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Legislation

Contents

I *Acts whose publication is obligatory*

Commission Regulation (EC) No 2090/2004 of 8 December 2004 establishing the standard import values for determining the entry price of certain fruit and vegetables ... 1

★ **Commission Regulation (EC) No 2091/2004 of 6 December 2004 prohibiting fishing for common sole by vessels flying the flag of France** ... 3

★ **Commission Regulation (EC) No 2092/2004 of 8 December 2004 laying down detailed rules of application for an import tariff quota of dried boneless beef originating in Switzerland** ... 4

Commission Regulation (EC) No 2093/2004 of 8 December 2004 determining the quantity of certain products in the milk and milk products sector available for the first half of 2005 under quotas opened by the Community on the basis of an import licence alone ... 10

★ **Commission Regulation (EC) No 2094/2004 of 8 December 2004 opening and providing for the administration of a tariff quota of 10 000 tonnes of oat grains otherwise worked falling within CN code 1104 22 98** ... 12

★ **Commission Regulation (EC) No 2095/2004 of 8 December 2004 amending Regulation (EC) No 581/2004 opening a standing invitation to tender for exports refunds concerning certain types of butter and Regulation (EC) No 582/2004 opening a standing invitation to tender for exports refunds concerning skimmed milk powder** ... 14

★ **Information regarding the date from which Article 1(34) and (35) of Council Regulation (EC) No 422/2004 amending Regulation (EC) No 40/94 on the Community trade mark shall apply** 16

(Continued overleaf)

Acts whose titles are printed in light type are those relating to day-to-day management of agricultural matters, and are generally valid for a limited period.

The titles of all other acts are printed in bold type and preceded by an asterisk.

II *Acts whose publication is not obligatory*

Commission

2004/841/EC:

★ **Commission Decision of 7 April 2004 relating to a proceeding pursuant to Article 81 of the EC Treaty concerning case COMP/A.38284/D2 — Société Air France/Alitalia Linee Aeree Italiane SpA** *(notified under document number C(2004) 1307)* 17

2004/842/EC:

★ **Commission Decision of 1 December 2004 concerning implementing rules whereby Member States may authorise the placing on the market of seed belonging to varieties for which an application for entry in the national catalogue of varieties of agricultural plant species or vegetable species has been submitted** *(notified under document number C(2004) 4493)* [1] 21

Acts adopted under Title V of the Treaty on European Union

★ **Council Decision 2004/843/CFSP of 26 July 2004 concerning the conclusion of the Agreement between the European Union and the Kingdom of Norway on security procedures for the exchange of classified information** 28

Agreement between the Kingdom of Norway and the European Union on security procedures for the exchange of classified information 29

[1] Text with EEA relevance

I

(Acts whose publication is obligatory)

COMMISSION REGULATION (EC) No 2090/2004

of 8 December 2004

establishing the standard import values for determining the entry price of certain fruit and vegetables

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Commission Regulation (EC) No 3223/94 of 21 December 1994 on detailed rules for the application of the import arrangements for fruit and vegetables [1], and in particular Article 4(1) thereof,

Whereas:

(1) Regulation (EC) No 3223/94 lays down, pursuant to the outcome of the Uruguay Round multilateral trade negotiations, the criteria whereby the Commission fixes the standard values for imports from third countries, in respect of the products and periods stipulated in the Annex thereto.

(2) In compliance with the above criteria, the standard import values must be fixed at the levels set out in the Annex to this Regulation,

HAS ADOPTED THIS REGULATION:

Article 1

The standard import values referred to in Article 4 of Regulation (EC) No 3223/94 shall be fixed as indicated in the Annex hereto.

Article 2

This Regulation shall enter into force on 9 December 2004.

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

Done at Brussels, 8 December 2004.

For the Commission

J. M. SILVA RODRÍGUEZ

Director-General for Agriculture and Rural Development

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

ANNEX

to Commission Regulation of 8 December 2004 establishing the standard import values for determining the entry price of certain fruit and vegetables

(EUR/100 kg)

CN code	Third country code (1)	Standard import value
0702 00 00	052	109,5
	204	94,4
	999	102,0
0707 00 05	052	131,1
	204	32,5
	999	81,8
0709 90 70	052	103,1
	204	71,7
	999	87,4
0805 10 10, 0805 10 30, 0805 10 50	052	50,8
	204	42,7
	382	32,3
	388	52,3
	528	36,4
	999	42,9
0805 20 10	204	59,0
	999	59,0
0805 20 30, 0805 20 50, 0805 20 70, 0805 20 90	052	69,4
	204	46,4
	464	161,3
	624	95,2
	720	30,2
	999	80,5
0805 50 10	052	61,3
	528	42,4
	999	51,9
0808 10 20, 0808 10 50, 0808 10 90	052	116,3
	388	150,4
	400	88,3
	404	115,5
	512	105,2
	720	63,4
	804	109,0
	999	106,9
0808 20 50	720	43,1
	999	43,1

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

COMMISSION REGULATION (EC) No 2091/2004

of 6 December 2004

prohibiting fishing for common sole by vessels flying the flag of France

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Council Regulation (EEC) No 2847/93 of 12 October 1993 establishing a control system applicable to the common fisheries policy [1], and in particular Article 21(3) thereof,

Whereas:

(1) Council Regulation (EC) No 2287/2003 of 19 December 2003 fixing for 2004 the fishing opportunities and associated fishing conditions for certain fish stocks and groups of fish stocks, applicable in Community waters and for Community vessels, in waters where limitations in catch are required, lays down quotas for common sole for 2004 [2].

(2) In order to ensure compliance with the provisions relating to the quantity limits on catches of stocks subject to quotas, the Commission must fix the date by which catches made by vessels flying the flag of a Member State are deemed to have exhausted the quota allocated.

(3) According to the information received by the Commission, catches of common sole in the waters of ICES subarea VII b and c by vessels flying the flag of France or registered in France have exhausted the quota allocated for 2004. France has prohibited fishing for this stock from 23 October 2004. This date should be adopted in this Regulation also,

HAS ADOPTED THIS REGULATION:

Article 1

Catches of common sole in the waters of ICES subarea VII b and c by vessels flying the flag of France or registered in France are hereby deemed to have exhausted the quota allocated to France for 2004.

Fishing for common sole in the waters of ICES subarea VII b and c by vessels flying the flag of France or registered in France is hereby prohibited, as are the retention on board, transhipment and landing of this stock caught by the above vessels after the date of application of this Regulation.

Article 2

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

It shall apply from 23 October 2004.

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

Done at Brussels, 6 December 2004.

For the Commission
Jörgen HOLMQUIST
Director-General for Fisheries

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[1] OJ L 261, 20.10.1993, p. 1. Regulation as last amended by Regulation (EC) No 1954/2003 (OJ L 289, 7.11.2003, p. 1).
[2] OJ L 344, 31.12.2003, p. 1. Regulation as last amended by Regulation (EC) No 1691/2004 (OJ L 305, 1.10.2004, p. 3).

COMMISSION REGULATION (EC) No 2092/2004

of 8 December 2004

laying down detailed rules of application for an import tariff quota of dried boneless beef originating in Switzerland

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Council Regulation (EC) No 1254/1999 of 17 May 1999 on the common organisation of the market in beef and veal [1], and in particular the first subparagraph of Article 32(1) thereof,

Whereas:

(1) The Agreement between the European Community and the Swiss Confederation on trade in agricultural products [2] (hereinafter the Agreement) which was approved on behalf of the Community by Decision 2002/309/EC, Euratom provides for tariff-free imports of a quantity of 1 200 tonnes *per annum* for meat of bovine animals, boneless, dried, falling under CN code ex 0210 20 90.

(2) Due to the BSE crisis the parties declared in the Joint Declaration on the meat sector, included in the Final Act to the Agreement [3] that, by way of an exception, an annual autonomous quota should be opened by the Community for 700 tonnes net weight dried beef subject to *ad valorem* duty and exempt from the specific duty until the lifting of import restrictions imposed by certain Member States on Switzerland. Commission Regulation (EC) No 2424/1999 of 15 November 1999 laying down detailed rules of application for an import tariff quota of dried boneless beef provided for in Council Regulation (EC) No 2249/1999 [4] opened an import tariff quota of dried boneless beef for imports from Switzerland on a pluriannual basis for an annual volume of 700 tonnes from 1 July to 30 June of the following year.

(3) At its third meeting held in Brussels on 4 December 2003 the Joint Committee on Agriculture concluded that after the adoption of Decision No 2/2003 of the Joint Veterinary Committee set up by the Agreement between the European Community and the Swiss Confederation on trade in agricultural products of 25 November 2003 amending Appendices 1, 2, 3, 4, 5, 6 and 11 to Annex 11 to the Agreement [5], and the subsequent lifting of the restrictive measures by the Member States on Switzerland, the concessions as provided for in the Agreement should be applied as soon as possible. However, with consideration to the change in rules of origin, it was jointly felt necessary to allow sufficient time for operators to adjust and to take appropriate steps in relation to possible stocks. Consequently, it was agreed to implement the new concessions as of 1 January 2005.

(4) Detailed rules of application should, therefore, be laid down on a pluriannual basis for a tariff-free import quota of a quantity of 1 200 tonnes *per annum* starting on 1 January 2005 for meat of bovine animals, boneless, dried, falling under CN code ex 0210 20 90 originating in Switzerland.

(5) To be eligible for the benefit of this tariff quota, the products concerned should originate in Switzerland in conformity with the rules referred to in Article 4 of the Agreement. A precise definition of the eligible products should be provided. For reasons of control, imports under that quota should be subject to the presentation of a certificate of authenticity attesting that the meat corresponds exactly to the eligible definition. It is necessary to establish a model for those certificates and lay down detailed rules for their use.

(6) The arrangements should be managed using import licences. To this end, rules should be laid down on the submission of applications and the information to be given on applications and licences, where necessary by derogation from Commission Regulation (EC) No 1291/2000 of 9 June 2000 laying down common detailed rules for the application of the system of import and export licences and advance fixing certificates for agricultural products [6] and from Commission Regulation (EC) No 1445/95 of 26 June 1995 on rules of application for import and export licences in the beef and veal sector and repealing Regulation (EEC) No 2377/80 [7].

(1) OJ L 160, 26.6.1999, p. 21. Regulation as last amended by Commission Regulation (EC) No 1899/2004 (OJ L 328, 30.10.2004, p. 67).
(2) OJ L 114, 30.4.2002, p. 132.
(3) OJ L 114, 30.4.2002, p. 352.
(4) OJ L 294, 16.11.1999, p. 13. Regulation as last amended by Regulation (EC) No 1118/2004 (OJ L 217, 17.6.2004, p. 10).
(5) OJ L 23, 28.1.2004, p. 27.
(6) OJ L 152, 24.6.2000, p. 1. Regulation as last amended by Regulation (EC) No 636/2004 (OJ L 100, 6.4.2004, p. 25).
(7) OJ L 143, 27.6.1995, p. 35. Regulation as last amended by Regulation (EC) No 1118/2004.

(7) In order to ensure proper management of the imports of the products concerned, provisions should be made for import licences to be issued subject to verification, in particular of entries on certificates of authenticity.

(8) Regulation (EC) No 2424/1999 should be repealed.

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

HAS ADOPTED THIS REGULATION:

Article 1

1. A Community duty-free import tariff quota for dried boneless meat of bovine animals falling within CN code ex 0210 20 90 and originating in Switzerland is hereby opened on a pluriannual basis for an annual volume of 1 200 tonnes for periods from 1 January to 31 December (hereinafter the quota).

The order number of the quota shall be 09.4202.

2. The rules of origin applicable to the products referred to in paragraph 1 shall be those provided for in Article 4 of the Agreement between the European Community and the Swiss Confederation on trade in agricultural products.

3. For the purposes of this Regulation, dried boneless meat shall mean cuts of meat from haunches of bovine animals aged at least 18 months, with no visible intramuscular fat (3 to 7 %) and a pH of the fresh meat between 5,4 and 6,0; salted, seasoned, pressed, dried only in fresh dry air and developing noble mould (bloom of microscopic fungi). The weight of the finished product is between 41 % and 53 % of the raw material before salting.

Article 2

1. Imports of the quantities set out in Article 1(1) shall be subject to presentation, on release for free circulation, of an import licence.

2. The original of the certificate of authenticity drawn up in accordance with Article 3 plus a copy thereof shall be presented to the competent authority together with the application for the first import licence relating to the certificate of authenticity.

The original of the certificate of authenticity shall be kept by that authority.

3. A certificate of authenticity may be used for the issuing of more than one import licence for quantities not exceeding that shown on the certificate. Where more than one licence is issued in respect of a certificate, the competent authority shall endorse the certificate of authenticity to show the quantity attributed.

4. The competent authorities may issue import licences only after they are satisfied that all the information on the certificate of authenticity corresponds to that received each week from the Commission on the subject. The licences shall be issued immediately thereafter.

However, the competent authorities may, in exceptional cases and on duly reasoned application, issue import licences on the basis of the relevant certificates of authenticity before the information from the Commission is received. In such cases, the security for the import licences shall be equal to the amount corresponding to the full customs duty under the common customs tariff. After having received the information relating to the certificate, Member States shall replace this security with that referred to in Article 4 of Regulation (EC) No 1445/1995.

5. Section 20 of the licence applications and of the licences themselves shall show one of the endorsements listed in Annex I.

Article 3

1. The certificates of authenticity referred to in Article 2 shall be made out in one original and two copies, to be printed and completed in one of the official languages of the Community, in accordance with the model in Annex II. It may also be printed and completed in the official language or one of the official languages of the exporting country.

The competent authorities of the Member State in which the import licence application is submitted may require a translation of the certificate to be provided.

2. The certificate forms shall measure 210 × 297 mm. The paper used shall weigh not less than 40 g/m^2. The original shall be white, the first copy pink and the second copy yellow.

3. The original of the certificate and copies thereof may be typed or handwritten. In the latter case, they must be completed in black ink and in block capitals.

4. Each certificate shall have its own individual serial number followed by the name of the issuing country.

The copies shall bear the same serial number and the same name as the original.

5. The definition of dried boneless meat provided for in Article 1(3) shall be clearly laid down in the certificate.

6. Certificates shall be valid only if they are duly endorsed by an issuing authority listed in Annex III.

Certificates shall be deemed to have been duly endorsed if they state the date and place of issue and if they bear the stamp of the issuing authority and the signature of the person or persons empowered to sign them.

Article 4

1. The issuing authorities listed in Annex III must:

(a) be recognised as such by the exporting country concerned;

(b) undertake to verify entries on the certificates;

(c) undertake to forward to the Commission at least once a week any information enabling the entries on the certificates of authenticity, in particular the number of the certificate, the exporter, the consignee, the country of destination, the product, the net weight and the date of signature, to be verified.

2. The list in Annex III may be revised by the Commission where the requirement referred to in paragraph 1(a) of this Article is no longer met or where the issuing authority fails to fulfil any of the obligations incumbent on it.

Article 5

Certificates of authenticity and import licences shall be valid for three months from their respective dates of issue. However, their term of validity shall expire on 31 December following the date of issue.

Article 6

The provisions of Regulations (EC) No 1291/2000 and (EC) No 1445/95 shall apply subject to the provisions of this Regulation.

Article 7

The authorities of the exporting countries shall communicate to the Commission specimens of the stamp imprints used by their issuing authorities and the names and signatures of the persons empowered to sign certificates of authenticity. Any subsequent changes of stamps or names shall equally be notified to the Commission as soon as possible. The Commission shall communicate this information to the competent authorities of the Member States.

Article 8

Regulation (EC) No 2424/1999 is repealed.

Article 9

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

It shall apply from 1 January 2005.

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

Done at Brussels, 8 December 2004.

For the Commission

Mariann FISCHER BOEL

Member of the Commission

ANNEX I

Endorsements referred to in Article 2(5)

— *in Spanish:* Carne de vacuno seca deshuesada — Reglamento (CE) nº 2092/2004

— *in Czech:* Vykostěné sušené hovězí maso – směrnice (ES) č. 2092/2004

— *in Danish:* Tørret udbenet oksekød — forordning (EF) nr. 2092/2004

— *in German:* Entbeintes, getrocknetes Rindfleisch — Verordnung (EG) Nr. 2092/2004

— *in Estonian:* Kuivatatud kondita veiseliha – määrus (EÜ) nr 2092/2004

— *in Greek:* Αποξηραμένο βόειο κρέας χωρίς κόκαλα — Κανονισμός (ΕΚ) αριθ. 2092/2004

— *In English:* Dried boneless beef — Regulation (EC) No 2092/2004

— *In French:* Viande bovine séchée désossée — Règlement (CE) nº 2092/2004

— *In Italian:* Carni bovine disossate ed essiccate — regolamento (CE) n. 2092/2004

— *In Latvian:* Žāvēta atkaulota liellopu gaļa – Regula (EK) Nr. 2092/2004

— *in Lithuanian:* Džiovinta jautiena be kaulų – Reglamentas (EB) Nr. 2092/2004

— *in Hungarian:* Szárított, kicsontozott marhahús – 2092/2004/EK rendelet

— *in Dutch:* Gedroogd rundvlees zonder been — Verordening (EG) nr. 2092/2004

— *in Polish:* Suszone mięso wołowe bez kości — Rozporządzenie (WE) nr 2092/2004

— *in Portuguese:* Carne de bovino seca desossada — Regulamento (CE) n.º 2092/2004

— *in Slovak:* Vykostené, sušené hovädzie mäso – Nariadenie (ES) č. 2092/2004

— *in Slovenian:* Posušeno goveje meso brez kosti – Uredba (ES) št. 2092/2004

— *in Finnish:* Kuivattua luutonta naudanlihaa – asetus (EY) N:o 2092/2004

— *in Swedish:* Torkat benfritt nötkött – förordning (EG) nr 2092/2004

ANNEX II

1. Consignor (full name and address)	CERTIFICATE No 0000 ORIGINAL EXPORTING COUNTRY:
2. Consignee (full name and address)	CERTIFICATE OF AUTHENTICITY for exports to the EC of dried boneless meat of bovine animals (application of Regulation (EC) No 2092/2004)

Notes

A. This certificate shall be prepared in one original and two copies

B. The original and its two copies shall be typewritten or completed by hand; in the latter case, they must be completed in block letters in ink.

C. Health Certificate (form M-9303) No

3. Marks, numbers, number and nature of packages, description of goods	4. Combined Nomenclature sub-heading	5. Gross weight (kg)	6. Net weight (kg)

7. Net weight (kg) (in words)

8. I, the undersigned ...., acting on behalf of the authorised issuing body (box 9) certify that the goods described above, correspond exactly to the origin and definition contained in Article 1(2) and (3) of Commission Regulation (EC) No 2092/2004 laying down detailed rules of application for an import tariff quota of dried boneless meat beef originating in Switzerland.

9. Authorised issuing body	Place .... Date .... (Stamp of issuing body) (signature)

ANNEX III

List of authorities in exporting countries empowered to issue certificate of authenticity

SWITZERLAND:

— Office vétérinaire federal/Bundesamt für Veterinärwesen/Ufficio federale di veterinaria

COMMISSION REGULATION (EC) No 2093/2004

of 8 December 2004

determining the quantity of certain products in the milk and milk products sector available for the first half of 2005 under quotas opened by the Community on the basis of an import licence alone

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Council Regulation (EC) No 1255/1999 of 17 May 1999 on the common organisation of the market in milk and milk products [1],

Having regard to Commission Regulation (EC) No 2535/2001 of 14 December 2001 laying down detailed rules for applying Council Regulation (EC) No 1255/1999 as regards the import arrangements for milk and milk products and opening tariff quotas [2], and in particular Article 16(2) thereof,

Whereas:

When import licences were allocated for the second half of 2004 for certain quotas referred to in Regulation (EC) No 2535/2001, applications for licences covered quantities less than those available for the products concerned. As a result, the quantity available for each quota for the period 1 January to 30 June 2005 should be fixed, taking account of the unallocated quantities resulting from Commission Regulation (EC) No 1347/2004 [3] determining the extent to which the applications for import licences submitted in July 2004 for certain dairy products under certain tariff quotas opened by Regulation (EC) No 2535/2001 can be accepted,

HAS ADOPTED THIS REGULATION:

Article 1

The quantities available for the period 1 January to 30 June 2005 for the second half of the year of importation of certain quotas referred to in Regulation (EC) No 2535/2001 shall be as set out in the Annex.

Article 2

This Regulation shall enter into force on 9 December 2004.

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

Done at Brussels, 8 December 2004.

For the Commission

J. M. SILVA RODRÍGUEZ

Director-General for Agriculture and Rural Development

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

(2) OJ L 341, 22.12.2001, p. 29. Regulation as last amended by Regulation (EC) No 810/2004 (OJ L 149, 30.4.2004), corrected by OJ L 215, 16.6.2004, p. 104).

(3) OJ L 250, 24.7.2004, p. 3. Regulation as amended by Regulation (EC) No 1503/2004 (OJ L 275, 25.8.2004, p. 14).

ANNEX I.A

Quota number	Quantity (t)
09.4590	66 691,0
09.4591	5 300,0
09.4592	18 380,8
09.4593	5 200,0
09.4594	19 140,0
09.4595	7 500,0
09.4596	16 309,8
09.4599	6 470,3

ANNEX I.B

5. Products originating in Roumania

Quota number	Quantity (t)
09.4758	1 400,0

6. Products originating in Bulgaria

Quota number	Quantity (t)
09.4660	3 555,8
09.4675	500,0

ANNEX I.F

Products originating from Switzerland

Quota number	Quantity (t)
09.4155	1 100,0
09.4156	4 548,7

ANNEX I.H

Products originating in Norway

Quota number	Quantity (t)
09.4781	2 425,0
09.4782	266,5

COMMISSION REGULATION (EC) No 2094/2004

of 8 December 2004

opening and providing for the administration of a tariff quota of 10 000 tonnes of oat grains otherwise worked falling within CN code 1104 22 98

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Council Regulation (EC) No 1784/2003 of 29 September 2003 on the common organisation of the market in cereals [1], and in particular Article 12(1) thereof,

Whereas:

(1) In order to meet its international commitments, the Community has established for each marketing year since 1 January 1996 a zero duty tariff quota for oat grains otherwise worked falling within CN code 1104 22 98.

(2) Up to the 2004/05 marketing year this tariff quota has been managed under Commission Regulation (EC) No 2369/96 of 12 December 1996 opening and providing for the administration of a Community tariff quota for 10 000 tonnes of oat grains otherwise worked falling within CN code 1104 22 98 [2]. This Regulation provides for management through import licences, for which applications are submitted monthly.

(3) Commission Regulation (EC) 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 [3] codifies the management rules for tariff quotas designed to be used following the chronological order of dates of customs declarations and for surveillance of preferential imports.

(4) With a view to simplification and given the small volume of the tariff quota for oat grains otherwise worked falling within CN code 1104 22 98, Regulation (EC) No 2454/93 should be applied to the management of this quota from the 2005/06 marketing year on, and Regulation (EC) No 2369/96 should be repealed. For administrative reasons a new serial number must be introduced for the quota in question.

(5) Article 9(1) of Regulation (EC) No 1784/2003 provides for an exemption from the requirement to submit an import licence for products having no significant appreciable impact on the supply situation of the cereals market. The Community annually imports an average of 6 000 tonnes of oat grains otherwise worked falling within CN code 1104 22 98. This involves a limited quantity of very specific products for industrial use, with no impact on the cereals market. The exemption from the import licence requirement provided for in Article 9(1) of Regulation (EC) No 1784/2003 can therefore be applied.

(6) The measures provided for in this Regulation are in accordance with the opinion of the Management Committee for Cereals,

HAS ADOPTED THIS REGULATION:

Article 1

The tariff quota in the Annex is hereby opened for each marketing year running from 1 July to 30 June.

Article 2

The tariff quota referred to in Article 1 shall be managed by the Commission in accordance with the Articles 308a, 308b and 308c of Regulation (EEC) No 2454/93.

Article 3

Imports of oat grains under the tariff quota referred to in Article 1 shall not require the submission of an import licence.

Article 4

Regulation (EC) No 2369/96 is hereby repealed.

Article 5

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

It shall apply from 1 July 2005.

(1) OJ L 270, 21.10.2003, p. 78.
(2) OJ L 323, 13.12.1996, p. 8. Regulation as last amended by Regulation (EC) No 777/2004 (OJ L 123, 27.4.2004, p. 50).
(3) OJ L 253, 11.10.1993, p. 1. Regulation as last amended by Regulation (EC) No 2286/2003 (OJ L 343, 31.12.2003, p. 1).

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

Done at Brussels, 8 December 2004.

For the Commission
Mariann FISCHER BOEL
Member of the Commission

ANNEX

Tariff quota with a quota period running from 1 July to 30 June

Serial number	CN code	Description [1]	Quota volume in net weight (tonnes)	Tariff quota duty	Origin
09.0043	1104 22 98	Oat grains otherwise worked	10 000	0	All third countries (*erga omnes*)

[1] Without prejudice to the rules for interpreting the Combined Nomenclature, the wording for the description of the products is to be considered as having no more than an indicative value, the preferential treatment being determined, in the context of this Annex, by the coverage of the CN codes as they exist at the time of adoption of this Regulation.

COMMISSION REGULATION (EC) No 2095/2004

of 8 December 2004

amending Regulation (EC) No 581/2004 opening a standing invitation to tender for exports refunds concerning certain types of butter and Regulation (EC) No 582/2004 opening a standing invitation to tender for exports refunds concerning skimmed milk powder

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Council Regulation (EC) No 1255/1999 of 17 May 1999 on the common organisation of the market in milk and milk products [1], and in particular Article 31(3)(b) and (14) thereof,

Whereas:

(1) According to Article 1(1) of Commission Regulation (EC) No 581/2004 [2] and to Article 1(1) of Commission Regulation (EC) No 582/2004 [3] certain destinations are excluded from the granting of an export refund. Following the accession of the Czech Republic, Estonia, Cyprus, Hungary, Latvia, Lithuania, Malta, Poland, Slovenia and Slovakia to the European Union, the references to those countries should be deleted.

(2) The Additional Protocol to the Europe Agreement establishing an association between the European Communities and their Member States, of the one part, and the Republic of Bulgaria of the other part, to take account of the accession of the Czech Republic, the Republic of Estonia, the Republic of Cyprus, the Republic of Hungary, the Republic of Latvia, the Republic of Lithuania, the Republic of Malta, the Republic of Poland, the Republic of Slovenia, and the Slovak Republic to the European Union [4], provides for a new import tariff quota to be opened by Bulgaria for milk powder originating in the Community. The access to that quota is restricted to products not benefiting from any kind of export subsidies. In order to avoid speculation and to ensure the respect of that concession that is likely to come into force before the expiry of the period of validity of the export licences, referred to in Article 8(1)(d) of Commission Regulation (EC) No 580/2004 of 26 March 2004 establishing a tender procedure concerning export refunds for certain milk products [5], Bulgaria should be excluded from the destinations eligible for an export refund in the framework of the permanent tender concerning skimmed milk powder provided for in that Regulation.

(3) Regulations (EC) No 581/2004 and (EC) No 582/2004 should be amended accordingly.

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

HAS ADOPTED THIS REGULATION:

Article 1

Article 1(1) of Regulation (EC) No 581/2004, is replaced by the following:

‘1. A permanent tender is opened in order to determine the export refund on the following types of butter referred to in Section 9 of Annex I to Commission Regulation (EEC) No 3846/87 (*):

(a) natural butter in blocks of at least 20 kilograms net weight falling under product codes ex 0405 10 19 9500 and ex 0405 10 19 9700;

b) butteroil in containers of at least 190 kilograms net weight falling under product code ex 0405 90 10 9000.

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

[2] OJ L 90, 27.3.2004, p. 64. Regulation as last amended by Regulation 810/2004 (OJ L 149, 30.4.2004, p. 138).

[3] OJ L 90, 27.3.2004, p. 67. Regulation as last amended by Regulation (EC) No 810/2004.

[4] Not yet published in the Official Journal.

[5] OJ L 90, 27.3.2004, p. 58.

The products referred to in the first subparagraph are intended for export to the following destinations:

— Russia (destination code 075),

— all other destinations except Andorra, Gibraltar, the United States of America and Vatican City.

(*) OJ L 366, 24.12.1987, p. 1.'

Article 2

Article 1(1) of Regulation (EC) No 582/2004 is replaced by the following:

'1. A permanent tender is opened in order to determine the export refund on skimmed milk powder referred to in Section 9 of Annex I to Commission Regulation (EEC) No 3846/87 (*) in bags of at least 25 kilograms net weight and containing no more than 0,5 % by weight of added non-lactic matter falling under product code ex 0402 10 19 9000, intended for export to all destinations except Andorra, Bulgaria, Gibraltar, the United States of America and Vatican City.

(*) OJ L 366, 24.12.1987, p. 1.'

Article 3

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, 8 December 2004.

For the Commission

Mariann FISCHER BOEL

Member of the Commission

Information regarding the date from which Article 1(34) and (35) of Council Regulation (EC) No 422/2004 amending Regulation (EC) No 40/94 on the Community trade mark shall apply

Article 1(34) and (35) of Council Regulation (EC) No 422/2004 of 19 February 2004 amending Regulation (EC) No 40/94 on the Community trade mark shall apply from the date of entry into force of Commission Regulation (EC) No 2082/2004 of 6 December 2004 [1] amending Regulation (EC) No 216/96 laying down the rules of procedure of the Boards of Appeal of the Office for Harmonization in the Internal Market (Trade Marks and Designs).

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[1] OJ L 360, 7.12.2004, p. 8.

II

(Acts whose publication is not obligatory)

COMMISSION

COMMISSION DECISION

of 7 April 2004

relating to a proceeding pursuant to Article 81 of the EC Treaty concerning case COMP/A.38284/D2

Société Air France/Alitalia Linee Aeree Italiane SpA [1]

(notified under document number C(2004) 1307)

(Only the English text is authentic)

(2004/841/EC)

On 7 April 2004, the Commission adopted a decision which grants an individual exemption under Article 81 (3) of the Treaty to a cooperation agreement between Air France and Alitalia.

A public version of this decision is available in English, French and German (only the English text is authentic) on DG COMP's website at http://europa.eu.int/comm/competition/index_en.html

1. SUMMARY OF THE PROCEEDINGS

(1) On 12 November 2001, Air France (AF) and Alitalia (AZ) notified to the Commission a number of cooperation agreements and applied for negative clearance under Article 3(2) of Council Regulation (EEC) No 3975/87 and/or exemption under Article 5 of the same Regulation [2].

(2) On 8 May 2002, a summary of the notified agreements was published in the *Official Journal of the European Union* inviting interested third parties to send their comments within 30 days in accordance with Article 5(2) of Regulation (EEC) No 3975/87 [3]. In response to this publication, several airlines expressed their interest in starting operations for the routes at issue, provided that barriers to entry are removed through adequate remedies.

(3) A letter of serious doubts was notified by the Commission to the Parties on 1 July 2002, informing them that their cooperation agreements could not be approved in their current form.

(4) On the basis of the reservations expressed by the Commission and after intensive discussions, the Parties proposed commitments which were published for comment in the Official Journal on 9 December 2003 in a notice pursuant to Article 16(3) of Regulation (EC) No 3975/87 [4]. In the light of the comments received, the Parties accepted to improve further their commitments.

(1) Report for the hearing published in OJ C 305, 9.12.2004.

(2) Council Regulation (EEC) No 3975/87 of 14 December 1987 laying down the procedure for the application of the rules on competition in the air transport sector (OJ L 374, 31.12.1987, p. 1). Regulation as last amended by Regulation (EC) No 1/2003 (OJ L 1, 4.1.2003, p. 1).

(3) OJ C 111, 8.5.2002, p. 7.

(4) OJ C 297, 9.12.2003, p. 10.

(5) The improved commitments, combined with the fact that there are several entrants on the markets concerned, are satisfactory from a competition policy point of view. Provided the Parties comply with these commitments, the Commission decided to exempt their cooperation agreements for a six-year period.

2. THE COOPERATION AGREEMENT

(6) Through their cooperation, the Parties seek to establish a far-reaching, long-term strategic bilateral alliance, the main objectives of which are as follows:

— *creation of a European multi-hub system* based on the Parties' hubs at Paris Charles de Gaulle, Rome Fiumicino and Milan Malpensa airports, in order to interconnect their worldwide networks,

— *coordination of the Parties' passenger service operations*, including extensive use of code-sharing, coordination of their scheduled passenger network, sales, revenue management, mutual recognition of the respective frequent flyer programmes, marketing coordination and share of lounge usage,

— *cooperation in other areas*, such as cargo operations, passenger handling, maintenance, purchasing, catering, information technology, fleet development and purchase, crew training and revenue accounting.

(7) As the aim of the alliance between Air France and Alitalia is to create a multi-hub system in order to interconnect their worldwide networks, the cooperation will be closer on the France-Italy 'bundle' which includes all the routes between France and Italy operated by Air France and/or Alitalia, excluding beyond and behind flights, whether domestic or international. On the France-Italy bundle, in addition to the overall coordination of their passenger service operations as described above, the Parties also agree on frequencies and share their capacities and their earnings.

3. ASSESSMENT

(8) The activities affected by the agreement are scheduled air transport of passengers, air transport of goods and ground-handling services. The draft exemption decision only addresses the first area of cooperation, i.e. scheduled air transport of passengers. Air transport of cargo is excluded from the scope of the draft decision as the Parties are still negotiating the scope of their cooperation in that field. The draft decision does not address ground handling services either, which do not fall within the scope of Regulation (EEC) No 3975/87 [1].

(9) The Commission accepts that, overall, the alliance contributes to improving the production and distribution of transport services and to promoting technical and economic progress. The cooperation agreement is likely to generate benefits in terms of creating a more extensive worldwide network which would offer customers better services in terms of an increased number of direct and indirect flights. While an increase in the airlines' size does not necessarily lead to a cost reduction because of constant economies of scale, savings may be realised due to an increase in traffic throughout the network, better planning of frequencies, a higher load factor, etc.

(10) However, the consumer will only have a fair share from the expected cost reductions in the form of reduced prices if the Parties remain subject to a sufficient competitive constraint on the markets where competition is restricted by the alliance.

(11) It results from the Commission's assessment under Article 81 that there is a risk that the alliance eliminates competition in respect of a substantial part of air passenger services on seven 'origin and destination' [2] pairs i.e. Paris–Milan, Paris–Rome, Paris–Venice, Paris–Florence, Paris–Bologna, Paris–Naples and Milan–Lyon. Prior to the alliance, Air France and Alitalia were the two main operators on these affected overlap markets, competing head-to-head. At the time of the notification, they had very high market shares on these seven O & D pairs. This goes for time-sensitive and flexibility-focused passengers as well as for price-sensitive passengers [3].

[1] This decision is therefore without prejudice to any further competition assessment of these aspects under Article 81 of the Treaty.

[2] To establish the relevant market in air transport, the Commission has developed the point-of-origin/ point-of-destination (O & D) pair approach. According to this approach, every combination of point-of-origin and point-of-destination should be considered to be a separate market from the customer's point of view.

[3] There is one exception for this second category of passengers on the Milan–Lyon city-pair, in view of the constraining effects of existing competition from other transport modes (road transport).

(12) Moreover, the Parties' overall strong market position is protected against potential entry by significant entry barriers, due for instance to the scarcity of slots at the airports concerned, to the number of frequencies operated by the Parties, to their high share of time-sensitive customers and to the pooling of their frequent flyer programs.

(13) The cooperation agreement can therefore only be accepted on the basis of adequate remedies, the main purpose of which is to remove existing entry barriers for competitors and to ensure that affected consumers obtain a fair share of the benefits resulting from the cooperation.

4. **COMMITMENTS**

(14) On the basis of the reservations expressed by the Commission in its letter of serious doubts, the Parties proposed commitments which were published for comment on 9 December 2003. Several airlines and the United Kingdom Office of Fair Trading commented on them. In the light of these comments, the Parties accepted to improve further their commitments. In particular, the conditions on the spread of slots at Paris CDG airport were substantially amended and the limitation on the number of slots to be released at Orly airport was removed. The main principles of these commitments are summarised below.

Number of slots to be surrendered

(15) In order to remedy the slot shortage at congested airports, the Parties are required to make available to competitors a number of slots aimed at supporting new services on the seven routes where the Commission has identified competition concerns. The maximum number of slots to be released by the Parties is specified per route in the Annex to the decision.

(16) On the basis of the Commission's extensive investigation on the France-Italy market and after having assessed the comments made by third parties in response to the publication of the Commission Notice pursuant to Article 16(3) of Regulation (EEC) No 3975/87, the number of slots that the Parties have accepted to release on each of the affected routes is considered sufficient to allow point-to-point carriers to compete effectively against the Parties on these routes. The remedies are targeted to allow competitors to transport point-to-point traffic and in particular, to compete with the Parties for the transport of O & D time-sensitive and flexibility-focused passengers.

(17) Considering that it is more effective to add frequencies to an existing service than to start a new service from scratch and that time-sensitive and flexibility-focused passengers need a sufficient number of daily frequencies, the slots will be made available on a preferential basis to the competitor which will operate, in total, the highest number of frequencies on the route (including its existing services).

Slot releases at Paris and Milan airports

(18) It results from the Commission's investigation on the France-Italy market that Paris Charles de Gaulle (CDG) and Orly (ORY) airports are substitutable from the point of view of the demand for transport services by O & D passengers on the routes in question. The same applies with respect to the Milan Linate and Malpensa airports.

(19) The application of the principle of proportionality would normally imply that the Parties are allowed to choose at which airport to surrender slots, provided that this is sufficient to solve the competition concerns. However, in the present case, the Commission has considered that, with respect to the Paris airports, in order to ensure the effectiveness of the remedies proposed, slots should also, under certain conditions, be surrendered at Orly to competitors who already offer services on the affected routes out of this airport, in order to allow them to increase their number of services. This explains why the commitments provide that a competitor is entitled to obtain slots at Orly if it already operates flights on an affected route out of Orly and if it has all its scheduled flights serving Paris operated out of this airport.

(20) For the same reasons, the commitments provide that the Parties shall be required to release slots at Milan Linate airport only to a competitor which already operates services on an affected route out of Linate and wishes to add additional frequencies on this route.

Other remedies

(21) In addition to slots, other remedies are aimed at removing the additional entry barriers identified in the draft decision.

(22) Some of them will enhance the inter-changeability from the customer point of view between the flights operated by the Parties and the flights operated by competitors on the affected routes and will help new entrants to obtain a minimum number of passengers necessary to start operations on these routes. They provide notably that the Parties will have to allow new entrants to participate in their frequent flyer programmes, if they so wish. Another commitment relates to interlining and special prorate agreements and will allow passengers to fly with the Parties and return with a competitor or conversely on a given journey, based on a single ticket.

(23) The Parties also committed to facilitate intermodal passenger agreements, whereby they provide air transport services as part of an itinerary that includes surface or sea transportation, in order to ensure greater choice and better multimodal transport services for consumers. This, for instance, could allow time-sensitive customers to combine a one way railway trip with a return flight at attractive conditions.

(24) Finally, the commitments impose on the Parties an obligation to maintain a frequency freeze (regulation of frequency increases) during a start-up period to ensure that new entrants are not squeezed out of the market shortly after entry.

5. **CONCLUSION**

(25) On the basis of the above, the commitments submitted by the Parties are sufficient to solve the competition concerns in the markets identified during the investigation by allowing and facilitating third parties' entry.

(26) The Commission has therefore decided that pursuant to Article 81(3) of the EC Treaty, and provided that the parties comply with the commitments listed in the Annex, Article 81(1) of the EC Treaty is inapplicable to the cooperation agreement between Air France and Alitalia notified to the Commission on 12 November 2001 for the period from 12 November 2001 to 11 November 2007.

COMMISSION DECISION

of 1 December 2004

concerning implementing rules whereby Member States may authorise the placing on the market of seed belonging to varieties for which an application for entry in the national catalogue of varieties of agricultural plant species or vegetable species has been submitted

(notified under document number C(2004) 4493)

(Text with EEA relevance)

(2004/842/EC)

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Council Directive 66/401/EEC of 14 June 1966 on the marketing of fodder plant seed [1], and in particular Article 4a(2) thereof,

Having regard to Council Directive 66/402/EEC of 14 June 1966 on the marketing of cereal seed [2], and in particular Article 4a(2) thereof,

Having regard to Council Directive 2002/54/EC of 13 June 2002 on the marketing of beet seed [3], and in particular Article 6(2) thereof,

Having regard to Council Directive 2002/55/EC of 13 June 2002 on the marketing of vegetable seed [4], and in particular Article 23(2) thereof,

Having regard to Council Directive 2002/56/EC of 13 June 2002 on the marketing of seed potatoes [5], and in particular Article 6(2) thereof,

Having regard to Council Directive 2002/57/EC of 13 June 2002 on the marketing of seed of oil and fibre plants [6], and in particular Article 6(2) thereof,

Whereas:

(1) Pursuant to Directives 66/401/EEC, 66/402/EEC, 2002/54/EC, 2002/56/EC and 2002/57/EC, Member States may authorise producers of agricultural seed to place on the market seed belonging to a variety for which an application for entry in the catalogue of the Member State in question, as provided for in Council Directive 2002/53/EC of 13 June 2002 on the common catalogue of varieties of agricultural plant species [7], has been lodged.

(2) In addition, pursuant to Directive 2002/55/EC, Member States may authorise breeders or their representatives of vegetable seed to place on the market seed belonging to a variety for which an application for entry in a national catalogue of at least one Member State, as provided for in that Directive has been lodged.

(3) To enable Member States to grant such authorisations it is necessary to lay down implementing rules for those Directives, covering in particular the purposes for and the conditions under which those authorisations may be granted, the labelling of the seed packages and in the case of agricultural seed, the quantities. It is also appropriate that in the case of a variety derived from a genetically modified organism, this genetically modified organism must be authorised for the placing on the market according to the Community legislation.

(4) The measures provided for in this Decision are in accordance with the opinion of the Standing Committee on Seeds and Propagating Material for Agriculture, Horticulture and Forestry,

HAS ADOPTED THIS DECISION:

CHAPTER I

General provision

Article 1

Subject matter

The purpose of this Decision is to lay down the rules whereby a Member State may grant an authorisation to place on the market:

(1) OJ 125, 11.7.1966, p. 2298/66. Directive as last amended by Commission Directive 2004/55/EC (OJ L 114, 21.4.2004, p. 18).
(2) OJ 125, 11.7.1966, p. 2309/66. Directive as last amended by Directive 2003/61/EC (OJ L 165, 3.7.2003, p. 23).
(3) OJ L 193, 20.7.2002, p. 12. Directive as amended by Directive 2003/61/EC.
(4) 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 (OJ L 268, 18.10.2003, p. 1).
(5) OJ L 193, 20.7.2002, p. 60. Directive as last amended by Directive 2003/61/EC.
(6) OJ L 193, 20.7.2002, p. 74. Directive as last amended by Directive 2003/61/EC.
(7) 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.

(a) seed of varieties of agricultural plant species for which an application for entry in the national catalogue, provided for in Article 1(2) of Directive 2002/53/EC, has been submitted to the Member State in question, subject to compliance with Chapter II of this Decision; or

(b) seed of varieties of vegetable species for which an application for entry in a national catalogue, provided for in Article 3(3) of Directive 2002/55/EC, has been submitted in at least one Member State and for which specific technical information has been submitted, subject to compliance with Chapter III of this Decision.

CHAPTER II

Agricultural plant species

Article 2

Authorisation

1. For agricultural plant species covered by Directives 66/401/EEC, 66/402/EEC, 2002/54/EC, 2002/56/EC and 2002/57/EC, Member States may authorise producers established in their own territory to place on the market seed belonging to a variety for which an application for entry in the national catalogue of varieties of agricultural plant species (the national catalogue) has been submitted to the Member State in question, subject to compliance with Articles 3 to 18 of this Decision.

2. Member States shall ensure that when an authorisation has been granted in accordance with this Decision, the authorisation holder shall comply with any condition or restriction attached to such authorisation.

Article 3

Application

1. The authorisation may be requested by the person who has duly submitted an application for entry of the varieties concerned in the catalogue of the Member State in question (hereafter called the applicant, which includes the representative of such a person, provided the representative has been officially delegated).

2. The applicant shall submit the following information:

(a) the envisaged tests and trials;

(b) the name(s) of the Member State(s) in which those tests and trials are to be carried out;

(c) a description of the variety;

(d) the maintenance of the variety.

Article 4

Purpose

Authorisations shall only be granted for tests or trials carried out at agricultural enterprises to gather information on the cultivation or use of the variety.

Article 5

Technical conditions

1. Fodder plant seed shall comply with the conditions laid down in Annexes I and II to Directive 66/401/EEC for:

(a) certified seed (all species other than *Pisum sativum* and *Vicia faba*); or

(b) 'certified seed, second generation' (*Pisum sativum*, *Vicia faba*).

2. Cereal seed shall comply with the conditions laid down in Annexes I and II to Directive 66/402/EEC for:

(a) certified seed (*Phalaris canariensis*, other than hybrids, *Secale cereale*, *Sorghum bicolor*, *Sorghum sudanense*, *Zea mays* and hybrids of *Avena sativa*, *Hordeum vulgare*, *Oryza sativa*, *Triticum aestivum*, *Triticum durum*, *Triticum spelta* and *x Triticosecale* other than self-pollinating varieties); or

(b) 'certified seed, second generation' (*Avena sativa*, *Hordeum vulgare*, *Oryza sativa*, *Triticum aestivum*, *Triticum durum*, *Triticum spelta* and self-pollinating varieties of *x Triticosecale*, other than hybrids in each case).

3. Beet seed shall comply with the conditions laid down in Annex I to Directive 2002/54/EC for certified seed.

4. Seed potatoes shall comply with the conditions laid down in Annexes I and II to Directive 2002/56/EC for certified seed potatoes.

5. Seed of oil and fibre plants shall comply with the conditions laid down in Annexes I and II to Directive 2002/57/EC for:

(a) certified seed (all species other than *Linum usitatissimum*);

(b) 'certified seed, second and third generation' (*Linum usitatissimum*).

Article 6

Examination

1. Compliance with the conditions referred to in Article 5 shall be assessed:

(a) in the case of seed potatoes, by an official examination;

(b) in the other case, by an official examination or an examination under official supervision.

2. For the assessment of compliance with the conditions concerning varietal identity and varietal purity, the description of the variety as supplied by the applicant, or where applicable the provisional description of the variety based on the results of the official examination of distinctness, stability and uniformity of the variety, as provided for in Article 7 of Directive 2002/53/EC, shall be used.

3. Examination shall be carried out in accordance with current international methods, in so far as such methods exist.

4. For the examination, samples shall be drawn officially or under official supervision or, in the case of seed potatoes, officially in accordance with appropriate methods.

5. Samples shall be drawn from homogeneous lots.

6. The maximum weight of a lot and the minimum weight of a sample are given in:

(a) fodder plants: Annex III to Directive 66/401/EEC;

(b) cereals: Annex III to Directive 66/402/EEC;

(c) beet: Annex II to Directive 2002/54/EC;

(d) oil and fibre plants: Annex III to Directive 2002/57/EC.

Article 7

Quantities

The quantities authorised for each variety shall not exceed the following percentages of seed of the same species utilised yearly in the Member State(s) for which the seed is intended:

(a) in the case of durum wheat: 0,05 %;

(b) in the case of field pea, field bean, oats, barley and wheat: 0,3 %;

(c) in all other cases: 0,1 %.

However, if such quantities are not sufficient to sow 10 ha per Member State for which the seed is intended, the quantity needed for such an area may be authorised.

Article 8

Packages and sealing

Seed may be marketed only in closed packages or containers bearing a sealing device. Seed packages and containers shall be sealed officially or under official supervision in such a manner that they cannot be opened without damaging the sealing system or leaving evidence of tampering on either the official label provided for in Article 9 or on the package. In order to ensure sealing, the sealing system shall comprise at least either the official label or the affixing of an official seal.

In the case of seed potatoes, the packages shall be new and the container shall be clean.

Article 9

Labelling

1. The seed packages shall bear an official label in one of the official languages of the Community.

2. The label provided for in paragraph 1 shall include the following information:

(a) the certification authority and Member State or their distinguishing abbreviation;

(b) the lot reference number;

(c) the month and year of sealing;

(d) the species;

(e) the denomination of the variety under which the seed is to be marketed (the breeder's reference, the proposed denomination or the approved denomination) and the official application number for listing the variety, if any;

(f) the indication 'variety not yet officially listed';

(g) the indication 'for tests and trials only';

(h) where applicable, the words 'genetically modified variety';

(i) size (only for seed potatoes);

(j) declared net or gross weight or declared number of pure seeds or, where applicable, clusters;

(k) where weight is indicated and granulated pesticides, pelleting substances or other solid additives are used, the nature of the additive and also the approximate ratio between the weight of pure seeds or, where applicable, clusters and the total weight.

3. The label provided for in paragraph 1 shall be orange.

Article 10

Chemical treatment

Any chemical treatment shall be noted either on the official label provided for in Article 9, or on a supplier's label and on the package, or inside it, or on the container.

Article 11

Time period

Without prejudice to Articles 13 and 14, authorisations granted in accordance with the provisions of this Decision shall be valid for a period not exceeding one year and shall be renewable in accordance with Article 12.

Article 12

Renewal of authorisations

1. Without prejudice to Articles 13 and 14, authorisations referred to in Article 2 shall be renewable for periods not exceeding one year each.

2. The application shall be accompanied by the following documents:

(a) a reference to the original authorisation;

(b) any available information which supplements the information already provided on the description, the maintenance and/or the cultivation or use of the variety subject to the original authorisation;

(c) evidence that evaluation for the entry into the catalogue of the variety concerned is still ongoing, if not otherwise available to the Member State.

Article 13

Cessation of validity

Authorisations shall cease to be valid if the application for entry in the national catalogue is withdrawn or rejected, or the variety is entered in the catalogue.

Article 14

Safeguard

Notwithstanding an authorisation granted under Article 2, a Member State may prohibit the use of the variety in all or in part of its territory or lays down appropriate conditions for cultivating the variety in accordance, in cases provided for in subparagraph (c), with the conditions for using the products resulting from such cultivation:

(a) where it is established that the cultivation of the variety could be harmful from the point of view of plant health to the cultivation of other varieties or species; or

(b) where official growing trials carried out in the applicant Member State show that the variety does not, in any part of its territory, produce results corresponding to those obtained from a comparable variety accepted in the territory of that Member State or, where it is well known that the variety is not suitable for cultivation in any part of its territory because of its type of maturity class; or

(c) where it has valid reasons for considering that the variety presents a risk for human health or the environment.

Article 15

Reporting obligations

1. Following the grant of the authorisation, the authorising Member State may require the authorised person to report:

(a) the results of the tests or trials carried out at agricultural enterprises to gather information on the cultivation or use of the variety;

(b) the quantities of seed placed on the market during the authorised period and the Member State for which the seed was intended.

2. The information provided for in point (b) of paragraph 1 shall be treated as confidential.

Article 16

Maintenance checks

The authorising Member State may check maintenance of the variety.

Where maintenance takes place in a Member State other than the authorising Member State, the Member States shall assist each other administratively as regards the necessary checks.

A Member State may accept maintenance in a third country, provided that it has been decided under Article 22(1)(b) of Directive 2002/53/EC that the checks on practices for the maintenance afford the same assurances as those carried out by the Member States.

Article 17

Notification

Member States shall notify each other and the Commission of the following:

(a) an application, as soon as this is received, or the rejection of an application for authorisation; and

(b) the grant, renewal, revocation or withdrawal of an authorisation.

Article 18

Exchange of information

Member States shall use the existing computerised information exchange systems to facilitate the exchange of information as regards the connection with the application for acceptance of varieties into the national catalogues and the authorisation for seed of varieties not yet listed.

Article 19

Publication of a list of varieties

The Commission may, on the basis of the information supplied by the Member States, publish a list of varieties that have been authorised.

CHAPTER III

Vegetable species

Article 20

Authorisation

1. For vegetable species covered by Directive 2002/55/EC, Member States may authorise breeders established on their own territory to place on the market seed belonging to a variety for which an application for inclusion in a national catalogue of varieties of vegetable species (the national catalogue) has been submitted in at least one Member State and for which specific technical information has been submitted in the Member State(s) in question, subject to compliance with Articles 21 to 37 of this Decision.

2. Member States shall ensure that when an authorisation has been granted in accordance with this Decision, the authorisation holder shall comply with any condition or restrictions attached to such authorisation.

Article 21

Application

1. The authorisation may be requested by the person who has duly submitted an application for entry of the varieties concerned in the catalogue of at least one Member State (hereafter called 'the applicant' which includes the representative of such a person, provided that the representative has been officially delegated).

2. The applicant shall submit the following information:

(a) a description of the variety;

(b) the maintenance of the variety.

Article 22

Purpose

The authorisation shall only be granted for the purpose of gaining knowledge from practical experience during cultivation.

Article 23

Technical conditions

Vegetable seed shall comply with the conditions laid down in Annex II to Directive 2002/55/EC.

Article 24

Examination

1. Vegetable seed shall be subject to official post-control by check inspection to verify its varietal identity and varietal purity on the basis of the description of the variety as supplied by the applicant, or where available the provisional description of the variety based on the results of the official examination of distinctness, stability and uniformity of the variety as provided for in Article 7 of Directive 2002/55/EC.

2. Samples shall be drawn from homogeneous lots.

3. The maximum weight of a lot and the minimum weight of a sample are given in Annex III to Directive 2002/55/EC.

Article 25

Genetically modified varieties

In the case of a genetically modified variety, the authorisation may be granted only if all appropriate measures have been taken to avoid adverse effects on human health and the environment. The genetically modified material must either be authorised under Directive 2001/18/EC of the European Parliament and of the Council [1], or be authorised under Regulation (EC) No 1829/2003.

Article 26

Supplier

The persons responsible for affixing the label or printing or stamping notice on the packages shall:

(a) inform the Member State of the dates when their activities begin and end;

(b) keep records of all lots of seed and make them available to the Member States for not less than three years;

(c) draw samples from each lot intended for marketing and make them available to Member States for not less than two years.

The operations referred to in points (b) and (c) shall be subject to official checks carried out on a random basis.

Article 27

Packages and sealing

Seed may be marketed only in closed packages bearing a sealing device. Seed packages shall be sealed in such a manner that they cannot be opened without damaging the sealing device or leaving evidence of tampering either on the label provided for in Article 28 or on the package.

Article 28

Labelling

1. The seed packages shall bear a supplier's label or a printed or stamped notice in one of the official languages of the Community.

2. The label provided for in paragraph 1 shall include the following information:

(a) the lot reference number;

(b) the month and year of sealing;

(c) the species;

(d) the denomination of the variety under which the seed is to be marketed (the breeder's reference, the proposed denomination or the approved denomination) and the official application number for listing the variety, if any;

(e) the indication 'variety not yet officially listed';

(f) where applicable, the words 'genetically modified variety';

(g) declared net or gross weight or declared number of pure seeds or, where applicable, clusters;

(h) where weight is indicated and granulated pesticides, pelleting substances or other solid additives are used, the nature of the additive and also the approximate ratio between the weight of pure seeds or, where applicable, clusters and the total weight.

3. The label provided for in paragraph 1 shall be orange.

Article 29

Chemical treatment

Any chemical treatment shall be noted either on the label provided for in Article 28 and on the package or inside it.

Article 30

Time period

Without prejudice to Articles 32 and 33, authorisations granted in accordance with the provisions of this Decision shall be valid for a period not exceeding one year and shall be renewable in accordance with Article 31.

Article 31

Renewal of authorisations

1. Without prejudice to Articles 32 and 33, authorisations referred to in Article 20 shall be renewable, maximum twice for a period not exceeding one year each.

2. The application shall be accompanied by the following documents:

(a) a reference to the original authorisation;

(b) any available information which supplements the information already provided on the description, the maintenance and/or the knowledge from practical experience during the cultivation of the variety subject to the original authorisation;

[1] OJ L 106, 17.4.2001, p. 1. Directive as last amended by Regulation (EC) No 1830/2003 (OJ L 268, 18.10.2003, p. 24).

(c) evidence that the evaluation for the entry into the catalogue of the variety concerned is still ongoing, if not otherwise available to the Member State.

Article 32

Cessation of validity

Authorisations shall cease to be valid, if the application for entry in the national catalogue is withdrawn or rejected, or the variety is entered in the catalogue.

Article 33

Safeguard

Notwithstanding an authorisation granted under Article 20 a Member State may be authorised to prohibit the use of the variety in all or in part of its territory or to lay down appropriate conditions for cultivating the variety in accordance, in cases provided for in paragraph (b), with the conditions for using the products resulting from such cultivation:

(a) where it is established that the cultivation of the variety could be harmful from the point of view of plant health to the cultivation of other varieties or species; or

(b) where it has valid reasons for considering that the variety presents a risk for human health or the environment.

Article 34

Reporting obligations

1. Following the grant of the authorisation, the authorising Member State may require the authorised person to report:

(a) the knowledge gained from practical experience during cultivation;

(b) the quantities of seed placed on the market during the authorised period and the Member State for which the seed was intended.

2. The information provided for in point (b) of paragraph 1 shall be treated as confidential.

Article 35

Maintenance checks

The authorising Member State may check maintenance of the variety.

Where maintenance takes place in a Member State other than the authorising Member State, the Member States shall assist each other administratively as regards the necessary checks.

A Member State may accept maintenance in a third country, provided that it has been decided under Article 37(1)(b) of Directive 2002/55/EC that the checks on practices for the maintenance afford the same assurances as those carried out by the Member States.

Article 36

Notification

Member States shall notify each other and the Commission of the following:

(a) an application, as soon as this is received, or the rejection of an application for authorisation; and

(b) the grant, renewal, revocation or withdrawal of an authorisation.

Article 37

Exchange of information

Member States shall use the existing computerised information exchange systems to facilitate the exchange of information as regards the connection with the application for acceptance of varieties into the national catalogues and the authorisation for seed of varieties not yet listed.

Article 38

Publication of a list of varieties

The Commission may, on the basis of the information supplied by the Member States, publish a list of varieties that have been authorised.

CHAPTER IV

Article 39

Addressees

This Decision is addressed to the Member States.

Done at Brussels, 1 December 2004.

For the Commission

Markos KYPRIANOU

Member of the Commission

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

COUNCIL DECISION 2004/843/CFSP

of 26 July 2004

concerning the conclusion of the Agreement between the European Union and the Kingdom of Norway on security procedures for the exchange of classified information

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty on European Union, and in particular Articles 24 and 38 thereof,

Having regard to the recommendation from the Presidency,

Whereas:

(1) At its meeting on 27 and 28 November 2003, the Council decided to authorise the Presidency, assisted by the SG/HR, to open negotiations in accordance with Articles 24 and 38 of the Treaty on European Union with certain third States, in order for the European Union to conclude with each of them an Agreement on security procedures for the exchange of classified information.

(2) Following this authorisation to open negotiations, the Presidency, assisted by the SG/HR, negotiated an Agreement with the Kingdom of Norway on security procedures for the exchange of classified information.

(3) The Agreement should be approved,

HAS DECIDED AS FOLLOWS:

Article 1

The Agreement between the European Union and the Kingdom of Norway on security procedures for the exchange of classified information are hereby approved on behalf of the European Union.

The text of the Agreement is attached to this Decision.

Article 2

The President of the Council is hereby authorised to designate the person empowered to sign the Agreement in order to bind the European Union.

Article 3

This Decision shall take effect on the date of its adoption.

Article 4

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

Done at Brussels, 26 July 2004.

For the Council

The President

B. R. BOT

AGREEMENT

between the Kingdom of Norway and the European Union on security procedures for the exchange of classified information

THE KINGDOM OF NORWAY,

of the one part, and

THE EUROPEAN UNION,

hereafter the EU, represented by the Presidency of the Council of the European Union

of the other part,

hereinafter referred to as the Parties,

CONSIDERING THAT the Kingdom of Norway and the EU share the objectives to strengthen their own security in all ways and to provide their citizens with a high level of safety within an area of security;

CONSIDERING THAT the Kingdom of Norway and the EU agree that consultations and cooperation should be developed between them on questions of common interest relating to security;

CONSIDERING THAT, in this context, a permanent need therefore exists to exchange classified information between the Kingdom of Norway and the EU;

RECOGNISING THAT full and effective consultation and cooperation may require access to Norway and EU classified information and material, as well as the exchange of classified information and related material between the Kingdom of Norway and the EU;

CONSCIOUS THAT such access to, and exchange of, classified information and related material require appropriate security measures,

HAVE AGREED AS FOLLOWS:

Article 1

In order to fulfil the objectives of strengthening the security of each of the Parties in all ways, this Agreement shall apply to classified information or material in any form either provided or exchanged between the Parties.

Article 2

For the purposes of this Agreement, classified information shall mean any information (namely, knowledge that can be communicated in any form) or material determined to require protection against unauthorised disclosure and which has been so designated by a security classification (hereafter classified information).

Article 3

For the purposes of this Agreement, 'EU' shall mean the Council of the European Union (hereafter Council), the Secretary General/High Representative and the General Secretariat of the Council, and the Commission of the European Communities (hereafter European Commission).

Article 4

Each Party shall:

(a) protect and safeguard classified information subject to this Agreement provided or exchanged by the other Party;

(b) ensure that classified information subject to this Agreement provided or exchanged keeps the security classification given to it by the providing Party. The receiving Party shall protect and safeguard the classified information according to the provisions set out in its own security regulations for information or material holding an equivalent security classification, as specified in the Security Arrangements to be established pursuant to Articles 11 and 12;

(c) not use such classified information subject to this Agreement for purposes other than those established by the originator and those for which the information is provided or exchanged;

(d) not disclose such classified information subject to this Agreement to third parties, or to any EU institution or entity not mentioned in Article 3, without the prior consent of the originator.

Article 5

1. Classified information may be disclosed or released, in accordance with the principle of originator control, by one Party, 'the providing Party', to the other Party, 'the receiving Party'.

2. For release to recipients other than the Parties to this Agreement, a decision on disclosure or release of classified information shall be made by the receiving Party following the consent of the providing Party, in accordance with the principle of originator control as defined in its security regulations.

3. In implementing paragraphs 1 and 2, no generic release shall be possible unless procedures are established and agreed between the Parties regarding certain categories of information, relevant to their operational requirements.

Article 6

Each of the Parties, and entities thereof as defined in Article 3, shall have a security organisation and security programmes, based upon such basic principles and minimum standards of security which shall be implemented in the security systems of the Parties to be established pursuant to Articles 11 and 12, to ensure that an equivalent level of protection is applied to classified information subject to this Agreement.

Article 7

1. The Parties shall ensure that all persons who, in the conduct of their official duties require access, or whose duties or functions may afford access, to classified information provided or exchanged under this Agreement are appropriately security cleared before they are granted access to such information.

2. The security clearance procedures shall be designed to determine whether an individual can, taking into account his or her loyalty, trustworthiness and reliability, have access to classified information.

Article 8

The parties shall provide mutual assistance with regard to security of classified information subject to this Agreement and matters of common security interest. Reciprocal security consultations and inspections shall be conducted by the authorities as defined in Article 11 to assess the effectiveness of the Security Arrangements within their respective responsibility to be established pursuant to Articles 11 and 12.

Article 9

1. For the purpose of this Agreement:

(a) as regards the EU:

all correspondence shall be sent to the Council at the following address:

Council of the European Union
Chief Registry Officer
Rue de la Loi/Wetstraat, 175
B-1048 Brussels.

All correspondence shall be forwarded by the Chief Registry Officer of the Council to the Member States and to the European Commission subject to paragraph 2;

(b) as regards the Kingdom of Norway:

all correspondence shall be addressed to the Chief Registry Officer of the Ministry of Foreign Affairs of Norway and forwarded via the Mission of Norway to the European Union, at the following address:

Mission of Norway to the European Union
Registry Officer
Rue Archimède/Archimedesstraat, 17
B-1000 Brussels.

2. Exceptionally, correspondence from one Party which is only accessible to specific competent officials, organs or services of that Party may, for operational reasons, be addressed and only be accessible to specific competent officials, organs or services of the other Party specifically designated as recipients, taking into account their competencies and according to the need to know principle. As far as the EU is concerned, this correspondence shall be transmitted through the Chief Registry Officer of the Council.

Article 10

The Norwegian Ministry of Defence and the Secretaries-General of the Council and of the European Commission shall oversee the implementation of this Agreement.

Article 11

In order to implement this Agreement:

1. the Norwegian National Security Authority, acting in the name of the Government of Norway and under its authority, shall be responsible for developing Security Arrangements for the protection and safeguarding of classified information provided to the Kingdom of Norway under this Agreement;

2. the General Secretariat of the Council Security Office, under the direction and on behalf of the Secretary General of the Council, acting in the name of the Council and under its authority shall be responsible for developing Security Arrangements for the protection and safeguarding of classified information provided to the EU under this Agreement;

3. the European Commission Security Directorate, acting in the name of the European Commission and under its authority, shall be responsible for developing Security Arrangements for the protection of classified information provided or exchanged under this Agreement within the European Commission and its premises.

Article 12

The Security Arrangements to be established pursuant to Article 11 in agreement between the three Offices concerned will lay down the standards of the reciprocal security protection for classified information subject to this Agreement. For the EU, these standards shall be subject to approval by the Council Security Committee.

Article 13

The authorities defined in Article 11 shall establish procedures to be followed in the case of proven or suspected compromise of classified information subject to this Agreement.

Article 14

Prior to the provision of classified information subject to this Agreement between the Parties, the responsible security authorities defined in Article 11 must agree that the receiving Party is able to protect and safeguard the information subject to this Agreement in a way consistent with the arrangements to be established pursuant to Articles 11 and 12.

Article 15

This Agreement shall in no way prevent the Parties from concluding other Agreements relating to the provision or exchange of classified information subject to this Agreement provided that they do not conflict with the provisions of this Agreement.

Article 16

All differences between the EU and the Kingdom of Norway arising out of the interpretation or application of this Agreement shall be dealt with by negotiation between the Parties.

Article 17

1. This Agreement shall enter into force on the first day of the first month after the Parties have notified each other of the completion of the internal procedures necessary for this purpose.

2. This Agreement may be reviewed for consideration of possible amendments at the request of either Party.

3. Any amendment to this Agreement shall only be made in writing and by common agreement of the Parties. It shall enter into force upon mutual notification as provided under paragraph 1.

Article 18

This Agreement may be denounced by one Party by written notice of denunciation given to the other Party. Such denunciation shall take effect six months after receipt of notification by the other Party, but shall not affect obligations already contracted under the provisions of this Agreement. In particular, all classified information provided or exchanged pursuant to this Agreement shall continue to be protected in accordance with the provisions set forth herein.

IN WITNESS WHEREOF the undersigned, respectively duly authorised, have signed this Agreement.

Done at Brussels, this day of 22 November 2004 in two copies each in the English language.

For the Kingdom of Norway	*For the European Union*