.
- (19) It is necessary to provide that measures should remain in force only for as long as it is necessary to counteract the subsidies or unfair pricing practices causing injury.
- (20) Preference should be given to duties when it comes to the imposition of measures; where duties prove not to be appropriate, other measures may be considered.
- (21) It is necessary to specify procedures for the acceptance of undertakings eliminating or offsetting the countervailable subsidies or unfair pricing practices and the injury caused in lieu of the imposition of provisional or definitive measures; it is also appropriate to lay down the consequences of breach or withdrawal of undertakings.
- (22) It is necessary to provide for review of the measures imposed in cases where sufficient evidence is submitted of changed circumstances.
- (23) The measures necessary for the implementation of this Regulation should be adopted in accordance with Council Decision 1999/468/EC of 28 June 1999 laying down the procedures for the exercise of implementing powers conferred on the Commission ⁽¹⁾.
- (24) The form and level of measures and their enforcement should be set out in detail in a Regulation imposing these measures.
- (25) It is necessary to ensure that any measures taken by virtue of this Regulation are in full accordance with the Community interest; the assessment of the Community interest involves the identification of any compelling reasons which would lead to the clear conclusion that the taking of measures would not be in the overall interest of the Community. Such compelling reasons could, for example, include cases where the disadvantage to consumers or other interested parties would be clearly disproportionate to any advantages given to the Community industry by the imposition of measures.
- (26) Since the objective of this Regulation, namely the protection against subsidisation and unfair pricing practices causing injury to the Community air carriers in the supply of air services from countries not members of the European Community may well not be sufficiently achieved by the Member States and can therefore be better achieved at Community level, the Community may adopt measures, in accordance with the principle of subsidiarity as set out in Article 5 of the Treaty. In accordance with the principle of proportionality, as set out in that Article, this Regulation does not go beyond what is necessary in order to achieve that objective,

⁽¹⁾ OJ L 184, 17.7.1999, p. 23.

HAVE ADOPTED THIS REGULATION:

Article 4

Article 1

Objective

1. This Regulation lays down the procedure to be followed to provide protection against subsidisation and unfair pricing practices in the supply of air services from countries not members of the European Community in so far as injury is thereby caused to the Community industry.

2. This Regulation shall not preclude the prior application of any special provisions in air services agreements between Member States and countries not members of the European Community.

3. This Regulation shall not preclude the application of any special provisions in agreements between the Community and countries not members of the European Community.

Article 2

Principles

A redressive measure may be imposed for the purpose of offsetting:

1. a subsidy granted, directly or indirectly, to a non-Community air carrier; or
2. unfair pricing practices by non-Community air carriers;

concerning the supply of air services on one or more routes to and from the Community which cause injury to the Community industry.

Article 3

Definitions

For the purposes of this Regulation:

- (a) 'injury' shall mean material injury to the Community industry, or threat of material injury to the Community industry, determined in accordance with Article 6;
- (b) 'Community industry' shall mean the Community air carriers supplying like air services as a whole or those of them whose collective share constitutes a major proportion of the total Community supply of those services;
- (c) 'Community air carrier' shall mean an air carrier with a valid operating licence granted by a Member State in accordance with Council Regulation (EEC) No 2407/92 of 23 July 1992 on licensing of air carriers ⁽¹⁾;
- (d) 'like air service' shall mean air services which are supplied on the same route or routes as the air services under consideration or such air services that are supplied on a route or routes closely resembling the route or routes on which the air service under consideration is supplied.

⁽¹⁾ OJ L 240, 24.8.1992, p. 1.

Subsidisation

1. A subsidy shall be deemed to exist if:
 - (a) there is a financial contribution by a government or regional body or other public organisation of a country not a member of the European Community, that is to say, where:
 - (i) a practice of a government or regional body or other public organisation involves a direct transfer of funds such as grants, loans or equity infusion, potential direct transfer of funds to the company or the assumption of liabilities of the company such as loan guarantees;
 - (ii) revenue of a government or regional body or other public organisation that is otherwise due is foregone or not collected;
 - (iii) a government or regional body or other public organisation provides goods or services other than general infrastructure, or purchases goods or services;
 - (iv) a government or regional body or other public organisation makes payments to a funding mechanism or entrusts or directs a private body to carry out one or more of the type of functions illustrated under (i), (ii) and (iii) which would normally be vested in the government and, in practice, in no real sense differs from practices normally followed by governments;
 - (b) and a benefit is thereby conferred.

2. Subsidies shall be subject to redressive measures only if the subsidies are limited, in law or in fact, to an enterprise or industry or group of enterprises or industries within the jurisdiction of the granting authority.

Article 5

Unfair pricing practices

1. Unfair pricing practices shall be deemed to exist on a particular air service to or from the Community where non-Community air carriers:
 - benefit from a non-commercial advantage, and
 - charge air fares which are sufficiently below those offered by competing Community air carriers to cause injury.

These practices must be clearly distinguishable from normal competitive pricing practices.

2. When comparing airfares, account shall be taken of the following elements:

- (a) the actual price at which tickets are offered for sale;
- (b) the number of seats proposed at an allegedly unfair price out of the total number of seats available on the aircraft;
- (c) the restrictions and conditions attached to the tickets sold at an allegedly unfair price;
- (d) the level of service proposed by all carriers providing the like air service in question;
- (e) the actual costs of the non-Community carrier providing the services, plus a reasonable margin of profit; and
- (f) the situation, in terms of points (a) to (e), on comparable routes.

3. Acting in accordance with the procedure referred to in Article 15(3), the Commission shall develop a detailed methodology for determining the existence of unfair pricing practices. This methodology shall cover, *inter alia*, the manner in which normal competitive pricing, actual costs and reasonable profit margins shall be assessed in the specific context of the aviation sector.

Article 6

Determination of injury

1. The determination of injury shall be based on positive evidence and shall involve an objective examination of both:

- (a) the level of fares of the air services under consideration and the effect of such air services on fares offered by Community air carriers; and
- (b) the impact of those air services on the Community industry, as indicated by trends in a number of economic indicators such as number of flights, utilisation of capacity, passenger bookings, market share, profits, return on capital, investment, employment.

No one or more of these factors can necessarily give decisive guidance.

2. It shall be demonstrated, from all the positive evidence presented in relation to paragraph 1, that the air services under consideration are causing injury within the meaning of this Regulation.

3. Known factors other than the air services under consideration, which are injuring the Community industry at the same time shall also be examined to ensure that the injury caused by these other factors is not attributable to the air services under consideration.

4. A determination of threat of injury shall be based on facts and not merely on allegation, conjecture or remote possibility. The change in circumstance, which would create a situation in which the subsidy would cause injury, must be clearly foreseeable and imminent.

Article 7

Initiation of proceedings

1. An investigation under this Regulation shall be initiated upon the lodging of a written complaint on behalf of the Community industry by any natural or legal person or any association, or on the Commission's own initiative, if there is sufficient evidence of the existence of countervailable subsidies (including, if possible, of their amount) or unfair pricing practices within the meaning of this Regulation, injury and a causal link between the allegedly subsidised or unfairly priced air services and the alleged injury.

2. When it is apparent that there is sufficient evidence to initiate a proceeding, the Commission shall, acting in accordance with the procedure referred to in Article 15(2), initiate the proceeding within 45 days of the lodging of the complaint and shall publish a notice in the *Official Journal of the European Union*. Where the issue in question is being discussed within the framework of a bilateral agreement by the Member State concerned, this 45-day deadline shall, at the request of the Member State, be extended for up to 30 days. Any additional extension to the deadline shall be decided upon by the Commission acting in accordance with the procedure referred to in Article 15(2).

Where insufficient evidence has been presented, the Commission shall, acting in accordance with the procedure referred to in Article 15(2), inform the complainant within 45 days of the date on which the complaint was lodged.

3. The notice of initiation of the proceedings shall announce the initiation of an investigation, indicate the scope of the investigation, the air services on the routes concerned, the countries whose governments allegedly granted the subsidies or license the air carriers allegedly engaged in unfair pricing practices and the period within which interested parties may make themselves known, present their views in writing and submit information, if such views are to be taken into account during the investigation; the notice shall also state the period within which interested parties may apply to be heard by the Commission.

4. The Commission shall inform the air carriers supplying the air services under consideration, the government concerned and the complainants of the initiation of the proceedings.

5. The Commission may, at any time invite the third-country government concerned to take part in consultations with the aim of clarifying the situation as to the matters referred to in paragraph 2 and arriving at a mutually agreed solution. Where appropriate the Commission shall associate with these consultations any Member State concerned. In cases where consultations are already underway between a Member State and the third country government concerned, the Commission shall liaise with the said Member State in advance.

Article 8

The investigation

1. Following the initiation of the proceedings, the Commission shall commence an investigation which shall cover both subsidisation or unfair pricing practices of air services supplied by non-Community carriers on certain routes, and injury. This investigation shall be carried out expeditiously and shall normally be concluded within nine months of the initiation of the proceedings, except in the following circumstances, where it may be prolonged:

- negotiations with the third country government concerned have progressed to a point that a satisfactory resolution of the complaint appears imminent, or
- additional time is needed in order to achieve a resolution which is in the Community interest.

2. The interested parties which have made themselves known in accordance with the time limits set forth in the notice of initiation, shall be heard if they have made a request for a hearing showing that they are an interested party likely to be affected by the result of the proceeding and that there are particular reasons why they should be heard.

3. In cases in which an interested party refuses access to, or otherwise does not provide, necessary information within the appropriate time limits, or significantly impedes the investigation, provisional or final findings, affirmative or negative, may be made on the basis of facts available. Where it is found that the interested party has supplied false or misleading information, the information shall be disregarded and use may be made of the facts available.

Article 9

Redressive measures

Redressive measures, whether provisional or definitive, shall preferably take the form of duties imposed upon the non-Community carrier concerned.

Article 10

Provisional measures

1. Provisional measures may be imposed if a provisional affirmative determination has been made that the non-Community carriers concerned benefit from subsidies or are engaged in unfair pricing practices causing injury to the Community industry and that the Community interest calls for intervention to prevent further such injury.

2. Provisional measures may be taken in accordance with the procedure referred to in Article 15(2). Those measures shall be imposed for a maximum of six months.

Article 11

Termination without measures

1. Where the complaint is withdrawn, or where a satisfactory remedy has been obtained under a Member State's air service agreement with the third country concerned, the proceeding may be terminated by the Commission unless such termination would not be in the Community interest.

2. Where redressive measures are unnecessary, the proceeding shall be terminated in accordance with the procedure referred to in Article 15(2). Any decision to terminate a proceeding shall be accompanied by a statement of the reasons therefor.

Article 12

Definitive measures

1. Where the facts as finally established show the existence of subsidies or unfair pricing practices and the injury caused thereby, and the Community interest calls for intervention in accordance with Article 16, a definitive measure shall be imposed in accordance with the procedure referred to in Article 15(3).

2. The level of measures imposed to offset subsidies shall not exceed the amount of subsidies, calculated in terms of benefit conferred on the recipient enterprise, from which the non-Community carriers have been found to benefit, and should be less than the total amount of subsidies, if such lesser level were to be adequate to remove the injury to the Community industry.

3. The level of measures imposed to offset unfair pricing practices benefiting from a non-commercial advantage, shall not exceed the difference between the fares charged by the non-Community air carrier concerned and the air fares offered by the competing Community air carrier concerned, but should be less if such lesser level were to be adequate to remove the injury to the Community industry. In any event, the level of measures should not exceed the value of the non-commercial advantage granted to the non-Community air carrier.

4. A measure shall be imposed in the appropriate amounts in each case, on a non-discriminatory basis, on air services supplied by all non-Community air carriers found to benefit from subsidies or engaged in unfair pricing practices on the respective routes, except for air services supplied by those non-Community air carriers for which undertakings under the terms of this Regulation have been accepted.

5. A measure shall remain in force only as long as, and to the extent that, it is necessary to offset the subsidies or unfair pricing practices which are causing injury.

Article 13

Undertakings

1. Investigations may be terminated without the imposition of provisional or definitive measures upon receipt of satisfactory voluntary undertakings under which:

- (a) the government granting the subsidy or non-commercial advantage agrees to eliminate or limit the subsidy or non-commercial advantage or take other measures concerning its effects; or
- (b) any non-Community air carrier undertakes to revise its prices or to cease the supply of air services to the route in question so that the injurious effect of the subsidy or non-commercial advantage is eliminated.

2. Undertakings shall be accepted in accordance with the procedure referred to in Article 15(2).

3. In case of breach or withdrawal of undertakings by any party, a definitive measure shall be imposed in accordance with Article 12, on the basis of the facts established within the context of the investigation which led to the undertaking, provided that the investigation was concluded with a final determination as to subsidisation and that the non-Community air carrier concerned, or the government granting the subsidy, has been given an opportunity to comment, except in the case of withdrawal of the undertaking by the non-Community air carrier or such government.

Article 14

Reviews

1. Where circumstances so warrant, the need for the continued imposition of measures in their initial form may be reviewed, on the initiative of the Commission or upon the request of a Member State or, upon a request by non-Community air carriers subject to measures or by Community air carriers provided that at least two consecutive IATA scheduling seasons have elapsed since the imposition of the definitive measure.

2. Reviews under paragraph 1 shall be initiated by the Commission acting in accordance with the procedure referred to in Article 15(2). The relevant provisions of Articles 7 and 8 shall apply to the reviews under paragraph 1. Reviews shall assess the continued existence of subsidies or unfair pricing, and/or injury caused thereby, together with a new determination as to whether the Community interest calls for continued intervention. Where warranted by reviews, the measures shall be repealed, amended or maintained, as appropriate in accordance with the procedure referred to in Article 15(3).

Article 15

Committee procedure

1. The Commission shall be assisted by the Committee instituted by Article 11 of Council Regulation (EEC) No 2408/92 of 23 July 1992 on access for Community air carriers to intra-Community air routes⁽¹⁾, (hereinafter referred to as the Committee).

2. Where reference is made to this paragraph, Articles 3 and 7 of Decision 1999/468/EC shall apply, having regard to the provisions of Article 8 thereof.

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

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

4. The Committee shall adopt its Rules of Procedure.

Article 16

Community interest

A determination under Articles 10(1), 11(2) and 12(1) as to whether the Community interest calls for intervention or whether measures should be maintained in accordance with Article 14(2) shall be based on an appraisal of all the various interests taken as a whole. Measures may not be applied where it can be clearly concluded that this is not in the Community interest.

Article 17

General provisions

1. Provisional or definitive redressive measures shall be imposed by Regulation, and enforced by Member States in the form, at the level specified and according to the other criteria laid down in the Regulation imposing such measures. If measures other than duties are imposed, the Regulation shall define the precise form of the measures in accordance with the provisions of this Regulation.

⁽¹⁾ OJ L 240, 24.8.1992, p. 8. Regulation as last amended by European Parliament and Council Regulation (EC) No 1882/2003 (OJ No L 284, 31.10.2003, p. 1).

2. Regulations imposing provisional or definitive redressive measures, and Regulations or Decisions accepting undertakings or suspending or terminating investigations or proceedings, shall be published in the *Official Journal of the European Union*.

Article 18

Entry into force

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

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

Done at Strasbourg, 21 April 2004.

For the European Parliament

The President

P. COX

For the Council

The President

D. ROCHE

**COUNCIL REGULATION (EC) No 869/2004
of 26 April 2004**

amending Regulation (EC) No 1936/2001 laying down control measures applicable to fishing for certain stocks of highly migratory fish

THE COUNCIL OF THE EUROPEAN UNION,

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

Having regard to the proposal from the Commission,

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

Whereas:

- (1) The International Commission for the Conservation of Atlantic Tunas (hereinafter referred to as ICCAT) has adopted a number of recommendations and the Indian Ocean Tuna Commission (hereinafter referred to as IOTC) has adopted a number of resolutions creating control and surveillance obligations, which have been transposed in Regulation (EC) No 1936/2001 ⁽²⁾.
- (2) ICCAT at its 17th meeting in 2001 and its 13th special meeting in 2002 and IOTC at its 6th and 7th regular meetings in 2001 and 2002 recommended new control measures for certain stocks of highly migratory species. These recommendations and resolutions are binding on the Community and should therefore be implemented.
- (3) Regulation (EC) No 1936/2001 should therefore be amended accordingly,

HAS ADOPTED THIS REGULATION:

Article 1

Regulation (EC) No 1936/2001 is hereby amended as follows:

1. in Article 3 the following points shall be added:

- (g) "fattening": raising of individuals in cages to increase their weight or fat content with a view to marketing;
- (h) "caging": placing of wild individuals of any size in closed structures (cages) for fattening;
- (i) "fattening farm": enterprise which raises wild individuals in cages for fattening;
- (j) "transport vessel": vessel receiving wild individuals and transporting them live to fattening farms.'

2. the following Articles shall be inserted:

'Article 4a

Activities of vessels participating in operations relating to bluefin tuna fattening

1. Each master of a Community vessel that transfers bluefin tuna for fattening to a transport vessel shall enter in his logbook:
 - quantity of bluefin tuna transferred and the number of fish,
 - catch zone,
 - date and position of transfer of bluefin tuna,
 - name of transport vessel, its flag, registration number and international radio call sign,
 - name(s) of fattening farm(s) of destination of the quantity of bluefin tuna transferred.
2. Each master of a transport vessel to which bluefin tuna have been transferred shall enter:
 - (a) quantity of bluefin tuna transferred per fishing vessel and the number of fish;
 - (b) the name of the vessel that caught the quantities referred to in a), together with its flag, registration number and international radio call sign;
 - (c) date and position of transfer of bluefin tuna;
 - (d) name(s) of fattening farm(s) of destination of bluefin tuna.

3. The master shall be exempt from the obligation laid down in paragraph 2 if the entry is replaced with a copy of the transshipment declaration provided for in Article 11 of Regulation (EEC) No 2847/93 or a copy of document T2M referred to in Article 13 of Regulation (EEC) No 2847/93 indicating the information referred to in paragraph 2(c) of this Article.

4. Member States shall ensure that all bluefin tuna put into cages by vessels flying their flag are registered by their competent authority. They shall notify to the Commission, in line with Article 5, the quantities of bluefin tuna caught and caged by vessels flying their flag (task I as defined by ICCAT).

⁽¹⁾ Opinion delivered on 13 January 2004 (not yet published in the Official Journal).

⁽²⁾ OJ L 263, 3.10.2001, p. 1.

For exports and imports of bluefin tuna intended for fattening Member States shall send the Commission the numbers and dates of the statistical documents indicated in Council Regulation (EC) No 1984/2003 of 8 April 2003 introducing a system for the statistical monitoring of trade in bluefin tuna, swordfish and bigeye tuna within the Community (*) validated by them and state the third country of destination declared.

5. Member States shall electronically send the Commission a list of all vessels flying their flag and registered in the Community that catch bluefin tuna for fattening. Notification shall be made by 30 April each year, the following information being given:

- (a) the vessel's internal number as defined in Annex I to Commission Regulation (EC) No 2090/98 (**);
- (b) the name and address of its owner, operator or charterer.

6. Member States shall electronically send the Commission a list of all vessels authorised by them to provide or transfer bluefin tuna for fattening. Notification shall be made by 30 April each year, the following information being given:

- (a) name of vessel, its flag and its registration number;
- (b) any previous flags;
- (c) type (fish tanker, towed etc.) length and GT;
- (d) international radio call sign;
- (e) name and address of owner, operator or charterer.

Article 4b

Activities of bluefin tuna fattening farms

1. Member States shall act to ensure that bluefin tuna fattening farms under their jurisdiction submit a caging declaration as referred to in Annex 1a to their competent authority 72 hours after the end of each caging operation by a fishing or transport vessel. Submission of such declarations, containing all the information required under this Article, shall be the responsibility of fattening farms approved by Member States.

2. Member States shall act to ensure that fattening farms as indicated in paragraph 1 submit to them by 1 July each year a marketing declaration for the bluefin tuna fattened.

3. The marketing declaration for bluefin tuna fattened indicated in paragraph 2 must give the following information:

- name of farm,
- address,
- owner,
- quantity of bluefin tuna (in tonnes) marketed in previous year,

- destination of tuna (name of purchaser, country, date of sale),
- for exports and imports, numbers and dates of validation of statistical documents indicated in Regulation (EC) No 1984/2003,
- duration of fattening of tuna marketed (in months), where possible,
- average size of tuna marketed.

4. On the basis of the declaration submitted under paragraphs 1 and 3 Member States shall electronically notify to the Commission by 1 August each year:

- the quantities of bluefin tuna caged during the previous year,
- the quantities of bluefin tuna marketed during the previous year.

Article 4c

Register of bluefin tuna fattening farms

1. Before 30 April 2004 each Member State shall send the Commission electronically a list of the fattening farms under its jurisdiction which it authorises to conduct fattening operations on bluefin tuna caught in the Convention area.

2. The list referred to in paragraph 1 shall give the following information:

- name of farm, its national registration number,
- location of farm,
- capacity of farm (in tonnes).

3. The Commission shall forward this information to the ICCAT Executive Secretariat before 31 August 2004 so that the fattening farms concerned are entered in the ICCAT register of farms authorised to conduct fattening operations on bluefin tuna caught in the ICCAT Convention area.

4. Any change to be made to the list indicated in paragraph 1 shall be notified to the Commission for transmission to the ICCAT Executive Secretariat, the same provisions applying, at least 10 working days before the farms begin fattening activities on bluefin tuna in the ICCAT Convention area.

5. Fattening farms under the jurisdiction of a Member State that are not entered on the list indicated in paragraph 1 may not conduct fattening activities on bluefin tuna caught in the ICCAT Convention area.

(*) OJ L 295, 13.11.2003, p. 1.

(**) OJ L 266, 1.10.1998, p. 27. Regulation as last amended by Regulation (EC) No 26/2004 (OJ L 5, 9.1.2004, p. 25).

3. Article 5 shall be amended as follows:

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

'1. Member States shall send electronically to the Commission, which shall pass the information to the ICCAT Executive Secretariat, the annual nominal catch data (task I as defined by ICCAT) for the species listed in Annex II. No later than 30 June of the following year the Member States shall transmit to the Commission, for scientific purposes, the definite estimates for the entire year or, where this is not possible, preliminary estimates.'

(b) In paragraph 2, the introductory sentence shall be replaced by the following:

'2. Not later than 31 July each year, the Member States shall transmit the following data (task II as defined by ICCAT) in electronic form, to the ICCAT Executive Secretariat with electronic access for the Commission.'

4. the following paragraph shall be inserted in Article 6:

'1a) Member States shall transmit to the ICCAT Executive Secretariat in electronic form, with electronic access for the Commission, for scientific purposes, data on catches and effort as defined by ICCAT, in particular estimates of discards of dead porbeagle, shortfin mako and blue sharks.'

5. The following Article shall be inserted:

'Article 6a

Information on catches of white and blue marlin

1. Masters of Community vessels shall record each day in their logbook information on the release of white marlin and blue marlin, alive or dead, by sector not exceeding 5° of longitude by 5° of latitude, and shall indicate in their landing statements the number or weight of white marlin and blue marlin landed.

2. By 30 June each year Member States shall transmit in electronic form to the Commission, for scientific purposes, final estimates for the entire previous year, or if these cannot be sent, preliminary estimates, of the data on catches, including releases, and landings of white marlin and blue marlin.'

6. the following Articles shall be inserted:

'Article 8a

Register of vessels authorised to fish in the Convention area

1. Before 1 June 2003 each Member State shall send the Commission electronically a list of the vessels of more than 24 metres overall length flying its flag and registered

in its territory that it authorises to fish for tunas and tuna-like fish in the ICCAT Convention area by issue of a special fishing licence.

2. The list indicated in paragraph 1 shall give the following information:

(a) vessel's internal number as defined in Annex I to Regulation (EC) No 2090/98;

(b) any previous flags;

(c) any information on removal from other registers;

(d) name and address of owner(s) and operator(s);

(e) gear used;

(f) period authorised for fishing and/or transshipment.

3. The Commission shall send this information to the ICCAT Executive Secretariat before 1 July 2003 so that these vessels can be entered on the ICCAT register of vessels more than 24 metres in overall length authorised to fish in the ICCAT Convention area (hereinafter referred to as the ICCAT register).

4. Any change to be made to the list indicated in paragraph 1 shall be notified to the Commission for transmission to the ICCAT Executive Secretariat, the same procedure applying, at least 10 working days before the vessel begins fishing activity in the Convention area.

5. Community fishing vessels more than 24 metres in overall length that are not entered on the list indicated in paragraph 1 may not fish, retain on board, tranship or land tunas or tuna-like fish within the ICCAT Convention area.

6. Member States shall take the necessary measures to ensure that:

(a) only vessels flying their flag that are included in the list indicated in paragraph 1 and hold on board a special fishing licence issued by them are authorised, on the terms of the licence, to carry out fishing activities referred to Article 1 in the ICCAT Convention area;

(b) no special fishing licence is issued to vessels that have carried out illegal, unregulated and unreported fishing in the ICCAT Convention area (IUU fishing), as indicated in Article 19b, unless the new owners provide adequate documentary evidence that the previous owners and operators neither any longer have any legal, beneficial or financial interest in them nor exercise any control over them, or that their vessels neither take part in nor are associated with IUU fishing;

(c) where possible, their national legislation prohibits owners and operators of vessels flying their flag that are included in the list indicated in paragraph 1 from taking part in or being associated with tuna-fishing activities in the ICCAT Convention area by vessels not on the ICCAT register;

(d) where possible, their national legislation requires owners of vessels flying their flag that are included in the list indicated in paragraph 1 to be nationals of a Member State.

7. Member States shall take the necessary measures to prohibit fishing, retention on board, transshipment and landing of tunas and tuna-like fish caught in the ICCAT Convention area by vessels more than 24 metres in overall length that are not on the ICCAT register.

8. Member States shall without delay pass on to the Commission any information showing that there are strong reasons for suspecting that vessels more than 24 metres in overall length that are not on the ICCAT register are fishing for or transshipping tunas or tuna-like fish in the ICCAT Convention area.

Article 8b

Chartering of Community fishing vessels

1. Before 30 April each year Member States shall send the Commission a list of the vessels flying their flag chartered by contracting parties to the ICCAT Convention for the current year, together with any changes made at any time to this list.

2. Lists as indicated in paragraph 1 shall give the following information:

- (a) internal number of vessel as defined in Annex I to Regulation (EC) No 2090/98;
- (b) name and address of vessel owners;
- (c) species covered by the charter and quota allocated by the charter contract;
- (d) length of the charter agreement;
- (e) charterer's name;
- (f) Member State's assent to the charter agreement;
- (g) country where the vessel was chartered.

3. On the date of conclusion of a charter agreement, the flag Member State shall send the following information to the ICCAT Executive Secretariat and inform the Commission of:

- (a) its assent to the charter agreement;

(b) the action it has taken to ensure that chartered vessels flying its flag comply with ICCAT conservation and management provisions.

4. When the charter agreement ends, the flag Member State shall inform the ICCAT Executive Secretariat of the date of termination and inform the Commission.

5. The flag Member State shall act to ensure that:

- (a) the vessel is not authorised to fish during the charter period against the quota or fishing possibilities allocated to itself;
- (b) it is not authorised to fish under more than one charter agreement during the same period;
- (c) its catches are separately registered from those of other vessels flying its flag;
- (d) it complies with the conservation and management measures adopted by ICCAT.

Article 8c

Transshipment

Vessels flying the flag of a Member State that measure more than 24 metres in overall length, fish by longlining and appear on the ICCAT list indicated in Article 8a(1) may not tranship in the ICCAT Convention area except by prior authorisation of the flag Member State's competent authority.'

7. in Article 9(1) '15 June' shall be replaced by '15 August';

8. the following Article shall be inserted:

'Article 9a

Annual statement on the application of the ICCAT management standards by large longliners

Before 1 September each year, Member States with longliners of a length overall of more than 24 metres authorised to fish in the Convention zone shall transmit to the Commission the Annual statement on the application of the ICCAT management standards by large longliners, using the specimen set out as in Annex IV.;

9. the following Articles shall be added.

'Article 19a

Action to combat IUU fishing

Each Member State shall endeavour in line with its national legislation to ensure that its importers, transporters and other operators refrain from dealing in or transshipping tunas and tuna-like fish caught by vessels carrying out IUU fishing, in particular any fishing conflicting with ICCAT conservation and management measures.

*Article 19b***Information on vessels presumed to have carried out IUU fishing**

1. For the purposes of this Article a vessel flying the flag of a non-contracting party is presumed to have carried out IUU fishing if it is shown by the competent authority of a Member State that it:

- (a) catches tunas or tuna-like fish in the ICCAT Convention area but is not on the ICCAT register;
- (b) catches tunas or tuna-like fish in the ICCAT Convention area for which the flag Member State has no quota, catch limit or effort allocation under the ICCAT conservation and management measures;
- (c) neither registers nor declares its catches in the ICCAT Convention area or makes false statements;
- (d) takes or lands undersized fish in contravention of ICCAT conservation and management measures;
- (e) fishes during close seasons or in closed zones in contravention of ICCAT conservation and management measures;
- (f) uses prohibited fishing gear in contravention of ICCAT conservation and management measures;
- (g) tranships with vessels on the list indicated in paragraph 5;
- (h) makes unauthorised catches of tunas or tuna-like fish in waters under the national jurisdiction of ICCAT Convention area coastal countries or contravenes their laws and regulations;
- (i) is stateless and catches tunas or tuna-like fish in the ICCAT Convention area;
- (j) engages in fishing activity conflicting with any other ICCAT conservation and management measure.

2. On the basis of information obtained by their competent authorities, Member States shall before 15 June notify to the Commission a list of the vessels flying the flag of a non-contracting party that are presumed to have been carrying out IUU fishing during the current and previous years. It shall be accompanied by the supporting documentation.

By 15 July the Commission shall forward the information obtained from the Member States to the ICCAT Executive Secretariat.

3. On receiving from the ICCAT Executive Secretariat the draft list of vessels of non-contracting parties presumed to be carrying out IUU fishing that it has drawn up, the

Commission shall forward it to the Member States. They shall immediately scrutinise it to ascertain the activities of these vessels and any changes of name, flag or ownership.

4. By 30 September, Member States shall send the Commission any further information likely to be relevant to the establishment of the list indicated in paragraph 5.

5. The Commission shall each year, on receiving from ICCAT the list of vessels identified as carrying out IUU fishing (hereinafter referred to as the "IUU list"), send it to the Member States.

*Article 19c***Action on vessels presumed to have carried out IUU fishing**

1. Member States shall take the necessary measures, in line with their national legislation and Community law, to ensure that:

- (a) vessels entered on the IUU list that voluntarily enter a port are not authorised to land or tranship there;
 - (b) their flag is not granted to vessels on the IUU list unless the vessel has changed ownership and a new owner can convincingly show that the previous owner or operator neither has any continuing legal, financial or other real interest in the vessel nor exercises any control over it, or unless, having taken all relevant facts into account, the flag State considers that granting the flag to a vessel will not lead to IUU fishing;
 - (c) importers, transporters and other operators are encouraged not to deal in or tranship tunas and tuna-like fish taken by vessels on the IUU list;
 - (d) all relevant information is obtained and exchanged with other contracting parties and cooperating non-contracting parties, entities and fishing entities for the purpose of detecting and preventing the use of false import/export licences for tunas and tuna-like fish from vessels on the IUU list.
2. The following shall be prohibited:
- (a) transshipment between fishing vessels, mother vessels or transport vessels flying the flag of a Member State and registered in the Community and vessels on the IUU list;
 - (b) chartering of a vessel on the IUU list;
 - (c) importing, landing or transshipping tunas or tuna-like fish from vessels on the IUU list;

10. Chapter II shall be replaced by the following:

‘CHAPTER II

**CONTROL AND SURVEILLANCE MEASURES APPLICABLE
IN ZONE 2**

SECTION 1

Control measures

Article 20

General principles

Member States shall act to ensure that vessels flying their flag respect the provisions applicable in the zone.

Article 20a

Register of vessels authorised to fish in the IOTC area

Article 8a shall apply *mutatis mutandis*.

Article 20b

Transshipment

Article 8c shall apply *mutatis mutandis*.

Article 20c

Marking of fishing gear

1. Gear used by Community vessels authorised to fish in the zone shall be marked as follows: the ends of nets, lines and other gear in the sea shall be fitted with flag or radar reflector buoys and by night with light buoys indicating their position and extent.

2. Marker buoys and similar floating objects indicating the position of fixed fishing gear shall at all times clearly indicate the letter(s) and/or number(s) of the vessel(s) to which they belong.

3. Fish aggregating devices shall be clearly marked at all times with the letter(s) and/or number(s) of the vessel(s) to which they belong.

Article 20 d

Statistical notification for scientific purposes

1. Member States shall transmit the following statistical data in electronic form, with electronic access for the Commission, to the IOTC Secretariat, in accordance with the procedures for submission of statistics referred to in Annex V:

(a) fishing effort and catches of species referred to in Article 1 for the previous year;

(b) the sizes of the species referred to in Article 1 for the previous year;

(c) tuna fishing using floating objects, including fish aggregating devices.

2. Member States shall set up a computerised database containing the statistical data provided for in paragraph 1, with electronic access for the Commission.

SECTION 2

Port inspection procedures

Article 20e

Articles 10, 12, 13, 14 and 15 shall apply *mutatis mutandis*.

SECTION 3

Stateless vessels and vessels of non-contracting parties

Article 21

Observation

1. Masters of Community vessels authorised to fish in the zone shall send their national authorities their observations on non-contracting parties' vessels presumed or known to be fishing for bigeye or yellowfin tuna or skipjack.

2. Member States shall without delay send this information to the Commission, which shall send it to IOTC.

Article 21a

Control of fishing activities

Article 18 shall apply *mutatis mutandis*.

Article 21b

IUU vessels

Article 19b shall apply *mutatis mutandis*.

Article 21c

Measures concerning vessels presumed to have carried out IUU fishing

Article 19c shall apply *mutatis mutandis*.

11. the text set out in Annex I to this Regulation shall be inserted as Annex Ia;
12. the text set out in Annex II to this Regulation shall be inserted as Annexes IV and V.

Article 2

This Regulation shall enter into force on the seventh 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 Luxembourg, 26 April 2004.

For the Council
The President
J. WALSH

ANNEX II

Attachment II

ANNEX IV

SPECIMEN FORM FOR

ANNUAL DECLARATION OF APPLICATION OF ICCAT MANAGEMENT STANDARDS BY LARGE LONGLINERS

a. Management at fishing grounds

	Boarding of scientific observers	Vessel satellite monitoring system	Daily or periodic reporting of catches	Meldung Einfahrt/Ausfahrt
YES/NO				
Note:	%	% or number of vessels	method	method

b. Management of transshipments (from fishing ground to port of landing)

	Transhipment reports	Port inspection	Statistical document programme
YES/NO			
Note:	Method	method	

c. Management in ports of landing

	Landing inspection	Landing report	Cooperation with other parties
YES/NO			
Note:	Method	method	

ANNEX V

Catch and effort data

Surface fisheries: catch data in nominal catch weight and effort data in fishing days (purse seine, baitboat, troll, drift nets) should be provided to IOTC by 1° grid area and month strata. Purse seine fishery data should be stratified by type of school. Those data should preferably be extrapolated to the national monthly catches of each gear. The raising factors used, corresponding to the logbook coverage, should be given routinely to IOTC.

Longline fisheries: catch and effort data of the longline fisheries should be provided to the IOTC by 5° grid area and month strata, preferably in numbers and in weight. Fishing effort should be given in numbers of hooks. Those data should preferably be extrapolated to the national monthly catches. The raising factors used, corresponding to the logbook coverage, should be given routinely to IOTC.

The catches, efforts and sizes of the artisanal, small scale and sport fisheries should also be submitted on a monthly basis, but using the best geographical areas used to collect and process those data.

Size data

Considering that size data are of key importance for most tuna stock assessment, length data, including the total number of fish measured, should be routinely submitted to the IOTC on a 5° grid area and month basis, by gear and fishing mode (e.g. free/log schools for the purse seiners). Size data should be provided for all gears and for all species covered by IOTC. Size data sampling should preferably be run under strict and well described random sampling schemes which are necessary to provide unbiased figures for the sizes taken. The exact recommended level of sampling could vary between species (as a function of various parameters), but the specific level of recommended sampling needs to be established by the working party on statistics. More detailed size data, for instance size by individual samples, should also be made available to IOTC when requested by specific working groups, but under strict rules of confidentiality.

Fishing for tunas using floating objects, including fish aggregating devices (FADs)

For a better understanding by IOTC of changing patterns in effective fishing effort by fleets operating in its area of competence, more information has to be obtained. Since the activities of supply vessels and the use of fish aggregating devices (FAD) are an integral part of the fishing effort of the purse seine fleet, the following information should be routinely submitted to IOTC:

Number and characteristics of supply vessels: (i) operating under their flag, (ii) assisting purse seine vessels operating under their flag, or (iii) licensed to operate in their exclusive economic zones, and that have been present in the IOTC area of competence.

Levels of activity of supply vessels: including number of days at sea, on 1° grid area and month basis.

In addition, contracting parties and cooperating non-contracting parties shall do their best to provide data on the total number and type of fish aggregating devices (FADs) operated by the fleet, on a 5° grid area and month basis.

Timeliness of data submission to IOTC

It is essential that all fishery data be available to the IOTC Secretariat in due time to allow monitoring of stocks and analysis of the data. Thus it is recommended that the following rules be applied as standard obligations:

Surface fleets and other fleets operating in coastal zones (including supply vessels) must provide their fishery data at the earliest possible date but no later than 30 June each year (previous year's data).

Longline fleets operating on the high seas must provide the provisional fishery data at the earliest date, but no later than 30 June (previous year's data). They must provide the final estimate of their fishery data before 30 December each year (previous year's data).

The time limits presently allowed for submitting statistics could be reduced in the future as communication and data processing technologies become ever more rapid, which should reduce the present data processing delays.

**COUNCIL REGULATION (EC) No 870/2004
of 24 April 2004**

establishing a Community programme on the conservation, characterisation, collection and utilisation of genetic resources in agriculture and repealing Regulation (EC) No 1467/94

(Text with EEA relevance)

THE COUNCIL OF THE EUROPEAN UNION,

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

Having regard to the proposal from the Commission,

Having regard to the opinion of the European Parliament,

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

Whereas:

- (1) Biological and genetic diversity in agriculture is essential to the sustainable development of agricultural production and of rural areas. The necessary measures should therefore be taken to conserve, characterise, collect and utilise the potential of that diversity in a sustainable way to promote the aims of the common agricultural policy (CAP).
- (2) The conservation and sustainable use of genetic resources in agriculture also contributes to the aims of the Convention on Biological Diversity approved by the Community by Council Decision 93/626/EEC ⁽¹⁾ and the related Community biodiversity strategy which includes an action plan for biodiversity conservation and the protection of genetic resources in agriculture. It is also a major objective of the FAO's Global Plan of Action for the Conservation and Sustainable Utilisation of Plant Genetic Resources for Food and Agriculture and of the International Treaty on Plant Genetic Resources for Food and Agriculture, which the Commission and the Member States signed on 6 June 2002.
- (3) The wide range of activities carried out in the Member States (by a public sector body or natural or legal persons) and by various international organisations and

programmes such as FAO, the European Cooperative Programme for Crop Genetic Resources Networks (ECP/GR), the Consultative Group on International Agricultural Research (CGIAR), the Global Forum on Agricultural Research (GFAR), the Agricultural Research for Development (ARD) regional and subregional organisations supported by the Community, the European Regional Focal Point (ERFP) of National Coordinators for the Management of Farm Animal Genetic Resources, the European Forest Genetic Resources Programme (Euforgen) and the related commitments of the ongoing Ministerial Conference on the protection of forests in Europe (MCPFE) to which the Community is signatory call for an effective information exchange and close coordination between the Community main actors and with the relevant organisations throughout the world with regard to the conservation, characterisation, collection and utilisation of genetic resources in agriculture so as to enhance their positive impact on agriculture.

- (4) The work undertaken on the conservation, characterisation, collection and utilisation of genetic resources in agriculture can help maintain biological diversity, improve the quality of agricultural products, contribute to increase diversification in rural areas and reduce inputs and agricultural production costs by promoting a sustainable agricultural production and contributing to the sustainable development of rural areas.
- (5) The *ex situ* and *in situ* conservation of genetic resources in agriculture (including *in situ/on-farm* conservation and development) should be promoted. This should cover all plant, microbial and animal genetic resources that are or could prove useful for agriculture and rural development, including forest genetic resources, in line with the needs of the CAP, with a view to conserving genetic resources and increasing the use of under-utilised breeds and varieties in agricultural production.
- (6) Knowledge of the genetic resources available in the Community, their origins and their characteristics still needs to be improved. Relevant information on existing facilities and activities implemented at national or regional level regarding the conservation, characterisation, collection and utilisation of genetic resources in agriculture in each Member State should be gathered and made available to the other Member States and at Community, as well as at international level, particularly the developing countries, in accordance with the international Treaties and Agreements.

⁽¹⁾ OJ L 309, 13.12.1993, p. 1.

- (7) Development of decentralised, permanent and widely accessible web-based inventories collecting such knowledge and ensuring its availability at Community and international level should be promoted, with particular reference to the ongoing efforts to develop an inventory of ex situ collections held in European gene banks (the EPGRIS — European Plant Genetic Resources Information Infrastructure 'EURISCO', funded by the fifth framework programme).
- (8) The Community should complement and promote the efforts made in the Member States for the conservation and sustainable use of biological diversity in agriculture. Added value at Community level should be promoted by concerting existing actions and supporting the development of new trans-border initiatives involving the conservation, characterisation, collection and utilisation of genetic resources in agriculture.
- (9) Provision should therefore be made for measures that complement or go beyond the scope, as regards beneficiaries and/or eligible actions for funding of Council Regulation (EC) No 1257/1999 of 17 May 1999 on support for rural development from the European Agricultural Guidance and Guarantee Fund (EAGGF) ⁽¹⁾.
- (10) In order to contribute to the achievement of those aims, a Community programme was established under Council Regulation (EC) No 1467/94 of 20 June 1994 on the conservation, characterisation, collection and utilisation of genetic resources in agriculture ⁽²⁾, for a period of five years. That programme terminated on 31 December 1999 and should be replaced by a new Community programme. Regulation (EC) No 1467/94 should therefore be repealed.
- (11) Selection and implementation of measures under the new Community programme should take into account research, technological development and demonstration activities supported either at national level or under the framework programmes of the European Community for research, technological development and demonstration activities. The marketing of seed and plant propagating material to be utilised under the new programme should be without prejudice to Council Directives 66/401/EEC of 14 June 1966 on the marketing of fodder plant seed ⁽³⁾, 66/402/EEC of 14 June 1966 on the marketing of cereal seed ⁽⁴⁾, 68/193/EEC of 9 April 1968 on the marketing of material for the vegetative propagation of the vine ⁽⁵⁾, 92/33/EEC of 28 April 1992 on the marketing of vegetable propagating and planting material, other than seed ⁽⁶⁾, 92/34/EEC of 28 April 1992 on the marketing of fruit plant propagating material and fruit plants intended for fruit production ⁽⁷⁾, 98/56/EC of 20 July 1998 on the marketing of propagating material of ornamental plants ⁽⁸⁾, 1999/105/EC of 22 December 1999 on the marketing of forest reproductive material ⁽⁹⁾, 2002/53/EC of 13 June 2002 on the common catalogue of varieties of agricultural plant species ⁽¹⁰⁾, 2002/54/EC of 13 June 2002 on the marketing of beet seed ⁽¹¹⁾, 2002/55/EC of 13 June 2002 on the marketing of vegetable seed ⁽¹²⁾, 2002/56/EC of 13 June 2002 on the marketing of seed potatoes ⁽¹³⁾, 202/57/EC of 13 June 2002 on the marketing of seed oil and fibre plants ⁽¹⁴⁾.
- (12) The Agreement on the European Economic Area (EEA Agreement) provides that the countries of the European Free Trade Association participating in the European Economic Area (EFTA/EEA countries) should, *inter alia*, strengthen and broaden cooperation within the framework of the Community's activities in the field of conservation, characterisation, collection and utilisation of genetic resources in agriculture.
- (13) For the better implementation of the Community programme, a work programme for the period 2004 to 2006 should be set out detailing the relevant financial provisions to be applied.
- (14) For the purposes of implementing and monitoring the Community programme, the Commission should be able to use the assistance of scientific and technical advisors.

⁽¹⁾ OJ L 160, 26.6.1999, p. 80. Regulation as last amended by Regulation (EC) No 583/2004 (OJ L 91, 30. 3.2004, p. 1).

⁽²⁾ OJ L 159, 28.6.1994, p. 1. Regulation as amended by Regulation (EC) No 806/2003 (OJ L 122, 16.5.2003, p. 1).

⁽³⁾ OJ P 125, 11.7.1966, p. 2298/66. Directive as last amended by Directive 2003/61/EC (OJ L 165, 3.7.2003, p. 23).

⁽⁴⁾ OJ P 125, 11.7.1966, p. 2309/66. Directive as last amended by Directive 2003/61/EC.

⁽⁵⁾ OJ L 93, 17.4.1968, p. 15. Directive as last amended by Regulation (EC) No 1829/2003 of the European Parliament and of the Council (OJ L 268, 18.10.2003, p. 1).

⁽⁶⁾ OJ L 157, 10.6.1992, p. 1. Directive as last amended by Regulation (EC) No 806/2003 (OJ L 122, 16.5.2003, p. 1).

⁽⁷⁾ OJ L 157, 10.6.1992, p. 10. Directive as last amended by Regulation (EC) No 806/2003.

⁽⁸⁾ OJ L 226, 13.8.1998, p. 16. Directive as last amended by Regulation (EC) No 806/2003.

⁽⁹⁾ OJ L 11, 15.11.2000, p. 17.

⁽¹⁰⁾ OJ L 193, 20.7.2002, p. 1. Directive as last amended by Regulation (EC) No 1829/2003 of the European Parliament and of the Council.

⁽¹¹⁾ OJ L 193, 20.7.2002, p. 12. Directive as amended by Directive 2003/61/EC.

⁽¹²⁾ OJ L 193, 20.7.2002, p. 33. Directive as last amended by Regulation (EC) No 1829/2003 of the European Parliament and of the Council.

⁽¹³⁾ OJ L 193, 20.7.2002, p. 60. Directive as last amended by Directive 2003/61/EC.

⁽¹⁴⁾ OJ L 193, 20.7.2002, p. 74. Directive as last amended by Directive 2003/61.

- (15) The Community contribution should all be financed through heading 3 (Internal policies) of the financial perspective.
- (16) The measures necessary for the implementation of this Regulation should be adopted in accordance with Council Decision 1999/468/EC of 28 June 1999 laying down the procedures for the exercise of implementing powers conferred on the Commission ⁽¹⁾,
- (b) 'animal genetic resources' means those of farm animals (vertebrates and invertebrates) and wild fauna which are or could be of use in the field of agriculture;
- (c) 'genetic material' means any material of plant, microbial or animal origin, including reproductive and vegetative propagating material, containing functional units of heredity;
- (d) 'genetic resources for agriculture' means any genetic material of plant, microbial or animal origin of actual or potential value for agriculture;

HAS ADOPTED THIS REGULATION:

Article 1

Objectives

With a view to achieving the aims of the CAP, and to implementing the commitments taken at international level, a Community programme is hereby established for the period 2004 to 2006 to complement and promote, at Community level, the work undertaken in the Member States for the conservation, characterisation, collection and utilisation of genetic resources in agriculture.

Article 2

Scope

1. This Regulation shall apply to plant, microbial and animal genetic resources which are or could be of use in agriculture.

2. No support may be granted under this Regulation:

- (a) for commitments eligible under Title II, Chapter VI, of Regulation (EC) No 1257/1999, as specified pursuant to Article 14 of Commission Regulation (EC) No 445/2002 of 26 February 2002 laying down detailed rules for the application of Council Regulation (EC) No 1257/1999 on support for rural development from the European Agricultural Guidance and Guarantee Fund (EAGGF) ⁽²⁾.
- (b) for activities eligible under the framework programme of the European Community for research, technological development and demonstration activities.

Article 3

Definitions

For the purpose of this Regulation, the following definitions shall apply:

- (a) 'plant genetic resources' means those of agricultural crops, horticultural crops, medicinal plants and aromatics, fruit crops, forest trees and wild flora which are or could be of use in the field of agriculture;

- (e) 'in situ conservation' means the conservation of genetic material in ecosystems and natural habitats and the maintenance and recovery of viable populations of species or feral breeds in their natural surroundings and, in the case of domesticated animal breeds or cultivated plant species, in the farmed environment where they have developed their distinctive properties;
- (f) 'in situ/on-farm conservation' means 'in situ conservation and development' at the level of the farm;
- (g) 'ex situ conservation' means the conservation of genetic material for agriculture outside their natural habitat;
- (h) 'ex situ collection' means a collection of genetic material for agriculture maintained outside their natural habitat;
- (i) 'biogeographic region' means a geographic region with typical characteristics regarding the composition and structure of the fauna and flora.

Article 4

Eligible actions

1. The Community programme referred to in Article 1 shall comprise targeted actions, concerted actions and accompanying actions, as specified in Articles 5, 6 and 7.

2. All actions carried out under the programme shall be in conformity with Community legislation on the phytosanitary, and animal health and zootechnical rules, on the marketing of seed and propagating material and on the common catalogue and shall take into account:

- (a) other activities undertaken at Community level;
- (b) relevant international processes, developments and agreements, in particular as regards:
- the Convention on Biological Diversity,
 - the International Treaty on Plant Genetic Resources for Food and Agriculture,
 - the FAO's Global Plan of Action for the Conservation and Sustainable Utilisation of Plant Genetic Resources for Food and Agriculture and other actions undertaken within the framework of FAO,

⁽¹⁾ OJ L 184, 17.7.1999, p. 23.

⁽²⁾ OJ L 74, 15.3.2002, p. 2. Regulation as last amended by Regulation (EC) No 963/2003 OJ L 138, 5.6.2003, p. 32).

- the European Plant Conservation Strategy and the relevant resolutions of the Ministerial Conferences on the Protection of Forests in Europe,
- the Global Strategy for the Management of Farm Animal Genetic Resources, and
- programmes implemented under international frameworks such as the European Cooperative Programme for Crop Genetic Resources Networks (ECP/GR), the European regional focal point (ERFP) of national coordinators for the management of farm animal genetic resources, European Forest Genetic Resources Programme (Euforgen) and the Consultative Group on International Agricultural Research (CGIAR).

Article 5

Targeted actions

The targeted actions shall include:

- (a) actions promoting the *ex situ* and *in situ* conservation, characterisation, collection and utilisation of genetic resources in agriculture;
- (b) the establishment of a European decentralised, permanent and widely accessible web-based inventory of genetic resources currently conserved *in situ* including *in situ/on-farm* genetic resources conservation activities;
- (c) the establishment of a European decentralised, permanent and widely accessible web-based inventory of the *ex situ* collections (gene banks) and *in situ* facilities (resources) and databases currently available or being developed on the basis of national inventories;
- (d) the promotion of regular exchanges of technical and scientific information, in particular on the origins and individual characteristics of available genetic resources, among competent organisations in the Member States.

The actions referred to in point (a) shall be transnational, taking into account, if appropriate, biogeographic regional aspects and promote or complement, at Community level, work implemented at regional or national level. They may not involve aid to maintain nature protection areas.

Article 6

Concerted actions

The concerted actions shall promote the exchange of information on thematic issues for the purpose of improving the coordination of actions and programmes for the conservation, characterisation, collection and utilisation of genetic resources in Community agriculture. They shall be transnational.

Article 7

Accompanying actions

The accompanying actions shall include information, dissemination and advisory actions involving the organisation of seminars, technical conferences, meetings with non-governmental organisations (NGOs) and other relevant stakeholders, training courses and the preparation of technical reports.

Article 8

Work programme

1. The Commission shall ensure the implementation of the Community programme on the basis of a work programme covering the period 2004 to 2006 established in accordance with the procedure referred to in Article 15(2) and subject to the availability of budgetary allocations.

2. The actions co-financed under the Community programme shall have a maximum duration of four years.

Article 9

Selection of actions

1. The Commission shall, within the work programme referred to in Article 8 and on the basis of calls for proposals for actions published in the C series of the *Official Journal of the European Union*, select the actions to be financed under the Community programme.

2. The calls for proposals shall cover the actions and areas referred to in Articles 5, 6 and 7 and in Annex I. The content of the calls for proposals shall be established in accordance with the procedure referred to in Article 15(2) and in compliance with the relevant Articles under Title VI of Council Regulation (EC, Euratom) No 1605/2002 of 25 June 2002 on the Financial Regulation applicable to the general budget of the European Communities ⁽¹⁾.

3. Proposals for actions referred to in Articles 5, 6 and 7 may be submitted by a public sector body or any natural or legal person who is a national of a Member State and established in the Community, including gene banks, non-governmental organisations, breeders, technical institutes, experimental farms, gardeners and forest owners. Bodies or persons established in third countries may also submit proposals where this is provided for in Article 10.

4. The following criteria shall be taken into account for the assessment of the proposals:

- (a) relevance to the objectives of the Community programme, as defined in Article 1;
- (b) technical quality of the proposed work;
- (c) ability to carry out the action successfully and to ensure its efficient management, assessed in terms of resources and competences and including the organisational arrangements laid down by the participants;

⁽¹⁾ OJ L 248, 10.9.2002, p. 1.

(d) European added value and potential contribution to Community policies.

5. Proposals for actions to be financed under the Community programme shall be selected on the basis of independent expert assessment. The independent experts shall be invited by the Commission in compliance with Article 57(2) of Regulation (EC, Euratom) No 1605/2002 and with Article 178 of Commission Regulation (EC, Euratom) No 2342/2002 of 23 December 2002 laying down detailed rules for the implementation of Council Regulation (EC, Euratom) No 1605/2002 on the Financial Regulation applicable to the general budget of the European Communities ⁽¹⁾.

6. If necessary, detailed rules for the application of this Article shall be adopted in accordance with the procedure referred to in Article 15(2).

Article 10

Participation of third countries

The Community programme shall be open to the participation of:

- (a) EFTA/EEA countries in accordance with the conditions established in the EEA Agreement;
- (b) associated countries, in accordance with the conditions laid down in the respective bilateral agreements establishing the general principles for their participation in Community programmes.

Article 11

Grant agreement

1. After adoption of the selected actions, the Commission shall conclude grant agreements with the participants in these actions in compliance with the relevant Articles under Title VI of Regulation (EC, Euratom) No 1605/2002. The grant agreements shall set out detailed criteria for the reporting, dissemination, protection and exploitation of the results of the actions.

2. The Commission shall take the necessary steps, in particular by means of technical, administrative and accounting checks at the premises of the beneficiaries, to verify that the information and supporting documents supplied are accurate, and that all the obligations laid down in the grant agreement have been fulfilled.

Article 12

Technical assistance

1. In compliance with Article 57(2) of Regulation (EC, Euratom) No 1605/2002, the Commission may call on the assistance of scientific and technical experts for the implemen-

tation of the Community programme, including technical advice with regard to the preparation of calls for proposals, evaluation of technical and financial reports, monitoring, reporting and information purposes.

2. A service contract shall be signed as a result of a call for tender procedure in the field of public procurement in compliance with the relevant Articles under Title V of Regulation (EC, Euratom) No 1605/2002.

Article 13

Community contribution

1. The Community contribution to the actions referred to in Article 5 shall not exceed 50 % of the total cost of the action.

2. The Community contribution to the actions referred to in Articles 6 and 7 shall not exceed 80 % of the total cost of the action.

3. A Community contribution of up to 100 % of the total cost of the assistance referred to in Article 9(5) (assessment of proposals), Article 12 (technical assistance) and Article 14 (evaluation of the Community programme) shall be allocated.

4. The financial perspective heading 3 'Internal Policies' shall contribute to the funding of actions and assistance undertaken under the Community programme in application of this Regulation.

5. An indicative breakdown of the funds allocated to the Community programme is given in Annex II.

Article 14

Evaluation of the Community programme

At the end of the Community programme, the Commission shall appoint a group of independent experts to report on the implementation of this Regulation, to assess the results and to make appropriate recommendations. The group's report, together with the Commission's comments, shall be submitted to the European Parliament, the Council and the European Economic and Social Committee.

Article 15

Committee procedure

1. The Commission shall be assisted by a Committee on the conservation, characterisation, collection and utilisation of genetic resources in agriculture (hereinafter referred to as the Committee).

⁽¹⁾ OJ L 357, 31.12.2002, p. 1.

2. Where reference is made to this paragraph, Articles 4 and 7 of Decision 1999/468/EC shall apply.

Article 16

Repeal

The period laid down in Article 4(3) of Decision 1999/468/EC shall be set at one month.

Regulation (EC) No 1467/94 shall be repealed, without prejudice to the contractual obligations of parties which have entered into contracts arising out of that Regulation.

Article 17

Entry into force

3. The Committee shall adopt its Rules of Procedure.

4. The Committee shall be informed on a regular basis on the implementation of the Community programme.

This Regulation shall enter into force on the seventh 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 Luxembourg, 24 April 2004.

For the Council

The President

J. WALSH

ANNEX I

COMMUNITY PROGRAMME: ELIGIBLE ACTIONS AND AREAS**1. Eligible actions and areas**

The Community programme concerns the conservation, characterisation, evaluation, collection, documentation, development and utilisation of genetic resources that currently occur within the territory of the Community. Eligible organisms are plants (seed-bearing plants), animals (vertebrates and certain invertebrates) and micro-organisms.

The programme covers material that is actively growing and material that is dormant (seeds, embryos, semen and pollen). Ex situ, *in situ* and on farm collections are covered. All types of material are eligible including cultivars and domestic breeds, local breeds, breeders' material, genetic type collections, and wild species.

Priority will be given to species which are, or which may reasonably be expected to become significant in agriculture, horticulture or forestry in the Community.

Preference will be given to the use of genetic resources for:

- (a) diversification of production in agriculture;
- (b) improved product quality;
- (c) sustainable management and use of natural and agricultural resources;
- (d) improved quality of the environment and the countryside;
- (e) identification of products for new uses and markets.

When collections are recorded and new collecting is undertaken, steps will be taken within the programme to ensure that the traditional regional experience and knowledge of the users (farmers, horticulturists) on methods of cultivation, specific uses, processing, taste, etc., are also included. The latter information should not be recorded as narrative but, as far as possible, in a standardised manner allowing documentation and easy retrieval of the data in a relational database system.

All actions carried out under the programme shall be in conformity with Community legislation on the marketing of seed and propagating material and on the common catalogue, as well as with phytosanitary and the animal health and zootechnical rules in force in the Community.

Appropriate steps, in accordance with the aims of the CAP and in conformity with Community international commitments, should be taken to promote the dissemination and exploitation of any results of work in the field of the conservation, characterisation, evaluation, collection, documentation, development and utilisation of genetic resources in agriculture which could contribute to the achievement of those aims and commitments. The main objective is to provide an efficient and practical support to the actual and future end users of genetic resources in the Community.

2. Excluded actions and areas

The following actions are specifically not eligible for Community financial support under this programme: theoretical studies, studies to test hypotheses, studies to develop tools or techniques, work involving untested techniques or 'model' systems and all other research activities. Such actions are eligible for consideration under the Community research and technological development framework programmes. Adaptation of existing methods for the purpose of an activity within the Regulation might, however, be considered eligible for support under the Community programme.

Actions that are eligible for support under the framework programme of the European Community for research, technological development and demonstration activities may not be supported.

No support may be granted under this programme for commitments that are already under way in the Member States and/or eligible under Title II, Chapter VI, of Regulation (EC) No 1257/1999 as specified under Article 14 of Regulation (EC) No 445/2002. However, actions leading to synergy between Regulation (EC) No 1257/1999 and this programme should be encouraged.

Actions involving lower animals, lower plants and micro-organisms, including fungi, are only eligible when these are reared or cultivated on land and when they are or could be of use in agriculture, including organisms which are suited for use as biological control agents in agriculture in its widest sense. Exception will be made in the specific case of defined gene-for-gene relationships between parasite or symbiont and host, and where both organisms are to be conserved. Collecting and acquisition of material is subject to the priorities stipulated above.

3. Types of actions

The implementation of the Community programme for the conservation, characterisation, evaluation, collection, documentation, development and utilisation of genetic resources in agriculture includes targeted actions, concerted actions and accompanying actions. The following actions shall be promoted:

3.1. Targeted actions

Actions aiming at the *ex situ*, *in situ* and on-farm conservation, characterisation, evaluation, collection, documentation, development and utilisation of genetic resources in agriculture are intended to support or complement, at Community level, work implemented at regional or national level. They shall be transnational (taking, where appropriate, into account also biogeographic regional aspects). These actions may not involve aid to maintain nature protection areas.

The actions should add value (spreading knowledge, increasing use, improving methodologies, exchange between Member States) to the agri-environmental schemes for endangered species, provenance, cultivars or breeds already funded at national or regional level (e.g., characterisation of genetic diversity and distance between the respective breeds, utilisation of local products, coordination and search of commonalities between scheme managers).

These actions must, as a general rule, be carried out by participants established within the Community and funded through the present facility, in partnership, when appropriate, with organisations from other regions of the world. Priority is to be given to actions providing for the participation of two or more unconnected participants established in different Member States. Participation by NGOs and other stakeholders in the field of *in situ/on-farm* conservation should be promoted.

The dissemination and exchange of European genetic resources should be promoted with a view to increasing the use of under-utilised species but also the use of a broad diversity of genetic resources in sustainable agricultural production.

For plant genetic resources, a European decentralised, permanent and widely accessible web-based network of national inventories of the *ex situ* collections (gene banks), *in situ* facilities (resources) and databases on the basis of national inventories is currently available or being developed in the framework of the EPGRIS initiative. The development of national inventories of *ex situ* collections held in European countries, and a European search catalogue (EURISCO) should be established and further improved and inventories of *in situ* resources (genetic reserves or gene conservation units) should be developed.

A European decentralised, permanent and widely accessible web-based inventory of forest genetic resources, including *in situ* resources (genetic reserves or gene conservation units) and *ex situ* collections should be established on the basis of national inventories and taking into consideration the activities of the Euforgen-networking programme.

For animal genetic resources maintained on farms, efforts should concentrate on a European network of national inventories of administrative aspects (origin and status of funding, state of breeds and their endangerment, location of herd-books, etc.) which should be managed in conformity with DAD-IS, the information system for the Global Strategy for the Management of Farm Animal Genetic Resources (AnGR).

For *ex situ* conservation of animal genetic resources (semen, embryos) a web-based network of national inventories and a European search catalogue for minimum passport data should be developed. The inventory is to consist principally of the establishment, regular updating and regular publication of the facilities (storage and conservation) for genetic resources in agriculture collected in the Community, and the listing of current work on the conservation, characterisation, evaluation, collection, documentation, development and utilisation of those genetic resources. Minimum passport data of individual accessions may be included.

For microbial genetic resources, a web-based network of national inventories of *ex situ* and *in situ* resources should be established, in the framework of the European Biological Resource Centre Network (EBRCN).

Regular exchanges of information between competent organisations in the Member States, in particular on the origins and individual characteristics of available genetic resources, shall be promoted. This will help establish a network of national inventories which will provide a guide to collections of conserved genetic resources and associated activities in the Community. The aims of the network of national inventories are to support the Community and national activities and encourage the widest possible knowledge and use of preserved material.

Expenditure on the capacity building of NGOs, the establishment and monitoring of the inventories, regular exchanges of information between competent organisations in the Member States and the preparation of regular publications and reports, is to be covered from the total appropriations earmarked for the implementation of the programme.

3.2. Concerted actions

Concerted actions are devoted to improve the coordination at Community level, mainly through the organisation of seminars and the preparation of reports, of individual (national, regional, local) actions for the conservation, characterisation, evaluation, collection, documentation, development and utilisation of genetic resources in agriculture that are already being carried out in the Member States. In particular, they should promote exchanges of information among the Member States and the Member States and the Commission on thematic issues and on specific local (on-farm), regional, or national actions and programmes (carried out or planned under the authority of Member States or by bodies not under their authority), including also actions which are or may be carried out under Regulation (EC) No 1257/1999, Council Regulations (EEC) No 2081/92 of 14 July 1992 on the protection of geographical indications and designations of origin for agricultural products and foodstuffs⁽¹⁾ and (EEC) No 2082/92 of 14 July 1992 on certificates of specific character for agricultural products and foodstuffs⁽²⁾ or Council Directive 98/95/EC of 14 December 1998 amending, in respect of the consolidation of the internal market, genetically modified plant varieties and plant genetic resources, Directives 66/400/EEC, 66/401/EEC, 66/402/EEC, 66/403/EEC, 69/208/EEC, 70/457/EEC and 70/458/EEC on the marketing of beet seed, fodder plant seed, cereal seed, seed potatoes, seed of oil and fibre plants and vegetable seed and on the common catalogue of varieties of agricultural plant species⁽³⁾, for the purposes of coordinating these initiatives with each other, with measures to be undertaken at Community level and with relevant international processes, developments and agreements. Concerted actions could also involve coordination activities on thematic issues (specific crop or animal genetic resources) through specialised technical groups. The concerted actions shall be transnational.

3.3. Accompanying actions

Specific accompanying actions shall include information, dissemination and advisory actions involving:

- the organisation of seminars, technical conferences, workshops, occasional meetings with NGOs and other interested bodies and relevant stakeholders,
- training courses and mobility schemes for specialists,
- preparation of technical reports,
- the promotion of the utilisation of results by the market (users).

4. Targeted actions: more details about eligible areas

4.1. Crop genetic resources

- 1) Development of a web-based, permanent and widely accessible network of national inventories on crop genetic resources (in situ and ex situ); maintenance and further improvement of EURISCO.
- 2) Information exchange on methods, techniques and experiences of on-farm activities, including utilisation and marketing concepts that may promote the use of under-utilised crops and contribute to the diversification of agriculture.
- 3) Inventory and documentation of *in situ* resources of wild crop relatives that are used or potentially useful for food and agriculture.
- 4) Establishment, maintenance and improvement of web-based European Central Crop Databases (ECCDBs) with characterisation and evaluation data and linked to the network of national inventories and to the EURISCO catalogue for the passport level data.
- 5) Establishment and coordination of permanent European ex situ collections based upon the existing national or institutional ex situ collections, implementing concepts for sharing of responsibilities for the conservation of crop genetic resources among European countries.
- 6) Establishment and coordination of a European network of conservation and demonstration fields/gardens of endangered and under-utilised crop genetic resources.
- 7) Characterisation and evaluation of crop genetic resources that could be of interest for European agriculture.
- 8) Collecting, in conformity with international law and obligations, of crop genetic resources that could be of interest for European agriculture.

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

⁽²⁾ OJ L 208, 24.7.1992, p. 9. Regulation as last amended by Regulation (EC) No 806/2003.

⁽³⁾ OJ L 25, 1.2.1999, p. 1.

4.2. Forest genetic resources

- 1) Establishment of a web-based, permanent and widely accessible network of national inventories on forest genetic resources that are used or potentially useful for sustainable forest management in Europe.
- 2) Information exchange on methods, techniques and experiences on forest genetic resources conservation and management.
- 3) Assessment and development of best operational management practices for forest genetic resources and integration of related activities into national forest programmes.
- 4) Establishment of European networks of representative genetic reserves or gene conservation units for relevant target species in order to improve conservation and characterisation at European level.
- 5) Evaluation of forest genetic resources at species and provenance level (including evaluation of trials in the case of existing provenance experiments) that could be of value for sustainable forest management in Europe.
- 6) Establishment and coordination of collections to promote the use of genetic resources for afforestation, reforestation, rehabilitation and tree improvement purposes at the European level.
- 7) Collecting of forest genetic resources that could be of interest at the European level.

4.3. Animal genetic resources

- 1) Establishment of a web-based, permanent and widely accessible European network of national inventories of animal genetic resources ex situ and in situ/on-farm taking into account activities within the framework of the European National Coordinators for Animal Genetic Resources and linked to the FAO/DAD-IS system.
 - 2) Development of European-wide standardised and comparable criteria to identify the national priorities for action in the field of sustainable conservation and utilisation of Animal Genetic Resources and related requirements for international cooperation.
 - 3) Establishment of European cryo-conserves for animal genetic resources based upon national or institutional cryo-conserves.
 - 4) Characterisation and evaluation of animal genetic resources (species and breeds) used or potentially useful for food and agriculture.
 - 5) Establishment of a standardised European performance testing regime for animal genetic resources in agriculture, and documentation of characteristics of endangered farm animal breeds and populations.
 - 6) Establishment and coordination of a European-wide network of 'Ark farms', rescue-stations and farm animal parks for endangered European farm animal breed.
 - 7) Development of common cross-national breeding programmes for endangered breeds and populations. Establishment of rules for the exchange of information, genetic material and breeding animals.
 - 8) Development of strategies which support the enhancement of profitability of local breeds in order to develop links between local breeds and their typical products, to identify and to promote the value of local breeds for their environmental services (e.g. landscape conservation, agro-ecosystems management) and for their contribution to the multifunctional character of agriculture (e.g. maintenance of rural cultural diversity, rural development and tourism, etc.).
 - 9) Development of strategies which promote the utilisation of under-utilised animal genetic resources that could be of interest on a European level.
-

ANNEX II

INDICATIVE FINANCIAL BREAKDOWN FOR THE COMMUNITY PROGRAMME

	%
Actions	90
Targeted actions	73
— for the promotion of <i>ex situ</i> and <i>in situ</i> conservation, characterisation, collection and utilisation of genetic resources in agriculture to promote or complement, at Community level, work implemented at regional or national level,	(53)
— for developing European decentralised, permanent and widely accessible web-based inventories of genetic resources in agriculture (in particular, their origins and their characteristics), conservation activities, facilities and databases currently available or being developed in the Community.	(20)
Concerted actions	9
— Exchange of information on thematic issues on national actions and programmes for the purpose of improving the coordination of these initiatives as well as with measures undertaken at Community level and with developments in international negotiations.	
Accompanying actions	8
— Information, dissemination and advisory actions involving the organisation of seminars, technical conferences, meetings with NGOs and other relevant stakeholders, training courses and the preparation of technical reports.	
Technical assistance and consultation of experts (evaluation)	10 (8 + 2)
Total	100

**COUNCIL REGULATION (EC) No 871/2004
of 29 April 2004**

**concerning the introduction of some new functions for the Schengen Information System,
including in the fight against terrorism**

THE COUNCIL OF THE EUROPEAN UNION

Having regard to the Treaty establishing the European Community, and in particular Article 66 thereof,

Having regard to the initiative of the Kingdom of Spain ⁽¹⁾,

Having regard to the opinion of the European Parliament ⁽²⁾,

Whereas:

- (1) The Schengen Information System, hereinafter referred to as 'SIS', set up pursuant to the provisions of Title IV of the Convention of 1990 implementing the Schengen Agreement of 14 June 1985 on the gradual abolition of checks at common borders ⁽³⁾, hereinafter referred to as 'the 1990 Schengen Convention', constitutes an essential tool for the application of the provisions of the Schengen acquis as integrated into the framework of the European Union.
- (2) The need to develop a new, second generation SIS, hereinafter referred to as 'SIS II', with a view to the enlargement of the European Union and allowing for the introduction of new functions, while benefiting from the latest developments in the field of information technology, has been recognised and the first steps have been taken to develop this new system.
- (3) Certain adaptations of existing provisions and the introduction of certain new functions can already be realised with respect to the current version of the SIS, in particular as far as concerns the provision of access to certain types of data entered in the SIS for authorities the proper performance of whose tasks would be facilitated were they able to search these data, including Europol and the national members of Eurojust, the extension of the categories of missing objects about which alerts may be entered and the recording of transmissions of personal data. The technical facilities required for the purpose first need to be established in each Member State.
- (4) The Conclusions of the Laeken European Council of 14 and 15 December 2001 and in particular Conclusions 17 (cooperation between specialised counter-terrorism services), 43 (Eurojust and police cooperation with regard to Europol) and the Action Plan of 21 September 2001 against terrorism refer to the need to enhance the SIS and improve its capabilities.

(5) Moreover, it is useful to enact provisions with respect to the exchange of all supplementary information through the authorities designated for that purpose in all Member States (Supplementary Information Request at National Entry), giving these authorities a common legal basis within the provisions of the 1990 Schengen Convention and setting out rules on deletion of data kept by these authorities.

(6) The amendments to be made to this effect to the provisions of the Schengen acquis dealing with the SIS consist of two parts: this Regulation and a Council Decision based on Articles 30(1)(a) and (b), 31(a) and (b) and 34(2)(c) of the Treaty on European Union. The reason for this is that, as set out in Article 93 of the 1990 Schengen Convention, the purpose of the SIS is to maintain public policy and public security, including national security, in the territories of the Member States and to apply the provisions of the said Convention relating to the movement of persons in those territories, by using information communicated via the SIS in accordance with the provisions of that Convention. Since some of the provisions of the 1990 Schengen Convention are to be applied for both purposes at the same time, it is appropriate to modify such provisions in identical terms through parallel acts based on each of the Treaties.

(7) This Regulation is without prejudice to the adoption in future of the necessary legislation describing in detail the legal architecture, objectives, operation and use of SIS II, such as, but not limited to, rules further defining the categories of data to be entered into the system, the purposes for which they are to be entered and the criteria for their entry, rules concerning the content of SIS records, the interlinking of alerts, compatibility between alerts and further rules on access to SIS data and the protection of personal data and their control.

(8) As regards Iceland and Norway, this Regulation constitutes a development of provisions of the Schengen acquis within the meaning of the Agreement concluded by the Council of the European Union and the Republic of Iceland and the Kingdom of Norway concerning the association of those two States with the implementation, application and development of the Schengen acquis, which fall within the area referred to in Article 1, point G of Decision 1999/437/EC ⁽⁴⁾, on certain arrangements for the application of that Agreement.

⁽¹⁾ OJ C 160, 4.7.2002, p. 5.

⁽²⁾ OJ C 31 E, 5.2.2004, p.122.

⁽³⁾ OJ L 239, 22.9.2000, p. 19.

⁽⁴⁾ OJ L 176, 10.7.1999, p. 31.

- (9) In accordance with Articles 1 and 2 of the Protocol on the position of Denmark, annexed to the Treaty on European Union and to the Treaty establishing the European Community, Denmark is not taking part in the adoption of this Regulation and is not bound by it or subject to its application. Given that this Regulation builds upon the Schengen acquis under the provisions of Title IV of Part Three of the Treaty establishing the European Community, Denmark shall, in accordance with Article 5 of the said Protocol, decide within a period of six months after the Council has adopted this Regulation whether it will implement it in its national law.
- (10) This Regulation constitutes a development of the SIS for the purpose of its application in relation to provisions of the Schengen acquis relating to the movement of persons; the United Kingdom has not applied to and does not take part in the SIS for these purposes, in accordance with Council Decision 2000/365/EC of 29 May 2000 concerning the request of the United Kingdom of Great Britain and Northern Ireland to take part in some of the provisions of the Schengen acquis⁽¹⁾; the United Kingdom is therefore not taking part in its adoption and is not bound by it or subject to its application.
- (11) This Regulation constitutes a development of the SIS for the purpose of its application in relation to provisions of the Schengen acquis relating to the movement of persons; Ireland has not applied to and does not take part in the Schengen Information System for these purposes, in accordance with Council Decision 2002/192/EC of 28 February 2002 concerning Ireland's request to take part in some of the provisions of the Schengen acquis⁽²⁾; Ireland is therefore not taking part in its adoption and is not bound by it or subject to its application.
- (12) This Regulation constitutes an act building on the Schengen acquis or otherwise related to it within the meaning of Article 3(2) of the Act of Accession,
- respect of whom, and objects in respect of which, data have been entered in the Schengen Information System, are found as a result of searches made in this System. Such information shall be used only for the purpose for which it was transmitted.'
2. points (a) to (i) of the first paragraph of Article 94(3) shall be replaced by the following:
- '(a) surname and forenames, any aliases possibly entered separately;
- (b) any specific objective physical characteristics not subject to change;
- (c) (...);
- (d) place and date of birth;
- (e) sex;
- (f) nationality;
- (g) whether the persons concerned are armed, violent or have escaped;
- (h) reason for the alert;
- (i) action to be taken;'
3. the following sentence shall be added at the end of Article 101(1):
- 'However, access to data entered in the SIS and the right to search such data directly may also be exercised by national judicial authorities, *inter alia*, those responsible for the initiation of public prosecutions in criminal proceedings and judicial inquiries prior to indictment, in the performance of their tasks, as set out in national legislation.'
4. Article 101(2) shall be replaced by the following:
- '2. In addition, access to data entered in accordance with Article 96 and data concerning documents relating to persons entered in accordance with Article 100(3)(d) and (e) and the right to search such data directly may be exercised by the authorities responsible for issuing visas, the central authorities responsible for examining visa applications and the authorities responsible for issuing residence permits and for the administration of legislation on aliens in the context of the application of the provisions of this Convention relating to the movement of persons. Access to data by these authorities shall be governed by the national law of each Member State.'
5. the second sentence of Article 102(4) shall be replaced by the following:
- 'By way of derogation, data entered under Article 96 and data concerning documents relating to persons entered under Article 100(3)(d) and (e) may be used in accordance with the national law of each Member State for the purposes of Article 101(2) only.'

HAS ADOPTED THIS REGULATION:

Article 1

The provisions of the 1990 Schengen Convention are hereby amended as follows:

1. the following paragraph shall be added to Article 92:

'4. Member States shall in accordance with national legislation exchange through the authorities designated for that purpose (Sirene) all supplementary information necessary in connection with the entry of alerts and for allowing the appropriate action to be taken in cases where persons in

⁽¹⁾ OJ L 131, 1.6.2000, p. 43.

⁽²⁾ OJ L 64, 7.3.2002, p. 20.

6. Article 103 shall be replaced by the following:

'Article 103

Each Member State shall ensure that every transmission of personal data is recorded in the national section of the Schengen Information System by the data file management authority for the purposes of checking whether the search is admissible or not. The record may only be used for this purpose and shall be deleted at the earliest after a period of one year and at the latest after a period of three years.'

7. the following Article shall be inserted:

'Article 112 A

1. Personal data held in files by the authorities referred to in Article 92(4) as a result of information exchange pursuant to that paragraph, shall be kept only for such time as may be required to achieve the purposes for which they were supplied. They shall in any event be deleted at the latest one year after the alert or alerts concerning the person or object concerned have been deleted from the Schengen Information System.

2. Paragraph 1 shall not prejudice the right of a Member State to keep in national files data relating to a particular alert which that Member State has issued or to an alert in connection with which action has been taken on its territory. The period of time for which such data may be held in such files shall be governed by national law.'

8. the following Article shall be inserted:

'Article 113 A

1. Data other than personal data held in files by the authorities referred to in Article 92(4) as a result of information exchange pursuant to that paragraph, shall be kept only for such time as may be required to achieve the purposes for which they were supplied. They shall in any event be deleted at the latest one year after the alert or alerts concerning the person or object concerned have been deleted from the Schengen Information System.

2. Paragraph 1 shall not prejudice the right of a Member State to keep in national files data relating to a particular alert which that Member State has issued or to an alert in connection with which action has been taken on its territory. The period of time for which such data may be held in such files shall be governed by national law.'

Article 2

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

2. It shall apply from a date to be fixed by the Council, acting unanimously, as soon as the necessary preconditions have been fulfilled. The Council may decide to set different dates for the application of different provisions.

3. Any Decision of the Council in accordance with paragraph 2 shall be published 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 Luxembourg, 29 April 2004.

For the Council
The President
M. McDOWELL

COUNCIL REGULATION (EC) No 872/2004
of 29 April 2004
concerning further restrictive measures in relation to Liberia

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty establishing the European Community, and in particular Articles 60 and 301 thereof,

Having regard to Council Common Position 2004/487/CFSP of 29 April 2004 concerning the freezing of funds of the former Liberian President Charles Taylor and those persons and entities associated with him, ⁽¹⁾

Having regard to the proposal from the Commission,

Whereas:

- (1) On 10 February 2004, following the adoption by the United Nations Security Council of UNSCR 1521 (2003), setting out revised measures regarding Liberia to take into account the evolution of the situation in Liberia and in particular the departure of former President Charles Taylor, and the adoption of Council Common Position 2004/137/CFSP of 10 February 2004 concerning restrictive measures against Liberia ⁽²⁾, the Council adopted Regulation 234/2004 imposing restrictive measures in respect of Liberia ⁽³⁾.
- (2) UNSCR 1532 (2004) of 12 March 2004 provides that funds and economic resources owned or controlled by former Liberian President Charles Taylor, Jewell Howard Taylor and Charles Taylor Jr, other immediate family members, his former senior officials and other close allies and associates as designated by the Committee of the Security Council established pursuant to paragraph 21 of UNSCR 1521 (2003) should be frozen.
- (3) The actions and policies of former Liberian President Charles Taylor and other persons, in particular their depletion of Liberian resources and their removal from Liberia and secreting of Liberian funds and property from that country, have undermined Liberia's transition to democracy and the orderly development of its political, administrative, and economic institutions and resources.
- (4) In view of the negative impact on Liberia of the transfer abroad of misappropriated funds and assets, and the use of such misappropriated funds by Charles Taylor and his associates to undermine peace and stability in Liberia and the region, the freezing of the funds of Charles Taylor and his associates is necessary.

- (5) Common Position 2004/487/CFSP provides for the implementation of the freezing of funds and economic resources of the former Liberian President Charles Taylor and his immediate family members, his former senior officials and other close allies and associates.
- (6) These measures fall within the scope of the Treaty and, therefore, in order to avoid any distortion of competition, Community legislation is necessary to implement them as far as the Community is concerned. For the purpose of this Regulation, the territory of the Community should be deemed to encompass the territories of the Member States to which the Treaty is applicable, under the conditions laid down in that Treaty.
- (7) Common Position 2004/487/CFSP also provides that certain exemptions from the freezing requirement can be granted for humanitarian purposes or the satisfaction of liens or judgments entered prior to the date of UNSCR 1532 (2004).
- (8) The UN Security Council has expressed its intention to consider whether and how to make available the funds and economic resources frozen pursuant to UNSCR 1532 (2004) to the Government of Liberia, once that Government has established transparent accounting and auditing mechanism to ensure the responsible use of government revenue to benefit directly the people of Liberia.
- (9) In order to ensure that the measures provided for in this Regulation are effective, this Regulation should enter into force on the day of its publication,

HAS ADOPTED THIS REGULATION:

Article 1

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

1. 'Sanctions Committee' means: the Committee of the Security Council of the United Nations which was established pursuant to paragraph 21 of UNSCR 1521 (2003);
2. 'funds' means financial assets and benefits of every kind, including but not limited to:
 - (a) cash, cheques, claims on money, drafts, money orders and other payment instruments;
 - (b) deposits with financial institutions or other entities, balances on accounts, debts and debt obligations;

⁽¹⁾ See page 116 of this Official Journal.

⁽²⁾ OJ L 40, 12.2.2004, p. 35.

⁽³⁾ OJ L 40, 12.2.2004, p. 1.

- (c) publicly and privately traded securities and debt instruments, including stocks and shares, certificates representing securities, bonds, notes, warrants, debentures and derivatives contracts;
 - (d) interest, dividends or other income on or value accruing from or generated by assets;
 - (e) credit, right of set-off, guarantees, performance bonds or other financial commitments;
 - (f) letters of credit, bills of lading, bills of sale;
 - (g) documents evidencing an interest in funds or financial resources;
 - (h) any other instrument of export-financing;
3. 'freezing of funds' means preventing any move, transfer, alteration, use of, access to, or dealing with funds in any way that would result in any change in their volume, amount, location, ownership, possession, character, destination or other change that would enable the funds to be used, including portfolio management;
4. 'economic resources' means assets of every kind, whether tangible or intangible, movable or immovable, which are not funds but can be used to obtain funds, goods or services;
5. 'freezing of economic resource' means preventing their use to obtain funds, goods or services in any way, including, but not limited to, the selling, hiring or mortgaging of them.

Article 2

1. All funds and economic resources owned, or controlled, directly or indirectly, by former Liberian President Charles Taylor, Jewell Howard Taylor and Charles Taylor Jr, and by the following persons and entities, as designated by the Sanctions Committee and listed in Annex I, shall be frozen:

- (a) other immediate family members of former Liberian President Charles Taylor;
- (b) senior officials of the former Taylor regime, and other close allies and associates;
- (c) legal persons, bodies or entities owned or controlled, directly or indirectly by the persons referred to above;
- (d) any natural or legal person acting on behalf or at the direction of the persons referred to above.

2. No funds or economic resources shall be made available, directly or indirectly, to or for the benefit of the natural or legal persons, entities or bodies listed in Annex I.

3. The participation, knowingly and intentionally, in activities the object or effect of which is, directly or indirectly, to circumvent the measures referred to in paragraphs 1 and 2 shall be prohibited.

Article 3

1. By way of derogation from Article 2, the competent authorities of the Member States, as listed in Annex II, may authorise the release of certain frozen funds or economic resources or the making available of certain frozen funds or economic resources, if the competent authority has determined that the funds or economic resources concerned are:

- (a) necessary for basic expenses, including payments for food-stuffs, rent or mortgage, medicines and medical treatment, taxes, insurance premiums, and public utility charges;
- (b) intended exclusively for payment of reasonable professional fees and reimbursement of incurred expenses associated with the provision of legal services;
- (c) intended exclusively for payment of fees or service charges for routine holding or maintenance of frozen funds or economic resources,

provided it has notified the intention to authorise access to such funds and economic resources to the Sanctions Committee and has not received a negative decision by the Sanctions Committee within two working days of such notification.

2. By way of derogation from Article 2, the competent authorities of the Member States, as listed in Annex II, may authorise the release of certain frozen funds or economic resources or the making available of certain frozen funds or economic resources, if the competent authority has determined that the funds or economic resources are necessary for extraordinary expenses, and provided that competent authority has notified that determination to the Sanctions Committee and that the determination has been approved by that Committee.

Article 4

By way of derogation from Article 2, the competent authorities of the Member States, as listed in Annex II, may authorise the release of certain frozen funds or economic resources, if the following conditions are met:

- (a) the funds or economic resources are subject of a judicial, administrative or arbitral lien established prior to 12 March 2004 or of a judicial, administrative or arbitral judgment rendered prior to that date;

- (b) the funds or economic resources will be used exclusively to satisfy claims secured by such a lien or recognised as valid in such a judgment, within the limits set by applicable laws and regulations governing the rights of persons having such claims;
- (c) the lien or judgment is not for the benefit of a person, entity or body designated by the Sanctions Committee and mentioned in Annex I;
- (d) recognising the lien or judgement is not contrary to public policy in the Member State concerned.
- (e) the competent authority has notified the lien or judgement to the Sanctions Committee.

Article 5

The relevant competent authority shall inform the competent authorities of the other Member States and the Commission of any authorisation granted under Articles 3 and 4.

Article 6

Article 2 (2) shall not apply to the addition to frozen accounts of:

- (a) interest or other earnings on those accounts; or
- (b) payments due under contracts, agreements or obligations that were concluded or arose prior to the date on which those accounts became subject to this Regulation,

provided that any such interest, other earnings and payments are frozen in accordance with Article 2(1).

Article 7

Article 2(2) shall not prevent the crediting of the frozen accounts by financial institutions that receive funds transferred by third parties to the account of the listed person or entity, provided that any such additions to such accounts will also be frozen. The financial institution shall inform the competent authorities about such transactions without delay.

Article 8

1. Without prejudice to the applicable rules concerning reporting, confidentiality and professional secrecy and to the provisions of Article 284 of the Treaty, natural and legal persons, entities and bodies shall:

- (a) supply immediately any information which would facilitate compliance with this Regulation, such as accounts and amounts frozen in accordance with Article 2, to the competent authorities of the Member States listed in Annex II where they are resident or located, and shall transmit such information, directly or through these competent authorities, to the Commission;
- (b) cooperate with the competent authorities listed in Annex II in any verification of this information.

2. Any additional information directly received by the Commission shall be made available to the competent authorities of the Member State concerned.

3. Any information provided or received in accordance with this Article shall be used only for the purposes for which it was provided or received.

Article 9

The freezing of funds and economic resources or the refusal to make funds or economic resources available, carried out in good faith on the basis that such action is in accordance with this Regulation, shall not give rise to liability of any kind on the part of the natural or legal person or entity implementing it, or its directors or employees, unless it is proved that the funds and economic resources were frozen as result of negligence.

Article 10

The Commission and Member States shall immediately inform each other of the measures taken under this Regulation and shall supply each other with any other relevant information at their disposal in connection with this Regulation, in particular information in respect of violation and enforcement problems and judgements handed down by national courts.

Article 11

The Commission shall be empowered to:

- (a) amend Annex I on the basis of determinations made by either the United Nations Security Council or the Sanctions Committee; and
- (b) amend Annex II on the basis of information supplied by Member States.

Article 12

The Member States shall lay down the rules on sanctions applicable to infringements of the provisions of this Regulation and shall take all measures necessary to ensure that they are implemented. The sanctions provided for must be effective, proportionate and dissuasive. The Member States shall notify those rules to the Commission without delay after the entry into force of this Regulation and shall notify it of any subsequent amendment.

Article 13

This Regulation shall apply:

- (a) within the territory of the Community, including its airspace;
- (b) on board any aircraft or any vessel under the jurisdiction of a Member State;

- (c) to any person inside or outside the territory of the Community who is a national of a Member State;
- (d) to any legal person, group or entity which is incorporated or constituted under the law of a Member State;
- (e) to any legal person, group or entity doing business within the Community.

Article 14

This Regulation shall enter into force on the day 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 Luxembourg, 29 April 2004.

For the Council
The President
 M. McDOWELL

ANNEX I

List of natural and legal persons, bodies or entities referred to in Article 2

Name	Date of birth	Place of birth	Others
Charles Ghankay Taylor, Senior, Former President of Liberia	1.9.1947	Liberia	
Jewell Howard Taylor, Wife Former President Taylor	17.1.1963	Liberia	
Charles Taylor Junior Son of Former President Taylor		Liberia	

ANNEX II

List of competent authorities referred to in Articles 3, 4, 5, 7 and 10

BELGIUM

Service Public Fédéral des Finances
Administration de la Trésorerie
30 Avenue des Arts
B-1040 Bruxelles
Fax 00 32 2 233 74 65
E-mail: Quesfinvragen.tf@minfin.fed.be

DENMARK

Erhvervs- og Boligstyrelsen
Dahlerups Pakhus
Langelinie Allé 17
DK — 2100 København Ø
Tel. (45) 35 46 60 00
Fax (45) 35 46 60 01

GERMANY

Concerning freezing of funds:

Deutsche Bundesbank
Servicezentrum Finanzsanktionen
Postfach
D — 80281 München
Tel. (49-89) 2889 3800
Fax (49-89) 350163 3800

Concerning goods:

Bundesamt für Wirtschafts- und Ausfuhrkontrolle (BAFA)
Frankfurter Strasse, 29-35
D-65760 ESCHBORN
Tel. (49-61) 969 08-0
Fax (49-61) 969 08-800

GREECE

A. Freezing of Assets

Ministry of Economy and Finance
General Directory of Economic Policy
Address: 5 Nikis Str., 101 80
Athens.- Greece
Tel.: + 30 210 3332786
Fax: + 30 210 3332810

A. Α. ΔΕΣΜΕΥΣΗ ΚΕΦΑΛΑΙΩΝ

Υπουργείο Οικονομίας και Οικονομικών
Γενική Δ/ση Οικονομικής Πολιτικής
Δ/ση: Νίκης 5, ΑΘΗΝΑ 101 80
Τηλ.: + 30 210 3332786
Φαξ: + 30 210 3332810

B. Import- Export restrictions

Ministry of Economy and Finance
General Directorate for Policy Planning and Management
Address Kornaroy Str., 105 63 Athens
Tel.: + 30 210 3286401-3
Fax.: + 30 210 3286404

B. ΠΕΡΙΟΡΙΣΜΟΙ ΕΙΣΑΓΩΓΩΝ — ΕΞΑΓΩΓΩΝ

Υπουργείο Οικονομίας και Οικονομικών
Γενική Δ/ση Σχεδιασμού και Διαχείρισης Πολιτικής
Δ/ση: Κορνάρου 1, Τ.Κ. 105 63
Αθήνα — Ελλάδα
Τηλ.: + 30 210 3286401-3
Φαξ: + 30 210 3286404

SPAIN

Dirección General del Tesoro y Política Financiera
Subdirección General de Inspección y Control de Movimientos de Capitales
Ministerio de Economía
Paseo del Prado, 6
E — 28014 Madrid
Tel. (00-34) 912 09 95 11
Fax (00-34) 912 09 96 56

FRANCE

Ministère de l'économie, des finances et de l'industrie
Direction générale des douanes et des droits indirects
Cellule embargo — Bureau E2
Tél.: (33) 1 44 74 48 93
Télécopie: (33) 1 44 74 48 97

Ministère de l'économie, des finances et de l'industrie
Direction du Trésor
Service des affaires européennes et internationales
Sous-direction E
139, rue du Bercy
75572 Paris Cedex 12
Tel.: (33) 1 44 87 72 85
Télécopie: (33) 1 53 18 96 37

Ministère des Affaires étrangères
Direction de la coopération européenne
Sous-direction des relations extérieures de la Communauté
Tél.: (33) 1 43 17 44 52
Télécopie: (33) 1 43 17 56 95
Direction générale des affaires politiques et de sécurité
Service de la Politique Etrangère et de Sécurité Commune
Tél.: (33) 1 43 17 45 16
Télécopie: (33) 1 43 17 45 84

IRELAND

Central Bank of Ireland
Financial Markets Department
PO Box 559
Dame Street
Dublin 2
Tel. (353-1) 671 66 66

Department of Foreign Affairs
Bilateral Economic Relations Division
80 St. Stephen's Green
Dublin 2
Tel: (353-1) 408 2153
Fax: (353-1) 408 2003

ITALY

Ministero degli Affari Esteri
Piazzale della Farnesina, 1 — 00194 Roma
D.G.A.S. — Ufficio II
Tel. (39) 06 3691 7334
Fax. (39) 06 3691 5446

Ministero degli Affari Esteri
Piazzale della Farnesina, 1 — 00194 Roma
D.G.A.O. — Ufficio II
Tel. (39) 06 3691 3820
Fax. (39) 06 3691 5161
U.A.M.A.
Tel. (39) 06 3691 3605
Fax. (39) 06 3691 8815

Ministero dell'Economia e delle finanze
Dipartimento del Tesoro
Comitato di Sicurezza Finanziaria
Via XX Settembre, 97 — 00187 Roma
Tel. (39) 06 4761 3942
Fax. (39) 06 4761 3032

Ministero della attivita' produttive
Direzione Generale Politica Commerciale
Viale Boston, 35 — 00144 Roma
Tel. (39) 06 59931
Fax. (39) 06 5964 7531
Firma e funzione: Ferdinando Nelli Feroci, Direttore Generale per l'Integraxione Europea

LUXEMBOURG

Ministère des Affaires Etrangères
Direction des Relations internationales
6, rue de la Congrégation
L-1352 LUXEMBOURG
Tel. (352) 478 23 46
Fax (352) 22 20 48

Ministère des Finances
3, rue de la Congrégation
L — 1352 Luxembourg
Tel. (352) 478 27 12
Fax (352) 47 52 41

NETHERLANDS

Ministerie van Financiën
Directie Financiële Markten, afdeling Integriteit
Postbus 20201
2500 EE Den Haag
Tel 070-342 8997
Fax: 070-342 7984

AUSTRIA

Oesterreichische Nationalbank
Otto Wagner Platz 3
A-1090 Wien
Tel. (01-4042043 1) 404 20-0
Fax (43 1) 404 20 — 73 99

PORTUGAL

Ministério das Finanças
Direcção Geral dos Assuntos Europeus e Relações Internacionais
Avenida Infante D. Henrique, n.o 1, C 2.o
P — 1100 Lisboa
Tel. (351) 218 82 32 40/47
Fax (351) 218 82 32 49

FINLAND

Ulkoasiainministeriö/Utrikesministeriet
PL/PB 176
00161 Helsinki/Helsingfors
Tel. (358) 9 16 05 59 00
Fax (358) 9 16 05 57 07

SWEDEN

Finansinspektionen
Box 6750
SE- 113 85 Stockholm
Sweden
Tel. 46 +(0)8-787 80 00
Fax 46 +(0)8-24 13 35

Riksförsäkringsverket
SE-103 51 Stockholm
Sweden
Tel. 46 +(0)8-786 90 00
Fax 46 +(0)8-411 27 89

UNITED KINGDOM

HM Treasury
Financial Systems and International Standards
1, Horse Guards Road
London SW1A 2HQ
United Kingdom
Tel. (44-207) 270 5977
Fax (44-207) 270 5430

Bank of England
Financial Sanctions Unit
Threadneedle Street
London EC2R 8AH
United Kingdom
Tel. (44-207) 601 4607
Fax (44 207) 601 4309

COUNCIL REGULATION (EC) No 873/2004
of 29 April 2004
amending Regulation (EC) No 2100/94 on Community plant variety rights

THE COUNCIL OF THE EUROPEAN UNION,

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

Having regard to the proposal from the Commission,

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

Whereas:

- (1) Council Regulation (EC) No 2100/94 of 27 July 1994 on Community plant variety rights ⁽²⁾ creates a Community regime for plant varieties, co-existing with national regimes, which allows for the grant of industrial property rights, valid throughout the Community (Community plant variety rights).
- (2) The implementation and application of this regime are carried out by a Community office with legal personality, known as the Community Plant Variety Office (the Office).
- (3) The term 'compulsory licence' should have the same meaning and content as the current term 'compulsory exploitation right'.
- (4) Only the Office is entitled to grant a compulsory licence for a plant variety which is protected by a Community plant variety right.
- (5) The Community's legal framework for the protection of biotechnological inventions, established in Directive 98/44/EC of the European Parliament and of the Council of 6 July 1998 on the legal protection of biotechnological inventions ⁽³⁾ lays down in Article 12 rules for the grant of non-exclusive compulsory licences where protected plant varieties, including Community plant varieties, incorporate patented inventions, and vice versa.
- (6) Article 29 of Regulation (EC) No 2100/94, while providing in general for the grant of compulsory licences for Community plant varieties on grounds of public interest, does not expressly refer to the licences to be provided in accordance with Article 12 of Directive 98/44/EC.

- (7) Considering the need to ensure transparency and coherence of the system of compulsory cross-licensing it is appropriate to amend the rules established by Regulation (EC) No 2100/94, making express reference and setting out the specific conditions relating to compulsory licences provided for in Directive 98/44/EC.
- (8) Considering the national scope of the protection for biotechnological inventions according to Directive 98/44/EC it is necessary to ensure that the national patent holder be granted a cross-licence for a plant variety right only in the Member State(s) where he/she can claim a patent for a biotechnological invention.
- (9) The Treaty provides for no powers, other than those in Article 308 thereof, for the adoption of this Regulation,

HAS ADOPTED THIS REGULATION:

Article 1

Article 29 of Regulation (EC) No 2100/94 shall be replaced by the following:

'Article 29

Compulsory licensing

1. Compulsory licences shall be granted to one or more persons by the Office, on application by that person or those persons, but only on grounds of public interest and after consulting the Administrative Council referred to in Article 36.

2. On application by a Member State, by the Commission or by an organisation set up at Community level and registered by the Commission, a compulsory licence may be granted, either to a category of persons satisfying specific requirements, or to anyone in one or more Member States or throughout the Community. It may be granted only on grounds of public interest and with the approval of the Administrative Council.

⁽¹⁾ Opinion of 13 January 2004 (not yet published in the Official Journal).

⁽²⁾ OJ L 227, 1.9.1994, p. 1. Regulation as last amended by Regulation (EC) No 1650/2003 (OJ L 245, 29.9.2003, p. 28).

⁽³⁾ OJ L 213, 30.7.1998, p. 13.

3. The Office shall, when granting the compulsory licence pursuant to paragraphs 1, 2, 5 or 5a, stipulate the type of acts covered and specify the reasonable conditions pertaining thereto as well as the specific requirements referred to in paragraph 2. The reasonable conditions shall take into account the interests of any holder of plant variety rights who would be affected by the grant of the compulsory licence. The reasonable conditions may include a possible time limitation, the payment of an appropriate royalty as equitable remuneration to the holder and may impose certain obligations on the holder, the fulfilment of which are necessary to make use of the compulsory licence.

4. On the expiry of each one-year period after the grant of the compulsory licence pursuant to paragraphs 1, 2, 5 or 5a, and within the possible time limitation set out in paragraph 3, any of the parties to proceedings may request that the decision on the grant of the compulsory licence be cancelled or amended. The sole grounds for such a request shall be that the circumstances determining the decision taken have in the meantime undergone change.

5. On application, a compulsory licence shall be granted to the holder in respect of an essentially derived variety if the criteria set out in paragraph 1 are met. The reasonable conditions referred to in paragraph 3 shall include the payment of an appropriate royalty as equitable remuneration to the holder of the initial variety.

5a. On application, a compulsory licence for the non-exclusive use of a protected plant variety pursuant to Article 12(2) of Directive 98/44/EC shall be granted to the holder of a patent for a biotechnological invention, subject

to payment of an appropriate royalty as equitable remuneration, provided that the patent holder demonstrates that:

- (i) he/she has applied unsuccessfully to the holder of the plant variety right to obtain a contractual licence; and
- (ii) the invention constitutes significant technical progress of considerable economic interest compared with the protected plant variety.

Where, in order to enable him/her to acquire or exploit his/her plant variety right, a holder has been granted a compulsory licence in accordance with Article 12(1) of Directive 98/44/EC for the non-exclusive use of a patented invention, a non-exclusive cross-licence on reasonable terms to exploit the variety shall be granted, on application, to the holder of the patent for that invention,

The territorial scope of the licence or cross-licence referred to in this paragraph shall be limited to the part or parts of the Community covered by the patent.

6. The implementing rules pursuant to Article 114 may specify certain other examples of licences in the public interest referred to in paragraphs 1, 2 and 5a, and moreover lay down details for the implementation of paragraphs 1 to 5a.

7. Compulsory licences may not be granted by Member States in respect of a Community plant variety right.'

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 Luxembourg, 29 April 2004.

For the Council
The President
M. McDOWELL

**COMMISSION REGULATION (EC) No 874/2004
of 28 April 2004**

laying down public policy rules concerning the implementation and functions of the .eu Top Level Domain and the principles governing registration

(Text with EEA relevance)

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Regulation (EC) No 733/2002 of the European Parliament and of the Council of 22 April 2002 on the implementation of the .eu Top Level Domain⁽¹⁾, and in particular Article 5(1) thereof,

Having consulted the Registry in accordance with Article 5(1) of Regulation (EC) No 733/2002,

Whereas:

- (1) The initial implementation stages of the .eu Top Level Domain (TLD), to be created pursuant to Regulation (EC) No 733/2002, have been completed by designating a legal entity, established within the Community to administer and manage the .eu TLD Registry function. The Registry, designated by Commission Decision 2003/375/EC⁽²⁾, is required to be a non-profit organisation that should operate and provide services on a cost covering basis and at an affordable price.
- (2) Requesting a domain name should be possible through electronic means in a simple, speedy and efficient procedure, in all official languages of the Community, through accredited registrars.
- (3) Accreditation of registrars should be carried out by the Registry following a procedure that ensures fair and open competition between Registrars. The accreditation process should be objective, transparent and non-discriminatory. Only parties who meet certain basic technical requirements to be determined by the Registry should be eligible for accreditation.
- (4) Registrars should only accept applications for the registration of domain names filed after their accreditation and should forward them in the chronological order in which they were received.
- (5) To ensure better protection of consumers' rights, and without prejudice to any Community rules concerning jurisdiction and applicable law, the applicable law in

disputes between registrars and registrants on matters concerning Community titles should be the law of one of the Member States.

- (6) Registrars should require accurate contact information from their clients, such as full name, address of domicile, telephone number and electronic mail, as well as information concerning a natural or legal person responsible for the technical operation of the domain name.
- (7) The Registry policy should promote the use of all the official languages of the Community.
- (8) Pursuant to Regulation (EC) No 733/2002, Member States may request that their official name and the name under which they are commonly known should not be registered directly under .eu TLD otherwise than by their national government. Countries that are expected to join the European Union later than May 2004 should be enabled to block their official names and the names under which they are commonly known, so that they can be registered at a later date.
- (9) A Member State should be authorised to designate an operator that will register as a domain name its official name and the name under which it is commonly known. Similarly, the Commission should be authorised to select domain names for use by the institutions of the Community, and to designate the operator of those domain names. The Registry should be empowered to reserve a number of specified domain names for its operational functions.
- (10) In accordance with Article 5(2) of Regulation (EC) No 733/2002, a number of Member States have notified to the Commission and to other Member States a limited list of broadly-recognised names with regard to geographical and/or geopolitical concepts which affect their political or territorial organisation. Such lists include names that could either not be registered or which could be registered only under the second level domain in accordance with the public policy rules. The names included in these lists are not subject to the first-come first-served principle.

⁽¹⁾ OJ L 113, 30.4.2002, p. 1.

⁽²⁾ OJ L 128, 24.5.2003, p. 29.

- (11) The principle of first-come-first-served should be the basic principle for resolving a dispute between holders of prior rights during the phased registration. After the termination of the phased registration the principle of first come first served should apply in the allocation of domain names.
- (12) In order to safeguard prior rights recognised by Community or national law, a procedure for phased registration should be put in place. Phased registration should take place in two phases, with the aim of ensuring that holders of prior rights have appropriate opportunities to register the names on which they hold prior rights. The Registry should ensure that validation of the rights is performed by appointed validation agents. On the basis of evidence provided by the applicants, validation agents should assess the right which is claimed for a particular name. Allocation of that name should then take place on a first-come, first-served basis if there are two or more applicants for a domain name, each having a prior right.
- (13) The Registry should enter into an appropriate escrow agreement to ensure continuity of service, and in particular to ensure that in the event of re-delegation or other unforeseen circumstances it is possible to continue to provide services to the local Internet community with minimum disruption. The Registry should also comply with the relevant data protection rules, principles, guidelines and best practices, notably concerning the amount and type of data displayed in the WHOIS database. Domain names considered by a Member State court to be defamatory, racist or contrary to public policy should be blocked and eventually revoked once the court decision becomes final. Such domain names should be blocked from future registrations.
- (14) In the event of the death or insolvency of a domain name holder, if no transfer has been initiated at the expiry of the registration period, the domain name should be suspended for 40 calendar days. If the heirs or administrators concerned have not registered the name during that period it should become available for general registration.
- (15) Domain names should be open to revocation by the Registry on a limited number of specified grounds, after giving the domain name holder concerned an opportunity to take appropriate measures. Domain names should also be capable of revocation through an alternative dispute resolution (ADR) procedure.
- (16) The Registry should provide for an ADR procedure which takes into account the international best practices in this area and in particular the relevant World Intellectual Property Organization (WIPO) recommendations, to ensure that speculative and abusive registrations are avoided as far as possible.
- (17) The Registry should select service providers that have appropriate expertise on the basis of objective, transparent and non-discriminatory criteria. ADR should respect a minimum of uniform procedural rules, similar to the ones set out in the Uniform Dispute Resolution Policy adopted by the Internet Corporation of Assigned Names and Numbers (ICANN).
- (18) In view of the impending enlargement of the Union it is imperative that the system of public policy rules set up by this Regulation enter into force without delay.
- (19) The measures provided for in this Regulation are in accordance with the opinion of the Communications Committee established by Article 22(1) of Directive 2002/21/EC of the European Parliament and of the Council ⁽¹⁾,

HAS ADOPTED THIS REGULATION:

CHAPTER I

SUBJECT MATTER

Article 1

Subject matter

This Regulation sets out the public policy rules concerning the implementation and functions of the .eu Top Level Domain (TLD) and the public policy principles on registration referred to in Article 5(1) of Regulation (EC) No 733/2002.

CHAPTER II

PRINCIPLES ON REGISTRATION

Article 2

Eligibility and general principles for registration

An eligible party, as listed in Article 4(2)(b) of Regulation (EC) No 733/2002, may register one or more domain names under .eu TLD.

⁽¹⁾ OJ L 108, 24.4.2002, p. 33.

Without prejudice to Chapter IV, a specific domain name shall be allocated for use to the eligible party whose request has been received first by the Registry in the technically correct manner and in accordance with this Regulation. For the purposes of this Regulation, this criterion of first receipt shall be referred to as the 'first-come-first-served' principle.

Once a domain name is registered it shall become unavailable for further registration until the registration expires without renewal, or until the domain name is revoked.

Unless otherwise specified in this Regulation, domain names shall be registered directly under the .eu TLD.

Domain name registration shall be valid only after the appropriate fee has been paid by the requesting party.

Domain names registered under the .eu TLD shall only be transferable to parties that are eligible for registration of .eu domain names.

Article 3

Requests for domain name registration

The request for domain name registration shall include all of the following:

- (a) the name and address of the requesting party;
- (b) a confirmation by electronic means from the requesting party that it satisfies the general eligibility criteria set out in Article 4(2)(b) of Regulation (EC) No 733/2002;
- (c) an affirmation by electronic means from the requesting party that to its knowledge the request for domain name registration is made in good faith and does not infringe any rights of a third party;
- (d) an undertaking by electronic means from the requesting party that it shall abide by all the terms and conditions for registration, including the policy on the extra-judicial settlement of conflicts set out in Chapter VI.

Any material inaccuracy in the elements set out in points (a) to (d) shall constitute a breach of the terms of registration.

Any verification by the Registry of the validity of registration applications shall take place subsequently to the registration at the initiative of the Registry or pursuant to a dispute for the registration of the domain name in question, except for applications filed in the course of the phased registration procedure under Articles 10, 12, and 14.

Article 4

Accreditation of registrars

Only registrars accredited by the Registry shall be permitted to offer registration services for names under the .eu TLD.

The procedure for the accreditation of registrars shall be determined by the Registry and shall be reasonable, transparent and non-discriminatory, and shall ensure effective and fair conditions of competition.

Registrars are required to access and use the Registry's automated registration systems. The Registry may set further basic technical requirements for the accreditation of registrars.

The Registry may ask registrars for advance payment of registration fees, to be set annually by the Registry based on a reasonable market estimate.

The procedure, terms of accreditation of registrars and the list of accredited registrars shall be made publicly available by the Registry in readily accessible form.

Each registrar shall be bound by contract with the Registry to observe the terms of accreditation and in particular to comply with the public policy principles set out in this Regulation.

Article 5

Provisions for registrars

Without prejudice to any rule governing jurisdiction and applicable law, agreements between the Registrar and the registrant of a domain name cannot designate, as applicable law, a law other than the law of one of the Member States, nor can they designate a dispute-resolution body, unless selected by the Registry pursuant to Article 23, nor an arbitration court or a court located outside the Community.

A registrar who receives more than one registration request for the same name shall forward those requests to the Registry in the chronological order in which they were received.

Only applications received after the date of accreditation shall be forwarded to the Registry.

Registrars shall require all applicants to submit accurate and reliable contact details of at least one natural or legal person responsible for the technical operation of the domain name that is requested.

Registrars may develop label, authentication and trustmark schemes in order to promote consumer confidence in the reliability of information that is available under a domain name that is registered by them, in accordance with applicable national and Community law.

CHAPTER III

LANGUAGES AND GEOGRAPHICAL CONCEPTS

Article 6

Languages

Registrations of .eu domain names shall start only after the Registry has informed the Commission that the filing of applications for the registration of .eu domain names and communications of decisions concerning registration is possible in all official languages of the Community, hereinafter referred to as 'official languages'.

For any communication by the Registry that affects the rights of a party in conjunction with a registration, such as the grant, transfer, cancellation or revocation of a domain, the Registry shall ensure that these communications are possible in all official languages.

The Registry shall perform the registration of domain names in all the alphabetic characters of the official languages when adequate international standards become available.

The Registry shall not be required to perform functions using languages other than the official languages.

Article 7

Procedure for reserved geographical and geopolitical names

For the procedure of raising objections to the lists of broadly recognised names in accordance with the third subparagraph of Article 5(2) of Regulation (EC) No 733/2002, objections shall be notified to the members of the Communications Committee established by Article 22(1) of Directive 2002/21/EC and to the Director-General of the Commission's Directorate-General Information Society. The members of the Communications Committee and the Director-General may designate other contact points for these notifications.

Objections and designations of contact points shall be notified in the form of electronic mail, delivery by courier or in person, or by postal delivery effected by way of registered letter and acknowledgement of receipt.

Upon the resolution of any objections, the Registry shall publish on its web site two lists of names. The one list shall contain the list of names that the Commission shall have notified as 'not registrable'. The other list shall contain the list of names that the Commission shall have notified to the Registry as 'registrable only under a second level domain'.

Article 8

Country names and alpha-2 codes representing countries

Member States (and acceding countries) may request that their official name and the name under which they are commonly known in one or more of the official languages (of the Community as extended in May 2004) shall not be registered directly under the .eu TLD by any person other than their national government. To that end, each Member State (or acceding country) shall send the Commission, within two months following the entry into force of this Regulation, a list of those names requiring to be reserved, as well as a designation of the body that will represent the national government in registering the names.

The Commission shall notify the Registry of the names that shall be reserved and the bodies that represent the national governments in registering the names.

Candidate countries that are not due to join the European Union in May 2004 and member countries of the European Economic Area that are not Member States may request that their official name and the name under which they are commonly known in their own language and in any of the official languages as from May 2004 shall not be registered directly under the .eu TLD. To that end, those countries may send the Commission, within two months following entry into force of this Regulation, a list of those names which are not to be registered.

The Commission shall notify the Registry of the names that shall not be registered.

Alpha-2 codes representing countries shall not be used to register domain names directly under the .eu TLD.

Article 9

Second level domain name for geographical and geopolitical names

Registration of geographical and geopolitical concepts as domain names in accordance with Article 5(2)(b) of Regulation (EC) No 733/2002 may be provided for by a Member State that has notified the names. This may be done under any domain name that has been registered by that Member State.

The Commission may ask the Registry to introduce domain names directly under the .eu TLD for use by the Community institutions and bodies. After the entry into force of this Regulation and not later than a week before the beginning of the phased registration period provided for in Chapter IV, the Commission shall notify the Registry of the names that are to be reserved and the bodies that represent the Community institutions and bodies in registering the names.

CHAPTER IV

PHASED REGISTRATION

Article 10

Eligible parties and the names they can register

1. Holders of prior rights recognised or established by national and/or Community law and public bodies shall be eligible to apply to register domain names during a period of phased registration before general registration of .eu domain starts.

'Prior rights' shall be understood to include, *inter alia*, registered national and community trademarks, geographical indications or designations of origin, and, in as far as they are protected under national law in the Member-State where they are held: unregistered trademarks, trade names, business identifiers, company names, family names, and distinctive titles of protected literary and artistic works.

'Public bodies' shall include: institutions and bodies of the Community, national and local governments, governmental bodies, authorities, organisations and bodies governed by public law, and international and intergovernmental organisations.

2. The registration on the basis of a prior right shall consist of the registration of the complete name for which the prior right exists, as written in the documentation which proves that such a right exists.

3. The registration by a public body may consist of the complete name of the public body or the acronym that is generally used. Public bodies that are responsible for governing a particular geographic territory may also register the complete name of the territory for which they are responsible, and the name under which the territory is commonly known.

Article 11

Special characters

As far as the registration of complete names is concerned, where such names comprise a space between the textual or word elements, identity shall be deemed to exist between such complete names and the same names written with a hyphen between the word elements or combined in one word in the domain name applied for.

Where the name for which prior rights are claimed contains special characters, spaces, or punctuations, these shall be eliminated entirely from the corresponding domain name, replaced with hyphens, or, if possible, rewritten.

Special character and punctuations as referred to in the second paragraph shall include the following:

~ @ # \$ % ^ & * () + = < > { } [] | \ / : ; ' , . ?

Without prejudice to the third paragraph of Article 6, if the prior right name contains letters which have additional elements that cannot be reproduced in ASCII code, such as ä, é or ñ, the letters concerned shall be reproduced without these elements (such as a, e, n), or shall be replaced by conventionally accepted spellings (such as ae). In all other respects, the domain name shall be identical to the textual or word elements of the prior right name.

Article 12

Principles for phased registration

1. Phased registration shall not start before 1 May 2004 and only when the requirement of the first paragraph of Article 6 is fulfilled and the period provided for in Article 8 has expired.

The Registry shall publish the date on which phased registration shall start at least two months in advance and shall inform all accredited Registrars accordingly.

The Registry shall publish on its website two months before the beginning of the phased registration a detailed description of all the technical and administrative measures that it shall use to ensure a proper, fair and technically sound administration of the phased registration period.

2. The duration of the phased registration period shall be four months. General registration of domain names shall not start prior to the completion of the phased registration period.

Phased registration shall be comprised of two parts of two months each.

During the first part of phased registration, only registered national and Community trademarks, geographical indications, and the names and acronyms referred to in Article 10(3), may be applied for as domain names by holders or licensees of prior rights and by the public bodies mentioned in Article 10(1).

During the second part of phased registration, the names that can be registered in the first part as well as names based on all other prior rights can be applied for as domain names by holders of prior rights on those names.

3. The request to register a domain name based on a prior right under Article 10(1) and (2) shall include a reference to the legal basis in national or Community law for the right to the name, as well as other relevant information, such as trademark registration number, information concerning publication in an official journal or government gazette, registration information at professional or business associations and chambers of commerce.

4. The Registry may make the requests for domain name registration subject to payment of additional fees, provided that these serve merely to cover the costs generated by the application of this Chapter. The Registry may charge differential fees depending upon the complexity of the process required to validate prior rights.

5. At the end of the phased registration an independent audit shall be performed at the expense of the Registry and shall report its findings to the Commission. The auditor shall be appointed by the Registry after consulting the Commission. The purpose of the audit shall be to confirm the fair, appropriate and sound operational and technical administration of the phased registration period by the Registry.

6. To resolve a dispute over a domain name the rules provided in Chapter VI shall apply.

Article 13

Selection of validation agents

Validation agents shall be legal persons established within the territory of the Community. Validation agents shall be reputable bodies with appropriate expertise. The Registry shall select the validation agents in an objective, transparent and non-discriminatory manner, ensuring the widest possible geographical diversity. The Registry shall require the validation agent to execute the validation in an objective, transparent and non-discriminatory manner.

Member States shall provide for validation concerning the names mentioned in Article 10(3). To that end, the Member States shall send to the Commission within two months following entry into force of this Regulation, a clear indication of the addresses to which documentary evidence is to be sent for verification. The Commission shall notify the Registry of these addresses.

The Registry shall publish information about the validation agents at its website.

Article 14

Validation and registration of applications received during phased registration

All claims for prior rights under Article 10(1) and (2) must be verifiable by documentary evidence which demonstrates the right under the law by virtue of which it exists.

The Registry, upon receipt of the application, shall block the domain name in question until validation has taken place or until the deadline passes for receipt of documentation. If the Registry receives more than one claim for the same domain during the phased registration period, applications shall be dealt with in strict chronological order.

The Registry shall make available a database containing information about the domain names applied for under the procedure for phased registration, the applicants, the Registrar that submitted the application, the deadline for submission of validation documents, and subsequent claims on the names.

Every applicant shall submit documentary evidence that shows that he or she is the holder of the prior right claimed on the name in question. The documentary evidence shall be submitted to a validation agent indicated by the Registry. The applicant shall submit the evidence in such a way that it shall be received by the validation agent within forty days from the submission of the application for the domain name. If the documentary evidence has not been received by this deadline, the application for the domain name shall be rejected.

Validation agents shall time-stamp documentary evidence upon receipt.

Validation agents shall examine applications for any particular domain name in the order in which the application was received at the Registry.

The relevant validation agent shall examine whether the applicant that is first in line to be assessed for a domain name and that has submitted the documentary evidence before the deadline has prior rights on the name. If the documentary evidence has not been received in time or if the validation agent finds that the documentary evidence does not substantiate a prior right, he shall notify the Registry of this.

If the validation agent finds that prior rights exist regarding the application for a particular domain name that is first in line, he shall notify the Registry accordingly.

This examination of each claim in chronological order of receipt shall be followed until a claim is found for which prior rights on the name in question are confirmed by a validation agent.

The Registry shall register the domain name, on the first come first served basis, if it finds that the applicant has demonstrated a prior right in accordance with the procedure set out in the second, third and fourth paragraphs.

CHAPTER V

RESERVATIONS, WHOIS DATA AND IMPROPER REGISTRATIONS

Article 15

Escrow agreement

1. The Registry shall, at its own expense, enter into an agreement with a reputable trustee or other escrow agent established within the territory of the Community designating the Commission as the beneficiary of the escrow agreement. The Commission shall give its consent to that agreement before it is concluded. The Registry shall submit to the escrow agent on a daily basis an electronic copy of the current content of the .eu database.

2. The agreement shall provide that the data shall be held by the escrow agent on the following terms and conditions:

- (a) the data shall be received and held in escrow, undergoing no procedure other than verification that it is complete, consistent, and in proper format, until it is released to the Commission;
- (b) the data shall be released from escrow upon expiration without renewal or upon termination of the contract between the Registry and the Commission for any of the reasons described therein and irrespectively of any disputes or litigation between the Commission and the Registry;
- (c) in the event that the escrow is released, the Commission shall have the exclusive, irrevocable, royalty-free right to exercise or to have exercised all rights necessary to re-designate the Registry;

- (d) if the contract with the Registry is terminated the Commission, with the cooperation of the Registry, shall take all necessary steps to transfer the administrative and operational responsibility for the .eu TLD and any reserve funds to such party as the Commission may designate: in that event, the Registry shall make all efforts to avoid disruption of the service and shall in particular continue to update the information that is subject to the escrow until the time of completion of the transfer.

Article 16

WHOIS database

The purpose of the WHOIS database shall be to provide reasonably accurate and up to date information about the technical and administrative points of contact administering the domain names under the .eu TLD.

The WHOIS database shall contain information about the holder of a domain name that is relevant and not excessive in relation to the purpose of the database. In as far as the information is not strictly necessary in relation to the purpose of the database, and if the domain name holder is a natural person, the information that is to be made publicly available shall be subject to the unambiguous consent of the domain name holder. The deliberate submission of inaccurate information, shall constitute grounds for considering the domain name registration to have been in breach of the terms of registration.

Article 17

Names reserved by the Registry

The following names shall be reserved for the operational functions of the Registry:

eurid.eu, registry.eu, nic.eu, dns.eu, internic.eu, whois.eu, das.eu, coc.eu, eurethix.eu, eurethics.eu, euthics.eu

Article 18

Improper registrations

Where a domain name is considered by a Court of a Member State to be defamatory, racist or contrary to public policy, it shall be blocked by the Registry upon notification of a Court decision and shall be revoked upon notification of a final court decision. The Registry shall block from future registration those names which have been subject to such a court order for as long as such order remains valid.

Article 19

Death and winding up

1. If the domain name holder dies during the registration period of the domain name, the executors of his or her estate, or his or her legal heirs, may request transfer of the name to the heirs along with submission of the appropriate documentation. If, on expiry of the registration period, no transfer has been initiated, the domain name shall be suspended for a period of 40 calendar days and shall be published on the Registry's website. During this period the executors or the legal heirs may apply to register the name along with submission of the appropriate documentation. If the heirs have not registered the name during that 40-day period, the domain name shall thereafter become available for general registration.

2. If the domain name holder is an undertaking, a legal or natural person, or an organisation that becomes subject to insolvency proceedings, winding up, cessation of trading, winding up by court order or any similar proceeding provided for by national law, during the registration period of the domain name, then the legally appointed administrator of the domain name holder may request transfer to the purchaser of the domain name holders assets along with submission of the appropriate documentation. If, on expiry of the registration period, no transfer has been initiated, the domain name shall be suspended for a period of forty calendar days and shall be published on the registry's website. During this period the administrator may apply to register the name along with submission of appropriate documentation. If the administrator has not registered the name during that 40-day period, the domain name shall thereafter become available for general registration.

CHAPTER VI

REVOCATION AND SETTLEMENT OF CONFLICTS

Article 20

Revocation of domain names

The Registry may revoke a domain name at its own initiative and without submitting the dispute to any extrajudicial settlement of conflicts, exclusively on the following grounds:

- (a) outstanding unpaid debts owed to the Registry;

- (b) holder's non-fulfilment of the general eligibility criteria pursuant to Article 4(2)(b) of Regulation (EC) 733/2002;

- (c) holder's breach of the terms of registration under Article 3.

The Registry shall lay down a procedure in accordance with which it may revoke domain names on these grounds. This procedure shall include a notice to the domain name holder and shall afford him an opportunity to take appropriate measures.

Revocation of a domain name, and where necessary its subsequent transfer, may also be effected in accordance with a decision issued by an extrajudicial settlement body.

Article 21

Speculative and abusive registrations

1. A registered domain name shall be subject to revocation, using an appropriate extra-judicial or judicial procedure, where that name is identical or confusingly similar to a name in respect of which a right is recognised or established by national and/or Community law, such as the rights mentioned in Article 10(1), and where it:

- (a) has been registered by its holder without rights or legitimate interest in the name; or

- (b) has been registered or is being used in bad faith.

2. A legitimate interest within the meaning of point (a) of paragraph 1 may be demonstrated where:

- (a) prior to any notice of an alternative dispute resolution (ADR) procedure, the holder of a domain name has used the domain name or a name corresponding to the domain name in connection with the offering of goods or services or has made demonstrable preparation to do so;

- (b) the holder of a domain name, being an undertaking, organisation or natural person, has been commonly known by the domain name, even in the absence of a right recognised or established by national and/or Community law;

- (c) the holder of a domain name is making a legitimate and non-commercial or fair use of the domain name, without intent to mislead consumers or harm the reputation of a name on which a right is recognised or established by national and/or Community law.

3. Bad faith, within the meaning of point (b) of paragraph 1 may be demonstrated, where:

Article 22

- (a) circumstances indicate that the domain name was registered or acquired primarily for the purpose of selling, renting, or otherwise transferring the domain name to the holder of a name in respect of which a right is recognised or established by national and/or Community law or to a public body; or
- (b) the domain name has been registered in order to prevent the holder of such a name in respect of which a right is recognised or established by national and/or Community law, or a public body, from reflecting this name in a corresponding domain name, provided that:
 - (i) a pattern of such conduct by the registrant can be demonstrated; or
 - (ii) the domain name has not been used in a relevant way for at least two years from the date of registration; or
 - (iii) in circumstances where, at the time the ADR procedure was initiated, the holder of a domain name in respect of which a right is recognised or established by national and/or Community law or the holder of a domain name of a public body has declared his/its intention to use the domain name in a relevant way but fails to do so within six months of the day on which the ADR procedure was initiated;
- (c) the domain name was registered primarily for the purpose of disrupting the professional activities of a competitor; or
- (d) the domain name was intentionally used to attract Internet users, for commercial gain, to the holder of a domain name website or other on-line location, by creating a likelihood of confusion with a name on which a right is recognised or established by national and/or Community law or a name of a public body, such likelihood arising as to the source, sponsorship, affiliation or endorsement of the website or location or of a product or service on the website or location of the holder of a domain name; or
- (e) the domain name registered is a personal name for which no demonstrable link exists between the domain name holder and the domain name registered.

4. The provisions in paragraphs 1, 2 and 3 may not be invoked so as to obstruct claims under national law.

Alternative dispute resolution (ADR) procedure

1. An ADR procedure may be initiated by any party where:
 - (a) the registration is speculative or abusive within the meaning of Article 21; or
 - (b) a decision taken by the Registry conflicts with this Regulation or with Regulation (EC) No 733/2002.
2. Participation in the ADR procedure shall be compulsory for the holder of a domain name and the Registry.
3. A fee for the ADR shall be paid by the complainant.
4. Unless otherwise agreed by the parties, or specified otherwise in the registration agreement between registrar and domain name holder, the language of the administrative proceeding shall be the language of that agreement. This rule shall be subject to the authority of the panel to determine otherwise, having regard to the circumstances of the case.
5. The complaints and the responses to those complaints must be submitted to an ADR provider chosen by the complainant from the list referred to in the first paragraph of Article 23. That submission shall be made in accordance with this Regulation and the published supplementary procedures of the ADR provider.
6. As soon as a request for ADR is properly filed with the ADR provider and the appropriate fee is paid, the ADR provider shall inform the Registry of the identity of the complainant and the domain name involved. The Registry shall suspend the domain name involved from cancellation or transfer until the dispute resolution proceedings or subsequent legal proceedings are complete and the decision has been notified to the Registry.
7. The ADR provider shall examine the complaint for compliance with its rules of procedure, with the provisions of this Regulation and with Regulation (EC) No 733/2002, and, unless non-compliance is established, shall forward the complaint to the respondent within five working days following receipt of the fees to be paid by the complainant.

8. Within 30 working days of the date of receipt of the complaint the respondent shall submit a response to the provider.

9. Any written communication to a complainant or respondent shall be made by the preferred means stated by the complainant or respondent, respectively, or in the absence of such specification electronically via the Internet, provided that a record of transmission is available.

All communications concerning the ADR procedure to the holder of a domain name that is subject to an ADR procedure shall be sent to the address information that is available to the Registrar that maintains the registration of the domain name in accordance with the terms and conditions of registration.

10. Failure of any of the parties involved in an ADR procedure to respond within the given deadlines or appear to a panel hearing may be considered as grounds to accept the claims of the counterparty.

11. In the case of a procedure against a domain name holder, the ADR panel shall decide that the domain name shall be revoked, if it finds that the registration is speculative or abusive as defined in Article 21. The domain name shall be transferred to the complainant if the complainant applies for this domain name and satisfies the general eligibility criteria set out in Article 4(2)(b) of Regulation (EC) No 733/2002.

In the case of a procedure against the Registry, the ADR panel shall decide whether a decision taken by the Registry conflicts with this Regulation or with Regulation (EC) No 733/2002. The ADR panel shall decide that the decision shall be annulled and may decide in appropriate cases that the domain name in question shall be transferred, revoked or attributed, provided that, where necessary, the general eligibility criteria set out in Article 4(2)(b) of Regulation (EC) No 733/2002 are fulfilled.

The decision of the ADR panel shall state the date for implementation of the decision.

Decisions of the panel are taken by simple majority. The alternative dispute panel shall issue its decision within one month from the date of receipt of the response by the ADR provider. The decision shall be duly motivated. The decisions of the panel shall be published.

12. Within three working days after receiving the decision from the panel, the provider shall notify the full text of the decision to each party, the concerned registrar(s) and the

Registry. The decision shall be notified to the Registry and the complainant by registered post or other equivalent electronic means.

13. The results of ADR shall be binding on the parties and the Registry unless court proceedings are initiated within 30 calendar days of the notification of the result of the ADR procedure to the parties.

Article 23

Selection of providers and panellists for alternative dispute resolution

1. The Registry may select ADR providers, who shall be reputable bodies with appropriate expertise in an objective, transparent and non-discriminatory manner. A list of the ADR providers shall be published on the Registry's website.

2. A dispute which is submitted to the ADR procedure shall be examined by arbitrators appointed to a panel of one or three members.

The panellists shall be selected in accordance to the internal procedures of the selected ADR providers. They shall have appropriate expertise and shall be selected in an objective, transparent and non-discriminatory manner. Each provider shall maintain a publicly available list of panellists and their qualifications.

A panellist shall be impartial and independent and shall have, before accepting appointment, disclosed to the provider any circumstances giving rise to justifiable doubt as to their impartiality or independence. If, at any stage during the administrative proceedings, new circumstances arise that could give rise to justifiable doubt as to the impartiality or independence of the panellist, that panellist shall promptly disclose such circumstances to the provider.

In such event, the provider shall appoint a substitute panellist.

CHAPTER VII

FINAL PROVISIONS

Article 24

Entry into force

This Regulation shall enter into force on the day 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, 28 April 2004.

For the Commission
Erkki LIKANEN
Member of the Commission

COMMISSION REGULATION (EC) No 875/2004
of 29 April 2004
amending Council Regulation (EC) No 1362/2000 as regards the opening of a preferential tariff rate
quota for tuna loins originating in Mexico

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

HAS ADOPTED THIS REGULATION:

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

Having regard to Article 4 of Council Regulation (EC) No 1362/2000,

Whereas:

- (1) The European Union — Mexico Joint Council has decided, by its Decision No 2/2004 of 28 April 2004 introducing a tariff rate quota for certain products originating in Mexico and listed in Annex I to Decision 2/2000 of the EU-Mexico Joint Council, to open a preferential tariff rate quota for tuna loins originating in Mexico.
- (2) Regulation (EC) No 1362/2000 of 29 June 2000 implementing for the Community the tariff provisions of Decision No 2/2000 of the Joint Council under the Interim Agreement on Trade and Trade-related matters between the European Community and the United Mexican States ⁽¹⁾ should therefore be amended accordingly.
- (3) The measures provided for in this Regulation are in accordance with the opinion of the Customs Code Committee,

Article 1

Regulation (EC) No 1362/2000 is amended as follows:

1. The following sentence is added to Article 2(5):
 'The customs duty applicable to products of CN code 1604 14 16 within the tariff quota at order No 09.1854 in the Annex to this Regulation shall be 6 %.'
2. Article 2(6) is replaced by the following:
 '6. With the exception of the tariff quotas at order No 09.1854 and order No 09.1899, the tariff quotas referred to in the Annex to this Regulation shall be opened each year for a twelve-month period from 1 July to 30 June. These quotas shall be opened for the first time on 1 July 2000.'
3. The following row is inserted in the Annex:

'09.1854	1604 14 16	Tuna loins	5 000 tonnes ^(?)	Fixed duty to be applied
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^(?) In 2005 the annual volume shall be 6000 tonnes. From 2006 onwards the yearly volume shall be increased in accordance with the Annex of the Decision of the EU-Mexico Joint Council No 2/2004, provided that at least 80 % of the total amount of the previous year quota has been used by the 31 December of that year.'

Article 2

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

It shall apply from the date of entry into force of the Decision of the European Union-Mexico Joint Council No 2/2004 of 28 April 2004.

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

Done at Brussels, 29 April 2004.

For the Commission
 Frederik BOLKESTEIN
 Member of the Commission

⁽¹⁾ OJ L 157, 30.6.2000, p. 1.

COMMISSION REGULATION (EC) No 876/2004
of 29 April 2004
amending Annex VIII to Regulation (EC) No 999/2001 of the European Parliament and of the Council as regards trade in ovine and caprine animals for breeding
(Text with EEA relevance)

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Regulation (EC) No 999/2001 of the European Parliament and of the Council of 22 May 2001 laying down rules for the prevention, control and eradication of certain transmissible spongiform encephalopathies ⁽¹⁾, and in particular the first paragraph of Article 23 thereof,

Whereas:

- (1) Regulation (EC) No 999/2001 lays down conditions for intra-community trade in ovine and caprine animals for breeding.
- (2) Commission Regulations (EC) No 260/2003 ⁽²⁾ and 1915/2003 ⁽³⁾ amend Regulation 999/2001 to introduce eradication measures for holdings infected with scrapie, and amend the trade conditions for breeding sheep to allow unrestricted trade in sheep of the ARR/ARR prion protein genotype.
- (3) Monitoring requirements for holdings wishing to send breeding sheep and goats for intra-community trade should be amended to reflect the more vigorous approach being adopted to scrapie eradication. The restrictions on animals entering these holdings should no longer extend to sheep of the ARR/ARR prion protein genotype.

- (4) The new provisions should be introduced in two stages, to allow heightened surveillance in the short term, while preventing disruption of trade.
- (5) Regulation (EC) No 999/2001 should therefore be amended accordingly.
- (6) The measures provided for in this Regulation are in accordance with the opinion of the Standing Committee on the Food Chain and Animal Health,

HAS ADOPTED THIS REGULATION:

Article 1

Annex VIII to Regulation (EC) No 999/2001 is amended in accordance with the Annex to this Regulation.

Article 2

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

It shall apply from 1 July 2004.

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

Done at Brussels, 29 April 2004.

For the Commission
David BYRNE
Member of the Commission

⁽¹⁾ OJ L 147, 31.5.2001, p. 1. as last amended by Commission Regulation (EC) No 2245/2003 (OJ L 333, 20.12.2003, p. 28).

⁽²⁾ OJ L 37, 13.2.2003, p. 7.

⁽³⁾ OJ L 283, 31.10.2003, p. 29.

ANNEX

Point (a) of Part I of Chapter A of Annex VIII is replaced by the following:

'a) ovine and caprine animals for breeding shall either be sheep of the ARR/ARR prion protein genotype, as defined in Annex I of Commission Decision 2002/1003/EC ⁽¹⁾, or they shall have been kept continuously since birth or for the last three years on a holding or holdings which have satisfied the following requirements for at least three years:

(i) until 30 June 2007:

- it is subject to regular official veterinary checks,
- the animals are marked,
- no case of scrapie has been confirmed,
- checking by sampling of old female animals intended for slaughter is carried out,
- females, with the exception of sheep of the ARR/ARR prion protein genotype, are introduced into the holding only if they come from a holding which complies with the same requirements.

From 1 July 2004 at the latest, the holding or holdings shall begin to satisfy the following additional requirements:

- all animals referred to in Annex III, Chapter A, Part II, point 3 over the age of 18 months which have died or been killed on the holding shall be examined for scrapie in accordance with the laboratory methods laid down in Annex X, Chapter C, point 3.2(b), and
- ovine and caprine animals, with the exception of sheep of the ARR/ARR prion protein genotype, shall be introduced into the holding only if they come from a holding which complies with the same requirements.

(ii) from 1 July 2007:

- it is subject to regular official veterinary checks,
- the animals are identified in conformity with Community legislation,
- no case of scrapie has been confirmed,
- all animals referred to in Annex III, Chapter A, Part II, point 3 over the age of 18 months which have died or been killed on the holding have been examined for scrapie in accordance with the laboratory methods laid down in Annex X, Chapter C, point 3.2(b),
- ovine and caprine animals, with the exception of sheep of the ARR/ARR prion protein genotype, are introduced into the holding only if they come from a holding which complies with the same requirements.

If they are destined for a Member State which benefits, for all or part of its territory, from the provisions laid down in point (b) or (c), ovine and caprine animals for breeding shall comply with the additional guarantees, general or specific, which have been defined in accordance with the procedure referred to in Article 24(2).'

⁽¹⁾ OJ L 349, 24.12.2002, p. 105.

COMMISSION REGULATION (EC) No 877/2004
of 29 April 2004

laying down detailed rules for applying Regulation (EC) No 2200/96 as regards notification of the prices recorded on the markets for certain fresh fruit and vegetables

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Council Regulation (EC) No 2200/96 of 28 October 1996 on the common organisation of the market in fruit and vegetables ⁽¹⁾, and in particular Article 28(2) thereof,

Whereas:

- (1) Council Regulation (EC) No 2200/96 requires the Member States to notify to the Commission the prices for certain fresh fruit and vegetables recorded on the representative markets. The detailed rules for implementing that requirement were laid down in Commission Regulation (EC) No 659/97 ⁽²⁾, itself repealed by Commission Regulation (EC) No 103/2004 21 January 2004 laying down detailed rules for the application of Council Regulation (EC) No 2200/96 as regards intervention arrangements in the fruit and vegetables sector ⁽³⁾. New detailed rules should therefore be adopted for the notification of the prices recorded on the markets for certain fresh fruit and vegetables which, in the interests of clarity, should be separate from the detailed rules on intervention and withdrawals in the fruit and vegetables sector.
- (2) The prices transmitted to the Commission for each product should be comparable. A reasonably harmonised definition should therefore apply throughout the Community regarding the marketing stage, presentation, quality class and, where applicable, the variety or type. The various representative markets for each product concerned should also be defined. In addition, the Member States should, where appropriate, provide the necessary explanations to the Commission regarding the methods and criteria applied to calculate the prices concerned.
- (3) In order to ensure rapid circulation of information, electronic means of transmission should be used.
- (4) In the interests of transparency, the Commission should inform the Member States of the prices recorded throughout the Community and the Community average price.

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

HAS ADOPTED THIS REGULATION:

Article 1

1. The prices to be recorded under Article 28(1) of Regulation (EC) No 2200/96 shall be for class I products, ex packing station, sorted, packaged and, where applicable, on pallets, expressed in euro per 100 kilograms net weight.
2. The Member States shall determine the representative markets referred to in Article 28(1) of Regulation (EC) No 2200/96 on the basis of:
 - (a) either transactions carried out on physically identifiable markets (wholesale markets, auctions and other physical meeting places of supply and demand) in the production area,
 - (b) or direct transactions between producers in the production area and individual buyers (wholesalers, traders, distribution centres and other operators),
 - (c) or a combination of the types of transaction referred to at (a) and (b) above.

The list of representative markets is set out in the Annex hereto.

Article 2

For the products listed in the Annex, the Member States shall forward to the Commission, no later than 12.00 (Brussels time) on Wednesday each week, a notification detailing for each market day the average price in euro per 100 kilograms recorded on the markets listed in the Annex for the types and/or varieties of products and the sizes and/or qualities stated in the Annex for which there have been transactions as referred to in Article 1(2).

These notifications shall be sent via the electronic system indicated by the Commission.

The Commission shall forward this information to the Member States, together with the Community average price for each product concerned.

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

⁽²⁾ OJ L 100, 17.4.1997, p. 22. Regulation last amended by Regulation (EC) No 1135/2001 (OJ L 154, 9.6.2001, p. 9).

⁽³⁾ OJ L 16, 23.1.2004, p. 3.

Article 3

1. At the Commission's request, the Member States shall transmit the method they use to calculate the average price referred to in the first paragraph of Article 2.

Where prices given for the types and/or varieties of products concerned are for sizes and/or presentations other than those specified in the Annex, the Member States may calculate the average price for the sizes and/or presentations in the Annex using conversion coefficients. Fixing the conversion coefficients shall be included in the method referred to in the first subparagraph of this paragraph.

2. If necessary, the Commission shall draw up common guidelines on the method referred to in paragraph 1.

Article 4

This Regulation shall enter into force on the 20th 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, 29 April 2004.

For the Commission
Franz FISCHLER
Member of the Commission

ANNEX

Product	Type/variety	Presentation/size	Markets
Tomatoes	Round	Size 57-67/67-82 mm, in bulk in packs of around 5-6 kg	Wien (AT) Flanders (BE) Praha (CZ) Lasithi (EL) Almeria (ES) Granada (ES) Murcia (ES) Rhône-Méditerranée (FR)
	Trusses	in bulk in packs of around 3-6 kg	Bretagne (FR) Budapest (HU) Lecce (IT) Salerno (IT) Vittoria (IT) Westland (NL) Kalisko-pleszewski (PL) Algarve (PT) Komarno (SK)
	Cherry	Trays of around 250-500 g	
Aubergines	Long or round	Size 40 mm and over for long varieties and 70 mm and over for round varieties in bulk in packs of around 5 kg	Lasithi (EL) Almeria (ES) Rhône-Méditerranée (FR) Salerno (IT) Foggia (IT) Vittoria (IT) Barendrecht (NL)
Water melons	With seeds	In bulk	Nicosia (CY) Helia (EL) Viotia (EL) Almeria (ES) Valencia (ES) Budapest (HU) Lecce (IT) Latina (IT) Ribatejo (PT)
Melons	Galia	Size 800-1 250 g, packs of around 5-10 kg	Helia (EL) Almeria (ES) Murcia (ES) Ciudad Real (ES) Rhône-Méditerranée (FR) Val de Loire — Centre (FR) Ferrara (IT)
	Charentais/Cantaloups, reticulated or smooth	Size 800-1 250 g, packs of around 5-10 kg	Lecce (IT) Ribatejo (PT) Algarve (PT)
	Canary/yellow varieties	Packs of around 5 -10 kg	
	Piel de Sapo		
	Melao Branco		
Cauliflowers	Trimmed	Large (16-20 cm), packs containing around six to 12.	Wien (AT) Flanders (BE) Praha (CZ) Rheinland-Pfalz (DE) Thessaloniki (EL) La Rioja (ES) Bretagne (FR) Nord (FR) Budapest (HU) Taranto (IT) Salerno (IT) Barendrecht (NL) Krakowsko-proszowicki (PL) London (UK)

Product	Type/variety	Presentation/size	Markets
Apricots	All types and varieties	Size 45-50 mm Trays or packs of around 6-10 kg	Argolida (EL) Murcia (ES) Valencia (ES) Rhône-Méditerranée (FR) Budapest (HU) Napoli (IT) Bologna (IT)
Nectarines	White flesh	Size A/B Trays or packs of around 6-10 kg	Hemathia (EL) Lleida (ES) Zaragoza (ES) Rhône-Médi- terranée (FR) Ravenna (IT) Forli (IT)
	Yellow flesh	Size A/B Trays or packs of around 6-10 kg	
Peaches	White flesh	Size A/B Trays or packs of around 6-10 kg	Hemathia (EL) Pella (EL) Lleida (ES) Murcia (ES) Huesca (ES) Rhône-Méditerranée (FR) Budapest (HU) Caserta (IT) Forli (IT) Cova da Beira (PT)
	Yellow flesh	Size A/B Trays or packs of around 6-10 kg	
Table grapes	Muscatel	5-12 kg trays or packs	Nicosia (CY) Korinthos (EL) Alicante (ES) Murcia (ES) Rhône-Méditerranée (FR) Sud-Ouest (FR) Budapest (HU) Bari (IT) Foggia (IT) Algarve (PT)
	Chasselas		
	Alphonse Lavallée		
	Italia		
	Cardinal		
	Red Globe		
	Victoria		
	Matilde		
	Thomson seedless and sultanas		
Poires	Blanquilla	Size 55/60, packs of around 5-20 kg	Flanders (BE) Hemathia (EL) Lleida (ES) Zaragoza (ES) Val de Loire — Centre (FR) Budapest (HU) Ferrara (IT) Modena (IT) Geldermalsen (NL) Grójecko-warecki (PL) Oeste (PT)
	Conference	Size 60/65, packs of around 5-20 kg	
	Williams	Size 65/70, packs of around 5-20 kg	
	Rocha		
	Abbé Fétel	Size 70/75, packs of around 5-20 kg	
	Kaiser		
	Doyenné du Comice	Size 75/80, packs of around 5-20 kg	

Product	Type/variety	Presentation/size	Markets
Apples	Golden delicious	Size 70/80, packs of around 5-20 kg	Gleisdorf (AT) Flanders (BE) Praha (CZ) Niedersachsen (DE) Hemathia (EL) Lleida (ES) Girona (ES) Rhône-Méditerranée (FR) Val de Loire — Centre (FR) Sud-Ouest (FR) Budapest (HU) Trento (IT) Bolzano (IT) Geldermalsen (NL) Grójecko-warecki (PL) Lubelsko-sandomierski (PL) Oeste (PT)
	Braeburn		
	Jonagold (or Jonagored)		
	Idared		
	Fuji		
	Shampion		
	Granny smith		
	Red delicious and other red varieties		
	Boskoop		
	Gala	Size 65/70, packs of around 5-20 kg	
Elstar			
Cox orange			
Satsumas	All varieties	Sizes 1-X – 2, packs of around 10-20 kg	Valencia (ES)
Lemons	All varieties	Sizes 1-3, packs of around 15 kg	Nicosia (CY) Achaia (EL) Alicante (ES) Murcia (ES) Catania (IT) Siracusa (IT)
Clementines	All varieties	Sizes 1-X – 2, packs of around 10-20 kg	Arta (EL) Castellon (ES) Valencia (ES) Corigliano (IT) Catania (IT)
Mandarins	All varieties	Sizes 1-X – 2, packs of around 10-20 kg	Nicosia (CY) Chios (EL) Castellon (ES) Valencia (ES) Palermo (IT) Catania (IT) Siracusa (IT) Algarve (PT)
Oranges	Salustiana	Size 2/-4, packs of around 15-20 kg	Nicosia (CY) Argolida (EL) Lakonia (EL) Alicante (ES) Valencia (ES) Sevilla (ES) Catania (IT) Siracusa (IT) Algarve (PT)
	Navelinas		
	Navelate		
	Lanelate		
	Valencia late		
	Tarocco		

Product	Type/variety	Presentation/size	Markets
Courgettes	All varieties	Size 14-21, loose in the pack	Wien (AT) Attiki (EL) Almeria (ES) Rhône-Méditerranée (FR) Bari (IT) Latina (IT) Barendrecht (NL)
Cerises	All sweet varieties	Sizes 22 and over, loose in the pack	Praha (CZ) Rheinland-Pfalz (DE) Pella (EL) Zaragoza (ES) Rhône-Méditerranée (FR) Budapest (HU) Bari (IT) Napoli (IT) Grójecko-warecki (PL) Cova da Beira (PT)
Cucumbers	Smooth varieties	Sizes 350-500 g, arranged in the pack	Wien (AT) Flanders (BE) Helia (EL) Almeria (ES) Val de Loire — Centre (FR) Budapest (HU) Bari (IT) Vittoria (IT) Barendrecht (NL) Kalisko-pleszewski (PL) Komarno (SK) Birmingham (UK)
Kiwis	Hayward	Sizes 105-125 g, packs of around 3-10 kg	Pieria (EL) Sud-Ouest (FR) Latina (IT) Cuneo (IT) Verona (IT) Grande Porto (PT)
Avocados	Hass	Sizes 16-20, packs of around 4-12 kg	Nicosia (CY) Chania (EL) Granada (ES)
Garlic	White	Size 50-80 mm, packs of around 2-5 kg	Evia (EL) Cuenca (ES) Cordoba (ES) Sud-Ouest (FR) Budapest (HU) Rovigo (IT)
	Violet		
Carrots	All varieties	Loose in the pack	Raasdorf (AT) Praha (CZ) Schleswig-Holstein (DE) Rheinland-Pfalz (DE) Cadiz (ES) Sud-Ouest (FR) Budapest (HU) Ragusa (IT) Barendrecht (NL) Warszawsko-łęczycycki (PL) Montijo (PT) Birmingham (UK)

Product	Type/variety	Presentation/size	Markets
Plums	Greengage	Size 35 mm and over	Praha (CZ) Baden-Württemberg (DE)
	European plums (President, Stanley, Cacanska, etc.)	Size 35 mm and over	Murcia (ES) Sud-Ouest (FR) Budapest (HU)
	Santa Rosa	Size 40 mm and over	Modena (IT) Bologna (IT)
	Japanese plums (Golden Japan, etc.)	Size 40 mm and over	Grójecko-warecki (PL) Alfândega da Fé (PT)
Sweet peppers	Square green	Size 70 mm and over	Evia (EL) Almeria (ES)
	Square coloured (red, yellow, etc.)		Murcia (ES) Budapest (HU) Brindisi (IT)
	White	Size 50 mm and over	Vittoria (IT) Westland (NL)
	Elongated green	Size 40 mm and over	Oeste (PT) Komarno (SK)
Asparagus	White/violet	Size 16 mm and over	Baden-Württemberg (DE) Brandenburg (DE)
	Green	Size 10-16 mm	Pella (EL) Granada (ES) Navarra (ES) Rhône-Méditerranée (FR) Budapest (HU) Verona (IT) Grubbenvorst (NL) Nowotomysko-wolsztyński (PL)
Onions	Yellow	Size 40-80 mm, sacks of around 5-25 kg	Raasdorf (AT)
	White		Praha (CZ) Viotia (EL)
	Red		Albacete (ES) Bourgogne (FR) Budapest (HU) Verona (IT) Zoetermeer (NL) Warszawsko-łęczycki (PL) Birmingham (UK)
Beans	Needle (round)	Size 'fine', arranged in the package	Evia (EL) Almeria (ES) Granada (ES)
	Flat	Arranged in the package	Val de Loire — Centre (FR) Salerno (IT) Vittoria (IT)
Lettuces	Iceberg	Size 400 g and over, packs of 8 — 12	Wien (AT) Flanders (BE) Nordrhein-Westfalen (DE) Mecklenburg-Vorpommern (DE)
	Other varieties of headed lettuce (including Batavia)	Size 400 g and over, packs of 8 -12	Attiki (EL) Almeria (ES) Murcia (ES) Rhône-Méditerranée (FR) Bari (IT) Grubbenvorst (NL) Oeste (PT) London (UK)

Product	Type/variety	Presentation/size	Markets
Fraises	Toutes variétés	Barquettes 250/500 g	Flanders (BE) Nordrhein-Westfalen (DE) Huelva (ES) Sud-Ouest (FR) Salerno (IT) Barendrecht (NL) Płocki (PL) Algarve (PT) London (UK)
Leeks	All varieties	Packs of around 5 -10 kg	Flanders (BE) Nordrhein-Westfalen (DE) Thessaloniki (EL) Manche (FR) Grubbenvorst (NL) London (UK)
Cultivated mushrooms	Closed	Medium sized (30-65 mm)	Flanders (BE) La Rioja (ES) Val de Loire — Centre (FR) Dublin (IE) Budapest (HU) Barendrecht (NL) Poznański (PL) London (UK)

COMMISSION REGULATION (EC) No 878/2004
of 29 April 2004

laying down transitional measures in accordance with Regulation (EC) No 1774/2002 for certain animal by-products classified as Category 1 and 2 materials and intended for technical purposes

(Text with EEA relevance)

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Regulation (EC) No 1774/2002 of the European Parliament and of the Council of 3 October 2002 laying down health rules concerning animal by-products not intended for human consumption⁽¹⁾, and in particular Articles 4(4), 5(4), 16(3) and 32(1) thereof,

Whereas:

- (1) According to the Regulation (EC) No 999/2001 of the European Parliament and of the Council of 22 May 2001 laying down rules for the prevention, control and eradication of certain transmissible spongiform encephalopathies⁽²⁾, specified risk material intended for food, feed or fertilisers may not be imported into the Community.
- (2) However, Category 1 materials, which may contain specified risk material, may be imported into or exported from the Community in accordance with rules laid down in Regulation (EC) No 1774/2002 or to be established under the procedure referred to in its Article 33(2).
- (3) Commission Regulation (EC) No 812/2003 of 12 May 2003 on transitional measures under Regulation (EC) No 1774/2002 of the European Parliament and of the Council as regards the importation and transit of certain products from third countries⁽³⁾ provides a temporary derogation until 30 April 2004 from the importation prohibition on certain animal by-products from third countries as set out in Regulation (EC) No 1774/2002.
- (4) Certain operators and trading partners have expressed concerns over a prohibition on animal by-products intended for technical uses, outside the feed or food chain.
- (5) The Commission has requested scientific advice on a quantitative assessment of the residual risk of bovine spongiform encephalopathy (BSE) in a number of bovine-derived products such as gelatine and tallow, which is expected in the near future. It is also intended to seek further specific advice.

(6) Pending such advice, it is appropriate to provide transitional measures allowing the continued placing on the market, export, import and transit of certain products classified as Category 1 and 2 materials under Regulation (EC) No 1774/2002, intended exclusively for technical uses.

(7) Accordingly, transitional measures should be adopted to allow the technical use of certain, strictly defined, Category 1 and 2 materials. The specific uses of such materials intended for technical purposes should be subject to strict channelling and control measures, further reducing the risk of diversion into the food and feed chains and unintended use in other technical products such as fertilisers and soil improvers, cosmetics, medicinal products and medical devices.

(8) Where the use of Category 1 and 2 animal by-products cannot be avoided for the production of medicinal products, the competent authority may, on the basis of an appropriate case-by-case risk assessment in accordance with relevant Community legislation, derogate from the provisions of the Regulation

(9) With regard to the placing on the market and export of animal by-products intended for a technical use produced in the Community, the rules laid down in Regulation (EC) No 1774/2002 should be generally sufficient, subject to complementing the rules for collection and transport to ensure the strict channelling, identification, and control objectives being pursued; with regard to consignments for imports or in transit, additional certification and channelling requirements should be implemented.

(10) Member States should implement additional verification arrangements as necessary for the implementation of this Regulation and in particular to avoid the risk of diversion, and should cooperate to that effect; they should inform the Commission and other Member States accordingly, and take all necessary measures in the context of the relevant Community legislation in case of non compliance.

⁽¹⁾ OJ L 273, 10.10.2002, p. 1. Regulation as last amended by Commission Regulation (EC) No 808/2003 (OJ L 117, 13.5.2003, p. 1).

⁽²⁾ OJ L 147, 31.5.2001, p. 1. Regulation as last amended by Regulation 2245/2003 (OJ L 333, 20.12.2003, p. 28).

⁽³⁾ OJ L 117, 13.5.2003, p. 19. Regulation as amended by Regulation (EC) No 2268/2003 (OJ L 336, 23.12.2003, p. 24).

- (11) In order to avoid disruption of trade it is appropriate to provide for a reasonable period of time for the continuing acceptance of imported animal by-products arriving at the border inspection posts after 1 May 2004, and which may still be accompanied by old models of health certificates.
- (12) The measures provided for in this Regulation are in accordance with the opinion of the Standing Committee on the Food Chain and Animal Health,

HAS ADOPTED THIS REGULATION:

Article 1

Scope

This Regulation shall apply to the following animal by-products, classified as Category 1 or Category 2 material under Regulation (EC) No 1774/2002 and intended exclusively for technical uses:

- (a) hides and skins derived from animals which have been treated with certain substances which are prohibited pursuant to Directive 96/22/EC⁽¹⁾;
- (b) rendered fats derived from Category 1 materials produced using Method 1 as referred to in Annex V, Chapter III of Regulation (EC) No 1774/2002, and in the case rendered fats from ruminant animals have been purified so that the maximum level of remaining total insoluble impurities does not exceed 0,15 % in weight, and derived fat derivatives meeting at least the standards referred to in Annex VI, Chapter III of Regulation (EC) No 1774/2002;
- (c) ruminant intestines (with or without content); and
- (d) bone and bone products containing vertebral column and skulls, and bovine horns which have been removed from the skull using a method which left the cranial cavity intact.

However, those animal by-products shall not be derived from animals referred to in Article 4(1)(a)(i) and (ii) of Regulation (EC) No 1774/2002

Article 2

Derogation regarding the placing on the market and export of animal by-products

By way of derogation from Article 20(1) of Regulation (EC) No 1774/2002, the Member States may authorise the placing on the market and export of the animal by-products referred to in Article 1 of this Regulation ('the animal by-products').

However, the derogation provided for in the first sub-paragraph shall not apply to the export of the animal by-products referred to in points (c) and (d) of Article 1 of this Regulation.

⁽¹⁾ OJ L 125, 23.5.1996, p. 3. Directive as amended by Directive 2003/74/EC of the European Parliament and of the Council (OJ L 262, 14.10.2003, p. 17).

Article 3

Derogation regarding the importation and transit of animal by-products

By way of derogation from Article 29(1) of Regulation (EC) No 1774/2002, the Member States may authorise the importation and transit of the animal by-products.

A label similar to that referred to in point (a) of Article 5 of this Regulation shall also be required for the imported animal by-products.

Article 4

Conditions for the placing on the market, export and import of the animal by-products

1. The placing on the market or export of the animal by-products shall be carried out in a way that does not present a risk to animal and public health and the environment.
2. Imports of the animal by-products shall be subjected to sanitary certification requirements in accordance with national legislation.

Imported consignments and consignments in transit shall be channelled in accordance with the monitoring procedure provided for in Article 8 (4) of Council Directive 97/78/EC.

Article 5

Collection and transport of the animal by-products

The collection and transport of the animal by-products shall comply with the following additional requirements:

- (a) in addition to the identification requirements provided for in Chapter I of Annex II to Regulation (EC) No 1774/2002, all packages shall bear a label indicating 'PROHIBITED IN FOOD, FEED, FERTILISERS, COSMETICS, MEDICINAL PRODUCTS AND MEDICAL DEVICES';

However, a different label may be used in the case the animal by-products are intended for medicinal products in accordance with Community legislation. Any such label shall make clear that the animal by-products are 'DESTINED FOR MEDICINAL PRODUCTS ONLY';

- (b) the by-products shall be delivered to a dedicated technical plant approved in accordance with Article 18 of Regulation (EC) No 1774/2002, and shall be subjected to a treatment which satisfies the competent authority in such a way that the resulting technical product does not pose a risk to animal and public health;

(c) the technical plant referred to in point (b) shall keep records in accordance with Article 9 of Regulation (EC) No 1774/2002, and shall use the animal by-products exclusively for technical purposes authorised by the competent authority.

Article 6

Controls

1. With regard to consignments imported or in transit, the competent authority shall carry out documentary checks at regular intervals, and at least twice a year, on the channelling chain from the border inspection posts of first entry to the approved technical plant in case of import, and to the border inspection post of exit in case of transit, for the purpose of reconciliation of the quantities of animal by-products imported, used and disposed of, ensuring compliance with this Regulation and with Regulation (EC) No 1774/2002.

For consignments in transit, the competent authorities responsible for the border inspection post of first entry and of exit respectively shall cooperate as necessary to ensure effective traceability and checks. The competent authorities shall also cooperate in their surveillance to ensure reconciliation of quantities imported in one Member State and used in another, of quantities exported from one Member State but produced in another, and of quantities in transit -in and out.

2. With regard to consignments for placing on the market in the Community or for export, the competent authorities shall carry out the checks provided for in Regulation (EC) No 1774/2002, in particular its Articles 7 and 8, with the same objectives of checking the reconciliation of quantities and compliance.

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

Done at Brussels, 29 April 2004.

Article 7

Information to be provided by the Member States

Member States shall immediately inform the Commission and other Member States in the framework of the Standing Committee on the Food Chain and Animal Health of:

- (a) the use made of the derogation provided in Articles 2 and 3; and
- (b) the verification arrangements provided for in Article 6 to ensure that the animal by-products concerned are used only for purposes authorised in accordance with Article 5(c).

Article 8

Measures to be taken in the event of non-compliance with this Regulation

The competent authority shall take appropriate action immediately in the case of any non-compliance.

Article 9

Entry into force and applicability

1. This Regulation shall enter into force on the day of its publication in the *Official Journal of the European Union*.
2. It shall apply from 1 May 2004.
3. However, the certificates drawn up in the format under Commission Regulation (EC) No 812/2003 may be used until 15 June 2004.
4. Member States shall authorise until 15 August 2004 the import of consignments which have left the third country before 15 June 2004, and which may still be accompanied by the certificates referred to in point 3 above.

For the Commission

David BYRNE

Member of the Commission

COMMISSION REGULATION (EC) No 879/2004**of 29 April 2004****concerning the provisional authorization of a new use of an additive already authorized in feeding-stuffs (*Saccharomyces cerevisiae*)****(Text with EEA relevance)**

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Council Directive 70/524/EEC of 23 November 1970 concerning additives in feedingstuffs ⁽¹⁾, as last amended by Regulation (EC) No 1756/2002 ⁽²⁾, and in particular Articles 3 and 9e(1) thereof,

Whereas:

(1) Directive 70/524/EEC provides that no additive may be put into circulation unless a Community authorisation has been granted.

(2) In the case of additives referred to in Part II of Annex C to Directive 70/524, which includes micro-organisms, provisional authorisation of a new use of an additive already authorised may be given if the conditions laid down in that Directive are satisfied, and if it is reasonable to assume, in view of the available results, that when used in animal nutrition it has one of the effects referred to in Article 2(a) of that Directive. Such provisional authorisation may be given for a period not exceeding four years in the case of additives referred to in Part II of Annex C to that Directive.

(3) The use of the micro-organism preparation of *Saccharomyces cerevisiae* (MUCL 39885) has been provisionally authorised, for the first time, for piglets and cattle for fattening by Commission Regulation (EC) No 1411/1999 ⁽³⁾.

(4) New data were submitted in support of an application to extend the authorisation of this additive to dairy cows.

(5) The assessment of the application for authorisation submitted in respect of the new use of this additive, shows that the conditions provided for in Directive 70/524/EEC for provisional authorisation are satisfied.

(6) The European Food Safety Authority (Scientific Panel on Additives and Products or Substances Used in Animal Feed) delivered a favourable opinion on 27 January 2004 on the safety of the additive when used in the animal category dairy cows, under the conditions of use set out in the annex to this Regulation.

(7) The use of this additive for dairy cows should therefore be provisionally authorised for a period of four years.

(8) The assessment of the application shows that certain procedures should be required to protect workers from exposure to the additive set out in the Annex. Such protection should be assured by the application of Council Directive 89/391/EEC of 12 June 1989 on the introduction of measures to encourage improvements in the safety and health of workers at work ⁽⁴⁾.

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

HAS ADOPTED THIS REGULATION

Article 1

The preparation belonging to the group 'Micro-organisms' as set out in the Annex is provisionally authorised for use as additive in animal nutrition under the conditions laid down in that Annex.

Article 2

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

⁽¹⁾ OJ L 270, 14.12.1970, p. 1.

⁽²⁾ OJ L 265, 3.10.2002, p. 1.

⁽³⁾ OJ L 164, 30.6.1999, p. 56.

⁽⁴⁾ OJ L 183, 29.6.1989, p. 1.

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

Done at Brussels, 29 April 2004.

For the Commission
David BYRNE
Member of the Commission

ANNEX

No. (or EC No.)	Additive	Chemical formula, description	Species or category of animal	Maximum age	Minimum content	Maximum content	Other provisions	End of period of authorisation
					CFU/kg of complete feedingstuff			
Micro-organisms								
14	Saccharomyces cerevisiae MUCL 39885	Preparation of Saccharomyces cerevisiae containing a minimum of: Powder, spheric and oval granulated forms: 1×10^9 CFU/g additive	Dairy cows	—	$1,23 \times 10^9$	$2,33 \times 10^9$	In the directions for use of the additive and premixture, indicate the storage temperature, storage life and stability to pelleting. The quantity of Saccharomyces cerevisiae in the daily ration must not exceed $8,4 \times 10^9$ CFU per 100 kg body weight till 600 kg. Over 600 kg add $0,9 \times 10^9$ CFU for each additional 100 kg body weight.	3.5.2007

COMMISSION REGULATION (EC) No 880/2004
of 29 April 2004

authorising without time limit the use of beta-carotene and canthaxanthin as additives in feeding-stuffs belonging to the group of colouring matters including pigments

(Text with EEA relevance)

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Council Directive 70/524/EEC of 23 November 1970 concerning additives in feedingstuffs⁽¹⁾, as last amended by Council Regulation (EC) No 1756/2002⁽²⁾ and in particular Article 9d paragraph 1 thereof,

Whereas:

- (1) Directive 70/524/EEC provides that a use of an additive has to be authorised at Community level.
- (2) The additives referred to in Annex to this Regulation, beta-carotene, used for canaries, and canthaxanthin, used for pet and ornamental birds, were provisionally authorised for the first time by Commission Regulation (EC) No 2316/98 of 26 October 1998⁽³⁾. The provisional authorisation of these additives was extended until 14 December 2003 by Commission Regulation (EC) No 2200/2001 of 17 October 2001⁽⁴⁾.
- (3) New data, about efficacy, was submitted by the company producing both additives in support of the application to obtain an authorisation without time limit.
- (4) The assessment of the application for an authorisation for a period without time limit submitted in respect of the 'Carotenoids and xanthophylls' of the group 'Colouring matters including pigments' shows that the relevant conditions laid down in Directive 70/524/EEC are satisfied.

(5) The assessment of the application shows that certain procedures are required to protect workers from exposure to the additives beta-carotene and canthaxanthin. However, such protection is assured by the application of Council Directive 89/391/EEC of 12 June 1989⁽⁵⁾ on the introduction of measures to encourage improvements in the safety and health of workers at work.

(6) The measures provided for in this Regulation are in accordance with the opinion of the Standing Committee for Food Chain and Animal Health section Animal Nutrition.

HAS ADOPTED THIS REGULATION:

Article 1

The additives belonging to Part 1 'Carotenoids and xanthophylls' of the group 'Colouring matters including pigments', referred to in the Annex are authorised for use as additives in feedingstuffs under the conditions laid down in the Annex.

Article 2

This Regulation shall enter into force on the third 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, 29 April 2004.

For the Commission

David BYRNE

Member of the Commission

⁽¹⁾ OJ L 270, 14.12.1970, p. 1.

⁽²⁾ OJ L 265, 3.10.2002, p. 1.

⁽³⁾ OJ L 289, 28.10.1998, p. 4.

⁽⁴⁾ OJ L 299, 15.11.2001, p. 1.

⁽⁵⁾ OJ L 183, 29.6.1989, p. 1.

ANNEX

EC No.	Additive	Chemical formula, description	Species or category of animal	Maximum age	Minimum content	Maximum content	Other provisions	End of period of authorisation
					mg/kg of complete feedingstuff			
Colorants, including pigments								
1. Carotenoids and xanthophylls								
E 160a	Beta-carotene	C ₄₀ H ₅₆	Canaries	—	—	—	—	Without a time limit
E 161g	Canthaxanthin	C ₄₀ H ₅₂ O ₂	Pet and ornamental birds	—	—	—	—	Without a time limit

COMMISSION DIRECTIVE 2004/72/EC
of 29 April 2004

implementing Directive 2003/6/EC of the European Parliament and of the Council as regards accepted market practices, the definition of inside information in relation to derivatives on commodities, the drawing up of lists of insiders, the notification of managers' transactions and the notification of suspicious transactions

(Text with EEA relevance)

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Directive 2003/6/EC of the European Parliament and of the Council of 28 January 2003 on insider dealing and market manipulation (market abuse) ⁽¹⁾, and in particular the second paragraph of point 1 and point 2(a) of Article 1 and the fourth, fifth and seventh indents of Article 6(10) thereof,

After consulting the Committee of European Securities Regulators (CESR) ⁽²⁾ for technical advice,

Whereas:

(1) Practising fairness and efficiency by market participants is required in order not to create prejudice to normal market activity and market integrity. In particular, market practices inhibiting the interaction of supply and demand by limiting the opportunities for other market participants to respond to transactions can create higher risks for market integrity and are, therefore, less likely to be accepted by competent authorities. On the other hand, market practices which enhance liquidity are more likely to be accepted than those practices reducing them. Market practices breaching rules and regulations designed to prevent market abuse, or codes of conduct, are less likely to be accepted by competent authorities. Since market practices change rapidly in order to meet investors' needs, competent authorities need to be alert to new and emerging market practice.

(2) Transparency of market practices by market participants is crucial for considering whether a particular market practice can be accepted by competent authorities. The less transparent a practice is, the more likely it is not to be accepted. However, practices on non regulated markets might for structural reasons be less transparent than similar practices on regulated markets. Such practices should not be in themselves considered as unacceptable by competent authorities.

(3) Particular market practices in a given market should not put at risk market integrity of other, directly or indirectly, related markets throughout the Community, whether those markets be regulated or not. Therefore, the higher the risk for market integrity on such a related market within the Community, the less those practices are likely to be accepted by competent authorities.

(4) Competent authorities, while considering the acceptance of a particular market practice, should consult other competent authorities, particularly for cases where there exist comparable markets to the one under scrutiny. However, there might be circumstances in which a market practice can be deemed to be acceptable on one particular market and unacceptable on another comparable market within the Community. In case of discrepancies between market practices which are accepted in one Member State and not in another one, discussion could take place in the Committee of European Securities Regulators in order to find a solution. With regard to their decisions about such acceptance, competent authorities should ensure a high degree of consultation and transparency vis-à-vis market participants and end-users.

(5) It is essential for market participants on derivative markets the underlying of which is not a financial instrument, to get greater legal certainty on what constitutes inside information.

(6) The establishment, by issuers or persons acting on their behalf or for their account, of lists of persons working for them under a contract of employment or otherwise and having access to inside information relating, directly or indirectly, to the issuer, is a valuable measure for protecting market integrity. These lists may serve issuers or such persons to control the flow of such inside information and thereby manage their confidentiality duties. Moreover, these lists may also constitute a useful tool for competent authorities when monitoring the application of market abuse legislation. Identifying inside information to which any insider has access and the date on

⁽¹⁾ OJ L 96, 12.4.2003, p. 16.

⁽²⁾ CESR was established by Commission Decision 2001/527/EC of 6 June 2001 (OJ L 191, 13.7.2001, p. 43).

which it gained access thereto is necessary for issuers and competent authorities. Access to inside information relating, directly or indirectly, to the issuer by persons included on such a list is without prejudice to their duty to refrain from insider dealing on the basis of any inside information as defined in Directive 2003/6/EC.

- (7) The notification of transactions conducted by persons discharging managerial responsibilities within an issuer on their own account, or by persons closely associated with them, is not only a valuable information for market participants, but also constitutes an additional means for competent authorities to supervise markets. The obligation by senior executives to notify transactions is without prejudice to their duty to refrain from insider dealing on the basis of any inside information as defined in Directive 2003/6/EC.
- (8) Notification of transactions should be in accordance with the rules on transfer of personal data laid down in Directive 95/46/EC⁽¹⁾ of the European Parliament and of the Council of 24 October 1995 on the protection of individuals with regard to the processing of personal data and on the movement of such data.
- (9) Notification of suspicious transactions by persons professionally arranging transactions in financial instruments to the competent authority requires sufficient indications that the transactions might constitute market abuse, i.e. transactions which give reasonable ground for suspecting that insider dealing or market manipulation is involved. Certain transactions by themselves may seem completely void of anything suspicious, but might deliver such indications of possible market abuse, when seen in perspective with other transactions, certain behaviour or other information.
- (10) This Directive respects the fundamental rights and observes the principles recognised in particular by the Charter of Fundamental Rights of the European Union and in particular by Article 8 of the European Convention on Human Rights.
- (11) The measures provided for in this Directive are in accordance with the opinion of the European Securities Committee,

HAS ADOPTED THIS DIRECTIVE:

Article 1

Definitions

For the purpose of applying Article 6(10) of Directive 2003/6/EC:

1. 'Person discharging managerial responsibilities within an issuer' shall mean a person who is
 - (a) a member of the administrative, management or supervisory bodies of the issuer;
 - (b) a senior executive, who is not a member of the bodies as referred to in point (a), having regular access to inside information relating, directly or indirectly, to the issuer, and the power to make managerial decisions affecting the future developments and business prospects of this issuer.
2. 'Person closely associated with a person discharging managerial responsibilities within an issuer of financial instruments' shall mean:
 - (a) the spouse of the person discharging managerial responsibilities, or any partner of that person considered by national law as equivalent to the spouse;
 - (b) according to national law, dependent children of the person discharging managerial responsibilities;
 - (c) other relatives of the person discharging managerial responsibilities, who have shared the same household as that person for at least one year on the date of the transaction concerned;
 - (d) any legal person, trust or partnership, whose managerial responsibilities are discharged by a person referred to in point 1 of this Article or in letters (a), (b) and (c) of this point, or which is directly or indirectly controlled by such a person, or that is set up for the benefit of such a person, or whose economic interests are substantially equivalent to those of such person.
3. 'Person professionally arranging transactions' shall mean at least an investment firm or a credit institution.
4. 'Investment firm' shall mean any person as defined in Article 1(2) of Council Directive 93/22/EEC⁽²⁾;

⁽¹⁾ OJ L 281, 23.11.1995, p. 31.

⁽²⁾ OJ L 141, 11.6.1993, p. 27.

5. 'Credit institution' shall mean any person as defined in Article 1(1) of Directive 2000/12/EC of the European Parliament and of the Council⁽¹⁾;
6. 'Competent authority' shall mean the competent authority as defined in Article 1(7) of Directive 2003/6/EC.

Article 2

Factors to be taken into account when considering market practices

1. For the purposes of applying paragraph 2 of point 1 and point 2(a) of Article 1 of Directive 2003/6/EC, Member States shall ensure that the following non exhaustive factors are taken into account by competent authorities, without prejudice to collaboration with other authorities, when assessing whether they can accept a particular market practice:

- (a) the level of transparency of the relevant market practice to the whole market;
- (b) the need to safeguard the operation of market forces and the proper interplay of the forces of supply and demand.;
- (c) the degree to which the relevant market practice has an impact on market liquidity and efficiency;
- (d) the degree to which the relevant practice takes into account the trading mechanism of the relevant market and enables market participants to react properly and in a timely manner to the new market situation created by that practice;
- (e) the risk inherent in the relevant practice for the integrity of, directly or indirectly, related markets, whether regulated or not, in the relevant financial instrument within the whole Community;
- (f) the outcome of any investigation of the relevant market practice by any competent authority or other authority mentioned in Article 12(1) of Directive 2003/6/EC, in particular whether the relevant market practice breached rules or regulations designed to prevent market abuse, or codes of conduct, be it on the market in question or on directly or indirectly related markets within the Community;
- (g) the structural characteristics of the relevant market including whether it is regulated or not, the types of financial instruments traded and the type of market participants, including the extent of retail investors participation in the relevant market.

Member States shall ensure that competent authorities shall, when considering the need for safeguard referred to in point (b) of the first subparagraph, in particular analyse the impact of

the relevant market practice against the main market parameters, such as the specific market conditions before carrying out the relevant market practice, the weighted average price of a single session or the daily closing price.

2. Member States shall ensure that practices, in particular new or emerging market practices are not assumed to be unacceptable by the competent authority simply because they have not been previously accepted by it.

3. Member States shall ensure that competent authorities review regularly the market practices they have accepted, in particular taking into account significant changes to the relevant market environment, such as changes to trading rules or to market infrastructure.

Article 3

Consultation procedures and disclosure of decisions

1. For the purposes of applying paragraph 2 of point 1 and point 2(a) of Article 1 of Directive 2003/6/EC, Member States shall ensure that the procedures set out in paragraphs 2 and 3 of this Article are observed by competent authorities when considering whether to accept or continue to accept a particular market practice.

2. Without prejudice to Article 11(2) of Directive 2003/6/EC, Member States shall ensure that competent authorities, before accepting or not the market practice concerned, consult as appropriate relevant bodies such as representatives of issuers, financial services providers, consumers, other authorities and market operators.

The consultation procedure shall include consultation of other competent authorities, in particular where there exist comparable markets, i.e. in structures, volume, type of transactions.

3. Member States shall ensure that competent authorities publicly disclose their decisions regarding the acceptability of the market practice concerned, including appropriate descriptions of such practices. Member States shall further ensure that competent authorities transmit their decisions as soon as possible to the Committee of European Securities Regulators which shall make them immediately available on its website.

The disclosure shall include a description of the factors taken into account in determining whether the relevant practice is regarded as acceptable, in particular where different conclusions have been reached regarding the acceptability of the same practice on different Member States markets.

⁽¹⁾ OJ L 126, 26.5.2000, p. 1.

4. When investigatory actions on specific cases have already started, the consultation procedures set out in paragraphs 1 to 3 may be delayed until the end of such investigation and possible related sanctions.

5. A market practice which was accepted following the consultation procedures set out in paragraphs 1 to 3 shall not be changed without using the same consultation procedures.

Article 4

Inside information in relation to derivatives on commodities

For the purposes of applying the second paragraph of point 1 of Article 1 of Directive 2003/6/EC, users of markets on which derivatives on commodities are traded, are deemed to expect to receive information relating, directly or indirectly, to one or more such derivatives which is:

- (a) routinely made available to the users of those markets, or
- (b) required to be disclosed in accordance with legal or regulatory provisions, market rules, contracts or customs on the relevant underlying commodity market or commodity derivatives market.

Article 5

Lists of insiders

1. For the purposes of applying the third subparagraph of Article 6(3) of Directive 2003/6/EC, Member States shall ensure that lists of insiders include all persons covered by that Article who have access to inside information relating, directly or indirectly, to the issuer, whether on a regular or occasional basis.

2. Lists of insiders shall state at least:

- (a) the identity of any person having access to inside information;
- (b) the reason why any such person is on the list;
- (c) the date at which the list of insiders was created and updated.

3. Lists of insiders shall be promptly updated

- (a) whenever there is a change in the reason why any person is already on the list;
- (b) whenever any new person has to be added to the list;
- (c) by mentioning whether and when any person already on the list has no longer access to inside information.

4. Member States shall ensure that lists of insiders will be kept for at least five years after being drawn up or updated.

5. Member States shall ensure that the persons required to draw up lists of insiders take the necessary measures to ensure that any person on such a list that has access to inside information acknowledges the legal and regulatory duties entailed and is aware of the sanctions attaching to the misuse or improper circulation of such information.

Article 6

Managers' Transactions

1. For the purposes of applying Article 6(4) of Directive 2003/6/EC, and without prejudice to the right of Member States to provide for other notification obligations than those covered by that Article, Member States shall ensure that all transactions related to shares admitted to trading on a regulated market, or to derivatives or other financial instruments linked to them, conducted on the own account of persons referred to in Article 1 points 1 and 2 above, are notified to the competent authorities. The rules of notification to which those persons have to comply with shall be those of the Member State where the issuer is registered. The notification shall be made within five working days of the transaction date to the competent authority of that Member State. When the issuer is not registered in a Member State, this notification shall be made to the competent authority of the Member State in which it is required to file the annual information in relation to the shares in accordance with Article 10 of Directive 2003/71/EC.

2. Member States may decide that, until the total amount of transactions has reached five thousand Euros at the end of a calendar year, no notification is required or notification may be delayed until the 31 January of the following year. The total amount of transactions shall be computed by summing up the transactions conducted on the own account of persons referred to in Article 1 point 1 with the transactions conducted on the own account of persons referred to in Article 1 point 2.

3. The notification shall contain the following information:

- (a) name of the person discharging managerial responsibilities within the issuer, or, where applicable, name of the person closely associated with such a person,
- (b) reason for responsibility to notify,
- (c) name of the relevant issuer,
- (d) description of the financial instrument,
- (e) nature of the transaction (e.g. acquisition or disposal),
- (f) date and place of the transaction
- (g) price and volume of the transaction.

*Article 7***Suspicious transactions to be notified**

For the purposes of applying Article 6(9) of Directive 2003/6/EC, Member States shall ensure that persons referred to in Article 1 point 3 above shall decide on a case-by-case basis whether there are reasonable grounds for suspecting that a transaction involves insider dealing or market manipulation, taking into account the elements constituting insider dealing or market manipulation, referred to in Articles 1 to 5 of Directive 2003/6/EC, in Commission Directive 2003/124/EC⁽¹⁾ implementing Directive 2003/6/EC as regards the definition and public disclosure of inside information and the definition of market manipulation, and in Article 4 of this Directive. Without prejudice to Article 10 of Directive 2003/6/EC, persons professionally arranging transactions shall be subject to the rules of notification of the Member State in which they are registered or have their head office, or in the case of a branch, the Member State where the branch is situated. The notification shall be addressed to the competent authority of this Member State.

Member States shall ensure that competent authorities receiving the notification of suspicious transactions transmit such information immediately to the competent authorities of the regulated markets concerned.

*Article 8***Timeframe for notification**

Member States shall ensure that in the event that persons, as referred to in Article 1 point 3, become aware of a fact or information that gives reasonable ground for suspicion concerning the relevant transaction, make a notification without delay.

*Article 9***Content of notification**

1. Member States shall ensure that persons subject to the notification obligation transmit to the competent authority the following information:

- (a) description of the transactions, including the type of order (such as limit order, market order or other characteristics of the order) and the type of trading market (such as block trade);
- (b) reasons for suspicion that the transactions might constitute market abuse;
- (c) means for identification of the persons on behalf of whom the transactions have been carried out, and of other persons involved in the relevant transactions;
- (d) capacity in which the person subject to the notification obligation operates (such as for own account or on behalf of third parties);

- (e) any information which may have significance in reviewing the suspicious transactions.

2. Where that information is not available at the time of notification, the notification shall include at least the reasons why the notifying persons suspect that the transactions might constitute insider dealing or market manipulation. All remaining information shall be provided to the competent authority as soon as it becomes available.

*Article 10***Means of notification**

Member States shall ensure that notification to the competent authority can be done by mail, electronic mail, telecopy or telephone, provided that in the latter case confirmation is notified by any written form upon request by the competent authority.

*Article 11***Liability and professional secrecy**

1. Member States shall ensure that the person notifying to the competent authority as referred to in Articles 7 to 10 shall not inform any other person, in particular the persons on behalf of whom the transactions have been carried out or parties related to those persons, of this notification, except by virtue of provisions laid down by law. The fulfilment of this requirement shall not involve the notifying person in liability of any kind, providing the notifying person acts in good faith.

2. Member States shall ensure that competent authorities do not disclose to any person the identity of the person having notified these transactions, if disclosure would, or would be likely to harm the person having notified the transactions. This provision is without prejudice to the requirements of the enforcement and the sanctioning regimes under Directive 2003/6/EC and to the rules on transfer of personal data laid down in Directive 95/46/EC.

3. The notification in good faith to the competent authority as referred to in Articles 7 to 10 shall not constitute a breach of any restriction on disclosure of information imposed by contract or by any legislative, regulatory or administrative provision, and shall not involve the person notifying in liability of any kind related to such notification.

*Article 12***Transposition**

1. Member States shall bring into force the laws, regulations and administrative provisions necessary to comply with this Directive by 12 October 2004 at the latest. They shall forthwith communicate to the Commission the text of the provisions and a correlation table between those provisions and this Directive.

⁽¹⁾ OJ L 339, 24.12.2003, p. 70.

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

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

Article 13

Entry into force

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

Article 14

Addressees

This Directive is addressed to the Member States.

Done at Brussels, 29 April 2004.

For the Commission
Frederik BOLKESTEIN
Member of the Commission

**COMMISSION DIRECTIVE 2004/77/EC
of 29 April 2004**

amending Directive 94/54/EC as regards the labelling of certain foods containing glycyrrhizinic acid and its ammonium salt

(Text with EEA relevance)

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Directive 2000/13/EC of the European Parliament and of the Council of 20 March 2000 on the approximation of the laws of the Member States relating to the labelling, presentation and advertising of foodstuffs⁽¹⁾, and in particular Article 4(2) thereof,

After consulting the Scientific Committee on Food,

Whereas:

- (1) Commission Directive 94/54/EC of 18 November 1994 concerning the compulsory indication on the labelling of certain foodstuffs of particulars other than those provided for in Directive 2000/13/EC⁽²⁾ contains a list of foodstuffs for which the labelling must include one or more additional particulars.
- (2) The purpose of this Directive is to supplement that list with regard to certain foods containing glycyrrhizinic acid and its ammonium salt.
- (3) Glycyrrhizinic acid naturally occurs in the liquorice plant *Glycyrrhiza glabra* while its ammonium salt is manufactured from aqueous extracts of liquorice plant *Glycyrrhiza glabra*. Glycyrrhizinic acid and its ammonium salt are included in the Community register of flavouring substances laid down by Commission Decision 1999/217/EC of 23 February 1999 adopting a register of flavouring substances used in or on foodstuffs drawn up in application of Regulation (EC) No 2232/96 of the European Parliament and of the Council of 28 October 1996⁽³⁾. Exposure to glycyrrhizinic acid and its ammonium salt occur mostly via consumption of liquorice confectionery, including chewing gum, herbal teas and other beverages.
- (4) The Scientific Committee on Food, in its opinion of 4 April 2003 on glycyrrhizinic acid and its ammonium salt, concluded that an upper limit for regular ingestion of 100 mg/day provides a sufficient level of protection for the majority of the population, consumption above

this level may give rise to hypertension. However the Committee noted that within the human population there are subgroups for which this upper limit might not offer sufficient protection. These subgroups comprise people with medical conditions related to disturbed water- and electrolyte homeostasis.

- (5) These findings make it necessary to provide labelling which gives the consumers clear information on the presence of glycyrrhizinic acid or its ammonium salt in confectionery and beverages. In the case of high contents of glycyrrhizinic acid or its ammonium salt in these products, the consumers, and in particular those suffering from hypertension, should in addition be informed that excessive intake should be avoided. To ensure a good understanding of these information by the consumers, the well known term 'liquorice extracts' should be preferably used.
- (6) Directive 94/54/EC should therefore be amended accordingly.
- (7) The measures provided for in this Directive are in accordance with the opinion of the Standing Committee on the Food Chain and Animal Health,

HAS ADOPTED THIS DIRECTIVE:

Article 1

Annex to Directive 94/54/EC is amended in accordance with the text set out in the Annex to this Directive.

Article 2

1. The Member States shall permit trade in products which comply with this Directive from 20 May 2005 at the latest.
2. The Member States shall prohibit trade in products which do not comply with this Directive from 20 May 2006.

However, products which do not comply with this Directive and which were labelled before 20 May 2006 shall be authorised while stocks last.

⁽¹⁾ OJ L 109, 6.5.2000, p. 29. Directive as amended by Directive 2003/89/EC of the European Parliament and of the Council of 10 November 2003 (OJ L 308, 25.11.2003, p. 15).

⁽²⁾ OJ L 300, 23.11.1994, p. 14. Directive as amended by Council Directive 96/21/EC (OJ L 88, 5.4.1996, p. 5).

⁽³⁾ OJ L 84, 27.3.1999, p. 1. Decision as amended by Decision 2002/113/EC (OJ 49, 20.2.2002, p. 1).

Article 3

1. Member States shall bring into force the laws, regulations and administrative provisions necessary to comply with this Directive by 20 May 2005 at the latest. They shall forthwith communicate to the Commission the text of those provisions and a correlation table between those provisions and this Directive.

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

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

Article 4

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

Article 5

This Directive is addressed to the Member States.

Done at Brussels, 29 April 2004.

For the Commission

David BYRNE

Member of the Commission

 ANNEX

In Annex to Directive 94/54/EC, the following text is added:

Type or category of foodstuff	Particulars
Confectionery or beverages containing glycyrrhizinic acid or its ammonium salt due to the addition of the substance(s) as such or the liquorice plant <i>Glycyrrhiza glabra</i> , at concentration of 100 mg/kg or 10 mg/l or above.	The terms 'contains liquorice' shall be added immediately after the list of ingredients, unless the term 'liquorice' is already included in the list of ingredients or in the name under which the product is sold. In absence of list of ingredients, the particular shall take place nearby the name under which the product is sold.
Confectionery containing glycyrrhizinic acid or its ammonium salt due to the addition of the substance(s) as such or the liquorice plant <i>Glycyrrhiza glabra</i> at concentrations of 4 g/kg or above.	The following message must be added after the list of ingredients: 'contains liquorice-people suffering from hypertension should avoid excessive consumption'. In absence of list of ingredients, the particular shall take place nearby the name under which the product is sold.
Beverages containing glycyrrhizinic acid or its ammonium salt due to the addition of the substance(s) as such or the liquorice plant <i>Glycyrrhiza glabra</i> at concentrations of 50 mg/l or above, or of 300 mg/l or above in the case of beverages containing more than 1,2 % by volume of alcohol ⁽¹⁾ .	The following message must be added after the list of ingredients: 'contains liquorice- people suffering from hypertension should avoid excessive consumption'. In absence of list of ingredients, the particular shall take place nearby the name under which the product is sold.

⁽¹⁾ The level shall apply to the products as proposed ready for consumption or as reconstituted according to the instructions of the manufacturers

II

(Acts whose publication is not obligatory)

COUNCIL

**COUNCIL DECISION
of 22 September 2003**

on the conclusion of a Protocol adjusting the trade aspects of the Europe Agreement establishing an association between the European Communities and their Member States, of the one part, and the Republic of Latvia, of the other part, to take account of the outcome of negotiations between the parties on new mutual agricultural concessions

(2004/484/EC)

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty establishing the European Community, and in particular Article 133, in conjunction with Article 300(2), subparagraph 1, first sentence, thereof,

Having regard to the proposal from the Commission,

Whereas:

- (1) The Europe Agreement establishing an association between the European Communities and their Member States, of the one part, and the Republic of Latvia, of the other part, hereinafter referred to as 'the Europe Agreement' ⁽¹⁾, provides for certain reciprocal trade concessions for certain agricultural products.
- (2) Article 20(4) of the Europe Agreement provides that the Community and Latvia shall examine product by product and on an orderly and reciprocal basis the possibilities of granting each other further concessions.
- (3) The first improvements to the preferential arrangements of the Europe Agreement were provided for in the Protocol adjusting trade aspects of the Europe Agreement to take account of the accession of the Republic of Austria, the Republic of Finland and the Kingdom of Sweden to the European Union and the outcome of the Uruguay Round negotiations on agriculture, including improvements to the existing preferential arrangements, approved by Decision 1999/790/EC ⁽²⁾.
- (4) Improvements to the preferential arrangements were also provided for as a result of negotiations to liberalise agricultural trade concluded in 2000. On the Community side, these were implemented from 1 July 2000 by Council Regulation (EC) No 2341/2000 of 17 October 2000 establishing certain concessions in the form of Community tariff quotas for certain agricultural products and providing for an adjustment, as an autonomous and transitional measure, of certain agricultural concessions provided for in the Europe Agreement with Latvia ⁽³⁾. This second adjustment of the preferential arrangements has not yet been incorporated in the Europe Agreement in the form of an Additional Protocol.
- (5) Negotiations for further improvements to the preferential arrangements of the Europe Agreement were concluded on 4 April 2002. The results of the negotiations have so far been implemented by the respective parties in the form of autonomous measures, applicable as from 1 July 2002. On the Community side, the autonomous measures were implemented by Council Regulation (EC) No 1362/2002 of 22 July 2002 establishing concessions in the form of Community tariff quotas for certain agricultural products and providing for an adjustment, as an autonomous and transitional measure, of certain agricultural concessions provided for in the Europe Agreement with Latvia ⁽⁴⁾. Similar legislative measures were adopted and implemented by the Republic of Latvia.
- (6) The new Additional Protocol to the Europe Agreement adjusting the trade aspects of the Europe Agreement between the European Communities and their Member States, of the one part, and the Republic of Latvia, of the other part (hereinafter referred to as 'the Protocol') should be approved with a view to consolidating all concessions in agricultural trade between the two sides, including the results of the negotiations concluded in 2000 and 2002.

⁽¹⁾ OJ L 26, 2.2.1998, p. 3.

⁽²⁾ OJ L 317, 10.12.1999, p. 1.

⁽³⁾ OJ L 271, 24.10.2000, p. 7.

⁽⁴⁾ OJ L 198, 27.7.2002, p. 13.

- (7) Commission Regulation (EEC) No 2454/93 of 2 July 1993 laying down provisions for the implementation of Council Regulation (EEC) No 2913/92 establishing the Community Customs Code ⁽¹⁾ has codified the management rules for tariff quotas designed to be used following the chronological order of dates of customs declarations. Certain tariff quotas in this Decision should therefore be administered in accordance with those rules.
- (8) The measures necessary for the implementation of this Decision should be adopted in accordance with Council Decision 1999/468/EC of 28 June 1999 laying down the procedures for the exercise of implementing powers conferred on the Commission ⁽²⁾.
- (9) As a result of the aforementioned negotiations, Regulation (EC) No 1362/2002 has effectively lost its substance and should therefore be repealed,

HAS DECIDED AS FOLLOWS:

Article 1

The Protocol adjusting the trade aspects of the Europe Agreement establishing an association between the European Communities and their Member States, of the one part, and the Republic of Latvia, of the other part, to take account of the outcome of negotiations between the parties on new mutual agricultural concessions, is hereby approved on behalf of the Community.

The text of the Protocol is attached to this Decision.

Article 2

The President of the Council is hereby authorised to designate the person empowered to sign the Protocol on behalf of the Community and give the notification of approval provided for in Article 4 of the Protocol.

Article 3

1. Upon this Decision taking effect, the arrangements provided for in the Annexes to the Protocol attached to this Decision shall replace those referred to in Annexes Va, X and XI as referred to in Article 20(2), as amended, of the Europe Agreement.
2. The Commission shall adopt rules for the application of the Protocol in accordance with the procedure referred to in Article 5.

Article 4

The order numbers as attributed to the tariff quotas in the Annex to this Decision may be changed by the Commission in accordance with the procedure referred to in Article 5. Tariff quotas with an order number above 09.5100 shall be administered by the Commission in accordance with Articles 308a, 308b and 308c of Regulation (EEC) No 2454/93.

Article 5

1. The Commission shall be assisted by the Committee for Cereals instituted by Article 23 of Council Regulation (EEC) No 1766/92 of 30 June 1992 on the common organisation of the market in cereals ⁽³⁾ or, where appropriate, by the committee instituted by the relevant provisions of the other Regulations on the common organisation of agricultural markets.

2. Where reference is made to this paragraph, Articles 4 and 7 of Decision 1999/468/EC shall apply.

The period laid down in Article 4(3) of Decision 1999/468/EC shall be set at one month.

3. The Committee shall adopt its Rules of Procedure.

Article 6

Regulation (EC) No 1362/2002 shall be repealed from the entry into force of the Protocol.

Done at Brussels, 22 September 2003.

For the Council
The President
 F. FRATTINI

⁽¹⁾ OJ L 253, 11.10.1993, p. 1. Regulation as last amended by Regulation (EC) No 444/2002 (OJ L 68, 12.3.2002, p. 11).

⁽²⁾ OJ L 184, 17.7.1999, p. 23.

⁽³⁾ OJ L 181, 1.7.1992, p. 21. Regulation as last amended by Regulation (EC) No 1666/2000 (OJ L 193, 29.7.2000, p. 1).

ANNEX

Order numbers for EU tariff quotas for products originating in Latvia

(as referred to in Article 4)

Quota order No	CN code	Description
09.4598	0102 90 05	Live bovine animals of domestic species of a live weight not exceeding 80 kg
09.4537	0102 90 21 0102 90 29 0102 90 41 0102 90 49	Live bovine animals of domestic species of a live weight exceeding 80 kg but not exceeding 300 kg
09.4563	ex 0102 90	Heifers and cows not for slaughter of the following mountain breeds: grey, brown, yellow, spotted Simmental and Pinzgau
09.4871	0201 0202 0206 10 95 0206 29 91 0210 20 0210 99 51 0210 99 90 1602 50	Meat of bovine animals, fresh or chilled Meat of bovine animals, frozen Edible offal of bovine animals, fresh or chilled, thick skirt and thin skirt Edible offal of bovine animals, frozen, other, thick skirt and thin skirt Meat of bovine animals, salted, in brine, dried or smoked Thick skirt and thin skirt of bovine animals Edible flours and meals of meat or meat offal Other prepared or preserved meat or meat offal of bovine animals
09.4540	ex 0203	Meat of domestic swine, fresh, chilled or frozen, excluding CN codes 0203 11 90, 0203 12 90, 0203 19 90, 0203 21 90, 0203 22 90, 0203 29 90
09.6676	ex 0207	Meat and edible offal, of the poultry of heading No 0105, fresh, chilled or frozen excluding CN codes 0207 13 91, 0207 14 91, 0207 26 91, 0207 27 91, 0207 34 10, 0207 34 90, 0207 35 91, 0207 36 81, 0207 36 85, 0207 36 89
09.4872	0401	Milk and cream, not concentrated, nor containing added sugar or other sweetening matter
09.4873	0402	Milk and cream, concentrated or containing added sugar or other sweetening matter
09.4874	0403 10 11 to 0403 10 39 0403 90 11 to 0403 90 69	Yoghurt, not flavoured nor containing added fruit, nuts or cocoa Buttermilk, curdled milk and cream, kephir and other fermented or acidified milk and cream, not flavoured nor containing added fruit nuts or cocoa
09.4551	0405 10 11 0405 10 19 0405 10 30 0405 10 50 0405 10 90 0405 20 90 0405 90	Natural butter of a fat content, by weight, not exceeding 85 %, in immediate packings of a net content not exceeding 1 kg Natural butter of a fat content by weight not exceeding 85 %, other Recombined butter, of a fat content, by weight, not exceeding 85 % Whey butter Butter, other Dairy spreads of a fat content, by weight, of more than 75 % but less than 80 % Other fats and oils derived from milk

Quota order No	CN code	Description
09.4552	0406	Cheese and curd
09.6677	0409 00 00	Natural honey
09.6621	ex 0702 00 00	Tomatoes, fresh or chilled, 15 May to 31 October
09.6623	0703 20 00	Garlic, fresh or chilled
09.6456	0704 90	Cabbages, cauliflowers, kohlrabi, kale and similar edible brassicas, fresh or chilled, other
09.6457	ex 0706 10 00	Carrots, fresh or chilled
09.6678	0706 90	Carrots, turnips, salad beetroot, salsify, celeriac, radishes and similar edible roots, fresh or chilled, other
09.6679	0707 00 05	Cucumbers, fresh or chilled
09.6458	0710 10 00	Potatoes, frozen
09.6681	0712 90 50 0712 90 90	Carrots, dried, whole, cut, sliced, broken or in powder, but not further prepared Other vegetables and mixtures of vegetables, dried, whole, cut, sliced, broken or in powder, but not further prepared
09.6682	ex 0714 90 90	Frozen or dried Jerusalem artichokes
09.6625	0808 10	Apples, fresh
09.6683	0811 10 11	Strawberries, frozen, containing added sugar or other sweetening matter with a sugar content exceeding 13 % by weight
09.6684	1001 10 00 1001 90 10 1001 90 91 1001 90 99	Durum wheat Spelt for sowing Common wheat and meslin seed Other
09.6685	1101 00 11 1101 00 15 1101 00 90 1103 11 10 1103 11 90 1103 20 60	Durum wheat flour Flour of common wheat and spelt Meslin flour Durum wheat groats and meal Common wheat and spelt groats and meal Wheat pellets
09.6686	1002 00 00	Rye
09.6687	1102 10 00 1103 19 10 1103 20 10	Rye flour Rye groats and meal Rye pellets
09.6688	1003 00	Barley
09.6689	1102 90 10 1103 19 30 1103 20 20	Barley flour Barley groats and meal Barley pellets

Quota order No	CN code	Description
09.6690	1004 00 00	Oats
09.6691	1102 90 30 1103 19 40 1103 20 30	Oat flour Groats and meal of oats Pellets of oats
09.6692	ex 1104	Cereals grains, otherwise worked, excluding CN 1104 19 50 and CN 1104 23
09.6473	1108 13 00	Potato starch
09.4564	1601 00 1602 41 1602 42 1602 49	Sausages and similar products, of meat, meat offal or blood: food preparations based on these products Other prepared or preserved meat, meat offal or blood: of swine: Hams and cuts thereof Other prepared or preserved meat, meat offal or blood: of swine: Shoulders and cuts thereof Other prepared or preserved meat, meat offal or blood: of swine: Other, including mixtures
09.6693	1602 32 to 1602 39	Other prepared or preserved meat, meat offal or blood: of poultry of heading 0105: of fowls of the species <i>Gallus domesticus</i> Other prepared or preserved meat, meat offal or blood: of poultry of heading 0105: Other than of fowls of the species <i>Gallus domesticus</i> and other than of turkeys
09.6694	ex 2001	Vegetables, fruit, nuts and other edible parts of plants, prepared or preserved by vinegar or acetic acid, excluding CN 2001 90 30, 2001 90 40, 2001 90 60, 2001 90 65 and 2001 90 91
09.6695	ex 2005	Other vegetables, prepared or preserved otherwise than by vinegar or acetic acid, not frozen, excluding CN 2005 20 10, 2005 70 and 2005 80 00
09.6696	2009 71	Apple juice of a brix value not exceeding 20
09.6697	ex 2009 79	Apple juice of a brix value exceeding 20, excluding CN 2009 79 11 and 2009 79 91

PROTOCOL

adjusting the trade aspects of the Europe Agreement establishing an association between the European Communities and their Member States, of the one part, and the Republic of Latvia, of the other part, to take account of the outcome of negotiations between the parties on new mutual agricultural concessions

THE EUROPEAN COMMUNITY, hereinafter referred to as 'the Community',

of the one part, and

THE REPUBLIC OF LATVIA,

of the other part,

Whereas:

- (1) The Europe Agreement establishing an association between the European Communities and their Member States, of the one part, and the Republic of Latvia, of the other part (hereinafter referred to as 'the Europe Agreement') was signed in Luxembourg on 12 June 1995 and entered into force on 1 February 1998 ⁽¹⁾.
- (2) Article 20(4) of the Europe Agreement provides that the Community and the Republic of Latvia shall examine in the Association Council, product by product and on an orderly and reciprocal basis, the possibility of granting each other additional agricultural concessions. On this basis negotiations have been undertaken and were concluded between the parties.
- (3) For the first time, improvements to the preferential agricultural regime of the Europe Agreement were provided for in the Protocol adjusting trade aspects of the Europe Agreement ⁽²⁾ to take account of the last enlargement of the Community and the outcome of the GATT Uruguay Round.
- (4) Two further rounds of negotiations for improved agricultural trade concessions were concluded on 8 May 2000 and 4 April 2002.
- (5) From the one side, the Council decided, by virtue of Regulation (EC) No 1362/2002 of 22 July 2002 establishing concessions in the form of Community tariff quotas for certain agricultural products and providing for an adjustment, as an autonomous and transitional measure, of certain agricultural concessions provided for in the Europe Agreement with Latvia ⁽³⁾, to apply on a provisional basis, as from 1 July 2002, the Community concessions resulting from the 2000 and the 2002 rounds of negotiations, and from the other side the Government of the Republic of Latvia took in the Law on Import Customs Tax (Tariffs), Tariff Quotas and Arrangements for Additional Control of Import and Information Applicable to the Agriculture Products Originating in the Community ⁽⁴⁾ legislative provisions, to apply, as from the same date of 1 July 2002, the equivalent Latvian concessions.
- (6) The abovementioned concessions will be replaced on the date of entry into force of this Protocol by the concessions provided for herein,

HAVE AGREED AS FOLLOWS:

Article 1

The arrangements for import into the Community applicable to certain agricultural products originating in Latvia as set out in Annexes A(a) and A(b) and the arrangements for import into Latvia applicable to certain agricultural products originating in the Community as set out in Annexes B(a) and B(b) to this Protocol shall replace those set out in Annexes Va, X and XI as referred to in Article 20(2), as amended, of the Europe Agreement.

⁽¹⁾ OJ L 26, 2.2.1998, p. 3.

⁽²⁾ OJ L 317, 10.12.1999, p. 1.

⁽³⁾ OJ L 198, 27.7.2002, p. 13.

⁽⁴⁾ Latvijas Vestnesis (Latvian Official Journal) No 97, 28.6.2002.

Article 2

This Protocol shall form an integral part of the Europe Agreement.

The Annexes to this Protocol shall form an integral part thereof.

Article 3

This Protocol shall be approved by the Community and the Republic of Latvia in accordance with their respective procedures. The Contracting Parties shall take the necessary measures to implement this Protocol.

Article 4

This Protocol shall enter into force on the first day of the first month following the Contracting Parties' notification of the accomplishment of their respective procedures according to Article 3.

Quantities of goods subject to tariff quotas and released for free circulation as from 1 July 2002 in accordance with the concessions provided for in Annex C(b) to Regulation (EC) No 1362/2002 and Annex 2 of the Latvian Law on Import Customs Tax (Tariffs), Tariff Quotas and Arrangements for Additional Control of Import and Information Applicable to the Agriculture Products Originating in the Community shall be fully counted against the quantities provided for in Annexes A(b) and B(b) to this Protocol, except for quantities for which import licences were issued before 1 July 2002.

Article 5

This Protocol shall be drawn up in duplicate in the Danish, Dutch, English, Finnish, French, German, Greek, Italian, Portuguese, Spanish, Swedish and Latvian languages, each of these texts being equally authentic.

Hecho en Bruselas, el veintiuno de abril de dos mil cuatro.

Udfærdiget i Bruxelles den enogtyvende april to tusind og fire.

Geschehen zu Brüssel am einundzwanzigsten April zweitausendundvier.

Έγινε στις Βρυξέλλες, στις είκοσι μία Απριλίου δύο χιλιάδες τέσσερα.

Done at Brussels on the twenty-first day of April in the year two thousand and four.

Fait à Bruxelles, le vingt et un avril deux mille quatre.

Fatto a Bruxelles, addì ventuno aprile duemilaquattro.

Gedaan te Brussel, de eenentwintigste april tweeduizendvier.

Feito em Bruxelas, em vinte e um de Abril de dois mil e quatro.

Tehty Brysselissä kahdentenakymmenentenäensimmäisenä päivänä huhtikuuta vuonna kaksituhattaneljä.

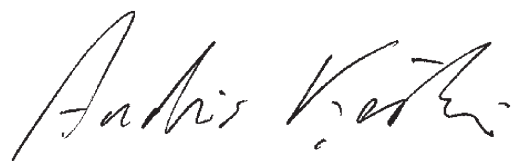
Som skedde i Bryssel den tjugoförsta april tjugohundrafyra.

Parakstīts Briselē, divi tūkstoši ceturta gada divdesmit pirmajā aprīlī

Por la Comunidad Europea
For Det Europæiske Fællesskab
Für die Europäische Gemeinschaft
Για την Ευρωπαϊκή Κοινότητα
For the European Community
Pour la Communauté européenne
Per la Comunità europea
Voor de Europese Gemeenschap
Pela Comunidade Europeia
Euroopan yhteisön puolesta
På Europeiska gemenskapens vägnar



Latvijas Republikas vārdā



ANNEX A(a)

The following products originating in Latvia shall benefit from a preferential zero-duty within unlimited quantities (applicable duty 0 % of MFN) when imported into the Community

CN Code ⁽¹⁾	CN Code ⁽¹⁾	CN Code ⁽¹⁾	CN Code ⁽¹⁾	CN Code ⁽¹⁾	CN Code ⁽¹⁾
0101 10 90	0703 10	0806 20 11	0910 40 90	2001 90 20	2008 92 12
0101 90 19	0703 90 00	0806 20 12	0910 91 90	2001 90 70	2008 92 14
0101 90 30	0707 00 90	0806 20 91	0910 99 99	2001 90 75	2008 92 34
0101 90 90	0708 10 00	0806 20 92	1106 10 00	2001 90 85	2008 92 38
0104 20 10	0708 90 00	0806 20 98	1106 30	2003 20 00	2008 92 51
0106 19 10	0709 10 00	0808 20 90	1208 10 00	2003 90 00	2008 92 59
0106 39 10	0709 20 00	0809 40 90	1209	2004 90 50	2008 92 74
0205	0709 30 00	0810 40 30	1210	2004 90 91	2008 92 78
0206 80 91	0709 40 00	0810 40 50	1211 90 30	2004 90 98	2008 92 93
0206 90 91	0709 52 00	0810 40 90	1212 10 10	2005 10 00	2008 92 96
0207 13 91	0709 59	0811 90 39	1212 10 99	2005 60 00	2008 92 98
0207 14 91	0709 60	0811 90 50	1214 90 10	2005 90 10	2008 99 28
0207 26 91	0709 70 00	0811 90 75	1502 00 90	2005 90 50	2008 99 37
0207 27 91	0709 90 10	0811 90 80	1503 00 19	2006 00 99	2008 99 40
0207 35 91	0709 90 20	0811 90 85	1503 00 90	2007 00 99	2008 99 45
0207 36 89	0709 90 50	0811 90 95	1504	2007 10 91	2008 99 49
0208 10 11	0709 90 90	0812 10 00	1507	2007 10 99	2008 99 55
0208 10 19	0710 29 00	0812 90 40	1508	2008 11 92	2008 99 68
0208 20 00	0710 30 00	0812 90 50	1511	2008 11 94	2008 99 72
0208 30 00	0710 80 51	0812 90 60	1512	2008 11 96	2008 99 78
0208 40 10	0710 80 59	0812 90 99	1513	2008 11 98	2008 99 99
0208 40 90	0710 80 69	0813 10 00	1514	2008 19 19	2009 31 11
0208 50 00	0710 80 80	0813 20 00	1515	2008 19 93	2009 39 31
0208 90 10	0710 80 85	0813 30 00	1516 10 10	2008 19 95	2009 41 10
0208 90 55	0711 40 00	0813 40 10	1516 10 90	2008 19 99	2009 49 30
0208 90 60	0711 59 00	0813 40 30	1516 20 91	2008 40 11	2009 50 10
0208 90 95	0711 90 10	0813 40 95	1516 20 95	2008 40 21	2009 50 90
0210 91 00	0711 90 50	0813 40 99	1516 20 96	2008 40 29	2009 80 19
0210 92 00	0711 90 80	0813 50 15	1516 20 98	2008 40 39	2009 80 38
0210 93 00	0711 90 90	0813 50 19	1518 00 31	2008 40 51	2009 80 50
0210 99 10	0712 20 00	0813 50 91	1518 00 39	2008 40 59	2009 80 63
0210 99 31	0712 32 00	0901 12 00	1602 31	2008 40 71	2009 80 69
0210 99 39	0712 33 00	0901 21 00	1602 90 10	2008 40 79	2009 80 71
0210 99 59	0712 39 00	0901 22 00	1602 90 31	2008 40 91	2009 80 79
0210 99 79	0713 50 00	0901 90 90	1602 90 41	2008 40 99	2009 80 89
0210 99 80	0713 90 10	0902 10 00	1602 90 72	2008 50 11	2009 80 95
0407 00 90	0802 11 90	0904 12 00	1602 90 74	2008 50 39	2009 90 29
0410 00 00	0802 12 90	0904 20 10	1602 90 76	2008 60 11	2009 90 39
0601 10	0802 21 00	0904 20 90	1602 90 78	2008 60 31	2009 90 51
0601 20	0802 22 00	0907 00 00	1602 90 98	2008 60 39	2009 90 59
0602	0802 31 00	0910 40 13	1704 90 10	2008 60 51	2009 90 96
0603	0802 32 00	0910 40 19		2008 60 59	2009 90 97
0604	0802 40 00			2008 60 61	2009 90 98
0701 10 00	0802 90 50			2008 60 69	2204 30 10
0701 90 10	0802 90 85			2008 60 71	2302 50 00
				2008 60 79	2306 90 19
				2008 60 91	2308 00 90
				2008 60 99	2309 10 51
				2008 80 11	2309 10 90
				2008 80 31	2309 90 10
				2008 80 39	2309 90 31
					2309 90 41
					2309 90 51

⁽¹⁾ As defined in Commission Regulation (EC) No 2031/2001 of 6 August 2001 amending Annex I to Council Regulation (EEC) No 2658/87 on the tariff and statistical nomenclature and on the Common Customs Tariff (OJ L 279, 23.10.2001, p. 1).

ANNEX A(b)

Imports into the Community of the following products originating in Latvia shall be subject to the concessions set out below (MFN = most-favoured-nation duty)

CN code	Description ⁽¹⁾	Applicable duty (% of MFN) ⁽²⁾	Annual quantity from 1.7.2002 to 30.6.2003 (tonnes)	Yearly increase as from 1.7.2003 (tonnes)	Specific provisions
0102 90 05	Live bovine animals of domestic species of a live weight not exceeding 80 kg	20	178 000 heads	0	⁽³⁾
0102 90 21 0102 90 29 0102 90 41 0102 90 49	Live bovine animals of domestic species of a live weight exceeding 80 kg but not exceeding 300 kg	20	153 000 heads	0	⁽³⁾
ex 0102 90	Heifers and cows, not for slaughter, of the following mountain breeds: Grey, brown, yellow, spotted Simmental and Pinzgau	6 % ad valorem	7 000 heads	0	⁽⁴⁾
0201	Meat of bovine animals, fresh or chilled	free	675	75	⁽⁸⁾
0202	Meat of bovine animals, frozen				
0206 10 95	Edible offal of bovine animals, fresh or chilled, thick skirt and thin skirt				
0206 29 91	Edible offal of bovine animals, frozen, other, thick skirt and thin skirt				
0210 20	Meat of bovine animals, salted, in brine, dried or smoked				
0210 99 51	Thick skirt and thin skirt of bovine animals				
0210 99 90	Edible flours and meals of meat or meat offal				
1602 50	Other prepared or preserved meat or meat offal of bovine animals				
ex 0203	Meat of domestic swine, fresh, chilled or frozen, excluding CN codes 0203 11 90, 0203 12 90, 0203 19 90, 0203 21 90, 0203 22 90, 0203 29 90	free	1 500	125	⁽⁵⁾ ⁽⁸⁾
0104 10 30	Live sheep, lambs up to a year old	free	unlimited		⁽⁸⁾
0104 10 80	Live sheep, other				
0104 20 90	Live goats, other				
0204	Meat of sheep or goats, fresh, chilled or frozen				
0210 99 21	Edible meat of sheep and goats, with bone in				
0210 99 29	Edible meat of sheep and goats, boneless				
0210 99 60	Edible meat offal of sheep and goats				

CN code	Description (1)	Applicable duty (% of MFN) (2)	Annual quantity from 1.7.2002 to 30.6.2003 (tonnes)	Yearly increase as from 1.7.2003 (tonnes)	Specific provi- sions
ex 0207	Meat and edible offal, of the poultry of heading 0105, fresh, chilled or frozen excluding CN codes 0207 13 91, 0207 14 91, 0207 26 91, 0207 27 91, 0207 34 10, 0207 34 90, 0207 35 91, 0207 36 81, 0207 36 85, 0207 36 89	free	755	65	(8)
0401	Milk and cream, not concentrated, nor containing added sugar or other sweetening matter	free	200	20	(8)
0402	Milk and cream, concentrated or containing added sugar or other sweetening matter	free	3 800	0	(8)
0403 10 1104-03 10 39	Yoghurt, not flavoured nor containing added fruit, nuts or cocoa	free	100	10	(8)
0403 90 1104-03 90 69	Buttermilk, curdled milk and cream, kephir and other fermented or acidified milk and cream, not flavoured nor containing added fruit nuts or cocoa				
0405 10 11	Natural butter of a fat content, by weight, not exceeding 85 %, in immediate packings of a net content not exceeding 1 kg	free	2 255	190	(8)
0405 10 19	Natural butter of a fat content by weight not exceeding 85 %, other				
0405 10 30	Recombined butter, of a fat content, by weight, not exceeding 85 %				
0405 10 50	Whey butter				
0405 10 90	Butter, other				
0405 20 90	Dairy spreads of a fat content, by weight, of more than 75 % but less than 80 %				
0405 90	Other fats and oils derived from milk				
0406	Cheese and curd	free	5 000	500	(8)
0409 00 00	Natural honey	free	100	10	
ex 0702 00 00	Tomatoes, fresh or chilled, 15 May to 31 October	free	250	50	(7) (8)
0703 20 00	Garlic, fresh or chilled	free	60	5	
0704 90	Cabbages, cauliflowers, kohlrabi, kale and similar edible brassicas, fresh or chilled, other	free	550	50	
ex 0706 10 00	Carrots, fresh or chilled	20	250	0	
0706 90	Carrots, turnips, salad beetroot, salsify, celeriac, radishes and similar edible roots, fresh or chilled, other	free	200	20	
0707 00 05	Cucumbers, fresh or chilled	free	500	50	(7)
0710 10 00	Potatoes, frozen	free	250	0	

CN code	Description (1)	Applicable duty (% of MFN) (2)	Annual quantity from 1.7.2002 to 30.6.2003 (tonnes)	Yearly increase as from 1.7.2003 (tonnes)	Specific provisions
0712 90 50	Carrots, dried, whole, cut, sliced, broken or in powder, but not further prepared	free	200	20	
0702 90 90	Other vegetables and mixtures of vegetables, dried, whole, cut, sliced, broken or in powder, but not further prepared				
ex 0714 90 90	Frozen or dried Jerusalem artichokes	free	100	10	
0806 10 10	Fresh table grapes	free	unlimited		(7)
0808 10	Apples, fresh	free	250	50	(7) (8)
0808 20 50	Fresh pears (excluding perry pears, in bulk, 1 August to 31 December)	free	unlimited		(7)
0809 20	Cherries, fresh	free	unlimited		(7)
0809 40 05	Plums, fresh	free	unlimited		(7)
ex 0810 10 00	Strawberries, fresh, 1 August to 14 June	free	unlimited		(6)
0810 20	Raspberries, blackberries, mulberries and loganberries, fresh	free	unlimited		(6)
0810 30	Black, white or redcurrants and gooseberries, fresh	free	unlimited		(6)
0811 10 11	Strawberries, frozen, containing added sugar or other sweetening matter with a sugar content exceeding 13 % by weight	20	250	0	(6)
0811 10 19	Strawberries, frozen, containing added sugar or other sweetening matter with a sugar content not exceeding 13 % by weight	free	unlimited		(6)
0811 10 90	Strawberries, frozen, other	free	unlimited		(6)
0811 20 19	Raspberries, blackberries, mulberries, loganberries, black-, white- or redcurrants and gooseberries, frozen, with a sugar content not exceeding 13 % by weight	free	unlimited		(6)
0811 20 31	Other frozen raspberries	free	unlimited		(6)
0811 20 39	Other frozen blackcurrants	free	unlimited		(6)
0811 20 51	Other frozen redcurrants	free	unlimited		(6)
0811 20 59	Other frozen blackberries and mulberries	free	unlimited		(6)
0811 20 90	Other, frozen	free	unlimited		(6)

CN code	Description (1)	Applicable duty (% of MFN) (2)	Annual quantity from 1.7.2002 to 30.6.2003 (tonnes)	Yearly increase as from 1.7.2003 (tonnes)	Specific provisions
1001 10 00	Durum wheat	free	26 000	2 600	(8)
1001 90 10	Spelt for sowing				
1001 90 91	Common wheat and meslin seed				
1001 90 99	Other				
1101 00 11	Durum wheat flour	free	9 000	900	(8)
1101 00 15	Flour of common wheat and spelt				
1101 00 90	Meslin flour				
1103 11 10	Durum wheat groats and meal				
1103 11 90	Common wheat and spelt groats and meal				
1103 20 60	Wheat pellets				
1002 00 00	Rye	free	3 750	375	(8)
1102 10 00	Rye flour	free	1 250	125	(8)
1103 19 10	Rye groats and meal				
1103 20 10	Rye pellets				
1003 00	Barley	free	4 500	450	(8)
1102 90 10	Barley flour	free	1 500	150	(8)
1103 19 30	Barley groats and meal				
1103 20 20	Barley pellets				
1004 00 00	Oats	free	1 500	150	(8)
1102 90 30	Oat flour	free	500	50	(8)
1103 19 40	Groats and meal of oats				
1103 20 30	Pellets of oats				
ex 1104	Cereals grains, otherwise worked, excluding CN 1104 19 50 and CN 1104 23	free	900	90	
1108 13 00	Potato starch	free	500	0	
1601 00	Sausages and similar products, of meat, meat offal or blood: food preparations based on these products	free	180	15	(8)
1602 41	Other prepared or preserved meat, meat offal or blood: of swine: Hams and cuts thereof				
1602 42	Other prepared or preserved meat, meat offal or blood: of swine: Shoulders and cuts thereof				
1602 49	Other prepared or preserved meat, meat offal or blood: of swine: Other, including mixtures				

CN code	Description (1)	Applicable duty (% of MFN) (2)	Annual quantity from 1.7.2002 to 30.6.2003 (tonnes)	Yearly increase as from 1.7.2003 (tonnes)	Specific provisions
1602 32 to 1602 39	Other prepared or preserved meat, meat offal or blood: of poultry of heading 0105: of fowls of the species <i>Gallus domesticus</i> Other prepared or preserved meat, meat offal or blood: of poultry of heading 0105: Other than of fowls of the species <i>Gallus domesticus</i> and other than of turkeys	free	120	10	(8)
1703	Molasses resulting from the extraction or refining of sugar	free	unlimited		(8)
ex 2001	Vegetables, fruit, nuts and other edible parts of plants, prepared or preserved by vinegar or acetic acid, excluding CN 2001 90 30, 2001 90 40, 2001 90 60, 2001 90 65 and 2001 90 91	free	600	60	
ex 2005	Other vegetables, prepared or preserved otherwise than by vinegar or acetic acid, not frozen, excluding CN 2005 20 10, 2005 70 and 2005 80 00	free	300	30	
2009 71	Apple juice of a brix value not exceeding 20	free	1 000	100	
ex 2009 79	Apple juice of a brix value exceeding 20, excluding CN 2009 79 11 and 2009 79 91	free	1 000	100	

(1) Notwithstanding the rules for the interpretation of the Combined Nomenclature, the wording for the description of the products is to be considered as having no more than indicative value, the preferential scheme being determined, within the context of this Annex, by the coverage of the CN code. Where ex-CN codes are indicated, the preferential scheme is to be determined by application to the CN code and corresponding description taken together.

(2) In cases where an MFN minimum duty exists, the applicable minimum duty is equal to the MFN minimum duty multiplied by the percentage indicated in this column.

(3) The quota for this product is opened for the Czech Republic, Slovakia, Bulgaria, Romania, Hungary, Poland, Estonia, Latvia and Lithuania. In case imports into the Community of live bovine domestic animals may exceed 500 000 heads for any given year, the Community may take the management measures needed to protect its market, notwithstanding any other rights given under the Agreement.

(4) The quota for this product is opened for the Czech Republic, Slovakia, Bulgaria, Romania, Hungary, Poland, Estonia, Latvia and Lithuania

(5) Excluding tenderloin presented alone.

(6) Subject to minimum import price arrangements contained in the Annex to this Annex.

(7) The reduction applies only to the ad valorem part of the duty.

(8) This concession is only applicable to products not benefiting from export refunds.

ANNEX to ANNEX A(b)

Minimum import price arrangement for certain soft fruit for processing

1. Minimum import prices are fixed as follows for the following products for processing originating in Latvia:

CN code	Description	Minimum import price (EUR/t net)
ex 0810 10	Strawberries, fresh, intended for processing	514
ex 0810 30 10	Blackcurrants, fresh, intended for processing	385
ex 0810 30 30	Redcurrants, fresh, intended for processing	233
ex 0811 10 11	Frozen strawberries, containing added sugar or other sweetening matter, with a sugar content exceeding 13 % by weight: whole fruit	750
ex 0811 10 11	Frozen strawberries, containing added sugar or other sweetening matter, with a sugar content exceeding 13 % by weight: other	576
ex 0811 10 19	Frozen strawberries, containing added sugar or other sweetening matter, with a sugar content not exceeding 13 % by weight: whole fruit	750
ex 0811 10 19	Frozen strawberries, containing added sugar or other sweetening matter, with a sugar content not exceeding 13 % by weight: other	576
ex 0811 10 90	Frozen strawberries, containing no added sugar or other sweetening matter: whole fruit	750
ex 0811 10 90	Frozen strawberries, containing no added sugar or other sweetening matter: other	576
ex 0811 20 19	Frozen raspberries, containing added sugar or other sweetening matter not exceeding 13 % by weight: whole fruit	995
ex 0811 20 19	Frozen raspberries, containing added sugar or other sweetening matter not exceeding 13 % by weight: other	796
ex 0811 20 31	Frozen raspberries, containing no added sugar or other sweetening matter: whole fruit	995
ex 0811 20 31	Frozen raspberries, containing no added sugar or other sweetening matter: other	796
ex 0811 20 39	Frozen blackcurrants, containing no added sugar or other sweetening matter: without stalk	628
ex 0811 20 39	Frozen blackcurrants, containing no added sugar or other sweetening matter: other	448
ex 0811 20 51	Frozen redcurrants, containing no added sugar or other sweetening matter: without stalk	390
ex 0811 20 51	Frozen redcurrants, containing no added sugar or other sweetening matter: other	295

2. The minimum import prices, as set out in point 1, will be respected on a consignment-by-consignment basis. In the case of a customs declaration value being lower than the minimum import price, a countervailing duty will be charged equal to the difference between the minimum import price and the customs declaration value.

3. If the import prices of a given product covered by this Annex show a trend suggesting that the prices could go below the level of the minimum import prices in the immediate future, the European Commission will inform the Latvian authorities in order to enable them to correct the situation.
4. At the request of either the Community or Latvia, the Association Council shall examine the functioning of the system or the revision of the level of the minimum import prices. If appropriate, the Association Council shall take the necessary decisions.
5. To encourage and promote the development of trade and for the mutual benefit of all parties concerned, a consultation meeting may be organised three months before the beginning of each marketing year in the Community. This consultation meeting will take place between the European Commission and the interested European producers' organisations for the products concerned, on the one part and the authorities', producers' and exporters' organisations of all the associated exporting countries, on the other part.

During this meeting, the market situation for soft fruit including, in particular, forecasts for production, stock situation, price evolution and possible market development, as well as possibilities to adapt supply to demand, will be discussed.

ANNEX B(a)

The following products originating in the Community shall benefit from a preferential zero-duty within unlimited quantities (applicable duty 0 % of MFN) when imported into Latvia

CN code	CN code	CN code	CN code	CN code	CN code
0101 10	0602 40 90	0801	1209 91	1702 90 30	2008 40 71
0101 90	0602 90 20	0802	1209 99	1702 90 50	2008 40 79
0102 10	0602 90 30	0803 00		1702 90 60	2008 40 91
0102 90 90	0602 90 41	0804	1210	1702 90 71	2008 40 99
0103 10 00	0602 90 45	0805	1211	1702 90 75	2008 50 11
0104 10 10	0602 90 49	0806	1212	1702 90 79	2008 50 31
0104 20 10	0602 90 51	0807	1213 00 00	1702 90 80	2008 50 39
0104 20 90	0602 90 59	0808 20 50	1214	1702 90 99	2008 50 59
0105	0602 90 70	0808 20 90		1801 00 00	2008 50 61
0106	0602 90 99	0809 10 00	1301 10 00	1802 00 00	2008 50 69
0205	0603 10 30	0809 20 05	1301 20 00	2001 90 10	2008 50 71
0206 80 10	0603 10 40	0809 20 95	1301 90 10	2001 90 20	2008 50 79
0206 80 91	0603 90 00	0809 30 10	1301 90 90	2001 90 65	2008 50 92
0206 80 99	0604 10	0809 30 90	1302 11 00	2001 90 70	2008 50 94
0206 90 10	0604 91	0809 40 05	1302 19 05	2001 90 75	2008 50 99
0206 90 91	0604 99	0809 40 90	1302 19 98	2001 90 85	2008 60 11
0206 90 99	0703 10	0810 20 10	1302 32 90	2001 90 91	2008 60 31
0208 20 00	0707 00 90	0810 20 90	1302 39 00	2003 20 00	2008 60 39
0208 90 10	0708 10 00	0810 40	1503 00	2003 90 00	2008 60 51
0208 90 20	0708 90 00	0810 50 00		2004 90 50	2008 60 59
0208 90 40	0709 10 00	0810 90	1504	2004 90 91	2008 60 61
0208 90 55	0709 20 00	0811	1507	2004 90 98	2008 60 69
0208 90 60	0709 30 00	0812	1508	2005 10 00	2008 60 71
0208 90 95	0709 40 00	0813	1509	2005 60 00	2008 60 79
0210 91 00	0709 52 00	0814 00 00	1510 00	2005 70 10	2008 60 91
0210 92 00	0709 59	0901	1511	2005 70 90	2008 60 99
0210 93 00	0709 60	0902	1512 11 10	2005 90 10	2008 70 11
0210 99 31	0709 70 00	0903 00 00	1512 21 10	2005 90 50	2008 70 31
0210 99 39	0709 90 10	0904	1512 21 90	2006 00 10	2008 70 39
0210 99 59	0709 90 20	0905 00 00	1512 29 10	2006 00 91	2008 70 59
0210 99 71	0709 90 31	0906	1512 29 90	2006 00 99	2008 70 61
0210 99 79	0709 90 40	0907 00 00	1513	2007 10 91	2008 70 69
0210 99 80	0709 90 50	0908	1514	2007 10 99	2008 70 71
0210 99 90	0709 90 70	0909	1515	2007 91 90	2008 70 79
0402 29 11	0709 90 90	0910	1516	2007 99 93	2008 70 92
0408 11 20	0710 29 00	1005	1518 00 31	2008 11 92	2008 70 94
0408 19 20	0710 30 00	1006	1522 00 31	2008 11 94	2008 80 11
0408 91 20	0710 80 10	1007 00	1522 00 39	2008 11 96	2008 80 31
0408 99 20	0710 80 51	1008 30 00	1522 00 91	2008 11 98	2008 80 39
0410 00 00	0710 80 59	1102 20	1522 00 99	2008 19	2008 92
0501 00 00	0710 80 69	1102 30	1602 90 10	2008 20 19	2008 99
0502	0710 80 80	1103 13	1602 90 31	2008 20 39	2009 31 11
0503 00 00	0710 80 85	1103 19 50	1602 90 41	2008 20 51	2009 39 31
0504 00 00	0711 20 10	1103 20 40	1602 90 72	2008 20 59	2009 41 10
0505	0711 20 90	1103 20 50	1602 90 74	2008 20 71	2009 49 30
0506	0711 30 00	1104 19 50	1602 90 76	2008 20 79	2009 50 10
0507	0711 40 00	1104 23 10	1602 90 78	2008 20 91	2009 50 90
0508 00 00	0711 90 10	1106 10 00	1602 90 80	2008 20 99	2009 80 19
0509 00	0711 90 50	1106 30 10	1602 90 98	2008 30 11	2009 80 38
0510 00 00	0711 90 80	1106 30 90	1602 90 99	2008 30 31	2009 80 50
0511	0712 20 00	1107	1602 90 99	2008 30 39	2009 80 63
0601	0712 32 00	1201 00	1602 90 99	2008 30 51	2009 80 69
0602 10 10	0712 33 00	1202	1602 90 99	2008 30 55	2009 80 71
0602 10 90	0712 39 00	1203 00 00	1602 90 99	2008 30 59	2009 80 79
0602 20 10	0712 90 11	1204 00	1602 90 99	2008 30 71	2009 80 89
0602 20 90	0713	1205	1602 90 99	2008 30 75	2009 80 95
	0714 20 10	1206 00	1602 90 99	2008 30 79	
	0714 20 90	1207	1602 90 99	2008 30 90	
	0714 90 90	1208	1602 90 99	2008 40 11	
		1209 10 00	1602 90 99	2008 40 21	
		1209 21 00	1602 90 99	2008 40 29	
		1209 29 50	1602 90 99	2008 40 39	
		1209 29 60	1602 90 99	2008 40 51	
		1209 30 00	1602 90 99	2008 40 59	

CN code	CN code	CN code	CN code	CN code	CN code
2009 80 96	2009 90 96	2301 20 00	2306 49 00	2307 00 11	2309 10 51
2009 80 99	2009 90 97	2304 00 00	2306 50 00	2307 00 90	2309 10 90
2009 90 19	2009 90 98	2305 00 00	2306 60 00	2308 00 11	2309 90 10
2009 90 29	2204 21	2306 10 00	2306 70 00	2308 00 40	2309 90 31
2009 90 39	2204 29	2306 20 00	2306 90 11	2308 00 90	2309 90 41
2009 90 51	2204 30 10	2306 30 00	2306 90 19	2309 10 11	2309 90 51
2009 90 59	2301 10 00	2306 41 00	2306 90 90	2309 10 31	2401

ANNEX B(b)

Imports into Latvia of the following products originating in the Community shall be subject to the concessions set out below

CN code	Description (1)	Applicable custom duty % ad valorem	Annual quantity from 1.7.2002 to 30.6.2003 (tonnes)	Yearly increase as from 1.7.2003 (tonnes)	Specific provisions
0102 90	- Other, excluding CN code 0102 90 900	24	unlimited		
0103 91	-- Weighing less than 50 kg	36	unlimited		
0103 92	-- Weighing 50 kg or more	36	unlimited		
0104 10 30	--- Lambs (up to a year old)	free	unlimited		(2)
0104 10 80	--- Other				
0204	Meat of sheep or goats, fresh, chilled or frozen, excluding CN code 0204 43 10				
0210 99 21	----- With bone in				
0210 99 29	----- Boneless				
0210 99 60	----- Of sheep and goats				
1502 00 90	- Other				
0201	Meat of bovine animals, fresh or chilled	free	1 400	140	(2)
0202	Meat of bovine animals, frozen				
1602 50	- Of bovine animals				
ex 0201	Meat of bovine animals, fresh or chilled, excluding CN code 0201 30	24	unlimited		
0201 30	- Boneless	30	unlimited		
0202	Meat of bovine animals, frozen	24	unlimited		
0206 10 91	--- Livers	free	1 100	110	(2)
0206 10 95	--- Thick skirt and thin skirt				
0206 10 99	--- Other				
0206 21 00	-- Tongues				
0206 22 00	-- Livers				
0206 29 91	---- Thick skirt and thin skirt				
0206 29 99	---- Other				
0210 20 10	-- With bone in				
0210 20 90	-- Boneless				
0210 99 51	----- Thick skirt and thin skirt				
ex 0203	Meat of swine, fresh chilled or frozen, excluding CN codes 0203 19 15, 0203 19 59, 0203 19 90, 0203 29 15, 0203 29 59, 0203 29 90	free	2 640	220	(2)

CN code	Description (1)	Applicable custom duty % ad valorem	Annual quantity from 1.7.2002 to 30.6.2003 (tonnes)	Yearly increase as from 1.7.2003 (tonnes)	Specific provisions
0204	Meat of sheep or goats, fresh, chilled or frozen	80 % of MFN	unlimited		
0206 10 100	-- For the manufacture of pharmaceutical products	5	50		
0206 29 100	-- For the manufacture of pharmaceutical products				
0206 30	- Of swine, fresh or chilled				
0206 41	-- Livers				
0206 49	-- Other				
0207	Meat and edible offal, of the poultry of heading 0105, fresh, chilled or frozen	free	6 360	530	(2)
ex 0207	Meat and edible offal, of the poultry of heading 0105, fresh, chilled or frozen, excluding CN code 0207 27	24	unlimited		
0207 27	-- Cuts and offal, frozen	20	unlimited		
0208	Other meat and edible meat offal, fresh, chilled or frozen, excluding CN codes 0208 20, 0208 90	12	unlimited		
0209	Pig fat free of lean meat and poultry fat (not rendered) fresh, chilled, frozen, salted, in brine, dried or smoked	5	250		
0210 11	-- Hams, shoulders and cuts thereof, with bone in	12	unlimited		
0210 12	-- Bellies (streaky) and cuts thereof	12	unlimited		
0210 19	-- Other	12	unlimited		
0210 20	- Meat of bovine animals	12	unlimited		
0210 99 10	----- Of horses, salted, in brine or dried	12	unlimited		
0210 99 21	----- With bone in	12	unlimited		
0210 99 29	----- Boneless	12	unlimited		
0210 99 41	----- Livers	12	unlimited		
0210 99 49	----- Other	12	unlimited		
0210 99 51	----- Thick skirt and thin skirt	12	unlimited		
0210 99 60	----- Of sheep and goats	12	unlimited		
0401	Milk and cream, not concentrated or containing added sugar or other sweetening matter	free	500	50	(2)
0401	Milk and cream, not concentrated or containing added sugar or other sweetening matter	24	unlimited		

CN code	Description (1)	Applicable custom duty % ad valorem	Annual quantity from 1.7.2002 to 30.6.2003 (tonnes)	Yearly increase as from 1.7.2003 (tonnes)	Specific provisions
0402	Milk and cream, concentrated or containing added sugar or other sweetening matter, excluding CN code 0402 29 110	free	1 000	0	(2)
0402 10	-- In powder, granules or other solid forms, of a fat content, by weight, not exceeding 1,5 %	24	unlimited		
0402 21	-- Not containing added sugar or other sweetening matter	24	unlimited		
0402 29	-- Other, excluding CN code 0402 29 110	12	unlimited		
0402 91	-- Not containing added sugar or other sweetening	24	unlimited		
0402 99	-- Other	24	unlimited		
0403 10 110	----- Not exceeding 3 %	free	100	10	(2)
0403 10 130	----- Exceeding 3 % but not exceeding 6 %				
0403 10 190	----- Exceeding 6 %				
0403 10 310	----- Not exceeding 3 %				
0403 10 330	----- Exceeding 3 % but not exceeding 6 %				
0403 10 390	----- Exceeding 6 %				
0403 90 110	----- Not exceeding 1,5 %				
0403 90 130	----- Exceeding 1,5 % but not exceeding 27 %				
0403 90 190	----- Exceeding 27 %				
0403 90 310	----- Not exceeding 1,5 %				
0403 90 330	----- Exceeding 1,5 % but not exceeding 27 %				
0403 90 390	----- Exceeding 27 %				
0403 90 510	----- Not exceeding 3 %				
0403 90 530	----- Exceeding 3 % but not exceeding 6 %				
0403 90 590	----- Exceeding 6 %				
0403 90 610	----- Not exceeding 3 %				
0403 90 630	----- Exceeding 3 % but not exceeding 6 %				
0403 90 690	----- Exceeding 6 %				
0404	Whey, whether or not concentrated or containing added sugar or other sweetening matter; products consisting of natural milk constituents, whether or not containing added sugar or other sweetening matter, not elsewhere specified or included	0	100	10	(2)
0404	Whey, whether or not concentrated or containing added sugar or other sweetening matter; products consisting of natural milk constituents, whether or not containing added sugar or other sweetening matter, not elsewhere specified or included	10	unlimited		

CN code	Description (1)	Applicable custom duty % ad valorem	Annual quantity from 1.7.2002 to 30.6.2003 (tonnes)	Yearly increase as from 1.7.2003 (tonnes)	Specific provisions
0405 10 110	---- In immediate packings of a net content not exceeding 1 kg	free	500	50	(2)
0405 10 190	---- Other				
0405 10 300	--- Recombined butter				
0405 10 500	--- Whey butter				
0405 10 900	-- Other				
0405 20 900	-- Of a fat content, by weight, of more than 75 % but less than 80 %				
0405 90 100	-- Of a fat content, by weight, of 99,3 % or more and of a water content, by weight, not exceeding 0,5 %				
0405 90 900	-- Other				
0405 10	- Butter	29	unlimited		
0405 20 900	-- Of a fat content, by weight, of more than 75 % but less than 80 %	29			
0405 90	- Other	29			
0406	Cheese and curd	free	1 000	100	(2)
0407 00 110	---- Of turkeys or geese	0	unlimited		
0407 00 190	---- Other	0			
0407 00 300	-- Other	30			
0407 00 900	- Other	30			
0408 11 800	---- Other	10	unlimited		
0408 19 810	----- Liquid	10			
0408 19 890	----- Other, including frozen	10			
0408 91 800	---- Other	10			
0408 99 800	---- Other	10			
0409 00 00	Natural honey	10	unlimited		
0602 30 000	- Rhododendrons and azaleas, grafted or not	10	unlimited		
0602 40 100	-- Neither budded nor grafted	10			
0602 90 100	-- Mushroom spawn	10			
0602 90 910	----- Flowering plants with buds or flowers, excluding cacti	10			
0603 10 100	-- Roses				
ex 0603 10 100	-- from 1 June to 31 October	10	unlimited		
ex 0603 10 100	-- from 1 November to 31 May	0,5	4,3		
0603 10 200	-- Carnations				
ex 0603 10 200	-- from 1 June to 31 October	10	13		
ex 0603 10 200	-- from 1 November to 31 May	0,5	30		

CN code	Description (1)	Applicable custom duty % ad valorem	Annual quantity from 1.7.2002 to 30.6.2003 (tonnes)	Yearly increase as from 1.7.2003 (tonnes)	Specific provisions
0603 10 500	-- Chrysanthemums				
ex 0603 10 500	-- from 1 June to 31 October	10	unlimited		
ex 0603 10 500	-- from 1 November to 31 May	0,5	2,8		
ex 0603 10 800	-- Other, excluding lilies and freesias from 1 June to 31 October	0	unlimited		
ex 0603 10 800	-- Lilies, from 1 June to 31 October	10	unlimited		
ex 0603 10 800	-- Freesias, from 1 June to 31 October	10	unlimited		
0701	Potatoes, fresh or chilled				
0701 10 00	- Seed	free	500		
0701 90	- Other	24	unlimited		
ex 0702 00	Tomatoes, fresh or chilled, from 1 November to 14 May	free	3 600	300	(2)
ex 0702 00	Tomatoes, fresh or chilled				
0702 00 002	- from 15 May to 31 May	10	unlimited		
0702 00 003	- from 1 June to 30 June	24	unlimited		
0702 00 004	- from 1 July to 31 August	16	unlimited		
0702 00 005	- from 1 September to 31 October	10	unlimited		
0703 90 00	- Leeks and other alliaceous vegetables	10	unlimited		
0704	Cabbages, cauliflowers, kohlrabi, kale and similar edible brassicas, fresh or chilled	10	280		
0705	Lettuce (<i>lactuca sativa</i>) and chicory (<i>cichorius</i> spp.) fresh or chilled	10	unlimited		
0706	Carrots, turnips, salad, beetroot, salsify, celeriac, radishes and similar edible roots, fresh or chilled				
0706 10 00	- Carrots and turnips	24	unlimited		
0706 90	- Other	0,5	150		
ex 0707 00	Cucumbers, fresh or chilled, from 1 November to 30 April	0,5	350		
ex 0707 00	Cucumbers and gherkins, fresh or chilled				
0707 00 05	- Cucumbers				
0707 00 053	-- From 1 May to 30 June	4	unlimited		
0707 00 054	-- From 1 July to 30 September	10	unlimited		
0707 00 055	-- From 1 October to 31 October	10	unlimited		

CN code	Description (1)	Applicable custom duty % ad valorem	Annual quantity from 1.7.2002 to 30.6.2003 (tonnes)	Yearly increase as from 1.7.2003 (tonnes)	Specific provisions
0708 20 00	- Beans (<i>Vigna</i> spp., <i>Phaseolus</i> spp.)	15	unlimited		
0709 51 00	-- Mushrooms of the genus <i>Agaricus</i>	10	unlimited		
0709 90 39	--- Other	0,5			
0709 90 60	-- Sweet corn	0,5			
0710 10 00	- Potatoes	10	unlimited		
0710 21 00	-- Peas (<i>Pisum sativum</i>)	10			
0710 22 00	-- Beans (<i>Vigna</i> spp, <i>Phaseolus</i> spp)	10			
0710 80 61	--- Of the genus <i>Agaricus</i>	10			
0710 80 70	-- Tomatoes	10			
0710 80 95	-- Other	10			
0710 90 00	- Mixtures of vegetables	10			
0711 51 00	-- Of the genus <i>Agaricus</i>	0,5	unlimited		
0711 59 00	--- Other	0,5			
0712 31 000	-- Mushrooms of the genus <i>Agaricus</i>	10	unlimited		
0712 90 050	-- Potatoes whether or not cut or sliced but not further prepared	10			
0712 90 190	--- Other	10			
0712 90 300	-- Tomatoes	10			
0712 90 500	-- Carrots	10			
0712 90 900	-- Other	10			
0714 10 100	-- Pellets of flour and meal	0,5	unlimited		
0714 10 910	--- Of a kind used for human consumption, in immediate packings of a net content not exceeding 28 kg, either fresh and whole or without skin and frozen, whether or not sliced	0,5			
0714 10 990	--- Other	0,5			
0714 90 110	--- Of a kind used for human consumption, in immediate packings of a net content not exceeding 28 kg, either fresh and whole or without skin and frozen, whether or not sliced	0,5			
0714 90 190	--- Other	0,5			
ex 0808 10	Apples, from 1 January to 31 July, excluding cider apples	0	unlimited		(2)
ex 0808 10	Apples, from 1 August to 31 December, excluding cider apples	15	unlimited		

CN code	Description (1)	Applicable custom duty % ad valorem	Annual quantity from 1.7.2002 to 30.6.2003 (tonnes)	Yearly increase as from 1.7.2003 (tonnes)	Specific provisions
ex 0810 10 00	– Strawberries, from 1 August to 14 June	0	unlimited		
ex 0810 10 00	– Strawberries, from 15 June to 31 July	10	unlimited		
ex 0810 30	– Black, white and red currants and gooseberries, from 1 July to 31 July	10	unlimited		
ex 0810 30	– Black, white and red currants and gooseberries, from 1 August to 30 June	free	unlimited		
1001 10 00	– Durum wheat	free	19 000	1 900	(2)
1001 90 10	– – Spelt for sowing				
1001 90 91	– – – Common wheat and meslin seed				
1001 90 99	– – – – Other				
1001 90 10	– – Spelt for sowing	22	unlimited		
1001 90 91	– – – Common wheat and meslin seed				
1001 90 911	– – – – Superelite and highest category seeds	0			
1001 90 912	– – – – Pickled elite and I growth ratio seed	0			
1001 90 919	– – – – Other	22			
1001 90 990	– – – Other	22			
1002 00 00	Rye	free	7 500	750	(2)
1002 00 00	Rye		unlimited		
1002 00 001	– Superelite and highest category seeds	0			
1002 00 002	– Pickled elite and I growth ratio seed	0			
1002 00 009	– Other	45			
1003 00	Barley	free	7 500	750	(2)
1003 00 10	– Seed				
1003 00 90	– Other				
1003 00	Barley		unlimited		
1003 00 10	– Seed				
1003 00 101	– – Superelite and highest category seeds	0			
1003 00 102	– – Pickled elite and I growth ratio seed	0			
1003 00 109	– – Other	45			
1003 00 900	– Other	45			
1004 00 00	Oats	free	2 250	225	(2)
1004 00 00	Oats		unlimited		
1004 00 001	– Superelite and highest category seeds	0			
1004 00 002	– Pickled elite and I growth ratio seed	0			
1004 00 009	– Other	45			

CN code	Description (1)	Applicable custom duty % ad valorem	Annual quantity from 1.7.2002 to 30.6.2003 (tonnes)	Yearly increase as from 1.7.2003 (tonnes)	Specific provisions
1008 90 10	-- Triticale		unlimited		
1008 90 101	--- Superelite and highest category seeds	0			
1008 90 109	--- Other	22			
1008 90 900	-- Other	0,5			
1101 00 11	-- Of Durum wheat	free	6 000	600	(2)
1101 00 15	-- Of common wheat and spelt				
1101 00 90	- Meslin flour				
1103 11 10	--- Durum wheat				
1103 11 90	--- Common wheat and spelt				
1103 20 60	-- Of wheat				
1101 00	Wheat or meslin flour				
	- Wheat flour				
1101 00 110	-- Of Durum wheat	0	unlimited		
1101 00 150	-- Of common wheat and spelt	35	unlimited		
1101 00 900	- Meslin flour	35	unlimited		
1102 10 00	- Rye flour	free	2 500	250	(2)
1103 19 10	--- Of rye				
1103 20 10	-- Of rye				
1102 10 00	- Rye flour	45	unlimited		
1102 90	- Other	45			
1102 90 10	-- Barley flour	free	2 500	250	(2)
1103 19 30	--- Of barley				
1103 20 20	-- Of barley				
1102 90 30	-- Oat flour	free	750	75	(2)
1103 19 40	--- Of oats				
1103 20 30	-- Of oats				
1103	Cereal groats, meal and pellets, excluding CN codes 1103 13, 1103 19 50, 1103 20 40, 1103 20 50	45	unlimited		
1104	Cereal grains otherwise worked (for example hulled, rolled, flaked, pearled, sliced or kibbled), except rice of heading 1006; germ cereals, whole, rolled, flaked or ground, excluding CN codes 1104 19 50, 1104 19 91, 1104 23 10	45	unlimited		

CN code	Description (1)	Applicable custom duty % ad valorem	Annual quantity from 1.7.2002 to 30.6.2003 (tonnes)	Yearly increase as from 1.7.2003 (tonnes)	Specific provisions
1105	Flour, meal and flakes of potatoes	45	unlimited		
1106 20	– Of sago or of roots or tubers of heading 0714	45	unlimited		
1108	Starches; inulin, excluding CN code 1108 12 00	13	unlimited		
1209	Seeds, fruit and spores, of a kind used for sowing		unlimited		
	– Seeds of forage plants, other than beet seed				
1209 22	– – Clover (<i>Trifolium</i> spp.) seed				
1209 22 10	– – – Red clover (<i>Trifolium pratense</i> L.)				
1209 22 101	– – – – Superelite and highest category seeds	0			
1209 22 109	– – – – Other	50			
1209 22 80	– – – Other				
1209 22 801	– – – – Superelite and highest category seeds	0			
1209 22 809	– – – – Other	50			
1209 23	– – Fescue seed				
1209 23 110	– – – Meadow Fescue (<i>Festuca pratensis</i> Huds.) seed	50			
1209 23 15	– – – Red fescue (<i>Festuca rubra</i> L.) seed				
1209 23 151	– – – – Superelite and highest category seeds	0			
1209 23 159	– – – – Other	50			
1209 23 800	– – – Other	50			
1209 24 00	– – Kentucky blue grass (<i>Poa pratensis</i> L.) seed				
1209 24 001	– – – – Superelite and highest category seeds	0			
1209 24 009	– – – Other	50			
1209 25	– – Rye grass (<i>Lolium multiflorum</i> Lam., <i>Lolium perenne</i> L.) seed				
1209 25 10	– – – Italian ryegrass (including westerwolds) (<i>Lolium multiflorum</i> Lam.)				
1209 25 101	– – – – Superelite and highest category seeds	0			
1209 25 109	– – – – Other	50			
1209 25 90	– – – Perennial ryegrass (<i>Lolium perenne</i> L.)				

CN code	Description (1)	Applicable custom duty % ad valorem	Annual quantity from 1.7.2002 to 30.6.2003 (tonnes)	Yearly increase as from 1.7.2003 (tonnes)	Specific provisions
1209 25 901	----- Superelite and highest category seeds	0			
1209 25 909	----- Other	50			
1209 26 00	-- Timothy grass seed				
1209 26 001	----- Superelite and highest category seeds	0			
1209 26 009	---- Other	50			
1209 29	-- Other				
1209 29 10	---- Vetch seed; seeds of the genus <i>Poa</i> (<i>Poa palustris</i> L., <i>Poa trivialis</i> L.); cocksfoot grass (<i>Dactylis glomerata</i> L.); bent grass (<i>Agrostis</i>)				
1209 29 101	----- Sowing vetch, cocksfoot grass or bent grass superelite and highest category seeds seeds	0			
1209 29 109	----- Other	50			
1209 29 80	---- Other	0			
1501 00	Lard; other pig fat and poultry fat, rendered, whether or not pressed or solvent-extracted	10	unlimited		
1502 00	Fats of bovine animals, sheep or goats, raw or rendered, whether or not pressed or solvent-extracted	0,5			
1502 00 10	- For industrial uses other than the manufacture of foodstuffs for human consumption	10	650		
1502 00 90	- Other		unlimited		
1512 11 91	----- Sunflower seed oil	0,5	unlimited		
1512 11 99	----- Safflower oil	0,5	unlimited		
1601 00	Sausages and similar products, of meat, meat offal or blood; food preparations based on these products	free	1 200	100	(2)
1602 31	-- Of turkeys				
1602 32	-- Of fowls of the species <i>Gallus domesticus</i>				
1602 39	-- Other				
1602 41	-- Hams and cuts thereof				
1602 42	-- Shoulders and cuts thereof				
1602 49	-- Other, including mixtures				

CN code	Description (1)	Applicable custom duty % ad valorem	Annual quantity from 1.7.2002 to 30.6.2003 (tonnes)	Yearly increase as from 1.7.2003 (tonnes)	Specific provisions
1602 10 00	– Homogenised preparations	14	150		
1602 20	– Of liver of any animal				
1602 90 510	----- Containing meat or meat offal of domestic swine				
1602 90 610	----- Uncooked; mixtures of cooked meat or offal and uncooked meat or offal				
1602 90 690	----- Other				
1701 11	-- Cane sugar				
1701 11 10	--- For refining				
1701 11 101	--- Raw cane sugar for further processing	0	unlimited		
1701 11 109	---- Other	Ls/kg 0,1			
1701 11 90	--- Other				
1701 11 901	---- Cane raw sugar	0			
1701 11 909	---- Other	Ls/kg 0,1			
1701 12	-- Beet sugar				
1701 12 100	--- For refining	Ls/kg 0,1			
1701 12 90	--- Other				
1701 12 901	---- Beet raw sugar	0			
1701 12 909	---- Other	Ls/kg 0,1			
	– Other				
1701 91 000	-- Containing added flavouring or colouring matter	0,5			
1701 99	-- Other				
1701 99 100	--- White sugar	Ls/kg 0,1			
1701 99 90	--- Other				
1701 99 901	---- Other raw sugar	0			
1701 99 909	---- Other	Ls/kg 0,1			
1703	Molasses resulting from the extraction or refining of sugar	free	unlimited		(2)
2001 10 00	– Cucumbers and gherkins	10	unlimited		
2001 90 50	-- Mushrooms	10			
2001 90 930	-- onions	10			
2001 90 96	-- Other	10			

CN code	Description (*)	Applicable custom duty % ad valorem	Annual quantity from 1.7.2002 to 30.6.2003 (tonnes)	Yearly increase as from 1.7.2003 (tonnes)	Specific provisions
2002 10	Tomatoes prepared or preserved otherwise than by vinegar or acetic acid, except CN code 2002 10 901 – Tomatoes, whole or in pieces		360	30	(?)
2002 10 100	-- Peeled	free			
2002 10 90	-- Other				
2002 10 909	---- Other	free			
2002 10	Tomatoes prepared or preserved otherwise than by vinegar or acetic acid, except CN code 2002 10 901 – Tomatoes, whole or in pieces		unlimited		
2002 10 100	-- Peeled	10			
2002 10 90	-- Other				
2002 10 901	---- Tomato paste	0			
2002 10 909	---- Other	10			
2002 90	Tomatoes prepared or preserved otherwise than by vinegar or acetic acid – Other	10	unlimited		
2003 10	Mushrooms and truffles, prepared or preserved otherwise than by vinegar or acetic acid – Mushrooms	10	unlimited		
2006 00 310	---- Cherries	0,5	unlimited		
2006 00 350	---- Tropical fruit and tropical nuts	0,5			
2006 00 380	---- Other	0,5			
2007 91	Jams, fruit jellies, marmalades, fruit or nut puree and fruit or nut pastes, being cooked preparations, whether or not containing added sugar or other sweetening matter -- Citrus fruit, excluding CN code 2007 91 90	0,5	unlimited		
2007 99	-- Other, excluding CN code 2007 99 93	15			
2008 20 11	---- With a sugar content exceeding 17 % by weight	0,5			
2008 20 31	---- With a sugar content exceeding 19 % by weight	0,5			
2008 30 19	---- Other	0,5			
2008 40 19	----- Other	0,5			
2008 40 31	---- With a sugar content exceeding 15 % by weight	0,5			

CN code	Description (*)	Applicable custom duty % ad valorem	Annual quantity from 1.7.2002 to 30.6.2003 (tonnes)	Yearly increase as from 1.7.2003 (tonnes)	Specific provisions
2008 50 19	---- Other	0,5			
2008 50 51	---- With a sugar content exceeding 15 % by weight	0,5			
2008 60 19	---- Other	0,5			
2008 70 19	----- Other	0,5			
2008 70 51	---- With a sugar content exceeding 15 % by weight	0,5			
2008 80 19	---- Other	15			
2008 80 50	--- Containing added sugar, in immediate packings of a net content not exceeding 1 kg	15			
2008 80 70	--- Containing added sugar, in immediate packings of a net content not exceeding 1 kg	15			
2008 80 91	---- Of 4,5 kg or more	15			
2008 80 99	---- Of less than 4,5 kg	15			
	- Orange juice		unlimited		
2009 11	-- Frozen, excluding CN code 2009 11 11	0,5			
2009 12 00	-- Not frozen, of a Brix value not exceeding 20	0,5			
2009 19	- Other, excluding CN code 2009 19 91	0,5			
	- Grapefruit juice				
2009 21 00	-- Of a Brix value not exceeding 20	0,5			
2009 29	-- Other, excluding CN code 2009 29 11	0,5			
	- Juice of any other single citrus fruit				
2009 31	-- Of a Brix value not exceeding 20, excluding CN code 2009 31 11	0,5			
2009 39	-- Other, excluding CN code 2009 39 11, 2009 39 31	0,5			
	- Pineapple juice				
2009 41	-- Of a Brix value not exceeding 20, excluding CN code 2009 41 10	0,5			
2009 49	-- Other, excluding CN code 2009 49 11	0,5			
	- Grape juice (including grape must)				
2009 61	-- Of a Brix value not exceeding 30	0,5			

CN code	Description (1)	Applicable custom duty % ad valorem	Annual quantity from 1.7.2002 to 30.6.2003 (tonnes)	Yearly increase as from 1.7.2003 (tonnes)	Specific provisions
2009 69	-- Other	0,5			
	- Apple juice				
2009 71	-- Of a Brix value not exceeding 20	15			
2009 79	-- Other	15			
2009 80 11	---- Of a value not exceeding EUR 22 per 100 kg net weight	0,5			
2009 80 32	----- Juices of passionfruit and guavas	0,5			
2009 80 33	----- Juices of mangoes, mangosteens, papaws (papayas), tamarinds, cashews apples, lychees, jackfruit, sapodillo plums, carambola and pitahaya	0,5			
2009 80 350	----- Other	0,5			
2009 80 36	----- Juices of tropical fruit	0,5			
2009 80 61	----- With an added sugar content exceeding 30 % by weight	0,5			
2009 80 73	----- Juices of tropical fruit	0,5			
2009 80 83	----- Juices of passionfruit and guavas	0,5			
2009 80 84	----- Juices of mangoes, mangosteens, papaws (papayas), tamarinds, cashews apples, lychees, jackfruit, sapodillo plums, carambola and pitahaya	0,5			
2009 80 86	----- Other	0,5			
2009 80 88	----- Juices of tropical fruit	0,5			
2009 80 97	----- Juices of tropical fruit	0,5			
2009 90 11	---- Of a value not exceeding EUR 22 per 100 kg net weight	0,5			
2009 90 21	---- Of a value not exceeding EUR 30 per 100 kg net weight	0,5			
2009 90 31	---- Of a value not exceeding EUR 18 per 100 kg net weight and with an added sugar content exceeding 30 % by weight	0,5			
2009 90 41	----- Containing added sugar	0,5			
2009 90 49	----- Other	0,5			
2009 90 71	----- With an added sugar content exceeding 30 % by weight	0,5			
2009 90 73	----- With an added sugar content not exceeding 30 % by weight	0,5			
2009 90 79	----- Not containing added sugar	0,5			

CN code	Description (*)	Applicable custom duty % ad valorem	Annual quantity from 1.7.2002 to 30.6.2003 (tonnes)	Yearly increase as from 1.7.2003 (tonnes)	Specific provisions
2009 90 92	----- Mixtures of juices of tropical fruit	0,5			
2009 90 94	----- Other	0,5			
2009 90 95	----- Mixtures of juices of tropical fruit	0,5			
2204 10	- Sparkling wine -- Of an actual alcoholic strength by volume of not less than 8,5 % vol		unlimited		
2204 10 11	--- Champagne	5			
2204 10 19	--- Other -- Other	10			
2204 10 91	--- Asti spumante	10			
2204 10 99	--- Other	10			
2204 30	- Other grape must, excluding CN code 2204 30 10	15			
2209	Vinegar and substitutes for vinegar obtained from acetic acid	0,5	40		
2302	Bran, sharps and other residues, whether or not in the form of pellets derived from the sifting, milling or other working of cereals or of leguminous plants		unlimited		
2302 10	- Of maize (corn)	45			
2302 20	- Of rice	45			
2302 40	- Of other cereals	45			
2302 50 00	- Of leguminous plants	45			
2307 00	Wine lees; argol - Wine lees				
2307 00 19	-- Other	0,5	unlimited		
2308 00 19	Vegetable materials and vegetable waste, vegetable residues and by-products, whether or not in the form of pellets, of a kind used in animal feeding, not elsewhere specified or included - Grape marc -- Other	0,5	unlimited		

CN code	Description (1)	Applicable custom duty % ad valorem	Annual quantity from 1.7.2002 to 30.6.2003 (tonnes)	Yearly increase as from 1.7.2003 (tonnes)	Specific provisions
2309	Preparations of a kind used in animal feeding		unlimited		
2309 10	– Dog or cat food, put up for retail sale				
	– – Containing starch, glucose, glucose syrup, maltodextrine or maltodextrine syrup falling within subheadings 1702 30 51 to 1702 30 99, 1702 40 90, 1702 90 50 and 2106 90 55 or milk products				
	– – – Containing starch, glucose, glucose syrup, maltodextrine or maltodextrine syrup				
	– – – – Containing no starch or containing 10 % or less by weight of starch				
2309 10 130	– – – – – Containing not less than 10 % but less than 50 % by weight of milk products	0,5			
2309 10 150	– – – – – Containing not less than 50 % but less than 75 % by weight of milk products	0,5			
2309 10 190	– – – – – Containing not less than 75 % by weight of milk products	0,5			
	– – – – Containing more than 10 % but not more than 30 % by weight of starch				
2309 10 330	– – – – – Containing not less than 10 % but less than 50 % by weight of milk products	0,5			
2309 10 390	– – – – – Containing not less than 50 % by weight of milk products	0,5			
	– – – – Containing more than 30 % by weight of starch				
2309 10 530	– – – – – Containing not less than 10 % but less than 50 % by weight of milk products	0,5			
2309 10 590	– – – – – Containing not less than 50 % by weight of milk products	0,5			
2309 10 700	– – – Containing no starch, glucose, glucose syrup, maltodextrine or maltodextrine syrup but containing milk products	0,5			
2309 90	– Other				
2309 90 200	– – Products referred to in additional note 5 to this chapter	15			
	– – Other				
	– – – Containing starch, glucose, glucose syrup, maltodextrine or maltodextrine syrup falling within subheadings 1702 30 51 to 1702 30 99, 1702 40 90, 1702 90 50 and 2106 90 55 or milk products				
	– – – – Containing starch, glucose, glucose syrup, maltodextrine or maltodextrin syrup				
	– – – – – Containing no starch or containing 10 % or less by weight of starch				

CN code	Description ⁽¹⁾	Applicable custom duty % ad valorem	Annual quantity from 1.7.2002 to 30.6.2003 (tonnes)	Yearly increase as from 1.7.2003 (tonnes)	Specific provisions
2309 90 330	----- Containing not less than 10 % but less than 50 % by weight of milk products	15			
2309 90 350	----- Containing not less than 50 % but less than 75 % by weight of milk products	15			
2309 90 390	----- Containing not less than 75 % by weight of milk products	15			
	----- Containing more than 10 % but not more than 30 % by weight of starch				
2309 90 430	----- Containing not less than 10 % but less than 50 % by weight of milk products	15			
2309 90 490	----- Containing not less than 50 % by weight of milk products	15			
	----- Containing more than 30 % by weight of starch				
2309 90 530	----- Containing not less than 10 % but less than 50 % by weight of milk products	15			
2309 90 590	----- Containing not less than 50 % by weight of milk products	15			
2309 90 70	----- Containing no starch, glucose, glucose syrup, maltodextrine or maltodextrine syrup but containing milk products				
2309 90 701	----- Containing 30 % or more of milk products	0			
2309 90 709	----- Other	15			
	---- Other				
2309 90 910	----- Beet-pulp with added molasses	15			
2309 90 930	----- Premixtures	15			
	----- Other				
2309 90 950	----- Containing by weight 49 % or more of choline chloride, on organic or inorganic base	15			
2309 90 97	----- Other				
2309 90 971	----- Lazine concentrate in liquid form for animal feeding with content of lazine monochlorehydrate in dry weight not less than 30 %	0			
2309 90 979	----- Other	15			
2401 30 000	- Tobacco refuse	0,5	unlimited		

⁽¹⁾ The wording of the description of the products is to be considered as having no more than indicative value, the preferential scheme being determined, within the context of this Annex, by the coverage of the code. Where ex-codes are indicated, the preferential scheme is to be determined by application to the code and corresponding description taken together.

⁽²⁾ This concession is only applicable to products not benefiting from any kind of export subsidies.

COUNCIL DECISION

of 26 April 2004

amending Decision 2003/231/EC concerning the accession of the European Community to the Protocol of Amendment to the International Convention on the simplification and harmonisation of customs procedures (Kyoto Convention)

(2004/485/EC)

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty establishing the European Community, and in particular Article 133 in conjunction with Article 300(2), first subparagraph, first sentence thereof,

Having regard to the proposal from the Commission,

Whereas:

- (1) Decision 2003/231/EC⁽¹⁾ authorises the Community's accession to the Protocol of Amendment to the Kyoto Convention, with the exception of Appendix III and provides that the deposit of the Community's instrument of accession must take place at the same time as the deposit of instruments of accession by the Member States.
- (2) There is a possibility that some Member States may not have completed their national ratification procedures by 30 April 2004.
- (3) Some of the States which will be joining the European Union on 1 May 2004 in accordance with the 2003 Accession Treaty, have already deposited with the Secretary-General of the Customs Cooperation Council their instruments of accession to the Protocol of Amendment to the Kyoto Convention, including Appendices I and II.
- (4) It is necessary to avoid a legal situation in which some Member States are members of an international convention to which the Community has not yet acceded, although the majority of the Convention's provisions fall within the exclusive competence of the Community.

- (5) Decision 2003/231/EC should therefore be amended accordingly,

HAS DECIDED AS FOLLOWS:

Article 1

The second sentence of Article 3(1) of Decision 2003/231/EC shall be replaced by the following:

'Such deposit shall take place on 30 April 2004, at the same time as the deposit of instruments of accession by the Member States that have completed their national accession procedures at that date.'

Article 2

This Decision shall be published in the *Official Journal of the European Union*

Done at Luxembourg, 26 April 2004.

For the Council
The President
J. WALSH

⁽¹⁾ OJ L 86, 3.4.2003, p. 21.

COUNCIL DECISION**of 26 April 2004****granting Cyprus, Malta and Poland certain temporary derogations from Directive 2002/96/EC on waste electrical and electronic equipment**

(2004/486/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 Cyprus, Malta and Poland,

Having regard to the proposal from the Commission,

Whereas:

- (1) In accordance with 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) ⁽¹⁾, 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) or the recovery targets mentioned in Article 7(2) of Directive 2002/96/EC 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 ⁽²⁾, 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.
- (4) On the basis of Article 55 of the 2003 Act of Accession, Cyprus, Malta and Poland requested transitional periods by way of temporary derogation from the time-limits laid down in the first subparagraph of Article 5(5) and Article 7(2) of Directive 2002/96/EC. Malta stated as reasons its recycling infrastructure deficit, low quantities of waste electrical and electronic equipment, constraints due to the fact that it is a small and geographically isolated country with a small local market and a high population density with attendant land-use problems, and that it is a net importer of electrical and electronic equipment. Cyprus and Poland stated as reasons their recycling infrastructure deficit and low population density. Poland also cited its high proportion of rural areas.

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

⁽²⁾ 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).

- (5) Those reasons justify an extension of the abovementioned time-limits for Cyprus, Malta and Poland by 24 months,

HAS ADOPTED THIS DECISION:

Article 1

Cyprus, Malta and Poland 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.

Article 2

This Decision is addressed to the Member States and the Republic of Cyprus, the Republic of Malta and the Republic of Poland.

Done at Luxembourg, 26 April 2004.

For the Council
The President
J. WALSH

(Acts adopted pursuant to Title V of the Treaty on European Union)

COUNCIL COMMON POSITION 2004/487/CFSP
of 29 April 2004
concerning further restrictive measures in relation to Liberia

THE COUNCIL OF THE EUROPEAN UNION,

HAS ADOPTED THIS COMMON POSITION:

Having regard to the Treaty on European Union, and in particular Article 15 thereof,

Article 1

Whereas:

- (1) On 22 December 2003, the UN Security Council adopted UNSCR 1521 (2003), which revised the Security Council's determination for action under Chapter VII by terminating the measures set out in UNSCR 1343 (2001) and related resolutions, and setting out revised restrictive measures to be imposed against Liberia.
 - (2) On 10 February 2004 the Council adopted Common Position 2004/137/CFSP⁽¹⁾ concerning restrictive measures against Liberia.
 - (3) On 12 March 2004, the UN Security Council adopted UNSCR 1532 (2004), which imposed a freeze against funds, other financial assets and economic resources owned or controlled directly or indirectly by Charles Taylor, Jewell Howard Taylor, and Charles Taylor, Jr. and/or other individuals designated by the Committee established pursuant to UNSCR 1521 (2003), including funds, other financial assets and economic resources held by entities owned or controlled, directly or indirectly, by any of them or by any persons acting on their behalf or at their direction as designated by the Committee established pursuant to UNSCR 1521.
 - (4) The UN Security Council has expressed its intention to consider whether and how to make available the funds and economic resources frozen pursuant to UNSCR 1532 (2004) to the Government of Liberia, once that Government has established transparent accounting and auditing mechanism to ensure the responsible use of government revenue to benefit directly the people of Liberia.
 - (5) Action by the Community is needed in order to implement certain measures,
1. Under the conditions set out in UNSCR 1532 (2004), all funds and economic resources owned or controlled, directly or indirectly, by former Liberian President Charles Taylor, his immediate family members, in particular Jewell Howard Taylor and Charles Taylor, Jr., senior officials of the former Taylor regime and by any natural persons, associated with them, including funds, other financial assets and economic resources held by entities owned or controlled, directly or indirectly, by any of them or by any persons acting on their behalf or at their direction, as designated by the Committee established by paragraph 21 of UNSCR 1521 (2003) ('the Committee'), shall be frozen.
 2. No funds or economic resources shall be made available directly or indirectly to or for the benefit of natural or legal persons, entities or bodies referred to in paragraph 1.
 3. Exemptions may be made for funds or economic resources which are:
 - (a) necessary for basic expenses, including payments for food-stuffs, rent or mortgage, medicines and medical treatment, taxes, insurance premiums, and public utility charges;
 - (b) exclusively for payment of reasonable professional fees and reimbursement of incurred expense associated with the provision of legal services;
 - (c) intended exclusively for payment of fees or service charges for routine holding or maintenance of frozen funds or economic resources;
- after notification by the relevant competent authority to the Committee of the intention to authorise, where appropriate, access to such funds and economic resources and in the absence of a negative decision by the Committee within two working days of such notification;

⁽¹⁾ OJ L 40, 12.2.2004, p. 35.

- (d) necessary for extraordinary expenses, provided that such determination has been notified by the relevant competent authority to the Committee and has been approved by the Committee;
- (e) the subject of a judicial administrative, or arbitral lien or judgement, in which case the funds and economic resources may be used to satisfy that lien or judgement provided that the lien or judgement was entered prior to 11 March 2004, is not for the benefit of a person referred to in paragraph 1 or an individual or entity identified by the Committee, and has been notified by the relevant competent Authority to the Committee.
4. Paragraph 2 shall not apply to the addition to frozen accounts of:
- (a) interest or other earnings on those accounts; or
- (b) payments due under contracts, agreements or obligations that were concluded or arose prior to the date on which those accounts became subject to restrictive measures,

provided that any such interest, other earnings and payments continue to be subject to paragraph 1.

Article 2

This Common Position shall take effect on the date of its adoption.

Article 3

This Common Position shall be published in the *Official Journal of the European Union*.

Done at Luxembourg, 29 April 2004.

For the Council

The President

M. McDOWELL
